
Gambling Codes of Practice (General) Variation Notice 2016

TABLE OF CONTENTS

1	Citation, commencement, authorising provisions, etc 1	6	Extension of management plan provisions 3
2	Purpose..... 1	7	Revision—role of peak bodies—cross reference 4
3	Variation of clause 1— deferral of commencement..... 2	8	Revision—mandatory warning message provisions 4
4	Predictive monitoring..... 2	9	Requirements to provide copy of responsible gambling code on request..... 4
5	Variation of clause 69— casino training 3		

SOUTH AUSTRALIA

GR Notice No. 4 of 2016
**Gambling Codes of Practice (General) Variation
Notice 2016**

[9 June 2016]

By this notice, the Independent Gambling Authority varies the notice prescribing advertising and responsible gambling codes of practice, as follows:

1 Citation, commencement, authorising provisions, etc

- (1) This notice may be cited as the Gambling Codes of Practice (General) Variation Notice 2016.
- (2) This notice comes into operation as follows—
 - (a) as to clauses 1, 2, 3, 6, 7, 8 and 9, on the day following its publication in the Government Gazette;
 - (b) as to clause 4, on 1 October 2016; and
 - (c) as to clause 5, on 1 July 2016.
- (3) This notice is authorised by—
 - (a) section 6A of the *Authorised Betting Operations Act 2000*, in particular section 6A(9);
 - (b) section 41A of the *Casino Act 1997*, in particular section 41A(9);
 - (c) section 10A of the *Gaming Machines Act 1992*, in particular section 10A(10); and
 - (d) section 13B of the *State Lotteries Act 1966*, in particular section 13B(8).

2 Purpose

This notice varies the Gambling Codes of Practice Notice 2013¹ to defer

¹ GR Notice No. 8 of 2013, *South Australian Government Gazette*, 18 December 2013 (No. 81 of 2013), pages 4798–4844, varied by—Gambling Codes of Practice (In-Venue Messaging) Variation Notice 2014 (GR1/2014), 20 February 2014, Gazette No. 14 of 2014, pages 1014–1024; Gambling Codes of Practice (General) Variation Notice 2015 (GR6/2015), 26 March 2015, Gazette No. 19 of 2015, pages 1266–1271; Gambling Codes of Practice (Premium Gaming) Variation Notice 2015 (GR8/2015), 7 May 2015, Gazette No. 28 of 2015, pages 1665–1666; Gambling Codes of Practice (Predictive Monitoring) Variation Notice 2015 (GR12/2015), 30 July 2015, Gazette No. 46 of 2015, page 3586; Gambling Codes of Practice (Account Gambling) Variation Notice 2016 (GR1/2016), 18 February 2016, Gazette No. 10 of 2016, page 541.

for a further 3 months the commencement of predictive monitoring, to make changes to the requirements for acceptable loyalty programs with respect to minimum standards for predictive monitoring, to expand the provisions which can be varied by a management plan, to include certain casino management staff among those required to undertake recognised training and to make miscellaneous revisions to the text.

3 Variation of clause 1—deferral of commencement

In clause 1(2)(c)(ii) of the Gambling Codes of Practice Notice 2013, for “1 July 2016”, **substitute** “1 October 2016”.

4 Predictive monitoring

(1) In clause 1 of the Gambling Codes of Practice Notice 2013—

- (a) the expression “(1)” at the start of sub-clause (1) is **deleted**; and
- (b) sub-clause (2) is **revoked**.

(2) In clause 3(1) of the Gambling Codes of Practice Notice 2013, **insert** the following definition appropriately in the alphabetical sequence—

“automated risk monitoring system” means—

- (a) a system recognised under section 40B(1)(b) of the *Casino Act 1997*;
- (b) a system recognised under section 10B(1)(c)(ii) of the *Gaming Machines Act 1992*; or
- (c) a system which the Authority has recognised by instrument in writing to be the equivalent for wagering or lotteries as a system mentioned in paragraph (a) or (b).

(3) In clause 55(1) of the Gambling Codes of Practice Notice 2013—

(a) before “and” following paragraph (a)(iv), **insert**—

“(iva) includes a facility for predictive monitoring of the patterns of gamblers’ gambling activity, with the purpose of intervening in cases where there is a risk of problem gambling, which meets the minimum requirements set out in sub-clause (2);”

(b) in paragraph (b), after “rules and conditions”, **insert** “, the way (if any) in which it facilitates predictive monitoring”; and

(c) sub-clause (2) is **revoked** and, in its place, the following sub-clauses (operative on the same day as this paragraph) are **inserted**—

“(2) A facility meets the minimum requirements if it provides, in respect of each person participating in the loyalty program, for the identification of changes of significance between the most recent month (whether or not a calendar month) and past months in measures of the—

- (a) amount of money spent;
- (b) amount of time spent; and
- (c) intensity of the person’s activity—

with parameters which are able to be adjusted to produce a manageable number of cases for consideration of intervention.

