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NSW Legislative Assembly Hansard

GAMING MACHINES AMENDMENT BILL

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Bill introduced and read a first time.

Second Reading

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [10.56 a.m.]: I move:

That this bill be now read a second time.

In November 2003 a subsidiary of Melbourne-based TABCORP Holdings Ltd made an offer to buy all of TAB Ltd's shares. This offer succeeded in mid-2004 over a rival offer from Brisbane-based UNiTAB Ltd. The Government stated during the early stages of the offer that if either bidder acquired more than 50 per cent of TAB's shares TAB would be required to divest the business arm operating under the centralised monitoring system [CMS] and linked gaming system licences within 18 months. This timing was required to remove any potential conflicts of interest. TABCORP currently owns and operates poker machines at Star City Casino and throughout Victoria. The CMS links all gaming machines in clubs, hotels and the casino and provides daily data on the usage and turnover of each machine. It is the basis for monitoring gaming machines and the collection of tax by the Government.

TABCORP subsequently entered into a deed with me as Minister, which committed it to divest the business within the 18-month time frame. The Government also indicated during the early stages of the offer that the investment licence would be withdrawn subject to TABCORP completing its contractual obligations for gaming machines provided under this licence. During the offer period TABCORP agreed to the sale of the CMS and linked gaming system business to UNiTAB. The sale is subject to TABCORP and UNiTAB concluding contractual arrangements, which is currently expected to occur before the end of December 2004. In December 2003 Parliament passed the Totalizator Legislation Amendment Act to facilitate the takeover offers being considered at that time.

This bill follows on from that initial step. The amendments are required to enable completion of the commercial arrangements regarding the divestment of the TAB gaming licences to UNiTAB to take place. I note that the amendments are not of a policy nature. There is no major policy shift in the way the CMS or linked gaming system licences are to be run. There is no change to the exclusivity arrangements for these licences. There is no change to the way gaming machines will be monitored through the CMS, or additional requirements for the holder of the linked gaming system licence. The bill contains only machinery amendments to allow the finalisation of a commercial agreement between TABCORP and UNiTAB regarding the ownership and operation of the CMS and linked gaming system businesses. The bill seeks to remove the specific references in the current legislation to TAB Ltd as the holder of the exclusive licences for the CMS and linked gaming systems.

The amendments will not disturb the exclusivity that the legislation confers upon the CMS and linked gaming system licences. The references to TAB are to be replaced with a more generic expression that allows these provisions to apply to UNiTAB and any other future owner of the CMS and linked gaming systems licences. The amendments also enable the transfer of the exclusive licences from TAB Limited. This will allow the CMS and linked gaming system businesses to be transferred to UNiTAB. The provisions are clear that any such transfer is allowed only with the written consent of the Minister and subject to any terms and conditions determined by the Minister. It is anticipated that the timing of the licence transfers would converge with other components of the divestment strategy.

As part of the transfer of the licences it is important to ensure that services continue their smooth operation. To ensure this, the bill incorporates a number of savings provisions. One provision ensures that third-party contracts that are in force remain applicable to the new licence holder. As a precaution, the provision allows the Minister to publish an order in the *Gazette* that requires parties to contracts to give any consents necessary to permit the transfer of these contracts to the new licence holder. The contracts must be, in the Minister's opinion, necessary for the continued operation of the CMS or linked gaming system businesses, and reasonable conditions can be applied to the consents. Typical examples are a contract for telecommunication services, or a contract for CMS equipment maintenance services.

It is understood that the existing provisions of the procurement agreement between TABCORP and UNiTAB require TABCORP to use its best endeavours to secure the assignment of contracts. The legislation need not be used if the parties to the contracts give consent. It will be the responsibility of the licence holder to come to the Minister with any contracts where consent is not given, and it will need to convince the Minister that consent is necessary to the running of the CMS or linked gaming system business, before a Ministerial order is made. If consent is not given within 60 days after it has been sought under an order, the consent is taken to have been given unconditionally. This sanction is to encourage the prompt resolution of this matter and to encourage dialogue between the parties particularly in relation to any conditions sought on the consent. These are sensible provisions, as they will ensure that the new owner of the CMS and linked gaming system businesses is in the same position to operate these businesses as TAB, prior to the sale.

Another savings provision relates to the collection of fees via direct debit. A great number of venues have provided information to enable the CMS monitoring fee and fees associated with the operation of linked gaming systems to be paid via direct debit. Rather than requiring all of these venues to provide this information again to the new licensee, this provision allows the direct debit payment authorisations to continue to operate in favour of the new licence holder. One of the conditions to allow the takeover of TAB Limited was that the investment licence would be withdrawn. The investment licence currently enables TAB Limited to own gaming machines and operate them in hotels on a profit-share basis. Few hotels took up contracts under the investment licence with TAB and all but one of these contracts have expired. The proposed legislation is drafted to remove all references to an investment licence, but includes a savings provision which allows the one remaining investment licence contract to continue until its expiry date and to prevent any extension of this contract.

The Gaming Machines Act currently requires that the CMS and the linked gaming system licensee have commercial arrangements with the New South Wales racing industry. During the negotiations for the takeover of TAB Limited, TABCORP and the racing industry entered into a heads of agreement in relation to the ongoing commitment to the racing industry. This agreement supersedes the specific agreement between the CMS and the linked gaming system licensee and the racing industry. It means that the defined legislative requirement is no longer necessary, and can therefore be removed from the bill.

I now turn to the issues of interest to the Legislation Review Committee. I believe that this bill does not contain any provisions that fall within the areas of interest to the committee. The bill does not contain any provisions that trespass on personal rights or liberties. The bill does not contain any provisions that make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers or upon non-reviewable decisions. No new regulation-making powers are conferred by the bill and as such it is not considered that it would inappropriately delegate legislative powers or insufficiently subject the exercise of legislative power to parliamentary scrutiny. As I said, this bill removes technical impediments to the transfer of the CMS and linked gaming system licences from TAB Limited to UNiTAB. The amendments are machinery, necessary and appropriate to enable a commercial agreement to be implemented. The Department of Gaming and Racing will continue its role to regulate UNiTAB as licensee. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maquire.

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