

Queensland



# TAB QUEENSLAND LIMITED PRIVATISATION ACT 1999

**Reprinted as in force on 27 July 2001  
(includes amendments up to Act No. 45 of 2001)**

**Reprint No. 1A**

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# Information about this reprint

This Act is reprinted as at 27 July 2001. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

# Queensland



## TAB QUEENSLAND LIMITED PRIVATISATION ACT 1999

### TABLE OF PROVISIONS

Section		Page
<b>PART 1—PRELIMINARY</b>		
<i>Division 1—Introduction</i>		
1	Short title . . . . .	5
2	Dictionary . . . . .	5
<i>Division 2—TABQ no longer a company GOC</i>		
3	TABQ stops being company GOC . . . . .	5
<i>Division 3—Object and basic concepts</i>		
4	Object . . . . .	5
5	Meaning of “sale process” . . . . .	6
6	Meaning of “listing day” . . . . .	6
7	Things done by Act Ministers . . . . .	6
<b>PART 2—MANAGEMENT OF SALE PROCESS</b>		
<i>Division 1—Application of part 2</i>		
8	When pt 2 applies . . . . .	7
<i>Division 2—Management of TABQ until listing day</i>		
9	Resolutions without meetings . . . . .	7
10	TABQ’s constitution may be amended by Act Ministers . . . . .	8
11	Act Ministers may require amendment of subsidiary’s constitution . . . . .	8
12	Composition of board . . . . .	8
13	Div 2 has effect despite Corporations Law . . . . .	8
<i>Division 3—Sale process</i>		
14	Sale of TABQ . . . . .	9
15	Minister’s power to execute share transfers . . . . .	9

16	Ministerial control of TABQ for certain purposes . . . . .	9
17	Act ministers not to be treated as directors of TABQ . . . . .	9
<b>PART 3—RESTRICTIONS RELATING TO SHAREHOLDING</b>		
<i>Division 1—Preliminary</i>		
18	Definition for pt 3 . . . . .	10
19	When a person is an associate of another . . . . .	10
20	Relevant interests in shares . . . . .	11
21	Entitlements to voting shares in TABQ . . . . .	11
22	References to Corporations Law . . . . .	12
23	Provision if TABQ’s share capital consists of stock . . . . .	12
24	Cornerstone investor . . . . .	12
25	Application of pt 3. . . . .	13
<i>Division 2—Maximum shareholding restrictions</i>		
26	Prohibited shareholding interest . . . . .	13
27	Power to require information relating to entitlement to shares in TABQ . . .	14
28	Declarations by Minister . . . . .	14
29	Compliance with requirement notice . . . . .	15
30	Disposal and forfeiture of shares if prohibited shareholding interest . . . . .	16
31	Further forfeiture provision . . . . .	17
32	Minister must give notice to TABQ . . . . .	17
33	When declarations by Minister have effect . . . . .	17
34	Minister must give reasons etc. for declarations . . . . .	18
35	Appeal against declarations of Minister . . . . .	18
36	Affect of appeals on Minister’s declarations . . . . .	19
37	Sale of forfeited shares . . . . .	19
<i>Division 3—Restrictions on dealing with shares to which cornerstone investor entitled</i>		
38	Application of div 3. . . . .	19
39	Purported disposal of cornerstone investor’s shares ineffective . . . . .	20
<i>Division 4—Expiry of part</i>		
40	Expiry . . . . .	20
<b>PART 4—PROVISIONS ABOUT TABQ’S STAFF</b>		
41	Staff’s entitlements continue etc. . . . .	21

42	Application of certain provisions of GOC Act . . . . .	22
	<b>PART 5—MANDATORY REQUIREMENTS REGARDING TABQ GROUP COMPANIES’ CONSTITUTIONS</b>	
43	Application of pt 5. . . . .	22
44	TABQ group companies to have constitutions containing certain provisions . . . . .	22
45	Inconsistent alterations to TABQ group companies’ constitutions have no effect . . . . .	23
46	Injunctions . . . . .	24
47	Other powers of Supreme Court . . . . .	25
48	Jurisdiction of Supreme Court. . . . .	26
49	Delegation by Minister . . . . .	26
50	Pt 5 overrides Corporations Law. . . . .	26
	<b>PART 6—MISCELLANEOUS</b>	
51	Exemption from State tax . . . . .	26
52	Commonwealth tax equivalents. . . . .	27
53	Minister’s certificate . . . . .	27
54	Act does not affect existing legal relationships. . . . .	27
55	Act does not limit other powers. . . . .	28
56	TABQ directors’ immunity . . . . .	28
57	Ministers’ immunity . . . . .	29
58	Non-application of certain provisions of GOC Act to TABQ. . . . .	29
59	Regulation-making power . . . . .	29
	<b>SCHEDULE . . . . .</b>	
	<b>DICTIONARY</b>	
	<b>ENDNOTES</b>	
1	Index to endnotes. . . . .	32
2	Date to which amendments incorporated. . . . .	32
3	Key . . . . .	32
4	Table of earlier reprints . . . . .	33
5	Tables in earlier reprints. . . . .	33
6	List of legislation . . . . .	33

7	List of annotations .....	33
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# **TAB QUEENSLAND LIMITED PRIVATISATION ACT 1999**

[as amended by all amendments that commenced on or before 27 July 2001]

**An Act to provide for the sale of TAB Queensland Limited by the State,  
and for other purposes**

## **PART 1—PRELIMINARY**

### *Division 1—Introduction*

#### **1 Short title**

This Act may be cited as the *TAB Queensland Limited Privatisation Act 1999*.

