

GAMING ORDINANCE 1922-1936.⁽¹⁾

An Ordinance Relating to Lotteries and Games and Wagers.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

PART I.—PRELIMINARY.

- 1.—(1.) This Ordinance may be cited as the *Gaming Ordinance 1922-1936*.⁽¹⁾ Short title.
Sub-section (1)
amended by
No. 3 of 1934,
s. 50.
- (2.) This Ordinance shall be consolidated and read as one with the First Schedule to the *Criminal Code Act 1899* of Queensland so long as that Schedule continues with or without amendment to be adopted as a law of the Territory. Consolidation.
2. This Ordinance shall commence on a day to be fixed by the Administrator by notice published in the *New Guinea Gazette*.⁽¹⁾ Commencement.
3. This Ordinance is divided into Parts as follows:— Parts.
- Part I.—Preliminary.
- Part II.—Lotteries.
- Part III.—Gaming and Wagering.
- Part IV.—Prosecutions.

(1) The *Gaming Ordinance 1922-1936* comprises the *Gaming Ordinance 1922*, as amended by the other Ordinance referred to in the following Table:—

TABLE.

PART I.—ORDINANCE MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which published in <i>Cwth. Gaz.</i>	Date on which took effect.
<i>Gaming Ordinance 1922</i> (No. 34 of 1922)	25.10.1922	27.10.1922	1.12.1922 (<i>N.G. Gaz.</i> of 30.11.1922)

PART II.—ORDINANCE OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Gaming Ordinance 1936</i> (No. 39 of 1936)	5.8.1936	14.11.1936	15.9.1936 (<i>N.G. Gaz.</i> of 15.8.1936)

CRIMINAL LAW—

Interpretation.
Q. 59 Vic.
No. 9, s. 4.

4. In this Ordinance unless the contrary intention appears—
- “House” used alone or in the term “gaming-house” includes a room, premises, or place.
- “Justice” means a justice of the peace.
- “Lottery” includes—
- (i) any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of any dice or the drawing of any tickets, cards, lots, numbers or figures or by means of any wheel or trained animal or otherwise howsoever; and
 - (ii) any transaction wherein any money or other property is received as or for the consideration for any assurance, undertaking, promise or agreement express or implied to pay give or distribute thereafter to or among any person or persons by lottery any money or other property on any event or contingency whatsoever, or as or for the consideration of securing the paying, giving or distributing by some other person of any money or other property on any event or contingency whatsoever; and
 - (iii) any scheme of the nature commonly known as a “sweep” or “consultation”.

“Police constable” includes any member of the New Guinea Police Force.

“Unlawful game” includes any game in which a bank is kept by one or more of the players exclusively of the others, and in which the chances are not alike favorable 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.

Q. Ib.

“Property” means any real or personal property whatsoever whether actual or being within or without the Territory or any right thereto or share or interest therein.

See Criminal
Code,
ss. 234, 235.

Unlawful to
establish,
commence, be
a partner in,
&c., any lottery.

Q. Ib. s. 5.

PART II.—LOTTERIES.

5. Any person who establishes, commences, or is a partner in or manages or conducts or assists in managing or conducting any lottery, shall be guilty of an offence.

Gaming Ordinance 1922-1936.

6. Any person who sells or disposes of or endeavours to sell or dispose of any ticket or other means by which permission or authority is gained or given to any person to throw for, compete or have any interest in any lottery, shall be guilty of an offence.

Unlawful to sell tickets for any lottery.
Q. 59 Vic. No. 9, s. 6.

7. Any person who sells or disposes of or endeavours to sell or dispose of or agrees or promises whether with or without consideration to sell or dispose of any property by lottery, shall be guilty of an offence.

Unlawful to sell or dispose of, &c., any property by lottery.
Q. Ib. s. 7.

8. Any person who prints, publishes, or exhibits, or causes to be printed, published, or exhibited, any ticket for or any advertisement, sign, or other notice of or relating to the drawing or intended drawing of any lottery, or of or for the sale of any ticket or chance of or in any lottery, or concerning or in any manner relating to lotteries in general or to any particular lottery, or to any ticket, chance, or share thereof or therein, shall be guilty of an offence.

