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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION 2020

NATIONAL ASSEMBLY
PAPERS LAID

DATE:	08 OCT 2020	DAY:	Thurs
TABLED BY:	<i>Hon. Pat NIA</i>		
CLERK-AT-THE-TABLE:	<i>Mudo Minian</i>		

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

ADDENDUM REPORT ON THE CONSIDERATION OF THE SUBMISSIONS FROM
THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL
GOVERNMENT AND THE MINISTRY OF SPORTS, CULTURE AND HERITAGE TO
THE GAMING BILL, 2019

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE:	08 OCT 2020	DAY:	Thursday
TABLED BY:	<i>Hon. Patrick King'etia</i> Chair, Sports Committee		
CLERK-AT-THE-TABLE:	<i>Mudo Minian</i>		

OCTOBER, 2020

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CHAIRPERSON'S FOREWORD

This addendum report contains the Committee's proceedings on consideration of submissions from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage to the Gaming Bill, 2019. The Bill was read a first time on 11th June, 2019 and subsequently committed to the Departmental Committee on Sports, Culture and Tourism for consideration and facilitation of public participation pursuant to Article 118 of the Constitution of Kenya and Standing Order 127. The main report on consideration of the Bill was Laid on the Table of the House on 14th November, 2019.

In its submissions dated 11th August, 2020, the Ministry of Interior and Coordination of National Government proposed amendments that included the functions of the proposed National Gaming Authority, the functions and powers of Gaming Inspectors, gaming advertisement, application for licences and issuance, and offence provisions. In addition, the Ministry proposed amendments for the protection of children and young persons.

The Committee also held a retreat with the Ministry of Sports, Culture and Heritage in Naivasha from 19th to 22nd to consider their proposed amendments to the Gaming Bill, 2019.

The Committee observed the following during its consideration of submissions from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage:

Observations on submissions by the Ministry of Interior and Coordination of National Government

- (a) Most of the proposed amendments had been considered by the Committee previously during the Committee's engagement with the Betting Control and Licensing Board and its recommendations are contained in its main report that was tabled in the House.
- (b) The amendments which had not been considered previously were considered by the Committee on their merit and agreed to or rejected with reasons as indicated in the matrix and the proposed committee stage amendments in this report.
- (c) Where a provision exists in the Bill addressing an issue, unless other reasons exist, it is suggested that that provision be amended instead of providing for substantive new Parts in a Bill.

Observations on submissions by the Ministry of Sports, Culture and Heritage

- (d) The Ministry of Sports, Culture and Heritage is an important entity that ought to be represented in the National Gaming Authority hence there is a need to provide for its representation. Betting and lotteries depend more from sporting activities hence representation of the Ministry of Sports, Culture and Heritage is important.
- (e) The Committee agreed to amend clause 37 (providing for the gaming tax) to provide for payment of the proceeds of the tax into the Sports, Arts and Social Development Fund established under Section 24 of the Public Finance Management Act, 2012. The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided for under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. There is need to protect the programs and projects that are being financed by the Fund since the Bill seeks to repeal the Betting, Lotteries and Gaming Act.
- (f) Part X of the Bill provides for the establishment of the National Lottery Distribution Trust Fund whose major function is to apportion revenue of the National Lottery. However, the mandate of

the National Lottery Distribution Trust Fund would be a duplication of functions of the Sports, Arts and Social Development Fund and it would deny funds to the Sports, Arts and Social Development Fund which is currently provided for under section 69A of the Betting, Lotteries and Gaming Act.

In light of this, the Committee will be proposing amendments to the Bill in order to incorporate the submissions received from the two ministries that the Committee agreed to.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank the Ministry of Interior and Coordination of National Government and Ministry of Sports, Culture and Heritage for their submissions on the Bill.

Finally, I wish to commend the Honourable Members of the Committee who dedicated their time and made useful contributions towards the preparation and production of this addendum report.

On behalf of the Departmental Committee on Sports, Culture and Tourism and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Gaming Bill, 2019.



The Hon. Patrick Makau Kingóla, MP
Chairperson of the Departmental Committee on Sports, Culture and Tourism

1.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Departmental Committee on Sports, Culture and Tourism is one of the fifteen (15) Departmental Committees of the National Assembly established under *Standing Order 216* and mandated to -

1. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
2. study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
3. **study and review all the legislation referred to it;**
4. study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
5. investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
6. vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
7. examine treaties, agreements and conventions;
8. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
9. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
10. examine any questions raised by Members on a matter within its mandate.

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters of; Sports, Culture, National Heritage, Betting and Lotteries, Tourism and Tourism Promotion and Management.

In executing its mandate, the Committee oversees the following government Ministries;

1. Ministry of Sports, Culture and Heritage
2. State Department for Tourism

1.1 COMMITTEE MEMBERSHIP

The Committee on Sports, Culture and Tourism comprises of the following Members:

Hon. Patrick Makau King'ola, M.P – Chairperson
Mavoko Constituency
Wiper Democratic Party

Hon. (Dr.) Korei Ole Lemein, M.P - Vice Chairperson
Narok South Constituency
Jubilee Party

Hon. Christopher Omulele, M.P
Luanda Constituency
Orange Democratic Movement Party

Hon. Jeremiah Lomurukai, M.P
Loima Constituency
Orange Democratic Movement Party

Hon. Cyprian Kubai Iringo, M.P
Igembe Central Constituency
Jubilee Party

Hon. Charles Ngusya Nguna, M.P
Mwingi West Constituency
Wiper Democratic Party

Hon. Jones Mlolwa, M.P
Voi Constituency
Orange Democratic Movement Party

Hon. Titus Mukhwana Khamala, M.P
Lurambi Constituency
Amani National Congress

Hon. Daniel Wanyama Sitati, M.P
Webuye West Constituency
Jubilee Party

Hon. Beatrice Kones, M.P
Bomet East Constituency
Jubilee Party

Hon. (Prof.) Jacqueline Oduol, M.P
Nominated
Orange Democratic Movement Party

Hon. Jayne Njeri Wanjiru Kihara, M.P
Naivasha Constituency
Jubilee Party

Hon. (Dr.) Tecla Chebet Tum, M.P
Nandi County
Jubilee Party

Hon. Mohamed Hire Garane, M.P
Lagdera Constituency
KANU Party

Hon. Jane Jepkorir Kiptoo Chebaibai, M.P
Elgeyo Marakwet County
Jubilee Party

Hon. Florence Chepngetich Koskey, M.P
Kericho County
Jubilee Party

Hon. Lydia Haika Mnene Mizighi, M.P
Taita Taveta County
Jubilee Party

Hon. Nelson Koech, M.P
Belgut Constituency
Jubilee Party

Hon. Sylvanus Maritim, M.P
Ainamoi Constituency
Jubilee Party

1.2 COMMITTEE SECRETARIAT

Mr. Samuel Kalama
Senior Clerk Assistant

Mr. Fredrick Otieno
Second Clerk Assistant

Mr. Joe Okongó
Media Relations Officer

Mr. Omar Abdirahim
Research officer III

Mr. Salem Lorot
Legal Counsel II

Mr. Vitus Okech
Fiscal Analyst III

Ms. Sheila Chebotibin
Sergeant At-Arms

2.0 CONSIDERATION OF PROPOSED AMENDMENTS TO THE GAMING BILL, 2019 FROM THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT AND THE MINISTRY OF SPORTS, CULTURE AND HERITAGE

2.1 INTRODUCTION

1. The Committee received submissions from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage in regard to the Gaming Bill (National Assembly Bill No. 38 of 2019).
2. The two Ministries proposed amendments to be included in the Committee's Committee Stage Amendments to the Gaming Bill.
3. The Gaming Bill, 2019 was published on 27th May, 2019 and read a First Time on 11th June, 2019 and thereafter committed to the Departmental Committee on Sports, Culture and Tourism for consideration pursuant to Standing Order 127.
4. Pursuant to Article 118 of the Constitution, the Committee invited comments from the public and informed them of the public hearings.
5. Previously, the following stakeholders submitted their memoranda to the Committee:
 - The Commission on Revenue Allocation
 - Shop and Deliver Ltd
 - Gamecode Ltd
 - The Directorate of Gaming and Betting Nairobi City County
 - Anjarwalla & Khanna
 - County Attorney- County Government of Mombasa
 - Association of Gaming Operators of Kenya
 - Kenya Charity Sweepstake
 - Vexlex Advisory
 - Gaming Awareness Society of Kenya
 - White Rhino Venture
6. The Committee also held a stakeholders' forum on 22nd August, 2019 to consider stakeholders' memoranda pursuant to Article 118 of the Constitution.
7. The Committee also invited the National Treasury and Planning together with Kenya Revenue Authority, in accordance with Article 114(2) of the Constitution regarding processing of Money Bills, and as the Ministry concerned with the issues of tax collection from betting activities, the Ministry of Interior and Coordination of National Government and the Ministry of information Technology which were represented by the Betting, Control and Licensing Board and the Communication Authority respectively for a retreat that was held on 29th and 30th August, 2019 to give their comments on the Bill.

8. The Committee then tabled its report on 14th November 2019. The Second Reading of the Bill was done on 21st, 26th and 27th November 2019. The Committee Stage of the Bill is pending.
9. The Gaming Bill, 2019 seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131) of 1966 by providing for the control and licensing of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; the establishment of the National Lottery; the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes.
10. The Bill seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131), an Act of Parliament that has been in existence since 1966. It further seeks to address various inadequacies in the existing Betting, Lotteries and Gaming Act.

3.0 SUBMISSIOS BY THE MINISTRIES

3.1 SUBMISSION FROM THE MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

11. The Committee considered the proposed amendments from the Ministry of Interior and Coordination of National Government. The Committee noted that the bulk of the proposed amendments had been submitted by the Betting Control and Licensing Board (BCLB) previously and that most of the amendments had been considered by the Committee in its report and had been provided for in the Committee Stage Amendments.
12. The matrix below indicates the proposed amendments together with their justifications and the Committee’s recommendations.

PART/CLAUSE	PROPOSED AMENDMENT	COMMITTEE RECOMMENDATION
LONG TITLE	<p>Amend the long title by inserting the words “to delineate gaming functions of the national and county governments” immediately after the word “Parliament”</p> <p>Justification: In accordance with the Fourth Schedule of the Constitution. Further, the use of the word “betting” is very restrictive as betting is only a form of gaming.</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <p>(i) The Committee had already provided in its amendment for the delineation of functions of the national and county governments;</p> <p>(ii) The Fourth Schedule of the Constitution uses the term “betting”; Paragraph 34 of Part 1 of the Fourth Schedule provides for “national betting, casinos and other forms of gambling” whereas Paragraph 4(a) of Part 2 of the Fourth Schedule</p>

		refers to “betting, casinos and other forms of gambling”.
Clause definition “Principal Secretary”	2: Amend clause 2 in the definition of “Principal Secretary” by deleting the word “Principle” appearing at the beginning of the definition and substituting therefor the word “Principal” Justification: Correction of a typographical error	The Committee agreed to the proposed amendment. It had already provided for it in its Committee Stage Amendments.
Clause definition “winnings”	2: Retain the definition of “winnings” as provided for in the Bill as follows: “winnings” include prize of any kind; Justification: The definition in the proposed amendments by the Committee are very restrictive to winnings in betting activities only. Whereas the definition of winnings should be as wide to provide for all types of winnings of games of chance. Winnings arise from betting, gaming, lotteries, prize competitions and other emerging games of chance. Therefore, it is proposed that the Committee retains the definition of winnings contained in the Bill.	The Committee rejected the proposed amendment. Other stakeholders had raised concerns on the definition during public participation and the Committee amended the definition to address their concerns.
Clause 3	Amend clause 3 of the Bill by deleting paragraph (d) and substituting therefor the following new paragraph— “(d) to establish the National Gaming Authority, the National Lottery, the National Lottery Distribution Trust Fund and the Gaming Appeals Committee;” Justification: For better operationalization of the Act and to provide for the implementers of the Act.	The Committee agreed to the proposed amendment. The Committee had already provided for it in its Committee Stage Amendments.
New clause 3A	Insert the following new clause immediately after clause 3: 3A. The guiding principles for the implementation of the Act shall be the following: (a) The need to prevent gambling from becoming a source of crime or disorder,	The Committee rejected the proposed amendment. Clause 3 of the Bill which provides for the objects and purposes of the Act is sufficient.

	<p>being associated with crime or being used to support crime;</p> <p>(b) To ensure gambling is conducted in a fair and open way;</p> <p>(c) To ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;</p> <p>(d) Ensure gambling opportunities are controlled to a level which does not harm the public;</p> <p>(e) That gambling operations are not owned, operated or infiltrated by persons involved in crime;</p> <p>(f) Ensure gambling licenses are privileged and revocable and no holder acquires any vested right in such a license, in order to protect public interest;</p> <p>(g) To ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers</p> <p>(h) To prevent gambling from being associated with or used for money laundering and financing of terrorism or other unlawful activities;</p> <p>(i) Maximize the economic benefits derived from gambling to fund social causes;</p> <p>(j) Provide for an efficient and effective regulatory oversight framework for regulating national and county gambling.</p> <p>Justification: There is provision of guiding principles in the emerging practice areas in the gaming legislation worldwide for example Malta Gaming Act. Also, for the better operationalization of the Act and to provide a framework for the implementers of the Act.</p>	
Clause 5	<p>Amend clause 5 of the Bill in paragraph (b) by inserting the words “single business” immediately after the word “issue”.</p> <p>Justification: Inspection and approval of the gaming premises is the function of the Authority.</p>	The Committee agreed to the proposed amendment since it clarifies what type of business permit the paragraph is referring to.
	Amend clause 5 of the Bill by deleting paragraph (c).	The Committee agreed to the proposed amendment and had already provided for it in the Committee Stage Amendments.

<p>Clause 7</p>	<p>Delete new paragraph (fa) provided for by the Committee in its Committee Stage Amendments.</p> <p>Justification: This will impede the regulator from effectively discharging its mandate. To retain the recommendations in the report on the consideration of the Gaming Bill, 2019 dated 14th November.</p>	<p>The Committee rejected the proposed amendment and further recommended that its earlier amendment be revised by deleting clause 7 (ii) (e).</p> <p>The Committee had provided, in new paragraph (fa), for one person nominated by the umbrella body of the operators in the gaming industry.</p> <p>The Committee further recommended deletion of the amendment seeking to replace the Principal Secretary for Information, Communication and Technology with the Director-General of the Communications Authority of Kenya.</p>
<p>Clause 10</p>	<p>Amend clause 10 of the Bill in subclause (1) (d) by inserting the word “the” immediately after the word “supervise”.</p> <p>Justification: To correct a typographical error</p>	<p>The Committee rejected the proposed amendment because there is no typographical error in the paragraph.</p>
	<p>Amend clause 10 of the Bill in subclause (1) (i) by deleting the word “of” after the word “compliance” and substituting therefor the word “with” and delete the words “by the counties” appearing immediately after the word “Act to read:</p> <p>(i) investigate, monitor and evaluate compliance with policies and regulations established under this Act</p> <p>Justification: To correct typographical errors</p>	<p>The Committee agreed to the proposed amendment and had already provided for it in the Committee Stage Amendments.</p>
	<p>Amend clause 10(1) by inserting the following new paragraph—</p> <p>(ea) to conduct security checks, vetting and due diligence in respect of gaming activities</p> <p>Justification: To enhance the powers of the Board</p>	<p>The Committee rejected the proposed amendment because the function may be abused.</p>
	<p>Amend clause 10 by deleting the expression “(1)” at the beginning of the clause</p>	<p>The Committee agreed to the proposed amendment and had already provided for it in the</p>

		Committee Stage Amendments.
	<p>Delete clause 10 and substitute it with the following:</p> <p>10. The main functions of the Authority shall be to-</p> <p>(1) (a) to be the principal agency at both levels of government in the implementation of all policies relating to gaming;</p> <p>(b) Exercise general supervision and co-ordination over all matters relating to gaming at national and county levels;</p> <p>(c) Advise the Cabinet Secretary on the formulation of overall policies, norms, standards for the conduct of betting casinos and other forms of gaming;</p> <p>(d) Co-ordinate national, county and concurrent national and county functions relating to betting, casinos and other forms of gaming in accordance with this Act;</p> <p>(2) In performance of its functions under this Act, the Authority shall-</p> <p>a. Establish and maintain at the national level:-</p> <p>b. A probity register</p> <p>ii. A national register of games, gaming machines and devices</p> <p>iii. The national central electronic gaming monitoring system</p> <p>iv. The national register of excluded persons, and</p> <p>v. A central registry of gaming information including data relating to betting, casinos and other forms of gaming in the country;</p> <p>c. Issue licences in accordance with this Act;</p> <p>d. Issue conditions of national gaming licenses issued in accordance with this Act and regulations made thereunder and enforce compliance therewith</p> <p>e. Conduct security checks, vetting and due diligence in respect of gaming activities</p> <p>f. Define standards, principles and procedures in respect of operations, premises, equipment, personnel, supplies of services and enforcing compliance herewith;</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the proposed amendment in its report and gave the following reasons:</p> <p>(i) Although the proposed functions for the Authority are detailed, many and specific, they reiterate the functions as proposed in the Bill;</p> <p>(ii) The details as to how the Authority will carry out its function are provided for in the substantive provisions in the Bill;</p> <p>(iii) Clause 162 of the Bill provides for matters which would be provided for in regulations, including the procedure to be followed by the Board in exercising any powers conferred upon it by the Act;</p> <p>(iv) The delineation of functions between the national government and county governments have been provided for in clauses 4 and 5 of the Bill;</p> <p>(v) Most of the functions listed in the proposed amendment are provided for in the Bill.</p>

	<p>g. Monitor and evaluate, when necessary, the issuance of permits by the Counties to ensure compliance with the Act;</p> <p>h. Investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies and making recommendations to the Cabinet Secretary in relation to such matters.</p> <p>i. Undertake and coordinate research and surveys in the field of gaming, and monitor social economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of-</p> <p>i. The social economic impact of gaming; and</p> <p>ii. Addictive or compulsive gaming</p> <p>j. Conduct oversight evaluations of the performance of counties so as to ensure national norms, standards established by this Act are applied uniformly and consistently throughout the country;</p> <p>k. Assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with appropriately</p> <p>l. During the subsistence of a license or permit, cancel, suspend or vary such license after giving the licensee or a permit holder opportunity to show cause against the cancellation, suspension or variation</p> <p>m. Coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;</p> <p>n. Advise counties on matters relating to gaming operations;</p> <p>o. Prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;</p> <p>p. Improve capacity of counties in matters relating to gaming functions;</p> <p>q. Register and issue annual gaming personnel licenses in the country</p>	
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	<p>r. Collaborate with the Ministry in the formulation of policy direction for purposes of this Act</p> <p>s. Promote co-operation and linkage among county governments, public departments, private sector and the regional international organizations engaged in the regulation of gaming;</p> <p>t. To inquire into complaints on matters arising under this Act.</p> <p>u. To perform all other functions conferred to it by this Act or any other written law</p> <p>(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution.</p> <p>Justification: These powers are more comprehensive and touch on the day to day activities of the Board.</p>	
Clause 16	Amend clause 16 of the Bill in subclause (1) by inserting the words “including gaming inspectors” immediately after the word “staff”.	The Committee rejected the proposed amendment. Clause 156 of the Bill provides for a gaming inspector.
New clause 16A	<p>Insert the following new clause immediately after clause 16</p> <p>Gaming Inspectors 16A. (1) A gaming inspector shall have the following functions-</p> <p>(a) to inspect gaming premises to ensure compliance with the provisions of this Act;</p> <p>(b) to monitor the operations of all licensed gaming operations;</p> <p>(c) to examine equipment and devices used in gaming and records kept in respect of the gaming activities;</p> <p>(d) to monitor the handling and counting of money on casino premises;</p> <p>(e) to assist in any manner where necessary in the detection of offences</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the amendment in its report for the following reasons:</p> <p>(i) Clause 156 of the Bill provides for the power of a gaming inspector or a police officer to enter without warrant and inspect premises;</p> <p>(ii) Clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.</p>

	<p>committed under this Act on all gaming premises;</p> <p>(f) to receive and investigate complaints from gaming patrons, licensees or members of the public relating to the conduct of gaming;</p> <p>(g) to report to the Board on the conduct of gaming operations; and</p> <p>(h) to perform any other functions incidental to the foregoing.</p> <p>(2) In the performance of the functions specified under subsection (1) a gaming inspector shall have the powers to-</p> <p>(a) require any person in possession of, or having control of, any machinery, equipment, device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto;</p> <p>(b) inspect any such machinery, equipment, device or records and take copies of, extracts from or notes relating to, those records;</p> <p>(c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence;</p> <p>(d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act;</p> <p>(e) require, by written notice, any licensee, any employee of the licensee or any other person associated with the operations or management;</p> <p>(f) of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;</p> <p>(g) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;</p>	
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	<p>(h) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and</p> <p>(i) do any other thing authorized to be done by the Board under this Act.</p> <p>(3) If an inspector seizes anything under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.</p> <p>Justification: To provide for powers to the gaming inspectors to ensure effective performance of the functions of the Authority. Clause 156 of the Bill refers to gaming inspectors but there is no provision of gaming inspectors who are also expected to enforce the Act as it is with other enforcement statutes such as immigration officers. This is also the practice in other jurisdictions such as Singapore, Nevada, New Jersey, Macau and others.</p>	
New Clause 16B	<p>Insert the following new clause— “Section 16B - Seizure and forfeiture of equipment and devices”</p> <p>“Section 16B a Gaming Inspector may seize;</p> <p>(a) anything that the Gaming Inspector reasonably suspects is a gaming equipment that is not authorized under this Act to be on the gaming premises or;</p> <p>(b) any item or thing the use or possession of which is unlawful.</p> <p>Justification: To protect the public from the use of illegal, substandard or unauthorised gaming equipment.</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had earlier rejected the amendment in its report since clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.</p>
Clause 18	<p>Amend clause 18 by deleting the words “subject to section 19”.</p> <p>Justification:</p>	<p>The Committee rejected the proposed amendment.</p>

	The amendment is proposed because there is a proposed deletion of clause 19.	
Clause 19	Delete clause 19 Justification: The provision impedes effective implementation of the Act.	The Committee rejected the proposed amendment. The Committee had rejected the proposed amendment in its report since clause 19 is an important provision that provides that the Authority shall pay compensation or damages to any person for any injury occasioned on the person or the person's property or any interests.
Clause 21	Amend the marginal note to clause 21 to read "requirements for a licence".	The Committee agreed to the proposed amendment. However, the correction will be done during preparation of vellum.
Clause 21 and 22	Delete clause 21 and 22 and replace them with the following new clauses— 21. (1) No person shall conduct any betting, lotteries, gaming or any activities related thereto unless such person applies for and obtains a license from the Board. (2) A person who desires to obtain, renew or vary a license under this Act shall make an application to the Board in the prescribed form. (3) On receipt of an application under subsection (2), the Board shall make such investigations or require the submission of such declarations or further information as it may deem necessary in order to enable it to examine the application. (4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or refuse to grant a licence or renewal or variation thereof and shall, where the issuance or renewal is	The Committee rejected the proposed amendment since the licensing procedure will be provided for in regulations as contemplated under clause 162(2) (b) which provides for "the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act".

refused, furnish the applicant with the reasons for such refusal:

Provided that—

(a) no license shall be issued under this Act until the Board satisfies itself that the applicant-;

i. is a fit and proper person to hold the licence,

ii. holds a valid certificate of good conduct from the relevant authority

iii. has paid the prescribed application fee

iv. in case of a foreign company, fifty percent of its shares is owned by Kenyan(s)

v. maintains an account with an authorized financial institution into which it pays all monies relating to the licensed gaming activity

vi. has provided certified copies of bank deposit slips evidencing payment of applicable taxes as prescribed by law

vii. has demonstrated possession of financial and technical capacity to operate a gaming activity applied for

viii. has deposited the requisite security or cash deposit as prescribed in this Act

ix. has submitted such declarations and information as required under the Act or the regulations to enable the Board process the application

x. that the premises, if any, in respect of which the application is made are suitable for the purpose and

xi. that the activity in which the license is sought is legitimate under this Act;

(5) For purposes of this section, “fit and proper person” means a person who has not committed offences involving any of the following -

(a) fraud;

(b) money laundering;

(c) dishonesty;

(d) violence;

(e) drugs and drug trafficking;

(f) any form of organized crime; or

(g) any other conduct as the board may determine.

