

2013-2014-2015

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**INTERACTIVE GAMBLING AMENDMENT (SPORTS BETTING REFORM) BILL
2015**

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Xenophon)

INTERACTIVE GAMBLING AMENDMENT (SPORTS BETTING REFORM) BILL 2015

OUTLINE

The purpose of this Bill is to amend the *Interactive Gambling Act 2001* ('the Act') in relation to online sports betting. The popularity of sports betting has soared over recent years. It is the only form of gambling that has seen an increase in participation over the past decade. In fact, expenditure on sports betting doubled between 2005-2006 and 2011-2012. This has been attributed to the ease with which individuals can now place bets online.

This increased availability of sports betting carries with it the increased risk of people developing gambling addictions. This Bill implements harm minimisation measures to help individuals who are engaged in online sports betting better control their gambling.

The Bill inserts a new definition into the Act which encompasses websites through which individuals can place bets on sporting events. In the Bill, these are known as 'restricted wagering services'.

Services which are captured by this definition will be subject to obligations and prohibitions as well as penalties under the provisions of this Bill.

The Bill also establishes an Interactive Gambling Regulator who will monitor and enforce compliance with the Act by restricted wagering services. A National Self-Exclusion Register for those who wish to bar themselves from accessing online sports betting is also established.

NOTES ON CLAUSES

Clause 1: Short Title

1. This clause is a formal provision and specifies that the Bill, once enacted, may be cited as the Interactive Gambling Amendment (Sports Betting Reform) Act 2015.

Clause 2: Commencement

2. This clause provides for the commencement of the Bill three months after the Bill receives Royal Assent.

Clause 3 – Schedules

4. Each Act specified in a Schedule to this Act is amended or repealed as is set out in the applicable items in the Schedule. Any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment to the Interactive Gambling Act 2001

Interactive Gambling Act 2001

Item 1 – Section 3

6. This item amends section 3 of the Act which contains a simplified outline of the Act by setting out how restricted wagering services will be regulated.

Item 2 – Section 4

7. Item 2 inserts various definitions of new terms that are used in the provisions to be inserted into the scheduled. One new term is **betting limit** which is defined as the total maximum amount nominated by an individual that he or she may bet using a restricted wagering service over a period. The amount nominated by an individual relates to the amount of their own money they are willing to bet. Therefore any bets placed using money won from a previous bet will not count towards the betting limit. For example, an individual has nominated a betting limit of \$100 per month. That individual bets \$5 on the outcome of a sporting event and wins \$50 (on top of the person's original \$5 bet). That person can place another bet using the \$50 won and that bet will not count towards their betting limit. If the individual bets the \$50 and loses the entire amount, any other bets made by the individual will count towards their betting limit as the amount bet will be a personal contribution from them.

Item 3 – Section 11

8. This item inserts a new **section 11A** into the Act relating to the meaning of credit. For the purposes of the Act a restricted wagering service will be taken to have provided credit if by contact or other arrangement it allows payment of a debt by an individual to another individual to be deferred or one person incurs a deferred debt to another.

9. Item 3 also inserts a new **section 11B** into the Act relating to the meaning of verified. A restricted wagering service is taken to have verified the identity of an individual if it has been provided with originals or certified copies two different category A documents or one category A document and two category B documents. The details on these documents must also correspond with the personal details provided by the individual for the purposes of creating an account.

Item 4 – Part 1

10. Item 4 inserts a new **Part 1A** into the Act which relates to training of gambling service employees. Contained in new Part 1A is new **subsection 14A(1)** which requires gambling services to train employees who, in the course of their duties, have direct contact with individuals who use the service. New **subsection 14A(2)** makes it an offence for a gambling service to fail to provide training to such employees. New **subsection 14A(3)** stipulates that regulations may be made in relation to the type of information, training and instructions provided to employees, including how to recognise problem gambling behaviour, providing information to individuals about support services and how to deal with individuals who have identified as having a gambling problem. Training should be provided upon employment with the restricted wagering service and refresher courses offered every 12 months. The content of the training could include providing examples of problem gambling

behaviour (such as increases in both the frequency of betting and the amount that is being bet by an individual that is unusual based on their gambling history). The training should include both written tests and role playing exercises in order to demonstrate knowledge of the course material and the ability to apply that knowledge in real life.