#### **2 Dictionary**

The dictionary in the schedule defines particular words used in this Act.

### *Division 2—TABQ no longer a company GOC*

#### **3 TABQ stops being company GOC**

(1) TABQ is no longer a company GOC and, other than to the extent this Act provides, the GOC Act stops applying to it.

(2) Subsection (1) does not affect TABQ's registration under the Corporations Law.

### *Division 3—Object and basic concepts*

#### **4 Object**

The object of this Act is to facilitate the sale by the State of TABQ.

#### **5 Meaning of “sale process”**

(1) The “**sale process**” is the process relating to the sale of TABQ by the State.

(2) The process includes anything connected with or relating to the disposal of all issued shares in TABQ held by a Minister on behalf of the State to persons other than Ministers who, in that capacity, hold the shares on behalf of the State.

#### **6 Meaning of “listing day”**

(1) The “**listing day**” is the day and time at which shares in TABQ are listed for quotation on the stock market of the Australian Stock Exchange Limited (ACN 008 624 691).

(2) In this section—

“**share**” includes a unit in a share within the meaning of section 9<sup>1</sup> of the Corporations Law.

#### **7 Things done by Act Ministers**

(1) If a thing is required to be, or may be, done under this Act by the Act Ministers, the thing must be done by them jointly.

(2) However, if the Act Ministers’ offices are held, or the functions of the offices are being performed, by 1 person, the thing may be done by that person alone.

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1 Corporations Law, section 9—

“**unit**” in relation to a share, debenture or other interest, means a right or interest, whether legal or equitable, in the share, debenture or other interest, by whatever term called, and includes an option to acquire such a right or interest in the share, debenture or other interest.

(3) Unless the context otherwise requires, a reference in this Act to the Minister is not a reference to the Minister in the capacity of an Act Minister.

## **PART 2—MANAGEMENT OF SALE PROCESS**

### *Division 1—Application of part 2*

#### **8 When pt 2 applies**

This part applies until the listing day.

### *Division 2—Management of TABQ until listing day*

#### **9 Resolutions without meetings**

(1) If, in relation to TABQ, the Act Ministers sign a document (the “**Ministerial document**”) containing a statement that they are in favour of a resolution stated in the Ministerial document—

- (a) a resolution in those terms is taken to have been passed at a general meeting of TABQ held at the time at which, and on the day on which, the Ministerial document is signed by the last Act Minister; and
- (b) TABQ is taken to have held a general meeting at that time on that day; and
- (c) the Ministerial document is taken to be a minute of the meeting; and
- (d) another document, attached to the Ministerial document and signed by the Act Ministers, is taken to have been laid before TABQ at the meeting; and
- (e) if the resolution deals with all matters required to be dealt with at an annual general meeting of TABQ, TABQ is taken to have held an annual general meeting.

(2) Subsection (1) applies to a resolution that is authorised or required by the Corporations Law, or TABQ's constitution, to be passed at a general meeting, including a resolution—

- (a) appointing an officer or auditor; or
- (b) approving of, or agreeing to, anything.

(3) For subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by an Act Minister, are taken to be a single document.

(4) This section has effect for the purposes of the Corporations Law.

(5) Subsection (4) does not limit any other effect this section may have.

(6) This section does not affect any rule of law providing for the effectiveness of the assent of members of a company given to a document or anything else otherwise than at a general meeting of the company.

## **10 TABQ's constitution may be amended by Act Ministers**

(1) The Act Ministers may amend TABQ's constitution.

(2) Subsection (1) does not limit any other power to amend the constitution.

## **11 Act Ministers may require amendment of subsidiary's constitution**

(1) The Act Ministers may, by notice given to TABQ's board of directors, direct the board to amend the constitution of a TABQ subsidiary.

(2) As far as practicable, the board must ensure the direction is complied with.

## **12 Composition of board**

(1) TABQ's board of directors is to continue to consist of the number of directors that are appointed by the Governor in Council.

(2) In appointing a person as a director, the Governor in Council must have regard to the person's ability to make a contribution to TABQ's commercial performance.

(3) Subsection (1) has effect despite TABQ's constitution.

**13 Div 2 has effect despite Corporations Law**

This division has effect despite anything in the Corporations Law.

*Division 3—Sale process***14 Sale of TABQ**

(1) The Act Ministers may do anything necessary or convenient for the sale process.

(2) For subsection (1), the Act Ministers may bind the State and other Ministers who hold shares in TABQ on behalf of the State.

**15 Minister's power to execute share transfers**

(1) For the sale process, the Minister may execute on behalf of the State any document transferring shares in TABQ to a person.

(2) Subsection (1) applies even if the shares are held on the State's behalf by a Minister other than the Minister.

