

THE PUBLIC GAMBLING ACT, 1867

SUMMARY

The Public Gambling Act, 1867 is an Act that prohibits public gambling and running or being in charge of a common gaming house. The Act provides for the punishment of persons found to be gambling in public places or running a common gaming house. It also provides for the punishment of any person who is in charge of such a house or who aids or abets in the running of a common gaming house. The Act defines the various terms used in the Act, such as 'common gaming house,' 'gaming,' and 'public place.'

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CHAPTER I: PRELIMINARY

Section 1: Interpretation-Clause

In this Act - "Common gaming house" "Common gaming - house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever.

Simplified

This law defines a "Common gaming house" as any place like a house, room, or even an enclosed area where gambling tools like cards or dice are found. If these tools are used to make money for the person who runs the place, it doesn't matter how they make the profit—whether it's from charging people to play the games or any other method—that place is considered a common gaming house.

Section 2: Power To Extend Act

Sections 13 and 17 of this Act shall extend to the whole of the said States and it shall be competent to the State Government whenever it may think fit, to extend, by a notification to be published in three successive numbers of the Official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway - station, house and place being not more than three miles distant from any part of such station - house within the States, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station - house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall

have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Simplified

This law, specifically Sections 13 and 17, applies to the entire state. The state government has the power to apply the rest of the law to any specific area within the state if it decides to do so. To make this happen, the government must announce their decision in the state's Official Gazette for three consecutive issues. The areas that can be included are cities, towns, suburbs, railway stations, and any place within three miles of a railway station house.

When the government decides to apply the law to a new area, they will also define the exact boundaries of that area. They can change these boundaries later if needed.

Once the law is extended to a new area, any existing local rules that conflict with the newly applied sections of this law will no longer be valid in that area.

Section 3: Penalty For Owning Or Keeping, Or Having Charge Of, A Gaming-House

Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place situated within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house;

and whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house;

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid;

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place;

shall be liable to a fine not exceeding two-hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code (45 of 1860), for any term not exceeding three months.

Simplified

If you own or have control over a property within the area where this law is active, and you use or let others use that property as a place for gambling (which is referred to as a common gaming-house);

If you allow someone else to use your property as a gambling place, whether you know about it or not;

If you help run or manage the gambling activities at such a place;

If you provide money for gambling to people who go to that place;

then you can be fined up to 200 rupees or you could go to jail for up to three months.

Section 4: Penalty For Being Found In Gaming-House

Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code (45 of 1860), for any term not exceeding one month, and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Simplified

If a person is caught in a place like a house, room, or any enclosed area where gambling is happening with things like cards, dice, or money, or if they are just there to gamble, they can be fined up to 100 rupees or be put in jail for up to one month. The law assumes that anyone found in a place where gambling is happening is there to gamble, unless they can prove otherwise.

Section 5: Power To Enter And Authorise Police To Enter And Search

If the Magistrate of a district or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house, he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the State Government shall appoint in this behalf to enter with such assistance as may be found necessary, by night or by

day, and by force if necessary, any such house, walled enclosure, room or place; and may either himself take into custody, or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming; and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein; and may search or authorise such officer to search all parts of the house, walled enclosure, room or place which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody; and may seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search.

Simplified

If a local Magistrate or a senior police officer believes, after a necessary investigation, that a place is being used for illegal gambling, they can enter the place themselves or send a police officer (of a rank specified by the State Government) to do so. This can be done at any time, day or night, and they can use force if needed. They are allowed to arrest anyone found there, whether they are gambling at the moment or not. They can also take all gambling equipment, money, and valuable items that might be related to gambling. They have the authority to search the entire place for hidden gambling items and to search the people they arrest. Any gambling items found can be taken by the authorities.

Section 6: Finding Cards, Etc, In Suspected Houses, To Be Evidence That Such Houses Are Common Gaming- Houses

When any cards, dice, gaming - tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place, is used as a common gaming - house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police - officer, or any of his assistants.

Simplified

If the police or a magistrate enters or searches a place and finds items like cards, dice, or gaming tables, it will be assumed that the place is being used for gambling. This is also true for anyone found there with such items on them. This assumption will stand unless someone can prove otherwise, even if no one was actually seen gambling at the time of the search.

Section 7: Penalty On Persons Arrested For Giving False Names And Addresses

If any person found in any common gaming - house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested, by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non - payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Simplified

If a person is caught in a place where gambling is happening and the police or a Magistrate has entered the place legally under the gambling laws, and that person, when arrested or taken in front of a Magistrate, does not give their real name and address when asked, they can be punished. The punishment can be a fine up to 500 rupees. The Magistrate can also add extra costs they think are fair. If the person cannot pay the fine and costs, or if the Magistrate decides it's appropriate, they can also be sent to jail for up to one month.

Section 8: On Conviction For Keeping A Gaming-House, Instruments Of Gaming To Be Destroyed

On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Simplified

If someone is found guilty of running or using a place for gambling, or being there to gamble, the judge can decide to:

Destroy all gambling equipment found at that place.

Sell any valuable items (that aren't gambling equipment) that were taken from there, turn them into cash, and then take that cash as forfeited.

The judge also has the choice to give back any part of the money or items to the people who seem to rightfully own them.

Section 9: Proof Of Playing For Stakes Unnecessary

It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming house, to prove that any person found playing at any game was playing for any money, wager or stake.

Simplified

Section 9 Explained

To find someone guilty of running a gambling place, or helping to manage it, you don't need to show that someone was actually gambling for money or anything of value. The fact that the place is used for gambling is enough for a conviction.

Section 10: Magistrate May Require Any Person Apprehended To Be Sworn And Give Evidence

It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorised as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other

Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code (45 of 1860).

