

Passed by both Houses



New South Wales

# Totalizator Legislation Amendment Bill 2003

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council*  
2003

*Clerk of the Parliaments*



New South Wales

## **Totalizator Legislation Amendment Bill 2003**

Act No       , 2003

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*An Act to amend the Totalizator Agency Board Privatisation Act 1997 and the Totalizator Act 1997 in relation to shareholding interests in TAB Limited; to amend the Totalizator Act 1997 in relation to licences under that Act; and for other purposes.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Totalizator Legislation Amendment Act 2003*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Totalizator Agency Board Privatisation Act 1997 No 43**

The *Totalizator Agency Board Privatisation Act 1997* is amended as set out in Schedule 1.

**4 Amendment of Totalizator Act 1997 No 45**

The *Totalizator Act 1997* is amended as set out in Schedule 2.

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## Schedule 1 Amendment of Totalizator Agency Board Privatisation Act 1997

(Section 3)

### [1] Section 37A

Insert after section 37:

#### 37A Exemption for nominated company

- (1) The other provisions of this Division do not apply to or in respect of the nominated company or a related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company (other than TAB Limited or a TAB Limited subsidiary), subject to this section.
- (2) If the Racing Minister is satisfied that:
  - (a) the nominated company (or, if the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in subsection (6), the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company) is no longer listed on the Australian Stock Exchange, or
  - (b) there no longer exists, under the law of another jurisdiction or otherwise, a prohibition on shareholding interests in the nominated company (or, if the nominated company is a company referred to in paragraph (c) of the definition of ***nominated company*** in subsection (6), in the shareholding interests in the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company) with substantially the same effect as the prohibition on shareholding interests in TAB Limited under the other provisions of this Division, or
  - (c) TAB Limited is not wholly owned by the nominated company or the nominated company has not taken all reasonable steps to acquire a relevant interest in all the issued voting shares (within the meaning of the *Corporations Act 2001* of the Commonwealth) of TAB Limited, or

- (d) TAB Limited is not a subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company,

the Racing Minister is to serve a notice on the nominated company declaring that the exemption granted by subsection (1) is suspended on and from the day specified in the notice (being a day that is not less than 3 months after service of the notice).

- (3) The Racing Minister is, by further notice served on the nominated company, to revoke a notice under subsection (2) and terminate the suspension effected by that notice if satisfied that:

(a) the nominated company or the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company (as the case may require) has relisted on the Australian Stock Exchange, or

(b) a prohibition of the kind referred to in subsection (2) (b) has been restored, or

(c) TAB Limited is wholly owned by the nominated company or the nominated company has taken all reasonable steps to acquire a relevant interest in all the issued voting shares (within the meaning of the *Corporations Act 2001* of the Commonwealth) of TAB Limited (as the case may be), or

(d) TAB Limited is a subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company,

as the case may require.

- (4) A notice under subsection (2) that is in force has effect according to its tenor.

- (5) More than one notice may be served under each of subsections (2) and (3).

- (6) In this section:

***nominated company*** means one of the following:

(a) Unitab Limited, being the company of that name (ACN 085 691 738), formerly named TAB Queensland Limited,

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(b) TABCORP Holdings Limited, being the company of that name (ACN 063 780 709), formerly named TABCORP Limited,

(c) a wholly owned subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a company referred to in paragraph (a) or (b),

as nominated by the Racing Minister by notice (being an irrevocable notice) published in the Gazette.

***Racing Minister*** means the Minister administering the *Totalizator Act 1997*.

**[2] Schedule 5 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Totalizator Legislation Amendment Act 2003*

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## Schedule 2 Amendment of Totalizator Act 1997

(Section 4)

### [1] Section 5 Definitions

Insert in alphabetical order in section 5 (1):

*nominated company* has the same meaning as in section 37A of the *Totalizator Agency Board Privatisation Act 1997*.

*TAB Limited* means the company of that name (ACN 081 765 308).

### [2] Section 17A Trade Practices exemption

Omit “or 43 (2)” from section 17A (2) (a).

Insert instead “, 43 (2) or 43A”.

### [3] Section 20 Licensee not to be associated with casino and other activities

Insert after section 20 (2):

- (3) However, subsection (1) (a) does not apply to or in respect of the nominated company or a related body corporate of the nominated company during any period during which the exemption granted to the nominated company and any related body corporate by section 32A is in force.

### [4] Section 32A

Insert after section 32:

#### **32A Exemption for nominated company**

The other provisions of this Division do not apply to or in respect of the nominated company or a related body corporate of the nominated company (other than a licensee or a subsidiary of a licensee), in relation to its entitlement to voting shares in TAB Limited, during any period during which the exemption granted to the nominated company and any related body corporate by section 37A of the *Totalizator Agency Board Privatisation Act 1997* is in force.



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**[5] Section 43 Conditions of licences**

Insert after section 43 (2A):

- (2B) Every licence granted to TAB Limited is subject to the condition that:
- (a) no person has a prohibited shareholding interest (within the meaning of Division 3) in the nominated company, or
  - (b) if the nominated company is a company referred to in paragraph (c) of the definition of *nominated company* in section 37A (6) of the *Totalizator Agency Board Privatisation Act 1997*, no person has such an interest in the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company.

However, this condition has effect only while the exemption granted to the nominated company and any related body corporate by section 32A is in force.

- (2C) Subsection (2) extends to commercial arrangements entered into from time to time.

**[6] Section 43A**

Insert after section 43:

**43A Additional conditions of TAB Limited licences**

- (1) It is a condition of every licence of TAB Limited that both TAB Limited and the nominated company must put in place and must give effect to such commercial arrangements (being arrangements that the racing industry has acknowledged in writing to the Minister are satisfactory to the racing industry) as the racing industry considers necessary to ensure that the racing industry is in no less favourable a position under the relevant arrangements in force under section 43 (2) than it was under those arrangements as in force immediately before the nominated company was nominated.
- (2) It is also a condition of every licence of TAB Limited that, if TAB Limited and the racing industry enter into new arrangements under section 43 (2) on or after the date on which the nominated company was nominated, the nominated company must put in place and give effect to arrangements

made by the nominated company and the racing industry for ensuring that the new arrangements, with respect to TAB Limited as licensee, are effectively carried out.

- (3) If the nominated company is a company referred to in paragraph (c) of the definition of *nominated company* in section 37A (6) of the *Totalizator Agency Board Privatisation Act 1997*, subsections (1) and (2) apply as if the reference in those subsections to the nominated company were a reference to the ultimate holding company (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the nominated company.
- (4) In this section:  
*nominated* means nominated under section 37A (6).  
*the racing industry* has the same meaning as it has in section 43 (2A).

**[7] Schedule 2 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Totalizator Legislation Amendment Act 2003*

**[8] Schedule 2, clause 16 (1A)**

Insert after clause 16 (1):

- (1A) This clause applies to an arrangement under section 43A, and to any new arrangement under section 43 (2) as referred to in section 43A (2), as if the arrangement were an arrangement referred to in clause 14.