

LEGISLATIVE COUNCIL BRIEF

BETTING DUTY ORDINANCE (CAP. 108)

BETTING DUTY (AMENDMENT) BILL 2003

INTRODUCTION

At the meeting of the Executive Council on 1 April 2003, the Council ADVISED and the Chief Executive ORDERED that-

- A
- (a) the Betting Duty (Amendment) Bill 2003 at Annex A should be introduced into the Legislative Council (LegCo);
 - (b) the licence for conducting football betting should include the licensing conditions as set out in paragraphs 22 to 43 below;
 - (c) the licence for conducting the Mark Six Lottery should include the licensing conditions as set out in paragraphs 44 and 45 below; and
 - (d) a dedicated fund for implementing preventive and remedial measures to address gambling-related problems should be established as set out in paragraphs 46 to 49 below.

JUSTIFICATIONS

A. Background

2. On 26 November 2002, we announced Government's decision to authorize and regulate football betting in Hong Kong. We also decided that the Hong Kong Jockey Club (HKJC) should be licensed as an

operator of football betting in Hong Kong for an initial period of five years. We need to give effect to this decision through necessary legislative amendments and other arrangements.

B. The Bill

(a) Authorization of football betting

3. Under the existing Gambling Ordinance, all gambling activities are illegal, except (i) gaming expressly exempted under the Ordinance (mainly gambling on social occasions not promoted by way of trade or business); (ii) betting authorized under the Betting Duty Ordinance (betting on horse racing run by HKJC and the Mark Six Lottery run by the Hong Kong Lotteries Board); or (iii) activities licensed by the Commissioner of Television and Entertainment Licensing (such as mahjong parlours). We plan to authorize football betting by way of licensing and to impose a betting duty on the betting proceeds. This approach is similar to that in the case of horse racing and the Mark Six Lottery. We therefore need to amend the Betting Duty Ordinance for the purpose.

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

4. We propose to provide the Secretary for Home Affairs (SHA) with the power to authorize by licence a company to conduct football betting and to impose conditions in the licence as he sees fit, including sanctions for non-compliance with the licensing conditions. This would enable SHA to authorize by licence HKJC or any other company to conduct football betting in Hong Kong. It is intended that only one organization--a wholly-owned subsidiary of HKJC--would be licensed to conduct football betting.

5. To ensure that the authorized football betting operator would comply with the licensing conditions, we also propose to empower SHA to impose the following sanctions in the event of non-compliance:

(i) Financial penalties

SHA could impose a financial penalty in the event that the licensee has contravened any condition in the licence.

We propose to set maximum limits for the financial penalty, with the lowest level for the first substantiated breach and progressively higher levels for subsequent and repeated breaches, as follows:

First	\$500,000
Second	\$1,000,000
Third and subsequent	\$5,000,000

The limits have been determined having regard to the nature of the breaches and the need to achieve a reasonable deterrent effect.

(ii) Revocation of licence

SHA should have the power to revoke the licence by giving notice to the licensed operator, if the latter has failed to comply with provisions in the Betting Duty Ordinance or a condition of the licence; or if the licensee has gone into liquidation. SHA's decision to revoke a licence should be proportionate and reasonable in relation to the ground for revocation, having regard to all the facts and circumstances in the case.

6. We also propose to provide the licensee with the right to appeal to an appeal board comprising members appointed by the Chief Executive if the licensee is not satisfied with the decision of SHA to impose a financial penalty, vary the conditions of the licence, or revoke the licence within 30 days after a notice is given relating to the decision concerned.

(c) Types of football bets and matches

7. We propose to empower SHA to allow the licensee to accept football bets which would be limited to "fixed odds" and "pari-mutuel" games as defined in the licensing conditions. Fixed odds betting refers to bets on a game where a punter's winnings are determined when he

places the bet and 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.

8. Despite the fact that illegal bookmakers are offering mostly fixed odds betting, we propose to permit the licensed operator to offer pari-mutuel games (in addition to fixed odds games), mainly for two reasons:

- (i) This is to enhance the licensed operator's edge against its competitors (both illegal bookmakers and operators licensed overseas) by providing it with the flexibility to capitalize on its higher betting turnover; and
- (ii) This would allow the operator to diversify the types of bets for the purpose of ensuring better risk management, which is conducive to the stability of gross profits and hence revenue from betting duty.

9. As regards the particular fixed odds or pari-mutuel games and football matches available for betting, we propose not to specify them in the Bill. This is to provide the licensed operator with adequate flexibility in responding to the dynamic changes in the football betting market. This is also in line with international practice regarding legislation on football and other sports betting.

(d) Betting Duty

10. We propose to impose a betting duty on football betting, and to charge it on the basis of "gross profits" from both fixed odds and pari-mutuel games. Gross profits would be the difference between the total football bets accepted by the licensed operator and the total payouts to the punters in respect of matches played within a specified period.

11. Specifically, betting duty on football betting will be set at a flat rate of 50% on gross profits. Gross profits would be assessed on an annual basis (annual accounting period) without any roll-over from one

accounting period to another.

12. We consider that the proposed tax rate of 50% strikes a reasonable balance between the need to ensure the competitiveness of HKJC's football betting operation vis-à-vis other bookmakers, and the need to secure a reasonable amount of tax revenue for Government. The Financial Secretary will review this rate in the light of operating experience and in the context of the annual Budget exercise.

13. We propose to require the licensee to make monthly provisional payment on the basis of the gross profits in the relevant month and the past month(s) within the same charging period, subject to a final assessment by the end of the accounting period. 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 and the Mark Six Lottery under the Betting Duty Ordinance) with the powers to raise an assessment on the licensee in respect of betting duty chargeable on football betting; to collect betting duty; to recover any betting duty required to be paid to Government; and to do other specified things incidental to the effective exercise of such powers. We also propose to impose on the licensee a number of requirements relating to betting duty, including filing of betting duty returns, making duty payment and keeping of records. The licensee would also have the right to appeal against the assessment to the District Court.

(e) Hedging or laying-off of bets

14. We propose to allow the licensed operator to lay off football bets with overseas bookmakers as a risk management measure. Hedging is also carried out by licensed bookmakers in, for example, the United Kingdom. In this connection, we propose to exempt the licensed operator from the offence of betting with an unauthorized bookmaker under section 8 of the Gambling Ordinance, and the bookmakers who accept such hedged bets from the licensed operator from the offence of unauthorized bookmaking under section 7 of the same Ordinance. To prevent abuse, we propose to restrict this exemption to those hedged bets made by the licensee in its company's capacity (as opposed to by individual employees of the licensee). The hedged bets should also be

those related to the operation of authorized football betting. Specifically, the hedged bets must be confined to those bets on the particular matches for which the licensee has also been taking bets; the hedged bets must be placed for the purpose of hedging against the risk of loss that the licensee may suffer from the conduct of betting on the match; and the bets are placed with bookmakers in places outside Hong Kong where such bets could be received in accordance with the laws of those places. These would be set out in the Bill.