Item 5 – Part 7A

11. Item 5 inserts a new **Part 7B** into the Act relating to restricted wagering services. New Division 1 contains section 61G which is a simplified outline of Part 7B. New Division 2 contains offences in relation to the conduct of restricted wagering services and inserts new **sections 61GA to 61GP**.

12. **Section 61GA** relates to credit and restricted wagering services. **Subsection 61GA(1)** prohibits a person who intentionally provides a restricted wagering service from providing or offering to provide credit to individuals to use that service. The purpose of this prohibition is to ensure that individuals do not gamble more than they can afford. **Subsection 61GA(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GA(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GA(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

13. **Section 61GB** relates to inducements. **Subsection 61GB(1)** prohibits a person who intentionally provides a restricted wagering service from inducing or attempting to induce, or from causing another person to induce or attempt to induce an individual to use that service. Examples of inducements currently used by restricted wagering services includes sign-up bonuses, matched deposits, bonuses for referring friends and other rewards such as free sporting merchandise or free tickets to sporting events. **Subsection 61GB(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GB(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GB(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

14. **Section 61GC** relates to micro betting. **Subsection 61GC(1)** prohibits a person who intentionally provides a restricted wagering service from offering or accepting micro betting. Micro betting is defined in section 4 of the Act and includes bets made after a sporting event has already commenced or bets made on contingencies that may or may not occur during a sporting event. For example, this subsection would prohibit a restricted wagering service offering or accepting a bet that in a game of cricket, the first ball bowled in the first over will be a no ball. The purpose of this restriction is to discourage match-fixing or the rigging of matches. **Subsection 61GC(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GC(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GC(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

15. **Section 61GD** relates to establishing accounts for placing bets. **Subsection 61GD(1)** prohibits a person who intentionally provides a restricted wagering service from creating an account unless the individual provides his or her personal details. **Subsection 61GD(2)** makes it an offence to contravene this prohibition. **Subsection 61GD(3)** makes a person liable to a civil penalty provision if they contravene that prohibition.

16. **Section 61GE** relates to verifying the identity of an account holder before opening an account. **Subsection 61GE(1)** prohibits a person who intentionally provides a restricted wagering service from creating an account or facilitate the placing of bets for an individual if the restricted wagering service has not verified that individual's identity. This is to ensure the individual attempting to open an account is the person they are purporting to be. **Subsection 61GE(2)** makes it an offence for a restricted wagering service to contravene that prohibition. **Subsection 61GE(3)** makes a person liable to a civil penalty provision if they contravene that prohibition.

17. **Section 61GF** relates to checking the National Self-Exclusion Register before opening accounts. Subsection 61GF(1) prohibits a person who intentionally provides a restricted wagering service from opening an account or facilitating the placing of bets for an individual if it has not submitted the individual's personal details to the National Self-Exclusion Register ('NSER') to check whether the individual's personal details are included on the NSER. The purpose of this prohibition is to ensure a restricted wagering service checks the NSER before creating an account or accepting bets from an individual who has submitted their details to the NSER. An individual would submit their details to the NSER in order to bar themselves from engaging in online sports betting. **Subsection 61GF(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GF(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GF(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

18. **Section 61GG** relates to pre-commitment options for accounts. Subsection **61GG(1)** obliges a person who intentionally provides a restricted wagering service to require any individual who creates an account with that service to set an annual and monthly maximum betting limit. The purpose of this requirement is to encourage individuals to think about the maximum amount they are willing to bet each month and the maximum amount they are willing to bet over a year before their gambling begins. Currently it is easy for gamblers to chase their losses and bet more than they had originally intended. By setting a pre-commitment limit, individuals will be better able to control their gambling spending. **Subsection 61GG(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GG(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GG(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

