

Act No. 25, 1912.

An Act to consolidate the Acts relating to games, wagers, and betting-houses; the restriction of race-meetings; the licensing of race-courses; and allied matters. [26th November, 1912.]

GAMING AND
BETTING.
—

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.

1. This Act may be cited as the "Gaming and Betting Act, Short title. 1912," and is divided into Parts as follows:—

PART I.—REPEAL AND INTERPRETATION—ss. 1-4

PART II.—GAMING AND WAGERING—ss. 5-38.

Betting in streets—ss. 5, 6.

Betting on sports grounds—ss. 7-9.

Betting with infants—ss. 10-14.

Cheating at cards or games—s. 15.

Avoidance

Act No. 25, 1912.

*Gaming and Betting.**Avoidance of contracts—s. 16.**Gaming and betting houses—ss. 17-30.**Powers to enter and search gaming-houses—ss. 31, 32.**Offences—ss. 33, 34.**Evidence and witnesses—ss. 35-38.*

PART III.—BETTING-HOUSES SUPPRESSION—ss. 39-50.

*Interpretation—s. 39.**Powers to enter and search betting-houses—ss. 40, 41.**Offences—ss. 42-47.**Avoidance of contracts—s. 48.**Procedure and arrest—ss. 49, 50.*

PART IV.—RESTRICTIONS ON RACE-MEETINGS—ss. 51-56.

*Licenses and limitations—ss. 51-54.**Advisory board—ss. 55, 56.*

PART V.—GENERAL PROVISIONS—ss. 57-60.

Repeal and saving.

2. (1) The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

(2) All regulations made, and all licenses issued, all notices to quit given, and all declarations made or published, or rescissions of declarations published, and all matters and things done or commenced to be done under any Act hereby repealed shall operate and have effect and generally be of the same force and validity as if this Act had not been passed.

Interpretation.

No. 18, 1902, s. 3.

No. 13, 1906, s. 2.

No. 55, 1906, s. 2.

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

“Bookmaker” includes any person who carries on the business of or acts as a bookmaker or turf commission agent, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers.

“Ground” means land, including any buildings thereon, and any room to which persons are admitted either at all times or only at certain times, whether on payment of an entrance fee or charge or otherwise, for the purpose of taking part in or of witnessing any sports.

“Justice” means justice of the peace.

“Meeting for horse-racing” means any meeting at which all horses, mares, and geldings respectively may compete without any restriction or condition relating to the height of such horses, mares, or geldings.

“Meeting

Gaming and Betting.

“ Meeting for pony-racing ” means any meeting at which the conditions of any race include any condition relating to the height of any horse, mare, or gelding eligible to compete therein.

“ Occupier ” of a house, office, room, or other place, or of any land or building, includes the lessee or sublessee who is not the owner as hereinafter in this section defined.

“ Owner ” of a house, office, room, or other place, or of any land or building, includes every person, company, or corporation who is, whether at law or in equity,—

(a) entitled to the same for any estate of freehold in possession; or

(b) in actual receipt of, or entitled to receive, or if the house, office, room, place, land, or building were let to a tenant, would be entitled to receive the rents and profits of the same.

In the case of a house, office, room, place, land, or building subleased, “ owner ” includes any lessee or sublessee from whom a sublessee holds.

“ Place,” in the expression “ house, office, room, or other place,” includes a vessel or boat, whether used in navigation or not so used.

“ Race-course ” means land used for race-meetings and to which admission is granted by payment of money, by ticket, or otherwise.

“ Race-meeting ” means meeting for horse-racing or pony-racing, or trotting contests.

“ Sports ” means bicycle races, foot-races, horse-races, pony-races, trotting races, cricket or football matches, swimming carnivals, or any other game, exercise, pastime, or any fight or contest.

“ Street ” includes—

(1) any enclosed or unenclosed land (not being a house or race-course) within any borough or municipal district or within the city of Sydney;

(2) a thoroughfare and a highway, road, lane, footway, or passage, whether a thoroughfare or not, on any public or private land.

