

LEGISLATIVE COUNCIL BRIEF

PROPOSED REFORMS TO THE DUTY SYSTEM FOR HORSE RACE BETTING

BETTING DUTY ORDINANCE (CAP. 108) BETTING DUTY (AMENDMENT) BILL 2006

INTRODUCTION

At the meeting of the Executive Council on 4 April 2006, the Council ADVISED and the Chief Executive ORDERED that -

- A
- (a) the Betting Duty (Amendment) Bill 2006, at Annex A, should be introduced into the Legislative Council (“LegCo”); and
 - (b) the regulatory system for horse race betting should be rationalized as set out in paragraph 15 below.

JUSTIFICATIONS

A. Background

2. Under the existing Betting Duty Ordinance (“the Ordinance”), the Hong Kong Jockey Club (“HKJC”) is the only authorized conductor to conduct betting on horse races in Hong Kong. At present, HKJC is conducting horse race betting on a pari-mutuel basis, with the dividends of each pool calculated after deducting the betting duty for the Government and the commission for HKJC from the total betting turnover. These deductions from the betting proceeds are also referred to as the “take-out”.

3. The existing take-out rate for “standard” bets (i.e. a win bet, a place bet, a quinella bet, a forecast bet or a quinella place bet – as defined in the Ordinance) is 17.5%, comprising betting duty at 12% and commission for HKJC at 5.5% on betting turnover. The take-out rate for any other bet types is 25%, comprising betting duty at 20% and commission for HKJC at 5% of

betting turnover. If bets are accepted at an overseas venue authorized by HKJC and approved by the Secretary for Home Affairs (“SHA”), the bets are subject to betting duty at half of the rate set out above. This duty concession was introduced in 1995 primarily as an incentive for overseas host governments so as to entice them to co-operate with HKJC in making arrangements for bets on HKJC’s horse races to be accepted outside Hong Kong.

4. The turnover on horse race betting conducted by HKJC has been declining steadily and significantly in recent racing years -from \$92.4 billion in 1996-97 to \$62.7 billion in 2004-05, representing a reduction of about 32%. The Government’s revenue from betting duty on horse race betting has correspondingly fallen from \$12.3 billion to \$8.4 billion. According to HKJC’s forecast, if no action is taken to tackle the decline, the betting turnover would decline further.

B. Need for Reforms

5. According to HKJC, while the decline in betting turnover has in part been a reflection of the prolonged economic downturn in recent years, it is largely due to structural reasons which have led to shrinking of the share of authorized horse race betting in the overall gambling market.

(a) Challenge from local illegal bookmakers and offshore bookmakers

6. HKJC’s assessment is that the major structural problem is the growing illegal gambling market based on Hong Kong’s horse races. This market is aided by lower operating cost and improved communications technology. As the illegal bookmakers do not need to run horse races and pay betting duty to the Government, they have an inherent advantage over HKJC as they are able to offer bettors more attractive odds, discounts on losing bets, short-term credit and other incentives. Illegal bookmakers are making their presence known through a series of marketing channels, including operating a network of service providers offering personalized services to patrons at different entertainment venues, publishing their odds in newspapers, publishing “racing tips” in newspapers and booklets, putting up websites (some imitating HKJC’s website) and direct mailing.

7. According to a survey commissioned by HKJC in January 2005, around 13% of horse racing bettors who bet on Hong Kong races have also

placed bets with illegal local or offshore bookmakers. The availability of credit betting is one of the major reasons why bettors are placing bets with illegal bookmakers, and about 60% of them received a discount of 8% to 10% on bets. The illegal local bookmakers are particularly attractive to those placing relatively larger bets.

8. Enforcement statistics from the Police indicate that illegal bookmaking activities on horse race betting in Hong Kong have been a long-standing problem. Recent enforcement statistics and experience indicate that an increasing number of illegal bookmakers have adopted new modes of operation, including taking bets through websites on the Internet and making use of intermediaries to recruit punters. They usually offer a variety of gambling activities round the clock, including notably horse race betting, football betting and fixed-odds games on HKJC's Mark Six numbers. The total amount of cash and betting slips seized from illegal bookmakers of horse racing and those offering both horse racing and football betting has risen from about \$9.4 million in 2001 to \$19.7 million in 2004.

