

LEGISLATIVE COUNCIL BRIEF

Gambling Ordinance (Chapter 148)

GAMBLING (AMENDMENT) REGULATION 2002

INTRODUCTION

At the meeting of the Executive Council on 4 June 2002, the Council ADVISED and the Chief Executive ORDERED that the Gambling (Amendment) Regulation 2002 at **Annex A** should be made under section 28 of the Gambling Ordinance (Cap. 148), to revise the prescribed conditions of the Lottery, Trade Promotion Competition (TPC) and Mahjong/Tin Kau Licences.

BACKGROUND AND ARGUMENT

General Background

2. Under section 22 of the Gambling Ordinance, the Commissioner for Television and Entertainment Licensing (CTEL) may by licence authorize lotteries, TPCs¹ and the operation of mahjong/tin kau parlours. The licence forms are prescribed in the Gambling Regulations (Cap. 148 sub. leg. A). The forms contain the prescribed conditions to which the licences are subject. These licensing conditions aim at regulating and controlling the conduct of these activities in accordance with our gambling policy, i.e. to restrict gambling opportunities to a limited number of authorized outlets only. They are intended as means to prevent fraudulent practices arising from these gaming activities and hence safeguard public interests.

3. Most of the licensing conditions dated back to the late 1970s. In recent years, there has been feedback from various parties concerned that some of the conditions have become outdated and are too restrictive to the trades in the prevailing business environment, while some should be suitably tightened for the purpose of effective supervision in the light

¹ TPC Licences are usually issued to commercial operators for conducting games with non-cash prizes, e.g. lucky draws, to promote trade.

of changing circumstances. In view of these concerns, we have reviewed the conditions and identified some areas for improvement. The proposals seek to ensure that we have in place a licensing regime which maintains effective control over the licensed activities in a way that is not unduly restrictive to the affected sectors. The proposals entail amendments to the Gambling Regulations.

The Proposals

(A) Proposals relating to Lottery Licence

(a) To extend the time limit for publishing draw results and to reduce the required number of newspapers for this purpose

4. Licence Condition 5 requires the draw results of the lottery to be published in two English and two Chinese newspapers within seven days from the date of the draw. Lottery organizers consider the seven-day limit too tight and the cost of publishing the results in two English and two Chinese newspapers rather high, especially for smaller scale events. To alleviate the burden on the organizers without compromising on the need to ensure transparency and accountability of lottery results, we propose to amend the condition by extending the limit to ten days, and requiring the results to be published in one English and one Chinese newspaper only.

(b) To require submission of a copy of a report made by a “practice unit” stating that the accounting statement is properly prepared

5. Licence Condition 6 requires the licensee to prepare a statement of all moneys collected from the sale of lottery tickets and every disbursement made from the moneys so collected, and forward to CTEL a copy of the statement within 28 days from the date of the draw.

6. In response to rising community concerns over whether the increasing number of fund-raising lotteries are effectively monitored and their proceeds properly accounted for, we intend to strengthen and rationalize control over such activities through tightening the licensing conditions for lotteries. Specifically, we propose to revise the above condition by adding a requirement that the licensee has to submit a copy

of a report made by a practice unit² as defined under the Professional Accountants Ordinance (Cap. 50) stating that the statement is properly prepared from the books and records of the licensee and nothing indicates that the statement does not accurately reflect all the moneys collected and all the disbursements made therefrom. The copy of the statement and the report will be made available for public inspection. To allow sufficient time for preparation of the statement and the report, the deadline for submissions to CTEL should be revised to 90 days from the date of the draw. This proposed new requirement and the 90-day limit are in line with the Social Welfare Department's requirement in respect of charitable fund-raising activities in public places governed by Public Subscription Permits.

(B) Proposals relating to TPC Licence

(a) To quote licence number in advertisements

7. Licence Condition 3 prohibits advertising in respect of a TPC from referring to CTEL's approval but allow such advertising to state the licence number. The rationale for this is obscure and cannot be traced. We propose to amend the condition by removing the prohibition and simply requiring the licensee to quote the licence number in such advertising so that the public would know that the competition has obtained the necessary approval from the Government.

