

GAMING AND BETTING (AMENDMENT) ACT 1987
No. 200

NEW SOUTH WALES



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GAMING AND BETTING (AMENDMENT) ACT 1987 No. 200

NEW SOUTH WALES



Act No. 200, 1987

An Act to amend the Gaming and Betting Act 1912 to establish a Gaming Tribunal and with respect to unlawful games and gaming-houses suppression. [Assented to 4 December 1987]

Gaming and Betting (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Gaming and Betting (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day to be appointed by proclamation.

Amendment of Act No. 25, 1912

3. The Gaming and Betting Act 1912 is amended as set out in Schedules 1-3.

Savings and transitional provisions

4. Schedule 4 has effect.

SCHEDULE 1—AMENDMENTS RELATING TO GAMING-HOUSES

(Sec. 3)

(1) Section 3 (**Definitions**)—

(a) Definition of “Declared gaming-house”—

Omit “a declaration under section 28”, insert instead “an interim declaration under section 28 or a declaration under section 32”.

(b) Definition of “Gaming-house”—

After “place” where lastly occurring, insert:

, and includes—

- (c) a place used as a means of access to, or exit from, the firstmentioned place; and
 (d) a place used for doing anything to or with an instrument of gaming apparently associated with the firstmentioned place

(c) After the definition of “Ground”, insert:

“Instruments of gaming” includes, without limiting its generality—

- (a) playing-cards, dominoes, dice and chips or counters;
 (b) any list, book, card or other document; and
 (c) any other thing,

that might reasonably be suspected of having been used in, or in connection with, the playing of an unlawful game.

(d) After the definition of “Race-meeting”, insert:

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SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*

“Senior police officer” means a member of the police force of or above the rank of Inspector.

(2) Part IIA, Divisions 2, 3—

Omit sections 21–35 and the headings before sections 21 and 28, insert instead:

Division 2—Gaming-houses

Liability for owner or occupier of place used as a gaming-house

21. (1) An owner or occupier of a place shall not knowingly allow the place to be used as a gaming-house.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

(2) If a senior police officer has caused notice to be served on the owner or occupier of a place that the place is used as a gaming-house, the owner or occupier shall, for the purposes of this section, be deemed to know that the place is so used.

(3) If a corporation contravenes this section, whether by act or omission, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened this section unless the person satisfies the court—

(a) that the corporation contravened the provision without the knowledge of the person and that the person could not reasonably be expected to have knowledge of the contravention;

(b) that the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or

(c) that the person, if in such a position, used all due diligence to prevent the contravention by the corporation.

(4) A person may be proceeded against and convicted under this section pursuant to subsection (3) whether or not the corporation has been proceeded against or been convicted under this section.

(5) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this section.

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SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*

Liability of keeper etc. of place used as a gaming-house

21A. A keeper of a place, a person procured or employed by or acting for or on behalf of an owner, occupier or keeper of a place, a person having the care or management of a place or a person who is, in any manner, conducting the business of a place shall not knowingly allow the place to be used as a gaming-house.

Penalty: 20 penalty units or imprisonment for 6 months.

Search warrant

22. (1) In this section—

“authorised justice” means—

(a) a Magistrate; or

(b) a justice employed in the Attorney General’s Department.

(2) A member of the police force may apply to an authorised justice for a search warrant if the member of the police force has reasonable grounds for believing that a place is kept or used as a gaming-house.

(3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the police force—

(a) to enter and search the place;

(b) to search any person in the place;

(c) to arrest, search and bring before a Magistrate all persons found in the place; and

(d) to seize all means, contrivances or instruments of gaming, money and securities for money found in the place.

(4) Part III of the Search Warrants Act 1985 applies to a search warrant issued under this section.

Organising etc. a gaming-house

23. (1) A person shall not organise or conduct or assist in organising or conducting a gaming-house.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

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 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-HOUSES—*continued*

(2) A person who acts as a look-out, doorman or guard for a place at which a gaming-house is organised or conducted shall be taken to have assisted in organising or conducting the gaming-house unless the person proves that he or she did not know and could not reasonably be expected to have known that the gaming-house was organised or conducted.

Person in gaming-house without lawful excuse

24. (1) A person shall not be in a gaming-house without lawful excuse.

Penalty: 10 penalty units or imprisonment for 6 months.

(2) The defendant has the onus of proving lawful excuse.

(3) It is not an offence under this section for a person to be in that part of a gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Forfeiture of money etc.

25. If an offence under this Part is proven against a person—

(a) all money and securities for money seized in relation to the offence; and

(b) all means, contrivances or instruments of gaming seized in relation to the offence,

shall be forfeited to the Crown.

Eviction of occupier of gaming-house

26. (1) If an owner of a place has reasonable grounds to suspect that the place is used as a gaming-house, the owner may serve a notice to quit on the occupier.

(2) Service of a notice to quit determines, as from the tenth day after the date of service, the tenancy of the occupier as if that tenancy had expired by effluxion of time.

(3) On the determination of the tenancy, the owner may, without any authority other than this Act, take legal proceedings to evict, and may evict, the occupier.

(4) A notice to quit shall be served—

(a) on the occupier personally; or

(b) if the occupier cannot be found, by posting a copy of the notice on some conspicuous part of the place.

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**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***
Cancellation of notice to quit

27. (1) A notice to quit under section 26 (1) may, on application made by the occupier, be cancelled by the Supreme Court, or the District Court, subject to such terms as the Court thinks fit, on proof that the occupier has not at any time knowingly allowed the place to be used as a gaming-house.

(2) A copy of the application shall be served on the owner at least 2 days before the hearing of the application and on being so served operates, until the determination of the application, as a stay of any proceedings commenced under section 26 (3).

(3) If a senior police officer has caused notice to be served on the occupier of the place that the place is used as a gaming-house, the occupier shall, for the purposes of this section, be deemed to know that the place is so used.

Division 3—Declared gaming-houses**Interim declaration of a place as a gaming-house**

28. (1) A senior police officer may file with the Gaming Tribunal an affidavit which states that the officer believes a place is a gaming-house and which sets out the grounds for that belief.

(2) The Gaming Tribunal shall, not later than 5 days after the affidavit is filed, make an interim declaration that the place is reasonably suspected of being a gaming-house or determine not to make such an interim declaration.

(3) In determining whether or not to make an interim declaration, the Gaming Tribunal may have regard to—

- (a) any external or internal observations of the place;
- (b) the external or internal construction of the place;
- (c) the alleged repute of persons observed entering, leaving or within the place or in the near vicinity of the place;
- (d) the existence of any of the matters referred to in section 37 (1);
- (e) any sums of money or securities for money observed or found within the place; and
- (f) any other matters the Gaming Tribunal considers relevant.

(4) If the Gaming Tribunal makes an interim declaration, it shall fix a date (which is not less than 1 month after the date on which the interim declaration is made) for the purpose of hearing any application for rescission of the interim declaration.

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*****Notice of making of interim declaration**

28A. (1) A senior police officer shall cause notice of the making of the interim declaration and of the date fixed for the purpose of hearing any application for its rescission to be served on the owner or occupier of the declared gaming-house the subject of the interim declaration—

- (a) personally; or
- (b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the declared gaming-house.

(2) A person shall not deface, destroy, cover or remove a copy of a notice fixed under this section.

Penalty: 5 penalty units or imprisonment for 6 months.

(3) Subsection (2) does not prevent the replacement, by a member of the police force, of a notice fixed under this section with a notice under section 33A.

(4) A senior police officer shall cause notice of the making of an interim declaration and of the date fixed for the purpose of hearing any application for its rescission to be published—

- (a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the interim declaration; and
- (b) in the Gazette.

(5) If there are different owners or occupiers of different parts of a declared gaming-house the subject of an interim declaration, this section does not require notice to be given to a person who is the owner or occupier only of a part of the gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Recordings by the Registrar-General

29. (1) The Gaming Tribunal shall cause notice of the making or rescission of an interim declaration under section 28 and of the making or rescission of a declaration under section 32 to be lodged in the office of the Registrar-General.

(2) If the notice—

- (a) describes the land which is or was affected by the interim declaration or declaration in a manner enabling the land to be identified; and

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 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*

- (b) in the case of land under the provisions of the Real Property Act 1900, specifies the reference to the folio of the Register kept under that Act, or the registered dealing under that Act, that evidences the title to that land,

the Registrar-General shall, on lodgement of the notice—

- (c) in the case of land under the provisions of the Real Property Act 1900—make such recordings in the Register in respect of the making or rescission of the interim declaration or declaration as the Registrar-General considers appropriate; or
- (d) in any other case—cause the notice to be registered in the General Register of Deeds kept under Division 1 of Part XXIII of the Conveyancing Act 1919.

