

BETTING DUTY (AMENDMENT) BILL 2006**CONTENTS**

Clause	Page
1. Short title and commencement	C467
2. Long title amended	C467
3. Interpretation	C467
4. Part heading amended (Part 2)	C475
5. Authorization of club cash-sweeps on horse and pony races	C475
6. Authorization of totalizator or pari-mutuel betting on horse or pony races	C475
7. Allocation of chances in cash-sweeps	C475
8. Restriction on sale of tickets	C475
9. Duty in relation to cash-sweeps and betting on horse or pony races	C477
10. Part heading amended (Part 3)	C477
11. Interpretation of Part 3	C477
12. Division heading amended (Division 2 of Part 3)	C477
13. Establishment and composition	C477
14. Function	C477
15. Division 2A of Part 3 added	

Division 2A—Betting on horse races

6GA. Interpretation of Division 2A	C479
6GB. Authorization of betting on horse races	C481
6GC. Designation of qualified bets	C483
6GD. Horse race betting duty	C483
6GE. Further horse race betting duty	C487
6GF. Calculation of net stake receipts	C491
6GG. Calculation of guaranteed amount	C493

Clause	Page
6GH. Definition of “charging period”	C493
6GI. Provisional payments	C495
6GJ. Demand for provisional payment	C501
6GK. Assessment of net stake receipts and horse race betting duty	C501
6GL. Additional assessment	C503
6GM. Surcharges	C503
6GN. Appeal against assessment and holding over of duty	C505
6GO. Provisions relating to holding over	C507
6GP. Remission of further horse race betting duty	C509
6GQ. Restrictions relating to horse race betting tickets	C511
16. Authorization of betting on football matches	C511
17. Interpretation of Division 5	C513
18. Revocation of licences	C513
19. Section added	
6ZO. Powers of Collector to correct errors and refund overpaid duty	C513
20. Regulations and forms	C515
21. Schedules 1 and 2 added	
Schedule 1 Rate of duty on net stake receipts	C515
Schedule 2 Discount rate	C515
22. Savings	C517
23. Consequential amendments	C517
Schedule Consequential amendments	C517

A BILL

To

Amend the Betting Duty Ordinance to empower the Secretary for Home Affairs to authorize cash-sweeps and betting on horse races; to change the name of “Football Betting and Lotteries Commission” to “Betting and Lotteries Commission” and to extend the function of the Commission to matters relating to the conduct of betting on horse races; to charge, in relation to authorized betting on horse races, a duty on the net stake receipts derived from the conduct of such betting; to empower the Collector of Stamp Revenue to correct an assessment of betting duty charged in relation to authorized betting on horse races and football matches; and to provide for related matters.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Betting Duty (Amendment) Ordinance 2006.

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

2. Long title amended

(1) The long title to the Betting Duty Ordinance (Cap. 108) is amended by repealing “or pony”.

(2) The long title is amended by repealing “Football”.

3. Interpretation

(1) Section 1A is amended by renumbering it as section 1A(1).

(2) Section 1A(1) is amended, in the definition of “authorized betting activity”, by repealing “3” and substituting “6GB”.

(3) Section 1A(1) is amended by repealing the definition of “charging period” and substituting—

““charging period” (課稅期) means—

- (a) in relation to a horse race betting conductor, a charging period as defined under section 6GH;
- (b) in relation to a football betting conductor, a charging period as defined under section 6M;”.

(4) Section 1A(1) is amended by repealing the definition of “net stake receipts” and substituting—

““net stake receipts” (淨投注金收入) means—

- (a) in relation to the conduct of authorized betting on horse races by a horse race betting conductor, the net stake receipts as calculated under section 6GF;
- (b) in relation to the conduct of authorized betting on football matches by a football betting conductor, the net stake receipts as calculated under section 6K and adjusted under section 6L;”.

(5) Section 1A(1) is amended, in the definition of “specified form”, by repealing the full stop and substituting a semicolon.

(6) Section 1A(1) is amended by adding—

““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;

“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 those horse races;

“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.”.

- (7) Section 1A is amended by adding—

“(2) For the purpose of paragraphs (a) and (b) of the definition of “related person”, a person controls another person if he has power to secure that the affairs of that other person are conducted in accordance with his wishes—

- (a) by means of the holding of shares or interests or the possession of voting power in or in relation to that or any other person;
- (b) by virtue of powers conferred by any constitution, memorandum or articles of association, partnership, agreement or arrangement (whether legally enforceable or not) affecting that or any other person; or
- (c) by virtue of holding office as a director in that or any other person.”.

4. Part heading amended (Part 2)

The heading of Part 2 is amended by repealing “AND BETTING ON HORSE OR PONY RACES” and substituting “ON HORSE RACES”.

5. Authorization of club cash-sweeps on horse and pony races

(1) The heading of section 2 is amended, in the English text, by repealing “and pony”.

(2) Section 2 is amended by repealing “Chief Secretary for Administration” and substituting “Secretary”.

