

ACTS AMENDMENT (BETTING AND GAMING).

No. 108 of 1982.

AN ACT to amend the Police Act 1892-1981, The Criminal Code, and the Evidence Act 1906-1982.

[Assented to 7 December 1982.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Betting and Gaming) Act 1982*. Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

PART II—POLICE ACT 1892-1981.

Citation.
Reprinted as
approved
11 July
1978 and
amended by
Acts Nos. 17,
29 and 83 of
1979, 71 of
1980, and 57,
103 and 107
of 1981.

3. (1) In this Part, the Police Act 1892-1981 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Police Act 1892-1982.

Section 50
amended.

4. Section 50 of the principal Act is amended—

(a) by deleting “with whose person he shall be unacquainted”;

(b) by deleting “as aforesaid;” and substituting the following—

“ , or who furnishes information which that officer or constable has reasonable cause to believe to be false, ” ; and

(c) by deleting “ten dollars” and substituting the following—

“ \$100 ” .

Part VI
amended.

5. Part VI of the principal Act is amended—

(a) by inserting after the heading and before section 53 the following sub-heading—

“ *Division 1.—General Offences.* ” ;

(b) by inserting after section 84 and before section 84A the following sub-heading—

“ *Division 2.—Betting.* ” ;

(c) by inserting after section 84H and before section 84I the following sub-heading—

“ *Division 3.—Betting and Gaming Contracts.* ” ;

- (d) by inserting after section 84I and before section 85 the following sub-heading—

“ *Division 4.—Gaming.* ” ;

- (e) by inserting after section 89 and before section 89A the following sub-heading—

“ *Division 5.—Slot machines.* ” ;

- (f) by inserting immediately before section 89C the following sub-heading—

“ *Division 6.—Cheating at play.* ” ;

and

- (g) by inserting after section 89C and before section 90 the following sub-heading—

“ *Division 7.—Obstruction, false reports, and forfeiture.* ” .

6. Section 66 of the principal Act is amended— Section 66 amended.

- (a) by deleting the paragraph designated “(6)”; and

- (b) by deleting “and every such table, or instrument of gaming”.

7. Section 74 of the principal Act is amended— Section 74 amended.

- (a) by deleting “thereof”, where it first appears and substituting the following—

“ of such goods or money, or pursuant to a seizure made under Division 4 or Division 5 of this Part of this Act ” ;

- (b) by deleting “with stealing or obtaining possession as aforesaid”; and

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(c) by deleting “such goods or money” and “such goods or moneys”, wherever they respectively appear, and substituting in each case the following—

“ that property ” .

Section 83A repealed.

8. Section 83A of the principal Act is repealed.

Section 84 amended.

9. Section 84 of the principal Act is amended by deleting “or knowingly suffer any unlawful games or any gaming whatsoever therein,”.

Section 84A repealed and re-enacted as section 84C (1).

10. Section 84A of the principal Act is repealed and re-enacted to stand as new subsection (1) of new section 84C.

New section 84A inserted.

11. The principal Act is amended by inserting, in lieu of the section repealed and re-enacted by section 10 of this Act, a new section to stand as section 84A as follows—

This Division subject to certain Acts.

“ 84A. The provisions of this Division of this Part of this Act are subject to the provisions of—

- (a) The Totalisator Act 1883;
- (b) the Totalisator Regulation Act 1911;
- (c) the Lotteries (Control) Act 1954;
- (d) the Betting Control Act 1954;
- (e) the Totalisator Agency Board Betting Act 1960; and
- (f) the Lotto Act 1981,

and the provisions of sections 84G and 84H of this Act do not apply to or in relation to the Totalisator Agency Board established under the Totalisator Agency Board Betting Act 1960. " .

12. Section 84B of the principal Act is repealed, and a new section substituted as follows—

Section 84B repealed and substituted.

" 84B. Every house, office, room, or other place opened, kept or used for the purposes referred to in subsection (1) of section 84C of this Act, or any of them, shall be taken and deemed to be a betting house and, as such, a common gaming house. " .