**16 Ministerial control of TABQ for certain purposes**

(1) In the performance of its functions, TABQ's board of directors is subject to a direction of the Act Ministers given to the board under subsection (2).

(2) The Act Ministers may, by notice given to the board, direct the board to do anything the Ministers consider necessary or convenient for the sale process.

(3) The Act Ministers must publish a copy of the direction in the gazette within 21 days after giving it to the board.

**17 Act ministers not to be treated as directors of TABQ**

(1) Despite the enactment of section 16 or the exercise of the Act Ministers' powers under the section, an Act Minister must not be treated as a director of TABQ or a person who participates in the management of TABQ.

(2) This section has effect despite the Corporations Law.

## **PART 3—RESTRICTIONS RELATING TO SHAREHOLDING**

### *Division 1—Preliminary*

#### **18 Definition for pt 3**

In this part—

**“associate”** see section 19(1) and (3).

**“cornerstone investor”** means the person prescribed under section 24(1).

**“prohibited shareholding interest in TABQ”** see section 26(1), (2) and (3).

#### **19 When a person is an associate of another**

(1) For this part, a person is an associate of another—

(a) if the Minister—

- (i) considers on reasonable grounds that the person and the other are likely to act in concert for the purpose of taking control of, or exercising significant influence over, TABQ against the public interest; and
- (ii) by notice given to TABQ, declares the person is an associate of the other; or

(b) if the person is an associate of the other within the meaning of part 1.2, division 2 of the Corporations Law as modified by subsection (2).

(2) For subsection (1)(b), part 1.2, division 2 of the Corporations Law is modified by omitting sections 13, 14, 16 (2) and 17 of that law and by substituting for paragraphs (b) and (c) of section 12 (1) of that law the following—

‘or

- (b) the primary person's entitlement, as provided by section 609, to shares in a body corporate.’<sup>2</sup>

(3) Also, for this part, a person is an associate of another if, under a declaration under section 28(2)(a)<sup>3</sup>—

- (a) the person is declared to be an associate of the other; or
- (b) the other is declared to be an associate of the person.

(4) If the Minister gives notice of a declaration under subsection (1)(a)(ii) to TABQ, the Minister must, at the same time or as soon as practicable after that time, give notice of the declaration to the persons to whom the declaration relates.

## **20 Relevant interests in shares**

For this part, a person has a relevant interest in a share only if the person would be taken to have a relevant interest in the share because of part 1.2, division 5 of the Corporations Law if sections 33 and 35(c) of that law were disregarded.<sup>4</sup>

## **21 Entitlements to voting shares in TABQ**

For this part, the voting shares in TABQ to which a person is entitled include voting shares in TABQ to which the person is entitled under section 609 of the Corporations Law, as if in that section—

- (a) a reference to an associate were a reference to an associate for this part; and
- (b) a reference to a relevant interest were a reference to a relevant interest to which section 20 of this Act applies.

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2 Corporations Law, part 1.2 (Interpretation), division 2 (Associates), sections 12 (Matters relating to voting shares), 13 (References in Chapter 7), 14 (References in Chapter 8), 16 (Exclusions), 17 (Associates of composite persons) and 609 (Entitlement to shares)

3 Section 28 (Declarations by Minister)

4 Corporations Law, part 1.2 (Interpretation), division 5 (Relevant interests in shares and securities), sections 33 (Control of prescribed percentage of voting power in body corporate having power in relation to a share) and 35 (Control of body corporate having a relevant interest by virtue of section 34)

## **22 References to Corporations Law**

(1) A reference in this part to the Corporations Law is a reference to that law as it would apply if references in that law to a body corporate, corporation or company included references to—

- (a) a body corporate of any kind wherever formed or incorporated and whether formed or incorporated under that law or any other law; and
- (b) any unincorporated body that, under the law of its place of formation, may sue or be sued, or may hold property in the name of the secretary or some other officer of the body, or in the name of any trustee or trustees; and
- (c) any unincorporated body to which is applied, under the laws of the place of its formation, with or without exceptions, a law in force in that place relating to companies or corporations as if it were a company or corporation within the meaning of that law.

(2) In this section—

**“unincorporated body”** means a society, association or other body, wherever formed.

## **23 Provision if TABQ’s share capital consists of stock**

If the whole or a portion of the share capital of TABQ consists of stock, a reference in this part to a number of shares in TABQ as a percentage is, for an amount of stock, a reference to the amount of stock representing that number of shares.

## **24 Cornerstone investor**

(1) A regulation may prescribe a person to be the cornerstone investor for this part.

(2) There may be only 1 cornerstone investor at any 1 time.

(3) The Governor in Council may make a regulation prescribing a person to be the cornerstone investor only if the person has agreed in writing to be the cornerstone investor.

## **25 Application of pt 3**

(1) This part applies in relation to TABQ whenever TABQ, or a TABQ subsidiary, holds a wagering licence under the *Wagering Act 1998*.

(2) This part, including any provision of the Corporations Law referred to or applied for this part, applies in relation to a transaction—

- (a) whether the transaction is entered into, or made, in the State or elsewhere; and
- (b) whether the shares, if any, to which the transaction relates are registered in the State or elsewhere; and
- (c) whether the law governing the transaction is the law of the State or not.

