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Act 289

COMMON GAMING HOUSES ACT 1953

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LAWS OF MALAYSIA

Act 289

COMMON GAMING HOUSES ACT 1953

An Act relating to the suppression of common gaming houses, public gaming, and public lotteries.

*[Peninsular Malaysia—25 June 1953;
Sabah and Sarawak—15 April 1992, P.U. (B) 164/1992;
Federal Territory of Labuan—15 April 1992;
P.U. (B) 165/1992]*

Short title

1. (1) This Act may be cited as the Common Gaming Houses Act 1953.

(2) This Act applies to *Peninsular Malaysia only.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

“bankers’ game” means any game which is specified in Column 1 of the First Schedule;

“common gaming house” includes—

- (a) any place kept or used for gaming to which the public or any class of the public has or may have access;
- (b) any place kept for habitual gaming, whether the public or any class of the public has or may have access to it or not;

*NOTE—All reference to “West Malaysia” shall be construed as reference to “Peninsular Malaysia”—see the Interpretation (Amendment) Act 1997 [Act A996], subsection 5(2).

- (c) any place kept or used for the purpose of a public lottery;
- (d) any place (including a place which is owned, occupied, possessed, kept, used, or maintained by any society or any other organization, body or groups of persons whether or not such society, organization, body or group is established by or under any law)—
 - (i) where eight or more persons are gaming;
 - (ii) where any bankers' game is being played; or
 - (iii) where gaming is played and for which payment is made by any person to any society, organization, body or group of persons or any other person as consideration for permitting gaming in such place;

“energy” has the meaning assigned to “electricity” in section 2 of the Electricity Supply Act 1990 [Act 447] or that term in section 2 of the Electricity Ordinance of Sarawak [Sarawak Cap. 137], as the case may require;

“gaming” with its grammatical variations and cognate expressions means the playing of any game of chance or of mixed chance and skill for money or money's worth and includes the playing of any game specified in Column I of the First and Second Schedules and the playing or operation of any gaming machine;

“gaming machine” means any mechanical, electrical or electronic machine or device (including any computer program used in such machine or device), whether wholly or partly mechanically, electrically or electronically operated, that is so designed or that has been so adapted that—

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
- (b) as a result of the playing or operation of the machine or device, winnings in money or money's worth may become payable;

“licensee”, in relation to the supply of energy, means the person licensed under section 9 of the Electricity Supply Act 1990 or the holder of a licence issued under section 4 of the Electricity Ordinance of Sarawak, as the case may require;

“lottery” includes any game, method, or device whereby money or money's worth is distributed or allotted in any manner depending upon or to be determined by chance or lot, whether the same be held, drawn, exercised, or managed within or without the Federation;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory.

“public lottery” means a lottery to which the public or any class of the public has or may have access, and every lottery shall until the contrary be proved be deemed to be a public lottery;

“lottery ticket” includes any paper or figure or writing or symbol or other article whatsoever which either expressly or tacitly entitles or purports to entitle the holder or any other person to receive any money or money’s worth on the happening of any event or contingency connected with any public lottery;

“Minister” means the Minister charged with responsibility for the regulation of lotteries;

“Officer in Charge of a Police District” means any police officer appointed by the Inspector General of Police under paragraph 6(*b*) of the Police Act 1967 [*Act 344*];

“operator of a gaming machine” means any person who—

- (a) owns, manages or maintains a gaming machine;
- (b) has in his custody or under his control a gaming machine;
or
- (c) in any manner assists in the management or maintenance of a gaming machine;

“place” means any house, office, room or building and any place or spot, whether open or enclosed, and includes a ship, boat, or other vessel, whether afloat or not, and any vehicle;

a place in which lottery tickets are offered for sale, sold, or distributed shall be deemed to be “used for the purpose of a public lottery”;

a place shall be deemed to be “used” for a purpose if it is used for that purpose even on one occasion only;

every person who demises or lets for hire a place shall be deemed the “owner” thereof;

the expression “instruments or appliances for gaming” includes all articles or part thereof specified in Column 2 of the First and Second Schedules and all articles which are used in or for the purpose of gaming or a lottery and all gaming machines;

“Senior Police Officer” means any police officer not below the rank of Inspector.

“supply authority” has the meaning assigned to it in section 2 of the Electricity Supply Act 1990;

(2) The Minister may from time to time by notification in the *Gazette*—

(a) declare any game, method, device, scheme or competition specified or described in such notification to be a lottery for the purposes of this Act and thereupon it shall be an irrebuttable presumption of law that such game, method, device, scheme or competition is a lottery for the purposes of this Act;

(b) (*Deleted by Act A577*).

(3) The Minister may from time to time by notification in the *Gazette* delete from, add to, or otherwise amend the First or the Second Schedule.

Nuisance

3. Every common gaming house is hereby declared to be a common and public nuisance contrary to law.

Specific game need not be stated or proved

3A. (1) Where a person is charged for an offence under section 6 or section 7 of this Act it shall be sufficient for the prosecution to merely state that the person charged is found gaming, without having to state the specific game being played.