Betting Houses.

13. Section 84C of the principal Act is amended—

Section 84C amended.

(a) by redesignating the section as subsection (2) of the new section 84C;

(b) by deleting "for the purposes hereinbefore mentioned" and substituting the following—

" for the purposes referred to in subsection (1) of this section " ;

(c) by deleting "and wilfully"; and

(d) by deleting ", or to be imprisoned, with or without hard labour, for any term not exceeding six calendar months".

14. Section 84D of the principal Act is amended—

Section 84D amended.

(a) by deleting "for the purposes aforesaid" and substituting the following—

" for the purposes referred to in subsection (1) of section 84C of this Act " ; and

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- (b) by deleting “, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months”.

Section 84E
amended.

15. Section 84E of the principal Act is amended—

- (a) by deleting “any such person aforesaid” and substituting the following—

“ a person to whom section 84D of this Act applies ” ;

- (b) by deleting “any such assurance” and substituting the following—

“ any assurance ” ;

- (c) by deleting “as aforesaid” and substituting the following—

“ to which that section applies ” ;

and

- (d) by deleting “such money or valuable thing” and substituting the following—

“ money or valuable thing to which that section applies ” .

Section 84G
amended.

16. Section 84G of the principal Act is amended—

- (a) by deleting “in manner aforesaid” wherever it appears and substituting in each case the following—

“ to which this Division of this Part of this Act applies ” ; and

- (b) by deleting “, or to imprisonment, with or without hard labour, for any term not exceeding two calendar months ” .

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17. Section 84H of the principal Act is ^{Section 84H} amended—_{amended.}

- (a) by deleting “such” wherever it appears;
- (b) by deleting “as is mentioned in this Act” wherever it appears and substituting in each case the following—
 - “ of the kind referred to in this Division of this Part of this Act ” ;
- (c) in paragraph (b), by deleting “event of contingency” and substituting the following—
 - “ event or contingency ” ; and
- (d) by deleting “penalties provided in the last preceding section” and substituting the following—
 - “ penalty provided in section 84G of this Act ” .

18. Section 84I of the principal Act is amended— ^{Section 84I} _{amended.}

- (a) by deleting “gaming or wagering” and substituting the following—
 - “ betting, gaming or wagering ” ;
- (b) by deleting “upon any wager” and substituting the following—
 - “ at or in respect of any betting, gaming or wagering ” ; and
- (c) by deleting “on which any wager” and substituting the following—
 - “ on which any bet or wager ” .

Section 85 repealed and re-enacted with amendments as s. 89 (1).

19. Section 85 of the principal Act is repealed and re-enacted, to stand as new subsection (1) of new section 89, as amended by—

(a) deleting “any house, room, premises or place to be” and substituting the following—

“ that any premises are, have been or are about to be opened, ” ;

(b) deleting “into such house, room, premises or place” and substituting the following—

“ on or into such premises ” ;

(c) deleting “tables and instruments of gaming” and substituting the following—

“ gaming tables or other instruments of gaming and related furnishings and any other thing which there are reasonable grounds for believing may be required as evidence for the purposes of proceedings in respect of the premises or gaming or the playing of an unlawful game thereat ” ; and

(d) deleting “tables or instruments of gaming are” and substituting the following—

“ any instrument of gaming, document or other thing required as evidence is ” .

Sections 86 to 89, 91 and 92 repealed and new Division substituted.

Interpretation and evidentiary provisions.

