

本局檔號      OUR REF      : HAB/CR/1/17/93    Pt. 38  
來函檔號      YOUR REF     : CB2/BC/6/00  
電    話      TEL NO.       : 2835 1484  
圖文傳真      FAXLINE       : 2591 6002

**URGENT BY FAX**

9 April, 2002

Miss Flora Tai  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Miss Tai,

**Bills Committee on  
Gambling (Amendment) Bill 2000**

**Minutes of meeting on 3 April 2002**

Thank you for your letter of 6 April 2002 enclosing the draft minutes of the meeting on 3 April 2002. Our response to the outstanding issues arising from the discussion at the meeting is set out below.

**Information on enforcement against computer and cross-border crimes**

There are 235 computer crime cases in 2001 (see **Annex A**). Among the 235 cases, 180 are Internet-related. Of the 180 Internet-related cases, there are 140 cases in which overseas cooperation was sought in the investigation process, of which about 20% met with positive response from the relevant overseas authorities.

**Whether it is an offence under the amended section 8 for a person outside Hong Kong to bet with a bookmaker outside Hong Kong; and whether it is necessary to specify the location of the “person” under sections 7 and 8**

Section 8 as amended would make it illegal for a person to *bet in Hong Kong* with a bookmaker whether the bet is received within or outside Hong Kong. A person who *bets outside Hong Kong* would not be caught. This is because section 8 as amended does not any contain express provision stating that betting outside Hong Kong is covered. In the absence of such express provisions, the standard interpretation is that the section only applies to *betting in Hong Kong*.

Insofar as sections 7 and 8 are concerned, it is where the act (bookmaking or betting) takes place which matters, rather than the physical location of the offender. It is therefore not necessary to specify the physical location of the offenders in these sections. Indeed, a person who engages in bookmaking or bets in Hong Kong would most likely be physically located in Hong Kong.

**Chinese translation of the term “on-line medium” in other jurisdictions where Chinese is used in legislation**

We are checking the legislation in the Mainland, Macau and Taiwan and will provide Members with the information when available.

**Section 3(7)**

Having considered Members’ comments, we have taken out from the Committee Stage Amendments (CSAs) the proposed amendment to section 3(7), which replaces “section 7” by “section 7(1) or (1A)”. The legal effect of the subsection would however remain the same.

**Whether it is an offence to solicit a person in Hong Kong to bet outside Hong Kong**

We have no intention to amend the existing section 7(1) in the Gambling Ordinance. The existing section 7(1) provides that it is an offence for a person to engage in bookmaking, i.e. soliciting, receiving, negotiating or settling a bet by way of trade or business. The purpose is

to prohibit unauthorized “bookmaking” activities (which may take the form of soliciting, receiving, negotiating or settling of a bet) from taking place in Hong Kong, irrespective of where the bet is placed, which in some cases is difficult to establish.

Ever since the Gambling Ordinance was enacted, “solicitation” of a bet has been considered, and indeed found in many cases, to be part and parcel of a bookmaking process, and is often difficult to be separated and distinguished from the other elements of bookmaking (receiving, negotiating and settling) as defined under the Ordinance. The four elements are always closely intertwined with one another.

If a person “solicits” in Hong Kong a particular bet and he does it by way of trade or business, he is considered to be a “bookmaker” and hence commits an offence, irrespective of where the person being solicited will eventually place that particular bet. Prosecutions experience reveals that any “solicitation” in Hong Kong, being part and parcel of a bookmaking process, will invariably be followed immediately or accompanied concurrently by the receipt or negotiation of a particular bet in Hong Kong, though not all the different facets of bookmaking activities will be detected concurrently. In other words, “solicitation” is part of a bookmaking process, which is distinctively different from “promotion” of bets (defined as disseminating advertisements), which has nothing to do with the bookmaking process itself. We therefore do not propose to make any change to section 7(1) so as not to undermine its current effectiveness in tackling bookmaking activities in Hong Kong per se.

### **Usage of “maker”, “bettor” and “punter” in the Bill**

We have amended section 7(1A)(b) to read “placed by a person who is in Hong Kong when the bet is placed” to avoid reference to “maker of a bet” and to be consistent with the wording in other relevant provisions (where “place” or its conjugations are used). There is no reference to “bettor” or “punter” in the Bill.

