

BETTING DUTY (AMENDMENT)
BILL 2006

00 1

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs
as at 8 June 2006

IA. Interpretation

↑ In this Ordinance, unless the context otherwise requires—
“authorized betting activity” (獲批准投注活動) means the betting activity that is
authorized under section 2, 3, 6I or 6X;

↑ (1)

▽ 6GB

△>

▽ “first horse race betting conductor” (首名賽馬投注舉辦商) means the
company that—

- (a) has been issued with the first horse race betting licence;
and
- (b) is, for the time being, authorized under section 6GB to
conduct betting on horse races, whether by virtue of
that licence or another licence;

“first horse race betting licence” (首個賽馬投注牌照) means the first
licence issued under section 6GB after the commencement of
that section;

“guarantee period” (保證期) means—

- (a) the period—
 - (i) which begins on the day on which the first horse
race betting licence comes into force;
 - (ii) the length of which is 3 years; and
 - (iii) during which the first horse race betting conductor
is authorized under section 6GB to conduct
betting on horse races; or
- (b) a series of successive periods (whether with or without
interruption)—
 - (i) the first of which begins on the day on which the
first horse race betting licence comes into force;
 - (ii) the aggregate length of which is 3 years; and
 - (iii) during which the first horse race betting conductor
is authorized under section 6GB to conduct
betting on horse races;

△

“director” () includes any person occupying
the position of director by whatever name
called;

BETTING DUTY (AMENDMENT)

BILL 2006

00 2

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

as at 8 June 2006

"guaranteed amount" (保證款額) means, in relation to a wholly or partially relevant charging period, the guaranteed amount for that charging period as calculated under section 6GG;

"horse race betting conductor" (賽馬投注舉辦商) means a company that is authorized under section 6GB to conduct betting on horse races;

"partially relevant charging period" (局部有關課稅期) means, in relation to a horse race betting conductor, a charging period, part of which falls within the guarantee period;

"race meeting" (賽事) means a meeting held by the first horse race betting conductor in Hong Kong in which horse races, on which authorized betting may be conducted, are held;

"related person" (有關連人士) means, in relation to the first horse race betting conductor—

- (a) subject to subsection (2), a person who directly or indirectly controls, or is directly or indirectly controlled by, the conductor;
- (b) subject to subsection (2), a person who directly or indirectly controls, or is directly or indirectly controlled by, a person specified in paragraph (a); or
- (c) a company any of the directors of which is also a director of the conductor;

"relevant cancelled race meeting" (有關的已取消賽事) means, in relation to a wholly or partially relevant charging period, a race meeting that—

- (a) was scheduled for—
 - (i) the wholly relevant charging period; or
 - (ii) the part of the partially relevant charging period that falls within the guarantee period; and

(b) was cancelled because the first horse race betting conductor was prevented from holding [↑]all the horse races to be held in the meeting by—

- (i) a war, a declaration of war, an embargo, a riot, an act of or order by a government authority, a civil commotion, an insurrection, an Act of God, a quarantine problem, an equine disease, or a fire, that is not caused, or contributed to, by the conductor, or its related persons, employee or agent; or
- (ii) any other event that—
 - (A) is not caused, or contributed to, by the conductor, or its related persons, employee or agent; and
 - (B) the conductor reasonably believes would prejudice the public safety or the safety of any person or horse taking part in [↓]these horse races;

↑ each of

↓ the horse race

BETTING DUTY (AMENDMENT)

BILL 2006 00 3

COMMITTEE STAGE
Amendments to be moved by the Secretary for Home Affairs
as at 8 June 2006

"relevant day" (有關日子) means, in relation to a wholly or partially relevant charging period, a day (excluding 29 February) in that charging period that falls within the guarantee period;

"Secretary" (局長) means the Secretary for Home Affairs;

"shortfall of race meetings" (賽事落差) means, in relation to a wholly or partially relevant charging period, the number by which the number of race meetings held in the wholly relevant charging period, or the part of the partially relevant charging period that falls within the guarantee period, is less than a number calculated by using the following mathematical formula—

$$78 \times \frac{\text{number of relevant days in that charging period}}{365};$$

"specified place" (指明地方) means a place outside Hong Kong specified in column 1 of Part 2 of Schedule 2;

"wholly relevant charging period" (完全有關課稅期) means, in relation to a horse race betting conductor, a charging period, the whole of which falls within the guarantee period.