9. Enforcement statistics should by no means be taken as the only indicator of the scale of illegal gambling activities. In many police raids, the betting slips seized are a mix of bets on football matches, horse racing and sometimes Mark Six numbers. It is difficult to determine from betting slips and bank deposits alone the actual amount of bets taken on a particular type of betting activity. Moreover, the amount seized by the Police in any particular raid is likely to reflect illegal bets taken on that day only and not illegal bets over the year. According to HKJC, illegal bookmakers on average offer betting on some 200 to 250 days in a year. The Police usually only manage to raid a proportion of all the illegal bookmakers successfully, as detection of such operations is difficult given the heavy use of advanced communications technology, especially mobile phones and the Internet, and the tendency for bookmakers to operate on a cross-border basis. Taking into account all the above factors, HKJC has made an assessment of the illegal betting market on the basis of a combination of internal intelligence, consultancy input, commissioned surveys and media reports. Their assessment is that the estimated size of the illegal market in horse race betting is about \$50 billion to \$60 billion per year.

10. According to HKJC, some bookmakers are making use of returns from illegal gambling on horse racing to cross-subsidize illegal gambling on

football betting and other betting activities, in order to ensure their overall attractiveness vis-à-vis authorized operators. There is hence a need to combat illegal bookmaking activities on horse race betting through diverting demand back into the authorized channel, so as to combat other illegal gambling activities more effectively.

11. HKJC claims that it is also facing stiff competition from off-shore bookmakers who conduct betting on both Hong Kong and overseas horse races on the Internet, alongside other forms of betting activities. Although most off-shore bookmakers have moved their bases of operation away from Hong Kong after the enactment of the Gambling (Amendment) Ordinance 2002 which prohibited cross-border gambling and related promotional activities, many off-shore bookmakers continued to provide betting on a wide range of activities on the Internet. They target residents in Asia particularly China, including Hong Kong. The off-shore bookmakers are often able to offer more attractive odds and a wider range of betting products than HKJC due to the lower duty rates in the jurisdictions where they are based.

(b) Inadequacies of the existing duty system and regulatory regime for horse race betting

12. In view of the dynamic illegal gambling market as described above, the existing duty system and regulatory regime for horse race betting which has been in place since the 1970s has become inadequate for the purpose of effectively combating illegal gambling. Specifically, the duty system whereby betting duty is charged on the basis of turnover on “standard” and other bets provides very little flexibility for HKJC to adjust the take-out rates for different bet types, or adjust the odds in response to the changing market conditions so as to divert bettors to the authorized channels.

13. HKJC is also of the view that the relatively high rates of betting duty on turnover (12% and 20%) in Hong Kong as compared with other major racing jurisdictions (on average below 10%) has made betting with illegal operators increasingly attractive. Moreover, HKJC considers that this has made it uncompetitive in exporting its racing products to overseas racing jurisdictions by way of overseas betting arrangements (currently subject to half of the betting duty rates on local betting turnover).

C. Proposed Reforms

14. Taking into account the proposals submitted by HKJC and the need for changes, the Government proposes to introduce a series of reforms to the duty system for horse race betting, while maintaining betting duty revenue at a steady level. The major components of the proposed reforms are as follows-

(a) Conversion of betting duty on horse race bets from turnover-based to a tax on net stake receipts (gross profits)

We propose to convert the betting duty from the current turnover-based duty system for horse race betting to a new system based on the net stake receipts (or gross profits, i.e. betting turnover minus payout). This would be similar to the duty system for authorized football betting. Under the new duty system, a single set of duty rates will be applied to the net stake receipts irrespective of bet types. A progressive marginal duty system will be adopted, with duty to be charged at 72.5% of the net stake receipts up to \$11 billion, increasing by half a percentage point for increases of every \$1 billion in the receipts up to \$15 billion, and at 75% for the receipts exceeding \$15 billion. A schedule of the progressive duty rates is set out below -

Net stake receipts	Marginal Duty Rates
Up to \$11 billion	72.5%
In excess of \$11 billion but not more than \$12 billion	73%
In excess of \$12 billion but not more than \$13 billion	73.5%
In excess of \$13 billion but not more than \$14 billion	74%
In excess of \$14 billion but not more than \$15 billion	74.5%

In excess of \$15 billion	75%
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The above rates largely reflect the Government's share of the racing receipts vis-à-vis HKJC under the current system. The progressive duty system would ensure that General Revenue would benefit more at higher gross profit levels. To tie in with this change in the charging system, the distinction in tax rate between standard bets and other bets would be removed.