(3) For the purposes of Division 1 of Part XXIII of the Conveyancing Act 1919, a notice registered under subsection (2) (d) shall be deemed to be a registration copy of an instrument duly registered under that Division.

Person found in declared gaming-house

29A. (1) If, after publication in accordance with section 28A (4) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, a person is found in, or on, or entering, or leaving the declared gaming-house the subject of the interim declaration, a member of the police force may, without warrant, arrest the person and take the person before a Magistrate.

(2) A person arrested under subsection (1), unless the person proves that he or she was in, or on, or entering the declared gaming-house for a lawful purpose, contravenes this subsection.

Penalty: For a first offence—50 penalty units or imprisonment for 6 months. For a second or subsequent offence—not less than 50 penalty units and not more than 100 penalty units, or imprisonment for 12 months.

(3) The form of information for an offence against subsection (2) may be in Form A or B in the Third Schedule.

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SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*

Declared gaming-house—offence by owner

30. If, after service on an owner in accordance with section 28A (1) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, the declared gaming-house the subject of the interim declaration is used as a gaming-house, the owner, unless the owner proves that he or she has taken all reasonable steps to evict the occupier from the declared gaming-house, contravenes this section.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

Declared gaming-house—offence by occupier

30A. If, after service on an occupier in accordance with section 28A (1) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, the declared gaming-house the subject of the interim declaration is used as a gaming-house, the occupier contravenes this section.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

Declared gaming-house—entry by police

31. (1) While an interim declaration is in force, a member of the police force may, without warrant—

- (a) enter the declared gaming-house the subject of the interim declaration;
- (b) pass through, from, over, or along any other land or building for the purpose of entering in pursuance of paragraph (a);
- (c) for any of the purposes of this section, break open doors, windows or partitions and do such other acts as may be necessary; and
- (d) seize any means, contrivances or instruments of gaming, money and securities for money in the declared gaming-house.

(2) All money and securities for money seized under this section shall be forfeited to the Crown.

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 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*

(3) The Commissioner of Police may direct that all means, contrivances or instruments of gaming seized under this section be destroyed.

Application for rescission of interim declaration

31A. (1) The owner or occupier of a declared gaming-house the subject of an interim declaration may, not less than 14 days before the date fixed under section 28 (4) in respect of an interim declaration, give notice to the Gaming Tribunal of intention to apply for rescission of the interim declaration.

(2) The person making the application shall give notice of the application to a senior police officer not less than 7 days before the date fixed under section 28 (4).

Declaration of place as a gaming-house or rescission of interim declaration

32. (1) If—

- (a) no application for the rescission of an interim declaration is duly made; or
- (b) an application is duly made but the applicant is unable to satisfy the Gaming Tribunal that the interim declaration should be rescinded,

the Gaming Tribunal shall make a declaration that the place the subject of the interim declaration is a gaming-house.

(2) A declaration that a place is a gaming-house remains in force until rescinded under section 34A by the Gaming Tribunal.

(3) If—

- (a) an application for the rescission of an interim declaration is duly made; and
- (b) the applicant is able to satisfy the Gaming Tribunal that the place the subject of the interim declaration was not a gaming-house at the date of the affidavit the filing of which led to the making of the interim declaration,

the Gaming Tribunal shall rescind the interim declaration.

(4) A rescission of an interim declaration may be subject to such conditions, including the giving of security and undertakings to ensure that the place will not be used as a gaming-house, as the Gaming Tribunal thinks fit.

(5) A rescission of an interim declaration has effect from the date of the Gaming Tribunal's determination or such other date as the Gaming Tribunal may specify.

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*****Submissions as to use of declared gaming-house**

32A. At the time when the Gaming Tribunal is considering whether to make a declaration that a place the subject of an interim declaration is a gaming-house or on application made at any time after a declaration is made, a person who, in the opinion of the Gaming Tribunal, has a sufficient interest in the place is entitled to make submissions to the Gaming Tribunal on the question of whether the use of the place for the purposes of any business should be prohibited.

Restriction on use of declared gaming-house

33. (1) If a place the subject of an interim declaration is declared to be a gaming-house, the use of the place for the purposes of any business is prohibited unless, or except to the extent that, the Gaming Tribunal, on the making of the declaration or on a subsequent application, determines that it would be unjust or unreasonable for the prohibition to apply.

(2) A person shall not contravene a prohibition under this section.

Penalty (subsection (2)): 10 penalty units for each day on which the offence is committed or imprisonment for 12 months.

Notice of making of declaration or rescission of interim declaration

33A. (1) If the owner or occupier of a declared gaming-house the subject of a declaration did not appear, or was not represented, before the Gaming Tribunal on the making of the declaration, a senior police officer shall cause notice of the making of the declaration to be served on the owner or occupier—

- (a) personally; or
- (b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the declared gaming-house.

(2) A person shall not deface, destroy, cover or remove a copy of a notice fixed under this section.

Penalty: 5 penalty units or imprisonment for 6 months.

(3) A senior police officer shall cause notice of the making of a declaration or the rescission of an interim declaration to be published—

- (a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the declaration or interim declaration; and

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SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*

(b) in the Gazette.

(4) If there are different owners or occupiers of different parts of a gaming-house, this section does not require notice to be given to a person who is the owner or occupier only of a part of the gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Further effects of declaration of place as a gaming-house

34. (1) Sections 29A, 30, 30A and 31 apply in respect of a declared gaming-house the subject of a declaration in the same way as they apply in respect of a gaming-house the subject of an interim declaration.

(2) In the application of those sections, a reference in them to the service or publication, in accordance with section 28A (1) or 28A (4), of a notice of the making of an interim declaration shall be construed as a reference to the service or publication, in accordance with section 33A (1) or 33A (3), of the making of a declaration.

Rescission of declaration

34A. (1) The owner or occupier of a place the subject of a declaration or a senior police officer may apply to the Gaming Tribunal for the rescission of the declaration.

(2) An owner or occupier who makes an application shall give notice of the application to a senior police officer not less than 7 days before the application is heard.

(3) If the applicant is able to satisfy the Gaming Tribunal—

(a) that the place is no longer a gaming-house; and

(b) in the case of an application by the owner or occupier—
that the place is or is intended to be used for a lawful purpose,

the Gaming Tribunal shall rescind the declaration.

(4) A rescission of a declaration may be subject to such conditions, including the giving of security and undertakings to ensure that the place will not again be used as a gaming-house, as the Gaming Tribunal thinks fit.

(5) A rescission of a declaration has effect from the date of the Gaming Tribunal's determination or such other date as the Gaming Tribunal may specify.

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 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*
Public notice of rescission of declaration

35. A senior police officer shall cause notice of the rescission of a declaration to be published—

- (a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the declaration; and
- (b) in the Gazette.

Evidence of publication of notices etc.

35A. (1) In any proceedings under this Act, the production of a copy of a newspaper containing a notice under section 28A of the making of an interim declaration, a notice under section 33A of the making of a declaration or the rescission of an interim declaration or a notice under section 35 of the rescission of a declaration is evidence that the notice was duly published in the newspaper on the date appearing on the newspaper.

(2) In any proceedings under this Act, the production of a copy of the Gazette containing a notice referred to in subsection (1) is evidence that the interim declaration, declaration or rescission was duly made.

(3) Section 37 (Evidence of place used as a gaming-house)—

- (a) Section 37 (1) (b1)—

After section 37 (1) (b), insert:

- (b1) a person at or near the place has a device which is capable of being used to give an alarm to a person within the place;

- (b) Section 37 (3)—

Omit the subsection.

(4) Section 37A (Obstructing member of the police force)—

- (a) Section 37A (a)—

Omit “or” where lastly occurring.

- (b) Section 37A (b), (c)—

After section 37A (b), insert:

; or

- (c) give an alarm or cause an alarm to be given for the purpose of—

- (i) notifying another person of the presence of the member of the police force; or

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**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***

- (ii) obstructing or delaying the member of the police force from entering or re-entering that place or any part of that place.
- (5) Section 43 (**Application of gaming-house provisions to betting-houses**)—
- Omit “sections 26 to 28”, insert instead “sections 26 and 27 and Division 3 of Part IIA”.
- (6) Section 60 (**Proceedings for offences**)—
- Section 60 (2)—
- Omit “or section 44 (1)”, insert instead “, 21, 23, 29A, 30, 30A (or section 29A, 30 or 30A as applied by section 34) or 44 (1)”.

**SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING TRIBUNAL**

(Sec. 3)

- (1) Section 3 (**Definitions**)—
- (a) Section 3—
- After the definition of “Gaming-house”, insert:
- “Gaming Tribunal” means the Gaming Tribunal constituted by Part IIB.
- (b) Section 3 (2)—
- At the end of section 3, insert:
- (2) In this Act—
- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (2) Part IIB—

After Part IIA, insert:

PART IIB—THE GAMING TRIBUNAL

The Gaming Tribunal

38A. (1) There is constituted by this Act a tribunal to be called the Gaming Tribunal.

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SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING
TRIBUNAL—*continued*

(2) The Gaming Tribunal is a court of record and its seal shall be judicially noticed.

Jurisdiction of the Gaming Tribunal

38B. The Gaming Tribunal has the jurisdiction vested in it by or under this or any other Act.

President and Deputy President

38C. (1) The Chief Judge of the District Court is President of the Gaming Tribunal.

(2) The Governor may appoint a Judge of the District Court as Deputy President of the Gaming Tribunal.

(3) The Deputy President shall hold office for such period not exceeding 5 years as may be specified in the Deputy President's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(4) If the President is unable to act as the President, the Deputy President becomes, for all purposes, the President until such time as the President is again able to act as such.

(5) The Public Service Act 1979 does not apply to the appointment of the Deputy President and the Deputy President is not, as Deputy President, subject to that Act.

Members

38D. Each Judge of the District Court is a member of the Gaming Tribunal.

Staff of the Gaming Tribunal

38E. Such staff as may be necessary to enable the Gaming Tribunal to exercise its functions shall be employed under the Public Service Act 1979.

Constitution of the Gaming Tribunal in the exercise of its jurisdiction

38F. (1) If the Gaming Tribunal is exercising the jurisdiction conferred by section 28 or 32, it shall be constituted by a member sitting alone.

(2) If the Gaming Tribunal is exercising the jurisdiction conferred by section 34A, it shall be constituted by the President and 2 members of the Gaming Tribunal sitting together.

(3) When the Gaming Tribunal is constituted as referred to in subsection (2)—

(a) a decision of the President as to—

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SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING
TRIBUNAL—*continued*

- (i) the jurisdiction of the Gaming Tribunal;
 - (ii) the admissibility of evidence; or
 - (iii) procedure,
- is the decision of the Gaming Tribunal; and
- (b) subject to paragraph (a), the President has one vote and each of the members present has one vote and a decision supported by a majority of those votes is a decision of the Gaming Tribunal.
- (4) For the purposes of subsection (3) (b), an abstention from voting is a vote in the negative.

Representation etc. at proceedings

38G. At any proceedings before the Gaming Tribunal—

- (a) a person who is entitled, under Division 3 of Part IIA, to make an application or submission to the Gaming Tribunal is entitled to be represented by counsel, solicitor or agent; and
- (b) the public shall not be excluded unless the Gaming Tribunal exercising jurisdiction at those proceedings otherwise orders.

Powers etc. of the Gaming Tribunal as to the production of evidence

38H. (1) Subject to the regulations, the Gaming Tribunal has the functions vested in the District Court in respect of the following matters:

- (a) compelling the attendance of witnesses and their examination on oath, affirmation or declaration;
 - (b) compelling the production, discovery and inspection of books, records, documents and other papers;
 - (c) compelling witnesses to answer questions which the Gaming Tribunal considers to be relevant in any proceedings before it;
 - (d) apprehending, detaining and punishing persons guilty of contempt, or of disobedience of any order made by the Gaming Tribunal, or of any process issuing out of the Gaming Tribunal;
 - (e) directing witnesses to be prosecuted for perjury,
- and the exercise by the Gaming Tribunal of any such function has the same effect as it would have if exercised by the District Court.

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SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING
TRIBUNAL—*continued*

(2) All process issuing out of the Gaming Tribunal shall be in or to the effect of the prescribed form and be signed by the President or Deputy President.

Adjournment

38I. The Gaming Tribunal may from time to time adjourn its proceedings to such times, dates and places and for such reasons as it thinks fit.

Sittings etc. of the Gaming Tribunal

38J. (1) The President shall arrange for sittings of the Tribunal and the allocation of its work.

(2) There may be contemporaneous sittings of the Gaming Tribunal constituted by different members and those sittings may be in different places.

Proceedings of the Gaming Tribunal

38K. Subject to this Act and the regulations, the Gaming Tribunal has control of its proceedings.

Regulations relating to the Gaming Tribunal

38L. (1) The power to make regulations conferred on the Governor by section 59 includes power to make regulations for the purposes of this Part.

- (2) The regulations may make provision with respect to—
- (a) the procedure before the Gaming Tribunal;
 - (b) the form and service of documents;
 - (c) the payment of fees and charges;
 - (d) witnesses' expenses;
 - (e) the recording of proceedings;
 - (f) the form of decisions; and
 - (g) orders as to costs.

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

(Sec. 3)

- (1) Section 17A (**Possession etc. of prohibited amusement devices**)—
- (a) Section 17A—
Omit "\$1,000", insert instead "10 penalty units".
 - (b) Section 17A (2)—
At the end of section 17A, insert:

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(2) In determining the amount of any penalty for an offence against this section, the court shall take into account the number of prohibited amusement devices involved in the commission of the offence.

(2) Section 17B (**Search warrants**)—

Section 17B (4) (a)—

Omit “may”, insert instead “shall”.

(3) Section 17C (**Forfeiture of amusement device**)—

Section 17C (1)—

Omit “may”, insert instead “shall”.

(4) Section 18 (**Organising etc. an unlawful game**)—

Section 18 (2)—

At the end of section 18, insert:

(2) A person who acts as a look-out, doorman or guard for any place at which an unlawful game or any trick of sleight of hand is organised or conducted shall be taken to have assisted in organising or conducting the game or trick unless the person proves that he or she did not know and could not reasonably be expected to have known that the game or trick was organised or conducted.

(5) Section 20 (**Playing at etc. an unlawful game**)—

Omit “\$500”, insert instead “10 penalty units”.

(6) Section 20A (**Use or operation of certain amusement devices**)—

Section 20A (3), (4)—

After section 20A (2), insert:

(3) In determining the amount of any penalty for an offence against this section, the court shall take into account the number of amusement devices involved in the commission of the offence.

(4) If an offence against this section is proven against a person, a court may order that an amusement device and any money in it be forfeited to the Crown.

(7) Headings—

Omit the headings before the sections specified in Column 1 of the following table, insert instead respectively the headings set out in Column 2 of the table.

*Gaming and Betting (Amendment) 1987*SCHEDULE 3—MISCELLANEOUS AMENDMENTS—*continued*

TABLE

Column 1	Column 2
Section (heading preceding)	Heading to be inserted
5	Division 1—Betting in streets
7	Division 2—Betting on sports grounds
10	Division 3—Betting with persons under the age of 18 years
15	Division 4—Cheating at cards or games
16	Division 5—Unlawful games
16A	Division 1—Unlawful games
36	Division 4—Evidence and witnesses
39	Division 1—Definitions
40	Division 2—Powers to enter and search betting-houses
42	Division 3—Offences
48	Division 4—Avoidance of contracts
49	Division 5—Procedure and arrest

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 4)

Existing declarations

1. A declaration in force, immediately before the commencement of this Act, under section 28 or 28A of the Gaming and Betting Act 1912 shall be deemed to be a declaration under section 32 of the Gaming and Betting Act 1912, as amended by this Act.

Forfeiture of certain prohibited amusement devices etc.

2. A prohibited amusement device and any money in it which, immediately before the commencement of this Act, was in the custody of the Commissioner of Police in connection with legal proceedings which had been completed before that commencement is forfeited to the Crown.

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GAMING AND BETTING (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to establish a Gaming Tribunal, the principal function of which is to determine whether or not places are used as gaming-houses and to make declarations accordingly;
- (b) to enact further restrictions on the playing of unlawful games and the use of places as gaming-houses; and
- (c) to increase penalties for offences relating to the playing of unlawful games and the use of places as gaming-houses.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a proclaimed day.

Clause 3 is a formal provision giving effect to the Schedules of amendments.

Clause 4 is a formal provision giving effect to the Schedule of savings and transitional provisions.

SCHEDULE 1—AMENDMENTS RELATING TO GAMING-HOUSES

Schedule 1 (1) (a) is a consequential amendment to the definition of “Declared gaming-house” to recognise the effect of proposed sections 28 and 32.

Schedule 1 (1) (b) extends the definition of “Gaming-house” to include places which give access to the gaming area of a gaming-house and places used for concealing, removing or destroying instruments of gaming.