(3) Section 2 is amended by repealing “or pony”.

6. Authorization of totalizator or pari-mutuel betting on horse or pony races

Section 3 is repealed.

7. Allocation of chances in cash-sweeps

(1) Section 4(1) is amended by repealing “Chief Secretary for Administration” where it twice appears and substituting “Secretary”.

(2) Section 4(2) is amended by repealing “Chief Secretary for Administration” where it twice appears and substituting “Secretary”.

8. Restriction on sale of tickets

(1) Section 5(1) is amended by repealing “, totalizator or pari-mutuel”.

(2) Section 5(1) is amended by repealing “Chief Secretary for Administration” and substituting “Secretary”.

9. Duty in relation to cash-sweeps and betting on horse or pony races

(1) The heading of section 6 is amended by repealing “**and betting on horse or pony races**”.

(2) Section 6(1) is repealed.

(3) Section 6(3) is amended by repealing “subsections (1) and (2)” and substituting “subsection (2)”.

(4) Section 6(5) is repealed.

10. Part heading amended (Part 3)

The heading of Part 3 is amended by adding “HORSE RACES AND” before “FOOTBALL”.

11. Interpretation of Part 3

(1) Section 6B(1) is amended by repealing the definition of “Secretary”.

(2) Section 6B(1) is amended by adding—

““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;”.

12. Division heading amended (Division 2 of Part 3)

The heading of Division 2 of Part 3 is amended by repealing “**Football**”.

13. Establishment and composition

(1) Section 6D(1) is amended by repealing “Football”.

(2) Section 6D(1) is amended by repealing “足球”.

14. Function

Section 6E(1)(a) is amended by adding “horse races and” before “football”.

15. Division 2A of Part 3 added

The following is added immediately after section 6G—

“Division 2A—Betting on horse races**6GA. Interpretation of Division 2A**

- (1) In this Division—
- “authorized person” (獲授權人) means, in relation to a horse race betting conductor, a person authorized by the conductor to accept bets at a place outside Hong Kong;
- “horse race betting duty” (賽馬博彩稅) means the duty charged under section 6GD or 6GE;
- “last charging period” (最後課稅期) means, in relation to a horse race betting conductor, the charging period that comes to an end when the conductor’s licence is terminated;
- “non-qualified bets” (非合資格投注) means bets that are not qualified bets;
- “notice of additional assessment” (補加評估通知) means a notice of additional assessment given under section 6GL;
- “notice of assessment” (評估通知) means a notice of assessment given under section 6GK;
- “provisional payment” (暫繳付款) means—
- (a) the race provisional payment referred to in section 6GI(1)(a)(i) or (ii); or
 - (b) the further provisional payment referred to in section 6GI(3)(a)(i)(A) or (b)(i)(A);
- “qualified bets” (合資格投注) means bets that are designated under section 6GC as qualified bets for the purpose of this Division.
- (2) For the purpose of this Division, a bet is relevant to a charging period, if, within that charging period, the horse race betting conductor becomes—
- (a) entitled to forfeit the bet; or
 - (b) liable to pay a dividend on the bet.
- (3) For the purpose of this Division, 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—
 - (i) entitled to forfeit a bet that was accepted before the termination; or
 - (ii) liable to pay a dividend on such a bet,
- the bet is taken to be relevant to the last charging period.

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.

6GC. Designation of qualified bets

(1) 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.

(2) A designation made under subsection (1) does not apply to bets accepted before the date of designation.

- (3) If the Secretary makes a designation under subsection (1)—
- (a) it is a condition of the designation that if an authorized person of the conductor has accepted a bet on a result of, or contingency relating to, a horse race, the person shall as soon as possible place with the conductor a bet of the same amount on that result or contingency; and
 - (b) the Secretary may impose such other conditions as he may think fit .

6GD. Horse race betting duty

(1) Subject to subsection (2), a duty is charged, at the rate specified in Schedule 1, on 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 each charging period.

(2) For a charging period to which qualified bets accepted in relation to the conduct of authorized betting on horse races by the horse race betting conductor are relevant—

- (a) subsection (1) does not apply; and
- (b) the following provisions apply—
- (i) a duty, calculated by using the mathematical formula set out in subsection (3)(a), is charged in relation to qualified bets that are accepted at a place outside Hong Kong (other than a specified place);
 - (ii) a duty, calculated by using the mathematical formula set out in subsection (3)(b), is charged in relation to qualified bets that are accepted at each specified place; and
 - (iii) a duty, calculated by using the mathematical formula set out in subsection (3)(c), is charged in relation to non-qualified bets.
- (3) The mathematical formulae are—

$$(a) \left(P \times \frac{S}{Q} \right) - \left(K \times \frac{S}{Q} \times \begin{array}{l} \text{relevant} \\ \text{rate of} \\ \text{duty} \end{array} \times \begin{array}{l} \text{discount rate for a} \\ \text{place outside Hong} \\ \text{Kong (other than a} \\ \text{specified place)} \end{array} \right);$$