	<p>(6) The board in determining whether an applicant is suitable to hold a licence under this Act shall consider-</p> <ul style="list-style-type: none"> (a) the financial status or solvency of the person; (b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which if the application is granted, the person shall perform; (c) the status of any other licence or approval granted to the applicant by any financial sector regulator; (d) the ability of the applicant to carry on the regulated activity competently, honestly and fairly and (e) the reputation, character, financial integrity and reliability- <ul style="list-style-type: none"> (i) in the case of a natural person; or (ii) in the case of a company, its chairperson, directors, chief executive, management and all other personnel, including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company. <p>(7) Without prejudice to the generality of subsection (6) the Board may, in considering whether the applicant is fit and proper –</p> <ul style="list-style-type: none"> (h) Take into account whether the applicant – <ul style="list-style-type: none"> (i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice in gaming or other business; (ii) was a director of a liquidated entity; (iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial to public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business; 	
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	<p>(iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that applicant or</p> <p>(v) denied any gaming licence or permit in any country.</p> <p>(i) Take into account any information in the possession of the board whether provided by the applicant or not relating to –</p> <p>(i) Any person who is to be employed with, or shall be acting for or on behalf of, the applicant for the purposes of a regulated activity including an agent; and</p> <p>(ii) Where the applicant is a company in a group of companies, any other company in the same group of companies or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;</p> <p>(c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and</p> <p>(d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.</p> <p>(8) The Board shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.</p> <p>(9) an applicant who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.</p>	
Clause 22	Delete clause 22 and substitute therefor the following new clause—	The Committee rejected the proposed amendment since the Second Schedule of the Bill provides for the licence fees.

	22. The Cabinet Secretary shall from time to time through a gazette notice prescribe applicable fees for each of the licenses.	
Clause 23	Amend clause 23 of the Bill in subclause (2) (c) by deleting the expression "22" and substituting therefor the expression "21" Justification: Due to the amendments above.	The Committee rejected the proposed amendment since it had rejected the previous amendment.
Clause 26	Amend clause 26 by deleting subclauses (2) and (3) and substituting them therefor with the following new subclauses— “(2) where the revocation of a license is contemplated under subsection (1), the Board shall serve the licensee with a notice of intended revocation specifying the grounds for such revocation. (3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.” Justification: For the purposes of granting an opportunity for fair administrative action.	The Committee agreed to the proposed amendment. The amendment has already provided for the amendment in the Committee’s Stage Amendments.
	Amend clause 26 by deleting subclause (6) and substituting therefor the following new subclause; (6) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the licensee. Justification: To align it with the mandate of the Gaming Appeals Committee	The Committee agreed to the proposed amendment.
Clause 27	Delete clause 27 and substitute therefor the following new clause— 27. Every licence issued under this Act shall, unless therewith otherwise provided expire on the 30 th June next following the date of issue.	The Committee rejected the proposed amendment since the clause provides that the duration of every licence issued under the Act shall vary for each gaming and betting activity.

Clause 31	<p>Amend clause 31 by deleting the words “one hundred thousand shillings” and substituting therefore the words “the prescribed fees” to read:</p> <p>“31. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of the prescribed fees.”</p>	<p>The Committee agreed to the proposed amendment. The Committee had already provided for the amendment in its Committee Stage Amendments.</p>
Clause 40	<p>Amend clause 40(2), (3), (4) and (6)</p> <p>Amend clause 40 by deleting subclauses (2), (3), (4) and (6) substituting therefor with the following new subclauses;</p> <p>(2) where a license is revoked by the Board, under subsection (1), County Government shall serve the permit holder with a notice of intended revocation of a permit specifying the grounds for such revocation</p> <p>(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the permit holder will be required to provide a written explanation as to why the permit should not be revoked;</p> <p>(4) the revocation of a permit shall take effect upon the expiry of the notice issued under sub-section (3).</p> <p>(6) A person aggrieved by the decision of the County Government under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the permit holder</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the proposed amendment in its earlier report because this should be provided for in regulations. Clause 162(2) (b) of the Bill provides for regulations to be made to provide for the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under the Act.</p>
Clause 42(2)	<p>Amend clause 42(2) by inserting the words “and with assistance of the Authority” immediately after the word “transfer” to read “(2) A county government shall, upon receipt of an application to transfer and with assistance of the Authority, carry out an investigation on the suitability of a proposed permit holder”</p>	<p>The Committee agreed to the proposed amendment.</p>
Clause 46(1)	<p>Amend by deleting sub-clause (1) and substitute with the following words “the Authority may prescribe rules for the operations of a totalisator”</p>	<p>The Committee agreed to the proposed amendment. The Committee had already provided for the amendment</p>

	<p>Justification: To correct grammar</p>	in its Committee Stage Amendments.
Clause 46(6)	<p>Amend clause 46(6) by deleting sub-section (1) and substitute with the following words “the Authority may prescribe rules for the operations of a totalisator”</p> <p>Justification: Its already covered in Part X, Clause 144 of the Bill.</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the proposed amendment since the elements of the offences in clause 46 and clause 144 are different.</p>
Clause 50 (2) (c)	<p>Delete sub-clause (2) (c) and substitute therefor with the following new paragraph “(2) (c) shall guarantee the expected proceeds of the lottery or any part thereof;”</p> <p>Justification: To make the paragraph coherent</p>	<p>The Committee agreed to the proposed amendment.</p> <p>The amendment seeks to insert in paragraph (c) the words “of the lottery” immediately after the words “expected proceeds”. This brings clarity to the paragraph.</p>
Clause 59(3)	<p>Replace “Board” with “Authority”</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had earlier rejected the proposed amendment since it proposes to delete clause 68 of the Bill. The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> (i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board; (ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill; (iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out

		the mandate of the Authority.
Clause 59(3)	<p>Amend clause 59 by deleting subclause (3) and substituting therefor the following new subclause—</p> <p>“(3) if a prize is not credited to the winner’s account as prescribed in sub-section (1) or it is not collected within a period of three months after the winner has been notified of the place and time where the prize maybe collected, a licensee shall surrender such uncredited or unclaimed prize to the Authority and the Authority shall determine the manner in which such prize will be disposed of.”</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the proposed amendment in its report for the following reasons—</p> <p>(i) Surrender of unclaimed financial assets falls within the ambit of the Unclaimed Financial Assets Authority under the Unclaimed Financial Assets Authority;</p> <p>(ii) Clause 64 (2) of the Bill takes cognisance of this and if the proposed amendment is retained, it will conflict with clause 64(2) of the Bill.</p>
Clause 60(1) and (2)	<p>Amend by deleting the word “fifty” and substitute therefor with the words “one hundred”</p> <p>Justification:</p> <p>To promote responsible gaming and to prevent addictive gaming</p>	The Committee agreed to the proposed amendment.
Clause 61(4) and (5)	<p>Amend clause 61 by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”</p> <p>Justification:</p> <p>To correct typographical errors</p>	<p>The Committee rejected the proposed amendment.</p> <p>The provisions have no typographical errors</p>
	<p>Amend clause 61 in subclause (5) by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”</p> <p>Justification:</p> <p>To correct typographical errors</p>	The Committee agreed to the proposed amendment
Clause 62	Amend to provide for mobile money transfer	The Committee agreed to the proposed amendment.

	Amend clause 62 in subclause (4) by deleting the word “a” appearing in paragraphs (a) & (b)	The amendment has been provided for under the Committee’s amendment to Clause 62.
	Amend subsection (4) by inserting the following new paragraph immediately after paragraph (c) “(d) mobile money transfer;” Correct typographical error	The Committee agreed to the proposed amendment. The amendment has been provided for under the Committee’s amendment to Clause 62.
Clause 64(1)	Amend by deleting clause 64 (1) and (2) and substitute therefor with the following new subclauses (1) where a transaction has not been recorded in a player’s account for three consecutive months, the licensee shall deactivate the account and report such an incident to the Authority (2) before deactivating the players’ account as contemplated under sub-section (1), the licensee shall notify the player of the intended action and such notification shall be copied to the Authority (3) where a player’s account has been deactivated under this Section, and reported to the Authority, the licensee shall not be allowed to transact with the players’ deposits or activate the account without an express approval by the Authority (4) if the player does not claim the amount held in the deactivated account after three months, the licensee shall remit the same to the Authority save for the expenses incurred by the licensee (5) no claim shall lie against the Authority or the licensee who has remitted money in the player’s account under this section to the Authority” Justification: To ensure betting platforms are not used for money laundering and other criminal activities	The Committee rejected the proposed amendment. The Committee had rejected the proposed amendment in its report because it has removed the linkage to the Unclaimed Financial Assets Authority which has a role to play in unclaimed financial assets.

<p>Clause 71(3)</p>	<p>Amend clause 73 by deleting subclause (3) and substituting therefor with the following new sub-clause</p> <p>“(3) The Authority shall, before granting a license under this Section, satisfy itself that-</p> <p>(a) The applicant has appropriate knowledge or experience to conduct a National Lottery in accordance with this Act and any other written law</p> <p>(b) The applicant has the necessary financial and relevant technical capability to conduct the lottery</p> <p>(c) No political party or political office bearer has any direct or indirect financial interest in the licensed applicant or shareholder thereof</p> <p>(d) The applicant is fit and proper person to conduct the lottery.</p> <p>Justification: To ensure that the operator has appropriate technical and financial capacity to conduct a lottery</p> <p>To ensure that the objective of the lottery is achieved by the operator</p> <p>This will also ensure the integrity of the conduct of the lottery</p>	<p>The Committee rejected the proposed amendment except for paragraph (c).</p> <p>The Committee, in its report, had rejected the proposed amendment save for condition in paragraph (c) which enriches the existing paragraph (c) in the Bill. Clause 71 of the Committee’s amendments reflects this.</p>
<p>Clause 80</p>	<p>Amend clause 80 by deleting subclause (5) and substituting therefor the following new subclause</p> <p>“(5) Agent authorization under sub-section (4) shall be in writing and shall be subject to such terms and conditions as may be determined by the licensee with the approval of the Authority”</p> <p>Justification: To align with sub-clause (4) on agent authorization</p>	<p>The Committee agreed to the proposed amendment. This had already been provided for by Committee in its Stage Amendments to Clause 80.</p>
	<p>Amend clause 80 of the Bill in subclause (6) by deleting the word “prize” appearing after the word “and” and substituting therefor with the word “price”</p> <p>Justification: To correct a typographical error</p>	<p>The Committee rejected the proposed amendment since the subclause does not contain a typographical error.</p>

Clause 82	Amend clause 82 in subclause (3) by deleting the word “paragraph” appearing immediately after the word “which” and substituting therefor the word “subsection”. Justification: To amend a typographical error	The Committee agreed to the proposed amendment.
Clause 87(2)	Amend clause 82 in subclause (2) by inserting the words “the following, and not limited to-“immediately after the word “audit”. Justification: To amend a typographical error	The Committee agreed to the proposed amendment.
Clause 87(2) (d)	Amend clause 82 in subclause (2) (d) by deleting the word “of” immediately after the word “compliance” and substituting therefor the word “with”. Justification: To amend a typographical error	The Committee agreed to the proposed amendment.
Clause 89(1) (d)	Amend clause 89 of the Bill in subclause (1) (d) by deleting the word “Board” and substituting therefor the word “Fund” Justification: The clause deals with the National Lottery Distribution Fund and not the Board of the Authority.	The Committee seeks to delete Part X of the Bill, including clause 89 of the Bill.
Clause 91(1) (f)	Amend clause 91(1) (f) Amend by deleting paragraph (f) and inserting a new paragraph (f) to read as follows the words “managing trustee who shall be an ex officio member”	The Committee seeks to delete Part X of the Bill, including clause 91 of the Bill.
Clause 91(1)	Amend clause 91 of the Bill in subclause (1) by inserting a new paragraph as (g) to read: “(g) The Director-General of the Authority or any designated person”	The Committee seeks to delete Part X of the Bill, including clause 91 of the Bill.
Clause 98	Amend clause 98 by deleting the word “sports” and inserting the words “social economic activities”. Justification: The term “social economic activities” is broader and includes sports and other activities.	The Committee seeks to delete Part X of the Bill, including clause 98 of the Bill.
Clause 100	Amend clause 100 of the Bill in subclause (4) by deleting the words “National Assembly” and substituting therefor the words “Cabinet Secretary, responsible for National Treasury”	The Committee seeks to delete Part X of the Bill, including clause 100 of the Bill.

	<p>Justification: The annual estimates are submitted through the Cabinet Secretary responsible for National Treasury.</p>	
New Clause 100A	<p>Amend by inserting a new Section 100A on Exemption to read; Notwithstanding any other provisions of this Act, the following sections of this Act shall not apply to the National Lottery and the National Lottery Distribution Trust fund-</p> <p>(a) Section 27 Duration of licenses and permits;</p> <p>(b) section 49 Authorization of public Lotteries for charitable purposes</p> <p>(c) Section 52 Lottery conducted for charitable, sporting or other purposes;</p> <p>(d) Section 53 Lottery incidental to entertainment; and</p> <p>(e) Section 54 Private Lottery</p> <p>Justification: National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries.</p>	The Committee agreed to the proposed amendment.
Clause 107	<p>Amend by deleting section 107 and substituting therefor with the following new section:</p> <p>107. (1) The Authority may issue an amusement license authorizing the use of an amusement machine in a licensed premise.</p> <p>(2) A license issued under this section shall be subject to such conditions as the Authority may impose and in every case to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of, and with the permission of, his parent or guardian.</p> <p>(3) Any person who-</p> <p>(a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or</p>	The Committee rejected the proposed amendment.

	<p>(b) contravenes or allows the contravention of any condition provided for or imposed by the Authority under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.</p> <p>(4) In this section, “amusement machine” means a machine, other than a gaming machine –</p> <p>(a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and</p> <p>(b) whereby a successful player neither receives nor is offered any benefit other than –</p> <p>(c) the opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or</p> <p>(d) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.</p> <p>Justification:</p> <p>It is the mandate of the Authority to regulate and control all forms of gaming including the use of Amusement machines</p> <p>The current legal framework does not provide mechanism to regulate to use of Amusement machines thereby enabling abuse.</p>	
Clause 108	<p>Amend clause 108 by deleting the word “Permit” and substituting therefor the word” Licence”</p> <p>Justification: To correct a typographical error.</p>	The Committee agreed to the proposed amendment.
Clause 110	Amend subclause (1) by deleting the word “Betting and” appearing before the word “gaming”	The Committee agreed to the proposed amendments

	<p>Justification: Betting Machines are covered under subclause (2)</p>	
	<p>Amend subclause (1) paragraph(a) by deleting the word “a” appearing before the word “licensed”</p> <p>Justification: To correct a typographical error</p>	<p>The Committee agreed to the proposed amendment but this will be done during preparation of vellum.</p>
	<p>Amend subclause (2) by inserting the words “in licensed premises” immediately after the word’s “license”</p> <p>Justification: To correct a typographical error</p>	<p>The Committee rejected the proposed amendment.</p> <p>Clause 38 of the Bill provides that a holder of a gaming licence shall apply for a permit from the respective county government for a premise within which the person intends to carry out gaming. Therefore, there is no need to restate the requirement in clause 110(2) of the Bill.</p>
New Part XIIA	<p>Insert the following new Part—</p> <p>PART XIIA — ADVERTISING OF GAMING</p> <p>Gaming advertisement</p> <p>110A. (1) No person shall promote the advertisement of a gaming activity, without the approval of the Authority, on any medium of electronic or any other form of communication by: -</p> <p>(a) holding himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;</p> <p>(b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;</p> <p>(c) printing or publishing, or causes to be printed or published, any advertisement or notice;</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had, in its report, agreed partly to the proposed amendment which has been incorporated in the amendments. This is reflected in Clause 158 of the Committee’s amendments.</p>

	<p>(d) using a prominent personality or celebrity, public vehicle or use of lifestyle advertising to promote gaming;</p> <p>(e) using false, misleading or deceptive message likely to create an erroneous positive impression of gaming;</p> <p>(f) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gaming;</p> <p>(g) advertising gaming by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.</p> <p>(2) All gaming advertisements shall-</p> <p>(a) indicate the addictive nature of gaming;</p> <p>(b) notify players to play reasonably;</p> <p>(c) prohibit a child from playing;</p> <p>(d) not feature a former winner with a view to encourage the general public to participate in gaming;</p> <p>(e) not be erected on an advertisement billboard</p> <p>(f) dedicate ten per centum of aired advertisements for responsible gaming.</p> <p>(3) All media companies holding licenses on gaming shall not use any of their broadcast channel to advertise or promote their gaming products or activities.</p> <p>(4) The Authority shall determine where, when and how gaming is to be advertised.</p> <p>(5) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both</p>	
New Clause 110B	Insert the following new clause:	The Committee rejected the proposed amendment.

	<p>Gaming advertisement fee</p> <p>110B. (1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement.</p> <p>(2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.</p> <p>Justification: Advertisement charges should not be categorized as taxes.</p> <p>It is a fee that should be payable to the Authority to enable it properly discharge its mandate.</p>	<p>The Committee has an amendment to Clause 159 in its Committee Stage Amendments.</p>
<p>New Part XXIIB</p>	<p>PART XIIB Protection of children</p> <p>110C.(1) Notwithstanding any exceptions in this Act, no person shall offer, permit, entice, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises whether for the purpose of gaming or otherwise, plays a game of chance with, or permits the playing of a game by, a minor selling a gaming ticket, employment of a minor in the organization and management of gaming or engagement in the provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever.</p> <p>(2) A person who violates the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both.</p> <p>Justification:</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee had rejected the amendment earlier in its report because clause 153 of the Bill provides safeguards for protection of children.</p>

	To provide a clear legal framework for the protection of children against gambling	
Clause 124	<p>Delete clause 124 and substitute therefor the following new clause:</p> <p>124. The Funds of the Authority shall comprise of-</p> <p>(a) such monies as may be appropriated by the Parliament for purposes of the Authority;</p> <p>(b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its function under this Act;</p> <p>(c) Except where otherwise provided, all monies recovered and charges, fees, levies, grants, donations, endowments, fines, composition sums and financial penalties collected by the Authority under this Act;</p> <p>(d) such other fees and levies as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary for the National Treasury;</p> <p>(e) interest from the investment of money standing to the credit of the Fund; and</p> <p>(a) all monies from any other source provided for, donated or lent to the Authority</p>	<p>The Committee agreed to the proposed amendment.</p> <p>The Committee had incorporated the proposal in its Committee Stage Amendments (Clause 124)</p>
Clause 127 (2) (b)	Amend clause 127 in subclause (2) paragraph (b) by deleting the word “on” replace it with the word “at” immediately after the word “as”	The Committee agreed to the proposed amendment.
Clause 131	Amend the marginal note to read as follows; “Failure to display a valid license or permit”	The Committee agreed to the proposed amendment but this will be done during preparation of vellum.
Clause 131	Amend clause 131 by inserting the word “permit” immediately after the word “licence”	The Committee agreed to the proposed amendment.
Clause 133	Amend by deleting clause 133 and substituting therefor with the following new clause; 133. A licensee who knowingly fails to keep any books, records or accounts required to be kept under this Act or keeps false books, records or accounts, or who makes or causes	The Committee agreed to the proposed amendment but recommended that the penalty be a fine not exceeding one million or a term of imprisonment not exceeding five years.

