2022-2023

The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

No. , 2023

(Ms Sharkie)

A Bill for an Act to amend the *Interactive Gambling Act 2001*, and for related purposes

Contents

1	Short title	1
2	Commencement	1
3	Schedules	2
Schedule 1—Amend	lments	3
Interactive Gau	mbling Act 2001	3

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023 i

A Bill for an Act to amend the *Interactive Gambling* Act 2001, and for related purposes

³ The Parliament of Australia enacts:

1 Short title

This Act is the Interactive Gambling Amendment (Ban on Gambling Advertisements) Act 2023.

2 Commencement

(1)	Each provision of this Act specified in column 1 of the table
	commences, or is taken to have commenced, in accordance with
	column 2 of the table. Any other statement in column 2 has effect
	according to its terms.
	-

No. , 2023

Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

Commencement i	nformation	
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	
Note:	This table relates only to the provisions of this enacted. It will not be amended to deal with a this Act.	
(2) Any in	formation in column 3 of the table is not	part of this Act.
Inform	ation may be inserted in this column, or	information in it
may be	e edited, in any published version of this	Act.
3 Schedules		
Legisla	ation that is specified in a Schedule to thi	s Act is amended of
	ed as set out in the applicable items in the	
concer	ned, and any other item in a Schedule to	this Act has effect

11 according to its terms.

Interactive Gambling Amendment (Ban on Gambling Advertisements)	No.	, 2023
Bill 2023		

Schedule 1—Amendments 1 2 **Interactive Gambling Act 2001** 3 1 Section 3 4 After: 5 unlicensed regulated interactive gambling services must (e) 6 not be advertised; 7 insert: 8 (ea) licensed interactive wagering services must not be 9 advertised; 10 2 After paragraph 16(c) 11 Insert: 12 (ca) Part 7AA; or 13 3 After subparagraph 21(1)(a)(iii) 14 Insert: 15 (iiia) Part 7AA; or 16 4 After Part 7A 17 Insert: 18 Part 7AA—Prohibition of advertising of licensed 19 interactive wagering services 20 **Division 1—Interpretation: definitions** 21 **61FE Definitions** 22 In this Part: 23 broadcast means transmit by means of a broadcasting service. 24

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

1	broadcasting service means a service that delivers television
2	programs or radio programs to persons having equipment
3	appropriate for receiving that service, whether the delivery uses the
4	radiofrequency spectrum, cable, optical fibre, satellite or any other
5	means or a combination of those means, but does not include:
6	(a) a datacasting service; or
7	(b) a service that delivers programs using the internet, where the
8	delivery does not use the broadcasting services bands.
9	broadcasting services bands has the same meaning as in the
10	Broadcasting Services Act 1992.
11	datacast means transmit by means of a datacasting service.
12	display includes continue to display.
13	exempt library means:
14	(a) a public library; or
15	(b) a library of a tertiary educational institution; or
16	(c) a library of an authority of the Commonwealth or of a State
17	or Territory.
18	government or political matters means government or political
19	matters relating to any level of government in Australia, and
20	includes any of the following matters:
21	(a) participation in, association with and communications in
22	relation to any election or appointment to public office;
23	(b) political views or public conduct relating to activities that
24	have become the subject of political debate;
25	(c) the performance, conduct, capacity or fitness for office of a
26	person elected or appointed to, or seeking election or
27	appointment to, any public office;
28	(d) the actions or policies, or proposed actions or policies, of any
29	government in Australia or any Australian political party.
30	licensed interactive wagering service means a regulated interactive
31	gambling service that:
32	(a) is a wagering service (see section 4); and
	(b) has an Assertable sector and light (see a section 9), and
33	(b) has an Australian-customer link (see section 8); and

