

# NORTHERN TERRITORY OF AUSTRALIA

## UNLAWFUL BETTING ACT

As in force at 1 March 2000

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 March 2000

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## UNLAWFUL BETTING ACT

**An Act to make special provision relating to unlawful betting and for related purposes**

### **Part I                      Preliminary**

#### **1                      Short title**

This Act may be cited as the *Unlawful Betting Act*.

#### **2                      Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3                      Interpretation**

(1) In this Act, unless the contrary intention appears:

***bet*** means a bet placed on a contingency to take place in or outside the Territory.

***betting*** includes the action, behaviour, conduct or performance of a person who, whether on one or more than one occasion:

- (a) makes, acknowledges or receives a bet;
- (b) pays, receives, negotiates or settles a bet; or
- (c) offers, agrees or otherwise negotiates to bet or to pay, receive or settle a bet.

***contingency*** means an event and includes a result, outcome or condition which may never happen or be performed, or which may not happen or be performed by some uncertain time.

***document*** includes a letter, circular, telegram, placard, handbill, card, writing, sign and advertisement.

***instrument of betting*** includes:

- (a) a book, card, coin, document, list, money, paper, record, sheet, table, ticket or other writing;
- (b) a mechanical, electrical, telephonic, telegraphic, electronic or other equipment or device;
- (c) a film, microfilm or other photographic or holographic record;
- (d) a tape, cassette, disc or other audio or visual recording or replaying device or equipment;
- (e) a board, chart or screen; and
- (f) any other form or means of recording information or data,

used or capable of being used in carrying on or in connection with unlawful betting.

***lawful bookmaker*** means a person licensed or registered as a bookmaker under the *Racing and Betting Act*.

***manager*** means a person who, in respect of a place:

- (a) is or appears to be the owner or occupier;
- (b) assists, acts or appears to assist or act on behalf of the owner or occupier;
- (c) has or appears to have the care or management of the place; or
- (d) uses the place permanently or temporarily, with or without the consent of the owner or occupier.

***money*** includes bank notes, coins, bank drafts, marketable securities, cheques and other orders, warrants, authorities or requests for the payment of money or an acknowledgement, note or other thing purporting or intended to entitle the bearer or another person to money or money's worth.

***occupier***, in relation to a place, includes the owner or manager at a material time of the place, a person having at a material time the care, management, supervision or control of the place or in any manner conducting the business, if any, of the place and a person procured or employed by or acting for or on behalf of such a person.

***owner***, in relation to a place, includes a lessee and sub-lessee.

**place** includes:

- (a) land;
  - (b) a building, structure or erection of any kind, whether wholly or partly constructed or erected or in the course of construction or erection;
  - (c) a room in a building, structure or erection;
  - (d) a road, street, thoroughfare, alley or right of way;
  - (e) a racecourse, paceway, greyhound racing ground, athletic ground or other ground;
  - (f) a vehicle, vessel or aircraft; and
  - (g) a tent, caravan, trailer or other conveyance.
- (2) Nothing in this Act shall be construed as making unlawful that which is permitted by or under the *Casino Licensing and Control Act* or any other law in force in the Territory.

## **Part II                      Application of laws to contracts and dispositions**

### **4                      Contracts relating to unlawful betting**

A contract or agreement, whether oral or in writing, relating to unlawful betting is null and void, and no action may be brought or maintained in a court to recover money or other valuable thing alleged to have been won on an unlawful bet or deposited with a person to abide the contingency on which an unlawful bet was made.

### **5                      Disposition of property as result of unlawful betting**

- (1) Notwithstanding any Act relating to the registration of title to real or personal property, but subject to subsection (2), a disposition of property made, or a contract to dispose of property entered into, by way of payment of or security for a debt incurred or which may be incurred by a person as a consequence of unlawful betting is ineffectual.

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- (2) Nothing in subsection (1) shall invalidate a disposition of property by a party to a contract referred to in that subsection for valuable consideration where the person to whom the disposition was made:
- (a) was not a party to the contract;
  - (b) had not, at the time of the disposition, notice that the property was the subject of or the whole or part of the consideration for the contract; and
  - (c) otherwise acted in good faith.

## **Part III                      Investigation of offences**

### **6                      Arrest and removal of offender**

- (1) Where a member of the Police Force suspects on reasonable grounds that a person in or on a place:
- (a) is an unlawful bookmaker;
  - (b) is, or on that day has been, engaged in unlawful betting in that place; or
  - (c) makes a practice of unlawful betting,
- the member may arrest that person or may remove that person or cause that person to be removed from that place.
- (2) A person removed from a place under subsection (1) shall not, during the remainder of the day on which that person was removed, re-enter or go onto that place.

