立法會民政事務委員會
資料文件

建議修訂《賭博條例》(第 148 章)
以取締未經批准而有境外成份的賭博活動

目的

本文件旨在告知議員，政府擬修訂《賭博條例》(第 148 章)(條例)***(見附件)***，以取締未經批准而有境外成份的賭博活動。

背景

2. 政府的賭博政策並不鼓勵賭博活動，但容許受管制的合法博彩渠道存在。由香港賽馬會主辦的賽馬和由香港獎券管理局開辦的六合彩就是這類合法博彩渠道的例子。

問題

3. 不過，現行的條例不足以對付未經批准而有境外成份的賭博活動。我們注意到一些海外收受賭注者公然在香港宣

傳，以吸引香港居民向他們投注。澳門賽馬會就是一個現成的例子。到目前為止，澳門賽馬會已經在香港開設了六個服務中心。市民大眾可以很方便地在這些服務中心開立投注戶口，存款以作投注，取得一般資料，以及透過免費國際直撥電話服務下注。不過，這些由澳門賽馬會開設的服務中心的櫃位並不接受投注。

4. 一九九九年三月九日，警方搜查澳門賽馬會的六個服務中心。經徹底研究所收集得的證據後，律政司表示沒有足夠證據可以引用條例向被捕的澳門賽馬會職員提出檢控。這宗個案顯示出條例的不足之處：條例的原意並非用以對付海外收受賭注者在香港提供投注方面的服務(例如開設投注戶口、接受投注存款等)，以及在香港宣傳其業務。

5. 除了澳門賽馬會外，還有其他海外收受賭注者已經或計劃在香港設立辦事處，以類似澳門賽馬會的方式經營。

6. 這些未經批准的賭博活動正在侵蝕本港行之已久及被接受的政策，這政策是把賭博活動局限於若干獲准的渠道內。另外，市民也日益關注這類賭博活動所構成的影響。從政府收入的角度考慮，這類賭博活動也令我們的博彩稅收入有所減少。因此，我們建議明確地取締這類賭博活動。

建議

7. 條例第 7 條就收受賭注作出規定。不過，正如澳門賽馬會的個案顯示，這項條文並不足以規管海外收受賭注者在香港提供投注方面的服務，以及他們在香港宣傳其業務的活動。因此，我們建議在“收受賭注”的罪項內加入境外成份，以便明確規定，即使收受賭注的過程有部分是在香港以外的地方進行，也屬違法。

8. 根據條例第 7(1)(c)條的規定，任何人如直接或間接協助他人收受賭注，即屬違法。不過，法院曾在一九八五年的一項裁決中指出，就這項條文而制定的罪項(即協助收受賭注)，經已取代了普通法中協從責任(包括幫助、教唆、慫使或促致他人犯罪)的原則。事實上，當時法院只把“協助”的釋義等同“幫助”看待。這個釋義過於狹窄，而為了解決這個問題，我們建議把幫助、教唆、慫使或促致收受賭注的活動明確地列為違法，而不論收受賭注的過程有部分或全部是在香港以外地方進行。為確保上述條文能規管海外收受賭注者在香港提供投注方面的服務(例如開設投注戶口和收受投注存款)，以及宣傳其業務的活動(例如向準投注人士提供資料，解釋怎樣在香港下注)，我們進一步建議就宣傳或助長收受賭注的活動(包括部分或全部過程在香港以外地方進行的收受賭注活動)，訂立一項新的罪行。

9. 第 8 條就向收受賭注者投注作出規定。我們建議修訂第 8 條，訂明向收受賭注者投注即屬犯罪，不論收受賭注活動是在香港境內、部分在香港境內或完全在香港境外進行。然而，根據我們訂立這項政策的原意，直接向海外收受賭注者投注並不屬違法，只要該收受賭注者不是以任何方式在香港收受賭注、提供投注方面的服務或宣傳其業務。

10. 第 15 條訂明，任何人不得身為任何處所的管理人，明知而准許或容受該處所使用作為賭場。我們建議擴大這項條文的涵蓋範圍，把明知而准許和容受有關處所用作宣傳或助長賭博活動(包括有境外成份的賭博)的情況也列為違法，以針對海外收受賭注者在香港設立服務中心，為港人提供投注方面的服務這個問題。此外，我們又建議對第 23 及 24 條作出相應修訂；使其涵蓋範圍擴大至包括搜查這類處所和檢取用作宣傳或助長這類活動的設備。

11. 第 26 條就沒收用於與非法賭博活動有關的財產作出規定。我們建議修訂這項條文，明文規定把有境外成份的賭博也包括在內。

12. 第 16 條規定，任何人如在賭博或獎券活動中作弊，即屬違法。我們建議擴大這項條文的涵蓋範圍，以包括有境外成份的賭博活動。

13. 第 25(1)條賦予賽會權力，使用一切合理及合法的方法，防止有人在賽會處所內犯有第 7 條所訂的罪行。我們會

藉此機會修訂第 25 條，以涵蓋第 8 條下的罪項。

14. 第 21 條訂明，任何人如被裁定觸犯第 5、7 或 8 條，法庭只可要求香港電話有限公司截斷該名人士的電話服務。鑑於有關條文已顯得過時，我們也會藉此機會修訂這項條文，把所有提供電話服務的公司也包括在內。

目前情況

15. 法律草擬專員現正就上述各項建議的修訂，草擬《2000 年賭博(修訂)條例草案》。我們會盡快把該條例草案提交立法會審議。

徵詢意見

16. 請各議員備悉本文件的內容，並提供意見。

民政事務局

一九九九年十一月

Annex 附件
25099055 P.11
TO
FROM HOME AFFAIR BUREAU
01-DEC-1999 17:43

第 148 章

賭博條例

目錄

條次

第 I 部

導言

1. 簡稱
2. 釋義

第 II 部

賭博及獎券活動均屬非法

3. 賭博屬非法
4. 獎券活動屬非法

第 III 部

有關賭博及獎券活動的罪行

5. 非法賭場
6. 在賭場內賭博
7. 收受賭注
8. 向收受賭注者投注
9. 獎券活動舉辦人
10. 獎券活動彩票的出售
11. 獎券活動彩票的購買
12. 獎券活動的發行
13. 在賭場以外任何場所或在街道上進行的賭博
14. 提供金錢以用於非法賭博或非法獎券活動
15. 擁有人、租客等的責任
16. 賭博時作弊

第 IV 部

犯罪的證明

17. 無須證明為金錢而博彩，賒帳投注不成為免責辯護
18. 證明賭博或獎券活動乃合法的舉證責任
19. 推定
20. 證據的可接納性

CHAPTER 148

GAMBLING ORDINANCE

CONTENTS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

GAMBLING AND LOTTERIES UNLAWFUL

3. Gambling is unlawful
4. Lotteries are unlawful

PART III

OFFENCES RELATING TO GAMBLING AND LOTTERIES

5. Unlawful gambling establishments
6. Gambling in a gambling establishment
7. Bookmaking
8. Betting with a bookmaker
9. Promoters of lotteries
10. Selling lottery tickets
11. Buying lottery tickets
12. Publications as to lotteries
13. Gambling in any place not being a gambling establishment or in a street
14. Providing money for unlawful gambling or for an unlawful lottery
15. Responsibility of owners, tenants, etc.
16. Cheating at gambling

PART IV

PROOF OF OFFENCES

17. Proof of gaming for money not necessary and credit betting no defence
18. Burden of proof that gambling or lottery lawful
19. Presumptions
20. Admissibility of evidence

01-DEC-1999 17:43 FROM HUME AFFAIR BUREAU TO 25099055 P.12

條次

第 V 部

雜項

21. 電話服務的截斷
22. 牌照
23. 搜查懷疑為賭場的地方
24. 在犯有第 13 條所訂罪行時檢取設備等
25. 在賽會處所內收受賭注
26. 沒收
27. 阻撓警務人員
28. 規例
29. 將某些賠償合約豁除使其不屬本條例適用範圍

附表

Section

PART V

MISCELLANEOUS

21. Disconnexion of telephone service
22. Licences
23. Search of suspected gambling establishments
24. Seizure of equipment etc. in case of offence under section 13
25. Bookmaking on racing club premises
26. Forfeiture
27. Obstruction of police officers
28. Regulations
29. Exclusion of certain contracts for differences from Ordinance

Schedule

'01-DEC-1999 17:43 FROM HOME AFFAIR BUREAU TO 25099065 P.13

第 148 章

賭博條例

本條例旨在對有關賭博的法例作出修訂。

[1977 年 2 月 17 日] *1977 年第 44 號法律公告*

第 I 部

導言

1. 簡稱

本條例可引稱為《賭博條例》。

2. 釋義

在本條例中，除文意另有所指外——

"收受賭注" (bookmaking) 指以生意或業務的形式，招攬、收取、商議或結清賭注，不論上述活動是親身或以信件、電話、電報或其他方法進行； *(由 1990 年第 42 號第 2 條修訂)*

"私人處所" (private premises) 指公眾人士只可在獲得處所的擁有人、租客或佔用人的許可方可進入的處所，不論進入該處是否須繳費；

"私有收益" (private gain) 並不包括任何根據《稅務條例》(第 112 章) 第 88 條獲豁免繳稅的慈善機構或屬公共性質的信託的私有收益；

經可供實施，由香港特別行政區政府印刷局局長印刷及發行

CHAPTER 148

GAMBLING

To amend the law relating to gambling.