20. The principal Act is amended by repealing sections 86 to 89, inclusive, section 91 and section 92, and substituting the following—

“ 85. (1) In this Division of this Part of this Act—

“bet” includes wager;

“game of chance” does not include any athletic game or sport, but, with that exception, and subject to subsection (2) of this section, includes a game

of chance and skill combined and a pretended game of chance or a pretended game of chance and skill combined;

“gaming”, subject to subsections (4), (5) and (6) of this section, means the playing of a game of chance for winnings in money or money’s worth, whether any person playing the game is at risk of losing any money or money’s worth or not;

“house”, in relation to the interpretation of the term “common gaming house”, includes any premises;

“instruments of gaming” includes any cards, dice, table, tokens, machines, or other apparatus;

“money” includes any bank note, postal note, cheque, credit card or security for money;

“player” in relation to a game of chance, includes any person taking part in the game against whom other persons taking part in the game stake, play or bet;

“premises” means any place, whether or not enclosed or otherwise defined by boundaries, and includes any land, building, structure, vehicle, railway vehicle, vessel, or aircraft, or any part thereof;

“related furnishings” means any furniture or furnishings or equipment used in, or ancillary to, the conduct of a common gaming house;

“unlawful game” means a game to which subsection (1) of section 86 of this Act applies;

“winnings” includes any prizes or other winnings of any kind,

and cognate expressions shall be construed accordingly.

(2) In determining for the purposes of this Division of this Part of this Act whether a game, which is played otherwise than against one or more other players, is a game of chance and skill combined, the possibility of superlative skill eliminating the element of chance shall be disregarded.

(3) For the purposes of this Division of this Part of this Act, it is immaterial whether a charge or levy is compulsory, customary or voluntary, and any reference to making a charge or charging a levy shall be construed accordingly.

(4) Where the playing of a game of chance would otherwise constitute gaming, insofar as that game—

- (a) is a lottery conducted or permitted under the Lotteries (Control) Act 1954;
- (b) is conducted or permitted under the Lotto Act 1981; or
- (c) is a game of a kind specified in regulations made pursuant to subsection (3) of section 86 of this Act played in such circumstances and in accordance with such conditions as are thereby prescribed,

the playing of the game does not constitute gaming for the purposes of this Act.

(5) For the purposes of this Division of this Part of this Act, a machine shall be taken not to be used for gaming if it is used in such a way that no game played by means of the machine can result in a player, or a person claiming under a player, receiving or being entitled to receive, any article, benefit or advantage other than by way of either—

- (a) an opportunity afforded by the automatic action of the machine to play one or more further games without the insertion of any money or token; or
- (b) the delivery by means of the machine of one or more coins or tokens as a prize in respect of a game where one or more coins or tokens of an equal or greater value or aggregate value were inserted into the machine by or on behalf of the player in order to play that game.

(6) On the trial of a person—

- (a) charged with gaming in, or suffering or permitting any games or gaming in, or for opening, keeping or using, or being concerned in the organisation or management of, a common gaming house; or
- (b) charged with an offence of such a nature that proof that any premises were kept or used or resorted to for playing at any unlawful game or any game of chance is necessary,

it shall not be necessary to prove that any person found playing at any game was playing for any money, money's worth, stake or bet, but it may be presumed that the game was being played for money until the contrary is proved.

(7) Proof that any person was present at any gaming shall be evidence that he was present for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for the purpose of—

- (a) taking part in the organisation or management of the gaming;
- (b) operating or using any instrument of gaming, related furnishings, or any other thing whatsoever used in connection with the gaming; or
- (c) making bets with respect to the gaming,

and for the purposes of this subsection a reference to “gaming” includes a reference to the playing of an unlawful game.

Unlawful
games.

86. (1) Subject to subsection (3) of this section, the playing of—

- (a) thimblorig;
- (b) any game of chance at any public place to which the public have or are permitted to have access;
- (c) any game the playing of which is declared to be unlawful, or to be unlawful in prescribed circumstances, pursuant to regulations made for the purpose of this subsection; or
- (d) any game that is a variant of, or of a similar nature to, a game of a kind referred to in this subsection and which is played in such a manner that the chances therein are not equally favourable to all the players,

is unlawful and any such game, and any game played at a common gaming house, shall for the purposes of this Act and of any other Act which refers to unlawful games or gaming, be deemed to be an unlawful game.

