

THE GAMBLING LAW
REVIEW

FOURTH EDITION

Editor
Carl Rohsler

THE LAWREVIEWS

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REVIEW

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PREFACE

Welcome to the fourth edition of *The Gambling Law Review*.

One of the issues I have been wondering about while reviewing the fourth edition of *The Gambling Law Review* is what might be described as the Sorites paradox in reverse.¹ First editions of books may well be the ones that are the most collectable, but they are probably not the most valuable for the reader. In years two and three, as an edition gathers size and age, it becomes established. But at what point does it stop being a project and become a tradition, an institution or (the ultimate accolade for any legal study) an authority?

I think it would be wrong to say that we are an authority yet. But, there are some very encouraging signs. We have new and notable contributions from Austria, Hong Kong and Cyprus. One must also mention those who have had to perform substantial re-writes, as with Malta, since the legislation there has been subject to considerable change.

This year, therefore, I am pleased again to say that the scope of coverage has increased to 30 chapters. So we may not yet be 'authoritative', but I hope that readers will agree that we are very well established. I am delighted to welcome the new authors and thank them each for their very valuable contributions, as I am also very pleased to thank those who have had found the time and resources to continue contributing to this work.

The primary purpose of this work is to provide a short summary of the gambling law of a wide range of jurisdictions and, so far as possible, to achieve that through a format that is both uniform enough to allow a comparison of the different legal systems but is also flexible enough to recognise that gambling law finds its home in different places depending upon the legal system in question. In some countries, it is founded in the criminal law, in other places it forms part of civil or administrative law. It is sometimes rooted in a common law and sometimes in a civil code tradition.

The second aim is to allow practitioners in the field to be updated on developments over the course of the year – with a section in each chapter dealing with both the main milestones of the last 12 months and the likely developments to come. And last, of course, it is a good way to bring together some of the leading lawyers in this fascinating field, so that they can stay in touch and communicate with each other – forming a network of knowledge and contacts upon which I hope our respective clients will rely.

Looking back, it feels as though the world has been a very busy place over the last 12 months. It is tempting to say that such a statement is just an error of perspective, and that

¹ Eubulides of Miletus is said to have conjectured about taking consecutive grains away from a pile of sand. When does the heap cease to be a heap and become merely a pile? The Sorites paradox takes its name from the Greek word for 'pile'.

in fact every year has its fair share of excitement – but events in America (both in the world of gambling and also more widely in politics), and the chaos of Brexit, which still surrounds me as I write, seem to justify putting 2018/19 into a special category.

But while the political environment seems to have been particularly fraught, political matters are often cyclical, reflecting movements between different ideologies and oscillating social attitudes. The more important changes have actually been technological, since they almost always lead to dramatic and irreversible changes.

So, let us focus on some important statistics. During 2018, the number of internet users in the world exceeded 4 billion (a 7 per cent year-on-year increase). Pausing there, that means that in 2018, more than 280 million people went online for the first time. Those new internet users, if brought together geographically, would form the fourth largest national population in the world.

In the same 12-month period the number of social media users increased by 13 per cent to 3.1 billion. Furthermore, during 2018 the world reached a total of more than 5.1 billion unique mobile phone users, meaning that two thirds of the world's population has access to mobile communication, with more than half of the handsets being smartphones. Mobile use has indeed eclipsed laptops and desktop computers. Internet penetration in Western Europe is at 92 per cent and in North America it is 88 per cent. Soon, everyone will have access to everything. And the everything is being delivered much more quickly. Average fixed internet speeds increased between 2017 and 2018 from 22Mbps to 46.12Mbps, an average of 26 per cent.

The amount of data we produce each year (about 16 zettabytes²) is already much more than would be necessary to record every word ever spoken by our species. In other words, the technology, and the ability to process, manipulate and model the universe mathematically has gone well beyond a tipping point, and is rapidly creating the environment for databases and networks of neurological scale, and a whole new way of thinking – artificial intelligence.

