

CHAPTER 59

GAMING

Ordinances AN ORDINANCE TO PROVIDE FOR THE MORE EFFICIENT SUPPRESSION OF UNLAWFUL
Nos. 17 of 1889, GAMING AND OF COMMON GAMING PLACES.
37 of 1917,
3 of 1946,

Acts
Nos. 26 of 1957,
48 of 1961.

[30th June, 1890.]

Short title. 1. This Ordinance may be cited as the Gaming Ordinance.

Unlawful gaming an offence. 2. 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.

Keeping, permitting to be kept, or managing a common gaming place an offence. 3. 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
(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
(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,

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.

Power to prohibit the importation of certain instruments or appliances. [§2, 26 of 1957.] 3A. (1) The Minister may, by Order published in the Gazette, prohibit the importation into Sri Lanka of any instrument or appliance that may be used for the playing of any game of chance or of mixed chance and skill.

(2) The provisions of this section shall be read and construed as one with the Customs

Ordinance, and, for the purpose of the application of that Ordinance, any instrument or appliance the importation of which is prohibited by Order made under subsection (1) shall be deemed to be goods the importation of which is prohibited by enactment.

(3) No Order made by the Minister under subsection (1) shall come into force until it has been approved by Parliament.

3B. (1) No person shall possess or manufacture any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A.

Prohibition of the possession or manufacture of instruments or appliances the importation of which is prohibited. [§2.26 of 1957.] [§2.48 of 1961.]

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

3C. (1) Where in any proceedings in any court it has to be determined whether any instrument or appliance is an instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, a certificate under the hand of the officer who is or is acting as, the Government Factory Engineer to the effect that the first-mentioned instrument or appliance is an instrument or appliance the importation of which is prohibited by such Order shall be received in those proceedings as conclusive evidence of the facts stated therein.

Conclusive evidence of the fact that an instrument or appliance is one the importation of which is prohibited by Order made under subsection(1) of section 3A. [§3.48 of 1961.]

(2) The officer who issues a certificate under subsection (1) shall not be examined or cross-examined with respect to that certificate.

(3) Every certificate issued under subsection (1) shall be in the following form :—

I, Government Factory Engineers/Acting Government Factory Engineer, do hereby certify that I have examined the instrument or appliance marked.....and that it is an instrument or appliance the importation of which is prohibited by the Order made under subsection (1) of section 3A of the Gaming Ordinance and published in Gazette No. t.....oft.-.....,

Signature:.

Date:.....

* Delete inapplicable words.

f State the number of the Gazette.

t State the date of the Gazette.

4. All grama seva niladharies and police officers and all Municipal Council, Urban Council and Town Council inspectors are authorized to arrest and to take before the Magistrate's 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 Magistrate's Court having jurisdiction.

5. (1) A 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 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 State, and shall be dealt with accordingly.

6. (1) A Magistrate may himself do what he may under section 5, authorize a police officer to do, whenever such Magistrate is competent to issue a warrant under the said section, and also in any of the following cases, that is to say:—

Magistrate may himself enter and search.

- (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:

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.

(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.

False Formation.

7. A person found in a common gaming place, or found escaping therefrom on the occasion of its being entered under this

Presumptive proof of unlawful gaming.

Persons found committing unlawful gaming may be arrested.

Search warrant against premises.

Ordinance, or who is found in possession of any instrument or appliance of gaming on the occasion of being searched under section 4 or section 5, shall be presumed, until the contrary is proved, to be guilty of unlawful gaming.

the form E in the Schedule. The demolition shall be effected by some public officer expressly ordered by the Magistrate to effect such demolition.

Presumptive proof against occupier.

8. 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.

12. 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 subsection (2) (b) of section 22, the person licensed in respect of such premises shall also be made a party accused ; and the 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.

Liability of licensee of licensed premises wilfully permitting unlawful gaming therein.

When an article is deemed to be in the possession of a person. [§5,48 of 1961.3

8A; For the purposes of this Ordinance, any article in the order, disposition, power or control of any person shall be deemed to be in his possession.

13. 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 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 licence shall be thereby forfeited.

Liability of licensee of licensed premises kept as a common gaming place.

Charge for unlawful gaming.

9. In prosecutions for unlawful gaming, the charge to be framed under section 182 of the Code of Criminal Procedure Act shall be in the form B in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

Charge for keeping a common gaming place.

