

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 24 November 2000**

**Legal Service Division Report on
Gambling (Amendment) Bill 2000**

Object(s) of the Bill

To—

- (a) make bookmaking unlawful even when the bet is received outside Hong Kong, unless the transaction takes place wholly outside Hong Kong (clause 4);
- (b) make betting with a bookmaker unlawful even when the bet is received outside Hong Kong, unless the transaction takes place wholly outside Hong Kong (clause 5);
- (c) remove the statutory provisions of assisting to commit an offence under the Gambling Ordinance (Cap. 148) ("the Ordinance") (clauses 3, 6 and 7);
- (d) make it unlawful for a person to keep any premises or place for the conduct of cash-sweeps on horse or dog races and other similar activities, save under statutory permission of the Chief Secretary for Administration, whether or not the races are organized or take place within or outside Hong Kong (new section 16A);
- (e) make it an offence for a person to keep any premises or place for competitions on results of future or past events and other similar activities, save under the written statutory permission of the Chief Secretary for Administration, whether or not the future or past events are to take place or took place within or outside Hong Kong (new section 16B);

- (f) make it an offence for a person-
 - (i) being the owner, tenant, occupier or person in charge of any premises or place to knowingly permit or suffer such premises or place or any part thereof to be opened for the promotion, etc. of any activities mentioned in (d) or (e) (new section 16C(a));
 - (ii) to let any premises or place with the knowledge that such premises or place or any part thereof is to be opened for the promotion, etc. of any activities mentioned in (d) or (e) (new section 16C(b));
- (g) make amendments to the definitions of "gambling" and "gambling establishment" to reflect the new offences mentioned in (d) and (e) (clause 2);
- (h) prohibit local television and radio stations from broadcasting any forecasts, odds or tips on offshore horse or dog races within 12 hours of the start of an event, unless that event is specified, by notice published in the Gazette, by the Secretary for Home Affairs (new section 16D);
- (i) make it an offence for a person to promote or facilitate bookmaking even outside Hong Kong, unless the transaction takes place wholly outside Hong Kong (new section 16E);
- (j) revise the presumption provisions to enhance its consistency with the human rights provisions of the Basic Law (clause 9);
- (k) extend the power of an authorized person of the racing club to require a person to leave the club premises whom the authorized person reasonably suspects of committing the offence of betting with a bookmaker on the premises (clause 12);
- (l) extend the scope of forfeiture proceedings under the Ordinance to activities mentioned in (d) and (e) (clause 13); and
- (m) make other consequential amendments.

LegCo Brief Reference

- 2. HAB CR 1/17/93 Pt. 29 issued by the Bureau on 8 November 2000.

Date of First Reading

- 3. 22 November 2000.

Comments

4. The Bill contains important proposals on policy matters relating to inserting an extraterritorial element into the offence of bookmaking and betting with a bookmaker, and the creation of new offences of keeping premises for betting on horse or dog races, keeping premises for competitions on results of future or past events, criminalizing the owner or tenant of any premises or place who knowingly permit or suffer such premises or place to be opened for the promotion of any activities mentioned in new sections 16A and 16B, and promoting or facilitating bookmaking. We have already received submission from the Macau Horse Racing Company, Limited.

5. The Bill also contains proposals relating to legal policy issue on restricting freedom of expression by prohibiting local television and radio stations from broadcasting any forecasts, odds or tips on offshore horse or dog races within 12 hours of the start of an event.

6. The Bill further contains proposals relating to legal issues on removing the "assisting offence "under the Ordinance in the light of the decision in *The Queen v. Fung Sik-chung* [1985] HKLR 387 and revising the presumption provisions.

Public Consultation

7. According to paragraph 12 of the LegCo Brief, the Administration has written to the Hong Kong Association of Banks (HKAB) and the DTC Association (the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies) to consult them particularly on the provisions to outlaw the promotion and facilitation of authorized bookmaking activities. The Associations have generally indicated no objection. The HKAB has nonetheless considered that the proposed amendment to criminalize owners or tenants who knowingly permits or suffers the use of premises for the purpose of promoting or facilitating the receipt of bets on horse racing may impose too much a burden on the owners of the premises concerned. The LegCo Brief further states that the Hong Kong Jockey Club welcomes the legislative proposals.

Consultation with the LegCo Panel

8. The Home Affairs Panel was consulted about the legislative proposals at its meetings on 13 December 1999 and 14 November 2000. At the latter meeting, members expressed concerns over the possible encroachment on the right of telecommunications service providers to broadcast and the right of access to information.

Conclusion

9. The Bill contains important issues relating to policy, legal policy and legal issues which merit the setting up of a Bills Committee to study them in detail. In the meantime, the Legal Service Division is continuing to scrutinize the legal and drafting aspects of the Bill.

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