



Australian Capital Territory

Games, Wagers and Betting Houses Act 1901 (repealed)

A1902-18

Republication No 4

Effective: 22 March 2010

Republication date: 22 March 2010

As repealed by A2009-39 s 51

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Games, Wagers and Betting Houses Act 1901* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any amendment, repeal or expiry affecting the republished law to 22 March 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Games, Wagers and Betting Houses Act 1901 (repealed)

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Australian Capital Territory

Games, Wagers and Betting Houses Act 1901 (repealed)

An Act to consolidate the Acts concerning games and wagers for the suppression of betting houses

Part 1 Preliminary

1 Name of Act

This Act is the *Games, Wagers and Betting Houses Act 1901*.

2 Words and expressions used in Gaming and Betting Act 1906

A word or expression used in the *Gaming and Betting Act 1906* has the same meaning in this Act.

Part 2 Gaming and wagering

4 Search under special warrant

- (1) Any magistrate on complaint made on oath that there is reason to suspect any house, room, premises or place 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, signed and sealed by the magistrate, authorise any police officer to enter into the house, room, premises or place and arrest, search and cause to be brought before the Magistrates Court all persons found in it and seize all tables, instruments of gaming, money and securities for money found in it.

Note If a form is approved under the *Gambling and Racing Control Act 1999*, s 53D (Approved forms) for a special warrant, the form must be used.

- (2) Every police officer so authorised may obtain the assistance and use the force that is necessary and reasonable for making the entry and may search all parts of the house, room, premises or place where he or she suspects that tables, instruments of gaming, money or securities for money are concealed.

6 Liability of owner etc of gaming house

- (1) The owner or keeper of any gaming house or other person having the care or management of it and every banker, croupier and other person who acts in any way in conducting the gaming house, room, premises or place commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person found in such house, room, premises or place without lawful excuse commits an offence.

Maximum penalty: 10 penalty units.

- (3) If a person is convicted of an offence against subsection (1) or (2), all the money and securities seized under the special warrant are forfeited to the Territory.
- (4) The Magistrates Court may direct that all tables and instruments of gaming seized under a special warrant be destroyed.

7 Proceedings by indictment not affected

This Act does not prevent any proceeding by indictment 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 by indictment and also under this Act for the same offence.

9 Not necessary to prove person playing for money

It shall not be necessary in support of any information or indictment 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 for gaming to prove that any person found playing at any game was playing for any money, wager or stake.

10 Evidence that premises a gaming house

If any house, room, premises or place suspected to be used as a common gaming house or place for gaming is entered under a warrant under the provisions of this Act, the discovery in it or about the person of any of those found in it of instruments of gaming used in playing any unlawful game shall be evidence—

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

11 Protection of witnesses

Every person concerned in any unlawful gaming who is examined as a witness before the Magistrates Court 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 about the unlawful gaming shall if he or she receives from the magistrate or judge before whom he or she is examined a written certificate to the effect that he or she has made true and faithful discovery to the best of his or her knowledge of all things about which he or she has been examined be freed from all criminal prosecutions, forfeitures, punishments and disabilities to which he or she may have become liable for anything done before that time in relation to the unlawful gaming.

13 Unenforceable contracts

All contracts or agreements whether oral 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 on any wager or that has been deposited in the hands of any person to abide the event on which any wager has been made.

Part 3 Betting houses suppression

14 Meaning of *valuable thing*

In this part:

valuable thing includes any promise (oral or in writing), conditional or absolute to pay or give any valuable thing.

14A Application—sports betting venues

This part does not apply in relation to a sports betting venue.

15 Search under special warrant

- (1) Any magistrate on complaint made on oath that there is reason to suspect any house, office, room, or other place to be kept or used as a betting house or office contrary to this part may by special warrant, signed by the magistrate, authorise any police officer to enter into the house, office, room, or other place and arrest, search and cause to be brought before the Magistrates Court all persons found in it and seize all money, coin, notes, cheques, IOUs or other writings for securing the payment of money and all instruments of betting found in the house, room, office, or other place.

Note If a form is approved under the *Gambling and Racing Control Act 1999*, s 53D (Approved forms) for a special warrant, the form must be used.

- (2) Every police officer so authorised may obtain the assistance and use the force that is necessary and reasonable for making the entry.