Unlawful to print or publish ticket for or otherwise advertise lottery.
Q. Ib. s. 10.

9.—(1.) Any person who offends against any of the foregoing provisions of this Ordinance shall be liable on conviction to imprisonment for any time not exceeding six calendar months or to a fine not exceeding One hundred pounds, or to both imprisonment and fine.

Penalty.
Q. Ib. s. 11.

(2.) Nothing in this Ordinance shall prevent any proceedings under the provisions of the Criminal Code or any other enactment relating to crimes against any person who opens keeps or uses any place for carrying on a lottery; but no person shall be proceeded against under those provisions and also under this Ordinance for the same offence.

PART III.—GAMING AND WAGERING.

See Criminal Code, ss. 232, 233.

10.—(1.) Any justice upon complaint made on oath that there is reason to suspect any house to be kept or used as a common gaming-house, and that it is commonly reported and believed by the deponent so to be, may by special warrant under his hand and seal authorise any police constable to enter into such house and arrest, search, and bring before any two justices all persons found therein, and seize all tables, instruments of gaming, moneys and securities for money found therein.

Powers to enter and search gaming-house under special warrant.
Q. 14 Vic. No. 9, s. 1; N.S.W. 18 of 1902, s. 4.

(2.) Every police constable so authorised may if necessary obtain assistance and use force, whether by breaking open doors or otherwise for making such entry, and may search all parts of such house, where he suspects that tables, instruments of gaming, moneys or securities for money are concealed.

(3.) Every special warrant shall be in the form contained in the Schedule hereto or to the like effect.

Billiard-rooms,
&c.
N.S.W. 13 of
1902, s. 5.

11. Any European police constable may enter into any house where a public table or board is kept for playing at billiards, bagatelle, bowls, fives, racquets, quoits, skittles, or ninepins or any game of the like kind when and so often as he thinks proper.

Owners,
managers, &c.,
of gaming-
houses liable
to fine of £100
or imprisonment
for six months.
N.S.W. Ib.
s. 1.

12.—(1.) Any person who owns or keeps or has the care or management of a common gaming-house, or who acts as banker, croupier, or in any manner in conducting a common gaming-house, shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment not exceeding six months.

Persons found
in a gaming-
house liable to
fine.

(2.) Any person found in a common gaming-house without lawful excuse shall be guilty of an offence.

N.S.W. Ib.
s. 5.

Penalty: Five pounds.

Forfeiture of
moneys, &c.,
seized.

(3.) Upon the conviction of any person under sub-section (1.) of this section as the owner or keeper, or person having the care of or management of a common gaming-house, all the moneys and securities for money seized in the gaming-house shall be forfeited.

N.S.W. Ib.

(4.) The justices before whom any person is brought by virtue of a special warrant may direct all tables and instruments of gaming seized thereunder to be forthwith destroyed.

Forfeiture of
gaming
instruments.
Q. 14 Vic. No. 9,
s. 4; N.S.W.
Ib. s. 4.

13. Nothing herein contained shall prevent any proceeding under the provisions of the Criminal Code or other enactment relating to crimes, against the owner or keeper or other person having the care or management of any gaming-house or any room premises or place for gaming; but no person shall be proceeded against under those provisions and also under this Ordinance for the same offence.

Offenders may
be proceeded
against by
indictment.
N.S.W. Ib.
s. 7.

14.—(1.) Upon a complaint alleging that any house is a common gaming-house or place for gaming it shall be sufficient to prove that the house is kept or used for playing therein at any unlawful game, or that an unlawful game has been played therein.

Evidence that
a house is a
gaming-house.
N.S.W. Ib.
s. 8.

(2.) Every such house shall, even if open for the use of subscribers only, or not open to all persons desirous of using the same, be deemed a common gaming-house or place for gaming within the meaning of this Ordinance and all Ordinances containing any provision against unlawful games or gaming-houses.

Not necessary
to prove that
a person was
found playing
for money, &c.
N.S.W. Ib.
s. 9.

