

立法會

Legislative Council

LC Paper No. LS86/05-06

Paper for the Bills Committee on Betting Duty (Amendment) Bill 2006

At the Bills Committee's meeting held on 12 June 2006, the Legal Adviser to the Bills Committee gave a preliminary view on Hon Andrew Cheng's proposed amendment (**Annex**) to clause 16 of the Bill that, subject to LegCo President's ruling, it might not fall within the scope of the Bill. The Legal Adviser was requested to put his advice in writing for the Bills Committee's reference.

Rule 57(4)(a) of the Rules of Procedure

2. Rule 57(4)(a) of the Rules of Procedure provides that:-

“The following provisions shall apply to amendments relating to bills:

- (a) An amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates.”

Hon Andrew Cheng's proposed amendments

3. Hon Cheng has proposed a number of amendments to the Bill. Hon Cheng's proposed amendment to section 6I is to repeal subsection (7) and substitute it with a provision that the Legislative Council, may, by resolution, amend the conditions of the licence issued to a company to conduct betting on football matches.

Comment

4. The Long Title of the Bill provides:-

“Amend the Betting Duty Ordinance to empower the Secretary for Home Affairs to authorize cash-sweeps and betting on horse

racers; to change the name of “Football Betting and Lotteries Commission” to “Betting and Lotteries Commission” and to extend the function of the Commission to matters relating to the conduct of betting on horse races; to charge, in relation to authorized betting on horse races, a duty on the net stake receipts derived from the conduct of such betting; to empower the Collector of Stamp Revenue to correct an assessment of betting duty charged in relation to authorized betting on horse races and football matches; and to provide for related matters.”

5. Section 6I(1) of the Betting Duty Ordinance (Cap. 108) provides that the Secretary for Home Affairs may, by issuing a licence to a company, authorize the company to conduct fixed odds betting or pari-mutuel betting on the results of football matches. Subsection (2) provides that the Secretary shall not issue the licence to a company unless he is satisfied that the company, and all the directors, principal officers and controllers of the company, are fit and proper persons for the purpose of this section. Subsection (3) provides that the term for which the licence is issued shall be specified in the licence. Subsections (4) and (5) provide for the licensing conditions. Subsection (6) provides that any notice referred to in subsection (4)(g) shall contain specified information. Subsection (7) defines the meaning of the terms “fixed odds betting” and “pari-mutuel betting” referred to in subsection(1).

6. Clause 16 of the Bill repeals section 6I(7). In this respect, it is to be noted that the terms “fixed odds betting” and “pari-mutuel betting” are reproduced under section 6B(1) of Part 3 of the Betting Duty Ordinance (see clause 11(2)). The effect is that the definition of the terms applies to section 6I and the new section 6GB (under Part 3 as well) which provides that the Secretary may, by issuing a licence to a company, authorize the company to conduct fixed odds betting or pari-mutuel betting on the results of horse races.

Conclusion

7. The main purposes of the Bill are related to reforms to the duty system for horse race betting and measures to rationalize the regulatory regime of horse race betting. Although the last phrase in the Long Title mentions “and to provide for related matters”, those matters must be related to the things mentioned earlier on in the Long Title, i.e. reforms to the duty system for horse race betting and measures to rationalize the regulatory regime of horse race betting.

8. There is an amendment in the Bill to section 6I(7) (discussed in paragraph 6). However, the amendment is consequential to the addition of the definition of the terms “fixed odds betting” and “pari-mutuel betting” in section 6B(1) and does not have the effect of amending the licensing conditions referred to in section 6I(4) or (5).

9. It is evident, therefore, that the Bill’s subject matter does not extend to include the regulation of the licensing conditions under section 6I of the Betting Duty Ordinance by the Legislative Council to amend them by resolution. A proposed amendment which seeks to do so, subject to the ruling by the LegCo President, appears to be outside the scope of the Bill and is not relevant to its subject matter.