19. **Section 61GH** relates to creating accounts for individuals on the National Self-Exclusion Register (NSER). **Subsection 61GH(1)** prohibits a person who intentionally provides a restricted wagering service from creating an account or facilitating the placing of bets for an individual whose personal details are on the NSER if that person knew the individual's details were included on the NSER or were reckless as to whether the individual's details were on the NSER. The purpose of this prohibition is to ensure accounts are not created by restricted wagering services for individuals who have submitted their details to the NSER in order to bar themselves from online sports betting. **Subsection 61GH(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GH(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GH(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

20. **Section 61GI** relates to increasing betting limits. **Subsection 61GI(1)** prohibits a person who intentionally provides a restricted wagering service from increasing or causing to increase an individual's betting limit. This is to ensure that individuals do not inadvertently exceed their betting limits. **Subsection 61GI(2)(a)** states this prohibition does not apply if the individual has requested the increases to their monthly or annual betting limit. **Subsection 61GI(2)(b)(i)** permits a person to increase to an individual's monthly betting limit where the request was made at least 7 days before the increase takes effect. **Subsection 61GI(2)(b)(ii)** permits a person to increase an individual's annual betting limit where the request was made at least 14 days before the increase takes effect. **Subsection 61GI(2)(c)** states the prohibition to increasing an individual's betting limit does not apply if the required notice in **subsection 61GI(2)(b)** is met and the individual has not made more than one other request to increase their limit in the previous 12 months. The purpose of setting conditions on when betting limits can be increased is to ensure individuals do not make decisions to increase their betting limits in the heat of the moment when they may be experiencing losses. It is safeguard for gamblers who may experience problems controlling their spending. **Subsection 61GI(3)** makes it an offence for a person to contravene that prohibition. **Subsection 61GI(4)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GI(5)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

21. **Section 61GIA** relates to inducements to increase betting limits. **Subsection 61GIA(1)** prohibits a person who intentionally provides a restricted wagering service from inducing or attempting to induce an individual to increase their monthly or annual betting limit. The purpose of this prohibition is to ensure that restricted wagering services do not encourage customers to increase limits that have been set at the maximum that customer indicated they were prepared to bet. Situations where a restricted wagering service may attempt to induce a customer to increase betting limits could be prior to major sporting events such as Grand Finals and the Melbourne Cup. Without such a prohibition, if customers are close to or have reached their betting limit for the month or year, restricted wagering services could contact them to offer to increase their limits. **Subsection 61GI(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GI(3)** makes the person liable to a civil penalty provision if they contravene that prohibition.

22. **Section 61GJ** relates to exceeding betting limits. **Subsection 61GJ(1)** prohibits a person who intentionally provides a restricted wagering service from accepting a bet from an individual if that bet exceeds the monthly or annual betting limit nominated by that individual. The purpose of this prohibition is to ensure that restricted wagering services do not allow individuals to exceed their betting limits. **Subsection 61GJ(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GJ(3)** makes the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GJ(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision.

23. **Section 61GJA** relates to the provision of statements by restricted wagering services. **Subsection 61GJA(1)** requires a person who intentionally provides a restricted wagering service to provide to individuals who use that service a statement containing the transaction history of that individual. This contents of the statement must comply with the regulations made for the purposes of this subsection. The purpose of providing statements is to ensure individuals have a clear understanding of how much they are betting. **Subsection 61GJA(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GJA(3)** makes

the person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GJA(4)** means that for each day that a person contravenes the prohibition they are committing a separate offence or a separate contravention of the civil penalty provision. **Subsection 61GJA(5)** sets out what must be prescribed by the regulations made for the purposes of this subsection. The regulations must prescribe the period which the statement must cover, how often the statements must be provided (which must not be less than once a month) and the manner and form in which the statement must be provided. The statement should be easy to read and give the individual a clear understanding of how much they have bet (and lost) over the period.