[17 February 1977] *L.N. 44 of 1977*

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Gambling Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

"betting slip" (投注單) includes the whole or any part of a document or thing, or a copy or other reproduction of the whole or any part of a document or thing, which, either alone or in conjunction or combination with—

(*a*) any other document or thing or a copy or other reproduction of any other document or thing; or

(*b*) part of any document or thing or a copy or other reproduction of part of any document or thing,

evidences the soliciting, receiving, negotiating or settling of a bet; *(Added 53 of 1981 s. 2. Amended 42 of 1990 s. 2)*

"bookmaking" (收受賭注) means the soliciting, receiving, negotiating or settling of a bet by way of trade or business whether personally or by letter, telephone, telegram or by any other means; *(Amended 42 of 1990 s. 2)*

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01-DEC-1999 17:43 FROM HOME AFFAIR BUREAU TO 25099055 P.14

"投注單" (betting slip) 包括一份文件或物件的整體或任何部分，或一份文件或物件的整體或任何部分的副本或其他複製本，而該整體、部分、副本或複製本——

(a) 在單獨、連同或結合任何其他文件或物件，或任何其他文件或物件的副本或其他複製本時；或

(b) 在單獨、連同或結合任何文件或物件的一部分，或任何文件或物件一部分的副本或其他複製本時，

證明一宗投注的招攬、收取、商議或結清者； *(由 1981 年第 53 號第 2 條增補。由 1990 年第 42 號第 2 條修訂)*

"租客" (tenant) 包括分租客，而 "租賃" (tenancy) 則包括分租；

"差價合約" (contract for differences) 指一份協議，其目的或作用是依據任何種類的財產的價值或價格的波動，或依據一個指數或就該目的而在協議內指定的其他因素的波動，以獲取利潤或避免損失； *(由 1993 年第 84 號第 2 條增補)*

"彩票" (ticket) 就獎券活動或計劃的獎券活動而言，包括一份文件或物件的整體或任何部分，或一份文件或物件的整體或任何部分的副本或其他複製本，而該整體、部分、副本或複製本——

(a) 在單獨、連同或結合任何其他文件或物件，或任何其他文件或物件的副本或其他複製本時；或

(b) 在單獨、連同或結合任何文件或物件的一部分，或任何文件或物件一部分的副本或其他複製本時，

證明任何人參與該項獎券活動的聲稱；

"推廣生意的競賽" (trade promotion competition) 指為推廣生意或業務，或為銷售任何產品而舉辦、經營或管理的競賽或其他計劃； *(由 1993 年第 84 號第 2 條修訂)*

"場所" (place) 包括任何船舶、航空器或車輛，以及陸上或水上的任何地點；

"博彩" (gaming) 指進行任何博彩遊戲或參加任何博彩遊戲，以贏得金錢或其他財產，不論任何進行該博彩遊戲的人是否有輸掉任何金錢或其他財產的風險；

"博彩遊戲" (game) 指碰機會取勝的博彩遊戲、憑機會結合技巧而取勝的博彩遊戲、假裝碰機會取勝或假裝憑機會結合技巧而取勝的博彩遊戲，及符合下述情況的任何博彩遊戲——

(a) 由博彩者其中一人或多人獨佔做莊家；或

(b) 該博彩遊戲並不給予所有博彩者同等有利的取勝機會，而博彩者包括莊家、其他管理博彩遊戲的人或博彩者與其對賭、對賭或向其投注的其他人；

"獎券活動" (lottery) 包括——

(a) 抽獎；

(b) 大馬票；

(c) 字花；

(d) 紅票；

(e) 白票；

"contract for differences" (差價合約) means an agreement the purpose or effect of which is to obtain a profit or avoid a loss by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for that purpose in the agreement; *(Added 84 of 1993 s. 2)*

"gambling" (賭博) includes gaming, betting and bookmaking;

"gambling equipment" (賭博設備) includes playing cards, dice, balls, counters, dominoes, tiles, betting slips, lottery tickets, and any other thing which is devised or used or maintained in or for the purposes of or in connexion with gambling or the operation of a gambling establishment;

"gambling establishment" (賭場) includes any premises or place, whether or not the public or a section of the public is entitled or permitted to have access thereto, opened, kept or used, whether on one occasion or more than one occasion, for the purposes of or in connexion with unlawful gambling or an unlawful lottery; *(Amended L.N. 184 of 1992)*

"game" (博彩遊戲) means a game of chance and a game of chance and skill combined and a pretended game of chance or chance and skill combined, and also means any game whatever in which—

(a) a bank is kept by one or more of the players exclusively of the others; or

(b) the chances of the game are not equally favourable to all the players, including among the players, the banker or other person by whom the game is managed or against whom the players stake, play or bet;

"gaming" (博彩) means the playing of or at any game for winnings in money or other property whether or not any person playing the game is at risk of losing any money or other property;

"lottery" (獎券活動) includes—

(a) a raffle;

(b) a sweepstake;

(c) tse fa (字花);

(d) hung piu (紅票);

(e) po piu (白票);

(f) any competition for money or other property success in which—

(i) involves guessing or estimating the results of future events, or of past events the results of which are not generally known; or

(ii) does not depend to a substantial degree upon the exercise of skill by the competitors; and

01-DEC-1999 17:44 FROM HOME AFFAIR BUREAU TO 25099055 P.15

(f) 任何為金錢或其他財產而作的競賽，而競賽的取勝——

(i) 涉及猜測或估計未來事件的結果，或猜測或估計仍未廣泛地被知悉的過去事件結果；或

(ii) 在極大程度上並非依賴競賽者的技巧運用；及

(g) 任何經抽籤或碰運會而分發或分配獎品的博彩遊戲、方法、設計或計劃，

不論該等獎券活動是否在香港境內或境外籌辦、經營或管理； *(由 1994 年第 38 號第 2 條修訂)*

"擁有人" (owner) 就任何處所而言，指根據租約、特許或其他方式直接從政府名下持有該處所的人、曾有該處所的承租人、單獨或與他人共同為其本人或為他人收取該處所租金的人及在假設該處所租給租客的情況下，任何收取該處所租金的人；此外，在不能尋獲或不能確定符合上述定義的擁有人時，或在符合上述定義的擁有人不在香港或無行為能力時，則此詞亦指該等擁有人的代理人； *(由 1998 年第 29 號第 105 條修訂)*

"錄音帶" (tape recording) 指任何磁帶、磁碟、聲軌或有聲音錄入其中的其他器具，而所錄入的聲音可在有或無其他設備的協助下重播；

"賭博" (gambling) 包括博彩、投注及收受賭注；

"賭場" (gambling establishment) 包括為非法賭博或非法獎券活動的目的，或與非法賭博或非法獎券活動有關而一次或多次開放、維持或使用的任何處所或場所，不論公眾人士或某一部分的公眾人士是否有權或獲准進入該處所或場所；

"賭博設備" (gambling equipment) 包括紙牌、骰子、球體、籌碼、西洋骨牌、牌 (紙牌除外)、投注單、獎券活動彩票、用於賭博或營辦賭場的任何其他物件、於賭博或營辦賭場中設計或保存的任何其他物件，以及為賭博或營辦賭場的目的或與賭博或營辦賭場有關而設計、使用或保存的任何其他物件；

"聯合交易所" (Unified Exchange) 一詞的涵義與《證券交易所合併條例》(第 361 章) 中該詞的涵義相同； *(由 1993 年第 84 號第 2 條增補)*

"賽會" (racing club) 指為籌辦及經營電算機投注或彩池投注，及為籌辦獲《博彩稅條例》(第 108 章) 許可的現金彩票活動而設立的任何會社、協會或團體；

(g) any game, method, device or scheme for distributing or allotting prizes by lot or chance,

whether promoted, conducted or managed in or outside Hong Kong; *(Amended 38 of 1994 s. 2)*

"owner" (擁有人) in relation to premises means any person holding the premises direct from the Government, whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of the premises, solely or with another and on his behalf or that of any person or who would receive the same if such premises were let to a tenant, and, where such owner as above defined cannot be found or ascertained or is absent from Hong Kong or is under disability, also means the agent of such owner; *(Amended 29 of 1998 s. 105)*

"place" (場所) includes any ship, aircraft or vehicle, and any spot on land or water;

"private gain" (私有收益) does not include the private gain of any charitable institution or trust of a public character exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112);

"private premises" (私人處所) means premises to which the public have access (whether on payment or otherwise) only by permission of the owner, tenant or occupier of the premises;

"racing club" (賽會) means any club, association or other body of persons established for the purpose of promoting and conducting bets on totalizators or pari-mutuels and for the purpose of promoting cash-sweeps under the authority of the Betting Duty Ordinance (Cap. 108);