(b) To extend the time limit for publishing draw results and to reduce the required number of newspapers for this purpose

8. Similar to the Lottery Licence, TPC Licence Condition 4 requires the results of the competition to be published in two English and two Chinese newspapers within seven days from the date of the draw. For the same reasons underlying the proposed change to the same condition for Lottery Licence (see paragraph 4 above), we propose to amend the condition by extending the time limit for publishing results to ten days and requiring the results to be published in one English and one

² Under the Professional Accountants Ordinance, a "practice unit" means -

- (a) a firm of -
 - (i) certified public accountants; or
 - (ii) public accountants; or
 - (iii) certified public accountants and public accountants, practising accountancy pursuant to the Ordinance;
- (b) a certified public accountant or public accountant practising accountancy on his own account pursuant to the Ordinance; or
- (c) a corporate practice.

Chinese newspaper only.

(C) Proposal relating to Mahjong/Tin Kau Licence - to relax the requirement on submission of monthly statement of account

9. Licence Condition 7 requires the licensee to forward to CTEL a copy of statement of account on the details of the games played at the end of every calendar month. This is considered too restrictive by the trade. Operational experience reveals that the monthly submission of the licensees' accounting statements is not essential to the effective supervision of mahjong/tin kau parlours. To reduce the administrative burden on licensees without compromising on the need for effective control over such gambling establishments, we propose to amend this condition to the effect that if CTEL requests a copy of the statement during the next seven years, the licensee shall forward such a copy to CTEL within seven days after the request. In any event, under section 51C of the Inland Revenue Ordinance (Cap. 112), a business operator has a duty to retain business records for a period of not less than seven years.

THE REGULATION

10. The main provisions of the proposed Regulation are as follows:
- (a) section 3(a) amends Condition 5, and repeals and replaces Condition 6, of Form 1A of the Second Schedule (i.e. the prescribed form for Lottery Licence);
 - (b) section 3(b) amends Conditions 3 and 4 of Form 4A of the Second Schedule (i.e. the prescribed form for TPC Licence); and
 - (c) section 3(c) repeals and replaces Condition 7 of Form 5A of the Second Schedule (i.e. the prescribed form for Mahjong/Tin Kau Licence). It also repeals and replaces Note 3 of the Form because of the proposed Condition 7.

The Second Schedule to the existing Gambling Regulations is at **Annex B**.

PUBLIC CONSULTATION

11. We consulted the Legislative Council Panel on Home Affairs on the proposed legislative amendments on 12 March 2002. Members indicated no objection to the proposals.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the proposed Regulation is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the proposed Regulation has no human rights implications.

BINDING EFFECT

14. The proposed Regulation will not affect the current binding effect of the Gambling Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

15. The proposal to relax the requirement for Mahjong/Tin Kau licensees to submit monthly account statements will marginally reduce the administrative workload of the Television and Entertainment Licensing Authority. The other proposals have no financial or staffing implications.

ECONOMIC IMPLICATIONS

16. The proposed requirement for Lottery licensees to have their accounting statements reviewed by practice units as defined under the Professional Accountants Ordinance will increase demand for such professional services. The proposed reduction in the number of newspapers required for publishing TPC draw results will help reduce operating costs relating to trade promotion activities. The benefits generated for the trade concerned would however be insignificant. The

other proposals do not have major economic implications.

SUSTAINABILITY IMPLICATIONS

17. The proposal has no sustainability implications.

LEGISLATIVE TIMETABLE

18. The legislative timetable will be -

Publication in the Gazette	7 June 2002
Tabling at Legislative Council	12 June 2002

PUBLICITY

19. A press release will be issued on 6 June 2002. A spokesman will be available for answering media and public enquiries.

