



New South Wales

Totalizator Legislation Amendment Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide an exemption for a *nominated company*, in relation to its shareholdings in TAB Limited (the privatised Totalizator Agency Board), from the operation of the provisions of the *Totalizator Agency Board Privatisation Act 1997* and the *Totalizator Act 1997* that prohibit a person from entitlement to such number of voting shares in TAB Limited as would constitute more than 10% of the total number of voting shares in that company. The nominated company will be either Unitab Limited (formerly TAB Queensland Limited) or TABCORP Holdings Limited (formerly TABCORP Limited) registered in Victoria.

The exemption will apply only if:

- (a) there is a similar prohibition to that referred to above in place in respect of voting shares in the nominated company, and
- (b) the nominated company is listed on the Australian Stock Exchange, and
- (c) TAB Limited is wholly owned by the nominated company, and

(d) TAB Limited is controlled by the nominated company.

An exemption for the nominated company is also provided from the operation of the provision of the *Totalizator Act 1997* that prohibits the holder of a licence under that Act and certain associated persons from also holding a casino licence under the *Casino Control Act 1992*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Totalizator Agency Board Privatisation Act 1997* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Totalizator Act 1997* set out in Schedule 2.

Schedule 1 Amendment of Totalizator Agency Board Privatisation Act 1997

Schedule 1 [1] inserts proposed section 37A in Division 2 (Maximum shareholding restrictions) of Part 8 (Sale of TAB Limited by public float) of the *Totalizator Agency Board Privatisation Act 1997* (*the TAB Act*). Proposed section 37A provides that the other provisions of Division 2 do not apply to or in respect of the nominated company. Without the exemption conferred by the proposed section, Division 2 would operate to prohibit the nominated company from holding such number of voting shares in TAB Limited as would constitute more than 10% of the total number of voting shares in that company.

However, proposed section 37A also provides that the exemption applies only if the nominated company is listed on the Australian Stock Exchange, TAB Limited is wholly owned by the nominated company, the nominated company controls TAB Limited and there is in existence a prohibition, similar to that set out in Division 2 of Part 8 of the TAB Act, in respect of the holding of voting shares in the nominated company. (Such a prohibition could be imposed by the nominated company's constitution.) If the Minister administering the *Totalizator Act 1997* (the *Racing Minister*) is satisfied that the relevant prohibition is no longer in existence, that the nominated company is no longer listed on the Australian Stock Exchange or that it does not wholly own or control TAB Limited, the Racing Minister is to serve a notice on the nominated company declaring that the exemption will be suspended on and from a specified day. Any such notice is to be revoked (and the suspension terminated) by a

further notice if the Racing Minister is satisfied that the relevant omission has been rectified.

Proposed section 37A defines *nominated company*, for the purposes of the proposed section, as either Unitab Limited or TABCORP Holdings Limited as nominated by the Racing Minister by an irrevocable notice published in the Gazette.

Schedule 1 [2] inserts matter that will permit the making of savings and transitional regulations under the TAB Act in consequence of the enactment of the proposed Act.

Schedule 2 Amendment of Totalizator Act 1997

Division 3 (Maximum shareholding restrictions on licensees) of Part 3 (Licences to conduct totalizators) of the *Totalizator Act 1997 (the Act)* contains provisions of the same kind as those in Division 2 of Part 8 of the TAB Act. Those provisions relate to shareholdings in companies that are holders of licences authorising the conduct of off-course totalizators. Division 2 of Part 3 of the Act deals with applications for, and the grant of, licences under the Act.

Schedule 2 [1] inserts definitions of *TAB Limited* and *nominated company* in section 5 (Definitions) for the purposes of the Act.

Schedule 2 [2] amends section 20 in Division 2 of Part 3 of the Act so as to exempt the nominated company from the operation of section 20 (1) (a), which prohibits a licensee under the Act, a subsidiary of the licensee and a *related body corporate* (such as a holding company) of the licensee from also holding a casino licence under the *Casino Control Act 1992*.

The exemption will apply only while the exemption proposed to be granted by proposed section 32A of the Act (referred to below) is in force.