15. We also propose to include in the licensing conditions a series of safeguards against abuse. Specifically, the licensee would be required to keep detailed records of all hedging transactions for inspection and checking as and when required by SHA. The licensee would also be required to prescribe detailed operational and procedural guidelines on placing hedged bets and such guidelines would have to be approved by SHA before application.

16. We propose to include both the amount of hedged bets placed and the winnings from such bets in the calculation of betting duty, whereby the amount of bets placed would be deducted from, and winnings be added to, the gross profits for duty purpose. This would enable the licensee to reduce its risk exposure, thereby operate on a higher betting turnover.

(f) Gaming Commission

17. We propose to provide for the establishment of the Gaming Commission, as well as its role and functions, in the Bill. Specifically, the Gaming Commission should be responsible for advising SHA on the following aspects -

- (i) regulation of the conduct of football 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 licensees;
- (iii) handling of public complaints relating to the compliance of the

licensing conditions by the licensees;

- (iv) imposition of financial penalties on the licensees; and
- (v) issuance and revocation of football betting and lottery licences; and variation of the conditions of such licences.

18. We also propose to provide for the composition of the Gaming Commission. 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. The Chief Executive would appoint one of the members of the Commission to be the Chairman.

19. The above proposed ambit and composition of the Gaming Commission would enhance the transparency and accountability of the gambling regulatory regime by bringing in an element of public scrutiny over the conduct of both football betting and the Mark Six Lottery.

(g) Dissolution of the Lotteries Board

20. We propose to take the opportunity to rationalize the gambling regulatory regime by –

- (i) abolishing the Hong Kong Lotteries Board (the current licensee of the Mark Six Lottery); and
- (ii) empowering the SHA to grant a licence to the HKJC Lotteries Limited (a wholly-owned subsidiary of HKJC), or any other organization for operating such a lottery as may be specified in the licence, and in accordance with conditions set out in the licence.

21. We consider the continued existence of the Hong Kong Lotteries Board as the licensee of the Mark Six Lottery no longer necessary, following the authorization of HKJC Lotteries Limited by licence to conduct the Mark Six Lottery (see paragraph 23 below), and the inclusion of the Mark Six Lottery within the ambit of the Gaming Commission.

C. Licensing Conditions for Football Betting

(a) Licence to HKJC's wholly-owned subsidiary

22. We propose that the licence for football betting should be granted to the HKJC Football Betting Limited, a wholly-owned subsidiary of HKJC set up specifically for the purpose, as requested by HKJC. This is mainly for two reasons-

- (i) to ensure that football betting would be operating as an on-going and self-sustainable stand-alone business; and
- (ii) to enable HKJC to separate its football betting operations from the rest of its businesses, especially horse racing and the Mark Six Lottery. Owing to the unique risk element inherent in the operation of fixed odds football betting, HKJC is concerned that any legal liability arising from football betting would adversely affect its other businesses, i.e. horse racing and lotteries.

23. For the reasons stated in paragraph 22 above, the licence for the Mark Six Lottery be granted to HKJC Lotteries Limited--another wholly-owned subsidiary specifically set up by HKJC for this purpose.

24. The separation of HKJC's football betting business from the rest of HKJC's operations would help to ensure that each of them would be commercially viable in its own right, which is conducive to the stability of betting duty revenue. Moreover, this arrangement would also help to avoid the possibility (although remote) that the other businesses of HKJC would be affected by a court injunction order arising from any major legal dispute relating to the operation of football betting.

25. To ensure that HKJC would shoulder a reasonable degree of responsibility over this particular subsidiary, we propose to provide in the Bill that any change in the Memorandum and Articles of Association (MAA) of the licensee, which should include the composition of the board of directors, would be subject to the approval of SHA. For the licence to HKJC Football Betting Limited, we would require the MAA to

provide that the majority of the members of the board of directors of the licensee should be made up of HKJC stewards; and the Chairman of the board of directors should also be a steward of HKJC.

26. We would also require HKJC--the parent company of the licensee on football betting--to sign a guarantee agreement with the Government to provide for the following-

- (i) HKJC undertakes to repay any debt due to the Government from the licensee including all responsibilities relating to betting duty on football betting under the Betting Duty Ordinance, in the event that the licensee fails to do so under any circumstances; and
- (ii) HKJC indemnifies the Government against the liabilities arising from any claims from any party adversely affected by the default of the licensee.

(b) Licence period

27. The licence should last for an initial period of five years, and whether it should be renewed or not should be decided by SHA.

(c) Types of matches

28. We propose that football betting could be conducted on all football matches of major professional football leagues, international football tournaments or competitions, with the exception of those matches involving Hong Kong teams. The underlying reason is that most illegal football gambling activities which we aim to combat through regulation are on major international football matches.

29. We propose to prohibit bets on matches involving Hong Kong teams generally, for the following reasons-

- (i) to prevent match-fixing; and
- (ii) we see no need to allow betting on local football matches in order

to combat illegal football betting since there has yet been a large and persistent demand for betting on local football matches.

30. We also propose to allow betting on certain matches involving Hong Kong teams with the permission of SHA on a case-by-case basis. The rationale is that we need to preserve the possibility of allowing betting on international football tournaments on a case-by-case basis where a Hong Kong team is able to enter the final stage, if a strong demand for betting on such matches has been established.

(d) Types of bets

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

(e) Number of betting outlets and locations

32. 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 Centres (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.

(f) Other means of taking bets

33. We propose to allow the licensee to take bets through telephone, on-line medium (including the Internet) and other telecommunication or electronic means.

(g) Credit betting

34. We propose that the licensee should not be allowed to offer any credit for betting or to accept credit cards for settlement of betting transactions in order to prevent excessive gambling among punters.

(h) Age restriction

35. To prevent underage betting, we propose that the licensee shall not accept bets from any person under 18 years of age. Nor shall it accept any request for payment of winnings from any person under 18 years of age. The licensee should also be required to take reasonable measures to prevent admission of persons below 18 years of age to its betting premises.

(i) Advertising

36. We propose that the licensee should not (i) advertise football betting on television or on the radio during the family viewing hours prescribed by the Broadcasting Authority; (ii) advertise in ways which would exhort the public to bet; or (iii) target persons under 18 years of age in their advertisements. These seek to protect children and adolescents from being attracted to gambling.