### **Section 16A(2A) (now section 16C(1))**

We have used “bookmaking or betting with a bookmaker is promoted or facilitated” in section 16C(1) to replace “an act is promoted

or facilitated” in the previous section 16A(2A).

**Section 16A(2A)(b)(v) (Now section 16C(1)(b)(v))**

We have added “or” to the end of the subsection.

**New CSAs proposed**

We have taken the opportunity to propose some changes to the CSAs. They are highlighted in the following paragraphs.

- (a) To facilitate reading, we have revised the order of the sections proposed under Part IIIA (sections 16A to 16F) as well as some of the subsections.
- (b) A section 16C has been created to set out the acts which are regarded as “promoting or facilitating bookmaking or betting with a bookmaker” for the purposes of sections 16A and 16B (previously 16E), which were set out separately under sections 16A and 16E in the previous set of CSAs. The new section 16C(2) expressly states that a person may be convicted of an offence under section 16A or 16B whether or not any person is convicted under section 7 or 8 of bookmaking or betting with a bookmaker that is promoted or facilitated. This proposed provision is in line with section 16E(3) of the Bill, which seeks to achieve a similar effect and has become no longer necessary as a result of the creation of section 16C(2).
- (c) The proposed section 23A(2)(e)(i)(C) has been amended to enable a police officer searching a place described under section 16A to seize and detain any money which is a deposit paid *wholly or partly* for the purpose of a bet with a bookmaker. The wording is in line with section 16C(1)(b)(iii) which states that provision of service in the form of receiving “a deposit paid *wholly or partly* for the purpose of betting” is regarded as “promoting or facilitating bookmaking or betting with a bookmaker” and is prohibited under section 16B.

A set of revised CSAs incorporating the changes mentioned above is at **Annex B**.

I should be grateful if you would kindly convey the above information to Members. The officers attending the meeting of the Bills Committee on 10 April 2002 will be as follows:

Mr. Stephen Fisher	Deputy Secretary for Home Affairs (2),
Mr. Gilbert Mo	Deputy Law Draftsman (BD&A),
Mr. John Reading	Deputy Director of Public Prosecutions,
Ms. Esther Leung	Principal Assistant Secretary for Home Affairs(5),
Mr. Lo Mung-hung	Senior Superintendent of Police (OCTB),
Mr. Gavin Shiu	Senior Government Counsel, Prosecutions Division,
Mr. Llewellyn Mui	Senior Government Counsel, Legal Policy Division,
Ms. Mabel Cheung	Government Counsel, Bilingual Drafting Unit, Law Drafting Division, and
Mr. Vic Yau	Assistant Secretary for Home Affairs (5)1.

Yours sincerely,

(Ms Esther Leung)  
for Secretary for Home Affairs

cc D of J (Attn.: Mr. Gilbert Mo  
Mr. Stephen Wong  
Mr. John Reading  
Mr. Gavin Shiu  
Mr. Llewellyn Mui  
Ms. Mabel Cheung)  
C of P (Attn.: Mr. Lo Mung-hung)  
ALA/LegCo (Attn.: Mr. Stephen Lam)

**Annex A**

**Computer Crimes**

<b>Offence</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Unauthorized Access to Computer by Telecommunication	13	238	275	33
Access to Computer with Criminal or Dishonest Intent				81
Criminal Damage	3	4	15	27
Obtaining Property by Deception	1	18	29	32
Obtaining Services by Deception				33
Theft (E-banking related)	0	0	0	8
Others	17	57	49	21
<b>Total</b>	<b>34</b>	<b>317</b>	<b>368</b>	<b>235</b>

中文文本第 1 稿： 5. 7. 2001  
(相當於英文文本 5th draft： 19. 6. 2001)  
中文文本第 2 稿： 18. 7. 2001  
(相當於英文文本 7th draft： 17. 7. 2001)  
中文文本第 3 稿： 23. 10. 2001  
(相當於英文文本 9th draft： 23. 10. 2001)  
中文文本第 4 稿： 23. 11. 2001  
(相當於英文文本 10th draft： 22. 11. 2001)  
中文文本第 5 稿： 4. 12. 2001  
(相當於英文文本 11th draft： 3. 12. 2001)  
中文文本第 6 稿： 5. 12. 2001  
(相當於英文文本 12th draft： 4. 12. 2001)  
中文文本第 7 稿： 28. 3. 2002  
(相當於英文文本 16th draft： 28. 3. 2002)  
中文文本第 8 稿： 9. 4. 2002  
(相當於英文文本 17th draft： 9. 4. 2002)