4. In this Act a house, office, room, or other place is used in contravention of this Act if it, or any part of it, is used—

(a) as a common gaming-house, or for playing or taking part in any unlawful game therein, or for giving or selling any ticket or chance, or share in a ticket or chance, for the disposal of money by lottery or chance or for aiding or taking part in the disposal of money by lottery or chance; or

(b) in any manner prohibited by section forty-two of this Act.

Definition of house, &c., used in contravention of Act. No. 13, 1906, s. 3. No. 12, 1908, s. 21.

Gaming and Betting.

PART II.

GAMING AND WAGERING.

Betting in streets.

Street betting.
No. 13, 1906, s. 18.

5. Every person who frequents, uses, or is in any street for the purpose of any money or valuable thing being received by or promised to such person or on his behalf—

- (a) 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 event or contingency of or relating to any sports; or
- (b) as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and

every bookmaker who, either by himself or by means of any agent, clerk, or servant makes any bet in or on any street, and every such agent, clerk, or servant who so makes any bet shall be liable for a first offence to a penalty of not less than twenty pounds nor more than one hundred pounds, and for a second offence to imprisonment for six months.

The form of information for an offence against this section shall be in the Form C or D in the Third Schedule, or to the like effect.

Third Schedule.
Recovery of money
illegally received.
Ibid. s. 19.

6. Any money or valuable thing received by any bookmaker, or any such agent, clerk, or servant, or any person as aforesaid—

- (a) as or for the consideration for any such assurance, undertaking, promise, or agreement, made in any street; or
- (b) as a deposit on any bet made in any street,

shall be deemed to have been received to or for the use of the person from whom the same was received; and such money or valuable thing, or the value thereof, may be recovered accordingly, with costs, in any court of competent jurisdiction.

Betting on sports grounds.

Wagering or betting
prohibited.
Ibid. s. 20.
No. 55, 1906, s. 3.
No. 2, 1907, ss. 2, 6.

7. Betting or wagering on any ground, not being a licensed race-course or coursing ground approved by the Minister, on which any sports are being held is prohibited.

Betting or wagering on any licensed race-course or coursing ground approved by the Minister, on which any sports other than horse-races, pony-races, trotting races, or coursing are being held is prohibited.

Any person acting in contravention of this section may be dealt with under the next section, and in lieu thereof, or in addition thereto, shall be liable to the penalty and punishment mentioned in section five.

Removal or
apprehension of
offender.
No. 13, 1906, s. 21.

8. Any person who acts in contravention of the last preceding section, and who, after being warned by any officer or servant of the person or persons who have control of the ground, or by any member of

Gaming and Betting.

of the police force, to desist from so acting, does not so desist, may be forthwith removed from such ground or its proximity by any such officer or servant, or by any member of the police force.

9. Any person so removed shall not on the day of such removal re-enter such ground, and if he does so re-enter, he may be again removed as aforesaid, or he may, without warrant, be arrested by any such officer, servant, or member and taken before a stipendiary or police magistrate or any two justices, and shall be liable to a penalty not exceeding fifty pounds.

Person removed from land not to re-enter. No. 13, 1906, s. 22.

Betting with infants.

10. Any person who—

- (a) makes or offers to make any bet or wager with any person whom he knows to be under the age of twenty-one years, or with any person on his behalf; or
- (b) for the purpose of earning any commission, reward, profit, benefit, or advantage, sends or causes to be sent to any person whom he knows to be under such age any circular, notice, advertisement, letter, telegram, or other document which invites or may reasonably be implied to invite the person receiving it to make any bet or wager, or to enter into or take any share or interest in any betting or wagering transactions, or to apply to any person or at any place with a view to obtaining information or advice for the purpose of any bet or wager, or for information as to any race, game, sport, or other contingency upon which betting or wagering is generally carried on,

Making bet with or inviting an infant to bet. *Ibid.* s. 23.

shall be liable to a penalty not exceeding one hundred pounds.