(3) Sub-paragraph (iva) of sub-clause (1)(a) does not apply if the loyalty program operates in conjunction with an automated risk monitoring system.

(4) Sub-paragraphs (iv) and (iva) of sub-clause (1)(a) do not apply if the loyalty program is managed manually, is limited to a single site and provides benefits of no more than \$100 each day.”.

5 Variation of clause 69—casino training

In the definition of “**casino supervisor**” in clause 69(1) of the Gambling Codes of Practice Notice 2013—

- (a) at the end of paragraph (b), **delete** “or”; and
- (b) after paragraph (c), **insert**—

“(d) managing the licensee’s marketing function (however described);”.

6 Extension of management plan provisions

(1) In clause 31 of the Gambling Codes of Practice Notice 2013—

- (a) after the clause heading, at the start of the clause, **insert** “(1)”; and
- (b) at the end of the clause, **insert**—

“(2) The requirements of this clause are variable by a management plan.”.

- (2) In clause 32 of the Gambling Codes of Practice Notice 2013—
- (a) after the clause heading, at the start of the clause, **insert** “(1)”; and
 - (b) at the end of the clause, **insert**—
“ (2) The requirements of this clause are variable by a management plan.”.
- (3) In clause 44 of the Gambling Codes of Practice Notice 2013—
- (a) after the clause heading, at the start of the clause, **insert** “(1)”; and
 - (b) at the end of the clause, **insert**—
“ (2) The requirements of this clause are variable by a management plan.”.

7 Revision—role of peak bodies—cross reference

In the example to clause 8(2)(a)(ii) of the Gambling Codes of Practice Notice 2013, for “Clause 46(4)(c)”, **substitute** “Clause 51(2)(c)”.

8 Revision—mandatory warning message provisions

- (1) In clause 22(2) of the Gambling Codes of Practice Notice 2013, for “(other than a plug)”, **substitute** “(other than as described in sub-clauses (1)(b), (c) or (d))”.
- (2) In the column headed “first relevant period” in Schedule 1 of the Gambling Codes of Practice Notice 2013, for “1 July 2017–31 December 2017”, **substitute** “1 July 2016–31 December 2016”.

9 Requirements to provide copy of responsible gambling code on request

- (1) In clause 45A(4) of the Gambling Codes of Practice Notice 2013, after “a copy of this code”, **insert** “(or a summary document approved in writing by the Authority)”.
- (2) In clause 50(1)(b)(ii) of the Gambling Codes of Practice Notice 2013, after “a copy of this code”, **insert** “(or a summary document approved in writing by the Authority)”.
- (3) In clause 52(1)(b) of the Gambling Codes of Practice Notice 2013, after “a copy of this code”, **insert** “(or a summary document approved in writing by the Authority)”.

South Australia
Gambling Codes of Practice (General) Variation Notice 2016

GR Notice No. 4 of 2016

Note 1

NOTE

1. The commencements proposed by clause 1(2) were certified under section 10AA of the *Subordinate Legislation Act 1978* by the Minister for Consumer and Business Services on 2 June 2016 and by the Minister for Finance on 7 June 2016.

SOUTH AUSTRALIA

Gambling Codes of Practice (General) Variation Notice 2016

NOTES ON CLAUSES

This notice varies the Gambling Codes of Practice Notice 2013 (“**Principal Notice**”). Its primary purpose is to implement policy changes identified in the Authority’s stakeholder engagement on predictive monitoring.

That stakeholder engagement included a well-attended public hearing on 24 November 2015. In response to the presentations and submissions received on that day, the Authority published an outcomes statement on 18 December 2015. The variations made in clause 3 of this notice implement those outcomes.

In addition to that primary purpose, the opportunity is being taken to expand the scope of management plans (which allow for flexible regulation), to include the marketing manager of the casino among the management staff required to undertake training, to make minor revisions to the text and to make some additional minor changes put forward by industry stakeholders.

This notice and the Principal Notice are authorised by the multiple statutory provisions enumerated in clause 1(3). Each obliges the Authority to give gambling providers notice of proposed prescriptions and variations and consider representations made within a minimum 28 day period. This 28 day process was initiated in February 2016. All but one of the stakeholder groups responding in the 28 day process supported the proposal as drafted. One stakeholder representation, made on behalf of gaming machine licensees, proposed a different approach. This was given very specific consideration by the Authority in early April 2016.