Those changes have created new possibilities in many fields, including the development of the worldwide gambling industry. Distributed ledger technologies and, in particular, bitcoin was first created in 2009. Ten years later, they have already become sufficiently prominent that gambling regulators have been forced to consider and regulate their use. Given that acceleration, it will surely be only a matter of four or five more years before they become a mainstream form of consumer currency. Second, artificial intelligence is beginning to show its worth as a way of automating some of the processes that most concern operators and regulators: social responsibility, player verification and anti-money laundering. To give one example, automated age verification by use of facial recognition technology is likely to become a practical reality in the next 12 months. At present, many operators are still using some fairly crude flags to indicate when a player is gambling unwisely or acting suspiciously and most of these have ultimately to be judged by fallible humans. We can expect, as the number of data points increases and the ways of assessing behaviour become more subtle, that standards will be able to be created through the use of automated tools to make player identification, monitoring and self-exclusion a much more scientific, accurate and objective process.

Another area where technology is creating change is in the environment in which gambling takes place. There was a time when gambling was confined to casinos and other

2 A zetterbyte is a trillion gigabytes, or 1,000,000,000,000,000,000 bytes.

specific premises. Then the internet allowed gambling to become home-based for the first time, and there were increasing attempts using live-dealer experiences and virtual reality to mimic premises-based gambling but with the comforts of home. Next, we saw the diversification of gambling products and a blurring of the whole entertainment space, with social gaming and e-sports creating completely new kinds of experience, and we have also seen a return to premises-based entertainment, but where a fusion of technologies mean that games can be played seamlessly from device to premises, on a single account. In other words, the ubiquity of gambling behaviour has become like the ubiquity of mobile technology and social media itself.

At the same time as these technological changes are democratising access to gambling, the 'grey' markets are drying up. More and more legislators are addressing themselves to the regulation of international gambling and the creation of models for regulation and taxation. The Wild West of 20 years ago has become a tamer place. Also, while the dominance of certain social media technologies is creating opportunities, it is also effectively restricting diversity of approach down into necessary and fewer effective routes to market. In other words, to be effective, gambling operators need not only the approval of their regulators, but also, increasingly, the companies that allow them to deliver their product. Many opinions on the legality of operations are now being drafted not to convince regulators but more to persuade banks and media providers of a product's legality. The industry faces an ongoing challenge to ensure that big business views gambling operators as a legal and acceptable form of entertainment and commerce. The need for the industry to remain a convincing advocate of its own propriety has never been greater.

In the context of these changes, there is surely an important place for an annual review of the world of gambling law. I close by thanking my co-authors and the editorial team at *The Law Reviews*, for their organisation and encouragement. I very much look forward to our fifth edition, with still more content and diversity, by which time I will formally have decided that the *Gambling Law Review* has indeed developed into an authority.

Carl Rohsler

Memery Crystal

London

May 2019

JAPAN

*Hitoshi Ishihara*¹

I OVERVIEW

i Introduction

On 27 July 2018, the Japanese Diet passed the Act for Development of Specified Complex Tourist Facilities Areas (the Act), which legalises gambling to be operated by licensed private entities in certain designated locations within Japan.

The passage of the Act has garnered strong interest domestically and internationally, as it allows the licensed private entities to operate a ‘Complex Tourist Facilities Area’, more commonly referred to as an ‘Integrated Resort’ (IR), which by definition under the Act shall include a casino (Article 2 of the Act). As described more in Section II, although the Japanese Penal Code (Act No. 45 of 1907) generally prohibits any form of gambling, which to date has only been allowed in connection with public sports and lottery, the Act explicitly legalises gambling in a certain designated area by excluding the application of the Penal Code (Article 39 of the Act).

While the Act delegates many aspects to the determination by the Cabinet Order and other subordinate rules (in fact there are 331 items that are left for the government to determine), the Act sets out the overarching principles regarding the following matters:

- a* framework regarding the implementation of an IR;
- b* regulations regarding the casino (gambling) and casino related business (such as the facilities and equipment);
- c* financial affairs; and
- d* overseeing bodies and penalties.

Below are some of the key features that should be of interest to those who are considering entering into the Japanese casino market, and also a brief guidance on which types of business would require licensing or certification, what sort of policies and agreements are necessary for the implementation of an IR, and the effective date regarding the various portions of the Act.

