

# AUSTRALIAN CAPITAL TERRITORY

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## Gaming and Betting Laws Amendment Ordinance 1987

No. 61 of 1987

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 29 October 1987.

J. A. ROWLAND  
Administrator

By His Excellency's Command,

JOHN BROWN  
Minister of State for the Arts, Sport, the Environment,  
Tourism and Territories

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An Ordinance to amend the law relating to gaming and betting

### PART I—PRELIMINARY

#### Short title

1. This Ordinance may be cited as the *Gaming and Betting Laws Amendment Ordinance 1987*.<sup>1</sup>

(Ord. 72/87)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## PART II—AMENDMENTS OF THE UNLAWFUL GAMES ORDINANCE

### Principal Ordinance

2. In this Part, “Principal Ordinance” means the *Unlawful Games Ordinance 1984*.<sup>2</sup>

### Interpretation

3. Section 3 of the Principal Ordinance is amended by omitting the definition of “unlawful game” and substituting the following definition:

“ ‘unlawful game’ means:

- (a) any of the games commonly known as “baccarat”, “blackjack”, “craps”, “fantan”, “manila”, “pak-a-pu”, “pitch and toss”, “punto-banco”, “roulette”, “thimble-rig” or “two-up”;
- (b) any game similar to a game specified in paragraph (a);
- (c) a lottery, other than an approved lottery or an exempt lottery within the meaning of the *Lotteries Ordinance 1964*;
- (d) a pool betting competition conducted otherwise than under and in accordance with an approved pool betting scheme within the meaning of the *Pool Betting Ordinance 1964*;
- (e) a prescribed game; and
- (f) any other game of skill or chance, or of mixed skill and chance, in which money or any other valuable thing is staked or risked upon an event or contingency.”.

4. Sections 4, 5 and 6 of the Principal Ordinance are repealed and the following sections substituted:

### Promoting and arranging

“4. (1) A person shall not promote or arrange the playing of an unlawful game.

“(2) A person who is in charge of, or is the owner, occupier, manager or licensee of, any premises shall not knowingly permit an unlawful game to be played in or on those premises.

Penalty: (a) if the offender is a natural person—\$10,000 or imprisonment for 5 years, or both; and

- (b) if the offender is a body corporate—\$50,000.

### **Conducting and operating**

“5. A person shall not conduct, operate or supervise, or assist in the conduct, operation or supervision of, an unlawful game.

- Penalty: (a) if the offender is a natural person—\$10,000 or imprisonment for 5 years, or both; and
- (b) if the offender is a body corporate—\$50,000.

### **Playing**

“6. A person shall not, without reasonable excuse, play an unlawful game.

Penalty: \$1,000 or imprisonment for 6 months, or both.”.

## **PART III—AMENDMENTS OF THE GAMES WAGERS AND BETTING-HOUSES ACT**

### **The Act**

5. In this Part, “the Act” means the Games Wagers and Betting-houses Act 1901 of the State of New South Wales in its application to the Territory.

6. After section 1 of the Act the following section is inserted in Part I:

### **Interpretation**

“2. Unless the contrary intention appears, words and expressions used in this Act and in the Gaming and Betting Act 1906 of the State of New South Wales in its application to the Territory have in this Act the same meaning as in that Act.”.

### **Repeal of section 8**

7. Section 8 of the Act is repealed.

### **Evidence that premises a gaming-house**

8. Section 10 of the Act is amended:

- (a) by omitting “cards dice balls counters tables or other”; and
- (b) by omitting from paragraph (b) “tables or”.

### **Unenforceable contracts**

9. Section 13 of the Act is amended by omitting “Subject to section 13A, all” and substituting “All”.

**Repeal of section 13A**

10. Section 13A of the Act is repealed.

**Search of premises under special warrant**

11. Section 15 of the Act is amended by omitting from subsection (1) “lists cards or other documents relating to racing or betting” and substituting “instruments of betting”.

**Police authority to enter premises**

12. Section 16 of the Act is amended by omitting “lists cards or documents relating to racing or betting” and substituting “instruments of betting”.

**Betting-houses prohibited**

13. Section 17 of the Act is amended by omitting subsections (2) and (3).

**Repeal of section 18**

14. Section 18 of the Act is repealed.

**Penalty for keeping betting-house**

15. Section 19 of the Act is amended by omitting from subsection (3) “lists cards or other documents relating to racing or betting” and substituting “instruments of betting”.

**Second Schedule**

16. The Second Schedule to the Act is amended by omitting “all lists, cards or other documents relating to racing or betting” and substituting “instruments of betting”.

**PART IV—AMENDMENTS OF THE GAMING AND BETTING ACT****The Act**

17. In this Part, “the Act” means the Gaming and Betting Act 1906 of the State of New South Wales in its application to the Territory.

**Interpretation**

18. Section 2 of the Act is amended by inserting the following definitions in their respective appropriate alphabetical positions:

“ ‘betting’ includes the negotiation, acceptance and settling of bets by or with a bookmaker or any other person, and the transfer of money or any other valuable thing in connection with bets;

‘betting offence’ means an offence under:

- (a) the *Unlawful Games Ordinance 1984*;
- (b) the Principal Act; or
- (c) this Act;

in relation to betting;

‘common gaming-house’ means premises opened, kept or used (whether for invitees only or otherwise) for or in relation to unlawful betting or unlawful gaming;

‘gaming offence’ means an offence under:

- (a) the *Unlawful Games Ordinance 1984*;
- (b) the Principal Act; or
- (c) this Act;

in relation to gaming;

‘instrument of betting’ means any thing:

- (a) used for or in relation to betting; or
- (b) designed or adapted for use for or in relation to betting;

‘instrument of gaming’ means any thing:

- (a) used for or in relation to gaming; or
- (b) designed or adapted for use for or in relation to gaming;

‘race meeting’ means:

- (a) a meeting held at a racecourse to conduct races; and
- (b) an attendance of persons at a racecourse:
  - (i) at a time during which races at that racecourse would, but for their cancellation or postponement, have been conducted; and

- (ii) for the purpose of betting on races conducted at another racecourse, whether in the Territory or elsewhere;

‘racecourse’ means a racecourse in respect of which a licence issued under the *Racecourses Ordinance 1935* is in force;

‘unlawful game’ has the same meaning as in the *Unlawful Games Ordinance 1984*.”.

