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Secretary for Home Affairs
(Attention: Miss Esther Leung, PAS)
Home Affairs Bureau
31/F, Southorn Centre
130 Hennessy Road
Wai Chai
Hong Kong

23 April 2003

BY FAX

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Total no(s) of page(s) : (3)

Dear Miss Leung,

Betting Duty (Amendment) Bill 2003

We are scrutinising the legal and drafting aspects of the Bill. We have the following comments for your clarification.

Clause 13

In the proposed new section 6B(4), is it intended that a public officer who is a member of the Gaming Commission could resign?

In the proposed new section 6I(2), can you illustrate paragraphs (a) and (b) with examples?

Could the Administration explain the meaning of the following formulations used in different provisions of the Bill? Dividends or the amount of hedging bets-

- (i) "become payable" in the proposed new section 6I(1), in B, and (3)(d) and the new proposed section 6J(1), in E;
- (ii) "become liable to pay" in the proposed new section 6I(2)(b);

(iii) "are payable" in the proposed new section 6J(1), in C(a) and F(a); and

(iv) "are paid" in the proposed new section 6J(1), in F(a).

In the proposed new section 6O(2), is it intended that the surcharge may be less than 5% of the amount that the conductor has failed to pay? If that is the case, what will be the criteria for imposing a lesser percentage of surcharge?

In the proposed new section 6P(4), would it be appropriate to specify, if the copies served under subsection (3)(b) are on different days, that the last day of service would be the reference point for calculating the 14 days period?

In the proposed new section 6W(2), what would be the legal status of the acts, performed by the licensed company pursuant to the amended constitution, which are later found to be contravening subsection(1)? How would the provision affect the innocent third party's rights or liabilities obtained in or incurred from transactions with the licensed company, later found to be contravening subsection(1)?

In the proposed new section 6X, would the Administration confirm that the codes of practice are not subsidiary legislation?

In the proposed new section 6Y(1), is it intended that the Secretary may, when a licence is still in force, change its conditions or impose new licence conditions?

In the proposed new sections 6Y(3), 6Z(4) and 6ZA(3), is it intended that the representation could be made by a lawyer acting on behalf of the holder of a licence? Would it be appropriate to require the Secretary, after considering the representations, to give reasons for his decision in writing to the holder of a licence?

In the proposed new section 6ZB(2), would the 30 days period be adequate for a holder of a licence to lodge an appeal given that time may be lost during the period when he prepared a representation and awaited the result of the Secretary's decision on it under the proposed new sections 6Y(3), 6Z(4) or 6ZA(3)?

In the proposed new section 6ZB(3), would it be necessary to provide for the situation where the decision should not be suspended during an appeal?

Clause 15

Why is it justified to abolish the penalties for performing acts in contravention of the Ordinance, etc. by certain members of a club under existing section 8?

We should be grateful if you would reply, in both languages, by 2 May 2003.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. DoJ (Attn: Mr W L Cheung, SGC)
LA
CAS(2)2