11. If any such circular, notice, advertisement, letter, telegram, or other document names or refers to anyone as a person to whom any payment may be made or from whom information may be obtained for the purpose of or in relation to betting or wagering, the person so named or referred to shall be deemed to have sent or caused to be sent such document as aforesaid, unless he proves that he had not consented to be so named and that he was not in any way a party to and was wholly ignorant of the sending of such document.

Person named in gaming circular to be deemed the sender. *Ibid.* s. 24.

12. If any such circular, notice, advertisement, letter, telegram, or other document is sent to any person at any university, college, school, or other place of education, and such person is under twenty-one years of age, the person sending or causing the same to be sent shall be deemed to have known that such person was under such age unless he proves that he had reasonable grounds for believing such person to be of full age; and the same shall be deemed to have been so sent for the purpose of earning commission, reward, profit, benefit, or advantage unless he proves to the contrary.

Knowledge of infancy presumed. *Ibid.* s. 25.

13.

Gaming and Betting.

Persons betting with
apparent infants.
No. 13, 1906, s. 26.

13. Any person who makes or offers to make any bet or wager with any person who is under twenty-one years of age shall be deemed to have known that such person was under such age unless he proves that he had reasonable ground for believing, and did believe, such person to be of full age.

Money stolen or
embezzled and paid
in bets recoverable.
Ibid. s. 27.

14. Where any money is stolen or embezzled by any person who is under twenty-one years of age, and any money is thereafter paid by such person as or for or by way of or on account of a bet or wager, the person from whom such money was stolen or embezzled may, in any court of competent jurisdiction, recover the amount of the money so stolen or embezzled, not exceeding the amount paid as aforesaid, from the person to whom the same was so paid.

Cheating at cards or games.

No. 18, 1902, s. 12.

15. Whosoever by any fraud, unlawful device, or ill practice—
(a) in playing at or with cards, dice, tables, or other games; 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,

False pretences.

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.

Action not to lie for
contracts by way of
gaming.
Ibid. s. 13.

16. All contracts or agreements, whether by parole 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:

Saving of
subscription-
towards prizes.

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.

Gaming and betting houses.

Penalty for using
house in
contravention of Act.
No. 13, 1906, s. 4.

17. Every owner and every occupier of any house, office, room, or other place who knowingly allows the same to be used in contravention of this Act shall be liable to a penalty not exceeding one hundred pounds.

Land used for access
to house used in
contravention of Act.
Ibid. s. 5.

18. Every owner and every occupier of any land or building who knowingly allows the same to be used as a means of access to or of exit or escape from any house, office, room, or other place used in contravention of this Act, shall be liable to a penalty not exceeding one hundred pounds.

19.

Gaming and Betting.

19. (1) If—

- (a) any owner of a house, office, room, or other place has reasonable grounds to suspect that the same is used in contravention of this Act; or
- (b) any owner of any land or building has reasonable grounds to suspect that the same is used as a means of access to, or of exit or escape from, any house, office, room, or other place used in contravention of this Act,

Owner may evict occupier of house used in contravention of Act.

No. 13, 1906, s. 6.

he may serve on the occupier a notice to quit.

The serving of such notice shall determine as from the tenth day after the date of such service any tenancy under which the occupier may hold as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

(2) Such notice shall be served personally on the occupier, but if he cannot be found, service may be effected by posting a copy of the notice on some conspicuous part of the said house, office, room, place, land, or building.

20. Any such notice to quit may be cancelled by a judge of the Supreme Court, or of a District Court, subject to such terms as he thinks fit, on summons taken out by the occupier, on proof that the occupier has not at any time—

Cancellation of notice to quit.

Ibid. s. 7.

- (a) knowingly allowed the house, office, room, or place to be used in contravention of this Act; or
- (b) knowingly allowed the land or building to be used as a means of access to or of exit or escape from any house, office, room, or other place used in contravention of this Act.

Such summons shall be served on the owner two days at least before the hearing of such summons, and on being so served shall operate until the determination of the summons as a stay of any proceedings under the last preceding section to evict the occupier.

21. On the affidavit of a superintendent, inspector, or sub-inspector of police, showing reasonable grounds for suspecting that any house, office, room, or other place is used in contravention of this Act, any judge of the Supreme Court may declare such house, office, room, or place to be a common gaming-house. Such declaration shall be in force until rescinded.

