



## **National Gambling Reforms (Administration of ATM measure) Directions 2014**

I, KEVIN ANDREWS, Minister for Social Services, give these Directions to the Regulator under subsection 110(1) of the *National Gambling Reform Act 2012*.

Dated: 29 January 2014

KEVIN ANDREWS  
Minister for Social Services

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## Part 1 Preliminary

### 1 Citation

These Directions may be cited as the *National Gambling Reforms (Administration of ATM measure) Directions 2014*.

### 2 When these Directions cease to have effect

These Directions cease to have effect after 6 months from their commencement.

### 3 Definitions

In these Directions:

*Act* means the *National Gambling Reform Act 2012*.

*approved form*—see subsection 43(2) of the Act (and section 5 of the Act).

*ATM measure* means the reform in the Act that limits the amount of cash that can be withdrawn from an automatic teller machine (ATM) that is on gaming machine premises (other than a casino).

*authorised person*—see section 5 of the Act.

*formal enforcement powers* means any of the powers that can be exercised to enforce the Act, as set out in Chapter 8 of the Act.

*gaming machine premises*—see section 5 of the Act.

*regulated entity* means a person to whom the ATM measure applies (see Division 2 of Part 3 of Chapter 3 of the Act).

*Regulator*—see section 5 of the Act.

### 4 Object of these Directions

The object of these Directions is to provide regulatory guidance and general requirements in relation to the approach to be taken by the Regulator in the first 6 months of administering the ATM measure.

The approach to be taken is an educative approach, which seeks to build the capacity of regulated entities to meet their obligations while encouraging cooperation by regulated entities as the principal focus of the administration of this measure.

This contrasts with a strict enforcement approach focusing on active monitoring of compliance or use of formal enforcement powers.

## **Part 2    Directions**

### **5        Regulatory priorities and principles**

The Regulator must prioritise the following functions or activities:

- (a) providing information and advice to regulated entities, individuals and the general public to educate them about the operation of the ATM measure;
- (b) cooperating with regulated entities, as well as State and Territory governments and other relevant persons, in relation to the operation of the ATM measure;
- (c) processing applications for gaming machine premises to be exempt from the operation of the ATM measure (under section 43 of the Act).

### **6        General approach to monitoring of compliance with the ATM measure**

Consistently with the above, the Regulator is to take an educative approach to the administration of the ATM measure rather than engaging in active monitoring of compliance.

### **7        Responding to instances of potential non-compliance (where there is a pending application for an exemption)**

- (1) This section applies where:
  - (a) the Regulator becomes aware of an instance of potential non-compliance, for example where a complaint has been made by a member of the public or a regulated entity has made the Regulator aware of their potential non-compliance; and
  - (b) a person who occupies the gaming machine premises concerned has made a genuine application for an exemption, in the approved form, from the operation of the ATM measure in relation to the premises (under section 43 of the Act).
- (2) The Regulator must determine the application for an exemption before responding, in accordance with section 8, to the potential non-compliance on the part of any regulated entity (that is, whether on the part of a person who occupies the premises or a person who provides an ATM on the premises).

## **8 Responding to instances of potential non-compliance (where there is no pending application for an exemption)**

- (1) This section applies where:
  - (a) the Regulator becomes aware of an instance of potential non-compliance, for example where a complaint has been made by a member of the public; and
  - (b) no genuine application for an exemption, in the approved form, has been made from the operation of the ATM measure (under section 43 of the Act) in relation to the gaming machine premises concerned, or no such application is pending.

### *Cooperative engagement*

- (2) The Regulator must ensure that the regulated entity concerned is contacted in relation to the potential non-compliance.
- (3) The Regulator must then ensure that the regulated entity is given a reasonable period of time, generally at least a month, before steps are taken to seek to confirm the non-compliance, for example before requesting information or visiting the premises.
- (4) If, after taking steps to confirm non-compliance, the Regulator or other authorised person is of the view that there is such non-compliance, the Regulator must ensure that assistance is offered to the regulated entity to help them understand their obligations.
- (5) Once this assistance is provided, the Regulator must ensure that a reasonable period of time, generally at least 3 months, is given to the regulated entity to rectify any non-compliance before further action is taken.

### *Formal enforcement action*

- (6) The Regulator must generally ensure that formal enforcement powers are only exercised in cases of serious non-compliance (and, in all cases, only after the cooperative engagement process above has been completed).
- (7) In determining whether there is serious non-compliance, the Regulator must consider (or ensure that a relevant authorised person considers) whether it is a 'first time' breach, whether it is deliberate, and any other relevant factors.
- (8) If, after considering the matters above, it is intended to exercise formal enforcement powers, the Regulator must ensure that the regulated entity concerned:

- (a) is notified of this intention; and
  - (b) is given a reasonable period of time to respond to such a notification, generally at least a month, before any formal enforcement powers are exercised.
- (9) If formal enforcement powers are to be exercised, the Regulator must generally ensure that a graduated and escalating approach is taken to non-compliance.