Penalty:        \$5,000.

### **7                      Protection from liability for actions under Act**

A person on whom a power is conferred or duty imposed by or under this Act is not personally liable in civil proceedings, and the Territory is not liable, for any act done or default made by that person in good faith and for the purpose of carrying this Act into effect.



**8           Hindering police**

A person who hinders or attempts to hinder a member of the Police Force in the exercise of the member's powers or the performance of the member's duties under this Act is guilty of an offence.

Penalty:       \$5,000.

**9           Owner may evict occupier of house used in contravention of Act**

- (1) Where the owner of a place suspects on reasonable grounds that it is being used as:

- (a) a place for unlawful betting; or
- (b) a means of access to, or exit or escape from, a place used for unlawful betting,

the owner may serve on the occupier of the place a notice to quit.

- (2) Notwithstanding the *Commercial Tenancies Act* or the *Residential Tenancies Act*, a notice served under subsection (1) determines, as from 14 days after the date of service of the notice, any tenancy which the occupier may hold as if the tenancy had expired by effluxion of time.
- (3) An owner referred to in subsection (1) may, without any authority other than this Act, take legal proceedings to evict, and may evict, the occupier of a place referred to in that subsection.
- (4) A notice referred to in subsection (1) shall be served personally on the occupier but, if the occupier cannot, after reasonable inquiry, be found, service may be effected by affixing a copy of the notice to the place to which it relates.
- (5) A copy of a notice referred to in subsection (1) shall be served on the Commissioner of Police, either personally or by posting it to the Commissioner of Police, within 24 hours after the notice is served on the occupier.

**10         Cancellation of notice to quit**

- (1) A court of competent jurisdiction may cancel a notice to quit served under section 9, subject to such terms as it thinks fit, on summons taken out by the occupier, on proof that the occupier has not at any time knowingly allowed the place to be used as:
  - (a) a place for unlawful betting; or

- (b) a means of access to, or exit or escape from, a place used for unlawful betting.
- (2) A summons referred to in subsection (1) shall be served on the owner not later than 7 days before the hearing of the summons and, on being served, shall operate until the determination of the summons as a stay of proceedings referred to in section 9 to evict the occupier.

## **11 Protection of witnesses**

- (1) Where it appears to a court, on the application of the Attorney-General, that, in respect of criminal proceedings under this Act, it is or may be expedient in the interests of the safety of the accused, a witness or any other person, the court may:
  - (a) order that the whole or a part of the proceedings before it shall take place in a closed court;
  - (b) give directions that throughout or during any part of the proceedings such person or persons or class of persons, as the court determines, shall be excluded;
  - (c) give directions prohibiting or restricting the disclosure of information with respect to the proceedings;
  - (d) order that no report of the whole or a specified part of or relating to the proceedings shall be published; or
  - (e) make such order and give such directions as it thinks necessary for ensuring that no person without the approval of the court has access whether before, during or after the hearing of the proceedings to any indictment, affidavit, exhibit or other document used in the proceedings or to the records of the court relating to the proceedings.
- (2) The powers conferred by subsection (1) shall be in addition to, and not in derogation of, any other powers of the court.

## **12 Immunity of police and others**

A person who is:

- (a) a member of the Police Force:
  - (i) acting under the lawful order or instruction of another member who is that member's superior in rank; or

- (ii) who gives a lawful order or instruction to another member; or
- (b) acting under the lawful order or instruction of a member of the Police Force,

shall be deemed not to be an accomplice in the commission of an offence against this Act, or be liable to be found guilty for an act or matter done or committed by that person in relation to, or under such order or instructions, although, but for this section, that person might be deemed to be an accomplice, or to be liable to be found guilty under this Act.

### **13 Powers of entry without warrant**

- (1) A member of the Police Force may, without warrant and with such assistance as the member thinks necessary, enter, by force if necessary, any place on or in which the member has reasonable grounds for suspecting unlawful betting is being, has been or is about to be carried on.
- (2) A member of the Police Force who under subsection (1) enters a place referred to in that subsection may direct any person the member finds on or in that place to remain on or in that place or a specified part of that place for such period, not exceeding 3 hours, as the member thinks fit and may direct such person to refrain from doing anything in relation to that place or in relation to anything in the person's possession as the member thinks fit.
- (3) A person to whom a direction under subsection (2) is given shall comply with and not contravene the direction.