⁴ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

	<i>icensed interactive wagering service advertisement</i> has the meaning given by Division 2.
	<i>licensed interactive wagering service provider</i> means a person who provides a licensed interactive wagering service.
1	<i>periodical</i> means an issue (however described) of a newspaper, magazine, journal, newsletter, or other similar publication, issues of which are published at regular or irregular intervals.
	program has the same meaning as in the <i>Broadcasting Services Act</i> 1992.
- 	<i>public place</i> means a place, or a part of a place, to which the public, or a section of the public, ordinarily has access, whether or not by payment or by invitation (including, for example, a shop, restaurant, hotel, cinema or club).
-	publish , in relation to a licensed interactive wagering service advertisement, has the meaning given by Division 3.
\$	 (a) the members of a particular club, society or organisation; and (b) a group consisting only of persons with a common workplace or a common employer.
v	<i>workplace</i> means premises in which employees or contractors work, other than any part of such premises that is primarily used as a private dwelling.
	—Interpretation: licensed interactive wagering service advertisement
	sic meaning of licensed interactive wagering service advertisement
(1)	For the purposes of this Part, a <i>licensed interactive wagering service advertisement</i> is any 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, that gives publicity to, or otherwise promotes or is intended to promote: (a) a licensed interactive wagering service; or
No. , 2023	Interactive Gambling Amendment (Ban on Gambling Advertisements) 5

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

1	(b) licensed interactive wagering services in general; or
2	(c) the whole or part of a trade mark in respect of a licensed
3	interactive wagering service; or
4	(d) a domain name or URL that relates to a licensed interactive
5	wagering service; or
6	(e) any words that are closely associated with a licensed
7	interactive wagering service (whether also closely associated
8	with other kinds of services or products).
9 10	(2) This section has effect subject to sections 61FEB, 61FEC, 61FED, 61FEE, 61FEF, 61FEG and 61FEH.
11	61FEB Exception—political communication
12	(1) To avoid doubt, if:
13	(a) something (the <i>advertisement</i>) does not promote, and is not
14	intended to promote, any particular licensed interactive
15	wagering service or services; and
16	(b) the advertisement relates solely to government or political
17	matters;
18	the advertisement is not a licensed interactive wagering service
19	advertisement for the purposes of this Part.
20	(2) Without limiting paragraph $(1)(a)$, the use in an advertisement of
21	the whole name of a licensed interactive wagering service provider
22	does not, of itself, constitute promotion of a licensed interactive
23 24	wagering service or licensed interactive wagering services for the purposes of paragraph $(1)(a)$.
24	purposes of paragraph (1)(a).
25	(3) Subsection (2) does not apply in relation to the use of a name
26	referred to in that subsection in a way prohibited by regulations
27	made for the purposes of this subsection.
28	(4) Section 61FEA does not apply to the extent (if any) that it would
29	infringe any doctrine of implied freedom of political
30	communication.
31	61FEC Exception—Websites etc. and business documents
32	Words, signs or symbols that appear:

⁶ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1	(a) on the website of a licensed interactive wagering service that
2	is provided to customers using an internet carriage service, or
3	on or at an equivalent point of provision of any other licensed
4	interactive wagering service; or
5	(b) as part of the standard wording of an invoice, statement,
6	order form, letterhead, business card, cheque, manual, or
7	other document ordinarily used in the normal course of the
8 9	business of a licensed interactive wagering service provider (whether or not the document is in electronic form);
10	do not, when so appearing, constitute a licensed interactive
11	wagering service advertisement (but this does not prevent a still or
12	moving screen shot of a website or equivalent point of provision
13	referred to in paragraph (a), or a still or moving picture or other
14	visual image of a document referred to in paragraph (b), from
15	being a licensed interactive wagering service advertisement).
16	61FED Exception—premises of providers
17	Words, signs or symbols that appear in or on land or buildings
18	occupied by a licensed interactive wagering service provider do
19	not, when so appearing, constitute a licensed interactive wagering
20	service advertisement (but this does not prevent a still or moving
21	picture, or other visual image, of words, signs or symbols that so
22	appear from being a licensed interactive wagering service
23	advertisement).
24	61FEE Exceptions—management advertisements etc.
25	To avoid doubt, none of the following constitutes a licensed
26	interactive wagering service advertisement:
27	(a) the doing of anything that is, or apart from this Part would
28	be, required to be done by any other law of the
29	Commonwealth or by any law of a State or Territory;
30	(b) an advertisement (for example, an advertisement for staff or
31	calling for tenders), relating to the internal management of
32	the business of a licensed interactive wagering service
33	provider, that does not promote a licensed interactive
34	wagering service;
35	(c) the taking of any action to prevent persons becoming victims
36	of fraud or any other dishonest or unethical conduct.