(b) Betting duty on overseas bets

For overseas bets, betting duty is currently charged at half of the prevailing duty rates on the relevant bet types, i.e. at 6% for standard bets and 10% for other bets. Under the new system, there is a discount (at no more than 50% of the lowest marginal rate for local bets) for the betting duty charged in relation to overseas bets designated by SHA (“qualified bets”). The discount rate may be lowered in the case of individual jurisdictions to cater for the situation whereby the overseas host government does not require as much as half of the betting duty reduction as an incentive for effecting the arrangement (for instance, for qualified bets from Macau, there will be a betting duty discount at 40% of the lowest marginal rate, i.e. 29% of gross profits). The discount rate for qualified bets from individual overseas jurisdictions may be set at a level lower than 50% of the lowest marginal rate on local bets by way of an order by the Chief Executive-in-Council, which is subsidiary legislation subject to negative vetting by LegCo.

(c) Guarantee of betting duty revenue

To ensure that the Government’s revenue from horse race betting would remain stable during the first few years, HKJC would guarantee that the duty payable during each of the three years from implementation would be no less than \$8 billion plus the amount of duty in respect of any qualified bets. The \$8 billion guaranteed minimum is higher than the HKJC's projected duty for the year 2005-06 assuming there is no duty reform. A review would be conducted two years after implementation of the new duty system to see if it produces desirable results and whether it should be continued.

(d) Provision of rebates to high-value bettors

In addition to the above, HKJC has proposed to be allowed to provide rebates to high-value bettors, in order to increase HKJC's competitiveness against illegal bookmakers and to make the guarantee proposal financially more viable.

D. Proposed Measures to Rationalize the Regulatory Regime

15. We also propose to rationalize the regulatory regime of horse race betting in order to bring it broadly into line with authorized football betting and lotteries under the Ordinance. The specific proposals are as follows -

- (a) The authority to authorize the conduct of horse race betting should be transferred from the Chief Secretary for Administration ("CS") to SHA. SHA, as the Policy Secretary responsible for the formulation of gambling policy, should be vested with the authority.
- (b) There should be a general licensing system for horse race betting whereby SHA could, 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.
- (c) The functions of the existing Football Betting and Lotteries Commission should be expanded to include advising SHA on the regulation of the conduct of betting on horse racing; as well as compliance with licensing conditions by the licensee.
- (d) The operational and regulatory regime for betting on horse races should basically follow that for football betting and lotteries. Specifically, we propose that any licence for authorized horse race betting activities should include a number of mandatory conditions. We also propose that the existing Appeal Board under the Ordinance should be tasked to decide appeals lodged by HKJC (and any other companies with a licence to conduct betting on horse races) in addition to those lodged by the licensees of football betting and lotteries.

We propose that one licence for horse race betting should be granted only to HKJC which is the only authorized horse race betting operator at present. The detailed legislative proposals in the Bill are set out at Annex B.

THE BILL

16. The main provisions are -

- (a) Clause 5 amends section 2 of the Ordinance to transfer from CS to SHA the authority to authorize the conduct of cash-sweeps on horse races.
- (b) Clause 6 repeals section 3 of the Ordinance to remove the authority of CS to authorize the conduct of betting on horse races.
- (c) Clauses 13 and 14 amend sections 6D and 6E of the Ordinance –
 - (i) to change the name of “Football Betting and Lotteries Commission” to “Betting and Lotteries Commission”; and
 - (ii) to extend the function of the Commission to matters relating to the conduct of betting on horse races.
- (d) 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.
- (e) Clauses 17 and 18 amend sections 6ZA and 6ZF of the Ordinance so that Division 5 of Part 3 (SHA’s power to vary the conditions of such a licence, to impose financial penalties for failure to comply with a condition of such a licence, and to revoke such a licence and the right of appeal against such a decision) applies to a licence to be issued under new section 6GB and a company that holds such a licence.
- (f) Clause 19 adds a new section 6ZO, which requires the Collector –
 - (i) to correct, under certain circumstances, an assessment of betting duty charged in relation to authorized betting on horse races and football matches; and

- (ii) to refund, after the correction, any amount of betting duty paid in excess.