II CURRENT STATUS AS TO THE LEGALITY OF GAMBLING IN JAPAN

Under the current Japanese legislation, gambling, in general, is prohibited under Article 185 of the Penal Code, with the exception of betting on something for momentary amusement or specific events or sports permitted under special laws, which are:

¹ Hitoshi Ishihara is a partner at Anderson Mōri & Tomotsune.

- a* the four public sports – horse racing, bicycle racing, powerboat racing and motorcycle racing – all of which are run by local governments or government corporations;
- b* the public lottery; and
- c* Japanese Football Pools.

Licences are required to operate these forms of gambling activities, which under the current legislation, are granted only to local governments or government-related entities.

In this context, Article 185 of the Penal Code provides that a person who gambles shall be punished by a fine or a petty fine of not more than ¥500,000, unless the item that is placed on the bet is that of momentary amusement. The term ‘gamble’ is understood as ‘an act where more than two persons bet on an outcome of a contest of chance to contend for a prize in the form of property or asset’ (Tokyo High Court, 28 November 2006).

The ‘outcome of a contest of chance’ means an outcome that is something unpredictable or out of the contestants’ control. The Old Supreme Court case of 13 November 1911 found that if the outcome of a contest depends upon an element of chance to any degree, the outcome shall fall under the ‘outcome of a contest of chance’, even if such outcome depends on certain skills of the contestants (except when the outcome is evident in advance on the basis of any gap between the contestants’ skills).

Accordingly, Japanese court precedents have found that the outcomes of games of ‘igo’ (Old Supreme Court case of 10 June 1915), mah-jong (Old Supreme Court case of 28 March 1935) and Japanese chess (shogi) (Old Supreme Court case of 21 September 1937) all fall under the category of ‘outcome of a contest of chance’.

To ‘bet to contend for a prize in the form of property or asset’ means the winner wins and the loser loses a prize in the form of property or asset. If one of the contestants does not lose any property, that is, he or she has no risk of losing his or her property, the contestants are not contending for a prize in the form of property or asset (Old Supreme Court case of 30 April 1917 et al).

Article 186, Section 2 of the Penal Code further prescribes that a person who, for the purpose of profit, runs a place for gambling or organises a group of habitual gamblers shall be punished by imprisonment not less than three months but not more than five years. The term ‘running a place for gambling’ is understood to mean providing, as a host, a certain place for gambling that is under the host’s control (Supreme Court Case of 14 September 1950). In this context, ‘certain place for gambling’ is understood to mean that a physical location or actual gathering of the players to such location is not required (Supreme Court case of 28 February 1973).

The crime of running a place for gambling also requires running a place for gambling and ‘obtaining profit’ (Article 186, paragraph 2) and the term ‘obtain profit’ is understood to mean having the intention of obtaining illegal financial benefit (in the form of fees, commissions or others) in consideration.

The Penal Code has a certain carve-out stating that gambling will not constitute a violation of the Penal Code, if the ‘item which is placed on bet is that of momentary amusement’. This term is understood to be something of very low value that will not unduly stimulate a person’s passion for gambling. The Supreme Court of Japan, however, has found that cash does not, regardless of its amount, fall under the definition of ‘momentary entertainment’.

Thus, gambling that is legally permitted under the current Japanese law is limited to gambling facilitated by licensed public entities, and interpretations of gaming and gambling regulations to date have been generally consistent with this general rule.

The passage of the Act opens the door for gambling facilities to be operated by private entities in Japan, which is the latest development in a long-standing debate on whether to legalise and permit casinos in designated areas of the country.

III OFFSHORE GAMING SERVICES

On 1 November 2013, a deliberation concerning the legality of online gambling was conducted in the Japanese Diet and, upon such deliberation, the government presented its view concerning online gambling, which is that participating in online gambling operated outside Japan through the internet from Japan (or participating in casinos outside Japan airing live through the internet from Japan) will constitute gambling in Japan if a part of such gambling was conducted within Japan, such as participating through the internet from one's home in Japan (i.e., the person in Japan was not physically present at the gambling house overseas).

