

## 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.