10. In prosecutions for keeping a common gaming place, the charge to be framed under the Code of Criminal Procedure Act shall be in the form D in the Schedule and the commitment on such charge shall be in the form C in the said Schedule.

Magistrate may order demolition of structural contrivances for facilitating gaming.

11. Whenever it appears to a 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

14. (1) It shall be lawful for the Magistrate before whom any person 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

Examination of offenders

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 person making full discovery of all things as to which he is examined.

(2) Every person so required to give evidence who shall in the opinion of the 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 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.

Offences under the Ordinance cognizable.

15. All offences under this Ordinance are hereby declared to be cognizable and bailable within the meaning of those terms as defined in the Code of Criminal Procedure Act, and shall be triable summarily by a Magistrate's Court, which is hereby authorized to inflict the penalties hereinbefore provided, anything in the said Act to the contrary notwithstanding.

No offence to play billiards, bagatelle, &c.

16. 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, unless such games or game are or is played with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order.

17. The 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

18. 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.

19. 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-

20. No rule framed under the provisions of any existing or future enactment relating to Village Councils for the prevention of "gambling" shall be held to be ultra vires on the ground that it conflicts with the provisions of this Ordinance. Rules under the Village Councils Ordinance saved from the operation of this Ordinance.

21. (1) The provisions of this Ordinance, other than subsection (2) of this section, shall not be held to apply to or in any way to affect—

(a) any resthouse in charge of an Urban Council or Town Council, or any proprietary club, if and so long as no promiscuous gaming takes place therein; or Certain provisions of the Ordinance not to apply to clubs, resthouses, and licenced hotels. [§4, 26 of 1957.]

(b) any hotel duly licensed under any enactment for the time being in force regulating the licensing of hotels, so long as the licence of such hotel continues in force:

Provided, however, that upon information received by the Government Agent of the administrative district 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 licence of such hotel, and such licence shall, upon the publication of such withdrawal in the Gazette, be deemed and taken to be withdrawn, and shall be of no further force or effect.

[§4,26 of 1957-]

(2) No person shall, in any resthouse, proprietary club or hotel referred to in subsection (1), play a game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order. Any person who contravenes the provisions of this subsection shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

Interpretation. 22. For the purposes of this Ordinance, "unlawful gaming" shall include—

- (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 licence 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;

- (3) the act of playing, in any place [§5,26 of 1957.] whatsoever whether for a stake or not, a game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order;

"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;

"common gaming place" shall include [§5,26 of 1957.] any place to which the public may have access with or without payment and which is kept or used for betting or the playing of any game for a stake, or the playing, whether for a stake or not, of any game of chance or of mixed chance and skill with any instrument or appliance the importation of which is prohibited by Order made under subsection (1) of section 3A, whether or not such instrument or appliance is one that has been actually imported into Sri Lanka and whether or not it is one the importation of which into Sri Lanka has been before the coming into force of such Order; and a place shall be deemed to be kept or used for betting or the playing of any game for a stake, or the playing, whether for a stake or not, of any game of chance or of mixed chance and skill with any such instrument or appliance as aforesaid, if it is so used even on one occasion only;

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" 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;

" Magistrate" includes a Municipal Magistrate.

SCHEDULE

Form A

[Section 5.]

To (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 esignation of public officer issuing warrant.

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 section 5 of the Gaming Ordinance.

(c)_____

(d)_____

Form B

[Section 9.]

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

- (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.

That you, on or about the (c)_____ -, at (d)_____ unlawfully gamed and thereby committed an offence punishable under section 2 of the Gaming Ordinance.

(e)_____ ---
Magistrate.

Form C

[Sections 9 and 10.]

To the Fiscal of the (a) _____ Court oL

Whereas on the (b) _____, (c)_____ , prisoner in case No _____, was convicted before me (d)_____ , Magistrate, (e)_____ , of the offence [of unlawful gaming 1 keeping a common gaming place 2] under section . 21 of the Gaming Ordinance and was sentenced to (f)_____ 3]

- (a) Name of Court.
- (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.

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)_____, 19__.

(h)_____ -

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[Section 10.]

Form D

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

I, (a)- _____, hereby charge you, (<>)_ ->as follows:

That you, on or about the ((c)) _____, at (d) _____, kept a common gaming place, and thereby committed an offence punishable under section 3 of the Gaming Ordinance.

(e)- _____ -
Magistrate.

(Section 11.)

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) Signature of 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) _____ -
Magistrate.