"racing club premises" (賽會處所) means any land or premises used by a racing club for or in connexion with the purposes of a racing club;

"tape recording" (錄音帶) means any tape, disc, sound track or other device in which sounds are embodied so as to be capable with or without the aid of some other equipment of being reproduced therefrom;

"tenant" (租客) includes sub-tenant and "tenancy" (租賃) includes sub-tenancy;

"ticket" (彩票), in relation to a lottery or proposed lottery, includes the whole or any part of a document or thing, or a copy or other reproduction of the whole or any part of a document or thing, which, either alone or in conjunction or combination with—

(a) any other document or thing or a copy or other reproduction of any other document or thing; or

(b) part of any document or thing or a copy or other reproduction of part of any document or thing,

evidences the claim of any person to participate in the lottery;

"trade promotion competition" (推廣生意的競賽) means a competition or other scheme promoted, conducted or managed for the purpose of promoting a trade or business or the sale of any product; *(Amended 84 of 1993 s. 2)*

25099055 P.16
01-DEC-1999 17:45 FROM HOME AFFAIR BUREAU TO

"賽會處所" (racing club premises) 指為賽會的宗旨或為與該等宗旨有關的事宜而由賽會使用的任何土地或處所。

(由 1980 年第 110 號法律公告修訂)

第 II 部

賭博及彩券活動均屬非法

3. 賭博屬非法

(1) 除第 (2)、(3)、(4)、(5)、(6)、(7) 及 (8) 款所規定者外，賭博乃屬非法。

(2) 如博彩遊戲乃在私人處所內的社交場合中進行，而且並非以生意或業務的形式籌辦或經營，亦非為任何人的私有收益 (以博彩遊戲的博彩者或在博彩遊戲中博彩的人的身分贏得者不計) 而籌辦或經營，則該等博彩乃屬合法。

(3) 在下述情況，如博彩遊戲使用骰子、西洋骨牌、麻將牌、天九牌或紙牌，則該等博彩乃屬合法——

(*a*) 該博彩遊戲乃在下述處所的社交場合中進行——

(i) 根據《公眾衛生及市政條例》(第 132 章) 獲發酒牌牌照的處所；*(由 1986 年第 10 號第 32(1) 條修訂)*

(ii) 根據任何條例獲發牌照或其他授權書出售令人醉醉的酒類的處所；或

(iii) 已符合《會社 (消產安全) 條例》(第 376 章) 第 4(2) 條所指的 2 項條件中的其中一項的會址；*(由 1994 年第 38 號第 3 條代替)*

(*b*) 進入該處所無須繳費；

(*ba*) 博彩遊戲並非由任何掌管、管理或涉及營辦該處所或該會址的人或任何受僱於該處所或該會址的人進行；*(由 1994 年第 38 號第 3 條增補)*

(*c*) 在該博彩遊戲中，並不涉及與一個由一名或多名博彩者獨佔做莊的莊家對賭；及

(*d*) 該博彩遊戲並非以生意或業務的形式籌辦或經營，亦非為任何人的私有收益 (以博彩遊戲的博彩者或在博彩遊戲中博彩的人的身分贏得者不計) 而籌辦或經營。

(4) 在下述情況，如博彩遊戲使用麻將牌或天九牌，則該等博彩乃屬合法——

(*a*) 該博彩遊戲在——

"Unified Exchange" (聯合交易所) has the same meaning as in the Stock Exchanges Unification Ordinance (Cap. 361). *(Added 84 of 1993 s. 2)*
(Amended L.N. 110 of 1980)

PART II

GAMBLING AND LOTTERIES UNLAWFUL

3. Gambling is unlawful

(1) Save as provided in subsections (2), (3), (4), (5), (6), (7) and (8), gambling is unlawful.

(2) Gaming is lawful if the game is played on a social occasion in private premises and is not promoted or conducted by way of trade or business or for the private gain of any person otherwise than to the extent of a person's winnings as a player of or at the game.

(3) Gaming is lawful if the game is one in which dice, dominoes, mahjong or tin kau tiles, or playing cards are used and—

(*a*) the game is played on a social occasion in—

(i) premises licensed as a restaurant under the Public Health and Municipal Services Ordinance (Cap. 132); *(Amended 10 of 1986 s. 32(1))*

(ii) premises where intoxicating liquor is sold pursuant to a licence or other authorization granted under any Ordinance; or

(iii) a club-house in respect of which either of the conditions indicated in section 4(2) of the Clubs (Safety of Premises) Ordinance (Cap. 376) has been satisfied; *(Replaced 38 of 1994 s. 3)*

(*b*) a fee is not charged for admission to such premises;

(*ba*) the game is not played by any person in charge of, managing or involved in the operation of the premises or the club-house or employed at the premises or the club-house; *(Added 38 of 1994 s. 3)*

(*c*) the game does not involve playing against a bank kept by one or more of the players exclusively of the others; and

(*d*) the game is not promoted or conducted by way of trade or business, or for the private gain of any person otherwise than to the extent of a person's winnings as a player of or at the game.

(4) Gaming is lawful if the game is one in which mahjong or tin kau tiles are used and—

(*a*) it is played in—

01-DEC-1999 17:45 FROM HOME AFFAIR BUREAU TO 25099055 P.17

(i) 根據《公眾衛生及市政條例》(第 132 章) 獲發酒樓牌照的處所內進行；或

(ii) 已符合《會社 (房產安全) 條例》(第 376 章) 第 4(2) 條所指的 2 項條件中的其中一項的會址內進行；*(由 1994 年第 38 號第 3 條代替)*

(*b*) 進入該處所無須繳費；

(*ba*) 博彩遊戲並非由任何掌管、管理或涉及營辦該處所或該會址的人或任何受僱於該處所或該會址的人進行；*(由 1994 年第 38 號第 3 條增補)*

(*c*) 在該博彩遊戲中，並不涉及與一個由一名或多名博彩者獨佔做莊的莊家對賭；及 *(由 1994 年第 38 號第 3 條修訂)*

(*d*) 該博彩遊戲並非以生意或業務的形式 (收取不超過訂明款額的牌照者除外) 在該處所內舉辦或經營，亦非為任何人的私有收益 (以博彩遊戲的博彩者或在博彩遊戲中博彩的人的身分贏得者不計) 而舉辦或經營。

(5) 如博彩遊戲屬下述性質，並獲第 22 條所指的牌照批准組織或經營者，則該等博彩即屬合法——

(*a*) 有獎娛樂博彩遊戲；

(*b*) 池放拿博彩遊戲；或

(*c*) 推廣生意的競賽。

(6) 在下述情況博彩屬合法——

(*a*) 該博彩遊戲使用麻將牌或天九牌；及

(*b*) 該博彩遊戲乃在根據第 22 條獲發有關牌照的處所內進行。

(7) 如眾人之間進行打賭，而其中並無人因此而犯有第 7 條所訂的罪行，則該等打賭即屬合法。

(8) 凡獲《電視條例》(第 52 章) 或《博彩稅條例》(第 108 章) 批准或根據該等條例獲准進行的賭博，均屬合法。

4. 獎券活動屬非法

(1) 除第 (2) 及 (3) 款所規定者，獎券活動乃屬非法。

(2) 凡獲《博彩稅條例》(第 108 章)、《政府獎券條例》(第 334 章) 批准或獲第 22 條所發牌照批准或根據該等條例或該牌照發准的獎券活動，均屬合法。

(3) 參予合法的獎券活動碰機會者，乃屬合法。

(i) premises licensed as a restaurant under the Public Health and Municipal Services Ordinance (Cap. 132); or

(ii) a club-house in respect of which either of the conditions indicated in section 4(2) of the Clubs (Safety of Premises) Ordinance (Cap. 376) has been satisfied; *(Replaced 38 of 1994 s. 3)*

(*b*) a fee is not charged for admission to the premises;

(*ba*) the game is not played by any person in charge of, managing or involved in the operation of the premises or the club-house or employed at the premises or the club-house; *(Added 38 of 1994 s. 3)*

(*c*) the game does not involve playing against a bank kept by one or more of the players exclusively of the others; and *(Amended 38 of 1994 s. 3)*

(*d*) the game is not promoted or conducted by way of trade or business in the premises, otherwise than to the extent of the charging of a fee not exceeding the prescribed amount for the hire of any set of tiles, or for the private gain of any person otherwise than to the extent of a person's winnings as a player of or at the game.

(5) Gaming is lawful if the game is—

(*a*) a game of amusement with prizes;

(*b*) a game of tombola; or

(*c*) a trade promotion competition,

the organization and conduct of which is authorized by licence under section 22.

(6) Gaming is lawful if—

(*a*) the game is one in which mahjong or tin kau tiles are used; and

(*b*) it is played in premises licensed for the purpose under section 22.

(7) Betting is lawful if the bet is made between persons none of whom is thereby committing an offence under section 7.

(8) Gambling is lawful to the extent that it is authorized by or under the Television Ordinance (Cap. 52) or the Betting Duty Ordinance (Cap. 108).

4. Lotteries are unlawful

(1) Save as provided in subsections (2) and (3) lotteries are unlawful.

