

The Public Gambling Act, 1867

PUNJAB

India

The Public Gambling Act, 1867

Act 3 of 1867

- Published on 1 January 1867
- Commenced on 1 January 1867
- [This is the version of this document from 1 January 1867.]
- [Note: The original publication document is not available and this content could not be verified.]

The Public Gambling Act, 1867Central Act 3 of 1867Statement of Objects and Reasons. - The primary object of this Bill, which has been prepared at the desire of the Lieutenant Governor of the North Western Provinces and of the Chief Commissioner of British Burmah, is to repress public gambling in large towns situate in the territories respectively under their governments, without at the same time, giving rise to oppression and other malpractices on the part of the Police. In those territories, as the law stands, persons cannot be prosecuted for gambling or keeping, gaming-houses, and can only be punished under the Indian Penal Code, section 290, if it can be shown that their acts cause "common injury danger and annoyance to the public". This, of course, is a matter of such difficulty that such persons practically enjoy an immunity from punishment. The present Bill is founded on sections 55-66 of the Towns' Police Act, No. XIII of 1856, which correspond with sections 10-15 of Act No. 21 of 1857 (The Calcutta and Hawrah Police and Conservancy Act). These sections 10-15, have in the form of Rules, been for some years in Oudh, the Central Provinces and the Punjab and they have been found to work satisfactorily. It is obviously desirable to convert these Rules into express legislative enactments, and this Bill if it becomes law, will effect that object. A similar Act has recently been passed by the Governor of Bombay in Council. Under the present Bill, houses will only be searched by an office of Police not below the rank of Inspector, and under the authority of a warrant from a Magistrate with full powers." (Gazette of India 1866, page 976). An Act to provide for the punishment gambling and the keeping of common gaming-houses in the [United Provinces, East Punjab and Delhi] [Substituted for the words 'North Western Provinces of the Presidency of Fort William, and in the Punjab Oudh' by the Adaptation of Laws Order, 1948.] [and the Central Provinces] [Substituted by the Amending Act 1 of 1903.]. Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses [in the United Provinces, East Punjab, Delhi and the Central Provinces] [Substituted by Adaptation of Laws Order, 1948.]; it is hereby enacted as follows :-

1. Interpretation Clause.

- In this Act -[-] [Definition of 'Lieutenant-Governor' omitted by Adaptation of Laws Order, 1937.][

-] [Definition of 'Chief Commissioner' omitted by Adaptation of Laws Order, 1937.]["Gaming" includes wagering or betting [on any figures or numbers or dates to be subsequently ascertained or disclosed, or on the occurrence or non-occurrence or any natural event, or in any other manner whatsoever] [Substituted by Punjab Act 1 of 1928, section 2.] except wagering or betting upon a horse-race when such wagering or betting takes place -(a) on the day on which such race is to be run, and (b) in an enclosure which the stewards controlling such race have with the sanction of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government set apart for the purpose, but does not include a lottery. "Instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on a facilitating gaming, and any document used as a register or record or evidence of any gaming. "Common Gaming House" means any house or room or tent or enclosure or vehicle or vessel or any place whatsoever in which any instruments of gaming are kept or used for gaming purposes :-(a) with a view to the profit or gain of any person owning, occupying or keeping such house, room, tent, enclosure' vehicle, vessel or place whether by way of charge for the use of such house, room tent, enclosure, vehicle, vessel, place or instruments or otherwise howsoever; (b) with or without a view to such profit or gain if the gaming for the purpose of which such instruments are so kept or used, is gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, or on the occurrence or non-occurrence of any natural event. [Number and Gender.] Repealed by Act XVII of 1914, section 3 and Second Schedule.

2. Power to extend Act.

- [Sections 13 and 17 of this Act shall extend to the whole of the [said States] [Substituted for the old paragraph by Punjab Act 1 of 1929, section 3.] and it shall be competent to the [State] [Substituted by the Adaptation of Laws Order, 1950.] Government whenever it may think fit, to extend by notification all or any of the remaining sections of this Act, to any area within the territories administered by the [State] [Substituted by the Adaptation of Laws Order, 1950.] Government.] 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 to extended, shall cease to have effect in such territories.

3. Penalty for owning or keeping to having charge of gaming house.

- Whoever being the owner or occupier, or having the use of any [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.] 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, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], 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, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], as aforesaid, opened, occupied or kept for the purpose aforesaid; and whoever advances or furnishes money for

the purpose of gaming with persons frequenting such [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.].shall be liable 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 gaming-house.