### *Division 2—Maximum shareholding restrictions*

## **26 Prohibited shareholding interest**

(1) A person, other than the cornerstone investor or an exempt person, has a prohibited shareholding interest in TABQ if the person is entitled to voting shares in TABQ that together constitute more than 10% of the total number of voting shares in TABQ.

(2) The cornerstone investor has a prohibited shareholding interest in TABQ if the person is entitled to voting shares in TABQ that together constitute more than the percentage prescribed under a regulation of the total number of voting shares in TABQ.

(3) Also, without limiting subsection (1) or (2), an associated entity of a registered political party has a prohibited shareholding interest in TABQ—

- (a) during the restriction period—if the entity is entitled to any voting shares in TABQ during that period; or
- (b) after the restriction period—if the entity was entitled to any voting shares in TABQ during the restriction period and continues to be entitled to those shares.

(4) The percentage prescribed under subsection (2) must be less than 20%.

(5) A person must not have a prohibited shareholding interest in TABQ.

(6) In this section—

“**associated entity**”, of a registered political party, means an entity whose functions include investing amounts for the party, but does not include an entity merely because it invests amounts for the party, as well as other persons, in the course of carrying on the business of an investment business.

“**exempt person**” means—

- (a) the State; or
- (b) a trustee of a trust established by the State for the sale process; or
- (c) TABQ; or
- (d) a TABQ subsidiary.

“**registered political party**” means a registered political party within the meaning of the *Electoral Act 1992*.

“**restriction period**” means the period starting on the commencement of this section and ending on the day that is 7 days after the day on which TABQ holds its first annual general meeting under the Corporations Law after the listing day.

## **27 Power to require information relating to entitlement to shares in TABQ**

(1) This section applies if the Minister or TABQ knows, or suspects on reasonable grounds, a person is entitled to shares in TABQ.

(2) The Minister or TABQ may, by notice (a “**requirement notice**”) given to the person, require the person, within a reasonable time of at least 7 days stated in the notice, to give the Minister or TABQ the information stated in the notice.

(3) The purpose of a requirement notice is to help decide whether the person to whom the notice is given or another person has, or is taking action to acquire, a prohibited shareholding interest in TABQ.

(4) A requirement notice may require the person to whom it is given, or, if the person is a corporation, 2 directors of the corporation, to verify by statutory declaration any information given under the notice.

**28 Declarations by Minister**

(1) Subsection (2) applies if—

- (a) a person given a requirement notice does not comply with the notice; or
- (b) the Minister considers on reasonable grounds information given by the person in response to the requirement notice is, because of anything included in it or omitted from it, false or misleading in a material particular.

(2) The Minister may, by notice given to TABQ, do 1 or more of the following—

- (a) declare the person is an associate of another, or another is an associate of the person;
- (b) declare the person, or another to whom a declaration under paragraph (a) relates, is entitled to stated shares in TABQ;
- (c) declare the person, or another to whom a declaration under paragraph (a) relates, has a prohibited shareholding interest in TABQ.

(3) A declaration under subsection (2) has effect for this part.

(4) If the Minister gives notice of a declaration under subsection (2) to TABQ, the Minister must, at the same time or as soon as practicable after that time, give notice of the declaration—

- (a) to the person to whom the declaration relates; and
- (b) for a declaration under subsection (2)(c)—to the holder of the shares to which the declaration relates.

**29 Compliance with requirement notice**

(1) A person must comply with a requirement of a requirement notice given to the person.

Maximum penalty—200 penalty units.

(2) A person must not, in purported compliance with a requirement of a requirement notice given to the person, knowingly give information that is false or misleading in a material particular.

Maximum penalty—200 penalty units.

### **30 Disposal and forfeiture of shares if prohibited shareholding interest**

(1) Subsection (3) applies if the Minister makes a declaration under section 28(2)(c) that a person (the “**prohibited holder**”) has a prohibited shareholding interest in TABQ.

(2) Subsection (3) also applies if the Minister considers on reasonable grounds and, by notice given to TABQ, declares under this subsection, that a person (also the “**prohibited holder**”) has a prohibited shareholding interest in TABQ.

(3) The Minister may make the declaration in subsection (4), by notice given—

- (a) if the prohibited holder holds voting shares in TABQ to which the holder is entitled—to the prohibited holder; or
- (b) if another person holds voting shares in TABQ to which the prohibited holder is entitled—the other person.

(4) The declaration is that the prohibited holder or other person must dispose of the relevant number of those shares, or a stated number of those shares not exceeding the relevant number, otherwise than to the prohibited holder or an associate of the prohibited holder within a stated period of not less than 3 months after the giving of the notice.

(5) The relevant number of shares a person may be required to dispose of under subsection (3) is—

- (a) subject to paragraph (b), the number of shares held by the person that would need to be so disposed of to cause the prohibited holder to cease to have a prohibited shareholding interest in TABQ; or
- (b) if, after all the shares in TABQ held by the person to which the prohibited holder is entitled were so disposed of, the prohibited holder would continue to have a prohibited shareholding interest in TABQ—the total number of those shares.

(6) For this section, a person is taken to have disposed of shares in TABQ to which a prohibited holder is entitled only if the person ceases to hold the shares and the prohibited holder ceases to be entitled to the shares.