37. We also propose to provide that SHA could issue Codes of Practice on advertising as and when appropriate. This would enable SHA to prescribe detailed guidelines on particular aspects of advertising on football betting and to tackle any specific issues of concern in this area which may arise after the licence has been granted. We should make it clear that the failure of the licensee to observe any such Codes of Practice shall not of itself be considered as a breach of any licensing condition, but would be taken into consideration as to whether the licensing condition has been contravened. SHA could also consult the Gaming Commission on the contents of any Codes of Practice before it is issued.

(j) Preventive measures against gambling-related problems

38. We propose to require the licensee to display signs and other notices of reasonable size and clarity within its premises, for the purpose of informing punters that excessive gambling could create problems and providing information on avenues for seeking help relating to problem and pathological gambling.

39. We also propose to provide that SHA could issue Codes of Practice on preventive measures against gambling-related problems.

(k) Consumer protection

40. We propose to require the licensee 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 turnover as payouts, cost of bets as appropriate. The licensee 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 licensee 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.

(l) Provision of information

41. We propose to require the licensee to provide SHA with information relating to the compliance with the licensing conditions, as specified by SHA.

42. Separately, in addition to the information required in the legislation, we propose to require the licensee to provide Government with their annual audited accounts as well as other supporting books and accounts relating to the operation of football betting as required by Government. This is to ensure that the licensee remains a financially viable organization during the licence period, which is essential to its competitiveness against other bookmakers and the stability of betting duty revenue. This also enables Government to assess the operating costs for football betting incurred by the licensee so as to determine the

appropriate betting duty rate in future.

(m) Punitive measures against non-compliance

43. As set out in paragraph 5 above regarding the proposed enabling powers of SHA regarding punitive measures against the licensee'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 licensee has breached any licensing condition. We also propose that SHA could revoke the licence at any time with notice, in the event that the licensee has contravened the Betting Duty Ordinance, any licensing conditions or that it has refused to pay the financial penalty so imposed. Lastly, we also propose to provide that the licensee could surrender the licence after giving no less than six months' advance notice to SHA.

D. Licensing Conditions for Mark Six Lottery

44. As in the case of football betting (see para 22 above), we propose to grant the licence for the Mark Six Lottery to HKJC Lotteries Limited-- wholly-owned subsidiary of HKJC set up specifically for the purpose.

45. We propose to include all the above licensing conditions in respect of football betting in the licence to HKJC Lotteries Limited for the Mark Six Lottery, with the exception of the following:

(a) Licence period

We propose to stipulate that the licence for the Mark Six Lottery should be one which is renewable on a bi-annual basis. This is in line with the arrangement under the current licence to the Hong Kong Lotteries Board for the Mark Six Lottery.

(b) Type of bets

We propose to state that the licensee is allowed to operate the Mark Six Lottery (with a proper definition for it).

E. Dedicated fund for problem gambling

46. We plan to set up a dedicated fund for financing the following activities:

- (a) research and studies on gambling-related issues and problems;
- (b) public education and other measures to prevent gambling-related problems; and
- (c) counselling and treatment as well as other remedial services for problem and pathological gamblers, and those affected by them.

47. The use and application of the above fund would be determined by SHA. A dedicated committee would also be set up for the purpose of managing the fund.

48. As regards financial arrangements, we have reached an agreement with HKJC whereby the latter would contribute to the fund in the following manner:

- (a) \$24 million for the first two years of its football betting licence period; and
- (b) at least \$12 million and possibly up to \$15 million each year as from the third to the fifth year of its football betting licence period.

49. The funding should be used to finance the measures and activities within the ambit of the fund, as well as to cover the expenses necessarily incurred in managing and administering the fund.

IMPLICATIONS OF THE PROPOSAL

50. The proposal to charge a betting duty on the gross profits of football betting would bring additional recurrent revenue for the Government. Based on the assumption that the annual turnover of

authorized football betting would be around \$30 billion with gross profits of around \$3 billion (ignoring the effect of hedging), we estimate that the annual duty revenue from authorized football betting activities would be around \$1.5 billion during the initial one to two years.

B

51. The proposal also has economic, civil service, and sustainability implications, as set out at Annex B.

52. 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 and the Betting Duty Regulations. It has no productivity or environmental implications.

THE BILL

53. The main provisions are:

- (a) Clauses 6 to 10 deal with the dissolution of the Hong Kong Lotteries Board;
- (b) Clause 13 adds a new part to the Betting Duty Ordinance to deal with betting on football matches and lotteries. It comprises 5 divisions:
 - (i) Division 1 deals with the interpretation of the Division;
 - (ii) Division 2 provides for the establishment of the Gaming Commission;
 - (iii) Division 3 provides for the authorization of conduct of football betting and the betting duty arrangement;
 - (iv) Division 4 provides for the authorization of conduct of lotteries and the betting duty arrangement; and
 - (v) Division 5 relates mainly to the power of SHA in relation to the conduct of authorized football betting and lotteries. Apart from the power to issue Codes of Practice, SHA is

also empowered to vary the conditions of the licences; impose financial penalties on the licence holders and revoke the licences and the Secretary's decisions are subject to appeal by an appeal board.

- (c) Clause 13 also adds a new Part 4 to the Betting Duty Ordinance to deal with miscellaneous matters.
- (d) Clauses 17 to 22 amend the Betting Duty Regulations. The major change is the addition of a new provision that requires football betting conductors to file returns for taxation purpose;
- (e) Clause 23 vests the rights and liabilities of the Hong Kong Lotteries Board in the HKJC.

LEGISLATIVE TIMETABLE

54. The legislative timetable will be as follows:

Publication in the Gazette	4 April 2003
First Reading and commencement of the Second Reading Debate	9 April 2003
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLIC CONSULTATION

55. We briefed the LegCo Panel on Home Affairs on three occasions after we announced our decision to authorize and regulate football betting on 26 November 2002. We attended a series of public forums and media programmes to explain our decision. We also met with a number of opposition groups for the purpose of listening to their concerns and suggestions, especially on how best to provide preventive and remedial services for tackling gambling-related problems.