Schedule 1 (1) (c) inserts a definition of “Instruments of gaming” for the purposes of the Principal Act. (The definition is currently found in section 21A and repeated in sections 28A, 35 and 37 of the Principal Act.)

Gaming and Betting (Amendment) 1987

Schedule 1 (1) (d) inserts a definition of "Senior police officer" for the purposes of the Principal Act, meaning a member of the police force of or above the rank of Inspector.

Schedule 1 (2) omits sections 21–35 of the Principal Act and inserts a proposed Division 2—Gaming-houses and a proposed Division 3—Declared gaming-houses into Part IIA of the Principal Act.

Proposed Division 2—Gaming-houses contains the following provisions:

Proposed section 21 makes it an offence for the owner or occupier of a place to knowingly allow the place to be used as a gaming-house. Knowledge of the unlawful use is attributed to a person who has been served with a notice by a senior police officer that the place is so used. Directors of corporations which contravene the proposed section are deemed to have contravened it also unless they can prove their ignorance of, or lack of control over, the commission of the offence.

Proposed section 21A makes it an offence for the keeper or manager of a place to knowingly allow the place to be used as a gaming-house.

Proposed section 22 enables the issuing of a search warrant (in accordance with Part III of the Search Warrants Act 1985) in respect of a place which is reasonably believed to be kept or used as a gaming-house.

Proposed section 23 makes it an offence for a person to organise or conduct or to assist in organising or conducting a gaming-house. A look-out, doorman or guard for a gaming-house is taken to have assisted in organising or conducting a gaming-house unless the person proves that he or she did not know and could not reasonably be expected to have known that the gaming-house was organised or conducted.

Proposed section 24 makes it an offence for a person to be in a gaming-house without lawful excuse, the onus of proving which lies on the defendant.

Proposed section 25 enables the forfeiture to the Crown of money and securities and of instruments of gaming seized in relation to an offence under Part IIA of the Principal Act.

Proposed section 26 enables an owner of a place to evict the occupier of the place if the owner has reasonable grounds to suspect that the place is used as a gaming-house.

Proposed section 27 enables the Supreme Court to cancel a notice to quit served under proposed section 26 on proof by the occupier that the place has not knowingly been allowed to be used as a gaming-house. Knowledge of the unlawful use is attributed to a person who has been served with a notice by a senior police officer that the place is so used.

Proposed Division 3—Declared gaming-houses contains the following provisions:

Proposed section 28 enables the Gaming Tribunal, on affidavit evidence from a senior police officer, to make an interim declaration that a place is reasonably suspected of being a gaming-house. On making an interim declaration, the Gaming Tribunal is required to fix a date for the purpose of hearing any application for rescission of the interim declaration.

Proposed section 28A requires a senior police officer to give notice of the making of an interim declaration to the owner or occupier of a declared gaming-house the subject of the interim declaration. Notice of the making of the interim declaration is also to be published twice in a newspaper circulating in the locality and once in the Gazette.

Gaming and Betting (Amendment) 1987

- Proposed section 29 requires the Gaming Tribunal to cause notice of the making or rescission of an interim declaration under proposed section 28 and of the making or rescission of a declaration under proposed section 32 to be given to the Registrar-General for the purpose of enabling the Registrar-General to take appropriate action to record the making or rescission of the interim declaration or declaration in relation to the land affected.
- Proposed section 29A enables a member of the police force to arrest, without warrant, a person in a declared gaming-house the subject of an interim declaration. The proposed section also makes it an offence for a person to be in a declared gaming-house without lawful excuse, the onus of proving which lies on the defendant.
- Proposed section 30 makes an owner of a declared gaming-house the subject of an interim declaration guilty of an offence if the place is used by an occupier as a gaming-house unless the owner proves that he or she took all reasonable steps to evict the occupier.
- Proposed section 30A makes it an offence for the occupier of a declared gaming-house the subject of an interim declaration to use the place as a gaming-house.
- Proposed section 31 enables a member of the police force, without warrant, to have access to a declared gaming-house the subject of an interim declaration and to seize instruments of gaming, money and securities found in the declared gaming-house.
- Proposed section 31A enables application to be made to the Gaming Tribunal for rescission of an interim declaration.
- Proposed section 32 enables the Gaming Tribunal to make a declaration that a place the subject of an interim declaration is a gaming-house if no application for rescission of the interim declaration is made by the date fixed under proposed section 28 (4) or if such an application is made but is unsuccessful. The proposed section also enables the Gaming Tribunal to rescind an interim declaration subject to such conditions, including the giving of security and undertakings to ensure that the place will not be used as a gaming-house, as the Gaming Tribunal thinks fit.
- Proposed section 32A entitles a person having, in the opinion of the Gaming Tribunal, a sufficient interest in a place the subject of an interim declaration to make submissions on the question of whether the use of the place for the purposes of any business should be prohibited.
- Proposed section 33 provides that if a place the subject of an interim declaration is declared to be a gaming-house, use of the place for the purposes of any business is prohibited, except to the extent that the Gaming Tribunal otherwise determines. The proposed section makes it an offence to contravene the prohibition.
- Proposed section 33A requires a senior police officer to give notice of the making of a declaration to the owner or occupier of a declared gaming-house the subject of the declaration if the owner or occupier was not present before the Gaming Tribunal when the declaration was made. Notice of the making of the declaration or of the rescission of an interim declaration is also to be published twice in a newspaper circulating in the locality and once in the Gazette.
- Proposed section 34 applies the provisions of proposed sections 29A, 30, 30A and 31 to gaming-houses the subject of a declaration in the same way as those provisions apply to gaming-houses the subject of an interim declaration.
- Proposed section 34A specifies the circumstances in which the Gaming Tribunal may rescind a declaration that a place is a gaming-house. A rescission may be subject to such conditions, including the giving of security and undertakings to ensure that the place will not again be used as a gaming-house, as the Gaming Tribunal thinks fit.

Gaming and Betting (Amendment) 1987

Proposed section 35 requires a senior police officer to cause notice of the rescission of a declaration to be published twice in a newspaper circulating in the locality and once in the Gazette.

Proposed section 35A is an evidentiary provision which facilitates proof of the publication of notices under the proposed Division.

Schedule 1 (3) (a) provides that evidence that a person at or near a place which a member of the police force is authorised to enter under Part IIA of the Principal Act has a device which is capable of being used to give an alarm to a person within the place is evidence of the use of the place as a gaming-house.

Schedule 1 (3) (b) makes an amendment consequential on the amendment made by Schedule 1 (1) (c).

Schedule 1 (4) makes it an offence for a person to give an alarm as to the presence of police in relation to a place which a member of the police force is authorised to enter under Part IIA of the Principal Act.

Schedule 1 (5) makes a consequential amendment to provide for the application of the gaming-house provisions to betting-houses.

Schedule 1 (6) extends the list of second or subsequent offences which may only be prosecuted on indictment.

**SCHEDULE 2—AMENDMENTS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE GAMING TRIBUNAL**

Schedule 2 (1) (a) inserts a definition of "Gaming Tribunal" into section 3 of the Principal Act.

Schedule 2 (1) (b) inserts an interpretation provision concerning the exercise of functions into section 3 of the Principal Act.

Schedule 2 (2) inserts proposed Part IIB—The Gaming Tribunal into the Principal Act. The proposed Part contains the following provisions:

Proposed section 38A provides for the constitution of the Gaming Tribunal as a court of record.

Proposed section 38B specifies the jurisdiction of the Gaming Tribunal.

Proposed section 38C provides for the Chief Judge of the District Court to be the President of the Gaming Tribunal and enables the Governor-in-Council to appoint a District Court Judge as Deputy President.

Proposed section 38D appoints each District Court Judge to be a member of the Gaming Tribunal.

Proposed section 38E enables the appointment under the Public Service Act 1979 of persons to staff the Gaming Tribunal.

Proposed section 38F provides that, except where the Gaming Tribunal is hearing an application to rescind a declaration that a place is a gaming-house, it is to be constituted by a single member. Otherwise, it is to be constituted by the President and 2 other members.

Proposed section 38G enables persons entitled to make an application or submission to the Gaming Tribunal to be represented. Hearings of the Gaming Tribunal are, unless it otherwise orders, to be held in public.

Proposed section 38H provides for the production of evidence before the Gaming Tribunal.

Gaming and Betting (Amendment) 1987

Proposed section 38i enables the Gaming Tribunal to adjourn its proceedings.

Proposed section 38j empowers the President to arrange the sittings of the Gaming Tribunal and the allocation of its work.

Proposed section 38k gives the Gaming Tribunal, subject to the Principal Act and the regulations, control over its own proceedings.

