

Client Alert

February 2014

Japan's National Diet Considers Casino Legislation

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On December 5, 2013, the Draft Act Regarding the Promotion of the Development of Integrated Resort Areas (the “**Draft Act**”) was submitted to the National Diet. The Diet members submitting the Draft Act belong to the Alliance for the Promotion of International Tourism (the “**Caucus**”), a nonpartisan organization consisting of Diet members from different political parties including the Liberal Democratic Party, the Japan Restoration Party and the People's Life Party. An unofficial English translation of the Draft Act is attached to this client alert.

A. OVERVIEW OF THE DRAFT ACT

1. Objectives and Characteristics

The Draft Act provides little more than a schedule for lifting Japan's current ban on casinos, together with very basic principles and policies for the promotion, development and oversight of casino-related facilities. The proposed schedule provides that the Diet will, within one year after the Draft Act is passed, enact additional legislation that will lift the ban on casinos. It is important to note that the current ban on casinos would remain until the additional legislation is enacted; the Draft Act, if enacted, would not lift the ban.

2. Integrated Resorts

The Draft Act does not contemplate stand-alone, gambling-only casinos, but aims to permit unified resort facilities that provide a variety of functions, with casinos at their core. More specifically, the Draft Act addresses “**Integrated Resorts**” that include casinos as well as conference centers, recreation facilities, exhibition facilities, accommodation facilities and other facilities that are determined to contribute to the promotion of tourism. (Article 2.1.)¹

3. Integrated Resort Areas

The Draft Act contemplates that Integrated Resorts are to be established in areas (“**Integrated Resort Areas**”) identified in applications submitted by local governments and approved by the national government, which process will be addressed in separate legislation. (Article 2.2.) The number and locations of Integrated Resort Areas are not specified in the Draft Act, but the Caucus seems to be operating under the assumption that a limited number of Integrated Resort Areas (two or three) will be approved by the national government initially, and after confirming that the operation, supervision and control frameworks for the Integrated Resorts are all functioning appropriately, applications for additional Integrated Resort Areas will be considered.²

¹ Article references are to the articles of the attached translation of the Draft Act.

² According to the statement of Mr. Takeshi Iwaya, a member of the House of Representatives and the Secretary General of the Caucus (page 73 of Weekly Financial Affairs (*shukan kin-yu zaisei jijyo*) of January 6, 2014).

4. Casino Developers and Operators

While the Draft Act contemplates that the national government will enact the necessary measures to promote the development of Integrated Resort Areas, the casinos and the Integrated Resorts will be developed, owned and operated by private entities. (Article 2.1.) The Caucus appears to believe that private sector involvement is required in order to develop attractive, large-scale facilities that are internationally competitive.

Local governments will select the entities to develop and operate the Integrated Resorts. (Article 8.) It is anticipated that local governments will have their own ideas regarding the kinds of facilities that should be built and will be best positioned to choose the most appropriate projects and private sector participants.

The developers and operators—as well as any entities that manufacture, import or sell casino-related equipment or provide services to visitors in casino facilities—will be subject to regulation by the Casino Management Commission, as will be provided under separate legislation. The Casino Management Commission has not yet been established, and there is no indication as to what licensing requirements and other regulations will be implemented.

As part of the implementation process, inconsistencies with various other laws and regulations will need to be addressed. For example, privately operated gambling activities are currently illegal under Article 185 of the Penal Code.

5. Levies and Admission

The Draft Act provides that separate legislation may be passed to allow both the national and local governments to collect levies from those establishing and operating casino facilities and to charge admission to casino facilities. (Articles 12 and 13.) The amount of such levies is not addressed in the Draft Act.

B. LEGISLATIVE PROCESS GOING FORWARD

The Draft Act is currently pending, and the Caucus aims to hold deliberations regarding the enactment of the Draft Act at the regular session of the National Diet that started on January 24, 2014. If the Draft Act is enacted, an Office for promoting the development of Integrated Resorts will be established within three months.