That representation concerned the predictive monitoring variations in clause 3. It argued for a reversal of the policy to require that loyalty programs, when offered as an inducement to gamble, include a facility for predictive monitoring of gamblers’ patterns of activity with a view to identifying those at risk. It noted that gambling machine licensees would be required to implement automated risk monitoring by 31 December 2018, and suggested that the requirement would part-implement that initiative 2½ years early. It also recited suggestions from the public hearing that a deferral would allow for more work to be done to achieve a better predictive model.

On consideration, the Authority has declined to reverse the policy. It noted that automated risk monitoring requires extensive hardware and software implementations while, following this variation notice, the addition of predictive monitoring to existing loyalty programs would require no more than the development and execution of a

Gambling Codes of Practice (General) Variation Notice 2016
Notes on clauses

monthly report. The Authority also noted that, while automated risk monitoring will be mandatory, gaming machine licensees are not obliged to offer loyalty programs as inducements to gamble.

However, on further representations being made and upon it becoming clear to the Authority that hotel and club licensees were unlikely to be able to continue to offer loyalty benefits in respect of their gaming operations on the commencement day, the Authority has determined to allow an additional 3 months for implementation.

The representations did not otherwise require any further consideration of the policy contained in the other variations to the codes.

Clause 1 sets out the title of the notice and the commencement dates of its provisions.

Sub-clause (1) provides for the citation.

Sub-clause (2) provides for commencement. The provisions deferring predictive monitoring and making the minor changes come into operation on the day following gazettal (that is, immediately). The provisions revising the requirements for loyalty programs come in on 1 October 2016, and the provisions affecting casino employee training come in on 1 July 2016.

Sub-clause (3) recites the authorising provisions.

Clause 2 sets out the purpose of the variation notice.

Clause 3 extends the commencement date of the presently uncommenced clause 55(2) to 1 October 2016. This implements an additional 3 months deferral to allow implementation by gambling providers. This variation comes into operation on the day following gazettal.

Clause 4 implements the Authority's policy position as set out in the outcomes statement issued on 18 December 2015 to the participants in the stakeholder engagement process. In that process the Authority had been satisfied that some form of predictive monitoring was achievable within the six to nine months following the consultation. The Authority also concluded that guidance as to minimum requirements would be desirable.

In simple terms, predictive monitoring is about using existing loyalty system data to identify gamblers who are possibly at risk of problem gambling.

Sub-clause (1) revokes the original commencement provision of the Principal Notice. With the implementation of the variations in clause 3, all of the provisions of the Principal Notice will have been commenced and so the work of this clause will have been completed. This variation comes into operation on 1 October 2016.

Gambling Codes of Practice (General) Variation Notice 2016
Notes on clauses

Sub-clause (2) inserts a definition of automated risk monitoring systems. While this term is defined in two of the Acts under which the Principal Notice operates (the *Casino Act 1997* and the *Gaming Machines Act 1992*), it is not defined in the other Acts although the concept is relevant to the policy on predictive monitoring. This definition will allow provider-by-provider recognition of systems analogous to the recognised automated risk monitoring systems for casino and gaming operations.

Sub-clause (3) does the main work of implementation of the Authority's predictive monitoring policy by way of variation of clause 55 of the Principal Notice. These variations commence on 1 October 2016.

Clause 54 of the Principal Notice prohibits inducements to gamble, subject to certain exceptions. One of these relates to inducements to gamble arising from participation in an acceptable loyalty program—with clause 55 providing for acceptable loyalty programs. Clause 55(1) is structured around a default definition (paragraph (a)) and a program-specific approval (paragraph (b)). These provisions commenced on 1 March 2014. Further requirements for predictive monitoring were included in clause 55(2)—they were separated out in this sub-clause so that they could commence later, initially on 1 January 2016 later extended to 1 July 2016 and now to 1 October 2016.

The default predictive monitoring requirement is to be imposed by a new clause 55(1)(a)(iva) [see clause 4(3)(a) of this notice] and referenced by additional words in the program specific provision [see clause 4(3)(b) of this notice].

Proposed clause 55(1)(a)(iva) makes reference to minimum requirements set out in proposed clause 55(2) [see clause 4(3)(b) of this notice]. Proposed clauses 55(3) and (4) [also see clause 4(3)(b) of this notice] set out two exceptions from predictive monitoring—concurrent operation of an automated risk monitoring system and small manual loyalty programs.

Proposed clause 55(2) says that a predictive monitoring facility will meet minimum requirements if it operates to identify significant changes month-by-month in gamblers' activity by reference to amount spent, time spent and intensity of activity. This minimum requirement can be met by loyalty data being analysed through a batch process—thereby avoiding any presumption of a requirement for a highly sophisticated, live system continuously reviewing participant activity against own and others' history.