(2) Where a person is being tried for an offence under section 6 or section 7 of this Act, it shall be sufficient for the prosecution to merely prove that the game being played is a bankers’ game or one of the games specified in the Second Schedule, without having to prove the specific game being played.

Offences relating to common gaming houses

4. (1) Any person who—

- (a) being the owner or occupier or having the use temporarily or otherwise thereof keeps or uses a place as a common gaming house; 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 house;
- (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; or

(d)–(f) (*Deleted by Act A755*);

- (g) announces or publishes or causes to be announced or published either orally or by means of any print, writing, design, sign, or otherwise that any place is opened, kept, or used as a common gaming house or in any other manner invites or solicits any person to commit a breach of section 6 or section 9; or
- (h) conducts in or through any newspaper or any other periodical publication, or in connection with any trade or business or the sale of any article to the public—
 - (i) any competition in which prizes are offered for forecasts of the result either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; or
 - (ii) any other competition success in which does not depend to a substantial degree upon the exercise of skill,

shall be guilty of an offence and shall, on conviction, be liable to *a fine of not less than five thousand ringgit and not more than fifty thousand ringgit and shall also be punished with imprisonment for a term not exceeding three years and in addition shall be liable to a fine of not less than five thousand ringgit and not more than fifty thousand ringgit for every gaming machine seized.

*NOTE—Previously “Imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand ringgit or to both”—see the Common Gaming Houses (Amendment) Act 1990 [Act A755].

(2) Any person who occupies or has the use temporarily of a place which is kept or used by another person as a common gaming house shall be presumed until the contrary is proved to have permitted such place to be so kept or used.

Assisting in carrying on a public lottery, etc.

4A. Any person who—

- (a) assists in the carrying on of a public lottery;
- (b) receives, directly or indirectly, any money or money's worth for or in respect of any chance in any event or contingency connected with a public lottery or sells or offers for sale or gives or delivers or collects any lottery tickets;
- (c) draws, throws, declares or exhibits, expressly or otherwise, the winner or winning number, ticket, lot, figure, design, symbol or other result of any public lottery; or
- (d) writes, prints or publishes or causes to be written, printed or published any lottery ticket or list of prizes or any announcement of the result of a public lottery or any announcement or riddle relating to a public lottery,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than twenty thousand ringgit and not more than two hundred thousand ringgit and shall also be punished with imprisonment for a term not exceeding five years.

Offences relating to dealing in gaming machines

4B. Any person who—

- (a) deals with or in any manner whatsoever transacts in, any gaming machine or any part of any gaming machine or any interest of any kind in any gaming machine or any replacement part for any gaming machine; or
- (b) imports, manufactures, assembles, supplies, sells, assigns, charges, leases, hires, services, repairs, adapts or modifies, or carries out any combination of those activities in relation to, a gaming machine or any part of any gaming machine or any replacement part for any gaming machine,

shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit and not more than one

hundred thousand ringgit for every gaming machine seized and shall also be punished with imprisonment for a term not exceeding five years.

Advancing or furnishing money for establishing or conducting

5. Any person who advances or furnishes money for the purpose of establishing or conducting the business of a common gaming house or for the purpose of a public lottery or who profits from the establishment or conduct of such business shall be guilty of an offence and shall, on conviction, be liable to a *fine of not less than five thousand ringgit and not more than fifty thousand ringgit and shall also be punished with imprisonment for a term not exceeding three years.

Gaming in common gaming house

6. (1) Any person who games in a common gaming house shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding **five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) A person found in a common gaming house or found escaping from a common gaming house on the occasion of its being entered under this Act shall be presumed until the contrary is proved to be or to have been gaming therein.

Gaming in public

7. (1) A police officer may arrest without warrant any person found gaming in any public place and may seize all instruments or, appliances for gaming found in such public place or on the persons of those arrested under this section.

(2) Any person gaming in any public place shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ***five thousand ringgit or to imprisonment for a term not exceeding six months or to both; and all instruments or appliances for gaming seized under this section may be declared by the court before which the conviction is had to be forfeited to the Government and shall be dealt with accordingly.

*NOTE—Previously “Imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand ringgit or to both”—see the Common Gaming Houses (Amendment) Act 1990 [Act A755].

**NOTE—Previously “two thousand ringgit”—see the Common Gaming Houses (Amendment) Act 1990 [Act A755].

***NOTE—Previously “two thousand ringgit”—see the Common Gaming Houses (Amendment) Act 1990 [Act A755].

(3) Where any money or other valuable thing is used in the playing of any game of chance or of mixed chance and skill or in the playing or operation of any gaming machine in any public place, the players shall be presumed, until the contrary is proved, to be or to have been gaming.

Interpretation

(4) In this section the expression “public place” includes public streets, roadways, lanes, and open spaces, and any place to which the public has or may have access.

