

C019-e

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The long title to the Betting Duty Ordinance (Cap. 108) is repealed and the following substituted---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