Penalty: \$2,000.

### **14 Entry of adjoining place**

A member of the Police Force may, without warrant:

- (a) enter a place which the member reasonably believes is used as a means of access to or exit or escape from a place used for unlawful betting; or
- (b) pass through, from, over or along a place for the purposes of entering a place which the member reasonably believes is used for unlawful betting.

**15                      Powers of search**

- (1) A member of the Police Force who lawfully enters a place on or in which the member has reasonable grounds for suspecting unlawful betting is being, has been or is about to be carried on, may, with such assistance as the member thinks necessary, and by force if necessary:
  - (a) open a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found on or in the place;
  - (b) search a person found on or in the place or the clothing being worn by or property in the control of the person;
  - (c) seize anything found on or in the place or in the course of the search that the member reasonably believes is evidence of or associated with the commission of the offence;
  - (d) take photographs of the place or anything found in that place; and
  - (e) take extracts from, or copies of, documents found in the place.
- (2) The power conferred on a member of the Police Force by this section is in addition to, and not in derogation, of any other power conferred by a law in force in the Territory.
- (3) Where a person is searched under subsection (1)(b), the search shall, if practicable in the circumstance be carried out by a person of the same sex as the person to be searched.

**Part IV                      Offences**

**Division 1                Miscellaneous offences**

**16                      Offence to be in place used for unlawful betting**

A person who, without lawful excuse, is in a place in which unlawful betting is taking place is guilty of an offence.

Penalty:            \$500.

**17                      False name**

- (1) A person who is in a place to which this section applies is guilty of an offence if, when requested by a member of the Police Force, the person fails to give that person's full and correct name and address or unreasonably fails to provide evidence satisfactory to the

member of that person's identity.

(2) Subsection (1) applies to a place in which a member of the Police Force, on reasonable grounds, suspects:

- (a) there is an unlawful bookmaker;
- (b) unlawful betting is or has been occurring; or
- (c) a person makes a practice of unlawful betting or bookmaking.

Penalty:        Not less than \$200 and not more than \$500.

## **18            Unlawful betting**

A person who bets with a person, other than a person who is:

- (a) a lawful bookmaker; or
- (b) authorized under the *Totalizator Administration and Betting Act* or any other law in force in the Territory to accept bets,

is guilty of an offence.

Penalty:        For a first offence – not less than \$500 and not more than \$2,500.

For a second offence – not less than \$2,500 and not more than \$15,000.

For a third or subsequent offence – not less than \$5,000 and not more than \$25,000.

## **Division 2            Assisting unlawful betting**

### **19            Criminal agreement**

A person who enters:

- (a) into an agreement in the Territory for the purpose of engaging in betting in a place outside the Territory in which it is an offence to engage in that betting; or
- (b) the Territory in pursuance of an agreement entered into outside the Territory for the purpose of engaging in unlawful betting in the Territory,

is guilty of an offence.

**20                      Criminal transport**

A person who knowingly takes, transports, directs, or offers to take, transport or direct, a person within, into or out of the Territory for the purpose of enabling that person to:

- (a) make an unlawful bet;
  - (b) assist in unlawful betting; or
  - (c) assist in the business of unlawful betting,
- is guilty of an offence.

**21                      Exhibiting document as to betting**

(1) A person who:

- (a) exhibits or publishes, or causes to be exhibited or published, a document:
  - (i) where it is made to appear that a place is opened, kept or used for unlawful betting; or
  - (ii) with intent to induce a person to resort to a place for the purpose of unlawful betting;
- (b) subject to subsection (2), publishes in a newspaper, by wireless broadcasting, television or by any other means the odds on the result of a contingency which has not happened or been performed at the time when that person so publishes those odds; or
- (c) on behalf of that person or another person, invites a person to a place for the purpose of unlawful betting,

is guilty of an offence.

(2) Subsection (1)(b) does not apply to:

- (a) a lawful bookmaker who publishes odds in the bookmaker's licensed premises;
- (b) a lawful bookmaker who publishes odds at a racing venue on a day on which a meeting is being held at the racing venue, that meeting being a meeting conducted by the club by which the bookmaker was approved for the purpose of being registered;

- (c) the publisher of a newspaper who publishes odds in that newspaper otherwise than by way of advertisement; or
- (d) the holder of a licence for a wireless broadcasting station or a television station who broadcasts odds on that station otherwise than by way of advertisement.

