

LAWS OF BRUNEI

CHAPTER 28 COMMON GAMING HOUSES

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CHAPTER 28
COMMON GAMING HOUSES

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SCHEDULE — NAME OF GAMES

COMMON GAMING HOUSES**An Act to consolidate and amend the law relating to common gaming houses**

Commencement: 1st January 1920

Citation

1. This Act may be cited as the Common Gaming Houses Act.

Interpretation

2. (1) In this Act, unless the context otherwise requires —

“common gaming house” includes —

(a) any place kept or used for gaming, to which the public or any class of the public has or may have access;

(b) any place kept for habitual gaming, whether the public or any class of the public has or may have access to it or not;

(c) any place kept or used for the purpose of a public lottery;

(d) any place (including a place which is owned, occupied, possessed, kept, used or maintained by any society or any other organisation, body or group of persons, whether or not that society, organisation, body or group is established by or under any written law) —

- (i) where four or more persons are gaming;
- (ii) where any game specified in the Schedule is being played; or
- (iii) where gaming is carried out and for which payment is made by any person to any society, organisation, body or group of persons or any other person as consideration for permitting gaming in such place;

[S 20/2008]

“gaming” means playing any game of chance or of mixed chance and skill for money or money’s worth and includes —

- (a) playing any game specified in the Schedule; and

(b) playing or operating any gaming machine;

[S 20/2008]

“gaming machine” means any mechanical, electrical or electronic machine or device (including any computer program used in such machine or device), whether wholly or partly mechanically, electrically or electronically operated, that is so designed or that has been so adapted that —

(a) it may be used for the purpose of playing any game of chance or of mixed chance and skill; and

(b) as a result of playing or operating the machine or device, winnings in money or money’s worth may become payable;

[S 20/2008]

“instrument or appliances for gaming” includes all articles which are used in, or for the purpose of, gaming or a lottery;

“lottery” includes any game, method or device whereby money or money’s worth is distributed or allotted in any manner depending upon or to be determined by chance or lot whether the game, method or device is held, drawn, exercised or managed within or outside Brunei Darussalam;

“lottery ticket” includes any paper, figure, writing, symbol or other article whatsoever which either expressly or tacitly entitles or purports to entitle the holder or any other person to receive any money or money’s worth on the happening of any event or contingency connected with any public lottery;

“place” means any house, office, room or building and any place or spot whether open or enclosed and includes a ship, boat or other vessel whether afloat or not and any vehicle;

“public lottery” means a lottery to which the public or any class of the public has or may have access and every lottery is deemed, until the contrary be proved, to be a public lottery;

“a senior police officer” means any police officer not below the rank of Assistant Superintendent and includes any police officer by name or office specially authorised by His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, to exercise the powers of a senior police officer under this Act.

(2) A place in which lottery tickets are sold or distributed is deemed to be used for the purpose of a public lottery.

(3) A place is deemed to be used for a purpose if it is used for that purpose even on one occasion only.

(4) Every person who demises or lets to hire a place is deemed the owner thereof.

Nuisances

3. Every common gaming house is hereby declared to be a common and public nuisance contrary to law.

Specific game need not be stated or proved [S 20/2008]

3A. (1) Where a person is charged for an offence under section 6 or 7, it shall be sufficient for the charge to merely state that the person charged was found gaming, without having to state the specific game being played.

(2) Where a person is being tried for an offence under section 6 or 7, it shall be sufficient for the prosecution to merely prove that the game played was one of the games specified in the Schedule, without having to prove the specific game being played.

Offences connected with gaming houses and lotteries

4. Any person who —

(a) being the owner or occupier or having temporary use or otherwise thereof, keeps or uses a place as a common gaming house;

(b) permits a place of which he is owner or occupier or of which he has temporary use or otherwise, to be kept or used by another person as a common gaming house;

(c) has the care or management of, or in any manner assists in the management of, a place kept or used as a common gaming house, or assists in carrying on a public lottery;

(d) receives directly or indirectly any money or money's worth for or in respect of any chance in, or event or contingency connected with, a public lottery, or sells or offers for sale or gives or delivers any lottery ticket;

(e) draws, throws, declares or exhibits expressly or otherwise the winner or winning number ticket, lot, figure, design, symbol or other result of any public lottery;

(f) writes, prints or publishes, or causes to be written, printed or published, any lottery ticket or list of prizes or any announcement of the result of a public lottery or any announcement or riddle relating to a public lottery;

(g) announces, publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign or otherwise, that any place is opened, kept or used as a common gaming house, or in any other manner invites or solicits any person to commit a breach of section 6 or 9; or

[S 20/2008]

(h) conducts in or through any newspaper or any other periodical publication, or in connection with any trade or business or the sale of any article to the public —

(i) any competition in which prizes are offered for forecasts of the result either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; or

(ii) any other competition, success in which does not depend to a substantial degree upon the exercise of skill,

[S 20/2008]

is guilty of an offence and liable on conviction to a fine of not less than \$5,000 and not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both.