BETTING DUTY (AMENDMENT)

BILL 2006

00 4

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

as at 8 June 2006

6B. Interpretation of Part 3

(1) In this Part—

“associate” (相聯者) means, in relation to a person—

- (a) the wife, husband or a minor child (including a minor step-child) of that person;
- (b) a body corporate of which that person is a director;
- (c) an employee or partner of that person; or
- (d) if that person is a body corporate—
 - (i) a director of that body corporate;
 - (ii) a subsidiary of that body corporate; or
 - (iii) a director or employee of any such subsidiary;

“controller” (控制人) means, in relation to a company, a person who, alone or with any associate or through a nominee, is entitled to exercise, or control the exercise of, 15% or more of the voting power at any general meeting of the company, or a body corporate of which the company is a subsidiary;

“director” (董事) includes any person occupying the position of director by whatever name called;

“financial penalty” (罰款) means a financial penalty imposed under section 6ZE;

“juvenile” (未成年人士) means a person under the age of 18 years;

“principal officer” (主要人員) means, in relation to a company, a person employed by the company who—

- (a) either alone or with any person, is responsible under the immediate authority of the directors of the company for the conduct of the business of the company; or
- (b) under the immediate authority of a director of the company or a person employed by the company, exercises managerial functions in respect of the company;

“Secretary” (局長) means the Secretary for Home Affairs;

“subsidiary” (附屬公司) has the same meaning as in the Companies Ordinance (Cap. 32).

(2) A reference in this Part to a condition of a licence shall be a reference to a condition subject to which the licence is issued, or to continue in force.

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“associate” (相聯者) means, in relation to a person—

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- (c) an employee or partner of that person; or
- (d) if that person is a body corporate—
 - (i) a director of that body corporate;
 - (ii) a subsidiary of that body corporate; or
 - (iii) a director or employee of any such subsidiary;

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“director” (董事) includes any person occupying the position of director by whatever name called;

“financial penalty” (罰款) means a financial penalty imposed under section 6ZE;

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|| “Secretary” (局長) means the Secretary for Home Affairs;

|| “subsidiary” (附屬公司) has the same meaning as in the Companies Ordinance (Cap. 32).

|| > (2) A reference in this Part to a condition of a licence shall be a reference to a condition subject to which the licence is issued, or to continue in force.

△ “fixed odds betting” (固定賠率投注) means betting on the terms that any dividend payable on a bet is fixed at the time when the bet is placed;

“pari-mutuel betting” (彩池投注) means betting on the terms that any dividend payable on a bet depends on the respective shares of all winning bettors in the total amount of dividends available;

| “director” (董事) includes any person occupying the position of director by
| ~~whatever name called;~~

BETTING DUTY (AMENDMENT)

BILL 2006 00 5

COMMITTEE STAGE
Amendments to be moved by the Secretary for Home Affairs

as at 8 June 2006

6GB. Authorization of betting on horse races

(1) Subject to subsection (2), the Secretary may, by issuing a licence to a company, authorize the company to conduct fixed odds betting or pari-mutuel betting on the results of, or contingencies relating to, horse races.

(2) The Secretary shall not issue the licence to a company unless the Secretary is satisfied that the company, and all the directors, principal officers and controllers of the company, are fit and proper persons for the purpose of this section.

(3) The term for which the licence is issued shall be specified in the licence.

(4) Issuance of the licence to a company is subject to the conditions that the company—

- (a) shall not accept, or authorize any person to accept, bets from juveniles;
- (b) shall not accept bets in any premises to which juveniles are permitted to have access;
- (c) shall not pay dividends or rebates on bets to juveniles;
- (d) shall not, subject to subsection (6), advertise the conduct of betting on horse races on television or ~~radio between the hours of 4:30 p.m. and 10:30 p.m. on any day;~~
- (e) shall not, in conducting any advertising or promotional activity—
 - (i) target juveniles;
 - (ii) exaggerate the likelihood of winning; or
 - (iii) expressly or impliedly suggest that betting on horse races is a source of income or a viable way to overcome financial difficulties;
- (f) shall not accept bets on credit, or accept credit cards as a means of payment for placing bets; and
- (g) shall conspicuously display and keep displayed notices that comply with subsection (7)—
 - (i) in any premises where the company accepts bets; and
 - (ii) on any web site through which the company accepts bets.

(5) Issuance of the licence is also subject to such conditions as the Secretary may think fit to impose, including but not limited to conditions relating to—

- (a) the categories and dates of races on which betting may be conducted;
- (b) the manner and form in which bets may be accepted;
- (c) the keeping of premises for accepting bets, the number of such premises and the persons who may have access to such premises; and
- (d) the provision of information to the Secretary.