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

PUBLICITY

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

ENQUIRIES

58. For enquires, please contact Ms Esther Leung, Principal Assistant Secretary for Home Affairs, at 2835 1484.

Home Affairs Bureau
April 2003

BETTING DUTY (AMENDMENT) BILL 2003

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PART 2

TRANSITIONAL PROVISIONS

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A BILL

To

Amend the Betting Duty Ordinance to empower the Secretary for Home Affairs to authorize betting on football matches, to charge a duty on the net stake receipts derived from the conduct of authorized betting on football matches, to allow companies that conduct authorized betting on football matches to bet on football matches for hedging purpose, to amend the law relating to the authorization of lotteries, to provide for the dissolution of the Hong Kong Lotteries Board, and to establish a body to be known as the Gaming Commission; to provide for the vesting of rights and liabilities of the Hong Kong Lotteries Board in the Hong Kong Jockey Club; 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 2003.

(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.

PART 1

AMENDMENTS TO BETTING DUTY ORDINANCE AND
ITS SUBSIDIARY LEGISLATION

Betting Duty Ordinance

2. Long title substituted

The long title to the Betting Duty Ordinance (Cap. 108) is repealed and the following substituted -

"To provide for the authorization of cash-sweeps, lotteries, betting on horse or pony races and betting on football matches; to charge duties in relation to those authorized betting activities; to establish a body to be known as the Gaming Commission; to amend the law relating to gambling; and to provide for related matters."

3. Part heading added

The following is added before section 1 -

"PART 1
PRELIMINARY".

4. Section added

The following is added -

"1A. Interpretation

In this Ordinance, unless the context otherwise requires -

"authorized betting activity" (獲批准投注活動) means the betting activity that is authorized under section 2, 3, 6G or 6S;

"charging period" (課稅期) means, in relation to a football betting conductor, a charging period as defined under section 6K;

"Collector" (署長) means the Collector of Stamp Revenue appointed under section 3 of the Stamp Duty Ordinance (Cap. 117);

"company" (公司) means a company within the meaning of the Companies Ordinance (Cap. 32), or a company registered under Part XI of that Ordinance;

"football" (足球) does not include American football or rugby;

"football betting conductor" (足球投注舉辦商) means a company that is authorized under section 6G to conduct betting on football matches;

"lottery conductor" (獎券活動舉辦商) means a company that is authorized under section 6S to conduct lotteries;

"net stake receipts" (淨投注金收入) means the net stake receipts as calculated under section 6I and adjusted under section 6J;

"specified form" (指明格式) means a form specified under section 7(3).".

5. Part heading added

The following is added before section 2 -

"PART 2

CASH-SWEEPS AND BETTING ON HORSE OR PONY RACES".

6. Appointment, function and constitution of Hong Kong Lotteries Board

Section 4A is repealed.

7. Meetings of the Board

Section 4B is repealed.

8. Allocation of proceeds of a lottery

Section 4C is repealed.

9. Authorization of lotteries

Section 4D is repealed.

10. Interpretation

Section 4E is repealed.

11. Restriction on sale of tickets

Section 5 is amended -

(a) by renumbering it as section 5(1);

(b) by adding -

"(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 3."

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

Section 6 is amended -

- (a) in subsection (1), by repealing "Ordinance" and substituting "Part";
- (b) by repealing subsection (1A);
- (c) in subsection (3), by repealing ", (1A)";
- (d) in subsection (5), in the definition of "overseas bet" -
 - (i) by adding "Hong Kong Jockey" before "Club";
 - (ii) by repealing "Ordinance" and substituting "Part".

13. Parts added

The following are added -

"PART 3

BETTING ON FOOTBALL MATCHES AND LOTTERIES

Division 1 - Interpretation of Part 3

6A. Interpretation

In this Part -

- (a) "Secretary" (局長) means the Secretary for Home Affairs;
- (b) "financial penalty" (罰款) means a financial penalty imposed under section 6Z;
- (c) a reference to a condition of a licence shall be a reference to a condition subject to which the licence is issued, or to continue in force.

Division 2 - Gaming Commission

6B. Establishment and composition

- (1) There is established a body called the "Gaming Commission" in English and "博彩事務委員會" in Chinese.
- (2) The Chief Executive shall appoint -
 - (a) 3 public officers as members of the Commission;
 - (b) not less than 8 persons, who are not public officers, as members of the Commission; and
 - (c) one of the members as the Chairperson of the Commission.
- (3) As soon as practicable after a person is appointed as, or has ceased to be, a member of the Commission, the Secretary shall publish a notice of that fact in the Gazette.
- (4) A member of the Commission may resign at any time from membership by notice in writing given to the Chief Executive.

6C. Function

(1) The function of the Commission is to advise the Secretary on matters provided for or otherwise relating to this Part, including -

- (a) the regulation of the conduct of betting on football matches and lotteries;
- (b) the issuance and revocation of licences under this Part, and the variation of the conditions of such licences;
- (c) in relation to a licence issued under this Part -
 - (i) the compliance with the conditions of the licence; and
 - (ii) the handling of complaints that relate to non-compliance with the conditions of the licence; and
- (d) the imposition of financial penalties.

(2) The Commission is neither a servant nor an agent of the Government and does not enjoy any status, immunity or privilege of the Government.

6D. Performance of function

The Commission may perform its function at the request of the Secretary or on its own initiative.

6E. Meetings and procedure

(1) The Commission shall meet at such times and at such places as its Chairperson may appoint.

(2) The Commission may make rules regulating the procedure at its meetings.

(3) Subject to any rule made under subsection (2), the Commission may transact its business by circulation of papers.

(4) A resolution in writing that is approved on circulation of papers by a majority of the members of the Commission shall be valid as if the resolution had been passed at a meeting of the Commission by the votes of the members so approving the resolution.

Division 3 - Betting on football matches

6F. Interpretation of Division 3

In this Division -

"football betting duty" (足球博彩稅) means the duty that is charged under section 6H;

"last charging period" (最後課稅期) means, in relation to a football betting conductor, the charging period that comes to an end when the conductor's licence is terminated;

"notice of assessment" (評估通知) means a notice of assessment given under section 6N;

"provisional payment" (暫繳付款) means the provisional payment that a football betting conductor is required to make under section 6L.

6G. Authorization of betting on football matches

(1) The Secretary may, by issuing a licence to a company, authorize the company to conduct betting on the results of, or contingencies relating to, football matches.

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

(3) The licence may be issued subject to such conditions as the Secretary may think fit, including but not limited to conditions relating to -

- (a) the categories of matches 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 enter such premises;
 - (d) the persons from whom bets may be accepted;
 - (e) the conduct of advertising and promotional activities;
 - (f) the provision of information to the Secretary;
- and

- (g) the adoption of preventive measures against problems relating to gambling.

6H. Football betting duty

(1) A duty is charged at the rate of 50% on the net stake receipts that are derived from the conduct of authorized betting on football matches by a football betting conductor in respect of each charging period.