The Prime Minister will serve as the Director-General of this Office and, among other things, will appoint a group of up to 20 individuals with “relevant knowledge and experience” to investigate and deliberate upon the matters to be addressed in the implementing legislation. The group’s report to the Director-General is to be made publicly available without delay (Article 21.3. and 21.4.), but will not be subject to public comment. The Office is ultimately responsible for the enactment of the implementing legislation within one year after the Draft Act is passed.

C. PRACTICAL NEXT STEPS

If the implementing legislation is enacted, we anticipate that the high-level steps to be taken in the development of Integrated Resorts will be as follows:

- (1) Relying on the selection standards for the Integrated Resort Areas to be developed by the national government, local governments will prepare development and operation plans for casinos and other Integrated Resort facilities (including for the selection of private entities that will develop and operate the Integrated Resorts) and submit such plans to the national government for approval.

- (2) Upon receiving approval from the national government to develop an Integrated Resort Area, the local government will begin the process of implementing its plans. This process will likely include: (i) a bid to select the developer/operator (which may be separate entities), which will likely require that the bidder demonstrates that it has the financing necessary to meet the development obligations and satisfies other relevant qualifications; (ii) working with the selected developer/operator to prepare more detailed plans; and (iii) negotiating and entering into a development/operating agreement.
- (3) The developer/operator will receive approval from the national government (including permission from the Casino Management Commission to operate the casino), and then develop the Integrated Resorts and commence operations pursuant to the terms of the development/operating agreement and governmental approvals.

The Caucus reportedly anticipates that the Integrated Resorts will be large-scale, integrated facilities and that construction will take one to two years. Therefore, even if everything proceeds smoothly, it will likely take at least four years before casinos are operating in Japan.

D. ISSUES FOR CONSIDERATION

The introduction of casinos in Japan will raise numerous issues that have not yet been discussed in detail in the legislative process, including the exclusion of anti-social forces (organized crime), the prevention of money laundering, and measures to avoid youth involvement and gambling addiction. It is anticipated that these issues, and others, will be discussed during the deliberations of the Draft Act by the Diet, and then again as part of the process for developing and enacting the implementing legislation.

In summary, the Draft Act is the first of many steps that will be required to introduce casino facilities in Japan, and not until the detailed implementing legislation and regulations are considered and presented will we have a meaningful understanding of the legal and regulatory framework for developing and operating such facilities.

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Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.

185th Diet Session

House of Representatives Bill No. 29

Draft Act Regarding the Promotion of the Development of Integrated Resort Areas

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**CHAPTER I
GENERAL PROVISIONS**

Article 1 Purpose

The purpose of this Act, given that promoting the development of Integrated Resort Areas contributes to promoting tourism and local economies as well as improving finances, is to conduct such promotion in a comprehensive and intensive manner by formulating basic principles, basic policy and any other basic matters regarding the promotion of development of Integrated Resort Areas and establishing the Office for Promoting the Development of Integrated Resort Areas.

Article 2 Definitions

- 2.1 For the purpose of this Act, “Integrated Resorts” mean facilities that have integrated casino facilities (hereinafter limited to those established and operated in Integrated Resort Areas by private entities that are permitted by the Casino Management Commission set forth in Article 11, as separately provided for by law) and conference centers, recreation facilities, exhibition facilities, accommodation facilities and any other facilities that are determined to contribute to promoting tourism, and that private entities establish and operate.
- 2.2 For the purpose of this Act, "Integrated Resort Area" means an area approved by the national government as an area where an Integrated Resort is permitted to be established pursuant to an application of a local government, as separately provided for by law.

Article 3 Basic Principles

The development of Integrated Resort Areas shall be conducted to ensure that it becomes an internationally competitive and attractive place for short-term and long-term tourism, takes advantage of regional originality and ingenuity and the vitality of the private sector, contributes to the promotion of local economies, and gives back to society the revenues of the healthy casino facilities operated under appropriate supervision and control of the national government.