(2) Any person playing or betting at—

- (a) a game of a kind referred to in paragraph (a), paragraph (b) or paragraph (d) of subsection (1) of this section; or
- (b) a game to which paragraph (c) of that subsection applies,

is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$1 500.

(3) Regulations made for the purposes of this section may provide that subsections (1) and (2) of this section shall not have effect in relation to any game or gaming if the game played is of a kind specified in the regulations and is played in such circumstances and so as to comply with such conditions (if any) as may be prescribed by the regulations in relation to that kind of game.

(4) For the purposes of this section a place shall—

- (a) be deemed to be a public place to which the public have or are permitted to have access if it is for the time being open to the public (whether upon or without payment for admittance); and
- (b) include the doorways and entrances abutting upon, and any ground adjoining and open to, that place.

(5) Any constable or other person apprehending any person charged with an offence against this section may seize and take before a Justice any instrument of gaming, money or other thing which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of the offence, and in addition to imposing a fine, but subject to section 90B of this Act, the court by or before which the person is convicted may order any such instrument of gaming, money or other thing, not being an instrument, money or a thing shown to the satisfaction of the court not to relate to the offence, to be forfeited to the Crown and either destroyed or dealt with in such other manner as the court may, then or subsequently, approve.

Common
gaming
houses.

87. (1) Without prejudice to the provisions of section 88 of this Act or any rule of law, premises shall be deemed to be a common gaming house—

- (a) if a person for gain or reward provides or makes available facilities for, or permits, others to use the premises as a place for gaming either with himself or between themselves; or
- (b) if any unlawful game is played thereat,

and persons habitually congregate there for such a purpose.

(2) Where any premises are opened, kept or used as a common gaming house—

- (a) any person concerned in the organisation or management of the gaming or unlawful game;

- (b) the owner of the premises, unless he proves that he did not know and could not reasonably be expected to have known that gaming or the playing of an unlawful game would take place at the premises; and
- (c) any other person who, knowing or having reasonable cause to suspect that gaming or the playing of an unlawful game would take place at the premises—
 - (i) allowed the premises to be used for such a purpose; or
 - (ii) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the premises or any game thereat has been committed,

is guilty of an offence, and it shall not be a defence to show that access to the premises was in any way or for any reason restricted.

(3) For the purposes of subsection (2) of this section, any person who—

- (a) causes, procures or attempts to procure any person to commit any offence referred to in that subsection;
- (b) knowingly takes part in procuring the assembly of the players; or
- (c) assists in the provision of facilities by—
 - (i) providing, operating or using any instrument of gaming;
 - (ii) issuing, receiving or recording money or tokens used in the gaming or play or cheques

given or credit provided in respect of any such money or tokens or in respect of sums won or lost; or

- (iii) supervising or conducting any gaming or play,

shall be deemed to have been concerned in the organisation of the gaming or unlawful game.

(4) Where an offence under subsection (2) of this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, executive officer, secretary or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and is liable to be proceeded against and punished accordingly.

(5) A person guilty of an offence under subsection (2) of this section is liable, on summary conviction, to a fine not exceeding \$10 000, and in addition, but subject to section 90B of this Act, the court by or before which the person is convicted shall order any instruments of gaming or related furnishings, and any money or other thing brought before the court or the subject of an embargo notice under this Act and which the court is satisfied were found to be on the premises at the time of the offence, not being money or a thing shown to the satisfaction of the court not to relate to the offence, to be forfeited to the Crown and either destroyed or dealt with in such other manner as the court may, then or subsequently, approve.

(6) A person who is present at any gaming or unlawful game conducted at a common gaming house for the purpose of taking part therein is guilty of an offence and is liable—

- (a) on summary conviction, to a fine not exceeding \$100; or
- (b) to a modified penalty in accordance with subsection (8) of this section.

