

ENACTMENT NO. III OF 1919.

AN ENACTMENT to consolidate and amend the Law relating to Common Gaming Houses.

[20th October, 1919.]

G. E. CATOR,
British Resident, Brunei.

It is hereby enacted by His Highness the Sultan in Council as follows:—

1. This Enactment may be cited as the Common Gaming Houses Enactment, 1919, and shall come into operation on 1st January, 1920. Short title and commencement.

2. In this Enactment unless the context otherwise requires:— Interpretation.

“Common Gaming House” includes any place kept or used for gaming to which the public or any class of the public has or may have access and any place kept for habitual gaming whether the public or any class of the public has or may have access thereto or not and any place kept or used for the purpose of a public 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 same be held drawn exercised or managed within or without the State.

“Public Lottery” means a lottery to which the public or any class of the public has or may have access and every lottery shall until the contrary be proved be deemed to be a public lottery.

“Lottery Ticket” includes any paper or figure or writing or 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.

A place in which lottery tickets are sold or distributed shall be deemed to be “used for the purpose of a public lottery”.

A place shall be deemed to be "used" for a purpose if it is used for that purpose even on one occasion only.

Every person who demises or lets to hire a place shall be deemed the "owner" thereof.

The expression "instruments or appliances for gaming" includes all articles which are used in or for the purpose of gaming or a lottery.

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

Gaming
Houses
declared
public
nuisances.
Keeping.

4. Whoever:—

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

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

Permitting
to be kept

(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; or

Managing.

(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; or

Receiving
deposits or
selling tick-
ets.

(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; or

Declaring
winner.

(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 relating to a public lottery; or

Announcing
results of
lotteries
and

(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 sections 7 and 8 hereby or of either of the said sections

advertising
gaming
houses.

shall be punishable with a fine not exceeding three thousand dollars or with imprisonment of either description for a period not exceeding twelve months.

are
offences.

5. Whoever advances or furnishes money for the purpose of establishing or conducting the business of a common gaming house or for the purpose of a public lottery shall be punishable with a fine not exceeding three thousand dollars or with imprisonment of either description for a period not exceeding twelve months.

6.—(1) Whoever plays in a common gaming house shall be punishable with a fine not exceeding fifty dollars. Playing in a gaming house.

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

7.—(1) Whoever either personally or by an agent pays or deposits any money or money's worth to or with any person concerned in the business of a common gaming house as a stake or for or in respect of any event or contingency connected with a public lottery or buys a lottery ticket shall be punishable with a fine not exceeding twenty-five dollars. Buying a ticket.

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

(3) Every lottery ticket brought or introduced into or being within the State shall be forfeited to the State and it shall be the duty of every Police Officer or other public servant to seize every such ticket wherever found.

8. A person selling lottery tickets or being found in possession of ten or more lottery tickets or of any account memorandum or records 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. Selling lottery tickets.

9. Any money or money's worth paid or deposited for or in respect of any such event or contingency as aforesaid or for or in respect of 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 same was received. Money paid recoverable.

10. Every sale or contract for sale* of a lottery ticket is hereby declared to be 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. Sales of lottery tickets to be void.

11.—(1) A Magistrate on being satisfied upon written information on oath 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 authorize any person therein named or any Police Officer with such assistance and by such force as may Search warrant against premises.

be necessary by night or by day to enter or go to such place and to search the same and all persons found therein and 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 also to detain all such persons until they and the said place shall have been searched. If any of the things or circumstances which are made by this Enactment presumptive evidence of guilt are found therein they shall be taken before a Magistrate to be dealt with according to law.

(2) All instruments or appliances for gaming money securities for money and other articles found in a common gaming house or on any persons found therein or escaping therefrom and 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 State and shall be dealt with accordingly.

12. A Magistrate on being satisfied upon information on oath 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 therein named or any Police Officer to arrest such person and to take him forthwith before any Magistrate who shall thereupon cause such person to be searched in his presence and if any such instrument or appliance be found upon his person he shall be taken before a Magistrate to be dealt with according to law.

Search
warrant
against
persons.

