

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**GAMING MACHINE AMENDMENT BILL 2013**

**EXPLANATORY STATEMENT**

Circulated by  
Shane Rattenbury MLA

## Introduction

This explanatory statement relates to the Gaming Machine Amendment Bill 2013 as presented by Mr Shane Rattenbury MLA in the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Statement must to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## Overview

Gaming machine manufactures now manufacture machines that have what is commonly known as ‘audio isolation devices’. Essentially these are audio devices that allow headphones to be plugged into machines that are designed to keep people focused on the gaming machines and minimise external distractions.

The Gambling and Racing Commissioner is responsible for approving the use of gaming machines in the ACT. The Bill will create a new limitation on the Commissioners discretion to prevent the Commissioner from approving machines that have these audio isolation devices.

Currently there are no machines with the audio devices operating in the ACT. The harms of gaming machines and the prevalence of problem gambling in the ACT are well understood.<sup>1</sup> The potential for the new machines with these devices to increase that harm is significant and the Bill is intended to prevent the new machines from ever being used in the ACT.

Additionally the Bill also creates a regulation making power to allow other restrictions on the types of machines that can be approved should the need arise, for example because of changes in technology.

A similar ban is in place in Victoria<sup>2</sup> and NSW.<sup>3</sup>

## Human Rights

The Bill potentially engages the right the freedom from discrimination. In creating the prohibition of these machines there is the potential, albeit remote, that people with a sight or hearing impairment may be disadvantaged. However there is an exemption for devices that are specifically designed for those with a hearing impairment. Given the nature of gaming machines it is very unlikely that these groups will be disadvantaged by the new rule. Disability advocacy groups Deafness Forum of Australia and Vicdeaf as well as the Human Rights Commission have been consulted in the development of the Bill and no concerns about the impact of the change were raised.

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<sup>1</sup> See Gambling and Racing Commission, ‘Survey of The Nature and Extent of Gambling, and Problem Gambling, in the Australian Capital Territory’ Final Report, Canberra (2010).

<sup>2</sup> See <http://www.gazette.vic.gov.au/gazette/Gazettes2011/GG2011G051.pdf>.

<sup>3</sup> See <http://www.olgr.nsw.gov.au/pdfs/Gaming/GM%20Prohibited%20Features%20Reg%20F.pdf>

Any potential limitation on the right to freedom from discrimination is very minor and cannot be separated from achieving the aim of preventing the use of these devices on more harmful gaming machines. There is no less restrictive means available of achieving the Bill's purpose.

## Notes on Clauses

### **Clauses 1 to 3 Name of the Act, Commencement and Legislation amended**

These are preliminary clauses setting out the name of the amending Act, the Act amended and the commencement date. Commencement is on the day after the Acts notification day so the ban will come into force as soon as possible.

### **Clause 4 Approval of gaming machines and peripheral equipment New section 69 (2A)**

This clause provides that the Commissioner for Gambling and Racing must not approve a gaming machine that has an audio isolation device. Currently when deciding whether to approve a gaming machine the Commissioner must consider the harm impacts of the machines (s69(2)(b)), however given the potential for additional harm created by the devices the current discretion is not considered adequate and the Bill will make it certain that these devices must not be approved.

The Clause is modelled on the recently published Victorian Regulation.<sup>4</sup>

In addition the Bill also creates a regulation making power for the prohibition of particular machines to ensure that should new designs or other harmful attributes be added to machines or peripheral equipment in the future, a regulation can be made to ensure that those machines are not permitted to operate in the ACT.

### **Clause 5 Section 69 (4), new definition of *audio device***

This clause is consequential to the substantive changes made in clause 4. It inserts a new definition of audio device that describes the nature of the prohibited 'audio isolation devices'.

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<sup>4</sup> see footnote n1 above.