Instigating, promoting, or facilitating gaming in public

8. (1) Any person who instigates, promotes or intentionally facilitates the commission of an offence punishable under section 7 shall be guilty of an offence and shall, on conviction, be liable to a *fine of not less than twenty thousand ringgit and not more than two hundred thousand ringgit and shall also be punished with imprisonment for a term not exceeding five years.

(2) Any person who—

- (a) erects, maintains, or controls, or assists to erect, maintain, or control, any hut, shed, tent, or other building or shelter whatsoever wherein an offence punishable under section 7 is committed;
- (b) brings to, or has in his possession at or near, a place where such an offence as aforesaid is committed any instruments or appliances for gaming; or
- (c) keeps watch in order to warn, or warns, persons committing such an offence as aforesaid of risk of detection,

shall be presumed, until the contrary is proved, to have promoted the commission of an offence punishable under section 7.

(3) A person shall not by reason only of the fact that he has committed an offence punishable under section 7 be liable to be convicted of an offence under this section.

**NOTE*—Previously “Imprisonment for a term not exceeding two years or to a fine not exceeding twenty thousand ringgit or to both”—*see* the Common Gaming Houses (Amendment) Act 1990 [Act A755].

Buying lottery ticket

9. (1) Any person who either personally or by an agent pays or deposits any money or money's worth to or with any person concerned in the business of a common gaming house as a stake or for or in respect of any event or contingency connected with a public lottery or buys a lottery ticket shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding *five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(2) A person in whose possession a lottery ticket is found shall be presumed until the contrary is proved to have bought the same.

(3) Every lottery ticket brought or introduced into or being within the Federation shall be forfeited to the Government and it shall be the duty of every police officer or other public servant to seize every such ticket wherever found.

Money paid recoverable

10. Any money or money's worth paid or deposited for or in respect of any such event or contingency as aforesaid or for or in respect of the purchase of a lottery ticket shall be recoverable as money had and received to or for the use of the person from whom the same was received.

Presumption against person selling lottery tickets, etc.

11. (1) A person—

- (a) selling, offering for sale, giving, delivering or collecting lottery tickets; or
- (b) found in possession of ten or more—
 - (i) lottery tickets; or
 - (ii) counterfoils or duplicates of lottery tickets;
- (c) found in possession of any account, memorandum, riddle or record of stakes or wagers in or relating to a lottery; or
- (d) found in possession of a “tikam board”,

shall be presumed until the contrary is proved to be assisting in a public lottery then in progress.

*NOTE—Previously “two thousand ringgit”—see the Common Gaming Houses (Amendment) Act 1990 [Act A755].

(2) A person found in or escaping from a common gaming house kept or used for the purpose of a public lottery shall be presumed until the contrary is proved to be assisting in a public lottery then in progress.

(3) Where evidence or a certificate is given by a gaming expert that any document produced before the Court is a lottery ticket of any public lottery or is an account, memorandum, riddle or record of stakes or wagers in or relating to any public lottery, the Court shall presume that such a document is a lottery ticket of such public lottery or an account, a memorandum, riddle or record of stakes or wagers in or relating to such public lottery, as the case may be.

(4) Where evidence or a certificate is given by a gaming expert that any article is an instrument or appliance for gaming, the Court shall presume that the article is an instrument or appliance for gaming.

(5) A certificate given under subsection (3) or (4) shall, where the prosecution intends to give it in evidence, be served upon the accused not less than fourteen clear days before the commencement of the trial and the certificate shall be admissible without the presence of the maker thereof as witness unless so required—

(a) by the Court; or

(b) by the accused, in which case the accused shall give the Public Prosecutor a notice in writing not less than seven clear days before the commencement of the trial.

(6) The Minister may by notification in the *Gazette* appoint any person whether a public officer or not to be a gaming expert in respect of any or all games.

Sales of lottery tickets void

12. Every sale or contract for sale of a lottery ticket is hereby declared to be void and no action shall be maintainable by any person in respect of any such sale or contract except by the purchaser for the return of the money or other consideration (if any) paid thereon.

Responsibility of employers and overseers

13. (1) Whenever it is proved to the satisfaction of a Magistrate that any person employed to labour at mining or agriculture or at any other labour which may from time to time be declared by the Minister, by notification in the *Gazette*, to be subject to this section has committed an offence under this Act in any place owned or occupied by his employer, the employer of such person shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand ringgit or to both unless he proves to the satisfaction of the Magistrate that such offence was committed without his knowledge or consent and that he had taken reasonable measures to prevent the commission of the same:

Provided that when one person contracts with another to carry out any work, labourers engaged in the actual execution of such work shall for the purposes of this section be deemed to be employed by both such persons.

(2) Whenever it is proved to the satisfaction of a Magistrate that any person employed as aforesaid has committed an offence under this Act in the presence of any overseer, headman, or other person having authority over him for the purposes of the said employment, such overseer, headman, or other person shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand ringgit or to both unless he proves to the satisfaction of the Magistrate that such offence was committed without his consent and that he took reasonable measures to prevent the commission of the same and to ensure the effective suppression thereof.

