

Act No. 13, 1906.

An Act for the regulation and suppression of gaming, betting, and wagering; to amend the Games, Wagers, and Betting-houses Act, 1901; to restrict the holding of race-meetings; for the licensing of racecourses; and for purposes consequent thereon or incidental thereto. [8th October, 1906.]

GAMING AND
BETTING.
—

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as the "Gaming and Betting Act, Short title. 1906."

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Definitions.

Vic. Act, 1901, No.
1765, s. 2.

2. In this Act, unless the context otherwise requires,—

- “Bookmaker” includes any person who carries on the business of or acts as a bookmaker or turf commission agent, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers.
- “Ground” means land, including any buildings thereon, and any room to which persons are admitted, either at all times or only at certain times, whether on payment of an entrance fee or charge or otherwise, for the purpose of taking part in or of witnessing any sports.
- “Justice” means justice of the peace.
- “Meeting for horse-racing” means any meeting at which all horses, mares, and geldings respectively may compete without any restriction or condition relating to the height of such horses, mares, or geldings.
- “Meeting for pony-racing” means any meeting at which the conditions of any race include any condition relating to the height of any horse, mare, or gelding eligible to compete therein.
- “Occupier” of a house, office, room, or other place, or of any land, or building, includes the lessee or sublessee who is not the owner as hereinafter in this section defined.
- “Owner” of a house, office, room, or other place, or of any land or building, includes every person, company, or corporation who is, whether at law or in equity,—
- (a) entitled to the same for any estate of freehold in possession ;
or
 - (b) in actual receipt of, or entitled to receive, or if the house, office, room, place, land, or building were let to a tenant, would be entitled to receive the rents and profits of the same.
- In the case of a house, office, room, place, land, or building subleased, “owner” includes any lessee or sublessee from whom a sublessee holds.
- “Place,” in the expression “house, office, room, or other place,” includes a vessel or boat, whether used in navigation or not so used.
- “Principal Act” means Games, Wagers, and Betting Act, 1901.
- “Racecourse” means land used for race-meetings and to which admission is granted by payment of money, by ticket, or otherwise.
- “Race-meeting” means meeting for horse-racing or pony-racing, excluding trotting contests.
- “Sports” means bicycle races, footraces, horseraces, pony races, trotting races, cricket or football matches, swimming carnivals, or any other game, exercise, pastime, or any fight or contest.
- “Street”

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“Street” includes—

- (1) any enclosed or unenclosed land (not being a house or racecourse) within any borough or municipal district or within the city of Sydney;
- (2) a thoroughfare and a highway, road, lane, footway, or passage, whether a thoroughfare or not, on any public or private land.

3. In this Act a house, office, room, or other place is used in contravention of this Act if it or any part of it is used—

Definition of house, &c., used in contravention of Act.

- (a) as a common gaming-house, or for playing any unlawful game therein; or
- (b) in any manner prohibited by section seventeen of the Principal Act as amended by this Act.

Gaming and betting-houses.

4. Every owner and every occupier of any house, office, room, or other place who knowingly allows the same to be used in contravention of this Act shall be liable to a penalty not exceeding one hundred pounds.

Penalty for using house in contravention of Act.

5. Every owner and every occupier of any land or building who knowingly allows the same to be used as a means of access to or of exit or escape from any house, office, room, or other place used in contravention of this Act, shall be liable to a penalty not exceeding one hundred pounds.

Land used for access to house used in contravention of Act.

6. (1) If—

- (a) any owner of a house, office, room, or other place has reasonable grounds to suspect that the same is used in contravention of this Act; or
- (b) any owner of any land or building has reasonable grounds to suspect that the same is used as a means of access to, or of exit or escape from, any house, office, room, or other place used in contravention of this Act,

Owner may evict occupier of house used in contravention of Act.

he may serve on the occupier a notice to quit.

The serving of such notice shall determine as from the tenth day after the date of such service any tenancy under which the occupier may hold as if the same had expired by effluxion of time. The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, such occupier.

(2) Such notice shall be served personally on the occupier, but if he cannot be found, service may be effected by posting a copy of the notice on some conspicuous part of the said house, office, room, place, land, or building.

