

The West Bengal Gambling and Prize Competitions Act, 1957

WEST BENGAL

India

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Act 32 of 1957

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The West Bengal Gambling and Prize Competitions Act, 1957 West Bengal Act 32 of 1957 [12th March, 1958.] An Act to consolidate and amend the law relating to the prevention of gambling and to provide for the control and regulation of prize competitions. Whereas it is expedient to consolidate and amend the law relating to the prevention of gambling and to provide for the control and regulation of prize competitions; It is hereby enacted as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Gambling and Prize Competitions Act, 1957. (2) It extends to the whole of West Bengal. (3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the State Government may, by notification in the Official Gazette, appoint and for this purpose different dates may be appointed for different provisions of this Act and for different areas.

Chapter II Prevention of Gambling

2. Definitions.

- In this chapter unless the context otherwise requires:- (a) "common gaming house" means any house, room, tent, walled enclosure, space, vehicle, vessel or any place whatsoever, in which any instrument of gaming is kept or used for the profit or gain of the person owning, occupying, using or

keeping such house, room, tent, enclosure, space, vehicle, vessel or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, vessel, place or instrument or otherwise howsoever;(b)["gaming or gambling" includes wagering or betting except wagering or betting upon a horse-race, when such wagering or betting takes place - [[Clause (b) Substituted by W.B. Act 5 of 1979, which was earlier as under:-(b)'gaming or gambling' includes wagering or betting, except wagering or betting upon a horse race, when such wagering or betting takes place -(i)on the day on which the race is to be run,(ii)in an enclosure which the Stewards controlling such race have, with the permission of the State Government, set apart for the purpose, and(iii)with a licensed book-maker or by means of a totalisator,as defined in section 14 of the Bengal Amusements Tax Act, 1922, but does not include a lottery or games of cards like Bridge. Poker, Rummey or Nap;'.]](i)in accordance with the terms and conditions of a licence granted by the State Government under this Act,(ii)on the day on which the race is to be run,(iii)in an enclosure which the licensee of the race course, on which the race is to be run, has set apart for the purpose under the terms of license granted under section 2C, in respect of such race course, or in any other place approved by the State Government in this behalf,(iv)with a licensed book-maker or by means of a totalisator as defined in section 14 of the Bengal Amusements Tax Act, 1922,but does not include a lottery or games of cards like Bridge, Poker, Rummey or Nap;](c)"instrument of gaming" includes any article used or intended to be used as a means or appurtenance of, or for the purpose of carrying on or facilitating gaming;(d)"magistrate" means a Presidency Magistrate or a Magistrate of the First Class;(e)"money" includes a cheque or any other negotiable instrument, a postal order or a money order;(f)"police officer" means any member of the Police force and includes the Commissioner of Police, Calcutta;(g)"prescribed" means prescribed by rules made under this chapter;(h)"printing" includes writing or other modes of representing or reproducing word, letters or figures in a visible form.(2)For the purpose of this chapter all searches made under the provisions of this chapter shall be conducted in accordance with the provisions of the Code of Criminal Procedure, 1898.

2A. [Horse-racing or pony-racing without license prohibited. [Sections 2A to 2D inserted by W.B. Act 5 of 1979.]

- No racing club or the owner, lessee or occupier of any race-course shall conduct or control horse-racing or pony-racing without a license granted in this behalf.

2B. Application for license for horse-racing.

- The owner, lessee or occupier of any race-course may apply to the State Government for a license for horse-racing or pony-racing on such race-course.

2C. Grant of license for horse-racing or pony-racing and cancellation of such license.