(3) Nothing contained in this section shall be deemed to exempt any person from liability to any penalty provided by this Act for any offence thereunder proved to have been committed by him.

(4) No prosecution of any employer, overseer, headman, or other person under this section shall be instituted except by the authority of the Public Prosecutor.

Arrest by employer

14. (1) When any person employed to labour at mining or agriculture or at any other labour declared under section 13 to be subject to the provisions of the said section is found committing an offence under this Act in any place owned or occupied by his employer, he, and all other persons found abetting such offence, may be arrested without warrant by his employer or in the absence of the employer by any person authorized in writing by the employer to have the management of such place.

(2) Every person arrested under this section shall without unnecessary delay be handed over to a police officer or taken to the nearest police station for detention until he can be brought before a Magistrate.

Power to enter on premises

15. Any police officer generally or specially authorized in that behalf in writing by the Chief Police Officer may by night or by day enter upon any place where persons employed to labour at mining or agriculture or at any other labour declared under section 13 to be subject to the said section reside or are employed.

Closure of premises

15A. If the Officer in Charge of a Police District has good reason to believe that any premises or any part of any premises is being used for the purpose of gaming, he may forthwith take such steps as he may consider necessary to close the premises or any part of the premises.

Search warrant against premises

16. (1) A Magistrate or Justice of the Peace or senior police officer on being satisfied upon written information and after any enquiry which he may think necessary that there is good reason to believe that any place is kept or used as a common gaming house may by warrant authorize any person therein named or any police officer with such assistance and by such force 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 moneys, securities for

money, and other articles reasonably supposed to have been used or intended to be used for any game or lottery 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 any of the things or circumstances which are made by this Act presumptive evidence of guilt are found in such place or on any person therein, every person found therein 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 house or on any person found therein or escaping therefrom and which the Magistrate is of opinion were used or intended to be used for any game or lottery shall be declared by him to be forfeited to the Government and shall be dealt with accordingly.

Forfeiture of seized gaming machines

16A. (1) Without prejudice to subsection 16(2), any gaming machine seized in exercise of any power conferred under this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any gaming machine seized in exercise of any power conferred under this Act shall be made by the court before which the prosecution with regard to it has been held and an order for the forfeiture of the gaming machine shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the gaming machine was the subject-matter of or was used in the commission of the offence, notwithstanding that no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any gaming machine seized in exercise of any power conferred under this Act, such gaming machine shall be taken and deemed to be forfeited at the expiration of fourteen days from the date of service of a notice to the last-known address of the person from whom the gaming machine was seized indicating that there is no prosecution in respect of such gaming machine, unless before that date a claim to the gaming machine is made in the manner specified in subsections (4), (5) and (6).

(4) Any person asserting that he is the owner of the gaming machine referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to the Officer in Charge of a Police District that he claims the gaming machine.

(5) Upon receipt of the notice referred to in subsection (4), the Officer in Charge of a Police District shall refer the matter to a Magistrate for a decision.

(6) The Magistrate to whom a matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the gaming machine and the person from whom it was seized, to appear before him and on their appearance or default to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such gaming machine was the subject-matter of or was used in the commission of such offence, shall order the gaming machine to be forfeited and shall in the absence of such proof, order its release.

(7) Any gaming machine forfeited or deemed to be forfeited shall be delivered to the Officer in Charge of a Police District and shall be disposed of in accordance with the directions of the Magistrate.

(8) The Officer in Charge of a Police District shall not be liable to any person for any damage, however caused, to a gaming machine seized under this Act.

Search warrant against persons

17. A Magistrate or Justice of the Peace or senior police officer on being satisfied upon written information and after any enquiry which he may think necessary that there is good reason to believe that any instruments or appliances for gaming are likely to be found on any person may by warrant under his hand order any police officer to arrest and search such person, or may by warrant under his hand order any person therein named to arrest such person and to take him forthwith before any Magistrate or Justice of the Peace or senior police officer who shall thereupon cause such person to be searched in his presence and if any such instrument or appliance is found upon his person he shall be taken before a Magistrate to be dealt with according to law.

Entry and search by Magistrate or senior police officer

18. (1) A Magistrate or Justice of the Peace or senior police officer may himself do what he may under sections 16 and 17 authorize a police officer to do whenever such Magistrate or Justice of the Peace or senior police officer is competent to issue a warrant under the said sections respectively and also in any of the 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 house the place proposed to be entered;
- (b) if the place proposed to be entered is occupied by a club or society and he has reason to believe that habitual gaming is carried on there;
- (c) if he has personal knowledge of such facts and circumstances as satisfy him that there are sufficient grounds for a search under the said sections respectively; or
- (d) if he 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 that in this last case the name and address of the person giving such information are known to or ascertained by such Magistrate or Justice of the Peace or senior police officer 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 guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding twelve months.