24. **Section 61GJB** relates to the prohibition on disclosing information for marketing purposes. **Subsection 61GJB(1)** prohibits a person who intentionally provides a restricted wagering service from disclosing the personal information of an individual who uses that service to another person for use by the other person in relation to marketing of a good or service. The purpose of this prohibition is to ensure restricted wagering services do not share information on customers in order to encourage those customers to use gambling services provided by other restricted wagering services. **Subsection 61GJB(2)** makes it an offence for a person to contravene that prohibition. **Subsection 61GJB(3)** makes the person liable to a civil penalty provision if they contravene that prohibition.

25. **Section 61GK** relates to the requirement to provide a link to the website of the National Self-Exclusion Register. **Subsection 61GK(1)** requires a person who intentionally provides a restricted wagering service to include on each page of that person's website a clear and prominent link to the National Self-Exclusion Register that complies with the regulations made for the purposes of this subsection. The purpose of this requirement is to ensure that all websites for restricted wagering services contain a link for the National Self-Exclusion Register so that gamblers are aware of the Register's existence and can access it easily if they are on a restricted wagering service's website and decide they wish to self-exclude from that website. **Subsection 61GK(2)** makes it an offence for a person to fail to comply with that requirement. **Subsection 61GK(3)** makes the person liable to a civil penalty provision if they fail to comply with that requirement. **Subsection 61GK(4)** means that for each day that a person fails to comply with that requirement they are committing a separate offence or a separate contravention of the civil penalty provision. **Subsection 61GK(5)** sets out what must be prescribed in the regulations made for the purposes of paragraph 1(c), including the position and size of the link, the logos that must be included with the link and any other information that may be required. These specifications are necessary in order to ensure the link is clearly visible to those who are using websites of restricted wagering services and to ensure the link is not obscured or hidden by material promoting the services of the website.

26. New **Division 3** concerns the prohibition of advertising of restricted wagering services and contains new **section 61GKA** which relates to when restricted wagering service advertisements cannot be broadcast. **Subsection 61GKA(1)** prohibits a person from broadcasting a restricted wagering service advertisement in Australia during a G classified television program or during a television program that consists of coverage of a sporting event. The purpose of this prohibition is to minimise the exposure of children to sports betting advertising. **Subsection 61GKA(2)** prohibits a person who authorises or causes a restricted wagering service advertisement to be broadcast in Australia and the broadcast is during a G classified television program or a television program that consists of coverage of a sporting event. **Subsection 61GKA(3)** makes it an offence for a person to contravene the prohibitions in subsections (1) or (2). **Subsection 61GKA(4)** makes the

person liable to a civil penalty provision if they contravene that prohibition. **Subsection 61GKA(5)** inserts new definitions for broadcast, broadcasting service, program and restricted wagering service advertisement. The definition for restricted wagering service advertisement means writing, still or moving picture, sign, symbol or other visual image or any audible message or any combination of 2 or more of those things intended to promote a restricted wagering service (including trademarks and domain names or URLs), restricted wagering services in general or any words that are closely associated with a restricted wagering service.

27. New **Division 4** relates to compliance and enforcement and contains new **sections 61GL to 61GP**. **Section 61GL** concerns civil penalties. **Subsection 61GL(1)** makes a civil penalty provision in **Division 2** or **3** of **Part 7C** enforceable under **Part 4** of the Regulatory Powers Act. A note under subsection **61GL(1)** clarifies that **Part 4** of the Regulatory Powers Act allows enforcement of civil penalty provision by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision. **Subsection 61GL(2)** provides that the Regulator is an authorised applicant for the purposes of Part 4 of the Regulatory Powers Act in relation to the civil penalty provision in Division 2 or 3 of this Part. Subsection **61GL(3)** provides that for the purposes of Part 4 of the Regulatory Powers Act the Federal Circuit Court is the relevant court. Subsection **61GL(4)** provides for the extension of civil penalties to external territories for the purposes of Part 4 of the Regulatory Powers Act. This ensures the proper operation of this Part of the Regulatory Powers Act to civil penalty provisions under the Bill.

