

立法會
Legislative Council

LC Paper No. CB(2)1704/01-02
(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, 10 April 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew CHENG Kar-foo (Chairman)
Hon Cyd HO Sau-lan
Hon CHAN Yuen-han, JP
Hon SIN Chung-kai
Hon YEUNG Yiu-chung, BBS
Hon CHOY So-yuk
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Dr Hon David CHU Yu-lin, JP
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP

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

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting and
Administration)
Department of Justice

Mr John READING
Deputy Director of Public Prosecutions
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. Confirmation of minutes
[LC Paper No. CB(2)1443/01-02]

The minutes of the meeting held on 7 December 2001 were confirmed.

II. Meeting with the Administration

2. The Committee deliberated on the Administration's response to the queries raised by members at the meeting on 3 April 2002 [LC Paper No. CB(2)1542/01-02(01)] (index of proceedings attached at **Annex**).

Section 2 - Interpretation

3. The Administration was requested to consider adding satellite and microwave transmission to the definition of "bookmaking" under section 2 as media through which the soliciting, receiving, etc. of a bet could be conducted.

4. To address members' concern that privacy rights of an individual might be infringed in the process of enforcement actions against Internet gambling, the Chairman and Mr SIN Chung-kai requested the Administration to explain clearly in writing the principles and internal guidelines for the Police to monitor on-line communications. The Chairman also asked the Administration to explain the actions which would be taken by the Police to enforce the proposed provisions against Internet gambling.

Proposed amendments to sections 7 and 8 of the Gambling Ordinance

5. Members noted that the Administration considered that insofar as sections 7 and 8 were concerned, it was where the act (bookmaking or betting) took place which mattered, rather than the physical location of the offender. In the absence of express provisions, the standard interpretation was that the law only applied to an act occurring in Hong Kong.

6. Ms Audrey EU said that if where the act took place was the primary consideration for the establishment of an offence under the amended sections, she was concerned that where the act to place or receive a bet might be changed by way of a contract or some technological means. The Administration responded that there were so far no enforcement problems arising from implementation of sections 7 and 8 since the enactment of the Gambling Ordinance in 1977. The Court would have to consider the facts and circumstances in each case to determine whether the act was made in or outside Hong Kong. Ms EU requested the Administration to elaborate on the relationship between the physical location of a person and where the act (bookmaking or betting) took place in amended sections 7 and 8 by way of setting out examples in which a person was physically in Hong Kong but his act to place or receive a bet was outside Hong Kong, and vice versa.

7. The Chairman was of the view that since the phrase "whether the bet is received within or outside Hong Kong" was proposed to be added to section 8 (Betting with a bookmaker), it should be clearly specified in the provision that a person who betted with a bookmaker would commit an offence under amended section 8 only if he so betted in Hong Kong. The Administration did not consider it appropriate or necessary to specify the physical location of the person or the act of betting under the amended section 8 because the normal interpretation at common law was that an offence provision only applied to an act occurring in Hong Kong unless expressly stated otherwise. The proposed amendment might also have implications for the interpretation of other

provisions of the Gambling Ordinance. The Chairman requested the Administration to provide a legal analysis setting out the provisions which would be affected if it was clearly specified that a person who betted with a bookmaker would commit an offence under amended section 8 only if he so betted in Hong Kong.

8. Ms Cyd HO considered that proposed amendments to section 8 would substantially expand the scope of the Gambling Ordinance and have widespread implications on human rights and privacy issues. She said that since the Administration had all along claimed that the proposed provisions were targeted at bookmakers rather than an individual who placed a bet, she might consider proposing to delete section 8 from the Ordinance. She requested the Assistant Legal Adviser 5 to provide an analysis of the possible implications on the operation of the Gambling Ordinance if section 8 was deleted.

Section 16D - Responsibilities of owners, tenants, etc. under section 16A

9. The Administration was asked to consider providing an exemption clause similar to proposed new section 16E(5) under proposed new section 16D.

III Any other business

10. The Committee would hold its next meeting on Friday, 19 April 2002 at 10:45 am to consider the Committee Stage amendments proposed by the Administration.

11. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
24 April 2002

Annex

**Proceedings of the meeting of the Bills Committee on
Gambling (Amendment) Bill 2000
on Wednesday, 10 April 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0127	Chairman	Confirmation of minutes of meeting	
0128 - 1804	Admin	Briefing on the Administration's paper for the meeting	
1805 - 1812	Chairman	Invite question from members	
1813 - 2140	Ms Audrey EU	Physical location of an act of bookmaking or betting with a bookmaker in terms of the offences under section 7 or 8	See paragraph 6
2141 - 2243	Admin	Ditto	
2244 - 2423	Ms Audrey EU	Ditto	
2424 - 2530	Admin	Ditto	
2531 - 2537	Chairman	Ditto	
2538 - 2614	Miss CHOY So-yuk	Provision of a definition for the term "bet" to facilitate interpretation	
2615 - 2738	Admin	Ditto	
2739 - 2807	Miss CHOY So-yuk	Ditto	
2808 - 2924	Admin	Ditto	
2925 - 3036	Mr TAM Yiu-chung	Ditto	
3037 - 3153	Admin	Ditto	
3154 - 3509	Chairman	Interpretation of the proposed phrase "whether the bet is received within or outside Hong Kong" under the offence of betting with a bookmaker	See paragraph 7
3510 - 3646	Admin	Ditto	
3647 - 3825	Chairman	Ditto	
3826 - 4037	Admin	Ditto	
4038 - 4219	Chairman	Ditto	
4220 - 4335	Ms Cyd HO	Need of section 8 - Betting with a bookmaker	ALA5 (see paragraph 8)
4336 - 4408	Chairman	Ditto	
4409 - 4643	Admin	Ditto	