LEGISLATIVE TIMETABLE

17. The legislative timetable will be as follows -

Publication in the Gazette	13 April 2006
First Reading and commencement of the Second Reading Debate	26 April 2006
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

IMPLICATIONS OF THE PROPOSAL

18. Under the proposed reform, HKJC will provide a guarantee of minimum duty from local bets at \$8 billion for each of the initial three years. This should provide adequate stability to the duty revenue in the initial years of the reform, in particular given the trend of declining revenue from horse race betting duty. The situation will be reviewed two years after the implementation of the reform. Apart from the increase in tax revenue, the financial implications arising from this proposal are insignificant and would be absorbed within SHA's operating expenditure envelope.

19. The proposal has also civil service, economic as well as sustainability implications, as set out at Annex C.

20. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Bill will not affect the current binding effects of the Betting Duty Ordinance (Cap. 108) and the Betting Duty Regulations (Cap. 108 sub leg.).

PUBLIC CONSULTATION

21. We briefed the LegCo Panel on Home Affairs ("the Panel") on the proposed reform to the duty system for horse race betting on 13 May 2005.

We also attended a special meeting arranged by the Panel on 24 June 2005 at which deputations were invited to express their views on the proposed reforms. We consulted the Football Betting and Lotteries Commission on the proposed reforms and the related proposal to rationalize the regulatory regime of horse race betting in October 2005. The Commission supported the proposed reform on the understanding that it would enhance the competitiveness of HKJC in combating illegal gambling more effectively. Some members of the Commission also expressed the view that HKJC should be allowed to promote its activities as long as it had complied with the licensing conditions, as unduly restricting its promotional activities might undermine its competitiveness against illegal bookmakers. We also met with the major opposition groups for the purpose of listening to their concerns and suggestions.

22. We have discussed with HKJC regarding the betting duty rate, the major licensing conditions, and other related matters as proposed above. The above proposals are generally agreeable to HKJC.

PUBLICITY

23. A press release will be issued. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

24. For enquiries, please contact Miss Jenny Yip, Principal Assistant Secretary for Home Affairs at 2835 1364.

Home Affairs Bureau
April 2006

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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) $(P \times \frac{S}{Q}) - (K \times \frac{S}{Q} \times \text{relevant rate of duty} \times \text{discount rate for a place outside Hong Kong (other than a specified place)})$;
- (b) $(P \times \frac{T}{Q}) - (K \times \frac{T}{Q} \times \text{relevant rate of duty} \times \text{discount rate for the specified place})$; and
- (c) $P \times (\frac{Q-R}{Q})$

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" (課稅期) 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)."

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.

Detailed legislative proposals

(a) Power to authorize horse race betting by licence and to impose sanctions in the event of non-compliance with licensing conditions

We propose to remove the authority of CS to issue a written permission to authorize horse race betting and to empower SHA to authorize a company by licence to conduct horse race betting and to impose conditions in the licence as he sees fit. Our policy intention, however, is that only one organization (HKJC for the current term), would be authorized to conduct horse race betting. As pony races have not been conducted in Hong Kong for many years and there is no plan to introduce such races in the future, we propose to remove all references to pony races from the Ordinance.

2. To ensure that the authorized horse race betting conductor would comply with the licensing conditions, we also propose that SHA's existing power to impose sanctions on authorized football betting or lotteries conductors in the event of non-compliance should be extended to authorized horse race betting conductors. The sanctions include financial penalties and revocation of licence.

3. We also propose to provide any authorized conductor of horse race betting with the right to appeal to the existing appeal board (comprising members appointed by the Chief Executive) tasked to deal with cases relating to authorized football betting and lotteries under the Ordinance, if he is not satisfied with the decision of SHA to amend or revoke the licence. The appeal must be made within 30 days after a notice of the decision concerned is given.

