

# The Bombay Prevention of Gambling Act, 1887 Act 4 of 1887

Keyword(s): Gaming, Instruments of Gaming, Common Gaming House

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# THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.

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## BOMBAY ACT No. IV OF 1887.1

[THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.]\*

[5th January 1888]

Repealed in part, by Act 16 of 1895.

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Amended by Bom.
                      1 of 1890.
                       1 of 1910.
                      6 of 1919.
                ,,
                       5 of 1922.
                       5 of 1926.
                >>
                     14 of 1929.
                      3 of 1931.
                     12 of 1934.
                      1 of 1936.
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Adapted and modified by the Adaptation of Indian Laws Order in Council.

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2 of 1941.†
Amended by Bom.
                    17 of 1945.‡
                    37 of 1947.
                    60 of 1954.
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Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

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Amended by Born. 14 of 1959.
                   56 of 1959.
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Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

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Amended by Mah.
                    46 of 1962.
                      1 of 1963.
                     12 of 1965.
               ,,
                     28 of 1967.
                     20 of 1975 (1-9-1975)§
                     33 of 1976. (1-11-1976)§
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## An Act to consolidate and amend the law for the prevention of gambling in the 2[State] of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the prevention Preamble. of gambling in the '[State] of Bombay; It is enacted as follows:-

1. This Act may be cited as the Bombay Prevention of Gambling Act, 1887. Short title. Extent. It extends to the whole of the 'State of Maharashtra].]

<sup>&</sup>lt;sup>1</sup> For Statement of Objects and Reasons, see Bombay Government Gazette, 1887, Pt. 1V, p. 12; for Report of the Select Committee, see ibid., p. 239; and for Proceedings in Council, see ibid., pp. 215 and 244.

<sup>\*</sup> This word was substituted for the word " Presidency," by Born. 14 of 1959, s. 3(a).

This portion was substituted for the last two paras, tbld. s. 3(b).
These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation

of Laws (State and Concurrent Subjects) Order, 1960.

\*This Act was extended to and by such extension shall be in force in that part of the State of Bourbay to which immediately before the commencement of Rom. 14 of 1959, it did not extend (vide s. 2 of Rom. 14 of 1959).

t This Act was re-enacted by Born. 37 of 1947, s. 2. This Act has been re-enacted and the amendments made by section 9 and Schedule E of the said Act has been continued in force by Born. 52 of 1947, s. 2.

<sup>§</sup>This indicates the date of commence of Act.

<sup>5034-1</sup> 

2. [Repeal of enactments.] Rep. Act XVI of 1895.

- <sup>1</sup>[In this Act "gaming" includes wagering or betting except wagering or "Gaming" defined. betting upon 2[a horse-race or dog race] when such wagering or betting take place-
  - (a) on the day on which such race is to be run, and
  - (b) in an enclosure which the licensee of the face-course, on which such race is to be run, has set apart for the purpose under the terms of the licence issued under section 4 of the Bombay Race-Courses Licensing Act, 1912, 4[or as the Bom. III of case may be, of the Maharashtra Dog Race-Courses Licensing Act, 1976] in 1912. respect of such race-course, <sup>5</sup>[or in any other place approved by the State Govern-Mah. ment in this behalf,] and

of 1976.

<sup>6</sup>[(c) between any individual in person, being present in the enclosure [or approved place on the one hand, and such licensee or other person licensed by such licensee in terms of the aforesaid licence on the other hand [or between any number of individuals in person in such manner and by such contrivance as may be permitted by such licence;

but does not include a lottery.

Any transaction by which a person in any capacity whatever employs another in any capacity whatever or engages for another in any capacity whatever to wager or bet whether with such licensee or with any other person shall be deemed to be "gaming": Provided, nevertheless, that such licensee may employ servants, and persons may accept service with such licensee, or wagering or betting in such manner or by such contrivance as may be permitted in such licence.] '[The collection or soliciting of bets, receipt or distribution of winnings or prizes in money or otherwise in respect of wagering or betting or any act which is intended to aid or facilitate wagering or betting or such collection, spliciting, receipt or distribution shall be deemed to be "gaming".]

"Instru-

<sup>10</sup>[In this Act the expression "instruments of gaming" includes any article used ments of the capression instruments of gaming includes any article used gaming. 11[or intended to be used as a subject or means of gaming, 12 [14\* any document defined. used '[or intended to be used] as a register or record or evidence of any gaming] 14[the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming.].