[S 20/2008]

Offences relating to dealing with gaming machines [S 20/2008]

4A. Any person who —

(a) deals with, or in any manner transacts in, any gaming machine or any part of any gaming machine or any interest of any kind in any gaming machine; or

(b) imports, manufactures, assembles, supplies, sells, assigns, charges, leases, hires, services, repairs, adapts or modifies, or carries out any combination of those activities in relation to, a gaming machine or any part for any gaming machine,

is guilty of an offence and liable on conviction to a fine of not less than \$10,000 and not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both, for every gaming machine seized.

Advancing money for gaming house or lottery

5. Any person who —

(a) advances or furnishes money for the purpose of —

(i) establishing or conducting the business of a common gaming house; or

(ii) a public lottery; or

(b) profits from the establishment or conduct of such business,

is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for 12 months.

Playing in gaming house

6. (1) Any person who plays in a common gaming house is guilty of an offence and liable on conviction to a fine of \$10,000 and imprisonment for 6 months.

(2) A person found in a common gaming house or found escaping therefrom on the occasion of its being entered under this Act shall be presumed, until the contrary is proved, to be or to have been playing therein.

Gaming in public

7. (1) A police officer may —

(a) arrest without warrant any person found gaming in any public place; and

(b) seize all instruments or appliances for gaming found in such public place or on the persons of those arrested under this section.

(2) Any person gaming in any public place is guilty of an offence and liable on conviction to a fine of \$10,000 and imprisonment for 6 months; and all instruments or appliances for gaming seized under this section may be declared by the court before which the conviction is had to be forfeited to the Government and shall be dealt with accordingly.

(3) Where any money or other valuable thing is used in the playing of any game of chance or of mixed chance and skill in any public place, the players shall be presumed, until the contrary is proved, to be or to have been gaming.

(4) In this section, “public place” includes public streets, roadways, lanes, and open spaces, and any place to which the public has or may have access.

Instigating, promoting or facilitating gaming in public

8. (1) Any person who instigates, promotes or intentionally facilitates the commission of an offence punishable under section 7 is guilty of an offence and liable on conviction to a fine of \$10,000 and imprisonment for 6 months.

(2) Any person who —

(a) erects, maintains, or controls, or assists to erect, maintain, or control, any hut, shed, tent, or other building or shelter whatsoever where an offence punishable under section 7 is committed;

(b) brings to, or has in his possession at or near, a place where such an offence is committed, any instrument or appliance for gaming; or

(c) keeps watch in order to warn, or warns, persons committing such an offence of risk of detection,

shall be presumed, until the contrary is proved, to have promoted the commission of an offence punishable under section 7.

(3) A person shall not, by reason only of the fact that he has committed an offence punishable under section 7, be liable to be convicted of an offence under this section.

Buying ticket

9. (1) Any person who either personally or by an agent —

(a) pays or deposits any money or money's worth as a stake or for or in respect of any event or contingency connected with a public lottery; or

(b) buys a lottery ticket,

is guilty of an offence and liable on conviction to a fine of \$2,000.

[S 20/2008]

(2) A person in whose possession a lottery ticket is found shall be presumed, until the contrary is proved, to have bought the lottery ticket.

(3) Every lottery ticket brought or introduced into or being within Brunei Darussalam shall be forfeited to the Government and it shall be the duty of every police officer or other public servant to seize every such ticket wherever found.

Selling lottery tickets

10. A person —

(a) selling, offering for sale, giving, delivering or collecting lottery tickets; or

(b) found in possession of ten or more lottery tickets or counterfoils or duplicates of lottery tickets or of any account, memorandum, riddle or record of stakes or wagers in or relating to a lottery,

shall be presumed, until the contrary is proved, to be assisting in a public lottery then in progress.

Money paid recoverable

11. Any money or money's worth paid or deposited for or in respect of —

(a) any event or contingency connected with a public lottery; or

(b) the purchase of a lottery ticket,

shall be recoverable as money had and received to, or for the use of, the person from whom the money or money's worth was received.

