

Act No. 18, 1902.

GAMES WAGERS
AND
BETTING-HOUSES.

An Act to consolidate the Acts concerning Games and Wagers and for the Suppression of Betting-houses. [24th January, 1902.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

PART I.

REPEAL AND INTERPRETATION.

Short title.

1. This Act may be cited as the "Games Wagers and Betting-houses Act 1901" and is divided into Parts as follows:—

PART I.—REPEAL AND INTERPRETATION—ss. 1-3.

PART II.—GAMING AND WAGERING—ss. 4-13.

Powers to enter and search gaming-houses—ss. 4, 5.

Offences—ss. 6, 7.

Evidence and witnesses—ss. 8-11.

Cheating at cards or games—s. 12.

Avoidance of contracts—s. 13.

PART III.—BETTING-HOUSES SUPPRESSION—ss. 14-25.

Interpretation—s. 14.

Powers to enter and search betting-houses—ss. 15, 16.

Offences—ss. 17-22.

Avoidance of contracts—s. 23.

Procedure and arrest—ss. 24, 25.

PART IV.—GENERAL PROVISIONS—ss. 26, 27.

2.

Games Wagers and Betting-houses.

2. The Acts mentioned in the First Schedule to this Act are Repeal. to the extent therein expressed hereby repealed.

3. In this Act unless the context or subject-matter otherwise Interpretation. indicates or requires—

“Justice” means justice of the peace.

PART II.

GAMING AND WAGERING.

Powers to enter and search gaming-houses.

4. (1) Any justice upon complaint made on oath that there is Under special reason to suspect any house room premises or place to be kept or warrant. used as a common gaming-house and that it is commonly reported and believed by the deponent so to be may by special warrant under his hand and seal authorise any constable to enter into such house room premises or place and arrest search and bring before any two justices all persons found therein and seize all tables instruments of gaming moneys and securities for money found therein. 14 Vic. No. 9 s. 1.

(2) Every constable so authorised may if necessary obtain assistance and use force whether by breaking open doors or otherwise for making such entry and may search all parts of such house room premises or place where he suspects that tables instruments of gaming moneys or securities for money are concealed.

(3) Every special warrant shall be in the form contained in the Second Schedule hereto or to the like effect.

5. Any police officer may enter into any house room premises Billiard rooms &c. or place where a public table or board is kept for playing at billiards *Ibid.* s. 6. bagatelle bowls fives racquets quoits skittles or nine-pins or any game of the like kind when and so often as he thinks proper.

Offences.

6. (1) The owner or keeper of any such gaming-house or other Owners managers person having the care or management thereof and every banker &c. of gaming-houses croupier and other person who acts in any manner in conducting such liable to fine of £100 or imprisonment for gaming house room premises or place shall be liable to a penalty not six months. *Ibid.* s. 1. exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months.

(2) Every person found in such house room premises or Persons found in a place without lawful excuse shall be liable to a penalty not exceeding gaming-house liable to fine. five pounds. (3) *Ibid.*

Games Wagers and Betting-houses.

Forfeiture of moneys
&c. seized.

Forfeiture of gaming
instruments.
14 Vic. No. 9 s. 4.

Offenders may be
proceeded against
by indictment.
Ibid. s. 1, Proviso.

(3) Upon the conviction of any such offender all the moneys and securities for money seized as aforesaid shall be forfeited.

(4) The justices before whom any person is brought by virtue of a special warrant may direct all tables and instruments of gaming seized thereunder to be forthwith destroyed.

7. Nothing herein contained shall prevent any proceeding by indictment against the owner or keeper or other person having the care or management of any gaming-house or any room premises or place for gaming but no person shall be proceeded against by indictment and also under this Act for the same offence.

Evidence and witnesses.

Evidence that a
house is a gaming-
house.
Ibid. s. 2.

8. (1) Upon an indictment or information alleging that any house room premises or place is a common gaming house or place for gaming it shall be sufficient to prove—

- (a) that such house room premises or place is kept or used for playing therein at any unlawful game and that a bank is kept there by one or more of the players exclusively of the others or
- (b) that the chances of any game played therein are not alike favourable to all the players including among the players the banker or other person by whom the game is managed or against whom the other players stake play or bet.

(2) Every such house room premises or place shall even if open for the use of subscribers only or not open to all persons desirous of using the same be deemed a common gaming-house or place for gaming within the meaning of this Act and all Acts containing any provision against unlawful games or gaming-houses.