Proposed section 38l empowers the making of regulations as to the functioning of the Gaming Tribunal.

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

Schedule 3 (1) (a) converts, by way of statute law revision, a dollar amount of a penalty to penalty units.

Schedule 3 (1) (b) requires a court, in determining the amount of any penalty for an offence under section 17A of the Principal Act relating to the possession, use or operation of prohibited amusement devices, to take into account the number of prohibited amusement devices involved in the commission of the offence.

Schedule 3 (2) and (3) require the Licensing Court (instead of allowing the Court a discretion) to order a device which it is satisfied is a prohibited amusement device, or which it is satisfied has been used in contravention of the Principal Act, together with any money in the device, to be forfeited to the Crown.

Schedule 3 (4) provides that a look-out, doorman or guard for a place at which an unlawful game is organised or conducted is taken to have assisted in organising or conducting the game unless the person proves that he or she did not know and could not reasonably be expected to have known that the game was organised or conducted.

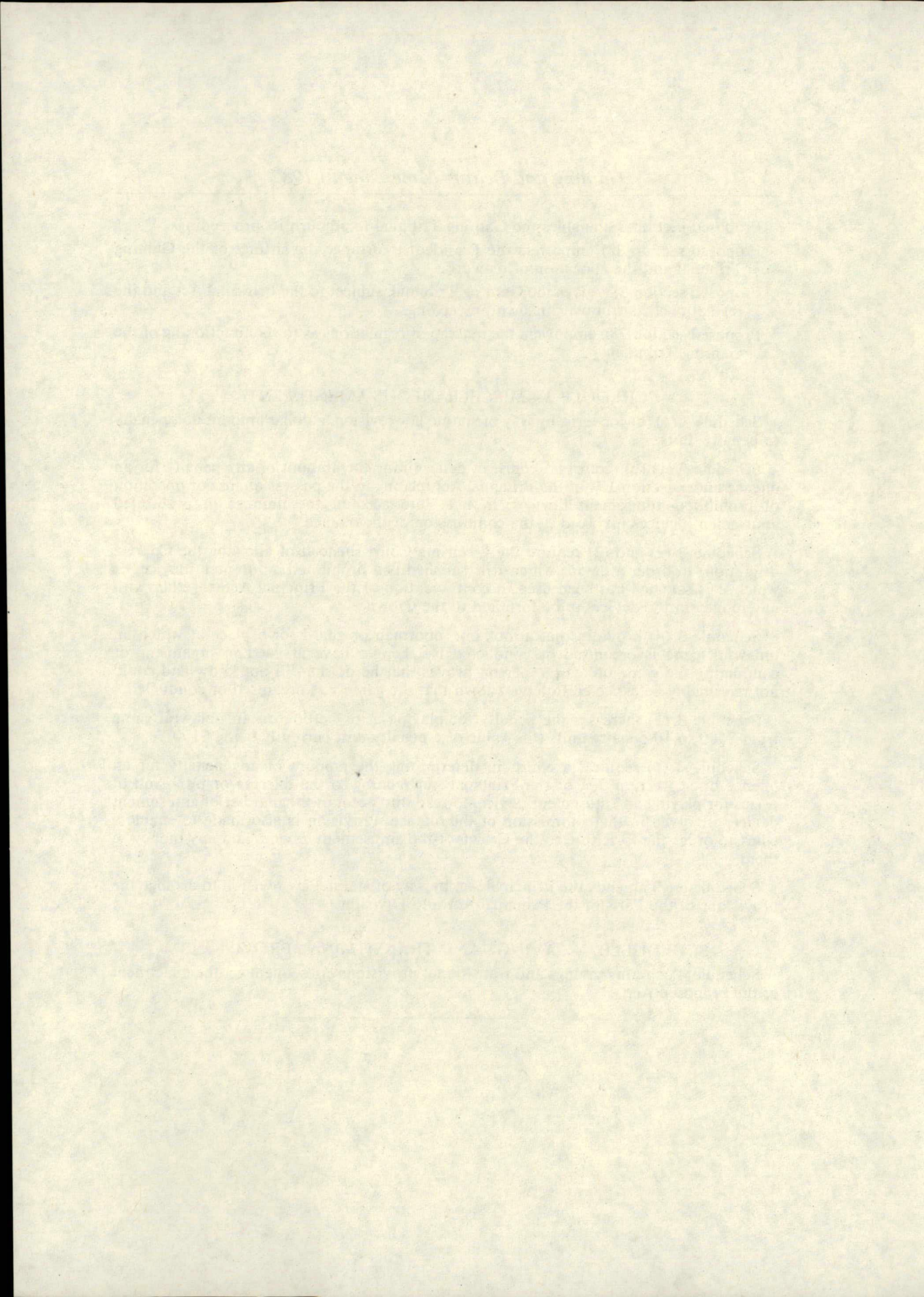
Schedule 3 (5) increases the penalty for playing at or betting on an unlawful game from \$500 to 10 penalty units (the value of a penalty unit currently being \$100).

Schedule 3 (6) requires a court, in determining the amount of any penalty for an offence under section 20A of the Principal Act relating to the offering or provision of prizes for playing an amusement device, to take into account the number of amusement devices involved in the commission of the offence. Provision is also made to enable a court to order the forfeiture to the Crown of the amusement devices and any money in them.

Schedule 3 (7) amends the Principal Act by way of statute law revision to arrange the provisions of the Parts of the Principal Act into Divisions.

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 4 contains savings and transitional provisions consequent on the enactment of the proposed Act.



GAMING AND BETTING (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

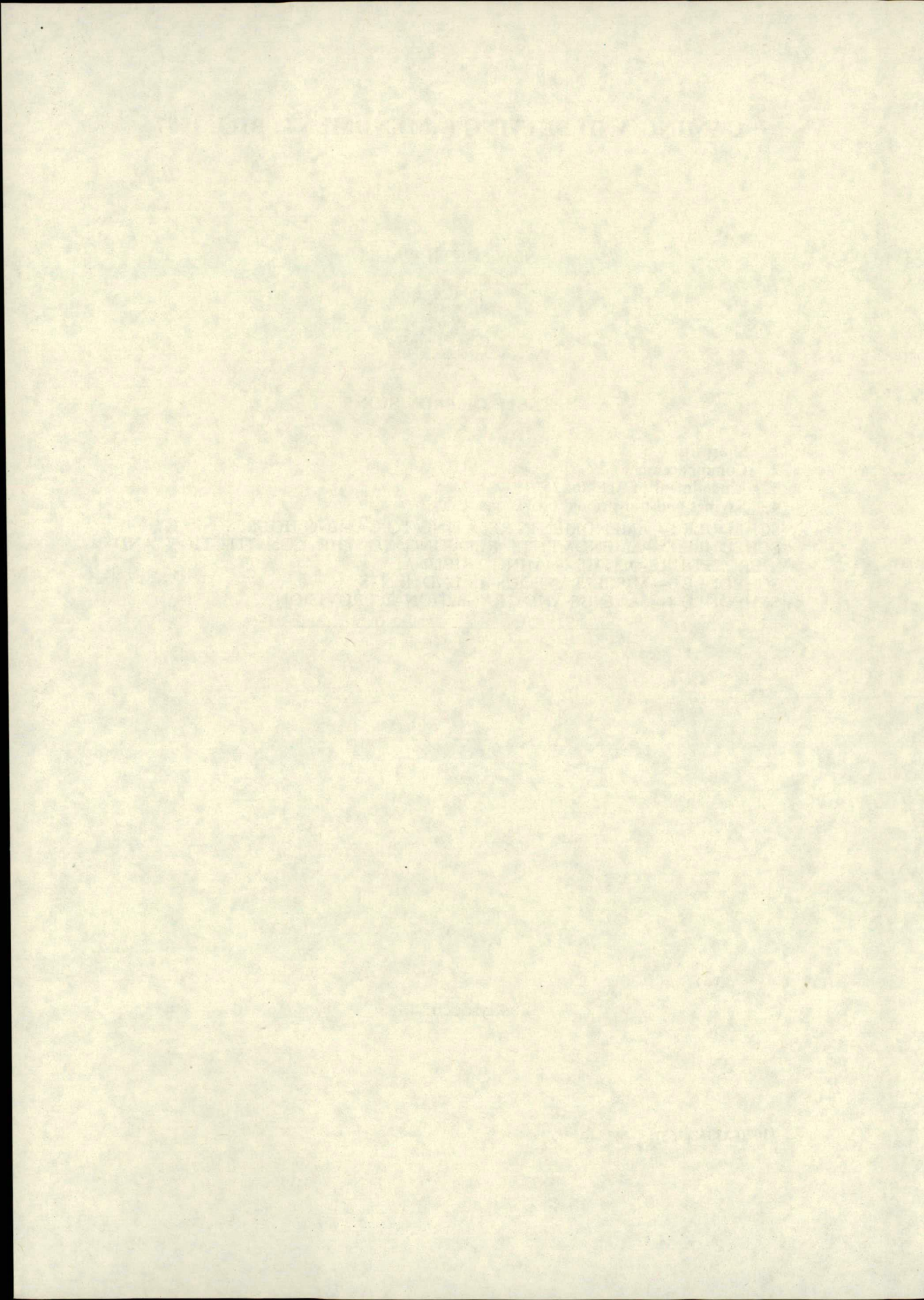
1. Short title
2. Commencement
3. Amendment of Act No. 25, 1912
4. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS RELATING TO GAMING-HOUSES

SCHEDULE 2—AMENDMENTS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE GAMING TRIBUNAL

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS



GAMING AND BETTING (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Gaming and Betting Act 1912 to establish a Gaming Tribunal and with respect to unlawful games and gaming-houses suppression.