28. **Section 61GM** relates to infringement notices. **Subsection 61GM(1)** identifies provisions which are subject to an infringement notice under Part 5 of the Regulatory Powers Act. Consistent with Commonwealth guidelines for infringement notice schemes, infringement notices will be used to deal with less serious and less factually complex contraventions of a provision, where initiating court proceedings would be disproportionately costly (see Chapter 6 of the Australian Government *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*). **Subsection 61GM(2)** provides that for the purposes of Part 5 of the Regulatory Powers Act, a person appointed under subsection (3) is an infringement officer in relation to the provisions mentioned in subsection (1). **Subsection 61GM(3)** provides that the Regulator may in appoint in writing a person to be an infringement officer if that person holds or performs the duties of an APS 6 position or an equivalent higher position within the Department. **Subsection 61GM(4)** provides that the Regulator is the relevant chief executive for the purposes of the provisions mentioned in subsection (1). **Subsection 61GM(5)** provides that the amount to be stated in an infringement notice for the purposes of paragraph 104(1)(f) of the Regulatory Powers Act for the alleged contravention of a civil penalty provision mentioned in subsection (1) of this section is (note in bill – ‘to be drafted’). **Subsection 61GM(6)** provides that this clause extends to infringement notice provisions and to external territories if the provision is extended to that territory.

29. **Section 61GN** relates to enforceable undertakings. **Subsection 61GN(1)** makes enforceable undertakings available to enforce provisions of the Bill. This provides an additional tool with which government can enforce compliance. This subsection provides that the provisions of Division 2 and 3 of this Part are enforceable under Part 6 of the Regulatory Powers Act. Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with offence provisions and civil penalty provisions. **Subsection 61GN(2)** provides that the Regulator is an authorised person in relation to the provisions of Division 2 and 3 of this Part for the purposes of

Part 6 of the Regulatory Powers Act. **Subsection 61GN(3)** provides that the Federal Circuit Court of Australia is a relevant court in relation to the provisions of Divisions 2 and 3 of this Part for the purposes of Part 6 of the Regulatory Powers Act. **Subsection 61GN(4)** provides that Part 6 Regulatory Powers Act as it applies in relation to the provisions of Division 2 and 3 of the Part extends to every external territory as well as acts, omissions, matters and things outside Australia.

30. **Section 61GO** relates to injunctions (general). Subsection 61GO(1) provides that the provisions of Division 2 and 3 of this Part are enforceable under Part 7 of the Regulatory Powers Act. Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions. Subsection 61GO(2) provides that the Regulator is an authorised person in relation to the provisions of Division 2 and 3 of this part for the purposes of Part 7 of the Regulatory Powers Act. Subsection 61GO(3) provides that the Federal Circuit Court of Australia is a relevant court in relation to the provisions of Divisions 2 and 3 of this Part for the purposes of Part 7 of the Regulatory Powers Act.