(2) The duty shall be payable by the football betting conductor.

(3) The Legislative Council may, by resolution, amend the rate of duty specified in subsection (1).

6I. Calculation of net stake receipts

(1) Subject to any adjustments made under section 6J, the net stake receipts that are derived from the conduct of authorized betting on football matches by a football betting conductor in respect of a charging period is calculated by using the following mathematical formula -

$$A - B$$

where -

- A represents the total amount of bets that are -
- (a) accepted by the conductor; and
 - (b) relevant to that charging period;

B represents the total amount of dividends that have, within that charging period, become payable by the conductor.

(2) For the purpose of subsection (1), a bet is relevant to a charging period if, within that charging period, the conductor becomes -

- (a) entitled to forfeit the bet; or
- (b) liable to pay a dividend on the bet.

(3) If -

- (a) the 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 the bet,

then -

- (c) the bet is taken to be relevant to the last charging period; and
- (d) any dividend that becomes payable after the termination is taken to have become payable within the last charging period.

6J. Adjustments to net stake receipts

(1) For the purpose of section 6I, the net stake receipts that are derived from the conduct of authorized betting on

football matches by a football betting conductor in respect of a charging period shall be adjusted by adding an amount that is calculated by using the following mathematical formula -

$$(C - D) + (E - F)$$

where -

C represents the total amount of dividends that -
(a) are payable by the conductor; and
(b) have, within that charging period, become unclaimed dividends;

D represents the total amount of unclaimed dividends that are subsequently paid, within that charging period, by the conductor;

E represents the total amount of dividends that become, within that charging period, payable to the conductor on hedging bets placed by the conductor;

F represents the total amount of hedging bets that are -
(a) paid or payable by the conductor; and
(b) relevant to that charging period.

(2) For the purpose of subsection (1) -

(a) if the dividend payable on a hedging bet is expressed in a currency other than Hong Kong dollars, the amount of the dividend shall be converted to Hong Kong dollars at an exchange rate that is acceptable to the Collector as

prevailing in Hong Kong when the dividend becomes payable;

(b) if the amount paid or payable for a hedging bet is expressed in a currency other than Hong Kong dollars, the amount shall be converted to Hong Kong dollars at an exchange rate that is acceptable to the Collector as prevailing in Hong Kong when the amount becomes payable; and

(c) a hedging bet is relevant to a charging period if, within that charging period, the person who received the bet becomes -

(i) entitled to forfeit the bet; or

(ii) liable to pay a dividend on the bet.

(3) If, after the last charging period -

(a) a dividend becomes an unclaimed dividend, the dividend is taken to have become an unclaimed dividend within the last charging period;

(b) an unclaimed dividend is subsequently paid, the unclaimed dividend is taken to have been paid within the last charging period;

(c) a dividend becomes payable on a hedging bet, the dividend is taken to have become payable within the last charging period; and

(d) the person who has received a hedging bet becomes -

(i) entitled to forfeit the bet; or
(ii) liable to pay a dividend on the bet,
the bet is taken to be relevant to the last
charging period.

(4) In this section -

- (a) if a dividend is not paid within 60 days after
the day on which the dividend becomes payable,
the dividend becomes an unclaimed dividend at
the end of the 60 days;
- (b) "hedging bet" (對沖投注) means a bet that is
placed by the conductor under section 6Q.

6K. Definition of "charging period"

(1) Subject to any agreement made under subsection (3),
"charging period" (課稅期) means, in relation to a football
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 6G; 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.

6L. Provisional payments

(1) Within 15 days after each accounting day in a charging period, a football betting conductor shall make a provisional payment to the Collector.

(2) The provisional payment is calculated by using the following mathematical formula -

$$X - Y$$

where -

X represents the amount of football betting duty that the conductor would be liable to pay if the accounting day were the last day of that charging period;

Y represents the total amount of provisional payments that the conductor has made for that charging period.

(3) In making a provisional payment, the conductor shall submit to the Collector a calculation sheet, in the specified form, showing how the amount being paid has been arrived at.

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

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

(6) In this section, "accounting day" (結算日) means any day within a charging period that is the last day of a month.

6M. Demand for provisional payment

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

6N. Assessment of net stake receipts

(1) As soon as practicable after the end of a charging period, the Collector shall assess the net stake receipts that were derived from the conduct of authorized betting on football matches by a football betting conductor in respect of 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 football betting duty payable exceeds the provisional payments that have been made, the conductor shall pay the difference to the Collector in accordance with the notice of assessment; or

(b) the provisional payments that have been made exceeds the football 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 the net stake receipts as assessed;

(b) the amount of football 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 date on or before which the amount shall be paid; and
- (e) if subsection (3)(b) applies, the amount that the Collector shall refund.

6O. Surcharge

(1) If a football betting conductor fails to make payment in accordance with a notice of assessment, the Collector may, by notice in writing given to the conductor, demand the conductor to pay a surcharge.

(2) The surcharge shall not exceed 5% of the amount that the conductor has failed to pay.

(3) The Government may recover any unpaid surcharge as a civil debt.

6P. Appeal against assessment

(1) A football betting conductor that is dissatisfied with an assessment under section 6N may appeal against the assessment to the District Court within 1 month after the date on which the notice of assessment is given.

(2) The appeal shall be made by giving a notice of appeal in writing to the Registrar of the Court and the Collector.

(3) 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; and

(ii) how the assessment has been made; and

(b) serve a copy of the case on the conductor, the Registrar and the Secretary for Justice.

(4) The appeal may only be set down for hearing within 14 days after copies of the case have been served in accordance with subsection (3)(b).

(5) The Court shall determine the appeal by rescinding, varying or confirming the assessment, and may make such other orders as the Court thinks fit.

(6) If, according to the assessment, any amount is payable by the conductor under section 6N, the making of the appeal does not affect the conductor's obligation to pay the amount.

6Q. Conductors may bet for hedging purpose

(1) A football betting conductor may place a bet on a football match if -

(a) the conductor has, in accordance with this Ordinance and the conditions of the conductor's licence, accepted bets on the match;

- (b) the bet placed by the conductor is received by a person in a place outside Hong Kong in accordance with the law of that place; and
- (c) the bet is placed by the conductor for the only purpose of hedging against exposure to the risk of loss that the conductor may suffer from the conduct of betting on the match.

(2) For the avoidance of doubt, it is declared that -

- (a) a football betting conductor that places a bet under subsection (1) does not commit any offence under section 8 of the Gambling Ordinance (Cap. 148); and
- (b) the person who receives the bet does not commit any offence under section 7 of that Ordinance.