Declaration that house a common gaming-house.

Ibid. s. 8.

22. Any such declaration may be rescinded by a judge of the Supreme Court, subject to such terms as he thinks fit, on application being made to him,—

Rescission of declaration.

Ibid. s. 9.

- (a) by the owner or occupier of the house, office, room, or place, the subject of the declaration, on proof that he has not at any time allowed the house, office, room, or place to be used in contravention of this Act; or
- (b) by a superintendent, inspector, or sub-inspector of police, on proof that the house, office, room, or place is not used in contravention of this Act.

Where

Act No. 25, 1912.

Gaming and Betting.

Where the application is made by the owner or occupier as aforesaid, notice in writing of intention to make the same shall be served on a superintendent, inspector, or sub-inspector of police two days at least before the hearing of such application.

Publication of
notice of declaration
and rescission.
No. 13, 1908, s. 10.

23. Notice of any such declaration and of any rescission of the same shall be published in the Gazette.

In any proceedings under this Act, the production of a copy of the Gazette containing such notice shall be evidence that the declaration or rescission therein notified was duly made.

Notice given of
declaration.
Ibid. s. 11.

24. (1) The inspector-general, or a superintendent, inspector, or sub-inspector of police, on such declaration being made with respect to any house, office, room, or place—

(a) shall cause to be published on two days in a newspaper circulating in the neighbourhood of the house, office, room, or place, a notice of the making of such declaration;

(b) shall cause such notice to be served on the owner and occupier of the house, office, room, or place. Such service shall be personal, except when it cannot be promptly effected, in which case the notice may be served on the owner and occupier aforesaid by causing a copy thereof to be affixed at or near to the entrance to the house, office, room, or place.

(2) In any proceedings under this Act, the production of a copy of a newspaper containing any such notice shall be evidence that such notice was duly published in such newspaper on the date appearing thereon.

Person found in
house declared a
common gaming-
house.
Ibid. s. 12.

25. If, after publication, in pursuance of paragraph (a) of the last preceding section, of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, any person is found—

(a) in, or on, or entering, or leaving such house, office, room, or place; or

(b) in, or on, or entering, or leaving any land or building used as a means of access to or of exit or escape from the same,

any member of the police force may, without warrant, arrest such person and take him before a stipendiary or police magistrate or any two justices.

Such person, unless he proves that he was in or on or entering or leaving as aforesaid for a lawful purpose, shall be guilty of an offence under this Act, and shall on conviction be liable to imprisonment for a term not exceeding six months.

The form of information for such offence may be in the Form A or B in the Third Schedule, or to a like effect.

Penalty on owner
if house used in
contravention of Act.
Ibid. s. 13.

26. If after service on an owner in pursuance of paragraph (b) of section twenty-four of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration

Gaming and Betting.

declaration is in force, such house, office, room, or place is used in contravention of this Act, such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier from the same, be liable to a penalty not less than thirty and not exceeding three hundred pounds.

27. If after service on an occupier in pursuance of paragraph (b) of section twenty-four of notice of the making of a declaration with respect to a house, office, room, or place, and during the time that such declaration is in force such house, office, room, or place is used in contravention of this Act, the said occupier shall be liable to a penalty not less than thirty and not exceeding three hundred pounds, unless he proves that he has taken reasonable steps to prevent such use. Penalty on occupier. No. 13, 1906, s. 14.

28. While any such declaration is in force with respect to any house, office, room, or place, any member of the police force may, without warrant,— Entry by police. Ibid. s. 15.

- (a) enter the said house, office, room, or place;
- (b) enter any land or building which he has reasonable grounds to suspect is used as a means of access to or of exit or escape from the same;
- (c) pass through, from, over, and along any other land or building for the purpose of entering in pursuance of paragraph (a) or paragraph (b) hereof;
- (d) for any of the purposes aforesaid, break open doors, windows, and partitions, and do such other acts as may be necessary;
- (e) seize any instruments of gaming and any instruments of betting and documents relating to betting, and any money and securities for money in any such house, office, room, or place.

