

Kerala Gaming Act, 1960

KERALA

India

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Act 20 of 1960

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Kerala Gaming Act, 1960[Act No. 20 of 1960][11th October, 1960]An Act to make better provision for the punishment of gaming and the keeping of common gaming houses in the State of Kerala.Whereas it is expedient to make better provision for the punishment of gaming and keeping of common gaming houses in the State of Kerala;Be it enacted in the Eleventh Year of the Republic of India as follows:-

1. Short title, extent and commencement

(1)This Act may be called the Kerala Gaming Act, 1960. 1(2)It extends to the whole of the State of Kerala.(3)It shall come into force at once.

2. Definitions

In this Act, unless the context otherwise requires,-(a)"common gaming house" means any house, room, tent, enclosure, vehicle, vessel or any place whatsoever 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, room, tent, enclosure, vehicle, vessel or place whether by way of charge for the use of instruments of gaming or of the house, room, tent, enclosure, vehicle, vessel or place or otherwise howsoever; and includes any house, room tent, enclosure, vehicle, vessel or place opened, kept or used or permitted to be opened, kept or used for the purpose of gaming;(aa)"central computer server" means a server class computer installed at a central location which accepts, processes, stores and validates the on-line lottery transactions and otherwise manages, monitors and control the entire on-line lottery system;(b)"gaming" means wagering, betting or gambling, which includes the organizing, conducting, promoting, marketing or selling of on-line lotteries, but does not include paper lotteries organized, conducted or promoted by any State Government or the Central Government;Explanation 1.-For the purposes of this definition, wagering or betting shall be deemed to comprises the collection or soliciting of bets, the receipt or distribution of winnings or

prizes, in money or otherwise, in respect of any wager or bet, or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution; Explanation 2.- For the purpose of this definition, gambling shall be deemed to comprise the conduct of on-line lotteries, by electronic devices including computers, computer peripherals and other equipments for operating on-line lottery systems, lottery terminals, etc , through common gaming houses by selection of numbers or series of numbers which may be pre-determined, instantly determined pre-printed or pre-designed and whereby one or more of such participants who selected a specific number or series of numbers may or may not be declared as winners and rewarded with pre-determined, instantly determined, pre-printed or pre-designed winnings or prizes in the form of money or otherwise.(c)"instruments of gaming" include any article or any electronic devices including computers and computer peripherals and other equipments for operating on-line lottery systems, on-line lottery terminals etc used or intended to be used as a subject or means of, or for the purpose of carrying on or facilitating or in connection with gaming any books, lists, tickets, forms or other documents used or intended to be used as a register or recorded or evidence of 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.(d)"On-line lottery" means a system of gambling organised, conducted, promoted, marketed or sold through electronic devices including computers, computer peripherals and other equipments for operating on-line lottery systems, lottery terminals, etc , where the information about the player's choice of any particular number or combination of numbers etc is simultaneously registered with the central computer server which assigns a unique number to verify the validity;(e)"on-line lottery terminal" means a terminal connected to the Central Computer Server where on-line lottery tickets are marketed or sold in retail in common gaming houses(f)"paper lottery" means any lottery other than on-line lottery

3. Penalty for opening, etc., any enclosure, etc., for certain forms of gaming

Whoever-(a)being the owner or occupier or having the use of any house, room tent, enclosure, vehicle, vessel or place, opens, keeps or uses the same for the purpose of gaming-(i)on a horse-race, or(ii)on the market price of cotton, bullion or other commodity or on the digits of the number used in stating such price, or(iii)on the amount or 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(iv)on the market price of any stock or share or on the digits of the number used in stating such price, or(v)on the number of registration or on the digits of the number or registration of any motor vehicle using a public place, or(vi)on any transaction or scheme of wagering or betting in which the receipt or distribution of winnings or prizes in money or otherwise is made to depend on chance or on a system of gambling in on-line lottery(b)being the owner or occupier of any such house, room, tent, enclosure, vehicle, vessel or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose of gaming on any of the objects aforesaid, or(c)has the care of management of, or in any manner assists, in conducting the business of any such house, room, tent, enclosure, vehicle, vessel or place, opened, occupied, kept or used for the purpose of gaming on any of the objects aforesaid, or(d)advances or furnishes money for the purpose of gaming on any of the objects aforesaid with persons frequenting any such house, room, tent, enclosure, vehicle, vessel or place, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both: Provided that in the absence of special reasons to be

