

No. 17 of 1889.

An Ordinance relating to Gaming.

Preamble.

WHEREAS it is expedient that the law should be made more efficient for the suppression of unlawful gaming and of common gaming places: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title and commencement.

1 This Ordinance may be cited as "The Gaming Ordinance, 1889;" and it shall come into operation at such date as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.

Repeal.

2 From and after the coming into operation of this Ordinance, sub-section 4 of section 4 and the whole of sections 16, 17, 19, and 20 of the Ordinance No. 4 of 1841, intituled "An Ordinance to amend the Laws relating to Vagrants," shall be repealed.

Proviso.

Provided that such repeal shall not affect the past operation of, or any liability, penalty, forfeiture, or punishment incurred under, any enactment hereby repealed, or any investigation or legal proceeding in respect of any such liability, penalty, forfeiture, or punishment as aforesaid.

Gaming.

3 For the purposes of this Ordinance, "unlawful gaming" shall include— Interpretation
"Unlawful gaming,"

- (1) Cock-fighting, whether for a stake or not, and whether practised publicly or privately;
- (2) The act of betting or of playing a game for a stake when practised—
 - (a) In or upon any path, street, road, or place to which the public have access, whether as of right or not; or
 - (b) In any premises in respect of which a license has been granted to distil, manufacture, sell, or possess arrack, rum, toddy, or any intoxicating liquor; or
 - (c) In or at a common gaming place as hereinafter defined.

"Place" shall include any house, office, room, or building, and any place or spot whether open or enclosed, and any ship, boat, or other vessel whether afloat or not, and any vehicle. "Place."

"Common gaming place" shall include any place kept or used for betting or the playing of games for stakes, and to which the public may have access with or without payment; and a place shall be deemed to be "kept or used" for betting or the playing of games for stakes, if it is so used even on one occasion only. "Common gaming place."

"Kept or used."

"Instruments or appliances of gaming" shall include cards, dice, balls, counters, tables, boards, or other instruments used in or for the purpose of gaming or betting, or for the playing of games of chance, or for the playing of games of mixed chance and skill. "Instruments or appliances of gaming."

4 Whoever commits unlawful gaming shall be punished with fine not exceeding one hundred rupees, or with rigorous imprisonment for a term which may extend to six months, or with both. Unlawful gaming.
Penalty.

5 Whoever—

- (a) Being the owner or occupier, or having the use temporarily or otherwise thereof, keeps or uses a place as a common gaming place; or Keeping a common gaming house.
- (b) Permits a place, of which he is owner or occupier, or of which he has the use temporarily or otherwise, to be kept or used by another person as a common gaming place; or Permitting to be kept.
- (c) Has the care or management of, or in any manner assists in the management of, a place kept or used as a common gaming place; Managing.

shall be punished with fine not exceeding five hundred rupees, or with rigorous imprisonment for a term which may extend to one year, or with both. Penalty.

Gaming.

Public servant
may arrest.

6 All headmen and police officers and all municipal and local board inspectors are authorized to arrest and to take before the police court having jurisdiction, any person whom he shall find committing the offence of unlawful gaming; and if he deem it advisable, to search such person so arrested, and to seize any instruments or appliances of gaming found with him or upon him or near him, and to carry the same before the police court having jurisdiction.

Search
warrant against
premises.

7 (1) A police magistrate, on being satisfied upon written information on oath, and after any further inquiry which he may think necessary, that there is good reason to believe that any place is kept or used as a common gaming place, may by warrant in the form A in the schedule to this Ordinance authorize any person therein named, or any police officer, with such assistance and by such means as may be necessary, by night or by day, to enter or go to such place and to search the same and all persons found therein, and to seize all instruments or appliances for gaming, and all money, securities for money, and other articles reasonably supposed to have been used or intended to be used for any game, which may be found in such place or on any such persons, and also to detain all such persons until they and the said place shall have been searched. If what is made by this Ordinance presumptive evidence of guilt applies to such place or to any person therein, every person found in such place shall be taken before a magistrate to be dealt with according to law.

(2) All instruments or appliances for gaming, money, securities for money, and other articles found in a common gaming place, or on any persons found therein or escaping therefrom, and which the magistrate is of opinion were used or intended to be used for any game, shall be declared by him to be forfeited to the Crown, and shall be dealt with accordingly.

Police
magistrate may
himself enter
and search.

8 (1) A police magistrate may himself do what he may under section 7 authorize a police officer to do, whenever such magistrate is competent to issue a warrant under the said section, and also in any of following cases (that is to say):

- (a) If any person has within the preceding six months been convicted of having kept or used as a common gaming place the place purposed to be entered; or
- (b) If the magistrate receives the required information orally, and either on oath or not on oath, under such circumstances that the object of a search would, in his opinion, be defeated by the delay necessary for reducing the information to writing.