## **22            Advertising as to betting**

- (1) Subject to subsection (2), a person who sends, exhibits or publishes, or causes to be sent, exhibited or published, a document, or who advertises by wireless broadcasting, television or any other means:
  - (a) where it is made to appear that a person in the Territory or elsewhere will, on application:
    - (i) give information or advice for the purpose of betting on a contingency; or
    - (ii) will engage in betting (whether lawful or unlawful) on behalf of another person;
  - (b) with intent to induce a person to apply to a place for unlawful betting;
  - (c) with intent to induce a person to apply to a person with a view to obtaining information or advice about a contingency for the purpose of betting (whether lawful or unlawful) on that contingency; or
  - (d) inviting a person to engage in unlawful betting,is guilty of an offence.
- (2) It is not an offence under subsection (1)(a)(i) or (1)(c) for a licensee, within the meaning of the *Casino Licensing and Control Act*, or an employee or agent of such a licensee to do an act which is otherwise prohibited by that subsection in or in relation to a game declared to be an authorized game under section 12 of that Act.

## **23            Possession of betting proceeds**

A person in possession of or on whose property there is money or other valuable thing, the proceeds of unlawful betting, is guilty of an offence.

**24                      Giving warning of approach of police, &c.**

A person in, on or in the vicinity of a place used for unlawful betting who gives a warning to another person:

- (a) of the presence or approach of a member of the Police Force;  
or
- (b) for the purpose of preventing the detection of an offence against this Act,

is guilty of an offence.

**25                      Access to place used for unlawful betting**

The owner or occupier of a place who knowingly allows it to be used as a means of access to or of exit or escape from a place used for unlawful betting is guilty of an offence.

**26                      Managing betting place**

A person who:

- (a) manages;
- (b) assists in the management of; or
- (c) permits another person to manage,

a place wholly or partly for or in connection with unlawful betting is guilty of an offence.

**27                      Construction, &c., of instrument of betting**

- (1) A person who knowingly and without lawful excuse:

- (a) uses an instrument of betting;
- (b) subject to subsection (3), constructs, gives, buys, sells or offers to construct, give, buy or sell an instrument of betting;
- (c) derives a profit from persons unlawfully dealing with an instrument of betting; or
- (d) is the manager of a place where an instrument of betting is unlawfully kept or dealt with,

is guilty of an offence.



- (2) A person in possession of an instrument of betting without lawful excuse is guilty of an offence.
- (3) It is not an offence under subsection (1)(b) for a person to do an act which is otherwise prohibited by that subsection where the act is done in accordance with an agreement between that person and a licensee, within the meaning of the *Casino Licensing and Control Act*, in respect of an instrument of betting used or to be used in a game declared to be an authorized game under section 12 of that Act.

## **28            Loans for unlawful betting**

- (1) A person who advances or provides to another person money or other valuable thing to be used by that person for unlawful betting is guilty of an offence.
- (2) A person who advances or provides to another person money or other valuable thing for the purpose of that person betting with a person frequenting a place where there are reasonable grounds for suspecting that in that place:
  - (a) there is an unlawful bookmaker;
  - (b) unlawful betting is, or on that day has been, occurring; or
  - (c) a person makes a practice of unlawful betting,is guilty of an offence.
- (3) A person who advances or provides to another person money or other valuable thing in a place in which:
  - (a) there is an unlawful bookmaker;
  - (b) unlawful betting is or on that day has been occurring; or
  - (c) a person makes a practice of unlawful betting,is guilty of an offence.

## **Division 3            Bookmaking offences**

### **29            Soliciting bets**

A person who directly or indirectly invites or solicits a person to give or entrust to that person money or other valuable thing for the purpose or intention that such money or thing, or any part, shall be used for betting (whether lawful or unlawful) is guilty of an offence.

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**30      Acting as betting agent**

A person who, without lawful excuse:

- (a) receives, directly or indirectly, money or other valuable thing as:
  - (i) a deposit on a bet on condition of paying money or a valuable thing on the happening or performance of a contingency; or
  - (ii) consideration for an assurance, undertaking, promise or agreement, express or implied, to pay or give the money or other valuable thing on the happening or performance of a contingency;
- (b) gives an acknowledgement, note, security or draft on the receipt of money or other valuable thing so paid or given, purporting or intended to entitle the bearer or another person to receive money or other valuable thing on the happening or performance of a contingency;
- (c) communicates, transmits or receives for transmission bets; or
- (d) pays out or settles bets,

is guilty of an offence.

