

立法會
Legislative Council

LC Paper No. CB(2)1637/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/BC/6/00

**Bills Committee on
Gambling (Amendment) Bill 2000**

**Minutes of meeting
held on Wednesday, 3 April 2002 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew CHENG Kar-foo (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon YEUNG Yiu-chung, BBS
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Member Attending : Hon Margaret NG

Members Absent : Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon CHOY So-yuk
Hon Tommy CHEUNG Yu-yan, JP

Public Officers Attending : Mr Stephen FISHER
Deputy Secretary for Home Affairs (2)

Mr John READING
Deputy Director of Public Prosecutions
Department of Justice

Ms Fanny IP
Senior Assistant Law Draftsman
Department of Justice

Ms Esther LEUNG
Principal Assistant Secretary for Home Affairs (5)

Mr LO Mung-hung
Senior Superintendent, Organized Crime and Triad Bureau
Hong Kong Police Force

Mr Llewellyn MUI
Senior Government Counsel
Legal Policy Division, Department of Justice

Ms Mabel CHEUNG
Government Counsel, Bilingual Drafting Unit
Law Drafting Division, Department of Justice

Mr Vic YAU
Assistant Secretary for Home Affairs (5)2

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mr Stanley MA
Senior Assistant Secretary (2)6

I. Meeting with the Administration

[LC Paper Nos. CB(2)1485/01-02(01), CB(2)630/01-02(01) and CB(3)146/00-01]

The Committee deliberated on the Administration's response to the queries raised by the Assistant Legal Adviser 4 in his letters dated 6 and 11 December 2001 and the outstanding issues arising from the meeting on 7 December 2001 (index of proceedings attached at **Annex**).

2. Members noted that the Administration had devised new formulations for sections 7, 8, 16A and 16E. The Administration explained that the wording

of the relevant proposed provisions had been simplified but the power to combat cross-border gambling activities had been preserved. Members also noted that a new subsection (2) had been added to proposed section 16A to make it clear that proposed section 16A(1) would not apply if the bet in question could only be placed or was placed by a person outside Hong Kong. The Administration confirmed that it was not an offence to promote in Hong Kong bets which could only be placed outside Hong Kong.

3. Some members remained unconvinced that proposed provisions against Internet gambling could be effectively enforced. The Administration explained that the proposed provisions were targeted more at bookmakers than individual bettors and the Administration would not monitor online communication on the Internet. However, offshore bookmakers receiving bets placed from Hong Kong would face prosecution if they arrived in Hong Kong given sufficient evidence, and assistance would be sought from the overseas jurisdiction concerned in the investigation and prosecution process where necessary.

4. Ms Audrey EU was of the view that it was hard to accept that the Legislative Council was going to pass a Bill knowing that the Administration would not fully enforce it. She was concerned that since it was clearly a criminal offence in the Bill for a person to bet with an offshore bookmaker via the Internet, such a practice would send a negative message to the community that to commit a criminal offence was not a serious matter.

5. Miss Margaret NG also expressed reservations about the justifications for incorporating an extraterritorial element in the offences of "bookmaking" and "betting with a bookmaker". She pointed out that since it was not an offence for an overseas bookmaker to receive a bet placed from Hong Kong and for a person to bet with an offshore bookmaker under the existing legislation, the Bill would substantially expand the scope of the Gambling Ordinance. The Administration explained that the Bill only sought to uphold the integrity of the gambling policy in the light of the technological developments in communications and the increase in cross-border gambling activities.

6. To facilitate the work of the Bills Committee, the Administration was requested to -

Section 7 - Bookmaking

- (a) provide information on enforcement experience through international co-operation against cross-border crimes committed through the internet;

Section 8 - Betting with a bookmaker

- (b) clarify whether it was an offence under amended section 8 for a person outside Hong Kong to place a bet with a bookmaker outside Hong Kong; and
- (c) reconsider whether it was necessary to specify the locations of the offenders under amended sections 7 and 8.

7. The Committee deliberated on the set of Committee Stage amendments (CSAs) proposed by the Administration as at 28 March 2002 (index of proceedings attached at **Annex**). The Administration was requested to -

Clause 2 - Interpretation

- (a) make reference to the Chinese term of "on-line medium" used by jurisdictions where legislation was in Chinese;

New Section 2A - Gambling is unlawful

- (b) reconsider whether the amendment of replacing "7" with "7(1) or (1A)" was necessary in section 3(7);

Clause 4 - Bookmaking

- (c) review the drafting of section 7(1)(b) to ascertain whether a person would commit an offence if he solicited in Hong Kong another person to bet outside Hong Kong;
- (d) ensure consistency in describing the person placing a bet with a bookmaker in the Bill;

Clause 8 - Part added

- (e) ensure consistency as an expression "an act is promoted or facilitated if" was used in new section 16A(2A) while a different expression "a person promotes or facilitates bookmaking or betting with a bookmaker if" was used in new section 16E(2); and
- (f) add the word "or" between new sections 16A(2A)(b)(v) and (vi).