(2) Lotteries are lawful if they are authorized by or under the Betting Duty Ordinance (Cap. 108), the Government Lotteries Ordinance (Cap. 334) or a licence granted under section 22.

(3) It is lawful to participate in the chances of a lawful lottery.

01-DEC-1999 17:46 FROM HOME AFFAIR BUREAU TO 25099055 P.18

第 III 部

有關賭博及獎券活動的罪行

5. 非法賭場

任何人如於任何時候——

(a) 營辦賭場；

(b) 管理或控制賭場；或

(c) 以任何身分直接或間接協助營辦、管理或控制賭場，

即屬犯罪，可處以下刑罰——

(i) 循簡易程序定罪後，可處罰款 $5,000,000 及監禁 2 年；或

(ii) 循公訴程序定罪後，可處罰款 $5,000,000 及監禁 7 年。

(由 1990 年第 42 號第 3 條修訂)

6. 在賭場內賭博

任何人如在賭場內賭博，即屬犯罪，可處以下刑罰——

(a) 如首次定罪，可處罰款 $10,000 及監禁 3 個月；

(b) 如第 2 次定罪，可處罰款 $20,000 及監禁 6 個月；

(c) 如第 3 次或其後再定罪，可處罰款 $30,000 及監禁 9 個月。

(由 1990 年第 42 號第 4 條修訂)

7. 收受賭注

(1) 任何人如—— *(由 1981 年第 53 號第 4 條修訂)*

(a) 一次或多次從事收受賭注；

(b) 以任何方式聲作以生意或業務的形式，招攬、收取、商議或結清賭注；或

(c) 以任何身分直接或間接協助他人收受賭注，

即屬犯罪，可處以下刑罰——

PART III

OFFENCES RELATING TO GAMBLING AND LOTTERIES

5. Unlawful gambling establishments

Any person who on any occasion—

(a) operates a gambling establishment;

(b) manages or otherwise has control of a gambling establishment; or

(c) in any capacity assists, either directly or indirectly, in the operation or in the management or other control of a gambling establishment,

commits an offence and is liable—

(i) on summary conviction to a fine of $5,000,000 and to imprisonment for 2 years; or

(ii) on conviction on indictment to a fine of $5,000,000 and to imprisonment for 7 years.

(Amended 42 of 1990 s. 3)

6. Gambling in a gambling establishment

Any person who gambles in a gambling establishment commits an offence and is liable—

(a) on first conviction to a fine of $10,000 and to imprisonment for 3 months;

(b) on second conviction to a fine of $20,000 and to imprisonment for 6 months;

(c) on third or subsequent conviction to a fine of $30,000 and to imprisonment for 9 months.

(Amended 42 of 1990 s. 4)

7. Bookmaking

(1) Any person who— *(Amended 53 of 1981 s. 4)*

(a) engages in bookmaking, whether on one occasion or more than one occasion;

(b) holds out in any manner that he solicits, receives, negotiates or settles bets by way of trade or business; or

(c) in any capacity assists, either directly or indirectly, another person in bookmaking,

commits an offence and is liable—

'01-DEC-1999 17:46 FROM HOME AFFAIR BUREAU TO 25099055 P.19

(i) 循簡易程序定罪後，可處罰款 $5,000,000 及監禁 2 年；或

(ii) 循公訴程序定罪後，可處罰款 $5,000,000 及監禁 7 年。

(2) 未徵得律政司司長同意，不得根據第 (1)(*c*) 款提出起訴。但如在審訊任何人犯有第 (1)(*a*) 或 (1)(*b*) 款所訂罪行時，不能證明被控人犯有其中任何一款所訂的罪行，但證明其犯有第 (1)(*c*) 款所訂罪行，則即使未徵得律政司司長同意根據第 (1)(*c*) 款提出起訴，仍可裁定該被控人第 (1)(*c*) 款所訂罪行罪名成立，並據此依法處理。 *(由 1981 年第 53 號第 4 條增補。由 1997 年第 362 號法律公告修訂)*

(由 1990 年第 42 號第 5 條修訂)

8. 向收受賭注者投注

任何人向收受賭注者投注，即屬犯罪，可處以下刑罰——

(*a*) 如首次定罪，可處罰款 $10,000 及監禁 3 個月；

(*b*) 如第 2 次定罪，可處罰款 $20,000 及監禁 6 個月；

(*c*) 如第 3 次或其後再定罪，可處罰款 $30,000 及監禁 9 個月。

(由 1990 年第 42 號第 6 條修訂)

9. 獎券活動籌辦人

任何人如——

(*a*) 籌辦、組織、經營、管理或控制非法獎券活動；或

(*b*) 以任何身分直接或間接協助籌辦、組織、經營、管理或控制非法獎券活動，

即屬犯罪，可處以下刑罰——

(i) 循簡易程序定罪後，可處罰款 $5,000,000 及監禁 2 年；或

(ii) 循公訴程序定罪後，可處罰款 $5,000,000 及監禁 7 年。

(由 1990 年第 42 號第 7 條修訂)

經可證頁數，由香港特別行政區政府印務局局長印刷及發行

(i) on summary conviction to a fine of $5,000,000 and to imprisonment for 2 years; or

(ii) on conviction on indictment to a fine of $5,000,000 and to imprisonment for 7 years.

(2) No prosecution shall be instituted under subsection (1)(*c*) without the consent of the Secretary for Justice but if on the trial of any person for an offence under subsection (1)(*a*) or (1)(*b*), it is not proved that the accused is guilty of an offence under either one of those subsections but it is proved that the accused is guilty of an offence under subsection (1)(*c*), the accused may, notwithstanding the absence of consent of the Secretary for Justice to the institution of a prosecution under subsection (1)(*c*), be convicted of an offence under subsection (1)(*c*) and dealt with accordingly. *(Added 53 of 1981 s. 4. Amended L.N. 362 of 1997)*

(Amended 42 of 1990 s. 5)

8. Betting with a bookmaker

Any person who bets with a bookmaker commits an offence and is liable—

(*a*) on first conviction to a fine of $10,000 and to imprisonment for 3 months;

(*b*) on second conviction to a fine of $20,000 and to imprisonment for 6 months;

(*c*) on third or subsequent conviction to a fine of $30,000 and to imprisonment for 9 months.

(Amended 42 of 1990 s. 6)

9. Promoters of lotteries

Any person who—

(*a*) promotes, organizes, conducts or manages, or otherwise has control of, an unlawful lottery; or

(*b*) in any capacity assists, either directly or indirectly, in the promotion, organization, conduct, management or other control of an unlawful lottery,

commits an offence and is liable—

(i) on summary conviction to a fine of $5,000,000 and to imprisonment for 2 years; or

(ii) on conviction on indictment to a fine of $5,000,000 and to imprisonment for 7 years.

(Amended 42 of 1990 s. 7)

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01-DEC-1999 17:46 FROM HOME AFFAIR BUREAU TO 25099055 P.20

10. 獎券活動彩票的出售

任何人如——

(a) 出售與非法獎券活動有關的彩票或將其脫手；

(b) 管有與非法獎券活動有關的獎券活動彩票，以便售賣或將其脫手，

即屬犯罪，經定罪後，可處罰款 $50,000 及監禁 2 年。

11. 獎券活動彩票的購買

(1) 任何人如管有與非法獎券活動有關的彩票，即屬犯罪，可處以下刑罰——*(由 1994 年第 38 號第 4 條修訂)*

(a) 如首次定罪，可處罰款 $10,000 及監禁 3 個月；

(b) 如第 2 次定罪，可處罰款 $20,000 及監禁 6 個月；

(c) 如第 3 次或其後再定罪，可處罰款 $30,000 及監禁 9 個月。

(2) 在本條中，"獎券活動" (lottery) 不包括在香港境外籌辦、經營或管理的獎券活動。*(由 1994 年第 38 號第 4 條增補)*

(由 1990 年第 42 號第 8 條修訂)

12. 獎券活動的發行

(1) 任何人如以任何方式—— *(由 1994 年第 38 號第 5 條修訂)*

(a) 撰寫、印刷或發行，或安排撰寫、印刷或發行——

(i) 任何與非法獎券活動有關的彩票；或

(ii) 任何非法獎券活動的獎品名單；或

(b) 提供或發行，或安排提供或發行 (不論明訂與否)——

(i) 有關非法獎券活動結果的任何提示、示意或預測；或

(ii) 非法獎券活動結果的任何宣布，

即屬犯罪，經定罪後，可處罰款 $50,000 及監禁 2 年。

(2) 在本條中，"撰寫、印刷或發行" (write, print or publish) 及 "提供或發行" (provide or publish) 不包括並非在香港印刷或製作的國際流通報章、雜誌、報刊或期刊內就在香港境外籌辦、經營或管理的獎券活動所作的廣告宣傳。*(由 1994 年第 38 號第 5 條增補)*

10. Selling lottery tickets

Any person who—

(a) sells or otherwise disposes of a ticket relating to an unlawful lottery;

(b) has in his possession a lottery ticket relating to an unlawful lottery with a view to its sale or other disposal,

commits an offence and is liable on conviction to a fine of $50,000 and to imprisonment for 2 years.

