

Queensland



# GAMING ACT 1850

**Reprinted as in force on 15 March 1996  
(includes amendments up to Act No. 75 of 1974)**

**Reprint No. 1**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 15 March 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit unnecessary referential words (s 41)
- omit historical notes (s 42)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
  - **table of changed names and titles**
  - **table of obsolete and redundant provisions**
  - **table of renumbered provisions**
  - **table of comparative legislation.**

# Queensland



## GAMING ACT 1850

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## **GAMING ACT 1850**

[as amended by all amendments that commenced on or before 15 March 1996]

### **An Act to amend the law concerning games and wagers**

#### **Power of justice may be exercised under warrant**

**1.(1)** From and after the passing of this Act it shall be lawful for any justice of the peace upon complaint made before the justice of the peace on oath that there is reason to suspect any house room premises or place to be kept or used as a common gaming house and that it is commonly reported and believed by the deponent so to be to give authority by special warrant (schedule A1) under the justice's hand and seal when in the justice's discretion the justice shall think fit to any police officer or peace officer to enter with such assistance as may be found necessary into such house room premises or place and if necessary to use force for making such entry whether by breaking open doors or otherwise and to arrest search and bring before any 2 justices of the peace all such persons found therein and to seize all tables and instruments of gaming found in such house room premises or place and also to seize all moneys and securities for money found therein.

#### **Police officer or peace officer may search for instruments of gaming and seize the instruments and all persons found in such house rooms etc.**

**(2)** And it shall be lawful for the police officer or peace officer making such entry as aforesaid in obedience to any such warrant to search all parts of the house rooms premises or place which the police officer or peace officer shall have so entered where the police officer or peace officer shall suspect that tables or instruments of gaming are concealed and all persons whom the police officer or peace officer shall find therein and to seize all tables and instruments of gaming found in such house room premises or place and also to seize all moneys found therein.

**Owner or keeper of gaming house liable to a penalty**

(3) And the owner or keeper of the said gaming house or other person having the care or management thereof and also every banker croupier and other person who shall act in any manner in conducting the said gaming house room premises or place shall be liable on conviction—

- (a) for a first offence to a penalty of not less than \$300 nor more than \$400;
- (b) for a second offence to a penalty of not less than \$500 nor more than \$1 000 and to imprisonment for a term of not less than 14 days nor more than 3 months;
- (c) for a third or subsequent offence to a penalty of not less than \$1 000 nor more than \$1 500 and to imprisonment for a term of not less than 28 days nor more than 6 months.

**All moneys seized in gaming houses to be forfeited to Her Majesty**

(4) And upon conviction of any such offender all the moneys and securities for money which shall have been seized as aforesaid shall be forfeited to Her Majesty her heirs and successors for the public uses of the State and in support of the government thereof and shall be applied in such manner as may from time to time be directed by any Acts of the said Governor and Legislative Council.

**Persons found in gaming houses liable to a penalty**

(5) And every person found in such house room premises or place without lawful excuse shall be liable on conviction—

- (a) for a first offence to a penalty of not less than \$10 nor more than \$100;
- (b) for a second offence to a penalty of not less than \$40 nor more than \$150 and to 14 days imprisonment;
- (c) for a third or subsequent offence to a penalty of not less than \$60 nor more than \$200 and to imprisonment for a term of not less than 7 days nor more than 1 month.

**Indictment**

(6) However, nothing herein contained shall prevent any proceeding by indictment against the owner or keeper or other person having the care or

management of any gaming house or any room premises or place for gaming but no person shall be proceeded against by indictment and also under this Act for the same offence.

### **Personal appearance of offenders**

(7) Where any person charged for an offence against this section does not appear personally before the court at the time and place at which the charge for that offence is to be heard or to which the hearing thereof has been adjourned, the justices constituting the court—

- (a) where that person has been released on bail on entering into an undertaking—shall declare the undertaking to be forfeited;
- (b) shall require evidence on oath to be given before them of the matter of the charge (unless such evidence has already been given prior to any adjournment) and shall, if they are satisfied that the matter of the charge has been substantiated by evidence on oath given before them or prior to any adjournment, issue their warrant to apprehend that person and to bring him or her before justices to answer the charge and to be further dealt with according to law.