Gaming and Betting (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Gaming and Betting (Amendment) Act 1987.

5 Commencement

2. This Act shall commence on a day to be appointed by proclamation.

Amendment of Act No. 25, 1912

3. The Gaming and Betting Act 1912 is amended as set out in Schedules 1-3.

10 Savings and transitional provisions

4. Schedule 4 has effect.
-

SCHEDULE 1—AMENDMENTS RELATING TO GAMING-HOUSES

(Sec. 3)

(1) Section 3 (**Definitions**)—

- 15 (a) Definition of “Declared gaming-house”—

Omit “a declaration under section 28”, insert instead “an interim declaration under section 28 or a declaration under section 32”.

- (b) Definition of “Gaming-house”—

After “place” where lastly occurring, insert:

- 20 , and includes—

(c) a place used as a means of access to, or exit from, the firstmentioned place; and

(d) a place used for doing anything to or with an instrument of gaming apparently associated with the firstmentioned place

- 25 (c) After the definition of “Ground”, insert:

“Instruments of gaming” includes, without limiting its generality—

(a) playing-cards, dominoes, dice and chips or counters;

- 30 (b) any list, book, card or other document; and

(c) any other thing,

that might reasonably be suspected of having been used in, or in connection with, the playing of an unlawful game.

- (d) After the definition of “Race-meeting”, insert:

Gaming and Betting (Amendment) 1987

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***

“Senior police officer” means a member of the police force of or above the rank of Inspector.

(2) Part IIA, Divisions 2, 3—

5 Omit sections 21–35 and the headings before sections 21 and 28, insert instead:

Division 2—Gaming-houses

Liability for owner or occupier of place used as a gaming-house

21. (1) An owner or occupier of a place shall not knowingly allow the place to be used as a gaming-house.

10 Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

15 (2) If a senior police officer has caused notice to be served on the owner or occupier of a place that the place is used as a gaming-house, the owner or occupier shall, for the purposes of this section, be deemed to know that the place is so used.

20 (3) If a corporation contravenes this section, whether by act or omission, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened this section unless the person satisfies the court—

25 (a) that the corporation contravened the provision without the knowledge of the person and that the person could not reasonably be expected to have knowledge of the contravention;

(b) that the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or

30 (c) that the person, if in such a position, used all due diligence to prevent the contravention by the corporation.

35 (4) A person may be proceeded against and convicted under this section pursuant to subsection (3) whether or not the corporation has been proceeded against or been convicted under this section.

(5) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this section.

Gaming and Betting (Amendment) 1987

 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*
Liability of keeper etc. of place used as a gaming-house

21A. A keeper of a place, a person procured or employed by or acting for or on behalf of an owner, occupier or keeper of a place, a person having the care or management of a place or a person who is, in any manner, conducting the business of a place shall not knowingly allow the place to be used as a gaming-house.

Penalty: 20 penalty units or imprisonment for 6 months.

Search warrant

22. (1) In this section—

“authorised justice” means—

(a) a Magistrate; or

(b) a justice employed in the Attorney General’s Department.

(2) A member of the police force may apply to an authorised justice for a search warrant if the member of the police force has reasonable grounds for believing that a place is kept or used as a gaming-house.

(3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the police force—

(a) to enter and search the place;

(b) to search any person in the place;

(c) to arrest, search and bring before a Magistrate all persons found in the place; and

(d) to seize all means, contrivances or instruments of gaming, money and securities for money found in the place.

(4) Part III of the Search Warrants Act 1985 applies to a search warrant issued under this section.

Organising etc. a gaming-house

23. (1) A person shall not organise or conduct or assist in organising or conducting a gaming-house.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

Gaming and Betting (Amendment) 1987

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***

5 (2) A person who acts as a look-out, doorman or guard for a place at which a gaming-house is organised or conducted shall be taken to have assisted in organising or conducting the gaming-house unless the person proves that he or she did not know and could not reasonably be expected to have known that the gaming-house was organised or conducted.

Person in gaming-house without lawful excuse

10 24. (1) A person shall not be in a gaming-house without lawful excuse.

Penalty: 10 penalty units or imprisonment for 6 months.

(2) The defendant has the onus of proving lawful excuse.

(3) It is not an offence under this section for a person to be in that part of a gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Forfeiture of money etc.

15 25. If an offence under this Part is proven against a person—

(a) all money and securities for money seized in relation to the offence; and

20 (b) all means, contrivances or instruments of gaming seized in relation to the offence,

shall be forfeited to the Crown.

Eviction of occupier of gaming-house

25 26. (1) If an owner of a place has reasonable grounds to suspect that the place is used as a gaming-house, the owner may serve a notice to quit on the occupier.

(2) Service of a notice to quit determines, as from the tenth day after the date of service, the tenancy of the occupier as if that tenancy had expired by effluxion of time.

30 (3) On the determination of the tenancy, the owner may, without any authority other than this Act, take legal proceedings to evict, and may evict, the occupier.

(4) A notice to quit shall be served—

(a) on the occupier personally; or

35 (b) if the occupier cannot be found, by posting a copy of the notice on some conspicuous part of the place.

Gaming and Betting (Amendment) 1987

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***
Cancellation of notice to quit

27. (1) A notice to quit under section 26 (1) may, on application made by the occupier, be cancelled by the Supreme Court, or the District Court, subject to such terms as the Court thinks fit, on proof that the occupier has not at any time knowingly allowed the place to be used as a gaming-house.

(2) A copy of the application shall be served on the owner at least 2 days before the hearing of the application and on being so served operates, until the determination of the application, as a stay of any proceedings commenced under section 26 (3).

(3) If a senior police officer has caused notice to be served on the occupier of the place that the place is used as a gaming-house, the occupier shall, for the purposes of this section, be deemed to know that the place is so used.

Division 3—Declared gaming-houses**Interim declaration of a place as a gaming-house**

28. (1) A senior police officer may file with the Gaming Tribunal an affidavit which states that the officer believes a place is a gaming-house and which sets out the grounds for that belief.

(2) The Gaming Tribunal shall, not later than 5 days after the affidavit is filed, make an interim declaration that the place is reasonably suspected of being a gaming-house or determine not to make such an interim declaration.

(3) In determining whether or not to make an interim declaration, the Gaming Tribunal may have regard to—

- (a) any external or internal observations of the place;
- (b) the external or internal construction of the place;
- (c) the alleged repute of persons observed entering, leaving or within the place or in the near vicinity of the place;
- (d) the existence of any of the matters referred to in section 37 (1);
- (e) any sums of money or securities for money observed or found within the place; and
- (f) any other matters the Gaming Tribunal considers relevant.

(4) If the Gaming Tribunal makes an interim declaration, it shall fix a date (which is not less than 1 month after the date on which the interim declaration is made) for the purpose of hearing any application for rescission of the interim declaration.

*Gaming and Betting (Amendment) 1987*SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***Notice of making of interim declaration**

28A. (1) A senior police officer shall cause notice of the making of the interim declaration and of the date fixed for the purpose of hearing any application for its rescission to be served on the owner or occupier of the declared gaming-house the subject of the interim declaration—

(a) personally; or

(b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the declared gaming-house.

(2) A person shall not deface, destroy, cover or remove a copy of a notice fixed under this section.

Penalty: 5 penalty units or imprisonment for 6 months.

(3) Subsection (2) does not prevent the replacement, by a member of the police force, of a notice fixed under this section with a notice under section 33A.

