

BETTING DUTY (AMENDMENT) BILL 2003

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting "Gaming Commission" and substituting "Football Betting and Lotteries Commission";".
2	In the proposed long title, by deleting "Gaming" and substituting "Football Betting and Lotteries".
4	In the proposed section 1A, in the definition of "football", by adding ", Australian Rules Football" before "or".
11(b)	In the proposed subsection (2), by deleting "3" and substituting "5".
New	By adding -  <b>"12A. Section added</b>  The following is added immediately after section 6 -  <b>"6AA. Offences and penalties under Part 2</b>  (1) If a person acts in contravention of or fails to comply with this Part or any condition imposed under this Part, the person

commits an offence and is liable to, if no other penalty is provided by this Part, a fine at level 3.

(2) If a club acts in contravention of or fails to comply with this Part or any condition imposed under this Part, the Secretary, treasurer and every steward or member of the committee or management of the club commits an offence and is liable to, if no other penalty is provided by this Part, a fine at level 3."."

- 13 (a) By deleting the heading of the proposed Division 1 and substituting -

**"Division 1 - Preliminary".**

- (b) By deleting the proposed section 6A and substituting -

**"6A. Interpretation of Part 3**

(1) In this Part -

"associate" (相聯者) means, in relation to a person -

- (a) the wife, husband or a minor child (including a minor step-child) of that person;
- (b) a body corporate of which that person is a director;

(c) a person who is an employee or partner of that person; or

(d) if that person is a body corporate -

(i) a director of that body corporate;

(ii) a subsidiary of that body corporate; or

(iii) a director or employee of any such subsidiary;

"controller" (控制人) means, in relation to a company, a person who, alone or with any associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of the company, or a body corporate of which the company is a subsidiary;

"director" (董事) includes any person occupying the position of director by whatever name called;

"financial penalty" (罰款) means a financial penalty imposed under section 6Z;

"juvenile" (青少年) means a person under the age of 18 years;

"principal officer" (主要人員) means, in relation to a company, a person employed by the company who -

- (a) either alone or with any person, is responsible under the immediate authority of the directors of the company for the conduct of the business of the company; or
- (b) under the immediate authority of a director of the company or a person employed by the company, exercises managerial functions in respect of the company;

"Secretary" (局長) means the Secretary for Home Affairs;

"subsidiary" (附屬公司) has the same meaning as in the Companies Ordinance (Cap 32).

(2) A reference in this Part to a condition of a licence shall be a reference to a condition subject to which the licence is issued, or to continue in force."

(c) By adding the following after the proposed section

6A -

**"6AAA. Determining if a person is a  
"fit and proper" person**

In determining for the purpose of any provision of this Part if a person is a fit and proper person, the Secretary shall, having regard to that purpose, take into account -

- (a) the person's financial status and financial integrity;
- (b) the person's qualifications and experience;
- (c) the person's ability to act competently, honestly and fairly;
- (d) the person's reputation and reliability;
- (e) whether or not the person has been charged with or convicted of any offence, whether in Hong Kong or elsewhere; and
- (f) any other matter that the Secretary considers relevant."

(d) In the heading of the proposed Division 2, by deleting "**Gaming**" and substituting "**Football Betting and Lotteries**".

(e) In the proposed section 6B -

(i) in subsection (1) -

- (A) by deleting "Gaming" and substituting "Football Betting and Lotteries";
- (B) by deleting "博彩" and substituting "足球博彩及獎券";
- (ii) in subsection (2)(c), by adding "appointed under paragraph (b)" before "as";
- (iii) by adding -
  - "(2A) Of the persons appointed under subsection (2)(b) -
    - (a) at least one shall have substantial expertise in the field of education;
    - (b) at least one shall have substantial expertise in the field of social welfare; and
    - (c) at least one shall have substantial reputation in the religious sector in Hong Kong.
  - (2B) If -

(a) a person appointed under subsection (2)(b) ceases to be a member; and

(b) as a result, the total number of members appointed under that subsection falls below 8,

the Chief Executive shall, within 3 months after the date on which the person ceases to be a member, appoint another person as a member under that subsection.