$$(b) \left(P \times \frac{T}{Q} \right) - \left(K \times \frac{T}{Q} \times \begin{array}{l} \text{relevant} \\ \text{rate of} \\ \text{duty} \end{array} \times \begin{array}{l} \text{discount rate} \\ \text{for the} \\ \text{specified place} \end{array} \right); \text{ and}$$

$$(c) P \times \left(\frac{Q - R}{Q} \right)$$

where—

- P represents the horse race betting duty that would, but for subsection (2)(a), have been charged under subsection (1) on the net stake receipts that are derived from the conduct of authorized betting on horse races by the horse race betting conductor in respect of the charging period;
- Q represents the total amount of bets that—
- (a) are accepted in relation to the conduct of authorized betting on horse races by the horse race betting conductor; and
 - (b) are relevant to the charging period;
- R represents the total amount of qualified bets that—
- (a) are accepted in relation to the conduct of authorized betting on horse races by the horse race betting conductor; and
 - (b) are relevant to the charging period;

- S represents the total amount of qualified bets that—
- (a) are accepted at a place outside Hong Kong (other than a specified place) in relation to the conduct of authorized betting on horse races by the horse race betting conductor; and
 - (b) are relevant to the charging period;
- T represents the total amount of qualified bets that—
- (a) are accepted at the specified place in relation to the conduct of authorized betting on horse races by the horse race betting conductor; and
 - (b) are relevant to the charging period;
- K represents the net stake receipts that are derived from the conduct of authorized betting on horse races by the horse race betting conductor in respect of the charging period.
- (4) The duty charged under subsection (1) or (2) shall be payable by the horse race betting conductor.
- (5) In this section—
- “discount rate” (折扣率) means—
- (a) in relation to a place outside Hong Kong (other than a specified place), the rate specified in Part 1 of Schedule 2; or
 - (b) in relation to a specified place, the rate specified in column 2 of Part 2 of Schedule 2 opposite the specified place;
- “relevant rate of duty” (有關稅率) means the rate of duty specified in item (a) of Schedule 1.
- (6) The Legislative Council may, by resolution, amend Schedule 1.
- (7) Subject to subsection (8), the Chief Executive in Council may, by order published in the Gazette, amend Schedule 2.
- (8) The rate specified in Part 1, or column 2 of Part 2, of Schedule 2 is required not to exceed 50%.

6GE. Further horse race betting duty

- (1) This section applies if—
- (a) the guaranteed amount for a wholly relevant charging period exceeds—
 - (i) the horse race betting duty charged under section 6GD(1) on the net stake receipts that are derived from the conduct of authorized betting on horse races by the first horse race betting conductor in respect of that charging period; or

- (ii) the horse race betting duty charged under section 6GD(2)(b)(iii) in relation to non-qualified bets that—
 - (A) are accepted in relation to the conduct of authorized betting on horse races by the first horse race betting conductor; and
 - (B) are relevant to that charging period; or
 - (b) the guaranteed amount for a partially relevant charging period exceeds—
 - (i) the relevant portion of the horse race betting duty charged under section 6GD(1) on the net stake receipts that are derived from the conduct of authorized betting on horse races by the first horse race betting conductor in respect of that charging period; or
 - (ii) the relevant portion of the horse race betting duty charged under section 6GD(2)(b)(iii) in relation to non-qualified bets that—
 - (A) are accepted in relation to the conduct of authorized betting on horse races by the first horse race betting conductor; and
 - (B) are relevant to that charging period.
- (2) There shall be charged—
 - (a) in the case of subsection (1)(a)(i) or (b)(i), on the net stake receipts, a duty, in addition to the duty charged under section 6GD(1) equal to the difference between the guaranteed amount and the duty so charged or the relevant portion of the duty so charged; or
 - (b) in the case of subsection (1)(a)(ii) or (b)(ii), in relation to the non-qualified bets, a duty, in addition to the duty charged under section 6GD(2)(b)(iii) equal to the difference between the guaranteed amount and the duty so charged or the relevant portion of the duty so charged.
- (3) The duty charged under subsection (2) shall be payable by the first horse race betting conductor.
- (4) In this section, “relevant portion” (有關份額) means, in relation to the duty charged under section 6GD(1) or (2)(b)(iii), such portion of that duty that bears the same ratio to that duty as the number of relevant days in the partially relevant charging period bears to the number of days (excluding 29 February) in that charging period.

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.

6GG. Calculation of guaranteed amount

(1) Subject to subsection (2), the guaranteed amount for a wholly or partially relevant charging period is calculated by using the following mathematical formula—

$$\$8,000,000,000 \times \frac{\text{number of relevant days in that charging period}}{365} .$$

(2) If there is a shortfall of race meetings for the wholly or partially relevant charging period, the guaranteed amount for that charging period is calculated by using the following mathematical formula—

$$\$8,000,000,000 \times \frac{\text{number of relevant days in that charging period}}{365} - (\$100,000,000 \times J)$$

where—

- J represents, subject to a maximum of the shortfall of race meetings for that charging period, the number of relevant cancelled race meetings in that charging period.