II. Any other business

Date of next meeting

8. Members agreed to hold the next meeting on Wednesday, 10 April 2002 at 10:45 am to continue discussion of the Committee Stage amendments proposed by the Administration and to consider the Administration's response to outstanding issues.

9. There being no other business, the meeting ended at 4:35 pm.

Council Business Division 2
Legislative Council Secretariat
18 April 2002

Annex

Proceedings of the meeting of the Bills Committee on Gambling (Amendment) Bill 2000 on Wednesday, 3 April 2002 at 2:30 pm in Conference Room A of the Legislative Council Building

Time	Speaker	Subject(s)	Action required
0000 - 0156	Chairman	Welcoming remarks for representatives of the Administration and relevant papers	
0157 - 0732	Admin	Briefing on the Administration's paper and proposed Committee Stage amendments (CSAs) as at 28 March 2002	
0733 - 0999	Chairman	Offices operated by overseas bookmakers in respect of proposed section 16E	
1000 - 1152	Admin	Ditto	
1153 - 1208	Chairman	Implementation of proposed section 7 in respect of prosecution against Internet Gambling	
1209 - 1227	Admin	Ditto	
1228 - 1418	Chairman	Ditto	
1419 - 1709	Admin	Ditto	
1710 - 1936	Chairman	Ditto	
1937 - 2101	Admin	Ditto	
2102 - 2113	Chairman	Ditto	
2114 - 2233	Mr TAM Yiu-chung	Interpretation of "bookmaking" and prosecution of off-shore bookmaker	
2234 - 2333	Chairman	Ditto	
2334 - 2631	Admin	Ditto	
2632 - 2642	Mr TAM Yiu-chung	Ditto	
2643 - 2714	Chairman	Ditto	See paragraph 6(a) of the minutes
2715 - 2838	Ms Audrey EU	Legislative intent of incorporating an extraterritorial element under the offence of bookmaking in respect of prosecution against local citizen placing bets with overseas bookmakers over the Internet and licensed bookmakers in overseas jurisdictions.	

2839 - 3104	Admin	Ditto	
3105 - 3226	Ms Audrey EU	Ditto	
3227 - 3414	Admin	Ditto	
3415 - 3416	Chairman	Ditto	
3417 - 3714	Miss Margaret NG	Justifications for incorporating an extraterritorial element in Gambling Ordinance and implementation problems	
3715 - 4018	Admin	Ditto	
4019 - 4223	Miss Margaret NG	Ditto	
4224 - 4241	Admin	Ditto	
4242 - 4305	Miss Margaret NG	Ditto	
4306 - 4417	Admin	Ditto	
4418 - 4549	Miss Margaret NG	Ditto	
4550 - 4831	Admin	Ditto	
4832 - 4906	Ms Margaret NG	Ditto	
4907 - 4919	Chairman	Inviting questions from members	
4920 - 5036	Miss Cyd HO	Betting with a bookmaker (proposed section 8) by way of Internet and Search of premises or places for promoting or facilitating bookmaking or betting with a bookmaker (proposed section 23A)	
5037 - 5039	Chairman	Ditto	
5040 - 5338	Admin	Ditto	
5339 - 5440	Miss Cyd HO	Ditto	
5441 - 5441	Chairman	Ditto	
5442 - 5624	Admin	Ditto	
5625 - 5644	Miss Cyd HO	Ditto	
5645 - 5709	Chairman	Ditto	
5710 - 5834	Miss Margaret NG	Justifications for proposed new section 23A(5)	
5835 - 010015	Admin	Ditto	
01 0016 - 01 0033	Miss Margaret NG	Ditto	
01 0034 - 01 0112	Admin	Ditto	
01 0113 - 01 0208	Miss Margaret NG	Ditto	
01 0209 - 01 0301	Admin	Ditto	
01 0302 - 01 0555	Chairman	Implication of the proposed amendment "whether the bet is received within or outside Hong Kong" to section 8 "Betting with a bookmaker"	See paragraph 6(c) of the minutes
01 0556 - 01 0718	Admin	Ditto	