ENQUIRY

20. Enquiries on this Legislative Council brief may be directed to Ms Esther Leung, Principal Assistant Secretary for Home Affairs at tel. no. 2835 1484.

Home Affairs Bureau
6 June 2002

GAMBLING (AMENDMENT) REGULATION 2002

(Made by the Chief Executive in Council under section 28
of the Gambling Ordinance (Cap. 148))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Home Affairs by notice published in the Gazette.

2. First Schedule amended

The First Schedule to the Gambling Regulations (Cap. 148 sub. leg.) is amended, in Form 1, by repealing "at lottery" and substituting "a lottery".

3. Second Schedule amended

The Second Schedule is amended –

(a) in Form 1A –

(i) in Condition 3, by repealing "重覆" and substituting "重複";

(ii) in Condition 5 –

(A) by repealing "7" and substituting "10";

(B) by repealing "2" where it twice appears and substituting "one";

(C) by repealing "newspapers" and substituting "newspaper";

(iii) by repealing Condition 6 and substituting –

- "6. Within 90 days from the date of the draw of the lottery, the licensee shall –
- (a) cause to be prepared a statement of income and expenditure setting out all the moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received;
 - (b) obtain a written report made by a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50) stating that –
 - (i) in the opinion of the practice unit, the statement of income and expenditure is properly prepared from the books and records of the licensee made available to the practice unit; and

(ii) no matter has come to the attention of the practice unit which indicates that the statement of income and expenditure does not accurately reflect all the moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received; and

(c) forward to the Commissioner for Television and Entertainment Licensing –

(i) a copy of the statement of income and expenditure; and

(ii) a copy of the report, for the purpose of, among other things, enabling the copies to be made available for public

inspection in such manner, and
for such period, as the
Commissioner thinks fit.";

(b) in Form 4A –

(i) in Condition 3, by repealing "not refer to the
Commissioner's approval of the competition but may
state the number of this licence" and substituting
"refer to this licence by stating its number";

(ii) in Condition 4 –

(A) by repealing "7" and substituting "10";

(B) by repealing "2" where it twice appears and
substituting "one";

(C) by repealing "newspapers" and substituting
"newspaper";

(c) in Form 5A –

(i) by repealing Condition 7 and substituting –

"7. The licensee shall keep a statement of
account in the attached form for every
calendar month in respect of each day's
play including the number of games
played, winnings and losses incurred
by employees and commission retained.
If during the period of 7 years after the
last day of the month to which the

statement relates, the Commissioner for Television and Entertainment Licensing makes a written request for a copy of the statement, the licensee shall forward such copy to the Commissioner within 7 days after the date on which the request is made.";

(ii) by repealing Note 3 and substituting –

"3. If during the period of 7 years referred to in condition 7, the Commissioner for Television and Entertainment Licensing makes a written request for a copy of the statement of account referred to in that condition, such copy must be forwarded to the Commissioner within 7 days after the date on which the request is made.".

Clerk to the Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

This Regulation amends the Gambling Regulations (Cap. 148 sub. leg.) to revise the prescribed conditions to which the Lottery, Trade promotion competition and Mahjong/Tin Kau licences are subject.

Annex B

Chapter: 148A Title: GAMBLING REGULATIONS Gazette Number:
Schedule: 2 Heading: Version 30/06/1997 Date:

[regulation 2(2)]

FORM 1A

Lottery Licence No.

GAMBLING REGULATIONS

LOTTERY LICENCE

LICENCE is granted this day of
19 to
as licensee, to promote and conduct a lottery on behalf
of
.....
for the purpose of raising an amount not exceeding \$ to be used
for

THIS licence shall cease to have effect on

THIS licence is subject to the conditions set out herein and to any other conditions which the
Commissioner for Television and Entertainment Licensing may impose and notify in writing addressed to
the licensee at his last known address.

