



New South Wales

Gambling (Anti-Greed) Advertising Prohibition Bill 1999

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to discourage the proliferation of all forms of gambling:

- (a) by prohibiting advertising of existing forms of gambling and gambling facilities, and
- (b) by prohibiting advertising and other promotional activities aimed at publicising new forms of gambling and new gambling facilities, and
- (c) by prohibiting the use of any form of gambling to support the sponsorship of any government or community activities, including (but not limited to) sporting activities, and
- (d) by requiring studies and assessments to be made of the impact of existing gambling legislation on families and the community.

The Bill also aims to create increased public awareness of the problems associated with gambling and to promote government support for community and other services that assist those adversely affected by gambling.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 sets out in greater detail the objectives and aim of the proposed Act described above.

Clause 4 declares that the proposed Act binds the Crown.

Clause 5 defines certain terms for the purposes of the proposed Act.

Part 2 Prohibitions on gambling promotion

Clause 6 prohibits the display of gambling advertisements that can be seen or heard from a public place, the broadcasting or transmission of gambling advertisements and the distribution of objects that constitute or contain a gambling advertisement, except in certain circumstances.

Clause 7 requires the odds of winning to be displayed if a gambling advertisement is displayed at a gambling facility (such as a casino) or at a place where gambling facilities are made available if any gambling advertisement is displayed there.

Clause 8 prohibits the giving of benefits under sponsorships promoting gambling.

Clause 9 prohibits the giving of free samples or the providing of free services for the purpose of promoting gambling.

Clause 10 prohibits a person from promoting gambling in return for a sponsorship.

Clause 11 allows the Minister to grant exemptions from the prohibitions created by clauses 6 and 10.

Clause 12 prohibits the owner or manager of, or a person who is employed at, a gambling facility from requesting others to engage in gambling.

Clause 13 provides for the removal of advertisements promoting gambling if they are displayed illegally.

Clause 14 authorises persons prescribed by the regulations made under the proposed Act to enter premises (other than dwellings) to remove advertisements promoting gambling under the power conferred by proposed section 13.

Part 3 Family Impact Assessments

Clause 15 requires the Minister administering the *Children (Care and Protection) Act 1987* to prepare a Family Impact Study for current and proposed legislation relating to gambling.

Clause 16 requires a member of either House of Parliament who introduces a Bill relating to gambling to table a copy of a Family Impact Assessment for the Bill.

Clause 17 sets out what a Family Impact Study is to contain.

Clause 18 sets out what a Family Impact Assessment is to address.

Clause 19 describes matters a Minister is to consider when preparing a Family Impact Study.

Clause 20 requires an application for a Family Impact Study and Assessment to be in the form set out in Schedule 1.

Part 4 Miscellaneous

Clause 21 sets maximum penalties for offences against the proposed Act.

Clause 22 requires proceedings for any such offence to be brought in a Local Court comprised of a Magistrate sitting alone.

Clause 23 provides that officers of a body corporate (such as a company) will generally be liable for offences committed by the body corporate.

Clause 24 declares that anything done or omitted to be done by a person in compliance with a mandatory requirement made by the proposed Act will not make the person liable for actions at law or in equity.

Clause 25 allows for regulations to be made for the purposes of the proposed Act by the Governor.

Explanatory note

Clause 26 requires the Minister to review the operation of the proposed Act during the fourth year of its operation.

Schedule 1 sets out the form for an application for a Family Impact Study and Assessment.



New South Wales

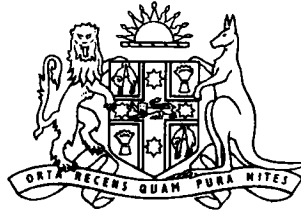
Gambling (Anti-Greed) Advertising Prohibition Bill 1999

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New South Wales

Gambling (Anti-Greed) Advertising Prohibition Bill 1999

No. , 1999

A Bill for

An Act to discourage gambling and greed; and for related purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Gambling (Anti-Greed) Advertising Prohibition Act 1999*. 4
5