Common gaminghouse' defined. 15[In this Act, "common gaming-house" means

(i) in the case of gaming-

(a) on the market price of cotton, opium or other commodity or on the digits of the number used is stating such price or

(b) on the amount of variation in the market price of any such commodity or on the digits of the number used in stating the amount of such variation, or

(c) on the market price of any stock or share or on the digits of the number used in stating such price, or

(d) on the occurrence or non-occurrence of rain or other natural event, or

These words were substituted for the words "a horse-race" by Mah. 33 of 1976, s. 11, sch. 2 Infra.

These words were inserted by Mah. 33 of 1976, s 11, sch. These words were inserted by Mah. 12 of 1965, s. 2(a).

Clause (c) was substituted for the original clause by Bom. 3 of 1931, s. 2.

These words were inserted by Mah. 12 of 1965, s. 2(b).

These words were inserted by Bom. 12 of 1934, s. 2.

These words were inserted by Bom. 1 of 1936, s. 2(i).

10 This definition was inserted by s. 1 of the Act to amend the Bombay Prevention of Gambling Act, 1890 (Born. 1 of 1890).

The words "or intended to be used" were inserted by Born. 1 of 1936, s. 2(i).

12 These words were added by s. 2 of the Bombay Prevention of Gambling (Amendment) Act, 1919

(Bom. 6 of 1919).

18 The word "and" was omitted by Bom. 1 of 1936, s. 2(f).

14 These words were added, ibid., s. 2(2)(iii).
15 This portion was substituted for the original by Bom. 14 of 1959, s. 3(c).

<sup>&</sup>lt;sup>1</sup> This definition was substituted by s. 2 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

"Place" defined.

Keeping

raming-

house.

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- (e) on the quantity of rainfall or on the digits of the number used in stating such quantity, '[or]
  - [(f) on the pictures, digits or figures of one or more playing cards or other documents or objects bearing numbers, or on the total of such digits or figures, or on the basis of the occurrence or non-occurrence of any uncertain future event, or on the result of any draw, or on the basis of the sequence or any permutation or combination of such pictures, digits, figures, numbers, events or draws.]

any house, room or place whatsoever in which such gaming takes place or in which instruments of gaming are kept or used for such gaming:

(ii) in the case of any other form of gaming, any house, room or place whatsoever in which any instruments of gaining are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room or place by way of charge for the use of such house, room or place or instrument or otherwise howsoever.

In this Act, "place" includes a tent, enclosure, space, vehicle and vessel.]

<sup>3</sup>[1] Whoever—

(a) '[opens, keeps or uses any house, room or place], for the purpose, of common a common gaming house.

(b) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid.

(c) has the care or management of, or in any manner assists in conducting the business of, any such house, room, or place opened, occupied, kept or used for the purpose aforesaid.

(d) advances or furnishes money for the purposes of gaming with persons frequenting any such house, room or place,

"[ '[shall, on conviction, be punished] with imprisonment '[which may extend to two years] \*[and may also be punished with fine]: Provided that-

(a) for a first offence such imprisonment shall not be less than of three months and fine shall not be less than five hundred rupees;]

(b) for a second offence such imprisonment shall not be less than 10[six months and fine shall not be less than one thousand rupees; and]

(c) for a third or subsequent offence such imprisonment shall not be less than "sone year and fine shall not be less than two thousand rupees.]]

12[(2) Nothing contained in the provisions of the Probation of Offenders Act, 1958. 1958, or in sub-sections (1), (4), (5) and (6) of section 360 of the Code of Criminal 1974. Procedure, 1973, shall apply to any person convicted under this section.]

<sup>2</sup> Sub-clause (f) was inserted, ibid., s. 2(ii).

Section 4 was renumbered as sub-section (1), ibid., s. 3.

These words were substituted by Bom. 2 of 1941, s. 3, read with Bom. 37 of 1947, s. 2.

This portion was substituted by Bom. 37 of 1947, s. 3.

These words were substituted for the words "shall, on conviction, be punishable" by Mah. 28 of 1967, s. 2.

7 These words were substituted for the words "which may extend to six months" by Mah. 20 of 1975, s. 3 (i).

These words were substituted for the words "and with tine" by Mah. 28 of 1967, s. 2. This portion was substituted for the portion beginning with the words "one month" and ending with the words "two hundred rupees" by Mah. 20 of 1975, s. 3(ii)(a).