9. It shall not be necessary in support of any information or indictment for gaming in or suffering any games or gaming in or for keeping or using or being concerned in the management or conduct of a common gaming-house or place for gaming to prove that any person found playing at any game was playing for any money wager or stake.

10. Whenever any house room premises or place suspected to be used as a common gaming house or place for gaming is entered under a warrant under the provisions of this Act the discovery therein or about the person of any of those found therein of cards dice balls counters tables or other instruments of gaming used in playing any unlawful game shall be evidence—

- (a) that such house room premises or place is used as a common gaming-house and
- (b) that the persons found in the room or place where such tables or instruments were discovered were playing therein although no play was actually going on in the presence of the constable entering under such warrant or his assistants.

Not necessary to
prove that a person
was found playing
for money &c.

Ibid. s. 3.

Effect of discovery
of instruments of
gaming.
Ibid. s. 4.

Games Wagers and Betting-houses.

11. Every person concerned in any unlawful gaming who is examined as a witness by or before justices or on the trial of any indictment or information against the owner or keeper or other person having the care or management of any common gaming-house or place for gaming touching such unlawful gaming shall if he receives from the justices or Judge by or before whom he is examined a certificate in writing to the effect that he has made true and faithful discovery to the best of his knowledge of all things as to which he has been examined be freed from all criminal prosecutions forfeitures punishments and disabilities to which he may have become liable for anything done before that time in respect of such unlawful gaming.

<sup>Protection of
witnesses.</sup>
^{14 Vic. No. 9 s. 5.}

Cheating at cards or games.

12. Whosoever by any fraud unlawful device or ill practice— *Ibid.* s. 7.

- (a) in playing at or with cards dice tables or other game or
- (b) in bearing a part in the stakes wagers adventures or in betting on the sides or hands of them that do play or
- (c) in wagering on the event of any game sport pastime or exercise

wins from any person to himself or others any sum of money or valuable thing shall be deemed guilty of obtaining such money or valuable thing from such person by a false pretence with intent to cheat and defraud such person of the same and being convicted thereof shall be punished accordingly.

Avoidance of contracts.

13. All contracts or agreements whether by parol or in writing by way of gaming or wagering shall be null and void and no suit shall be brought or maintained in any Court of law or equity for recovering any sum of money or valuable thing alleged to be won upon any wager or which has been deposited in the hands of any person to abide the event on which any wager has been made:

Provided always that this enactment shall not be deemed to apply to any subscription or contribution or agreement to subscribe or contribute for or toward any plate prize or sum of money to be awarded to the winner of any lawful game sport pastime or exercise.

*Games Wagers and Betting-houses.***PART III.****BETTING-HOUSES SUPPRESSION.***Interpretation.*

Interpretation.

43 Vic. No. 30 s. 2.

Under special warrant.

39 Vic. No. 23 s. 10.

14. In this Part of this Act—

“Valuable thing” includes any promise verbal or in writing conditional or absolute to pay or give any valuable thing.

Powers to enter and search betting-houses.

15. (1) Any justice upon complaint made on oath that there is reason to suspect any house office room or place to be kept or used as a betting-house or office contrary to this Part of this Act may by special warrant under his hand authorise any constable to enter into such house office room or place and arrest search and bring before any two justices all persons found therein and seize all moneys coin notes cheques I.O.U.s or other writings for securing the payment of money and all lists cards or other documents relating to racing or betting found in such house room office or place.

(2) Every constable so authorised may if necessary obtain assistance and use force by breaking open doors or otherwise for making such entry.

(3) Every special warrant shall be in the form contained in the Second Schedule hereto or to the like effect.

By Inspector-General of Police.

43 Vic. No. 30 s. 3.

16. The Inspector-General of Police may upon receiving a report in writing from any Superintendent or Inspector of Police that there are good grounds for believing and that he does believe any house office room or place to be kept or used as a betting-house contrary to this Part of this Act authorise by order in writing such Superintendent or Inspector with such constables as he directs to enter such house office room or place and to take into custody all persons and seize all lists cards or documents relating to racing or betting found in such house or premises.

The Inspector-General may by such order authorise such Superintendent or Inspector if necessary to use force for the purpose of effecting an entry whether by breaking open doors or otherwise.

Offences.

Keeping betting-houses forbidden.