(8) The provisions of the *Justices Act 1886*, section 11B shall apply to proceedings referred to in subsection (7).

(9) Every other provision of the *Justices Act 1886* and all other enactments shall be read, construed and applied so as not to limit the operation and effect of this provision.

### **Identification of persons arrested**

(10) Where a person has been arrested on a charge of any offence against this section the police officer in charge of the police station, watch-house or lockup to which the person is taken after arrest may take or cause to be taken all such particulars as the police officer thinks necessary for the identification of the person including the person's photograph, fingerprints and palm prints.

(11) If proceedings are not taken against the person arrested in respect of any offence against this section or if the person is found not guilty upon the charge made against him or her for an offence against this section, all photographs, fingerprints and palm prints taken pursuant to this provision shall be destroyed in the person's presence.

**What shall be deemed evidence of gaming**

**4.(1)** Where any cards dice balls counters tables or other instruments of gaming used in playing any unlawful game shall be found in any house room premises or place suspected to be used as a common gaming house or place for gaming and entered under a warrant under the provisions of this Act or about the person of any of those who shall be found therein it shall be evidence until the contrary be made to appear that such house room premises or place is used as a common gaming house and that the persons found in the room or place where such tables or instruments of gaming shall have been found were playing therein although no play was actually going on in the presence of the police officer or peace officer entering the same under a warrant issued under the provisions of this Act or in the presence of those persons by whom the police officer or peace officer shall be accompanied as aforesaid.

**(2)** And it shall be lawful for the justices before whom any person shall be taken by virtue of the warrant to direct all such tables and instruments of gaming to be forthwith destroyed.

**Indemnity of witnesses**

**5.** Every person who shall have been concerned in any unlawful gaming and who shall be examined as a witness by or before any justices of the peace or on the trial of any indictment or information against the owner or keeper or other person having the care or management of any common gaming house or place for gaming touching such unlawful gaming and who upon such examination shall make true and faithful discovery to the best of his or her knowledge of all things as to which he or she shall be so examined and shall thereupon receive from the justices of the peace or judge of the court by or before whom he or she shall be so examined a certificate in writing to that effect shall be freed from all criminal prosecutions and from all forfeitures punishments and disabilities to which he or she may have become liable for anything done before that time in respect of such unlawful gaming.

**Empowering police officers to visit houses where certain games are publicly played**

**6.** It shall be lawful for all police officers to enter into any house room

premises or place where any public table or board is kept for playing at billiards bagatelle bowls fives racket quoits skittles or ninepins or any game of the like kind when and so often as such police officer shall think proper.

### **Cheating at play to be punished as obtaining money by false pretences**

7. Every person who shall by any fraud or unlawful device or ill-practice in playing at or with cards dice tables or other game or in bearing a part in the stakes wagers or adventures or in betting on the sides or hands of them that do play or in wagering on the event of any game sport pastime or exercise win from any other person to himself, herself or any other or others any sum of money or valuable thing shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence with intent to cheat or defraud such person of the same and being convicted thereof shall be punished accordingly.

### **Proceeding under feigned issues abolished**

9. In every case where any court of law or equity may desire to have any question of fact decided by a jury it shall be lawful for such court to direct a writ of summons to be sued out by such person or persons as such court shall think ought to be plaintiff or plaintiffs against such person or persons as such court shall think ought to be defendant or defendants therein in the form set forth in schedule B1 with such alterations or additions as such court may think proper and thereupon all the proceedings shall go and be brought to a close in the same manner as is now practised in proceedings under a feigned issue.

