

GAMING AND BETTING (AMENDMENT) ACT.

Act No. 7, 1938.

George VI. An Act to amend the Gaming and Betting Act,
No. 7, 1938. 1912-1937, in certain respects; and for
purposes connected therewith. [Assented
to, 4th October, 1938.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Gaming and
Betting (Amendment) Act, 1938."

(2) The Gaming and Betting Act, 1912-1937, as
amended by this Act, may be cited as the Gaming and
Betting Act, 1912-1938.

Amendment of
Act No. 25,
1912.

2. The Gaming and Betting Act, 1912-1937, is
amended—

Sec. 3.
(Definition
of "Street".)

(a) (i) by omitting from paragraph (1) of the defi-
nition of "Street" in section three all words
following the word "land";

(ii) by inserting after paragraph (1) of the same
definition the following new paragraph:—

(1A) Every description of vessel used in
navigation;

(iii) by inserting at the end of the same definition
the following paragraphs—

"Street" does not include any house other
than a house situated on premises in
respect of which a license is held
under Part III of the Liquor Act,
1912, or the Billiards and Bagatelle
Act, 1902, or the Theatres and Public
Halls Act, 1908-1937.

"Street"

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“Street” does not extend to include a licensed race-course during the period in which a race-meeting is being held on such race-course.

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- (b) by inserting next after section three the following new section:— New sec. 3A.

3A. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected. Construc-
tion.

- (c) by omitting from section forty-one the words “as a betting-house”; Sec. 41.

(Power of entry and search.)

- (d) by inserting after section forty-seven the following new sections:—

New secs.
47A, 47B,
47C, 47D,
47E.

47A (1) (a) No house, office, room or other place shall be opened, kept or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof communicating or conveying by any means whatsoever, either directly or indirectly, to any person at any time before the prescribed time, any information concerning the betting or betting odds on any event or contingency of or relating to any race, contest or course held or to be held at any race-meeting or meeting for coursing. Betting in-
formation—
keeping
house, etc.,
for com-
munication
thereof.

(b) In this subsection the expression “the prescribed time” means the actual time of the starting of the last race, contest or

course

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course at the race-meeting or meeting for coursing at which the event or contingency to which the betting or betting odds relate is decided or determined.

(c) Any reference in this subsection to "the betting or betting odds" shall extend to include a reference to totalizator dividends and probable totalizator dividends.

(2) Whosoever opens, keeps, or uses any house, office, room or other place for any of the purposes mentioned in subsection one of this section, or knowingly permits the same to be opened, kept or used by any other person for any of such purposes, or has the care or management of, or in any manner assists in conducting the business of any such house, office, room or place opened, kept or used for any of such purposes, shall, for a first offence, be liable to a penalty not exceeding one hundred pounds, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding two hundred and fifty pounds.

(3) This section shall not operate to prohibit the communication or conveying of information upon a licensed race-course or coursing ground approved by the Minister, where the information is so communicated or conveyed on any day upon which a race-meeting or meeting for coursing is held on such race-course or coursing ground, and is so communicated or conveyed solely to persons who are present at such race-meeting or meeting for coursing.

47E. (1) Every person who prints or publishes or causes to be printed or published any newspaper or document which contains any advertisement, notice, or other matter whatsoever—

(a) which is likely to lead to the belief, or whereby it is made to appear that such person or any other person will if required—

(i)

Tipsters,
etc.—advertisements.
cf. Act No.
3,749, 1928
(Vict.),
s. 121.

- (i) bet on any event or contingency of or relating to any intended race contest or course to be held at any race-meeting or meeting for coursing in any part of the Commonwealth of Australia; or
 - (ii) communicate or convey by any means whatsoever, either directly or indirectly, any information or advice as to the probable result of any such race contest or course; or
 - (iii) communicate or convey by any means whatsoever, either directly or indirectly, any information or advice as to the betting or betting odds on any such race contest or course; or
- (b) which is likely to lead to the belief or whereby it is made to appear that information or advice in relation to any of the matters referred to in subparagraphs (ii) and (iii) of paragraph (a) of this subsection has been given or will be given in any newspaper or document; or
- (c) whereby any information or advice is given or purports to be given—
- (i) as to the probable result of any such race contest or course; or
 - (ii) as to the betting or betting odds on any such race contest or course,

shall be liable for a first offence to a penalty not exceeding one hundred pounds and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding two hundred and fifty pounds.