**31      Unlawful bookmaking**

- (1) A person, other than a lawful bookmaker, who acts as, or holds himself or herself out to be, a bookmaker is guilty of an offence.
- (2) A person who acts as a bookmaker, other than in accordance with the *Totalizator Administration and Betting Act* or any other law in force in the Territory, is guilty of an offence.

**32      Loans to bookmakers**

A person who advances or provides money or other valuable thing to a person in circumstances where it is reasonable to believe that that person:

- (a) is an unlawful bookmaker; and
- (b) intends to use the money or thing in connection with unlawful betting,

is guilty of an offence.

## **Division 4            Bookmaking business**

### **33            Bookmaking business**

- (1) A person who carries on the business of bookmaking, other than:
- (a) as a lawful bookmaker;
  - (b) pursuant to the *Totalizator Administration and Betting Act*; or
  - (c) in accordance with any other law in force in the Territory,
- is guilty of an offence.
- (2) For the purposes of subsection (1), a person who accepts a bet on a contingency more than once in any 7 day period shall be deemed to be carrying on the business of bookmaking.

## **Division 5            Penalties**

### **34            Penalties for offences against Part IV**

A person found guilty of an offence against this Part shall be liable on being found guilty to the penalty specified in, where the offence is against:

- (a) Division 2 – Table A;
- (b) Division 3 – Table B; or
- (c) Division 4 – Table C.

#### Table A

##### Offences against Division 2

For a first offence – not less than \$7,500 and not more than \$12,500.

For a second offence – not less than \$12,500 and not more than \$25,000.

For a third or subsequent offence – not less than \$25,000 and not more than \$50,000.

#### Table B

##### Offences against Division 3

For a first offence – not less than \$15,000 and not more than \$25,000.

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For a second offence – not less than \$25,000 and not more than \$50,000.

For a third or subsequent offence – not less than \$50,000 and not more than \$100,000 or imprisonment for 3 years.

Table C

Offences against Division 4

For a first offence – not less than \$30,000 and not more than \$50,000.

For a second offence – not less than \$50,000 and not more than \$100,000.

For a third or subsequent offence – not less than \$100,000 and not more than \$200,000 or imprisonment for 5 years.

## **Part V Evidence and procedure**

### **35 Previous findings of guilt admissible**

(1) A finding of guilt for an offence against:

- (a) Division 2 of Part IV;
- (b) Part VI of the *Racing and Betting Act* as in force immediately before the commencement of this Act; or
- (c) a law of a State or another Territory of the Commonwealth which offence is similar to an offence contained in Division 2, 3 or 4 of Part IV,

within 5 years immediately preceding the date of the alleged offence is evidence of a disposition to commit any offence, including the same offence, against Division 2 of Part IV.

(2) A finding of guilt for an offence against:

- (a) Division 3 or 4 of Part IV;
- (b) Part VI of the *Racing and Betting Act* as in force immediately before the commencement of this Act; or
- (c) a law of a State or another Territory of the Commonwealth which offence is similar to an offence contained in Division 2, 3 or 4 of Part IV,

within 5 years immediately preceding the date of the alleged offence is evidence of a disposition to commit any offence, including the same offence, against Division 3 or 4 of Part IV.

(3) A finding of guilt for an offence against:

- (a) Division 2, 3 or 4 of Part IV;
- (b) Part VI of the *Racing and Betting Act* as in force immediately before the commencement of this Act; or
- (c) a law of a State or another Territory of the Commonwealth which offence is similar to an offence contained in Division 2, 3 or 4 of Part IV,

within 5 years immediately preceding the date of the alleged offence is admissible as evidence in a prosecution for an offence against this Act:

- (d) to establish the existence in the person charged with the offence of a state of mind, proof of which lies on the prosecution;
  - (e) that the conduct of the person charged with the offence was not accidental or involuntary; or
  - (f) that there was no lawful justification or excuse for the conduct of the accused.
- (4) Nothing in this section shall be taken as restricting any other law (including common law rules) as to the admissibility of evidence.