	<p>to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding ten years.</p> <p>Justification:</p> <p>For clarity purposes and enhance penalty for making false declarations in respect of gaming activities.</p>	<p>The Ministry's amendment seeks to enhance the penalty from a fine not exceeding 500,000 shillings and a term of imprisonment not exceeding 5 years imprisonment to a fine not exceeding 20 million and a term of imprisonment not exceeding ten years.</p>
Clause 134	<p>Amend by inserting the word "of accounts" immediately after the word "statement"</p> <p>Justification:</p> <p>For clarity</p>	<p>The Committee agreed to the proposed amendment.</p>
Clause 142	<p>Amend by deleting clause 142 and substituting therefor with the following new section;</p> <p>142 (1) A person who wilfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both;</p> <p>(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker;</p> <p>(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.</p> <p>Justification:</p>	<p>The Committee agreed to the proposed amendment but recommended that the penalty under subclause (1) should be a fine not exceeding five million shillings or a term of imprisonment not exceeding five years.</p>

	To increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill.	
Clause 144(2)	Amend subclause (2) by inserting the word “sub” immediately before the word “section” and therefor the number 1 in bracket as (1) Justification: For consistency	The Committee agreed to the proposed amendment.
Clause 150	Amend the marginal notes to read as follows: “Prohibition against touting and soliciting” Justification: For clarity purposes	The Committee agreed to the proposed amendment but recommended that this be done during preparation of vellum.
Clause 151	Amend by moving clause 151 to the new PART XIIA and merge under section 110A Justification: For coherence and orderly arrangement of sections	The Committee rejected the proposed amendment because the Committee had rejected the provision of a new part XIIA on advertising of gaming and instead partly agreed to some proposed amendments to clause 151 of the Bill.
Clause 153	Delete clause 153 Justification: Refer to the new Part XIIB which gives prominence to protection of children against gambling	The Committee rejected the proposed amendment. The Committee had rejected the amendment earlier in its report because clause 153 of the Bill provides safeguards for protection of children and that this did not need to be provided in a new Part.
Clause 155	Amend clause 155 by inserting the word “Authority” immediately before the word “County government” and the word be “immediately” after the word “conviction”	The Committee agreed to the proposed amendment.
Clause 156	Amend clause 156 by deleting subclause (1) paragraphs(a)&(b) substituting therefor with the following new subclause as follow; (1) It shall be lawful for a gaming inspector or any other officer of the Authority	The Committee rejected the proposed amendment for the following reasons: i) Clause 156(1) of the Bill is more

	<p>authorized in writing, on production of an authority document, to enter without warrant and inspect premises (including a race course) in which he or she has reason to believe that an offense under this Act or under any regulation made thereunder, has been committed to-</p> <p>Justification:</p> <p>Pre-empt commission of gaming crimes to protect the public.</p> <p>This will ensure that the Authority and security apparatus are able to protect the public from any criminal gaming activities</p>	<p>comprehensive than the proposed amendment;</p> <p>ii) The current provision still serves the justification given for the proposed amendment of pre-empting commission of gaming crimes and protection of the public from any criminal gaming activities.</p>
Clause 158	<p>Move to new Part XIIA and merge under clause 110A</p> <p>Justification:</p> <p>For coherence and orderly arrangement of sections</p>	<p>The Committee rejected the proposed amendment since it had rejected the provision of a new Part on gaming advertisements but instead recommended that clause 158 be amended.</p>
Clause 161	<p>Amend clause 161 by deleting the word “Police” and substituting therefor with the word “Authority” and the word “Board” and substituting therefor with the word “Police”</p> <p>Justification:</p> <p>It is the mandate of the Authority to seize any illegal gaming equipment</p>	<p>The Committee rejected the proposed amendment.</p> <p>Clause 161 provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines. The collaboration is intended to support the Board in carrying out effective seizure of illegal gaming equipment.</p>
Part XVII clause 162	<p>Amend clause 162 by deleting the word “Board” and substituting therefor with the word “Authority”</p>	<p>The Committee rejected the proposed amendment since the management of the Authority vests in the Board.</p>
Clause 162(1) (j)	<p>Amend subsection (2) by inserting a new paragraph (j) to read as follows;</p> <p>(j)secure the payment of any fee or levy</p>	<p>The Committee agreed to the proposed amendment. This is aligned to its proposed amendments providing for fees or levies charged by the Authority.</p>

Clause 163(3) (c)	Amend clause 163 in subclause (3) by deleting paragraph (c) substituting therefor with following new paragraph “(c) the principles and standards applicable to the rules made under this section are both set out in the Interpretation and General Provisions Act (Cap 2) and the Statutory Instruments Act, 2013.”	The Committee rejected the proposed amendment because there is no typographical error															
New Part XVIII on Repeal and Transition	Amend the Sixth Schedule by transferring it to a new PART XVIII and making it Section 163	The Committee rejected the proposed amendment because of its rejection of previous amendments seeking to either provide for new Parts or to rearrange the Parts.															
Sixth Schedule	Amend the Sixth Schedule of the Bill in paragraph (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and replace therefor with the words “remain valid for the period of the license”	The Committee agreed to the proposed amendment to paragraph (1) of the Sixth Schedule.															
	Delete paragraphs (2), (3) and (4).	The Committee agreed to amend the subsequent paragraphs and not to delete them in entirety. Paragraph (4) was ineffectual due to the amendments hence should be deleted.															
Second and Fourth Schedule	Amend the Second and Fourth Schedules as follows: <table border="1" data-bbox="486 1301 1054 1868"> <thead> <tr> <th>TYPE OF GAMING</th> <th>LICENCE FEE</th> <th>RENEWAL</th> </tr> </thead> <tbody> <tr> <td>Online</td> <td>50,000,000</td> <td>25,000,000</td> </tr> <tr> <td>Non-online bookmaker</td> <td>20,000,000</td> <td>10,000,000</td> </tr> <tr> <td>Totalisator</td> <td>5,000,000</td> <td>2,000,000</td> </tr> <tr> <td>License authorizing bookmaking at race meeting</td> <td>100,000</td> <td>-</td> </tr> </tbody> </table>	TYPE OF GAMING	LICENCE FEE	RENEWAL	Online	50,000,000	25,000,000	Non-online bookmaker	20,000,000	10,000,000	Totalisator	5,000,000	2,000,000	License authorizing bookmaking at race meeting	100,000	-	The Committee rejected the proposed amendment. The Committee had considered the proposal alongside comments from other stakeholders and had generally reduced the fees. Further, the gaming types provided in the Schedule are more comprehensive than the one proposed.
TYPE OF GAMING	LICENCE FEE	RENEWAL															
Online	50,000,000	25,000,000															
Non-online bookmaker	20,000,000	10,000,000															
Totalisator	5,000,000	2,000,000															
License authorizing bookmaking at race meeting	100,000	-															

3.2 SUBMISSIONS FROM THE MINISTRY OF SPORTS, CULTURE AND HERITAGE ON THE GAMING BILL 2019

13. The Committee then considered the proposed amendments from the Ministry of Sports, Culture and Heritage.
14. The Ministry submitted that the Sports, Arts and Social Development Fund is established under the Public Finance Management Act 2012. Seven members of the Oversight Board were appointed by the Cabinet Secretary/ The National Treasury and Planning on 28th November 2018 vide Gazette Notice Vol. CXX-No. 145, and the Chairperson was appointed by the President on 18th January 2019 vide Gazette Notice Vol. CXXI- No. 12.
15. The Ministry further submitted that the Fund commenced operations in the Third Quarter of the FY 2018/19 with an operational budget of Kshs. 25 Million that was funded by the Exchequer. The Fund realized revenue of Kshs. 8, 109, 586, 819 against a projection of Kshs. 8.5 Billion for the period ending 30th June 2019. The Fund, the Ministry indicated, has achieved various milestones in supporting the development of sports, arts and social development including universal health care in the country.
16. The Ministry informed the Committee that during the last financial year 2018/2019, the Oversight Board approved disbursements amounting to Kshs. 3, 220, 595, 987 with the balance of Kshs. 4, 888, 890, 832 being carried forward to the Financial Year 2019/2020. During the 2019/2020 financial year, the Fund has disbursed Kshs. 7, 727,075,000 towards Universal health, Kshs. 7, 018, 479, 400 towards sports development and Kshs. 841, 668, 004 towards arts sector development.
17. The matrix below indicates the proposed amendments from the Ministry of Sports, Culture and Heritage together with their justifications and the Committee's recommendations.

PART/CLAUSE	PROPOSED AMENDMENT	RATIONALE	COMMITTEE RECOMMENDATION
Clause 2 Interpretation	<p>Introduce the following new definitions.</p> <p><i>“Collector” means the Commissioner General of the Kenya Revenue Authority</i></p> <p><i>“promoter” means a person licenced to run and operate a lottery</i></p>	<p>The term collector as appearing under clause 37(2) needs to be defined to reflect the tax collecting body/agency.</p> <p>It is critical to define who a promoter is in the context of betting, lottery and gaming. Also appears in various clauses - including 49 (4), 52(2) (3)53(2)(d)</p>	<p>The Committee agreed to the proposed amendments. The Committee has already incorporated the proposed new definition of “Collector” in its Committee Stage Amendments.</p> <p>The Committee agreed to the proposed new definition of “promoter” since the term has been used in clause 49(4), clause 53(2) and (3) and clause 53(2) (d) of the Bill.</p>

<p>PART III Clause 7(1)</p>	<p>Introduce provisions to include the Principal Secretary for Sports and the Principal Secretary for Arts</p> <p>To read:</p> <p><i>Principal Secretary responsible for matters relating to sports or a representative designated in writing</i></p> <p><i>Principal Secretary responsible for matters relating to culture or a representative designated in writing</i></p>	<p>Betting and lotteries and the revenues thereon depend greatly on sporting activities hence the need for representation from Sports since it is a key stakeholder.</p> <p>The State Department for Culture is also a key stakeholder since sports and arts are related</p>	<p>The Committee agreed to the proposed amendment. Consequently, the Committee recommended that clause 7(1) (c) be replaced with the Principal Secretary responsible for matters relating to sports or a representative designated in writing. Further, the three persons to be appointed by the Cabinet Secretary in paragraph (f) should be reduced to two and that one should be nominated by the umbrella body of the operators in the gaming industry. The Committee had provided this representative in its Committee Stage Amendments. The total membership will be 9 members, excluding the Director-General who shall be an <i>ex officio</i> member.</p>
<p>PART III Clause 8 (2)(b)</p>	<p>Amend sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph</p> <p><i>“ has been convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months”</i></p>	<p>Ensure compliance with Chapter Six of the Constitution 2010 and Leadership and Integrity Act, No. 19 of 2012 by including all other criminal offences and not only fraud and dishonesty.</p>	<p>The Committee agreed to the proposed amendment.</p>
<p>PART III Clause 11 (b)</p>	<p>Amend paragraph (b) to read as follows;</p>	<p>The Authority being a regulatory body should restrict its</p>	<p>The Committee rejected the proposed amendment. The amendment sought to delete</p>

	<p><i>“receive any gifts, grants and donations or endowments made to the Authority or any other moneys in respect of the Authority”</i></p>	<p>mandate to only receiving the gifts, grants and donations and not disbursement, to avoid conflict of interests.</p>	<p>the aspect of the Board making disbursement of the gifts, grants and donations, disbursement received by the Board. The reasons for the rejection were:</p> <ul style="list-style-type: none"> (i) The proposed amendment does not address the question of who makes disbursement; (ii) Other legislations provide for disbursement by the same body that receives gifts, grants or donations and that this avoids uncertainties; (iii) If the gifts, grants, donations or endowment are disbursements improperly, criminal law will apply.
<p>PART IV Clause 37</p>	<p>Define the term “Collector”</p> <p>Introduce a new sub-clause 37(3) to read;</p> <p><i>“The Collector shall pay all the proceeds of tax paid under sub clause (2) into the Sports, Arts and Social Development Fund established under Section 24 of the Public Finance Management Act, 2012.</i></p>	<p>The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. If the Betting, Lotteries and Gaming Act is repealed and the proposed amendment is not included, the revenues of the Sports, Arts and Social Development Fund as well as programs/projects that are being financed from those funds will be adversely affected.</p>	<p>The Committee agreed to the proposed amendment.</p>
<p>NEW</p>	<p>Delete sub-clause 37A.(2), (b) and</p>	<p>Being a regulatory Authority, the</p>	<p>The Committee rejected the proposed amendment.</p>

	<p>substitute therefor the following new clause;</p> <p><i>”The Board shall disburse funds collected under clause 37A (1) to persons or bodies responsible for establishing rehabilitation centres for problem gamblers”</i></p>	<p>responsibility of establishing rehabilitation centres be assigned to different persons or bodies to avoid conflict of interest</p>	<p>The Committee, in its Committee Stage Amendments, had proposed a new clause 37A to provide for a gaming levy as follows:</p> <p>37A. (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.</p> <p>(2) The Board shall in consultation with the Cabinet Secretary prescribe—</p> <p>(a) the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed one per centum of the monthly gross gaming revenue;</p> <p>(b) the amount from the gaming levy that shall be used for the establishment of rehabilitation centres for problem gamblers.</p> <p>(3) The levy collected under this section shall be paid into an account operated by the Authority on or before the 20th day of the following month.</p> <p>(4) A person who fails to pay the levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the Authority all outstanding amounts of the levy together with a penalty of two hundred thousand shillings for each such payment.</p> <p>The Ministry proposed to delete sub-clause 37A (2), (b)</p>
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			<p>and to substitute it with a different text as follows:</p> <p>“The Board shall disburse funds collected under clause 37A (1) to persons or bodies responsible for establishing rehabilitation centres for problem gamblers”</p>
<p>PART VI Clause 49 (2)</p>	<p>Delete minimum and maximum per centum</p> <p>Amend by deleting sub-clause (2) and substituting therefor the following new sub-clause to read;</p> <p><i>“The Board shall set aside 50 per centum of the gross revenue of a public lottery which shall be devoted to the object for which the lottery is promoted”</i></p>	<p>Provide clarity and eliminate ambiguity.</p> <p>The funds being of charitable purposes should be enhanced to meet the specific objective, which the lottery was established for, and which are normally urgent in nature. These include interventions to deal with the vagaries of fire disasters, floods, drought and other unforeseen pandemics.</p>	<p>The Committee rejected the proposed amendment.</p> <p>The Committee, in its Committee Stage Amendments, provided for an amendment to clause 49 as follows:</p> <p>CLAUSE 49</p> <p>THAT, clause 49 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clauses—</p> <p>“(2) The Board shall set the percentage of gross revenue of a public lottery which shall be devoted to the object for which the lottery is promoted.</p> <p>(2A) The percentage set by the Board under subsection (2) shall not be less than thirty per centum of the gross revenue.”</p>

<p>Clause 88(1)(c)</p>	<p>Delete sub – clause 1(c) and substitute therefor the following new sub-clause;</p> <p><i>“Thirty per centum to be paid into the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012 for distribution to support sports, arts, social development and government strategic interventions”</i></p>	<p>The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected</p>	<p>The Committee agreed to the proposed amendment.</p>
<p>PART X Clauses 89-100</p>	<p>Delete the PART X (clauses 89-100)</p>	<p>Establishment of all public funds must comply with Sections 6 (f), 24 (4), (5) (12) of the Public Finance Management Act, No.18 of 2012</p> <p>There already exists a Fund (Sports, Arts and Social Development Fund) established by the Government under section 6 and 24 of the Public Finance Management Act, No.18 of 2012 with the mandate of providing financial support to the sports, arts, social development and</p>	<p>The Committee agreed to the proposed amendment.</p>

		<p>government strategic interventions.</p> <p>Establishing the proposed National Lottery Distribution Trust Fund is in contravention of the sections 6 (f) and 24 (4), (5) and (12) of the Public Finance Management Act, No.18 of 2012.</p> <p>Majority of the activities in the sectors of social development (including Universal Health Care), sports and arts are currently being financed by the Sports, Arts and Social Development Fund. Denying funds to Sports, Arts and Social Development Fund will adversely affect the implementation of these programs.</p> <p>The creation of the proposed National Lottery Distribution Trust Fund shall result in duplication of roles and wastage of public funds</p> <p>Denying Sports, Arts and Social Development Fund sources of funds as provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131 will directly affect</p>	
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		sports, arts and social development projects from being implemented which will kill the sports and arts industry	
	Delete the word National Lottery Trust Fund wherever it appears in the Bill	Delete Part X, which establishes the National Lottery Trust Fund since its establishment does not comply with the provisions of the Public Finance Management Act 2012. Specifically, Section 6(f) of the Public Finance Management Act 2012 provides that: <i>"This Act shall prevail in the case of any inconsistency between this Act and any other legislation, on the following matters— establishment and management of public funds;"</i>	The Committee agreed to the proposed amendment. In light of this, clause 2 of the Bill will be amended by deleting the definition of "Fund" and substituting it with the following new definition: "Fund" means the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012;" Also, clause 3 of the Bill should be amended in paragraph (d) by deleting "the National Lottery Trust Fund".

4.0 COMMITTEE OBSERVATIONS

The Committee observed the following during its consideration of submissions from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage:

4.1 Observations on submissions by the Ministry of Interior and Coordination of National Government

- (a) Most of the proposed amendments had been considered by the Committee previously during the Committee's engagement with the Betting Control and Licensing Board and its recommendations are contained in its main report that was tabled in the House on 14th November, 2019.
- (b) The amendments which had not been considered previously were considered by the Committee on their merit and agreed to or rejected with reasons as indicated in the matrix and the proposed committee stage amendments in this report.
- (c) Where a provision exists in the Bill addressing an issue, unless other reasons exist, it is suggested that the provision be amended instead of providing for substantive new Parts in a Bill.

4.2 Observations on submissions by the Ministry of Sports, Culture and Heritage

- (d) The Ministry of Sports, Culture and Heritage is an important entity that ought to be represented in the National Gaming Authority hence there is a need to provide for its representation. Betting and lotteries depend more from sporting activities hence representation of the Ministry of Sports, Culture and Heritage is important.
- (e) The Committee agreed to amend clause 37 (providing for the gaming tax) to provide for payment of the proceeds of the tax into the Sports, Arts and Social Development Fund established under Section 24 of the Public Finance Management Act, 2012. The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. There is need to protect the programs and projects that are being financed by the Fund since the Bill seeks to repeal the Betting, Lotteries and Gaming Act.
- (f) Part X of the Bill provides for the establishment of the National Lottery Distribution Trust Fund whose major function is to apportion revenue of the National Lottery. However, the mandate of the National Lottery Distribution Trust Fund would be a duplication of functions of the Sports, Arts and Social Development Fund and it would deny funds to the Sports, Arts and Social Development Fund which is currently provided for under section 69A of the Betting, Lotteries and Gaming Act.

5.0 COMMITTEE STAGE AMENDMENTS

Having considered the memoranda on each of the Clauses from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage, the Committee wishes to propose the following amendments:

CLAUSE 2

THAT, clause 2 of the Bill be amended —

- (a) by inserting the following new definition in its proper alphabetical order—
 - ““Collector” means the Commissioner General of the Kenya Revenue Authority;”
 - “promoter” means a person licenced to run and operate a lottery;”
- (b) by deleting the definition “Fund” and substituting therefor the following new definition—
 - ““Fund” means the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012;”

Justification:

The term collector as appearing under clause 37(2) needs to be defined to reflect the tax collecting body/agency. The term has also been used in other provisions in the Bill.

It is critical to define who a promoter is in the context of betting, lottery and gaming. The term appears in various clauses including 49 (4), 52(2) (3)53(2)(d).

It is proposed that the Fund be defined in the manner provided since there are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 3

THAT, clause 3 of the Bill be amended in paragraph (d) by deleting the words “the National Lottery Trust Fund” appearing immediately after the words “the National Gaming Authority”.

Justification:

There are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 5

THAT, clause 5 of the Bill be amended —

- (a) in paragraph (b) by inserting the words “single business” immediately after the word “issue”;
- (b) by deleting paragraph (c).

Justification:

The first amendment provides clarity on the kind of permit that is issued.

Clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to (i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act; (ii) investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties. The amendment therefore seeks to remove the conflict between what is provided in clause 10(1) (h) and (i) and clause 5(c).

CLAUSE 7

THAT, clause 7 of the Bill be amended in sub-clause (1)—

- (i) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) Principal Secretary responsible for matters relating to sports or a representative designated in writing;”
- (ii) by inserting the following new paragraph immediately after paragraph (e)—
“(ea) Principal Secretary responsible for matters relating to culture or a representative designated in writing;”
- (iii) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) two persons with knowledge and experience in gaming one of whom shall be nominated by the umbrella body of the operators in the gaming industry”;

Justification:

Betting and lotteries and the revenues thereon depend greatly on sporting activities hence the need for representation from Sports since it is a key stakeholder. The State Department for Culture is also a key stakeholder since sports and arts are related.

CLAUSE 8

THAT, clause 8 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) has been convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months;”

Justification:

The amendment seeks to ensure compliance with Chapter Six of the Constitution 2010 and Leadership and Integrity Act, No. 19 of 2012 by including all other criminal offences and not only fraud and dishonesty.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in the introductory statement by—
 - (i) inserting the word “of” immediately after the word “functions”;
 - (ii) by deleting the expression “(1)”;

- (b) in sub-clause (1) (f) by inserting the words “for compliance with regulatory authorities” at the end of the paragraph.

Justification:

The amendments seek to correct typographical errors and also seek to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction.

CLAUSE 26

THAT, clause 26 of the Bill be amended —

- (a) by deleting sub-clause (2) and substituting therefor the following new subclause—
“(2) Where the revocation of a licence is contemplated under subsection (1), the Board shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation.”
- (b) by deleting sub-clause (3) and substituting therefor the following new subclause—
“(3) A notice issued under sub-section (2) shall be served not less than twenty one days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.”
- (c) in sub-clause (6) by deleting the word “Tribunal” appearing immediately after the words “may appeal to the” and substituting therefor the words “Committee”.

Justification:

The amendment seeks to provide for fair administrative action by providing that grounds of revocation of a licence shall be specified. Further, since there is an amendment to replace the Tribunal with a Gaming Appeals Committee, the amendment seeks to make this alignment.

CLAUSE 31

THAT, clause 31 of the Bill be amended by deleting the words “one hundred thousand shillings” and substitute therefore with the words “the prescribed fees”.

Justification:

The amendment seeks to use the words “prescribed fees” instead of a specified amount since fees shall be prescribed from time to time by the Cabinet Secretary and will not necessitate an amendment to the legislation.

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) The Collector shall pay all the proceeds of tax paid under sub clause (2) into the Fund.”

Justification:

The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. If the Betting, Lotteries and Gaming Act is repealed and the proposed amendment is not included, the revenues of the Sports, Arts and Social Development Fund as well as programs/projects that are being financed from those funds will be adversely affected.

CLAUSE 42

THAT, clause 42 of the Bill be amended in sub-clause (2) by inserting the words “and with assistance of the Board” immediately after the word “transfer”.

Justification:

Carrying out investigations is one of the powers accorded to the Authority by the Bill. Therefore, the amendment seeks to provide that a county government shall, upon receipt of an application to transfer, and with the assistance of the Board carry out an investigation on the suitability of a proposed permit holder.

