CHAPTER 23

Crimes of Gambling · Gaming

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses violating the Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 1, Article 28, paragraph 1, subparagraph 2, Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 1-2, Article 28, paragraph 1, subparagraph 3, Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 1, subparagraph 4, subparagraph 7, Game Industry Promotion Act, Article 45, subparagraph 2, Article 25, Article 26 paragraph 1, paragraph 2, paragraph 3 main clause, Game Industry Promotion Act, Article 45, subparagraph 4, Article 32, paragraph 1, subparagraph 2, Bicycle and Motorboat Racing Act, Article 26, paragraph 1, subparagraph 1, Article 24, paragraph 1, subparagraph 1, subparagraph 2, Article 24, paragraph 2, subparagraph 1, Bicycle and Motorboat Racing Act, Article 27, subparagraph 4, Article 24 paragraph 3, subparagraph 2, Tourism Promotion Act, Article 81, paragraph 1, subparagraph 1, Article 5, paragraph 1, Tourism Promotion Act, Article 81, paragraph 1, subparagraph 2, Article 26-2, National Sports Promotion Act, Article 47, subparagraph 2, Article 26, paragraph 1, National Sports Promotion Act, Article 48, subparagraph 4, Article 26, paragraph 2, subparagraph 1, Lottery Tickets Act, Article 34, paragraph 1, subparagraph 1, Article 4, paragraph 1, Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 1, subparagraph 1, subparagraph 2, Act on Special

Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 2, subparagraph 1, Article 4, paragraph 1, Article 7, paragraph 2, Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 2, subparagraph 3, Article 13, paragraph 1, paragraph 2, Korean Racing Association Act, Article 50, paragraph 1, subparagraph 1, Article 48, paragraph 1, subparagraph 1, subparagraph 2, Article 48, paragraph 2, subparagraph 1, Korean Racing Association Act, Article 51, subparagraph 9, Article 48, paragraph 3, subparagraph 2, Criminal Act, Article 247, Criminal Act, Article 248, paragraph 1, paragraph 2.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 SETTING UP SPACE FOR GAMBLING ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Sales and Brokerage of Lottery Tickets, Issuance of Lottery	4 mos. – 10 mos.	6 mos. – 1 yr. 6 mos.	1 yr. – 3 yrs.
2	Setting up Places or Space for Gambling, Operate a Speculative Business with Speculative Machines	4 mos. – 10 mos.	8 mos. – 1 yr. 6 mos.	1 yr. – 3 yrs. 6 mos.
3	Operating Casino Businesses Without Permission, Operating Casino-like Businesses	6 mos. – 1 yr.	10 mos. – 2 yrs.	1 yr. 6 mos. – 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Mere participation • Cases where the offense was not the primary business	• Cases where offenders committed the crimes in an organized manner with divided roles, and the offender played a leading role in planning the offense, directing its execution, or performing a core function • Cases where gains from the crime or the size of the business are substantial • Cases where the offense targets minors or causes a substantial number of minors to gamble • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Actual gains from the offense are minor • Cases where the offender mediates issuance of lottery tickets	• Deliberate concealment of profits gained from the offense • Commission of crime through collusion with inspecting public officials • Attempt to avoid crackdown • Inducing people through advertising or other media with high dissemination
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Evidence tampering or attempt to conceal or destroy evidence after a crackdown • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2 ILLEGAL SPORT GAMBLING, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Providing Online Horse Racing Similars, Bicycle or Motorboat Racing, Sportstoto Lottery Ticket Issuing System	4 mos. ~ 10 mos.	8 mos. ~ 1 yr. 6 mos.	1 yr. ~ 3 yrs. 6 mos.
2	Providing Horse Racing Similars, Bicycle or Motorboat Racing, Sportstoto	6 mos. ~ 1 yr.	10 mos. ~ 2 yrs.	1 yr. 6 mos. ~ 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Mere participation	• Cases where offenders committed the crimes in an organized manner with divided roles, and the offender played a leading role in planning the offense, directing its execution, or performing a core function • Cases where gains from the crime or the size of the business are substantial • Cases where the offense targets minors or causes a substantial number of minors to gamble • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Actual gains from the offense are minor	• Deliberate concealment of profits gained from the offense • Commission of crime through collusion with inspecting public officials • Attempt to avoid crackdown • Inducing people through advertising or other media with high dissemination
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Evidence tampering or attempt to conceal or destroy evidence after a crackdown • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