Sales of lottery tickets to be void

12. Every sale or contract for sale of a lottery ticket is void and no action shall be maintainable by any person in respect of any such sale or contract except by a purchaser for the return of the money or other consideration (if any) paid thereon.

Search warrant against premises

13. (1) (a) A Magistrate or a senior police officer on being satisfied, upon receiving information and after any further inquiry which he may think necessary, that there is good reason to believe that any place is kept or used as a common gaming house, may by warrant authorise any person therein named or any police officer, with such assistance and by such force as may be necessary, by night or by day —

- (i) to enter or go to such place and to search the place and all persons found therein;
- (ii) to seize all instruments or appliances for gaming and all money, securities for money and other articles reasonably supposed to have been used or intended to be used for any game or lottery which may be found in such place or on any such persons; and
- (iii) to detain all such persons until they and the place have been searched.

(b) If any of the things or circumstances which are made by this Act presumptive evidence of guilt are found therein, they shall be taken before a Magistrate to be dealt with according to law.

[S 20/2008]

(2) All instruments or appliances for gaming, money, securities for money and other articles —

(a) found in a common gaming house or on any persons found therein or escaping therefrom; and

(b) which the Magistrate is of opinion were used or intended to be used for any gaming or lottery,

shall be declared by him to be forfeited to the Government and shall be dealt with accordingly.

Forfeiture of seized gaming machines [S 20/2008]

13A. (1) Without prejudice to section 13(2), any gaming machine seized in exercise of any power conferred by this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any gaming machine seized in exercise of any power conferred by this Act shall be made by the court before which the prosecution with regard to it has been held.

(3) An order for the forfeiture of the gaming machine shall be made if it is proved to the satisfaction of the court that —

(a) an offence under this Act has been committed; and

(b) the gaming machine was the subject matter of or was used in the commission of the offence,

notwithstanding that no person has been convicted of the offence.

(4) If there is no prosecution with regard to any gaming machine seized in exercise of any power conferred by this Act, such gaming machine shall be taken and deemed to be forfeited at the expiration of 14 days from the date of service to the last known address of the person from whom the gaming machine was seized indicating that there is no prosecution in respect of such gaming machine, unless before that date a claim to the gaming machine is made in the manner specified in subsection (5).

(5) Any person asserting that he is the owner of the gaming machine referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorised in writing give notice to the Commissioner of Police that he claims the gaming machine.

(6) Upon receipt of the notice referred to in subsection (4), the Officer Commanding a Police District shall refer the matter to a Magistrate for a decision.

(7) (a) The Magistrate to whom a matter is referred under subsection (6) shall issue a summons requiring the person asserting that he is the owner of the gaming machine and the person from whom it was seized, to appear before him.

(b) On his appearance or default of appearance, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter.

(c) On proof that an offence under this Act has been committed and that such gaming machine was the subject matter of or was used in the commission of such offence, the Magistrate shall order the gaming machine to be forfeited and shall in the absence of such proof, order its release.

(8) Any gaming machine forfeited or deemed to be forfeited shall be delivered to the Officer Commanding a Police District and shall be disposed of in accordance with the directions of the Magistrate.

(9) The Officer Commanding a Police District shall not be liable to any person for any damage, however caused, to a gaming machine seized under this Act.

Search warrant against persons

14. A Magistrate or a senior police officer on being satisfied upon receiving information and after any further inquiry which he may think necessary that there is good reason to believe that any instruments or appliances for gaming are likely to be found on any person may, by warrant under his hand, order any person named therein or any police officer to arrest such person and to take him forthwith before a Magistrate or a senior police officer who shall thereupon cause such person to be searched in his presence and if any such instrument or appliance is found upon his person, he shall be taken before a Magistrate to be dealt with according to law.

[S 20/2008]

Arrest without warrant *[S 20/2008]*

14A. Notwithstanding section 14, any police officer having reasonable grounds to believe that any instrument or appliance mentioned in that section may be found on any person, may arrest and search that person and if any instrument or appliance is found on him, he shall be taken before a Magistrate to be dealt with according to law.