《2000 年賭博(修訂)條例草案》

### **委員會審議階段**

由民政事務局局長動議的修正案

《2000年賭博(修訂)條例草案》

**委員會審議階段**

由民政事務局局長動議的修正案

條次

建議修正案

- 2 廢除“現予”之後的所有字句而代以“修訂，在“收受賭注”的定義中，在“電報”之後加入“、聯機媒介(包括一般稱為電腦互聯網的服務)””。”。
- 3 刪去(b)段而代以 —
- “ (b) 在(b)段中，廢除“控制賭場；或”而代以“以其他方式控制賭場。”。
- 4 在(b)段中，刪去建議的新訂的第(1A)款而代以 —
- “ (1A) 任何人如藉在香港境外收取、商議或結清符合以下說明的賭注 —
- (a) 賭注是從香港境內作出的；或
- (b) 由在作出該賭注的時間是在香港境內的人所作出的，
- 即屬犯罪 —
- (i) 一經循簡易程序定罪，可處罰款\$5,000,000及監禁2年；或



- (ii) 一經循公訴程序定罪，可處罰款\$5,000,000及監禁7年。”。

5 刪去該條而代以 —

#### **“5. 向收受賭注者投注**

第8條現予修訂，在“投注”之後加入“(不論有關賭注是在香港境內或境外收取亦然)”。

新條文 加入 —

#### **“6A. 獎券活動彩票的出售**

第10條現予修訂，在兩度出現的“或”之後加入“以其他方式”。

8 刪去建議的第IIIA部而代以 —

#### **“第IIIA部**

營辦處所或場所作推廣或便利收受賭注等用途、推廣或便利收受賭注等及限制廣播提示等

#### **16A. 營辦處所或場所作推廣或便利收受賭注等用途**

(1) 任何人均不得明知而營辦、管理或以其他方式控制，或協助營辦、管理或以其他方式控制曾一次或多於一次用於推廣或便利收受賭注或向收受賭注者投注(但憑藉第3(8)條屬合法的收受賭注或投注則除外)的處所或場所。

(2) 第(1)款在以下情況即不適用 —

- (a) 有關賭注是只能由在香港境外的人作出的；或
  - (b) 有關賭注是由在香港境外的人作出的。
- (3) 任何人違反第(1)款，即屬犯罪 —
- (a) 一經循簡易程序定罪，可處罰款\$5,000,000及監禁2年；或
  - (b) 一經循公訴程序定罪，可處罰款\$5,000,000及監禁7年。

## **16B. 推廣或便利收受賭注等**

(1) 任何人不得明知而推廣或便利收受賭注或向收受賭注者投注(但憑藉第3(8)條屬合法的收受賭注或投注則除外)。

- (2) 第(1)款在以下情況即不適用 —
- (a) 有關賭注是只能由在香港境外的人作出的；或
  - (b) 有關賭注是由在香港境外的人作出的。
- (3) 任何人違反第(1)款，即屬犯罪 —
- (a) 一經循簡易程序定罪，可處罰款\$5,000,000及監禁2年；或

- (b) 一經循公訴程序定罪，可處罰款\$5,000,000及監禁7年。

## 16C. 關於第 16A 及 16B 條的一般條文

(1) 就第 16A(1)條而言，如有以下情況，即屬推廣或便利收受賭注或向收受投注者投注 —

- (a) 有推廣收受賭注或向收受投注者投注的廣告被展示、分發或散發；或
- (b) 有以下形式的服務提供 —
  - (i) 以代理人身分收取賭注(不論該賭注最終是由收受賭注者在香港境內或境外收取亦然)；
  - (ii) 傳轉賭注；
  - (iii) 收取全部或部分為投注而支付的按金；
  - (iv) 傳轉第(iii)節提述的按金；
  - (v) 傳轉就賭注而贏取的收益；或
  - (vi) 安排開設或維持全部或部分作投注用途的帳戶，

