



New South Wales

Totalizer Amendment (Prohibited Shareholding Exemption) Regulation 1999

under the

Totalizer Act 1997

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Totalizer Act 1997*.

J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

Explanatory note

Section 33 of the *Totalizer Act 1997* prohibits a person being entitled to more than 5% of the total number of voting shares in the licensee under the Act (being TAB Limited).

Some authorised trustee corporations, acting as trustees for more than one investment fund, have approached or exceeded this 5% limit, but do not exercise the voting rights attaching to shares they hold or are entitled to.

The object of this Regulation is to exempt an authorised trustee corporation and its related bodies corporate from the prohibition in section 33 if:

- (a) the TAB Limited shares are held by the authorised trustee corporation in its capacity as trustee of a trust, undertaking or scheme, or by a custodian holding those shares on behalf of the authorised trustee corporation, and
- (b) the trust, undertaking or scheme is governed by an approved deed (within the meaning of the *Corporations Law*), and

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- (c) neither the authorised trustee corporation, nor the custodian, nor any related body corporate of the authorised trustee corporation or custodian determines the manner in which voting rights attaching to the shares are exercised.

The Minister may by notice in writing given to the authorised trustee corporation or a related body corporate direct that the exemption is not to apply to the corporation or body corporate or any specified shareholding held by the corporation or body corporate.

This Regulation is made under the *Totalizator Act 1997*, including sections 31 (7) and 117 (the general regulation-making power).

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Clause 1

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1 Name of Regulation

This Regulation is the *Totalizator Amendment (Prohibited Shareholding Exemption) Regulation 1999*.

2 Amendment of Totalizator Regulation 1998

The *Totalizator Regulation 1998* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clause 3 Notes

Omit “and table of contents”.

Insert instead “, table of contents and notes in the text of this Regulation”.

[2] Clause 4A

Insert after clause 4:

4A Exemption from prohibited shareholding interest provisions—authorised trustee corporations: section 31 (7)

- (1) The relevant interest that an authorised trustee corporation, or a related body corporate of an authorised trustee corporation, has in shares of a licensee is to be disregarded for the purpose of determining whether the corporation or body corporate has a prohibited shareholding interest (as referred to in section 33 of the Act) in the licensee if:
 - (a) the shares are held by the authorised trustee corporation in its capacity as trustee of a trust, undertaking or scheme or by a custodian on behalf of the authorised trustee corporation in that capacity, and
 - (b) the trust, undertaking or scheme is governed by an approved deed, and
 - (c) neither the authorised trustee corporation, nor the custodian (if any), nor any related body corporate of the authorised trustee corporation or custodian determines the manner in which voting rights attached to the shares are exercised.
- (2) The Minister may by notice in writing given to an authorised trustee corporation or a related body corporate of an authorised trustee corporation direct that this clause is not to apply to:

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Amendments

Schedule 1

- (a) the corporation or body corporate, or
- (b) a specified shareholding of the corporation or body corporate.

(3) This clause does not apply to an authorised trustee corporation, related body corporate, or a specified shareholding of an authorised trustee corporation or related body corporate, that is the subject of a direction given in accordance with subclause (2).

(4) In this clause:

approved deed means a deed that is an approved deed for the purposes of Division 5 of Part 7.12 of the *Corporations Law* (as it continues to apply pursuant to section 1454 of that Law).

Note. Division 5 of Part 7.12 of the *Corporations Law*, although repealed by the *Managed Investments Act 1998* of the Commonwealth, continues to apply to certain interests, undertakings and trustees pursuant to section 1454 of that Law.

authorised trustee corporation and ***related body corporate*** have the same meanings as in the *Corporations Law*.

BY AUTHORITY