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(2) (a) If any such advertisement, notice or other matter as is referred to in subsection one of this section—

- (i) names any person as the person by whom or on whose behalf such advertisement, notice or matter is printed or published; or
- (ii) names any person as the person who will make any such bet or communicate or convey any such information or advice as is referred to in paragraph (a) of that subsection; or
- (iii) names any person as the person who or on whose behalf any such information or advice as is referred to in paragraph (b) of that subsection has been given or will be given; or
- (iv) names any person as the person who or on whose behalf or with whose authority any such information or advice as is referred to in paragraph (c) of that subsection is given or purports to be given, or by whom such information or advice is furnished,

the person so named shall, in the absence of proof to the contrary, be deemed to have caused to be published the newspaper or document containing such advertisement, notice or other matter.

(b) For the purposes of this subsection a person shall be deemed to be named if he is mentioned or referred to by name, or by any name or designation whatsoever used or assumed by him or by which he is usually known or which is usually applied to his business or business premises.

(3) If any such advertisement, notice or other matter as is referred to in subsection one of this section specifies, indicates or refers to a telephone number, post office box or address, the

the person renting such telephone or post office box, or the occupier of the premises to which such address relates (as the case may be) shall, in the absence of proof to the contrary, be deemed to have caused to be published the newspaper or document containing such advertisement, notice or other matter.

(4) (a) This section shall not operate—

- (i) to prohibit a bookmaker from exhibiting or posting up any written or printed matter relating to any betting or betting odds which he is prepared to accept or offer, where such matter is exhibited or posted up on a licensed race-course or coursing ground approved by the Minister on a day upon which a race-meeting or meeting for coursing is being held upon such race-course or coursing ground;
- (ii) to prohibit the printing or publication in any newspaper of an advertisement or notice relating to a bookmaker where the contents of such advertisement or notice are confined to a statement of the name of the bookmaker, the race-course or coursing ground approved by the Minister on which he will operate and the number of the stand on such race-course or coursing ground which he will occupy.

(b) This section shall not operate to prohibit the exhibition by or on behalf of a person, club or association conducting a race-meeting or a meeting for coursing on a licensed race-course or coursing ground approved by the Minister of any information concerning probable totalizator dividends, where such information is so exhibited on such race-course or coursing ground on the day upon which the race-meeting or meeting for coursing is held.

(c) This section shall not operate to prohibit the publication of a newspaper containing a forecast of the probable result of any such race

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race contest or course as is referred to in subsection one of this section, where—

- (i) the newspaper is published in good faith for the purpose of supplying mainly news and comment other than such forecast, and
- (ii) the publication of such forecast is not by way of advertisement or for valuable consideration.

(d) This section shall not operate to prohibit the publication of any information in relation to a prosecution for an offence.

(5) (a) In this section—

“document” includes placard, sign, device, handbill, card and writing;

“publishes” includes sends, exhibits, sells, circulates, distributes, gives away and posts up; and “published” has a corresponding meaning.

(b) Any reference in subsection one of this section to “the betting or betting odds” shall extend to include a reference to probable totalizator dividends.

47c. (1) No house, office, room or other place shall be opened, kept or used for the purpose of the owner, occupier or keeper thereof, or any person using the same or any person procured or employed by, or acting for or on behalf of such owner, occupier or keeper, or person using the same, or of any person having the care or management or in any manner conducting the business thereof making any oral statement—

(a) which is likely to lead to the belief or whereby it is made to appear that any person will, if required—

- (i) bet on any event or contingency of or relating to any intended race contest or course to be held at any race-meeting or meeting for coursing in any part of the Commonwealth of Australia; or

(ii)

Tipsters,
etc.—keep-
ing house
for convey-
ing oral
statements.

- (ii) communicate or convey by any means whatsoever, either directly or indirectly, any information or advice as to the probable result of any such race contest or course; or
- (iii) communicate or convey by any means whatsoever, either directly or indirectly, any information or advice as to the betting or betting odds on any such race contest or course; or
- (b) which is likely to lead to the belief or whereby it is made to appear that information or advice in relation to any of the matters referred to in subparagraphs (ii) and (iii) of paragraph (a) of this subsection has been given or will be given in any newspaper or document; or
- (c) whereby any information or advice is given or purports to be given—
- (i) as to the probable result of any such race, contest or course; or
 - (ii) as to the betting or betting odds on any such race, contest or course.

(2) Whosoever opens, keeps or uses any house, office, room or other place for any of the purposes mentioned in subsection one of this section, or knowingly permits the same to be opened, kept or used by any other person for any of such purposes, or has the care or management of, or in any manner assists in conducting the business of any such house, office, room or place opened, kept or used for any of such purposes, shall, for a first offence, be liable to a penalty not exceeding one hundred pounds, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding two hundred and fifty pounds.