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

61FEF Exception—products or services having the same name as a licensed interactive wagering service

3	(1) I	f:
4		(a) apart from this section, something (the <i>advertisement</i>) that
5		relates to a product, or a service, that is not a licensed
6		interactive wagering service would, technically, be a licensed
7		interactive wagering service advertisement because the name,
8		or part of the name, of the product or service is the same as,
9		or substantially similar to, the name, or part of the name, of:
10		(i) a licensed interactive wagering service; or
11		(ii) a licensed interactive wagering service provider; and
12		(b) the manufacturer, distributor or retailer of the product, or the
13		provider of the service, is not associated in any way with the
14		licensed interactive wagering service provider concerned;
15		hen, despite section 61FEA, the advertisement is not a licensed
16		nteractive wagering service advertisement for the purposes of this
17	F	Part.
18	ŀ	Related bodies corporate taken to be associated with each other
19	(2) V	Without limiting the circumstances in which 2 persons would,
20		part from this subsection, be taken to be associated with each
21	0	other for the purposes of subsection (1), 2 bodies corporate that are
22	r	elated to each other are taken to be associated with each other for
23	t	he purposes of that subsection.
24	(3) F	For the purposes of subsection (2), the question whether 2 bodies
25	с	corporate are related to each other is to be determined in the same
26		vay as the question would be determined under the Corporations
27	A	Act 2001.
28	61FEG Exc	ception—anti-gambling advertisements
29	I	f:
30		(a) apart from this section, something (the <i>advertisement</i>)
31		would, technically, be a licensed interactive wagering service
32		advertisement; and
33		(b) it is clear from the advertisement that its sole or principal
34		purpose is to discourage the use of gambling services or

⁸ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1 2 3	particular kinds of gambling services or to reduce harm caused by gambling services or particular kinds of gambling services;
4 5 6	then, despite section 61FEA, the advertisement is not a licensed interactive wagering service advertisement for the purposes of this Part.
7 8	61FEH Exception—advertisements of a kind specified in the regulations
9 10 11	The regulations may provide that an advertisement of a kind specified in the regulations is not a licensed interactive wagering service advertisement for the purposes of this Part.
12	61FEJ Definition
13	In this Division:
14	words includes abbreviations, initials and numbers.
15	Division 3—Interpretation: publication of licensed
16	interactive wagering service advertisements
17 18	61FEK Basic meaning of publish a licensed interactive wagering service advertisement
19 20 21	(1) For the purposes of this Part, a person <i>publishes</i> a licensed interactive wagering service advertisement if the person does any of the following things:
22 23	(a) the person includes the advertisement, or something that contains the advertisement, on a website;
24 25 26 27	 (b) the person includes the advertisement in a document (including, for example, a newspaper, magazine, program, leaflet or ticket) that is available, or distributed, to the public or a section of the public;
28 29 30	 (c) the person includes the advertisement in a film, video, television program or radio program that is, or is intended to be, seen or heard by the public or a section of the public;
31	(d) the person:

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

1 (i) sells, hires or supplies the advertisement, or somethin 2 containing the advertisement, to the public or a sectio 3 of the public; or 4 (ii) offers the advertisement, or something containing the 5 advertisement, for sale or supply to, or hire by, the 6 public or a section of the public; 7 (e) the person displays, screens or plays the advertisement, or 8 something that contains the advertisement, so that it can be 9 seen or heard in or from: 10 (i) a public place; or 11 (ii) public transport; or 12 (iii) a workplace; 13 (f) the person otherwise: 14 (i) brings the advertisement, or something that contains the advertisement, tor the notice of; or 16 (ii) disseminates the advertisement, or something that 17 contains the advertisement, or something that 18 the public, or a section of the public, by any means 19 (including, for example, by means of a film, video, comput 20 disk or electronic medium). 21 (2) This section has effect subject to sections 61FEL, 61FEM, 61FE 23 61FEL Publish does not include b		
 (ii) offers the advertisement, or something containing the advertisement, for sale or supply to, or hire by, the public or a section of the public; (e) the person displays, screens or plays the advertisement, or something that contains the advertisement, so that it can be seen or heard in or from: (i) a public place; or (ii) public transport; or (ii) brings the advertisement, or something that contains th advertisement, or something that contains the advertisement, or something that contains the advertisement, or something that contains the advertisement, or something that contains to advertisement, to the notice of; or (ii) disseminates the advertisement, or something that contains the advertisement, to; the public, or a section of the public, by any means (including, for example, by means of a film, video, computed disk or electronic medium). (2) This section has effect subject to sections 61FEL, 61FEM, 61FE 61FEO and 61FEP. 61FEL Publish does not include broadcast or datacast For the purposes of this Part, the broadcasting or datacasting of a licensed interactive wagering service advertisement by the person. 61FEM Exception—trade communications For the purposes of this Part, the communication of information that is or includes a licensed interactive wagering service advertisement by the person. 	2 containing the advertisement, to the	-
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 provision of licensed interactive wagering services, does not, of itself, amount to a publication of the licensed interactive wagering 		
33 itself, amount to a publication of the licensed interactive wagerin		
34 service advertisement.		nteractive wagering
	34 service advertisement.	

¹⁰ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1	61FEN Exception—advertisements in telephone directories
2	(1) For the purposes of this Part, the publication of the name of a
3	licensed interactive wagering service provider in a telephone
4	directory does not, of itself, amount to the publication of a licensed
5	interactive wagering service advertisement.
6	(2) Subsection (1) does not apply if:
7	(a) the publication is on the internet; and
8	(b) the entry for the provider contains a link to a website for the
9 10	provider that relates to a licensed interactive wagering service.
1	61FEO Exception—ordinary activities of exempt libraries
2	Nothing that a person does for the purposes of the ordinary
13	activities of an exempt library amounts, for the purposes of this
4	Part, to a publication of a licensed interactive wagering service
5	advertisement.
6	61FEP Exception—acknowledgements of assistance or support
7	For the purposes of this Part, the publication of an
8	acknowledgement of assistance or support does not amount to the
9	publication of a licensed interactive wagering service
0	advertisement if it complies with regulations made for the purposes
1 2	of this section that permit the publication of such acknowledgements.
2	acknowledgements.
3	Division 4—Broadcasting or datacasting of licensed
4	interactive wagering service advertisements in
5	Australia
6	61FEQ Licensed interactive wagering service advertisements not to
	be broadcast or datacast in Australia
.7	
27	(1) A person commits an offence if:
	(1) A person commits an offence if:(a) the person broadcasts or datacasts a licensed interactive

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

1	(b) the broadcast or datacast is not permitted by section 61FER; and
2	
3	(c) the broadcast or datacast is not permitted by section 61FES.
4	Penalty: 120 penalty units.
5	(2) A person must not broadcast or datacast a licensed interactive
6	wagering service advertisement in Australia if:
7 8	(a) the broadcast or datacast is not permitted by section 61FER; and
9	(b) the broadcast or datacast is not permitted by section 61FES.
10	Civil penalty: 180 penalty units.
11	(3) A person commits an offence if:
12	(a) the person authorises or causes a licensed interactive
13	wagering service advertisement to be broadcast or datacast in
14	Australia; and
15	(b) the broadcast or datacast is not permitted by section 61FER;
16	and
17	(c) the broadcast or datacast is not permitted by section 61FES.
18	Penalty: 120 penalty units.
19	(4) A person must not authorise or cause a licensed interactive
20	wagering service advertisement to be broadcast or datacast in
21	Australia if:
22	(a) the broadcast or datacast is not permitted by section 61FER;
23	and
24	(b) the broadcast or datacast is not permitted by section 61FES.
25	Civil penalty for contravention of this subsection: 180 penalty
26	units.
27	61FER Accidental or incidental broadcast or datacast permitted
28	(1) A person may broadcast or datacast a licensed interactive wagering
29	service advertisement if:
30	(a) the person broadcasts or datacasts the advertisement as an
31	accidental or incidental accompaniment to the broadcasting
32	or datacasting of other matter; and