(1)On an application made under section 2B, the State Government may grant license subject to such conditions and for such period as it thinks fit or may refuse to grant a license.(2)The conditions subject to which a license may be granted may provide for -(a)the payment of such license fee as

may be prescribed,(b)the amount of stakes which may be allotted for different kinds of horses or ponies,(c)the measures to be taken for the training of persons to become Jockeys,(d)such other matters, whether directly or indirectly connected with the horse-racing or pony-racing for which, in the opinion of the State Government, it is necessary or expedient to make provisions in the license.(3)The State Government may at any time cancel any license granted under this section in the event of any breach of the conditions subject to which it was granted.(4)The terms and conditions of such license shall be published in the Official Gazette.(5)The State Government may by such license authorise the licensee to grant, subject to such conditions as shall be specified by the State Government in such license, a license to any book-maker to carry on his business or vocation or to act as a book-maker or turf commission agent in respect of horse races or pony races held on a race course. The license to the bookmaker may be granted for such period as the licensee may think fit; but in no case it shall exceed the period of license granted to the licensee by the State Government.

2D. Penalty for contravention of condition of license.

(1)If any person or association of persons to whom a license has been granted under section 2C contravenes any of the provisions subject to which such license was granted, such person or association of persons shall be punishable with fine which may extend to one thousand rupees.(2)If any book-maker to whom a license has been granted by a licensee in pursuance of the provisions of sub-section (5) of section 2C contravenes any of the conditions subject to which such license was granted, he shall be punishable with fine which may extend to one thousand rupees.]

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, room, tent, walled enclosure, space, vehicle, vessel or any place whatsoever, opens, keeps, or uses the same as a common gaming house;and whoever, being the owner or occupier of any such house, room, tent, walled enclosure, space, vehicle, vessel or place as aforesaid, knowingly or wilfully 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, room, tent, walled enclosure, 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, room, tent, walled enclosure, space, vehicle, vessel or place as aforesaid;shall be punishable on conviction, with fine [with rigorous imprisonment for a term which may extend to three years but shall not be less than six months and with fine which may extend to two thousand rupees] [Words Substituted for the words 'not exceeding five hundred rupees or with Imprisonment for a term not exceeding three months or with both' by W.B. Act 44 of 1978.].

4. Penalty for being found in common gaming house.

- Whoever is found in any house, room, tent, walled enclosure, space, vehicle, vessel or any place referred to in section 3 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 punishable, on conviction, with fine [with rigorous imprisonment for a term which may extend to three years but shall not be less than three months and with fine which may extend to five hundred rupees] [Words Substituted for the words 'not exceeding two hundred rupees or with imprisonment for a term not exceeding one month or with both' by W.B. Act 44 of 1978.];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 purposes of gaming.

5. Power to enter and authorise police to enter and search.

(1)It shall be lawful for any police officer not below the rank of Sub-Inspector, authorised by the State Government in this behalf by general or special order in writing, to enter, if necessary, by force, with such assistance as he considers necessary, by night or by day, any house, room, tent, walled enclosure, space, vehicle, vessel or place referred to in section 4, which he has reason to suspect, is being used as a common gaming house, and may take into custody all persons whom he finds therein, whether or not such persons may be then actually gaming;and may 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 all parts of the house, room, tent, walled enclosure, space, vehicle, vessel or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those, whom he so takes into custody;and may seize and take possession of all instruments of gaming found upon such search.(2)All persons taken into custody under sub-section (1) shall be produced before the nearest magistrate within a period of twenty-four hours of taking into custody excluding the time necessary for the journey from the place of taking into custody to the court of the magistrate.

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

- When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, room, tent, walled enclosure, space, vehicle, vessel or any place whatsoever, entered or searched under section 3 or about the person of any of those who are found therein, it shall be evidence, until the contrary be proved, that such house, room, tent, walled enclosure, space, vehicle, vessel, or place is used as a common gaming house and that the persons found therein were present there for the purpose of gaming, although no gaming or playing was actually seen by the police officers.

7. Penalty for giving false name and address.

- If any person found in any common gaming house entered by any police officer under section 5 upon being arrested by such police officer or upon being brought before any 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 shall, on conviction, be liable to imprisonment for a term not exceeding one month or to fine not exceeding five hundred rupees or with both, together with such

costs as to the convicting magistrate may appear reasonable, and in default of payment of fine, if any, also to imprisonment for a term not exceeding one month.