7. Any such notice to quit may be cancelled by a judge of the Supreme Court, or of a District Court, subject to such terms as he thinks fit, on summons taken out by the occupier, on proof that the occupier has not at any time—

Cancellation of notice to quit.

- (a) knowingly allowed the house, office, room, or place to be used in contravention of this Act; or
- (b)

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- (b) knowingly allowed the land or building to be used as a means of access to or of exit or escape from any house, office, room, or other place used in contravention of this Act.

Such summons shall be served on the owner two days at least before the hearing of such summons, and on being so served shall operate until the determination of the summons as a stay of any proceedings under the last preceding section to evict the occupier.

Declaration that house a common gaming-house.

8. On the affidavit of a superintendent, inspector, or sub-inspector of police, showing reasonable grounds for suspecting that any house, office, room, or other place is used in contravention of this Act, any judge of the Supreme Court may declare such house, office, room, or place to be a common gaming-house. Such declaration shall be in force until rescinded.

Rescission of declaration.

9. Any such declaration may be rescinded by a judge of the Supreme Court, subject to such terms as he thinks fit, on application being made to him—

- (a) by the owner or occupier of the house, office, room, or place, the subject of the declaration, on proof that he has not at any time allowed the house, office, room, or place to be used in contravention of this Act; or
- (b) by a superintendent, inspector, or sub-inspector of police, on proof that the house, office, room, or place is not used in contravention of this Act.

Where the application is made by the owner or occupier as aforesaid, notice in writing of intention to make the same shall be served on a superintendent, inspector, or sub-inspector of police two days at least before the hearing of such application.

Publication of notice of declaration and rescission.

10. Notice of any such declaration and of any rescission of the same shall be published in the Gazette.

In any proceedings under this Act, the production of a copy of the Gazette containing such notice shall be evidence that the declaration or rescission therein notified was duly made.

Notice given of declaration.

11. (1) The inspector-general, or a superintendent, inspector, or sub-inspector of police, on such declaration being made with respect to any house, office, room, or place—

- (a) shall cause to be published on two days in a newspaper circulating in the neighbourhood of the house, office, room, or place, a notice of the making of such declaration;
- (b) shall cause such notice to be served on the owner and occupier of the house, office, room, or place. Such service shall be personal, except when it cannot be promptly effected, in which case the notice may be served on the owner and occupier aforesaid by causing a copy thereof to be affixed at or near to the entrance to the house, office, room, or place.

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(2) In any proceedings under this Act, the production of a copy of a newspaper containing any such notice shall be evidence that such notice was duly published in such newspaper on the date appearing thereon.

12. If, after publication, in pursuance of paragraph (a) of the last preceding section, of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, any person is found—

Person found in house declared a common gaming-house.

(a) in, or on, or entering, or leaving such house, office, room, or place; or

(b) in or on or entering or leaving any land or building used as a means of access to or of exit or escape from the same,

any member of the police force may, without warrant, arrest such person and take him before a stipendiary or police magistrate or any two justices.

Such person, unless he proves that he was in or on or entering or leaving as aforesaid for a lawful purpose, shall be guilty of an offence under this Act, and shall on conviction be liable to imprisonment for a term not exceeding six months.

The form of information for such offence may be in the Form A or B in the Schedule, or to a like effect.

13. If after service on an owner in pursuance of paragraph (b) of section eleven of notice of the making of such declaration with respect to a house, office, room, or place, and during the time that such declaration is in force, such house, office, room, or place is used in contravention of this Act, such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier from the same, be liable to a penalty not less than thirty and not exceeding three hundred pounds.

Penalty on owner if house used in contravention of Act.

14. If after service on an occupier in pursuance of paragraph (b) of section eleven of notice of the making of a declaration with respect to a house, office, room, or place, and during the time that such declaration is in force such house, office, room, or place is used in contravention of this Act, the said occupier shall be liable to a penalty not less than thirty and not exceeding three hundred pounds, unless he proves that he has taken reasonable steps to prevent such use.

Penalty on occupier.

15. While any such declaration is in force with respect to any house, office, room, or place, any member of the police force may, without warrant,—

Entry by police.