CONDITIONS

1. No cash prize shall be offered or distributed.
2. No part of the proceeds of the lottery shall be appropriated for the private gain of any individual who assists in the promotion of the lottery or who is a member of the organization on whose behalf the lottery is promoted.
3. Every lottery ticket shall-
 - (a) be numbered serially and no such number shall be repeated in respect of the same lottery;
 - (b) state the licence number under which it is issued;
 - (c) state the price at which it is sold;
 - (d) state the number, nature and value of the main prizes available in the lottery;
 - (e) state the date and manner in which the numbers of the winning tickets shall be published after the draw of the lottery; and
 - (f) state the manner in which prizes may be claimed.
4. No lottery ticket shall be offered for sale-

- (a) earlier than 8 weeks before the draw is to take place; or
 - (b) by advertisement or publication in any newspaper circulating in Hong Kong.
5. Within 7 days from the date of the draw of the lottery, details of the results shall be published in 2 English and 2 Chinese newspapers circulating in Hong Kong, and a copy of the relevant newspaper cuttings shall be forwarded to the Commissioner for Television and Entertainment Licensing.
 6. Within 28 days from the date of the draw of the lottery, the licensee shall cause to be prepared a statement of all moneys collected or received from the sale of lottery tickets and every disbursement made from the moneys so collected or received and a copy of such statement shall be forwarded to the Commissioner for Television and Entertainment Licensing.

.....
Commissioner for Television and Entertainment Licensing

The following note is not part of the conditions of the licence but is provided for your guidance.

- Note:
1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations.
 2. You are warned that the conditions of the licence must be strictly complied with. A breach of a condition may result in the licence being revoked and in your prosecution for an offence.
 3. This licence shall cease to have effect on the day named herein.

(L.N. 164 of 1977)

FORM 2A

Tombola Licence No.

GAMBLING REGULATIONS

TOMBOLA LICENCE

LICENCE is granted this day of
 19 to
 as licensee to promote and conduct games of tombola on premises situated at

 and described as for a period
 of from
 to

THIS licence shall cease to have effect on

THIS licence is subject to the conditions set out herein and to any other conditions which the Commissioner for Television and Entertainment Licensing may impose and notify in writing addressed to the licensee at his last known address.

CONDITIONS

1. No games shall be played except between the hours of noon and the following midnight.
2. All players in a game must take part in it at the same time and all must be present on the premises at that time.
3. The calling of the numbers must take place on the premises while the game is being played.
4. A claim of a player to have won must be decided on and determined and indicated to the other players before another number is called, and a player's winnings must be paid out before the start of a further game.
5. Except in the case of a game offering a "Jackpot" (大獎) or "Snowball" (累積獎金), the players must not receive more as winnings than the aggregate amount of stakes hazarded by the players in that game.
6. Only one "Jackpot" (大獎) or "Snowball" (累積獎金) may be offered in respect of a single day's session of play.
7. A "Jackpot" (大獎) or "Snowball" (累積獎金) shall not exceed in value an amount of \$
8. The commission or charge levied against the stakes hazarded in a game shall not exceed per cent of such stakes.
9. The intention to conduct a session of games shall not be published or advertised in any newspaper circulating in Hong Kong.
10. A police officer of or above the rank of Sergeant shall during the hours of play, be permitted to enter the premises for the purpose of ensuring that the conditions of this licence are complied with.
11. The licensee shall keep a statement of account in the attached form for every calendar month in respect of each day's session of play, showing the amount of stakes hazarded, winnings paid out and commission retained and shall at the end of every calendar month, forward a copy of such statement to the Commissioner for Television and Entertainment Licensing.
12. The licensee shall keep a register of all persons employed at the licensed place who assist in the conduct of the games containing their names, descriptions, addresses and photographs and indicating their respective duties. The Commissioner for Television and Entertainment Licensing and any police officer of or above the rank of Sergeant shall on request be permitted to inspect such register.

.....
Commissioner for Television and Entertainment Licensing

The following note is not part of the conditions of the licence but is provided for your guidance.

