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Public Gambling Act, 1977**18 of 1977**

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the State. Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming houses in the State. It is hereby enacted as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Public Gambling Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

1A. Interpretation Clause :-

In this Act-

"Common gaming-house" means any house, walled enclosure, room, tent, space, vehicle, vessel or place 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, enclosure, room, tent, space, vehicle, vessel or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room, tent, space, vehicle, vessel or place or otherwise howsoever;

"Instrument of gaming" includes any article used as a means or appurtenance of or for the purpose of carrying on or facilitating gaming.

2. Power To Extend Act :-

1[The Government may, whenever it deems fit], extend, by a notification to be published in 2[x x x] the Jammu and Kashmir Government Gazette, all or any of the sections of this Act to any city, town or suburb subject to the Government or administration, and in such notification define, for the purposes of this Act, the limits of such city, town or suburb, and from time to time, alter the limits so defined. From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section, so extended, shall cease to have effect in such territories.

Any such extension, heretofore made under the provisions of the State Gambling Regulation 1961, shall be deemed to have been made under this Act.

1 In section 2 words within brackets substituted for the words "His Highness whenever he may think fit, may" by Act. X. of 1996.

2 Words "three successive numbers of" deleted by Act X of 2010.

3. Penalty For Owning Or Keeping Or Having Charge Of A Gaming House :-

Whoever, being the owner or occupier or having the use, of any house, walled enclosure, room, tent, space, vehicle, vessel or place

situate within the limits to which this Act applies opens, keeps or uses the. same as a common gaming-house; and whoever, being the owner or occupier of any such house, walled enclosure, room, tent, space, vehicle, vessel or place as aforesaid, knowingly or willfully permits the same to be opened, 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, walled enclosure, room, tent, space, vehicle, vessel, or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room, tent, space, vehicle, vessel or place shall be liable to a fine not exceeding 1[seven hundred] rupees, or to imprisonment of either description, as defined in the Ranbir Penal Code, for any term not exceeding 1[six months.]

1 Substituted by Act V of 1970.

4. Penalty For Being Found In Gaming House :-

Whoever is found in any such house, walled enclosure, room, tent, vehicle, vessel or place, 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 to a fine not exceeding 1[five hundred] rupees, or to imprisonment of either description, as defined in the Ranbir Penal Code, for any term not exceeding 1[three months];

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.

1 Substituted by Act V of 1970.

5. Power To Enter And Authorise Police To Enter And Search :-

If the Magistrate of a district or other officer invested with the full powers of a Magistrate or the District Superintendent of Police, 1[or a Police Officer higher in rank], upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room, tent, space, vehicle, vessel or place 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 2[the 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, walled enclosure, room, tent, vehicle, vessel or place; and may either himself take into custody, or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming; and may seize or authorise 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 purpose of gaming which are found therein; and may search or authorise such officer to search all parts of the house, walled enclosure, room, tent, space, vehicle, vessel or place, 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 authorise such officer to seize and take possession of all instruments of gaming found upon such search.

1 Added by Notification 28-L/88 published in Government Gazette dated 12th Chet. 1988.

2 Substituted for "His Highness" by Act X of 1996.

6. Finding Cards, Etc., In Suspected Houses, To Be Evidence That Such Houses Are Common Gaming-Houses :-

When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room, tent, space, vehicle, vessel or place, 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 evidence, until the contrary is made to appear, that such house, walled enclosure, room, tent, space, vehicle, vessel or place 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 any of his assistants.

7. Penalty On Persons Arrested For Giving False Names And Addresses :-

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 to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction 1[before a Judicial Magistrate] be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear, reasonable, and on the non-payment of 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.

1 Substituted by Act XL of 1966 for "before the same or any other Magistrate".

8. On Conviction For Keeping A Gaming-House, Instruments Of Gaming To Be Destroyed :-

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 there unto 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 at any game was playing for any money, wager or stake.

10. Magistrate May Require Any Person Apprehended To Be Sworn And Give Evidence :-

It shall be lawful for the 1[Judicial Magistrate] before whom any persons shall be brought, who have been found in any house, walled enclosure, room, tent, space, vehicle, vessel or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation and give evidence touching any unlawful gaming in such house, walled

enclosure, room, tent, space, vehicle, vessel or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room, tent, space, vehicle, vessel or place or any part thereof of any 1[Judicial Magistrate] or officer authorised as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other 1[Judicial Magistrate] or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respect as any person committing the offence described in sections 178,179 and 180 of the Ranbir Penal Code.

1 Substituted by Act XL of 1966 for "before the same or any other Magistrate".

11. Witnesses Indemnified :-

Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a 1[Judicial Magistrate] on the trial of any person for a breach of any of the provisions of this Act, relating to gaming, and who, upon such examination, shall in the opinion of the 1[Judicial Magistrate] make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said 1[Judicial Magistrate] a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

1 Substituted by Act XL of 1966 for "Magistrate".

12. Act Not To Apply To Certain Games :-

Nothing in this Act contained shall be held to apply to any game of mere skill wherever played.

13. 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 street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds, or animals to fight in any public 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 1[Judicial Magistrate] and shall be liable to a fine not exceeding 2[five hundred] rupees, or to imprisonment, either simple or rigorous, for any term not exceeding 2[six months];

Destruction of instruments of gaming found in public streets. - and such police officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the 1[Judicial Magistrate] may on conviction of the offender order such instruments to be forthwith destroyed.

1 Substituted by Act XL of 1966 for "Magistrate".

2 Substituted by Act V of 1970.

14. Offences By Whom Triable :-

Offences punishable under this Act shall be triable by a 1[Judicial Magistrate] of the first class having jurisdiction in the place where the offence is committed.

But such 1[Judicial 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.

1 Substituted vide Act XL of 1996 for "Magistrate".

15. Penalty For Subsequent Offence :-

Whoever, having been convicted of an offence, punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding 1[one thousand] rupees, or to imprisonment for a term exceeding one year.

1 Substituted by Act V of 1970 "for six hundred".

16. Portion Of Fine May Be Paid To Informer :-

The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

17. Recovery And Application Of Fines :-

All fines imposed under this Act may be recovered in the manner prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied as 1[the Government] shall, from time to time, direct.

1 Substituted by Act X of 1996 for "His Highness".