(a) enter the said house, office, room, or place;

(b) enter any land or building which he has reasonable grounds to suspect is used as a means of access to or of exit or escape from the same;

(c) pass through, from, over, and along any other land or building for the purpose of entering in pursuance of paragraph

(a) or paragraph (b) aforesaid; (d)

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- (d) for any of the purposes aforesaid, break open doors, windows, and partitions, and do such other acts as may be necessary ;
- (e) seize any instruments of gaming and any instruments of betting and documents relating to betting, and any money and securities for money in any such house, office, room, or place.

Obstructing the police.

16. Any person who wilfully obstructs or aids in obstructing, or solicits any other person to obstruct or aid in obstructing a member of the police force in the exercise of any power conferred on him by any preceding section of this Act shall be liable to a penalty not exceeding twenty-five pounds.

Evidence of house being a gaming-house.

17. Where any member of the police force authorised under the Principal Act or this Act to enter any house, office, room, or place is wilfully prevented from or is obstructed or delayed in entering the same or any part thereof ; or

where any external or internal door of or means of access to any such house, office, room, or place so authorised to be entered is found to be fitted or provided with any bolt, bar, chain, or any means or contrivance for the purpose of preventing, delaying, or obstructing the entry into the same or any part, of any member of the police force authorised as aforesaid, or for giving an alarm in case of such entry ; or

if such house, office, room, or place is found fitted or provided with any means or contrivance for unlawful gaming, or with any means or contrivance for concealing, removing, or destroying any instruments of gaming,

it shall be evidence, until the contrary is made to appear, that such house, office, room, or place is used as a common gaming-house, and that the persons found therein were playing an unlawful game therein.

Betting in streets.

Street betting.

Vic. Act, 1436, s. 2.

18. Every person who frequents, uses, or is in any street for the purpose of any money or valuable thing being received by or promised to such person or on his behalf—

(a) as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any sports ; or

(b) as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid ; and

every bookmaker who, either by himself or by means of any agent, clerk, or servant makes any bet in or on any street, and every such agent, clerk, or servant who so makes any bet shall be liable for a first

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first offence to a penalty of not less than twenty pounds nor more than one hundred pounds, and for a second offence to imprisonment for six months.

The form of information for an offence against this section shall be in the Form C or D in the Schedule, or to the like effect.

19. Any money or valuable thing received by any bookmaker, or any such agent, clerk, or servant, or any person as aforesaid—

Recovery of money illegally received.
Vic. Act, 1436, s. 3.

- (a) as or for the consideration for any such assurance, undertaking, promise, or agreement, made in any street; or
- (b) as a deposit on any bet made in any street,

shall be deemed to have been received to or for the use of the person from whom the same was received; and such money or valuable thing, or the value thereof, may be recovered accordingly, with costs, in any court of competent jurisdiction.

Betting on sports grounds.

20. Betting or wagering on any ground, not being a licensed racecourse, on which any sports are being held is prohibited. Any person acting in contravention of this section may be dealt with under the next succeeding section, and in lieu thereof, or in addition thereto, shall be liable to the penalty and punishment mentioned in the next preceding section but one.

Wagering or betting prohibited.
See Vic. Act, 1901, No. 1765, ss. 3-5.

21. Any person who acts in contravention of the last preceding section, and who, after being warned by any officer or servant of the person or persons who have control of the ground, or by any member of the police force, to desist from so acting, does not so desist, may be forthwith removed from such ground or its proximity by any such officer or servant, or by any member of the police force.

Removal or apprehension of offender.
Ibid., s. 7.

22. Any person so removed shall not on the day of such removal re-enter such ground, and if he does so re-enter, he may be again removed as aforesaid, or he may, without warrant, be arrested by any such officer, servant, or member and taken before a stipendiary or police magistrate or any two justices, and shall be liable to a penalty not exceeding fifty pounds.

Person removed from land not to re-enter.
Ibid., s. 8.

Betting with infants.

23. Any person who—

- (a) makes or offers to make any bet or wager with any person whom he knows to be under the age of twenty-one years, or with any person on his behalf; or
- (b) for the purpose of earning any commission, reward, profit, benefit, or advantage, sends or causes to be sent to any person whom he knows to be under such age any circular, notice,

Making bet with or inviting an infant to bet.
Vic. Act, 1436, s. 8.
55 and 56 Vic, c. 4, s. 1 (1).