6R. Restrictions relating to football betting tickets

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

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

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 3.

(3) In this section, "football betting ticket" (足球投注彩票) means a ticket that is used or to be used to -

- (a) record the placing of a bet with a football betting conductor; and
- (b) claim any dividend that is payable on the bet.

Division 4 - Lotteries

6S. Authorization of lotteries

(1) The Secretary may, by issuing a licence to a company, authorize the company to conduct lotteries.

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

(3) The licence may be issued subject to such conditions as the Secretary may think fit, including but not limited to conditions relating to -

- (a) the types of lotteries that may be conducted;
- (b) the manner in which lotteries may be drawn;
- (c) the manner in which the results of lotteries may be announced;
- (d) the persons from whom bets may be accepted;
- (e) the conduct of advertising and promotional activities;
- (f) the provision of information to the Secretary;
- and
- (g) the adoption of preventive measures against problems relating to gambling.

6T. Duty on and allocation of proceeds

(1) A duty is charged at the rate of 25% on the proceeds of each lottery that is conducted by a lottery conductor.

(2) The duty shall be payable by the lottery conductor.

(3) The conductor -

(a) shall allocate 54% of the proceeds in prizes, whether in that lottery or any other lottery as the conductor may determine;

(b) shall pay 15% of the proceeds into the Lotteries Fund; and

(c) may retain 6% of the proceeds as commission.

(4) The Legislative Council may, by resolution, amend the rate of duty and the percentages of allocation specified in subsections (1) and (3) respectively.

(5) In this section -

"Lotteries Fund" (獎券基金) means the Lotteries Fund established by a resolution made and passed by the Legislative Council on 30 June 1965 (Cap. 2 sub. leg. D) and published in the Gazette;

"proceeds" (收益) means, in relation to a lottery, the total amount of bets that are placed on the lottery.

6U. Restrictions relating to lottery tickets

(1) A person shall not make, print, issue, sell or offer to sell a lottery ticket unless the person is -

- (a) a lottery conductor; or
 - (b) so acting on behalf of a lottery conductor.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 3.
- (3) In this section, "lottery ticket" (獎券活動彩票) means a ticket that is used or to be used to -
- (a) record the placing of a bet with a lottery conductor; and
 - (b) claim any prize that is payable on the bet.

**Division 5 - Provisions relating to
licences issued under Part 3**

6V. Interpretation of Division 5

In this Division -

"Appeal Board" (上訴委員會) means the Appeal Board established

under section 6ZC;

"holder" (持有人) means, in relation to a licence, the company to which the licence is issued;

"licence" (牌照) means a licence issued under section 6G or 6S.

6W. Approval of constitution

(1) The constitution of a licensed company shall not be amended without the prior approval of the Secretary.

(2) Despite anything provided for in the constitution of a licensed company, any amendment of the constitution in contravention of subsection (1) shall be of no effect.

(3) In this section -

"constitution" (章程) means, in relation to a company, the memorandum and articles of association of the company, or other instrument constituting or defining the constitution of the company;

"licensed company" (持牌公司) means a company that holds a licence.

6X. Codes of practice on compliance with licence conditions

(1) For the purpose of giving guidance on how the conditions of licences may be complied with, the Secretary may from time to time issue codes of practice.

(2) The Secretary may from time to time revise the codes.

(3) In any proceedings, including appeals under section 6ZB, if it is relevant to decide whether the holder of a licence has failed to comply with a condition of the licence -

(a) the holder is not taken to have failed to comply with the condition only because of the failure to comply with a code that relates to the condition; and

- (b) a failure to comply with a code that relates to the condition shall be admissible in evidence.

6Y. Variation of licence conditions

(1) The Secretary may, by notice in writing given to the holder of a licence, vary the conditions of the licence by -

- (a) changing the terms of any condition of the licence; or
- (b) imposing new conditions subject to which the licence is to continue in force.

(2) The notice shall specify the reasons for varying the conditions of the licence.

(3) Before varying the conditions of a licence, the Secretary shall -

- (a) give the holder of the licence a reasonable opportunity to make representations; and
- (b) consider the representations, if any.

6Z. Financial penalties

(1) The Secretary may, by notice in writing given to the holder of a licence, impose a financial penalty on the holder if the holder has failed to comply with a condition of the licence.

(2) A financial penalty that is imposed on the holder of a licence shall not exceed -

- (a) \$500,000 for the first occasion on which a financial penalty is imposed on the holder;
- (b) \$1,000,000 for the second occasion on which a financial penalty is imposed on the holder;
- or
- (c) \$5,000,000 for the third or any subsequent occasion on which a financial penalty is imposed on the holder.

(3) The notice shall specify -

- (a) the reasons for imposing the penalty;
- (b) the amount of the penalty imposed; and
- (c) the manner in which and the date on or before which the penalty shall be paid.

(4) Before imposing a financial penalty on the holder of a licence, the Secretary shall -

- (a) give the holder a reasonable opportunity to make representations; and
- (b) consider the representations, if any.

(5) The Secretary shall not impose a financial penalty under this section unless, in all the circumstances of the case, the financial penalty is proportionate and reasonable in relation to the failure that gave rise to the penalty.

(6) A financial penalty shall be paid to the Government and the Government may recover any unpaid penalty as a civil debt.

(7) If the holder of a licence has duly paid a financial penalty, the Secretary shall not revoke the licence only because of the failure that gave rise to the penalty.

(8) For the purpose of this Part, if the Appeal Board has varied a financial penalty, the obligation to pay the penalty shall be discharged by paying the amount as varied.

6ZA. Revocation of licences

(1) The Secretary may, by notice in writing given to the holder of a licence, revoke the licence if the holder has -

- (a) contravened this Ordinance;
- (b) failed to comply with a condition of the licence;
- (c) failed to pay a financial penalty;
- (d) gone into liquidation; or
- (e) entered into a composition or arrangement with its creditors.

(2) The notice shall specify the reasons for revoking the licence.

(3) Before revoking a licence, the Secretary shall -

- (a) give the holder of the licence a reasonable opportunity to make representations; and
- (b) consider the representations, if any.

(4) The Secretary shall not revoke a licence under this section unless, in all the circumstances of the case, the revocation is proportionate and reasonable in relation to the reason that gave rise to the revocation.

6ZB. Appeals against financial penalties, variation of licence conditions and revocation of licences

(1) If the holder of a licence is not satisfied with a decision of the Secretary to -

- (a) vary the conditions of the licence;
- (b) impose a financial penalty on the holder; or
- (c) revoke the licence,

the holder may appeal against the decision to the Appeal Board.

