



LEGISLATIVE SUMMARY

BILL C-13: AN ACT TO AMEND THE CRIMINAL CODE (SINGLE EVENT SPORT BETTING)

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-13: AN ACT TO AMEND THE CRIMINAL CODE (SINGLE EVENT SPORT BETTING)

1 BACKGROUND

Bill C-13, An Act to amend the Criminal Code (single event sport betting), was introduced in the House of Commons on 26 November 2020 by the Minister of Justice.¹ A Charter statement for the bill was tabled on 9 December 2020.²

Bill C-13 amends the definition of “lottery scheme” in section 207(4)(b) of the *Criminal Code* (Code).³ The effect of this amendment is described as decriminalizing single event sport betting in Canada while maintaining the federal government’s role in overseeing pari-mutuel betting on horse racing.⁴

Multiple private members’ bills introduced in recent years have attempted to repeal section 207(4)(b) of the Code in its entirety.⁵ Of these, the bill that progressed the furthest was Bill C-290, An Act to amend the Criminal Code (sports betting), in the first session of the 41st Parliament, which was being debated at third reading in the Senate when it died on the *Order Paper*.

1.1 LEGISLATIVE STRUCTURE OF THE RELEVANT PROVISIONS, INCLUDING “LOTTERY SCHEMES”

The basic structure of the federal criminal law gambling provisions is that “gambling is prohibited except where specifically permitted within the Code.”⁶ Of particular note, section 206 of the Code sets out a variety of hybrid offences, described as offences “in relation to lotteries and games of chance,” while section 207 of the Code permits certain activities “notwithstanding” other provisions, such as section 206. The Alcohol and Gaming Commission of Ontario provides the following plain-language synopsis of section 207:

[Section 207 of the Code] permits “lottery schemes” provided that they are:

- Lottery schemes “conducted and managed” by the province in accordance with any law enacted by that province (s. 207(1)(a));
- Lottery schemes “conducted and managed” by a licensed charitable or religious organization pursuant to a licence issued by a provincial authority, provided that the proceeds of the lottery scheme are used for a charitable or religious purpose (s. 207(1)(b)); and
- Lottery schemes “conducted and managed” by a licensed board of a fair or exhibition or by an operator of a concession leased by that board (s. 207(1)(c)).⁷

Each of these examples depends on the meaning of “lottery scheme,” which is in turn defined in section 207(4) of the Code:

In this section, *lottery scheme* means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than

(a) three-card monte, punch board or coin table;

(b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest; or

(c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device, slot machine or a dice game.

Consequently, the provinces are not currently permitted to “conduct and manage” the types of “lottery schemes” described in sections 207(4)(a) to 207(4)(c), including single event betting in section 207(4)(b).

1.2 SINGLE EVENT SPORT BETTING AND PARI-MUTUEL BETTING

An explanation of the difference between single event sport betting (which is decriminalized by Bill C-13) and pari-mutuel betting on horse racing (which continues to be overseen by the federal government as a result of Bill C-13) was provided by Michael Lipton, Senior Partner, Dickinson Wright LLP, during the study of Bill C-290:

Horse race betting in Canada is conducted by a parimutuel pooling of bets, which is a very low-risk proposition from the perspective of the betting operator. All bets of a particular type are placed together in a pool. The house take is removed and the payoff odds are calculated by sharing the pool among the winning bets. The tote – short for totalizer – is the device that calculates and displays bets already placed. With the tote, the bookmaker displays the approximate odds that they believe they will receive. ...

For these reasons, bettors do not know the actual odds they will receive until bets are no longer accepted and the race has begun. ...

Single event betting ... is fixed-odds betting, which is very different. It is a specialized form of betting that requires real expertise and must be carefully managed by experts in order to be profitable. ...

... In fixed-odds betting, the bettor knows the exact odds they will receive when they place the bet. Unlike parimutuel betting, not all bettors who bet on the same outcome will receive the same odds because the odds can shift over the period of time on the quantities wagered on each outcome. The bookmaker, in effect, is required to actively price and adjust the odds to ensure that it will make a profit regardless of the outcome.⁸

It is generally understood that single event sport betting was prohibited so as to avoid the possibility of match fixing. Instead,

Canadians are currently only permitted to place wagers on sporting events through a “parlay” bet, meaning they must bet on and correctly predict the outcome of at least two or more games to win.⁹

While this approach is believed to reduce the possibility of match fixing – “since the likelihood of being able to fix multiple unrelated games is vanishingly small”¹⁰ – it has also been criticized as making legal gambling less appealing. Witnesses during the study of Bill C-290 stated that the result of legal restrictions – especially in an era of increased mobility and the Internet – is that Canadians are making billions of dollars of illegal bets annually:

A review of the annual reports of Criminal Intelligence Services Canada indicates that illegal bookmaking exists in all regions of Canada, with organized crime ultimately profiting from the revenue. While the size of the Canadian market is unknown, estimates suggest it is in excess of \$10 billion annually and could be as much as \$40 billion.

