

Paper for the Bills Committee

Betting Duty (Amendment) Bill 2003

Administration's Response to the Views of Bills Committee

Purpose

This paper sets out the Administration's response to the points raised by Members of the Bills Committee at the meeting on 18 June.

The Football Betting and Lotteries Commission

The power of appointment and removal

2. At the meeting, Members requested further information regarding the power of the Chief Executive (CE) to remove the members appointed to the Gaming Commission (now proposed to be retitled as "Football Betting and Lotteries Commission") (the Commission) under the proposed new section 6B of the Bill. Under section 42 of the Interpretation and General Clauses Ordinance (Cap.1), the power of appointment includes the power to appoint, as well as "to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate any person appointed" (copy at Annex A). We therefore do not consider it necessary to specify the power of removal in the Bill.

Chairperson

3. A Member enquired whether the Chairperson of the Football Betting and Lotteries Commission would be a non-official member. We confirm that it is our intention to appoint a non-official member as the Chairperson of the Commission. We would set this out clearly in the Bill and the relevant Committee Stage Amendment (CSA) has been submitted for Members' consideration.

Transaction of business

4. A Member requested the Administration to set out clearly in proposed new section 6E under what circumstances that the business of the Commission would be transacted through circulation of papers and considered that this should only be allowed under urgent situations. We agree to set out in proposed new section 6E that the business of the

Commission could be transacted through circulation of paper only if the Chairperson reasonably believes that it is impracticable to call a meeting. The relevant CSA has been submitted for Members' consideration.

Function regarding measures to address gambling-related problems

5. A Member requested the Administration to provide information as to the function of the Commission in ensuring the effectiveness of measures to address gambling-related problems. Under the Bill, the Commission is a statutory body responsible for advising the Secretary for Home Affairs (SHA) primarily on regulatory and licensing matters relating to authorized football betting and lotteries. As one of the licensing conditions, the licensed operator would be required to adopt preventive measures against problems relating to gambling. These measures include displaying warning notices against excessive gambling and providing information about the avenues available for problem and pathological gamblers to seek help. The Commission would be responsible for advising SHA on whether the licensed operator has been acting in compliance of this licensing condition, and how best to ensure compliance of this condition under the licence.

6. Separately, the Government would set up a dedicated fund to finance measures to address gambling-related problems. These measures include the following:

- a) research and studies on gambling-related issues and problems;
- b) public education and other measures to prevent gambling-related problems; and
- c) counselling and treatment as well as other remedial services for problem and pathological gamblers, and those affected by them.

7. The use and application of the above fund would be determined by SHA. A committee would be set up to advise SHA on the management and use of the fund. This committee would be responsible for monitoring and assessing the effectiveness of the above measures.

Performance of function

8. A Member requested the Administration to provide information to explain the present drafting of the proposed new section 6D which provides that the Commission could perform its function at the request of

SHA or on its own initiative. Some Members considered that the CE should be empowered to give directions to the Commission. While there are provisions in some existing legislation to empower the CE or other officials to issue direction to the authorities, they apply mainly to executive authorities. We however do not see the need to empower CE to give direction to the Commission, since the latter is an advisory body advising SHA on the regulation and licensing matters regarding football betting and lotteries. The present drafting of proposed section 6D is similar to section 20Q of Medical Registration Ordinance (Cap. 161) and section 6W of Mandatory Provident Fund Schemes Ordinance (Cap. 485) (both provisions are attached at Annex B).

Transparency of Meetings

9. A Member requested the Administration to provide information regarding the transparency of meetings of the Commission. We agree that the meeting of the Commission should be open to public as far as practicable, and the agenda and papers of the meeting should be released to the public if they do not contain classified or commercially sensitive information.

Warning Letters

10. A Member enquired about the reason for the absence of an appeal mechanism for warning letters issued by the SHA. We consider that an appeal mechanism for the issuance of warning letter is not necessary. A warning letter under the licensing conditions is only an administrative means to convey to the licensed operator the licensing authority's (SHA's) view that one or more of the licensing conditions may have contravened and to request it to remedy the contravention. If the licensing authority takes further actions to ensure remedial measures such as by varying the licensing conditions, imposing financial penalty or revoking the licence for which the licensed operator feels aggrieved, the licensed operator could appeal against the decisions under the Bill.

Match types and bet types of football betting

11. A member requested the Administration to consider whether the specific types of matches available for betting, and types of bets would be set out in a code of practice before or upon the issuance of the football betting licence. As mentioned in our previous response, we consider that the specific types of matches and bet types should not be set out in the legislation or licensing conditions, as this would unduly affect the

competitiveness of the licensed operator vis-à-vis illegal bookmakers. For the same reason, we consider that the specific types of matches and bet types should also not be set out in the code of practice at the outset. Rather, we would consider specifying restrictions on types of matches or bets when there is a proven need to do so, after the licence has been granted and authorized football betting has come into operation.

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Home Affairs Bureau

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Chapter:	1	Title:	INTERPRETATION AND GENERAL CLAUSES ORDINANCE	Gazette Number:	
Section:	42	Heading:	Power to appoint includes power to suspend, dismiss, re- appoint, etc.	Version Date:	30/06/1997

Where any Ordinance confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power-

- (a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to re-appoint, re-constitute or re-establish the same; and
- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

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Chapter: 161 Title: MEDICAL REGISTRATION Gazette Number:
ORDINANCE
Section: **20Q** Heading: **Functions of Ethics Committee** Version Date: 30/06/1997

The Ethics Committee has the following functions-

- (a) to study and review any case relating to medical ethics or professional conduct, either on its own motion or at the request in writing of not less than 20 registered medical practitioners;
- (b) to advise and make recommendations to the Council on matters about medical ethics and professional conduct generally.

(Added 7 of 1996 s. 24)

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Chapter:	485	Title:	MANDATORY PROVIDENT FUND SCHEMES ORDINANCE	Gazette Number:	L.N. 70 of 1999
Section:	6W	Heading:	Functions of Industry Schemes Committee	Version Date:	03/01/2000

Remarks:

Consolidated version as amended by 4 of 1998.

(1) The functions of the Industry Schemes Committee are as follows-

- (a) to make recommendations to the Authority as to a matter relating to the operation of industry schemes generally or to the operation of any particular industry scheme;
- (b) to examine reports provided by the Authority and by approved trustees of industry schemes to ascertain whether or not those trustees are complying with the requirements and standards that apply to industry schemes;
- (c) to determine whether or not the provisions of this Ordinance that apply to industry schemes in particular are effective and, if they are found to be ineffective, to advise the Authority as to the measures that need to be taken to render them effective;
- (d) to advise the Authority as to ways in which the administration or operation of industry schemes could be improved;
- (e) to advise the Authority as to ways in which the interests of members of industry schemes could be protected or better protected.

(2) The Industry Schemes Committee has such ancillary powers as may be necessary to enable it to exercise its functions.

(3) The Industry Schemes Committee may exercise its functions at the request of the Authority or, with the approval of the Financial Secretary, on its own initiative.

(Added 4 of 1998 s. 2)

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