39 Vic. No. 38 s. 1.

17. (1) No house office room or other place shall be opened kept or used at any time for the purpose of any money or valuable thing being received by or on behalf of the owner occupier or keeper or any other person whosoever as or for the consideration for—

(a) any assurance undertaking promise or agreement express or implied to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race fight game sport or exercise or

(b)

Games Wagers and Betting-houses.

(b) securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

(2) Every house office room or other place opened kept or used for any of the purposes mentioned in this section is hereby declared to be a common nuisance.

18. Every house room office or place opened kept or used for any of the purposes mentioned in section seventeen shall be deemed and taken to be a common gaming-house within the meaning of Part II of this Act and the owner and keeper thereof and all persons found therein shall be liable to all the provisions of the said Part.

19. (1) Whosoever opens keeps or uses any house office room or other place for any of the purposes mentioned in section seventeen or knowingly and wilfully permits the same to be opened kept or used by any other person for any of such purposes or has the care or management of or in any manner assists in conducting the business of any such house office room or place opened kept or used for any of such purposes shall be liable to a penalty not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months.

(2) Every person found in such house office room or place without lawful excuse shall be liable to a penalty not exceeding fifty pounds.

(3) All moneys coin notes cheques I.O.U.s or other writings for securing the payment of money and all lists cards or other documents relating to racing or betting found in such house room office or place may on conviction of any offender under the provisions of this section be adjudged to be forfeited or destroyed.

20. Whosoever being the owner or occupier of any house office room or place opened kept or used for any of the purposes mentioned in section seventeen or a person acting for him or on his behalf or as his manager or assistant—

(a) receives directly or indirectly any money or valuable thing

(i) as a deposit on any bet on condition of paying any sum of money or valuable thing on the happening of any event or contingency of or relating to a horse-race or other race or fight game sport or exercise or

(ii) as or for the consideration for any assurance undertaking promise or agreement express or implied to pay or give thereafter any money or valuable thing on any such event or contingency or

(b) gives any acknowledgment note security or draft on the receipt of any money or valuable thing paid or given as aforesaid

Penalty for keeping
betting-house.

Ibid. s. 3.

Persons found in
betting-house
liable to fine.

Ibid. s. 10.

Forfeiture of moneys
and lists &c. relating
to betting.

Ibid.

Penalty for receiving
money as deposit &c.
on a bet.

Ibid. s. 4.

Games Wagers and Betting-houses.

aforesaid purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency shall be liable to a penalty not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

Penalty for
exhibiting placards
&c. as to betting.
39 Vic. No. 28 s. 7.

21. Whosoever—

- (a) exhibits or publishes or causes to be exhibited or published any placard handbill card writing sign or advertisement
 - (i) whereby it is made to appear that any house office room or place is opened kept or used for the purpose of making bets or wagers in manner aforesaid or exhibiting lists for betting or
 - (ii) with intent to induce any persons to resort to such house office room or place for the purpose of making bets or wagers in manner aforesaid
- (b) on behalf of the owner or occupier of or person using any such house office room or place invites other persons to resort thereto for the purpose of making bets or wagers in manner aforesaid

shall be liable to a penalty not exceeding thirty pounds or to imprisonment with or without hard labour for a term not exceeding two months.

Penalty for
advertising as to
betting.
Ibid. s. 8.

22. Whosoever sends exhibits or publishes or causes to be sent exhibited or published any letter circular telegram placard handbill or advertisement

- (a) whereby it is made to appear that any person in New South Wales or elsewhere will on application give information or advice for the purpose of or with respect to any such bet or wager or any such event or contingency as hereinbefore mentioned or will make on behalf of any other person any such bet or wager as is hereinbefore mentioned or
- (b) with intent to induce any person to apply to any house office room or place or person with a view of obtaining information or advice for the purpose of any such bet or wager or with respect to any such event or contingency as is hereinbefore mentioned or
- (c) inviting any person to make or take a share in or in connection with any such bet or wager

shall be liable to a penalty not exceeding thirty pounds or to imprisonment with or without hard labour for a term not exceeding two months.

Avoidance of contracts.

Recovery of moneys
paid over as deposit
on a bet &c.
Ibid. s. 5.

- 23. (1) Any money or valuable thing received by any person mentioned in section twenty as a deposit on any bet or as or for the consideration**

Games Wagers and Betting-houses.

consideration for any such assurance undertaking promise or agreement as is in the said section referred to shall be deemed to have been received to the use of the person from whom it was received.