3 PROVIDE ILLEGAL GAME PRODUCTS ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Providing Game Products Different from Rating Classification for Use	– 8 mos.	6 mos. – 1 yr. 2 mos.	10 mos. – 2 yrs.
2	Business of Converting Money or Intermediating such Exchange, Repurchase, Conduct Speculative Business of Using Game Products Etc.	4 mos. – 10 mos.	8 mos. – 1 yr. 6 mos.	1 yr. – 3 yrs. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigating the offender's involvement • Mere participation • Cases where the offense was not the primary business • Irrelevant to the encouragement of speculation	• Cases where offenders committed the crimes in an organized manner with divided roles, and the offender played a leading role in planning the offense, directing its execution, or performing a core function • Cases where gains from the crime or the size of the business are substantial • Cases where the offense targets minors or causes a substantial number of minors to gamble • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Actual gains from the offense are minor	• Deliberate concealment of profits gained from the offense • Offense committed repeatedly, or over a prolonged period • Commission of crime through collusion with inspecting public officials • Attempt to avoid crackdown

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
			• Inducing people through advertising or other media with high dissemination
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

4 DISTRIBUTION OF ILLEGAL GAME PRODUCTS, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Distributing Game Products Different from the Rating Classification Obtained	- 8 mos.	6 mos. - 1 yr. 2 mos.	10 mos. - 2 yrs.
2	Distributing Non-Classified or Speculative Game Products, Speculative Gaming Machine, Providing Online Horse Racing Similars, Bicycle Racing, Motorboat Racing or Sportstoto Lottery Ticket Issuing Systems Etc.	4 mos. - 10 mos.	8 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs. 6 mos.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuating circumstances that mitigate the offender's involvement • Mere participation • Irrelevant to the encouragement of speculation	• Cases where offenders committed the crimes in an organized manner with divided roles, and the offender played a leading role in planning the offense, directing its execution, or performing a core function • Cases where gains from the crime or the size of the business are substantial • Cases where the offense targets minors or causes a substantial number of minors to gamble • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Cases where the number of distributed game products, machines for amusement, issuance system, etc. are small	• Deliberate concealment of profits gained from the offense • Commission of crime through collusion with inspecting public officials • Attempt to avoid crackdown
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Evidence tampering or attempt to conceal or destroy evidence after a crackdown • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

5 UNLICENSED · UNREGISTERED BUSINESS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Unlicensed or Unregistered Game Producing, Unlicensed or Unregistered Game Distributing, Unlicensed or Unregistered Game Providing Business	– 6 mos.	4 mos. – 10 mos.	8 mos. – 2 yrs.
2	Operating Unlicensed or Unregistered Speculative Business, Producing and Selling Unlicensed or Unregistered Speculative Gaming Machine	– 8 mos.	6 mos. – 1 yr. 4 mos.	10 mos. – 2 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases with special extenuate circumstances that mitigating the offender's involvement • Mere participation • Cases where the offense was not the primary business	• Cases where offenders committed the crimes in an organized manner with divided roles, and the offender played a leading role in planning the offense, directing its execution, or performing a core function • Cases where gains from the crime or the size of the business are substantial • Cases where the offense targets minors or causes a substantial number of minors to gamble • Produce and distribute game products for the purpose of conducting speculative business or providing them to speculative business (Type 1) • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Actual gains from the offense are minor • Cases where the number of distributed game products, speculative gaming machines, etc. is small	• Deliberate concealment of profits gained from the offense • Commission of crime through collusion with inspecting public officials • Attempt to avoid crackdown
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Evidence tampering or attempt to conceal or destroy evidence after a crackdown • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same type of offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

DEFINITION OF OFFENSES

1 SETTING UP PLACES FOR GAMBLING, ETC.

1. TYPE 1 — SALES · BROKERAGE OF LOTTERY TICKETS, ISSUANCE OF LOTTERY

○ This means offenses with the following elements of offenses as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Lottery ticket sales	Criminal Act, Article 248, paragraph 1	Imprisonment with labor for five years or less, or a fine not exceeding 30 million (May be imposed concurrently)
Brokerage(Go-between) of lottery ticket sales	Criminal Act, Article 248, paragraph 2	Imprisonment with labor for three years or less, or a fine not exceeding 20 million
Issuance of lottery	Lottery Tickets Act, Article 34, paragraph 1, subparagraph 1, Article 4, paragraph 1	Imprisonment with labor for three years or less, or a fine not exceeding 30 million