而在第 16B(1)條中，“推廣或便利收受賭注或向收受賭注者投注”須據此解釋。

(2) 即使沒有人被裁定就某一組事實犯第 7 或 8 條所訂的罪行，仍可裁定某人就同一組事實犯第 16A 或 16B 條所訂的罪行。

#### **16D. 第 16A 條規定擁有人、租客等須負的責任**

(1) 任何人 —

(a) 如身為任何處所或場所的擁有人、租客、佔用人或管理人，則不得明知而准許或容受該處所或場所或其任何部分被用作第 16A(1)條所述的處所或場所；

(b) 不得在知悉有關處所或場所或其任何部分將會被用作第 16A(1)條所述的處所或場所的情況下，以主事人或代理人身分出租或同意以該等身分出租該處所或場所。

(2) 任何人違反第(1)款，即屬犯罪 —

(a) 一經循簡易程序定罪，可處罰款\$500,000及監禁2年；或

(b) 一經循公訴程序定罪，可處罰款\$500,000及監禁7年。

## 16E. 限制廣播馬匹、小馬或狗隻競賽結果的預測、示意、賠率或提示

(1) 任何人不得為在香港向公眾人士或某部分公眾人士散布或分發的目的，在任何馬匹、小馬或狗隻競賽舉行前 12 小時內，廣播任何關於猜測或預計該競賽的結果或該競賽可能發生的事宜的預測、示意、賠率或提示。

(2) (a) 不論有關的競賽在或將會在香港境內或境外舉行，第(1)款均適用。

(b) 如有電算機投注或彩池投注在根據《博彩稅條例》(第 108 章)第 3 條給予的准許下就有關的競賽舉行，則第(1)款並不就該競賽而適用。

(c) 凡民政事務局局長為本段的目的藉刊登於憲報的公告指明某項活動的名稱，則第(1)款並不就作為或將會作為該項活動一部分而舉行的競賽而適用。

(3) 任何人違反第(1)款，即屬犯罪 —

(a) 一經循簡易程序定罪，可處罰款\$1,000,000 及監禁 2 年；  
或

(b) 一經循公訴程序定罪，可處罰款\$1,000,000 及監禁 7 年。

(4) 根據第(2)(c)款刊登的公告不是附屬法例。

(5) 在就本條所訂罪行而進行的法律程序中，被控人如證明他已盡一切應盡努力及已採取一切合理措施以避免犯該罪行，即可以此作為免責辯護。

(6) 在本條中，“廣播”(broadcasts)指 —

(a) 透過《廣播條例》(第 562 章)第 2(1)條所界定的廣播服務進行的廣播；或

(b) 根據並按照《電訊條例》(第 106 章)第 13C 條批給的牌照，透過無線電波將聲音發送以供公眾接收的廣播，

但不包括透過任何途徑所作的新聞廣播，或透過任何途徑所作的新聞評註、新聞論述或新聞評論廣播。

## **16F. 同意在本部下檢控**

(1) 未得律政司司長書面同意，不得就本部所訂罪行提出檢控。

(2) 第(1)款並不阻止 —

(a) 就本部所訂罪行逮捕任何人；

(b) 發出逮捕令以就本部所訂罪行逮捕任何人；

(c) 將被控以本部所訂罪行的人還押羈留。”。

## “11. 電話服務的截斷

第 21 條現予修訂 —

- (a) 在第(1)款中，廢除(c)段；
- (b) 在第(1)及(2)款中，廢除所有“香港電話有限公司”而代以“電訊服務提供者”；
- (c) 在第(2)款中，廢除“該公司”而代以“該電訊服務提供者”；
- (d) 在第(3)款中，廢除“電話公司”而代以“電訊服務提供者”；
- (e) 加入 —

“ (4) 在本條中，“電訊服務提供者”(telecommunications service provider)指《電訊條例》(第 106 章)第 2(1)條所界定的“持牌人”。”。