16 This portion was substituted for the portion beginning with the words "three months" and ending with the words "two hundred rupees and", ibid., s. 3(b).

11 This portion was substituted for the portion beginning with the words "six months" and ending ith the words "two hundred rupees" ibid., s. 3(c).

12 Sub-section (2) was inserted, ibid., s. 3(iii).

<sup>&</sup>lt;sup>1</sup> This word was added by Mah. 20 of 1975, s. 2(i).

5. [Whoever is found in any common gaming-house gaming or present for common the purpose of gaming, '[s[shall on conviction be punished] with imprisonment gaming which may extend to six months '[and may also be punished with fine]:

#### Provided that-

- (a) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees
- (b) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees; and
- (c) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.

Any person found in any common gaming-house during any gaming therein shall be presumed, until the contrary '[is proved], to have been there for the purpose of gaming.

Entry. search, etc., by police officers in gaminghouses. <sup>8</sup>[(1)] It shall be lawful for a Police officer-

- (i) 's [in any area for which a Commissioner of Police has been appointed] not \* Sub-Inspector and either empowered by below the rank of a 10\* general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, and
- (ii) elsewhere not below the rank of a Sub-Inspector of Police authorised by special warrant issued in each case 11[by a District Magistrate or Sub-Divisional Magistrate or by a Taluka Magistrate specially empowered by the State Government in this behalf or by a 12 [Superintendent of Police] or by an Assistant or Deputy Superintendent of Police especially empowered by 13[the 14[State] Government] in this behalf, 35 [and]
- 18 (iii) without prejudice to the provision in clause (ii) above, in such other area as the State Government may, by notification in the Official Gazette, specify in this behalf, not below the rank of a Sub-Inspector and empowered by general order in writing issued by the District Magistrate.]
  - (a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used as a common gaming-house.

This portion was substituted by Bom. 37 of 1947, s. 4 These words were substituted for the words "shall on conviction, be punishable" by Mah. 28 of 1967, s. 3.

These words were substituted for the words "and with fine", ibid.

The words "or playing" were repealed by s. 3 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

The words "is proved" were substituted for the words "be made to appear" by Bom. 1 of 1936, s. 4(3).

7 Section 6 was substituted for the original section, ibid., s. 5.
8 Section 6 was re-numbered as sub-section (I) by Mah. 1 of 1963, s. 2.
8 These words were substituted for the words, "in the Greater Bombay" by Bom. 56 of 1959, s. 3,

The words "Sergeant or" were deleted by Bom. 14 of 1959, s. 3(d).

These words were substituted for the words "by a Magistrate of the First Class or" by Bom.

60 of 1954, s. 2. These words were substituted for the words "District Superintendent of Police" by Mah. 46 of

1962, s. 3, Sch. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

This word was inserted by Bom. 14 of 1959, s. 3(d).
This clause was inserted, bid.

<sup>&</sup>lt;sup>1</sup> This paragraph was substituted by s. 3 of the Bombay Prevention of Gambling (Amendment Act, 1919 (Bom. 6 of 1919).

- (b) to search all parts of the house, room, or place which he shall have so entered, when he shall have reason to suspect that any instruments of gaming are concealed therein, and also the persons whom he shall find therein whether such persons are then actually gaming or not,
  - (c) to take into custody and bring before a Magistrate all such persons.
- (d) to seize all things which are reasonably suspected to have been used or intended to be used for the purpose of gaming, and which are found therein:

Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, 1[the Superintendent of Police] or Assistant or Deputy Superintendent of Police concerned is satisfied, upon making such inquiry as he may think necessary, that there are good grounds to suspect the said house, room, or place to be used as a common gaming-house.]

- <sup>3</sup>[(2) Notwithstanding anything in any law for the time being in force, no search made under this section shall be deemed illegal by reason only of the fact that the witnesses (if any) of the search were not inhabitants of the locality in which the house, room or place searched is situate.]
- <sup>4</sup>[6A. If any person found in any common gaming-house, entered by any Punishment Magistrate or officer of Police under the provisions of this Act, upon being arrested for giving by any such officer or upon being brought before any Magistrate, and on being false names and required by such officer or Magistrate to give his name and address refuses or addresses. neglects to give the same or gives any false name or address, he shall, on conviction, be punished with a fine not exceeding one thousand rupees and on the nonpayment of such fine, or in the first instance if to the Court passing the sentence it shall seem fit, with imprisonment for a period not exceeding four months.]

