



Andrew Wilkie MP  
INDEPENDENT MEMBER FOR CLARK

## Submission re the proposed *Guidelines for the Classification of Computer Games 2023*

Thank you for the opportunity to make a submission regarding the proposed *Guidelines for the Classification of Computer Games 2023*.

The Government's proposal to only introduce a classification of M for computer games containing paid loot boxes is entirely inadequate. To pay to participate in a game of chance with the possibility of a reward is gambling by any definition and should be rated at least R18+, in other words banned for people under the age of 18.

By rating games containing loot boxes as M, children aged between 15 and 18 will continue to be exposed to harmful gambling simulators. Moreover, it is likely that people younger than 15 will also be able to access them given how easy it is for anyone to purchase an M-rated product. This is deeply problematic because, by enticing players to risk money for a possible reward, it is obvious that young people who play these games are being groomed for future gambling.

Indeed a literature review commissioned by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts in 2022 found an association between loot boxes and gambling harm. There was also reliable evidence to suggest those more engaged with games containing loot boxes were associated with increased problem gambling risk.

Given that the largest cohort of people gambling online are 18 to 24-year-old males, it is critical that the Government does more to protect young people from gambling-like features in video games. To that end, I urge the Government to support my *Classification (Publications, Films and Computer Games) Amendment (Loot Boxes) Bill 2022*. I have enclosed a copy of the Bill and the Explanatory Memorandum in this submission. The Bill requires the Classification Board to classify any game with loot boxes as R18+ or RC. It also requires clear labelling on games so that parents and guardians know when their children are exposed to these features.

Yours sincerely

Andrew Wilkie MP  
Independent Member for Clark

7 June 2023

2022

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Classification (Publications, Films and  
Computer Games) Amendment (Loot  
Boxes) Bill 2022**

**No.     , 2022**

*(Mr Wilkie)*

**A Bill for an Act to amend the *Classification  
(Publications, Films and Computer Games) Act 1995*,  
and for related purposes**

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	

2

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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### **3 Schedules**

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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1 **Schedule 1—Amendments**  
2

3 ***Classification (Publications, Films and Computer Games)***  
4 ***Act 1995***

5 **1 After section 9A**

6 Insert:

7 **9B Classification and consumer advice for computer games that**  
8 **contain loot boxes**

9 (1) A computer game that contains a loot box must be classified R 18+  
10 or RC.

11 (2) A warning that a computer game contains loot boxes is taken to be  
12 consumer advice determined by the Board under section 20 for any  
13 computer game that contains a loot box.

14 (3) In this section:

15 *loot box* means a feature of a computer game where digital  
16 containers of randomised virtual items can be obtained for  
17 consideration.

18 **2 Application of amendment**

19 The amendment made by this Schedule applies in relation to computer  
20 games classified after the commencement of this Schedule.

**2022**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**Classification (Publications, Films and Computer Games)  
Amendment (Loot Boxes) Bill 2022**

**EXPLANATORY MEMORANDUM  
and  
STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of  
Andrew Wilkie MP

## **Classification (Publications, Films and Computer Games) Amendment (Loot Boxes) Bill 2022**

### **OUTLINE**

This bill seeks to regulate how computer, video and online games which contain 'loot boxes' are classified.

Loot boxes are features of interactive games containing undisclosed items that can be purchased with real currency. They can take the form of a virtual box, crate, prize wheel or similar mechanism and contain a prize or item which may or may not benefit the player. For example, a loot box might contain a particular character, additional play time or access to levels and game maps. As the rewards contained within these loot boxes can offer competitive advantages within the game, they carry significant value for players and may hold resale value.

By tempting players with the potential to win game-changing items, encouraging risk-taking for possible reward, delivering random prizes on an intermittent basis, and encouraging players to keep spending money, loot boxes give rise to many of the same emotions and experiences associated with poker machines and traditional gambling activities. This is especially concerning as many games which contain these features are popular with adolescents and young adults. Despite this, loot boxes are not currently required to be considered in classification decisions nor are games required to advertise when they contain this feature.

This bill remedies this by requiring the Classification Board to consider loot boxes when classifying a game. Further, the Board must set a minimum classification of R18+ or RC for games containing this feature, which will restrict children from purchasing and playing these games.

