

**GAMING AND BETTING (FURTHER AMENDMENT) BILL
1985**

EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to enlarge the class of unlawful games without including games played in domestic privacy or, subject to conditions, in places such as work-places;
 - (b) to provide an alternative procedure for the declaration by the Supreme Court of a place as a gaming-house; and
 - (c) to increase penalties relating to matters referred to in paragraphs (a) and (b).
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The Bill contains the following provisions:

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for Schedule 3 to commence on the commencement of the Search Warrants Act 1985 and for the other provisions of the proposed Act to commence when it is assented to.

Clause 3 describes the contents of the Schedules to the proposed Act.

Clause 4 operates to effect the amendments to the Gaming and Betting Act 1912 specified in the Schedules.

Schedule 1 (1) (a) excludes "manilla" from the list of unlawful games specified by name in the Act.

Schedule 1 (1) (b) is designed to render unlawful a game, or a game in a series of games, in which the bank does not change hands.

Schedule 1 (1) (c) defines an unlawful game in very wide terms but excludes a game referred to in the amendment effected by Schedule 1 (1) (d).

Schedule 1 (1) (d) excludes from the definition of an unlawful game referred to in Schedule 1 (1) (c)—

- (a) a game played by invitation in a private dwelling-house in a domestic situation; and
- (b) any other game where there is no charge for entry to the place where the game is played or no payment or other benefit accruing to a person except as a participant in the game.

It is also provided that the presence of 9 or more persons in the vicinity of a game is sufficient to shift from the prosecution the burden of proof as to whether a game is within the exclusion.

Schedule 1 (2) extends the meaning of the expression "instrument of gaming".

Schedule 1 (3) enables a declaration of a place as a gaming-house to be obtained under existing procedures notwithstanding that, at the time the declaration is sought, the place is not used as a gaming-house.

Schedule 1 (4) provides an alternative procedure for obtaining a declaration of a place as a gaming-house. The Supreme Court is required to make such a declaration if—

- (a) it is satisfied that articles such as instruments of gaming were found in the place in such circumstances as to arouse a reasonable suspicion that the place was being used as a gaming-house; and
- (b) it is not proved that the place was not used as a gaming-house.

Schedule 1 (5) and (6) effect consequential amendments.

Schedule 1 (7) has the effect of giving to a re-entry into a place the same effect as the original entry.

Schedule 1 (8) makes it an offence to obstruct or delay a member of the police force entering or re-entering a place under the authority conferred by the Act.

Schedule 2 increases penalties relating to gaming-houses.

Schedule 3 further amends (with respect to the searching of places and persons) certain amendments taking effect on the commencement of the Search Warrants Act 1985.

**GAMING AND BETTING (FURTHER AMENDMENT) BILL
1985**

No. , 1985

A BILL FOR

**An Act to amend the Gaming and Betting Act 1912 with respect to unlawful
games and the places in which they are played.**

Gaming and Betting (Further Amendment) 1985

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

5 Short title

1. This Act may be cited as the "Gaming and Betting (Further Amendment) Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence
10 on the date of assent to this Act.

(2) Schedule 3, and section 3 in its application to that Schedule, shall commence on the day appointed and notified under section 2 (2) of the Search Warrants Act 1985.

Schedules

15 3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE GAMING AND
BETTING ACT 1912

SCHEDULE 2—AMENDMENTS TO THE GAMING AND
BETTING ACT 1912 RELATING TO PENALTIES

20 SCHEDULE 3—AMENDMENT TO THE GAMING AND BETTING
ACT 1912 RELATING TO SEARCH WARRANTS.

Amendment of Act No. 25, 1912

4. The Gaming and Betting Act 1912 is amended in the manner set forth in Schedules 1-3.

25

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE GAMING AND BETTING ACT 1912

(1) (a) Section 17 (1) (a)—

Omit “, manilla”.

*Gaming and Betting (Further Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) Section 17 (1) (d)—

Omit the paragraph, insert instead:

- 5 (d) any game that involves, or any game in a series of games that involve, playing or staking against a bank that does not pass from one participant in the game or series of games to another—
- (i) by chance or by regular rotation among all the participants in the game; and
- 10 (ii) without any requirement to pay a charge or comply with any other condition.

(c) Section 17 (1) (e), (f)—

At the end of section 17 (1) (e), insert:

; or

- 15 (f) any game of skill or chance or of mixed skill and chance (not in any case being a game excluded by subsection (3)) in which any money or valuable thing is staked or risked by a person upon an event or contingency specified by the person.