16 Police authority to enter premises

- (1) The chief police officer may on receiving a written report from any superintendent of police that there are good grounds for believing and that he or she does believe any house, office, room, or other place to be kept or used as a betting house contrary to this part authorise by written order the superintendent with the police officers

that he or she directs to enter the house, office, room, or other place and to take into custody all persons and seize all instruments of betting found in the house or premises.

- (2) The chief police officer may by the order authorise the superintendent to obtain the assistance and use the force that is necessary and reasonable for the purpose of effecting an entry.

17 Betting houses prohibited

- (1) No house, office, room, or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper of it, or any person using it, or any person procured or employed by or acting for or on behalf of the owner, occupier, or keeper, or person using it, or of any person having the care or management, or in any way conducting the business of it, betting with persons resorting to it.
- (2) In this section:

resorting to it includes applying by the agency of another person by letter, by telegram or telephone, or by any other means of correspondence or communication.

19 Penalty for keeping betting house

- (1) A person who opens, keeps or uses any house, office, room, or other place for any of the purposes mentioned in section 17 or knowingly and wilfully permits it to be opened, kept or used by any other person for any of those purposes, or has the care or management of, or in any way assists in conducting the business of, any such house, office, room, or other place opened, kept or used for any of those purposes, commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person who is in such house, office, room, or other place without lawful excuse commits an offence.

Maximum penalty: 10 penalty units.

- (3) All money, coin, notes, cheques, IOUs or other writings for securing the payment of money and all instruments of betting found in the house, office, room, or other place may on conviction of any offender under the provisions of this section be adjudged to be forfeited or destroyed.

20 Penalty for receiving money as deposit for bet

The owner or occupier of a house, office, room, or other place opened, kept or used for any of the purposes mentioned in section 17 or a person acting for him or her or on his or her behalf or as his or her manager or assistant who—

- (a) receives directly or indirectly any money or valuable thing—
- (i) as a deposit on any bet on condition of paying any sum of money or valuable thing on the happening of any event or contingency of or relating to a horserace or other race or fight, game, sport or exercise; or
 - (ii) as or for the consideration for any assurance, undertaking, promise or agreement express or implied to pay or give afterwards any money or valuable thing on any such event or contingency; or
- (b) gives any acknowledgment, note, security or draft on the receipt of any money or valuable thing paid or given as aforesaid purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency;

commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

21 Penalty for exhibiting placards about betting

A person must not—

- (a) exhibit or publish, or cause to be exhibited or published, any placard, handbill, card, writing, sign or advertisement—
 - (i) by which it is made to appear that any house, office, room, or other place is opened, kept or used for the purpose of making bets or wagers in way aforesaid or exhibiting lists for betting; or
 - (ii) with intent to induce any persons to resort to such house, office, room, or other place for the purpose of making bets or wagers in way aforesaid; or
- (b) on behalf of the owner or occupier of or person using any such house, office, room, or other place invite other persons to resort to it for the purpose of making bets or wagers in way aforesaid.

Maximum penalty: 10 penalty units.

22 Penalty for advertising betting

A person must not send, exhibit or publish, or cause to be sent, exhibited or published, any letter, circular, telegram, placard, handbill or advertisement—

- (a) by which it is made to appear that any person in the ACT or elsewhere will on application give information or advice for the purpose of or in relation to any such bet or wager or any such event or contingency as hereinbefore mentioned or will make on behalf of any other person any such bet or wager as is hereinbefore mentioned; or
- (b) with intent to induce any person to apply to any house, office, room, or other place or person with a view of obtaining information or advice for the purpose of any such bet or wager

or in relation to any such event or contingency as is hereinbefore mentioned; or

- (c) inviting any person to make or take a share in or in connection with any such bet or wager.

Maximum penalty: 10 penalty units.

23 Recovery of deposit on bet

- (1) Any money or valuable thing received by a person mentioned in section 20 as a deposit on a bet, or as consideration for an assurance, undertaking, promise or agreement, mentioned in that section is taken to have been received to the use of the person from whom it was received.
- (2) The money or valuable thing (or its value) may be recovered by the person from whom it was received, with costs, as a debt in any court of competent jurisdiction.
- (3) This part does not apply to anyone who receives money or a valuable thing as a stake or deposit to be paid to—
- (a) the winner of a race, or a lawful sport, game or exercise; or
- (b) the owner of a horse engaged in a race.

25 Arrest of offender about to abscond

Any magistrate may on its being made to appear to his or her satisfaction by the oath of the complainant or other credible person that any person charged with the commission of any offence against this part is about to depart immediately from the ACT and will thereby probably evade punishment issue his or her warrant for the apprehension of the person so charged for the purpose of his or her being brought before the Magistrates Court to be dealt with according to law.

