

本局檔號 OUR REF : HAB/CR/1/17/93 Pt. 39
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URGENT BY FAX

29 April 2002

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**

Minutes of meeting on 19 April 2002

Thank you for your letter of 22 April 2002 enclosing the draft minutes of the meeting on 19 April 2002. Our response to the outstanding issues arising from the discussion at the meeting is set out below.

Court warrants issued in relation to enforcement of the provisions under the Gambling Ordinance

Statistics on court warrants issued in 2001 in relation to enforcement against gambling offences are at *Annex*. These court warrants are mainly for entry into and search of premises suspected to be illegal gambling establishments. They also include warrants for obtaining from relevant organizations records of bank transactions and

telephone and pager communication log records which are suspected to be connected with gambling offences. We are prepared to provide similar information on court warrants issued relating to enforcement against gambling offences after the Bill has come into effect, if Members so request.

Interception warrants issued in relation to enforcement against gambling offences

Some Members asked at the last meeting for information on interception warrants relating to enforcement of the Gambling Ordinance. We consulted both the Security Bureau and the Police on this matter. After consideration, the Administration's position remains that it is unable to comment on the work relating to interception of communications, for operational and security reasons.

Drafting of sections 16A, 16B and 16C

The Chairman suggested at the last meeting that we should reconsider the references to "promote or facilitate" in sections 16A and 16B so that they could be more consistent with each other, with a view to improving the drafting of section 16C(1). Having considered the matter, our conclusion is that the present wording in sections 16A and 16B should be retained. If promotion or facilitation takes place in a place, that place falls within section 16A. The present wording "premises or place where ... bookmaking or betting with a bookmaker ... is promoted or facilitated" is the most direct way of correlating the act and the place. If we use something like "a place in which any person promotes or facilitates bookmaking ..." (similar to the wording in section 16B), a third element (a person) is introduced, which makes the correlation less direct.

If sections 16A and 16B are to retain their present forms, section 16C(1) should not be amended.

Changes to the proposed Committee Stage Amendments (CSAs)

We have made some minor textual changes to the proposed CSAs attached to our letter to the Bills Committee dated 9 April 2002. The replacement pages are attached.

I should be grateful if you would kindly convey the above information to Members. The officers attending the meeting of the Bills Committee on 30 April 2002 will be as follows:

| | |
|--------------------|--|
| Mr. Stephen Fisher | Deputy Secretary for Home Affairs (2), |
| Mr. Gilbert Mo | Deputy Law Draftsman (BD&A), |
| Mr. John Reading | Deputy Director of Public Prosecutions, |
| Ms. Esther Leung | Principal Assistant Secretary for Home Affairs(5), |
| Mr. Lo Mung-hung | Senior Superintendent of Police (OCTB), |
| Mr. Llewellyn Mui | Senior Government Counsel, Legal Policy Division, |
| Mr. Gavin Shiu | Senior Government Counsel, Prosecutions 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,

(Ms Esther Leung)
for Secretary for Home Affairs

cc D of J (Attn.: Mr. Gilbert Mo
Mr. Stephen Wong
Mr. John Reading
Mr. Gavin Shiu
Mr. Llewellyn Mui
Ms. Mabel Cheung)
C of P (Attn.: Mr. Lo Mung-hung)
ALA/LegCo (Attn.: Mr. Stephen Lam)

Annex

Statistics on Court Warrants Issued relating to Gambling Cases in 2001

| | Search warrants issued (all cases) | Gambling-related cases | Gambling-related cases (executed) | Gambling-related cases (not executed) |
|--------------------------|---|-------------------------------|--|--|
| Eastern Magistracy | 3,726 | 49 | 49 | 0 |
| Western Magistracy | 2,600 | 30 | 22 | 8 |
| North Kowloon Magistracy | 4,547 | 2 | 0 | 2 |
| Kwun Tong Magistracy | 982 | 17 | 12 | 5 |
| Tsuen Wan Magistracy | 1,797 | 50 | 40 | 10 |
| Tuen Mun Magistracy | 686 | 0 | 0 | 0 |
| Shatin Magistracy | 824 | 3 | 0 | 3 |
| Fanling Magistracy | 405 | 12 | 0 | 12 |
| Total | 15,567 | 163 | 123 | 40 |

2 years; or

- (b) a conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.

16B. Promoting or facilitating bookmaking, etc.

(1) No person shall knowingly promote or facilitate bookmaking or betting with a bookmaker (except bookmaking or betting which is lawful by virtue of section 3(B)).

(2) Subsection (1) shall not apply if the bet in question -

- (a) can only be placed; or
- (b) is placed,

by a person outside Hong Kong.

(3) Any person who contravenes subsection

(1) commits an offence and is liable-

- (a) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or

- (b) a conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.