(4) A senior police officer shall cause notice of the making of an interim declaration and of the date fixed for the purpose of hearing any application for its rescission to be published—

(a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the interim declaration; and

(b) in the Gazette.

(5) If there are different owners or occupiers of different parts of a declared gaming-house the subject of an interim declaration, this section does not require notice to be given to a person who is the owner or occupier only of a part of the gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Recordings by the Registrar-General

29. (1) The Gaming Tribunal shall cause notice of the making or rescission of an interim declaration under section 28 and of the making or rescission of a declaration under section 32 to be lodged in the office of the Registrar-General.

(2) If the notice—

(a) describes the land which is or was affected by the interim declaration or declaration in a manner enabling the land to be identified; and

Gaming and Betting (Amendment) 1987

 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*

- (b) in the case of land under the provisions of the Real Property Act 1900, specifies the reference to the folio of the Register kept under that Act, or the registered dealing under that Act, that evidences the title to that land,

5 the Registrar-General shall, on lodgement of the notice—

- (c) in the case of land under the provisions of the Real Property Act 1900—make such recordings in the Register in respect of the making or rescission of the interim declaration or declaration as the Registrar-General considers appropriate; or
- 10
- (d) in any other case—cause the notice to be registered in the General Register of Deeds kept under Division 1 of Part XXIII of the Conveyancing Act 1919.

15 (3) For the purposes of Division 1 of Part XXIII of the Conveyancing Act 1919, a notice registered under subsection (2) (d) shall be deemed to be a registration copy of an instrument duly registered under that Division.

Person found in declared gaming-house

20 29A. (1) If, after publication in accordance with section 28A (4) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, a person is found in, or on, or entering, or leaving the declared gaming-house the subject of the interim declaration, a member of the police force may, without warrant, arrest the person and take the person before

25 a Magistrate.

(2) A person arrested under subsection (1), unless the person proves that he or she was in, or on, or entering the declared gaming-house for a lawful purpose, contravenes this subsection.

30 Penalty: For a first offence—50 penalty units or imprisonment for 6 months. For a second or subsequent offence—not less than 50 penalty units and not more than 100 penalty units, or imprisonment for 12 months.

(3) The form of information for an offence against subsection (2) may be in Form A or B in the Third Schedule.

*Gaming and Betting (Amendment) 1987*SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***Declared gaming-house—offence by owner**

30. If, after service on an owner in accordance with section 28A (1) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, the declared gaming-house the subject of the interim declaration is used as a gaming-house, the owner, unless the owner proves that he or she has taken all reasonable steps to evict the occupier from the declared gaming-house, contravenes this section.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

Declared gaming-house—offence by occupier

30A. If, after service on an occupier in accordance with section 28A (1) of a notice of the making of an interim declaration and during the time that the interim declaration is in force, the declared gaming-house the subject of the interim declaration is used as a gaming-house, the occupier contravenes this section.

Penalty: For a first offence—100 penalty units or imprisonment for 12 months. For a second or subsequent offence—not less than 100 penalty units and not more than 500 penalty units, or imprisonment for 2 years.

Declared gaming-house—entry by police

31. (1) While an interim declaration is in force, a member of the police force may, without warrant—

- (a) enter the declared gaming-house the subject of the interim declaration;
- (b) pass through, from, over, or along any other land or building for the purpose of entering in pursuance of paragraph (a);
- (c) for any of the purposes of this section, break open doors, windows or partitions and do such other acts as may be necessary; and
- (d) seize any means, contrivances or instruments of gaming, money and securities for money in the declared gaming-house.

(2) All money and securities for money seized under this section shall be forfeited to the Crown.

Gaming and Betting (Amendment) 1987

 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*

(3) The Commissioner of Police may direct that all means, contrivances or instruments of gaming seized under this section be destroyed.

Application for rescission of interim declaration

5 31A. (1) The owner or occupier of a declared gaming-house the subject of an interim declaration may, not less than 14 days before the date fixed under section 28 (4) in respect of an interim declaration, give notice to the Gaming Tribunal of intention to apply for rescission of the interim declaration.

10 (2) The person making the application shall give notice of the application to a senior police officer not less than 7 days before the date fixed under section 28 (4).

Declaration of place as a gaming-house or rescission of interim declaration

15 32. (1) If—

(a) no application for the rescission of an interim declaration is duly made; or

20 (b) an application is duly made but the applicant is unable to satisfy the Gaming Tribunal that the interim declaration should be rescinded,

the Gaming Tribunal shall make a declaration that the place the subject of the interim declaration is a gaming-house.

(2) A declaration that a place is a gaming-house remains in force until rescinded under section 34A by the Gaming Tribunal.

25 (3) If—

(a) an application for the rescission of an interim declaration is duly made; and

30 (b) the applicant is able to satisfy the Gaming Tribunal that the place the subject of the interim declaration was not a gaming-house at the date of the affidavit the filing of which led to the making of the interim declaration,

the Gaming Tribunal shall rescind the interim declaration.

35 (4) A rescission of an interim declaration may be subject to such conditions, including the giving of security and undertakings to ensure that the place will not be used as a gaming-house, as the Gaming Tribunal thinks fit.

(5) A rescission of an interim declaration has effect from the date of the Gaming Tribunal's determination or such other date as the Gaming Tribunal may specify.

SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued*

Submissions as to use of declared gaming-house

32A. At the time when the Gaming Tribunal is considering whether to make a declaration that a place the subject of an interim declaration is a gaming-house or on application made at any time after a declaration is made, a person who, in the opinion of the Gaming Tribunal, has a sufficient interest in the place is entitled to make submissions to the Gaming Tribunal on the question of whether the use of the place for the purposes of any business should be prohibited.

Restriction on use of declared gaming-house

33. (1) If a place the subject of an interim declaration is declared to be a gaming-house, the use of the place for the purposes of any business is prohibited unless, or except to the extent that, the Gaming Tribunal, on the making of the declaration or on a subsequent application, determines that it would be unjust or unreasonable for the prohibition to apply.

(2) A person shall not contravene a prohibition under this section.

Penalty (subsection (2)): 10 penalty units for each day on which the offence is committed or imprisonment for 12 months.

Notice of making of declaration or rescission of interim declaration

33A. (1) If the owner or occupier of a declared gaming-house the subject of a declaration did not appear, or was not represented, before the Gaming Tribunal on the making of the declaration, a senior police officer shall cause notice of the making of the declaration to be served on the owner or occupier—

- (a) personally; or
- (b) if personal service cannot be effected promptly, by causing a copy of the notice to be fixed to or near the entrance to the declared gaming-house.

(2) A person shall not deface, destroy, cover or remove a copy of a notice fixed under this section.

Penalty: 5 penalty units or imprisonment for 6 months.

(3) A senior police officer shall cause notice of the making of a declaration or the rescission of an interim declaration to be published—

- (a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the declaration or interim declaration; and

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 SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
 HOUSES—*continued*

(b) in the Gazette.

(4) If there are different owners or occupiers of different parts of a gaming-house, this section does not require notice to be given to a person who is the owner or occupier only of a part of the gaming-house referred to in paragraph (c) or (d) of the definition of "Gaming-house" in section 3 (1).

Further effects of declaration of place as a gaming-house

34. (1) Sections 29A, 30, 30A and 31 apply in respect of a declared gaming-house the subject of a declaration in the same way as they apply in respect of a gaming-house the subject of an interim declaration.

(2) In the application of those sections, a reference in them to the service or publication, in accordance with section 28A (1) or 28A (4), of a notice of the making of an interim declaration shall be construed as a reference to the service or publication, in accordance with section 33A (1) or 33A (3), of the making of a declaration.

Rescission of declaration

34A. (1) The owner or occupier of a place the subject of a declaration or a senior police officer may apply to the Gaming Tribunal for the rescission of the declaration.

(2) An owner or occupier who makes an application shall give notice of the application to a senior police officer not less than 7 days before the application is heard.

(3) If the applicant is able to satisfy the Gaming Tribunal—

(a) that the place is no longer a gaming-house; and

(b) in the case of an application by the owner or occupier—
 that the place is or is intended to be used for a lawful purpose,

the Gaming Tribunal shall rescind the declaration.

(4) A rescission of a declaration may be subject to such conditions, including the giving of security and undertakings to ensure that the place will not again be used as a gaming-house, as the Gaming Tribunal thinks fit.

(5) A rescission of a declaration has effect from the date of the Gaming Tribunal's determination or such other date as the Gaming Tribunal may specify.

**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***

Public notice of rescission of declaration

35. A senior police officer shall cause notice of the rescission of a declaration to be published—

- 5 (a) on 2 days in a newspaper circulating in the neighbourhood of the place the subject of the declaration; and
 (b) in the Gazette.