19. After section 2 of the Act the following section is inserted:

### **Application**

“2A. Nothing in this Act or the Principal Act applies in relation to:

- (a) gaming, or betting, that is lawful under any law in force in the Territory; or
- (b) a contribution, or a contract or agreement to contribute, to any prize to be given to the winner of any lawful game or sport or any other lawful activity.

### **Use of house etc. in contravention of the Act**

20. Section 3 of the Act is amended by omitting from paragraph (a) “, or for playing any unlawful game therein”.

### **Police power to enter declared premises**

21. Section 15 of the Act is amended by omitting from paragraph (e) “and documents relating to betting”.

22. After section 17 of the Act the following sections are inserted:

### **Prohibited bookmaking**

“17A. A person shall not act as a bookmaker otherwise than at a race meeting or in relation to a bet placed at a race meeting.

Penalty: (a) if the offender is a natural person—\$10,000 or imprisonment for 5 years, or both; and

- (b) if the offender is a body corporate—\$50,000.

### **Prohibited betting**

“17B. (1) A person shall not, except at a race meeting, knowingly place a bet with a person who, in accepting that bet, is acting as a bookmaker.

- Penalty: (a) if the offender is a natural person—\$1,000 or imprisonment for 6 months, or both; and
- (b) if the offender is a body corporate—\$5,000.

“(2) In a prosecution under subsection (1) in respect of a bet, the accused shall be taken to have known that the person with whom the bet was placed was, in accepting the bet, acting as a bookmaker, unless:

- (a) the accused adduces evidence to the contrary; and
- (b) that evidence is not rebutted by the prosecution.

### **Possession of instruments of betting**

“17C. (1) A person shall not knowingly have in his or her custody, or under his or her control, an instrument of betting for a purpose related to unlawful betting.

- Penalty: (a) if the offender is a natural person—\$2,000 or imprisonment for 12 months, or both; and
- (b) if the offender is a body corporate—\$10,000.

“(2) In a prosecution under subsection (1) in respect of an instrument of betting, the accused shall be taken to have had the instrument in his or her custody, or under his or her control, for a purpose related to unlawful betting, unless:

- (a) the accused adduces evidence to the contrary; and
- (b) that evidence is not rebutted by the prosecution.

### **Possession of instruments of gaming**

“17D. (1) A person shall not knowingly have in his or her custody, or under his or her control, an instrument of gaming for a purpose related to unlawful gaming.

- Penalty: (a) if the offender is a natural person—\$2,000 or imprisonment for 12 months, or both; and
- (b) if the offender is a body corporate—\$10,000.

“(2) In a prosecution under subsection (1) in respect of an instrument of gaming, the accused shall be taken to have had the instrument in his or her custody, or under his or her control, for a purpose related to unlawful gaming, unless:

- (a) the accused adduces evidence to the contrary; and
- (b) that evidence is not rebutted by the prosecution.

**Emergency search of vehicles etc.**

“17E. (1) Where a police officer believes on reasonable grounds that:

- (a) a gaming offence or a betting offence is being committed or is likely to be committed on or in a vehicle or vessel; or
- (b) any thing connected with such an offence is on or in a vehicle or vessel;

and that:

- (c) it is necessary to act under this section in order to prevent the concealment, loss or destruction of that thing; and
- (d) the action would be made in such circumstances of seriousness and urgency as to require and justify the taking of the action without the authority of a warrant or an order of a court;

the officer may enter upon or into the vehicle or vessel and search for and seize that thing.

“(2) A police officer who believes on reasonable grounds that any thing connected with a gaming offence or a betting offence is upon or in a vehicle or vessel, may, for the purposes of this section, stop that vehicle or vessel.

“(3) For the purposes of this section, a thing is connected with a particular offence if it is:

- (a) a thing with respect to which the offence has been committed;
- (b) a thing that will afford evidence of the commission of the offence: or
- (c) a thing that was used, or is intended to be used, for the purpose of committing the offence.

**Requirement to furnish name etc.**

“17F. (1) Where a police officer believes on reasonable grounds that:

- (a) a gaming offence or a betting offence has been, may have been, or is likely to be, committed; and
- (b) a person whose name or address, or both, are unknown to the officer, may be able to assist the officer in making inquiries in relation to the offence;

the officer may require that person to give the officer particulars of the person's name or address, or of both.

“(2) Where a police officer, who requires a person to give particulars under subsection (1), is required by that person to give that person particulars of:

- (a) the officer's name or ordinary place of duty, or both; or
- (b) if the officer is not in uniform—evidence that the officer is a police officer;

the officer shall not:

- (c) refuse or fail to comply with the requirement; or
- (d) give the person particulars that are false in a material particular.

Penalty: \$500.

“(3) Where a police officer:

- (a) requires a person to give particulars under subsection (1); and
- (b) complies with any requirement by the person under subsection (2);

the person shall not:

- (c) refuse or fail to comply with the officer's requirement; or
- (d) give the officer particulars that are false in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.”.

### **Street betting**

**23.** Section 18 of the Act is amended by omitting subsection (4).

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#### **NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 30 October 1987.
2. No. 21, 1984 as amended by No. 67, 1985; No. 35, 1987.