29. Any person who wilfully obstructs or aids in obstructing, or solicits any other person to obstruct or aid in obstructing a member of the police force in the exercise of any power conferred on him by sections seventeen to twenty-eight inclusive of this Act shall be liable to a penalty not exceeding twenty-five pounds. Obstructing the police. Ibid. s. 16.

30. Where any member of the police force authorised under this Act to enter any house, office, room, or place is wilfully prevented from or is obstructed or delayed in entering the same or any part thereof; or Evidence of house being a gaming-house. Ibid. s. 17.

where any external or internal door of or means of access to any such house, office, room, or place so authorised to be entered is found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part, of any member of the police force authorised as aforesaid, or for giving an alarm in case of such entry; or

if such house, office, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming, it

Gaming and Betting.

it shall be evidence, until the contrary is made to appear, that such house, office, room, or place is used as a common gaming-house, and that the persons found therein were playing an unlawful game therein.

Powers to enter and search gaming-houses.

Under special
warrant.
No. 18, 1902, s. 4.

31. (1) Any justice, upon complaint made on oath that there is reason to suspect any house, room, premises, or place to be kept or 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.

(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.

Billiard rooms, &c.
Ibid. s. 5.

32. Any police officer may enter into any house, room, premises, or place where a public table or board is kept for playing at billiards, 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.

Owners, managers,
&c., of gaming-houses
liable to fine of £100
or imprisonment for
six months.
Ibid. s. 6.

33. (1) The owner or keeper of any such gaming-house, or other person having the care or management thereof, and every banker, croupier, and other person who acts in any manner in conducting such gaming-house, room, premises, or place 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.

Persons found
therein liable to fine.

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

Forfeiture of moneys,
&c., seized.

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

Forfeiture of gaming
instruments.

(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.

Offenders may be
proceeded against by
indictment.

34. 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.

Ibid. s. 7.

Evidence

Gaming and Betting.

Evidence and witnesses.

35. (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 in default of other evidence proving such allegation, be sufficient to prove—

Evidence that a house is a gaming-house.
No. 18, 1902, s. 8.

- (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.

36. 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.

Not necessary to prove that a person was found playing for money, &c.
Ibid. s. 9.

37. 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—

Effect of discovery of instruments of gaming.
Ibid. s. 10.

- (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.

38. 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.

Protection of witnesses.
Ibid. s. 11.

Gaming and Betting.

PART III.

BETTING-HOUSES SUPPRESSION.

Interpretation.

Interpretation.
No. 18, 1902, s. 14.

39. 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.

Under special
warrant.
Ibid. s. 15.

40. (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, IOU'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.
Ibid. s. 16.

41. 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.

Using and keeping
betting-houses
forbidden.
Ibid. s. 17.
No. 13, 1906, s. 31.

42. (1) No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof, betting with persons resorting thereto.

In this subsection “resorting thereto” includes applying by the agency of another person by letter, by telegram, or by any other means of correspondence. (2)

Gaming and Betting.

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

(3) 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.

43. Every house, room, office, or place opened, kept, or used for any of the purposes mentioned in section forty-two 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.

Betting-houses to be gaming-houses within Part II.
No. 18, 1902, s. 18.

44. (1) Whosoever opens, keeps, or uses any house, office, room, or other place for any of the purposes mentioned in section forty-two, 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.

Penalty for keeping betting-house.
Ibid. s. 19.

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

Persons found in betting-house liable to fine.

(3) All moneys, coins, notes, cheques, IOU'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.

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

45. 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 forty-two, or a person acting for him or on his behalf, or as his manager or assistant—

Penalty for receiving money as deposit, &c., on a bet.
Ibid. s. 20.

- (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)

Gaming and Betting.

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

46. 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) publishes in a newspaper the odds on any race to be run at a meeting for horse-racing or pony-racing ;

(c) 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.

47. 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.

Penalty for
exhibiting placards,
&c., as to betting.
No. 18, 1902, s. 21.
No. 13, 1906, s. 32.