### **36 Hearsay evidence**

- (1) Where a member of the Police Force is in a place in pursuance of a search warrant, a statement or record (manual or otherwise) made of any conversation the member has or overhears on a telephone in that place is admissible in evidence in a prosecution for an offence against this Act as to the truth of the contents of the conversation.
- (2) In estimating the weight, if any, to be attached to a statement or record referred to in subsection (1), a court shall have regard or, if the prosecution is before a jury, may warn the jury to have regard to, all the circumstances from which an inference can reasonably be drawn as to the accuracy or otherwise of the statement or record, including, where applicable:
  - (a) whether there is evidence of greater weight reasonably available to be tendered which is not tendered; or

- (b) the presence or absence of any incentive for any person concerned in making the statement or record, or dealing with the statement or record, to conceal or misrepresent any relevant matter in the statement or record.

### **37      Averments**

In a prosecution for an offence against this Act an averment in a complaint that:

- (a) at a specified time:
  - (i) a place was a public place;
  - (ii) a particular person was the occupier of a place specified in the complaint; or
  - (iii) a particular person was the secretary, chairman, or a member of the committee of a club or association specified in the complaint; or
- (b) on a specified day:
  - (i) a race meeting, trotting meeting, greyhound meeting or athletic meeting was held or appointed to be held at a specified place; or
  - (ii) a horse or greyhound, known by a specified name, competed in or had been entered to compete in a race at a meeting,

is prima facie evidence of the matter so averred.

### **38      Proof of certain matters**

It shall be prima facie evidence of an allegation in a complaint or information that:

- (a) a place is used for unlawful betting, to prove that a bet was made or settled with or paid to a person in or on that place; or
- (b) a person is acting as a bookmaker at a place contrary to this Act, to prove that a bet was made or settled with or paid to a person in or on that place.

**39 Proof of exceptions**

- (1) No exception, exemption, proviso, excuse or qualification (whether it does or does not accompany in the same section the description of the offence) need be specified or negatived in a complaint or information.
- (2) An exception, exemption, proviso, excuse or qualification referred to in subsection (1) may be proved by the defendant, but, whether it is or is not specified or negatived in the complaint or information, no proof in relation to it shall be required on the part of the complainant or informant.

**40 Person named in document deemed sender**

Where a document names or refers to anyone as a person to whom a payment may be made, or from whom information may be obtained for the purpose of, or concerning, betting, the person so named or referred to shall be deemed to have sent, or caused to be sent, the document, unless that person proves that he or she had not consented to being so named, and that that person was not in any way a party to, and was wholly ignorant of, or could not by reasonable action on that person's part have prevented, the sending of the document.

**41 Reasonable suspicion prima facie evidence**

Where, on the hearing of a complaint or information against a person in relation to an offence against this Act, the evidence for the prosecution is such as to raise in the mind of the court a reasonable suspicion that the person is guilty of the offence charged, the evidence shall be prima facie evidence that that person is guilty of that offence.

**42 Not necessary to prove that person found betting for money, &c.**

It shall not be necessary, in support of a charge for an offence against this Act, to prove that a person found betting was betting for money or other valuable thing.

**43 Possession of betting acknowledgement**

- (1) The existence of anything (in this section referred to as a ***betting acknowledgement***) which may reasonably be construed as an acknowledgement of a bet is prima facie evidence of the existence of a betting transaction and an undertaking to pay a sum of money to the holder of such a thing on the happening or performance of a contingency.

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- (2) A person in whose possession a betting acknowledgement is found shall be presumed to be the holder of it.
  - (3) It is not necessary to prove that a betting acknowledgement relates to any particular contingency.

#### **44 Evidence that place used for unlawful betting**

Evidence, in respect of a place on or in which a member of the Police Force has reasonable grounds for suspecting unlawful betting is, has been or is about to be carried on, that –

- (a) the member was prevented from, or was obstructed or delayed in, entering the place;
- (b) an external or internal door of, or means of access to, the place was fitted or provided with a bolt, bar, chain or means or contrivance for the purpose of preventing, delaying or obstructing the entry of any person into the place; or
- (c) the place was fitted or provided with –
  - (i) an apparatus for the purpose of giving a warning of entry of any person; or
  - (ii) a contrivance or means for concealing, removing or destroying an instrument of betting,

is prima facie evidence that the place is used for unlawful betting and that a person found in or on that place is betting unlawfully.

#### **45 Bank on place**

The keeping of a bank in a place apparently for the purposes of unlawful betting is prima facie evidence that the place is used for unlawful betting.