15. It shall not be necessary in support of any complaint for gaming in, or suffering any games or gaming in, or for keeping or using or being concerned in the management or conduct of a common gaming-house or place of gaming, to prove that any person found playing at any game was playing for any money, wager, or stake.

16. Whenever any house suspected to be used as a common gaming-house or place for gaming is entered under a warrant under the provisions of this Ordinance the discovery therein or about the person of any of those found therein of cards, dice, balls, counters, tables, or other instruments of gaming used in playing any unlawful game shall be admissible in evidence—

Effect of discovery of instruments of gaming.
N.S.W. 18 of 1902, s. 4.

- (a) that the house is used as a common gaming-house; and
- (b) that the persons found in the room or place where such table or instruments were discovered were playing therein, although no play was actually going on in the presence of the police constable entering under such warrant or his assistants.

17. Every person concerned in any unlawful gaming who is examined as a witness by or before justices, or on the trial of any indictment or information against the owner or keeper or other person having the care or management of any common gaming-house or place for gaming, touching such unlawful gaming, shall, if he receives from the justices or Judge by or before whom he is examined a certificate in writing 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, be freed from all criminal prosecutions, forfeitures, punishments, and disabilities to which he may have become liable for anything done before that time in respect of such unlawful gaming.

Protection of witnesses.
N.S.W. Ib. s. 11.

18. Whosoever 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 any player; or
- (c) in wagering on the event of any game, sport, pastime or exercise,

Cheating at cards or games.
N.S.W. Ib. s. 12.

wins from any person to himself or others any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such person by a false pretence with intent to cheat and defraud such person of the same, and being convicted thereof shall be punished accordingly.

Avoidance of Contracts.

19. All contracts or agreements whether by parole or in writing by way of gaming or wagering shall be null and void, and no suit shall be brought or maintained in any court for recovering any sum of money or valuable thing alleged to be won upon any wager or which has been deposited in the hands of any person to abide the event on which any wager has been made:

Actions not to lie for contracts by way of gaming.
N.S.W. Ib. s. 19.

CRIMINAL LAW—

Saving of subscriptions towards prizes.

Provided always that this enactment shall not be deemed to apply to any subscription or contribution or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport, pastime, or exercise.

PART IV.—PROSECUTIONS.

Saving. Substituted by No. 39 of 1936, s. 3.

20. Neither the provisions of this Ordinance nor the provisions of sections two hundred and thirty-three and two hundred and thirty-four of the Criminal Code of Queensland in its application to the Territory shall apply to—

- (a) any lottery for prizes other than money conducted at any bazaar or entertainment at which the Administrator has authorised in writing the holding of lotteries the proceeds of which are intended to be appropriated exclusively to the purposes approved in writing by the Administrator;
- (b) any lottery conducted with reference to a horse race by the managing body of a racing club on a racecourse, the tickets for which are sold only on the racecourse and only on the day of the race;
- (c) the use or conduct of any instrument or contrivance usually or commonly known as a totalizator, or of any 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 during a race meeting; or
- (d) any lottery approved by the Administrator by notice in the *New Guinea Gazette*.

SCHEDULE.

Section 10. N.S.W. 18 of 1902. Second Schedule.

SPECIAL WARRANT.

Territory of New Guinea to wit. }

TO THE POLICE CONSTABLE.

Whereas it appears to me [J.P.] one of the Justices of the Peace for the Territory of New Guinea by the information on oath of of in the of that the house [room premises or place] known as

Gaming Ordinance 1922-1936.

[here insert a description of the house room premises or place by which it may be readily known and found] is kept and used as a common gaming-house or place for gaming within the meaning of the *Gaming Ordinance 1922*: This is therefore in the name of the King—to require you with such assistants as you may find necessary to enter into the said [house room premises or place] and if necessary to use force for making such entry whether by breaking open doors or otherwise and there diligently to search for all instruments of unlawful gaming which may be therein and to arrest search and bring before me or some other of the Justices of the Peace for the said Territory as well as the keepers of the same as also the persons there haunting resorting and playing to be dealt with according to law and for so doing this shall be your warrant.

(L.S.) Given under my hand and seal at this
day of one thousand nine hundred
and

J.P.

CRIMINAL LAW—