

# Gaming Act 1959

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Gaming Act 1959,

Being an act relating to lotteries, games and wagers, to be incorporated and read as one with the *Criminal Code* 1974.

PART I.—PRELIMINARY.

## [xxxxix]1. Interpretation.

In this Act, unless the contrary intention appears—

"common gaming-house" means a house, office, room or place in which an unlawful game is played;

"lottery" means a scheme for distributing prizes by lot or chance;

"place" includes—

- (a) any place, whether in or out of an enclosed or partially enclosed building, vessel or premises, on land or water and whether private property or otherwise; and
- (b) a vehicle;

"unlawful game" includes—

- (a) any of the games known as or called "fan-tan", "fan-tan-troy", "troy", "pak-a-pu", "two-up", "heading them", "sin-ki-loo", "tray-bit-peter", "Yankee grab", "hazard", "pitch-and-toss", "banker", "red-and-white", "roulette", "baccarat", "crown and anchor", "ace of hearts", "ins-and-outs", "mina dina", "back-gammon", "*laki*", "*satu*" and "*kuk*"; and
- (b) a game played for money or money's worth with cards, dice, balls, slot machines, counters or other instruments or implements ordinarily used in gaming; and
- (c) a game in which—
  - (i) a bank is kept by one or more of the players exclusively of the others; and
  - (ii) the chances are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed or against whom the other players stake, play or bet; and
- (d) a game declared under Section 2 to be an unlawful game.

2. Declaration of unlawful games.

The Head of State, acting on advice, may, by notice in the National Gazette, declare any game to be an unlawful game.

PART II.—EXCEPTIONS.

[xc]3. **Excepted lotteries, etc.**

(1) This Act (other than Section 15) and Sections 233 and 234 of the *Criminal Code 1974* do not apply to—

(a) a lottery conducted on a racecourse with reference to a horse-race by the managing body of a racing club, the tickets for which are sold only on the racecourse and only on the day of the race; or

(b) the use or conduct during a horse-race meeting of—

(i) an instrument or contrivance usually or commonly known as a totalizator; or

(ii) a scheme for the subscription and distribution of moneys in a manner similar to that by which moneys are subscribed and distributed by means of a totalizator,

on a racecourse by the managing body of a racing club; or

(c) wagers on a sporting event (other than a horse-race) approved—

(i) where it is intended to hold the sporting event in the National Capital District—by the Manager of the National Capital District Commission; or

(ii) where it is intended to hold the sporting event in a province—by—

(A) the person appointed to give such approval by or under an Act of that province; or

(B) where no such person has been appointed—the Provincial Administrator of that province; or

(d) a lottery approved—

(i) where it is intended to sell tickets for the lottery in the National Capital District—by the Manager of the National Capital District Commission; or

(ii) where it is intended to sell tickets for the lottery in a province—by—

(A) the person appointed to give such approval by or under an Act of that province; or

(B) where no such person has been appointed—the Provincial Administrator of that province.

(2) Any person may appeal against the grant or refusal of approval under Subsection (1)(c) or (d)—

(i) in the case of the grant or refusal of approval by the Manager of the National Capital District Commission—to the Minister; or

(ii) in the case of the grant or refusal of approval by the person appointed by or under an Act of a province or the Provincial Administrator of a province to—

(A) the body or person appointed to hear the appeal by or under an Act of that province; or

(B) where no such body or person has been appointed—the Provincial Executive Council of that province.

(3) The decision on an appeal under Subsection (2) is final.

### PART III.—LOTTERIES.

#### [xci]4. **Offences in relation to lotteries.**

Subject to Part II, a person who—

(a) establishes, commences, is a partner in, manages, conducts or assists in managing or conducting, a lottery; or

(b) sells or disposes of, or endeavours to sell or dispose of, a ticket or other means by which permission or authority is gained or given to a person to throw for, or to compete or have an interest in, a lottery; or

(c) prints, publishes or exhibits, or causes to be printed, published or exhibited, a ticket, chance or share for, in or of a lottery, or an advertisement, sign or other notice—

(i) of or relating to the drawing or intended drawing of a lottery; or

(ii) of or for the sale of a ticket, chance or share for, of or in a lottery; or

(iii) concerning or relating to lotteries in general or a particular lottery or a ticket, chance or share for, of or in a lottery,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding eight months, or both.

#### PART IV.—BETTING TAX.

##### 5. Tax on wagers on horse-races.

(1) Subject to Subsection (2), where a lottery referred to in Section 3(1)(a), or a totalizator or scheme referred to in Section 3(1)(b), is used or conducted with reference to a horse-race in accordance with that paragraph, the gross takings shall be distributed as follows:—

(a) 5% shall be paid to the State; and

(b) not more than 10% may be retained by the racing club for club funds and to defray expenses; and

(c) not less than 85% shall be paid out in prize-money.

(2) Subsection (1) does not apply to a lottery, totalizator or scheme referred to in that subsection where, of the gross takings—

(a) not less than one-third is expended for a social, charitable, educational, religious or other purpose approved by the Provincial Administrator of the province in which the horse-race is held; and

(b) the balance is distributed as prize-money.

(3) A person who uses or conducts a lottery, totalizator or scheme to which this section applies, otherwise than in accordance with this section, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(4) The amount payable to the State under Subsection 1(a) is recoverable by the State from the person using or conducting the lottery, totalizator or scheme as a debt.

