

LAWS OF BRUNEI

CHAPTER 28

COMMON GAMING HOUSES

3 of 1919
(Cap. 28 of 1951)

1984 Ed. Cap. 28

Amended by
S 99/59
21 of 1967
4 of 1977
S 51/00

REVISED EDITION 2001

(1st December 2001)

LAWS OF BRUNEI
REVISED EDITION 2001

CHAPTER 28
COMMON GAMING HOUSES

ARRANGEMENT OF SECTIONS

Section

- 1.** Citation.
- 2.** Interpretation.
- 3.** Nuisances.
- 4.** Offences connected with gaming houses and lotteries.
- 5.** Advancing money for gaming house or lottery.
- 6.** Playing in a gaming house.
- 7.** Gaming in public.
- 8.** Instigating, promoting or facilitating gaming in public.
- 9.** Buying a ticket.
- 10.** Selling lottery tickets.
- 11.** Money paid recoverable.
- 12.** Sales of lottery tickets to be void.
- 13.** Search warrant against premises.
- 14.** Search warrant against persons.

15. Magistrate may himself enter and search.
 16. Presumptive proof against house and occupier.
 17. Presumptive proof against house occupier and owner.
 18. Magistrate to make order for demolition of structural contrivances for facilitating gaming.
 19. Protection of informers from discovery.
 20. Examination of offenders.
 21. Banishment.
 22. Boys may be whipped.
 23. Order for security.
 24. Reward for informer.
 25. Exemptions.
 26. Jurisdiction of Courts and Prosecution.
-

COMMON GAMING HOUSES ACT

An Act to consolidate and amend the law relating to common gaming houses

Commencement: 1st January 1920

Citation.

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

Interpretation.

2. In this Act unless the context otherwise requires —

“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 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 shall until the contrary be proved be deemed to be a public lottery; and

“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 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 shall be deemed to be used for the purpose of a public lottery.

(3) A place shall be 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 shall be deemed the owner thereof.

(5) The expression “instruments or appliances for gaming” includes all articles which are used in or for the purpose of gaming or a lottery.

Nuisances.

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

Offences connected with gaming houses and lotteries.

4. Any person who —

(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

(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

(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

(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

(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; or

(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 6 or 9,

shall be guilty of an offence: Penalty, a fine of \$20,000 and imprisonment for 12 months.

[S 51/00]

Advancing money for gaming house or lottery.

5. Any person who 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 or who profits from the establishment or conduct of such business shall be guilty of an offence: Penalty, imprisonment for 12 months and a fine of \$20,000.

[S 51/00]

Playing in a gaming house.

6. (1) Any person who plays in a common gaming house shall be guilty of an offence: Penalty, a fine of \$10,000 and imprisonment for 6 months.

[S 51/00]

(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 arrest without warrant any person found gaming in any public place and may 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 shall be guilty of an offence: Penalty, 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.

[S 51/00]

(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 the expression “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 the last preceding section shall be guilty of an offence: Penalty, imprisonment for 6 months and a fine of \$10,000.

[S 51/00]

(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 wherein an offence punishable under the last preceding section is committed; or

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

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

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

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

Buying a ticket.

9. (1) Any person who 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 guilty of an offence: Penalty, a fine of \$2,000.

[S 51/00]

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

(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 selling, offering for sale, giving, delivering or collecting lottery tickets or found in possession of 10 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 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.

Sales of lottery tickets to be void.

12. 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.

Search warrant against premises.

13. (1) A magistrate or a Senior Police Officer 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 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 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 Act 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 Government and shall be dealt with accordingly.

Search warrant against persons.

14. A magistrate or a Senior Police Officer 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 a 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.

Magistrate may himself enter and search.

15. (1) 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, that is to say —

(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; 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 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) Any person who 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 guilty of an Offence: Penalty, imprisonment for 12 months.

Presumptive proof against house and occupier.

16. If any instruments or appliances for gaming are found in any place entered under this Act 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 a Senior Police Officer, or if 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 same or any part thereof, it shall be presumed until the contrary is 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 occupier and owner.

17. (1) If in the case of a place entered under this Act 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 is 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 is proved that the place is so kept with the permission of the owner thereof.

Commissioner of Police to give notice to owner.

(2) 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 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 Commissioner of Police to cause notice thereof to be served on the 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 Land 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, 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.

Sub-tenant to inform lessor.

(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 guilty of an offence: Penalty, a fine of \$10,000.

[S 51/00]

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 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 section 17, 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.

Protection of informers from discovery.

19. Except as hereinafter mentioned no information laid under this Act 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 Act or state any matter which might lead to his discovery, and 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:

Provided that if 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 if in any other proceeding 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.

Examination of offenders.

20. When 2 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. 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 like effect and consequences as any other witness.

Banishment.

21. If at any time it appears to His Majesty 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 hereby provided be sentenced to corporal punishment with a light rattan or cane not exceeding 10 strokes on the bare buttocks.

Order for security.

23. If a person who has been convicted of an offence under section 4 is again convicted of the same offence under that section, 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 and 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).

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 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. [S 51/00]

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 or combination of penalties provided for an offence under this Act not exceeding respectively 12 months imprisonment and a fine of \$20,000.