2 Commencement 6

This Act commences on the date of assent. 7

3 Objects 8

(1) The objects of this Act are: 9

(a) to discourage gambling: 10

(i) by persuading young people not to engage in gambling or the use of gambling facilities, and 11
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(ii) by limiting the exposure of children and young people to persuasion to gamble or use gambling facilities, and 13
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(iii) by encouraging those who wish to limit or give up gambling, and 15
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(iv) by requiring the odds of winning to be displayed at gambling facilities or where gambling facilities are available, and 17
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(v) by making it an offence to ask a person to participate in gambling, and 20
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(b) to reduce the following undesirable consequences that result from gambling: 22
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(i) addiction to gambling, 24

(ii) psychoses, 25

(iii) domestic violence, 26

(iv) deaths and suicides, 27

(v) financial ruin of families and businesses, 28

(vi) neglect of children, especially at casinos, 29

(vii) white-collar crimes, such as embezzlement, and 30

(c) to reduce any other harmful impact of gambling on the home, on small business and on industry generally. 31
32

(2)	This Act also aims to increase public awareness of the problems associated with gambling and, as a consequence, to promote increased government support for the community and other services seeking to assist those adversely affected by gambling provided by Gamblers Anon, the Salvation Army, Lifeline Australia Inc, the Sydney City Mission, Wesley Mission and other like bodies prescribed by the regulations.	1 2 3 4 5 6 7
4	Act binds the Crown	8
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.	9 10 11
5	Definitions	12
	In this Act:	13
	<i>authorised officer</i> means a person prescribed, or of a class of persons prescribed, by the regulations.	14 15
	<i>gambling</i> means engaging in any game of chance in which one risks losing something. It includes, but is not limited to, participating in lotto or keno, and playing poker machines.	16 17 18
	<i>gambling advertisement</i> means any writing, or a still or moving picture, sign, symbol or other visual image or an audible message, or a combination of any two or more of them, that gives publicity to, or otherwise promotes or is intended to promote, gambling or gambling facilities.	19 20 21 22 23
	<i>gambling facilities</i> means any place at which a person can engage in gambling. They include casinos, TAB outlets and telephone or computer facilities for gambling.	24 25 26
	<i>relevant day</i> means the second anniversary of the date of assent to this Act.	27 28

Part 2 Prohibitions on gambling promotion 1

6 Prohibition of gambling advertisements 2

- (1) A person who, in New South Wales, for any direct or indirect benefit displays a gambling advertisement, so that the advertisement can be seen or heard from a public place, commits an offence. 3
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- (2) An individual who broadcasts or transmits a gambling advertisement on any telecommunication medium commits an offence if there is a financial or other material benefit (either direct or indirect) to the owner of the medium as a result of the broadcast or transmission. 6
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- (3) A person who, in New South Wales: 10
- (a) distributes to the public any unsolicited object, or 11
 - (b) sells, hires or supplies for any direct or indirect benefit any object to any person, 12
13
- that constitutes or contains a gambling advertisement commits an offence. 14
15
- (4) This section does not apply to anything done earlier than 3 months after the date of assent to this Act. 16
17
- (5) This section does not apply to anything done after that period of 3 months, but before the relevant day or such earlier day as may be prescribed by the regulations (either generally or in a particular case or class of cases), under a contract or arrangement entered into before the day on which the Bill for this Act was introduced into the Legislative Council. 18
19
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21
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23
- (6) This section does not apply in relation to: 24
- (a) a gambling advertisement in or on a newspaper or book printed or published outside New South Wales, if the sole or main purpose of the newspaper or book is not the promotion or publicising of gambling or gambling facilities, or 25
26
27
28
 - (b) a gambling advertisement that is displayed inside a casino or other building that is a gambling facility, if it is directly adjacent to a place where gambling is conducted and complies with the regulations, or 29
30
31
32
 - (c) anything to which this section does not apply by virtue of an exemption granted under section 11. 33
34