(d) Section 17 (3), (4)—

20 After section 17 (2), insert:

- (3) Subsection (1) (f) does not apply to a game—
- (a) that is played in a person's private dwelling-house—
- (i) at the invitation of that person; and

*Gaming and Betting (Further Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(ii) in a domestic situation pertaining to that person and dwelling-house; or

(b) that is played otherwise than as provided by paragraph (a) unless—

5 (i) there is a person, other than a participant in the game, who receives a payment or other benefit from the playing of the game; or

10 (ii) a payment or other benefit is given or sought for the right to participate in the game or for the right to enter the land or premises on which the game is played.

15 (4) In any proceedings in relation to a game alleged to be an unlawful game referred to in subsection (1) (f), it shall be presumed, unless the contrary is proved, that the game was not a game referred to in subsection (3) if not less than 9 persons (including participants in the game) were in the vicinity of the playing of the game.

(2) Section 21A—

After section 21, insert:

20 **Instruments of gaming**

21A. In sections 22 and 25, the expression “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

25 (c) any other thing,

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

(3) (a) Section 28 (1)—

30 Omit “a place is”, insert instead “, at the time of the making of the affidavit, a place was”.

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) Section 28 (1)—

After “may”, insert “, on application made within a reasonable time after the making of the affidavit.”.

(c) Section 28 (1)—

5 After “gaming-house” where secondly occurring, insert “whether or not, at the time of the declaration, the place is used as a gaming-house”.

(4) Section 28A—

After section 28, insert:

10 **Alternative declaration as gaming-house**

28A. (1) In this section—

“instruments of gaming” has the same meaning as it has in section 22.

15 (2) Where, upon application made for the purposes of this section, the Supreme Court is satisfied that any means, contrivances or instruments of gaming, or any sums of money or securities for money were found in a place in circumstances which appear to the Court to raise a reasonable suspicion that the place had been, or was being, used as a gaming-house, the
20 Court shall declare the place to be a declared gaming-house unless it is proved that the place was not, at the time of the finding, and had not been for a reasonable time preceding the finding, used as a gaming-house.

(5) Sections 29 (1), 30 (1), 31, 32 (1), 33, 34, 35—

25 After “28” wherever occurring, insert “or 28A”.

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(6) Section 35 (4)—

After section 35 (3), insert:

(4) In this section—

“instruments of gaming” has the same meaning as it has
in section 22.

(7) (a) Section 37 (1) (a)—

Omit “that place”, insert instead “or re-entering that place or any
part of that place”.

(b) Section 37 (1) (b)—

After “entry” wherever occurring, insert “or re-entry”.

(c) Section 37 (3)—

After section 37 (2), insert:

(3) In subsection (1), “instruments of gaming” has the same
meaning as it has in section 22.

(8) Section 37A—

After section 37, insert:

Obstructing member of the police force

37A. Where a member of the police force is authorised under
this Part to enter a place, a person shall not—

- (a) wilfully prevent the member of the police force from
entering or re-entering that place or any part of that place;
or

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) wilfully obstruct or delay the member of the police force from entering or re-entering that place or any part of that place.

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

5

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE GAMING AND BETTING ACT 1912
RELATING TO PENALTIES

(1) Section 18—

10 Omit "\$200 or imprisonment for three months", insert instead "\$2,000 or imprisonment for 12 months".

(2) Section 20—

Omit "\$100", insert instead "\$500 or imprisonment for 6 months".

15 (3) Section 21—

Omit "\$500", insert instead "\$2,000".

(4) Section 23—

Omit "\$1,000", insert instead "\$2,000".

(5) Section 24—

20 Omit "\$100", insert instead "\$1,000".

(6) Section 32 (2)—

Omit "\$500", insert instead "\$1,000".

Gaming and Betting (Further Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912
RELATING TO PENALTIES—*continued*

(7) Section 33—

Omit "\$1,000", insert instead "\$2,000".

(8) Section 34—

Omit "\$1,000", insert instead "\$2,000".

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SCHEDULE 3

(Sec. 4)