- Whoever is found in any such [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], 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 one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary is proved, to have been there for the purpose of gaming.

4A. [Enhanced punishment if offence under section 3 or 4 relates to gaming with figures, etc. [Inserted by Punjab Act, 9 of 1960, section 3.]

- Where an offence committed by any person under section 3 or section 4 relates to gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, such person shall, notwithstanding anything contained in those sections, -(a)in the case of an offence under section 3, be liable to fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding one year or to both; and(b)in the case of an offence under section 4, be liable to fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months, or to both.]

5. Powers 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, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.],he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the [State] [Substituted for the word 'provincial' by the Adaptation of Laws Order, 1950.] Government shall appoint in this behalf to enter with such assistance as may be found necessary, any such[house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.],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, room, tent,

enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], 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.

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, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], entered or search under the provisions of the last proceeding section, or about the person to any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.], 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 the Magistrate or officer of police under the provisions of this Act, upon being arrested, by such officer or upon being brought before any Magistrate, on being required by such officer of Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give a false name or address, he may upon conviction. [before any judicial Magistrate] [Substituted by Punjab Act 25 of 1965, section 2 and Sen.] be adjudged to pay such 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.

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 gaming-house, 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 stake 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 to stake.

10. Magistrate may require any person apprehended to be sworn and give evidence.

- It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.] 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, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.] or touching any act done for the purpose of preventing obstructing or delaying the entry into such [house, room, tent, enclosure, vehicle, vessel or place] [Substitution for the words 'house, walled enclosure, room or place' by Punjab Act 1 of 1929, section 4.] or any part thereof, of any Magistrate or officer authorised as aforesaid. No person so required to be examined 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 Magistrate, or by or before any Court on any proceeding or trial in any other 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 such 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 respects as any person committing the offence described in section 178 or section (179 as the case may be) of the Indian Penal Code.

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 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 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 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.

12.

[Repealed by Punjab Act 1 of 1929, section 5.]

13. [Penalty for gaming in public street, etc. [Substituted by Punjab Act 9 of 1960, section 4.]

- Whoever is found gaming any public street, place or thoroughfare or setting any bird or any animal to fight in any such street, place or thoroughfare shall be punishable with fine not exceeding fifty rupees or with imprisonment of either description for a term not exceeding one month.]

13A. [Enhanced punishment if offence under section 13 relates to gaming with figures, etc. [Inserted by Punjab Act 9 of 1960, section 4.]

- Where an offence committed by any person under section 13 relates to gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, such person shall, notwithstanding anything contained in that section, be liable to fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months, or to both.]

13B. [Power to arrest without warrant. [Inserted by Punjab Act 9 of 1960, section 4.]

- Any police officer may arrest without warrant any person committing in his view any offence made punishable by section 13 or section 13A]

14. 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.

15. [Penalty for subsequent offence under section 3. [Substituted by Punjab Act 1 of 1929, section 4.]

- Whoever, having been convicted of an offence punishable under section 3, shall again be convicted of any offence punishable under that section shall be punished :-(a)for a second offence with imprisonment of either description which may extend to six months, or with a fine which may extend to Rs. 1000 or with both;(b)for a third or any subsequent offence with imprisonment of either description, which may extend to one year, and, in the absence of special reasons to the contrary to be recorded in the judgment of the Court, shall not be less than one month, together with a fine which may extend to Rs. 1000.]

15A. [Penalty for subsequent offence under section 4. - [Inserted by Punjab Act 1 of 1929, section 8.]

Whoever having been convicted of an offence punishable under section 4 shall again be convicted of any offence punishable under that section shall be liable 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.]

15B. [Enhanced punishment for subsequent offences under sections 4-A and 13-A. [Inserted by Punjab Act 9 of 1960, section 5.]

- Whoever, having been convicted of an offence punishable under section 4A or section 13A, is again convicted of an offence under either of these sections shall, -(a)for a second offence, be punished with not less than twice the punishment awarded to him on his first conviction; and(b)for a third or any subsequent offence, be punished with the punishment specified in clause (a) :Provided that the punishment under clause (b) shall not be less than imprisonment of either description for six months.]

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 fine imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure [-] [Omitted by Adaptation of Laws Order, 1937.][Exemption of games of mere skill. - Nothing in this Act shall apply to any game of mere skill wherever played.] [Inserted by Punjab Act 1 of 1929, section 9.]