(7) If a person given a notice of a declaration under subsection (3) requiring the person to dispose of shares in TABQ does not comply with the notice within the period required by the notice, the shares to which the notice relates are, by force of this subsection, forfeited to the State.

### **31 Further forfeiture provision**

(1) This section applies if a transaction is entered into relating to shares in TABQ and—

- (a) a person who did not, before the transaction is entered into, have a prohibited shareholding interest in TABQ would have the interest after the transaction; or
- (b) a person who, before the transaction is entered into, had a prohibited shareholding interest in TABQ would be entitled after the transaction to a greater number of voting shares in TABQ than the person was entitled to immediately before the transaction.

(2) The transaction is not illegal or void because of this part but the voting shares in TABQ that are the subject of the transaction are subject to forfeiture under subsection (3).

(3) The Minister may, by notice given to the parties to the transaction, declare that the voting shares in TABQ that are the subject of the transaction are forfeited to the State.

(4) The declaration under subsection (3) takes effect when the notices under that subsection, and section 32, relating to the declaration are given or, if they are given at different times, when the last notice is given.

### **32 Minister must give notice to TABQ**

The Minister must give notice of each of the following to TABQ—

- (a) a declaration under section 30(3) requiring a person to dispose of voting shares in TABQ;
- (b) a declaration under subsection 31(3) that voting shares in TABQ are forfeited to the State.

### **33 When declarations by Minister have effect**

(1) Subject to subsection (2), a declaration of the Minister under this division is effective when notice of the declaration is given to TABQ irrespective of when or whether notice is given to any other person as provided by this division.

(2) Subsection (1) does not apply to a declaration notice of which is given to TABQ under section 32.

**34 Minister must give reasons etc. for declarations**

(1) Notice of a declaration of the Minister under this division given to a person must state—

- (a) the reasons for the declaration; and
- (b) that the person may appeal to the Supreme Court against the declaration; and
- (c) the time in which the person may appeal; and
- (d) how the person may appeal.

**35 Appeal against declarations of Minister**

(1) TABQ may appeal to the Supreme Court against a declaration of the Minister given under this division.

(2) Also, another person to whom notice of the declaration is given, or to whom it is required to be given, under this division may appeal to the Supreme Court against the declaration.

(3) An appeal is started by—

- (a) filing a notice of appeal with the court; and
- (b) giving a copy of the notice to the Minister.

(4) The notice of appeal must be filed within 21 days after notice of the declaration under appeal is given to the appellant.

(5) The period for filing the notice of appeal cannot be extended.

(6) If an appeal is started by a person other than TABQ, TABQ is a respondent in addition to the Minister.

(7) The court may, on an appeal under this section, if satisfied that proper grounds for making the declaration did not exist, quash or vary the declaration, either conditionally or unconditionally and with effect from the date of the declaration or some other date, as the court considers just.

(8) Also, the court may make any consequential or ancillary orders it considers just.

**36 Affect of appeals on Minister's declarations**

(1) Subject to subsection (2), an appeal under section 35 against a declaration of the Minister does not act to stay the operation of the declaration pending the decision of the appeal.

(2) However, an appeal under section 35 against either of the following declarations stays the operation of the declaration until the appeal is decided or otherwise dealt with—

- (a) a declaration under section 30(3) requiring a person to dispose of shares in TABQ;
- (b) a declaration under section 31(3) that shares in TABQ are forfeited to the State.

**37 Sale of forfeited shares**

(1) The Minister must sell any shares forfeited to the State under this division.

(2) For the sale, the Minister is not bound by any restriction on the sale of shares contained in TABQ's constitution.

(3) Any money realised from the sale must, after deduction of the reasonable costs of the forfeiture and sale—

- (a) if the shares were transferred as a result of a transaction referred to in section 31(1) and the transferor has not received the full consideration agreed on with the transferee—be applied in payment to the transferor of the amount or value of the consideration not received by the transferor and in payment of the balance, if any, to the transferee; or
- (b) in any other case—be paid to the person from whom the shares were forfeited.

***Division 3—Restrictions on dealing with shares to which cornerstone investor entitled*****38 Application of div 3**

(1) This division applies for 2 years from the day any person first becomes entitled to voting shares in TABQ in the capacity of a cornerstone investor.

(2) Subsection (3) applies when a cornerstone investor first becomes entitled to shares in TABQ in that capacity.

(3) The cornerstone investor must immediately advise the Minister in writing of the day the investor acquired the shares.

(4) On receiving the cornerstone investor's advice, the Minister must, by gazette notice, state the period for which this division applies under subsection (1).

(5) This division does not apply to the disposal, under a notice given by the Minister under section 30(3), of voting shares in TABQ to which the cornerstone investor is entitled.

(6) Also, this division must not be construed to stop the forfeiture to the State, under section 30(7) or 31,<sup>5</sup> of voting shares in TABQ to which the cornerstone investor is entitled.

### **39 Purported disposal of cornerstone investor's shares ineffective**

(1) A person must not dispose of voting shares in TABQ to which the cornerstone investor is entitled unless the disposal is approved by the Minister.

(2) Any purported disposal of the shares in contravention of subsection (1) is of no effect.