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notice, advertisement, letter, telegram, or other document which invites or may reasonably be implied to invite the person receiving it to make any bet or wager, or to enter into or take any share or interest in any betting or wagering transactions, or to apply to any person or at any place with a view to obtaining information or advice for the purpose of any bet or wager, or for information as to any race, game, sport, or other contingency upon which betting or wagering is generally carried on,

shall be liable to a penalty not exceeding one hundred pounds.

Person named in gaming circular to be deemed the sender.

Vic. Act, 1436, s. 9.
55 and 56 Vic., c. 4.
s. 1 (2).

24. If any such circular, notice, advertisement, letter, telegram, or other document names or refers to anyone as a person to whom any payment may be made or from whom information may be obtained for the purpose of or in relation to betting or wagering, the person so named or referred to shall be deemed to have sent or caused to be sent such document as aforesaid, unless he proves that he had not consented to be so named and that he was not in any way a party to and was wholly ignorant of the sending of such document.

Knowledge of infancy presumed.
Vic. Act, 1436, s. 9.
55 and 56 Vic.,
s. 1 (2).

25. If any such circular, notice, advertisement, letter, telegram, or other document is sent to any person at any university, college, school, or other place of education, and such person is under twenty-one years of age, the person sending or causing the same to be sent shall be deemed to have known that such person was under such age unless he proves that he had reasonable grounds for believing such person to be of full age; and the same shall be deemed to have been so sent for the purpose of earning commission, reward, profit, benefit, or advantage unless he proves to the contrary.

Persons betting with apparent infants.
Ibid. s. 11.

26. Any person who makes or offers to make any bet or wager with any person who is under twenty-one years of age shall be deemed to have known that such person was under such age unless he proves that he had reasonable ground for believing, and did believe, such person to be of full age.

Money stolen or embezzled and paid in bets recoverable.
Vic. Act, 1436, s. 9.

27. Where any money is stolen or embezzled by any person who is under twenty-one years of age, and any money is thereafter paid by such person as or for or by way of or on account of a bet or wager, the person from whom such money was stolen or embezzled may, in any court of competent jurisdiction, recover the amount of the money so stolen or embezzled, not exceeding the amount paid as aforesaid, from the person to whom the same was so paid.

Restrictions on race-meetings.

Racecourse to be licensed.

28. (1) No race-meeting shall be held on any racecourse unless such racecourse is licensed under this Act for horse-racing or pony-racing, as the case may be.

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(2) No race-meeting shall be held on any racecourse if the circumference of the running-ground of such racecourse, measured three feet from the inner boundary, is less than six furlongs. Size of racecourse.

(3) The number of days in any one year on which meetings for horseracing may be held on any licensed racecourse shall not exceed the following:— Limitation of number of horse-races on racecourse.

(a) Where the racecourse is situate within forty miles of the General Post Office, Sydney, the number shall be twenty-four, or the number of days on which such meetings were held at such racecourse during the twelve months ending the thirty-first day of July, one thousand nine hundred and six, whichever number is the smaller.

(b) Where the racecourse is situate within forty miles of the principal post office, Newcastle, the number shall be fifteen or the number of days on which such meetings were held on such racecourse during the twelve months ending the thirty-first day of July, one thousand nine hundred and six, whichever number is the smaller.

(4) The number of days in any one year on which meetings for pony-racing may be held on any licensed racecourse shall not exceed the following:— Limitation of number of pony-races on racecourse.

(a) Where the racecourse is situate within forty miles of the General Post Office, Sydney, the number shall be twenty-four, or if there be more than two racecourses the number shall not exceed the quotient, omitting fractional parts, obtained by dividing the number seventy-two by the number of racecourses situate as aforesaid and licensed for pony-racing in that year.

(b) Where the racecourse is situate beyond the said forty miles, the number shall be six.

(5) If any race-meeting is held in contravention of this section, the owner or trustees of the racecourse, and the club, association, or person by or on behalf of which or whom such meeting was so held, and each member of the managing body of such trustees, club, or association, and any person acting at such race-meeting as starter or judge, shall be liable to a penalty not less than five hundred pounds and not exceeding one thousand pounds. Penalty.

