

GAMBLING (AMENDMENT) BILL 2000

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

Clause

Amendment Proposed

- 1 By deleting the clause and substituting -
- "1. Short Title**
- This Ordinance may be cited as the Gambling
(Amendment) Ordinance 2002."
- 2 By deleting everything after "(Cap. 148) is" and substituting
"amended, in the definition of "bookmaking", by adding "or
on-line medium (including the service commonly known as the
Internet)" after "telegram".
- 3 By deleting the clause and substituting -
- "3. Unlawful gambling establishments**
- Section 5(b) and (c) is amended by adding "以其他
方式" before "控".
- 4(b) By deleting the proposed section 7(1A) and substituting -
- "(1A) Any person who engages in bookmaking, whether
on one occasion or more than one occasion, by receiving,

ALL PASSED

negotiating or settling outside Hong Kong a bet -

- (a) which is placed from Hong Kong; or
- (b) placed by a person who is in Hong Kong when the bet is placed,

commits an offence and is liable -

- (c) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or
- (d) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years."

5 By deleting the clause and substituting -

"5. Betting with a bookmaker

Section 8 is amended -

- (a) in paragraph (c), by repealing the full stop and substituting a comma;
- (b) by adding "whether the bet is received within or outside Hong Kong." after paragraph (c)."

New By adding -

"6A. Selling lottery tickets

Section 10(a) and (b) is amended by adding "以其他方式" after "或"."

ALL PASSED

8 By deleting the proposed Part IIIA and substituting -

"PART IIIA

OPERATING PREMISES OR PLACES FOR PROMOTING OR
FACILITATING BOOKMAKING, ETC., PROMOTING
OR FACILITATING BOOKMAKING, ETC. AND
RESTRICTION ON BROADCASTING OF
TIPS, ETC.

**16A. Operating premises or place for
promoting or facilitating
bookmaking, 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, whether on one or more than one occasion, bookmaking or betting with a bookmaker (except bookmaking or betting which is lawful by virtue of section 3(8)) is promoted or facilitated.

(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

ALL PASSED

years; or

- (b) on 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(8)).

(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) on 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

ALL PASSED

(1) For the purposes of section 16A(1),
bookmaking or betting with a bookmaker is promoted or
facilitated if -

(a) advertisements to promote bookmaking or
betting with a bookmaker are exhibited,
disseminated or distributed; or

(b) service in any of the following forms is
made available -

(i) receipt of a bet as an agent
whether the bet is ultimately
received by the bookmaker
within or outside Hong Kong;

(ii) transmission of a bet;

(iii) receipt of a deposit paid
wholly or partly for the
purpose 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
purpose of betting,

and in section 16B(1), "promote or facilitate bookmaking

ALL PASSED

or betting with a bookmaker” (推廣或便利收受賭注或向收受賭注者投注) 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); or

(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 place mentioned in section 16A(1).

(2) Any person who contravenes subsection (1) commits an offence and is liable -

(a) on summary conviction to a fine of \$500,000 and to imprisonment for 2 years;

ALL PASSED

or

- (b) on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.

16E. Restriction on broadcasts of forecasts, hints, odds or tips as to results of horse, pony or dog races

(1) No person shall, for the purposes of dissemination or distribution in Hong Kong to the public or a section of the public, broadcast any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency regarding any horse, pony or dog race at any time within 12 hours before the conduct of that race.

(2) Subsection (1)

- (a) shall apply whether the race in question is or is to be conducted within or outside Hong Kong;
- (b) shall not apply in relation to any race on which totalizator or pari-mutuel betting is conducted with a permission given under section 3 of the Betting Duty Ordinance (Cap. 108);
- (c) shall not apply in relation to any race which is or is to be conducted as part of any event which is specified by notice published in the Gazette by the Secretary

ALL PASSED

for Home Affairs for the purposes of this paragraph.

(3) Any person who contravenes subsection (1) commits an offence and is liable -

(a) on summary conviction to a fine of \$1,000,000 and to imprisonment for 2 years; or

(b) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years.

(4) A notice published under subsection (2) (c) is not subsidiary legislation.

(5) In proceedings for an offence under this section, it shall be a defence for the accused to show that he used all due diligence and took all reasonable precautions to avoid the commission of the offence.

(6) In this section, "broadcast" (廣播) means -

(a) broadcasts by means of a broadcasting service as defined in section 2(1) of the Broadcasting Ordinance (Cap. 562); or

(b) broadcasts by transmitting sound for general reception by means of radio waves under and in accordance with a licence granted under section 13C of the Telecommunications Ordinance (Cap. 106),

ALL PASSED

but does not include broadcasts, by any means, of news or any remarks, observations or comments in relation to such news.

16F. Consent to prosecution under this Part

(1) No prosecution for an offence under this Part shall be instituted without the consent in writing of the Secretary for Justice.

(2) Subsection (1) shall not prevent -

(a) the arrest of a person for;

(b) the issue of a warrant for the arrest of a person for; or

(c) remand in custody of a person charged with,

any offence under this Part."

10(b) In the proposed section 20(2), by adding "曾" before "參加該".

11 By deleting the clause and substituting -

"11. Disconnexion of telephone service

Section 21 is amended -

(a) by repealing subsection (1)(c);

(b) in subsections (1) and (2), by repealing "Hong Kong Telephone Company Limited"

ALL PASSED

- 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 -

**"11A. Search of suspected gambling
establishments**

Section 23(2)(e)(ii) is amended by adding "以其他
方式" before "控" where it twice appears.

11B. Section added

The following is added -

**"23A. Search of premises or place
for promoting or facilitating
bookmaking, etc.**

ALL PASSED

(1) A police officer of or above the rank of superintendent may, if he reasonably suspects that -

(a) an offence under section 16A is being or has been committed in relation to; or

(b) an offence under section 16B is being or has been committed in,

any premises or place, 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

ALL PASSED

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 in connexion with an act prohibited by section 16A or 16B;

(e) seize and detain any money -

(i) being -

(A) money paid pursuant to a bet with a bookmaker;

(B) winnings on such a bet; or

(C) a deposit paid wholly or partly for the purpose of such a bet;

(ii) found on any person operating, managing or otherwise controlling such premises or place or on any person assisting in the operation, management or other control of such premises or place; or

ALL PASSED

(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 -

"13. Forfeiture

Section 26 is amended by adding "or is or represents

ALL PASSED

the proceeds of or is derived from" after "with".

New By adding -

"13A. Obstruction of police officers

Section 27 is amended by repealing "Any" and substituting "Subject to section 23(4) or 23A(4), any".

14(1) (a) By deleting paragraph (a).

(b) By deleting "5,".

ALL PASSED