Part 4 General provisions

26 Tender of amends

- (1) No plaintiff shall recover in an action, suit or other proceeding for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act or under any authority given by this Act if, before the proceeding is brought, tender of sufficient amends has been made by or on behalf of the party who committed the irregularity, trespass or other wrongful proceeding.
- (2) In case no tender has been made the defendant may by leave of the court in which the action, suit or proceeding is pending pay into court at any time before issue joined the sum of money as he or she considers appropriate and all proceedings, orders and adjudications shall be had and made in and by the court as in other actions if defendants are allowed to pay money into court.

27 Certain offences may be dealt with summarily

Any proceedings in relation to an offence against this Act that is an indictable offence may be heard and determined by a court of summary jurisdiction if—

- (a) the court is satisfied that it is proper to do so; and
- (b) the defendant and the prosecution both consent to the offence being so dealt with.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | pt = part |
| exp = expires/expired | r = rule/subrule |
| Gaz = gazette | renum = renumbered |
| hdg = heading | reloc = relocated |
| IA = Interpretation Act 1967 | R[X] = Republication No |
| ins = inserted/added | RI = reissue |
| LA = Legislation Act 2001 | s = section/subsection |
| LR = legislation register | sch = schedule |
| LRA = Legislation (Republication) Act 1996 | sdiv = subdivision |
| mod = modified/modification | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

3 Legislation history

This Act was originally a NSW Act—*Games Wagers and Betting-houses Act 1901* 1902 No 18 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

The name of the Act was changed by the *Statute Law Amendment Act 2001 (No 2)* (see amdt 3.301)

Under the *Interpretation Act 1967*, s 65 (now expired) all former NSW Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

NSW legislation

Games, Wagers and Betting Houses Act 1901 Act 1902 No 18

assented to 24 December 1902
commenced 24 December 1902

as amended by

Gaming and Betting Act 1906 No 13

assented to 8 October 1906
commenced 8 October 1906

Endnotes

3 Legislation history

Gaming and Betting (Amendment) Act 1906 No 55

assented to 28 December 1906
commenced 28 December 1906

Gaming and Betting (Amendment) Act 1907 No 2

assented to 12 July 1907
commenced 12 July 1907

Commonwealth legislation

Gaming and Betting Ordinance 1945 No 10

notified 13 September 1945
commenced 13 September 1945

Games, Wagers and Betting-houses Ordinance 1964 No 17

notified 28 August 1964
commenced 1 September 1964

Acts Revision (Decimal Currency) Ordinance 1966 No 19

notified 23 December 1966
commenced 23 December 1966

Games, Wagers and Betting-houses Ordinance 1967 No 43

notified 7 December 1967
commenced 7 December 1967

Games, Wagers and Betting-houses Ordinance 1982 No 16

notified 7 May 1982
commenced 7 May 1982

New South Wales Acts Application Ordinance 1984 No 41

notified 10 August 1984
commenced 10 August 1984

Magistrates Court Ordinance 1985 No 67 sch

notified 19 December 1985
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

Games, Wagers and Betting-houses (Amendment) Ordinance 1986 No 35

notified 7 August 1986
commenced 7 August 1986

Games, Wagers and Betting-houses (Amendment) Ordinance 1987 No 59

notified 30 October 1987
commenced 30 October 1987

Gaming and Betting Laws Amendment Ordinance 1987 No 61 pt 3

notified 30 October 1987
commenced 30 October 1987

Legislation after becoming Territory enactment**Statute Law Revision (Miscellaneous Provisions) Act 1992 No 23 sch 1**

notified 4 June 1992 (Gaz 1992 No S71)
commenced 4 June 1992

Games Wagers and Betting-houses (Amendment) Act 1994 No 55

notified 5 October 1994 (Gaz 1994 No S196)
s 1, s 2 commenced 5 October 1994 (s 2 (1))
remainder commenced 11 October 1994 (s 2 (2) and Gaz 1994 No S226)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Custodial Escorts (Consequential Provisions) Act 1998 No 67 pt 6

notified 23 December 1998 (Gaz 1998 No S212)
s 1, s 2 commenced 23 December 1998 (s 2 (1))
pt 6 commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

Legislation (Consequential Amendments) Act 2001 No 44 pt 162

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 162 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.24

notified 5 September 2001 (Gaz 2001 No S65)
commenced 5 September 2001 (s 2 (1))

Endnotes

4 Amendment history

as repealed by

Unlawful Gambling Act 2009 A2009-39 s 51

notified LR 17 November 2009

s 1, s 2 commenced 17 November 2009 (LA s 75 (1))

s 51 commenced 22 March 2010 (s 2 and CN2010-2)

4 Amendment history

The *New South Wales Acts Application Act 1984* (previously the *New South Wales Acts Application Ordinance 1984*), sch 2, pt 17 sets out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. This endnote, therefore, only details amendments made after that date.