Proviso.

Provided, however, that in the last case the name and address of the person giving such information is known to, or ascertained by, such magistrate before he acts upon such information.

False
information.

(2) Whoever in giving such oral information makes a statement which he knows or believes to be false, or does not believe to be true, shall be punished with simple or rigorous imprisonment for a term which may extend to twelve months.

Gaming.

9 A person found in a common gaming place, or found escaping therefrom on the occasion of its being entered under this Ordinance, or who is found in possession of any instrument or appliance of gaming on the occasion of being searched under section 6 or section 7, shall be presumed, until the contrary is proved, to be guilty of unlawful gaming.

Presumptive proof of unlawful gaming.

10 If any instruments or appliances for gaming are found in any place entered under this Ordinance, or upon any person found therein, or if persons are seen or heard to escape therefrom on the approach or entry of any magistrate, police officer, or person authorized to search such place, or if a magistrate, police officer, or other person having authority under this Ordinance to enter or go to such place is unlawfully prevented from, or obstructed or delayed in, entering or approaching the same or any part thereof, it shall be presumed, until the contrary is proved, that the place is a common gaming place, and that the same is so kept or used by the occupier thereof.

Presumptive proof against occupier.

11 In prosecutions for unlawful gaming, the charge to be framed under section 224 of the Criminal Procedure Code shall be in the form B prescribed in the schedule to this Ordinance, and the commitment on such charge shall be in the form C prescribed in the said schedule.

Charge for unlawful gaming.

12 In prosecutions for keeping a common gaming place, the charge to be framed under section 224 of the Criminal Procedure Code shall be in the form D prescribed in the schedule to this Ordinance, and the commitment on such charge shall be in the form C prescribed in the said schedule.

Charge for keeping a common gaming place.

13 Whenever it appears to a police magistrate upon the trial of any offence under this Ordinance that the place in or in respect of which the offence is alleged to have been committed is a common gaming place, and that the same is expressly fitted up and contrived for the purpose of being used as a common gaming place, the magistrate shall order the demolition of the special fittings and contrivances, and such order shall be in the form E in the schedule to this Ordinance. The demolition shall be effected by some public officer expressly ordered by the police magistrate to effect such demolition.

Police magistrate may order demolition of structural contrivances for facilitating gaming.

14 If in any prosecution for the offence of unlawful gaming it shall be alleged, and the magistrate has reason to believe, that the offence was committed in or upon any licensed premises referred to in sub-section 2 (b) of section 3, the person licensed in respect of such premises shall also be made a party accused; and the police magistrate shall, if he find that the offence was committed in or upon such licensed premises, and was wilfully permitted or countenanced by such licensed person, convict such licensed person of the said offence and sentence him to rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred rupees, or to both.

Owner of licensed premises liable for unlawful gaming carried on therein.

Gaming.

Licensed premises kept as a common gaming place.

15 If in any prosecution for the offence of keeping a common gaming place, the place alleged to have been kept as a common gaming place shall be any licensed premises as in the last preceding section mentioned, the person licensed in respect of such premises shall be made a party accused, and the police magistrate shall, if he find that the offence of keeping a common gaming place was committed in respect of such licensed premises with the acquiescence, permission, or connivance of such licensed person, convict such person of the said offence, and shall sentence him to rigorous imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred rupees, or to both. In case of a conviction of a licensed person under either this or the last preceding section, his license shall be thereby forfeited.

Examination of offenders.

16 (1) It shall be lawful for the magistrate before whom any persons shall be brought, who have been found in any place entered in pursuance of any authority granted under the provisions of this Ordinance, to require any of such persons to be examined on oath and give evidence touching any unlawful gaming in such place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such place or any part thereof of any magistrate, police officer, or other person authorized as aforesaid; and no person so required to be examined as a witness 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 in any wise relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness, who refuses to make oath accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person appearing as a witness before any magistrate or court in obedience to a summons, and refusing, without lawful cause or excuse, to be sworn or to give evidence, may by law be dealt with.

Indemnity to them.

(2) Every person so required to give evidence who shall in the opinion of the police magistrate make true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the police magistrate, stating that he has made a true and full discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

Persons charged may give evidence on their own behalf.

(3) Any person charged with an offence against this Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Gaming.

17 All offences under this Ordinance are hereby declared to be cognizable and bailable within the meaning of those terms as defined in section 3 of the Criminal Procedure Code, and shall be triable summarily by the police court, which is hereby authorized to inflict the penalties hereinbefore provided, anything in section 16 of the said Code to the contrary notwithstanding.

Offences under the Ordinance cognizable.