4. Similar to the relevant provisions on authorized football betting and lotteries in the Ordinance, any licence for authorized horse race betting would include a number of mandatory licensing conditions. These conditions seek primarily to prevent underage/excessive gambling and minimize the negative impact of authorized horse race betting. These conditions are:

- (i) the authorized conductor shall not accept bets from any person under 18 years of age; nor shall it allow admission of persons below 18 years of age to its betting premises;

- (ii) the authorized conductor shall not be allowed to offer any credit for betting or to accept credit cards for settlement of betting transactions;
- (iii) the authorized conductor shall not pay dividends or rebates on bets to juveniles;
- (iv) the authorized conductor shall not (i) advertise horse race betting on television or on the radio from 4:30 p.m. to 10:30 p.m.; (ii) advertise in ways that would exaggerate the likelihood of winning or suggest that betting on horse races is a source of income or viable way to overcome financial difficulties; or (iii) target those under 18 years of age in their advertisements; and
- (v) the licensee shall be required to display signs and other notices to inform punters about the seriousness of the problem caused by excessive gambling and providing information on services available in Hong Kong for problem and pathological gamblers.

(b) Authorization of cash-sweeps on horse races

5. Similar to horse race betting, we propose that SHA should be vested with the authority to authorize by written permission the conduct of cash-sweeps on horse races. The provisions related to the charging of betting duty on cash-sweeps should remain unchanged.

(c) Types of bets

6. We propose to empower SHA to allow the authorized conductor to accept pari-mutuel and fixed-odds bets on horse races.¹ Despite the fact that HKJC now only offers pari-mutuel betting on horse races, we propose to permit the authorized conductor also to offer fixed-odds games as this would provide more flexibility for HKJC to offer bet types in response to the changing market conditions.

7. We propose not to specify the particular fixed-odds or pari-mutuel games and races available for betting in the Bill. This is to provide the authorized conductor with adequate flexibility and is also in line with international practice regarding legislation on sports or horse race

¹ Fixed-odds betting refer to bets on a game where a punter's winnings are determined when he places the bet, and so are unaffected by any subsequent bets or changes in odds. Pari-mutuel betting is a system of betting on an event whereby a punter's winnings are determined by the total amount of bets and their respective shares in the total pool.

betting.

(d) Betting Duty

8. Under the reformed system, betting duty on horse race betting would be charged on the basis of “gross profits” from both fixed-odds and pari-mutuel games irrespective of the bet types. Gross profits would be defined as the amount by which the total bet accepted by the authorized conductor exceeds the total payouts to the punters in respect of races held within a specified period.

9. Specifically, betting duty on horse race betting would be charged on a schedule of progressive marginal duty rates. Gross profits would be assessed on an annual basis (annual charging period) without any roll-over from one charging period to another. There will generally be a betting duty discount for qualified bets from overseas jurisdictions at 50% of the lowest marginal duty rate on local bets. The discount rate for qualified bets from individual overseas jurisdictions may be set at a level lower than 50% of the lowest marginal rate on local bets by way of an order by the Chief Executive-in-Council, which is subsidiary legislation subject to negative vetting by LegCo. The discount rate on qualified bets in each case however shall not be higher than 50% of the lowest marginal rate on local bets.

10. We propose to require the authorized conductor to make provisional payment on the basis of the gross profit within 15 days for each day on which horse race betting has been conducted. We propose to provide the Collector of Stamp Revenue appointed under the Stamp Duty Ordinance (the existing public officer authorized to collect betting duty on horse racing, football betting and Mark Six Lottery under the Ordinance) with the powers to make an assessment on the authorized conductor in respect of betting duty chargeable on horse race betting; to collect betting duty; to recover any betting duty required to be paid to the Government; to impose surcharge as a penalty measure; and to do other specified things incidental to the effective exercise of such powers.

(e) Overseas bets

11. The Ordinance will be amended to clarify that apart from bets accepted by the authorized conductor at a place outside Hong Kong in relation to the conduct of authorized betting, overseas bets also include bets accepted by a person authorized by the authorized conductor outside

Hong Kong. That authorized person shall place with the authorized conductor a bet of the same amount on that result or contingency after it has accepted a bet as soon as possible. The arrangement for accepting overseas bets shall be approved by SHA beforehand so that the bets so accepted would be designated as qualified bets under the Ordinance and be entitled to a discount in betting duty.