(6) This section shall take effect from the first day of January, one thousand nine hundred and seven, and in its construction a year shall be deemed to commence on the first day of January. Commencement of section.

29. (1) Licenses under the last preceding section shall be issued by the Colonial Secretary on such terms and conditions as may be prescribed by regulations which the Governor is authorised to make. Issue of licenses.

(2) Any such license shall be for a year, commencing the first day of January, and must be applied for before that date. A license may be cancelled by the Colonial Secretary for any good cause. Period of license.

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Fees.

(3) The fees for such license shall be paid into the Treasury and carried to the Consolidated Revenue Fund, and shall be at the following rates:—

- (a) Where the racecourse is situate within forty miles of the General Post Office, Sydney, fifty pounds.
- (b) Where it is situate within forty miles of the principal post-office, Newcastle, twenty pounds.
- (c) Where otherwise situate, one pound.

Limitation of racecourses which may be licensed.

(4) The number of licenses for racecourses situate within forty miles of the General Post Office, Sydney, shall not exceed the number of racecourses so situate and in use for race-meetings within the three months next preceding the first day of August, one thousand nine hundred and six.

The number of licenses for racecourses situate within forty miles of the principal post office, Newcastle, shall not exceed the number of racecourses so situate and in use for race-meetings within the three months aforesaid.

Days of race-meetings.

30. Race-meetings may, subject to this Act, be held at racecourses situate within forty miles of the General Post Office, Sydney, or within forty miles of the principal post office, Newcastle, on Wednesdays, Saturdays, and public holidays, except Good Friday and Christmas Day, and on no other days: Provided that if, owing to unfavourable weather, the races appointed for any day have to be postponed, such race-meeting may be held on any other day within one week of such postponement.

Amendment of Principal Act.

Amendment of section 17 of Principal Act.

31. Section seventeen of the Principal Act is amended by inserting at the beginning of the section the following subsection:—

(1) No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof, betting with persons resorting thereto.

In this subsection "resorting thereto" includes applying by the agency of another person by letter, by telegram, or by any other means of correspondence.

Amendment of section 21 of the Principal Act.

32. After paragraph (a) of section twenty-one of the Principal Act the following paragraph is inserted:—

- (b) publishes in a newspaper the odds on any race to be run at a meeting for horse-racing or pony-racing.

Advisory

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Advisory board.

33. The Governor may appoint a board of not more than five persons to advise the Minister in matters relating to racecourses and race-meetings to be dealt with by him under this Act. Appointment of advisory board.

34. The owners, lessees, or trustees of licensed racecourses on which meetings for pony-racing are held, situate within forty miles of the General Post Office, Sydney, or of the principal post office, Newcastle, and the clubs, associations, and persons holding meetings for pony-racing at such racecourses may agree among themselves as to the days on which such meetings of the said respective clubs, associations, and persons may be held at the respective racecourses situate as aforesaid. If they fail so to agree, the matter as to which they disagree shall, at the request of any one of them, be determined by the said advisory board, and such determination shall be final and shall be carried out. Owners or trustees may agree as to days of meetings.

35. It shall be lawful for the Governor to make regulations for the purpose of carrying out the provisions of this Act. Regulations.

Recovery of penalties.

36. Penalties under this Act may be recovered in a summary way before a stipendiary or police magistrate or any two justices in petty sessions. Recovery of penalties.

SCHEDULE.

FORM A.

THAT on the _____ day of _____, at _____, A.B. was found in (*or on or entering or leaving*) a house (*or office or room or place*) which had been duly declared to be a common gaming house.

FORM B.

That on the _____ day of _____, at _____, A.B. was found in (*or on or entering or leaving*) land (*or a building*) used as a means of access to (*or of exit or escape from*) a house (*or office or room or place*) which had been duly declared to be a common gaming house.

FORM C.

That on the _____ day of _____, at _____, A.B. frequented, used, or was in a street for the purpose of betting.

FORM D.

That on the _____ day of _____, at _____, A.B. being [a bookmaker, or the agent, clerk, or servant of a bookmaker] made a bet in a street.