11. Buying lottery tickets

(1) Any person who has in his possession a ticket relating to an unlawful lottery commits an offence and is liable— *(Amended 38 of 1994 s. 4)*

(a) on first conviction to a fine of $10,000 and to imprisonment for 3 months;

(b) on second conviction to a fine of $20,000 and to imprisonment for 6 months;

(c) on third or subsequent conviction to a fine of $30,000 and to imprisonment for 9 months;

(2) In this section, "lottery" (獎券活動) does not include a lottery promoted, conducted or managed outside Hong Kong. *(Added 38 of 1994 s. 4)*

(Amended 42 of 1990 s. 8)

12. Publications as to lotteries

(1) Any person who in any manner— *(Amended 38 of 1994 s. 5)*

(a) writes, prints or publishes, or causes to be written, printed or published—

(i) any ticket relating to an unlawful lottery; or

(ii) a list of prizes in an unlawful lottery; or

(b) provides or publishes, or causes to be provided or published, expressly or otherwise—

(i) any tip, hint or forecast relating to the result of an unlawful lottery; or

(ii) any announcement of the result of an unlawful lottery,

commits an offence and is liable on conviction to a fine of $50,000 and to imprisonment for 2 years.

(2) In this section, "write, print or publish" (撰寫、印刷或發行) and "provide or publish" (提供或發行) does not include the advertising of a lottery promoted, conducted or managed outside Hong Kong in an internationally circulated newspaper, magazine, journal or periodical which is not printed or produced in Hong Kong. *(Added 38 of 1994 s. 5)*

01-DEC-1999 17:47 FROM HOME AFFAIR BUREAU TO 25099055 P.21

13. 在賭場以外任何場所或在街道上進行的賭博

(1) 任何人如在賭場以外的任何場所 (不論公眾人士能否進入其內或是否被准許進入其內) 或在任何街道上——

(a) 營辦、管理或控制非法賭博；或

(b) 以任何身分直接或間接協助他人營辦、管理或控制非法賭博，

即屬犯罪，經定罪後，可處罰款 $50,000 及監禁 2 年。

(2) 任何人如在任何上述場所或任何街道上非法賭博，即屬犯罪，可處以下刑罰——

(a) 如首次定罪，可處罰款 $10,000 及監禁 3 個月；

(b) 如第 2 次定罪，可處罰款 $20,000 及監禁 6 個月；

(c) 如第 3 次或其後再定罪，可處罰款 $30,000 及監禁 9 個月。 *(由 1990 年第 42 號第 9 條修訂)*

14. 提供金錢以用於非法賭博或非法獎券活動

任何人如向他人提供任何金錢或其他財產，而明知該等金錢或財產會被任何人用於非法賭博或非法獎券活動；或與此有關的用途，或為非法賭博或非法獎券活動而使用，即屬犯罪，可處以下刑罰——

(a) 循簡易程序定罪後，可處罰款 $500,000 及監禁 2 年；或

(b) 循公訴程序定罪後，可處罰款 $500,000 及監禁 7 年。

15. 擁有人、租客等的責任

(1) 任何人不得——

(a) 身為任何處所或場所的擁有人、租客、佔用人或管理人，明知而准許或容受該處所或場所或其任何部分，開放、維持或使用作為賭場；或

13. Gambling in any place not being a gambling establishment or in a street

(1) Any person who—

(a) operates or manages or otherwise controls unlawful gambling; or

(b) in any capacity, either directly or indirectly, assists another person in the operation, management or other control of unlawful gambling,

in any place whatsoever (not being a gambling establishment) whether or not the public have or are permitted to have access thereto, or in any street, commits an offence and is liable on conviction to a fine of $50,000 and to imprisonment for 2 years.

(2) Any person who gambles unlawfully in any such place or in any street commits an offence and is liable—

(a) on first conviction to a fine of $10,000 and to imprisonment for 3 months;

(b) on second conviction to a fine of $20,000 and to imprisonment for 6 months;

(c) on third or subsequent conviction to a fine of $30,000 and to imprisonment for 9 months. *(Amended 42 of 1990 s. 9)*

14. Providing money for unlawful gambling or for an unlawful lottery

Any person who provides any money or other property to any other pereson knowing that it is to be used by any person in or for or in connexion with unlawful gambling or an unlawful lottery commits an offence and is liable—

(a) on summary conviction to a fine of $500,000 and to imprisonment for 2 years; or

(b) on conviction on indictment to a fine of $500,000 and to imprisonment for 7 years.

15. Responsibility of owners, tenants, etc.

(1) No person shall—

(a) being the owner, tenant, occupier or person in charge of any premises or place, knowingly permit or suffer such premises or place or any part thereof to be opened, kept or used as a gambling establishment; or

01-DEC-1999 17:47 FROM HUME ATTAIK BUKEAU TO 25099055 P.22

(b) 明知任何處所或場所或其任何部分將會被開放、維持或使用作為賭場，而以主事人或代理人身分出租或同意出租該處所或場所。

(2) 任何人如違反第 (1) 款，即屬犯罪，可處以下刑罰——

(a) 循簡易程序定罪後，可處罰款 $500,000 及監禁 2 年；或

(b) 循公訴程序定罪後，可處罰款 $500,000 及監禁 7 年。

16. 賭博時作弊

(1) 任何人如——

(a) 在賭博或獎券活動之前或之後，或在其過程中，或在與賭博或獎券活動有關方面，以任何欺詐手段、誤導的設計或虛假做法，為自己或任何已知或未知身分的其他人士贏取另一人的金錢或其他財產；或

(b) 在言語或行為上，存心欺詐或以任何欺騙手法，包括對過去、現在或將來的事情的欺騙，以及對任何人士的意向或意見的欺騙，從而直接或間接慫恿、煽惑或引誘他人參與賭博或獎券活動，

即屬犯罪，循公訴程序定罪後，可處罰款 $1,000,000 及監禁 10 年。

(2) 即使任何法律規則或慣例另有不同規定，任何證人不得僅因其曾參與有關賭博或獎券活動，而在根據本條進行的任何法律程序中被視為從犯。

第 IV 部

犯罪的證明

17. 無須證明為金錢而博彩，賒帳投注不成為免責辯護

在根據本條例而進行的任何法律程序中——

(a) 無須證明有關的賭博或獎券活動乃涉及任何金錢或其他財產或任何賭注或賭金；

(b) 證明任何金錢或其他財產或任何賭注或賭金乃在有關的賭博進行後或獎券活動抽獎後才收取、支付或遞交者，並不成為免責辯護。

(b) let or agree to let, whether as principal or agent, any premises or place knowing that such premises or place or any part thereof are or is to be opened, kept or used as a gambling establishment.

(2) Any person who contravenes subsection (1) commits an offence and is liable—

(a) on summary conviction to a fine of $500,000 and to imprisonment for 2 years; or

(b) on conviction on indictment to a fine of $500,000 and to imprisonment for 7 years.

16. Cheating at gambling

(1) Any person who—

(a) by any fraud, misleading device or false practice, before or after or in the course of or in connexion with gambling or a lottery, wins from another person, for himself or for any other person ascertained or unascertained, any money or other property; or

(b) fraudulently or by any deception whatsoever by words or conduct, including a deception relating to the past, the present or the future and a deception as to the intentions or opinions of any person, directly or indirectly persuades, incites or induces another person to take part in gambling or a lottery,

commits an offence and is liable on conviction on indictment to a fine of $1,000,000 and to imprisonment for 10 years.

(2) Notwithstanding any rule of law or practice to the contrary, a witness shall not in any proceedings under this section be regarded as an accomplice by reason only of his having taken part in the gambling or the lottery.

PART IV

PROOF OF OFFENCES

17. Proof of gaming for money not necessary and credit betting no defence

In any proceedings under this Ordinance—

(a) it shall not be necessary to prove that the gambling or the lottery involved any money or other property or any wager or stake;

(b) it shall not be a defence to show that any money or other property, or any wager or stake, was not to be collected or was not payable or to be delivered until after the gambling or the drawing of the lottery to which such money or other property or the wager or stake related.