Accordingly, in 2016 there was a case where several players located in Japan who were playing an online gambling game distributed by an offshore online gaming service provider (Smart Live Casino) through a server located outside of Japan (United Kingdom) were convicted of illegal gambling. In this case, it was reported that the relevant gambling website had descriptions written in Japanese since September 2014 and was open from early evening to after midnight Japan time and, in addition to that, the dealer was Japanese and the users were able to talk with the dealer in Japanese.

It is considered that these factors formed the grounds for the website to be considered as providing services that were targeted at Japanese people. It should be noted, however, that this case was dealt with under summary proceedings, which are not a formal trial at a summary court. A trial in these proceedings takes place only with an examination of documents submitted (no public trial including witness examination takes place) while parties are not present. Therefore, it is unclear whether the court would come to the same conclusion in a formal trial. In fact, despite some of the players being convicted of illegal gambling, the Japanese Public Prosecutors Office decided that it would drop charges against one of the players who did not agree to summary proceedings, and therefore, it is unclear whether the court would come to the same conclusion if this was tried in the formal trial. Also, to the best of our knowledge, no action was taken against Smart Live Casino.

IV CURRENT STATUS OF THE LEGALISATION OF CASINOS IN JAPAN

In light of the general prohibition on gambling, official discussions on whether to legalise casinos in Japan have been taking place for some time now, dating back to 2006 when the Liberal Democratic Party (LDP) produced a report entitled 'Japan's Basic Policy concerning the Introduction of Casino Entertainment'. These discussions have continued since then, and in 2013, the LDP and certain other members of a cross-party group called the 'Alliance for the Promotion of International Tourism' (the Alliance), including as its members Shinzo Abe, the current Japanese Prime Minister, and Taro Aso, the current Treasurer and former Prime Minister, submitted the bill to legalise casinos to the Japanese Diet, which was subsequently passed at the Japanese Diet session on 15 December 2016. Subsequently, on

27 July 2018 the Japanese Diet passed the Act for Development of Specified Complex Tourist Facilities Areas (the Act), which legalises gambling to be operated by licensed private entities in certain designated locations within Japan. In this Chapter, some of the issues are just presented without further analysis because the IR Development Act delegates, to a substantial extent, detailed provisions to Cabinet Order, Order of the Ministry of Land, Infrastructure, Transport and Tourism and the Casino Administration Committee's rules, and at present, it has not been made clear how the Act is to be operated in practice.

i Key features of the Act

While every aspect of the law is important and it is difficult to distinguish which features are the key and which features are not (and this would depend in part on the particular perspective or interest one has in this subject), below are some of the key features of the Act that have been frequently questioned and discussed during the legislative process.

Facilities to be established within an IR

Under the Act, an IR is referred to as 'Specified Complex Tourist Facilities', which includes the following facilities, each of which is required to meet the standards specified by Cabinet Order (Article 2 (1) of the Act):

- a* casino facilities;
- b* international convention facilities that promote hosting of international conventions and serve for smooth hosting of such conventions;
- c* facilities to hold exhibitions, trade fairs and other events that provide smooth hosting of international-scale exhibitions, trade fairs or other events;
- d* facilities that contribute to more attractive tourism in Japan by hosting performances or other activities that take advantage of Japanese tradition, culture, art or other features;
- e* facilities that contribute to the promotion of tourism in Japan by properly providing information about tourist attractions in each region and also providing one-stop services to arrange transport, accommodation and other matters necessary for sight-seeing visits to each region;
- f* lodging facilities that meet the sophisticated and diversified needs of users; and
- g* in addition to the foregoing, facilities that otherwise contribute to promoting tourism by domestic and foreign tourists.

Number of IRs to be established

The number of IR Areas shall be limited to three for the time being (Article 9 of the Act). However, after five years have elapsed from the date of the first certification, the government shall review the status of enforcement of the Act and shall take necessary measures (if any) based on the results thereof. In this context, the number of IR Areas will be specifically reviewed after seven years have elapsed from the date of the first certification (Article 4 of Supplementary Provisions to the Act).

Size of casino facilities

While the Act is still silent on the actual limitation on the size of casinos as this has been relegated to the Cabinet Order (Article 41 of the Act), the working team of the ruling party issued their opinion regarding the maximum size of casino floors. The working team

recommends that, considering that the location and size of the IR has yet to be defined, rather than setting a limitation on the absolute value, the gross floor area for the casino in IR facilities shall be limited to 3 per cent or less.