6GH. Definition of “charging period”

(1) Subject to any agreement made under subsection (3), “charging period” (課税期) means, in relation to a horse race betting conductor, a period within which the licence issued to the conductor is in force, being—

- (a) a period that begins with the day on which the licence comes into force and ends with—
 - (i) the next following 31 March; or
 - (ii) the date on which the licence is terminated, whichever is the earlier; or
- (b) any subsequent period that begins with 1 April and ends with—
 - (i) the next following 31 March; or

- (ii) the date on which the licence is terminated, whichever is the earlier.
- (2) For the purpose of subsection (1), if—
 - (a) before the licence is terminated, the conductor is issued with a new licence under section 6GB; and
 - (b) the term of the new licence is to start immediately after the termination of the original licence,that subsection applies as if the term of the new licence were an extended term of the original licence.
- (3) The Collector may agree with the conductor—
 - (a) in relation to a charging period that has begun but not come to an end, to change the date on which that charging period is to come to an end; or
 - (b) in relation to a charging period that has not begun, to change either or both of the following dates—
 - (i) the date on which that charging period is to begin;
 - (ii) the date on which that charging period is to come to an end.
- (4) An agreement made under subsection (3) has no effect if, according to the agreement—
 - (a) a day covered by a charging period is not covered by the term of the licence;
 - (b) a day covered by the term of the licence is not covered by any charging period; or
 - (c) a day covered by the term of the licence is covered by more than one charging period.

6GI. Provisional payments

- (1) A horse race betting conductor shall, within 15 days after each reporting day in a charging period—
 - (a) make—
 - (i) a race provisional payment for the horse race betting duty charged under section 6GD(1) or (2)(b)(iii), calculated by using the mathematical formula set out in subsection (2)(a); and
 - (ii) a race provisional payment for the horse race betting duty charged under section 6GD(2)(b)(i), and that charged under section 6GD(2)(b)(ii), calculated by using the mathematical formula set out in subsection (2)(b),to the Collector; and

- (b) in making such a payment, submit to the Collector a calculation sheet, in the specified form, showing how the amount being paid has been arrived at.
- (2) The mathematical formulae are—
- (a) $G - U$; and
- (b) $H - V$
- where—
- G represents the amount of horse race betting duty charged under section 6GD(1) or (2)(b)(iii) that the horse race betting conductor would be liable to pay for that charging period if the reporting day were the last day of that charging period;
- H represents the amount of horse race betting duty charged under section 6GD(2)(b)(i), and that charged under section 6GD(2)(b)(ii), that the horse race betting conductor would be liable to pay for that charging period if the reporting day were the last day of that charging period;
- U represents the total amount of race provisional payments referred to in subsection (1)(a)(i) that, immediately before the reporting day, the horse race betting conductor has made, or was already liable to make, for that charging period;
- V represents the total amount of race provisional payments referred to in subsection (1)(a)(ii) that, immediately before the reporting day, the horse race betting conductor has made, or was already liable to make, for that charging period.
- (3) The first horse race betting conductor shall also—
- (a) within 15 days after the last day of a wholly relevant charging period—
- (i) submit to the Collector a calculation sheet, in the specified form, showing—
- (A) whether a further provisional payment, calculated by using the mathematical formula set out in subsection (4)(a), is payable; and
- (B) if such a payment is payable, how the amount payable has been arrived at; and
- (ii) if such a payment is payable, make the payment to the Collector; and
- (b) within 15 days after the last day of a partially relevant charging period—
- (i) submit to the Collector a calculation sheet, in the specified form, showing—

- (A) whether a further provisional payment, calculated by using the mathematical formula set out in subsection (4)(b), is payable; and
 - (B) if such a payment is payable, how the amount payable has been arrived at; and
 - (ii) if such a payment is payable, make the payment to the Collector.
- (4) The mathematical formulae are—

$$(a) \quad \$8,000,000,000 \times \frac{\text{number of relevant days in that charging period}}{365} - W; \text{ and}$$

$$(b) \quad \$8,000,000,000 \times \frac{\text{number of relevant days in that charging period}}{365} - \text{relevant portion of } W$$

where—

W represents the total amount of race provisional payments referred to in subsection (1)(a)(i) that the horse race betting conductor has made, or is already liable to make, for that charging period.

(5) The Collector shall apply all provisional payments made by a horse race betting conductor for a charging period towards settlement of the horse race betting duty that is payable by the conductor for that charging period.

(6) A horse race betting conductor that, without reasonable excuse, contravenes this section commits an offence and is liable to a fine at level 3.

