

# The Maharashtra Prevention Of Gambling Act

MAHARASHTRA

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### Act 4 of 1887

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The Maharashtra Prevention Of Gambling ActAct No. IV of 1887An Act to consolidate and amend the law for the prevention of gambling in the State of BombayWHEREAS it is expedient to consolidate and amend the law for the prevention of gambling in the State of Bombay;It is enacted as follows :—

#### 1. Short title, Extent

This Act may be cited as the Maharashtra Prevention of Gambling Act.It extends to the whole of the State of Maharashtra.

#### 2. Omitted.

#### 3. "Gaming" defined

In this Act "gaming" includes wagering or betting except wagering or betting upon a horse-race, or dog race when such wagering or betting takes place —(a)on the day on which such race is to run, and(b)in an enclosure which the licensee of the race-course, on which such race is to be run, has set apart for the purpose under the terms of the licence issued under section 4 of the Bombay Race-Courses Licensing Act, 1912, or as the case may be, of the Maharashtra Dog Race-Courses Licensing Act, 1976 in respect of such race-course or in any other place approved by the State Government in this of behalf, and(c)between any individual in person, being present in the enclosure or approved place on the one hand, and such licensee or other person licensed by such licensee in terms of the aforesaid licence on the other hand or between any number of individuals in person in such manner and by such contrivance as may be permitted by such licence;but does not include a lottery.Any transaction by which a person in any capacity whatever employs another in any capacity whatever or engages for another in any capacity whatever to wager or bet whether with such licensee or with any other person shall be deemed to be "gaming":Provided, nevertheless, that

such licensee may employ servants, and persons may accept service with such licensee, or wagering or betting in such manner or by such contrivance as may be permitted in such licence. The collection or soliciting of bets, receipt or distribution of winnings or prizes in money or otherwise in respect of wagering or betting or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution shall be deemed to be "gaming". "Instruments of gaming" defined - In this Act the expression "instruments of gaming" includes any article used or intended to be used as a subject or means of gaming, any document used or intended to be used as a register or record or evidence of any gaming the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming. "Common gaming-house" defined - In this Act, "Common Gaming-House" means —(i)in the case of gaming —(a)on the market price of cotton, opium or other commodity or on the digits of the number used in stating such price, or(b)on the amount of variation in the market price of any such commodity or on the digits of the number used in stating the amount of such variation, or(c)on the market price of any stock or share or on the digits of the number used in stating such price, or(d)on the occurrence or non-occurrence of rain or other natural event, or(e)on the quantity of rainfall or on the digits of the number used in stating such quantity or(f)on the pictures, digits or figures of one or more playing cards or other documents or objects bearing numbers, or on the total of such digits or figures, or on the basis of the occurrence or non-occurrence of any uncertain, future event, or on the result of any draw, or on the basis of the sequence or any permutation or combination of such pictures, digits, figures, numbers, events or draws;any house, room or place whatsoever in which such gaming takes place or in which instruments of gaming are kept or used for such gaming;(ii)in the case of any other form of gaming, any house, room or place whatsoever in which any instruments of gaming are kept or used for the profit or gain of the person, owning, occupying, using or keeping such house, room or place by way of charge for the use of such house, room or place or instrument or otherwise howsoever. "Place" defined. - In this Act, "place" includes a tent, enclosure, space, vehicle and vessel;

#### 4. Keeping common gaming house

(1)Whoever —(a)opens, keeps or uses any house, room or place for the purpose of a common gaming house,(b)being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,(c)has the care or management of, or in any manner assists in conducting the business of, any such house, room or place opened, occupied, kept or used for the purpose aforesaid,(d)advances or furnishes money for the purposes of gaming with persons frequenting any such house, room or place,shall, on conviction, be punished with imprisonment which may extend to two years and may also be punished with fine:Provided that —(a)for a first offence such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;(b)for a second offence such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees; and(c)for a third or subsequent offence such imprisonment shall not be less than one year and fine shall not be less than two thousand rupees.(2)Nothing contained in the provisions of the Probation of Offenders Act, 1958, or in sub-sections (1), (4), (5) and (6) of section 360 of the Code of Criminal Procedure, 1973, shall apply to any person convicted under this section.

## **5. Gaming in common gaming house**

Whoever is found in any common gaming-house gaming or present for the purpose of gaming, shall on conviction be punished with imprisonment which may extend to six months and may also be punished with fine: Provided that —(a) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees; (b) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees; and (c) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees. Any person found in any common gaming-house during any gaming therein shall be presumed, until the contrary is proved, to have been there for the purpose of gaming.

## **6. Entry, search, etc. by police officers in gaming houses.**

(1) It shall be lawful for a police officer —(i) in any area for which a Commissioner of Police has been appointed not below the rank of a Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, and (ii) elsewhere not below the rank of Sub-Inspector of Police authorised by special warrant issued in each case by a District Magistrate or Sub-Divisional Magistrate or by Taluka Magistrate specially empowered by the State Government in this behalf or by a Superintendent of Police or by an Assistant or Deputy Superintendent of Police especially empowered by the State Government in this behalf, and (iii) without prejudice to the provision in clause (ii) above, in such other area as the State Government may, by notification in the Official Gazette, specify in this behalf, not below the rank of a Sub-Inspector and empowered by general order in writing issued by the District Magistrate, (a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used as a common gaming-house. (b) to search all parts of the house, room or place which he shall have so entered when he shall have reason to suspect that any instruments of gaming are concealed therein, and also the persons whom he shall find therein whether such persons are then actually gaming or not. (c) to take into custody and bring before a Magistrate all such persons. (d) to seize all things which are reasonably suspected to have been used or intended to be used for the purpose of gaming, and which are found therein: Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, the Superintendent of Police or Assistant or Deputy Superintendent of Police concerned is satisfied, upon making such inquiry as he may think necessary, that there are good grounds to suspect the said house, room or place to be used as a common gaming house. (2) Notwithstanding anything in any law for the time being in force, no search made under this section shall be deemed illegal by reason only of the fact that the witnesses (if any) of the search were not inhabitants of the locality in which the house, room or place searched is situate.

