

Fair Trading (Gift Card Expiry) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Many New Zealanders use gift cards as a welcome and convenient gift option, but, as many gift cards have an expiry date of 12 months or less, 1 in 5 recipients lose out because they don't redeem the full value before the card has expired. This provides for a windfall for the retailer, as they keep any remaining money.

This Bill seeks to prohibit the selling of gift cards with an expiry date of less than 3 years after the initial sale date, giving the recipient a more reasonable period in which to redeem its full value.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Fair Trading Act 1986 (the **Principal Act**).

Clause 4 inserts *new section 24A* into the principal Act. *New section 24A* prohibits the selling of gift cards with expiry dates that are less than 3 years after the date of sale of the gift card. Where a gift card is sold with an expiry date that is earlier than 3 years, the expiry date is void and taken to be 3 years after the date of sale. *New section 24A* also defines the terms **expiry date** and **gift card**, and sets out several types of cards and vouchers that are excluded from being gift cards under the Bill. *New section 24A* only applies to gift cards sold after the Bill has come into force. *New section 24A* is based on provisions contained in the Fair Trading Amendment (Ticket Scalping and Gift Cards) Act 2017 (NSW).

Clause 5 amends section 40(1) of the principal Act in order to exclude contravention of *new section 24A* from being treated as an offence under the principal Act.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fair Trading (Gift Card Expiry) Amendment Act **2022**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

This Act amends the Fair Trading Act 1986 (the **principal Act**).

4 New section 24A inserted (Prohibition on gift card expiry dates of less than 3 years)

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After section 24, insert:

24A Prohibition on gift card expiry dates of less than 3 years

- (1) A person must not sell to a consumer a gift card with an expiry date that is earlier than 3 years after the date of sale of the gift card.
- (2) A term or condition of a gift card sold to a consumer is void to the extent that it contravenes **subsection (1)**. 5
- (3) If the expiry date of a gift card is void because of **subsection (2)**, the expiry date is taken to be 3 years after the date of the sale of the gift card.
- (4) In this section,—
- expiry date** of a gift card means the date on which the gift card ceases to be redeemable 10
- gift card** means a card or voucher (in hard copy or electronic form) that is redeemable for goods or services, but does not include—
- (a) a card supplied in substitution for goods returned to the supplier of the goods; or
- (b) a prepaid card or voucher redeemable for phone credit, internet access, or other similar services; or 15
- (c) a debit card, credit card, prepaid travel card, or any similar products supplied by a financial institution; or
- (d) a card or voucher supplied as part of a customer loyalty programme.
- (5) This section only applies to a gift card sold after the commencement of this section. 20

Compare: Fair Trading Amendment (Ticket Scalping and Gift Cards) Act 2017 Schedule 2 (NSW)

5 Section 40 amended (Contraventions of provisions of Parts 1 to 4A an offence)

In section 40(1), replace “or 24” with “24, or 24A”. 25