(7)	Any contract for the doing of anything prohibited by this section (being a contract that purports to have been entered into after the Bill for this Act was introduced into the Legislative Council) is void, whether or not doing that thing constituted an offence when the contract purports to have been entered into.	1 2 3 4 5
7	Gambling odds to be displayed	6
(1)	A person who displays a gambling advertisement at a gambling facility or at a place where gambling facilities are available for use, so that the advertisement can be seen or heard from a public place, commits an offence if a statement is not also displayed in accordance with subsection (2).	7 8 9 10 11
(2)	A statement is displayed in accordance with this subsection only if it declares the odds of winning by participating in the gambling to which the advertisement relates:	12 13 14
(a)	with the same degree of prominence as the advertisement, or	15
(b)	where the regulations prescribe how the statement is to be displayed, as required by the regulations.	16 17
8	Sponsorship promoting gambling	18
(1)	A person who, for the purpose of sponsorship promoting gambling:	19
(a)	supplies (whether it is sent from inside or outside New South Wales) to another person, in New South Wales:	20 21
(i)	a prize, gift or other benefit, or	22
(ii)	1 a stamp, coupon, token, voucher, ticket or other thing by virtue of which the purchaser or any other person may become entitled to, or may qualify for, a prize, gift or other benefit (whether that entitlement or qualification is absolute or conditional), or	23 24 25 26 27
(b)	conducts (whether from inside or outside New South Wales) a scheme prescribed by the regulations to be a scheme to promote gambling or a gambling facility, the whole or any part of which scheme is implemented in New South Wales,	28 29 30 31
	commits an offence.	32
(2)	In this section:	33
	<i>sponsorship promoting gambling</i> includes:	34
(a)	providing a scholarship, prize, gift or other benefit, or	35

(b)	making a financial arrangement,	1
	in connection with sport, any one or more of the arts, education or	2
	any activity engaged in by young persons if it is provided or made	3
	for the purpose of promoting or publicising gambling or gambling	4
	facilities.	5
9	Free samples or services	6
	A person who, for the purpose of promoting gambling, offers or	7
	gives to another person a free sample of any substance or other thing	8
	or offers or gives to another person any free service (such as free	9
	gambling chips or free transport to a casino) commits an offence.	10
10	Promotion of gambling or gambling facilities	11
(1)	A person who promotes or publicises, or agrees to promote or	12
	publicise, gambling or a gambling facility in New South Wales	13
	under a contract or an arrangement (whether or not legally binding)	14
	under which a sponsorship is provided or to be provided by another	15
	person, commits an offence.	16
(2)	A person who provides or agrees to provide a sponsorship under a	17
	contract or arrangement of a kind referred to in subsection (1)	18
	commits an offence.	19
(3)	This section does not apply in relation to:	20
(a)	anything done before the relevant day or before such earlier	21
	day as may be prescribed by the regulations either generally	22
	or in a particular case or class of cases, under a contract or	23
	arrangement entered into before the day on which the Bill for	24
	this Act was introduced into the Legislative Council, or	25
(b)	anything to which this section does not apply by virtue of an	26
	exemption granted under section 11.	27
(4)	Any contract for the doing of anything prohibited by this section	28
	(being a contract that purports to have been entered into after the	29
	Bill for this Act was introduced into the Legislative Council) is void,	30
	whether or not doing that thing constituted an offence when the	31
	contract purports to have been entered into.	32
11	Exemptions	33
(1)	The Minister may, by notice published in the Gazette before the	34
	relevant day:	35

(a)	exempt a person or class of persons either wholly or in part from the operation of section 6 or 10 subject to such conditions (if any) as are set out in that notice or prescribed for the purposes of this paragraph, or	1 2 3 4
(b)	amend or repeal an exemption granted under this section.	5
(2)	An exemption may be granted under this section only if the Minister is satisfied that failure to grant the exemption would cause significant hardship to a person or persons other than the owners, lessees, licensees or operators of gambling facilities.	6 7 8 9
(3)	An exemption granted under this section has no effect after the relevant day.	10 11
12	Inducement to gamble prohibited	12
	A person who owns or is concerned in the management of, or is employed at, a gambling facility and who requests another person to participate in gambling commits an offence.	13 14 15
13	Removal of certain advertisements	16
(1)	This section applies to a gambling advertisement:	17
(a)	if the advertisement was placed or displayed in contravention of this Act or the regulations, or	18 19
(b)	after the relevant day or such earlier day as may be prescribed by the regulations either generally or in a particular case or class of cases, whether or not the advertisement was placed or displayed in contravention of this Act or the regulations.	20 21 22 23
(2)	If a gambling advertisement is situated in a public place or on any premises from which it can be seen from a public place, a Local Court constituted by a Magistrate sitting alone may order:	24 25 26
(a)	that the advertisement be removed or obscured by an authorised officer, and	27 28
(b)	if any person has been convicted of an offence against this Act or the regulations relating to the placing or displaying of the advertisement, that the person pay the reasonable costs incurred by the authorised officer in removing or obscuring the advertisement.	29 30 31 32 33
(3)	Subsection (2) does not apply to an advertisement that is displayed inside a gambling facility and that complies with the regulations.	34 35