AMENDMENT TO THE GAMING AND BETTING ACT 1912
RELATING TO SEARCH WARRANTS

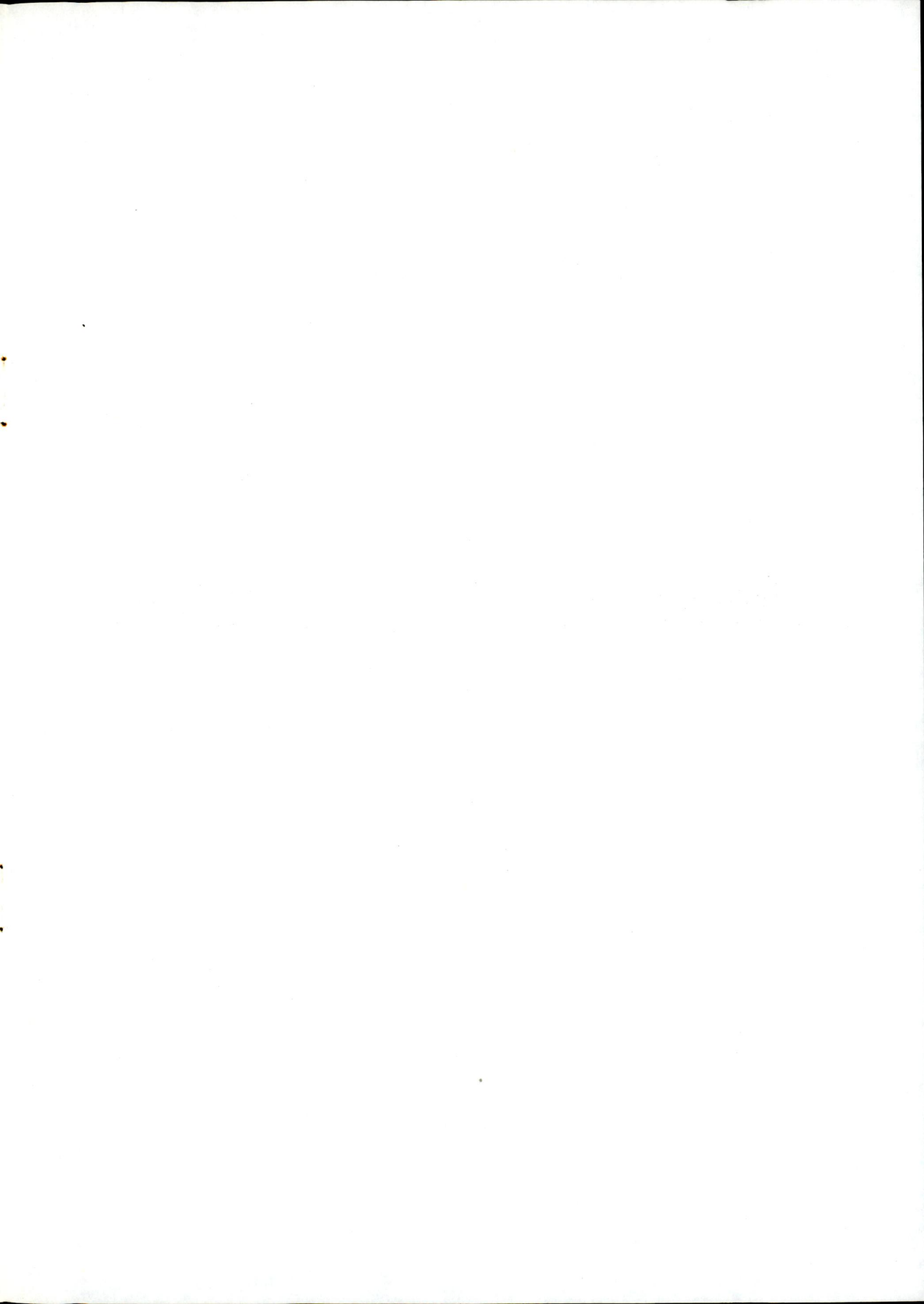
Section 22 (3) (a), as inserted by Act No. 38, 1985—

10

After "place", insert "and any person in that place".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985



GAMING AND BETTING (FURTHER AMENDMENT) ACT 1985 No.
177

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 177, 1985

An Act to amend the Gaming and Betting Act 1912 with respect to unlawful games and the places in which they are played. [Assented to, 4th December, 1985.]

Gaming and Betting (Further Amendment) 1985

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

Short title

1. This Act may be cited as the "Gaming and Betting (Further Amendment) Act 1985".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 3, and section 3 in its application to that Schedule, shall commence on the day appointed and notified under section 2 (2) of the Search Warrants Act 1985.

Schedules

3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE GAMING AND BETTING ACT 1912

SCHEDULE 2—AMENDMENTS TO THE GAMING AND BETTING ACT 1912 RELATING TO PENALTIES

SCHEDULE 3—AMENDMENT TO THE GAMING AND BETTING ACT 1912 RELATING TO SEARCH WARRANTS.

Amendment of Act No. 25, 1912

4. The Gaming and Betting Act 1912 is amended in the manner set forth in Schedules 1–3.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE GAMING AND BETTING ACT 1912

(1) (a) Section 17 (1) (a)—
Omit “, manilla”.