(7) In this section—
 “relevant portion” (有關份額) means, in relation to the total amount of race provisional payments for a partially relevant charging period, such portion of that amount that bears the same ratio to that amount as the number of relevant days in that charging period bears to the number of days (excluding 29 February) in that charging period;
 “reporting day” (申報日) means any day on which the horse race betting conductor becomes—

- (a) entitled to forfeit a bet on a horse race on which the conductor may conduct authorized betting; or
- (b) liable to pay a dividend on the bet.

6GJ. Demand for provisional payment

(1) If a horse race betting conductor has not made a provisional payment in full, the Collector may, by notice in writing given to the conductor, demand payment of the unpaid amount.

(2) The notice shall specify the manner in which and the date on or before which the amount shall be paid.

(3) If the conductor fails to make payment in accordance with the notice, the Government may recover the unpaid amount as a civil debt.

6GK. Assessment of net stake receipts and horse race betting duty

(1) As soon as practicable after the end of a charging period, the Collector shall assess—

- (a) the net stake receipts that were derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of that charging period; and
- (b) the horse race betting duty that is payable by the conductor for that charging period.

(2) The assessment may only be made within 6 years after the end of that charging period.

(3) If, based on the assessment—

- (a) the horse race betting duty payable exceeds the provisional payments that have been made for the charging period, the conductor shall pay the difference to the Collector in accordance with the notice of assessment; or
- (b) the provisional payments that have been so made exceed the horse race betting duty payable, the Collector shall refund the difference to the conductor.

(4) As soon as practicable after making the assessment, the Collector shall give the conductor a notice of assessment in writing, specifying—

- (a) the amount of net stake receipts as assessed;
- (b) the amount of horse race betting duty that is payable;
- (c) the total amount of provisional payments that have been made;
- (d) if subsection (3)(a) applies, the amount that the conductor shall pay, and the manner in which and the date on or before which the amount shall be paid; and
- (e) if subsection (3)(b) applies, the amount that the Collector shall refund.

6GL. Additional assessment

(1) This section applies if, despite having given a notice of assessment to a horse race betting conductor in relation to a charging period, the Collector reasonably believes that—

- (a) the net stake receipts that were derived from the conduct of authorized betting on horse races by the conductor in respect of that charging period exceed the amount of net stake receipts as specified in the notice; or
- (b) the horse race betting duty that is payable by the conductor for that charging period exceeds the amount of horse race betting duty as specified in the notice.

(2) The Collector shall, in the case of subsection (1)(a), make an additional assessment of—

- (a) the net stake receipts that were derived in respect of that charging period; and
- (b) the horse race betting duty that is payable for that charging period.

(3) The Collector shall, in the case of subsection (1)(b), make an additional assessment of the horse race betting duty that is payable by the conductor for that charging period.

(4) The additional assessment may only be made within 6 years after the end of that charging period.

(5) As soon as practicable after making the additional assessment, the Collector shall give the conductor a notice of additional assessment in writing, specifying—

- (a) if applicable, the amount of net stake receipts as additionally assessed; and
- (b) the amount of additional horse race betting duty that is payable by the conductor, and the manner in which and the date on or before which the amount shall be paid.

(6) The conductor shall make payment to the Collector in accordance with the notice of additional assessment.

6GM. Surcharges

(1) If a notice of assessment, notice of additional assessment or notice of payment given under section 6GO(4) specifies that a horse race betting conductor shall pay an amount on or before a date, the Collector may, by notice in writing given to the conductor, demand the conductor to pay—

- (a) a surcharge if that amount is not fully paid on or before that date; and

- (b) a further surcharge if that amount is not fully paid at the end of 6 months after that date.
- (2) The surcharge shall not exceed 5% of the unpaid part of the amount referred to in subsection (1).
- (3) The further surcharge shall not exceed 10% of the total of—
 - (a) the unpaid part of the amount referred to in subsection (1); and
 - (b) if the surcharge is not fully paid at the end of the 6 months referred to in subsection (1)(b), the unpaid part of the surcharge.
- (4) The Government may recover any surcharge or further surcharge as a civil debt.

6GN. Appeal against assessment and holding over of duty

- (1) A horse race betting conductor that is dissatisfied with an assessment under section 6GK, or an additional assessment under section 6GL, may appeal against the assessment concerned to the District Court.
- (2) The appeal may only be made within 1 month after the date on which the notice of assessment or notice of additional assessment, as the case may be, is given.
- (3) The appeal shall be made by giving a notice of appeal in writing to the Registrar of the Court and the Collector.
- (4) As soon as practicable after receiving the notice of appeal, the Collector shall—
 - (a) state and sign a case, setting out—
 - (i) a summary of the facts that are relevant to the assessment concerned; and
 - (ii) how the assessment concerned has been made; and
 - (b) serve a copy of the case on the conductor, the Registrar and the Secretary for Justice.
- (5) The appeal may only be set down for hearing within 14 days after copies of the case have been served in accordance with subsection (4)(b).
- (6) The Court shall determine the appeal by rescinding, varying or confirming the assessment concerned, and may make such other orders as the Court thinks fit.
- (7) Subsection (6) does not authorize the Court to—
 - (a) rescind or vary the Secretary's decision under section 6GC relating to the designation of bets relevant to the charging period concerned as qualified bets; or
 - (b) make any order relating to such a decision.

