

立法會
Legislative Council

LC Paper No. LS92/02-03

**Paper for the House Committee Meeting
on 11 April 2003**

**Legal Service Division Report on
Betting Duty (Amendment) Bill 2003**

I. SUMMARY

- 1. Object of the Bill** To amend the Betting Duty Ordinance (Cap. 108) to—

 - (a) empower the Secretary for Home Affairs ("the Secretary") to grant a licence to a company to conduct betting on football matches;
 - (b) charge a duty in relation to authorized betting on football matches;
 - (c) abolish the Hong Kong Lotteries Board (the current licensee of the Mark Six Lottery) and empower the Secretary to grant a licence to a company to operate lotteries;
 - (d) establish the Gaming Commission to advise the Government on matters relating to the regulation of betting on football matches and lotteries;
 - (e) establish an Appeal Board to hear appeals against the Secretary's decision on licensing matters; and
 - (f) make other miscellaneous amendments.

- 2. Comments** The proposals in the Bill concern the authorization of betting on football matches, the granting of licence to operate lotteries, the establishment of a Gaming Commission, the establishment of an Appeal Board to hear appeals against certain decisions of the Secretary, and other miscellaneous amendments.

- 3. Public Consultation** The Administration has attended a series of public forums and media programmes to explain the proposals.

- 4. Consultation with LegCo Panel** The Panel on Home Affairs discussed the proposed operational and regulatory framework for authorization of football betting at its meetings on 26 November 2002 and 10 January 2003. The Panel was briefed on the major provisions of the Betting Duty (Amendment) Bill 2003 at its meeting on 14 March 2003.

- 5. Conclusion** The proposals in the Bill involve controversial issues of policy. Members are recommended to form a Bills Committee to study the proposals in detail.

II. REPORT

Object of the Bill

To amend The Betting Duty Ordinance (Cap. 108) ("the Ordinance")
to—

- (a) empower the Secretary for Home Affairs ("the Secretary") to grant a licence to a company to conduct betting on football matches;
- (b) charge a duty in relation to authorized betting on football matches;
- (c) abolish the Hong Kong Lotteries Board (the current licensee of the Mark Six Lottery) and empower the Secretary to grant a licence to a company to operate lotteries;
- (d) establish the Gaming Commission to advise the Government on matters relating to the regulation of betting on football matches and lotteries;
- (e) establish an Appeal Board to hear appeals against the Secretary's decision on licensing matters; and
- (f) make other miscellaneous amendments.

LegCo Brief Reference

2. S/F(1) to HAB/CR/1/17/109 issued by the Home Affairs Bureau in April 2002.

Date of First Reading

3. 4 April 2003.

Comments

Authorization of betting on football matches

4. The Bill proposes to empower the Secretary to grant a licence to a company to conduct betting on football matches. It is intended that a wholly-owned subsidiary of the Hong Kong Jockey Club ("HKJC") would be licensed to conduct football betting. The Secretary may impose conditions in the licence such as—

- (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;
- (d) the persons from whom bets may be accepted;
- (e) the conduct of advertising and promotional activities;
- (f) the provision of information to the Secretary; and
- (g) the adoption of preventive measures against problems relating to gambling.

5. Betting duty will be set at the rate of 50% on the net stake receipts calculated under proposed new section 6I. The duty is payable after the end of a charging period, but a licensee is required to make monthly provisional payment within a charging period. All provisional payments are to be applied towards settlement of the football betting duty. In specified circumstances, a licensee may place bets with overseas bookmakers for hedging purposes. In this connection, the Bill proposes to exempt the licensee from the offence of betting with an unauthorized bookmaker under section 8 of the Gambling Ordinance (Cap.148), and the bookmakers who accept such hedged bets from the licensee from the offence of unauthorized bookmaking under section 7 of the Gambling Ordinance.

Authorization of lotteries

6. The Bill proposes to abolish the Hong Kong Lotteries Board (the current licensee of the Mark Six Lottery) and empower the Secretary to grant a licence to a company to operate lotteries. It is intended that a wholly-owned subsidiary of HKJC would be licensed to operate lotteries. The Secretary may impose conditions in the licence similar to those in the licence of football betting.

7. Betting duty will be set at the rate of 25% on the proceeds of each lottery. Other allocation of proceeds of a lottery is the same as the current arrangement.

The Gaming Commission

8. The Bill proposes to establish the Gaming Commission to advise the Government on matters relating to the regulation of betting on football matches and lotteries. The Chief Executive will appoint three public officers and not less than eight persons who are not public officers as members of the Commission, and one of the members as the Chairperson of the Commission.

Appeal Board

9. The Bill proposes to establish an Appeal Board to hear appeals against the Secretary's decision on variation of conditions in a licence, imposition of financial penalty and revocation of licence. The Chief Executive will appoint a person, who is qualified for appointment as a District Judge as the Chairperson of the Board and not less than four other persons as members of the Board. The determination of the Board is final.

Miscellaneous amendments

10. The Bill proposes to amend the Ordinance to provide for—
- (a) the keeping of records by those who conduct authorized betting activities under the Ordinance;
 - (b) the production of such records for inspection by the Collector of Stamp Revenue ("the Collector");
 - (c) the duty on any person to provide to the Collector information that affects the amount of any duty that may be collected under the Ordinance; and
 - (d) the creation of a new offence on evasion of duties.
11. The Bill further proposes to amend the Betting Duty Regulations (Cap. 108 sub. leg. A). The major change is the addition of a new provision that deals with submission of returns by the football betting licensee.

Public Consultation

12. The Administration has attended a series of public forums and media programmes to explain the proposals. Details of the consultation are contained in paragraphs 55 to 56 of the LegCo Brief.

Consultation with LegCo Panel

13. At its meeting on 26 November 2002, the Panel on Home Affairs was informed of the Government's decision to authorize football betting by way of licensing HKJC to operate football betting in Hong Kong for an initial period of five years. The Panel also received a briefing on the Administration's proposal on the operational and regulatory framework for authorization of football betting. At the Panel meeting on 10 January 2003, the Administration reported the progress of its discussion with HKJC on the details of the framework.

14. The Panel on Home Affairs was briefed on the major provisions of the Betting Duty (Amendment) Bill 2003 at its meeting on 14 March 2003. As the licensing conditions would be stipulated by administrative arrangements, some members expressed concern that the Administration sought to bypass scrutiny of LegCo of the licensing conditions, particularly the controversial ones such as types of football bets and age restriction. These members requested that the licensing conditions should be stipulated by way of subsidiary legislation subject to positive vetting by LegCo. A member also considered it unfair that HKJC would be exempted from the offence of betting with an unauthorized bookmaker under section 8 of the Gambling Ordinance.

15. Members may wish to refer to the minutes of the Panel meetings on 26 November 2002, 10 January 2003 and 14 March 2003 (issued vide LC Paper Nos. CB(2)805/02-03, CB(2)1118/02-03 and CB(2)1675/02-03 on 3 January, 13 February and 10 April 2003 respectively) for further details.

Conclusion

16. The proposals in the Bill involve controversial issues of policy. Members are recommended to form a Bills Committee to study the proposals in detail. In the meantime, the Legal Service Division will continue with the scrutiny of the legal and drafting aspects of the Bill.

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