(4)	An authorised officer does not commit a civil wrong and is not liable for damages for anything done or omitted to be done while removing or obscuring a gambling advertisement with reasonable care under the authority of such an order.	1 2 3 4
(5)	Any gambling advertisement in the form of an article that is removed in accordance with such an order is taken to be the property of such person as is specified in the order.	5 6 7
(6)	If any costs are payable under such an order, they may be recovered in a court of competent jurisdiction as a debt due to the Crown, as the case requires.	8 9 10
(7)	This section does not apply to a gambling advertisement while it may be lawfully displayed in accordance with an exemption provided by this Act or the regulations.	11 12 13
14	Power of entry	14
(1)	An authorised officer may enter any premises to remove or obscure a gambling advertisement under the authority of an order made by a Local Court.	15 16 17
(2)	This section does not allow a person to enter any premises or any part of premises used as a dwelling.	18 19
(3)	A person commits an offence if the person in any way intimidates or obstructs an authorised officer who is removing or obscuring a gambling advertisement under the authority of an order made by a Local Court or who is attempting to do so.	20 21 22 23

Part 3 Family Impact Studies and Assessments

15	Matters for which Study and Assessment required	1
(1)	If a similar study is not required to be carried out by any other Act, the Minister administering the <i>Children (Care and Protection) Act 1987</i> must prepare a Family Impact Study for the following:	2
(a)	all legislation relating to gambling that was in force immediately before this Act commenced (or that was introduced into either House of Parliament before, but commences after, that commencement) and that has not been repealed,	3
(b)	any Bill for an Act relating to gambling that is proposed to be introduced into either House of Parliament after the commencement of this Act.	4
(2)	Family Impact Studies for legislation in force before this Act commenced are to be completed within 12 months of the commencement of this Act.	5
(3)	That Minister is also to issue a Family Impact Assessment as a consequence of each Family Impact Study prepared under this section. An Assessment is to be issued within 3 months of completion of the Study to which it relates.	6
16	Proposed legislation requires Family Impact Assessment	7
(1)	When a member of either House of Parliament introduces a Bill relating to gambling into that House, the member is also to table a copy of a Family Impact Assessment for the Bill.	8
(2)	If a copy of an Assessment for such a Bill is not tabled (but has been issued) when a Bill is introduced, the Premier may direct the member who introduced the Bill to table a copy of the Assessment within a specified time or by a specified stage of its passage through the House.	9
(3)	If an Assessment has not been issued for such a Bill when the Bill is introduced, the Premier may direct the member who introduced the Bill to apply within a specified time for a Study and Assessment for the Bill and to table a copy of the Assessment issued for the Bill within 3 sitting days of the House after it is issued.	10

- (4) A member complies with a direction by the Premier to table a copy of an Assessment in a House of Parliament by presenting a copy of the Assessment to the presiding officer of the House. A copy of the Assessment is then for all purposes taken to have been laid before the House. 1
2
3
4
5
- (5) A copy of the Assessment issued for a Bill need not be tabled if the Assessment states that it need not be tabled (whether it was issued before or after the Bill was introduced). 6
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17 Content of Family Impact Study 9

A Family Impact Study for legislation or proposed legislation is to consist of the following: 10
11

- (a) a full description of the subject-matter of the study, 12
- (b) a statement of the objectives of the legislation or proposed legislation being studied, 13
14
- (c) an analysis of the likely moral, social and economic effect of the legislation or proposed legislation on the family, 15
16
- (d) a full description of any action to be taken in conjunction with the legislation or proposed legislation and an analysis of the likely moral, social and economic effect of those measures on the family, 17
18
19
20
- (e) an analysis of feasible alternatives to the legislation or proposed legislation which would be likely to have a more positive effect on the family, 21
22
23
- (f) an analysis of the consequences of repealing, modifying or not enacting the legislation or proposed legislation. 24
25