(unit: KRW)

2. TYPE 2 — SETTING UP PLACES · SPACE FOR GAMBLING, OPERATE A SPECULATIVE BUSINESS WITH SPECULATIVE MACHINES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Setting up places and/or space for gambling for business	Criminal Act, Article 247	Imprisonment with labor for five years or less, or a fine not exceeding 30 million (May be imposed concurrently)
Operate a speculative business by using slot machines or other speculative machines	Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 1, subparagraph 1	Imprisonment with labor for five years or less, or a fine not exceeding 50 million

(unit: KRW)

3. TYPE 3 — OPERATING CASINO BUSINESS WITHOUT PERMISSION, OPERATING CASINO-LIKE BUSINESS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Operate a casino business without permission	Tourism Promotion Act, Article 81, paragraph 1, subparagraph 1, Article 5, paragraph 1	Imprisonment with labor for seven years or less, or a fine not exceeding 70 million (May be imposed concurrently)
Operate a casino-like business	Tourism Promotion Act, Article 81, paragraph 1, subparagraph 2, Article 26-2	

(unit: KRW)

2 ILLEGAL SPORT GAMBLING, ETC.

1. TYPE 1 — PROVIDING ONLINE HORSE RACING SIMILARS · BICYCLE RACING SIMILARS · MOTORBOAT RACING, SPORTSTOTO LOTTERY TICKET ISSUING SYSTEM

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Making available to the public a system for issuing betting tickets or the like by means of information and communications networks	Korean Racing Association Act, Article 51, subparagraph 9, Article 48, paragraph 3, subparagraph 2	Imprisonment with labor for five years or less, or a fine not exceeding 50 million (May be imposed concurrently)
Making available to the public a system for issuing betting ticket to persons who correctly predict the winner for profit-making by means of information and communications networks	Bicycle and Motorboat Racing Act, Article 27, subparagraph 4, Article 24 paragraph 3, subparagraph 2	
Making available to the public a system for issuing sports promotion betting ticket or the like by means of information and communications networks	National Sports Promotion Act, Article 48, subparagraph 4, Article 26, paragraph 2, subparagraph 1	

(unit: KRW)

2. TYPE 2 — PROVIDING HORSE RACING SIMILARS · BICYCLE SIMILARS · MOTORBOAT RACING · SPORTSTOTO SIMILARS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Conduct horse racing	Korean Racing Association Act, Article 50, paragraph 1, subparagraph 1, Article 48, paragraph 1	Imprisonment with labor for seven years or less, or a fine not exceeding 70 million (May be imposed concurrently)
Gave wealth or pecuniary advantage to person who correctly predict the winner through activities similar to pool betting on horse racing which Korean Racing Association conducts	Korean Racing Association Act, Article 50, paragraph 1, subparagraph 1, Article 48, paragraph 1, subparagraph 2	
Conduct pool betting or other similar activities by using electronic methods for racing in a foreign country	Korean Racing Association Act, Article 50, subparagraph 1, Article 48, paragraph 2, subparagraph 1	
Conduct racing	Bicycle and Motorboat Racing Act, Article 26, paragraph 1, subparagraph 1, Article 24, paragraph 1, subparagraph 1	
Providing goods or property benefits to persons who correctly predicts the race results by issuing betting tickets or engaging in any similar activity with regard to racing operated by a racing business entity.	Bicycle and Motorboat Racing Act, Article 26, paragraph 1, subparagraph 1, Article 24, paragraph 1, subparagraph 2	
Providing electronic services for issuing betting tickets or engaging in similar activities for bicycle or motorboat racing implemented in a foreign country	Bicycle and Motorboat Racing Act, Article 26, paragraph 1, subparagraph 1, Article 24, paragraph 2, subparagraph 1	
Issuing sports betting tickets or similar things and providing property or financial benefits to persons who win at the betting.	National Sports Promotion Act, Article 47, subparagraph 2, Article 26, paragraph 1	

(unit: KRW)