Name of Act

s 1 sub 2001 No 56 amdt 3.301

Words and expressions used in Gaming and Betting Act 1906

s 2 ins 1987 No 61 s 6;
am 1992 No 23 sch 1
sub 2001 No 56 amdt 3.302

Search under special warrant

s 4 am 1985 No 67 sch; 1986 No 35 s 3; 1998 No 67 s 20; 2001
No 44 amdt 1.1877, amdt 1.1878; 2001 No 56 amds 3.303-
3.309

Liability of owner etc of gaming house

s 6 am 1985 No 67 sch; 1987 No 59 s 3; 1998 No 54 sch; 2001
No 56 amdt 3.310, amdt 3.311

Evidence that premises a gaming house

s 8 om 1987 No 61 s 7

Not necessary to prove person playing for money

s 9 am 2001 No 56 amdt 3.312

Evidence that premises a gaming house

s 10 am 1987 No 61 s 8; 2001 No 56 amdt 3.313, amdt 3.314

Protection of witnesses

s 11 am 1985 No 67 sch; 2001 No 56 amdt 3.315

Unenforceable contracts

s 13 am 1987 No 61 s 9

Application

s 13A om 1987 No 61 s 10

Meaning of *valuable thing*

s 14 hdg sub 2001 No 56 amdt 3.316
 s 14 am 2001 No 56 amdt 3.317

Application—sports betting venues

s 14A ins 1994 No 55 s 4

Search under special warrant

s 15 am 1986 No 35 s 4; 1987 No 61 s 11; 1992 No 23 sch 1; 1998
 No 67 s 21; 2001 No 44 amdt 1.1879, amdt 1.1880; 2001
 No 56 amdts 3.318- 3.322

Police authority to enter premises

s 16 am 1986 No 35 s 5; 1987 No 61 s 12; R 2 (LR 15 (1) (e)); 2001
 No 56 amdts 3.323- 3.328

Betting-houses prohibited

s 17 am 1987 No 61 s 13; R 2 (LR 15 (1) (e)); 2001 No 56
 amdt 3.329; R2 LRA

Penalties

s 17A om 1987 No 59 s 4

Betting-houses deemed gaming-houses under pt 2

s 18 om 1987 No 61 s 14

Penalty for keeping betting house

s 19 am 1987 No 59 s 5; 1987 No 61 s 15; 1998 No 54 sch; 2001
 No 56 amdts 3.330- 3.336

Penalty for receiving money as deposit for bet

s 20 am 1987 No 59 s 6; 1992 No 23 sch 1; 1998 No 54 sch; 2001
 No 56 amdts 3.337- 3.343

Penalty for exhibiting placards about betting

s 21 am 1987 No 59 s 7; 1992 No 23 sch 1; 1998 No 54 sch; 2001
 No 56 amdts 3.344- 3.349

Penalty for advertising betting

s 22 hdg sub 2001 No 56 amdt 3.350
 s 22 am 1987 No 59 s 8; 1992 No 23 sch 1; 1998 No 54 sch; 2001
 No 56 amdts 3.350-3.352

Recovery of deposit on bet

s 23 sub 2001 No 56 amdt 3.353

Arrest of offender about to abscond

s 25 am 1985 No 67 sch

Tender of amends

s 26 am 2001 No 56 amdts 3.354-3.358

Endnotes

5 Earlier republications

Certain offences may be dealt with summarily

s 27 sub 1987 No 59 s 9
am 1998 No 54 sch; 2001 No 56 amdt 3.359

Special warrant

sch 2 am 1985 No 67 sch; 1987 No 61 s 16; 1992 No 23 sch 1; 1998
No 67 s 22
om 2001 No 44 amdt 1.1881

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|-------------------------|----------------------|---------------------------|
| 1 | Act 1992 No 23 | 31 July 1992 |
| 2 | Act 1998 No 67 | 31 July 1999 |
| 3 | A2001-56 | 4 July 2002 |

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