

THE GAMBLING ACT

[BURMA ACT I, 1899] (22nd April, 1899)

I-2. * * * *

Interpreta-
tion clause.

3. In this Act, unless there is anything repugnant in the subject or context,—

“Common
gaming-
house.”

- (1) “common gaming-house” means any house, enclosure, room, place, vessel or vehicle, whether public or private, in which—
- (a) any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room, place, vessel or vehicle, whether by way of charge for the use of the instruments of gaming as such, or of the house, enclosure, room, place, vessel or vehicle, or otherwise howsoever for gaming purposes ; or where
- (b) the game of *ti* or any other game or pretended game of a like nature is carried on ;

“Gaming”
and “play-
ing.”

- (2) the words “gaming” and “playing” with their grammatical variations and cognate expressions, include taking part in the game of *ti* or in any other game or pretended game of a like nature, but do not include the promoting of or the taking part in any game of mere human skill, wherever played ;

“Instru-
ments of
gaming.”

- (3) the expression “instruments of gaming” means and includes—
- (a) any cards, dice, counters, coins, gaming-tables, gaming-cloth, gaming-boards or other articles devised or actually used for the purpose of gaming ;
- (b) any boxes, receptacles, lists, papers, tickets or forms used for the purpose of the game of *ti* or any other game or pretended game of a like nature ;

“Betting
office.”

- (4) the expression “betting office” means any house, enclosure, room, place, vessel or vehicle, whether public or private, which is used for wagering or betting upon any race, fight, game, sport or exercise, or for settling any such wagers or bets, or for receiving monies as an agent for wagering or betting upon any race, fight, game, sport or exercise, or for settlement by such agent with his principals on the result of such wager or bets ;

Provided that, where a race-meeting is held on any course under recognized racing rules, any house, enclosure, room or place—

- (a) used on such course for the purpose of making or taking wagers or bets upon any race on the day on which it is run and set apart in that behalf by the stewards controlling such meeting, or

- (b) used for the purpose of settling wagers or bets so made or taken, shall not merely on that account be deemed to be a betting office ;
- (5) " District Superintendent of Police " shall include any Assistant District Superintendent, Deputy Superintendent of Police or other person appointed by general or special order of the President of the Union to exercise the powers, and to perform the duties, of a District Superintendent of Police under this Act in any area. " District Superintendent of Police."

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Arrest without Warrant, etc., for Offence in Public Places

5. A police-officer may arrest without warrant any person who in any street or thoroughfare or place to which the public have access, and within the view of such police-officer — Power to arrest without warrant.

- (a) solicits or collects stakes for the game of *ti* or any other game or pretended game of a like nature ; or
- (b) Plays for money or other valuable thing with any instrument of gaming ; or
- (c) sets birds or animals to fight ; or
- (d) being there present, aids and abets such public fighting of birds or animals, or
- (e) commits an offence punishable under clause (d) of section 10.

And such police-officer may seize all instruments of gaming or anything which under the provisions of section 6A may be seized in a betting office found in such place or on the persons of those whom he shall so arrest. Power to seize instruments of gaming.

Searches of, and Arrests in, Common Gaming-houses, etc.

6. (1) If the District Magistrate or any Sub-divisional Magistrate or Magistrate of the first class, or a Magistrate of the second class specially empowered by the President of the Union in this behalf, or the District Superintendent of Police, on credible information or on other sufficient grounds, has reason to believe that any house, enclosure, room, place, vessel or vehicle is used as a common gaming-house, he may, after recording in writing such information or grounds, either himself do any of the following acts, or by warrant authorize any officer of police not below the rank of sub-inspector or officer in charge of a police-station to— Power to enter and authorize police to enter and search suspected houses, etc.

- (a) enter, within seven days from the date thereof, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, enclosure, room, place, vessel or vehicle ; and

¹ Deleted by section 2 of R. C. Law XL, 1962.

- (b) take into custody all persons whom he finds therein, whether they are then actually gaming or not ; and
- (c) seize all instruments of gaming and all moneys 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
- (d) search all parts of the house, enclosure, room, place, vessel or vehicle 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 seize and take possession of all instruments of gaming found upon such search.

(2) No Magistrate or District Superintendent of Police recording the substance of the information or grounds of belief under sub-section (1) shall be bound to specify therein the name of any informer.

(3) All searches under sub-section (1) shall be made in accordance with the provisions of sub-section (3) of section 102 and of section 103 of the Code of Criminal Procedure.

