

本局檔號 OUR REF : HAB/CR/1/17/93 Pt. 37
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6 December, 2001

Miss Flora Tai
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Tai,

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

Follow-up to the meeting on 26 November 2001

As a follow-up to the discussion of the Bills Committee meeting on 26 November 2001, I enclose a set of latest Committee Stage Amendments (CSAs) proposed by the Administration for your distribution to Members, please. The enclosed CSAs contain the following latest proposed amendments:

- (1) amendments to sections 7 and 8 to streamline the drafting and clarify the meaning of the term “transaction” in section 7(1A)(b);
- (2) deletion of section 21(1)(c) to address the concerns of some Members over the effectiveness of the prohibition

of the provision of future telephone services to a convict by the concerned telephone service provider; and

- (3) deletion of section 26(b) and (c) in the Bill (Clause 13), which is a consequential amendment arising from the revised formulation of section 16A.

The officers attending the meeting of the Bills Committee on 7 December 2001 will be as follows:

Mrs. Betty Fung	Deputy Secretary for Home Affairs (2),
Mr. Stephen Wong	Deputy Solicitor General (Advisory),
Mr. John Reading	Deputy Director of Public Prosecutions,
Mr. J. D. Scott	Senior Assistant Law Draftsman,
Mr. Francis Lo	Principal Assistant Secretary for Home Affairs(5),
Mr. Llewellyn Mui	Senior Government Counsel, Legal Policy Division,
Ms. Mabel Cheung	Government Counsel, Bilingual Drafting Unit, Law Drafting Division, and
Mr. Vic Yau	Assistant Secretary for Home Affairs (5)1.

Yours sincerely,

(Vic C H Yau)
for Secretary for Home Affairs

cc D of J (Attn.: Mr. Stephen Wong
Mr. John Reading
Mr. J. D. Scott
Mr. Gavin Shiu
Mr. Llewellyn Mui
Ms. Mabel Cheung)
C of P (Attn.: Mr. Andy Tsang)
ALA/LegCo (Attn.: Mr. Stephen Lam)

JDScott#43673v13
1st draft: 9.6.2001
2nd draft: 12.6.2001
3rd draft: 14.6.2001
4th draft: 18.6.2001
5th draft: 19.6.2001
6th draft: 22.6.2001
7th draft: 17.7.2001
8th draft: 8.10.2001
9th draft: 3.10.2001
9th(r) draft: 4.10.2001
10th draft: 2.11.2001
11th draft: 3.12.2001
12th draft: 4.12.2001

GAMBLING (AMENDMENT) BILL 2000

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In paragraph (a), by deleting the semi-colon at the end and substituting a full stop.</p> <p>(b) By deleting paragraphs (b) and (c).</p>
4	<p>(a) In proposed new section 7 (1A) (a) (ii), by deleting “other event” and substituting “any competition, race, event or contest”.</p> <p>(b) By deleting proposed new section 7 (1A) (b) and substituting -</p> <p style="padding-left: 40px;">“(b) shall not apply where -</p> <p style="padding-left: 80px;">(i) the transaction, namely, the betting and the bookmaking took</p>

place or is to take place, as the case may be, wholly outside Hong Kong; and

- (ii) all of the parties to the transaction were or will be outside Hong Kong at the time that it took place or is to take place, as the case may be.”.

5(b) (a) In proposed new section 8 (2) (a) (ii), by deleting “other event” and substituting “any other competition, race, event or contest”.

(b) By deleting proposed new section 8 (2) (b) and substituting -

“(b) shall not apply where -

- (i) the bet was made wholly outside Hong Kong; and
- (ii) both the person who made the bet and the bookmaker, were at the time that the bet was made, outside Hong Kong.”.

8 (a) In the heading of proposed new Part IIIA, by deleting “KEEPING PREMISES FOR” and substituting “PREMISES FOR PROMOTING”.

(b) In proposed new section 16A -

- (i) by re-numbering subsection (3) as subsection (4);
- (ii) by repealing everything before subsection (4) and substituting -

“16A. Operating premises or places for promoting or facilitating betting on horse races, etc.

(1) No person shall knowingly operate, manage or otherwise have control of or assist in the operation, management or other control of any premises or place where, on one or more occasions -

- (a) conduct of cash-sweeps on horse, pony or dog races;
- (b) allocation of chances in cash-sweeps that are conducted on horse, pony or dog races;
- (c) conduct of totalizator or pari-mutuel betting on horse, pony or dog races;
- (d) solicitation, receipt, negotiation or

settlement of bets on horse, pony or dog races, whether for or in connexion with a cash-sweep or totalizator or pari-mutuel betting or otherwise; or

(e) solicitation, receipt, negotiation or settlement of bets on the result or outcome of -

(i) any competition, race or contest, other than a horse, pony or dog race;

(ii) any other future event or past event other than a horse, pony or dog race the result or outcome of which is not generally known,

otherwise than under and in accordance with a written permission given by the

Chief Secretary for Administration under the Betting Duty Ordinance (Cap. 108) are promoted or facilitated.

(2) For the purposes of subsection (1), an act is promoted or facilitated if -

(a) advertisements to promote the act are exhibited, distributed or disseminated; or

(b) service in the form of -

(i) receipt of a bet;

(ii) transmission of a bet;

(iii) receipt of a deposit paid wholly or partly for the purposes of betting;

(iv) transmission of a deposit referred to in subparagraph (iii);

(v) transmission of
winnings on a
bet; or

(vi) arrangement
for opening or
maintaining of
an account
wholly or
partly for the
purposes of
betting,

is made available.