Presumption against house and occupier

19. If any instruments or appliances for gaming are found in any place entered under this Act or upon any person found therein or if persons are seen or heard to escape therefrom on the approach or entry of a Magistrate or Justice of the Peace or senior police officer or if a police officer or any person having authority under this Act 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 house and that the same is so kept or used by the occupier thereof.

Presumption against house occupier, and owner

20. (1) If in the case of a place entered under this Act any passage or staircase or means of access to any part thereof is unusually narrow or steep or otherwise difficult to pass or any part of the premises is provided with unusual or unusually numerous means for preventing or obstructing an entry or with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of persons or for giving the alarm or for facilitating escape from the premises, it shall be presumed until the contrary is proved that the place is a common gaming house and that the same is so kept or used by the occupier thereof; and if notice as is next hereinafter provided shall have been served on the owner of the premises it shall further be presumed until the contrary is proved that the place is so kept with the permission of the owner thereof.

(2) Whenever it comes to the knowledge of the Chief Police Officer that any place is fitted or provided with any of the means or contrivances mentioned in this section in such a way as to lead to a presumption that the place is used or intended to be used for the purposes of a common gaming house, it shall be the duty of the Chief Police Officer to cause notice thereof to be served on the owner of such place as well as on the occupier thereof; and if any such notice cannot be personally served it may be served by being affixed to the principal outer door or any outer door or window or any conspicuous part of the place.

(3) Every tenant receiving notice under this section shall forthwith inform the owner or the person from whom he rents the premises of the fact of receipt of such notice, who shall in like manner inform the owner or the person from whom he rents the premises, and so on till the notice is brought to the knowledge of the owner, each tenant being responsible for bringing the notice to the knowledge of his immediate lessor; and any tenant refusing or omitting to make known to the owner or the person from whom he rents the premises the fact that such notice has been received shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit.

Liability of office-bearers, etc.

20A. (1) Without prejudice to any other provision in any written law, where an offence under this Act has been committed, whether or not any person has been convicted in respect thereof, and such an offence has been committed or is purported to have been committed by any society, company or firm, every office-bearer of such society and every director of such company and every person managing or assisting in the management of such society, company or firm at the time of the commission of such offence, shall be guilty of such offence and shall be liable to the punishment prescribed therefor, unless he establishes to the satisfaction of the Court that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of the offence.

(2) Any office-bearer, director, partner and any person managing or assisting in the management of such society, company or firm shall be liable to be prosecuted under this section, notwithstanding that he may not have taken part in the commission of the offence.

Order for demolition of structural contrivances for facilitating gaming

21. Whenever it appears to a Magistrate upon the trial of any offence under this Act that the place in or in respect of which the offence is alleged to have been committed is a common gaming house and that the same is fitted or provided with any of the means or contrivances mentioned in the last preceding section, he shall order the demolition and destruction of such of them as consist of staircases, doors, partitions, ladders, planks, platforms, posts, palings, bars, bolts, and other things which appear to him to have been specially erected or constructed for the purpose of facilitating the carrying on of gaming on the premises.

Disconnection of supply of energy

21A. (1) Where a police officer not below the rank of Assistant Superintendent is satisfied upon written information and after any enquiry which he may think necessary that there is good reason to believe that any premises or any part of any premises is being used for the purpose of gaming, he may apply to the supply authority or the licensee for the disconnection of the supply of energy to the premises for a period not exceeding one calendar month.

(2) An application under subsection (1) shall be made under and in accordance with the provisions of the Electricity Supply Act 1990 or the Electricity Ordinance of Sarawak, as the case may require.

(3) Where the supply of energy to any premises has been disconnected under subsection (1), the supply of energy shall not be reconnected to the premises by the supply authority or the licensee without the written permission of a police officer not below the rank of Assistant Superintendent.

(4) A reconnection of the supply of energy to any premises under this section shall be carried out under and in accordance with the provisions of the Electricity Supply Act 1990 or the Electricity Ordinance of Sarawak, as the case may require.

Protection of informers

22. (1) Except as hereinafter mentioned no information laid under this Act shall be admitted in evidence in any civil or criminal proceeding whatsoever and no witness shall be obliged or permitted to disclose the name or address of any informer under this Act or to state any matter which might lead to his discovery.

(2) If any books, documents, or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court or Magistrate shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery but no further.

(3) If on the trial of any offence under this Act the Magistrate after full enquiry into the case believes that the informer wilfully made in his information a material statement which he knew or believed to be false or did not believe to be true or if in any other proceeding the court or Magistrate is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court or Magistrate to require the production of the original information and to permit enquiry and require full disclosure concerning the informer.

Protection of officers, etc.

22A. No action or prosecution shall be brought, instituted or maintained in any court against—

- (a) any officer duly authorized under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act; and
- (b) any supply authority or any licensee or any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of any officer duly authorized under this Act if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

Offenders as witnesses for prosecution

23. (1) Whenever two or more persons are charged with any offence against this Act, the Magistrate may require one or more of them to give evidence as a witness or witnesses for the prosecution.