(2) The appeal shall be made by giving a notice of appeal in writing to the Chairperson of the Board. The appeal may only be made within 30 days after the day on which notice of the decision is given to the holder.

(3) If an appeal is made against a decision, the effect of the decision is suspended until the appeal is determined by the Board.

6ZC. Establishment and composition of Appeal Board

(1) For the purpose of determining appeals under section 6ZB, there is established an Appeal Board.

(2) Subject to subsection (3), the Chief Executive shall appoint -

(a) a person, who is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap. 336), as the Chairperson of the Board; and

(b) not less than 4 other persons as members of the Board.

(3) No public officer shall be appointed under subsection (2).

(4) As soon as practicable after a person is appointed under this section, or has ceased to be so appointed, the Secretary shall publish a notice of that fact in the Gazette.

(5) A person who is appointed under this section may resign at any time by notice in writing given to the Chief Executive.

6ZD. Determination of appeals

(1) The jurisdiction of the Appeal Board in determining an appeal shall be exercised by -

(a) the Chairperson of the Board; and

(b) not less than 2 members of the Board as the Chairperson may designate for the appeal.

(2) Questions before the Board shall be determined by the majority of the persons hearing the appeal, and in the event of an equality of votes the Chairperson shall have a casting vote.

(3) Subject to this Part, the Chairperson may decide on any matter of practice or procedure relating to the hearing of appeals.

(4) In determining an appeal, the Board may -

- (a) receive evidence on oath;
- (b) admit or take into account any statement, document, information or matter whether or not it would be admissible as evidence in a court of law; and
- (c) by notice in writing, summon any person to appear before it to produce any document or to give evidence.

(5) If a notice is given under subsection (4)(c) to a person, and the person fails to, without reasonable excuse -

- (a) comply with the notice; or
- (b) answer truthfully and completely a question put to him by the Board,

the person commits an offence and is liable to a fine at level 3.

(6) The Board shall determine the appeal by reversing, varying or confirming the decision that is appealed against. The determination is final.

6ZE. Giving notices under this Division

A notice that is required to be given under this Division to the holder of a licence may be given by sending the notice

to the address of the holder by registered post.

PART 4

MISCELLANEOUS

6ZF. Keeping of records

(1) A person who conducts an authorized betting activity shall -

- (a) keep sufficient records, in the English or Chinese language, of all receipts, payments and other transactions relating to the activity, in such a manner that enables the duty charged under this Ordinance in relation to the activity to be readily ascertained; and
- (b) keep those records for a period of not less than 7 years after the completion of the transactions to which they relate.

(2) In this section, "records" (紀錄) includes -

- (a) books of account (whether kept in a legible form, or in a non-legible form by means of a computer or otherwise) that record receipts and payments; and
- (b) vouchers, bank statements, invoices, receipts, and such other documents as are necessary to verify the entries in the books of account.

(3) A person who, without reasonable excuse, contravenes this section commits an offence and is liable to a fine at level 3.

6ZG. Production of records for inspection

(1) On being so requested by the Collector, a person who keeps a record under section 6ZF shall -

- (a) produce the record for inspection by the Collector at such place and time as the Collector may reasonably direct;
- (b) provide to the Collector a copy or an extract of the record in such form as the Collector may reasonably direct.

(2) A person who, without reasonable excuse, contravenes this section commits an offence and is liable to a fine at level 3.

6ZH. Provision of certain information to Collector

(1) If the Collector reasonably believes that any person has information that affects the amount of a duty that may be collected under this Ordinance, the Collector may, by notice in writing given to the person, require the person to provide the information to the Collector, in such form and before such date as may reasonably be specified in the notice.

(2) A person who, without reasonable excuse, contravenes a requirement under subsection (1) commits an offence and is

liable to a fine at level 3.

6ZI. Duty recoverable as civil debt

The Government may recover any duty payable under this Ordinance as a civil debt."

14. Section substituted

Section 7 is repealed and the following substituted -

"7. Regulations and forms

(1) The Chief Executive in Council may make regulations -

(a) requiring persons who conduct authorized betting activities to provide to the Collector such information about the activities as the regulations may specify;

(b) providing for the manner and period in which duties charged under this Ordinance shall be paid; and

(c) providing for any matter that is necessary or expedient for -

(i) securing the payment of duties charged under this Ordinance; or

(ii) carrying out or giving effect to this Ordinance.

(2) A regulation made under this section may provide that a contravention of any regulation is an offence punishable by a fine at level 3.

(3) The Collector may specify forms for the purpose of this Ordinance.".

15. Penalties

Section 8 is repealed.

16. Section added

The following is added -

"9. Evasion of duty

(1) A person who evades, or assists another person to evade, a duty that is payable under this Ordinance commits an offence and is liable -

(a) on summary conviction, to a fine at level 3, an additional fine and imprisonment for 6 months; or

(b) on indictment, to a fine at level 5, an additional fine and imprisonment for 3 years.

(2) In this section, "additional fine" (附加罰款) means a fine of treble the amount of the duty that, because of the offence, has not been paid or underpaid.".

Betting Duty Regulations

17. Interpretation

Regulation 2 of the Betting Duty Regulations (Cap. 108 sub. leg. A) is amended -

- (a) by repealing the definitions of "Board" and "Collector";
- (b) by repealing the definition of "lottery" and substituting -

"lottery" (獎券活動) means a lottery conducted by a lottery conductor under section 6S of the Ordinance;".

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

Regulation 3 is amended -

- (a) in paragraph (1) -
 - (i) by adding "betting on horse or pony races" before "in Hong Kong";
 - (ii) by adding ", in the specified form," after "statement";
- (b) by repealing paragraph (6);
- (c) by repealing paragraph (7) and substituting -

"(7) A person who, without reasonable excuse, contravenes this regulation commits

an offence and is liable to a fine at level
3."

19. Regulation added

The following is added -

**"3A. Submission of returns in respect of
betting on football matches**

(1) A football 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 football matches by the conductor in respect of that charging period.

(2) The return shall be accompanied by -

(a) a financial statement showing the net stake receipts of the conductor in that charging period, which is audited by a qualified person;
and

(b) an audit report prepared by the qualified person in accordance with paragraph (3).

(3) The audit report shall include a statement signed by the qualified person certifying that, in the opinion of the qualified person -

(a) the conductor has kept records in accordance with the Ordinance;

(b) the financial statement has been prepared and audited in accordance with those records; and

(c) the net stake receipts shown in the statement has been calculated in accordance with the Ordinance.

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

(5) In this regulation, "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)."

