

For discussion on
14 March 2003

Legislative Council Panel on Home Affairs

Authorization of Football Betting
Betting Duty (Amendment) Bill

Introduction

The Government plans to introduce into the Legislative Council in April 2003 a Bill to amend the Betting Duty Ordinance (Cap. 108) to give effect to the authorization of football betting in Hong Kong. This paper sets out the major provisions in the Bill and the major conditions in the licence for conducting football betting.

Background

2. On 26 November 2002, we announced the Government's decision to authorize and regulate football betting in Hong Kong. We also decided that the Hong Kong Jockey Club (HKJC) should be licensed as the operator of football betting in Hong Kong for an initial period of five years. We need to give effect to this decision through necessary legislative amendments and other arrangements.

The Bill

Power to authorize football betting by licence and to impose sanctions in the event of non-compliance with licensing conditions

3. We propose to provide the Secretary for Home Affairs (SHA) with the power to authorize an organization by licence to operate football betting and to impose conditions in the licence as he sees fit, including sanctions for non-compliance with the licensing conditions.

4. To ensure that the authorized football betting operator would comply with the licensing conditions, we also propose to empower SHA to impose the following sanctions in the event of non-compliance:

a) Financial penalties

SHA could impose a financial penalty in the event that the licensed operator has contravened any condition in the licence.

We propose to set maximum limits for such financial penalties, with the lowest level for the first substantiated breach and progressively higher levels for subsequent and repeated breaches. The limits would be determined having regard to the nature of the breaches and the need to achieve a reasonable deterrent effect.

b) Revocation of licence

SHA could have the power to revoke the licence if the licensee has failed to comply with provisions of the Betting Duty Ordinance or a condition of the licence, having regard to all the facts and circumstances in the particular case and the seriousness of the matter.

5. We also propose to provide the licensee with the right to appeal to an appeal board comprising members appointed by the Chief Executive (CE), if the licensee is not satisfied with the decision of SHA to impose a financial penalty, amend the licensing conditions or revoke the licence within 30 days.

Betting Duty

6. We have agreed with HKJC that a betting duty on all types of football betting games should be charged at a flat rate of 50% on gross profits, which would be assessed on an annual basis. Gross profits would be defined as the difference between the total football bets received by the licensed operator and the total payouts to the punters in respect of matches played within a specified period.

7. We consider that the proposed tax rate of 50% strikes a reasonable balance between the need to ensure the competitiveness of

HKJC's football betting operation vis-à-vis other bookmakers, and the need to increase recurrent revenue for the Government.

8. We propose to provide the Collector of Stamp Revenue appointed under the Stamp Duty Ordinance (Cap. 117) (the existing public officer authorized to collect Betting Duty on horse racing and the Mark Six Lottery under the Betting Duty Ordinance) with the powers to raise an assessment on the licensee in respect of betting duty chargeable on football betting; to collect betting duty; to recover any betting duty required to be paid to the Government; to impose additional duty as a penalty measure; and to do other specified things incidental to the effective exercise of such powers. We also propose to impose on the licensee a number of administrative requirements relating to betting duty, including filing of Betting Duty returns, making duty payment and keeping of records.

Hedging or laying-off of bets

9. We propose to allow the licensed operator to lay off football bets with overseas bookmakers as a risk management measure. Hedging is a common practice amongst licensed bookmakers in the world. In this connection, we propose to exempt the licensed operator from the offence of betting with an unauthorized bookmaker under section 8 of the Gambling Ordinance. However, to prevent abuse, we propose to restrict this exemption to hedged bets made by the licensee in its own right. Furthermore, hedged bets would be confined to bets on those particular matches in relation to which the licensee has also been taking bets.

Gaming Commission

10. We propose to provide for the establishment of the Gaming Commission, as well as defining its role and functions in the Bill. Specifically, we propose that the Gaming Commission should be responsible for advising SHA on the following aspects:

- a) regulation of football betting and lotteries in accordance with the provisions of the Betting Duty Ordinance and the licensing conditions;

- b) compliance with the licensing conditions by the licensee;
- c) handling of public complaints relating to the compliance of the licensing conditions by the licensee; and
- d) issuance, amendment and revocation of both the football betting and lottery licenses.

11. We also propose to set out the composition of the Gaming Commission in the Bill. The Commission should consist of not less than 11 members to be appointed by the CE. Of these 11 members, three should be public officers. CE would appoint one of the members of the Commission to be the Chairman.