Article 4 Responsibilities of the National Government

The national government shall be responsible for promoting the development of Integrated Resort Areas based on the basic principles set forth in the preceding article.

Article 5 Legislative Measures, etc.

The national government shall promote the development of Integrated Resort Areas pursuant to the provisions set forth in the following chapter, and take the measures necessary therefor. Such necessary legislative measures shall be taken within approximately one year after the enforcement of this Act.

CHAPTER II
BASIC MATTERS REGARDING THE PROMOTION OF
THE DEVELOPMENT OF INTEGRATED RESORT AREAS

Section 1 Basic Policy for Promoting the Development of Integrated Resort Areas

Article 6 Establishment of Internationally Competitive and Attractive Tourist Sites, etc.

The national government shall take measures necessary for Integrated Resort Areas to take advantage of local characteristics and have core functions that truly establish them as internationally competitive and attractive tourist sites.

Article 7 Strengthening of International Competitiveness of Tourism Industry, etc. and Promotion of Local Economies

The national government shall take advantage of the funds, management skills and technical capabilities of the private sector, and take any other measures necessary to strengthen the international competitiveness of the Japanese tourism industry, increase job opportunities and otherwise develop local economies through the development of Integrated Resort Areas.

Article 8 Respect for the Concept of Local Governments

In promoting the development of Integrated Resort Areas, the national government shall take necessary measures to reflect the best concepts of local governments for the development of Integrated Resort Areas (including the selection of entities who will establish and operate Integrated Resort).

Article 9 Regulations on Casino-related Persons

Persons who intend to establish and operate casino facilities (including those who intend to be engaged in businesses relating to the establishment and operation of casino facilities), to manufacture, import or sell casino-related equipment, or to provide services to visitors in casino facilities (hereinafter collectively, “Casino-related Persons”) shall be subject to the regulations of the Casino Management Commission described in Article 11, as separately provided for by law.

Article 10 Regulations on Establishment and Operation of Casino Facilities

From the perspective of preventing improper acts at casino facilities and eliminating adverse effects resulting from the establishment and operation of casino facilities, the national government shall take measures necessary to address the following matters:

- 1 the standards necessary for ensuring the fairness of games played at casino facilities;
- 2 the proper use of chips and other monetary substitutes used at casino facilities;
- 3 regulations necessary for removing crime syndicate members and those whose involvement in casino facilities is otherwise inappropriate from Casino-related Persons and visitors to casino facilities;
- 4 the development of equipment, organizations and other systems relating to monitoring and prevention of crime by those who establish and operate casino facilities, for the purpose of preventing and reporting the occurrence of crimes;
- 5 regulations necessary to preserve the environment of a healthy amusement business;
- 6 regulations on advertisement and promotion;
- 7 knowledge dissemination necessary for protecting minors and other measures necessary for sound growth of minors; and
- 8 measures necessary for preventing adverse effects on visitors to casino facilities resulting from their use of those facilities.

Section 2 Basic Nature and Duty of the Casino Management Commission

Article 11

The Casino Management Commission shall, as separately provided for by law, be established as an external organ under the Cabinet Office and regulate Casino-related Persons for the purpose of maintaining order and ensuring safety in connection with the establishment and operation of casino facilities.

Section 3 Levies, etc.

Article 12 Levies

The national government and local governments may, as separately provided for by law, collect levies from those who establish and operate casino facilities.

Article 13 Admission

The national government and local governments may, as separately provided for by law, charge admissions to visitors to casino facilities.

CHAPTER III OFFICE FOR PROMOTING THE DEVELOPMENT OF INTEGRATED RESORT AREAS

Article 14 Establishment

An Office for Promoting the Development of Integrated Resort Areas (hereinafter the “Office”) shall be established under the Cabinet in order to comprehensively and intensively promote the development of Integrated Resort Areas.