¹² Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1 2 3 4 5	 (b) the person does not receive any direct or indirect benefit (whether financial or not) for broadcasting or datacasting the advertisement (in addition to any direct or indirect benefit that the person receives for broadcasting or datacasting the other matter).
6	(2) Subsection (1) only has effect for the purposes of this Part.
7 8	61FES Broadcast or datacast of advertisements during flights of aircraft
9 10 11 12	(1) A person may broadcast or datacast a licensed interactive wagering service advertisement in an aircraft during a flight of the aircraft unless the flight begins at a place in Australia and is intended to end at another place in Australia.
13 14	(2) For the purposes of subsection (1), each sector of a flight of an aircraft is taken to be a separate flight.
15	(3) Subsection (1) only has effect for the purposes of this Part.
16 17	Division 5—Publication of licensed interactive wagering service advertisements in Australia
18 19	61FET Licensed interactive wagering service advertisements not to be published in Australia
20 21 22 23 24 25 26	 (1) A person commits an offence if: (a) the person publishes a licensed interactive wagering service advertisement in Australia; and (b) the publication is not permitted by section 61FEU; and (d) the publication is not permitted by section 61FEV; and (e) the publication is not permitted by section 61FEW; and (f) the publication is not permitted by section 61FEX.
27	Penalty: 120 penalty units.
28 29 30	(2) A person must not publish a licensed interactive wagering service advertisement in Australia if:(a) the publication is not permitted by section 61FEU; and

1	(b) the publication is not permitted by section 61FEV; and
2	(c) the publication is not permitted by section 61FEW; and
3	(d) the publication is not permitted by section 61FEX.
4	Civil penalty: 180 penalty units.
5	(3) A person commits an offence if:
6	(a) the person authorises or causes a licensed interactive
7	wagering service advertisement to be published in Australia;
8	and
9	(b) the publication is not permitted by section 61FEU; and
10	(d) the publication is not permitted by section 61FEV; and
11	(e) the publication is not permitted by section 61FEW; and
12	(f) the publication is not permitted by section 61FEX.
13	Penalty: 120 penalty units.
14	(4) A person must not authorise or cause a licensed interactive
15	wagering service advertisement to be published in Australia if:
16	(a) the publication is not permitted by section 61FEU; and
17	(b) the publication is not permitted by section 61FEV; and
18	(c) the publication is not permitted by section 61FEW; and
19	(d) the publication is not permitted by section 61FEX.
20	Civil penalty: 180 penalty units.
21	(5) For the purposes of this section, a licensed interactive wagering
22	service advertisement that is included on a website is taken to be
23	published <i>in Australia</i> if, and only if:
24	(a) the website is accessed, or is available for access, by
25	end-users in Australia; and
26	(b) having regard to:
27	(i) the content of the website; and
28	(ii) the way the website is advertised or promoted;
29	it would be concluded that it is likely that a majority of
30	persons who access the website are physically present in
31	Australia.

¹⁴ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1 2	61FEU Periodicals distributed outside Australia—acts of publication permitted
3 4	(1) A person may do, with a periodical that contains a licensed interactive wagering service advertisement, something that
5	amounts to publishing the advertisement if the periodical is not
6	principally intended for distribution or use in Australia.
7	(2) Subsection (1) only has effect for the purposes of this Part.
8	61FEV Accidental or incidental publication permitted
9 10	(1) A person may publish a licensed interactive wagering service advertisement if:
11	(a) the person publishes the advertisement as an accidental or
12	incidental accompaniment to the publication of other matter;
13	and
14	(b) the person does not receive any direct or indirect benefit
15	(whether financial or not) for publishing the advertisement
16 17	(in addition to any direct or indirect benefit that the person receives for publishing the other matter).
18	(2) Subsection (1) only has effect for the purposes of this Part.
19	61FEW Publication by person not receiving any benefit permitted
20	(1) A person may publish a licensed interactive wagering service
21	advertisement if:
22	(a) the publication is not in the course of the provision of
23	licensed interactive wagering services; and
24 25	(b) the person publishes the advertisement on the person's own initiative; and
26	(c) the person does not receive any direct or indirect benefit
27	(whether financial or not) for publishing the advertisement.
28	(2) Subsection (1) only has effect for the purposes of this Part.

