

GAMING AND BETTING (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 48, 1974.

An Act to make further provision with respect to unlawful games and gaming-houses; to increase certain penalties; for these and other purposes to amend the Gaming and Betting Act, 1912, and the Summary Offences Act, 1970; and for purposes connected therewith. [Assented to, 24th April, 1974.]

BE

Gaming and Betting (Amendment).

No. 48, 1974 **BE** it enacted by the Queen'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:—

Short title. 1. This Act may be cited as the "Gaming and Betting (Amendment) Act, 1974".

Amendment of Act No. 25, 1912. 2. The Gaming and Betting Act, 1912, is amended—

Sec. 1. (Short title.) (a) by omitting the matter relating to Part II in section 1 and by inserting instead the following matter :—

PART II.—WAGERING—ss. 5–16.

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 of contracts—s. 16.

PART IIA.—UNLAWFUL GAMES AND GAMING-HOUSES SUPPRESSION—ss. 17–38.

Unlawful games—ss. 17–20.

Gaming-houses—ss. 21–27.

Declared gaming-houses—ss. 28–35.

Evidence and witnesses—ss. 36–38.

(b)

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- (b) (i) by inserting after the definition of "Broadcasting station" in section 3 the following definitions :—

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Sec. 3.

(Interpretation.)

"Declared gaming-house" means a place in respect of which a declaration under section 28 has been made.

"Gaming-house" means a place—

(a) used for playing or taking part in an unlawful game; or

(b) used as a common gaming-house at common law,

whether or not that place is open for the use only of subscribers, members or shareholders of a club or company, or to all persons desiring to use that place.

- (ii) by omitting the definition of "Place" in section 3 and by inserting instead the following definition :—

"Place" means—

(a) a house, office, shop, room or other premises or any part of a house, office, shop, room or other premises; or

(b) a vessel or boat, whether used in navigation or not so used.

- (c) by omitting section 4;

Sec. 4.

(Definition of house, &c., used in contravention of Act.)

- (d) by omitting from the heading to Part II the words "GAMING AND";

Heading to Part II.

(e)

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Secs. 17-38.

- (e) by omitting sections 17 to 38 and the headings to sections 17, 31, 33 and 35 and by inserting instead the following Part :—

PART IIA.

UNLAWFUL GAMES AND GAMING-HOUSES
SUPPRESSION.*Unlawful games.*

Unlawful
games.

17. The following games are unlawful games :—

- (a) the games called respectively fan-tan, pak-a-pu, two-up, hazard, baccarat, faro, manilla or roulette, or any similar game of chance;
- (b) any game where money is disposed of by lottery or chance except as authorised under the Lotteries and Art Unions Act 1901-1929;
- (c) any game in which the chances are not alike favourable to all the players, including among the players the banker or other person, if any, by whom the game is managed or against whom the other players stake, play or bet;
- (d) any game where a bank is kept by one or more persons exclusive of the others; or
- (e) any game with cards or other instruments of gaming wherefrom a person receives a percentage or share of the amount wagered.

Organising,
etc., an
unlawful
game.

18. A person shall not—

- (a) organise or conduct or assist in organising or conducting an unlawful game; or
- (b) receive a percentage or share from any amount wagered on an unlawful game.

Penalty : \$200 or imprisonment for three months.

19.

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19. A person shall not give or sell a ticket or chance, or share in a ticket or chance, in an unlawful game. No. 48, 1974

Penalty : \$200 or imprisonment for three months. Selling ticket, etc., in an unlawful game.

20. A person shall not play at or bet on an unlawful game. Playing at, etc., an unlawful game.

Penalty : \$100.

Gaming-houses.

21. An owner or occupier of a place shall not knowingly allow that place to be used— Use of place as, or as access to, etc., a gaming-house.

(a) as a gaming-house; or

(b) as a means of access to, or of exit or escape from, a gaming-house.

Penalty : \$500 or imprisonment for six months.

22. (1) A justice, upon a complaint made on oath that the complainant has reason to suspect, and believes, that a place is kept or used as a gaming-house, may, by special warrant under his hand, authorise and require any member of the police force to enter and search that place and arrest, search and bring before a stipendiary magistrate or any two justices all persons found therein, and seize all means, contrivances or instruments of gaming, money and securities for money found therein. Entry and search under special warrant.

(2) Any member of the police force authorised under subsection (1) may, if necessary, obtain assistance and use force, whether by breaking open doors or otherwise, for making entry to the place suspected of being used as a gaming-house, and may search all parts of the place where he suspects that means, contrivances or instruments of gaming, money or securities for money are concealed.

(3)

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(3) A special warrant under subsection (1) shall be in or to the effect of the form in the Second Schedule.

Organising,
etc., a
gaming-
house.