(2) Any such person who refuses to be sworn or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by a Magistrate.

(3) 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 under the hand of the Magistrate stating that he has, in the opinion of the Magistrate, 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.

Agent to secure evidence

23A. Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, any person or agent found gaming together with the person charged for any offence under this Act shall not be presumed to be unworthy of credit by reason only of his having admitted to abetting the commission of an offence under this Act if his abetment or his attempt to abet or his participation in the gaming is solely for the purpose of securing the evidence against the person charged for the offence.

Trial

24. (1) All offences against this Act shall be tried summarily by a Magistrate.

(2) In any prosecution under this Act, the court may refer, for the purposes of evidence, to the book “Gambling Games in Malaya” by C. T. Dobree, and to any other published books or articles on the subject of unlawful gaming which the court may consider to be of authority on the subject to which they relate.

(3) Any punishment authorized by this Act may be imposed by a Magistrate’s Court, notwithstanding that the same be in excess of the punishment which such court is ordinarily empowered to impose.

Binding over on second conviction

25. If a person who has been convicted of an offence under section 4 or 4B is again convicted of the same or any other offence under that section, the Magistrate may, in addition to the punishment provided by that section, make an order requiring him to give security for a period not exceeding one year by one or more sureties that he will not offend against this Act and every such order shall be made as nearly as may be in the same manner and shall have the like effect and consequences as if the same were an order to give security for good behaviour under section 74 of the Criminal Procedure Code [Act 593].

Reward to informer

26. The Magistrate may direct any fine or any portion of any fine imposed under this Act to be paid to the informer.

Saving

27. Nothing in this Act contained shall affect any lottery authorized or licensed under the provisions of the *Social and Welfare Services Lotteries Board Act 1950–1962 [Act 252], or of the Lotteries Act 1952 [Act 288] or any sweepstake promoted by a racing club established in Peninsular Malaysia on the result of a horse race and any reference in this Act to gaming or to a lottery shall be deemed not to include a reference to any form of gaming or to any lottery so authorized or licensed.

*NOTE—The Social and Welfare Services Lotteries Board Act 1950-1962 [Act 252] has since been repealed by the Social and Welfare Services Lotteries Board (Dissolution) Act 1991 [Act 470]—see section 3 of Act 470.

Power to license promotion and organization of gaming by a company

27A. (1) Notwithstanding this Act or the Betting Act 1953 [Act 495] or any other law relating to gaming, betting or lotteries, the Minister of Finance may, in his discretion, by licence authorize a company registered under the Companies Act 1965 [Act 125], other than a foreign company as defined in subsection 4(1) of that Act, to promote and organize gaming—

- (a) in respect of such game or games;
- (b) on such premises;
- (c) subject to the payment of such fees and duties; and
- (d) subject to such other terms and conditions;

as may be specified in the licence, for a period not exceeding three months; and any licence so issued may, in his discretion, be renewed by the Minister of Finance, from time to time, for periods of not more than three months each, and in making any such renewal the Minister of Finance may amend, add to or delete from any of the provisions of, or any of the fees and duties payable in respect of, or any of the terms and conditions of, the earlier licence.

(2) The Minister of Finance may, in his discretion, at any time, revoke any licence issued or renewed under subsection (1), or amend, add to or delete from any of the provisions of, or any of the fees and duties payable in respect of, or any of the terms and conditions of, any such licence.

(3) Any person who contravenes or fails to comply with any of the provisions or terms and conditions of a licence issued or renewed under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding seven years or both.

(4) The provision of the Betting and Sweepstake Duties Act 1948 [Act 201] shall not apply to the fees and duties payable in respect of a licence issued or renewed under subsection (1), save that section 5 of the said Act shall apply mutatis mutandis to such fees and duties.

Repeal

28. The Ordinance and Enactments specified in the Third Schedule are hereby repealed.

FIRST SCHEDULE

[Section 2]

BANKERS' GAMES

| (1) Game | (2) Appliances |
|--------------------------------|---|
| 1. PAI KOW | <ul style="list-style-type: none"> (a) A set of 32 dominoes (b) A pai kow table (c) Dice (d) Banker marker (e) A cup and saucer or similar container |
| 2. BELANGKAS | <ul style="list-style-type: none"> (a) A four-sided top, the facets of which bear engravings of— <ul style="list-style-type: none"> (i) a king crab (ii) a flower or star (iii) a fish (iv) a prawn respectively (b) A staking board marked out in four rectangles to correspond with the four facets of the top (c) A saucer or small dish in which to spin the top (d) A small bowl or similar article with which to cover the top when spinning |
| 3. CHAP JEE KEE | <ul style="list-style-type: none"> (a) Twelve Chap Jee Kee tiles (6 marked in red 6 in black) or sets of twelve "Soo Sik" cards, each card corresponding with one tile (b) A staking board marked with twelve Chap Jee Kee characters (c) A small box with sliding lid |