recorded in writing, the punishment to be imposed on an offender on conviction for an offence under this section other than an offence relating to gambling in on-line lottery shall be not less than imprisonment for one month or a fine of five hundred rupees. Provided further that if the offence relating to gambling by means of on-line lotteries shall be liable on conviction be punishable with imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees or with both.

4. Penalty for being found in a gaming house

(1) Whoever is found in any house, room, tent, enclosure, vehicle, vessel, or place referred to in section 3, gaming on any of the objects specified in that section, or present for the purpose of gaming on any such object shall be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both. (2) Any person found in any such house, room, tent, enclosure, vehicle, vessel or place during any gaming therein on any of the objects specified in section 3 shall be presumed, until the contrary is proved, to have been there for the purpose of gaming on such object. (3) Whoever commits any offence relating to gambling by means of on-line lotteries shall on conviction be punishable with imprisonment which may extend to one year or with a fine which may extend to twenty five thousand rupees or with both.

5. Power to enter and search

If a Magistrate or any Police Officer not below the rank of a Sub-Inspector of Police upon credible information and after such inquiry as he may think necessary, has reason to believe that any place is used as a common gaming house, he may- (a) after recording his reasons for such belief, either himself enter, or by his warrant authorise any officer of police not below the rank of a Head constable to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such place; (b) either himself take into custody or authorise such officer to take into custody all persons whom he or such officer finds therein whether then actually gaming or reasonably suspected to have been present for purposes of gaming. (c) 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; (d) search or authorise such officer to search all parts of such 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 person of those whom he or such officer so takes into custody; and (e) seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search.

6. Cards, dice, etc. found in search under section 5 to be evidence that the place is a common gaming house

Any cards, dice, gaming tables, cloths, boards or other instruments of gaming found in any place entered or searched under section 5, or on any person found therein, shall be evidence, until the contrary is proved, that such place is used as 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 for opening, etc., a common gaming house

(1)Whoever opens, keeps or uses, or permits to be used any common gaming house, or conducts or assists in conducting the business of any common gaming house or advances or furnishes money for gaming therein, shall be liable on conviction to fine not exceeding five hundred rupees, or to imprisonment not exceeding three months, or to both.(2)Whoever commits any offence relating to gambling by means of on-line lotteries shall be liable on conviction to a fine of rupees twenty thousand or with imprisonment which may extend to two years or with both.

8. Penalty for being found gaming in a common gaming house

(1)Whoever is found gaming or present for the purpose of gaming in a common gaming house shall, on conviction be liable to imprisonment which may extend to one month or to fine which may extend to five hundred rupees or to both; 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.(2)Whoever commits any offence relating to gambling by means of on-line lotteries shall be liable on conviction to a fine of rupees twenty thousand or with imprisonment which may extend to two years or with both.

9. Penalty for refusing to give name and address and for giving false name and address

(1)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 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 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.(2)Whoever commits any offence relating to gambling by means of on-line lotteries shall be liable on conviction to a fine of rupees ten thousand or with imprisonment which may extend to one year or with both.

9A. Penalty for attempt to open a common gaming house for gaming in on-line lottery —

Whoever attempts or assists to open a common gaming house for the purpose of gaming in on-line lottery or makes any preparation or assists in the preparation of the same shall be liable on conviction to a fine of rupees ten thousand or with imprisonment which may extend to one year or with both.

10. Instruments of gaming may be ordered to be destroyed on conviction

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. Provided that all instruments of gaming relating to on-line lottery shall be sold and converted into money as per the order of the Magistrate.