23. A person shall not organise or conduct or assist in organising or conducting a gaming-house.

Penalty: \$1,000 or imprisonment for twelve months.

Person in
gaming-
house
without
lawful
excuse.

24. A person shall not be in a gaming-house without lawful excuse.

Penalty: \$100.

Forfeiture
of money,
etc.

25. (1) Upon the conviction for an offence against this Part of a person who is brought before a stipendiary magistrate or justices by virtue of a special warrant under section 22, all money and securities for money seized under section 22 shall be forfeited to Her Majesty.

(2) The stipendiary magistrate or justices before whom a person is brought by virtue of a special warrant under section 22 may direct that all means, contrivances or instruments of gaming seized under that warrant be forthwith destroyed.

Eviction of
occupier of
gaming-
house.

26. (1) If—

(a) an owner of a place has reasonable grounds to suspect that that place is used as a gaming-house; or

(b) an owner of a place has reasonable grounds to suspect that that place is used as a means of access to, or of exit or escape from, a gaming-house,

he may serve a notice to quit on the occupier.

(2)

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(2) Service of a notice to quit under sub-section (1) shall determine, as from the tenth day after the date of service, the tenancy of the occupier as if that tenancy had expired by effluxion of time. No. 48, 1974

(3) On the determination of the tenancy under subsection (2), the owner may, without any authority other than this Act, take legal proceedings to evict, and may evict, the occupier.

(4) A notice to quit under subsection (1) shall be served—

- (a) on the occupier personally; or
- (b) if the occupier cannot be found, by posting a copy of the notice on some conspicuous part of the place referred to in subsection (1) (a) or (b), as the case may be.

27. (1) A notice to quit under section 26 (1) may, on application made by the occupier, be cancelled by the Supreme Court, or the District Court, subject to such terms as the Court thinks fit, on proof that the occupier has not at any time—

- (a) knowingly allowed the place to be used as a gaming-house; or
- (b) knowingly allowed the place to be used as a means of access to, or of exit or escape from, a gaming-house.

(2) A copy of the application made under subsection (1) shall be served on the owner at least two days before the hearing of the application, and on being so served shall operate, until the determination of the application, as a stay of any proceedings commenced under section 26 (3).

Declared

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*Declared gaming-houses.*Declared
gaming-
house.

28. (1) On the affidavit of a superintendent or inspector of police showing reasonable grounds for suspecting that a place is used as a gaming-house, the Supreme Court may declare that place to be a declared gaming-house.

(2) A declaration under subsection (1) shall remain in force until rescinded under section 29.

Rescission of
declaration.

29. (1) A declaration under section 28 may be rescinded by the Supreme Court, subject to such terms as the Court thinks fit, on application being made to it—

- (a) by the owner or occupier of the declared gaming-house, on proof that he has not at any time allowed the declared gaming-house to be used as a gaming-house; or
- (b) by a superintendent or inspector of police, on proof that the declared gaming-house is not used as a gaming-house.

(2) Where an application under subsection (1) is made by the owner or occupier, notice in writing of intention to make the application shall be served on a superintendent or inspector of police at least two days before the hearing of the application.

Publication
of notice of
declaration
and
rescission.

30. (1) Notice of a declaration under section 28 or of a rescission, under section 29, of such a declaration shall be published in the Gazette.

(2) In any proceedings under this Act, the production of a copy of the Gazette containing a notice referred to in subsection (1) shall be evidence that the declaration or rescission therein notified, as the case may be, was duly made.

31.

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31. (1) On the making of a declaration under section 28, the Commissioner of Police, a superintendent or an inspector of police shall cause a notice of the making of that declaration to be— No. 48, 1974
Notice to
be given of
declaration.

- (a) published on two days in a newspaper circulating in the neighbourhood of the declared gaming-house the subject of that declaration; and
- (b) served—
 - (i) personally on the owner and occupier of that declared gaming-house; or
 - (ii) where personal service cannot be promptly effected, on the owner and occupier of that declared gaming-house by causing a copy of the notice to be affixed at or near to the entrance to that declared gaming-house.

(2) In any proceedings under this Act, the production of a copy of a newspaper containing a notice of the making of a declaration under section 28 shall be evidence that the notice was duly published in that newspaper on the date appearing therein.

32. (1) If, after publication, in accordance with section 31 (1) (a), of a notice of the making of a declaration under section 28, and during the time that the declaration is in force, a person is found— Person
found in
declared
gaming-
house.

- (a) in, or on, or entering, or leaving the declared gaming-house the subject of that declaration; or
- (b) in, or on, or entering, or leaving a place used as a means of access to, or of exit or escape from, the declared gaming-house the subject of that declaration,

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

(2) A person arrested under subsection (1), unless he proves that he was in, or on, or entering the declared gaming-house, or a place used as a means of access to, or of exit or escape from, the declared gaming-house, as the case may be, for a lawful purpose, contravenes this subsection.