The basis of the calculation shall be 3 per cent of the 'gross floor area' and not the land area, which should ensure the casino is 'only a part of the facilities.'

Term of licence

The term of casino licence shall be three years from the grant date of licence (Article 43 (1) of the Act), which may be renewed for successive three year periods (Articles (2) and (6) of the Act). The area development plan, which would be a prerequisite for the casino licence, also needs to be certified (and renewed) under a separate procedure, which is outlined below in more detail.

Limitation on the number of times of entry and means to verify identity

Chapter VII of the Act provides for a strict limitation on the number of times of entry and entry fee to prevent problem gambling. While there is no limitation on the number of times of entry for non-Japanese residents, the Japanese residents are limited to three times in seven days and 10 times in 28 (Article 69 of the Act), and 'my number cards' shall be utilised for the verification of identity and the number of times of entry (Article 70 of the Act).

Entry fee

The entry fee will be imposed on Japanese residents in the amount of ¥6,000, half of which shall be paid to the national government (Article 176 of the Act) and the other half to the local government (Article 177 of the Act).

Levy

While there was a discussion of whether a progressive levy system could be imposed, since this may reduce the incentive for entities to expand their business by additional investment and otherwise risks discouraging investment to realize the commonwealth, the levy was fixed at the rate of 30 per cent of gross gaming revenue, half of which shall be paid to the national government (Article 192 of the Act, and the other half to the local government (Article 193 of the Act).

Restriction on profit sharing of gaming revenue

A casino business operator (as explained in the following Section) is prohibited from entering into contracts that do not fall under certain criteria, one of which is that the provisions of such contract shall not stipulate payment of an amount calculated in proportion to the GGR nor any other amount calculated based on all or a part of the GGR (Article 94(i)(e) of the Act).

ii Persons, entities, policies and agreements that are of significance under the Act

Since the casino operation that would be conducted within the IR will be excluded from the general prohibition of gambling, the people and entities that take part in the IR operation will be subject to strict regulation.

iii Key operators

While the regulation mostly concerns the IR operators and their shareholders, it is possible that the operator of the IR and the ownership of the underlying land, facility and equipment are different. The Act provides for such cases, each of which have different licensing requirements.

Establishment and operation business operator

An entity that conducts business to establish and operate an IR (and other businesses incidental to the operation of an IR) is categorised as an establishment and operation business operator (Article 2 (4) of the Act). An establishment and operation business operator is prohibited from engaging in any business other than the establishment and operation of such IR, so this entity needs to be a SPC (Article 18 (1) of the Act).

Casino business operator

An establishment and operation business operator who conducts casino business by obtaining a licence from the Casino Administration Committee is categorised as a casino business operator (Article 2 (9) of the Act).

Here, the term ‘casino business’ means a business that performs the following services:

- a* Services for conducting casino gambling with customers or having it conducted between customers in casino facilities. The methods and types of gambling to be admitted will be specified in the Casino Administration Committee’s rules as ones that are reasonably found to be acceptable in Japan in terms of conventional wisdom from the perspective of ensuring public confidence in sound casino business management and that gain the understanding of the public, considering how similar acts are conducted in foreign countries.
- b* Services to conduct exchange trading involving transfer of a customer’s fund between the customer’s account, accepting from and lending money to a customer and currency exchange (specified financial business). In this context, the banking act is not applicable to specified financial business (Article 76 (3) of the Act) and a casino business operator may not charge interest through lending money (Article 85 (3) of the Act).

Since only an establishment and operation business operator can obtain a licence as a casino business operator, the establishment and operation business operator and casino business operator for an IR must be identical.

Facilities offering business operator

A facilities offering business operator is an entity that offers establishment and operation business operators the services to maintain (including installation, repair and expansion) group of facilities that constitute an IR in an integrated manner in case the establishment and operation business operator does not hold ownership of such facilities (Article 2 (6) of the Act). If a facilities offering business operator offers casino facilities for use, this requires a separate licence from the Casino Administration Committee. Similarly to the establishment and operation business operators, casino facilities offering business operators are prohibited from engaging in any business other than the facility offering business of the IR, so this entity needs to be a SPC (Article 18 (2) of the Act).