10A. Interim custody of articles seized relating to on-line lottery to be released upon furnishing cash security and bond —

The Magistrate before whom the seized instruments of gaming relating to on-line lottery have been produced may order the release of all or any of such instruments of gaming to the custody of such person who proves to the satisfaction of the Magistrate to be the owner of the same and upon furnishing cash security equivalent to its market value and upon a bond that it would be produced before such Magistrate at any time required for any purpose and further that it would not be used for the same purpose for which it was seized, but on conviction, the cash security furnished shall be forfeited to Government

11. 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 money, wager, bet or stake.

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

It shall be lawful for the Magistrate before whom any person shall be brought, who has been found in any house, room, tent, enclosure, vehicle, vessel or place entered under the provisions of this Act to require such person 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 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 or any part thereof, of any Magistrate or Officer authorised as aforesaid. No such person 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 way relating to such unlawful gaming or from answering any question put to him touching the matter aforesaid on the ground that his evidence will tend to criminate him. 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 considered to have committed the offence described in section 178 or section 179, as the case may be, of the Indian Penal Code (Central Act 45 of 1860).

13. 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 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 free from all prosecutions under this Act for anything done before that time in respect of such gaming.

14. Act not to apply to certain games

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

14A. Exemptions

The Government may, if they are satisfied that in any game the element of skills is more predominant than the element of chance, by notification in the Gazette, exempt such game from all or any of the provisions of this Act, subject to such restrictions and conditions as may be specified in the notification.)

15. Penalty for gaming and setting birds and animals to fight in public places

(1)Whoever is found playing for money or other valuable thing, with cards, dice, counters or other instruments of gaming, any game not being a game of mere skill in any public street, road or thoroughfare or in any place to which the public have or are permitted to have access; or any person setting any birds or animals to fight in any public street, road or thoroughfare or in any place to which the public have or are permitted to have access or any person there present aiding or abetting such public fighting of such birds or animals shall be liable on conviction to imprisonment not exceeding one month or to fine not exceeding two hundred rupees or to both.(2)Any police officer not below the rank of a Sub Inspector of Police, who arrests any person committing an offence under sub-section (1) may seize all the instruments of gaming found in such public place or on the person of those who he shall so arrest and the Magistrate shall, on conviction of the offender, order such instruments to be forfeited.

16. Offences by who triable

Offences punishable under this Act shall be triable by any Magistrate of the first or second class having jurisdiction in the place where the offence is committed.

17. Penalty for subsequent offences

Whoever having been convicted of any offence punishable under section 3 or section 4 of this Act shall again be guilty of any offence punishable under either of those 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.

18. Payment of portion of fine to informer

(1)The Magistrate trying the case may direct any portion not exceeding one half of any fine which shall be levied under section 3,4,7 or 8 and of the moneys or proceeds of articles seized and ordered to be forfeited under section 10 to be paid to informants and police officers who may have assisted in the detection of the offender. A direction under this sub-section may also be made by any court of appeal, reference or revision.(2)Where a direction is made under sub-section (1) the Magistrate concerned shall send the amount to be paid under that sub-section to the District Superintendent of Police, who shall distribute it directly among such of the informants and police officers aforesaid as may be chosen by him and in such proportions as he thinks fit.(3)The amount aforesaid shall not be sent to the District Superintendent of Police until the expiry of three months from the date of the direction under sub-section (1), or if an appeal is presented within that period, until the appeal has been disposed of.

19. Police may arrest without warrant on view of offence

Any police officer not below the rank of a Sub Inspector of Police may arrest without a warrant any person committing in his view any offence made punishable by this Act.Provided that offences relating to gambling in on-line lottery shall not only be cognizable but also non-bailable.

19A. Offences to be tried summarily —

All offences under this Act shall be tried summarily by Judicial Magistrate of the First Class specially empowered in this behalf by the Government and the provision of section 262, 263, 264, and 265 of the Code of Criminal Procedure (Central Act 2 of 1974) shall, as far as may be apply to such trial.

20. Repeal

The Travancore Public Gambling Act, III of 1071, the Cochin Public Gambling Act, IV of 1082 and the Madras Gaming Act, 1930 (III of 1930) in its application to the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, are hereby repealed.