### **6A. Punishment 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, and on being required by such officer or Magistrate to give his name and address refuses or neglects to give the same or gives any false name or address, he shall, on conviction, be punished with a fine not exceeding one thousand rupees and on the non-payment of such fine, or in the first instance if to the Court passing the sentence it shall seem fit, with imprisonment for a period of not exceeding four months.

## **7. Presumptive proof of keeping or gaming in common gaming house.**

When any instrument of gaming has been seized in any house, room or place entered under section 6 or about the person of any one found therein, and in the case of any other things so seized if the Court is satisfied that the police officer who entered such house, room or place had reasonable grounds for suspecting that the things so seized was an instrument of gaming, the seizure of such instrument or thing shall be evidence, until the contrary is proved, that such house, room or place is used as a common gaming house and the person found therein were then present for the purpose of gaming, although no gaming was actually seen by the Magistrate or the Police officer or by any person acting under the authority of either of them: Provided that the aforesaid presumption shall be made, notwithstanding any defect in the warrant or order in pursuance of which the house, room or place was entered under section 6, if the Court considers the defect not to be a material one.

## **8. On conviction for keeping or gaming in common gaming-house, instruments of gaming may be destroyed**

On conviction of any person for opening, keeping or using a common gaming-house, or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein or on in the persons of those who were found therein, to be forthwith destroyed or forfeited, 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 the proceeds, thereof, with all moneys seized therein, to be foreited; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

## **9. Proof of playing for money not required for conviction**

It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found gaming was playing for any money, wager or stake.

## **10. Indemnification of certain witnesses.**

Any person who has been concerned in gaming contrary to this Act, and who is examined as a witness before a Magistrate in the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, makes in the opinion of the Magistrate true and faithful discovery to the best of his knowledge of all things as to which he is so examined, shall thereupon receive from the said 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.

## **11. Omitted**

## **12. Power to arrest without warrant for gaming and setting birds and animals to fight in public streets.**

A Police officer may apprehend and search without warrant—(a)any person found gaming or reasonably suspected to be gaming, in any public street, or thoroughfare, or in any place to which the public have or gaming and are permitted to have access or in any race-course;(b)any person setting any birds or animals to fight in any public street, or thoroughfare, or in any place to which the public have or are permitted to have access;(c)any person there present aiding and abetting such public fighting of birds and animals.Any such person shall, on conviction, be punished both with fine which may extend to three hundred rupees and with imprisonment, which may extend to three months and where such gaming consists of wagering or betting or of any such transaction as is referred to in the definition of gaming given in section 3, any such person so found gaming shall, on conviction, be punishable in the manner and to the extent referred to in section 4, and all moneys found with such person shall be forfeited.Seizer and destruction of instruments found. - And such Police-officer may seize all birds and animals and things reasonably suspected to be instruments of gaming found in such public street, thoroughfare, place or race-course or on or about 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 and the proceeds forfeited.When any thing has been found on or about any person and a Court is satisfied that the Police-officer had reasonable grounds for suspecting that such thing was an instrument of gaming, such circumstance shall, untill the contrary is proved, be evidence that such thing was an instrument of gaming and that the person on or about whom the thing was found was present for the purpose of gaming.

## **12A. Power to arrest without warrant for publishing or distributing any news or information.**

A Police officer may apprehend without warrant any person who prints, publishes, sells, distributes or in any manner circulates any newspaper, news-sheet or other document or any news of information with the intention of aiding or facilitating gaming.And such person shall, on conviction, be punishable in the manner and to the extent referred to in section 4.And any Police-officer may enter and search any place for the purpose of seizing and may seize all things reasonably suspected to be used or to be intended to be used for the purpose of committing an offence under this section.

## **12B. Presumptive proof of printing, publishing, distributing etc., any news or information.**

Where any thing is seized under section 12A, if the Court is satisfied that the Police-officer who seized the thing had reasonable ground for suspecting that the thing so seized had been used or was likely to be used for the purpose of committing an offence under that section, the seizure of such thing shall be evidence, until the contrary is proved, that the thing so seized was printed, published,

sold, distributed or in any manner circulated, as the case may be, with the intention of aiding or facilitating gaming.

### **13. Saving of games of mere skill**

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

### **14. Repeal and savings**

The Gambling Act, 1305 F, the Public Gambling Act, 1867 in its extension to the Vidarbha region of the State of Bombay, the Bombay Prevention of Gambling Act, 1887 as applied to the Saurashtra area by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948 and the Bombay Prevention of Gambling Act, Sau. Ord. 1887 as applied to the Kutch area by the Kutch (Application of Laws) Order, 1949 are hereby repealed: Provided that such repeal shall not effect-(a) the previous operation of the Acts so repealed, or (b) any right, privilege, obligation or liability acquired, accrued or incurred under any Act so repealed, or (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Acts so repealed, or (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the Bombay Prevention of Gambling (Extension and Amendment) Act, 1959 has not been passed: Provided further that, subject of the preceding proviso, anything done or any action taken (including authorisation made, powers conferred, orders given and indemnity granted) by or under the provisions of the Acts so repealed shall, in so far as it is not inconsistent with any provisions of this Act, be deemed to be done or taken under the corresponding provisions of this Act and shall until altered, repealed or amended by anything done or any action taken under this Act, continue in force accordingly.

### **(Enactments Repealed)**

Repealed by Act XVI of 1895.