(3)

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(3) This section shall not operate to prohibit a bookmaker from making any oral statement as to any betting or betting odds which he is prepared to accept or offer where such statement is made upon a licensed race-course or coursing ground approved by the Minister on a day upon which a race-meeting or meeting for coursing is being held upon such race-course or coursing ground, and is so made solely to persons present at such race-meeting or meeting for coursing.

(4) (a) In this section the expression "make any oral statement" includes every method of communicating by means of spoken words, whether directly or through the medium of any apparatus for the reproduction of sound.

(b) Any reference in subsection one of this section to "the betting or betting odds" shall extend to include a reference to probable totalizator dividends.

47D. (1) Every person who for fee or reward gives any oral information or advice—

(a) as to the probable result of any intended race, contest or course to be held at any race-meeting, or meeting for coursing, in any part of the Commonwealth of Australia; or

(b) as to the betting or betting odds on any event or contingency of or relating to any such race contest or course,

shall be liable for a first offence to a penalty not exceeding one hundred pounds, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding two hundred and fifty pounds.

(2) In any proceedings for an offence against this section the allegation in the information that any information or advice was given for fee or reward shall be prima facie evidence of the fact so alleged.

(3) In this section the expression "give oral information or advice" includes every method of communicating information by spoken

Tipsters,
etc.—
giving oral
information
for fee or
reward.
cf. Act No.
2,282, 1936
(S.A.), s. 66.

spoken words whether directly or through the medium of any apparatus for the reproduction of sound. No. 7, 1933.

47E. (1) Every person who prints or publishes, or causes to be printed or published, any document which contains or purports to contain— Race programmes.

- (a) a list of the horses or dogs nominated for any intended race contest or course which is to be held at any race-meeting or meeting for coursing on a licensed race-course or coursing ground approved by the Minister; or
- (b) a list of the horses or dogs which will or will not take part in any such race, contest or course,

shall, unless the printing and publication of such list has been approved or authorised by the person, club, or association conducting such race-meeting or meeting for coursing, be liable for a first offence to a penalty not exceeding one hundred pounds, and for a second or any subsequent offence to a penalty of not less than one hundred pounds and not exceeding two hundred and fifty pounds.

(2) In this section—

“document” includes newspaper, placard, sign, handbill, card and writing but does not include a newspaper published in good faith for the purpose of supplying mainly news and comment other than the matter referred to in paragraph (a) and/or paragraph (b) of subsection one of this section.

“publishes” includes sends, exhibits, sells, circulates, distributes, gives away and posts up; and “published” has a corresponding meaning.

(e) (i) by inserting in subsection one of section forty-two after the word “telegram” the words “by telephone”;

(ii)

Sec. 42 (1).
(Resorting.)

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(ii) by inserting in the same subsection after the word "correspondence" the words "or communication";

New sec.
58A.

(f) by inserting next after section fifty-eight the following new section:—

Certain
allegations
prima facie
evidence.
cf. Act No.
2,282, 1936
(S.A.), s. 99.

58A. The allegations in an information in respect of any offence against this Act that any race-meeting or meeting for coursing mentioned in the information was held at a place and on a date therein specified and that any horse or dog named in the information took part in any race, contest or course therein mentioned shall be accepted by the court as evidence of the truth of the allegations unless the contrary is proved.

Further
amendment
of Act No.
25, 1912,
s. 51.

(Limitation
of racing
days.)

3. (1) The Gaming and Betting Act, 1912-1937, is further amended by inserting next after subsection four of section fifty-one the following new subsection:—

(4A) Notwithstanding the provisions of subsections three and four of this section, in the case of any race-course mentioned in paragraph (c) of subsection three of this section meetings for horse-racing may be held on that race-course on any number (not being more than twelve) of days in any one year and meetings for pony-racing may be held on that race-course on any number (not being more than six) of days in any one year but the total number of days in any one year upon which any such meetings are held shall not exceed twelve.

(2) The amendment made by subsection one of this section shall take effect on the first day of January, one thousand nine hundred and thirty-nine.

Further
amendment of
Act No. 25,
1912.

Sec. 52A.
(Special
licenses.)

(3) The Gaming and Betting Act, 1912-1937, is further amended:—

(a) by inserting next after subsection five of section 52A the following new subsection:—

(5A) Notwithstanding anything contained in subsection five of this section the number of licenses for race-courses situated within forty miles of the principal post office, Newcastle, shall not exceed three.

(b)

- (b) by inserting in section fifty-three after the words "in that week" the words "or in the next succeeding week."

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Sec. 53.

(Days of racing.)