(3) Any purported registration by TABQ of the transfer of the shares under the purported disposal is of no effect.

(4) In giving an approval for subsection (1), the Minister must have regard to the commercial and other interests of the cornerstone investor and TABQ.

(5) This section applies despite the Corporations Act.

### *Division 4—Expiry of part*

## **40 Expiry**

This part expires 5 years after it commences.

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<sup>5</sup> Section 30 (Disposal and forfeiture of shares if prohibited shareholding interest) or 31 (Further forfeiture provision)

## PART 4—PROVISIONS ABOUT TABQ'S STAFF

### 41 Staff's entitlements continue etc.

(1) Subsection (2) applies to persons who are employees of TABQ.

(2) An event does not—

- (a) affect the employees' benefits, entitlements or remuneration; or
- (b) prejudice the employees' existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
- (c) interrupt continuity of service; or
- (d) constitute a retrenchment or redundancy.

(3) Without limiting subsection (2), a person who immediately before an event is an employee of TABQ continues after the event to be an employee of TABQ and, if an industrial instrument applies to the person immediately before the event, the instrument continues after the event to apply to the person.

(4) The continuance of an industrial instrument as mentioned in subsection (3) is subject to the *Industrial Relations Act 1999*.

(5) Persons who were employees of TABQ immediately before the commencement of section 3 are not entitled to a payment or other benefit merely because they are no longer employed by a company GOC.

(6) In this section—

“event” means—

- (a) TABQ ceasing to be a company GOC; or
- (b) all issued shares in TABQ ceasing to be held by a Minister on behalf of the State.

“industrial instrument” means an industrial instrument under the *Industrial Relations Act 1999*.

#### **42 Application of certain provisions of GOC Act**

(1) Subsection (2) applies to a person if the person was an employee of TABQ immediately before it ceased to be a company GOC and, at that time, section 173 or 174<sup>6</sup> of the GOC Act applied to the person.

(2) The section continues to apply to the person as if TABQ had not ceased to be a company GOC.

(3) For the application mentioned in subsection (2), TABQ is taken to continue to be a company GOC.

### **PART 5—MANDATORY REQUIREMENTS REGARDING TABQ GROUP COMPANIES' CONSTITUTIONS**

#### **43 Application of pt 5**

(1) This part applies from the day declared by the Minister by gazette notice.

(2) The day must be a day after the commencement of this section and before a share in TABQ is transferred to a person other than a Minister who, in that capacity, holds the share on behalf of the State.

#### **44 TABQ group companies to have constitutions containing certain provisions**

(1) Each TABQ group company must, at all times, have a constitution within the meaning of the Corporations Act.

(2) The constitution of each TABQ group company must, at all times, require—

- (a) the head office of the company to be located in Queensland; and

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6 *Government Owned Corporation Act 1993*, sections 173 (Superannuation for officers and employees who were previously officers of the public service) and 174 (Preservation of leave entitlements of certain former officers and employees of government entities)

- (b) at least a majority of the directors of the company, including the managing director, to be ordinarily resident in Queensland.

(3) For subsection (2) and each constitution, the head office of the company is located in Queensland only if—

- (a) the principal operational offices of the following company personnel, however described, are located in Queensland—
  - (i) chairperson;
  - (ii) chief executive officer;
  - (iii) chief financial officer;
  - (iv) chief operating officer; and
- (b) the principal operational offices for the following company services, however described, are located in Queensland—
  - (i) treasury operations;
  - (ii) information technology management;
  - (iii) marketing management;
  - (iv) credit control operations;
  - (v) human resource management;
  - (vi) account processing;
  - (vii) corporate services department;
  - (viii) purchasing department; and
- (c) the usual location for the holding of company board meetings is in Queensland.

#### **45 Inconsistent alterations to TABQ group companies' constitutions have no effect**

(1) A resolution of a TABQ group company that would, apart from this subsection, have the effect of the company ceasing to have a constitution or of altering the company's constitution so that the constitution would not comply with section 44(2) or (3) has no effect.

(2) A resolution of the company has no effect if the resolution would—

- (a) if acted on and apart from this subsection—result in a contravention of the mandatory constitutional requirements; or

- (b) apart from this subsection—ratify an act or omission contravening the mandatory constitutional requirements.

## **46 Injunctions**

(1) Subsection (2) applies if a TABQ group company or another person has engaged, is engaging or is proposing to engage in conduct constituting—

- (a) a contravention of the mandatory constitutional requirements; or
- (b) attempting to contravene the mandatory constitutional requirements; or
- (c) aiding, abetting, counselling or procuring a person to contravene the mandatory constitutional requirements; or
- (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the mandatory constitutional requirements; or
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the mandatory constitutional requirements; or
- (f) conspiring with others to contravene the mandatory constitutional requirements.

(2) On the application of the Minister, the Supreme Court may grant an injunction restraining the company or other person from engaging in the conduct and, if the court considers it appropriate, requiring the company or other person to do something.

(3) If a TABQ group company or another person has failed, is failing or is proposing to fail to do something that the company or other person is required by the mandatory constitutional requirements to do, the Supreme Court may, on the application of the Minister, grant an injunction requiring the company or other person to do the thing.