8. Destruction of instruments of gaming and payment of reward to informers.

- On conviction of any person for keeping or using any 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; he may also order that a portion not exceeding one-fourth of any fine levied under section 3 or section 4 or any portion of the moneys or proceeds of articles seized and ordered to be forfeited under this section, shall be paid as reward to any person, whose information and assistance had contributed to the detection of the offence and seizure of the moneys and articles aforesaid.

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. [Gaming and setting birds and animals to fight in public streets. [[Section 10 Substituted by W.B. Act 2 of 1973. Original Section 10 was as under:-

'10. Gaming and setting birds and animals to fight in public streets. - A police officer may arrest without warrant any person found gaming in any public market, fair, street or thoroughfare or any place to which the public have or are permitted to have access, or any person, setting, for the purpose of gaming, any birds or animals to fight in any public market, fair, street or thoroughfare or in any place to which the public have or are permitted to have access: or any person there present, aiding and abetting such public fighting of birds and animals. Such person, when arrested, shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and upon conviction shall be punishable with fine not exceeding two hundred rupees or with Imprisonment for a term not exceeding one month or with both, and such police officer may seize all birds and animals and instruments of gaming found in such public market, fair, street or thoroughfare or 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 and the proceeds thereof to be forfeited.']]- A police officer may arrest without warrant any person found in any public market, fair, street or thoroughfare or any place to which the public have or are permitted to have access, gaming with cards, dice, counters, money or other instruments of gaming, or any person, setting, for the purpose of gaming, any birds or animals to fight in any public market, fair, street or thoroughfare or any place to which the public have or are

permitted to have access, or any person there present, aiding and abetting such public fighting of birds and animals. Such person, when arrested, shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and upon conviction shall be punishable with fine not exceeding two hundred rupees or with imprisonment for a term not exceeding one month or with both, and such police officer may seize all instruments of gaming and all moneys and securities for money, and all birds and animals found and reasonably suspected to be used for the purpose of gaming in such public market, fair, street, thoroughfare or 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 and the proceeds thereof with all moneys seized therefrom to be forfeited.]

11. Power of police officer to enter and arrest persons, who print, publish etc., matters relating to gaming.

- A police officer may arrest without warrant any person who prints, publishes, sells, distributes or in any manner circulates any newspaper, news-sheet or other document or any news or information with the intention of aiding or facilitating gaming; 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 aforesaid. All persons taken in custody as aforesaid shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate. Each of all such persons shall be punishable, on conviction, with fine not exceeding two hundred rupees or with imprisonment for a term not exceeding one month or with both.

12. Exemption of game of skill.

- Nothing in this chapter shall apply to any game of mere skill wherever played : Provided that when such game is played in a public market, fair, carnival or street or in any place where the public may have access, a permit from the Commissioner of Police, in Calcutta or the District Magistrate or the Sub-divisional Magistrate elsewhere, shall be obtained first, by the organiser thereof, on payment of such fee as may be prescribed. Any person contravening the provisions of this section shall be punishable, on conviction with fine not exceeding one hundred rupees or with imprisonment for a term not exceeding one month or with both.

13. Indemnity of witnesses.

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

14. Offences by whom triable.

- Offences punishable under this chapter 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.

15. Penalty for subsequent offence.

- Whoever, having been convicted of an offence punishable under this chapter, shall be guilty of any such offence, shall be subject, for every such subsequent offence, to double the amount of punishment with which he would otherwise have [provided that he shall not be punishable in any case with rigorous imprisonment for a term exceeding three years and with fine exceeding four thousand rupees] [Words Substituted for the words 'provided that he shall not be punishable in any case with fine exceeding one thousand rupees or with imprisonment for a term exceeding one year or with both' by W.B. Act 44 of 1978.].

16. Protection of action taken under this chapter.

- No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything which is in good faith done or intended to be done under this chapter.

17. Power to make rules for the purposes of this chapter.

(1) The State Government may, by notification in the Official Gazette and after previous publication, make rules for carrying out the purposes of this chapter. (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for any matter which is to be or may be prescribed under this chapter.