5[7. When any instrument of gaming has been seized in any house, room or presumptive place entered under section 6 or about the person of any one found therein, and in proof of the case of any other thing so seized if the court is satisfied that the Police officer keeping or who entered such house, room or place had reasonable grounds for suspecting that common the thing so seized was an instrument of gaming, the seizure of such instrument or gamingthing shall be evidence, until the contrary is proved, that such house, room or place house. is used as a common gaming-house and the persons found therein were then present for the purpose of gaming, although no gaming was actually seen by the Magistrate or the Police officer or by any person acting under the authority of either of them:

<sup>6</sup>[Provided that the aforesaid presumption shall be made, notwithstanding any defect in the warrant or order in pursuance of which the house, room or place was entered under section 6, if the Court considers the defect not to be a material one.]

<sup>&</sup>lt;sup>1</sup> These words were substituted for the words "the District" by Mah. 46 of 1962, s. 3. Sch.
<sup>2</sup> The words "upon any complaint made before him on oath and" were deleted by Bom. 14 of 1959, s. 3(d).

<sup>&</sup>lt;sup>a</sup> Sub-section (2) was added by Mah. 1 of 1963, s. 2. 4 Section 6A was inserted by Bom. 14 of 1959, s. 3(e).

<sup>&</sup>lt;sup>5</sup> Section 7 was substituted for the original section by Bom. 1 of 1936, s. 6.

This proviso was added by Bom. 14 of 1959, s. 3(f).

8. On conviction of any person for opening, keeping or using a common gamingor gaming therein, or being present therein for the purpose tion for house, keeping or of gaming, the convicting Magistrate may order all the instruments of gaming gaming in or gaming, the convicting wagistrate may order an the histriments of gaming common found therein or on the persons of those who were found therein, to be forthwith gaming destroyed '[or forfeited]. house.

instruments and may also order all or any of the securities for money and other articles of gaming may be seized, not being instruments of gaming, to be sold and the proceeds thereof, with destroyed all moneys seized therein, to be forfeited; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

- Proof of 9. It shall not be necessary, in order to convict a person of any offence against Playing for any of the provisions of sections 4 and 5, to prove that any person found '[gaming] money not was playing for any money, wager or stake. conviction.
  - 4[10. Any person who has been concerned in gaming contrary to this Act, and Indemnification of who is examined as a witness before a Magistrate in the trial of any person for certain a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, makes in the opinion of the Magistrate true and faithful discovery to the best of his knowledge of all things as to which he is 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 any thing done before that time in respect of such gaming.]
    - 11. [Payment of portion of fine to informer.] Deleted by Mah. I of 1963, s. 3.

Power to arrest without warrant gaming. and setting birds and animals to fight in public streets.

- 12. A Police officer may apprehend '[and search] without warrant—
- (a) any person found '[gaming] '[or reasonably suspected to be gaming] in any public street, [or thoroughfare, or in any place to which the public have or are permitted to have access] "[or in any race-course];
- (b) any person setting any birds or animals to fight in any public street, for thoroughfare, or in any place to which the public have or are permitted to have access]:
- (c) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, 10 be punished both with fine which may extend to three hundred rupees and with imprisonment] which may extend to

<sup>&</sup>lt;sup>1</sup> The words "or playing" were repealed by s. 5 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919),

<sup>2</sup> The words "or forfeited" were added by Bom. 1 of 1936, s. 7.

This word was substituted for the words "playing at any game" by s. 6 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

This section was substituted for the original by Bom. 14 of 1959, s. 3(g).

The words "and search" were inserted by Bom. 1 of 1936, s. 9(1)
This word was substituted for the words "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 "by s. 7 of the Rombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

The words "or reasonably suspected to be gaming "were inserted by Bom. 1 of 1936, s. 9(2).

These words were substituted for the words "place or thoroughfare" by Schedule I, Part II, Serial

No. 14 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910)

These words were added by s. 4 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

<sup>10</sup> This portion was substituted for the portion beginning with the words be punishable with fine "and ending with the words "or with imprisonment" by Mah. 20 of 1975, s. 4.

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'[three months] 'and where such gaming consists of wagering or betting or of any such transaction as is referred to in the definition of gaming given in section 3, any such person so found gaming shall, on conviction, be [punishable] in the manner and to the extent referred to in section 4, and all moneys found with such person shall be forfeited.