Evidence of publication of notices etc.

10 35A. (1) In any proceedings under this Act, the production of a copy of a newspaper containing a notice under section 28A of the making of an interim declaration, a notice under section 33A of the making of a declaration or the rescission of an interim declaration or a notice under section 35 of the rescission of a declaration is evidence that the notice was duly published in the newspaper on the date appearing on the newspaper.

15 (2) In any proceedings under this Act, the production of a copy of the Gazette containing a notice referred to in subsection (1) is evidence that the interim declaration, declaration or rescission was duly made.

(3) **Section 37 (Evidence of place used as a gaming-house)—**

20 (a) Section 37 (1) (b1)—

After section 37 (1) (b), insert:

(b1) a person at or near the place has a device which is capable of being used to give an alarm to a person within the place;

(b) Section 37 (3)—

25 Omit the subsection.

(4) **Section 37A (Obstructing member of the police force)—**

(a) Section 37A (a)—

Omit “or” where lastly occurring.

(b) Section 37A (b), (c)—

30 After section 37A (b), insert:

; or

(c) give an alarm or cause an alarm to be given for the purpose of—

35 (i) notifying another person of the presence of the member of the police force; or

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**SCHEDULE 1—AMENDMENTS RELATING TO GAMING-
HOUSES—*continued***

(ii) obstructing or delaying the member of the police force from entering or re-entering that place or any part of that place.

5 (5) Section 43 (**Application of gaming-house provisions to betting-houses**)—

Omit “sections 26 to 28”, insert instead “sections 26 and 27 and Division 3 of Part IIA”.

(6) Section 60 (**Proceedings for offences**)—

Section 60 (2)—

10 Omit “or section 44 (1)”, insert instead “, 21, 23, 29A, 30, 30A (or section 29A, 30 or 30A as applied by section 34) or 44 (1)”.

**SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING TRIBUNAL**

(Sec. 3)

15 (1) Section 3 (**Definitions**)—

(a) Section 3—

After the definition of “Gaming-house”, insert:

“Gaming Tribunal” means the Gaming Tribunal constituted by Part IIB.

20 (b) Section 3 (2)—

At the end of section 3, insert:

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

25 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(2) Part IIB—

After Part IIA, insert:

30 **PART IIB—THE GAMING TRIBUNAL**

The Gaming Tribunal

38A. (1) There is constituted by this Act a tribunal to be called the Gaming Tribunal.

Gaming and Betting (Amendment) 1987

SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING
TRIBUNAL—*continued*

(2) The Gaming Tribunal is a court of record and its seal shall be judicially noticed.

Jurisdiction of the Gaming Tribunal

5 38B. The Gaming Tribunal has the jurisdiction vested in it by or under this or any other Act.

President and Deputy President

38C. (1) The Chief Judge of the District Court is President of the Gaming Tribunal.

10 (2) The Governor may appoint a Judge of the District Court as Deputy President of the Gaming Tribunal.

(3) The Deputy President shall hold office for such period not exceeding 5 years as may be specified in the Deputy President's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

15 (4) If the President is unable to act as the President, the Deputy President becomes, for all purposes, the President until such time as the President is again able to act as such.

20 (5) The Public Service Act 1979 does not apply to the appointment of the Deputy President and the Deputy President is not, as Deputy President, subject to that Act.

Members

38D. Each Judge of the District Court is a member of the Gaming Tribunal.

Staff of the Gaming Tribunal

25 38E. Such staff as may be necessary to enable the Gaming Tribunal to exercise its functions shall be employed under the Public Service Act 1979.

Constitution of the Gaming Tribunal in the exercise of its jurisdiction

30 38F. (1) If the Gaming Tribunal is exercising the jurisdiction conferred by section 28 or 32, it shall be constituted by a member sitting alone.

35 (2) If the Gaming Tribunal is exercising the jurisdiction conferred by section 34A, it shall be constituted by the President and 2 members of the Gaming Tribunal sitting together.

(3) When the Gaming Tribunal is constituted as referred to in subsection (2)—

(a) a decision of the President as to—

Gaming and Betting (Amendment) 1987

SCHEDULE 2—AMENDMENTS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE GAMING
TRIBUNAL—*continued*

- (i) the jurisdiction of the Gaming Tribunal;
 - (ii) the admissibility of evidence; or
 - (iii) procedure,
- is the decision of the Gaming Tribunal; and

5 (b) subject to paragraph (a), the President has one vote and each of the members present has one vote and a decision supported by a majority of those votes is a decision of the Gaming Tribunal.

10 (4) For the purposes of subsection (3) (b), an abstention from voting is a vote in the negative.

Representation etc. at proceedings

38G. At any proceedings before the Gaming Tribunal—

- 15 (a) a person who is entitled, under Division 3 of Part IIA, to make an application or submission to the Gaming Tribunal is entitled to be represented by counsel, solicitor or agent; and
- (b) the public shall not be excluded unless the Gaming Tribunal exercising jurisdiction at those proceedings otherwise orders.

Powers etc. of the Gaming Tribunal as to the production of evidence

38H. (1) Subject to the regulations, the Gaming Tribunal has the functions vested in the District Court in respect of the following matters:

- 25 (a) compelling the attendance of witnesses and their examination on oath, affirmation or declaration;
- (b) compelling the production, discovery and inspection of books, records, documents and other papers;
- 30 (c) compelling witnesses to answer questions which the Gaming Tribunal considers to be relevant in any proceedings before it;
- (d) apprehending, detaining and punishing persons guilty of contempt, or of disobedience of any order made by the Gaming Tribunal, or of any process issuing out of the Gaming Tribunal;

35 (e) directing witnesses to be prosecuted for perjury,

and the exercise by the Gaming Tribunal of any such function has the same effect as it would have if exercised by the District Court.

*Gaming and Betting (Amendment) 1987*SCHEDULE 3—MISCELLANEOUS AMENDMENTS—*continued*

(2) In determining the amount of any penalty for an offence against this section, the court shall take into account the number of prohibited amusement devices involved in the commission of the offence.

5 (2) Section 17B (**Search warrants**)—

Section 17B (4) (a)—

Omit “may”, insert instead “shall”.

(3) Section 17C (**Forfeiture of amusement device**)—

Section 17C (1)—

10 Omit “may”, insert instead “shall”.

(4) Section 18 (**Organising etc. an unlawful game**)—

Section 18 (2)—

At the end of section 18, insert:

15 (2) A person who acts as a look-out, doorman or guard for any place at which an unlawful game or any trick of sleight of hand is organised or conducted shall be taken to have assisted in organising or conducting the game or trick unless the person proves that he or she did not know and could not reasonably be
20 expected to have known that the game or trick was organised or conducted.

(5) Section 20 (**Playing at etc. an unlawful game**)—

Omit “\$500”, insert instead “10 penalty units”.

(6) Section 20A (**Use or operation of certain amusement devices**)—

Section 20A (3), (4)—

25 After section 20A (2), insert:

(3) In determining the amount of any penalty for an offence against this section, the court shall take into account the number of amusement devices involved in the commission of the offence.

30 (4) If an offence against this section is proven against a person, a court may order that an amusement device and any money in it be forfeited to the Crown.

(7) Headings—

35 Omit the headings before the sections specified in Column 1 of the following table, insert instead respectively the headings set out in Column 2 of the table.

*Gaming and Betting (Amendment) 1987*SCHEDULE 3—MISCELLANEOUS AMENDMENTS—*continued*

TABLE

Column 1	Column 2
Section (heading preceding)	Heading to be inserted
5	
5	Division 1—Betting in streets
7	Division 2—Betting on sports grounds
10	Division 3—Betting with persons under the age of 18 years
15	Division 4—Cheating at cards or games
10	Division 5—Unlawful games
16	Division 1—Unlawful games
16A	Division 4—Evidence and witnesses
36	Division 1—Definitions
39	Division 2—Powers to enter and search betting-houses
40	Division 3—Offences
15	Division 4—Avoidance of contracts
42	Division 5—Procedure and arrest
48	
49	

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 4)

20 Existing declarations

1. A declaration in force, immediately before the commencement of this Act, under section 28 or 28A of the Gaming and Betting Act 1912 shall be deemed to be a declaration under section 32 of the Gaming and Betting Act 1912, as amended by this Act.

25 Forfeiture of certain prohibited amusement devices etc.

2. A prohibited amusement device and any money in it which, immediately before the commencement of this Act, was in the custody of the Commissioner of Police in connection with legal proceedings which had been completed before that commencement is forfeited to the Crown.