01 0719 - 01 0844	Chairman	Ditto	
01 0845 - 01 0951	Admin	Ditto	
01 0952 - 01 1026	Chairman	Ditto	
01 1027 - 01 1240	Ms Audrey EU	Interpretation of "any person" under proposed sections 7 and 8	See paragraph 6(b) of the minutes
01 1241 - 01 1310	Admin	Ditto	
01 1311 - 01 1413	Ms Audrey EU	Ditto	
01 1414 - 01 1535	Admin	Ditto	
01 1536 - 01 1539	Chairman	Ditto	
01 1540 - 01 1631	Admin	Ditto	
01 1632 - 01 1842	Chairman	Clause-by-clause examination of the 16 th draft CSAs	
01 1843 - 01 1935	Admin	Clause 2 - Interpretation	
01 1936 - 01 1952	Chairman	Ditto	
01 1953 - 01 2011	Miss Cyd HO	Ditto	
01 2012 - 01 2019	Admin	Ditto	See paragraph 7(a) of the minutes
01 2020 - 01 2053	Miss Cyd HO	Ditto	
01 2054 - 01 2119	Chairman	Ditto	
01 2120 - 01 2133	Admin	Ditto	
01 2134 - 01 2145	Chairman	CSA to Section 3 - Gambling is unlawful	
01 2146 - 01 2146	Admin	Ditto	
01 2147 - 01 2151	Chairman	Ditto	
01 2152 - 01 2218	Miss Margaret NG	Ditto	
01 2219 - 01 2229	Chairman	Ditto	
01 2230 - 01 2238	Miss Margaret NG	Ditto	
01 2239 - 01 2308	Admin	Ditto	
01 2309 - 01 2328	Miss Margaret NG	Ditto	
01 2329 - 01 2339	Admin	Ditto	
01 2340 - 01 2407	Admin	Ditto	
01 2408 - 01 2520	Miss Margaret NG	Ditto	
01 2521 - 01 2527	Admin	Ditto	See paragraph 7(b) of the minutes
01 2528 - 01 2606	Chairman	Clause 3 - Unlawful gambling establishments	
01 2607 - 01 2634	Admin	Ditto	
01 2635 - 01 2642	Chairman	Ditto	

01 2643 - 01 2700	Admin	Ditto	
01 2701 - 01 2822	Chairman	Ditto	
01 2823 - 01 2835	Admin + Chairman	Ditto	
01 2836 - 01 2924	Chairman	Clause 4 - Bookmaking - Section 7(1)	
01 2925 - 01 2949	Admin	Ditto	
01 2950 - 01 2950	Chairman	Ditto	
01 2951 - 01 3052	Ms Audrey EU	Ditto	
01 3053 - 01 3053	Chairman	Ditto	
01 3054 - 01 3153	Admin	Ditto	
01 3154 - 01 3233	Ms Audrey EU	Ditto	
01 3234 - 01 3303	Admin	Ditto	
01 3304 - 01 3329	Ms Audrey EU	Ditto	
01 3330 - 01 3510	Miss Margaret NG	Ditto	
01 3511 - 01 3514	Chairman	Ditto	
01 3515 - 01 3531	Admin	Ditto	
01 3532 - 01 3552	Miss Margaret NG	Ditto	
01 3553 - 01 3616	Admin	Ditto	
01 3617 - 01 3649	Miss Margaret NG	Ditto	
01 3650 - 01 3842	Chairman	Ditto	
01 3843 - 01 3909	Miss Margaret NG	Ditto	
01 3910 - 01 3910	Chairman	Ditto	See paragraph 7(c) of the minutes
01 3911 - 01 3939	Ms Audrey EU	Ditto	
01 3940 - 01 4012	Chairman	Clause 4 - Bookmaking - Section 7(1A)	
01 4013 - 01 4052	Ms Audrey EU	Ditto	
01 4053 - 01 4118	Chairman	Ditto	
01 4119 - 01 4206	Admin	Ditto	
01 4207 - 01 4239	Ms Audrey EU	Ditto	See paragraph 7(d) of the minutes
01 4240 - 01 4399	Chairman	Clause 5 - Betting with a bookmaker	
01 4400 - 01 4411	Admin	Ditto	
01 4412 - 01 4445	Chairman	Ditto	
01 4446 - 01 4527	Admin	Ditto	
01 4528 - 01 4626	Miss Margaret NG	Clause 6 - Section substituted	
01 4627 - 01 4628	Chairman	Ditto	
01 4629 - 01 4710	Admin	Ditto	
01 4711 - 01 4711	Chairman	Ditto	
01 4712 - 01 4734	Miss Margaret NG	Ditto	

01 4735 - 01 4809	Chairman	Ditto	
01 4810 - 01 4817	Miss Margaret NG	Ditto	
01 4818 - 01 4906	Chairman	Clause 8 - Part added	
01 4907 - 01 4937	Admin	Ditto	
01 4938 - 01 5016	Chairman	Ditto	
01 5017 - 01 5103	Ms Audrey EU	Ditto	
01 5104 - 01 5116	Admin	Ditto	
01 5117 - 01 5117	Chairman	Ditto	
01 5118 - 01 5135	Admin	Ditto	
01 5136 - 01 5321	Ms Audrey EU	Ditto	
01 5322 - 01 5638	Admin	Ditto	See paragraph 7(e) of the minutes
01 5639 - 01 5642	Chairman	Ditto	
01 5643 - 01 5736	Miss Cyd HO	Ditto	
01 5737 - 01 5855	Admin	Ditto	
01 5856 - 01 5920	Miss Cyd HO	Ditto	
01 5921 - 01 5946	Admin	Ditto	
01 5947 - 01 0053	Miss Cyd HO	Ditto	
02 0054 - 02 0119	Admin	Ditto	
02 0120 - 02 0121	Chairman	Ditto	
02 0122 - 02 0153	Ms Audrey EU	Ditto	See paragraph 7(f) of the minutes
02 0154 - 02 0404	Chairman	Date of next meeting	

**Note : The audio records of the above proceedings are kept at the LegCo
Library**

Council Business Division 2
Legislative Council Secretariat
18 April 2002