Magistrate may himself enter and search

15. A Magistrate or a senior police officer may himself do, what he may under sections 13 and 14 authorise a police officer to do, whenever such Magistrate is competent to issue a warrant under such sections respectively and also in any of the following cases —

[S 20/2008]

(a) if any person has within the preceding 6 months been convicted of having kept or used as a common gaming house the place proposed to be entered;

(b) if the place proposed to be entered is occupied by a club or society and he has reason to believe that habitual gaming is carried thereon;

(c) if he has personal knowledge of such facts and circumstances as to satisfy him that there are sufficient grounds for a search under sections 13 and 14, respectively; or

(d) if he receives the required information orally and under such circumstances that the object of a search would in his opinion be defeated by the delay necessary for reducing the information to writing:

[S 20/2008]

Provided that the name and address of the person giving such information is known to or ascertained by such Magistrate before he acts upon such information.

Presumptive proof against house and occupier

16. If —

(a) any instruments or appliances for gaming are found in any place entered under this Act or upon any person found therein;

(b) persons are seen or heard to escape therefrom on the approach or entry of a Magistrate or a senior police officer; or

(c) a police officer or any person having authority under this Act to enter or go to such place is unlawfully prevented from or obstructed or delayed in entering or approaching the place or any part thereof,

it shall be presumed, until the contrary is proved, that the place is a common gaming house and that the place is so kept or used by the occupier thereof.

Presumptive proof against house occupier and owner; Commissioner of Police to give notice to owner; sub-tenant to inform lessor

17. (1) If in the case of a place entered under this Act —

(a) any passage, staircase or means of access to any part thereof is unusually narrow or steep or otherwise difficult to pass;

(b) any part of the premises is provided with unusual or unusually numerous means for preventing or obstructing an entry;

(c) with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of persons; or

(d) for giving the alarm or for facilitating escape from the premises,

it shall be presumed, until the contrary is proved, that the place is a common gaming house and that the place is so kept or used by the occupier thereof; and if notice as provided in subsection (2) has been served on the owner of the premises, it shall further be presumed until the contrary is proved that the place is so kept with the permission of the owner thereof.

(2) (a) If it comes to the knowledge of the Commissioner of Police that any place is fitted or provided with any of the means or contrivances mentioned in subsection (1) in such a way as to lead to a presumption that the place is used or intended to be used for the purposes of a common gaming house, it shall be the duty of such Commissioner of Police to cause notice thereof to be served on the owner of such place as well as on the occupier thereof.

(b) If the owner is not otherwise known, service shall be made on the person or persons named in the Assessment Register or District Land Register as the owners or occupiers of such place.

(c) If the names of the owners and occupiers, or owners or occupiers, are not inscribed in such books, the notice may be served by being affixed to the principal outer door or any outer door or window or any conspicuous part of the place.

(3) (a) Every sub-tenant receiving a notice under this section shall forthwith inform the owner or the person from whom he rents the premises of the fact of receipt of such notice who shall in the same manner inform the owner or the person from whom he rents the premises and so on until the notice is brought to the knowledge of his immediate lessor.

(b) Any sub-tenant refusing or omitting to make known to the owner or the person from whom he rents the premises the fact that such notice has been received is guilty of an offence and liable on conviction to a fine of \$10,000.

Magistrate to make order for demolition of structural contrivances for facilitating gaming

18. If it appears to a Magistrate upon the trial of any offence under this Act that —

(a) the place in or in respect of which the offence is alleged to have been committed is a common gaming house; and

(b) the place is fitted or provided with any of the means or contrivances mentioned in section 17(1),

he shall order the demolition and destruction of the staircases, doors and partitions, ladders, planks, platforms, posts, palings, bars, bolts and other things which appear to him to have been specially erected or constructed for the purpose of facilitating the carrying on of gaming on the premises.

Protection of informers from discovery

19. (1) Except as mentioned in subsection (3) —

(a) no information laid under this Act shall be admitted in evidence in any civil or criminal proceedings whatsoever; and

(b) no witness shall be obliged or permitted to disclose the name or address of any informer under this Act or state any matter which might lead to his discovery,

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceedings whatsoever contain any entry in which any informer is named or described or which might lead

to his discovery, the court or Magistrate shall cause all such passages to be concealed from the view or to be obliterated so far as may be necessary to protect the informer from discovery but no further.

(3) However if —

(a) on the trial of any offence under this Act, the Magistrate after full inquiry into the case believes that the informer wilfully made in his information a material statement which he knew or believed to be false or did not believe to be true; or

(b) in any other proceedings the court or Magistrate is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer,

it shall be lawful for the court or Magistrate to require the production of the original information and permit inquiry and require full disclosure concerning the informer.

