

Gaming Machines Amendment Bill 2004

New South Wales

Explanatory note

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

Overview of Bill

The object of this Bill is to make the necessary amendments to the *Gaming Machines Act 2001* (**the Principal Act**) in consequence of a requirement, made in connection with the acquisition of TAB Limited (**TAB**) by Tabcorp Holdings Limited, that TAB divest itself of certain exclusive licences that it holds under the Principal Act. That Act, as amended by this Bill, will no longer provide that TAB is entitled to those exclusive licences and will permit the transfer of the licences (other than one form of licence that is abolished by the Bill).

The Bill also:

- (a) removes the requirements for the holders of certain of the licences concerned to have in place, and give effect to, certain commercial arrangements with the racing industry, and
- (b) repeals the provisions dealing with investment licences under the Principal Act, and
- (c) repeals and re-enacts a provision to reflect the fact that links licences under the Principal Act are held, not by individual hoteliers and registered clubs, but by a single licensee, and
- (d) inserts savings and transitional provisions.

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 *Gaming Machines Act 2001* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [6] repeals and re-enacts section 137 of the Principal Act. Currently, that section provides that TAB is entitled to an exclusive licence, for the period up to 1 December 2016, to operate a centralised monitoring system for gaming machines in hotels and clubs (**a CMS licence**).

The section as re-enacted preserves the exclusive CMS licence granted to TAB for that period but it does not name the licensee. It provides, instead, for the transfer of the exclusive licence with the written consent of the Minister and subject to such terms and conditions as the Minister may determine. **Schedule 1 [5]** makes a consequential amendment.

Schedule 1 [4] repeals section 136 (4) and (5) of the Principal Act. Those subsections provide that a CMS licence is subject to a condition that the licensee must have in place, and must give effect to, certain commercial arrangements with the racing industry.

Schedule 1 [7] and [8] repeal and re-enact sections 147 and 152, respectively, of the Principal Act. Those sections are concerned with **linked gaming systems**—that is, systems in which two or more specially approved gaming machines are linked electronically to contribute a percentage of the money wagered on the gaming machines to a separate jackpot pool.

Currently, section 147 provides that TAB is entitled to an exclusive licence (**an inter-hotel links licence**), for the period up to 17 October 2017 (effectively), to operate a linked inter-hotel gaming system—that is, a linked gaming system that operates in a hotel but includes specially approved gaming machines that are kept in other hotels. Section 152 is to the same effect in relation to registered clubs, entitling

TAB to an exclusive *inter-club links licence* for the same period.

The sections as re-enacted preserve the exclusive links licences granted to TAB for that period but they do not name the licensee. They provide, instead, for the transfer of the exclusive licences with the written consent of the Minister and subject to such terms and conditions as the Minister may determine.

Schedule 1 [9] repeals section 153 (3) and (4) of the Principal Act. Those subsections provide that a links licence is subject to a condition that the licensee must have in place, and must give effect to, certain commercial arrangements with the racing industry.

Schedule 1 [14] repeals and re-enacts section 170 (2) of the Principal Act. Section 170 (1) provides that a licence does not confer any right of property and is (among other things) incapable of being assigned. Currently, section 170 (2) makes it clear that section 170 (1) does not prevent certain activities of a holder of an investment licence. (The repeal of the subsection is consequent on the abolition of investment licences by Schedule 1 [10].) As re-enacted, section 170 (2) over-rides section 170 (1) to the extent necessary to permit the transfers of the exclusive licences.

Schedule 1 [10] repeals Part 11 (Investment licences) of the Principal Act. That Part provides for the granting of licences that authorise the sale or supply of gaming machines to hotels and the sharing in the profits from the operation of those machines. (Section 73 of the Principal Act prohibits hoteliers and registered clubs from sharing those profits otherwise than as provided for in Part 11 or as part of a linked gaming system.) **Schedule 1 [1]** (in part), **[2]**, **[11]–[13]**, **[15]** and **[16]** make consequential amendments.

Schedule 1 [17] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [18] inserts a new Part into the Schedule of savings and transitional provisions in the Principal Act. That Part:

- (a) provides that any direct debit arrangements in force for the collection of the monitoring fee payable to the holder of a CMS licence, or for the collection of amounts payable to the holder of a links licence in connection with the operation of an authorised linked gaming system, continue to operate for the benefit of any persons to whom the relevant licences are transferred, and
- (b) prevents the withholding of any consents required to permit the assignment or novation of contracts necessary for the continued operation of the authorised centralised monitoring system or authorised linked gaming system from the holders of the licences to the persons to whom the relevant licences are transferred, and
- (c) cancels the investment licence held by TAB, and
- (d) provides for the completion of contracts and other arrangements entered into pursuant to the investment licence.

Schedule 1 [1] (in part) repeals the definition of **TAB** in consequence of the removal of references to TAB from the Principal Act (other than in the Schedule of savings and transitional provisions).

Schedule 1 [3] repeals and re-enacts section 73 (2) of the Principal Act so as to substitute the generic term “holder of the relevant links licence” for certain references to hoteliers and registered clubs (because the licences are currently held by a single licensee and not by individual hoteliers and registered clubs).