20. Collection of duty in respect of lotteries

Regulation 4 is amended -

- (a) in paragraph (1) -
 - (i) by repealing "The Secretary of the Board" and substituting "A lottery conductor";
 - (ii) by adding ", in the specified form," after "statement";
- (b) in paragraph (2) -
 - (i) by repealing "Board" and substituting "conductor";
 - (ii) by repealing "6" and substituting "6T";
- (c) by repealing paragraph (3);
- (d) by adding -

"(4) A lottery conductor that, without reasonable excuse, contravenes this regulation commits an offence and is liable to a fine at level 3."

21. Duty to a debt to the Government

Regulation 5 is repealed.

22. Collector may specify form of statements

Regulation 6 is repealed.

PART 2

TRANSITIONAL PROVISIONS

23. Rights and liabilities of Hong Kong Lotteries Board

(1) Any right or liability that was vested, immediately before the commencement of this Ordinance, in the then existing Hong Kong Lotteries Board shall on that commencement be vested in the Hong Kong Jockey Club.

(2) In this section, "Hong Kong Lotteries Board" (香港獎券管理局) means the board that was established under the repealed section 4A of the Betting Duty Ordinance (Cap. 108).

Explanatory Memorandum

The main purposes of this bill are to -

- (a) empower the Secretary for Home Affairs ("Secretary") to authorize betting on football matches;
- (b) charge a duty in relation to authorized betting on football matches;
- (c) amend the law relating to authorization of lotteries; and
- (d) establish the Gaming Commission to advise the Government on matters relating to the regulation of betting on football matches and lotteries.

2. Part 1 amends the Betting Duty Ordinance (Cap. 108). The main features of the amendments are as follows -

- (a) clause 5 adds a new Part heading to the Ordinance. The existing provisions that relate to cash-sweeps and betting on horse or pony races are grouped under the new Part 2;
- (b) clause 13 adds a new Part 3 to the Ordinance, to deal with betting on football matches and lotteries. This Part comprises 5 Divisions -
 - (i) Division 1 deals with interpretation of the Division;
 - (ii) Division 2 relates to the establishment of the Gaming Commission;
 - (iii) Division 3 relates to betting on football matches. The Secretary is empowered to authorize, by issuing licences, companies to conduct betting on football

matches (new section 6G). A company that holds such a licence is called a "football betting conductor". A duty, known as football betting duty, is charged on the net stake receipts that are derived from the conduct of authorized betting on football matches by a football betting conductor in respect of each charging period (new section 6H). The duty is payable after the end of a charging period, but a football betting conductor is required to make provisional payments within a charging period at regular intervals (new section 6L). All provisional payments are to be applied towards settlement of the football betting duty. After the end of each charging period, the net stake receipts that were derived in respect of that charging period will be assessed by the Collector of Stamp Revenue ("Collector") (new section 6N), and the assessment is subject to appeal to the District Court (new section 6P). On the other hand, a football betting conductor may, under limited circumstances, bet on football

matches for the purpose of hedging (new section 6Q);

(iv) Division 4 relates to lotteries. At present, the Hong Kong Lotteries Board is the only body that is licensed to conduct lotteries. By clauses 6 to 10, this Board will be dissolved. Instead, the Secretary is empowered to authorize, by issuing licences, companies to conduct lotteries (new section 6S). A company that holds such a licence is called a "lottery conductor";

(v) Division 5 relates to the 2 types of licences issued under the new Part 3. The provisions fall into 2 main categories. Firstly, if a company holds such a licence, any purported amendment of the constitution of the company shall, unless approved by the Secretary, be of no effect (new section 6W). Secondly, the Secretary is empowered to -

(A) issue codes of practice on how the conditions of these licences can be complied with (new section 6X);

(B) vary the conditions of these licences (new section 6Y);

(C) impose financial penalties on licence holders who fail to comply with the conditions of licence (new section 6Z);

(D) revoke these licences (new section 6ZA).

The exercise of these powers by the Secretary is subject to appeal to an independent Board (new sections 6ZB to 6ZD), whose members are appointed by the Chief Executive;

(c) clause 13 also adds a new Part 4 to the Ordinance, which deals with miscellaneous matters. This Part includes provisions on -

(i) the keeping of records by those who conduct authorized betting activities under the Ordinance (new section 6ZF);

(ii) the production of such records for inspection by the Collector (new section 6ZG);

(iii) the duty on any person to provide to the Collector information that affects the amount of any duty that may be collected under the Ordinance (new section 6ZH);
and

(iv) the creation of a new offence on evasion of duties (new section 9);

(d) clauses 17 to 22 amend the Betting Duty Regulations (Cap. 108 sub. leg. A). The major change is the addition of a new provision that deals with submission of returns by football betting conductors (new regulation 3A).

3. Part 2 contains transitional provisions. In particular, clause 23 vests the rights and liabilities of the Hong Kong Lotteries Board in the Hong Kong Jockey Club.

CIVIL SERVICE IMPLICATIONS

The extra workload arising from the need to implement the regulatory system on authorized football betting, to service the gaming commission, and to administer the use of the dedicated fund would be absorbed within the responsibility of the existing subject officers responsible for gambling policy in Home Affairs Bureau (HAB). This is not expected to have any significant impact on staff morale. The financial implications arising from this proposal would be absorbed within HAB's operating expenditure envelope. The extra workload arising from the administration, assessment and collection of betting duty on football betting would be absorbed within the Inland Revenue Department.

2. The diversion of illegal football gambling activities into the authorized channel would enable the Police to dedicate their resources and focus on major bookmaking syndicates and other more serious crimes. The exact impact however is difficult to quantify.

ECONOMIC IMPLICATIONS

3. The proposal would have positive social and economic implications. The authorization and regulation of football betting on the basis of the proposed framework would divert betting money from illegal football gambling into the authorized channel, hence reducing the negative social consequences of illegal gambling. The public resources in enforcement against illegal football gambling could also be much reduced. The imposition of a betting duty on authorized football betting would bring additional revenue for the Government which should benefit the community at large. Moreover, the proposal to require HKJC to contribute a certain amount of money to a dedicated fund designated for conducting research and public education on problem gambling, as well as providing counselling and treatment services for problem and pathological gamblers would bring about positive social benefits. The proposal could also result in an increase in employment opportunities in

terms of additional staff employed by the licensed operator of football gambling.

SUSTAINABILITY IMPLICATIONS

4. The sustainability assessment has revealed no major implications. The proposal should help combat illegal football gambling while negative impacts of the proposal could be alleviated with the introduction of the preventive and remedial measures on gambling-related problems to be financed by the proposed dedicated fund.