(7) Where a member of the Police Force has reason to believe that a person has committed an offence under subsection (6) of this section and, having regard to—

- (a) the place where the offence occurs;
- (b) the circumstances in which the offence occurs; and
- (c) the likelihood of the person involved complying with the requirements of such a notice,

believes that proceedings under this subsection are adequate he may, upon ascertaining the offender's name and address, serve on that person an infringement notice in the prescribed form.

(8) An infringement notice shall—

- (a) be given a serial number;
- (b) identify the person to whom it is given by his name and address;
- (c) state the date and in general terms the place at which the person has been found committing an offence contrary to subsection (6) of this section;

(d) inform the person in general terms that if he does not wish to have a complaint of the alleged offence heard and determined in a court hearing he may complete the form attached to or appearing upon the notice and may forward or deliver that form together with the sum of \$50 by way of modified penalty to the person named therein within the time appointed in the notice which shall be not less than 10 days from the date of giving the notice, whereupon he will not be liable to costs or further penalty in the matter; and

(e) inform the person in general terms that he has a right to decline to proceed in the manner described in paragraph (d) of this subsection and to allow the matter to be determined in a court hearing—

(i) if he desires to contest the question whether the offence alleged was in fact committed; or

(ii) if he wishes to submit to the court matters in extenuation of penalty; or

(iii) for any other reason,

in which event he need not reply or take further action in respect of the notice and that in such case a complaint of the alleged offence may be made against him in due course.

(9) Where a person to whom notice is given pursuant to subsection (7) of this section proceeds in the manner described in paragraph (d) of subsection (8) of this section within the time appointed in the notice a

proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given.

88. (1) On the trial of a person charged with an offence in relation to any premises alleged to be a common gaming house—

Evidentiary provisions in relation to common gaming houses.

- (a) it shall not be necessary to prove that any element of gain or reward was involved in the opening or keeping of the premises but it may be presumed that an element of gain or reward was involved, until the contrary is proved, if it is shown that paragraph (b), or any one or more of the circumstances referred to in paragraph (c), of this subsection applied;
- (b) it shall not be necessary to prove that a number of persons habitually congregated for gaming at the premises, if at the time of the alleged offence 10 or more persons were present at those premises;
- (c) it shall be sufficient in support of the allegation that any premises were, or were opened, kept or used as, a common gaming house to prove any one or more of the following circumstances—
 - (i) that any game played thereat is an unlawful game;
 - (ii) that a game played thereat involves playing, staking or betting against a bank, whether the bank is held by one of the players or not;

- (iii) that the nature of a game played thereat is such that the chances in the game are not equally favourable to all players;
 - (iv) that the nature of the game is such that the chances in it lie between the player and some other person, or (if there are 2 or more players) lie wholly or partly between the players and some other person, and those chances are not as favourable to the player or players as they are to that other person;
 - (v) that the gaming was so conducted that the chances therein were not equally favourable to all the players; or
 - (vi) that (apart from any stakes hazarded or bets placed) a charge, in money or money's worth, was made in respect of gaming, or a levy was charged on any of the stakes or bets or on the winnings of any of the players, whether by way of direct payment, by deduction, or by any other means; and
- (d) any furniture, furnishings or equipment, and any instruments of gaming, found at the premises shall, until the contrary is proved, be deemed to have been used in, or ancillary to, the conduct of the premises as a common gaming house.

(2) Notwithstanding any rule of law, premises shall not be taken to be a common gaming house by reason only of the carrying on of gaming thereat, and it shall be a defence for a person charged with an offence under this Division of this Part of this Act in relation to gaming at any premises to show that the gaming took place by personal invitation in a private dwelling on a domestic occasion at which less than 10 persons were present and that the gaming was not gaming to which subparagraphs (v) or (vi) of paragraph (c) of subsection (1) of this section applies.