31. **Section 61GP** relates to injunctions for the purposes of transaction blocking. **Subsection 61GP(1)** states that the Federal Circuit Court of Australia may, on application by the Interactive Gambling Regulator grant an injunction referred to in subsection (2) if the Court is satisfied that an Authorised Deposit-taking Institution ('ADI') facilitates transactions in relation to a gambling service and the gambling service is a prohibited gambling service. **Subsection 61GP(2)** states that the injunction is to require the ADI to take reasonable steps to prohibit transactions in relation to the prohibited gambling service. The ability for the Regulator to apply to the Court for an injunction of this kind is necessary in order to block money being sent to and accepted by prohibited gambling services, despite the fact it is illegal for them to offer their services to residents of Australia. The *Interactive Gambling Act 2001* does empower the Australian Communications and Media Authority to refer prohibited gambling services to the Australian Federal Police for investigation. However, as at November 2015 no prohibited gambling service has ever been investigated or shut down by the Australian Federal Police. **Subsection 61GP(3)** sets out that the parties to an application under subsection (1) are the Interactive Gambling Regulator, the ADI and the prohibited gambling service. **Subsection 61GP(4)** states that the Interactive Gambling Regulator must notify the ADI and the prohibited gambling service of the making of an application under subsection (1). **Subsection 61GP(5)** sets out the matters that may be taken into account by the Court when determining whether to grant the injunction, including whether it is in the public interest to do so and whether prohibiting transactions is a proportionate response in the circumstances of the case. **Subsection 61GP(6)** stipulates the Court may limit the duration of an injunction or rescind or vary an injunction. **Subsection 61GP(7)** states an application for an injunction may be made by any of the persons referred to in subsection (3) or any other person prescribed by the regulations. **Subsection 61GP(8)** makes it clear that an ADI is not liable for any costs in relation to proceedings concerning these injunctions unless the ADI has made an appearance and takes part in the proceedings.

32. New **Part 7C** relates to the National Self-Exclusion Register. **Division 1** contains a simplified outline of this part. **Division 2** contains new sections **61HA to 61HF**.

33. **Subsection 61HA(1)** requires the Interactive Gambling Regulator to keep a register of individuals who wish to self-exclude from restricted wagering services. The purpose of this register is to allow gamblers to self-exclude from any or all restricted wagering services so that they are no longer able to place bets with those services. Currently if an individual wishes to self-exclude from any restricted wagering service they must first open an account

with that service and then apply to be self-excluded from that service. This can be a time consuming process. If an individual believes they are having difficulties controlling their gambling to the point that they feel the only way to regain control is to self-exclude from being able to bet with these services, it is important to make this process as simple as possible. The National Self-Exclusion Register is a single website through which an individual can apply to be self-excluded. It is a harm minimisation measure that will benefit problem gamblers and will have no impact on recreational gamblers. **Subsection 61HA(2)** stipulates the name of this register is the National Self-Exclusion Register. **Subsection 61HA(3)** requires the register to be kept in electronic form. **Subsection 61HA(4)** states that the register is not a legislative instrument. It is included in order to clarify that the register is not a legislative instrument for the purpose of the Legislative Instruments Act 2003. **Subsection 61HA(6)** states that for the purposes of the Privacy Act 1988 the primary purpose of the register is to facilitate the self-exclusion of individuals from internet gambling services and as well as the prohibition under **section 61GH** of restricted wagering services creating accounts or facilitating the placing of bets for individuals who have self-excluded.

34. **Section 61HB** enables the Interactive Gambling Regulator to update information on the Register. This is necessary to ensure that new applications by individuals to be self-excluded can be made and for information already on the Register to be updated (for example if an individual changes their address or name). This power is also necessary in the event an individual wishes to remove themselves from the Register.

35. **Section 61HC** relates to applications for registration. **Subsection 61HC(1)** states an individual can apply to the Regulator for their personal details to be included on the Register. **Subsection 61HC(2)** sets out what must be included in the application, namely the individual's personal details which must be on the form and the manner specified by the Regulator.

36. **Section 61HD** concerns registration on the Register. **Subsections 61HD(a) and (b)** set out that if an application is made for an individual's personal details to be included on the Register and the applicant satisfies the Regulator that the personal details provided under **paragraph 61HB(2)(a)** are the applicant's personal details then the applicant's personal details must be entered into the Register. The intent of **subsection 61HD(b)** is to ensure identities are verified before they are entered into the Register in order to prevent one individual from registering the personal details of another individual on the Register.

