

LEGISLATIVE COUNCIL BRIEF

Interpretation and General Clauses Ordinance
(Chapter 1)
Betting Duty Ordinance
(Chapter 108)

Specification of Public Office Notice 2007

INTRODUCTION

A At the meeting of the Executive Council on 6 February 2007, the Council ADVISED and the Chief Executive ORDERED that the Specification of Public Office Notice 2007, at Annex A, should be made under section 43 of the Interpretation and General Clauses Ordinance to provide a clear legal basis for the delegation of the powers and duties of the Collector of Stamp Revenue (“the Collector”) relating to horse-race betting duty under the Betting Duty Ordinance (Cap. 108) (“the BDO”).

JUSTIFICATIONS

2. The BDO, as amended by the Betting Duty (Amendment) Ordinance 2006 to implement the regulation of horse-race betting, confers a number of powers and duties on the Collector for the purposes of horse-race betting duty assessment and collection.

3. To facilitate the administration of horse-race betting duty assessment and collection, the Collector, who is also the Commissioner of Inland Revenue, should be allowed to delegate the powers and duties to the relevant officers. Such delegation is consistent with the administration of stamp duty and other taxes under the Inland Revenue Ordinance (Cap.112) (i.e. salaries tax, profits tax, property tax, and tax under personal assessment).

4. In order to provide a clear legal basis for the delegation and since the BDO does not specifically provide for the delegation of powers and duties by the Collector, it is desirable for the Chief Executive in Council to specify the Collector as a specified “public office” under section 43 of the Interpretation and General Clauses Ordinance (Cap.1) for the purposes of the BDO. Similar specification has been made in 2003 for the delegation of powers and duties under provisions of the BDO relating to football betting duty.

OTHER OPTIONS

5. The only other option for providing a clear legal basis for the delegation of powers and duties by the Collector is to amend the BDO to provide for such delegation specifically. However, that would require the introduction of an amendment bill, which would be more complicated and time-consuming.

THE NOTICE

A 6. The Notice is at Annex A.

LEGISLATIVE TIMETABLE

7. The Notice will be tabled at the Legislative Council on 28 February 2007.

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the BDO and its subsidiary legislation. It has no financial, economic, productivity, environmental or civil service implications.

PUBLIC CONSULTATION

9. No consultation is considered necessary.

BACKGROUND

10. The Betting Duty (Amendment) Ordinance 2006, which sought to amend the BDO for authorization and regulation of horse-race betting, was enacted on 20 July 2006.

11. After the amendments, the BDO confers a number of powers and duties on the Collector for the purposes of horse-race betting duty assessment and collection. To facilitate the administration of the horse-race betting duty, the Collector should be allowed to delegate the powers and duties to the relevant officers. A list of the duties is at Annex B.

B

12. Under section 43 of the Interpretation and General Clauses Ordinance (Cap.1), powers conferred or duties imposed by any ordinance on a public office which has been specified as a specified “public office” by the Chief Executive in Council under that section by notice in the Gazette may be delegated.

ENQUIRY

13. In case of enquiries about this Brief, please contact Mr Kenneth Cheng, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(Revenue), at 2810 2370.

Financial Services and the Treasury Bureau
21 February 2007

SPECIFICATION OF PUBLIC OFFICE NOTICE 2007

(Made by the Chief Executive in Council under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Notice shall come into operation on 30 March 2007.

2. Specification of public office

The public office mentioned in column 1 of the Schedule is specified for the purposes of the Ordinances mentioned in column 2 of the Schedule.

SCHEDULE

[s. 2]

Public Office	Ordinance or section of Ordinance for which specified
Collector of Stamp Revenue	Betting Duty Ordinance (Cap. 108), sections 6GH(3), 6GI(5), 6GJ(1), 6GK(1), (3)(b) and (4), 6GL(2), (3) and (5), 6GM(1), 6GN(4) and (8)(b), 6GO(4)(a), 6ZO(2), (3), (4) and (6)(a). Betting Duty Regulations (Cap. 108 sub. leg. A), regulation 3AA(3)(b) and (5).

Clerk to the Executive Council

COUNCIL CHAMBER

Explanatory Note

The purpose of this Notice is to enable the Collector of Stamp Revenue to delegate to other public officers his powers and duties under the provisions of the legislation listed in the Schedule to this Notice.

The Collector's powers and duties under the Betting Duty (Amendment)
Ordinance 2006

Section	Sub-section	Power / Duty
6GH	(3)	Agree with a horse race betting conductor to change the commencement date and / or end date of a charging period.
6GI	(5)	Apply provisional payments made by a horse race betting conductor for a charging period towards settlement of the horse race betting duty that is payable by the conductor for that charging period.
6GJ	(1)	Give written notice to a horse race betting conductor demanding for outstanding provisional payment.
6GK	(1)	Assess net stake receipts derived from the conduct of authorized betting on horse races and horse race betting duty payable.
	(3)(b)	Refund horse race betting duty overpaid.
	(4)	Issue notice of assessment to a horse race betting conductor.
6GL	(2)	Make additional assessment of net stake receipts and horse race betting duty.
	(3)	Make additional assessment of horse race betting duty.
	(5)	Issue notice of additional assessment to a horse race betting conductor.
6GM	(1)	Give written notice to a horse race betting conductor demanding payment of surcharge and further surcharge on the outstanding duty.
6GN	(4)	State and sign a case and serve copies of the case on the horse race betting conductor, the Registrar and the Secretary for Justice in the event there is appeal against an assessment or an additional assessment.
	(8)(b)	Order that payment of the whole / part of the amount of betting duty be held over pending the final determination of an appeal.
6GO	(4)(a)	Give written notice to a horse race betting conductor

		demanding payment of betting duty and interest upon withdrawal / final determination of an appeal.
6ZO	(2)	Correct an assessment when there is error or omission.
	(3)	Refuse to correct an assessment when the return or statement is made in accordance with prevailing practice.
	(4)	Refund the amount of duty paid in excess after correcting an assessment.
	(6)(a)	Give written notice of the refusal to correct an assessment.
Reg.3AA	(3)(b)	Specify information for each relevant cancelled race meeting to be contained in a statement for ascertaining the guaranteed amount.
	(5)	Require the horse race betting conductor to supply further information for ascertaining the guaranteed amount, and specify the period for supplying such information.