- (8) If, according to the assessment concerned, an amount is payable by the conductor under section 6GK or 6GL, as the case may be—
- (a) the making of the appeal does not affect the conductor's obligation to pay the amount; and
 - (b) the Collector may, at the request of the conductor and subject to any condition that the Collector may impose, order that payment of the whole or part of the amount be held over pending the final determination of the appeal.

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 6GN(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).

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.

6GQ. Restrictions relating to horse race betting tickets

(1) A person shall not make, print, issue, sell or offer to sell a horse race betting ticket unless the person is—

- (a) a horse race betting conductor; or
- (b) so acting on behalf of a horse race betting conductor.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 5.

(3) In this section, "horse race betting ticket" (賽馬投注彩票) means a ticket that is used or to be used to—

- (a) record the placing of a bet with a horse race betting conductor; and
- (b) claim any dividend or rebate that is payable on the bet."

16. Authorization of betting on football matches

Section 6I(7) is repealed.

17. Interpretation of Division 5

Section 6ZA is amended, in the definition of “licence”, by adding “6GB,” after “section”.

18. Revocation of licences

Section 6ZF(2) is amended by adding “6GB,” after “section”.

19. Section added

The following is added—

“6ZO. Powers of Collector to correct errors and refund overpaid duty

(1) Within 6 years after the end of a charging period, a horse race betting conductor or football betting conductor may apply to the Collector for a correction of an assessment made under Division 2A or 3 of Part 3 in respect of the charging period.

(2) Subject to subsection (3), after having received an application under subsection (1), the Collector shall correct the assessment if satisfied that the duty charged under that Division for the charging period is excessive by reason of—

- (a) an error or omission in a return or statement submitted in respect of the charging period; or
- (b) an arithmetical error or omission in the calculation of the amount of the net stake receipts or duty charged.

(3) If the return or statement—

- (a) was submitted in respect of an assessment; and
- (b) was in fact made on the basis of or in accordance with the practice generally prevailing at the time when the return or statement was made,

the Collector shall not correct the assessment in respect of an error or omission in the return or statement as to the basis on which the liability to duty ought to have been computed.

(4) If, after having made a correction under subsection (2), the Collector is satisfied that the conductor has paid duty in excess of the amount with which it was properly charged for the charging period, the Collector shall refund to the conductor the amount so paid in excess.

(5) This section does not operate—

- (a) to extend or reduce any time limit for appeal or repayment specified in this Ordinance; or
- (b) to validate any appeal which is invalid.

(6) If the Collector refuses an application under subsection (1)—

- (a) he shall give notice in writing to the horse race betting conductor or football betting conductor of the refusal; and
- (b) on the notice being given, the conductor has the same rights of appeal under section 6GN or 6S as if the notice of refusal were a notice of assessment.”.

20. Regulations and forms

(1) Section 7(1)(a) is amended by adding “, or the Collector,” after “regulations”.

(2) Section 7(1) is amended by adding—

“(aa) empowering the Collector to require persons who conduct authorized betting activities to provide to the Collector such information about the activities as the Collector may specify;”.

21. Schedules 1 and 2 added

The following are added—

“SCHEDULE 1 [s. 6GD]

RATE OF DUTY ON NET STAKE RECEIPTS

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	Rate of duty %
(a) On the first \$11,000,000,000 of the net stake receipts	72.5
(b) On the next \$1,000,000,000 of the net stake receipts	73
(c) On the next \$1,000,000,000 of the net stake receipts	73.5
(d) On the next \$1,000,000,000 of the net stake receipts	74
(e) On the next \$1,000,000,000 of the net stake receipts	74.5
(f) On the remainder	75

SCHEDULE 2 [ss. 1A & 6GD]

DISCOUNT RATE

PART 1

DISCOUNT RATE FOR A PLACE OUTSIDE HONG KONG
(OTHER THAN SPECIFIED PLACES)

50%

PART 2

DISCOUNT RATE FOR SPECIFIED PLACES

Specified place	Discount rate
1. Macau	40%”.

22. Savings

If, immediately before the repeal of section 3 of the Betting Duty Ordinance (Cap. 108) under section 6, any right or liability was vested in the Hong Kong Jockey Club with respect to a bet that was made on any totalizator or pari-mutuel conducted with a permission under that section 3, such right or liability continues to be so vested after that repeal.

23. Consequential amendments

The enactments specified in the Schedule are amended as set out in that Schedule.

SCHEDULE

[s. 23]

CONSEQUENTIAL AMENDMENTS

Specification of Public Offices**1. Schedule amended**

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg. C) is amended by repealing—

“Chief Secretary for Administration	Betting Duty Ordinance (Chapter 108).”.
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Employment Ordinance

2. Payment not to be made in certain places

Section 27(b) of the Employment Ordinance (Cap. 57) is amended by repealing “totalizator or pari mutuel betting is conducted or where cash-sweeps are organized as authorized” and substituting “cash-sweeps, fixed odds betting or pari-mutuel betting is organized or conducted with the permission or authorization”.