(6) For the purpose of subsection (4)(d), the company is not taken as advertising the conduct of betting on horse races on television or ~~radio if that company broadcasts, or authorizes to be broadcast, on television or radio any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency relating to any horse race on which authorized betting may be conducted.~~

- (7) Any notice referred to in subsection (4)(g) shall—
- (a) contain a warning of the seriousness of the problems caused by excessive gambling; and
 - (b) provide information on the services and facilities available in Hong Kong to problem gamblers and pathological gamblers.

- ↑ radio -
- (i) between the hours of 9:30 a.m. and 10:30 p.m. on any Saturday or Sunday;
 - or
 - (ii) between the hours of 4:30 p.m. and 10:30 p.m. on any other day;

- ↓ radio between the hours specified in that provision if that company -
- (a) broadcasts, between those hours, on television or radio any forecast, hint, odds or tip relating to guessing or foretelling the result of, or contingency relating to, any horse race on which authorized betting may be conducted; or
 - (b) authorizes such forecast, hint, odds or tip to be broadcast, between those hours, on television or radio.

BETTING DUTY (AMENDMENT)

BILL 2006 00 6

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

as at 8 June 2006

6GF. Calculation of net stake receipts

(1) The net stake receipts that are derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of a charging period are calculated by using the following mathematical formula—

$$Q - Y + (L + M - N)$$

where—

- Q represents the total amount of bets that—
 - (a) are accepted in relation to the conduct of authorized betting on horse races by the conductor; and
 - (b) are relevant to that charging period;
 - Y represents the total amount of dividends and of rebates on bets that have, within that charging period, become payable by the conductor;
 - L represents the total amount of dividends that—
 - (a) are payable by the conductor; and
 - (b) have, within that charging period, become unclaimed dividends;
 - M represents the total amount of rebates on bets that—
 - (a) are payable by the conductor; and
 - (b) have, within that charging period, become unclaimed rebates on bets;
 - N represents the total amount of unclaimed dividends and of unclaimed rebates on bets that are subsequently paid, within that charging period, by the conductor.
- (2) For the purpose of this section, if—
- (a) a horse race betting conductor's licence is revoked or otherwise terminated; and
 - (b) after the termination, the company to which the licence was issued becomes liable to pay a dividend or a rebate on a bet that was accepted before the termination,
- the dividend or rebate is taken to have become payable within the last charging period.
- (3) For the purpose of this section—
- (a) if a dividend or a rebate on a bet is not paid within 60 days after the day on which the dividend or rebate becomes payable, the dividend or rebate becomes an unclaimed dividend or rebate at the end of the 60 days;
 - (b) if a dividend or a rebate on a bet becomes an unclaimed dividend or rebate after the last charging period, the dividend or rebate is taken to have become an unclaimed dividend or rebate within the last charging period; and
 - (c) if, after the last charging period, an unclaimed dividend or rebate on a bet is subsequently paid, the unclaimed dividend or rebate is taken to have been paid within the last charging period.

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(1) The net stake receipts that are derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of a charging period are calculated by using the following mathematical formula—

$$Q - Y + (L + M - N)$$

where—

- Q represents the total amount of bets that—
 - (a) are accepted in relation to the conduct of authorized betting on horse races by the conductor; and
 - (b) are relevant to that charging period;
 - Y represents the total amount of dividends and of rebates on bets that have, within that charging period, become payable by the conductor;
 - ~~L represents the total amount of dividends that—~~
 - ~~(a) are payable by the conductor; and~~
 - ~~(b) have, within that charging period, become unclaimed dividends;~~
 - M represents the total amount of rebates on bets that—
 - (a) are payable by the conductor; and
 - (b) have, within that charging period, become unclaimed rebates on bets;
 - N represents the total amount of unclaimed dividends and of unclaimed rebates on bets that are subsequently paid, within that charging period, by the conductor.
- (2) For the purpose of this section, if—
- (a) a horse race betting conductor's licence is revoked or otherwise terminated; and
 - (b) after the termination, the company to which the licence was issued becomes liable to pay a dividend or a rebate on a bet that was accepted before the termination,
- the dividend or rebate is taken to have become payable within the last charging period.
- ~~(3) For the purpose of this section—~~
- ~~(a) if a dividend or a rebate on a bet is not paid within 60 days after the day on which the dividend or rebate becomes payable, the dividend or rebate becomes an unclaimed dividend or rebate at the end of the 60 days;~~
 - ~~(b) if a dividend or a rebate on a bet becomes an unclaimed dividend or rebate after the last charging period, the dividend or rebate is taken to have become an unclaimed dividend or rebate within the last charging period; and~~
 - ~~(c) if, after the last charging period, an unclaimed dividend or rebate on a bet is subsequently paid, the unclaimed dividend or rebate is taken to have been paid within the last charging period.~~