(3) Where—

- (a) any instruments of gaming are found at any premises entered under a warrant under the provisions of this Part of this Act or about the person of any of those found thereat;
- (b) any constable or officer authorized under this Act to enter any premises is knowingly prevented from, or is wilfully assaulted, resisted, obstructed, delayed or hindered in, entering any premises;
- (c) any door to, or access or passage to or in, any premises so authorized to be entered is found to be fitted or provided with any means or contrivance intended or adapted or used so as to prevent, obstruct, delay or hinder entry by any such authorized person, or for giving information, as to, or an alarm in case of, any such entry; or
- (d) any premises are found to be fitted or provided with any means or contrivance related to the conduct of unlawful gaming or for removing or concealing any instruments of gaming,

it is admissible as evidence that the premises are used as a common gaming house and any persons found thereat shall (until the contrary is made to appear) be taken to have been present for the purpose of gaming notwithstanding that no play was actually carried on in the presence of the persons so authorized to enter the premises. ” .

New
section 89
amended.

21. The principal Act, as amended by the insertion of the former section 85 (as repealed and re-enacted with amendments by section 19 of this Act) as subsection (1) of section 89 of the principal Act, is further amended by inserting three new subsections of that section as follows—

“ (2) An officer or constable exercising powers conferred by a warrant under this section may for the purposes of this Part of this Act—

(a) seize and detain, or make extracts from or copies of, books, papers and documents found during the course of the exercise of those powers;

(b) require a person to give, or cause to be given, to him such information as it is in the power of the person to give or cause to be given, as the case requires.

(3) Subject to subsection (4) of this section, a person who—

(a) without lawful excuse, does not comply with a requirement made to him under subsection (2) of this section; or

(b) in purporting to comply with a requirement made to him under subsection (2) of this section, gives or causes to be given to the officer or

constable concerned information that to the knowledge of that person is false or misleading in a material particular,

is guilty of an offence.

Penalty: \$200.

(4) Notwithstanding anything in subsection (3) of this section a person shall not refuse or fail to comply with a requirement made to him under subsection (2) of this section by reason only that compliance with that requirement would tend to incriminate him or render him liable to any penalty, but the information given or caused to be given by him in compliance with that requirement is not admissible in evidence in any proceedings against him for an offence other than an offence under paragraph (b) of subsection (3) of this section. ” .

22. Section 90 of the principal Act is amended by deleting “house, room, or place”, wherever it appears, and substituting the following—

Section 90 amended.

“ premises or place ” .

23. The principal Act is amended by inserting after section 90A two new sections as follows—

New sections 90B and 90C inserted.

“ 90B. (1) A court shall not order any thing to be forfeited, under this Part of this Act, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Forfeiture.

(2) Where anything liable to be seized under this Part of this Act cannot, or cannot readily, be so seized and detained, a Justice, on the application of a police officer or constable and if the Justice is satisfied that there is reasonable cause to believe that the thing may be required as evidence for the purposes of proceedings under this Act or is liable to forfeiture under this Act, may grant to that officer or constable an embargo notice and that officer or constable—

(a) shall, if it is practicable to do so, forthwith serve, or cause to be served, a copy of the embargo notice on—

(i) the possessor of the thing to which the embargo notice relates; and

(ii) on any other person on whose behalf or for whose benefit he has reason to believe that thing is possessed by the possessor; and

(b) may serve or cause to be served a copy of the embargo notice on a person other than a person referred to in paragraph (a) of this subsection.

(3) Subject to subsections (6) and (7) of this section, a possessor of any thing to which an embargo notice relates who sells, leases, moves, transfers or otherwise deals with that thing or any part of it within a period of 21 days from the date of the embargo notice or, if an application in respect of that thing is made to the District Court under section 90C within that period, before that application is finally disposed of is guilty of an offence.

Penalty: \$2 000.

(4) The possessor of any thing to which an embargo notice relates may apply to the District Court for leave to sell, lease, move, transfer or otherwise deal with that thing or any part of it.

