

Bengal Public Gambling Act, 1867

2 of 1867

[10 April 1867]

CONTENTS

1. Interpretation
2. Power to extend Act
3. Penalty for owning or keeping, or having charge of common gaming house
4. Penalty for being found in common gaming-house
5. Power to enter and authorize Police to enter and search
6. Finding cards etc., in suspected houses to be evidence that they are common gaming-houses
7. Penalty for giving false name or address
8. Destruction of instruments of gaming
9. Proof of playing for stakes unnecessary
10. Act not to apply to certain games
11. Gaming and setting birds and animals to fight in public streets
12. Offences by whom triable
13. Penalty for subsequent offence
14. Section 14
15. Application of definition of "offence" in Indian Penal Code
16. Certain sections to apply without extension
17. Section 17

Bengal Public Gambling Act, 1867

2 of 1867

[10 April 1867]

PREAMBLE

An Act to provide for the punishment of public gambling and the keeping of common gaming-house in the territories subject to the Lieutenant-Governor of Bengal

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:

1. Interpretation :-

In this Act, "common gaming-house" means any house, tent, room, space or walled enclosure--

in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure, whether by way of charge for the use of the instruments of gaming or of the house, enclosure, room or place, or otherwise howsoever :

¹[or in which rain-gambling, that is to say, wagering on the occurrence of rain, is carried on for the profit or gain of any such person as aforesaid :]

²["gaming" shall include rain-gambling :

³[* * * *]

"Instruments of gaming", shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and anything used as a means of rain-gambling :]

2. Instruments of gaming and gambling.--

The following have been held to be instruments of gaming :

(1) Satta papers, advertisements and accounts of satta.⁴

(2) Money and cards can be instruments of gaming.⁵

(3) Balls of paper used in satta betting.⁶

(4) Slips used for recording bets,⁷

(5) Parcha sattas.⁸

(6) Satta papers containing words and figures of betting.⁹

(7) Teji Mandi transaction is gambling transaction.¹⁰

1. The words In square brackets in Section 1, were added by Bengal Act 3 of 1897, Section 4(1)

2. The definition of "gaming" and "instruments of gaming" were inserted by Section 4(7) of Bengal Act 3 of 1897. They are to be deemed to be In force on or from the 26th May, 1897 in every city, town or place to which Bengal Act 3 of 1897, or any part thereof, was, before that day, extended by notification under its second section.

3. The " clauses as to gender and number, which were repealed by Act 1 of 1903, are omitted,

4. Ismail v. Emperor, AIR 1927 All 480; 25 AIJ 346; ILR 49 All 562; 28 Cr. LJ 442.

5. Haider Ali v. State, AIR 1955 NUC (MB) 3005.

6. Atmaram v. Emperor, AIR 1924 All 338 (FB)
7. Qadir v. State, AIR 1959 All 799.1959 Cr. LJ. 1897
8. State of U.P. v Mangat, 1970 ALJ 992.
9. Hablb Ahmad v. State, 1966 ALJ 176
10. Mohanlal v State, AIR 1952 Hyd 147.

2. Power to extend Act :-

It shall be competent to the ¹ [State] Government ² [* * *] whenever ³ [it] may think fit, to extend, by a notification to be published in three successive numbers of ⁴ [Official Gazette], all or any of the sections of this Act, to any city, town (save the town of Calcutta as defined by Act 6 of 1853, ⁵ passed by the Lieutenant-Governor of Bengal in Council) or place within the territories subject to ⁶ [its government, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time alter the limits so defined.

1 Substituted by A.L.O. 1948.

2. "of Bengal" rep. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

3. Substituted by A.O., 1948 for "he".

4. Substituted by A.O., 1948 for "Calcutta Gazette".

5. Bengal Act 6 of 1863 was repealed by Bengal Act 2 of 1888; Bengal Act 2 of 1888 was repealed by Bengal Act 3 1899, which again has been repealed and re-enacted by Bengal Act 3 of 1923.

6. Substituted by A.O., 1948 for "his".

3. Penalty for owning or keeping, or having charge of common gaming house :-

Whoever, being the owner or occupier, or having the use of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, or uses the same as a common gaming-house :

and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure as aforesaid, knowingly or wilfully permits the same to be opens, occupied, used or kept by any other person as a common gaming-house:

and whoever has the care or management of, or in any manner assists in conducting the business of any house, tent, room, space or walled enclosure, as aforesaid, opened, occupied, used or kept for the purposes aforesaid :

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure, shall be liable, on conviction before any Magistrate to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

4. Penalty for being found in common gaming-house :-

Whoever is found in any such house, tent, room, space, or walled enclosure, playing or gaming, with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

5. Power to enter and authorize Police to enter and search :-

If the Magistrate of a district¹ or other officer invested with the full powers of a Magistrate or the District Superintendent of Police, upon credible information and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming house, he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the²[State) Government shall appoint in this behalf to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming; and may seize or authorize such officer to seize all instruments of

gaming and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purposes of gaming which are found therein;
and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;
and may seize or authorize such officer to seize and take possession of all instruments of gaming found in such search.

1. Now District and magistrate of the first class respectively

2. Substituted by A.O.1948.

6. Finding cards etc., in suspected houses to be evidence that they are common gaming-houses :-

When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evident, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the magistrate or Police-Officer, or by any person acting under the authority of either of them.

7. Penalty for giving false name or address :-

If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate refuses or neglects to give his name and address, or gives any false name or address on being so required by any such Magistrate or Police-Officer, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. Destruction of instruments of gaming :-

On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

9. Proof of playing for stakes unnecessary :-

It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing therein at any game was playing for any money, wager or stake.

10. Act not to apply to certain games :-

Nothing in the foregoing provisions of this Act contained shall be held to apply to billiards, whist or any other game of mere skill wherever played.

11. Gaming and setting birds and animals to fight in public streets :-

A Police-Officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid.

or any person there present aiding and abetting such public fighting of birds and animals.

such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month.

and such Police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

12. Offences by whom triable :-

Offences punishable under this Act shall be triable by any Magistrate having jurisdiction, in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure as to the amount of fine or imprisonment he may inflict.

13. Penalty for subsequent offence :-

Whoever, having been convicted of an offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

14. Section 14 :-

Application of fines. [Rep. by the A.O., 1948 Paragraph 3 and Schedule IV],

15. Application of definition of "offence" in Indian Penal Code :-

Anything made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal Code.

16. Certain sections to apply without extension :-

The provisions of Sections 7 and 11 of this Act shall ¹[***] apply to the town of Calcutta, and to the suburbs of the town of Calcutta, as the case may be from time to time defined by any notification published by the ²[State Government in pursuance of Act 2 of 1866 passed by the Lieutenant-Governor of Bengal in Council; and the provisions of Section 13 of this Act shall ³[* *] apply to the whole

of the said territories.

1. Certain words omitted by Act 1 of 1903.
2. Subs. by A.L. O. 1948.
3. Certain words omitted by Act 1 of 1903.

17. Section 17 :-

Repeal of certain sections of Bengal Acts 2 and 4 of 1867 [Rep. by the Amending Act, 1903].