### **Penalty in any case not specifically provided for and manner of proceeding for recovery of penalties**

10.(1) In every case in which any person shall in any respect offend against this Act or any provision therein (where no other penalty in that behalf is by this Act specifically imposed) such person shall for every such offence forfeit and pay on conviction a penalty or sum not exceeding \$40 and all offences against this Act not otherwise provided for may be heard and determined and every forfeiture or penalty in respect thereof be awarded

and imposed by or before 2 justices or (where this Act so directs) by or before any 1 justice in a summary way in the manner prescribed by an Act of the said Governor and Legislative Council passed in the fifth year of the reign and His late Majesty King William the Fourth intituled 'An Act to regulate summary proceedings before justices of the peace'<sup>1</sup> or according to the law in force for the time being regulating summary proceedings before justices of the peace.

### **Appeal given**

(2) And any person feeling aggrieved by any summary judgment or conviction under this Act may appeal therefrom in the manner provided by the said Act or any other law in force for the time being in that behalf.

(3) However, in all cases in which any penalty or forfeiture hereby imposed is made recoverable before any justice or justices of the peace it shall and may be lawful for any justice to whom complaint shall be made of any offence against this Act to summon the party complained against before the justice or any other justice or justices and on such summons such justice or justices are hereby empowered to hear and determine the matter of such complaint in a summary way and on proof of the offence to convict the offender and to adjudge the offender to pay the penalty or forfeiture incurred and to proceed to recover the same although no information in writing shall have been exhibited or taken by or before such justice or justices.

(4) And all such proceedings by summons without information shall be as good valid and effectual to all intents and purposes as if an information in writing had been exhibited.

(5) And in all proceedings under this Act the informer or party prosecuting shall be deemed and taken to be a competent witness.

### **Form of information and conviction**

**11.(1)** Any justice or justices of the peace before whom any information shall be laid in writing against any person or before whom any person shall be convicted in respect of any offence against this Act may cause the information and conviction to be drawn up according to the forms respectively given in schedule C1 or any other form to the same effect as

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<sup>1</sup> 5 Wm 4 No. 22

the case may require.

(2) However, this enactment shall not invalidate any information or conviction laid or drawn in any other form which may be specially suited to the case or may be provided by law and in every information in writing and in every conviction for any offence contrary to this Act it shall be sufficient if the offence shall be stated in the words thereof declaring the offence or attaching any penalty thereto.

### **Appropriation of fines and penalties**

12. All fines forfeitures and penalties imposed by this Act the appropriation of which is not hereinbefore provided for shall be paid 1 moiety to Her Majesty her heirs and successors for the public uses of the State and in support of the government thereof and shall be applied in such manner as may from time to time be directed by any Acts of the said Governor and Legislative Council and the other moiety to the use of the informer or party prosecuting who shall be entitled to his or her costs and charges over and above such fines forfeitures and penalties to be ascertained and assessed by the justice or justices before whom the case is heard.

### **Distress not unlawful for want of form**

13.(1) When any distress shall be made for any money to be levied by virtue of the warrant of any justice or justices under this Act the distress shall not be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information summons warrant of apprehension conviction warrant of distress or other proceeding relating thereto nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by the party.

(2) But all such persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case in any of Her Majesty's courts of record.

### **Plaintiff not to recover after tender**

14.(1) No plaintiff shall recover in any action for any irregularity trespass or other wrongful proceeding made or committed in the execution of this

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Act or in under or by virtue of any authority hereby given if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity trespass or other wrongful proceeding before such action brought.

(2) And in case no tender shall have been made it shall be lawful for the defendant in any such action by leave of the court where such action shall depend at any time before issue joined to pay into court such sum of money as the defendant shall think fit whereupon such proceeding order and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court.

**No certiorari allowed**

16. No information conviction warrant order or other proceeding before or by any justice or justices of the peace or on appeal therefrom for any offence under this Act shall be quashed or set aside or adjudged void or insufficient for want of form or be removed by certiorari or otherwise into Her Majesty's Supreme Court.