(2C) If -

(a) a person appointed as a member under subsection (2)(b) ceases to be a member; and

(b) as a result, subsection (2A) is no longer complied with,

the Chief Executive shall, within 3 months after the date on which the person ceases to be a member, appoint another person as a member under subsection (2)(b) so that

subsection (2A) will be complied with.";

(iv) by adding -

"(3A) If one of the reasons for appointing a person as a member under subsection (2)(b) is to comply with subsection (2A), the notice referred to in subsection (3), as it relates to the person, shall include a statement of that fact."

(f) In the proposed section 6E -

(i) by adding -

"(1A) The quorum for a meeting of the Commission shall be not less than 6 members or one-third of the total number of members of the Commission, whichever is the greater.";

(ii) in subsection (3), by deleting everything before the comma and substituting -

"(3) If the Chairperson of the Commission reasonably believes that it is impracticable to call a meeting of the Commission".

(g) In the proposed section 6F, by adding -



"notice of additional assessment" (補加評估通知)

means a notice of additional assessment given under section 6NA;".

(h) In the proposed section 6G -

(i) in subsection (1) -

(A) by deleting "The" and substituting

"Subject to subsection (1A), the";

(B) by adding "fixed odds betting or pari-mutuel" before "betting";

(ii) by adding -

"(1A) The Secretary shall not issue the licence to a company unless the Secretary 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.";

(iii) by deleting subsection (3) and

substituting -

"(3) Issuance of the licence to a company is subject to the conditions that the company -

(a) shall not accept, or authorize any person to accept, bets from juveniles;

- (b) shall not accept bets  
in any premises to  
which juveniles are  
permitted to have  
access;
- (c) shall not pay  
dividends to  
juveniles;
- (d) shall not advertise  
the conduct of  
betting on football  
matches on television  
or radio between the  
hours of 4.30 p.m.  
and 10.30 p.m. on any  
day;
- (e) shall not, in  
conducting any  
advertising or  
promotional  
activity -
  - (i) target  
juveniles;
  - (ii) exaggerate  
the  
likelihood  
of winning;  
or

(iii) expressly or impliedly suggest that betting on football matches is a source of income or a viable way to overcome financial difficulties;

(f) shall not accept bets on credit, or accept credit cards as a means of payment for placing bets; and

(g) shall conspicuously display and keep displayed notices that comply with subsection (5) -

(i) in any premises where the company accepts bets; and

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

(4) Issuance of the licence is also subject to such conditions as the Secretary may think fit to impose, including but not limited to conditions relating to -

- (a) the categories of matches on which betting may be conducted;
- (b) the manner and form in which bets may be accepted;
- (c) the keeping of premises for accepting bets, the number of such premises and the persons who may enter such premises; and

(d) the provision of  
information to the  
Secretary.

(5) Any notice referred to in  
subsection (3)(e) shall -

(a) contain a warning of  
the seriousness of  
the problems caused  
by excessive  
gambling; and

(b) provide information  
on the services and  
facilities available  
in Hong Kong to  
problem gamblers and  
pathological  
gamblers.

(6) In this section -

"fixed odds betting" (固定賠率投注)

means the placing of a bet on  
the terms that the dividend  
payable on the bet is fixed at  
the time when the bet is  
placed;

"pari-mutuel betting" (彩池投注)

means the placing of a bet on  
the terms that the dividend

payable on the bet depends on the respective shares of all winning bettors in the total amount of dividends available."

- (i) In the proposed section 6J(4)(b), by adding ", subject to section 6QA(6)," after "means".
- (j) In the proposed section 6M(3), by deleting "If a" and substituting "If the".
- (k) In the proposed section 6N(4)(d), by adding "manner in which and the" before "date".
- (l) By adding -

**"6NA. Additional assessment**

(1) Despite having given a notice of assessment to a football betting conductor in relation to a charging period, if the Collector reasonably believes that the net stake receipts that were derived from the conduct of authorized betting on football matches by the conductor in respect of that charging period exceed the amount of net stake receipts as specified in the notice, the Collector shall make an additional assessment

of the net stake receipts that were derived in respect of that charging period.