Penalty : \$500 or imprisonment for six months.

(3) The form of information for an offence against subsection (2) may be in or to the effect of Form A or B in the Third Schedule.

Declared
gaming-
house—
offence by
owner.

33. If, after service on an owner, in accordance with section 31 (1) (b), of a notice of the making of a declaration under section 28, and during the time that the declaration is in force, the declared gaming-house the subject of that declaration is used as a gaming-house, the owner, unless he proves that he has taken all reasonable steps to evict the occupier from that declared gaming-house, contravenes this section.

Penalty : \$1,000 or imprisonment for twelve months.

Declared
gaming-
house—
offence by
occupier.

34. If, after service on an occupier, in accordance with section 31 (1) (b), of a notice of the making of a declaration under section 28, and during the time that the declaration is in force, the declared gaming-house the subject of that declaration is used as a gaming-house, the occupier contravenes this section.

Penalty : \$1,000 or imprisonment for twelve months.

35.

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35. (1) While a declaration under section 28 is in force, a member of the police force may, without warrant—

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Declared gaming-house—
entry by police.

- (a) enter the declared gaming-house the subject of that declaration;
- (b) enter a place which he has reasonable grounds to suspect of being used as a means of access to, or of exit or escape from, that declared gaming-house;
- (c) pass through, from, over, or along any other land or building for the purpose of entering in pursuance of paragraph (a) or (b);
- (d) for any of the purposes of this subsection, break open doors, windows, or partitions, and do such other acts as may be necessary; and
- (e) seize any means, contrivances or instruments of gaming, money and securities for money in that declared gaming-house.

(2) All money and securities for money seized under subsection (1) (e) shall be forfeited to Her Majesty.

(3) The Commissioner of Police may direct that all means, contrivances or instruments of gaming seized under subsection (1) (e) be destroyed.

Evidence and witnesses.

36. It shall not be necessary, in proceedings under this Part against a person found playing an unlawful game, to prove that that person was playing that game for any money, wager or stake.

Unnecessary to prove that a person was playing for money, etc.

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Evidence of
place used
as a gaming-
house.

37. (1) This section applies to and in respect of a place that a member of the police force is authorised to enter under this Part, where—

- (a) a member of the police force so authorised is wilfully prevented from, or is obstructed or delayed in, entering that place;
- (b) an external or internal door of, or means of access to, that place is found to be fitted with a bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying or obstructing the entry into that place of a member of the police force so authorised, or for giving an alarm in case of such entry;
- (c) that place is found to be fitted or provided with any means of or contrivance for playing at or betting on an unlawful game or with any means of or contrivance for concealing, removing or destroying any instruments of gaming; or
- (d) there is found in that place or in the possession of a person in that place any instruments of gaming used in playing at or betting on an unlawful game.

(2) Evidence that, at or about a specified time or times on a specified day, this section applied to or in respect of a specified place shall, until the contrary is made to appear, be evidence—

- (a) for the purposes of this Part, that the specified place was, at or about the specified time or times of the specified day, used as a gaming-house;
- (b) for the purposes of this Part, that persons found in the specified place at or about the specified time or times of the specified

day

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day were playing an unlawful game, No. 48, 1974
 whether or not any play took place in the
 presence of a member of the police force
 authorised to enter under this Part; and

- (c) for the purposes of section 24, that a person in the specified place at or about the specified time or times of the specified day was in the specified place without lawful excuse.

38. A person concerned in any unlawful gaming who is examined as a witness by or before a stipendiary magistrate or two justices in any proceedings for an offence under this Part relating to that unlawful gaming, shall, if he receives from that stipendiary magistrate or those justices 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 his examination in respect of that unlawful gaming. Protection of witnesses.

- (f) by omitting section 40 and by inserting instead the following section :—

40. (1) A justice, upon complaint made on oath that the complainant has reason to suspect, and believes, that a place is kept or used contrary to this Part, may, by special warrant under his hand, authorise and require any member of the police force to enter and search that place and arrest, search, and bring before a stipendiary magistrate or any two justices all persons found therein, and seize all money, coin, notes, cheques, IOU's, or other writings for securing the payment

of

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of money, and all microphones, speakers, tape recorders, tapes, wire recorders, wires, or other apparatus for the recording or reproduction of sound (not being Commonwealth property) and all lists, cards, or other documents or other things whatsoever relating to racing or betting found in that place.

(2) Any member of the police force authorised under subsection (1) may, if necessary, obtain assistance and use force, whether by breaking open doors or otherwise, for making entry to the place suspected of being kept or used contrary to this Part, and may search all parts of that place where he suspects that any article he is authorised to seize is concealed.