Encl

Prepared by
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民主黨立法會議員秘書處

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致：《2006年博彩稅（修訂）條例草案》委員會主席

就《2006年博彩稅（修訂）條例草案》，民主黨建議作出以下的委員會審議階段修正案：

(1) 加入新的賽馬投注承辦商強制發牌條件

政府提交的草案容許賽馬投注承辦商(馬會)向輸錢的大額投注者提供回扣，以提升馬會與非法收受投注者競爭的能力。政府及馬會現時界定“大額投注者”為一萬元及回扣率不能超過10%，但由於草案沒有列明大額投注者的定義及馬會可以提供的回扣率，馬會可以隨時調整回扣率及大額投注者的定義，而無須政府事先同意。政府在草案審議期間亦表示無意在現階段把計算投注回扣的方程式納入沒有法律約束力的實務守則中。

民主黨認為此舉變相縱容馬會可以隨時調整回扣率及大額投注者的定義，以吸引更多投注者落注或原本小額投注的投注者加大注碼，間接鼓勵市民賭博，與政府提倡的不鼓勵賭博立場背道而馳。

民主黨建議提出修訂，在原有草案第6GB(4)條的基礎上，加入新的賽馬投注承辦商強制發牌條件，規定馬會須清楚指明釐定支付投注回扣的公式或規則，避免馬會可隨意調整回扣率及大額投注者的定義，鼓勵賭風。根據修正案，民政事務局局長可對違反該牌照條件的投注承辦商採取包括罰款及撤銷牌照的懲罰措施。

(2) 馬會須在舉辦任何宣傳或推廣賽馬投注活動時展示有關沉迷賭博禍害的警告信息

向賽馬投注承辦商發出牌照的其中一項強制發牌條件是規定承辦商必須在任何接受投注的投注站及網站展示有關沉迷賭博禍害的警告信息，我們認為只規定接受投注的投注站及網站展示沉迷賭博禍害的警告信息並不足夠，我們認為賽馬會須在所有賽馬博彩宣傳媒介或宣傳活動中，展示有關沉迷賭博禍害的警告信息，警惕市民沉迷賭博的禍害。

民主黨建議提出修訂，加入新的6GB(4)(g)(ii)條，規定馬會舉辦任何宣傳或推廣活動時，須顯眼地展示及保持展示或附有符合第6GB(7)條的告示。

(3) 賦權立法會規管發牌條件

民主黨認為政府在草案提出的三重監管架構，即：透過(一)博彩稅條例；(二)牌

照載有的強制發牌條件及(三)沒有法律約束力的實務守則，並不足以監管投注承辦商，監管架構亦缺乏公眾的參與。

民主黨認為立法會應擁有監督馬會舉辦賽馬投注活動的權力，防止承辦商隨意增加彩池或新玩法，助長賭風。民主黨建議立法會可在有需要的情況之下，修訂向賽馬投注承辦商發出牌照的條件。由於馬會舉辦賽馬投注活動的牌照須每年向政府續期，民主黨的建議能有效監察馬會的賽馬博彩活動。

民主黨建議提出修訂，加入新的 6GB(8)條，賦權立法會可藉通過決議，修訂向賽馬投注承辦商所發出的牌照條件。

民主黨同時建議修訂博彩稅條例 6I(7)，賦權立法會可藉通過決議，修訂向足球投注承辦商所發出的牌照條件，令規管足球投注承辦商與賽馬投注承辦商牌照條件的機制一致。

附件為我們草擬的修正案建議文本，供大家討論。

謹此致謝！



民主黨立法會議員鄭家富

二零零六年六月十日

BETTING DUTY (AMENDMENT) BILL 2006

COMMITTEE STAGE

Amendments to be moved by the Honourable Andrew CHENG Kar-foo

Clause

Amendment Proposed

15

In the proposed section 6GB —

(a) in subsection (4) —

(i) in paragraph (f), by deleting “and”;

(ii) by deleting paragraph (g) and substituting —

“(g) shall conspicuously display and keep displayed or carry, as may be appropriate, notices that comply with subsection (7) —

(i) in any premises where the company accepts bet;

(ii) on any web site through which the company accepts bets; and

(iii) in conducting any advertising or promotional activities; and”;

(iii) by adding —

“(h) shall specify a formula or rule to determine the rebates payable.”;

(b) by adding —

“(8) The Legislative Council may, by resolution, amend the conditions of the licence specified in subsection (4).”.

By deleting the clause and substituting —

"16. Authorization of betting on football matches

Section 61(7) is repealed and the following substituted —

"(7) The Legislative Council may, by resolution, amend the conditions of the licence specified in subsection (4).".