(f) Guarantee of betting duty

12. To protect government revenue, we propose to require HKJC (as the first authorized conductor of horse race betting under the reformed system) to provide a guaranteed amount of betting duty for the first three years during which a licence for horse race betting is effective. Where the assessed betting duty payable on the local bets accepted in a charging period of 12 months falling within the guaranteed period is less than \$8 billion, the total betting duty so payable will be increased to \$8 billion. If the relevant charging period is longer or shorter than 12 months, the guaranteed amount shall be adjusted proportionately.

13. The guaranteed amount may be reduced if -

- (i) the actual total number of local race meetings (having taken account of the number of cancelled race meetings) in a charging period falls below 78, which is equivalent to the approved annual total number of local race meetings upon implementation of the reformed betting duty system; and
- (ii) one or more local race meetings have been cancelled because the conductor is prevented from holding the meeting by an event specified in the legislation².

For each race meeting that falls within (ii), the guaranteed amount shall be reduced by \$100 million. Where one or more local race meeting has been cancelled but does not fall within (ii), the Financial Secretary is

² The event includes –

- (a) 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
- (b) any other event that –
 - (i) is not caused, or contributed to, by the conductor or its related persons or employee or agent; and
 - (ii) the conductor reasonably believes would prejudice the public safety or the safety of any person or horse taking part in a race in the meeting.

empowered, for each race meeting that is cancelled because the conductor is prevented from holding the meeting by an event beyond the conductor's reasonable control, to remit or refund the betting duty payable or paid in the sum of \$100 million.

14. The first authorized conductor is also required to make provisional payment on the basis of the guaranteed amount within 15 days after the last day of the charging period.

(g) Betting and Lotteries Commission

15. We propose to expand the function of the existing Football Betting and Lotteries Commission so that it could advise the Government on matters relating to regulation of horse race betting. We propose to rename it as the Betting and Lotteries Commission ("the Commission"). The Commission would remain a statutory body responsible for advising SHA on the following aspects:

- (i) regulation of authorized betting activities (i.e. authorized football betting, horse race betting and lotteries) in accordance with the provisions of the Betting Duty Ordinance and the licensing conditions;
- (ii) compliance with the licensing conditions by the authorized conductors;
- (iii) changes to any of the licensing conditions;
- (iv) handling of public complaints relating to the compliance with the licensing conditions by the authorized conductors; and
- (v) issuance, amendment and revocation of licence of authorized betting activities.

16. We also propose that the composition of the Commission should remain unchanged. The Commission should consist of not less than 11 members to be appointed by the Chief Executive. Of these 11 members, three should be public officers (currently Permanent Secretary for Education and Manpower or representative; Commissioner of Police or representative and Director of Home Affairs or representative). The Chief Executive should appoint one of the members of the Commission to be the Chairman.

17. The proposed ambit and composition of the Commission would ensure public participation and transparency of the regulatory regime of all authorized betting activities under the Ordinance.

(h) Licensing conditions for horse race betting

18. We propose that the licence for horse race betting should be granted to HKJC which is the only authorized horse race betting operator at present. Similar to the current practice, the licence should be renewable each year, and whether it should be renewed or not should be decided by SHA.

19. Similar to authorized football betting and lotteries, we propose to provide that SHA could issue Codes of Practice as and when appropriate. This would enable SHA to prescribe detailed guidelines on particular aspects of the licensing conditions and to tackle any specific issues of concern which may arise after the licence has been granted. For the purposes of any proceedings in which it is relevant to decide whether an authorized conductor has failed to comply with a licensing condition, the conductor is not taken to have failed to comply with the condition only because of his failure to comply with a code relating to the condition. However, the conductor's failure to comply with the code is admissible in evidence against him. SHA could also consult the Commission on the contents of any Code of Practice before it is issued.

20. Apart from the mandatory licensing conditions proposed to be set out in the Ordinance as mentioned in paragraph 4 above, the other proposed major licensing conditions for horse race betting are set out in the **Appendix**.

Other proposed major licensing conditions

(i) Types of races

We propose that betting should be conducted only on local races held by the authorized conductor on race days or on simulcast races approved by SHA. There should be a maximum number of race days and simulcast race days, and this number is determined by SHA from time to time.