新條文

加入 —

## **“11A. 搜查懷疑為賭場的地方**

第 23(2)(e)(ii)條現予修訂，在兩度出現的“控”之前加入“以其他方式”。

## **11B. 加入新條文**

現加入 —

### **“23A. 搜查用於推廣或便利收受賭注或向收受賭注者投注的處所或場所**

(1) 警司或以上職級的警務人員，如合理地懷疑任何處所或場所屬第 16A(1)條所述的處所或場所，可書面授權任何警務人員進入及搜查該處所或場所。

(2) 任何取得根據第(1)款發出的授權書的警務人員，以及任何受其指揮的其他警務人員，可 —

- (a) 進入或必要時強行進入授權書內指明的處所或場所，並加以搜查；
- (b) 逮捕任何被發現在該處所或場所內的人或逃離該處所或場所的人；
- (c) 搜查任何被發現在該處所或場所內的人或逃離該處所或場所的人；



(d) 檢取及扣留在該處所或場所內被發現的用於或曾用於第 16B 條所禁制的作為或與該等作為有關的用途的物件或為或曾為該等作為而使用的物件，或在該處所或場所內的人身上發現或在逃離該處所或場所的人身上發現的該等物件；

(e) 檢取及扣留 —

(i) 屬以下性質的  
金錢 —

(A) 依據  
向收  
受賭  
注者  
作出的  
的賭  
注而  
支付  
者；

(B) 就賭  
注而  
贏取  
的收  
益；  
或

(C) 全部  
或部  
分為  
賭注  
而支  
付的  
按  
金；

(ii) 在營辦、管理  
或以其他方式  
控制該處所或  
場所的人身上  
發現的金錢，  
或在協助營辦  
、管理或以其  
他方式控制該  
處所或場所的  
人身上發現的  
金錢；或

(iii) 在該處所或場  
所內被發現的  
人身上的金  
錢，而警務人  
員根據(a)段  
進入該處所或  
場所時曾遭阻  
止、阻撓或拖  
延。

(3) 根據本條對任何人作搜查，只  
可由與該人性別相同的人進行。

(4) 任何人如阻撓根據第(1)款獲授權的任何警務人員或阻撓任何受其指揮的其他警務人員進入授權書內指明的處所或場所，即屬犯罪，經定罪後，可處罰款 \$50,000 及監禁 2 年。

(5) 凡任何人拖延第(4)款所提述的任何警務人員進入該款所提述的任何處所或場所，則直至相反證明成立，須推定該人乃為阻撓該等警務人員進入該處所或場所而將他們拖延。”。

13 刪去該條而代以 —

### **“13. 沒收**

第 26 條現予修訂，在“途，”之後加入“或為非法賭博或非法獎券活動或代表非法賭博或非法獎券活動的收益，或是得自非法賭博或非法獎券活動，”。

新條文 加入 —

### **“13A. 阻撓警務人員**

第 27 條現予修訂，在“任”之前加入“除第 23(4)或 23A(4)條另有規定外，”。

Gilbert Mo #56253 v4  
1st draft: 9.6.2001  
2nd draft: 12.6.2001  
3rd draft: 14.6.2001  
4th draft: 18.6.2001  
5th draft: 19.6.2001  
6th draft: 22.6.2001  
7th draft: 17.7.2001  
8th draft: 8.10.2001  
9th draft: 3.10.2001  
9th(r) draft: 4.10.2001  
10th draft: 2.11.2001  
11th draft: 3.12.2001  
12th draft: 4.12.2001  
13th draft: 5.1.2002  
14th draft: 8.3.2002  
15<sup>th</sup> draft: 20.3.2002  
16<sup>th</sup> draft: 28.3.2002  
17<sup>th</sup> draft: 9.4.2002

GAMBLING (AMENDMENT) BILL 2000

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting everything after "(Cap.148) is" and substituting "amended in the definition of "bookmaking" by adding "or on-line medium (including the service commonly known as the Internet)" after "telegram".".
4	In paragraph (b) , by deleting the proposed new subsection (1A) and substituting -  "(1A) Any person who engages in bookmaking by receiving, negotiating or settling outside Hong Kong a

bet -

- (a) which is placed from Hong Kong; or
- (b) placed by a person who is in Hong Kong when the bet is placed,

commits an offence and is liable -

- (i) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or
- (ii) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years."