01-DEC-1999 17:48 HKUM HUME AFFAIR BUREAU TO 25099055 P.23

18. 證明賭博或獎券活動乃合法的舉證責任

在就第 5、7、9 或 10 條所訂罪行而進行的法律程序中，須由被告人負舉證責任，以證明有關賭博憑藉第 3 條乃合法的，或有關獎券活動憑藉第 4 條乃合法的。

19. 推定

(1) 在根據本條例而進行的任何法律程序中，凡經證明——

(*a*) 警務人員根據第 23(2)(*a*) 條對任何處所或場所的進入受到阻止、阻撓或拖延；

(*b*) 在根據第 23(2)(*a*) 條進入的處所或場所內備有任何隱藏、移走或毀滅賭博設備的設施；

(*c*) 在根據第 23(2)(*a*) 條進入的任何處所或場所內發現賭博設備，或在該處所或場所內的任何人身上發現賭博設備，

則直至相反證明成立，須推定該處所或場所為賭場。

(2) 在根據第 6 條而進行的任何法律程序中，凡證明根據第 23(2)(*a*) 條進入賭場時，有任何人被發現在賭場內或逃離賭場，則直至相反證明成立，須推定該人曾在賭場內賭博。

(3) 就根據第 7(1)(*c*) 條而進行的任何法律程序而言，如證明任何人曾管有一張或多張投注單，則直至相反證明成立，須推定該人曾協助他人收受賭注。 *(由 1981 年第 53 號第 3 條增補)*

(4) 在根據本條例而進行的任何法律程序中，如證明根據第 23(2)(*a*) 條進入任何處所或場所時，在該處所或場所內發現任何金錢，或在該處所或場所內的人身上發現任何金錢，而警務人員在進入該處所或場所時曾遭阻止、阻撓或拖延，則直至相反證明成立，須推定該等金錢曾用於非法賭博，或與非法賭博有關的用途，或為非法賭博而使用。 *(由 1981 年第 53 號第 3 條增補)*

20. 證據的可接納性

(1) 在根據本條例而進行的任何法律程序中，凡法庭信納有錄音機或錄音帶曾在犯有第 7 條所訂罪行時被使用或被使用於有關犯有第 7 條所訂罪行，則該錄音帶或由該機所錄音的錄音帶 (視屬何情況而定)，須接納為證據，並須作為其內所錄得任何事宜的表面證據。

18. Burden of proof that gambling or lottery lawful

In any proceedings for an offence under section 5, 7, 9 or 10, the burden of proving that any gambling was lawful by virtue of section 3 or that any lottery was lawful by virtue of section 4, shall be on the defendant.

19. Presumptions

(1) Where in any proceedings under this Ordinance it is proved that—

(*a*) the entry of a police officer to any premises or place under section 23(2)(*a*) was prevented, obstructed or delayed;

(*b*) any premises or place entered under section 23(2)(*a*) were or was provided with any means for concealing, removing or destroying gambling equipment;

(*c*) gambling equipment was found in any premises or place entered under section 23(2)(*a*) or on any person found in any such premises or place,

it shall be presumed until the contrary is proved that the premises or place are or is a gambling establishment.

(2) Where in any proceedings under section 6 it is proved that a person was found in a gambling establishment or that a person escaped from a gambling establishment on the occasion of its being entered under section 23(2)(*a*), such person shall until the contrary is proved be presumed to have been gambling therein.

(3) For the purposes of any proceedings under section 7(1)(*c*) any person who is proved to have had in his possession one or more than one betting slip shall, until the contrary is proved, be presumed to have been assisting another person in bookmaking. *(Added 53 of 1981 s. 3)*

(4) If in any proceedings under this Ordinance it is proved that any money was found in any premises or place or was found on any person in such premises or place on the occasion of its being entered under section 23(2)(*a*) where entry was prevented, obstructed or delayed, it shall be presumed, until the contrary is proved, that such money has been used in or for or in connexion with unlawful gambling. *(Added 53 of 1981 s. 3)*

20. Admissibility of evidence

(1) Where in any proceedings under this Ordinance a court is satisfied that a tape recording machine or a tape recording was used in or in connexion with the commission of an offence under section 7, then a tape recording produced by that machine or the tape receording, as the case may be, shall be admissible in evidence and shall be prima facie evidence of any matter recorded thereon.

25099055 P.24
TO
01-DEC-1999 17:48 FROM HOME AFFAIR BUREAU

(2) 在根據本條例而進行的任何法律程序中，如在香港流通的報章上有報導報稱某一馬匹、小馬或狗隻報名或曾報名參加某項競賽，則不論該項競賽是否將在或曾在香港舉行，該則報導須接納為證據，並須作為該馬匹、小馬或狗隻曾報名參賽的表面證據。

(3) 在根據本條例而進行的任何法律程序中，如法庭信納有警務人員憑經驗或其他原因，對任何用作或目的在犯有本條例所訂罪行的做法、設計或器具有專門認識，可收取該警務人員就該等做法、設計或器具的性質、效果或目的所提出的證據。

第 V 部

雜項

21. 電話服務的截斷

(1) 凡任何人被裁定第 5、7 或 8 條所訂罪行罪名成立，則法庭除可就該罪行判以懲罰外，更可發出有效期由其指明不超過 12 個月的命令—— *(由 1990 年第 42 號第 10 條修訂)*

(a) 要求香港電話有限公司對該命令所指明而用於犯有上述罪行或用於與犯有上述罪行有關的處所截斷電話服務；

(b) 要求香港電話有限公司截斷提供給被告人的任何其他電話服務；

(c) 禁止香港電話有限公司在命令有效期內，向被告人提供任何進一步的電話服務。

(2) 高等法院司法常務官須通知香港電話有限公司有關根據第 (1) 款所發出的命令，而該公司則須採取必要的步驟，以實施該命令。 *(由 1998 年第 25 號第 2 條修訂)*

(3) 即使被告人不是有關電話服務的用戶，或不是與電話公司有協議的當事人，根據第 (1) 款所作出的命令仍具效力。

(2) In any proceedings under this Ordinance a report in a newspaper circulating in Hong Kong that a particular horse, pony or dog is or was entered as a participant in a particular race, whether or not the race is to be or was held in Hong Kong, shall be admissible in evidence and shall be prima facie evidence that the horse, pony or dog was so entered.

(3) If in any proceedings under this Ordinance a court is satisfied that by experience or otherwise a police officer has expert knowledge of any practice or device used in or for the purpose of the commission of any offence under the Ordinance, the court may receive evidence from that police officer as to the nature, effect or purpose of the practice or device.

PART V

MISCELLANEOUS

21. Disconnexion of telephone service

(1) Where a person is convicted of an offence under section 5, 7 or 8 the court may in addition to any penalty imposed for the offence make an order, which shall continue in force for such period not exceeding 12 months as the court may specify— *(Amended 42 of 1990 s. 10)*

(a) requiring the Hong Kong Telephone Company Limited to disconnect any telephone service provided to such premises used in or in connexion with the commission of that offence as may be specified in the order;

(b) requiring the Hong Kong Telephone Company Limited to disconnect any other telephone service provided to the defendant;

(c) prohibiting the Hong Kong Telephone Company Limited from providing to the defendant any further telephone service while the order is in force.

(2) The Registrar of the High Court shall notify the Hong Kong Telephone Company Limited of the making of an order under subsection (1) and the Company shall take such steps as may be necessary to give effect to it. *(Amended 25 of 1998 s. 2)*

(3) An order under subsection (1) shall have effect notwithstanding that the defendant is not the subscriber to the telephone service or a party to the agreement with the Company.

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01-DEC-1999 17:49 FROM HOME AFFAIR BUREAU TO 25099055 P.25

22. 牌照

(1) 影視及娛樂事務管理處處長可——

(a) 藉牌照批准——

(i) 為一間經由影視及娛樂事務管理處處長所批准的會社、協會或其他團體而舉辦及經營任何獎券活動；

(ii) 由一間並非《社團條例》(第 151 章) 所指的非法社團組織的社團及經營法波拿博彩遊戲，或由《社團條例》(第 151 章) 對其不適用的人組織及經營法波拿博彩遊戲； *(由 1992 年第 75 號第 37 條修訂)*

(iii) 在根據《公眾娛樂場所條例》(第 172 章) 第 4 條獲發牌照的處所內，組織及經營有獎娛樂博彩遊戲；

(iv) 由任何從事生意或業務的人組織及經營推廣生意的競賽； *(由 1980 年第 110 號法律公告增補)*

(b) 發出牌照，批准在處所內進行使用麻將牌或天九牌的博彩遊戲。 *(由 1977 年第 164 號法律公告修訂)*

(1A) *(由 1980 年第 110 號法律公告廢除)*

(2) 在訂明的費用繳付後—— *(由 1977 年第 164 號法律公告修訂；由 1980 年第 110 號法律公告修訂)*

(a) 可就某獎券活動、博彩遊戲或競賽而發出第 (1) 款所指的牌照；或

(b) 可發出為期 12 個月第 (1) 款所指的牌照，或將該牌照續期 12 個月。

(3) 任何該等牌照均須受訂明的條件及影視及娛樂事務管理處處長可施加的任何其他條件所規限。 *(由 1977 年第 164 號法律公告修訂；由 1980 年第 110 號法律公告修訂)*

(4) 如有以下情況，影視及娛樂事務管理處處長可隨時取消該等牌照—— *(由 1977 年第 164 號法律公告修訂；由 1980 年第 110 號法律公告修訂)*

(a) 牌照的條件遭違反，不論是否有人被裁定犯有第 (6) 款所訂罪行；或

(b) 影視及娛樂事務管理處處長認為由於公眾利益須取消牌照。

(5) 影視及娛樂事務管理處處長根據本條作出的決定的書面通知，須由影視及娛樂事務管理處處長向就其作出該項決定的人發出。 *(由 1994 年第 6 號第 44 條代替)*

法例由香港特別行政區政府印務局局長印刷及發行

22. Licences

(1) The Commissioner for Television and Entertainment Licensing may—

(a) by licence authorize—

(i) the promotion and conduct of any lottery for the purposes of a club, association or other body of persons approved by the Commissioner for Television and Entertainment Licensing;

(ii) the organization and conduct of a game of tombola by a society which is not an unlawful society within the meaning of the Societies Ordinance (Cap. 151) or is a person to whom that Ordinance does not apply; *(Amended 75 of 1992 s. 37)*

(iii) the organization and conduct of a game of amusement with prizes to be conducted on premises licensed under section 4 of the Places of Public Entertainment Ordinance (Cap. 172);

(iv) the organization and conduct of a trade promotion competition by a person engaged in trade or business; *(Added L.N. 110 of 1980)*

(b) license premises for the playing therein of games in which mahjong or tin kau tiles are used. *(Amended L.N. 164 of 1977)*

(1A) *(Repealed L.N. 110 of 1980)*

(2) A licence under subsection (1) may on payment of the prescribed fee— *(Amended L.N. 164 of 1977; L.N. 110 of 1980)*

(a) be granted for a particular lottery, game or competition; or

(b) be granted or renewed for a period of 12 months.