CLAUSE 46

THAT, clause 46 of the Bill be amended in sub-clause (1) by deleting the words “make totalisator’s rules” and substituting therefor the words “rules for the operation of totalisators”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 50

THAT, clause 50 of the Bill be amended in sub-clause (2) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) shall guarantee the expected proceeds of the lottery or any part thereof;”

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 60

THAT, clause 60 of the Bill be amended in sub-clause (1) by deleting the word “fifty” appearing immediately after the words “of less than” and substituting therefor the words “one hundred”.

Justification:

The amendment seeks to discourage gambling and to deter a licensee from allowing illegal gaming.

CLAUSE 62

THAT, clause 62 of the Bill be amended in sub-clause (4)—

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting the letter “a”;
- (c) by inserting the following new paragraph immediately after paragraph (b)—
“(ba) mobile money transfer;”

Justification:

The amendment seeks to remove the use of credit cards to gamble or bet, seeks to correct a typographical error and seeks to provide for other modes of payments which a player may use, that is mobile money transfer.

CLAUSE 71

THAT, clause 71 of the Bill be amended in sub-clause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

- “(c) there is no direct or indirect financial interest on any applicant by an office bearer of a political party; and”

Justification:

The amendment seeks to provide clarity to the paragraph.

CLAUSE 80

THAT, clause 80 of the Bill be amended in sub-clause (5) by deleting the expression “(3)” and substituting therefor the expression “(4)”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 82

THAT, clause 82 of the Bill be amended in subclause (3) by deleting the word “paragraph” appearing immediately after the words “to which” and substituting therefor the word “subsection”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 87

THAT, clause 87 of the Bill be amended—

- (a) in the introductory words to sub-clause (2) by inserting the words “the following, and not limited to—” immediately after the word “audit”;
- (b) in subclause (2) (d) by deleting the word “of” appearing immediately after the word “compliance” and substituting therefor the word “with”.

Justification:

The amendments seek to expand the areas within which an audit can be performed and to correct a typographical error.

CLAUSE 88

THAT, clause 88 of the Bill be amended in subclause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) thirty per centum to be paid into the Fund for distribution to support sports, arts, and social development;”

Justification:

The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected.

PART X

THAT, Part X of the Bill be deleted.

Justification:

The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 100—

Exemption of other provisions. 100A. Despite any other provisions of this Act, sections 27, 49, 52, 53 and 54 of this Act shall not apply to the National Lottery.

Justification:

National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries

CLAUSE 108

THAT, clause 108 of the Bill be amended—

- (a) in subclause (1), by deleting the word “a permit” appearing immediately after the word “issue” and substituting therefor the word “a licence”;
- (b) in subclause (2), by deleting the word “a permit” appearing immediately after the words “to the public without” and substituting therefor the word “a licence”.

Justification:

Other provisions of the Bill provide for the licensing of prize competitions. Therefore, a permit will not apply in this case. The amendment seeks to correct this.

CLAUSE 110

THAT, clause 110 the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Betting and” appearing in the introductory words;
- (b) in sub-clause (2) by inserting the words “in licensed premises” at the end of the sub-clause.

Justification:

Betting machines are covered under subclause (2). The amendment also seeks to provide clarity to sub-clause (2).

CLAUSE 124

THAT, clause 124 of the Bill be amended —

- (a) by inserting the following new paragraph immediately after paragraph (c)—
“(ca) charges, grants, endowments and financial penalties collected by the Authority under this Act;”
- (b) in paragraph (c) by inserting the words “fees and” immediately after the words “such” appearing at the beginning of the paragraph;
- (c) in paragraph (e) by deleting the word “lend” appearing immediately after the words “donated or” and substituting therefor the word “lent”.

Justification:

The amendments seek to include other sources of funds applicable to the Authority to enhance its effectiveness and to correct typographical errors.

CLAUSE 127

THAT, clause 127 of the Bill be amended in sub-clause (2) (b) by deleting the word “on” appearing immediately after the words “Authority as” and substituting therefor the word “at”.

Justification:

To correct a typographical error.

CLAUSE 131

THAT, clause 131 of the Bill be amended by inserting the word “or permit” immediately after the words “willfully fails to display a licence”.

Justification:

Since this is an offence provision, the amendment seeks to fill the gap in the offence by also providing that it will be an offence to wilfully fail to display a permit.

CLAUSE 133

THAT, clause 133 of the Bill be amended by deleting “five hundred thousand” appearing immediately after the words “conviction to a fine not exceeding” and substituting therefor the words “one million”.

Justification:

The amendment seeks to increase the penalty in order to make the offence more punitive to deter would-be offenders.

CLAUSE 134

THAT, clause 134 of the Bill be amended by—

- (a) inserting the word “or Collector” immediately after the word “Board,”
- (b) inserting the word “of accounts” immediately after the words “misleading statement”.

Justification:

The amendment seeks to provide clarity in the offence and to correct a typographical error.

CLAUSE 142

THAT, the Bill be amended by deleting clause 142 and substituting therefor the following new clause—

Prohibition against unlicensed
bookmaking.

142. (1) A person who wilfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms

of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years or to both.

(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker.

(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.

Justification:

The amendment seeks to increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill.

CLAUSE 144

THAT, clause 144 of the Bill be amended in sub-clause (2) by deleting the word “section” appearing immediately after the words “the provisions of” and substituting therefor the word “subsection”.

Justification:

The amendment seeks to correct a typographical error.

CLAUSE 155

THAT, clause 155 of the Bill be amended by inserting the words “the Authority or” immediately after the words “any condition imposed by”.

Justification:

The amendment seeks to bring clarity to the penalty prescribed since a licence is issued by the Authority.

CLAUSE 162

THAT, clause 162 of the Bill be amended in subclause (2) by inserting the following paragraph immediately after paragraph (g)—

“(ga) fees or levies charged under this Act;”

Justification:

The Committee has proposed amendments to clause 11 to provide for one of the powers of the Authority as to charge fees and levies. New Clause 37A provides for a gaming levy. Hence there is need to provide for it in clause 162.

SIXTH SCHEDULE

THAT, the Sixth Schedule of the Bill be amended—

(a) in paragraph (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and substituting therefor the words “remain valid for the period of the license”

(b) by deleting paragraph (2) and substituting therefor the following new paragraph—

“(2) Upon expiry of licence referred to in paragraph (1), a person licensed under the repealed Act shall apply to the Board afresh for a new licence.”

(c) by deleting paragraph (4).

Justification:

The amendment seeks to avoid disruption of business within the license period.

SIGNED:  DATE: 


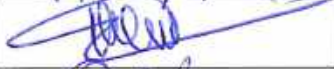

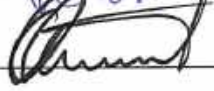

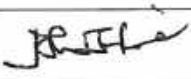
THE HON. PATRICK MAKAU KINGÓLA, MP

THE CHAIRPERSON

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

**DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
ADOPTION OF THE ADDENDUM REPORT ON CONSIDERATION OF THE PROPOSED
AMENDMENTS TO THE GAMING BILL, 2019**

We, the undersigned Honorable Members of the Departmental Committee on Sports, Culture and Tourism, today 30th September, 2020 do hereby affix our signatures to this **Addendum Report on the Consideration of the proposed amendments to the Gaming Bill, 2019** to affirm our approval and confirm its accuracy, validity and authenticity: -

1.	The Hon. Patrick Makau King'ola, MP. - Chairperson	
2.	The Hon. (Dr.) Korei Ole Lemein, MP. – Vice-Chairperson	
3.	The Hon. Christopher Omulele, MP.	
4.	The Hon. Cyprian Kubai Iringo, MP.	
5.	The Hon. Jones Mlolwa, MP.	
6.	The Hon. Daniel Wanyama Sitati, MP.	
7.	The Hon. (Prof.) Jacqueline Oduol, MP.	
8.	The Hon. (Dr.) Tecla Chebet Tum, MP.	
9.	The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.	
10.	The Hon. Lydia Haika Mnene Mizighi, MP.	
11.	The Hon. Sylvanus Maritim, MP.	
12.	The Hon. Jeremiah Lomurukai, MP.	
13.	The Hon. Charles Ngusya Nguna, MP.	
14.	The Hon. Titus Mukhwana Khamala, MP.	
15.	The Hon. Beatrice Kones, MP.	
16.	The Hon. Jayne Nyeri Wanjiru Kihara, MP.	
17.	The Hon. Mohamed Hire Garane, MP.	
18.	The Hon. Florence Chepngetich Koskey, MP.	
19.	The Hon. Nelson Koech, MP.	

REPUBLIC OF KENYA

Twelfth Parliament



Fourth Session

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (FOURTH SESSION)

**MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 30TH SEPTEMBER, 2020
IN THE BOARDROOM ON 9TH FLOOR, HARAMBEE PLAZ AT 10:40 AM**

PRESENT

1. The Hon. Patrick Makau King'ola, MP. - **Chairperson**
2. The Hon. (Dr.) Korei Ole Lemein, MP. - **Vice Chairperson**
3. The Hon. Christopher Omulele, MP.
4. The Hon. Kubai Iringo, MP.
5. The Hon. Jones Mlolwa, MP.
6. The Hon. Daniel Wanyama Sitati, MP.
7. The Hon. (Prof.) Jacqueline Oduol, MP.
8. The Hon. (Dr.) Tecla Chebet Tum, MP.
9. The Hon. Sylvanus Maritim, MP.
10. The Hon. Jeremiah Lomorukai, MP.
11. The Hon. Titus Mukhwana Khamala, MP.
12. The Hon. Mohamed Hire Garane, MP.

APOLOGY

1. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
2. The Hon. Lydia Haika Mnene Mizighi, MP.
3. The Hon. Beatrice Kones, MP.
4. The Hon. Charles Ngusya Nguna, MP.
5. The Hon. Jayne Nyeri Wanjiru Kihara, MP.
6. The Hon. Nelson Koech, MP.
7. The Hon. Florence Chepngetich Koskey, MP.

IN-ATTENDANCE -NATIONAL ASSEMBLY

THE SECRETARIAT

1. Mr. Samuel Kalama - Senior Clerk Assistant
2. Mr. Fredrick Otieno - Second Clerk Assistant

- | | | |
|--------------------------|---|--------------------------|
| 3. Mr. Salem Lorot | - | Legal Counsel II |
| 4. Ms. Sheila Chebotibin | - | Sergeant At-Arms Officer |
| 5. Ms. Jane Serem | - | Audio Officer |

MIN.NO.NA/SCT/2020/112: PRELIMINARIES & ADOPTION OF AGENDA

The Ag. Chairperson, The Hon. Daniel Wanyama called the meeting to order at twenty minutes to eleven O'clock and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. (Dr) Tecla Tum, MP. and the Hon. (Prof.) Jacqueline Oduol, MP respectively.

Agenda:

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of Previous Minutes
5. Matters arising
6. Pending Bills: one (1)
 - i. The Kenya National Library Service Bill (National Assembly Bill No. 5 of 2020)
7. Pending Petition(s): None
8. Questions: One (1)
 - i. Question by the Member for Kuresoi South, Hon. Joseph Tonui, MP to the Cabinet Secretary, Ministry of Sports, Culture and Heritage
9. Statements: One (1)
 - i. Statement by the Hon. Tom Mboya Odege, MP. Nyatike Constituency regarding mismanagement and gross malpractices at Kenya Utalii College
10. **Agenda: Consideration and adoption of the Addendum Report on consideration of Proposed Amendments to the Gaming Bill, 2019 by the Ministry of Interior and Coordination of National Government and the Ministry of Sport, Culture and Heritage.**
11. Any Other Business
12. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2020/117: - CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of the minutes of the previous sittings was deferred to the next sitting.

MIN.NO.NA/SCT/2020/118: CONSIDERATION OF THE ADDENDUM REPORT ON CONSIDERATION OF THE AMENDMENTS TO THE GAMING BILL, 2019

The Committee considered the report and adopted with the following observations and committee stage amendments as shown below:-

- (a) The Committee considered the report and adopted Most of the proposed amendments had been considered by the Committee previously during the Committee's engagement with

the Betting Control and Licensing Board and its recommendations are contained in its main report that was tabled in the House on 14th November, 2019

- (b) The amendments which had not been considered previously were considered by the Committee on their merit and agreed to or rejected with reasons as indicated in the matrix and the proposed committee stage amendments in this report.
- (c) Where a provision exists in the Bill addressing an issue, unless other reasons exist, it is suggested that the provision be amended instead of providing for substantive new Parts in a Bill.

Observations on submissions by the Ministry of Sports, Culture and Heritage

- (d) The Ministry of Sports, Culture and Heritage is an important entity that ought to be represented in the National Gaming Authority hence there is a need to provide for its representation. Betting and lotteries depend more from sporting activities hence representation of the Ministry of Sports, Culture and Heritage is important.
- (e) The Committee agreed to amend clause 37 (providing for the gaming tax) to provide for payment of the proceeds of the tax into the Sports, Arts and Social Development Fund established under Section 24 of the Public Finance Management Act, 2012. The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. There is need to protect the programs and projects that are being financed by the Fund since the Bill seeks to repeal the Betting, Lotteries and Gaming Act.
- (f) Part X of the Bill provides for the establishment of the National Lottery Distribution Trust Fund whose major function is to apportion revenue of the National Lottery. However, the mandate of the National Lottery Distribution Trust Fund would be a duplication of functions of the Sports, Arts and Social Development Fund and it would deny funds to the Sports, Arts and Social Development Fund which is currently provided for under section 69A of the Betting, Lotteries and Gaming Act. **Committee Stage Amendments**

Having considered the memoranda on each of the Clauses from the Ministry of Interior and Coordination of National Government and the Ministry of Sports, Culture and Heritage, the Committee wishes to propose the following amendments:

CLAUSE 2

THAT, clause 2 of the Bill be amended —

- (a) by inserting the following new definition in its proper alphabetical order—
 - ““Collector” means the Commissioner General of the Kenya Revenue Authority;”
 - “promoter” means a person licenced to run and operate a lottery;””
- (b) by deleting the definition “Fund” and substituting therefor the following new definition—
 - ““Fund” means the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012;””

Justification:

The term collector as appearing under clause 37(2) needs to be defined to reflect the tax collecting body/agency. The term has also been used in other provisions in the Bill.

It is critical to define who a promoter is in the context of betting, lottery and gaming. The term appears in various clauses including 49 (4), 52(2) (3)53(2)(d).

It is proposed that the Fund be defined in the manner provided since there are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 3

THAT, clause 3 of the Bill be amended in paragraph (d) by deleting the words “the National Lottery Trust Fund” appearing immediately after the words “the National Gaming Authority”.

Justification:

There are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 5

THAT, clause 5 of the Bill be amended —

- (a) in paragraph (b) by inserting the words “single business” immediately after the word “issue”;
- (b) by deleting paragraph (c).

Justification:

The first amendment provides clarity on the kind of permit that is issued.

Clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to (i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act; (ii) investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties. The amendment therefore seeks to remove the conflict between what is provided in clause 10(1) (h) and (i) and clause 5(c).

CLAUSE 7

THAT, clause 7 of the Bill be amended in sub-clause (1)—

- (i) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) Principal Secretary responsible for matters relating to sports or a representative designated in writing;”

- (ii) by inserting the following new paragraph immediately after paragraph (e)—
“(ea) Principal Secretary responsible for matters relating to culture or a representative designated in writing;”
- (iii) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) two persons with knowledge and experience in gaming one of whom shall be nominated by the umbrella body of the operators in the gaming industry”;

Justification:

Betting and lotteries and the revenues thereon depend greatly on sporting activities hence the need for representation from Sports since it is a key stakeholder. The State Department for Culture is also a key stakeholder since sports and arts are related.

CLAUSE 8

THAT, clause 8 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) has been convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months;”

Justification:

The amendment seeks to ensure compliance with Chapter Six of the Constitution 2010 and Leadership and Integrity Act, No. 19 of 2012 by including all other criminal offences and not only fraud and dishonesty.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in the introductory statement by—
 - (i) inserting the word “of” immediately after the word “functions”;
 - (ii) by deleting the expression “(1)”;
- (b) in sub-clause (1) (f) by inserting the words “for compliance with regulatory authorities” at the end of the paragraph.

Justification:

The amendments seek to correct typographical errors and also seek to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction.

CLAUSE 26

THAT, clause 26 of the Bill be amended —

- (a) by deleting sub-clause (2) and substituting therefor the following new subclause—
“(2) Where the revocation of a licence is contemplated under subsection (1), the Board shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation.”
- (b) by deleting sub-clause (3) and substituting therefor the following new subclause—
“(3) A notice issued under sub-section (2) shall be served not less than twenty one days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.”
- (c) in sub-clause (6) by deleting the word “Tribunal” appearing immediately after the words “may appeal to the” and substituting therefor the words “Committee”.

Justification:

The amendment seeks to provide for fair administrative action by providing that grounds of revocation of a licence shall be specified. Further, since there is an amendment to replace the Tribunal with a Gaming Appeals Committee, the amendment seeks to make this alignment.

CLAUSE 31

THAT, clause 31 of the Bill be amended by deleting the words “one hundred thousand shillings” and substitute therefore with the words “the prescribed fees”.

Justification:

The amendment seeks to use the words “prescribed fees” instead of a specified amount since fees shall be prescribed from time to time by the Cabinet Secretary and will not necessitate an amendment to the legislation.

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) The Collector shall pay all the proceeds of tax paid under sub clause (2) into the Fund.”

Justification:

The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. If the Betting, Lotteries and Gaming Act is repealed and the proposed amendment is not included, the revenues of the Sports, Arts and Social Development Fund as well as programs/projects that are being financed from those funds will be adversely affected.

CLAUSE 42

THAT, clause 42 of the Bill be amended in sub-clause (2) by inserting the words “and with assistance of the Board” immediately after the word “transfer”.

Justification:

Carrying out investigations is one of the powers accorded to the Authority by the Bill. Therefore, the amendment seeks to provide that a county government shall, upon receipt of an application to transfer, and with the assistance of the Board carry out an investigation on the suitability of a proposed permit holder.

CLAUSE 46

THAT, clause 46 of the Bill be amended in sub-clause (1) by deleting the words “make totalisator’s rules” and substituting therefor the words “rules for the operation of totalisators”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 50

THAT, clause 50 of the Bill be amended in sub-clause (2) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) shall guarantee the expected proceeds of the lottery or any part thereof;”

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 60

THAT, clause 60 of the Bill be amended in sub-clause (1) by deleting the word “fifty” appearing immediately after the words “of less than” and substituting therefor the words “one hundred”.

Justification:

The amendment seeks to discourage gambling and to deter a licensee from allowing illegal gaming.

CLAUSE 62

THAT, clause 62 of the Bill be amended in sub-clause (4)—

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting the letter “a”;
- (c) by inserting the following new paragraph immediately after paragraph (b)—
“(ba) mobile money transfer;”

Justification:

The amendment seeks to remove the use of credit cards to gamble or bet, seeks to correct a typographical error and seeks to provide for other modes of payments which a player may use, that is mobile money transfer.

CLAUSE 71

THAT, clause 71 of the Bill be amended in sub-clause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) there is no direct or indirect financial interest on any applicant by an office bearer of a political party; and”

Justification:

The amendment seeks to provide clarity to the paragraph.

CLAUSE 80

THAT, clause 80 of the Bill be amended in sub-clause (5) by deleting the expression “(3)” and substituting therefor the expression “(4)”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 82

THAT, clause 82 of the Bill be amended in subclause (3) by deleting the word “paragraph” appearing immediately after the words “to which” and substituting therefor the word “subsection”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 87

THAT, clause 87 of the Bill be amended—

- (a) in the introductory words to sub-clause (2) by inserting the words “the following, and not limited to—” immediately after the word “audit”;
- (b) in subclause (2) (d) by deleting the word “of” appearing immediately after the word “compliance” and substituting therefor the word “with”.

Justification:

The amendments seek to expand the areas within which an audit can be performed and to correct a typographical error.

CLAUSE 88

THAT, clause 88 of the Bill be amended in subclause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) thirty per centum to be paid into the Fund for distribution to support sports, arts, and social development;”

Justification:

The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected.

PART X

THAT, Part X of the Bill be deleted.

Justification:

The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 100—

Exemption of other provisions.

100A. Despite any other provisions of this Act, sections 27, 49, 52, 53 and 54 of this Act shall not apply to the National Lottery.

Justification:

National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries

CLAUSE 108

THAT, clause 108 of the Bill be amended—

- (a) in subclause (1), by deleting the word “a permit” appearing immediately after the word “issue” and substituting therefor the word “a licence”;
- (b) in subclause (2), by deleting the word “a permit” appearing immediately after the words “to the public without” and substituting therefor the word “a licence”.

Justification:

Other provisions of the Bill provide for the licensing of prize competitions. Therefore, a permit will not apply in this case. The amendment seeks to correct this.

CLAUSE 110

THAT, clause 110 the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Betting and” appearing in the introductory words;
- (b) in sub-clause (2) by inserting the words “in licensed premises” at the end of the sub-clause.

Justification:

Betting machines are covered under subclause (2). The amendment also seeks to provide clarity to sub-clause (2).

CLAUSE 124

THAT, clause 124 of the Bill be amended —

- (a) by inserting the following new paragraph immediately after paragraph (c)—
“(ca) charges, grants, endowments and financial penalties collected by the Authority under this Act;”
- (b) in paragraph (c) by inserting the words “fees and” immediately after the words “such” appearing at the beginning of the paragraph;
- (c) in paragraph (e) by deleting the word “lend” appearing immediately after the words “donated or” and substituting therefor the word “lent”.

Justification:

The amendments seek to include other sources of funds applicable to the Authority to enhance its effectiveness and to correct typographical errors.

CLAUSE 127

THAT, clause 127 of the Bill be amended in sub-clause (2) (b) by deleting the word “on” appearing immediately after the words “Authority as” and substituting therefor the word “at”.

Justification:

To correct a typographical error.

CLAUSE 131

THAT, clause 131 of the Bill be amended by inserting the word “or permit” immediately after the words “willfully fails to display a licence”.

Justification:

Since this is an offence provision, the amendment seeks to fill the gap in the offence by also providing that it will be an offence to wilfully fail to display a permit.

CLAUSE 133

THAT, clause 133 of the Bill be amended by deleting “five hundred thousand” appearing immediately after the words “conviction to a fine not exceeding” and substituting therefor the words “one million”.

Justification:

The amendment seeks to increase the penalty in order to make the offence more punitive to deter would-be offenders.

CLAUSE 134

THAT, clause 134 of the Bill be amended by—

- (a) inserting the word “or Collector” immediately after the word “Board,”
- (b) inserting the word “of accounts” immediately after the words “misleading statement”.

