

THE PUBLIC GAMBLING ACT, 1867

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THE PUBLIC GAMBLING ACT, 1867

ACT NO. II OF 1867

[10th April, 1867]

**An Act to provide for the punishment of public gambling
and the keeping of common gaming houses in Bangladesh. ***

WHEREAS it is expedient to make provisions for the punishment of public gambling and the keeping of common gaming houses in Bangladesh;

Preamble

It is enacted as follows:—

¹[1. This Act may be called the Public Gambling Act, 1867 and shall extend to the whole of Bangladesh ²[except ³[a Metropolitan Area]].]

Short title and
extent

⁴[1A]. "gaming" includes wagering or betting except wagering or betting upon a horse-race, when such wagering or betting takes place—

Definitions

- (a) on the day of which such race is to be run,
- (b) in an enclosure which the Stewards controlling such race have, with the sanction of the Government, set apart for the purpose, and
- (c) (i) with a licensed bookmaker, or

* Throughout this Act, except otherwise provided, the words "Bangladesh", "Government" and "Taka" were substituted, for the words "East Pakistan", "Provincial Government" and "rupees" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ Section 1 was inserted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

² The words "except the Dhaka Metropolitan Area" were added by Schedule of the Dhaka Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976),.

³ The words "a Metropolitan Area" were substituted, for the words "the Dhaka Metropolitan Area" by Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978),.

⁴ Section 1 was re-numbered as section 1A by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(ii) by means of a totalisator as defined in section 14 of the
¹[* * *] Amusements Tax Act, 1922

but does not include a lottery.

"instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and

"common gaming house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever.

Power to
extend Act

2. It shall be competent to the Government whenever it may think fit, to extend, by notification to be published in the official Gazette, all or any of the sections of this Act to any city, town, or place in Bangladesh, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined.

Penalty for
owning or
keeping, or
having charge
of common
gaming house

3. Whoever, being the owner or occupier, or having the use, of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming house;

and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming house;

¹ The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure as aforesaid, opened, occupied, used or kept for the purpose aforesaid;

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure,

shall be liable, on conviction before any Magistrate to a fine not exceeding two hundred taka, or to imprisonment of either description, as defined in the ¹[Penal Code] for any term not exceeding three months.

4. Whoever is found in any such house, tent, room, space, or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred taka or to imprisonment of either description, as defined in the ¹[Penal Code], for any term not exceeding one month; and any person found in any common gaming house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Penalty for being found in common gaming house

5. If the Magistrate of a district or other officer invested with the full powers of a Magistrate or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming house,

Power to enter and authorise police to enter and search

he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the Government shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary,

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether or not such person may be then actually gaming;

and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money, 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 may search or authorise such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses to be evidence that they are common gaming houses

6. When any cards, dice, gaming table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure 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 person acting under the authority of either of them.

Penalty for giving false name or address

7. If any person found in any common gaming house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required

by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred taka, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. On conviction of any person for keeping or using any such common gaming house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming 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 part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Destruction of instruments of gaming

9. It shall not be necessary, in order to convict any person of keeping a common gaming house, or of being concerned in the management of any common gaming house, to prove that any person found playing therein at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary

10. [*Repealed by the Bengal Public Gambling (Amendment) Act, 1913 (Act No. IV of 1913).*]

11. A police officer may apprehend without warrant any person found gaming in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

Gaming and setting birds and animals to fight in public streets

or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

or any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty taka, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month,

and such police officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

Exemption of games of mere skill.

¹[**11A.** Nothing in this Act shall apply to any game of mere skill, wherever played.]

Offences by whom triable

12. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1898 as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence

13. Whoever, having been convicted of an offence punishable under this Act, shall be guilty of any such offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Provided that he shall not be liable in any case to a fine exceeding six hundred taka, or to imprisonment for a term exceeding one year.

14. [Omitted by the Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

Application of definition of "offence" in Penal Code

15. Anything made punishable by this Act shall be deemed to be an "offence" within the meaning of the ²[Penal Code].

16. [Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

17. [Repealed by the Amending Act, 1903 (I of 1903).]

¹ Section 11A was inserted by the Bengal Public Gambling (Amendment) Act, 1913 (Act No. IV of 1913).

² The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).