3 PROVIDE ILLEGAL GAME PRODUCTS ETC.

1. TYPE 1 – PROVIDING GAME PRODUCTS DIFFERENT FROM RATING CLASSIFICATION FOR USE

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Providing game products that are different from the rating classification obtained or displaying and/or keeping them for such purposes	Game Industry Promotion Act, Article 45, subparagraph 4, Article 32, paragraph 1, subparagraph 2	Imprisonment with labor for two years or less, or a fine not exceeding 20 million

(unit: KRW)

2. TYPE 2 – BUSINESS OF CONVERTING MONEY · INTERMEDIATING SUCH EXCHANGE · REPURCHASE, CONDUCTING SPECULATIVE BUSINESS USING GAME PRODUCTS, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Converting into money, intermediating such exchanges, or repurchasing tangibles and intangibles	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 7	Imprisonment with labor for five years or less, or a fine not exceeding 50 million
A game products-related business entity lets others to gamble or do other speculative acts by making use of game products nor leave them to do such things;	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 1, Article 28, paragraph 1, subparagraph 2	
A game products-related business entity promotes speculation by offering free gifts, etc.	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 1-2, Article 28, paragraph 1, subparagraph 3	
Providing game products that are not rated, or displaying and/or keeping the same for such purposes	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 1	
Providing a game product the rating classification of which has been refused, or displaying and/or keeping the same for such purposes	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 4	

(unit: KRW)

4 DISTRIBUTION OF ILLEGAL GAME PRODUCTS, ETC.

1. TYPE 1 — GAME PRODUCTS DIFFERENT FROM THE RATING CLASSIFICATION OBTAINED

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Distributing game products whose contents are different from the rating classification obtained, or displaying or keeping them	Game Industry Promotion Act, Article 45, subparagraph 4, Article 32, paragraph 1, subparagraph 2	Imprisonment with labor for two years or less, or a fine not exceeding 20 million

(unit: KRW)

2. TYPE 2 — NON-CLASSIFIED · SPECULATIVE GAME PRODUCTS, SPECULATIVE GAMING MACHINE, PROVIDING ONLINE HORSE RACING SIMILARS · BICYCLE · MOTORBOAT RACING · SPORTSTOTO SIMILARS LOTTERY TICKET ISSUING SYSTEMS ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Distributing game products which were not classified, and displaying and/or keeping them for such purposes	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 1	Imprisonment with labor for five years or less, or a fine not exceeding 50 million
Distributing game products which the classification were refused, and/or displaying or keeping them	Game Industry Promotion Act, Article 44, paragraph 1, subparagraph 2, Article 32, paragraph 1, subparagraph 4	
Selling slot machines or speculative gaming machines, and manufacturing or importing them for such purposes	Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 1, subparagraph 2	
Designing, manufacturing or distributing a system of issuing betting tickets or anything similar thereto by means of information and communications networks	Bicycle and Motorboat Racing Act, Article 27, subparagraph 4, Article 24, paragraph 3, subparagraph 2	Imprisonment with labor for five years or less, or a fine not exceeding 50 million (May be imposed concurrently)
Designing, manufacturing, distributing a system for selling betting tickets or anything similar thereto through information and communications networks	Korean Racing Association Act, Article 51, subparagraph 9, Article 48, paragraph 3, subparagraph 2	
Design, produce, or distribute the system of issuing sports betting tickets by means of information and communication networks to the public for use	National Sports Promotion Act, Article 48, subparagraph 4, Article 26, paragraph 2, subparagraph 1	

(unit: KRW)

5 UNLICENSED · UNREGISTERED BUSINESS

1. TYPE 1 — GAME PRODUCING · GAME DISTRIBUTING BUSINESS, GAME PROVIDING BUSINESS

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Producing or distributing unregistered game Business	Game Industry Promotion Act, Article 45, subparagraph 2, Article 25	Imprisonment with labor for two years or less, or a fine not exceeding 20 million
Unlicensed or unregistered game providing business	Game Industry Promotion Act, Article 45, subparagraph 2, Article 26, paragraph 1, paragraph 2, paragraph 3 main clause	

(unit: KRW)