12. The above proposed ambit and composition of the Gaming Commission would enhance the transparency and accountability of the gambling regulatory regime by bringing in an element of public scrutiny over the conduct of both football betting and the Mark Six Lottery.

Dissolution of the Lotteries Board

13. We propose to take the opportunity to rationalize the gambling regulatory regime by –

- a) abolishing the Hong Kong Lotteries Board (the current licensee of the Mark Six Lottery); and
- b) empowering the SHA to grant a licence to HKJC or any other organization for operating such lottery as may be specified in the licence, and in accordance with conditions set out in the licence.

14. We consider the continued existence of the Hong Kong Lotteries Board as the licensee of the Mark Six Lottery no longer necessary, following the authorization of HKJC by licence to conduct the Mark Six Lottery, and the inclusion of the Mark Six Lottery within the ambit of the Gaming Commission.

Licensing conditions for football betting

a) Licence to HKJC's wholly-owned subsidiary

15. We propose that the licence for football betting should be granted to a fully-owned subsidiary of HKJC set up specifically for the purpose. This is mainly for two reasons:

- i) To ensure that football betting would be operating as an on-going and self-sustainable stand-alone business, without any cross-subsidization from HKJC's horse racing and other businesses;
- ii) To enable HKJC to separate its football betting operation and the rest of its businesses, especially horse racing and the Mark Six Lottery. Owing to the unique risk element inherent in the operation of fixed odds football betting, HKJC is concerned that any legal liability arising from football betting would adversely affect its other businesses, i.e. horse racing and lotteries.

16. For the same reasons, we propose to grant the licence for the Mark Six Lottery to another wholly-owned subsidiary of HKJC which would be set up specifically for this purpose.

17. In granting the licence for football betting to a wholly-owned subsidiary of HKJC, we plan to specify the following conditions in the licence for the purpose of ensuring the financial viability and integrity of the licensee, and that HKJC would shoulder a reasonable degree of responsibility over this particular subsidiary:

i) Ownership relationship with parent company

The licensee should be a “wholly-owned” subsidiary of HKJC. This is to ensure that the licensee would be under the sole ownership of HKJC, and the public has confidence in the integrity and professionalism of HKJC.

ii) *Composition of the board of directors*

The majority of the members of the board of directors of the licensee should be made up of HKJC stewards.

The Chairman of the board of directors should be a steward of HKJC.

iii) *Guarantee agreement between the Government and the licensee's parent company*

HKJC, as the parent company of the licensee, should be required to sign a guarantee agreement with the Government to provide for the following:

- HKJC undertakes to repay any debt due to the Government from the licensee including all responsibilities relating to Betting Duty on football betting under the Betting Duty Ordinance, in the event that the licensee fails to do so under any circumstances; and
- HKJC indemnifies the Government against the liabilities arising from any claims from any party adversely affected by the default of the licensee.

b) Licence Period

18. The licence should last for an initial period of five years, and whether it should be renewed or not should be decided by SHA.

c) Types of matches

19. We propose that football betting could be conducted on all major football matches, with the exception of those matches involving Hong Kong teams. This would effectively restrict authorized football betting mainly to football matches of major professional football leagues, international football tournaments or competitions. The underlying reason is that most illegal football gambling activities which we aim to combat through authorization are on major international football matches.

20. We propose to prohibit bets on matches involving Hong Kong teams generally, for the following reasons:

- i) to prevent match-fixing; and
- ii) there is no large and persistent demand for betting on local football matches.

21. We also propose to allow betting on certain such matches with the permission of SHA on a case-by-case basis. The rationale is that we need to preserve the possibility of allowing betting on international football tournaments on a case-by-case basis where a Hong Kong team is able to enter the final stage, if a strong demand for betting on such matches has been established.

d) Types of bets

22. We propose to allow the licensee to offer both fixed odds and pari-mutuel betting on approved football matches in relation to the results, and events or contingencies of such matches. Fixed odds betting would be defined as bets on a game where a punter's winnings are determined when he places the bet and unaffected by any subsequent bets or changes in odds. Pari-mutuel betting would be defined as a system of betting on an event whereby a punter's winnings are determined by the total amount of bets and winnings available, as well as their respective shares in the total. We propose not to specify the names of the particular games in the licence. This seeks to provide the licensee with the flexibility to offer and adjust bet types in line with the changing demand in the market, hence ensuring its competitiveness vis-à-vis illegal operators.