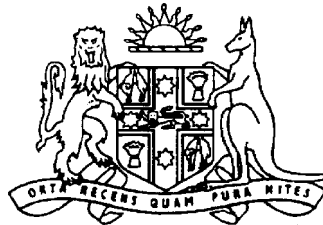
Schedule 2 [3] inserts proposed section 32A in Division 3 of Part 3 of the Act so as to provide an exemption for the nominated company, in relation to its shareholding interest in TAB Limited, from the operation of that Division. Without the exemption conferred by the proposed section, Division 3 would operate to prohibit the nominated company from holding such number of voting shares in TAB Limited as would constitute more than 10% of the total number of voting shares in that company.

The exemption will apply only while the exemption proposed to be granted by proposed section 37A of the TAB Act (proposed to be inserted by Schedule 1 [1] above) is in force.

Schedule 2 [4] inserts two new subsections in section 43 (Conditions of licence) of the Act. Proposed section 43 (2B) provides that it is a condition of every licence granted to TAB Limited that no person holds such number of voting shares in the nominated company as would constitute more than 10% of the total number of voting shares in that company. However, the condition has effect only while the exemption granted by proposed section 32A is in force. Proposed section 43 (2C) makes it clear that section 43 (2), which relates to certain commercial arrangements of a licensee with the racing industry, extends to such commercial arrangements entered into from time to time.

Schedule 2 [5] inserts matter that will permit the making of savings and transitional regulations under the Act in consequence of the enactment of the proposed Act.

First print



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No. , 2003

A Bill for

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.

| | |
|---|---------|
| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Totalizator Legislation Amendment Act 2003</i> . | 3 |
| 2 Commencement | 4 |
| This Act commences on a day or days to be appointed by proclamation. | 5 6 |
| 3 Amendment of Totalizator Agency Board Privatisation Act 1997 No 43 | 7 8 |
| The <i>Totalizator Agency Board Privatisation Act 1997</i> is amended as set out in Schedule 1. | 9 10 |
| 4 Amendment of Totalizator Act 1997 No 45 | 11 |
| The <i>Totalizator Act 1997</i> is amended as set out in Schedule 2. | 12 |

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, subject to this section.
- (2) If the Racing Minister is satisfied that:
 - (a) 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 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
 - (d) TAB Limited is not controlled by 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 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

| | |
|---|----------------|
| (d) TAB Limited is controlled by the nominated company, as the case may require. | 1 2 |
| (4) A notice under subsection (2) that is in force has effect according to its tenor. | 3 4 |
| (5) More than one notice may be served under each of subsections (2) and (3). | 5 6 |
| (6) In this section: | 7 |
| <i>nominated company</i> means either: | 8 |
| (a) Unitab Limited, being the company of that name (ACN 085 691 738), formerly named TAB Queensland Limited, or | 9 10 11 |
| (b) TABCORP Holdings Limited, being the company of that name (ACN 063 780 709), formerly named TABCORP Limited, | 12 13 14 |
| as nominated by the Racing Minister by notice (being an irrevocable notice) published in the Gazette. | 15 16 |
| <i>Racing Minister</i> means the Minister administering the <i>Totalizator Act 1997</i> . | 17 18 |
| [2] Schedule 5 Savings, transitional and other provisions | 19 |
| Insert at the end of clause 1 (1): | 20 |
| <i>Totalizator Legislation Amendment Act 2003</i> | 21 |

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 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 during any period in which the exemption granted to the nominated company by section 32A is in force.

[3] 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, in relation to its shareholding interest in TAB Limited, during any period in which the exemption granted to the nominated company by section 37A of the *Totalizator Agency Board Privatisation Act 1997* is in force.

[4] Section 43 Conditions of licences

Insert after section 43 (2A):

(2B) Every licence granted to TAB Limited is subject to the condition that no person has a prohibited shareholding interest (within the meaning of Division 3) in the nominated company. However, that condition has effect only while the exemption granted to the nominated company by section 32A is in force.

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Schedule 2 Amendment of Totalizator Act 1997

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

1
2

[5] Schedule 2 Savings, transitional and other provisions

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Insert at the end of clause 1 (1):

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