Justification:

The amendment seeks to provide clarity in the offence and to correct a typographical error.

CLAUSE 142

THAT, the Bill be amended by deleting clause 142 and substituting therefor the following new clause—

Prohibition against unlicensed bookmaking. 142. (1) A person who wilfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years or to both.

(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker.

(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.

Justification:

The amendment seeks to increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill.

CLAUSE 144

THAT, clause 144 of the Bill be amended in sub-clause (2) by deleting the word "section" appearing immediately after the words "the provisions of" and substituting therefor the word "subsection".

Justification:

The amendment seeks to correct a typographical error.

CLAUSE 155

THAT, clause 155 of the Bill be amended by inserting the words "the Authority or" immediately after the words "any condition imposed by".

Justification:

The amendment seeks to bring clarity to the penalty prescribed since a licence is issued by the Authority.

CLAUSE 162

THAT, clause 162 of the Bill be amended in subclause (2) by inserting the following paragraph immediately after paragraph (g)—

“(ga) fees or levies charged under this Act;”

Justification:

The Committee has proposed amendments to clause 11 to provide for one of the powers of the Authority as to charge fees and levies. New Clause 37A provides for a gaming levy. Hence there is need to provide for it in clause 162.

SIXTH SCHEDULE

THAT, the Sixth Schedule of the Bill be amended—

- (a) in paragraph (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and substituting therefor the words “remain valid for the period of the license”
- (b) by deleting paragraph (2) and substituting therefor the following new paragraph—

“(2) Upon expiry of licence referred to in paragraph (1), a person licensed under the repealed Act shall apply to the Board afresh for a new licence.”
- (c) by deleting paragraph (4).

Justification:

The amendment seeks to avoid disruption of business within the license period.

The Committee unanimously adopted the report after having been proposed and seconded by the Hon. Jeremiah Lomorukai, MP and the Hon. Kubai Iringo, MP respectively.

MIN.NO.NA/SCT/2020/119: ANY OTHER BUSINESS

1. The Chairperson reminded informed Members of the planned report writing retreat from 1st to 4th October, 2020.
2. He also reminded Members of the Continental Tour which will officially be opened by the President on 3rd October, 2020 at Nyayo Stadium and urged Members to attend after the retreat especially on Wednesday, 7th October, 2020.

MIN.NO.NA/SCT/2020/120: ADJOURNMENT AND DATE OF NEXT MEETING

The time being thirty minutes past Eleven O'clock, the meeting was adjourned. The date for the next meeting will be communicated to members.

Signed.....

HON. PATRICK MAKAU KINGÓLA, M.P
(CHAIRPERSON)

Date.....

REPUBLIC OF KENYA

Twelfth Parliament



Fourth Session

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (FOURTH SESSION)

**MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
SPORTS, CULTURE AND TOURISM HELD ON TUESDAY 29TH SEPTEMBER, 2020
IN THE BOARDROOM ON 9TH FLOOR, HARAMBEE PLAZA AT 11:30 AM**

PRESENT

- | | | |
|---|---|-------------------------|
| 1. The Hon. Patrick Makau King'ola, MP. | - | Chairperson |
| 2. The Hon. (Dr.) Korei Ole Lemein, MP. | - | Vice Chairperson |
| 3. The Hon. Christopher Omulele, MP. | | |
| 4. The Hon. Kubai Iringo, MP. | | |
| 5. The Hon. Jones Mlolwa, MP. | | |
| 6. The Hon. Daniel Wanyama Sitati, MP. | | |
| 7. The Hon. (Prof.) Jacqueline Oduol, MP. | | |
| 8. The Hon. (Dr.) Tecla Chebet Tum, MP. | | |
| 9. The Hon. Sylvanus Maritim, MP. | | |
| 10. The Hon. Jeremiah Lomorukai, MP. | | |
| 11. The Hon. Charles Ngusya Nguna, MP. | | |
| 12. The Hon. Titus Mukhwana Khamala, MP. | | |
| 13. The Hon. Mohamed Hire Garane, MP. | | |
| 14. The Hon. Florence Chepngetich Koskey, MP. | | |

APOLOGY

1. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
2. The Hon. Lydia Haika Mnene Mizighi, MP.
3. The Hon. Beatrice Kones, MP.
4. The Hon. Jayne Nyeri Wanjiru Kihara, MP.
5. The Hon. Nelson Koech, MP.

IN-ATTENDANCE -NATIONAL ASSEMBLY

THE SECRETARIAT

- | | | |
|------------------------|---|------------------------|
| 1. Mr. Fredrick Otieno | - | Second Clerk Assistant |
| 2. Mr. Salem Lorot | - | Legal Counsel II |

- 3. Ms. Sheila Chebotibin - Sergeant At-Arms Officer
- 4. MS. Jane Serem - Audio Officer

MIN.NO.NA/SCT/2020/112: PRELIMINARIES & ADOPTION OF AGENDA

The Chairperson called the meeting to order at half past eleven O'clock and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. Daniel Wanyama, MP. and the Hon. Kubai Iringo, MP. respectively.

Agenda:

- 1. Prayers
- 2. Introductions/preliminaries
- 3. Communication from the Chair
- 4. Confirmation of Previous Minutes
- 5. Matters arising
- 6. Pending Bills: one (1)
 - i. The Kenya National Library Service Bill (National Assembly Bill No. 5 of 2020)
- 7. Pending Petition(s): None
- 8. Questions: One (1)
 - i. Question by the Member for Kuresoi South, Hon. Joseph Tonui, MP to the Cabinet Secretary, Ministry of Sports, Culture and Heritage
- 9. Statements: One (1)
 - i. Statement by the Hon. Tom Mboya Odege, MP. Nyatike Constituency regarding mismanagement and gross malpractices at Kenya Utalii College
- 10. **Agenda: Consideration and adoption of the Addendum Report on consideration of Proposed Amendments to the Gaming Bill, 2019 by the Ministry of Interior and Coordination of National Government and the Ministry of Sport, Culture and Heritage.**
- 11. Any Other Business
- 12. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2020/113: - CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

Confirmation of the minutes of the previous sittings were deferred to the next sitting.

MIN.NO.NA/SCT/2020/114: CONSIDERATION OF THE ADDENDUM REPORT ON CONSIDERATION OF THE AMENDMENTS TO THE GAMING BILL, 2019

The Committee considered the report and adopted the following Committee Stage amendments:

CLAUSE 2

THAT, clause 2 of the Bill be amended —

- (a) by inserting the following new definition in its proper alphabetical order—

- ““Collector” means the Commissioner General of the Kenya Revenue Authority;”
“promoter” means a person licenced to run and operate a lottery;””
(b) by deleting the definition “Fund” and substituting therefor the following new definition—
““Fund” means the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012;””

Justification:

The term collector as appearing under clause 37(2) needs to be defined to reflect the tax collecting body/agency. The term has also been used in other provisions in the Bill.

It is critical to define who a promoter is in the context of betting, lottery and gaming. The term appears in various clauses including 49 (4), 52(2) (3)53(2)(d).

It is proposed that the Fund be defined in the manner provided since there are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 3

THAT, clause 3 of the Bill be amended in paragraph (d) by deleting the words “the National Lottery Trust Fund” appearing immediately after the words “the National Gaming Authority”.

Justification:

There are amendments seeking to delete Part X of the Bill providing for the establishment of the National Lottery Distribution Trust Fund and instead making reference to the Sports, Arts and Social Development Fund.

CLAUSE 5

THAT, clause 5 of the Bill be amended —

- (a) in paragraph (b) by inserting the words “single business” immediately after the word “issue”;
- (b) by deleting paragraph (c).

Justification:

The first amendment provides clarity on the kind of permit that is issued.

Clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to (i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act; (ii)investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties. The amendment therefore seeks to remove the conflict between what is provided in clause 10(1) (h) and (i) and clause 5(c).

CLAUSE 7

THAT, clause 7 of the Bill be amended in sub-clause (1)—

- (i) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) Principal Secretary responsible for matters relating to sports or a representative designated in writing;”
- (ii) by inserting the following new paragraph immediately after paragraph (e)—
“(ea) Principal Secretary responsible for matters relating to culture or a representative designated in writing;”
- (iii) by deleting paragraph (f) and substituting therefor the following new paragraph—
“(f) two persons with knowledge and experience in gaming one of whom shall be nominated by the umbrella body of the operators in the gaming industry”;

Justification:

Betting and lotteries and the revenues thereon depend greatly on sporting activities hence the need for representation from Sports since it is a key stakeholder. The State Department for Culture is also a key stakeholder since sports and arts are related.

CLAUSE 8

THAT, clause 8 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) has been convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months;”

Justification:

The amendment seeks to ensure compliance with Chapter Six of the Constitution 2010 and Leadership and Integrity Act, No. 19 of 2012 by including all other criminal offences and not only fraud and dishonesty.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in the introductory statement by—
 - (i) inserting the word “of” immediately after the word “functions”;
 - (ii) by deleting the expression “(1)”;
- (b) in sub-clause (1) (f) by inserting the words “for compliance with regulatory authorities” at the end of the paragraph.

Justification:

The amendments seek to correct typographical errors and also seek to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction.

CLAUSE 26

THAT, clause 26 of the Bill be amended —

- (a) by deleting sub-clause (2) and substituting therefor the following new subclause—
“(2) Where the revocation of a licence is contemplated under subsection (1), the Board shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation.”
- (b) by deleting sub-clause (3) and substituting therefor the following new subclause—
“(3) A notice issued under sub-section (2) shall be served not less than twenty one days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.”
- (c) in sub-clause (6) by deleting the word “Tribunal” appearing immediately after the words “may appeal to the” and substituting therefor the words “Committee”.

Justification:

The amendment seeks to provide for fair administrative action by providing that grounds of revocation of a licence shall be specified. Further, since there is an amendment to replace the Tribunal with a Gaming Appeals Committee, the amendment seeks to make this alignment.

CLAUSE 31

THAT, clause 31 of the Bill be amended by deleting the words “one hundred thousand shillings” and substitute therefore with the words “the prescribed fees”.

Justification:

The amendment seeks to use the words “prescribed fees” instead of a specified amount since fees shall be prescribed from time to time by the Cabinet Secretary and will not necessitate an amendment to the legislation.

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) The Collector shall pay all the proceeds of tax paid under sub clause (2) into the Fund.”

Justification:

The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018. If the Betting, Lotteries and Gaming Act is repealed and the proposed amendment is not included, the revenues of the Sports, Arts and Social Development Fund as well as programs/projects that are being financed from those funds will be adversely affected.

CLAUSE 42

THAT, clause 42 of the Bill be amended in sub-clause (2) by inserting the words “and with assistance of the Board” immediately after the word “transfer”.

Justification:

Carrying out investigations is one of the powers accorded to the Authority by the Bill. Therefore, the amendment seeks to provide that a county government shall, upon receipt of an application to transfer, and with the assistance of the Board carry out an investigation on the suitability of a proposed permit holder.

CLAUSE 46

THAT, clause 46 of the Bill be amended in sub-clause (1) by deleting the words “make totalisator’s rules” and substituting therefor the words “rules for the operation of totalisators”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 50

THAT, clause 50 of the Bill be amended in sub-clause (2) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) shall guarantee the expected proceeds of the lottery or any part thereof;”

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 60

THAT, clause 60 of the Bill be amended in sub-clause (1) by deleting the word “fifty” appearing immediately after the words “of less than” and substituting therefor the words “one hundred”.

Justification:

The amendment seeks to discourage gambling and to deter a licensee from allowing illegal gaming.

CLAUSE 62

THAT, clause 62 of the Bill be amended in sub-clause (4)—

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting the letter “a”;
- (c) by inserting the following new paragraph immediately after paragraph (b)—

“(ba) mobile money transfer;”

Justification:

The amendment seeks to remove the use of credit cards to gamble or bet, seeks to correct a typographical error and seeks to provide for other modes of payments which a player may use, that is mobile money transfer.

CLAUSE 71

THAT, clause 71 of the Bill be amended in sub-clause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) there is no direct or indirect financial interest on any applicant by an office bearer of a political party; and”

Justification:

The amendment seeks to provide clarity to the paragraph.

CLAUSE 80

THAT, clause 80 of the Bill be amended in sub-clause (5) by deleting the expression “(3)” and substituting therefor the expression “(4)”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 82

THAT, clause 82 of the Bill be amended in subclause (3) by deleting the word “paragraph” appearing immediately after the words “to which” and substituting therefor the word “subsection”.

Justification:

The amendment seeks to correct typographical errors.

CLAUSE 87

THAT, clause 87 of the Bill be amended—

- (a) in the introductory words to sub-clause (2) by inserting the words “the following, and not limited to—” immediately after the word “audit”;
- (b) in subclause (2) (d) by deleting the word “of” appearing immediately after the word “compliance” and substituting therefor the word “with”.

Justification:

The amendments seek to expand the areas within which an audit can be performed and to correct a typographical error.

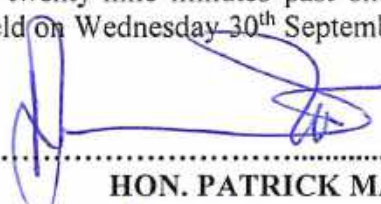
MIN.NO.NA/SCT/2020/115: ANY OTHER BUSINESS

1. The Hon. Daniel Wanyama expressed concerns over the urgent invitation for a retreat to the Committee by the Ministry of Sports, Culture and Heritage to consider amendments to the Gaming Bill, 2019 noting that this was an ambush to Members considering the importance of the agenda. It was resolved that any invitation to the Committee for a retreat or any activity by the Ministry or any stakeholder must be done within a framework of at least seven (7) days' notice.
2. Members sought to get updates from the State Department of Culture and Heritage on how Ksh.100 million that was meant to cushion local artistes from the effects of the coronavirus pandemic has been distributed. It was directed that the State Department should be invited to give detailed update on the matter and to further enlighten the Committee on other projects that the department is implementing.
3. The Chairperson informed Members of the planned retreat from 1st to 4th October, 2020.
4. He also informed Members of the Continental Tour which will officially be opened by the President on 3rd October, 2020 at Nyayo Stadium and urged Members to attend after the retreat especially on Wednesday.

MIN.NO.NA/SCT/2020/116: ADJOURNMENT AND DATE OF NEXT MEETING

The time being twenty-nine minutes past one O'clock, the meeting was adjourned. The next meeting to be held on Wednesday 30th September, 2020 at ten O'clock.

Signed.....



HON. PATRICK MAKAU KINGÓLA, M.P
(CHAIRPERSON)

Date.....

8/10/2020

REPUBLIC OF KENYA

Twelfth Parliament



Fourth Session

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (FOURTH SESSION)

**MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 3RD SEPTEMBER, 2020
IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.45AM**

PRESENT

- | | | |
|---|---|-------------------------|
| 1. The Hon. Patrick King'ola Makau, MP | - | Chairperson |
| 2. The Hon. (Dr.) Korei Ole Lemein, MP | - | Vice Chairperson |
| 3. The Hon. Christopher Omulele, MP. | | |
| 4. The Hon. Charles Ngusya Nguna, MP. | | |
| 5. The Hon. (Dr.) Tecla Chebet Tum, MP | | |
| 6. The Hon. Mohamed Hire Garane, MP | | |
| 7. The Hon. Sylvanus Maritim, MP. | | |
| 8. The Hon. (Prof.) Jacqueline Oduol, MP. | | |

APOLOGY

1. The Hon. Kubai Iringo, MP.
2. The Hon. Jones Mlolwa, MP.
3. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
4. The Hon. Titus Mukhwana Khamala, MP
5. The Hon. Daniel Wanyama Sitati, MP.
6. The Hon. Jayne Njeri Wanjiru Kihara, MP
7. The Hon. Beatrice Kones, MP
8. The Hon. Jeremiah Lomorukai, MP.
9. The Hon. Lydia Haika Mnene Mizighi, MP.
10. The Hon. Florence Chepngetich Koskey, MP
11. The Hon. Nelson Koech, MP

IN-ATTENDANCE -NATIONAL ASSEMBLY

THE SECRETARIAT

1. Mr. Samuel Kalama - Senior Clerk Assistant
2. Ms. Jane Serem - Audio Officer
3. Ms. Sheila Chebotibin - Sergeant At Arms Officer

MIN.NO.NA/SCT/2020/101: PRELIMINARIES & ADOPTION OF AGENDA

The Chairperson called the meeting to order at fifteen minutes to eleven O'clock and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. (Dr.) Korei Ole Lemein, MP and Hon. (Dr.) Tecla Chebet Tum, MP, respectively.

Agenda:

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of minutes of previous Sittings
5. Matters Arising
6. **Consideration of the proposed amendments on the Gaming Bill, 2019 by the Cabinet Secretary for Interior and Coordination of National Government**
7. Any Other Business
8. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2020/102: - CONFIRMATION OF PREVIOUS MINUTES

Minutes of the previous sitting was confirmed as follows:-

Minutes of the 23rd sitting held on Tuesday, 1st September, 2020 were confirmed as a true record of the proceedings having been proposed and Seconded by Hon. Christopher Omulele, MP and the Hon. (Dr.) Tecla Chebet Tum, MP, respectively.

MIN.NO.NA/SCT/2020/103: - MATTERS ARISING

Under MIN.NO.NA/SCT/2020/099:- ANY OTHER BUSINESS

The Chairperson informed the Committee the Clerk of the National Assembly approved the request by the Committee to undertake visits to four stadiums located in Machakos, Kiambu, Tharaka Nithi and Makueni Counties. The two sub committees established will visit the four stadia concurrently from Thursday, 10th to Saturday, 12th September, 2020.

MIN.NO.NA/SCT/2020/104: - CONSIDERATION OF PROPOSED AMENDMENTS BY THE CABINET SECRETARY FOR INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT TO THE GAMING BILL, 2019

The Chairperson invited the Legal Counsel to brief the Committee on the proposed amendments. The Legal Counsel thereupon briefed the Committee on the proposed amendments by the Cabinet Secretary as follows:-

1. The Committee has received a submission from the Ministry of Interior and Coordination of National Government in regard to the Gaming Bill (National Assembly Bill No. 38 of 2019) through a letter dated 11th August 2020.
2. The Ministry has proposed a raft of amendments to be included in the Committee's Committee Stage Amendments to the Gaming Bill.
3. The Gaming Bill, 2019 was published on 27th May, 2019 and read a First Time on 11th June, 2019 and thereafter committed to the Departmental Committee on Sports, Culture and Tourism for consideration pursuant to Standing Order 127.
4. Pursuant to Article 118 of the Constitution, the Committee invited comments from the public and informed them of the public hearings.
5. The following stakeholders submitted their memoranda to the Committee:
 - The Commission on Revenue Allocation
 - Shop and Deliver Ltd
 - Gamecode Ltd
 - The Directorate of Gaming and Betting Nairobi City County
 - Anjarwalla & Khanna
 - County Attorney- County Government of Mombasa
 - Association of Gaming Operators of Kenya
 - Kenya Charity Sweepstake
 - Vexlex Advisory
 - Gaming Awareness Society of Kenya
 - White Rhino Venture
6. The Gaming Bill, 2019 seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131) of 1966 by providing for the control and licensing of betting, casinos and other forms of

gambling; authorization of prize competitions and public lotteries; the establishment of the National Lottery; the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes.

7. The Bill seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131), an Act of Parliament that has been in existence since 1966. It further seeks to address various inadequacies in the existing Betting, Lotteries and Gaming Act.

Analysis of the Submission

Long title

Proposed amendment

Insertion of “gaming functions” instead of “betting functions”

The Committee rejected the proposed amendment for the following reasons:

- (i) The Committee had already provided in its amendment for the delineation of functions of the national and county governments;

The Fourth Schedule of the Constitution uses the term “betting”; Paragraph 34 of Part 1 of the Fourth Schedule provides for “national betting, casinos and other forms of gambling” whereas Paragraph 4(a) of Part 2 of the Fourth Schedule refers to “betting, casinos and other forms of gambling”.

Clause 2:

Definition of “Principal Secretary”

Amend clause 2 in the definition of “Principal Secretary” by deleting the word “Principle” appearing at the beginning of the definition and substituting therefor the word “Principal”

The Committee agreed to the proposed amendment. It had already provided for it in its Committee Stage Amendments

Clause 2: definition of “winnings”

Retain the definition of “winnings” as provided for in the Bill as follows:

“winnings” include prize of any kind;

The Committee rejected the proposed amendment.

Other stakeholders had raised concerns on the definition during public participation and the Committee amended the definition to address their concerns.

Clause 3

Amend clause 3 of the Bill by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) to establish the National Gaming Authority, the National Lottery, the National Lottery Distribution Trust Fund and the Gaming Appeals Committee;”

The Committee agreed to the proposed amendment. The Committee had already provided for it in its Committee Stage Amendments.

Justification:

For better operationalization of the Act and to provide for the implementers of the Act.

NEW 3A

Insert the following new clause immediately after clause 3:

3A. The guiding principles for the implementation of the Act shall be the following:

- (a) The need to prevent gambling from becoming a source of crime or disorder, being associated with crime or being used to support crime;
- (b) To ensure gambling is conducted in a fair and open way;
- (c) To ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;
- (d) Ensure gambling opportunities are controlled to a level which does not harm the public;
- (e) That gambling operations are not owned, operated or infiltrated by persons involved in crime;
- (f) Ensure gambling licenses are privileged and revocable and no holder acquires any vested right in such a license, in order to protect public interest;
- (g) To ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers
- (h) To prevent gambling from being associated with or used for money laundering and financing of terrorism or other unlawful activities;
- (i) Maximize the economic benefits derived from gambling to fund social causes;
- (j) Provide for an efficient and effective regulatory oversight framework for regulating national and county gambling.

Justification:

There is provision of guiding principles in the emerging practice areas in the gaming legislation worldwide for example Malta Gaming Act. Also, for the better operationalization of the Act and to provide a framework for the implementers of the Act.

The Committee rejected the proposed amendment. Clause 3 of the Bill which provides for the objects and purposes of the Act is sufficient.

Clause 5

Amend clause 5 of the Bill in paragraph (b) by inserting the words “single business” immediately after the word “issue”.

Justification:

Inspection and approval of the gaming premises is the function of the Authority.

The Committee agreed to the proposed amendment since it clarifies what type of business permit the paragraph is referring to.

Amend clause 5 of the Bill by deleting paragraph (c).