	61FEX Publication of advertisements during flights of aircraft
2 3 4 5	(1) A person may publish a licensed interactive wagering service advertisement in an aircraft during a flight of the aircraft unless the flight begins at a place in Australia and is intended to end at another place in Australia.
6 7	(2) For the purposes of subsection (1), each sector of a flight of an aircraft is taken to be a separate flight.
8	(3) Subsection (1) only has effect for the purposes of this Part.
9	Division 6—Miscellaneous
10 11	61FEY Failure to broadcast, datacast or publish advertisement not actionable if this Part would be contravened
12 13 14 15	Civil proceedings do not lie against a person for refusing or failing to broadcast, datacast or publish a licensed interactive wagering service advertisement if the broadcast, datacast or publication is prohibited by this Part.
16 17	61FEZ Additional conditions for licences under the <i>Broadcasting</i> Services Act 1992
17	
18	Commercial television broadcasting licence
	 <i>Commercial television broadcasting licence</i> (1) Each commercial television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast a licensed interactive wagering service advertisement.
18 19 20	(1) Each commercial television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part,
18 19 20 21	(1) Each commercial television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast a licensed interactive wagering service advertisement.
18 19 20 21 22 23 24	 (1) Each commercial television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast a licensed interactive wagering service advertisement. <i>Commercial radio broadcasting licence</i> (2) Each commercial radio broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part,

¹⁶ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023

1	,	Subscription television broadcasting licence
2	(4)	Each subscription television broadcasting licence is subject to the
3		condition that the licensee will not, in contravention of this Part,
4		broadcast a licensed interactive wagering service advertisement.
4		broadcast a neensed interactive wagering service advertisement.
5		Provision of a broadcasting service under a class licence
6	(5)	The provision by a person of a broadcasting service under a class
7]	licence is subject to the condition that the licensee will not, in
8		contravention of this Part, broadcast a licensed interactive
9	,	wagering service advertisement.
10		Datacasting licence
11	(6)	Each deteresting licence is subject to the condition that the licences
11		Each datacasting licence is subject to the condition that the licensee
12		will not, in contravention of this Part, datacast a licensed
13	1	interactive wagering service advertisement.
14		Definitions
15	(7)	In this section:
16		class licence has the same meaning as in the Broadcasting Services
17		Act 1992.
17	1	Act 1772.
18		commercial radio broadcasting licence has the same meaning as
19		in the Broadcasting Services Act 1992.
		-
20		commercial television broadcasting licence has the same meaning
21	:	as in the Broadcasting Services Act 1992.
22		community broadcasting licence has the same meaning as in the
23		Broadcasting Services Act 1992.
25		
24		subscription television broadcasting licence has same meaning as
25		in the Broadcasting Services Act 1992.
26	5 After pa	ragraph 64A(i)
27	Inser	t:
28		(ia) subsection 61FEQ(2); or
20		(iii) subsection (TEEQ(λ), or

(ib) subsection 61FEQ(4); or

No. , 2023 Interactive Gambling Amendment (Ban on Gambling Advertisements) Bill 2023

1	(ic) subsection 61FET(2); or
2	(id) subsection 61FET(4); or
3	6 After paragraph 64C(1)(i)
4	Insert:
5	(ia) subsection 61FEQ(2); or
6	(ib) subsection 61FEQ(4); or
7	(ic) subsection 61FET(2); or
8	(id) subsection 61FET(4); or
9	7 After paragraph 64D(1)(i)
10	Insert:
11	(ia) subsection 61FEQ(2);
12	(ib) subsection 61FEQ(4);
13	(ic) subsection 61FET(2);

(id) subsection 61FET(4);

 ¹⁸ Interactive Gambling Amendment (Ban on Gambling Advertisements) No. , 2023 Bill 2023