Simplified

If someone is found in a place that the authorities have entered because they suspect illegal gambling is happening, the Magistrate (a type of judge) can make that person swear to tell the truth and then ask them questions. These questions can be about the illegal gambling or about any actions taken to stop or slow down the police or other officials from getting into the place.

A person who is brought in to answer these questions can't refuse to testify just because they might say something that makes them look guilty of a crime.

If someone doesn't agree to swear to tell the truth or refuses to answer the questions, they can be punished in the same way as someone who disobeys the law about giving evidence as described in either section 178 or section 179 of the Indian Penal Code.

Section 11: Witnesses Indemnified

Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Simplified

If a person who has been involved in illegal gambling (as described by this law) agrees to testify in court as a witness during the trial of someone else accused of illegal gambling, and if the judge believes that the person has honestly

answered all questions to the best of their knowledge, then that person will be given a written note from the judge. This note will protect them from being charged for any illegal gambling activities they may have participated in before they testified.

Section 12: Act Not To Apply To Certain Games

Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Simplified

The rules mentioned before in this law do not apply to games that are based only on skill, no matter where they are played.

Section 13: Gaming And Setting Birds And Animals To Fight In Public Streets

A police-officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill in any public street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals. Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public street - And such police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Simplified

Simplified Explanation of Section 13 of The Public Gambling Act, 1867

A police officer has the right to arrest someone without a warrant if they catch them gambling with money or something valuable using cards, dice, or any other gaming tools in a public area. This also applies to people who are making birds or animals fight, or anyone helping with such fights in public places.

Once arrested, the person must be taken to a judge quickly. They could be fined up to 50 rupees or sent to jail for up to one month.

Getting Rid of Gambling Tools Found in Public - The police officer can also take away any gambling tools they find in the public area or with the person they arrest. If the person is found guilty, the judge can order that these gambling tools be destroyed immediately.

Section 14: Offences, By Whom Triable

Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed. But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

STATE AMENDMENT

Uttar Pradesh

Insertion of new section 14 A in Act No 3 of 1867

After section 14 of the Public Gambling Act, 1867, the following section shall be inserted, namely :

"14 A Compounding of offences

An officer specially empowered in this behalf by the State Government by notification may, subject to any general or special order of the State Government in this behalf, compound any offence punishable under this Act, either before or after the institution of the prosecution, on realization of such amount of composition fee as he thinks fit, not exceeding the maximum amount of fine fixed for the offence; and where the offence is so compounded -

before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;

after the institution of the prosecution, the composition shall amount to acquittal of the offender.

Provided that nothing contained in this section shall authorize the composition of any subsequent offence committed by an offender who has once been convicted for any offence punishable under this Act.

Vide Uttar Pradesh Act 35 of 1979, s. 6

Abatement of certain trials

Notwithstanding anything contained in any other law for the time being in force, -

the trial of an accused for -

an offence punishable under -

the Motor Vehicles Act, 1988; or

the Public Gambling Act, 1867, not being an offence punishable under section 3 of that Act or an offence in respect of wagering punishable under section 13 of that Act; or

section 34 of the Police Act, 1861; or

section 160 of the Indian Penal Code, 1860; or

any other offence punishable with fine only, or

a procedure, under section 107 or section 109 of the Code of Criminal Procedure, 1973, pending before a Magistrate on the date of commencement of this Act from before "December 31, 2015" shall abate.

Vide the Uttar Pradesh Act 35 of 1979, s. 9, and amended by Uttar Pradesh Act 29 of 2016 and 9 of 2018.

Simplified

If you break the gambling laws, you can be tried by a Magistrate who has the authority to hear cases in the area where you committed the crime. However, the Magistrate can only impose fines or jail time within the limits set by the criminal law procedures.

STATE AMENDMENT

Uttar Pradesh

A new section called 14 A has been added to the gambling law, which allows certain government officers to settle offences out of court. They can do this before or after charges have been made, by charging a fee that's not more than the maximum fine for the crime. If you settle:

before being charged, you won't be taken to court for that crime and will be released if you're in jail;

after charges are made, it's like you're found not guilty.

But you can't settle out of court if you've already been found guilty of a gambling crime before.

Abatement of certain trials

Despite other laws, trials for certain minor offences or legal procedures that were ongoing as of December 31, 2015, will not continue. This includes trials for:

Some traffic offences;

Some gambling offences;

Offences under the Police Act;

Causing minor disturbances;

Any crime where the only punishment is a fine;

Certain legal actions that question a person's conduct or order them to guarantee peace.

Section 15: Penalty For Subsequent Offence

Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Simplified

If a person has already been punished once for breaking the rules under section 3 or section 4 of this law, and they break the same rules again, they will receive twice the punishment that they would have gotten the first time.

However, no matter what, the person cannot be fined more than six hundred rupees or be sent to jail for more than one year.

Section 16: Portion Of Fine May Be Paid To Informer

The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Simplified

If you are fined for breaking sections 3 and 4 of the Public Gambling Act, or if any money or items you had are taken away because they were involved in gambling, the judge can decide to give some of that money or the value of those items to the person who reported you.

Section 17: Recovery And Application Of Fines

All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure.

Simplified

Any money penalties (fines) that are given out because someone broke the rules of this law can be collected using the steps outlined in a part of another law called section 61 of the Code of Criminal Procedure.

Section 18: [Repealed]

Offences under this Act to be "offences" within the meaning of Penal Code. Rep by the Repealing Act, 1874 (16 of 1874), s 1 and the Schedule, Pt I.

Simplified

The crimes mentioned in this law are considered crimes as defined by the Penal Code. However, this particular section has been repealed, meaning it is no longer in effect, by the Repealing Act of 1874.