And such Police-officer may seize all birds and animals and Ithings reasonably Seizure And such Police-officer may seize all birds and animals and luttings reasonably and destruc-suspected to be instruments of gaming] found in such public street, [thorough-tion of infare, [place or race-course]] or on [or about] the person of those whom he shall struments so arrest, and the Magistrate may, on conviction of the offender, order such instru-found. ments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited. '[When any thing has been found on or about any person and a court is satisfied that the Police-officer had reasonable grounds for suspecting that such thing was an instrument of gaming, such circumstance shall, until the contrary is proved, be evidence that such thing was an instrument of gaming and that the person on or about whom the thing was found was present for the purpose of gaming.]

<sup>9</sup>[12A. A Police-officer may apprehend without warrant any person who prints, Power to publishes, sells, distributes or in any manner circulates any newspaper, news-sheet arrest withor other document or any news or information with the intention of aiding or out warrant facilitating gaming. facilitating gaming.

publishing or distributing any information.

Any such person shall, on conviction, be punishable in the manner and to the news or extent referred to in section 4.

And any police officer may enter and search any place for the purpose of seizing, and may seize all thing reasonably suspected to be used or to be intended to be used, for the purpose of committing an offence under this section.]

<sup>10</sup>[12B. Where anything is seized under section 12A, if the court is satisfied Presumptive that the Police officer who seized the thing had reasonable ground for suspecting proof of priathat the thing so seized had been used or was likely to be used for the purpose ting, publishing an offence under that section the seizes of such thing half beginning distriof committing an offence under that section, the seizure of such thing shall be buting etc., evidence, until the contrary is proved, that the thing so seized was printed, any news or published, sold, distributed or in any manner circulated, as the case may be information. with the intention of aiding or facilitating gaming.]

13. Nothing in this Act shall be held to apply to any game of mere skill Saving of wherever played. games of mere skill.

<sup>&</sup>lt;sup>1</sup> The words "three months" were substituted for the words "one month" by Bom. 1 of 1936, s, 9(5).

These words were added by s. 4 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Born. 5 of 1922).

The word "punishable" was substituted for the word "punished" by Bom. 1 of 1936, s. 9(3),

These words were substituted for the words "instruments of gaming", ibid., 9(6).
These words were substituted for the words "place or thoroughfare" by Schedule I, Part II, Serial No. 14 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

These words were substituted for the words "or place" by s. 4 of the Bombay Prevention of

Gambling (Amendment) Act, 1922 (Born. 5 of 1922).

The words "or about" were inserted by Born. 1 of 1936, s. 9(6).

This paragraph was added, ibid., s. 9(7). • Section 12A was inserted, ibid., s. 10.

<sup>6</sup> Section 12B was inserted by Mah. 20 of 1975, s. 5.

114. The Gambling Act, 1305F, the Public Gambling Act, 1867 in its exten- Hyd Repeal and savings sion to the Vidarbha region of the State of Bombay, the Bombay Prevention of Hof Gambling Act, 1887 as applied to the Saurashtra area by the State of Saurashtra HI of (Application of Central and Bombay Acts) Ordinance, 1948 and the Bombay 1867 Prevention of Gambling Act, 1887 as applied to the Kutch area by the Kutch Bom. (Application of Laws) Order, 1949 are hereby repealed:

Provided that such repeal shall not affect—

(a) the previous operation of the Acts so repealed, or

Sau. Ord. XXV٥f 1948. Bom.

- (b) any right, privilege, obligation or liability acquired, accrued or incurred 1887. under any Act so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Acts so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation. legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the Bombay Prevention of Gambling (Extension and Amendment) Act, 1959 has Bom, not been passed:

1959

Provided further that, subject to the preceding proviso, anything done or any action taken (including authorizations made, powers conferred, orders given and indemnity granted) by or under the provisions of the Acts so repealed shall, in so far as it is not in consistent with any provision of this Act, be deemed to be done or taken under the corresponding provisions of this Act and shall, until altered, repealed or amended by anything done or any action taken under this Act, continue in force accordingly.

#### SCHEDULE.

(ENACTMENTS REPEALED.)

Repealed by Act XVI of 1895.

<sup>1</sup> Section 14 was added by Born. 14 of 1959, s. 3(h).