18. Repeal.

- The following enactments are hereby repealed:-(a) The Bengal Public Gambling Act, 1867; (b) The definitions of "gaming", "instruments of gaming" and "common gaming house" in section 3, and sections 44, 45, 46, 47, 48, 49, 50, 50A and 51 of the Calcutta Police Act, 1866; (c) Sections 10, 11, 12, 13, 14, 15, 15A and 59 of the Howrah Offences Act, 1857.

Chapter III

Control and Regulation of Prize Competitions

19. Definitions.

- In this chapter, unless the context otherwise requires, -(a)"licensing authority" means any officer or authority appointed by the State Government, by notification in the Official Gazette, for the purpose of granting licenses under this chapter;(b)"money" includes a cheque or any other negotiable instrument, postal order or money order;(c)"prescribed" means prescribed by rules made under this chapter;(d)"prize competition" means any competition (whether called a crossword prize competition, a missing-word prize competition, a picture prize competition or by any other name whatsoever, whether of a similar nature or not) in which prizes are offered for the solution of any puzzle based upon the building up, arrangement, combination or permutation of letters, words or figures.

20. Interpretation.

- For the purposes of this chapter, -(a)references to printing shall be construed as including references to writing and other modes of representing or reproducing letters, words or figures in a visible form; and(b)documents or other matters shall be deemed to be distributed if they are distributed to persons or places within or outside the area or areas in which this chapter is in force and the word "distribution" shall be construed accordingly.

21. Prohibition of prize competition where the prize offered exceeds one thousand rupees a month.

- No person shall promote or conduct any prize competition in which the total value of the prize or prizes (whether in cash or otherwise) to be offered in any month exceeds one thousand rupees or in which the number of entries exceeds two thousand.

22. Licensing of prize competition where the prize offered does not exceed one thousand rupees a month.

- Subject to the provisions of section 21, no person shall promote or conduct any prize competition in which the total value of the prize or prizes (whether in cash or otherwise) to be offered in any month does not exceed one thousand rupees unless he has obtained in this behalf a licence granted in accordance with the provisions of this chapter and the rules made thereunder.

23. Licences for prize competitions.

(1)Every person desiring to obtain a licence referred to in section 22 shall make an application in writing to the licensing authority in such form and manner as may be prescribed.(2)On the receipt of such application, the licensing authority, after making such inquiry as it considers necessary, shall, by order in writing, either grant the licence applied for or refuse to grant the licence.(3)Where the licensing authority refuses to grant a licence it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.(4)The fees on payment of which, the period

for which, the conditions subject to which, and the form in which, a licence may be granted shall be such as may be prescribed.

24. Promoters of prize competitions to keep accounts and submit the same to the licensing authority.

- Every person who promotes or conducts a prize competition in accordance with the provisions of this chapter and the rules made thereunder shall keep accounts relating to such competition and submit to the licensing authority a statement of accounts in such form and at such intervals as may be prescribed.

25. Power to cancel or suspend licences.

(1)The licensing authority may, after giving the holder of any licence a reasonable opportunity of being heard, cancel or suspend the licence on any one or more of the following grounds, namely:-(a)that there has been a breach of any of the conditions subject to which the licence was granted;(b)that the holder of the licence has contravened any of the provisions of section 24.(2)Whenever a licence is cancelled or suspended the licensing authority shall record a brief statement of the reasons for such cancellation or suspension and furnish a copy thereof to the person whose licence has been cancelled or suspended.

26. Penalty for promoting or conducting any prize competition in contravention of the provisions of sections 21 and 22.

- If any person promotes or conducts any prize competition in contravention of the provisions of section 21 or section 22, he shall on conviction be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

27. Penalty for failure to keep and submit accounts.

- If any person liable under section 24 to keep accounts or to submit statements of accounts fails to keep accounts or to submit statements of accounts as required by that section or keeps accounts or submits statements of accounts which are false and which he either knows or believes to be false or does not believe to be true, he shall, on conviction be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, but nothing contained in this section shall affect the provisions contained in section 25.