(5) The District Court may, on receiving an application under subsection (4) of this section, give the applicant leave in writing to sell, lease, move, transfer or otherwise deal with the thing or any part of the thing to which the embargo notice concerned relates on such conditions, if any, as the District Court thinks fit to attach to that leave.

(6) A person to whom leave has been given under subsection (5) of this section may sell, lease, move, transfer or otherwise deal with the thing or any part of the thing to which that leave relates in accordance with any conditions attached to that leave.

(7) A person who is the possessor of the thing to which an embargo notice relates may move that thing or any part of that thing for the purpose of protecting and preserving the same within the period referred to in subsection (3) of this section or before the application referred to in that subsection is finally disposed of, as the case requires, with the prior consent of the officer or constable to whom the embargo notice was granted in accordance with any conditions attached to that consent.

(8) Notwithstanding anything in any other Act, a sale, lease, movement, transfer or other dealing with any thing which constitutes an offence under subsection (3) of this section is null and void.

90C. (1) A police officer or constable to whom an embargo notice has been granted may at any time, and a person aggrieved by the embargo notice may within a period of 21

Proceedings
before
District
Court
in respect
of things
seized.

days from the date of the embargo notice, apply on notice of motion to the District Court for an order in respect of the thing to which the embargo notice concerned relates.

(2) On receiving an application made under subsection (1) of this section, the District Court may—

(a) before, during or after the consideration of that application adjourn the proceedings on that application for such period or periods as it thinks fit;

(b) before making any order on that application, require notice to be given to, and hear, a person claiming to have a financial or other interest in the thing to which that application relates or any part of that thing; and

(c) after considering that application—

(i) if it is satisfied that the thing to which that application relates or any part of that thing is likely to be required as evidence for the purposes of proceedings under this Act or to be liable to forfeiture under this Act, order that that thing or part of that thing continue to be subject to the embargo notice until the proceedings concerned are finally disposed of;

(ii) if it is not so satisfied, order that that thing or part of that thing be released to the person named in that order or cancel the embargo notice concerned, as the case requires; or

- (iii) if it is satisfied that the thing or any part of the thing has been ordered to be forfeited to the Crown under this Act, make such order as may be necessary to give effect thereto,

and in any such case make such other order in respect of the thing to which that application relates or any part of that thing as the justice of the case requires, and may make such ancillary orders, including orders as to costs, as it considers necessary or desirable.

(3) For the purposes of section 90B of this Act, an application under this section is finally disposed of when an appeal or further appeal, as the case requires, cannot be made unless an extension of time is granted—

- (a) where the District Court makes an order under subparagraph (i) of paragraph (c) of subsection (2) of this section, in the proceedings in relation to which the embargo notice was granted; and
- (b) in any other case, under this section. ” .

24. Section 94 of the principal Act is repealed and re-enacted to stand as section 89C, and amended by deleting “wages” and substituting the following—

Section 94 repealed, amended and re-enacted as section 89C.

“ wagers ” .

25. The Second Schedule to the principal Act, as to the Form of Warrant, is amended—

The Second Schedule amended.

- (a) by inserting after “instruments of unlawful gaming” the following—

“ and related furnishings ” ; and

- (b) by inserting after “persons” the following—
“ , instruments and related furnishings ” .

PART III—THE CRIMINAL CODE.

Citation.
Reprinted as
approved 8
December
1978 and
amended by
Acts Nos. 67,
68 and 107 of
1979, 96 of
1980, 52, 103,
116 and 118
of 1981, and
10 and 20
of 1982.

26. In this Part, “the Code” means The Criminal Code set out in the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Act Compilation Act 1913.

Sections 210
and 211
repealed.

27. Section 210 and section 211 of the Code are repealed.

PART IV—EVIDENCE ACT 1906-1982.

Citation.
Reprinted as
approved 28
January 1981,
and amended
by Act No. 10
of 1982.

28. (1) In this Part, the Evidence Act 1906-1982 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Evidence Act 1906-1982.

Section 39
repealed.

29. Section 39 of the principal Act is repealed.