| (1) Game | (2) Appliances |
|-------------------------------|---|
| 4. FAN TAN | <p>(a) A quantity of buttons, beads, beans or similar objects</p> <p>(b) A staking board of paper, metal or wood which is marked with figures 1, 2, 3 and 4</p> <p>(c) A small cover</p> <p>(d) A bamboo stick or similar device for counting the buttons, beads, beans or similar objects</p> |
| 5. ROULETTE | <p>(a) Roulette wheel</p> <p>(b) Roulette ball</p> <p>(c) Roulette staking board</p> |
| 6. PEK BIN | <p>(a) A small eight-sided top with 8 different characters engraved on the facets of the top</p> <p>(b) A staking board marked in accordance with the diagrammatical drawing on the eight-sided top</p> <p>(c) A saucer or small dish in which to spin the top</p> <p>(d) A small bowl or similar article with which to cover the top when spinning</p> |
| 7. HOO HEY HOW... ... | <p>(a) 3 six-sided dice, each with facets which bear engravings of—</p> <p style="padding-left: 40px;">(i) a fish</p> <p style="padding-left: 40px;">(ii) a prawn</p> <p style="padding-left: 40px;">(iii) a king crab</p> <p style="padding-left: 40px;">(iv) a flower</p> <p style="padding-left: 40px;">(v) a butterfly</p> <p style="padding-left: 40px;">(vi) a beautiful lady</p> <p style="padding-left: 40px;">respectively</p> <p>(b) A staking board marked with six squares corresponding to the dice</p> <p>(c) A cup and saucer or similar container</p> |

| (1) Game | (2) Appliances |
|---|---|
| 8. DADU BELANGKAS ... MATA | <p>(a) A six-sided top, the facets of which are coloured alternate black and red and bear engravings of—</p> <ul style="list-style-type: none"> (i) one pip—black (ii) a fish—red (iii) two pips—black (iv) a king crab—red (v) three pips—black (vi) a prawn—red <p>(b) A saucer or dish in which to spin the top</p> <p>(c) A small bowl or similar article with which to cover the top when spinning</p> <p>(d) A staking board marked with six symbols of the top</p> |
| 9. DADU KATAK ULAR or DADU KODOK ULO | <p>(a) An eight-sided top, the facets of which are coloured in red and black and bear engravings of—</p> <ul style="list-style-type: none"> (i) a cock—red (ii) four pips—red (iii) a frog—black (iv) three pips—black (v) five pips—red (vi) a snake—black (viii) six pips—black <p>(b) A saucer and a cup or similar container</p> <p>(c) A staking board marked with the eight symbols of the top</p> |
| 10. DADU MUKA ENAM | <p>(a) A six-sided top with its facets carved or marked with pips one to six in number</p> <p>(b) A saucer and a cup or similar container</p> <p>(c) A staking board marked to correspond with the six facets of the top</p> |

| (1) | (2) |
|-------------------------------------|--|
| Game | Appliances |
| 11. SEE KEE YAH or... DAUN EMPAT | (a) Four ivory or bone tiles engraved with the figures 1, 2, 3 and 4 respectively (b) A small box with sliding lid just large enough to accommodate one tile (c) Sets of four cards marked to correspond with the four tiles in use |
| 12. TAI SAI | (a) Tai Sai staking board (b) Three dice (c) A cup and saucer or similar container |
| 13. YEW YEE SAM... | ... (a) Three dice (b) A cup and saucer or similar container |
| 14. TA KAI | (a) Six dice (b) A bowl |
| 15. SEK POH | (a) Three dice (b) A Sek Poh staking board (c) A cup and saucer or similar container |
| 16. SEK CHAI TAN or KOK KOK | (a) Three dice (b) A staking board (c) A saucer and a cup or similar container |
| 17. LUK KOW | (a) Three dice (b) A bowl (c) A cover |
| 18. SEPAT | (a) Four dice (b) A bowl (c) A cover |

| (1) | (2) |
|---|--|
| Game | Appliances |
| 19. PAKAU or 3 CARDS or SAM CHEONG or DAUN TIGA | Playing cards |
| 20. BLACK JACK or TWENTY ONE | Playing cards |
| 21. POH or LIEN POH or EWOK or POK | <p>(a) A table</p> <p>(b) A staking board</p> <p>(c) The “Poh Kam” (The Poh Cover) which is an upright box with sliding cover in two pieces made from solid brass</p> <p>(d) The “Poh”, which is a cube made of bone or wood bearing two Chinese characters in red and black on each of its six facets</p> |
| 22. BACARAT | <p>(a) Playing cards</p> <p>(b) A staking board</p> |
| 23. TING TONG | Two similar coins |
| 24. FRENCH BULL or BOLEK GOLEK ... | <p>(a) A staking board</p> <p>(b) A small rubber ball or similar object</p> <p>(c) A numbered tray which consists of numerals 0 to 9</p> |
| 25. TAU NGAU | Playing cards |

SECOND SCHEDULE

[Section 2]