#### PART V.—GAMING AND WAGERING.

##### 6. Entry and search of gaming-house.

(1) On oath that—

(a) there is reason to suspect that a house is kept or used as a common gaming-house; and

(b) it is commonly reported and believed by the deponent to be so,

a justice may, by special warrant under his hand and seal, authorize a commissioned officer of the Police Force—

(c) to enter into the house and;

(d) to arrest, search, and bring before a District Court all persons found in it; and

(e) to seize all tables, instruments of gaming, moneys and securities for money found in it.

(2) A commissioned officer of the Police Force authorized under Subsection (1) may—

(a) if in his opinion it is necessary, obtain assistance and use force, whether by breaking open doors or otherwise, for making the entry; and

(b) search all parts of the house where he suspects that tables, instruments of gaming, money or securities for money are concealed.

(3) A special warrant under this section shall be in the prescribed form.

7. Billiard-rooms, etc.

A commissioned officer of the Police Force may enter into a house where a public table or board is kept for playing at billiards, bagatelle, bowls, fives, racquets, quoits, skittles or ninepins or a similar game when and so often as he thinks proper.

8. Keeping common gaming-houses, etc.

(1) A person who—

(a) owns or keeps, or has the care or management of, a common gaming-house; or

(b) acts as banker, croupier or in any other manner in conducting a common gaming-house,

is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

(2) A person found in a common gaming-house without lawful excuse is guilty of an offence.

Penalty: A fine not exceeding K50.00.

(3) On the conviction of a person under Subsection (1) as the owner or keeper, or the person having the care of or management of, a common gaming-house, any money and securities for money seized in the gaming-house shall be forfeited to the State.

(4) A District Court before whom a person is brought by virtue of a special warrant may direct all tables and instruments of gaming seized under it to be immediately destroyed.

(5) It is not a defence for a person charged with an offence against this section of keeping or having the care or management of a common gaming-house to prove that he kept or had the care or management of the house without the knowledge, consent or authority of the owner or the person lawfully entitled to the possession or occupation of the house, office, room or place alleged to constitute the common gaming-house.

9. Evidence that a place is a common gaming-house.

(1) On an information alleging that a place is a common gaming-house it is sufficient to prove—

(a) that it is kept or used for playing an unlawful game in it; or

(b) that an unlawful game has been played in it.

(2) A place referred to in Subsection (1) shall, even if open for the use of subscribers only, or not open to all persons who want to use it, be deemed to be a common gaming-house within the meaning of this Act and all Acts containing any provision against unlawful games or gaming-houses.

10. Evidence of playing for money, etc.

It is not necessary in support of an information—

(a) for gaming in; or

(b) for suffering any games or gaming in; or

(c) for keeping or using or being concerned in the management or conduct of,

a common gaming-house to prove that a person found playing at a game was playing for any money, wager or stake.

11. Effect of discovery of instruments of gaming.

Where a house suspected to be used as a common gaming-house is entered under a warrant under this Act, the discovery in it, or about the person of any of those found in it,

of cards, dice, balls, counters, tables or other instruments of gaming used in playing an unlawful game is admissible as evidence—

(a) that the house is used as a common gaming-house; or

(b) that the persons found in the room or place where the table or instruments were discovered were playing in it,

although no play was actually going on in the presence of the member of the Police Force or his assistants entering under the warrant.

#### 12. Protection of witnesses.

(1) This section applies to a person concerned in unlawful gaming who is examined as a witness by or before a District Court, or on the trial of an indictment or information against the owner or keeper, or other person having the care or management of, a common gaming-house, concerning the unlawful gaming.

(2) If a person to whom this section applies receives from the court or Judge by or before whom he is examined a written certificate to the effect that he has made true and faithful discovery to the best of his knowledge of all things as to which he has been examined, he is freed from all criminal prosecutions, forfeitures, punishments and disabilities to which he became liable in respect of any thing done before that time in respect of the unlawful gaming.

#### 13. Cheating at cards or games.

A person who by any fraud, unlawful device or ill-practice—

(a) in playing at or with cards, dice, tables, or other games; or

(b) in bearing a part in the stakes, wagers, adventures, or in betting on the sides or hands of a player; or

(c) in wagering on the event of a game, sport, pastime or exercise,

wins from a person to himself or others a sum of money or valuable thing shall be deemed to be guilty of obtaining the money or valuable thing from that person by a false pretence with intent to cheat and defraud that person of the money or thing.

#### 14. Proceedings for contracts by way of gaming.

(1) Subject to Subsection (3), a contract or agreement, whether by parol or in writing, by way of gaming or wagering is null and void.

(2) Proceedings shall not be brought or maintained in any court for recovering a sum of money or valuable thing—

(a) alleged to be won on a wager; or

(b) that has been deposited in the hands of a person to abide the event on which a wager has been made.

(3) Subsection (1) does not apply to a subscription or contribution or agreement to subscribe or contribute for or towards a plate, prize or sum of money to be awarded to the winner of a lawful game, sport, pastime or exercise.

#### PART VI.—MISCELLANEOUS.

##### 15. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

(a) the conditions to be complied with in relation to the use or conduct of a lottery or totalizator or in relation to wagers referred to in Section 3; and

(b) the furnishing of returns by persons using or conducting lotteries or totalizators, or taking wagers, referred to in Section 3, and by other persons connected with any such person; and

(c) penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding three months for offences against the regulations.

[lxxxix]**Amended by No. 28 of 1979, s1.**

[xc]**Replaced by No. 28 of 1979, s2.**

[xci]**Replaced by No. 28 of 1979, s3.**