(4) On an application under subsection (2) or (3), the court may grant the injunction sought with the consent of all the parties to the proceeding, whether or not the court is satisfied the subsection applies.

(5) The court may grant an interim injunction pending a decision on an application under subsection (2) or (3).

(6) The court may discharge or vary an injunction, and may grant an injunction on conditions.

(7) The court's power to grant an injunction restraining a TABQ group company or another person from engaging in conduct may be exercised—

- (a) whether or not it appears to the court that the company or other person intends to engage again, or to continue to engage, in the conduct; and
- (b) whether or not the company or other person has previously engaged in conduct of that kind; and
- (c) whether or not there is an imminent danger of substantial damage to a person if the company or other person engages, or continues to engage, in the conduct.

(8) The court's power to grant an injunction requiring a TABQ group company or another person to do something may be exercised—

- (a) whether or not it appears to the court that the company or other person intends to fail again, or to continue to fail, to do the thing; and
- (b) whether or not the company or other person has previously failed to do a thing of that kind; and
- (c) whether or not there is an imminent danger of substantial damage to a person if the company or other person fails, or continues to fail, to do the thing.

(9) If the Minister makes an application under subsection (2) or (3), the court must not require the Minister, as a condition of granting an interim injunction, to give an undertaking as to damages.

#### **47 Other powers of Supreme Court**

(1) Subsection (2) applies if the Supreme Court has power under section 46 to grant an injunction restraining a TABQ group company or another person from engaging in particular conduct, or requiring the company or another person to do a particular thing.

(2) The court may, either in addition to, or in substitution for, the grant of the injunction, make any other order it considers appropriate against the company or the other person who engaged in the conduct or a person who was involved in the failure to do the thing.

#### **48 Jurisdiction of Supreme Court**

The Supreme Court has jurisdiction for matters arising under this part and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under the Commonwealth Constitution, section 75.<sup>7</sup>

#### **49 Delegation by Minister**

The Minister may delegate the Minister's powers to apply to the Supreme Court under section 46 to the chief executive of the department.

#### **50 Pt 5 overrides Corporations Law**

(1) This part has effect despite the Corporations Act.

(2) Without limiting subsection (1), if there is any conflict or inconsistency between this part and a TABQ group company's constitution, this part prevails.

### **PART 6—MISCELLANEOUS**

#### **51 Exemption from State tax**

(1) State tax is not payable in relation to anything done for the sale process.

(2) No person has an obligation under a law imposing a State tax—

- (a) to lodge a statement or return relating to anything done for the sale process; or
- (b) to include in a statement or return a record or information relating to anything done for the sale process.

(3) So far as the legislative power of Parliament permits, a reference in this section to State tax includes a reference to tax imposed under an Act of another State.

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<sup>7</sup> Commonwealth Constitution, section 75 (Original jurisdiction of High Court)

**52 Commonwealth tax equivalents**

(1) This section applies to an amount payable by TABQ under section 155<sup>8</sup> of the GOC Act immediately before TABQ ceased to be a company GOC and not paid.

(2) This section also applies to an amount that would have become payable by TABQ under section 155 of the GOC Act in relation to a period before TABQ ceased to be a company GOC if TABQ had not ceased to be a company GOC.

(3) TABQ remains or becomes liable to pay the amount as if TABQ continued to be a company GOC.

(4) However, the Treasurer may, by gazette notice, waive payment of the amount.

**53 Minister's certificate**

(1) The Minister may issue a certificate stating that—

- (a) State tax is not payable under section 51 in relation to something; or
- (b) the payment of an amount has been waived under section 52.

(2) A certificate purporting to be issued under subsection (1) is evidence of the things stated in it.

**54 Act does not affect existing legal relationships**

(1) This Act has effect despite anything in any instrument.

(2) Nothing done under this Act in relation to TABQ—

- (a) places TABQ or the State in breach of a contract, trust or confidence or otherwise makes TABQ or the State guilty of a civil wrong; or
- (b) makes TABQ or the State in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, transfer or assumption of any right or liability or the disclosure of any information; or

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8 *Government Owned Corporations Act 1993*, section 155 (Liability for Commonwealth tax equivalents)

- (c) is taken to fulfil a condition—
  - (i) allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation; or
  - (ii) requiring money to be paid, or anything else to be done, before its stated maturity; or
- (d) releases a surety or other obligee, wholly or partly, from an obligation.

(3) If, apart from this subsection, obtaining the advice or consent of, or giving notice to, a person would be necessary under an instrument to give effect to a transaction contemplated by this Act, the advice or consent is taken to have been obtained or the notice is taken to have been given.

(4) In this section—

“TABQ” includes a TABQ subsidiary.

## **55 Act does not limit other powers**

(1) This Act provides facilitative mechanisms.

(2) Without limiting subsection (1), this Act does not prevent anything being done otherwise than under this Act.

## **56 TABQ directors’ immunity**

(1) A director of TABQ does not incur any civil liability for anything done or omitted to be done in good faith for the purpose of complying with a direction of the Act Ministers given under section 11 or 16.<sup>9</sup>

(2) A liability that would, apart from subsection (1), attach to a director of TABQ attaches instead to the State.