(2) The additional assessment may only be made within 6 years after the end of the charging period.

(3) As soon as practicable after making the additional assessment, the Collector shall give the conductor a notice of additional assessment in writing, specifying -

(a) the amount of net stake receipts as additionally assessed; and

(b) the amount of additional football betting duty that is payable by the conductor, and the manner in which and the date on or before which the amount shall be paid.

(4) The conductor shall make payment to the Collector in accordance with the notice of additional assessment."

(m) By deleting the proposed section 60 and substituting -

**"60. Surcharges**

(1) If a notice of assessment or notice of additional assessment specifies that a football betting conductor shall pay an amount

on or before a date, the Collector may, by notice in writing given to the conductor, demand that the conductor pay -

(a) a surcharge if that amount is not fully paid on or before that date; and

(b) a further surcharge if that amount is not fully paid at the end of 6 months after that date.

(2) The surcharge shall not exceed 5% of the unpaid part of the amount referred to in subsection (1).

(3) The further surcharge shall not exceed 10% of the total of -

(a) the unpaid part of the amount referred to in subsection (1); and

(b) if the surcharge is not fully paid at the end of the 6 months referred to in subsection (1)(b), the unpaid part of the surcharge.

(4) The Government may recover any surcharge or further surcharge as a civil debt."

(n) In the proposed section 6P -



- (i) in subsection (1) -
  - (A) by adding ", or an additional assessment under section 6NA," after "6N";
  - (B) by deleting everything after "Court" and substituting a full stop;
- (ii) by adding -
  - "(1A) The appeal may only be made within 1 month after the date on which the notice of assessment or notice of additional assessment, as the case may be, is given.";
- (iii) in subsection (3)(a)(i), by adding "concerned" before the semi-colon;
- (iv) in subsection (3)(a)(ii), by adding "concerned" after "assessment";
- (v) in subsection (5), by adding "concerned" after "assessment";
- (vi) by deleting subsection (6) and substituting -
  - "(6) If, according to the assessment concerned, an amount is payable by the conductor under section 6N or 6NA, as the case may be -
    - (a) the making of the appeal does not affect the

conductor's  
obligation to pay the  
amount; and

- (b) the Collector may, at the request of the conductor and subject to any conditions that the Collector may impose, order that payment of the whole or part of the amount be held over pending the determination of the appeal.".

- (o) By adding -

**"6QA. Hedging policies**

(1) A football betting conductor may submit to the Collector for approval a hedging policy, setting out -

- (a) the factors that the conductor undertakes to consider; and

- (b) the procedure that the conductor undertakes to follow,

in placing a bet under section 6Q.

(2) As soon as practicable after receiving a policy submitted under subsection

(1), the Collector shall, by notice in writing given to the conductor, inform the conductor if the policy is approved or not approved.

(3) A notice under subsection (2) shall, if the Collector approves the policy, specify the date on which the approval is to take effect.

(4) At any time after approving a policy, the Collector may, by notice in writing given to the conductor, withdraw the approval of the whole policy, or of any part of the policy.

(5) A notice under subsection (4) shall specify the date on which the withdrawal is to take effect.

(6) For the purpose of section 6J, if a football betting conductor claims that a bet was placed under section 6Q, and -

- (a) the conductor does not have a hedging policy that is approved under this section; or
- (b) in relation to the placing of the bet, the Collector reasonably believes that the conductor has failed, in a material manner, to comply with the hedging policy that is approved under this section,

the bet shall not be taken as a hedging bet.”.

(p) In the proposed section 6R(2), by deleting “3” and substituting “5”.