- Note:
1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations.
 2. You are warned that the conditions of the licence must be strictly complied with. A breach of a condition may result in the licence being revoked and in your prosecution for an offence.
 3. The particulars required by condition 11 must be forwarded to the Commissioner for Television and Entertainment Licensing at the end of every calendar month.
 4. This licence shall cease to have effect on the day named herein. If you want to apply for the licence to be renewed, you should inform the Commissioner for Television and Entertainment Licensing in writing well before that date.

STATEMENT OF ACCOUNT REQUIRED BY CONDITION 11

Tombola Licence No.....

Date of session	Game number	Price of each card	Number of cards sold	Amount of stakes hazarded	Amount of winnings paid out (include Jackpot if any)	Amount of commission levied
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I certify that to the best of my knowledge and belief the particulars in this statement of account are both true and correct.

Dated at this day of 19

Signed:

Position in club or society:

(L.N. 164 of 1977)

FORM 3A

Amusements with prizes Licence No.....

GAMBLING REGULATIONS

AMUSEMENTS WITH PRIZES LICENCE

LICENCE is granted this day of 19
to
as licensee to organize and conduct games of amusement with prizes on premises situated
at
and described as being premises licensed
as a place of public entertainment under section 4 of the Places of Public Entertainment Ordinance (Cap
172).

THIS licence shall cease to have effect on
or in the event of the cancellation, revocation or cessation of the licence in respect of the premises granted
under section 4 of the Places of Public Entertainment Ordinance (Cap 172), whichever is the sooner.

THIS licence is subject to the conditions set out herein and to any other conditions which the
Commissioner for Television and Entertainment Licensing may impose and notify in writing addressed to
the licensee at his last known address.

CONDITIONS

1. No prize offered shall be a money prize.
2. The opportunity to win a prize shall not be the only inducement to persons to attend the premises.
3. The amount paid by any person for any one chance to win a prize shall not exceed \$5.
4. The aggregate amount taken by way of the sale of chances in any one determination of winners, if any, of prizes shall not exceed \$100.
5. No individual prize in the form of money's worth that is distributed or offered shall exceed the value of \$
6. The winning of a prize shall not entitle a person to any further opportunity to win.
7. The sale of chances and the declaration of the result shall take place on the same day and on the premises on which and during the time when the amusement is provided.
8. A police officer of or above the rank of Sergeant shall during the time the amusement is provided, be permitted to enter the premises for the purpose of ensuring that the conditions of this licence are complied with.

.....
Commissioner for Television and Entertainment Licensing

The following note is not part of the conditions of the licence, but is provided for your guidance.

- Note:
1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations.
 2. You are warned that the conditions of the licence must be strictly complied with. A breach of a condition may result in the licence being revoked and in your prosecution for an

- offence.
- This licence shall cease to have effect on the day named herein. If you want to apply for the licence to be renewed you should inform the Commissioner for Television and Entertainment Licensing in writing well before that date. The licence will in any case cease to have effect, if the premises cease to be licensed as a place of public entertainment.

(L.N. 164 of 1977)

FORM 4A

Trade promotion competition

Licence No.

GAMBLING REGULATIONS

TRADE PROMOTION COMPETITION LICENCE

LICENCE is granted this day of 19
to as licensee to promote and
conduct a trade promotion competition in support of the promotion
of

THIS licence shall cease to have effect on

THIS licence is subject to the conditions set out herein and to any other conditions which the Commissioner for Television and Entertainment Licensing may impose and notify in writing addressed to the licensee at his last known address.

CONDITIONS

- No prize offered shall be a money prize.
- No fee shall be charged for entering the competition.
- Advertising in respect of the competition shall not refer to the Commissioner's approval of the competition but may state the number of this licence as follows: "Trade promotion competition Licence No.".
- Within 7 days from the date of the drawing or judging of the competition, details of the results shall be published in 2 English and 2 Chinese newspapers circulating in Hong Kong, and a copy of the relevant newspaper cuttings shall be forwarded to the Commissioner for Television and Entertainment Licensing.