Article 15 Affairs under the Jurisdiction

The Office shall take charge of the following affairs:

- 1 coordination and integration with respect to promoting the development of Integrated Resort Areas;
- 2 preparing draft legislation and Cabinet Orders necessary for comprehensively and intensively promoting the development of Integrated Resort Areas; and
- 3 liaising and coordinating with related organizations and groups concerning the promotion of the development of Integrated Resort Areas.

Article 16 Organization

The Office shall consist of the Director-General of the Office for Promoting the Development of Integrated Resort Areas, the Vice Director-General of the Office for Promoting the Development of Integrated Resort Areas and members of the Office for Promoting the Development of Integrated Resort Areas.

Article 17 Director-General of the Office for Promoting the Development of Integrated Resort Areas

17.1 The head of the Office shall be the Director-General of the Office for Promoting the Development of Integrated Resort Areas (hereinafter the “Director-General”) and the Prime Minister shall serve as the Director-General.

17.2 The Director-General shall take overall control of the affairs of the Office and shall direct and supervise relevant officials.

Article 18 The Vice Director-General of the Office for Promoting the Development of Integrated Resort Areas

18.1 The Office shall establish the Vice Director-General of the Office for Promoting the Development of Integrated Resort Areas (hereinafter the “Vice Director-General”), who shall be appointed from among the Ministers of State.

18.2 The Vice Director-General shall provide assistance in the duties of the Director-General.

Article 19 Members of the Office for Promoting the Development of Integrated Resort Areas

19.1 The Office shall have members of the Office for Promoting the Development of Integrated Resort Areas (hereinafter “Members”).

19.2 All of the Ministers of State other than the Director-General and the Vice Director-General shall serve in the capacity of Members.

Article 20 Submission of Materials and Other Cooperation

20.1 The Office may, if it considers it necessary for implementing affairs under its jurisdiction, request submission of materials, statements of opinions, explanations and otherwise require cooperation from the heads of relevant administrative organs, local governments and incorporated administrative agencies (as defined in Article 2.1 of the Act on General Rules for Independent Administrative Agencies (Act No. 103 of 1999)), local incorporated administrative agencies (as defined in Article 2.1 of the Act on Local Incorporated Administrative Agencies (Act No. 118 of 2003)) and the representatives of public corporations (judicial persons directly established by laws and juridical persons which are established by a special establishing act pursuant to special laws subject to the provision of Article 4, Item 15 of the Act for Establishment of the Ministry of Internal Affairs and Communications (Act No. 91 of 1999)).

20.2 The Office may also request cooperation from parties other than those prescribed in the preceding paragraph, if it considers it especially necessary for implementing affairs under its jurisdiction.

Article 21 Group for Promoting the Development of Integrated Resorts Areas

- 21.1 The Office shall establish a Group for Promoting of the Development of Integrated Resorts Areas (hereinafter the “Group”).
- 21.2 The Group shall be composed of up to 20 members appointed by the Prime Minister from among persons with relevant knowledge and experience.
- 21.3 The Group shall investigate and deliberate important matters related to the measures taken for promoting the development of Integrated Resort Areas, and state its opinion to the Director-General.
- 21.4 The Group shall, when stating its opinion as stipulated in the preceding paragraph, publicize the contents thereof without delay.
- 21.5 The Director-General shall inform the Group when measures have been taken pursuant to the opinions under Article 21.3.

Article 22 Secretariat

- 22.1 The Office shall establish a secretariat for the purpose of dealing with its office work.
- 22.2 The Office shall appoint a Secretary General and other necessary officials.
- 22.3 The Secretary General shall administer the affairs of the secretariat in accordance with orders of the Director-General.

Article 23 Delegation pursuant to Cabinet Order

In addition to what is provided for by this Act, matters necessary for the Office shall be specified by Cabinet Order.

Supplementary Provision

This Act shall come into effect as from the date of promulgation; provided, however, that the provisions of Chapter III shall be come into effect as of the date specified by Cabinet Order within the period not exceeding three months from the date of promulgation.