The Committee agreed to the proposed amendment and had already provided for it in the Committee Stage Amendments.

Clause 7

Delete new paragraph (fa) provided for by the Committee in its Committee Stage Amendments.

Justification:

This will impede the regulator from effectively discharging its mandate. To retain the recommendations in the report on the consideration of the Gaming Bill, 2019 dated 14th November.

The Committee rejected the proposed amendment and further recommended that its earlier amendment be revised by deleting clause 7 (ii) (e).

The Committee had provided, in new paragraph (fa), for one person nominated by the umbrella body of the operators in the gaming industry.

The Committee further recommended deletion of the amendment seeking to replace the Principal Secretary for Information, Communication and Technology with the Director-General of the Communications Authority of Kenya.

Clause 10

Amend clause 10 of the Bill in subclause (1) (i) by deleting the word “of” after the word “compliance” and substituting therefor the word “with” and delete the words “by the counties” appearing immediately after the word “Act to read:

(i) investigate, monitor and evaluate compliance with policies and regulations established under this Act

Justification:

To correct typographical errorsThe Committee rejected the proposed amendment because there is no typographical error in the paragraph.

The Committee agreed to the proposed amendment and had already provided for it in the Committee Stage Amendments.

Amend clause 10(1) by inserting the following new paragraph—

(ea) to conduct security checks, vetting and due diligence in respect of gaming activities

Justification:

To enhance the powers of the Board

The Committee rejected the proposed amendment because the function may be abused

Amend clause 10 by deleting the expression “(1)” at the beginning of the clause

The Committee agreed to the proposed amendment and had already provided for it in the Committee Stage Amendments.

Delete clause 10 and substitute it with the following:

10. The main functions of the Authority shall be to-

(1) (a) to be the principal agency at both levels of government in the implementation of all policies relating to gaming;

(b) Exercise general supervision and co-ordination over all matters relating to gaming at national and county levels;

(c) Advise the Cabinet Secretary on the formulation of overall policies, norms, standards for the conduct of betting casinos and other forms of gaming;

(d) Co-ordinate national, county and concurrent national and county functions relating to betting, casinos and other forms of gaming in accordance with this Act;

(2) In performance of its functions under this Act, the Authority shall-

a. Establish and maintain at the national level:-

b. A probity register

i. A national register of games, gaming machines and devices

ii. The national central electronic gaming monitoring system

iii. The national register of excluded persons, and

iv. A central registry of gaming information including data relating to betting, casinos and other forms of gaming in the country;

c. Issue licences in accordance with this Act;

d. Issue conditions of national gaming licenses issued in accordance with this Act and regulations made thereunder and enforce compliance therewith

e. Conduct security checks, vetting and due diligence in respect of gaming activities

f. Define standards, principles and procedures in respect of operations, premises, equipment, personnel, supplies of services and enforcing compliance herewith;

g. Monitor and evaluate, when necessary, the issuance of permits by the Counties to ensure compliance with the Act;

h. Investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies and making recommendations to the Cabinet Secretary in relation to such matters.

i. Undertake and coordinate research and surveys in the field of gaming, and monitor social economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of-

i. The social economic impact of gaming; and

ii. Addictive or compulsive gaming

- j. Conduct oversight evaluations of the performance of counties so as to ensure national norms, standards established by this Act are applied uniformly and consistently throughout the country;
- k. Assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with appropriately
- l. During the subsistence of a license or permit, cancel, suspend or vary such license after giving the licensee or a permit holder opportunity to show cause against the cancellation, suspension or variation
- m. Coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;
- n. Advise counties on matters relating to gaming operations;
- o. Prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;
- p. Improve capacity of counties in matters relating to gaming functions;
- q. Register and issue annual gaming personnel licenses in the country
- r. Collaborate with the Ministry in the formulation of policy direction for purposes of this Act
- s. Promote co-operation and linkage among county governments, public departments, private sector and the regional international organizations engaged in the regulation of gaming;
- t. To inquire into complaints on matters arising under this Act.
- u. To perform all other functions conferred to it by this Act or any other written law

(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution.

Justification:

These powers are more comprehensive and touch on the day to day activities of the Board.

The Committee rejected the proposed amendment.

The Committee had rejected the proposed amendment in its report and gave the following reasons:

- (i) Although the proposed functions for the Authority are detailed, many and specific, they reiterate the functions as proposed in the Bill;
- (ii) The details as to how the Authority will carry out its function are provided for in the substantive provisions in the Bill;
- (iii) Clause 162 of the Bill provides for matters which would be provided for in regulations, including the procedure to be followed by the Board in exercising any powers conferred upon it by the Act;
- (iv) The delineation of functions between the national government and county governments have been provided for in clauses 4 and 5 of the Bill;
- (v) Most of the functions listed in the proposed amendment are provided for in the Bill.

Clause 16

Amend clause 16 of the Bill in subclause (1) by inserting the words “including gaming inspectors” immediately after the word “staff”.

The Committee rejected the proposed amendment. Clause 156 of the Bill provides for a gaming inspector.

New clause 16A

Insert the following new clause immediately after clause 16

Gaming Inspectors

16A. (1) A gaming inspector shall have the following functions-

- (a) to inspect gaming premises to ensure compliance with the provisions of this Act;
- (b) to monitor the operations of all licensed gaming operations;
- (c) to examine equipment and devices used in gaming and records kept in respect of the gaming activities;
- (d) to monitor the handling and counting of money on casino premises;
- (e) to assist in any manner where necessary in the detection of offences committed under this Act on all gaming premises;
- (f) to receive and investigate complaints from gaming patrons, licensees or members of the public relating to the conduct of gaming;
- (g) to report to the Board on the conduct of gaming operations; and
- (h) to perform any other functions incidental to the foregoing.

(2) In the performance of the functions specified under subsection (1) a gaming inspector shall have the powers to-

- (a) require any person in possession of, or having control of, any machinery, equipment, device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto;
- (b) inspect any such machinery, equipment, device or records and take copies of, extracts from or notes relating to, those records;
- (c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence;
- (d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act;
- (e) require, by written notice, any licensee, any employee of the licensee or any other person associated with the operations or management;
- (f) of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;
- (g) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;
- (h) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and
- (i) do any other thing authorized to be done by the Board under this Act.

(3) If an inspector seizes anything under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.

Justification:

To provide for powers to the gaming inspectors to ensure effective performance of the functions of the Authority.

Clause 156 of the Bill refers to gaming inspectors but there is no provision of gaming inspectors who are also expected to enforce the Act as it is with other enforcement statutes such as immigration officers.

This is also the practice in other jurisdictions such as Singapore, Nevada, New Jersey, Macau and others.

The Committee had rejected the amendment in its report for the following reasons:

- (i) Clause 156 of the Bill provides for the power of a gaming inspector or a police officer to enter without warrant and inspect premises;

(ii) Clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.

Clause 16B

Insert the following new clause—

“Section 16B - Seizure and forfeiture of equipment and devices”

“Section 16B a Gaming Inspector may seize;

(a) anything that the Gaming Inspector reasonably suspects is a gaming equipment that is not authorized under this Act to be on the gaming premises or;

(b) any item or thing the use or possession of which is unlawful.

Justification:

To protect the public from the use of illegal, substandard or unauthorised gaming equipment.

The Committee rejected the proposed amendment.

The Committee had earlier rejected the amendment in its report since clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.

Clause 18

That Clause 18 be amended by deleting the words “subject to section 19”.

Justification:

The amendment is proposed because there is a proposed deletion of clause 19

The Committee rejected the proposed amendment

Delete clause 19

That clause 19 be deleted

Justification:

The provision impedes effective implementation of the Act.

Justification:

The provision impedes effective implementation of the Act.

The Committee rejected the proposed amendment. The Committee had rejected the proposed amendment in its report since clause 19 is an important provision that provides that the Authority shall pay compensation or damages to any person for any injury occasioned on the person or the person's property or any interests.

Clause 21

Amend the marginal note to clause 21 to read "requirements for a licence".

The Committee agreed to the proposed amendment. However, the correction will be done during preparation of vellum.

Delete clause 21 and 22 and replace them with the following new clauses—

21. (1) No person shall conduct any betting, lotteries, gaming or any activities related thereto unless such person applies for and obtains a license from the Board.

(2) A person who desires to obtain, renew or vary a license under this Act shall make an application to the Board in the prescribed form.

(3) On receipt of an application under subsection (2), the Board shall make such investigations or require the submission of such declarations or further information as it may deem necessary in order to enable it to examine the application.

(4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or refuse to grant a licence or renewal or variation thereof and shall, where the issuance or renewal is refused, furnish the applicant with the reasons for such refusal:

Provided that—

- (a) no license shall be issued under this Act until the Board satisfies itself that the applicant—
- i. is a fit and proper person to hold the licence,
 - ii. holds a valid certificate of good conduct from the relevant authority
 - iii. has paid the prescribed application fee
 - iv. in case of a foreign company, fifty percent of its shares is owned by Kenyan(s)
 - v. maintains an account with an authorized financial institution into which it pays all monies relating to the licensed gaming activity
 - vi. has provided certified copies of bank deposit slips evidencing payment of applicable taxes as prescribed by law
 - vii. has demonstrated possession of financial and technical capacity to operate a gaming activity applied for
 - viii. has deposited the requisite security or cash deposit as prescribed in this Act
 - ix. has submitted such declarations and information as required under the Act or the regulations to enable the Board process the application

- x. that the premises, if any, in respect of which the application is made are suitable for the purpose and
- xi. that the activity in which the license is sought is legitimate under this Act;

(5) For purposes of this section, "fit and proper person" means a person who has not committed offences involving any of the following -

- a) fraud;
- b) money laundering;
- c) dishonesty;
- d) violence;
- e) drugs and drug trafficking;
- f) any form of organized crime; or
- g) any other conduct as the board may determine.

(6) The board in determining whether an applicant is suitable to hold a licence under this Act shall consider-

- a) the financial status or solvency of the person;
- b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which if the application is granted, the person shall perform;
- c) the status of any other licence or approval granted to the applicant by any financial sector regulator;
- d) the ability of the applicant to carry on the regulated activity competently, honestly and fairly and
- e) the reputation, character, financial integrity and reliability~
 - (i) in the case of a natural person; or
 - (ii) in the case of a company, its chairperson, directors, chief executive, management and all other personnel, including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company.

(7) Without prejudice to the generality of subsection (6) the Board may, in considering whether the applicant is fit and proper –

- (h) Take into account whether the applicant –
 - (i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice in gaming or other business;
 - (ii) was a director of a liquidated entity;
 - (iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial to public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;

(iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that applicant or

(v) denied any gaming licence or permit in any country.

(i) Take into account any information in the possession of the board whether provided by the applicant or not relating to –

(i) Any person who is to be employed with, or shall be acting for or on behalf of, the applicant for the purposes of a regulated activity including an agent; and

(ii) Where the applicant is a company in a group of companies, any other company in the same group of companies or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;

(c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and

(d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.

(8) The Board shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.

(9) an applicant who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.

The Committee rejected the proposed amendment since the licensing procedure will be provided for in regulations as contemplated under clause 162(2) (b) which provides for “the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act”.

Clause 22

Delete clause 22 and substitute therefor the following new clause—

The Cabinet Secretary shall from time to time through a gazette notice prescribe applicable fees for each of the licenses

The Committee rejected the proposed amendment since the Second Schedule of the Bill provides for the licence fees.

Clause 23

Amend clause 23 of the Bill in subclause (2) (c) by deleting the expression “22” and substituting therefor the expression “21”

Justification:

Due to the amendments above.

The Committee rejected the proposed amendment since it had rejected the previous amendment.

Clause 26

Amend clause 26 by deleting subclauses (2) and (3) and substituting them therefor with the following new subclauses—

“(2) where the revocation of a license is contemplated under subsection (1), the Board shall serve the licensee with a notice of intended revocation specifying the grounds for such revocation.

(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.”

Justification:

For the purposes of granting an opportunity for fair administrative action.

The Committee agreed to the proposed amendment. The amendment has already provided for the amendment in the Committee’s Committee Stage Amendments

Clause 26

Amend clause 26 by deleting subclause (6) and substituting therefor the following new subclause;

(6) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the licensee.

Justification:

To align it with the mandate of the Gaming Appeals Committee

The Committee agreed to the proposed amendment.

Clause 27

That clause 27 be deleted and substitute therefor the following new clause—

Every licence issued under this Act shall, unless therewith otherwise provided expire on the 30th June next following the date of issue.

The Committee rejected the proposed amendment since the clause provides that the duration of every licence issued under the Act shall vary for each gaming and betting activity

Clause 31

Amend clause 31 by deleting the words “one hundred thousand shillings” and substituting therefore the words “the prescribed fees” to read:

“31. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of the prescribed fees.”

The Committee agreed to the proposed amendment. The Committee had already provided for the amendment in its Committee Stage Amendments.

Clause 40

Amend clause 40(2), (3), (4) and (6)

Amend clause 40 by deleting subclauses (2), (3), (4) and (6) substituting therefor with the following new subclauses;

(2) where a license is revoked by the Board, under subsection (1), County Government shall serve the permit holder with a notice of intended revocation of a permit specifying the grounds for such revocation

(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the permit holder will be required to provide a written explanation as to why the permit should not be revoked;

(4) the revocation of a permit shall take effect upon the expiry of the notice issued under subsection (3).

(6) A person aggrieved by the decision of the County Government under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the permit holder

The Committee rejected the proposed amendment.

The Committee had rejected the proposed amendment in its earlier report because this should be provided for in regulations. Clause 162(2) (b) of the Bill provides for regulations to be made to provide for the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under the Act

Clause 42

Amend clause 42(2) by inserting the words “and with assistance of the Authority” immediately after the word “transfer” to read “(2) A county government shall, upon receipt of an application to transfer and with assistance of the Authority, carry out an investigation on the suitability of a proposed permit holder”

The Committee agreed to the proposed amendment.

Clause 46

Amend by deleting sub-clause (1) and substitute with the following words “the Authority may prescribe rules for the operations of a totalisator”

Justification:

To correct grammar

The Committee agreed to the proposed amendment. The Committee had already provided for the amendment in its Committee Stage Amendments.

Clause 46 (6)

Amend clause 46(6) by deleting sub-section (1) and substitute with the following words “the Authority may prescribe rules for the operations of a totalisator”

Justification:

Its already covered in Part X, Clause 144 of the Bill.

The Committee rejected the proposed amendment.

The Committee had rejected the proposed amendment since the elements of the offences in clause 46 and clause 144 are different.

Clause 50

Delete sub-clause (2) (c) and substitute therefor with the following new paragraph

“(2) (c) shall guarantee the expected proceeds of the lottery or any part thereof;”

Justification:

To make the paragraph coherent

The Committee agreed to the proposed amendment.

The amendment seeks to insert in paragraph (c) the words “of the lottery” immediately after the words “expected proceeds”. This brings clarity to the paragraph.

Clause 59

Replace “Board” with “Authority”

The Committee rejected the proposed amendment.

The Committee had earlier rejected the proposed amendment since it proposes to delete clause 68 of the Bill.

The Committee rejected the proposed amendment for the following reasons:

- (i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;
- (ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;

It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.

Clause 59 (3)

Amend clause 59 by deleting subclause (3) and substituting therefor the following new subclause—

“(3) if a prize is not credited to the winner’s account as prescribed in sub-section (1) or it is not collected within a period of three months after the winner has been notified of the place and time where the prize maybe collected, a licensee shall surrender such uncredited or unclaimed prize to the Authority and the Authority shall determine the manner in which such prize will be disposed of.”

The Committee rejected the proposed amendment.

The Committee had rejected the proposed amendment in its report for the following reasons—

- (i) Surrender of unclaimed financial assets falls within the ambit of the Unclaimed Financial Assets Authority under the Unclaimed Financial Assets Authority;

Clause 64 (2) of the Bill takes cognisance of this and if the proposed amendment is retained, it will conflict with clause 64(2) of the Bill.

Clause 60

Amend by deleting the word “fifty” and substitute therefor with the words “one hundred”

Justification:

To promote responsible gaming and to prevent addictive gaming

The Committee agreed to the proposed amendment

Clause 60

Amend clause 61 by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”

Justification:

To correct typographical errors

The Committee rejected the proposed amendment.

The provisions have no typographical errors

Amend clause 61 in subclause (5) by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”

Justification:

To correct typographical errors

The Committee agreed to the proposed amendment

Amend to provide for mobile money transfer

Clause 62

Amend clause 62 in subclause (4) by deleting the word “a” appearing in paragraphs (a) & (b)

The Committee agreed to the proposed amendment. The amendment has been provided for under the Committee’s amendment to Clause 62.

Clause 62(4)

Amend to provide for mobile money transfer

Amend clause 62 in sub-clause (4) by deleting the word “a” appearing in paragraphs (a) & (b)

The Committee agreed to the proposed amendment.

The amendment has been provided for under the Committee’s amendment to Clause 62.

Clause 64

Amend by deleting clause 64 (1) and (2) and substitute therefor with the following new subclauses

(1) where a transaction has not been recorded in a player’s account for three consecutive months, the licensee shall deactivate the account and report such an incident to the Authority

(2) before deactivating the players’ account as contemplated under sub-section (1), the licensee shall notify the player of the intended action and such notification shall be copied to the Authority

(3) where a player's account has been deactivated under this Section, and reported to the Authority, the licensee shall not be allowed to transact with the players' deposits or activate the account without an express approval by the Authority

(4) if the player does not claim the amount held in the deactivated account after three months, the licensee shall remit the same to the Authority save for the expenses incurred by the licensee

(5) no claim shall lie against the Authority or the licensee who has remitted money in the player's account under this section to the Authority"

Justification:

To ensure betting platforms are not used for money laundering and other criminal activities.
The Committee agreed to the proposed amendment.

The amendment has been provided for under the Committee's amendment to Clause 62.

Clause 73

Amend clause 73 by deleting sub-clause (3) and substituting therefor with the following new sub-clause

"(3) The Authority shall, before granting a license under this Section, satisfy itself that-

- (a) The applicant has appropriate knowledge or experience to conduct a National Lottery in accordance with this Act and any other written law
- (b) The applicant has the necessary financial and relevant technical capability to conduct the lottery
- (c) No political party or political office bearer has any direct or indirect financial interest in the licensed applicant or shareholder thereof
- (d) The applicant is fit and proper person to conduct the lottery.

Justification:

This will ensure that the operator has appropriate technical and financial capacity to conduct a lottery and it will also ensure that the objective of the lottery is achieved by the operator as well as the integrity of the conduct of the lottery.

The Committee rejected the proposed amendment except for paragraph (c). The Committee, in its report, had rejected the proposed amendment save for condition in paragraph (c) which enriches the existing paragraph (c) in the Bill. Clause 71 of the Committee's amendments reflects this.

The Committee rejected the proposed amendment except for paragraph (c).

The Committee, in its report, had rejected the proposed amendment save for condition in paragraph (c) which enriches the existing paragraph (c) in the Bill. Clause 71 of the Committee's amendments reflects this.

Clause 80

Amend clause 80 by deleting subclause (5) and substituting therefor the following new subclause
“(5) Agent authorization under sub-section (4) shall be in writing and shall be subject to such terms and conditions as may be determined by the licensee with the approval of the Authority”

Justification:

To align with sub-clause (4) on agent authorization

The Committee agreed to the proposed amendment. This had already been provided for by Committee in its Committee Stage Amendments to Clause 80.

Clause 80 (6)

Amend clause 80 of the Bill in subclause (6) by deleting the word “prize” appearing after the word “and” and substituting therefor with the word “price”

Justification:

To correct a typographical error

The Committee rejected the proposed amendment since the subclause does not contain a typographical error.

Amend clause 82 in subclause (3) by deleting the word “paragraph” appearing immediately after the word “which” and substituting therefor the word “subsection”.

Justification:

To amend a typographical error.

The Committee agreed to the proposed amendment.

Clause 82

Amend clause 82 in subclause (2) by inserting the words “the following, and not limited to-” immediately after the word “audit”.

Justification:

To amend a typographical error

The Committee agreed to the proposed amendment

Clause 87(2)

Amend clause 82 in subclause (2) (d) by deleting the word “of” immediately after the word “compliance” and substituting therefor the word “with”.

Justification:

To amend a typographical error

The Committee agreed to the proposed amendment

Clause 89

That clause 89 of the Bill in subclause (1) (d) by deleting the word “Board” and substituting therefor the word “Fund”

Justification:

The clause deals with the National Lottery Distribution Fund and not the Board of the Authority.

The Committee seeks to delete Part X of the Bill, including clause 89 of the Bill.

Clause 91 (1) (f)

Amend clause 91(1) (f)

Amend by deleting paragraph (f) and inserting a new paragraph (f) to read as follows the words “managing trustee who shall be an ex officio member”

The Committee seeks to delete Part X of the Bill, including clause 91 of the Bill.

Clause 91(1)

Amend clause 91 of the Bill in sub-clause (1) by inserting a new paragraph as (g) to read:

“(g) The Director-General of the Authority or any designated person”

The Committee seeks to delete Part X of the Bill, including clause 91 of the Bill.

Clause 98

Amend clause 98 by deleting the word “sports” and inserting the words “social economic activities”.

Justification:

The term “social economic activities” is broader and includes sports and other activities.

The Committee seeks to delete Part X of the Bill, including clause 98 of the Bill.

Clause 100

Amend clause 100 of the Bill in sub-clause (4) by deleting the words “National Assembly” and substituting therefor the words “Cabinet Secretary, responsible for National Treasury”

Justification:

The annual estimates are submitted through the Cabinet Secretary responsible for National Treasury.

The Committee seeks to delete Part X of the Bill, including clause 100 of the Bill.

New Clause 100A

Amend by inserting a new Section 100A on Exemption to read; Notwithstanding any other provisions of this Act, the following sections of this Act shall not apply to the National Lottery and the National Lottery Distribution Trust fund-

- (a) Section 27 Duration of licenses and permits;
- (b) section 49 Authorization of public Lotteries for charitable purposes
- (c) Section 52 Lottery conducted for charitable, sporting or other purposes;
- (d) Section 53 Lottery incidental to entertainment; and
- (e) Section 54 Private Lottery

Justification:

National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries

The Committee agreed to the proposed amendment.

Clause 107

Amend by deleting section 107 and substituting therefor with the following new section:

107. (1) The Authority may issue an amusement license authorizing the use of an amusement machine in a licensed premise.