3. Remuneration other than wages

Section 28(2) is amended by repealing “totalizator or pari mutuel authorized” and substituting “fixed odds betting or pari-mutuel betting organized or conducted with the permission or authorization”.

Employment of Children Regulations

4. Prohibited occupations

The Schedule to the Employment of Children Regulations (Cap. 57 sub. leg. B) is amended, in paragraph 5(b), by repealing “totalizator” and substituting “fixed odds betting”.

Betting Duty Regulations

5. Interpretation

(1) Regulation 2 of the Betting Duty Regulations (Cap. 108 sub. leg. A) is amended, in the definition of “cash-sweep”, by repealing “Chief Secretary for Administration” and substituting “Secretary”.

(2) Regulation 2 is amended by repealing the definition of “totalizator” and “pari-mutuel”.

(3) Regulation 2 is amended, in the Chinese text, in the definition of “獎券活動”, by repealing the semicolon and substituting a full stop.

(4) Regulation 2 is amended by adding—

““qualified person” (合資格人士) means a person who is qualified for appointment as auditor of a company under the Professional Accountants Ordinance (Cap. 50) and is not disqualified under section 140 of the Companies Ordinance (Cap. 32).”.

6. Collection of betting duty in respect of cash-sweeps and betting on horse or pony races

(1) The heading of regulation 3 is amended by repealing “and betting on horse or pony” and substituting “on horse”.

(2) Regulation 3(1) is amended by repealing “, a totalizator or pari-mutuel betting on horse or pony races” and substituting “on horse races”.

(3) Regulation 3(1)(a) is repealed.

(4) Regulation 3(1)(b) is amended by repealing “sold;” and substituting “sold and the amount paid, contributed or subscribed on each of the tickets; and”.

(5) Regulation 3(1)(c) is amended by adding “and the amount paid, contributed or subscribed on each of the chances” after “race”.

(6) Regulation 3(2) is amended by repealing “and in the case of bets on any totalizator or pari-mutuel”.

(7) Regulation 3(4) is amended by repealing “bets or”.

(8) Regulation 3(4) is amended by repealing “betting or”.

7. Regulation added

The following is added immediately after regulation 3—

“3AA. Submission of returns in respect of betting on horse races

(1) A horse race betting conductor shall, within 3 months after the end of each charging period, submit to the Collector a return, in the specified form, setting out the net stake receipts that were derived from the conduct of authorized betting on horse races by the conductor in respect of that charging period.

(2) The return shall be accompanied by—

(a) a financial statement, in the specified form, that—

(i) shows how the net stake receipts set out in the return have been arrived at; and

(ii) is audited by a qualified person; and

(b) an audit report prepared by the qualified person.

(3) If the return sets out the net stake receipts in respect of a wholly or partially relevant charging period, it shall also be accompanied by—

(a) a financial statement, in the specified form, that—

(i) shows the guaranteed amount for that charging period; and

(ii) is audited by a qualified person;

- (b) a statement, in the specified form, that—
 - (i) shows—
 - (A) the shortfall of race meetings for that charging period; and
 - (B) the number of relevant cancelled race meetings for that charging period;
 - (ii) contains, for each of those relevant cancelled race meetings, such information as specified by the Collector for ascertaining whether the guaranteed amount shown in the financial statement has been correctly calculated; and
 - (iii) is audited by a qualified person; and
- (c) an audit report prepared by the qualified person.

(4) In an audit report referred to in subsection (2) or (3), the qualified person shall state whether, in the opinion of the qualified person and in relation to that charging period, the following statements are true—

- (a) the conductor has kept records in accordance with the Ordinance; and
- (b) the financial statement, and statement, have been prepared in accordance with those records and the Ordinance.

(5) If the guaranteed amount set out in a financial statement under subsection (3)(a) is calculated by using the mathematical formula set out in section 6GG(2) of the Ordinance, the horse race betting conductor shall, within the period specified by the Collector, supply to the Collector such further information as required by the Collector for ascertaining whether that guaranteed amount has been correctly calculated.

(6) A horse race betting conductor that, without reasonable excuse, contravenes this regulation commits an offence and is liable to a fine at level 3.”.

8. **Submission of returns in respect of betting on football matches**

Regulation 3A(5) is repealed.

Gambling Ordinance

9. Interpretation

Section 2 of the Gambling Ordinance (Cap. 148) is amended, in the definition of “racing club”, by repealing “bets on totalizators or pari-mutuels” and substituting “fixed odds betting or pari-mutuel betting”.

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

(1) Section 16E(2)(b) is amended by repealing “totalizator” and substituting “fixed odds betting”.

(2) Section 16E(2)(b) is amended by repealing “a permission given under section 3” and substituting “the authorization under section 6GB”.