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) Section 17 (1) (d)—

Omif the paragraph, insert instead:

- (d) any game that involves, or any game in a series of games that involve, playing or staking against a bank that does not pass from one participant in the game or series of games to another—
 - (i) by chance or by regular rotation among all the participants in the game; and
 - (ii) without any requirement to pay a charge or comply with any other condition.

(c) Section 17 (1) (e), (f)—

At the end of section 17 (1) (e), insert:

; or

- (f) any game of skill or chance or of mixed skill and chance (not in any case being a game excluded by subsection (3)) in which any money or valuable thing is staked or risked by a person upon an event or contingency specified by the person.

(d) Section 17 (3), (4)—

After section 17 (2), insert:

- (3) Subsection (1) (f) does not apply to a game—
 - (a) that is played in a person's private dwelling-house—
 - (i) at the invitation of that person; and

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

- (ii) in a domestic situation pertaining to that person and dwelling-house; or
- (b) that is played otherwise than as provided by paragraph (a) unless—
 - (i) there is a person, other than a participant in the game, who receives a payment or other benefit from the playing of the game; or
 - (ii) a payment or other benefit is given or sought for the right to participate in the game or for the right to enter the land or premises on which the game is played.

(4) In any proceedings in relation to a game alleged to be an unlawful game referred to in subsection (1) (f), it shall be presumed, unless the contrary is proved, that the game was not a game referred to in subsection (3) if not less than 9 persons (including participants in the game) were in the vicinity of the playing of the game.

(2) Section 21A—

After section 21, insert:

Instruments of gaming

21A. In sections 22 and 25, the expression “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.

(3) (a) Section 28 (1)—

Omit “a place is”, insert instead “, at the time of the making of the affidavit, a place was”.

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) Section 28 (1)—

After “may”, insert “, on application made within a reasonable time after the making of the affidavit,”.

(c) Section 28 (1)—

After “gaming-house” where secondly occurring, insert “whether or not, at the time of the declaration, the place is used as a gaming-house”.

(4) Section 28A—

After section 28, insert:

Alternative declaration as gaming-house

28A. (1) In this section—

“instruments of gaming” has the same meaning as it has in section 22.

(2) Where, upon application made for the purposes of this section, the Supreme Court is satisfied that any means, contrivances or instruments of gaming, or any sums of money or securities for money were found in a place in circumstances which appear to the Court to raise a reasonable suspicion that the place had been, or was being, used as a gaming-house, the Court shall declare the place to be a declared gaming-house unless it is proved that the place was not, at the time of the finding, and had not been for a reasonable time preceding the finding, used as a gaming-house.

(5) Sections 29 (1), 30 (1), 31, 32 (1), 33, 34, 35—

After “28” wherever occurring, insert “or 28A”.

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(6) Section 35 (4)—

After section 35 (3), insert:

(4) In this section—

“instruments of gaming” has the same meaning as it has
in section 22.

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Omit “that place”, insert instead “or re-entering that place or any
part of that place”.

(b) Section 37 (1) (b)—

After “entry” wherever occurring, insert “or re-entry”.

(c) Section 37 (3)—

After section 37 (2), insert:

(3) In subsection (1), “instruments of gaming” has the same
meaning as it has in section 22.

(8) Section 37A—

After section 37, insert:

Obstructing member of the police force

37A. Where a member of the police force is authorised under
this Part to enter a place, a person shall not—

- (a) wilfully prevent the member of the police force from
entering or re-entering that place or any part of that place;
or

Gaming and Betting (Further Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912—
continued

(b) wilfully obstruct or delay the member of the police force from entering or re-entering that place or any part of that place.

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

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE GAMING AND BETTING ACT 1912
RELATING TO PENALTIES

(1) Section 18—

Omit "\$200 or imprisonment for three months", insert instead "\$2,000 or imprisonment for 12 months".

(2) Section 20—

Omit "\$100", insert instead "\$500 or imprisonment for 6 months".

(3) Section 21—

Omit "\$500", insert instead "\$2,000".

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Omit "\$1,000", insert instead "\$2,000".

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(6) Section 32 (2)—

Omit "\$500", insert instead "\$1,000".

Gaming and Betting (Further Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE GAMING AND BETTING ACT 1912
RELATING TO PENALTIES—*continued*

(7) Section 33—

Omit "\$1,000", insert instead "\$2,000".

(8) Section 34—

Omit "\$1,000", insert instead "\$2,000".

SCHEDULE 3

(Sec. 4)

AMENDMENT TO THE GAMING AND BETTING ACT 1912
RELATING TO SEARCH WARRANTS

Section 22 (3) (a), as inserted by Act No. 38, 1985—

After "place", insert "and any person in that place".

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