

**The Administration's replies to written questions raised by
the Hon Choy So-yuk**

First horse race betting conductor

Q1. Clause 3(6) of the Bill defines “first horse race betting conductor” and “first horse race betting licence” respectively. Please clarify whether the use of the word “first” means that it is the government policy to issue a second or further horse race betting licences to other horse race betting conductors in the future. If so, please explain the relevant policy; if not, what is the intention of using the word “first”.

A1: We propose that one licence for horse race betting should be granted only to the Hong Kong Jockey Club (HKJC) which is the only authorized horse race betting operator at present. The licence is granted and renewed on an annual basis. The current wording in the Amendment Bill provides the flexibility for the Administration to issue licences to other betting operators as necessary.

Related person

Q2. Clause 3(7) of the Bill defines “related person”, where paragraph (a) in Chinese provides that “某人如藉.....管有另一人或任何其他人的投票權，或藉.....管有關乎另一人或任何其他人的投票權”。 Since “投票權”(voting power) is not something material, would the Administration clarify how a person “管有投票權”([is in] “possession of voting power”)? Is it possible to replace “管有”(possession) with “控制”(manipulation) ?

A2. The meaning of the terms “possession” and “mainpulation” is different. The term “possession” may connote different kinds of control and therefore reflects our legislative intention.

- Q3. In addition, please clarify whether “shadow director” under the Companies Ordinance is a related person referred to in the Bill.
- A3. Section 2 of the Companies Ordinance provides that “shadow director”, in relation to a company, means a person in accordance with whose directions or instructions the directors or a majority of the directors of the company are accustomed to act. The meaning of “related person” as defined in the Betting Duty (Amendment) Bill is broader than the term “shadow director” in the Companies Ordinance.
- Q4. Clause 15 of the Bill proposes to add section 6GA, and according to section 6GA(1), “non-qualified bets” means bets that are not qualified bets. The proposed section 6GC(1) provides that “the Secretary may designate, as qualified bets for the purpose of this Division, bets accepted by a horse race betting conductor, or an authorized person of the conductor, at a place outside Hong Kong in relation to the conduct of authorized betting on horse races by the conductor”. Please clarify whether, in respect of section 6GC(1), horse race bets accepted “at a place within Hong Kong” are “non-qualified bets”. If so, what is the difference between “non-qualified bets” and “authorized betting on horse races” as provided in section 6GB?
- A4. Bets received inside Hong Kong falls within the meaning of “non-qualified bets”. Section 6GB refers in general to any horse race on which authorized betting may be conducted, covering qualified and non-qualified bets.

Warning of the seriousness of the problems caused by excessive gambling

- Q5. Clause 15 of the Bill proposes to add section 6GB, where section 6GB(4)(g) provides that issuance of a licence to a company is subject to the condition that the company shall display, in premises where it accepts bets and on web site through which it accepts bets, notices containing a warning of the seriousness of

the problems caused by excessive gambling, as well as providing information on the services and facilities available to problem gamblers. To step up its efforts to curb gambling, would the Administration consider adding a condition that if the company allows a television station to broadcast horse races, the warning and information concerned have to be displayed on television with a reasonable allocation of time and visual space?

- A5. The Administration requested the television station/radio to increase the broadcasting frequency of the “Announcement of Public Interests” during the hours of the broadcast of horse races. The Administration will also discuss with HKJC and relevant television station the practical and appropriate ways to convey the relevant warnings and information during the hours of broadcast of horse races.

Agreement between the Collector and the conductor

- Q6. Clause 15 of the Bill proposes to add section 6GH, where section 6GH(3) provides that the Collector may agree with the conductor to change the respective dates on which the charging period is to begin and to come to an end. Please clarify whether there is a need to limit the scope of their agreement.
- A6. The new section 6GH provides that a charging period is from 1 April to the following 31 March. A conductor may request to close its accounts and have its financial year end on a different date for commercial reasons. The Collector is given the authority to agree to a change of the charging period dates, as long as the change is fair and reasonable, and complies with the requirements of section 6GH(4).

Provisional payments

- Q7. Clause 15 of the Bill proposes to add section 6GI which requires a horse race betting conductor to make a provisional payment within 15 days after each reporting day in a charging period. Meanwhile, under section 6GM, if a horse race betting conductor fails to pay an amount specified in a notice of assessment, notice of additional assessment or notice of payment given under section 6GO(4) before the deadline, the Collector may demand the horse race betting conductor to pay a surcharge and a further surcharge. Please clarify whether the Collector may demand a horse race betting conductor to pay a surcharge and a further surcharge if the horse race betting conductor fails to make a provisional payment under section 6GI. If the Collector cannot demand the horse race betting conductor to pay a surcharge and a further surcharge under section 6GM, but may only recover the unpaid amount as a civil debt under section 6GJ(3), whether the interest incurred will be calculated from the date on which payment falls into arrears, or from any other date?
- A7. The surcharges under section 6GM are applicable to duty assessed as set out in that section and not on provisional payments which are not yet the finalized amount of betting duty chargeable. If the conductor does not make full provisional payments under section 6GI, the Government may recover the unpaid amount as a civil debt under section 6GJ(3). For example, according to section 50 of the District Court Ordinance (Cap. 336), judgment debts are to carry interest on the total amount of the judgment debt from the date of judgment until payment.

Surcharges

- Q8. Clause 15 of the Bill proposes to add section 6GM, where sections 6GM(2) and (3) provide that the surcharge and the further surcharge shall not exceed 5% and 10% of the amount in

question respectively. As “shall not exceed” means that the Collector has discretionary power, please spell out the criteria for the Collector to exercise his discretionary power.

- A8. The requirement is in line with the existing policy as specified under section 71(5) and (5A) of the Inland Revenue Ordinance (Cap. 112) in which the Commissioner of Inland Revenue may in his discretion order the imposition of 5% and 10% surcharge on the default of payment of taxes. Only in exceptional circumstances will the surcharge levied be reduced. Such circumstances include the case where the Collector is satisfied that the delay in payment is not due to the fault of the conductor and the case where the duty payer faces extreme hardship but shows sincerity in settlement of the unpaid duty.

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