Explanatory Memorandum

This Bill amends the Betting Duty Ordinance (Cap. 108). The main purposes are to—

- (a) empower the Secretary for Home Affairs (“Secretary”) to authorize cash-sweeps and betting on horse races;
- (b) change the name of “Football Betting and Lotteries Commission” to “Betting and Lotteries Commission” and extend the function of the Commission to matters relating to the conduct of betting on horse races;
- (c) charge, in relation to authorized betting on horse races, a duty on the net stake receipts derived from the conduct of such betting; and
- (d) empower the Collector of Stamp Revenue (“Collector”) to correct an assessment of betting duty charged in relation to authorized betting on horse races and football matches.

2. Clause 3 amends section 1A of the Ordinance. New definitions are added to define the terms used in the Ordinance as amended.

Amendment to Part 2 of the Ordinance

3. Clause 5 amends section 2 of the Ordinance to transfer from the Chief Secretary for Administration to the Secretary the authority to authorize the conduct of cash-sweeps on horse races. Clause 6 repeals section 3 of the Ordinance to remove the authority of the Chief Secretary for Administration to authorize the conduct of betting on horse races. After the amendment, Part 2 will contain provisions relating to cash-sweeps on horse races while the conduct of authorized betting on horse races will be provided for under new Division 2A of Part 3.

Amendment to Part 3 of the Ordinance

4. Clauses 13 and 14 amend sections 6D and 6E of the Ordinance—

- (a) to change the name of “Football Betting and Lotteries Commission” to “Betting and Lotteries Commission”; and
- (b) to extend the function of the Commission to matters relating to the conduct of betting on horse races.

5. Clause 15 adds a new Division 2A to Part 3 of the Ordinance. It provides for the conduct of authorized betting on horse races and the charging of betting duty in relation to such betting. In particular—

- (a) new section 6GA defines the terms used in that Division;
- (b) new section 6GB empowers the Secretary to authorize, by issuing licences, companies (“horse race betting conductor”) to conduct betting on horse races;
- (c) new section 6GC empowers the Secretary to designate as qualified bets for the purpose of that Division certain bets accepted outside Hong Kong;
- (d) new section 6GD provides that—
 - (i) a duty is charged on the net stake receipts derived from the conduct of authorized betting on horse races by a horse race betting conductor in respect of each charging period; or
 - (ii) if the conductor accepts qualified bets within a charging period—
 - (A) a duty, calculated on the basis of such net stake receipts and subject to a discount rate, is charged in relation to qualified bets; and
 - (B) a duty, calculated on the basis of such net stake receipts, is charged in relation to non-qualified bets;

- (e) new section 6GE provides that if, in respect of a charging period that falls within the guarantee period, the duty charged on such net stake receipts, or in relation to non-qualified bets, is less than the guaranteed amount, further duty is charged to make up the difference;
- (f) new sections 6GF and 6GG provide for the calculation of the net stake receipts and the guaranteed amount;
- (g) new section 6GI requires—
 - (i) a horse race betting conductor to make provisional payments within, and shortly after, a charging period; and
 - (ii) provisional payments to be applied towards settlement of the duty payable under new sections 6GD and 6GE (“horse race betting duty”);
- (h) new section 6GK requires the Collector to assess, at the end of a charging period—
 - (i) the net stake receipts derived in respect of that charging period; and
 - (ii) the horse race betting duty payable for that charging period;
- (i) new section 6GL requires the Collector to make additional assessments under certain circumstances;
- (j) new section 6GN provides that the Collector’s assessment, or additional assessment, is subject to appeal to the District Court; and
- (k) new section 6GP empowers the Financial Secretary to remit or refund, under certain circumstances, the horse race betting duty charged under new section 6GE.

6. Clauses 17 and 18 amend sections 6ZA and 6ZF of the Ordinance so that Division 5 of Part 3 applies to a licence to be issued under new section 6GB and a company that holds such a licence. That Division deals with—

- (a) the Secretary’s approval of amendment of such a company’s constitution;
- (b) the Secretary’s power to issue codes of practice regarding compliance with the conditions of such licences;
- (c) the Secretary’s power to vary the conditions of a licence, to impose financial penalties for failure to comply with a condition of a licence, and to revoke a licence; and
- (d) the right to appeal to the Appeal Board against the Secretary’s decisions under paragraph (c).

Amendment to Part 5 of the Ordinance

7. Clause 19 adds a new section 6ZO, which requires the Collector—
- (a) to correct, under certain circumstances, an assessment of betting duty charged in relation to authorized betting on horse races and football matches; and
 - (b) to refund, after the correction, any amount of betting duty paid in excess.

Other amendments

8. Clause 21 adds—
- (a) a new Schedule 1, which sets out the rate of duty on the net stake receipts; and
 - (b) a new Schedule 2, which sets out the discount rates applicable to the horse race betting duty in relation to qualified bets.
9. Clause 23 and the Schedule contain the consequential and related amendments to several pieces of legislation.