(q) In the proposed section 6S -

(i) in subsection (1), by deleting “The” and substituting “Subject to subsection (1A), the”;

(ii) by adding -

“(1A) The Secretary shall not issue the licence to a company unless the Secretary 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.”;

(iii) by deleting subsection (3) and substituting -

“(3) Issuance of the licence to a company is subject to the conditions that the company -

(a) shall not accept, or authorize any person to accept, bets from juveniles;

- (b) shall not accept bets  
in any premises to  
which juveniles are  
permitted to have  
access;
- (c) shall not entertain  
claims by juveniles  
for prizes;
- (d) shall not advertise  
the conduct of  
lotteries on  
television or radio  
between the hours of  
4.30 p.m. and 10.30  
p.m. on any day;
- (e) shall not, in  
conducting any  
advertising or  
promotional  
activity -
  - (i) target  
juveniles;
  - (ii) exaggerate  
the  
likelihood  
of winning;  
or

(iii) expressly or impliedly suggest that betting on lotteries is a source of income or a viable way to overcome financial difficulties;

(f) shall not accept bets on credit, or accept credit cards as a means of payment for placing bets; and

(g) shall conspicuously display and keep displayed notices that comply with subsection (5) -

(i) in any premises where the company accepts bets; and

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

(4) Issuance of the licence is also subject to such conditions as the Secretary may think fit to impose, including but not limited to conditions relating to -

- (a) the types of  
lotteries that may be  
conducted;
- (b) the manner in which  
lotteries may be  
drawn;
- (c) the manner in which  
the results of  
lotteries may be  
announced; and
- (d) the provision of  
information to the  
Secretary.

(5) Any notice referred to in subsection (3)(e) shall -

- (a) contain a warning of the seriousness of the problems caused by excessive gambling; and
  - (b) provide information on the services and facilities available in Hong Kong to problem gamblers and pathological gamblers."
  
- (r) In the proposed section 6U(2), by deleting "3" and substituting "5".
  
- (s) In the proposed section 6Y -
  - (i) in subsection (1)(a), by deleting "of the licence" and substituting "that is imposed by the Secretary";
  - (ii) by adding -
    - "(1A) The variation shall not take effect before the expiry of the period referred to in section 6ZB(2), being the period within which the holder may appeal against the decision of the Secretary to make the variation."



(iii) by deleting subsection (2) and substituting -

"(2) The notice shall specify -

(a) the reasons for varying the conditions of the licence; and

(b) the date on which the variation is to take effect."

(t) In the proposed section 6Z, by adding -

"(2A) The holder shall not be required to pay the penalty before the expiry of the period referred to in section 6ZB(2), being the period within which the holder may appeal against the decision of the Secretary to impose the penalty."

(u) In the proposed section 6ZA -

(i) by adding -

"(1A) The Secretary may also, by notice in writing given to the holder of a licence, revoke the licence if the Secretary is no longer satisfied that the holder, or any of the directors, principal officers or controllers of the

holder, is a fit and proper person  
for the purpose of section 6G or 6S,  
as the case may be.”;

- (ii) by deleting subsection (2) and  
substituting -

“(2) The notice shall specify -

- (a) the reasons for  
revoking the licence;  
and

- (b) the date on which the  
revocation is to take  
effect.”.

- (v) in the proposed section 6ZB -

- (i) in subsection (3), by adding “other than  
a decision to revoke a licence” before  
the comma;

- (ii) by adding -

“(4) If an appeal is made  
against a decision to revoke a  
licence, the effect of the decision  
is not suspended by the making of  
the appeal.”.

17(b) By deleting “者” and substituting “商”.

19 In the proposed regulation 3A -

- (a) in subregulation (1), by deleting “以”;
- (b) in subregulation (2)(b), by deleting “in accordance with paragraph (3)”;
- (c) in subregulation (3) -
  - (i) by deleting everything before paragraph (a) and substituting -
    - “(3) The qualified person shall state in the audit report whether, in the opinion of the qualified person and in relation to that charging period, the following statements are true -”;
  - (ii) in paragraph (b), by deleting “and audited”.