.....
Commissioner for Television and Entertainment Licensing

The following note is not part of the conditions of the licence and is provided for your guidance.

- Note:
1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations.
 2. You are warned that the conditions of the licence must be strictly complied with. A breach of a condition may result in the licence being revoked and in your prosecution for an offence.
 3. This licence shall cease to have effect on the day named herein.
(L.N. 164 of 1977; L.N. 110 of 1980; L.N. 587 of 1995)

FORM 5A

Mahjong/Tin Kau Licence No.

GAMBLING REGULATIONS

MAHJONG/TIN KAU LICENCE

LICENCE is granted this day of
19 to
as licensee to provide facilities for the playing of games in which mahjong/tin kau tiles are used at the premises situated at
and described as

THIS licence shall cease to have effect on

THIS licence is subject to the conditions set out herein and to any other conditions which the Commissioner for Television and Entertainment Licensing may impose and notify in writing addressed to the licensee at his last known address.

CONDITIONS

1. No games shall be played except between the hours of noon and the following midnight.
2. No person under the age of 18 years shall be permitted to play in the games.
3. Neither the licensee nor any person acting on his behalf or under any arrangement with him shall make any loan or otherwise provide to any person any credit for enabling a player to take part in a game or in respect of any losses incurred by a player in a game.
4. A notice setting out in English and Chinese, all fees, commissions, percentages and hire prices charged shall be prominently displayed at the licensed place.
5. The commission or charge levied against the stakes hazarded in a game shall not exceed per cent of such stakes.
6. A police officer of or above the rank of Sergeant shall during the hours of play, be permitted to

enter the premises for the purpose of ensuring that the conditions of this licence are complied with.

7. The licensee shall keep a statement of account on the attached form for every calendar month in respect of each day's play including the number of games played winnings and losses incurred by employees and commission retained and shall at the end of every calendar month forward a copy of such statement to the Commissioner for Television and Entertainment Licensing.
8. No person shall be employed by the licensee without the prior written approval of the Commissioner for Television and Entertainment Licensing.
9. No person shall be appointed as agent by the licensee to manage the licensed premises without the prior written approval of the Commissioner for Television and Entertainment Licensing.
10. The licensee shall keep a register of all persons who are employed at the licensed place and who assist in the conduct of the games. The register shall contain their names, identity card numbers, descriptions, addresses, photographs and indicate their respective duties. The licensee shall keep the register up to date and make it available for inspection by the Commissioner for Television and Entertainment Licensing and any police officer of or above the rank of Sergeant.
11. All persons employed by the licensee shall while on duty wear identity badges with photographs and stating the purpose for which they are employed.
12. The licensee shall not transfer, lend or hire this licence to any person.
13. The licensee or his appointed agent shall be present at the premises at all times during the hours of play.
14. There shall be no communicating staircase between residential quarters and the licensed premises.

.....
Commissioner for Television and Entertainment Licensing

The following note is not part of the conditions of the licence but is provided for your guidance.

- Note:
1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations.
 2. You are warned that the conditions of the licence must be strictly complied with. A breach of a condition may result in the licence being revoked and in your prosecution for an offence.
 3. The particulars required by condition 7 must be forwarded to the Commissioner for Television and Entertainment Licensing at the end of every calendar month.
 4. This licence shall cease to have effect on the day named herein. If you want to apply for the licence to be renewed, you should inform the Commissioner for Television and

Entertainment Licensing in writing well before that date.

STATEMENT OF ACCOUNT REQUIRED BY CONDITION 7

Mahjong/Tin Kau Licence No.

Date	Number of games	Commission levied	Admission fee or hire price charged	Amount won by house employees when play	Amount lost by house employees when play	Total earnings of house after deducting amount lost by house
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I certify that to the best of my knowledge and belief the particulars in this statement of account are both true and correct.

Dated at this day of 19.....

Signed:
Position Held:
(L.N. 164 of 1977; L.N. 319 of 1994)