(3) Subsection (1) -

(a) shall apply whether or not

-

(i) the bet concerned
that was made or
to be made was or
will be solicited,
received,
negotiated or
settled wholly or
partly outside
Hong Kong; or

(ii) the race,
competition,
contest or event in

question -

(A) was or is to
be
organized;
or

(B) took place
or is to
take place,

within or outside Hong
Kong;

(b) shall not apply where
there is evidence that -

(i) the bet concerned
was made or is to
be made wholly
outside Hong
Kong; and

(ii) both -

(A) the person
who made
the bet and
the
bookmaker
were, at the
time when
the bet was
made; or

(B) the person
who will
make the
bet and the
bookmaker

will be, at
the time
when the
bet is to be
made,
outside Hong
Kong.”.

- (c) By deleting proposed new section 16B.
- (d) In proposed new section 16C -
 - (i) in subsection (1) (a), by deleting everything after “used” and substituting “as premises or place mentioned in section 16A.”;
 - (ii) in subsection (1) (b), by deleting everything after “used” and substituting “as premises or place mentioned in section 16A.”;
 - (iii) in subsection (2), by deleting “\$5,000,000” in both places where it occurs and substituting “\$500,000”.
- (e) In proposed new section 16E -
 - (i) in subsection (1), by deleting “promotes or facilitates bookmaking” and substituting “knowingly promotes or facilitates bookmaking or betting with a bookmaker”;
 - (ii) by adding -
 - “(1A) For the purposes of subsection (1), a person promotes or facilitates bookmaking or betting with a bookmaker if

he -

- (a) exhibits, distributes or disseminates advertisements to promote bookmaking or betting with a bookmaker;
- (b) provides service in the form of -
 - (i) receipt of a bet with a bookmaker;
 - (ii) transmission of a bet with a bookmaker;
 - (iii) receipt of a deposit paid wholly or partly for the purposes of betting with a bookmaker;
 - (iv) transmission of a deposit referred to in subparagraph

(iii);

(v) transmission of
winnings on a
bet with a
bookmaker; or

(vi) arrangements
for the opening
or maintaining
of an account
wholly or
partly for the
purposes of
betting,
otherwise than
under and in
accordance
with a written
permission
given by the
Chief
Secretary for
Administration
under the
Betting Duty
Ordinance

(Cap. 108);

- (iii) in subsection (2) (a) (ii), by deleting “other event” and substituting “any other competition, race, event or contest”.

11 By deleting the clause and substituting -

“11. Disconnexion of telephone service

Section 21 is amended -

- (a) in subsection (1), by repealing paragraph (c);
- (b) in subsections (1) and (2), by repealing “Hong Kong Telephone Company Limited” wherever it appears and substituting “telecommunications service provider”;
- (c) in subsection (2), by repealing “the Company” and substituting “the telecommunications service provider”;
- (d) in subsection (3), by repealing “Company” and substituting “telecommunications service provider”;
- (e) by adding -

“**(4)** In this section,
“telecommunications service provider”

(電訊服務提供者) means a

licensee as defined in section 2 (1) of the Telecommunications Ordinance (Cap. 106).”.

New

By adding -

“23A. Search of premises or places for promoting or facilitating betting on horse races, etc.

(1) A police officer of or above the rank of superintendent may, if he reasonably suspects that any premises or place are or is a premises or place of the description mentioned in section 16A (1), authorize in writing any police officer to enter and search the premises or place.

(2) A police officer to whom an authorization is issued under subsection (1), and any other police officer acting under his direction, may -

- (a) enter, by force if necessary, the premises or place specified in the authorization and search the same;
- (b) arrest any person who is found in such premises or place or who escapes from such premises or place;
- (c) search any person who is found in such premises or place or who escapes from such premises or place;
- (d) seize and detain any thing found in such

premises or place or found on any person in such premises or place or found on any person who escapes from such premises or place, which is being or has been used for or in connexion with the promotion or facilitation of any activity of the description mentioned in section 16A (1) (a), (b), (c), (d) or (e);

(e) seize and detain any money or other property -

(i) being used in or for or in connexion with the promotion or facilitation of any activity of the description mentioned in section 16A (1) (a), (b), (c), (d) or (e);

(ii) found on any person operating or managing or otherwise controlling, any premises or place of the description mentioned in section 16A (1) in such premises or place or on any person assisting in the operation or in the management or other control

of any such premises or place; or

- (iii) found on any person found in such premises or place where entry under paragraph (a) is prevented, obstructed or delayed.

(3) No person shall be searched under this section except by a person of the same sex.

(4) Any person who obstructs any police officer authorized under subsection (1) or any other police officer acting under his direction from entering the premises or place specified in the authorization commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.

(5) Where a person delays the entry of any police officer referred to in subsection (4) into any premises or place so referred to, he shall be presumed, until the contrary is proved, to have delayed entry for the purpose of obstructing such police officer from entering such premises or place.”.

13

By deleting the clause and substituting -

“Forfeiture

Section 26 is amended by adding “or is or represents the proceeds of or is derived from” after “with”.”.