(2) A license issued under this section shall be subject to such conditions as the Authority may impose and in every case to the condition that no person under the age of eighteen years shall play an amusement machine unless

in the presence of, and with the permission of, his parent or guardian.

(3) Any person who—

(a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or

(b) contravenes or allows the contravention of any condition provided for or imposed by the Authority under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

(4) In this section, “amusement machine” means a machine, other than a gaming machine –

(a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and

(b) whereby a successful player neither receives nor is offered any benefit other than –

(c) the opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or

(d) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.

Justification:

It is the mandate of the Authority to regulate and control all forms of gaming including the use of Amusement machines

The current legal framework does not provide mechanism to regulate to use of Amusement machines thereby enabling abuse.

The Committee rejected the proposed amendment

Clause 108

Amend clause 108 by deleting the word “Permit” and substituting therefor the word” Licence”

Justification:

To correct a typographical error.

The Committee agreed to the proposed amendment.

Amend subclause 110 (1) by deleting the word “Betting and” appearing before the word “gaming”

Justification:

Betting Machines are covered under subclause (2)

Amend subclause (1) by deleting the word “Betting and” appearing before the word “gaming”

Justification:

Betting Machines are covered under subclause (2)

The Committee agreed to the proposed amendments

Clause 110 (1) (a)

Amend subclause (1) paragraph(a) by deleting the word “a” appearing before the word “licensed”

Justification:

To correct a typographical error

The Committee agreed to the proposed amendment but this will be done during preparation of vellum.

Amend subclause (2) by inserting the words “in licensed premises” immediately after the word’s “license”

Justification:

To correct a typographical error

The Committee rejected the proposed amendment.

Clause 38 of the Bill provides that a holder of a gaming licence shall apply for a permit from the respective county government for a premise within which the person intends to carry out gaming. Therefore, there is no need to restate the requirement in clause 110(2) of the Bill.

Insert the following new Part—

New Clause 110A

PART XIII — ADVERTISING OF GAMING

Gaming advertisement

110A. (1) No person shall promote the advertisement of a gaming activity, without the approval of the Authority, on any medium of electronic or any other form of communication by: -

- (a) holding himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;
- (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;
- (c) printing or publishing, or causes to be printed or published, any advertisement or notice;
- (d) using a prominent personality or celebrity, public vehicle or use of lifestyle advertising to promote gaming;
- (e) using false, misleading or deceptive message likely to create an erroneous positive impression of gaming;
- (f) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gaming;
- (g) advertising gaming by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.

(2) All gaming advertisements shall-

- (a) indicate the addictive nature of gaming;
 - (b) notify players to play reasonably;
 - (c) prohibit a child from playing;
 - (d) not feature a former winner with a view to encourage the general public to participate in gaming;
 - (e) not be erected on an advertisement billboard
 - (f) dedicate ten per centum of aired advertisements for responsible gaming.
- (3) All media companies holding licenses on gaming shall not use any of their broadcast channel to advertise or promote their gaming products or activities.
- (4) The Authority shall determine where, when and how gaming is to be advertised.
- (5) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both

The Committee rejected the proposed amendment.

The Committee had, in its report, agreed partly to the proposed amendment which has been incorporated in the amendments. This is reflected in Clause 158 of the Committee's amendments.

New Clause 110B

Insert the following new clause:

Gaming advertisement fee

110B. (1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement.

(2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.

Justification:

Advertisement charges should not be categorized as taxes.

It is a fee that should be payable to the Authority to enable it properly discharge its mandate.

The Committee rejected the proposed amendment. The Committee has an amendment to Clause 159 in its Committee Stage Amendments.

PART XIIB Protection of children

New Clause 110C

110C.(1) Notwithstanding any exceptions in this Act, no person shall offer, permit, entice, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises whether for the purpose of gaming or otherwise, plays a game of chance with, or permits the playing of a game by, a minor selling a gaming ticket, employment of a minor in the organization and management of gaming or engagement in the provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever.

(2) A person who violates the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both.

Justification:

To provide a clear legal framework for the protection of children against gambling.

The Committee rejected the proposed amendment.

The Committee had rejected the amendment earlier in its report because clause 153 of the Bill provides safeguards for protection of children.

Clause 124

Delete clause 124 and substitute therefor the following new clause:

124. The Funds of the Authority shall comprise of-

- (a) such monies as may be appropriated by the Parliament for purposes of the Authority;
 - (b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its function under this Act;
 - (c) Except where otherwise provided, all monies recovered and charges, fees, levies, grants, donations, endowments, fines, composition sums and financial penalties collected by the Authority under this Act;
 - (d) such other fees and levies as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary for the National Treasury;
 - (e) interest from the investment of money standing to the credit of the Fund; and
- all monies from any other source provided for, donated or lent to the Authority

The Committee agreed to the proposed amendment. The Committee had incorporated the proposal in its Committee Stage Amendments (Clause 124)

Clause 127

Amend clause 127 in subclause (2) paragraph (b) by deleting the word “on” replace it with the word “at” immediately after the word “as”

The Committee agreed to the proposed amendment.

Clause 131

Amend the marginal note to read as follows;

“Failure to display a valid license or permit”

The Committee agreed to the proposed amendment but this will be done during preparation of vellum

Clause 131

Amend clause 131 by inserting the word “permit” immediately after the word “licence

The Committee agreed to the proposed amendment.

Amend by deleting clause 133 and substituting therefor with the following new clause;

Clause 133

133. A licensee who knowingly fails to keep any books, records or accounts required to be kept under this Act or keeps false books, records or accounts, or who makes or causes to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding ten years.

Justification:

For clarity purposes and enhance penalty for making false declarations in respect of gaming activities.

The Committee agreed to the proposed amendment but recommended that the penalty be a fine not exceeding one million or a term of imprisonment not exceeding five years.

The Ministry’s amendment seeks to enhance the penalty from a fine not exceeding 500,000 shillings and a term of imprisonment not exceeding 5 years imprisonment to a fine not exceeding 20 million and a term of imprisonment not exceeding ten years.

Clause 134

Amend by inserting the word “of accounts” immediately after the word “statement”

Justification:

For clarity

The Committee agreed to the proposed amendment.

Clause 142

Amend by deleting clause 142 and substituting therefor with the following new section;

142 (1) A person who wilfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both;

(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have

been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker;

(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.

Justification:

To increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill.

The Committee agreed to the proposed amendment but recommended that the penalty under subclause (1) should be a fine not exceeding five million shillings or a term of imprisonment not exceeding five years.

Clause 144(2)

That, subclause (2) be amended by inserting the word "sub" immediately before the word "section" and therefor the number 1 in bracket as (1)

Justification:

For consistency

The Committee agreed to the proposed amendment.

Clause 150

Amend the marginal notes to read as follows:

"Prohibition against touting and soliciting"

Justification:

For clarity purposes

The Committee agreed to the proposed amendment but recommended that this be done during preparation of vellum.

Clause 151

Amend by moving clause 151 to the new PART XIIA and merge under section 110A

Justification:

For coherence and orderly arrangement of sections

The Committee rejected the proposed amendment because the Committee had rejected the provision of a new part XIIA on advertising of gaming and instead partly agreed to some proposed amendments to clause 151 of the Bill.

Clause 153

That, clause 133 be deleted

Justification:

Refer to the new Part XIIB which gives prominence to protection of children against gambling

The Committee rejected the proposed amendment. The Committee had rejected the amendment earlier in its report because clause 153 of the Bill provides safeguards for protection of children and that this did not need to be provided in a new Part.

Clause 155

That clause 155 be amended by inserting the word “Authority” immediately before the word “County government” and the word be “immediately” after the word “conviction

The Committee agreed to the proposed amendment.

Clause 156

That clause 156 be amended by deleting subclause (1) paragraphs(a)&(b) substituting therefor with the following new subclause as follow;

(1) It shall be lawful for a gaming inspector or any other officer of the Authority authorized in writing, on production of an authority document, to enter without warrant and inspect premises (including a race course) in which he or she has reason to believe that an offense under this Act or under any regulation made thereunder, has been committed to-

Justification:

Pre-empt commission of gaming crimes to protect the public.

This will ensure that the Authority and security apparatus are able to protect the public from any criminal gaming activities

The Committee rejected the proposed amendment for the following reasons:

Clause 156(1) of the Bill is more comprehensive than the proposed amendment. The current provision still serves the justification given for the proposed amendment of pre-empting commission of gaming crimes and protection of the public from any criminal gaming activities.

Clause 158

Move to new Part XIII A and merge under clause 110A

Justification:

For coherence and orderly arrangement of sections

The Committee rejected the proposed amendment since it had rejected the provision of a new Part on gaming advertisements but instead recommended that clause 158 be amended.

Amend clause 161 by deleting the word "Police" and substituting therefor with the word "Authority" and the word "Board" and substituting therefor with the word "Police"

Justification:

It is the mandate of the Authority to seize any illegal gaming equipment

The Committee rejected the proposed amendment.

Clause 161 provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines. The collaboration is intended to support the Board in carrying out effective seizure of illegal gaming equipment.

Clause 162

That clause 162 be amended by deleting the word "Board" and substituting therefor with the word "Authority"

The Committee rejected the proposed amendment since the management of the Authority vests in the Board

That Clause 162 be amended in subsection (2) by inserting a new paragraph (j) to read as follows;

(j) secure the payment of any fee or levy

The Committee agreed to the proposed amendment. This is aligned to its proposed amendments providing for fees or levies charged by the Authority.

Clause 163

That clause 163 be amended in subclause (3) by deleting paragraph (c) substituting therefor with following new paragraph

"(c) the principles and standards applicable to the rules made under this section are both set out in the Interpretation and General Provisions Act (Cap 2) and the Statutory Instruments Act, 2013."

The Committee rejected the proposed amendment because there is no typographical error.

New Part XVIII on Repeal and Transition

That, the Sixth Schedule be amended by transferring it to a new PART XVIII and making it Section 163

The Committee rejected the proposed amendment because of its rejection of previous amendments seeking to either provide for new Parts or to rearrange the Parts.

Sixth Schedule

That the Sixth Schedule of the Bill be amended in paragraph (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and replace therefor with the words “remain valid for the period of the license”

The Committee agreed to the proposed amendment to paragraph (1) of the Sixth Schedule.

That paragraphs (2), (3) and (4) be deleted.

The Committee agreed to amend the subsequent paragraphs and not to delete them in entirety. Paragraph (4) was ineffectual due to the amendments hence should be deleted.

Second and Fourth Schedules

That, the Second and Fourth Schedules be amended as follows:

TYPE OF GAMING	LICENCE FEE	RENEWAL
Online	50,000,000	25,000,000
Non-online bookmaker	20,000,000	10,000,000
Totalisator	5,000,000	2,000,000
License authorizing bookmaking at race meeting	100,000	-

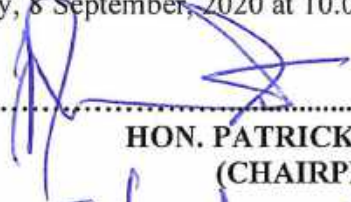
The Committee rejected the proposed amendment.

The Committee had considered the proposal alongside comments from other stakeholders and had generally reduced the fees. Further, the gaming types provided in the Schedule are more comprehensive than the one proposed.

MIN.NO.NA/SCT/2020/0105 ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at five minutes to one o'clock. The Committee will reconvene on Tuesday, 8 September, 2020 at 10.00am.

Signed.....



**HON. PATRICK MAKAU, M.P
(CHAIRPERSON)**

Date.....





OFFICE OF THE PRESIDENT

Cabinet Secretary

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When replying please quote

HARAMBEE HOUSE

P.O. Box 30510-00100

NAIROBI, KENYA

Our Ref: **OP/PA 9/15A**

Date: **11th August 2020**

Justice (RTD) P. Kihara Kariuki, EGH

Hon. Attorney General

Office of the Attorney General

& Department of Justice

NAIROBI

Dear *Hon. Kihara*

THE GAMING BILL (NATIONAL ASSEMBLY BILL, NO. 38 OF 2019)

This is in reference to the above Bill pending before the National Assembly, and the Leader of Majority letter Ref NA/LOM/BILLS/2020(1) to you dated 25th June 2020 with a Copy to the Ministry.

The Bill has now been interrogated and pertinent proposed Amendments incorporated. The raft of the amendments includes the functions of the Gaming Authority, Functions and Powers of the Gaming Inspectors, Gaming Advertisement, Application for licenses and issuance, and Offences under the proposed Act.

These amendments are intended to enhance the operational capability of the Gaming Authority and to ensure that the Authority operates seamlessly within the legal regime.

Last but not the least, the Ministry has incorporated an amendment for protection to children and young persons.

I formally submit a hard copy of the proposed amendments and request for the proposals to be included in the Bill.

Yours

Fred Matiang'i, PhD, EGH
CABINET SECRETARY

Encl.

Copy to: The Hon. (Dr.) Amos Kimunya, EGH, MP
Leader of the Majority Party
National Assembly
NAIROBI

Amb. (Dr.) Amina Mohamed, EGH
Cabinet Secretary
Ministry of Sports, Culture and Heritage
NAIROBI

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
1	LONG TITLE	AN ACT of Parliament to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes	Amend by inserting 'to delineate the functions of the National and County Governments' after the word "Parliament" to read "AN ACT of Parliament to delineate the gaming functions of the National and County Governments to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes"	In accordance with Fourth Schedule of the Constitution. Further, the use of the word 'betting' is very restrictive as betting is only form of gaming.
2	Definition of "Principal Secretary"	"Principal Secretary" means the Principle Secretary in the State Department for the time being responsible for betting, lottery and gaming	Amend the definition of "Principal Secretary", to read as follows "Principal Secretary means the Principal Secretary in the State Department for the time being responsible for matters relating to gaming"	The spelling of the word "Principle" was incorrect and the definition of "Principal Secretary" has been made to align it to that of the Cabinet Secretary
3	Definition of "Winnings"	"Winnings" mean the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licensed under this Act,"	Amend the definition of "Winnings" to read as follows "Winnings include prize of any kind"	The definition in the proposed amendments by the Committee are very restrictive to winnings in betting activities only. Whereas the definition of winnings should be as

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
				<p>wide to provide all types of winnings in games of chance. Winnings arise from betting, gaming, lotteries, Prize Competitions and other emerging games of chance.</p> <p>We propose that the Committee retains the definition of Winnings contained in the Bill.</p>
4	PART I Section 3 Objects and purpose of the Act.	(d) establish the National Gaming Authority and the National Lottery Trust Fund;	Amend Section 3 (d) to read as follows " To establish the National Gaming Authority, National Lottery, The National Lottery Distribution Trust Fund and The Gaming Appeals Committee"	For better operationalization of the Act and to provide a framework for the implementers of this Act
5	NEW Insert a new Section 3A after Section 3 of the Bill to provide for Guiding Principles		Amend by inserting a new section 3A The guiding principles for the implementation of the Act shall be the following: a. The need to prevent gambling from becoming a source of crime or disorder, being associated with crime or being	Provision of guiding principles is the emerging practice in the Gaming Legislation world wide e.g Malta Gaming Act For better operationalizati

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>used to support crime;</p> <p>b. To ensure gambling is conducted in a fair and open way;</p> <p>c. To ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;</p> <p>d. Ensure gambling opportunities are controlled to a level which does not harm the public;</p> <p>e. That gambling operations are not owned, operated or infiltrated by persons involved in crime;</p> <p>f. Ensure gambling licenses are privileged and revocable and no holder acquires any vested right in such a license, in order to protect public interest;</p> <p>g. To ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers</p> <p>h. To prevent gambling from being associated</p>	<p>on of the Act and to provide a framework for the implementers of this Act</p>

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>with or used for money laundering and financing of terrorism or other unlawful activities;</p> <p>i. Maximize the economic benefits derived from gambling to fund social causes;</p> <p>j. Provide for an efficient and effective regulatory oversight framework for regulating national and county gambling,</p>	
6	PART II Section 5 Functions of County Governments	(b) issue permits for gaming premises	Amend by inserting the words "single business" immediately after the word "issue"	Inspection and approval of the gaming premises is the function of the Authority
7		(c) monitor and evaluate gaming activities in the within its jurisdiction	Amend by deleting paragraph 5(c) of the Bill.	This is the function of the Authority under Section 10
8	PART III Section 7 (1) Board of the Authority	NEW CLAUSE (fa)	Amend by deleting the words "one person nominated by the umbrella body of the operators in the gaming industry"	<p>This will impede the regulator from effectively discharging its mandate.</p> <p>To retain the recommendations in the Report on the consideration of the Gaming Bill, 2019 dated</p>

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
				14 th November, 2019.
9	Section 10 (1) (d)	(d) supervise implementation of gaming policies at the national and county level	Amend by inserting the word 'the' immediately after the word "supervise" to read (d) supervise the implementation of gaming policies at the national and county level	Correct typographical error
1	Section 10 (1) (i)	(i) investigate, monitor and evaluate compliance of policies and regulations established under this Act by the counties	Amend by deleting the word "of" after the word compliance and substitute therefore the word "with" and delete the words "by the counties" appearing immediately after the word "Act" to read (i) investigate, monitor and evaluate compliance with policies and regulations established under this Act	Correct typographical errors
1	NEW 10. (1) (e)		Amend by inserting a new paragraph (e) after paragraph (d), and rearrange the ensuing paragraphs “(e)conduct security checks, vetting and due diligence in respect of gaming activities;”	To enhance the powers of the Board
1		10. (1) The functions the Authority shall be to—	Delete the number appearing in the numbering subsection (1) in Section 10	Correct typographical error
1	Section 10	10. (1) The functions the Authority shall be to— (a) regulate, control and licence gaming activities; (b) supervise and co-ordinate all matters relating to gaming at national and county	Amend Section 10 by deleting the Section and substitute it therefor with the following new Section; 10. The main functions of the Authority shall be to- (1) (a) to be the principal agency at both levels of	These powers are more comprehensive and touch on the day to day activities of the Board

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
		<p>level;</p> <p>(c) establish policies and standards for betting, lotteries, casinos and other forms of gaming in collaboration with the Ministry responsible for matters related to gaming;</p> <p>(d) supervise implementation of gaming policies at the national and county level;</p> <p>(e) establish and maintain a register of all gaming machines and devices;</p> <p>(f) establish a central electronic real time gaming monitoring system;</p> <p>(g) issue licences in accordance with this Act;</p> <p>(h) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with this Act;</p> <p>(i) investigate, monitor and evaluate compliance of policies and regulations established under this Act by the counties;</p> <p>(j) undertake and coordinate research and surveys in the gaming industry;</p> <p>(k) monitor socio-economic patterns of gaming activities;</p> <p>(l) assist counties in alleviating illegal cross</p>	<p>government in the implementation of all policies relating to gaming;</p> <p>(b) Exercise general supervision and co-ordination over all matters relating to gaming at national and county levels;</p> <p>(c) Advise the Cabinet Secretary on the formulation of overall policies, norms, standards for the conduct of betting casinos and other forms of gaming;</p> <p>(d) Co-ordinate national, county and concurrent national and county functions relating to betting, casinos and other forms of gaming in accordance with this Act;</p> <p>(2) In performance of its functions under this Act, the Authority shall-</p> <p>a. Establish and maintain at the national level:-</p> <p>b. A probity register</p> <p>ii. A national register of games, gaming machines and devices</p> <p>iii. The national central electronic gaming monitoring system</p> <p>iv. The national register of excluded persons, and</p> <p>v. A central registry of gaming information including data relating to betting,</p>	

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
		border gaming activities; (m) advise counties on matters relating to gaming operations; and (n) improve the capacity of counties in matters relating to gaming.	casinos and other forms of gaming in the country; c. Issue licences in accordance with this Act; d. Issue conditions of national gaming licenses issued in accordance with this Act and regulations made thereunder and enforce compliance therewith e. Conduct security checks, vetting and due diligence in respect of gaming activities f. Define standards, principles and procedures in respect of operations, premises, equipment, personnel, supplies of services and enforcing compliance herewith; g. Monitor and evaluate, when necessary, the issuance of permits by the Counties to ensure compliance with the Act; h. Investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies and making recommendations to	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>the Cabinet Secretary in relation to such matters.</p> <ul style="list-style-type: none"> i. Undertake and coordinate research and surveys in the field of gaming, and monitor social economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of- <ul style="list-style-type: none"> i. The social economic impact of gaming; and ii. Addictive or compulsive gaming j. Conduct oversight evaluations of the performance of counties so as to ensure national norms, standards established by this Act are applied uniformly and consistently throughout the country; k. Assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with appropriately l. During the subsistence of a license or permit, cancel, suspend or vary such license after giving the licensee or 	

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>a permit holder opportunity to show cause against the cancellation, suspension or variation</p> <p>m. Coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;</p> <p>n. Advise counties on matters relating to gaming operations;</p> <p>o. Prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;</p> <p>p. Improve capacity of counties in matters relating to gaming functions;</p> <p>q. Register and issue annual gaming personnel licenses in the country</p> <p>r. Collaborate with the Ministry in the formulation of policy direction for purposes of this Act</p> <p>s. Promote co-operation and linkage among county governments, public departments, private sector and the regional international organizations engaged</p>	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>in the regulation of gaming;</p> <p>t. To inquire into complaints on matters arising under this Act.</p> <p>u. To perform all other functions conferred to it by this Act or any other written law</p> <p>(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution</p> <p>(4) For avoidance of doubt, the performance of functions relating to betting casinos and other forms of gambling between the National and County governments shall be set out in the <u>First Schedule</u>.</p>	
1	Section 16	16. (1) The Board may appoint such officers and staff as are necessary for the proper discharge of its functions under this Act or any other written law.	Amend by deleting subsection (1) and substitute therefor it with the following new Subsection "(1) the Board shall appoint such officers and staff including Gaming Inspectors as are necessary for the proper discharge of its functions under this Act."	
1	NEW Section 16A		Gaming Inspectors 16A (1) A gaming inspector shall have the following functions-	To provide powers to the Gaming Inspectors to ensure effective

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>(a) to inspect gaming premises to ensure compliance with the provisions of this Act;</p> <p>(b) to monitor the operations of all licensed gaming operations;</p> <p>(c) to examine equipment and devices used in gaming and records kept in respect of the gaming activities;</p> <p>(d) to monitor the handling and counting of money on casino premises;</p> <p>(e) to assist in any manner where necessary in the detection of offences committed under this Act on all gaming premises;</p> <p>(f) to receive and investigate complaints from gaming patrons, licensees or members of the public relating to the conduct of gaming;</p> <p>(g) to report to the Board on the conduct of gaming operations ; and</p> <p>(h) to perform any other functions incidental to the foregoing.</p> <p>(2) In the performance of the functions specified under subsection (1) a</p>	<p>performance of the functions of the Authority</p> <p>Section 156 of the Bill refers to Gaming Inspectors but there is no provision of Gaming Inspectors who are also expected to enforce the Act as it is with other enforcement statutes such as Immigration officers.</p> <p>This is also the practice in other jurisdictions such as Singapore, Nevada, New Jersey, Macau and others.</p>

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>gaming inspector shall have the powers to-</p> <ul style="list-style-type: none"> (a) require any person in possession of, or having control of, any machinery, equipment, device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto; (b) inspect any such machinery, equipment, device or records and take copies of, extracts from or notes relating to, those records; (c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence; (d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act; (e) require, by written notice, any licensee, 	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>any employee of the licensee or any other person associated with the operations or management;</p> <p>(f) of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;</p> <p>(g) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;</p> <p>(h) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and</p> <p>(i) do any other thing authorized to be done by the Board under this Act.</p> <p>(3) If an inspector seizes anything under this section, it may be retained</p>	

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			by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.	
1	NEW Section 16B		Amend by inserting a new Section "Section 16B - Seizure and forfeiture of equipment and devices" "Section 16B a Gaming Inspector may seize; (a) anything that the Gaming Inspector reasonably suspects is a gaming equipment that is not authorized under this Act to be on the gaming premises or; (b) any item or thing the use or possession of which is unlawful	To protect the public from the use of illegal, substandard/ un-authorized gaming equipment
1	Section 18	18. Subject to section 19, no matter or act done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or	Amend by deleting "subject to Section 19" appearing on Section 18 to read 18. No matter or act done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this	Because we have proposed deletion of Section 19

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
		agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.	Act, render the member, officer, employee or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.	
1	Section 19	19. The provisions of section 18 shall not relieve the Authority of any liability to pay compensation or damages to any person for any injury occasioned on the person or the person's property or any interests caused by the exercise of any power conferred by this Act or any other written law or by failure, wholly or partially, of any duties.	Amend by deleting Section 19	It impedes effective implementation of the Act
1	Section 21	Requirements for licensing.	Amend the margin notes of Section 21 to read "requirements for a licence"	
2		21. A person shall not be licenced to offer any gaming or betting activity under this Act unless the person— (a) is a body corporate in which a minimum of thirty per centum of shares are held by Kenyan citizens; and (b) maintains an account with an authorized financial institution into which it pays all monies relating to the licenced gaming and lottery activity.	Amend by deleting Sections 21 & 22 and replace them with a new Section as follows; 21. (1) No person shall conduct any betting, lotteries, gaming or any activities related thereto unless such person applies for and obtains a license from the Board. (2) A person who desires to obtain, renew or vary a license under this Act shall make an application	To ensure the application process of a license is clearly set in law and that there are no gaps in the licensing process.