**Section 15 of 8 and 9 Vic. c. 109 adopted**

17. And whereas a certain Act or Parliament was made and passed in the eighth and ninth years of the reign of Her Majesty Queen Victoria intituled 'An Act to amend the law concerning games and wagers' and whereas it is desirable to adopt so much of the provisions of the said Act of Parliament as is hereinafter specially set forth Be it therefore declared and enacted that so much of the said recited Act of Parliament as is hereinafter specially set forth shall be and is hereby declared to be in force in the State of New South Wales and shall be applied so far as the same can be applied in the administration of justice therein that is to say—

so much of the said recited Act as enacts that an Act passed in the 16th year of the reign of King Charles the Second such Act being intituled 'An Act against deceitful disorderly and excessive gaming'<sup>2</sup> and so much of an Act passed in the ninth year of the reign of Queen Anne such Act being intituled 'An Act for the better preventing of excessive and deceitful

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<sup>2</sup> 16 Chas 2 c. 7

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gaming'<sup>3</sup> as was not altered by an Act passed in the sixth year of the reign of His late Majesty intituled 'An Act to amend the law relating to securities given for considerations arising out of gaming usurious and certain other illegal transactions'<sup>4</sup> and so much of an Act passed in the 18th year of the reign of King George the Second intituled 'An Act to explain amend and make more effectual the laws in being to prevent excessive and deceitful gaming and to restrain and prevent the excessive increase of horse races'<sup>5</sup> as relates to the first recited Act of Queen Anne or as renders any person liable to be indicted and punished for winning or losing at play or by betting at any one time the sum or value of \$20 or within the space of 24 hours the sum or value of \$40 shall be repealed.

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<sup>3</sup> 9 Anne c. 14

<sup>4</sup> 5 & 6 Wm 4 c. 41

<sup>5</sup> part of 18 Geo 2 c. 34



**SCHEDULE B1**

section 9

In the Supreme Court } Or in any inferior court  
of New South Wales }

NEW SOUTH WALES TO WIT (or such other venue as may be directed.)

WHEREAS A. B. affirms and C. D. denies (here state fully the fact or facts in issue) and the judges of the Supreme Court of New South Wales (or such other court etc.) are desirous of ascertaining the truth by the verdict of a jury and both parties pray that the same may be inquired of by the country.

**SCHEDULE C1**

section 11

***Form of information***

New South Wales }  
to wit }

BE it remembered that \_\_\_\_\_ of \_\_\_\_\_ in the State of New South Wales \_\_\_\_\_ cometh on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_ before me (or us) J.P. 1 (or more) of Her Majesty's justices of the peace assigned to keep the peace in and for the (here describe the local jurisdiction of the justice as the case may be) in the State of New South Wales and giveth me (or us) to understand and be informed that \_\_\_\_\_ hath been guilty of (here describe the offence).

***Form of conviction***

BE it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_ is brought before me (or us) J.P. 1 (or more) of Her Majesty's justices assigned to keep the peace in and for the (here describe the local jurisdiction of the justice as the case may be) in the State of New South Wales and is charged before me (or us) with having (here describe the offence) and it appearing to me (or us) that the said \_\_\_\_\_ is guilty of the said offence I (or we) do therefore adjudge the said (here insert the adjudication).

Given under my (or our) hand (or hands) the day and years first above written.

## **ENDNOTES**

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### **2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 March 1996. Future amendments of the Gaming Act 1850 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 List of legislation

#### **Gaming Act 1850 14 Vic No. 9 (NSW)**

date of assent 10 September 1850

commenced on date of assent

as amended by—

#### **Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3**

date of assent 28 November 1899

commenced 1 January 1901 (see s 2)

#### **Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1**

date of assent 23 December 1908

commenced on date of assent

#### **Racing and Betting Act 1954 3 Eliz 2 No. 54 s 4 sch 1**

date of assent 21 December 1954

commenced 1 July 1955 (proc pubd gaz 18 June 1955 p 869)