(4) When any house, enclosure, room, place, vessel or vehicle is entered under sub-section (1) by a police-officer, he shall immediately after the completion of the proceedings under the sub-section, submit a report of such proceedings together with the warrant (if any) to a Magistrate who has jurisdiction to take cognizance of any offence which appears to have been committed and take or send to such Magistrate the persons arrested and articles seized :

Provided that the police-officer may release the persons so arrested on bail or on their own recognizances conditioned to appear before such Magistrate, and, unless he produces such persons before a Magistrate within three hours from the arrest, he shall release them on such bail or recognizances as may be reasonably sufficient :

Provided also that, if no persons are arrested, the police-officer shall submit a report of his proceedings to the Magistrate who issued the warrant, if any.

Power to enter and search betting offices.

6A. (1) The District Magistrate or the District Superintendent of Police, or, when duly authorized by warrant issued by either of such officers, any police-officer not below the rank of officer in charge of a police-station, may, by day or by night, enter and search, with such assistance as may be necessary, any house, enclosure, room, place, vessel or vehicle which is reasonably believed to be used as a betting office, and seize any tickets, coupons, registers, books, or other documents found therein and used or intended to be used, or reasonably suspected to be used, as a record or evidence of any wager or bet upon any race, fight, game or exercise.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of sub-section (3) of section 102 and of section 103 of the Code of Criminal Procedure.

(3) No warrant issued under sub-section (1) shall be executed after the expiry of seven days from the date thereof.

(4) When any house, enclosure, room, place, vessel or vehicle is entered under sub-section (1) by a police-officer other than the District Superintendent of Police, he shall, immediately after the completion of the proceedings under that sub-section, submit a report to the District Magistrate or, if the warrant was issued by the District Superintendent of Police, to that officer.

Special Rules of Evidence, etc.

7. When any instrument of gaming are found in any house, enclosure, room, place, vessel or vehicle, entered under the provisions of section 6, or about the person of any of those who are found therein, it shall be presumed, until the contrary is proved, that such house, enclosure, room, place, vessel or vehicle 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 by any one aiding in the entry.

Presumption upon instruments of gaming being found in places entered under Act.

8. It shall be lawful for the Magistrate, before whom any persons are accused of an offence under section 10, 11, 12 or 13, to require any such persons to give evidence touching any unlawful gaming, or touching anything done with reference to, or in furtherance of, any unlawful gaming, or touching any act done for the purpose of preventing, obstructing or delaying the entry into any house, enclosure, room, place, vessel or vehicle, or any part thereof, of any Magistrate or officer authorized to make such entry.

Magistrate may require any person accused of offence under Act to give evidence.

9. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined (under section 8 or otherwise) as a witness before a Magistrate on the trial of any person for an offence under this Act, 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 thereby be absolved from punishment for any offence under this Act committed by him during such gaming.

Witnesses to be absolved from punishment.

Penalties

10. Any person who in any street or throughfare, or place to which the public have access—

- (a) plays for money or other valuable thing with any instrument of gaming ; or
- (b) sets any birds or animals to fight ; or
- (c) being there present, aids and abets such public fighting of birds or animals ; or

Penalty for gaming, or setting birds or animals to fight, in public streets.

- (d) in any local area to which the President of the Union may, by notification,¹ apply this clause, in any manner invites or encourages any person to wager or bet on any race, fight, game, sport or exercise;

shall be liable to a fine not exceeding fifty rupees, or to imprisonment for any term not exceeding one month.

Penalty for playing or being in a gaming-house.

11. Whoever plays in any common gaming-house, or is there present for the purpose of gaming, whether or not actually playing, shall be liable for a first offence to a fine not exceeding one hundred rupees, or to imprisonment for any term not exceeding one month, and for a subsequent offence to a fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding two months.

Penalty for owning or keeping or having charge of a gaming-house.

12. Whoever—

- (a) being the owner or occupier, or having the use, of any house, enclosure, room, place, vessel or vehicle, opens, keeps or uses the same as a common gaming-house; or
- (b) being the owner or occupier of any house, enclosure, room, place, vessel or vehicle, knowingly permits the same to be opened, used or kept as a common gaming-house; or
- (c) has the care or management of, or in any manner assists in conducting, the business of any common gaming-house; or
- (d) advances or furnishes money for the purpose of gaming with persons frequenting any common gaming-house;

shall be liable for a first offence to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, and for a subsequent offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months.

Penalty for conducting game of *ti* and like games.

13. Whoever—

- (a) conducts or assists in conducting the game of *ti*, or any other game or pretended game of a like nature, as manager, stake-holder or *daing*; or
- (b) is according to the rules of the game or pretended game entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes after deducting the amount payable to the successful player or players; or
- (c) promotes the game or pretended game by soliciting or collecting stakes or otherwise;

shall be punished with imprisonment for a term which may for a first offence extend to six months, and for a subsequent offence to two years, or with fine, or with both.

