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PART IIIA

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

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HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE NO. 12 OF 2002**L.S.

TUNG Chee-hwa
Chief Executive
30 May 2002

An Ordinance to amend the Gambling Ordinance so as to further discourage and prevent unlawful gambling.

[31 May 2002]

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Gambling (Amendment) Ordinance 2002.

2. Interpretation

Section 2 of the Gambling Ordinance (Cap. 148) is amended, in the definition of “bookmaking”, by adding “or on-line medium (including the service commonly known as the Internet)” after “telegram”.

3. Unlawful gambling establishments

Section 5(b) and (c) is amended by adding “以其他方式” before “控”.

4. Bookmaking

Section 7 is amended—

(a) in subsection (1)—

- (i) in paragraph (a), by adding “or” at the end;
- (ii) in paragraph (b), by repealing “; or” and substituting a comma;
- (iii) by repealing paragraph (c);

(b) by adding—

“(1A) Any person who engages in bookmaking, whether on one occasion or more than one occasion, 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—

(c) on summary conviction to a fine of \$5,000,000 and to imprisonment for 2 years; or

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

(c) by repealing subsection (2).

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).

6. Section substituted

Section 9 is repealed and the following substituted—

“9. Promoters of lotteries

Any person who promotes, organizes, conducts or manages, or otherwise has control of, an unlawful lottery 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) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years.”.

7. Selling lottery tickets

Section 10(a) and (b) is amended by adding “以其他方式” after “或”.

8. Gambling in any place not being a gambling establishment or in a street

Section 13(1) is repealed and the following substituted—

“(1) Any person who operates or manages or otherwise controls unlawful gambling in any place whatsoever (not being a gambling establishment) whether or not the public have or are permitted to have access thereto, or in any street, commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.”.

9. Part added

The following is added—

“PART IIIA

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

16A. Operating premises or place 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) on 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 promote or facilitate 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) on 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, disseminated or distributed; 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), “promote or facilitate bookmaking or betting with a bookmaker” (推廣或便利收受賭注或向收受賭注者投注) 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.
for act prohibited 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); or
 - (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 of \$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.”.

10. Section substituted

Section 19 is repealed and the following substituted—

“19. Presumptions

(1) Where in any proceedings under this Ordinance there is evidence that—

(a) the entry of a police officer to any premises or place under section 23(2)(a) was prevented, obstructed or delayed;

(b) any premises or place entered under section 23(2)(a) were or was provided with any means for concealing, removing or destroying gambling equipment;

(c) gambling equipment was found in any premises or place entered under section 23(2)(a) or on any person found in any such premises or place,

it shall, unless there is evidence to the contrary, be presumed that the premises or place are or is a gambling establishment.

(2) Where in any proceedings under section 6 there is evidence that a person was found in a gambling establishment or that a person escaped from a gambling establishment on the occasion of its being entered under section 23(2)(a), such person shall, unless there is evidence to the contrary, be presumed to have been gambling therein.

(3) If in any proceedings under this Ordinance there is evidence that any money was found in any premises or place or was found on any person in such premises or place on the occasion of its being entered under section 23(2)(a) where entry was prevented, obstructed or delayed, it shall, unless there is evidence to the contrary, be presumed that such money has been used in or for or in connexion with unlawful gambling.”.

11. Admissibility of evidence

Section 20 is amended—

- (a) in subsection (1), by adding “or 8” after “7”;
- (b) by repealing subsection (2) and substituting—

“(2) In any proceedings under this Ordinance a report in a newspaper circulating in Hong Kong that a particular person, horse, pony, dog, team, contestant, entrant or participant was entered as a participant in or participated in a particular competition, race, event or contest, whether or not the competition, race, event or contest is to be or was held in Hong Kong, shall be admissible in evidence and shall be prima facie evidence that the person, horse, pony, dog, team, contestant, entrant or participant was so entered or did so participate.”.

12. Disconnexion of telephone service

Section 21 is amended—

- (a) by repealing subsection (1)(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).”.

13. Search of suspected gambling establishments

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

14. Section added

The following is added—

“23A. Search of premises or place for promoting or facilitating bookmaking, etc.

(1) A police officer of or above the rank of superintendent may, if he reasonably suspects that—

- (a) an offence under section 16A is being or has been committed in relation to; or
- (b) an offence under section 16B is being or has been committed in,

any premises or place, 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 connexion with an act prohibited by section 16A or 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, managing or otherwise controlling such premises or place or on any person assisting in the operation, 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.”.

15. Bookmaking on racing club premises

Section 25(1) and (2) is amended by adding “or 8” after “7”.

16. Forfeiture

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

17. Obstruction of police officers

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

18. Saving as to aiding and abetting

- (1) The amendments made by—
 - (a) section 4(a) of this Ordinance to section 7 of the principal Ordinance;

- (b) section 6 of this Ordinance to section 9 of the principal Ordinance;
- (c) section 8 of this Ordinance to section 13 of the principal Ordinance,

shall not be construed so as to prevent any person who aids, abets, counsels or procures the commission by another person of an offence under section 7, 9 or 13 of the principal Ordinance, as the case may be, being found guilty of any such like offence.

(2) In this section, a reference to “the principal Ordinance” means the Gambling Ordinance (Cap. 148) prior to its amendment by this Ordinance.