Rightholder over underlying land

A rightholder over underlying land is the entity that holds the ownership, superficies and other rights aimed to use and gain revenues from such rights or the rights aimed to acquire such rights with respect to the underlying land of the IR by obtaining authorisation from the Casino Administration Committee (Article 2 (16) of the Act).

Casino-related devices manufacturer

A casino-related devices manufacture is an operator conducting the business of manufacturing and selling or lending of casino-related devices by obtaining permission from the Casino Administration Committee (Article 142 (2) of the Act).

Major shareholders

Each major shareholder of the casino business operator will require authorisation from the Casino Management Committee (articles 58 to 60 of the Act). The threshold for this purpose will be, in summary, (1) 5 percent of voting rights; or (2) 5 percent of the capital contribution (Article 2 (12) of the Act). The standards for receiving authorisation are such person or entity (1) having sufficient social credibility (Article 60 (1) of the Act), (2) having not committed crime, and (3) having no connection with antisocial forces (Article 60 (2) of the Act),

iv Policies and agreements that are of significance under the Act

Since the purpose of developing the IR and legalising casino business is to promote domestic and foreign tourists to visit and stay in order to enhance vitality and seek sustainable development of the Japanese economy in response to falling population (Article 1 of the Act), there are policies that need to be followed as well as plans and agreements that are subject to certifications.

Fundamental policies

These would be the overarching policies of the national government with respect to the development of IR, which the Minister of Land, Infrastructure, Transport and Tourism shall set out (Article 5 of the Act). The Fundamental Policies are required to set out the following matters:

- a* matters concerning the significance and objectives of the development of IR Areas;
- b* basic matters concerning measures to promote the development of IR Areas;
- c* basic matters concerning the establishment and operation/facilities offering businesses and their operators;
- d* basic matters concerning area development plan certification;
- e* basic matters concerning measures to realize attractive stay-type tourism in Japan that is highly competitive in the international market by means of promoting the development of IR Areas through the use of profits from casino business as well as the creativity of regions and the vitality of the private sector; and
- f* basic matters concerning measures necessary to properly eliminate adverse effects that may arise in connection with the establishment and operation of casino facilities.

Implementation policies

These would be policies that each local government (i.e., prefectures and certain designated cities) that intends to develop an IR Area shall set out in line with the fundamental policies

(Article 6 of the Act). Private entities that intend to perform the establishment and operation/facilities offering businesses may also propose formulation of the implementation policies to the prefecture and designated city (Article 7 of the Act). The implementation policies are required to set out the following matters:

- a* matters concerning the significance and objectives of the development of the relevant IR Area;
- b* basic matters concerning the location and scale of the area in which the relevant IR Area is to be developed;
- c* matters concerning the type, functions and scale of facilities to constitute the relevant IR Area, and matters concerning the establishment and operation/facilities offering businesses;
- d* matters concerning invitation and selection of a private entity to perform the establishment and operation/facilities offering businesses;
- e* matters to ensure that the establishment and operation/facilities offering businesses are performed smoothly and certainly;
- f* matters concerning measures to realise attractive stay-type tourism in Japan that is highly competitive in the international market by means of promoting the development of the relevant IR Area through the use of profits from casino business as well as the creativity of regions and the vitality of the private sector; and
- g* matters concerning measures necessary to properly eliminate adverse effects that may arise in connection with the establishment and operation of casino facilities.

Area development plan

This would be the plan that the private entity intending to perform the establishment and operation or facilities offering businesses and the prefecture and designated city will jointly prepare for the development of an IR Area in line with the fundamental policies and the implementation policies, which shall have a resolution passed by its relative assembly and thereafter be certified by the Minister of Land, Infrastructure, Transport and Tourism (Article 9 of the Act). The development plan is required to set out the following matters:

- a* matters concerning the significance and objectives of the area development plan;
- b* matters concerning the location and scale of the area in which the IR Area is to be developed;
- c* name, address, and the representative's name of the establishment and operation or facilities offering businesses operator;
- d* a plan relating to matters concerning the type, functions and scale of facilities to constitute the IR Area, matters concerning the establishment and operation or facilities offering businesses and the establishment and operation or facilities offering businesses operator, and other matters that constitute the basis of the establishment and operation or facilities offering businesses;
- e* matters concerning measures to promote the development of the IR Area;
- f* matters concerning measures to realise attractive stay-type tourism in Japan that is highly competitive in the international market by means of promoting the development of the IR Area through the use of profits from casino business as well as the creativity of regions and the vitality of the private sector;
- g* matters concerning measures necessary to properly eliminate adverse effects that may arise in connection with the establishment and operation of casino facilities;

- b* matters concerning the economic and social impact expected from the implementation of the area development plan;
- i* matters concerning the usage of the amount collectible from certified prefecture and designated city and designated city entrance fees; and
- j* matters concerning the usage of the levy payable to certified prefecture and designated city.

The effective term of the area development plan certification is 10 years (Article 10(1)), which may be renewed for successive periods of five years (Article 10(6)). In the case of a renewal, however, the same steps as those required in the application for certification such as the requirement to have a resolution passed by the relative assembly (Article 9(8)) and obtain consent from the city, town, village and special district in which the IR facilities are located (Article 9(9)) need to be taken (Article 10(4)), which may pose a major risk for the operators to continue business, which is commonly referred to among the operators as the 'Article 10 Issue'.

That is, under the current structure of the Act, theoretically, the assembly of the prefecture or designated city will have the power, at the time of each renewal, to block the operation of IR by not passing the resolution to renew the area development plan, which would be a major risk considering the scale of investment anticipated to be made for the IR by the operators and the years necessary to recoup such amount of investment.

Implementation agreement

After the area development plan is certified, the prefecture or designated city and the establishment and operation or facilities offering businesses operator shall enter into an implementation agreement that sets out the following matters that shall be authorised by the Minister of Land, Infrastructure, Transport and Tourism (Article 13 of the Act):

- a* matters concerning the specific system and methods to implement the certified establishment and operation or facilities offering businesses;
- b* matters concerning measures to be taken when it becomes difficult for the operator to continue the establishment and operation or facilities offering businesses;
- c* matters concerning measures to promote the development of IR Areas as well as other measures to realise attractive stay-type tourism in Japan that is highly competitive in the international market;
- d* matters concerning measures necessary to properly eliminate adverse effects that may arise in connection with the establishment and operation of casino facilities;
- e* matters concerning measures to be taken in the case of a breach of the implementation agreement;
- f* effective term of the implementation agreement; and
- g* matters prescribed by order of the Ministry of Land, Infrastructure, Transport and Tourism as matters necessary for properly implementing certified area development plans.

Authorisation of commercial contract

Contracts such as those listed below require authorisation from the Casino Administration Committee when a casino business operator intends to conclude them (Article 95 of the Act):

- a* contract pertaining to casino services or a contract pertaining to related services in a casino gambling area;

- b* contract pertaining to the commission of services performed by a casino business operator (excluding those set forth in the preceding item);
- c* contract pertaining to the financing in relation to the services performed by a casino business operator (excluding those set forth in item (a));
- d* contract pertaining to the lease of facilities performed by a casino business operator (excluding those set forth in item (a)); and
- e* in addition to those set forth in the preceding items, contract which its term or amount to be paid thereunder exceeds the term or amount specified in the Casino Administration Committee's rules.

v Timeline until the date of enforcement

As mentioned at the outset, various matters have been delegated to the government to establish orders and rules, such as the Cabinet Order, the MLITT ordinance and the Casino Management Committee's rules. These implementation rules should come into force by the time of enforcement of the Act.

Although the supplementary provision of the Act provides that the Act, as a whole, shall come into effect as of the day specified by Cabinet Order within a period not exceeding three years from the date of promulgation, but the provisions concerning the matters listed below are to come into force in advance.

Related provisions	Timing to come into force
Definitions and duties of national government	Period not exceeding nine months from the date of promulgation (i.e., before April 2019)
Casino management committee	Period not exceeding 18 months from the date of promulgation (i.e., before January 2020)
Certification of area development plan	Period not exceeding two years from the date of promulgation (i.e., before July 2020)

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