37. **Section 61HE** relates to duration of registration on the Register. **Subsection 61HE(1)** states the registration of a person's personal details takes effect when their name and details are entered into the Register and unless their details are removed from the Register their registration will remain in force indefinitely. This is to ensure that the self-exclusion of an individual remains in effect indefinitely and does not lapse or require re-application after a certain period of time. **Subsection 61HE(2)** clarifies that if a person's name and details are removed from the Register there is nothing in this Act that prevents the person from re-registering their personal details on the Register. This subsection deals with the reality that some problem gamblers may think they have their gambling under control and wish to remove themselves from the register, only to realise that after they do they continue to experience difficulties controlling their gambling. Allowing a person to re-register their personal details after removal from the register ensures they have the ongoing ability to self-exclude.

38. **Section 61HEA** relates to removal from the Register. **Subsection 61HEA(1)** requires the Regulator to make a determination (by legislative instrument) that makes provision for a person to apply for their name to be removed from the Register. **Subsection 61HEA(2)** sets out what must be included in the determination such as the form of an application for removal from the Register, the information that must accompany the application the documentation that must be provided in support of the individual's application. It is likely the majority of people who register their details on the Register do so out of concerns about their gambling. Therefore removal from the Register is a serious issue as it will enable that individual to start gambling again. In order to minimise a person's exposure to harm once they are no longer barred from gambling, the Regulator should be satisfied that the risk to the person is minimal. An example of a requirement that could be included in the legislative instrument referred to in **subsection 61HEA(1)** is for a report from a psychologist or counsellor to accompany an application for removal from the Register. The psychologist or counsellor must be experienced in treating people with gambling addictions and their report must conclude that they are satisfied that person applying for removal from the Register no longer exhibits signs of having a gambling problem. The Regulator may also require a person to meet with them in order to discuss the application for removal from the register to ensure the person is fully informed about the effect removal will have (namely the ability to commence gambling again).

39. **Subsection 61HF** relates to the administration of the Register. It requires the Regulator, by legislative instrument, to make a determination in relation to the administration of the Register. Determinations are to include the form used for an individual's details to be entered onto and removed from the Register as well as corrections to the Register. The determination must also include any other matters relating to the administration of the Register.

40. **Division 3** relates to dealing with protected information in the Register and includes **sections 61HG and 61HI**.

41. **Section 61HG** concerns authorized dealings with protected information. **Subsection 61HG(1)** states that personal information or relevant personal details can be collected, recorded disclosed or otherwise by a person if that person does so for the purposes of including the information on the Register. **Subsection 61HG(2)** relates to who may make a record of, disclose or otherwise use protected information in the Register, including (amongst others) an officer or employee of the Commonwealth. A note following **subsection 61HG(2)** states that this subsection is an authorisation for the purposes of other laws, including the Australian Privacy Principles.

42. **Section 61HI** makes it an offence for a person to obtain protected information and makes a record of the information, discloses or otherwise uses the information if that person is not authorised to do so by **section 61HG**.

43. New **Part 7D** relates to the Interactive Gambling Regulator and contains **sections 61J to 61JQ**. **Section 61J** contains a simplified outline of Part 7D.

44. **Section 61JA** establishes the Interactive Gambling Regulator ('the Regulator').

45. **Section 61JB** sets out the functions of the Regulator. As well as administering the National Self-Exclusion Register, the Regulator will monitor, promote, investigate and enforce compliance with new Parts 7B and 7C of the *Interactive Gambling Act 2001* (which

are inserted by this bill). The Regulator will also provide advice to the Minister in relation to the operation of the Interactive Gambling Act, and in particular the operation of the Register. It will also develop a code of practice relating to problem gambling in consultation with industry (including restricted wagering services and services that offer counselling to problem gamblers). The Regulator will not be responsible for the licensing of wagering services and its powers are limited to issuing infringement notices, seeking injunctions, accepting enforceable undertakings and prosecuting civil penalties.

46. **Section 61JC** states the Regulator has the power to do all things necessary or convenient in connection with the performance of its functions.

47. **Section 61JD** relates to the appointment of the Regulator. **Subsection 61JD(1)** states the Regulator is to be appointed by the Minister by legislative instrument. **Subsection 61JD(2)** sets out that only a person with substantial skills, qualifications or experience in at least public administration, consumer protection or mental health is eligible to be appointed as Regulator.