The growth in wagering on sports through the Internet has significantly increased over the past decade, with estimates showing that Canadians wager about \$4 billion annually through offshore sports books.¹¹

A significant development with respect to single event sport betting occurred in 2018, when the Supreme Court of the United States (U.S.) struck down a federal law that had prohibited most states from authorizing sports betting.¹² Subsequently, “at least 12 U.S. states—including New York, New Jersey and Michigan—have passed legislation allowing single sports betting” and “several major partnerships [have been] established between U.S. sports betting providers and the NHL, NBA, MLB and MLS.”¹³ Some of these sports organizations had expressed opposition to Bill C-290.¹⁴

As noted above, Bill C-290 would have repealed the entirety of section 207(4)(b), including the reference to betting on “any race,” but Bill C-13 maintains the federal government’s role in overseeing pari-mutuel betting on horse racing. With respect to this role, Mr. Lipton referred to an agreement signed by the federal government and all 10 provinces in 1985, in which the federal government agreed “to respect the

exclusive jurisdiction of the provinces in the area of all betting other than horse race betting.”¹⁵ He further explained that the current structure of the Code’s gaming and betting provisions was arrived at pursuant to this agreement.

Section 204 of the Code describes the federal government’s role in relation to pari-mutuel betting on horse races, including supervision by the Minister of Agriculture and Agri-Food. In practice, pari-mutuel betting systems are regulated by the Canadian Pari-Mutuel Agency, “a special operating agency under the purview of the Minister of Agriculture and Agri-Food.”¹⁶ In addition, section 204(4) of the Code states that a fraction of the total amount of money bet through the agency of the pari-mutuel system of betting is to be paid to the Receiver General.¹⁷ Revenue from the pari-mutuel levy was \$9,628,000 in 2019.¹⁸

2 DESCRIPTION AND ANALYSIS

Bill C-13 contains two clauses.

Clause 1 amends the definition of “lottery scheme” set out in section 207(4) of the Code. Specifically, paragraph (b) is amended so that it only continues to exclude horse races from the types of lottery schemes that the provinces are permitted to undertake. “Bookmaking, pool selling or the making or recording of bets” on other races, fights, and single sport events and athletic contests are no longer excluded. The effect of this amendment appears to be to maintain the status quo with respect to the federal government’s role in relation to betting on horse races while decriminalizing other types of betting so that the provinces can establish lottery schemes in relation to them.

Clause 2 indicates that this amendment comes into force on a day to be fixed by order of the Governor in Council.

NOTES

1. [Bill C-13, An Act to amend the Criminal Code \(single event sport betting\)](#), 43rd Parliament, 2nd Session.
2. Department of Justice Canada, [Bill C-13: An Act to amend the Criminal Code \(single event sport betting\)](#), Charter statement, 9 December 2020.
3. [Criminal Code](#), R.S.C. 1985, c. C-46.
4. Department of Justice Canada, [Federal Government introduces legislation to decriminalize single event sport betting in Canada, support jobs](#), News release, 26 November 2020.
5. [Bill C-627, An Act to amend the Criminal Code \(sports betting\)](#), 40th Parliament, 3rd Session; [Bill C-290, An Act to amend the Criminal Code \(sports betting\)](#), 41st Parliament, 1st Session (reinstated 41st Parliament, 2nd Session); [Bill C-221, An Act to amend the Criminal Code \(sports betting\)](#), 42nd Parliament, 1st Session; and [Bill C-218, An Act to amend the Criminal Code \(sports betting\)](#), 43rd Parliament, 1st Session (reinstated 43rd Parliament, 2nd Session).

6. Hal Pruden, "[An Overview of the Gambling Provisions in Canadian Criminal Law and First Nations Gambling](#)," *Journal of Aboriginal Economic Development*, Vol. 2, No. 2, 2002, p. 13.
7. Alcohol and Gaming Commission of Ontario, [Criminal Code](#).
8. Senate, Standing Committee on Legal and Constitutional Affairs (LCJC), [Evidence](#), 18 October 2012 (Michael Lipton, Senior Partner, Dickinson Wright LLP, as an individual).
9. Bryson A. Stokes, Mike Maodus and Jennifer Crawford, "[Single-Event Sports Betting: Will Bill C-218 Parlay Its Way Through Parliament? Some Would Like to Bet on It](#)," *Blakes Insights*, 2 March 2020.
10. Ron Segev and Eric Kroshus, "[Single Game Sports Betting: Legalization Looming?](#)," Segev LLP blog, 5 March 2020.
11. LCJC, [Evidence](#), 17 October 2012 (Bill Rutsey, President and Chief Executive Officer, Canadian Gaming Association).
12. Ariane de Vogue and Maegan Vazquez, "[Supreme Court lets states legalize sports gambling](#)," *CNNPolitics*, 14 May 2018.
13. Bryson A. Stokes, Mike Maodus and Jennifer Crawford, "[Single-Event Sports Betting: Will Bill C-218 Parlay Its Way Through Parliament? Some Would Like to Bet on It](#)," *Blakes Insights*, 2 March 2020.
14. See, for example, the [National Hockey League's submission](#) to LCJC.
15. LCJC, [Evidence](#), 18 October 2012 (Michael Lipton, Senior Partner, Dickinson Wright LLP, as an individual). A copy of the 1985 agreement is attached as an appendix to the brief submitted to LCJC by Kevin J. Weber, also of Dickinson Wright LLP. See Kevin J. Weber, Dickinson Wright LLP, [Standing Senate Committee on Legal and Constitutional Affairs: Bill C 290, An Act to amend the Criminal Code \(sports betting\)](#).
16. Department of Justice Canada, [Proposed changes to Canada's Criminal Code relating to sports betting](#), Background. See also Government of Canada, [Canadian Pari-Mutuel Agency](#).
17. According to the *Pari-Mutuel Payments Order*, that fraction is "eight-tenths of one per cent." [Pari-Mutuel Payments Order](#), SI/83-72, s. 2.
18. Government of Canada, "Statement of operations and net assets for the year ended March 31," [Canadian Pari-Mutuel Agency Revolving Fund](#).