(3) Any such licence shall be subject to the prescribed conditions and to any other conditions which the Commissioner for Television and Entertainment Licensing may impose. *(Amended L.N. 164 of 1977; L.N. 110 of 1980)*

(4) The Commissioner for Television and Entertainment Licensing may cancel any such licence at any time— *(Amended L.N. 164 of 1977; L.N. 110 of 1980)*

(a) if a condition of the licence is contravened whether or not any person has been convicted of an offence under subsection (6); or

(b) he considers that the public interest so requires.

(5) Notice in writing of a decision of the Commissioner for Television and Entertainment Licensing under this section shall be given by the Commissioner for Television and Entertainment Licensing to the person in respect of whom it is made. *(Replaced 6 of 1994 s. 44)*

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(5A) 根據第(5)款發出的通知，除有關發出牌照或將牌照續期或施加其他條件的決定外，須附有說明作出該決定的理由的陳述書。 *(由1994年第6號第44條增補)*

(5B) 任何人如因影視及娛樂事務管理處處長根據本條就其作出的決定而感到受屈，可在收到該決定的通知後28日內，向行政上訴委員會提出上訴。 *(由1994年第6號第44條增補)*

(5C) 除非影視及娛樂事務管理處處長認為下述的暫緩生效會違反公眾利益，而有關該決定的通知載有意思如此的陳述，否則任何根據第(5B)款遞上訴反對的決定，須自提出上訴之日起暫緩生效，直至該項上訴獲得解決、撤回或放棄為止。 *(由1994年第6號第44條增補)*

(6) 如該等牌照的條件遭違反，持牌人即屬犯罪，除非他證明該違反行為並非在其同意或縱容下發生，而他已作出一切應盡的努力加以防止。

(7) 任何人如犯有第(6)款所訂的罪行，經定罪後，可處罰款$50,000及監禁2年。

23. 搜查懷疑為賭場的地方

(1) 警司或以上級的警務人員，如合理地懷疑任何處所或場所乃賭場，可書面授權任何警務人員進入及搜查該處所或場所。

(2) 任何取得根據第(1)款發出的授權書的警務人員，以及任何受其指揮的其他警務人員，可——

(*a*) 進入或必要時強行進入授權書內指明的處所或場所，並加以搜查；

(*b*) 逮捕任何被發現在該處所或場所內的人或逃離該處所或場所的人；

(*c*) 搜查任何被發現在該處所或場所內的人或逃離該處所或場所的人；

(*d*) 檢取及扣留在該處所或場所內被發現的賭博設備，或在該處所或場所內的人身上發現或在逃離該處所或場所的人身上發現的賭博設備；

(*e*) 檢取及扣留——

(i) 在該處所或場所內用於賭博，或為賭博而使用或與賭博有關而使用的任何金錢或其他財產；

(5A) A notice under subsection (5) shall, except in the case of a decision to grant or to renew a licence or to impose other conditions, be accompanied by a statement of the reasons for the decision. *(Added 6 of 1994 s. 44)*

(5B) Any person aggrieved by a decision of the Commissioner for Television and Entertainment Licensing made in respect of him under this section may, within 28 days after receiving notice of the decision, appeal to the Administrative Appeals Board. *(Added 6 of 1994 s. 44)*

(5C) A decision that is appealed against under subsection (5B) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Commissioner for Television and Entertainment Licensing, be contrary to the public interest and the notice of the decision contains a statement to that effect. *(Added 6 of 1994 s. 44)*

(6) Where a condition of any such licence is contravened, the person to whom the licence was issued commits an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(7) Any person who commits an offence under subsection (6) is liable on conviction to a fine of $50,000 and to imprisonment for 2 years.

23. Search of suspected gambling establishments

(1) A police officer of or above the rank of superintendent may, if he reasonably suspects that any premises or place are or is a gambling establishment, authorize in writing any police officer to enter and search the premises or place.

(2) A police officer to whom an authorization is issued under subsection (1), and any other police officer acting under his direction, may—

(*a*) enter, by force if necessary, the premises or place specified in the authorization and search the same;

(*b*) arrest any person who is found in such premises or place or who escapes from such premises or place;

(*c*) search any person who is found in such premises or place or who escapes from such premises or place;

(*d*) seize and detain any gambling equipment found in such premises or place or found on any person in such premises or place or found on any person who escapes from such premises or place;

(*e*) seize and detain any money or other property—

(i) being used in or for or in connexion with gambling in such premises or place;

01-DEC-1999 17:50 FROM HOME AFFAIR BUREAU TO 25099055 P.27

(ii) 在該等樓宇或場所內營辦、管理或控制任何賭場的人身上發現的金錢或其他財產，或在協助營辦、管理或控制該賭場的人身上發現的金錢或其他財產；或

(iii) 在該等處所或場所內被發現的人身上的金錢或其他財產，而警務人員根據 (*a*) 段進入該處所或場所時曾阻止、阻撓或拖延。

(3) 根據本條對任何人作搜查，只可由與該人性別相同的人進行。

(4) 任何人如阻撓根據第 (1) 款獲授權的任何警務人員或阻撓任何受其指揮的其他警務人員進入授權書內指明的處所或場所，即屬犯罪，經定罪後，可處罰款 $50,000 及監禁 2 年。 *(由 1990 年第 42 號第 11 條增補)*

(5) 凡任何人拖延第 (4) 款所提述的任何警務人員進入該款所提述的任何處所或場所，則直至相反證明成立，須推定該人乃為阻撓該等警務人員進入該處所或場所而將他們拖延。 *(由 1990 年第 42 號第 11 條增補)*

24. 在犯有第 13 條所訂罪行時檢取設備等

如警務人員合理地懷疑有人正在或曾在第 13 條所提述的場所內或任何街道上，犯有第 13 條所訂罪行，該警務人員即可檢取及扣留——

(*a*) 在該場所內或街道上發現的任何賭博設備，或該警務人員合理地懷疑犯有或曾犯有該罪行的人所管有的賭博設備；及

(*b*) 在上述情況下發現的、被該警務人員認為曾用於犯有該罪行，或為犯有該罪行而使用或曾用於與犯有該罪行有關的用途的任何金錢或其他財產。

25. 在賽會處所內收受賭注

(1) 賽會須使用一切合理及合法的方法 (包括根據第 (2) 款將某些人驅逐出賽會處所)，以防止有人在該賽會處所內犯有第 7 條所訂的罪行。

(2) 獲賽會授權以施行本條規定的人，如有理由懷疑有人正在賽會處所內犯有第 7 條所訂的罪行，可要求該人離開處所。如該人不遵從，可將該人逐出。

(ii) found on any person operating, or managing or otherwise controlling, any gambling establishment in such premises or place or on any person assisting in the operation or in the management or other control of any such establishment; or

(iii) found on any person found in such premises or place where entry under paragraph (*a*) is prevented, obstructed or delayed.

(3) No person shall be searched under this section except by a person of the same sex.

(4) Any person who obstructs any police officer authorized under subsection (1) or any other police officer acting under his direction from entering the premises or place specified in the authorization commits an offence and is liable on conviction to a fine of $50,000 and to imprisonment for 2 years. *(Added 42 of 1990 s. 11)*

(5) Where a person delays the entry of any police officer referred to in subsection (4) into any premises or place so referred to, he shall be presumed, until the contrary is proved, to have delayed entry for the purpose of obstructing such police officer from entering such premises or place. *(Added 42 of 1990 s. 11)*

24. Seizure of equipment etc. in case of offence under section 13

If a police officer reasonably suspects that an offence under section 13 is being or has been committed in any place referred to in that section or in any street, he may seize and detain—

(*a*) any gambling equipment found in such place or street or in the possession of any person whom he reasonably suspects of committing or having committed any such offence; and

(*b*) any money or other property so found which appears to him to have been used in or for or in connexion with the commission of any such offence.

25. Bookmaking on racing club premises

(1) A racing club shall use all reasonable and lawful means (including the removal of persons from racing club premises under subsection (2)) to prevent the commission of offences under section 7 on the racing club premises.