¹ The provisions of clause (d) of section 10 have been applied to Rangoon town; see *Burma Gazette*, 1920, Part 2, page 359.

13A. Any person who—

- (a) opens, keeps, manages or assists in the management of a betting office, or
- (b) being the owner or occupier or having the use of any house, enclosure, room, place, vessel or vehicle, knowingly permits the same to be opened, kept or used as a betting office,

Penalty for keeping, managing or owning a betting office.

shall be liable for a first offence to a fine not exceeding five hundred rupees, or to imprisonment for any term not exceeding three months, and for a subsequent offence to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months.

Bar to Prosecutions in certain Cases

14. No Court shall try an offence—

- (a) under section 10 or section 11 unless a complaint or a report or information in respect thereof has been made or given to, or cognizance thereof has been taken by, a Magistrate within seven days of the date of the alleged commission of the offence, or
- (b) under section 12 or section 13 or section 13A unless a complaint or a report or information in respect thereof has been made or given to, or cognizance thereof has been taken by, a Magistrate within one month of the date of the alleged commission of the offence.

Bar to prosecutions in certain cases.

Destruction of Instruments of Gaming and Disposal of Valuables seized

15. (1) On the conviction of any person for an offence under section 11, 12 or 13 committed in any common gaming-house entered under the provisions of section 6, the convicting Magistrate may order any instruments of gaming found therein to be destroyed, and may also order any other articles seized 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 of such articles and the whole or any part of such moneys to be returned to the persons appearing to have been severally thereunto entitled.

Convicting Magistrate may order destruction of cards, etc., and forfeiture of valuables, etc., seized.

(2) On the conviction of any person for an offence under clause (a) of section 10 or under sections 11, 12 or 13, the convicting Magistrate may order all instruments of gaming seized under section 5 to be destroyed or forfeited.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 10, 11, 12, 13 and 13A, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to any person who has contributed in any way to the conviction.

Portion of fine may be paid as rewards.

Security for Good Behaviour

17. Whenever a District Magistrate, Sub-divisional Magistrate, or, when he is specially empowered in this behalf by the President of the Union, a Magistrate of the first class, receives information that any person within the

Power to demand security.

local limits of his jurisdiction earns his livelihood, wholly or in part, by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure, and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

1“ THE SPECIAL JUDGES ACT, 1946. *

[BURMA ACT IX, 1946.] (17th April, 1946)

WHEREAS it is expedient to provide for the appointment of Special Judges for the trial of offences and to define their jurisdiction and powers ;

* * * * *

It hereby enacted as follows :—

Short title
and duration

1. (1) This Act may be called the Special Judges Act, 1946.

(2) It shall remain in force until the President of the Union, by notification, declares it to be no longer in force, and such notification may declare it to be no longer in force throughout the whole of the Union of Burma or throughout any local area or local areas specified in the notification.

Interpreta-
tion.

2. In this Act—

(a) “ Code ” means the Code of Criminal Procedure ;

(b) “ High Court ” means the [High Court]¹ ;

(c) the expression “ Special Judge ” includes “ Special Judges ” in areas where more than one Special Judge is appointed to exercise powers under this Act.

Appointm^{ent}
of Special
Judges.

3. (1) All Sessions Judges and Additional Sessions Judges appointed under section 9 of the Code, shall, by virtue of their office, be Special Judges.

(2) The President of the Union may appoint any other person qualified under sub-section (5) to be a Special Judge and may define the territorial limits of the jurisdiction of such Special Judge.

(3) A Special Judge may be appointed for the trial of a particular accused person or persons, and the President of the Union may direct that for the trial of any person or persons two or more Special Judges shall sit together as a Bench.

(4) The place of sitting of a Special Judge appointed to a Sessions Division shall be decided by the Sessions Judge.

(5) Any person who has for at least two years exercised the powers of a Magistrate of the first class, or is an Advocate of the High Court or a Pleader of the Higher Grade of at least five years' standing, may be appointed a Special Judge.

* Published in Judicial Department Notification No. 203, dated 17th April 1946 (*Burma Gazette*, 1946, Part I, page 270).

¹ Substituted for the words “ High Court of Judicature at Rangoon ” by the Union of Burma (Adaptation of Laws) Order, 1948.

¹ ပြည်သူ့တရားသူကြီးအဖွဲ့ ဥပဒေပုဒ်မ ၈၃ ၏ ရုပ်သိမ်းသည်။