18 Nothing in this Ordinance contained shall be construed to make it an offence to play, whether for a stake or not, the games of billiards or bagatelle, or any game which is also an athletic exercise.

No offence to play billiards, bagatelle, &c.

19 The police magistrate may direct any fine or portion of any fine imposed and recovered under this Ordinance to be paid to the informer or informers.

Reward to informer.

20 No criminal prosecution of any person on account of any act purporting to have been done by virtue of the powers conferred by this Ordinance shall be commenced, except with the permission first obtained of the Attorney-General.

No person to be prosecuted for act done under the Ordinance, save with Attorney-General's permission.

21 No action for damages shall lie in any civil court for any act done by any person purporting to act under the provisions of this Ordinance, unless such act be first proved to have been done with express malice.

In civil actions express malice must be proved.

22 No rule framed under the provisions of any existing or future Ordinance relating to village communities for the prevention of "gambling" shall be held to be *ultra vires* on the ground that it conflicts with the provisions of this Ordinance.

Village tribunal rules saved from the operation of the Ordinance.

23 Nothing in this Ordinance contained shall be held to apply to or in any way to affect—

Ordinance not to apply to licensed hotels.

(a) Any resthouse in charge of a provincial road committee, or any proprietary club, if and so long as no promiscuous gaming takes place therein; or

(b) Any hotel duly licensed under any Ordinance or Ordinances for the time being in force regulating the licensing of hotels, so long as the license of such hotel continues in force.

Provided, however, that upon information received by the government agent of the province within which a hotel may be licensed that promiscuous gaming has on one or more occasions been carried on in such hotel, whether with the privity of the hotel-keeper or not, it shall be lawful for such government agent, after due inquiry held, and upon being satisfied of the truth of such information, to withdraw the license of such hotel, and such license shall, upon the publication of such withdrawal in the *Government Gazette*, be deemed and taken to be withdrawn, and shall be of no further force or effect.

Proviso.

Gaming.

SCHEDULE.

Form A.

- (a) Name and designation of person who is to execute warrant.
 (b) Name of place.
 (c) Signature of public officer issuing warrant.
 (d) Official designation of public officer issuing warrant.

To (a) _____.

Whereas credible information has been received by me that the offence of keeping a common gaming place is being committed at (b) _____.

This is to authorize and require you forthwith to enter and to search (b) _____, and to exercise all and singular the powers conferred upon you by this warrant and by the 7th section of the Ordinance No. 17 of 1889.

 (c) _____,
 (d) _____.

Form B.

- (a) Name and office of magistrate.
 (b) Name of accused.
 (c) Date of offence.
 (d) Name of place where offence occurred.
 (e) Signature of magistrate.

I, (a) _____, hereby charge you, (b) _____, as follows :

That you on or about the (c) _____, at (d) _____, unlawfully gamed and thereby committed an offence punishable under section 4 of Ordinance No. 17 of 1889.

 (e) _____,
 Police Magistrate.

Form C.

- (a) Name of province.
 (b) Date of conviction
 (c) Name of prisoner.
 (d) Name of magistrate.
 (e) Station of magistrate.
 (f) Terms of penalty to which prisoner has been sentenced.
 (g) Date of committal.
 (h) Signature of magistrate.

To the Fiscal of the (a) _____ Province.

Whereas on the (b) _____, (c) _____, prisoner in case No. _____, was convicted before me (d) _____, Police Magistrate, (e) _____, of the offence of { keeping a common gaming place } under section { $\frac{4}{5}$ } of the Ordinance No. 17 of 1889, and was sentenced to (f) _____.

This is to authorize and require you to receive the said (c) _____ into your custody, together with this warrant, and to carry the said sentence into execution according to law.

Given under my hand this (g) _____, 189 —.

 (h) _____,
 Police Magistrate.

Form D.

- (a) Name and office of magistrate.
 (b) Name of prisoner.
 (c) Date of offence.
 (d) Place where offence occurred.
 (e) Signature of magistrate.

I, (a) _____, hereby charge you, (b) _____, as follows :

That you on or about the (c) _____, at (d) _____, kept a common gaming place, and thereby committed an offence punishable under section 5 of Ordinance No. 17 of 1889.

 (e) _____,
 Police Magistrate.

Form E.

Order for the Removal of the Fittings of a Common Gaming Place.

- (a) Name of place.
 (b) Name of public officer designated.
 (c) Name of police magistrate.

Whereas it has been made to appear to me that the place (a) _____ is expressly fitted and contrived for the purpose of being used as a common gaming place, I do hereby direct and require you (b) _____ to demolish such special fittings and contrivances as per list annexed.

(c) _____,
 Police Magistrate.

18th December, 1889.