

LEGISLATIVE COUNCIL BRIEF

Interpretation and General Clauses Ordinance
(Chapter 1)
Betting Duty Ordinance
(Chapter 108)

Specification of Public Office

INTRODUCTION

A At the meeting of the Executive Council on 3 December 2003, the Council ADVISED and the Chief Executive ORDERED that the Specification of Public Office, at Annex A, should be made to enable the Collector of Stamp Revenue (“the Collector”) to delegate to other public officers his powers and duties under the Betting Duty Ordinance (Cap. 108) (“the BDO”).

JUSTIFICATIONS

2. The BDO, as amended by the Betting Duty (Amendment) Ordinance 2003 (29 of 2003) to implement the regulation of football betting, confers a number of powers and duties on the Collector for the purposes of football betting duty assessment and collection.
3. To facilitate the administration of football betting duty assessment and collection, the Collector, who is also the Commissioner of Inland Revenue, should be allowed to delegate the powers and duties to the relevant officers. Such delegation is consistent with the administration of stamp duty, estate duty and taxes under the Inland Revenue Ordinance (Cap.112) (i.e. salaries tax, profits tax, property tax, and tax under personal assessment).
4. Since the BDO does not specifically provide for the delegation of powers and duties by the Collector, in order to provide a clear legal basis for

the delegation, it is desirable for the Chief Executive in Council to specify the Collector as a specified “public office” under section 43 of the Interpretation and General Clauses Ordinance (Cap.1) for the purposes of the BDO.

OTHER OPTIONS

5. The only other option for providing a clear legal basis for the delegation of powers and duties by the Collector is to amend the BDO to provide for such delegation specifically. This had been considered in the course of amending the BDO earlier this year, but Department of Justice advised that it would be more appropriate to provide for the delegation by specification under section 43 of the Interpretation and General Clauses Ordinance (Cap.1) as this would be more consistent with the existing practice in the BDO, under which the powers and duties of the Chief Secretary for Administration had already been delegated through a similar specification.

THE ORDER

A 6. The Order is at Annex A.

LEGISLATIVE TIMETABLE

7. The Order will be tabled at the Legislative Council on 7 January 2004.

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the binding effect of the existing provisions of the BDO and its subsidiary legislation. It has no financial, economic, productivity, environmental or civil service implications. A full sustainability assessment is not considered applicable as the proposal is technical in nature.

PUBLIC CONSULTATION

9. No consultation is considered necessary.

BACKGROUND

10. The Betting Duty (Amendment) Ordinance 2003, which sought to amend the BDO for authorization and regulation of football betting, was enacted on 10 July 2003.

11. After the amendments, the BDO confers a number of powers and duties on the Collector for the purposes of football betting duty assessment and collection. Most of these powers and duties did not exist in the administration of horse-racing betting or lotteries duties. A list of the duties is at Annex B. To facilitate the administration of the football betting duty, the Collector should be allowed to delegate the powers and duties to the relevant officers.

B

12. Under section 43 of the Interpretation and General Clauses Ordinance (Cap.1), powers conferred or duties imposed by any ordinance on a public office which has been specified as a specified “public office” by the Chief Executive in Council under that section by notice in the Gazette may be delegated.

ENQUIRY

13. In case of enquiries about this Brief, please contact Miss Erica NG, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)(Revenue), at 2810 2370.

Financial Services and the Treasury Bureau
19 December 2003

SPECIFICATION OF PUBLIC OFFICE

(Made by the Chief Executive in Council under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Specification of public office

The public office mentioned in column 1 of the Schedule is specified for the purposes of the Ordinances mentioned in column 2 of the Schedule.

SCHEDULE

[s. 1]

Public Office	Ordinance for which specified
Collector of Stamp Revenue	Betting Duty Ordinance (Chapter 108), sections 6L(2), 6M(3), 6N(4), 6O(1), 6P, 6Q, 6R(1), 6S(4) and (7)(b), 6T(4)(a), 6V(2), (4) and (6)(b), 6ZL(1), 6ZM(1) and 7(3). Betting Duty Regulations (Chapter 108 subsidiary legislation A), regulation 3(4).

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

The effect of this Notice is to enable the Collector of Stamp Revenue to delegate to other public officers his powers and duties under the provisions of the legislation listed in the Schedule to this Notice.

The Collector's powers and duties under the Betting Duty Ordinance

Section	Sub-section	Power / Duty
6L	(2)	Accept an exchange rate adopted by a football betting conductor.
6M	(3)	Agree with a football betting conductor to change the commencement and/or end date of a charging period.
6N	(4)	Apply provisional payments made by a football betting conductor for a charging period towards settlement of the football betting duty that is payable by the conductor for that charging period.
6O	(1)	Give written notice to a football betting conductor demanding for outstanding provisional payment(s).
6P		Assess the net stake receipts derived from the conduct of authorized betting on football matches and issue notice of assessment to a football betting conductor demanding payment of betting duty unpaid or refunding duty overpaid.
6Q		Make and issue notice of additional assessment to a football betting conductor.
6R	(1)	Give written notice to a football betting conductor demanding payment of surcharge and further surcharge on outstanding duty.
6S	(4)	State and sign a case and serve copies of the case on the football betting conductor, the Registrar and the Secretary for Justice in the event there is appeal against an assessment or additional assessment.
	(7)(b)	Order that payment of the whole/part of the amount of betting duty be held over pending the final determination of an appeal.

Section	Sub-section	Power / Duty
6T	(4)(a)	Give written notice to a football betting conductor demanding payment of betting duty and interest upon withdrawal/final determination of an appeal.
6V	(2)	Give written notice to a football betting conductor approving a hedging policy.
	(4)	Give written notice to a football betting conductor withdrawing the approval of the whole or any part of a hedging policy.
	(6)(b)	Disallowing a hedging bet if reasonably believes that a football betting conductor has failed to comply with the approved hedging policy in a material manner.
6ZL	(1)	Request a person who conducts an authorized betting activity to provide records for inspection.
6ZM	(1)	Give written notice to a person requiring him to provide information that affects the amount of betting duty that may be collected.
7	(3)	Specify forms for the purpose of the Betting Duty Ordinance.
Regulation 3	(4)	Agree with the club conducting bets or cash-sweeps on the manner to pay the duty charged under s. 6 of the Betting Duty Ordinance (or determine the manner if in default of such agreement).