Penalty for
advertising as to
betting.
Ibid. s. 22.

*Gaming and Betting.**Avoidance of contracts.*

48. (1) Any money or valuable thing received by any person mentioned in section forty-five as a deposit on any bet, or as or for the 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.

Recovery of moneys paid over as deposit on a bet, &c. No. 18, 1902, s. 23.

(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.

Procedure and arrest.

49. 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. *Ibid.* s. 24.

50. 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. *Ibid.* s. 25.

PART IV.

RESTRICTIONS ON RACE MEETINGS.

Licenses and limitations.

51. (1) No race-meeting shall be held on any race-course unless such race-course is licensed under this Act.

Race-course to be licensed. No. 13, 1906, s. 28. No. 55, 1906, s. 4. No. 2, 1907, s. 3.

(2) No race-meeting for horse-racing or pony-racing shall be held on any race-course if the circumference of the running-ground of such race-course, measured three feet from the inner boundary, is less than six furlongs.

(3)

Gaming and Betting.

Limitation of
number of horse-
races on race-course.

(3) The number of days in any one year on which meetings for horse-racing may be held on any licensed race-course shall not exceed the following:—

- (a) Where the race-course is situate within forty miles of the General Post Office, Sydney, the number shall be twenty-four, or the number of days on which such meetings were held at such race-course, or any race-course for which it has been substituted, during the twelve months ending the thirty-first day of July, one thousand nine hundred and six, whichever number is the smaller.
- (b) Where the race-course is situate within forty miles of the principal post office, Newcastle, the number shall be fifteen, or the number of days on which such meetings were held on such race-course during the twelve months ending the thirty-first day of July, one thousand nine hundred and six, whichever number is the smaller.

Limitation of
number of pony-
races on race-course.

(4) The number of days in any one year on which meetings for pony-racing may be held on any licensed race-course shall not exceed the following:—

- (a) Where the race-course is situate within forty miles of the General Post Office, Sydney, the number shall be twenty-four, or if there be more than two race-courses the number shall not exceed the quotient, omitting fractional parts, obtained by dividing the number seventy-two by the number of race-courses situate as aforesaid and licensed for pony-racing in that year.
- (b) Where the race-course is situate beyond the said forty miles, the number shall be six.

Limitation of
trotting contests.

(5) The number of days in any one year on which meetings for trotting races or contests may be held on any licensed race-course shall not exceed the following:—

- (a) Where the race-course is situated within forty miles of the General Post Office, Sydney, the number shall be twenty, of which ten days may be other than Wednesdays or Saturdays.
- (b) Where the race-course is situate beyond the said forty miles, the number shall be six.

Penalty.

(6) If any race-meeting is held in contravention of this section, the owner or trustees of the race-course, and the club, association, or person by or on behalf of which or whom such meeting was so held, and each member of the managing body of such trustees, club, or association, and any person acting at such race-meeting as starter or judge, shall be liable to a penalty not less than five hundred pounds and not exceeding one thousand pounds.

(7)

Gaming and Betting.

(7) A year under this section shall be deemed to commence on the first day of January. Commencement of year.

52. (1) Licenses under the last preceding section shall be issued by the Colonial Secretary on such terms and conditions as may be prescribed by regulations which the Governor is authorised to make. Issue of licenses. No. 13, 1906, s. 29. No. 2, 1907, s. 4.

(2) Any such license shall be for a year, commencing the first day of January. A license may be cancelled by the Colonial Secretary for any good cause. Period of license.

(3) The fees for such license shall be paid into the Treasury and carried to the Consolidated Revenue Fund, and shall be at the following rates:— Fees.

- (a) Where the race-course is situate within forty miles of the General Post Office, Sydney, fifty pounds.
- (b) Where it is situate within forty miles of the principal post office, Newcastle, twenty pounds.
- (c) Where otherwise situate, one pound.

(4) The number of licenses for race-courses situate within forty miles of the General Post Office, Sydney, shall not exceed the number of race-courses so situate and in use for race-meetings within the three months next preceding the first day of August, one thousand nine hundred and six. Limitation of race-courses which may be licensed.