4644 - 4838	Ms Cyd HO	Ditto	
4839 - 4902	ALA5	Ditto	
4903 - 4931	Chairman	Ditto	
4932 - 5031	Admin	Ditto	
5032 - 5246	Mr SIN Chung-kai	Physical location of an act of bookmaking or betting with a bookmaker in terms of the offences under section 7 or 8	
5247 - 5247	Chairman	Ditto	
5248 - 5258	Admin	Ditto	
5259 - 5305	Mr TAM Yiu-chung	Ditto	
5306 - 5336	Mr YEUNG Yiu-chung	Ditto	
5337 - 5339	Chairman	Ditto	
5340 - 5421	Ms Audrey EU	Ditto	
5422 - 5427	Admin	Ditto	
5428 - 5428	Chairman	Ditto	
5429 - 5611	Mr TAM Yiu-chung	Provision of an exemption clause for under proposed section 16D	See paragraph 9
5612 - 5626	Chairman	Ditto	
5627 - 5749	Admin	Ditto	
5750 - 5821	Mr TAM Yiu-chung	Ditto	
5822 - 5832	Chairman	Ditto	
5833 - 5943	Miss CHAN Yuen-han	Ditto	
5944 - 5947	Chairman	Ditto	
5948 - 010111	Mr Tommy CHEUNG	Ditto	
01 0112 - 01 0158	Chairman	Ditto	
01 0159 - 01 0241	Admin	Ditto	
01 0242 - 01 0251	Chairman	Ditto	
01 0252 - 01 0452	Admin	Ditto	
01 0453 - 01 0534	Mr Tommy CHEUNG	Ditto	
01 0535 - 01 0612	Admin	Ditto	
01 0613 - 01 0614	Chairman	Ditto,	
01 0615 - 01 0754	Miss CHAN Yuen-han	Ditto	
01 0755 - 01 0807	Chairman	Ditto	
01 0808 - 01 1011	Mr TAM Yiu-chung	Definition of "bookmaking" should specify satellite and microwave transmission	See paragraph 3
01 1012 - 01 1109	Admin	Ditto	
01 1110 - 01 1203	Mr TAM Yiu-chung	Ditto	
01 1204 - 01 1303	Miss CHOY So-yuk	Ditto	

01 1304 - 01 1321	Admin	Ditto	
01 1322 - 01 1322	Chairman	Ditto	
01 1323 - 01 1456	Mr TAM Yiu-chung	Ditto	
01 1457 - 01 1533	Admin	Ditto	
01 1534 - 01 1558	Mr TAM Yiu-chung	Ditto	
01 1559 - 01 1720	Mr SIN Chung-kai	Ditto	
01 1721 - 01 1810	Admin	Ditto	
01 1811 - 01 1829	Chairman	Ditto	
01 1830 - 01 1846	Miss CHAN Yuen-han	Ditto	
01 1847 - 01 1922	ALA5	Ditto	
01 1923 - 01 2332	Chairman	Enforcement against cross-border bookmaking activities and computer crimes	See paragraph 4
01 2333 - 01 2501	Admin	Ditto	
01 2502 - 01 2502	Chairman	Ditto	
01 2503 - 01 2616	Admin	Ditto	
01 2617 - 01 2807	Chairman	Ditto	
01 2808 - 01 2913	Mr Tommy CHEUNG	Ditto	
01 2914 - 01 2917	Chairman	Ditto	
01 2918 - 01 2926	Mr Tommy CHEUNG	Ditto	
01 2927 - 01 2951	Admin	Ditto	
01 2952 - 01 2999	Mr Tommy CHEUNG	Ditto	
01 3000 - 01 3003	Chairman	Ditto	
01 3004 - 01 3126	Mr SIN Chung-kai	Ditto	
01 3127 - 01 3252	Admin	Ditto	
01 3253 - 01 3335	Mr SIN Chung-kai	Ditto	
01 3336 - 01 3351	Chairman	Ditto	
01 3352 - 01 3443	Admin	Ditto	
01 3444 - 01 3555	Mr SIN Chung-kai	Ditto	
01 3556 - 01 3737	Chairman	Ditto	
01 3738 - 01 3819	Ms Cyd HO	Ditto	
01 3820 - 01 3824	Chairman	Ditto	
01 3825 - 01 4001	Mr SIN Chung-kai	Ditto	
01 4002 - 01 4136	Miss CHAN Yuen-han	Ditto	
01 4137 - 01 1232	Chairman	Ditto	
01 1233 - 01 4340	Admin	Ditto	
01 4341 - 01 4900	Chairman and members	Any other business - 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
24 April 2002