5 By deleting the clause and substituting -

**"5. Betting with a bookmaker**

Section 8 is amended -

- (a) in paragraph (c), by repealing the full stop and substituting a comma;
- (b) by adding "whether the bet is received within or outside Hong Kong." after paragraph (c)."

New The following is added -

**"6A. Selling lottery tickets**

Section 10 is amended by adding "以其他方式" after "或" where it twice appears."

8 By deleting the proposed Part IIIA and substituting -

"PART IIIA

OPERATING PREMISES FOR PROMOTING OR FACILITATING  
BOOKMAKING, ETC., PROMOTING OR FACILITATING  
BOOKMAKING, ETC. AND RESTRICTION ON  
BROADCASTING OF TIPS, ETC.

**16A. Operating premises or  
places for promoting  
or facilitating  
bookmaking, etc.**

(1) No person shall knowingly operate, manage or otherwise have control of or assist in the operation, management or other control of any premises or place where, whether on one or more than one occasion, bookmaking or betting with a bookmaker (except bookmaking or betting which is lawful by virtue of section 3(8)) is promoted or facilitated.

(2) Subsection (1) shall not apply if the bet in question -

(a) can only be placed; or

(b) is placed,

by a person outside Hong Kong.

(3) Any person who contravenes subsection (1) commits an offence and is liable -

(a) on summary conviction to a fine of \$5,000,000 and to imprisonment for

2 years; or

- (b) a conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.

**16B. Promoting or facilitating bookmaking, etc.**

(1) No person shall knowingly promotes or facilitates bookmaking or betting with a bookmaker (except bookmaking or betting which is lawful by virtue of section 3(8)).

(2) Subsection (1) shall not apply if the bet in question -

- (a) can only be placed; or
- (b) is placed,

by a person outside Hong Kong.

(3) Any person who contravenes subsection (1) commits an offence and is liable -

- (a) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or
- (b) a conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.

**16C. General provisions relating to sections 16A and 16B**

(1) For the purposes of section 16A(1), bookmaking or betting with a bookmaker is promoted or facilitated if -

(a) advertisements to promote bookmaking or betting with a bookmaker are exhibited, distributed or disseminated; or

(b) service in any of the following forms is made available -

(i) receipt of a bet as an agent whether the bet is ultimately received by the bookmaker within or outside Hong Kong;

(ii) transmission of a bet;

(iii) receipt of a deposit paid wholly or partly for the purpose of betting;

(iv) transmission of a deposit referred to in subparagraph (iii);

(v) transmission of winnings on a bet; or

(vi) arrangement for opening or maintaining of an account wholly or partly



for the purpose of  
betting,

and in section 16B(1), "promotes or facilitates bookmaking or betting with a bookmaker" shall be construed accordingly.

(2) A person may be convicted of an offence under section 16A or 16B in relation to a set of facts notwithstanding that no person is convicted of an offence under section 7 or 8 in relation to the same set of facts.

**16D. Responsibilities of owners, tenants,  
etc. under section 16A**

(1) No person shall -

(a) being the owner, tenant, occupier or person in charge of any premises or place, knowingly permit or suffer such premises or place or any part thereof to be used as premises or place mentioned in section 16A(1);

(b) let or agree to let, whether as principal or agent, any premises or place with the knowledge that such premises or place or any part thereof is to be used as premises or

place mentioned in section 16A(1).

- (2) Any person who contravenes subsection (1) commits an offence and is liable -
  - (a) on summary conviction to a fine \$500,000 and to imprisonment for 2 years; or
  - (b) on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years.

**16E. Restriction on broadcasts of forecasts, hints, odds or tips as to results of horse, pony or dog races**

(1) No person shall, for the purposes of dissemination or distribution in Hong Kong to the public or a section of the public, broadcast any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency regarding any horse, pony or dog race at any time within 12 hours before the conduct of that race.

- (2) Subsection (1) -
  - (a) shall apply whether the race in question is or is to be conducted within or outside Hong Kong;
  - (b) shall not apply in relation to any race on which totalizator or pari-mutuel betting is conducted

with a permission given under section 3 of the Betting Duty Ordinance (Cap. 108);

- (c) shall not apply in relation to any race which is or is to be conducted as part of any event which is specified by notice published in the Gazette by the Secretary for Home Affairs for the purposes of this paragraph.