18 Content of Family Impact Assessment 26

A Family Impact Assessment for legislation or proposed legislation relating to gambling is to consist of the following: 27
28

- (a) a clear description of the legislative scheme or proposed legislative scheme to which the Assessment relates, 29
30
- (b) a summary of the impact on the family of the legislation or proposed legislation to which it relates, under the heading “Summary”, 31
32
33

(c)	a qualitative rating of the legislation or proposed legislation in terms of its effect on the family (A rating of +10 means that it is or would be extremely beneficial to the family and a rating of -10 means that it is or would be extremely destructive of the family. A rating of 0 means that the legislation has or would have neither a positive nor a negative effect on the family),	1 2 3 4 5 6 7
(d)	a recommendation as to whether or not the legislation or proposed legislation should, in the opinion of the Minister who prepared the Study on which it is based, be repealed, modified, presented or proceeded with,	8 9 10 11
(e)	the period (if any) for which proposed legislation of an identical nature would in the future continue to be covered by the Assessment.	12 13 14
19	How Minister is to prepare a Study	15
(1)	To prepare a Family Impact Study, the Minister required to prepare it is to consider the moral, social and economic effect of the legislation or proposed legislation on the family unit and whether that effect contradicts or adversely affects the Judeo-Christian ethic.	16 17 18 19
(2)	That Minister is to take the following into account:	20
(a)	experience of similar matters in the State and in other jurisdictions (including outside Australia),	21 22
(b)	the matters raised in the questions set out in the form of application for a Study set out in Schedule 1,	23 24
(c)	any other matter that the Minister thinks relevant.	25
20	Form of application	26
(1)	An application for a Family Impact Study and Assessment of proposed legislation is to be made by the member proposing to introduce the legislation concerned.	27 28 29
(2)	The application is to be made in the form set out in Schedule 1 and must be accompanied by a copy of the legislation or Bill concerned.	30 31

Part 4 Miscellaneous

1

21 Penalties

2

- (1) A person who commits an offence against this Act is liable: 3
- (a) in the case of an individual, to a penalty of not more than 50 4
penalty units for a first offence or 100 penalty units for a 5
second or subsequent offence, or 6
 - (b) in the case of a body corporate, to a penalty of not more than 7
200 penalty units for a first offence or 400 penalty units for a 8
second or subsequent offence. 9
- (2) If a continuing state of affairs is created by any such offence, the 10
offender is liable: 11
- (a) in the case of an individual, to a penalty of not more than 50 12
penalty units, or 13
 - (b) in the case of a body corporate, to a penalty of not more than 14
200 penalty units, 15
- in respect of each day on which that offence continues, in addition 16
to the penalty specified in subsection (1). 17

22 Proceedings for offences

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- (1) Proceedings for an offence against this Act or the regulations may 19
be disposed of in a summary manner before a Local Court 20
constituted by a Magistrate sitting alone. 21
- (2) An offence against this Act may be dealt with as an indictable 22
offence, but only if the prosecutor proposes that the offence be so 23
dealt with. 24
- (3) If proceedings for an offence against this Act or the regulations are 25
disposed of in a summary manner before a Local Court, the 26
maximum penalty that may be imposed is 50 penalty units, or the 27
maximum penalty for the offence (whichever is the lesser), despite 28
any other provision of this Act. 29
- (4) If proceedings for such an offence are taken on indictment, the 30
maximum penalty that may be imposed is the maximum penalty for 31
the offence. 32