e) Number of betting outlets and locations

23. We propose that there should be a maximum number of betting outlets as determined by SHA from time to time and that SHA's prior approval would be required for the opening of new outlets.

f) Means of taking bets

24. We propose to allow the licensee to take bets through its betting outlets, telephone, on-line medium (including the Internet) and other telecommunication means.

g) Credit betting

25. We propose that the licensee should not be allowed to offer any credit for betting or to accept credit cards for settlement of betting transactions in order to prevent excessive gambling among punters.

h) Age restriction

26. To prevent underage betting, we propose that the licensee shall not accept bets from any person under 18 years of age. Nor shall it accept any request for payment of winnings from any person under 18 years of age. The licensee should also be required to take reasonable measures to prevent admission of persons below 18 years of age to its betting premises.

i) Advertising

27. We propose that the licensee should not (a) advertise football betting on television or on the radio during the family viewing hours prescribed by the Broadcasting Authority; (b) advertise in ways which would exhort the public to bet; or (c) target those under 18 years of age in their advertisements. These seek to protect children and adolescents from being attracted to gambling.

28. We also propose that SHA could issue Codes of Practice on advertising as and when appropriate. This would enable SHA to prescribe detailed guidelines on particular aspects of advertising on football betting and to tackle any specific issues of concern in this area which may arise after the licence has been granted. We should make it clear that the failure of the licensee to observe any such Code of Practice shall not of itself be considered as a breach of any licensing condition, but would be taken into consideration as to whether the licensing condition

has been violated. SHA could also consult the proposed Gaming Commission on the contents of any Code of Practice before it is issued.

j) Preventive measures against gambling-related problems

29. We propose to require the licensee to display signs and other notices of reasonable size and clarity within its premises, for the purposes of informing punters that excessive gambling could create problems and providing information on avenues for seeking help relating to problem and pathological gambling.

30. We also propose to provide that SHA could issue Codes of Practice on preventive measures against gambling-related problems.

k) Consumer protection

31. We propose to require the licensee to disseminate within its betting premises and on its website essential information relating to its betting products, including essential rules of the bet types, percentage of payouts, cost of bets as appropriate. The licensee should also be required to secure that all winnings in every game available for betting be paid in accordance with the relevant betting rules. Moreover, the licensee should also not be allowed to disclose the identity of any person who has won any winnings, except in the event that the disclosure is required by law.

l) Provision of information

32. We propose to require the licensee to provide SHA with information relating to the compliance with the licensing conditions, as specified by SHA.

33. Separately, we also propose to require the licensee to provide SHA with their annual audited accounts and any other books and accounts relating to the operation of football betting. This is to ensure that the licensee remains a financially viable organization during the licence period, which is essential to its competitiveness against other bookmakers and stability of betting duty revenue.

m) Punitive measures against non-compliance

34. We propose to include in the licence a condition that SHA could issue warning letters to, or impose financial penalties, on the licensee, and revoke the licence, in accordance with the relevant provisions of the Betting Duty Ordinance (see paragraph 4 above) and the licensing conditions. We should also provide that the licensee could surrender the licence after giving a stipulated period of advance notice to SHA.

Licensing conditions for Mark Six Lottery

35. As in the case of football betting, we propose to grant the licence for the Mark Six Lottery to HKJC's wholly-owned subsidiary set up specifically for the purpose.

36. We propose to include all the above licensing conditions in respect of football betting in the licence to HKJC for the Mark Six Lottery, with the exception of the following:

a) Licence period

We propose to stipulate that the licence for the Mark Six Lottery should be one which is renewable on a bi-annual basis. This is in line with the arrangement under the current licence to the Hong Kong Lotteries Board for the Mark Six Lottery.

b) Type of bets

We propose to state that the licensee is allowed to operate the Mark Six Lottery (with a proper definition for it).

Dedicated Fund

37. We plan to set up a dedicated fund for financing the following activities:

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.

38. The use and application of the above fund would be determined by SHA.

The Way Forward

39. We plan to gazette the Bill in late March 2003 and introduce the Bill into the Legislative Council in early April. If the Bill is passed before the summer recess, authorized football betting could commence in August 2003, in time for the next international football season.

Home Affairs Bureau
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