#### **Gaming Act 1972 No. 19 (as amd by 1980 No. 35 s 4(1) sch 1)**

date of assent 19 December 1972

commenced on date of assent

#### **Limitation of Actions Act 1974 No. 75 s 4 sch**

date of assent 1 November 1974

commenced 1 July 1975 (see s 2)

## **5 List of annotations**

**Preamble** om 1908 8 Edw 7 No. 18 s 2 sch 1

**Power of justice may be exercised under warrant**

s 1 amd 1972 No. 19 s 2 (as amd by 1980 No. 35 s 4(1) sch 1)

**What shall be sufficient evidence that a house is a common gaming house**

s 2 om 1899 63 Vic No. 9 s 3(2) sch 1

**Proof of gaming for money not necessary in support of informations for gaming**

s 3 om 1899 63 Vic No. 9 s 3(2) sch 1

**What shall be deemed evidence of gaming**

s 4 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Indemnity of witnesses**

s 5 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Empowering constables to visit houses where certain games are publicly played**

s 6 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Cheating at play to be punished as obtaining money by false pretences**

s 7 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Wagers not recoverable at law**

s 8 amd 1908 8 Edw 7 No. 18 s 2 sch 1

om 1954 3 Eliz No. 54 s 4 sch 1

**Proceeding under feigned issues abolished**

s 9 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Penalty in any case not specifically provided for and manner of proceeding for recovery of penalties**

s 10 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Limitation of actions**

s 15 om 1974 No. 75 s 4 sch

**No certiorari allowed**

s 16 amd 1908 8 Edw 7 No. 18 s 2 sch 1

**Act may be amended or repealed**

s 18 om 1908 8 Edw 7 No. 18 s 2 sch 1

## **6 Table of changed names and titles**

### TABLE OF CHANGED NAMES AND TITLES under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
colony	State	see Commonwealth Constitution
constable	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)
Her Majesty (by a particular style or title)	Her Majesty (by her current style and titles)	Acts Interpretation Act 1954 s 52(b)
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(i) (see also s 1.4)

## **7 Table of obsolete and redundant provisions**

### TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
references to Queensland implied	Acts Interpretation Act 1954 s 35

## **8 Table of renumbered provisions**

### TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
1st section . . . . .	1
1st section, 1st provision . . . . .	1(1)
1st section, 2nd provision . . . . .	1(2)
1st section, 3rd provision . . . . .	1(3)
1st section, 4th provision . . . . .	1(4)

1st section, 5th provision .....	1(5)
1st section, proviso .....	1(6)
1st section, 6th provision .....	1(7)
1st section, 7th provision .....	1(8)
1st section, 8th provision .....	1(9)
1st section, 9th provision .....	1(10)
1st section, 10th provision .....	1(11)
4, 1st provision .....	4(1)
4, 2nd provision .....	4(2)
10, 1st provision .....	10(1)
10, 2nd provision .....	10(2)
10, proviso .....	10(3)
10, 3rd provision .....	10(4)
10, 4th provision .....	10(5)
11, 1st provision .....	11(1)
11, proviso .....	11(2)
13, 1st provision .....	13(1)
13, 2nd provision .....	13(2)
14, 1st provision .....	14(1)
14, 2nd provision .....	14(2)

## **9 Table of comparative legislation**

<b>s 1</b>	compare 8 & 9 Vic c 109 ss 3, 6
<b>s 1(3)</b>	8 & 9 Vic c 109 s 4
<b>s 4</b>	8 & 9 Vic c 109 s 8
<b>s 5</b>	8 & 9 Vic c 109 s 9
<b>s 6</b>	8 & 9 Vic c 109 s 14
<b>s 7</b>	8 & 9 Vic c 109 s 17
<b>s 9</b>	8 & 9 Vic c 109 s 19
<b>s 13</b>	8 & 9 Vic c 109 s 21
<b>s 14</b>	8 & 9 Vic c 109 s 22
<b>s 16</b>	8 & 9 Vic c 109 s 25