(5)	Proceedings for an offence that are not taken on indictment may be commenced at any time within 12 months after the date on which the offence is alleged to have been committed.	1 2 3
23	Offences by companies	4
(1)	When a body corporate commits an offence under this Act or the regulations, every officer of the body corporate commits the same offence unless he or she proves that:	5 6 7
(a)	the offence was committed without his or her consent or connivance, and	8 9
(b)	he or she exercised due diligence to prevent the commission of that offence as he or she ought to have exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.	10 11 12 13
(2)	In this section:	14
	<i>officer</i> of a body corporate means:	15
(a)	a director, secretary or executive officer of the body corporate, or	16 17
(b)	a receiver, or receiver and manager, of property of the body corporate, or any other authorised person who enters into possession or assumes control of property of the body corporate for the purpose of enforcing any charge, or	18 19 20 21
(c)	an official manager or a deputy official manager of the body corporate, or	22 23
(d)	a liquidator of the body corporate, or	24
(e)	a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons,	25 26 27
	and includes any other person, by whatever name called and whether or not a director of the body corporate, who is concerned, or takes part, in the management of the body corporate.	28 29 30

24	Certain civil proceedings barred	1
	An action at law or in equity does not lie against a person for:	2
	(a) the omission to do any thing the doing of which, or	3
	(b) the doing of any thing the omission to do which,	4
	would constitute an offence against this Act.	5
25	Regulations	6
	The Governor may make regulations prescribing all matters that are	7
	required or permitted by this Act to be prescribed, or are necessary	8
	or convenient to be prescribed for giving effect to the purposes of	9
	this Act.	10
26	Review of Act	11
	(1) Within a period of 12 months commencing on the third anniversary	12
	of the day on which the Bill for this Act was assented to, the	13
	Minister must cause an investigation and review to be conducted	14
	and a report prepared, concerning the operation of this Act.	15
	(2) The Minister must cause a copy of the report referred to in	16
	subsection (1) to be laid before each House of Parliament as soon as	17
	is practicable after the completion of that report.	18

Schedule 1 Application for Family Impact Study and Assessment 1
2

(Sections 19 and 20) 3

1	Who is the member of Parliament requesting a Family Impact Study and Assessment?	4 5
	Name:	6
	Address:	7
	Phone:	8
	Fax:	9
2	Give a clear and detailed description of the proposed legislation for which you request a Family Impact Study and Assessment:	10 11 12
3	Do you request an exhaustive Family Impact Study and Assessment (which could delay receiving your Assessment by up to 6 months)? () Yes () No	13 14 15
4	What are the objectives of the proposed legislation?	16 17
5	How many families would be affected by the proposed legislation? ..	18 19
6	Which type of families would be affected by the proposed legislation? (for example, families from a particular ethnic background or living in a certain geographical area)	20 21 22 23
7	Give a full description of the likely moral effect of the proposed legislation. Include an assessment of whether the proposed legislation would assist or be contrary to promotion of the Judeo-Christian ethic as the basic historic moral ethic for Australia.	24 25 26 27 28
8	Will the proposed legislation reinforce the stability of the home and particularly the marital commitment that holds the home together? ..	29 30 31
9	Will the proposed legislation strengthen or erode the authority of the home and specifically the rights of the parents in relation to the education, nurture and supervision of their children?	32 33 34
10	Will the proposed legislation help the family to perform its function or will it substitute government activity for that function?	35 36
11	What message will the proposed legislation send to the public concerning the status of the family?	37 38

Gambling (Anti-Greed) Advertising Prohibition Bill 1998

Schedule 1 Application for Family Impact Study and Assessment

12	What message will the proposed legislation send to children and young people concerning their behaviour, their personal responsibility and the norms of our society?	1
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	4
13	Do any measures that affect society generally or a particular group need to be taken in conjunction with the proposed legislation?	5
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14	From Question 13, give an assessment of the likely effectiveness of those measures?	8
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	10
15	Will the proposed legislation reduce or increase earned household income?	11
	.....	12
	.....	13
16	If so, by how much?	14
17	Are there feasible alternatives to the proposed legislation and what is the reason for choosing the legislation?	15
	.....	16
	.....	17
18	Can alternatives be provided by voluntary, private and/or church institutions rather than government instrumentalities?	18
	.....	19
	.....	20
19	What would be the consequences of not proceeding with the proposed legislation?	21
	.....	22
	.....	23
20	Will the proposed legislation stress the integrity and preservation of the family unit?	24
	.....	25
	.....	26
21	Will the proposed legislation respect family values and foster morally correct behaviour?	27
	.....	28
	.....	29