National Gambling Reform (Related Matters) Bill (No. 2)
2012

Paula Pyburne
Law and Bills Digest Section

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National Gambling Reform (Related Matters) Bill (No. 2) 2012

Date introduced: 1 November 2012
House: House of Representatives
Portfolio: Families, Housing, Community Services and Indigenous Affairs

Commencement: Sections 1–2 on Royal Assent; Sections 3–7 on the latest of the following days: the day that the National Gambling Reform Act 2012 commences; the day that section 2 of the National Gambling Reform (Related Matters) Act (No. 1) 2012 commences; or on Royal Assent.¹

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the National Gambling Reform (Related Matters) Bill (No. 2) 2012 (the Bill) is to impose a gaming machine regulation levy.

Background

This Bill is part of a suite of legislation directed towards reducing the harm caused by gaming machines to problem gamblers and to the families and communities of problem gamblers. The other relevant Bills are:

- National Gambling Reform Bill 2012 (the Principal Bill)² and
- National Gambling Reform (Related Matters) Bill (No. 1) 2012.³

¹ However, sections 3–7 of the Bill do not commence if the National Gambling Reform Act 2012 and the National Gambling Reform (Related Matters) Act (No. 1) 2012 do not commence.
² The relevant Bill homepage can be viewed at:
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fbillhome%2Fr4793%22
³ The relevant Bill homepage can be viewed at:
http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fbillhome%2Fr4794%22

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Basis of policy commitment

Information about the rationale for the suite of Bills is contained in the Bills Digest for the Principal Bill.  

Committee consideration

Senate Scrutiny of Bills Committee

On 21 November 2012 the Senate Standing Committee for the Scrutiny of Bills published its comments on the suite of Bills. The Committee made no comment on this Bill.  

Joint Select Committee on Gambling Reform

The Joint Select Committee on Gambling Reform (Committee on Gambling Reform) initiated an inquiry into the suite of Bills on 1 November 2012. The Committee held public hearings on 13 November 2012 and published its report on 23 November 2012.  

The Committee on Gambling Reform noted that:

Civil penalties for non-compliance for constitutional corporations are contained in the bill. The committee is pleased to note that the bill also recognises that there might be organisations operating gaming machines that are not constitutional corporations. The gaming machine regulation levy uses the taxation power to encourage compliance with pre-commitment and dynamic warning requirements by persons who are not constitutional corporations. The levy is

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not payable if they comply with the precommitment system and dynamic warning requirements.\textsuperscript{8}

Senate Selection of Bills Committee

At its meeting of 19 November 2012, the Senate Selection of Bills Committee resolved to recommend that the provisions of the National Gambling Reform Bill 2012, the National Gambling Reform (Related Matters) Bill (No. 1) 2012 and the National Gambling Reform (Related Matters) Bill (No. 2) 2012 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 27 November 2012.\textsuperscript{9}

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights can be found at the end of the Explanatory Memorandum to the Bill. As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011, the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bill is compatible. At the time of writing this Bills Digest the Parliamentary Joint Committee on Human Rights had not commented on the Bill.

Financial implications

According to the Explanatory Memorandum the Commonwealth is likely to begin incurring regulatory costs in relation to these Bills from 2012–13.\textsuperscript{10}

Nature of the levy

The gaming machine regulation levy is payable in relation to profits of gaming machines in certain instances where the person making the gaming machine available is not, or is not sufficiently connected to, a constitutional corporation. It is payable for a gaming machine for a ‘levy period’ if a person makes the gaming machine available for use during the levy period. The ‘levy period’ is a calendar month.\textsuperscript{11}

\textsuperscript{8} Ibid., p. 33.
\textsuperscript{11} Clause 5, National Gambling Reform Bill 2012.

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Under the Principal Bill, the gaming machine regulation levy is payable by any person who is entitled to any of the ‘gaming machine revenue’¹² from the gaming machine for the levy period calculated by deducting the total amount of ‘outgoings’¹³ from the total amount of bets made in relation to the gaming machine during the levy period.¹⁴ It is possible for the gaming machine regulation levy to be a negative amount.

If more than one person is entitled to any of the gaming machine revenue, all such persons are jointly liable to pay the amount of gaming machine regulation levy.

Main issues and key provisions

Under the Principal Bill the gaming machine regulation levy will be phased in over time as follows:

- on and after 1 January 2017 in relation to any gaming machine that is made available for use, other than a gaming machine that is made available for use on small gaming machine premises¹⁵
- on and after 1 January 2021 in relation to any gaming machine that is made available for use on small gaming machine premises with 11–20 gaming machines¹⁶ and
- on and after 1 January 2021 in relation to any gaming machine that is made available for use on small gaming machine premises with no more than 10 machines—where the gaming machine was not made available for use at those premises prior to that date; or for any gaming machine that was manufactured or imported on or after 31 December 2013.¹⁷

According to the Minister for Families, Housing, Community Services and Indigenous Affairs, ‘the formal imposition of the levy in this Bill arises from section 55 of the Constitution¹⁸, which requires that laws imposing taxation deal only with the imposition of taxation.’¹⁹

Clause 5 of this Bill imposes the gaming machine regulation levy.

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12. ‘Gaming machine revenue’ is defined in clause 5, National Gambling Reform Bill 2012 as the total amount of bets made in relation to the gaming machine during the levy period; minus the total amount of outgoings in relation to the gaming machine for the levy period.
13. ‘Outgoings’ are defined in clause 5, National Gambling Reform Bill 2012. Essentially outgoings are amounts of money or credit provided as winnings during the levy period in relation to the use of the gaming machine and, if the gaming machine is lawfully linked to one or more other gaming machines for the purposes of contributing money or credit from the gaming machine to a prize—an amount of money or credit that is deducted from the gaming machine during the levy period in order to contribute to the prize.
17. Subclause 17(4), National Gambling Reform Bill 2012.

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Clause 7 empowers the Governor-General to make regulations prescribing any matters required or permitted by the Act or that are necessary for giving effect to the Act. Consistent with that provision, clause 6 provides the formula for calculating the amount of the gaming machine regulation levy, which includes an amount of allowable reductions which are worked out in accordance with regulations.
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