BETTING DUTY (AMENDMENT)

BILL 2006 00 7

COMMITTEE STAGE
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as at 8 June 2006

6GO. Provisions relating to holding over

- (1) This section applies if—
 - (a) a notice of assessment or notice of additional assessment, as the case may be, specifies that a horse race betting conductor shall pay an amount on or before a date; and
 - (b) the Collector has ordered under section ~~50(7)(b)~~ that payment of the whole or part of the amount be held over pending the final determination of an appeal made by the conductor.
- (2) If the conductor withdraws the appeal, the conductor shall pay the Collector—
 - (a) the amount that was held over; and
 - (b) interest on the amount that was held over, calculated at the specified rate from the date referred to in subsection (1)(a) to the date on which the appeal is withdrawn.
- (3) If, according to the final determination of the appeal, the amount that is payable by the conductor under the assessment concerned exceeds the amount that was not held over, the conductor shall pay the Collector—
 - (a) the difference between the 2 amounts; and
 - (b) interest on so much of the amount that is held over and becomes payable as a result of the final determination, calculated at the specified rate from the date referred to in subsection (1)(a) to the date on which the appeal is finally determined.
- (4) Where an amount is payable by the conductor under subsection (2) or (3)—
 - (a) the Collector shall give the conductor a notice of payment in writing, specifying—
 - (i) the total amount that is payable; and
 - (ii) the manner in which and the date on or before which the amount shall be paid; and
 - (b) the conductor shall pay the amount in accordance with the notice given under paragraph (a).
- (5) The Government may recover any interest payable under this section as a civil debt.
- (6) In this section, "specified rate" (指明利率) means the rate determined by the Chief Justice by order under section 50(1)(b) of the District Court Ordinance (Cap. 336).

↑ GGN (B) (b)

BETTING DUTY (AMENDMENT)**BILL 2006 00 8**

COMMITTEE STAGE

Amendments to be moved by the Secretary for Home Affairs

as at 8 June 2006

6GP. Remission of further horse race betting duty

(1) This section applies if, according to an assessment under this Division in relation to a wholly or partially relevant charging period—

- (a) a further horse race betting duty is payable by the first horse race betting conductor for that charging period;
- (b) there is a shortfall of race meetings for that charging period;
- (c) the number of relevant cancelled race meetings in that charging period is less than the shortfall of race meetings for that charging period; and
- (d) a race meeting that—
 - (i) was scheduled for—
 - (A) the wholly relevant charging period; or
 - (B) the part of the partially relevant charging period that falls within the guarantee period; and
 - (ii) was cancelled,

is not a relevant cancelled race meeting.

(2) If the Financial Secretary is satisfied that a race meeting referred to in subsection (1)(d) was cancelled because the first horse race betting conductor was prevented from holding all the horse races to be held in the meeting by an event that was beyond the conductor's reasonable control, the Financial Secretary may, for each race meeting so cancelled, remit the further horse race betting duty payable, or refund the further horse race betting duty paid, for that charging period in the sum of \$100,000,000.

(3) The total number of race meetings for which the further horse race betting duty payable or paid for a wholly or partially relevant charging period may be remitted or refunded under subsection (2) is required not to exceed the difference between the number of relevant cancelled race meetings in that charging period and the shortfall of race meetings for that charging period.

(4) The total amount of further horse racing betting duty payable or paid for a wholly or partially relevant charging period that may be remitted or refunded under subsection (2) is required not to exceed the amount of further horse race betting duty payable by the first horse race betting conductor for that charging period.

(5) If the Financial Secretary has remitted or refunded under subsection (2) the further horse race betting duty payable or paid for a wholly or partially relevant charging period, the amount of further horse race betting duty payable for that charging period under an assessment under section 6GK or an additional assessment under section 6GL, or as specified in a notice of assessment or a notice of additional assessment, is taken to have been reduced by the amount so remitted or refunded as if the guaranteed amount for that charging period for the purpose of the calculation of that amount of further horse race betting duty were, despite section 6GG, so reduced.

(6) The Financial Secretary's decision under subsection (2) relating to the remission or refund of the further horse race betting duty payable or paid for a wholly or partially relevant charging period does not, by virtue of subsection (5), become part of an assessment under section 6GK, or an additional assessment under section 6GL, in relation to that charging period.

(7) In this section, "further horse race betting duty" (加收賽馬博彩稅) means the duty charged under section 6GE.

(8) In subsection (1), a reference to an assessment under this Division includes in the case where an appeal against the assessment has been made under section 6GN, a reference to the assessment subject to the variations or orders, or both, made by a court on the appeal.

↑ each of