13. A Magistrate may himself do what he may under the eleventh and twelfth sections authorize 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 (that is to say):—

Magistrate
may him-
self enter
and search.

- (a) if any person has within the preceding six months been convicted of having kept or used as a common gaming house the place proposed to be entered; or
- (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 on there; or
- (c) if he has personal knowledge of such facts and circumstances as satisfy him that there are sufficient grounds for a search under the said sections respectively; or

(d) if he receives the required information orally and either on oath or not on oath 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: provided however that in the last case the name and address of the person giving such information is known to or ascertained by such Magistrate before he acts upon such information.

(2) Whoever in giving such oral information makes a statement which he knows or believes to be false or does not believe to be true shall be punishable with imprisonment of either description for a period not exceeding twelve months. False information.

14. If any instruments or appliances of gaming are found in any place entered under this Enactment or upon any person found therein or if persons are seen or heard to escape therefrom on the approach or entry of a Magistrate or if a Police Officer or any person having authority under this Enactment to enter or go to such place is unlawfully prevented from or obstructed or delayed in entering or approaching the same or any part thereof it shall be presumed until the contrary be proved that the place is a common gaming house and that the same is so kept or used by the occupier thereof. Presumptive proof against house and occupier.

15.—(1) If in the case of a place entered under this Enactment any passage staircase or means of access to any part thereof is unusually narrow or steep or otherwise difficult to pass or any part of the premises is provided with unusual or unusually numerous means for preventing or obstructing an entry or with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of persons or for giving the alarm or for facilitating escape from the premises it shall be presumed until the contrary be proved that the place is a common gaming house and that the same is so kept or used by the occupier thereof; and if notice as is next hereinafter provided shall have been served on the owner of the premises it shall further be presumed till the contrary be proved that the place is so kept with the permission of the owner thereof. Presumptive proof against house occupier and owner. Notice to owner.

(2) Whenever it comes to the knowledge of the Chief Police Officer that any place is fitted or provided with any of the means or contrivances mentioned in this section 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 Chief Police Officer to cause notice thereof to be served on the owner. Chief Police Officer to give notice owner.

of such place as well as on the occupier thereof; and if the owner is not otherwise known service shall be made on the person or persons named in the Assessment Register or District Register as the owners or occupiers of such place; and if the names of the owners and occupiers or owners or occupiers are not inscribed in such books then 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) 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 like manner inform the owner or the person from whom he rents the premises and so on till the notice is brought to the knowledge of his immediate lessor; and 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 shall be punishable under section 225B of the Penal Code.

Sub-tenant
to inform
lessor.

16. Whenever it appears to a Magistrate upon the trial of any offence under this Enactment that the place in or in respect of which the offence is alleged to have been committed is a common gaming house and that the same is fitted or provided with any of the means or contrivances mentioned in the last preceding section he shall order the demolition and destruction of such of them as consist of 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.

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

17. Except as hereinafter mentioned no information laid under this Enactment shall be admitted in evidence in any civil or criminal proceeding whatsoever and no witness shall be obliged or permitted to disclose the name or address of any informer under this Enactment or state any matter which might lead to his discovery. Moreover if any books documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding 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. But if on the trial of any offence under this Enactment 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 if in any other proceeding the Court

Protection
of informers
from
discovery.

Exception.

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.

18.—(1) Whenever two or more persons shall be charged with any offence against this Enactment the Magistrate may require one or more of them to give evidence as a witness or witnesses for the prosecution. 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.

Examination of offenders under this Enactment.

(2) Every person so required to give evidence who shall in the opinion of the Magistrate make 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.

Indemnity to them.

(3) Provided always that any person charged with an offence against this Enactment 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 like effect and consequences as any other witness.

Person charged may give evidence on his own behalf.

19. If at any time it appears to the British Resident that any person is a professional gambler or is engaged in the promotion of public gaming he may issue an order under the Banishment Enactment 1918 for the banishment of such person from the State.

20. 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 Enactment may in lieu of any other punishment hereby provided be sentenced to corporal punishment with a light rattan or cane not exceeding ten strokes on the bare buttocks.

Boys may be whipped.

21. The Resident may by written order except any house or group of houses or locality from the provisions of this Enactment.