#### **46 Effect of discovery of instruments of betting**

The discovery in a place, or on a person found in or on that place, of an instrument of betting is prima facie evidence that:

- (a) the place is used for unlawful betting;
- (b) a person found in or on that place is unlawfully betting in that place; and
- (c) the owner or occupier of the place is engaged in unlawful betting.



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**47      *Silent telephone evidence of unlawful betting***

Evidence that there is installed in a place a telephone for which no number is listed in the current telephone directory for the area in which the place is situated is prima facie evidence that the place is used for unlawful betting.

**48      *Notices on place***

Where a document containing a notice relating to betting is exhibited on or about a place, it shall, unless the contrary is proved, be deemed to have been exhibited by or with the permission of the owner or occupier of the place.

**49      *Place deemed not private***

For the purposes of this Act, a place shall be deemed, unless the contrary is proved, not to be a place:

- (a) used as a private dwelling; or
- (b) where a person may lawfully bet.

**50      *Person present at betting place***

Evidence that a person was present at a place where unlawful betting took or takes place is prima facie evidence that the person was present for the purpose of:

- (a) taking part in the organization or management of unlawful betting;
- (b) operating or using an instrument of betting, related furnishings or any other thing used in connection with unlawful betting; or
- (c) unlawfully betting.

**51      *Equipment on place***

Where it is found that a place is fitted or provided with a computer, machine, device, recorder, telephone, blackboard, instrument of betting or other means or contrivance used, apparently used or capable of being used in carrying on or in connection with betting or capable of use for betting or for concealing, damaging, defacing, destroying, disposing of, erasing, obliterating or removing any instrument of betting, it shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the place is used for unlawful betting and that a person found in that place is using it for the purposes of unlawful betting.

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**52 Evidence of unlawful bookmaking****(1) Proof that a person:**

- (a) offered, directly or indirectly, to receive or negotiate a bet or to lay odds; or
- (b) issued, or has been party to the issue of, a document indicating or purporting to indicate, in any manner, where or with whom or at what odds a bet may be made,

is prima facie evidence that the person is engaged in unlawful bookmaking.

**(2) Where a document or thing designed, adapted or intended for use, or used, for the purposes of bookmaking is found on a place, it shall be prima facie evidence that:**

- (a) the owner and the occupier of the place were causing or permitting the place to be used for unlawful betting;
- (b) the owner and the occupier of the place were carrying on the business of bookmaking; and
- (c) a person found on the place was engaged in unlawful betting.

**(3) It is not necessary, in any proceedings against a person for an offence against this Act relating to bookmaking or betting, for the prosecution to prove that a bet was made in the presence of a member of the Police Force.****(4) In proceedings against a person for an offence against section 33 evidence that the person:**

- (a) offered, directly or indirectly, to receive or negotiate a bet or to lay odds; or
- (b) issued or has been party to the issue of any document indicating or purporting to indicate, in any manner, where or with whom or at what odds a bet may be made,

is prima facie evidence that that person was carrying on the business of bookmaking.

**53 Receipt of money**

In any proceeding for an offence against this Act proof of the receipt by a person of money for the purpose alleged in the complaint or information shall be prima facie evidence that it was invited or solicited by the recipient and that it was received by the person for

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fee, commission, reward, share or interest, as the case may be.

#### **54 Procuring bets**

Proof that a person:

- (a) knowingly took part in procuring the assembly of persons for the purpose of unlawful betting;
- (b) provided, operated or used an instrument of betting;
- (c) issued, received or recorded money or tokens used in betting or cheques given or credit provided in respect of such money or tokens or in respect of sums won or lost; or
- (d) supervised or conducted unlawful betting,

is prima facie evidence that the person is assisting in the management of a place used for unlawful betting.

#### **55 Evidence as to offences**

Where a court, in proceedings against a person for an offence against this Act, is of the opinion that money or other valuable thing which is proved to its satisfaction to have been given to, received or paid by the accused person, or given to, received or paid by a person on the accused's person's behalf, in circumstances which, in the mind of the court, raise a reasonable suspicion that such money or thing was given, received, or paid in contravention of this Act, that giving, receiving or paying is prima facie evidence of the commission of that offence by that accused person.