(ii) Types of bets

2. We propose to allow the authorized conductor to offer fixed-odds and pari-mutuel betting on approved races in relation to the results, and events or contingencies of such races, instead of specifying the details of the particular betting games. This seeks to provide the authorized conductor with the flexibility to offer and adjust bet types in line with the changing demand in the market, hence ensuring its competitiveness vis-à-vis illegal operators.

(iii) Betting outlets and locations

3. We propose that there should be a maximum number of betting outlets as determined by SHA from time to time and that SHA's prior approval would be required for the opening of new outlets. Following the existing practice regarding HKJC's Off-course Betting Branches (OCBBs), SHA would determine the maximum number and locations of betting outlets after taking into account all relevant considerations, such as public demand for the particular betting services, prevalence of illegal gambling in the vicinity, and impact on neighbouring areas. There are 109 OCBBs in operation at present.

(iv) Other means of taking bets

4. We propose to allow the authorized conductor to take bets through telephone, on-line medium (including the Internet) and other means of telecommunications.

(v) Consumer protection

5. We propose to require the authorized conductor to disseminate within its betting premises and on its website essential information relating to its betting products, including essential rules of the bet types, percentage of payouts, cost of bets as appropriate. The authorized conductor should also be required to secure that all winnings in every game available for betting be paid to persons eligible to claim them in accordance with the relevant betting rules. Moreover, the authorized conductor should also not be allowed to disclose the identity of any person who has won any winnings, except in the event that the disclosure is required by law.

(vi) Provision of information

6. We propose to require the authorized conductor to provide SHA with information relating to the compliance with the licensing conditions, as specified by SHA.

7. Separately, we also propose to require the authorized conductor to provide SHA and the Secretary for Financial Services and Treasury with their annual audited accounts relating to the operation of horse race betting. This is to ensure that the authorized conductor remains a financially viable organization during the licence period, which is essential to its competitiveness against other bookmakers and stability of betting duty revenue.

(vii) Punitive measures against non-compliance

8. For the proposed enabling powers of SHA regarding punitive measures against the authorized conductor's non-compliance with licensing conditions, we propose that SHA could issue warning letters to or impose financial penalties on the licensee if he is satisfied that the authorized conductor has breached any licensing condition. We also propose that SHA could revoke the licence of the authorized conductor in the event that it has breached any licensing conditions, or that the authorized conductor has failed to take steps to rectify the situation within a reasonable period of time; or that it refused without reasonable excuse to pay the financial penalty so imposed. Lastly, we should also provide that the authorized conductor could surrender the licence after giving a stipulated period of advance notice to SHA.

Implications paragraphs

CIVIL SERVICE IMPLICATIONS

The extra workload arising from the need to implement the new regulatory system on authorized horse race betting and to service the Betting and Lotteries Commission would be absorbed by the existing subject officers responsible for gambling policy in Home Affairs Bureau (HAB). The extra workload arising from the administration, assessment and collection of betting duty on horse racing under the new betting duty system would be absorbed by the existing staff in the Inland Revenue Department (IRD). This is not expected to have any significant impact on staff morale in both HAB and IRD.

ECONOMIC IMPLICATIONS

2. The proposals to reform the betting duty system on horse race betting will enhance the operational flexibility and efficiency of HKJC. This will divert some illegal betting money into the authorized channel. It will also bring the betting duty system of horse racing in line with international practice, and enhance its competitiveness vis-à-vis illegal gambling. Nonetheless, diverting betting money from illegal channels into the authorized channel represents transfer of money within the economy. The net impact on the economy would not be significant. The increase in authorized betting turnover will generate some job opportunities, albeit mostly on a part-time basis.

SUSTAINABILITY IMPLICATIONS

3. The proposal has no major sustainability implications. It should help enhance the effectiveness of authorized horse race betting in combating illegal gambling and maintain the betting duty revenue at a steady level. But concerns have been expressed by some anti-gambling groups that the proposal might compound gambling-related social problems. The proposed regulatory controls imposed on the licensed operator and the preventive and remedial measures financed by the Ping Wo Fund to tackle gambling-related problems should help address these concerns.