48. **Subsection 61JE(1)** allows the Minister to appoint a person to act as Regulator during a vacancy in the office of the Regulator or during a period when the Regulator is absent from Australia or is unable to perform the duties of the office.

49. **Section 61JF** relates to remuneration and allowances of the Regulator.

50. **Section 61JG** relates to leave of absence of the Regulator.

51. **Section 61JH** requires the Regulator not to engage in paid employment outside his or her duties without the Minister's approval.

52. **Section 61JI** requires the Regulator to give written notice to the Minister of all interests the Regulator has or acquires that conflict or could conflict with the proper performance of the Regulator's function. An example of an interest is shares in a company that is a restricted wagering service.

53. **Section 61JJ** relates to resignation of the Regulator. **Subsection 61JJ(1)** requires the Regulator to provide a written resignation to the Minister. **Subsection 61JJ(2)** states that the resignation takes effect 2 weeks after it was received by the Minister, unless a later date is specified in the resignation. The purpose of this minimum notice is to facilitate the smooth transition to a new Regulator and to minimise the risk that the position may remain vacant for an extended period of time while a new Regulator is recruited.

54. **Section 61JK** relates to the termination of appointment of the Regulator. **Subsection 61JK(1)** permits the Minister to terminate the appointment of the Regulator for misbehavior or if the Regulator is unable to perform his or her duties because of physical or mental incapacity. **Subsection 61JK(2)** sets out other circumstances in which the Minister may terminate the appointment of the Regulator, including if the Regulator becomes bankrupt, if the Regulator is absent for 14 consecutive days or for 28 days in any 12 months except on leave of absence or if the Regulator engages in paid employment outside the duties of his or her office without the Minister's approval.

55. **Section 61JL** states that the Regulator holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

56. **Section 61JM** relates to delegation by the Regulator. **Subsection 61JM(1)** enables the Regulator to delegate, in writing, any or all of the Regulator's functions and powers to the Secretary of the Department or an SES employee, or acting SES employee, in the Department. **Subsection 61JM(2)** requires a delegate to comply with any written directions of the Regulator.

57. **Section 61JN** states that staff assisting the Regulator must be persons engaged under the Public Service Act 1999 and be made available for the purpose of assisting the Regulator by the Secretary of the Department.

58. **Section 61JO** relates to consultants. **Subsection 61JO(1)** enables the Regulator to engage persons with suitable qualifications and experience as consultants to the Regulator. **Subsection 61JO(2)** states that consultants are to be engaged on the terms and conditions that the Regulator determines in writing.

59. **Section 61JP** requires the Regulator, as soon as practicable after the end of each financial year, to prepare a report on the operations of the Regulator during that year. The report must be given to the Minister for presentation to the Parliament.

60. **Subsection 61JQ(1)** states the Minister may give written directions to the Regulator about the performance of the Regulator's functions and powers. This direction is a legislative instrument. **Subsection 61JQ(2)** requires the direction to be of general nature only. **Subsection 61JQ(3)** requires the Regulator to comply with the direction given by the Minister under subsection (1).

Privacy Act 1988

Item 6 – Paragraph 7.8(a)

61. Item 6 inserts new **paragraph 7.8(aa)** into the Privacy Act 1988 which relates to Part 7B of the Interactive Gambling Act. Part 7B concerns restricted wagering services.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Interactive Gambling Amendment (Sports Betting Reform) Bill 2015

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The purpose of this Bill is to create a number of new harm minimisation measures in relation to online sports betting. Services that allow individuals to place bets on races or sporting events online are defined as ‘restricted wagering services’. This Bill establishes an Interactive Gambling Regulator who will monitor and enforce compliance by restricted wagering services of their obligations under the Act. A National Self-Exclusion Register for those who wish to bar themselves from accessing online sports betting is also established by this Bill.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms, as it deals with the regulation of online gambling activity for the purposes of consumer protection.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

Senator Xenophon

DRAFT