(3) This section has effect despite the Corporations Law.

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9 Sections 11 (Act Ministers may require amendment of subsidiary’s constitution) and 16 (Ministerial control of TABQ for certain purposes)

**57 Ministers' immunity**

(1) An Act Minister acting in that capacity or the Minister does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under this Act.

(2) A liability that would, apart from subsection (1), attach to an Act Minister or the Minister attaches instead to the State.

(3) This section has effect despite the Corporations Law.

**58 Non-application of certain provisions of GOC Act to TABQ**

The following provisions of the GOC Act are taken never to have applied to TABQ—

- (a) chapter 3, parts 7 and 8;
- (b) sections 130 and 171.<sup>10</sup>

**59 Regulation-making power**

The Governor in Council may make regulations under this Act.

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<sup>10</sup> *Government Owned Corporations Act 1993*, chapter 3 (Government owned corporations (GOCs)), parts 7 (Corporate plan) and 8 (Statement of corporate intent) and sections 130 (Quarterly reports) and 171 (Employment and industrial relations plan)

## SCHEDULE

### DICTIONARY

section 2

**“Act Ministers”** means both of the following—

- (a) the Minister;
- (b) the Minister for the time being administering the *Racing and Betting Act 1980*.

**“company GOC”** means a company GOC under the GOC Act.

**“GOC Act”** means the *Government Owned Corporations Act 1993*.

**“holding company”** see the Corporations Act, section 9.

**“listing day”** see section 6.

**“mandatory constitutional requirements”** means—

- (a) the requirement that a TABQ group company must, under section 44(1), have a constitution at all times; or
- (b) the requirements that must, under section 44(2), be in a TABQ group company’s constitution at all times.

**“notice”** means a written notice.

**“related body corporate”** see the Corporations Act, section 9.

**“requirement notice”** see section 27(2).

**“sale process”** see section 5.

**“share”** means a share in the share capital of a body corporate

**“State tax”** means tax imposed under an Act.

**“subsidiary”**, of TABQ, means an entity that is a subsidiary of TABQ under the Corporations Law.

**“TABQ”** means TAB Queensland Limited (ACN 085 691 738).

**“TABQ group company”** means—

- (a) TABQ; or
- (b) any holding company of TABQ; or

## SCHEDULE (continued)

- (c) a wholly-owned subsidiary of TABQ that is the principal operating company in the group of companies consisting of TABQ and any related body corporate of TABQ.

**“tax”** includes fee, duty and charge.

**“transaction”** includes agreement, arrangement, understanding and undertaking.

**“voting share”**, in relation to TABQ, see the Corporations Act, section 9.

**“wholly-owned subsidiary”** see the Corporations Act, section 9.

## ENDNOTES

### 1 Index to endnotes

		Page
2	Date to which amendments incorporated . . . . .	32
3	Key . . . . .	32
4	Table of earlier reprints . . . . .	33
5	Tables in earlier reprints . . . . .	33
6	List of legislation . . . . .	33
7	List of annotations . . . . .	33

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 July 2001. Future amendments of the TAB Queensland Limited Privatisation Act 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	3 September 1999

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

## 6 List of legislation

### **TAB Queensland Limited Privatisation Act 1999 No. 38**

date of assent 31 August 1999

commenced on date of assent

as amended by—

### **Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

## 7 List of annotations

### **PART 3—RESTRICTIONS RELATING TO SHAREHOLDING**

**pt hdg** exp 31 August 2004 (see s 40)

#### **Division 1—Preliminary**

**div 1 (ss 18–25)** exp 31 August 2004 (see s 40)

#### **Division 2—Maximum shareholding restrictions**

**div 2 (ss 26–37)** exp 31 August 2004 (see s 40)

**Division 3—Restrictions on dealing with shares to which cornerstone investor entitled****div hdg** exp 31 August 2004 (see s 40)**Application of div 3****s 38** exp 31 August 2004 (see s 40)**Purported disposal of cornerstone investor's shares ineffective****s 39** amd 2001 No. 45 s 29 sch 3  
exp 31 August 2004 (see s 40)**Division 4—Expiry of part****div 4 (s 40)** exp 31 August 2004 (see s 40)**PART 5—MANDATORY REQUIREMENTS REGARDING TABQ GROUP COMPANIES' CONSTITUTIONS****TABQ group companies to have constitutions containing certain provisions****s 44** amd 2001 No. 45 s 29 sch 3**Pt 5 overrides Corporations Act****prov hdg** amd 2001 No. 45 s 29 sch 3**s 50** amd 2001 No. 45 s 29 sch 3**PART 6—MISCELLANEOUS****Regulation-making power****s 59** (2)–(3) exp 31 August 2000 (see s 59(3))**PART 7—AMENDMENT OF ACTS****pt 7 (ss 60–90)** om R1 (see RA ss 7(1)(k), 40)**SCHEDULE—DICTIONARY**def “**holding company**” sub 2001 No. 45 s 29 sch 3def “**related body corporate**” sub 2001 No. 45 s 29 sch 3def “**voting share**” sub 2001 No. 45 s 29 sch 3def “**wholly-owned subsidiary**” sub 2001 No. 45 s 29 sch 3