The number of licenses for race-courses situate within forty miles of the principal post office, Newcastle, shall not exceed the number of race-courses so situate and in use for race-meetings within the three months aforesaid.

53. Race meetings may, subject to this Act, be held at race-courses situate within forty miles of the General Post Office, Sydney, or within forty miles of the principal post office, Newcastle, on Wednesdays, Saturdays, and public holidays, except Good Friday and Christmas Day, and on no other days: Provided that if, owing to unfavourable weather, the races appointed for any day have to be postponed, such race-meeting may be held on any other day within one week of such postponement. Days of race-meetings. No. 13, 1906, s. 30.

54. Nothing in the three last preceding sections shall apply to any ground used for the purposes of a show by a pastoral or agricultural association, or to any trotting races or contests held on such ground by such association: Provided that such association has been registered by the Minister for Agriculture, and the conditions of the trotting races or contests have been approved by the Minister. Trotting contests allowed on show-grounds. No. 2, 1907, s. 5.

It shall be a condition of such registration that betting or wagering shall not be allowed on such ground.

Advisory

*Gaming and Betting.**Advisory board.*

Appointment of
advisory board.
No. 13, 1906, s. 33.

55. The Governor may appoint a board of not more than five persons to advise the Minister in matters relating to race-courses and race-meetings to be dealt with by him under this Act.

Owners or trustees
may agree as to days
of meetings.
Ibid. s. 34.

56. The owners, lessees, or trustees of licensed race-courses on which meetings for pony-racing are held, situate within forty miles of the General Post Office, Sydney, or of the principal post office, Newcastle, and the clubs, associations, and persons holding meetings for pony-racing at such race-courses may agree among themselves as to the days on which such meetings of the said respective clubs, associations, and persons may be held at the respective race-courses situate as aforesaid. If they fail so to agree, the matter as to which they disagree shall, at the request of any one of them, be determined by the said advisory board, and such determination shall be final and shall be carried out.

PART V.

GENERAL PROVISIONS

Tender of amends.
No. 18, 1902, s. 26.

57. (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.

(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.
Ibid. s. 27.

58. No action, suit, information, or other proceeding shall be brought against any person for anything done or omitted to be done in 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.

Gaming and Betting.

59. It shall be lawful for the Governor to make regulations for the purpose of carrying out the provisions of this Act. Regulations.
No. 13, 1906, s. 35.

60. Penalties under this Act may be recovered in a summary way before a stipendiary or police magistrate or any two justices in petty sessions. Recovery of
penalties.
Ibid. s. 36.

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title.	Extent of repeal.
No. 18, 1902 ...	Games, Wagers, and Betting-houses Act, 1902	The whole.
No. 13, 1906 ...	Gaming and Betting Act, 1906	The whole.
No. 55, 1906 ...	Gaming and Betting (Amendment) Act, 1906...	The whole.
No. 2, 1907 ...	Gaming and Betting (Amendment) Act, 1907...	The whole.
No. 12, 1908 ...	Police Offences (Amendment) Act, 1908 ...	Section 21.

SECOND SCHEDULE.

Sections 31, 40.

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 Gaming and Betting Act, 1912, this is therefore, in the name of Our Lord the King, to require you, with such assistants 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 any two justices, 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.

J.P. (I.S.)

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

THIRD

Act No. 26, 1912.

Dentists.

Sections 5, 25.

THIRD SCHEDULE.

FORM A.

THAT on the day of , at , A.B. was found in (*or on, or entering, or leaving*) a house (*or office, or room, or place*) which had been duly declared to be a common gaming-house.

FORM B.

That on the day of , at , A.B. was found in (*or on, or entering, or leaving*) land (*or a building*) used as a means of access to (*or of exit, or escape from*) a house (*or office, or room, or place*) which had been duly declared to be a common gaming-house.

FORM C.

That on the day of , at , A.B. frequented, used, or was in a street for the purpose of betting.

FORM D.

That on the day of , at , A.B. being [a bookmaker, or the agent, clerk, or servant of a bookmaker] made a bet in a street.