(3) A special warrant under subsection (1) shall be in or to the effect of the form in the Second Schedule.

Sec. 43.

(g) by omitting section 43 and by inserting instead the following section :—

Applica-
tion of
gaming-
house pro-
visions to
betting-
houses.

43. For the purposes of sections 26 to 28, a place kept or used for any of the purposes mentioned in section 42 shall be deemed to be a place used as a gaming-house.

**Second
Schedule.**

(h) by omitting the Second Schedule and by inserting instead the following Schedule :—

Secs. 22, 40.**SECOND SCHEDULE.***Form of special warrant.***NEW SOUTH WALES****TO WIT**

TO a member of
the police force for the State of New South Wales and to all other
members of the said force.

WHEREAS

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WHEREAS of No. 48, 1974
 in the State of New South Wales has this day made complaint upon
 oath to me, the undersigned, a Justice of the Peace, that the
 complainant has reason to suspect, and believes, that a place, to wit

.....
 is kept or used (as a gaming-house within the meaning of the Gaming
 and Betting Act, 1912, or contrary to Part III of the Gaming and
 Betting Act, 1912, as the case may be). This is therefore in the name
 of Our Lady the Queen, to require you forthwith, with such assistants
 as you may find necessary, to enter into that place, and, if necessary,
 to use force for making that entry, and to search that place, and to
 arrest, search and bring before a stipendiary magistrate or any two
 justices all persons found therein and to seize (*all tables, instruments
 of gaming, etc., or as the case may be*), and for so doing this shall be
 your warrant.

Given under my hand and seal this

day of one thousand nine

hundred and at

in the said State.

Justice of the Peace.

- (i) by omitting Forms A and B from the Third ^{Third} Schedule and by inserting instead the following ^{Schedule.} forms :—

FORM A.

That on the day of , at
 , A.B. was found in (*or on, or entering,
 or leaving*) a declared gaming-house.

FORM B.

That on the day of , at
 , A.B. was found in (*or on, or entering,
 or leaving*) a place used as a means of access to (*or of exit from,
 or escape from*) a declared gaming-house.

Gaming and Betting (Amendment).

No. 48, 1974 3. The Summary Offences Act, 1970, is amended by omitting section 36.

Amendment
of Act No.
96, 1970.
Sec. 36.
(Unlawful
games.)

Savings.

4. (1) In this section—

- (a) “existing declaration” means a declaration made by a judge of the Supreme Court that any house, office, room or other place is a common gaming-house in force at the date of assent to this Act;
- (b) a reference to a section is a reference to a section of the Gaming and Betting Act, 1912, as amended by this Act.

(2) A notice to quit, in force at the date of assent to this Act, served under a provision of the Gaming and Betting Act, 1912, repealed by this Act shall be deemed to have been served under section 26 (1).

(3) An existing declaration shall be deemed to be a declaration that the house, office, room or other place, the subject of that existing declaration, is a declared gaming-house under section 28.

(4) A notice published in the Gazette of an existing declaration shall be deemed to have been published under section 30 (1).

(5) A notice published in a newspaper of an existing declaration shall be deemed to have been published under section 31 (1).

(6) A notice of an existing declaration served under a provision of the Gaming and Betting Act, 1912, repealed by this Act shall be deemed to have been served under section 31 (1).

(7) A special warrant issued under a provision of the Gaming and Betting Act, 1912, repealed by this Act shall be deemed to have been issued under section 22.

5.

Gaming and Betting (Amendment).

5. Each provision of the Gaming and Betting Act, 1912, No. 48, 1974 specified in Column 1 of the Schedule is amended in the manner set forth opposite that provision in Column 2 of the Schedule.

Further
amendment
of Act No.
25, 1912.

SCHEDULE.

Column 1.	Column 2.
Provision of Gaming and Betting Act, 1912.	Amendment.
The definitions of "Occupier" and "Owner" in section 3; sections 42 (1), (2), (3); 44 (1). The definition of "Owner" in section 3.	Omit "house, office, room, or other" wherever occurring.
Sections 41; 44 (2); 45; 46 (a), (c); 47 (b). Section 41.	Omit "house, office, room," where secondly and thirdly occurring. Omit "house, office, room, or" wherever occurring. Omit "house or premises", insert instead "place".
Sections 43A (1), (2); 44A; 44B (1), (2); 47A (1), (2); 47C (1), (2). Section 44 (1). Section 44B (1) (a), (b).	Omit "house, office, room or other" wherever occurring. Omit "house, office, room or". Omit "or any part thereof" wherever occurring.
Sections 47A (2); 47C (2).	Omit "house, office, room or" where secondly occurring.

GROWTH