Proposed clause 55(3) removes the requirement for a loyalty program to include a predictive monitoring facility if the relevant gambling activity is subject to an automated risk monitoring system. Because an automated risk monitoring system would also cover anonymous activity as well as that

Gambling Codes of Practice (General) Variation Notice 2016
Notes on clauses

associated with loyalty, nothing would be added nothing to the protections available to participants if predictive monitoring over loyalty data were required in addition. The casino licensee already has automated risk monitoring and the regulatory process allows gaming machine licensees to seek to have systems recognised earlier than the existing December 2018 deadline. Wagering and lottery providers are at liberty to implement automated risk monitoring at any time.

Proposed clause 55(4) exempts small manual loyalty programs (prizes per day of \$100 or less) which otherwise meet the proportionality test in the present clause 55(1)(a) from both predictive monitoring and activity statement obligations. This is undertaken on an assessment of the risk posed by such genuinely small loyalty programs (noting that the proportionality test must still be met, and so “cheap meals in the gaming room” type offers will remain unlawful).

Clause 5 amends clause 69 of the Principal Notice to require the marketing manager of the Adelaide Casino to undertake recognised training. It does this by addition of a new paragraph (d) in the definition of casino supervisor. The current provisions already require certain managers to undertake the training; the policy of this variation is to facilitate alignment between the marketing of the product and the prescribed safeguards on its delivery.

This variation will become operative on 1 July 2016 to allow appropriate lead-time for implementation.

Clause 6 allows various advertising and responsible gambling provisions to now be variable by management plan: presentation of the mandatory warning message in texts and tweets, and in longer electronic advertising, and in direct customer communications.

This variation will become operative immediately to give gambling providers immediate access to this flexible form of regulation.

Clause 7 updates a cross reference in an example in clause 8 of the Principal Notice.

Clause 8 of the Principal Notice recognises the important role which peak bodies can play in the orderly implementation of the codes of practice, noting that the legal framework generally imposes obligations at the point of customer contact (for example, concerning gaming machines, with the hotel or club licensee). Clause 8 specifically allows a peak body, such as Club Safe or Gaming Care, to satisfy a licensee’s regulatory obligations through an activity which achieves the desired outcome in an appropriate way. Because this sort of provision is intended to promote flexibility, very general language is used and, occasionally, the lack of specificity gives rise to confusion or uncertainty about what is intended.

Gambling Codes of Practice (General) Variation Notice 2016
Notes on clauses

To address this sort of issue, examples are sometimes used to enliven the general language. This is done with clause 8; an example is given of gambling providers' obligations to maintain individual management level contact with a gambling help service and it explains that clause 8 would enable that to be done by, in the case of clubs and hotels, Club Safe or Gaming Care.

The obligation was identified in part by a cross-reference to a clause which was revoked and remade (in the same terms but under a different clause number) when clauses 45–51 were rewritten to implement in-venue messaging. This particular was not noted at the time but was helpfully pointed in a representation made as part of the 28 day process for this notice.

This change does not alter the legal position under the codes of practice and it imposes no new regulatory burden. It will become operative immediately.

Clause 8 makes two revisions, one to improve the clarity of the relationship between two provisions relating to television advertising and the other to correct an error in the original notice. This variation imposes no new burden and will become operative immediately.

Clause 9 makes a change in response to a representation made as part of the 28 day process for this notice.

The representation noted that the long-standing obligation to provide, on request, a copy of the responsible gambling code was imposing unintended burdens on gaming machine licensees by reason of that code now being prescribed by a single, whole of gambling industry, notice (that is, the Principal Notice). Because a new version of the notice is issued each time there is a gazetted change (even if only in relation to advertising matters or in relation to provisions which did not apply to all licensees), gambling machine licensees saw themselves reprinting the whole notice on a regular basis.

Part of the policy (expressed in clauses 45A(4), 50(1)(b)(ii) and 52(1)(b) of the Principal Notice) is for the code to be physically present in venues or else something handled by or visible to staff. That being the case, some of the suggested solutions (such as referring customers to the Authority's website) did not provide an acceptable alternative.

However, the Authority did accept that there was scope to reduce the burden by making provision for the substitution of an approved summary of the responsible gambling code. Such a summary could be much shorter than the Principal Notice and would be less likely to change because of minor amendments to the Principal Notice.

Gambling Codes of Practice (General) Variation Notice 2016
Notes on clauses

While this change provides a new option to gambling providers in the way they can comply with the codes of practice, it does not impose any new regulatory requirement or burden. It will become operative immediately.