(2) A person authorized for the purpose of this section by a racing club may, if he has reason to suspect that a person is committing an offence under section 7 on the racing club premises, require such person to leave the premises and, if he fails to do so, remove him therefrom.

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(3) 任何人在根據第(2)款被要求離開賽會處所後，已離開或被驅逐出該處所，但在同一日再次進入該處所，即屬犯罪，經定罪後，可處罰款$50,000及監禁2年。

(4) 本條的規定並不影響賽會禁止某人進入賽會處所，或驅逐某人出賽會處所的任何其他權利。

26. 沒收

在根據本條例而進行的任何法律程序中，或在警務處處長提出或代其提出的申請中，如法庭信納任何金錢、賭博器具或其他非屬不動產的財產，曾用於非法賭博或非法獎券活動，或為非法賭博或非法獎券活動而使用，或曾用於與非法賭博或非法獎券活動有關的用途，則不論是否有人被裁定犯有本條例所訂罪行，法庭須命令將其沒收歸政府。

(由1980年第110號法律公告修訂；由1990年第42號第12條修訂；由1999年第34號第3條修訂)

27. 阻撓警務人員

任何人如阻撓警務人員行使本條例授予該人員的權力，即屬犯罪，經定罪後，可處罰款$10,000及監禁3個月。

28. 規例

行政長官會同行政會議可訂立規例，以訂定以下事項—— *(由1999年第34號第3條修訂)*

(*a*) 申請牌照須採用的方式；

(*b*) 申請書及牌照的格式；

(*c*) 博彩遊戲的舉辦及經營；及

(*d*) 任何須由或可由規例訂明的事項。

29. 將某些差價合約豁除使其不屬本條例適用範圍

(1) 除第(2)款另有規定外，本條例不適用於以下的差價合約——

(*a*) 在聯合交易所或在附表第I部內指明的任何股券市場上市或在附表第II部內指明的任何期權市場交易的差價合約；

(3) Any person who, having left or been removed from racing club premises after being required to leave the same under subsection (2), re-enters the premises on the same day commits an offence and is liable on conviction to a fine of $50,000 and to imprisonment for 2 years.

(4) Nothing in this section shall affect any other right of a racing club to exclude or remove a person from racing club premises.

26. Forfeiture

If in any proceedings under this Ordinance or otherwise on application by or on behalf of the Commissioner of Police, a court is satisfied that any money, gambling equipment or other property, not being immovable property, has been used in or for or in connexion with unlawful gambling or an unlawful lottery, the court shall order that it be forfeited to the Government, whether or not any person has been convicted of an offence under this Ordinance.

(Amended L.N. 110 of 1980; 42 of 1990 s. 12; 34 of 1999 s. 3)

27. Obstruction of police officers

Any person who obstructs a police officer in the exercise of the powers conferred on him by this Ordinance commits an offence and is liable on conviction to a fine of $10,000 and to imprisonment for 3 months.

28. Regulations

The Chief Executive in Council may by regulation provide for— *(Amended 34 of 1999 s. 3)*

(*a*) the manner in which applications for licences shall be made;

(*b*) the form of applications and licences;

(*c*) the promotion and conduct of games; and

(*d*) anything that is to be or may be prescribed.

29. Exclusion of certain contracts for differences from Ordinance

(1) Subject to subsection (2), this Ordinance shall not apply to any contract for differences which is—

(*a*) listed on the Unified Exchange or on any stock market specified in Part I of the Schedule or traded on any options market specified in Part II of the Schedule;

01-DEC-1999 17:30 FROM HUME ATTAIK BUKEAU TO 25099055 P.28

01-DEC-1999 17:51 HKUM HUME AFFAIR BUREAU TO 25099055 P.29

(b) 《保障投資者條例》(第 335 章) 第 4(2)、(3)(a) 或 (5) 條規定獲豁免，或根據該條例第 4(2)、(3)(a) 或 (5) 條規定獲豁免不屬該條例第 4(1) 條適用範圍的廣告、邀請或文件所導致訂立的差價合約；或

(c) 不論作為主事人或代理人，以業務的形式，由——

(i) 《商品交易條例》(第 250 章) 所指的註冊證券交易商訂立的差價合約；或

(ii) 《證券條例》(第 333 章) 所指的註冊證券交易商或獲免註冊交易商訂立的差價合約，

而該等差價合約，如沒有本款的規定，則可受本條例規限。

(2) 第 (1) 款不適用於任何屬由財經事務局局長為本款的目的藉憲報公告所指明的種類或種類的差價合約。

(3) 財政司司長可不時藉憲報公告，修訂附表。

(由 1993 年第 84 號第 3 條增補。由 1997 年第 362 號法律公告修訂)

附表 [第 29 條]

第 I 部

證券市場

大阪證券交易所
巴黎證券交易所
布魯塞爾證券交易所
名古屋證券交易所
多倫多證券交易所
吉隆坡證券交易所
米蘭證券交易所
阿姆斯特丹證券交易所
東京證券交易所
法蘭克福證券交易所
奧斯陸證券交易所
馬卡地證券交易所
馬尼拉證券交易所
哥本哈根證券交易所
紐約證券交易所
蒙特利證券交易所
倫敦證券交易所
馬德里證券交易所
斯德哥爾摩證券交易所
新加坡證券交易所
新西蘭證券交易所

經可法資源，由香港特別行政區政府印務局局長印刷及發行

(b) entered into as the result of an advertisement, invitation or document which is excluded from the application of section 4(1) of the Protection of Investors Ordinance (Cap. 335) as provided by or under section 4(2), (3)(a) or (5) of that Ordinance; or

(c) entered into by way of business, whether as principal or agent, by—

(i) a registered dealer within the meaning of the Commodities Trading Ordinance (Cap. 250); or

(ii) a registered or exempt dealer within the meaning of the Securities Ordinance (Cap. 333),

and which may, but for this subsection, be subject to this Ordinance.

(2) Subsection (1) shall not apply to a contract for differences which is of such a class or description as may be specified for the purpose of this subsection by the Secretary for Financial Services by notice in the Gazette.

(3) The Financial Secretary may from time to time, by notice in the Gazette, amend the Schedule.

(Added 84 of 1993 s. 3)

SCHEDULE [s. 29]

PART I

STOCK MARKETS

American Stock Exchange
Amsterdam Stock Exchange
Australian Stock Exchange
Brussels Stock Exchange
Copenhagen Stock Exchange
Frankfurt Stock Exchange
Helsinki Stock Exchange
Korea Stock Exchange
Kuala Lumpur Stock Exchange
London Stock Exchange
Luxembourg Stock Exchange
Madrid Stock Exchange
Makati Stock Exchange
Manila Stock Exchange
Milan Stock Exchange
Montreal Stock Exchange
Nagoya Stock Exchange
New York Stock Exchange
New Zealand Stock Exchange
Osaka Securities Exchange
Oslo Stock Exchange

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01-DEC-1999 17:51 FROM HOME AFFAIR BUREAU TO 25099055 P.30

巴黎證券交易所
泰國證券交易所
新加坡證券交易所
斯德哥爾摩證券交易所
多倫多證券交易所
東京證券交易所
維也納證券交易所
蘇黎世證券交易所

第II部

期權市場

大阪證券交易所
巴黎期權市場
芝加哥期權交易所
芝加哥商品交易所
芝加哥期權交易所
東京國際金融期貨交易所
東京穀物交易所
東京證券交易所
法國期貨市場
紐約商品交易所
紐約棉花交易所有限公司
紐約期貨交易所
倫敦金屬交易所
倫敦國際金融期貨交易所
悉尼期貨交易所有限公司
商品交易所有限公司(紐約)
費城證券交易所
斯德哥爾摩期權市場
瑞士期權及金融期貨交易所有限公司
新加坡國際金融交易所
斯西蘭期貨及期權交易所
歐洲期權交易所(阿姆斯特丹)
德國期權及期貨交易所
澳大利亞期權市場

(由1993年第84號第4條增補)

Paris Bourse
Securities Exchange of Thailand
Stock Exchange of Singapore
Stockholm Stock Exchange
Tokyo Stock Exchange
Toronto Stock Exchange
Vienna Stock Exchange
Zurich Stock Exchange

PART II

OPTIONS MARKETS

Australian Options Market
Chicago Board of Options Exchange
Chicago Board of Trade
Chicago Mercantile Exchange
Commodity Exchange, Inc. (New York)
DTB Deutsche Terminborse
European Options Exchange (Amsterdam)
London International Financial Futures Exchange
London Metal Exchange
Marche a Terme International de France
Marche des Options Negociables de Paris
New York Cotton Exchange, Inc.
New York Futures Exchange
New York Mercantile Exchange
New Zealand Futures and Options Exchange
Osaka Securities Exchange
Philadelphia Stock Exchange
Singapore International Monetary Exchange
Stockholm Options Market
Swiss Options and Financial Futures Exchange AG
Sydney Futures Exchange, Ltd
Tokyo Grain Exchange
Tokyo International Financial Futures Exchange
Tokyo Stock Exchange
Toronto Futures Exchange

(Added 84 of 1993 s. 4)

TOTAL P.30