- (3) Any person who contravenes subsection (1) commits an offence and is liable -
- (a) on summary conviction to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years.

- (4) A notice published under subsection (2)(c) is not subsidiary legislation.

(5) In proceedings for an offence under this section, it shall be a defence for the accused to show that he used all due diligence and took all reasonable precautions to avoid the commission of the offence.

- (6) In this section, "broadcast" (廣播) means

-

- (a) broadcasts by means of a broadcasting service as defined in section 2(1) of the Broadcasting Ordinance (Cap. 562); or
- (b) broadcasts by transmitting sound for general reception by means of radio waves under and in accordance with a licence granted under section 13C of the Telecommunications Ordinance (Cap. 106),

but does not include broadcasts, by any means, of news or any remarks, observations or comments in relation to such news.

**16F. Consent to prosecution under this Part**

(1) No prosecution for an offence under this Part shall be instituted without the consent in writing of the Secretary for Justice.

- (2) Subsection (1) shall not prevent -
  - (a) the arrest of a person for;
  - (b) the issue of a warrant for the arrest of a person for; or
  - (c) remand in custody of a person charged with,

any offence under this Part."

11 By deleting the clause and substituting -

**"11. Disconnexion of telephone service**

Section 21 is amended -

- (a) in subsection (1), by repealing paragraph (c);
- (b) in subsections (1) and (2), by repealing "Hong Kong Telephone Company Limited" wherever it appears and substituting "telecommunications service provider";
- (c) in subsection (2), by repealing "the Company" and substituting "the telecommunications service provider";
- (d) in subsection (3), by repealing "Company" and substituting "telecommunications service provider";
- (e) by adding -

"(4) In this section, "telecommunications service provider" (電訊服務提供者) means a licensee as defined in section 2(1) of the Telecommunications Ordinance (Cap. 106)."

New

The following is added -

**"11A. Search of suspected gambling establishment**

Section 23(2)(e)(ii) is amended by adding "以其他方式" before "控" where it twice appears.

**11B. Section added**

The following is added -

**"23A. Search of premises or places for promoting or facilitating bookmaking or betting with a bookmaker**

(1) A police officer of or above the rank of superintendent may, if he reasonably suspects that any premises or place are or is a premises or place mentioned in section 16A(1), authorize in writing any police officer to enter and search the premises or place.

(2) A police officer to whom an authorization is issued under subsection (1), and any other police officer acting under his direction, may -

- (a) enter, by force if necessary, the premises or place specified in the authorization and search the same;
- (b) arrest any person who is found in such premises or place or who escapes from such premises or place;
- (c) search any person who is found in

such premises or place or who escapes from such premises or place;

(d) seize and detain any thing found in such premises or place or found on any person in such premises or place or found on any person who escapes from such premises or place, which is being or has been used in or for or in connexion with an act prohibited by section 16B;

(e) seize and detain any money -

(i) being -

(A) money paid pursuant to a bet with a bookmaker;

(B) winnings on such a bet; or

(C) a deposit paid wholly or partly for the purpose of such a bet;

(ii) found on any person operating or managing or otherwise controlling such premises or place or

on any person assisting  
in the operation or in  
the management or other  
control of such premises  
or place; or

(iii) found on any person found  
in such premises or place  
where entry under  
paragraph (a) is  
prevented, obstructed or  
delayed.

(3) No person shall be searched under this  
section except by a person of the same sex.

(4) Any person who obstructs any police  
officer authorized under subsection (1) or any other  
police officer acting under his direction from  
entering the premises or place specified in the  
authorization commits an offence and is liable on  
conviction to a fine of \$50,000 and to imprisonment  
for 2 years.

(5) Where a person delays the entry of any  
police officer referred to in subsection (4) into  
any premises or place so referred to, he shall be  
presumed, until the contrary is proved, to have  
delayed entry for the purpose of obstructing such  
police officer from entering such premises or



place."."

13 By deleting the clause and substituting -

**"13. Forfeiture**

Section 26 is amended by adding "or is or represents the proceeds of or is derived from" after "with"."

New The following is added -

**"13A. Obstruction of police officers**

Section 27 is amended by repealing "Any" and substituting "Subject to section 23(4) or 23A(4), any"."