### **Part VI Miscellaneous**

#### **56 Offences by bodies corporate**

- (1) Where, under this Act, a body corporate is guilty of an offence, an officer of the body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in or a party to the commission of the offence is also guilty of an offence.
- (2) For the purposes of subsection (1), **officer** includes:
  - (a) a director, secretary, executive officer or employee of the body corporate;
  - (b) a receiver, or a receiver and manager, of the property or any part of the property of the body corporate;

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- (c) an official manager or deputy official manager of the body corporate;
  - (d) a liquidator of the body corporate;
  - (e) a trustee or other person administering a compromise or arrangement made between the body corporate and its creditors; and
  - (f) an administrator appointed under section 41 of the *Racing and Betting Act*.

**57 Time limit, &c., for complaint**

An information or complaint shall not be laid or made in respect of an offence against this Act after the expiration of 3 years after the date on which the alleged offence occurred.

**58 Forfeiture**

- (1) Where an instrument of betting or thing associated with unlawful betting is seized in pursuance of this Act, it is, on the finding of guilt of a person for an offence in connection with which it was seized, forfeited to the Territory.
- (2) Where a person is found guilty of an offence against this Act, the court by which the person is found guilty may order that any money or other valuable thing that relates to the offence be forfeited to the Territory.
- (3) Where money or other valuable thing forfeited under subsection (2) is in the possession or control of, or held at the direction of, a person other than the person found guilty, that other person shall, on production to that person of a copy of the order made under that subsection, immediately pay the money or thing to the Territory.

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

- (4) On payment or delivery being made in accordance with subsection (3) the liability to the person found guilty or to any other person of the person making the payment or delivery is, to the extent of that payment or delivery, discharged.
- (5) Where a Judge or a Justice makes an order under subsection (2), the Judge or the Justice shall make and sign a memorandum of the order.
- (6) A memorandum referred to in subsection (5) may be registered in a court of competent jurisdiction.

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- (7) On registration under subsection (6), the memorandum becomes a record of the court with the same force and effect as a judgment of that court, and the like proceedings (including proceedings in bankruptcy) may be taken on the memorandum as if the order had been a judgment of the court in favour of the Territory as plaintiff and the owner of the forfeited money or other valuable thing as defendant.
- (8) For the purposes of this section, any money or other valuable thing shall be taken to relate to an offence if it:
- (a) was used in the commission of an offence against this Act;
  - (b) was received or acquired directly or indirectly as or from the proceeds or part of the proceeds of unlawful betting; or
  - (c) acknowledges the entitlement of a person, or is evidence that a person is entitled, to receive money or other valuable thing as the proceeds or part of the proceeds of unlawful betting,
- whether or not the money or other valuable thing is or was at any time owned by or in the possession or control of the person found guilty.
- (9) Where a person is charged with an offence against this Act, any other person claiming ownership of or an interest in any money or other valuable thing which may be the subject of an order under subsection (2) may, by leave of the court at the trial of the person charged, appear and show cause why that money or other valuable thing should not be forfeited.
- (10) On hearing a person under subsection (9), the court may order that the money or other valuable thing be released or returned to that or any other person.
- (11) Where an order is made under subsection (2) after a person has appeared before the court by leave of the court under subsection (9), that person may appeal from the order of the court as if that person were a defendant.
- (12) A forfeiture under this section is in addition to and not part of a penalty under this Act.
- (13) All instruments of betting or things associated with unlawful betting seized in pursuance of this Act and forfeited under this section may be sold, destroyed or disposed of as the Minister thinks fit.

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**59      Regulatory offence**

An offence against section 18 or Division 2 of Part IV (other than sections 20, 25 and 27) is a regulatory offence.

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

#### ***Unlawful Betting Act 1989 (Act No. 13, 1989)***

Assent date	5 April 1989
Commenced	3 May 1989 (Gaz G17, 3 May 1989, p 2)

#### ***Statute Law Revision Act 1991 (Act No. 31, 1991)***

Assent date	25 June 1991
Commenced	25 June 1991

#### ***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date	19 April 1996
Commenced	s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and Gaz S15, 13 June 1996)

#### ***Residential Tenancies (Consequential Amendments) Act 1999 (Act No. 46, 1999)***

Assent date	10 November 1999
Commenced	1 March 2000 (s 2, s 2 <i>Residential Tenancies Act 1999</i> (Act No. 45, 1999) and Gaz G8, 1 March 2000, p 2)

### 3 LIST OF AMENDMENTS

s 9	amd No. 46, 1999, s 8
s 12	amd No. 17, 1996, s 6
s 27	amd No. 31, 1991, s 14
ss 34 – 35	amd No. 17, 1996, s 6
s 58	amd No. 17, 1996, s 6