16C. General provisions relating to sections 16A and 16B

for the purpose of

betting,

and in section 16B(1), "promote or facilitate bookmaking or betting with a bookmarker" shall be construed accordingly.

(2) A person may be convicted of an offence under section 16A or 16B in relation to a set of facts notwithstanding that no person is convicted of an offence under section 7 or 8 in relation to the same set of facts.

16D. Responsibilities of owners, tenants, etc. for act prohibited under section 16A

(1) No person shall -

(a) being the owner, tenant, occupier or person in charge of any premises or place, knowingly permit or suffer such premises or place or any part thereof to be used as premises or place mentioned in section 16A(1);

(b) let or agree to let, whether as principal or agent, any premises or place with the knowledge that such premises or place or any part thereof is to be used as premises or

《2002 年賭博（修訂）條例草案》

委員會審議階段

由民政事務局局長動議的修正案

| <u>條次</u> | <u>建議修正案</u> |
|-----------|--|
| 2 | 廢除"現予"之後的所有字句而代以"修訂，在"收受賭注"的定義中，在"電報"之後加入"、聯機媒介（包括一般稱為電腦互聯網的服務）"。" |
| 3 | 刪去（b）段而代以 — "（b） 在（b）段中，廢除"控制賭場；或"而代以"以其他方式控制賭場。"。 |
| 4 | "在（b）段中，刪去建議的新訂的第（1A）款而代 — "（1A）任何人如藉在香港境外收取、商議或結清符合以下說明的賭注 — （a） 賭注是從香港境內作出的；或 （b） 由在作出該賭注的時間是在香港境內的人所作出的。 <u>而從事收受賭注，即屬犯罪</u> — （i） 一經循簡易程序定罪，可處罰款\$5,000,000 及監禁 2 年；或 |

(ii) 一經循公訴程序定罪，可處罰款\$5,000,000及監禁7年。"

5 刪去該條而代以 —

"5. 向收受賭注者投注

第 8 條現予修訂，在"投注"之後加入"
(不論有關賭注是在香港境內或境外收取亦然)"。"

新條文 加入 —

"6A. 獎券活動彩票的出售

第 10 條現予修訂，在兩度出現的"或"之後加入"以其他方式"。"

8 刪去建議的第 IIIA 部而代以 —

"第 IIIA 部

營辦處所作推廣或便利收受賭注等
用途、推廣或便利收受賭注等
及限制廣播提示等

**16A. 營辦處所或場所作推廣或便利
收受賭注等用途**

(1) 任何人均不得明和而營辦、管理或以其他方式控制，或協助營辦、管理或以其他方式控制曾一次或多於一次用於推廣或便利收受賭注或向收受賭注者投注（但憑藉第 3 (8) 條屬合法的收受賭注或投注則除外）的處所或場所。

(2) 第 (1) 款在以下情況即不適用 —

- (b) 一經循公訴程序定罪，可處罰款 \$5,000,000 及監禁 7 年。

16C. 關於第 16A 及 16B 條的一般條文

(1) 就第 16A (1) 條而言，如有以下情況，即屬推廣或便利收受賭注或向收受賭注者投注

- (a) 有推廣收受賭注或向收受投注者投注的廣告被展示、分發或散發；或
- (b) 有以下形式的服務提供 —
 - (i) 以代理人身分收取賭注（不論該賭注最終是由收受賭注者在香港境內或境外收取亦然）；
 - (ii) 傳轉賭注；
 - (iii) 收取全部或部分為投注而支付的按金；
 - (iv) 傳轉第 (iii) 節提述的按金；
 - (v) 傳轉就賭注而贏取的收益；或
 - (vi) 安排開設或維持全部或部分作投注用途的帳戶，

而在第 16B(1)條中，"推廣或便利收受賭注或向收受賭注者投注"須據此解釋。

(2) 即使沒有人被裁定就某一組事實犯第 7 或 8 條所訂的罪行，仍可裁定某人就同一組事實犯第 16A 或 16B 條所訂的罪行。

16D. 擁有人、租客等就第 16A 條所禁止的作為須負的責任

(1) 任何人 —

- (a) 如身為任何處所或場所的擁有人、租客、佔用人或管理人，則不得明知而准許或容受該處所或場所或其任何部分被用作第 16A (1) 條所述的處所或場所；
- (b) 不得在知悉有關處所或場所或其任何部分將會被用作第 16A (1) 條所述的處所或場所的情況下，以主事人或代理人身分出租或同意以該等身分出租該處所或場所。

(2) 任何人違反第 (1) 款，即屬犯罪 —

- (a) 一經循簡易程序定罪，可處罰款\$500,000 及監禁 2 年；
或
- (b) 一經循公訴程序定罪，可處罰款\$500,000 及監禁 7 年。