The amendments also require a warning to be displayed when games contain loot boxes or similar features, so that they can be easily identified by parents and guardians.

### **FINANCIAL IMPACT**

The bill will have no financial impact.

### **NOTES ON CLAUSES**

#### **Clause 1: Short Title**

This clause is a formal provision and specifies the short title of the bill as the *Classification (Publications, Films and Computer Games) Amendment (Loot Boxes) Bill 2022*.

#### **Clause 2: Commencement**

This clause provides for the commencement of the Act on the day after it receives Royal Assent.



## **Clause 3: Schedules**

This clause establishes that, as the intent of the bill is to be realised through amendments to another Act, the schedule of this bill will amend that Act accordingly.

### **Schedule 1**

*Classification (Publications, Films and Computer Games) Act 1995*

#### **Item 1: After section 9A**

This item adds a new classification requirement for the Classification Board to consider when issuing classification guidelines. It does so by inserting an additional section, section 9B, which provides classification and consumer advice for computer games that contain loot boxes.

1. Subsection 9B(1) requires the Board to classify computer games which contain loot boxes as either R 18+ or RC. This means all computer games which contain loot boxes are legally restricted, and at a minimum can only be purchased, viewed and sold by consumers of 18 years old or above.
2. Subsection 9B(2) mandates that the packaging of games which contain loot boxes must express that they do so, ensuring it is clear for parents and guardians that the game in question contains the gambling-type feature. This will be incorporated into the pre-existing classification requirements which are required to be displayed on games packaging.
3. Loot boxes are defined as a feature of a computer game where digital containers of randomised virtual items, of varying value, can be obtained for consideration (subsection 9B(3)). Under this definition, the classification and consumer advice provisions only apply to loot boxes which require actual consideration to be paid to procure access to the feature, rather than capturing free or bonus features which don't require real currency to be paid. This includes circumstances where virtual currency has been purchased using real money, which is then used to buy the loot box. It is intended this definition is wide enough to capture features with a randomised reward function even when strictly not a 'box' or a 'crate', for example a virtual prize wheel.

#### **Item 2: Application of amendment**

4. The amendments do not apply retrospectively and are only applicable to computer games classified after the bill comes into force.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### **Classification (Publications, Films and Computer Games) Amendment (Loot Boxes) Bill 2022**

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**

This bill seeks to regulate how computer, video and online games which contain 'loot boxes' are classified.

Loot boxes are features of interactive games containing undisclosed items that can be purchased with real currency. They can take the form of a virtual box, crate, prize wheel or similar mechanism and contain a prize or item which may or may not benefit the player. For example, a loot box might contain a particular character, additional play time or access to levels and game maps. As the rewards contained within these loot boxes can offer competitive advantages within the game, they carry significant value for players and may hold resale value.

By tempting players with the potential to win game-changing items, encouraging risk-taking for possible reward, delivering random prizes on an intermittent basis, and encouraging players to keep spending money, loot boxes give rise to many of the same emotions and experiences associated with poker machines and traditional gambling activities. This is especially concerning as many games which contain these features are popular with adolescents and young adults. Despite this, loot boxes are not currently required to be considered in classification decisions nor are games required to advertise when they contain this feature.

This bill remedies this by requiring the Classification Board to consider loot boxes when classifying a game. Further, the Board must set a minimum classification of R18+ or RC for games containing this feature, which will restrict children from purchasing and playing these games.

The amendments also require a warning to be displayed when games contain loot boxes or similar features, so that they can be easily identified by parents and guardians.

#### **Human rights implications**

By restricting certain games to players aged 18 or above, this bill restricts freedom of expression as it provides for classification and restriction of access to certain content. The freedom is curtailed on the basis of protection from harm. That is, restricting underage access to gambling-type gameplay. The measure itself is proportionate in that the content is not subject to a blanket ban, and the Board still retains some discretion as to the classification of the material. The proposed amendments are therefore reasonably proportionate to the legitimate purpose of protecting young people from exposure to gambling like game features.

## **Conclusion**

This bill is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

**Andrew Wilkie MP**