OTHER GAMES

| (1) | (2) |
|--|---------------|
| Game | Appliances |
| 1. POKER or PHEY or PAIR | Playing Cards |
| 2. JIN RUMMY | Playing Cards |
| 3. RUSSIAN POKER or SAP SUM CHEONG or THIRTEEN CARDS | Playing Cards |
| 4. TAN | Playing Cards |
| 5. TIEW YEE or PANCING IKAN or MERAH HITAM | Playing Cards |
| 6. MAIN TEROPE | Playing Cards |
| 7. RACE | Playing Cards |
| 8. TAU NGAU | Playing Cards |
| 9. MINTA DAUN | Playing Cards |
| 10. MAIN CABUT or MAIN COLEK or ANGKAT TURUN | Playing Cards |

THIRD SCHEDULE

[Section 28]

| No. | Title |
|---|--|
| S.S. Cap 30 | Common Gaming Houses Ordinance |
| F.M.S. Cap. 47 | Common Gaming Houses Enactment |
| Johore Enactment No. 37 | Common Gaming Houses Enactment |
| Kedah Enactment No. 2 of 1337 | Enactment No. 21 (Common Gaming Houses) |
| Terengganu Enactment No. 2 of 1348 | Common Gaming Houses Enactment 1348 |
| Perlis Enactment No. 11 of 1337 | Common Gaming Houses Enactment 1337 |
| Kelantan Enactment No. 14 of 1930 | The Gambling and Prohibited Amusements Enactment 1930. |

LAWS OF MALAYSIA

Act 289

COMMON GAMING HOUSES ACT 1953

LIST OF AMENDMENTS

| Amending law | Short title | In force from |
|-------------------|---|---------------|
| F.M. Ord. 60/1956 | The Settlements Nominated Council (Change of title) Ordinance 1956 | 01-09-1956 |
| L.N. 332/1958 | Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958 | 13-11-1958 |
| Act 9/1959 | Common Gaming Houses (Amendment) Act 1959 | 31-12-1959 |
| Act 44/1965 | Racing Club (Public Sweepstakes) Act 1965 | 01-08-1965 |
| Act 29/1966 | Common Gaming Houses (Amendment) Act 1966 | 14-04-1966 |
| Act 17/1967 | Racing Club (Public Sweepstakes) (Amendment) Act 1967 | 06-04-1967 |
| Act A56 | Common Gaming Houses (Amendment) Act 1971 | 30-04-1971 |
| P.U. (A) 113/1977 | Federal Territory (Modification of Common Gaming Houses Ordinance 1953) Order 1977 | 01-02-1974 |
| Act 160 | Malaysian Currency (Ringgit) Act 1975 | 29-08-1975 |
| Act A577 | Common Gaming Houses (Amendment) Act 1984 | 20-01-1984 |
| Act A755 | Common Gaming Houses (Amendment) Act 1990 | 23-02-1990 |
| Act A1096 | Common Gaming Houses (Amendment) Act 2001 | 01-12-2001 |

LAWS OF MALAYSIA

Act 289

COMMON GAMING HOUSES ACT 1953

LIST OF SECTIONS AMENDED

| Section | Amending authority | In force from |
|---------|-----------------------------------|--|
| 2 | Act A577 Act A1096 | 20-01-1984 01-02-2001 |
| 3A | Act A577 | 20-01-1984 |
| 4 | Act A577 Act A755 Act 1096 | 20-01-1984 23-02-1990 01-02-2001 |
| 4A | Act A755 | 23-02-1990 |
| 4B | Act A1096 | 01-02-2001 |
| 5 | Act A577 Act A755 | 20-01-1984 23-02-1990 |
| 6 | Act A577 Act A755 | 20-01-1984 23-02-1990 |
| 7 | Act A1096 Act A577 Act A755 | 01-02-2001 20-01-1984 23-02-1990 |
| 8 | Act A577 Act A755 | 20-01-1984 23-02-1990 |
| 9 | Act A577 Act A755 | 20-01-1984 23-02-1990 |
| 11 | Act A1096/01 Act A577 | 01-02-2001 20-01-1984 |
| 15A | Act A1096 | 01-02-2001 |
| 16 | Act A577 | 20-01-1984 |
| 16A | Act A1096 | 01-02-2001 |
| 17 | Act A577 | 23-02-1990 |

| Section | Amending authority | In force from |
|-----------------|--------------------|---------------|
| 20A | Act A577 | 20-01-1984 |
| 21A | Act A1096 | 01-02-2001 |
| 22A | Act A1096 | 01-02-2001 |
| 23A | Act A577 | 20-01-1984 |
| 24 | Act 9/1959 | 31-12-1959 |
| 25 | Act A1096 | 01-02-2001 |
| 27 | Act A56 | 30-04-1971 |
| 28 | Act A577 | 20-01-1984 |
| First Schedule | Act A577 | 20-01-1984 |
| Second Schedule | Act A577 | 20-01-1984 |