(2) Such money or valuable thing or the value thereof may be recovered accordingly with costs in any court of competent jurisdiction.

(3) Nothing in this Part of this Act contained shall extend to any person receiving or holding any money or valuable thing by way of stakes or deposit to be paid to the winner of any race or lawful sport game or exercise or to the owner of any horse engaged in any race. Act not to extend to stakes payable to winner of lawful game or race. 39 Vic. No. 28 s. 6.

Procedure and Arrest.

24. If any person who has laid any complaint or information in respect of any offence against this Part of this Act does not appear at the hearing of the summons or any adjournment thereof or in the opinion of the justices adjudicating has otherwise neglected to proceed upon or prosecute the complaint or information with due diligence the justices adjudicating may authorise any other person to proceed upon such summons instead of the person to whom the same was granted or if they think fit dismiss the summons already granted and authorise any person to take out a fresh summons in respect of the offence charged in such information or complaint in like manner as if the previous summons had not been granted. Procedure where complainant does not appear &c. 43 Vic. No. 30 s. 4.

25. Any justice may upon its being made to appear to his satisfaction by the oath of the complainant or other credible person that any person charged with the commission of any offence under this Part of this Act is about to depart immediately from New South Wales and will thereby probably evade punishment issue his warrant for the apprehension of the person so charged for the purpose of his being brought before himself or some other justice to be dealt with according to law. Arrest of offender about to abscond. 39 Vic. No. 28 s. 11.

PART IV.

GENERAL PROVISIONS.

26. (1) No plaintiff shall recover in an action suit or other proceeding for any irregularity trespass or other wrongful proceeding made or committed in the execution of this Act or in under or by virtue of any authority thereby given if before action or suit brought tender of sufficient amends has been made by or on behalf of the party who committed the irregularity trespass or other wrongful proceeding. Tender of amends. 14 Vic. No. 9 s. 14. 39 Vic. No. 28 s. 14. (2)

Games Wagers and Betting-houses.

(2) In case no tender has been made the defendant may by leave of the Court in which the action suit or proceeding is pending pay into Court at any time before issue joined such sum of money as he thinks fit and all proceedings orders and adjudications shall be had and made in and by the Court as in other actions where defendants are allowed to pay money into Court.

Limitation of actions.

14 Vic. No. 9 s. 15. 27. No action suit information or other proceeding shall be brought against any person for anything done or omitted to be done in
39 Vic. No. 28 s. 15. pursuance of this Act or in the execution of the authorities thereunder unless—

- (a) notice in writing is given by the party intending to prosecute such action suit information or proceeding to the intended defendant one month at least before prosecuting the same and
- (b) the action suit information or other proceeding is brought or commenced within three months next after the act or omission complained of or if there be a continuation of damage then within three months next after the doing such damage has ceased.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title or short title.	Extent of repeal.
14 Vic. No. 9 ...	An Act to amend the law concerning Games and Wagers.	The whole Act, except sec. 9 and Schedule B1.
39 Vic. No. 28 ...	An Act for the Suppression of Betting-houses	The whole Act.
43 Vic. No. 30 ...	The Betting-houses Suppression Act Amendment Act of 1879	The whole Act.

14 Vic. No. 9 s. 1.
39 Vic. No. 28 s. 10.

SECOND SCHEDULE.

Form of special warrant.

to wit. } To the Constable.

WHEREAS it appears to me J.P. one of the Justices of Our Lord the King assigned to keep the peace in and for the State of New South Wales by the information on oath of A.B. of in the of [yeoman] that the house [room premises or place] known as [here insert a description of the house room premises or place by which it may be readily known and found] is kept and used as a common gaming-house or place for gaming within the meaning of the Games Wagers and Betting-houses Act 1901 this is therefore in the name of Our Lord the King to require you with such assistants

as

Native Dogs Destruction and Poisoned Baits.

as you may find necessary to enter into the said house [*room premises or place*] and if necessary to use force for making such entry whether by breaking open doors or otherwise and there diligently to search for all instruments of unlawful gaming [*or as the case may be*] which may be therein and to arrest search and bring before me or some other of the Justices of Our Lord the King assigned to keep the peace as well the keepers of the same as also the persons there haunting resorting and playing to be dealt with according to law and for so doing this shall be your warrant.

Given under my hand and seal at Sydney this _____ in the _____ of
the reign of _____

J.P. (L.S.)