28. Penalty for other offences in connection with prize competitions.

- In any person with a view to the promotion or conduct of any prize competition except in accordance with the provisions of a licence under this chapter or in contravention of the provisions of this chapter or in connection with any prize competition promoted or conducted except in accordance with such provisions -(a)prints or publishes any ticket, coupon, or other document for

use in the prize competition; or(b)sells or distributes or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution any ticket, coupon or other document for use in the prize competition; or(c)prints, publishes or distributes, or has in his possession for the purpose of publication or distribution,(i)any advertisement of the prize competition, or(ii)any list (whether complete or not) of prize winners in the prize competition, or(iii)any such matter descriptive of, or otherwise relating to, the prize competition as is calculated to act as an inducement to persons to participate in that prize competition or any other prize competition; or(d)brings, or invites any person to send, into the area or areas in which this chapter is in force, for the purpose of sale or distribution, any ticket, coupon or other document for use in, or any advertisement of, the prize competition; or(e)sends, or attempts to send, out of the area or areas in which this chapter is in force, any money or valuable thing received in respect of the sale or distribution of any ticket, coupon or other document for use in the prize competition; or(f)uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the prize competition; or(g)causes or procures or attempts to procure any person to do any of the abovementioned acts,he shall on conviction be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

29. Offences by Corporations.

(1)If any person guilty of any offence under this chapter is a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company, as well as the company, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this chapter if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this chapter has been committed with the consent or connivance of or is attributable to gross neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section, -(a)"company" means a body corporate and includes a firm or other association of individuals; and(b)"director" in relation to a firm means a partner in the firm.

30. Power of licensing authority to call for and inspect accounts and documents.

- The licensing authority may -(a)require any person promoting or conducting a prize competition to produce before it the accounts and other documents kept by such person or to furnish to it such other information relating to the prize competition as it may require;(b)inspect at all reasonable times the accounts and other documents kept by such person.

31. Power of entry and search.

(1) It shall be lawful for any police officer not below the rank of Sub-Inspector authorised by the State Government in this behalf by general or special order in writing, -(a) to enter, if necessary by force, whether by day or by night, with such assistance as he considers necessary, any premises which he has reason to suspect are being used for purposes connected with the promotion or conduct of any prize competition in contravention of the provisions of this chapter; (b) to search the premises and the persons whom he may find therein; (c) to take into custody and produce before a magistrate all persons who are concerned, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the user of such premises for purposes connected with, or with the promotion or conduct of any prize competition in contravention of the provisions of this chapter; and (d) to seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such prize competition. (2) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

32. Forfeiture of newspapers and publications containing prize competitions.

- Where any newspaper or other publication contains any matter referred to in clause (c) of section 28 relating to any prize competition promoted or conducted in contravention of the provisions of this chapter or except in accordance with the provisions of a licence under this chapter the State Government may, by notification in the Official Gazette, declare every copy of such newspaper or other publication to be forfeited.

33. Appeals.

- Any person aggrieved by the decision of the licensing authority refusing to grant a licence or cancelling or suspending a licence may, within such time as may be prescribed, prefer an appeal to the State Government and the decision of the State Government on such appeal shall be final.

34. Licensing authority and other officers to be public servants.

- The licensing authority and any other officer acting under this chapter shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

35. Jurisdiction to try offences.

- No court inferior to that of a Presidency Magistrate or a magistrate of the first class shall try any offence under this chapter.

36. Protection of action taken under this chapter.

- No suit, prosecution or other legal proceeding shall lie against the licensing authority or any other officer of the Government for anything which is in good faith done or intended to be done under this chapter or the rules made thereunder.

37. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, and after previous publication, make rules for carrying out the purposes of the chapter.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the form and manner of application for a licence under this chapter and the fees, if any, for such licence;(b)the period for which, the conditions subject to which and the form in which, a licence may be granted under this chapter;(c)the form in which and the intervals at which statements of accounts referred to in section 24 shall be submitted to the licensing authority;(d)the time within which an appeal against a decision of the licensing authority under this chapter may be preferred to the State Government;(e)any other matter which is to be or may be prescribed under this chapter.