Protection of police officers [S 20/2008]

19A. No action or prosecution shall be brought, instituted or maintained in any court against any police officer duly authorised under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying into effect the provisions of this Act.

Obstruction of police officers [S 20/2008]

19B. Any person who obstructs any police officer in the exercise of his powers under this Act is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both.

Examination of offenders

20. (1) When two or more persons are charged with any offence against this Act, the Magistrate may require one or more of them to give evidence as a witness or witnesses for the prosecution, and any such person who refuses to be sworn or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by a Magistrate.

(2) Every person so required to give evidence who in the opinion of the Magistrate makes true and full discovery of all things as to which he is lawfully examined shall be entitled to receive a certificate of indemnity

under the hand of the Magistrate stating that he has made a true and full discovery of all things as to which he was examined and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid:

Provided that any person charged with an offence against this Act may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the same effect and consequences as any other witness.

Agent to secure evidence [S 20/2008]

20A. Notwithstanding any rule of law, any provision of this Act or of any other written law, any person or agent found gaming together with the person charged with any offence under this Act shall not be presumed to be unworthy of credit by reason only of his having admitted to abetting the commission of an offence under this Act if his abetment or attempt to abet or his participation in the gaming was solely for the purpose of securing evidence against the person charged with that offence.

Banishment

21. If at any time it appears to His Majesty the Sultan and Yang Di-Pertuan in Council that any person is a professional gambler or is engaged in the promotion of public gaming, he may issue an order under the Banishment Act (Chapter 20) for the banishment of such person from Brunei Darussalam.

Boys may be whipped

22. Any male person appearing to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice convicted of an offence under this Act may *in lieu* of any other punishment provided under this Act be sentenced to corporal punishment with a light rattan or cane not exceeding 10 strokes on the bare buttocks.

Order for security

23. (1) If a person who has been convicted of an offence under section 4, 4A, 6, 7 or 9 is again convicted of the same offence or of any other offence under any of those sections, the Court of a Magistrate may, in addition to the punishment provided by that section, make an order requiring him to give security for a period not exceeding one year by one or more sureties that he will not offend against this Act.

(2) Every such order shall be made as nearly as may be in the same manner and shall have the like effect and consequences as if the same were an order to give security for good behaviour under Chapter VII of the Criminal Procedure Code (Chapter 7).

[S 20/2008]

Reward for informer

24. The Magistrate may direct any fine or any portion of any fine imposed under this Act to be paid to the informer.

Exemptions

25. His Majesty the Sultan and Yang Di-Pertuan in Council may by written order exempt any house or group of houses or locality from the provisions of this Act.

Jurisdiction of Courts and Prosecution

26. The Court of a Magistrate shall have jurisdiction to hear and determine all proceedings under this Act and, notwithstanding any provision of any written law to the contrary, such Court shall have power to impose any penalty provided by this Act.

[S 20/2008]

SCHEDULE

[S 20/2008]

(sections 2 and 3A(2))

NAME OF GAMES

1. Bacarat
2. Bandat
3. Belangkas
4. Blackjack or Twenty-One
5. Chap Jee Kee
6. Dadu Belangkas Mata
7. Dadu Kata Ular or Dadu Kodok Ulo
8. Dadu Muka Enam
9. Dhor Tai Tze
10. Fan Tan
11. French Bull or Bolek Golek
12. High/Low
13. Hoo Hey How
14. Jin Rummy
15. Katam-katam
16. Luk Kow 69
17. Mah Jong
18. Main Cabut or Main Colek or Angkat Turun
19. Main Trope (Main Daun)
20. Minta Daun
21. Ngau (card)
22. Opeh
23. Pa Kau or 3 Cards or Sam Cheong or Daun Tiga
24. Pai Kow (Tau Gnau/Tien Kow)
25. Pasar Malam
26. Pek Bin

SCHEDULE — *(continued)*

- 27. Phey or Pair
- 28. Poh or Lien Poh or Ewok or Pok
- 29. Poker
- 30. Race
- 31. Rajah Kena
- 32. Roulette
- 33. Russian Poker or Sap Sam Cheong or Thirteen Cards
- 34. See Ghor Lak
- 35. See Kee Puah or Daun Empat
- 36. See Sik
- 37. Sek Chai Tan or Kok Kok
- 38. Sek Poh
- 39. Sepat
- 40. Tai Kai
- 41. Tiew Yee or Pancing Ikan or Ang Tiam
- 42. Tong It
- 43. Traffic Light
- 44. Yew Yee Sam (Domino).