2. TYPE 2 — OPERATING A SPECULATIVE BUSINESS, PRODUCING · SELLING SPECULATIVE GAMING MACHINE

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCING RANGE BY LAW
Operating a speculative business without license	Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 2, subparagraph 1, Article 4, paragraph 1, Article 7, paragraph 2	Imprisonment with labor for three years or less, or a fine not exceeding 20 million
Unlicensed business of producing or selling speculative gaming machine	Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc., Article 30, paragraph 2, subparagraph 3, Article 13, paragraph 1, paragraph 2	

(unit: KRW)

DEFINITION OF SENTENCING FACTORS

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Other cases with comparable factors

2. MERE PARTICIPATION

- This refers to cases in which the person did not lead, plan, or orchestrate the offense, in whole or in part, but merely participated in carrying out a very simple act of execution.

3. OFFENSE WAS NOT THE PRIMARY BUSINESS

- This indicates cases where the offense was committed as ancillary to another legitimate business and the degree of culpability is very low because the profit obtained or the scale of the business is small, or where the offense lacks a commercial nature.

4. OFFENSE IRRELEVANT TO ENCOURAGING SPECULATIVE GAMES

- This indicates cases in which the contents of game products which are different from the rating classification obtained or which have not been classified are irrelevant to encouraging speculative games or the purpose of exchanging into money, intermediating such exchange, or repurchasing of tangible and intangible results is unrelated to encouraging speculative games.

5. CASES WHERE PROFITS MADE BY THE OFFENSE OR THE SCALE OF BUSINESS IS SUBSTANTIAL

- This applies where one or more of the following are present:
  - Cases where the amount of money the offender collects from participants in the name of betting money is substantial or the amount of money received in the name of proceeds or fees excluding money returned to them as dividends or prizes is enormous
  - Cases in which the number of users of the game products or speculative business, or the number of participants in gambling, etc., is very large, or the business continued over a prolonged period
  - Cases where the number of gambling game machines, gaming devices, or PCs installed, manufactured, or sold is very large; or where the scale of business premises is very large; or where the number of accomplices involved is very large
  - Other cases with comparable factors

6. PRODUCE OR DISTRIBUTE GAME PRODUCTS FOR SPECULATIVE BUSINESS OR PROVIDING TO THOSE BUSINESSES

- "Speculative business" refers to cases where, in an unlicensed or unregistered game providing business, the offender provides game products for use while letting others engage in speculative acts or leaving them to do so.
- "Producing or distributing game products for the purpose of providing them to speculative business" refers to the act of producing and distributing speculative game products for the purpose of providing them to such speculative business, in an unregistered game producing or distributing business.

7. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

8. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the offender has never committed a crime even once prior to the relevant offense. However, this excludes cases where crimes were committed repeatedly over a prolonged period.

9. OFFENDER'S COOPERATION WITH THE INVESTIGATION

- This indicates cases in which the offender's cooperation does not reach the level of 'complete voluntary disclosure of crime', but where the offender truthfully testified about their own crime and subsequent related crimes, thereby contributing to the investigation through the punishment of accomplices and prevention of further crimes.

10. ATTEMPT TO AVOID CRACKDOWN

- This applies where one or more of the following are present:
  - Cases in which surveillance devices, such as CCTVs, access control devices, or facilities to flee were set
  - Cases where all or part of the offense is committed abroad, or offense related servers are located overseas to avoid crackdown
  - Cases in which facilities related to the offense were disguised as legitimate business premises serving a different purpose, for the purpose of avoid crackdown
  - Other cases with comparable factors

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Cases where offenders played a leading role in planning the offense, directing its execution, or performing a core function • Cases where benefits from the crime or business size are large • Cases where the offense targets minors or causes a substantial number of minors to use the offense-related products and/or services • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)] • Repeated same-offense within a short period of time after a crackdown	• In cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Mere participation • Not the primary business • Irrelevant to the encouragement of speculation • No prior criminal convictions • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime
General Circumstances	• Playing a leading role as a co-offender • Deliberate concealment of profits gained from the offense • Commission of crime through collusion with gambling enforcement officer • Attempt to avoid crackdown • Evidence tampering or attempt to destroy or conceal evidence after an enforcement action or crackdown • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties • Absence of genuine remorse	• Minor participation as a co-offender • Actual gain is minor • Cases where the number of distributed game products, gambling machines, issuing system, is small • Stable social/family ties • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members • Offender's cooperation with the investigation

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.