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>to the Board in the prescribed form.</p> <p>(3) On receipt of an application under subsection (2), the Board shall make such investigations or require the submission of such declarations or further information as it may deem necessary in order to enable it to examine the application.</p> <p>(4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or refuse to grant a licence or renewal or variation thereof and shall, where the issuance or renewal is refused, furnish the applicant with the reasons for such refusal: Provided that-</p> <p>(a) no license shall be issued under this Act until the Board satisfies itself that the applicant-;</p> <ol style="list-style-type: none"> i. is a fit and proper person to hold the licence, ii. holds a valid certificate of good conduct from the relevant authority 	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<ul style="list-style-type: none"> iii. has paid the prescribed application fee iv. in case of a foreign company, fifty percent of its shares is owned by Kenyan(s) v. maintains an account with an authorized financial institution into which it pays all monies relating to the licensed gaming activity vi. has provided certified copies of bank deposit slips evidencing payment of applicable taxes as prescribed by law vii. has demonstrated possession of financial and technical capacity to operate a gaming activity applied for viii. has deposited the requisite security or cash deposit as prescribed in this Act ix. has submitted such declarations and information as required under the Act or the regulations to enable the Board process the application x. that the premises, if any, in respect of which the application is made are suitable for the purpose and 	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>xi. that the activity in which the license is sought is legitimate under this Act;</p> <p>(5) For purposes of this section, "fit and proper person" means a person who has not committed offences involving any of the following -</p> <p>(a) fraud;</p> <p>(b) money laundering;</p> <p>(c) dishonesty;</p> <p>(d) violence;</p> <p>(e) drugs and drug trafficking;</p> <p>(f) any form of organized crime; or</p> <p>(g) any other conduct as the board may determine.</p> <p>(6) The board in determining whether an applicant is suitable to hold a licence under this Act shall consider-</p> <p>(a) the financial status or solvency of the person;</p> <p>(b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which if the application is granted, the person shall perform;</p>	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>(c) the status of any other licence or approval granted to the applicant by any financial sector regulator;</p> <p>(d) the ability of the applicant to carry on the regulated activity competently, honestly and fairly and</p> <p>(e) the reputation, character, financial integrity and reliability-</p> <p>(f) (i) in the case of a natural person; or</p> <p>(g) (ii) in the case of a company, its chairperson, directors, chief executive, management and all other personnel, including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company.</p> <p>(7) Without prejudice to the generality of subsection (6) the Board may, in considering</p>	

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>whether the applicant is fit and proper -</p> <p>(h) Take into account whether the applicant -</p> <p>(i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice in gaming or other business;</p> <p>(ii) was a director of a liquidated entity;</p> <p>(iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial to public interest, or was otherwise improper, which would otherwise discredit the applicants methods of conducting business;</p> <p>(iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that applicant or</p> <p>(v) denied any gaming licence or permit in any country.</p> <p>(i) Take into account any information in the possession</p>	

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>of the board whether provided by the applicant or not relating to –</p> <p>(i) Any person who is to be employed with, or shall be acting for or on behalf of, the applicant for the purposes of a regulated activity including an agent; and</p> <p>(ii) Where the applicant is a company in a group of companies, any other company in the same group of companies or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;</p> <p>(c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and</p> <p>(d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.</p>	

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
			<p>(8) The Board shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.</p> <p>(9) an applicant who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.</p>	
2	Section 22	<p>22. (1) An application for a licence shall be made in the prescribed form and shall be accompanied with—</p> <p>(a) a licence fee as prescribed under the Second Schedule;</p> <p>(b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gaming capital;</p> <p>(c) security by way of cash deposit in the Board's account as prescribed under the Act or regulations;</p> <p>(d) information from the applicant of the proximity of the intended premise to</p>	Amend by deleting Section 22 and insert a new Section 22 to read "The Cabinet Secretary shall from time to time through a <i>gazette</i> notice prescribe applicable fees for each of the licenses"	To give powers to the Cabinet Secretary to prescribe fees from time to time and to give flexibility for adjustment of fees as and when need arises through regulations.

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		<p>a learning institution:</p> <p>(e) declarations as provided for in the Third Schedule; and</p> <p>(f) such information as it may deem necessary to enable the Board to examine the application.</p> <p>(g) (2) The Board shall within fourteen days of receipt of an application under this section, transmit a copy of the application to the respective county government within whose jurisdiction the applicant proposes to conduct the business.</p> <p>(3) The county government shall within twenty-one days make representation to the Board regarding the application.</p>		
2	Section 23 (2) (c)	(c) be considered in accordance with the provisions of section 22.	Amend by deleting "22" and substitute it therefor with "21"	Due to the amendments above
2	Section 26	<p>(2) Where the revocation of a licence is contemplated under subsection (1), the Board shall serve the licensee with a notice of revocation in the prescribed form.</p> <p>(3) A notice under subsection (2) shall be served not less than</p>	<p>Amend by deleting subsections (2) and (3) and substituting them therefor with the following new sub-sections;</p> <p>"(2) where the revocation of a license is contemplated under subsection (1), the Board shall serve the licensee</p>	For the purposes of granting an opportunity for fair administrative action

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		twenty one days before the date of the intended revocation and shall specify the grounds for such revocation.	with a notice of intended revocation specifying the grounds for such revocation. (3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked.”	
2		(6) A person aggrieved by the decision of the Board under this section may appeal to the Tribunal within twenty one days from the date upon which such decision is conveyed to a licensee.	Amend by deleting subsection (6) and substitute therefor with following new subsection; (6) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the licensee.	To align it with the mandate of the Gaming Appeals Committee
2	Section 27	The duration of every licence issued under this Act shall vary for each gaming and betting activity subject to the provisions of section 23.	Amend by deleting Section 27 and substitute therefor with the following new Section “27. Every license issued under this Act shall, unless therewith otherwise provided expire on the 30 th June next following the date of issue.”	For consistence with the Government Financial Year
2	Section 31	31. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon	Delete the words “one hundred thousand shillings” and substitute therefore with the words “the prescribed fees” to read “31. A licensee whose	The fees shall be prescribed from time to time by the Cabinet Secretary

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		payment of one hundred thousand shillings.	licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of the prescribed fees.”	
2	Section 40 (2), (3), (4) and (6)	<p>(2) Where a licence is revoked by the Board under subsection (1), a county government shall serve the permit holder with a notice of revocation of a permit in the prescribed form.</p> <p>(3) A notice under subsection (2) shall be served not less than twenty one days before the date of the intended revocation and shall specify the grounds for such revocation.</p> <p>(4) The revocation of a permit shall take effect after twenty one days upon expiry of a notice under subsection (3)</p> <p>(6) A person aggrieved by the decision of the county government under this section may appeal to the Tribunal within twenty one days from the date upon which such decision is conveyed to a licensee.</p>	<p>Amend Section 40 by deleting subsections (2), (3), (4) and (6) substituting therefor with the following new sub-sections;</p> <p>(2) where a license is revoked by the Board, under subsection (1), County Government shall serve the permit holder with a notice of intended revocation of a permit specifying the grounds for such revocation</p> <p>(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the permit holder will be required to provide a written explanation as to why the permit should not be revoked;</p> <p>(4) the revocation of a permit shall take effect upon the expiry of the notice issued under sub-section (3).</p> <p>(6) A person aggrieved by the decision of the County Government under this section may appeal to the Committee within fourteen days from the date upon</p>	

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			which such decision is conveyed to the permit holder	
2	Section 42 (2)	(2) A county government shall, upon receipt of an application to transfer, carry out an investigation on the suitability of a proposed permit holder	Amend by inserting the words “and with assistance of the Authority” immediately after the word “transfer” to read “(2) A county government shall, upon receipt of an application to transfer and with assistance of the Authority, carry out an investigation on the suitability of a proposed permit holder”	Investigations is one of the powers accorded to the Authority by the Bill
2	Section 46	(1) The Board may prescribe make totalisator’s rules.	Amend by deleting subsection (1) and substitute with the following words “the Authority may prescribe rules for the operations of a totalisator”	To correct the grammar
3		(6) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.	Delete subsection (6)	Its already covered in Part X, Section 144 of the Act
3	Section 50 (2)	(c) shall guarantee the expected proceeds, or any part thereof of the lottery;	Delete Sub-section (2) (c) and substitute therefor with the following new paragraph “(2) (c) shall guarantee the expected proceeds of the lottery or any part thereof;”	To make the paragraph coherent
3	Section 59	(3) If a non-monetary prize is not collected within a period of twelve months after the winner has been notified of the	Anywhere the word “Board” appears, replace it with the word “Authority”	for consistency

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		place where the prize may be collected, a licensee may dispose of the prize by public auction or in a manner approved by the Board and the proceeds of sale may be used to pay for the cost of disposal of the prize and any remainder may be deposited in a player's account.		
3		(3) If a non-monetary prize is not collected within a period of twelve months after the winner has been notified of the place where the prize may be collected, a licensee may dispose of the prize by public auction or in a manner approved by the Board and the proceeds of sale may be used to pay for the cost of disposal of the prize and any remainder may be deposited in a player's account.	Delete sub-section (3) and substitute therefor with the following new sub-section “(3) if a prize is not credited to the winner's account as prescribed in sub-section (1) or it is not collected within a period of three months after the winner has been notified of the place and time where the prize maybe collected, a licensee shall surrender such uncredited or unclaimed prize to the Authority and the Authority shall determine the manner in which such prize will be disposed of.”	To ensure prizes are collected with reasonable time and to empower the authority to deal with unclaimed non-monetary prizes
3	Section 60 (1) and (2)	(1) A player in an online gaming activity shall not bet an amount of less than fifty shillings in a competition.	Amend by deleting the word “fifty” and substitute therefor with the words “one hundred”	To promote responsible gaming and to prevent addictive gaming
3	Section 61 (4) &(5)	(a) all the rules relating to authorized games conducted by a licensee;	Amend by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”	To amend typographical errors
3	NEW		Amend subsection (4) by inserting the following	To provide for additional

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			new paragraph immediately after paragraph (c) “(d) Mobile money transfer;”	sources of funds
3		(5) A licensee shall not provide credit to a player or on a player’s account or act as agent for a credit provider to facilitate the provision of credit to a player.	Amend subsection (5) by inserting the word “an” immediately before the word “agent”	To amend typographical errors
3	Section 64 (1)	64. (1) Where a transaction has not been recorded on a player’s account for thirty months, a licensee shall remit the balance in the account to a player. (2) Where a player may not be satisfactorily located, the money may be remitted to the Unclaimed Financial Assets Authority. Provided that no claim shall lie against a licensee who has remitted money in a player’s account under this section to the Unclaimed Financial Assets Authority.	Amend by deleting Sections 64 (1) and (2) and substitute therefor with the following new subsections (1) where a transaction has not been recorded in a player’s account for three consecutive months, the licensee shall deactivate the account and report such an incident to the Authority (2) before deactivating the players’ account as contemplated under subsection (1), the licensee shall notify the player of the intended action and such notification shall be copied to the Authority (3) where a player’s account has been deactivated under this Section, and reported to the Authority, the licensee shall not be allowed to transact with the players’ deposits or activate the account without an express approval by the Authority	To ensure betting platforms are not used for money laundering and other criminal activities Also, 30 months is also an unreasonably long period.

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			<p>(4) if the player does not claim the amount held in the deactivated account after three months, the licensee shall remit the same to the Authority save for the expenses incurred by the licensee</p> <p>(5) no claim shall lie against the Authority or the licensee who has remitted money in the player's account under this section to the Authority"</p>	
3		<p>(3) The Board shall, before granting a licence, satisfy itself that—</p> <p>(a) the applicant has appropriate knowledge or experience to conduct a national lottery in accordance with this Act and any condition imposed on the licence;</p> <p>(b) the applicant has the necessary financial and other resources to conduct the lottery;</p> <p>(c) there is no direct financial interest on any applicant by a member of a governing council of a political party; and</p> <p>(d) the applicant is a fit and proper person to conduct the lottery.</p>	<p>Amend by deleting subsection (3) and substituting therefor with the following new subsection</p> <p>" (3) The Authority shall, before granting a license under this Section, satisfy itself that-</p> <p>(a) The applicant has appropriate knowledge or experience to conduct a National Lottery in accordance with this Act and any other written law</p> <p>(b) The applicant has the necessary financial and relevant technical capability to conduct the lottery</p> <p>(c) No political party or political office bearer has any direct or indirect financial interest in the licensed applicant or shareholder thereof</p>	<p>To ensure that the operator has appropriate technical and financial capacity to conduct a lottery</p> <p>To ensure that the objective of the lottery is achieved by the operator</p> <p>This will also ensure the integrity of the conduct of the lottery</p>

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			(d) The applicant is fit and proper person to conduct the lottery	
4		(5) Agent authorization under subsection (3) shall be in writing and shall be subject to such terms and conditions as may be determined by a licensee with the authority of the Board.	Amend by deleting Sub-section (5) and substituting therefor with the following new Sub-section “(5) agent authorization under sub-section (4) shall be in writing and shall be subject to such terms and conditions as may be determined by the licensee with the approval of the Authority”	To align with sub-section (4) on agent authorization
4		(6) A licensee shall determine the form and prize of a lottery ticket sold under this Act	Amend sub-section (6) by deleting the word “prize” appearing after the word “and” and substituting therefor with the word “price”	Correct a typographical error
4	Section 82	(3) Where a prize to which paragraph (2)(b) applies is not returned as required such a prize or an amount of money equal to its value may be recovered by a licensee through a civil suit.	Amend sub-section (3) by deleting the word “paragraph” appearing immediately after the word “which” and substituting therefor with the word “sub-section”.	To amend a typographical error
4		(2) A person appointed under subsection (1) shall, audit—	Amend subsection(2) by inserting the words “the following, and not limited to-” immediately after the word “audit,”	To amend typographical error
4		(d) the compliance of this Act and any regulations made thereunder in relation to a national lottery.	Amend subsection(2) paragraph (d) by deleting the word “of” immediately after the word “compliance” and substituting therefor with the word “with”	To amend typographical error
4		(d) all monies from any other source provided for or donated or lent to the	Amend subsection (2) paragraph (d) by deleting the word “Board” and	The section deals with the National

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		Board.	substituting it therefor with the word "Fund"	Lottery Distribution Fund and not the Board of the Authority
4	Section 91	(f) a Managing Trustee who shall be appointed by the Board of Trustees	Amend by deleting paragraph (f) and inserting a new paragraph (f) to read as follows the words "managing trustee who shall be an ex officio member"	
4	Section 91 NEW sub-paragraph		Amend by inserting a new paragraph as (g) to read; "(g)The Director General of the Authority or any designated person"	
4	Section 98	98. The Board of Trustees shall, in consultation with the Cabinet Secretary, prescribe the amount and manner in which the money in the Fund shall be distributed to different good causes related to sports	Amend by deleting the word " sports" and insert the following new words "social economic activities"	The term "social economic activities" is broader and includes sports and other activities
4	Section 100	(4) The Fund shall not increase its annual estimates without the approval of the National Assembly	Amend subsection (4) by deleting the words "National Assembly" and substituting it therefor with the words "Cabinet Secretary, responsible for National Treasury"	The annual estimates are submitted through the Cabinet Secretary of The National Treasury
5	NEW Section 100A - Exemption		Amend by inserting a new Section 100A on Exemption to read; Notwithstanding any other provisions of this Act, the following sections of this Act shall not apply to the National Lottery and the National Lottery Distribution Trust fund-	National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from

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			(a) Section 27 Duration of licenses and permits; (b) section 49 Authorization of public Lotteries for charitable purposes (c) Section 52 Lottery conducted for charitable ,sporting or other purposes; (d) Section 53 Lottery incidental to entertainment; and (e) Section 54 Private Lottery	other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries
5	Section 107	107. (1) Each county government shall issue a permit authorizing the use of an amusement machine in an approved premise. (2) A permit issued under this section shall be subject to such conditions as a county government may impose.	Amend by deleting section 107 and substituting therefor with the following new section: 107. (1) The Authority may issue an amusement license authorizing the use of an amusement machine in a licensed premise. (2) A license issued under this section shall be subject to such conditions as the Authority may impose and in every case to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of, and with the permission of, his parent or guardian. (3) Any person who-- (a) uses or permits the use of an amusement machine	It is the mandate of the Authority to regulate and control all forms of gaming including the use of Amusement machines The current legal framework does not provide mechanism to regulate to use of Amusement machines thereby enabling abuse

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			<p>in respect of which a licence has not been issued under subsection (1); or</p> <p>(b) contravenes or allows the contravention of any condition provided for or imposed by the Authority under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.</p> <p>(4)In this section, "amusement machine" means a machine, other than a gaming machine -</p> <p>(a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and</p> <p>(b) whereby a successful player neither receives nor is offered any benefit other than -</p> <p>(c) the opportunity afforded by the automatic action of the machine to play the game again</p>	

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			without insertion of a coin; or (d) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.	
5	Section 108	(1) The Board may, in accordance with any regulations made under this Act, issue a permit authorizing the promotion and conduct of prize competitions.	Amend by deleting the word "Permit" and substituting therefor with the word "Licence"	To Correct typographical error
5	Section 110	(1) Betting and gaming machines shall—	Amend Subsection(1) by deleting the word "Betting and" appearing before the word "gaming"	Betting Machines are covered under subsection (2)
5		(a) be located in licensed a casino only	Amend subsection (1) paragraph(a) by deleting the word "a" appearing before the word "licensed"	To Correct typographical error
5		(2) A betting machine shall only be operated by a person issued with a valid bookmakers licence.	Amend subsection (2) by inserting the words "in licensed premises" immediately after the words "license"	Correct typographical error
5	NEW PART XIII A		PART XIII A — ADVERTISING OF GAMING Gaming advertisement 110A. (1) No person shall promote the advertisement of a gaming activity, without the approval of the Authority, on any medium of electronic or any other form of communication by:- (a) holding himself out by advertisement, promotion, notice or	To provide comprehensive legal framework in relation to gaming advertisements

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			<p>public placard as willing or with the aim of enticing members of the public to participate in gaming;</p> <p>(b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;</p> <p>(c) printing or publishing, or causes to be printed or published, any advertisement or notice;</p> <p>(d) using a prominent personality or celebrity, public vehicle or use of lifestyle advertising to promote gaming;</p> <p>(e) using false, misleading or deceptive message likely to create an erroneous positive impression of gaming;</p> <p>(f) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gaming;</p>	

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			<p>(g) advertising gaming by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.</p> <p>(2)All gaming advertisements shall-</p> <p>(a)indicate the addictive nature of gaming;</p> <p>(b) notify players to play reasonably;</p> <p>(c)prohibit a child from playing;</p> <p>(d) not feature a former winner with a view to encourage the general public to participate in gaming;</p> <p>(e)not be erected on an advertisement billboard</p> <p>(f)dedicate ten per centum of aired advertisements for responsible gaming.</p> <p>(3) All media companies holding licenses on gaming shall not use any of their broadcast channel to advertise or promote their gaming products or activities.</p> <p>(4) The Authority shall determine where, when and how gaming is to be advertised.</p>	

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			(5) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both	
5	Insertion of new section 110B		<p>Gaming advertisement fee</p> <p>110B.(1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement.</p> <p>(2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.</p>	<p>Advertisement charges should not be categorized as taxes.</p> <p>It is a fee that should be payable to the Authority to enable it properly discharge its mandate.</p>
5	NEW PART XIIB		<p>PART XIIB Protection of children</p> <p>110C.(1) Notwithstanding any exceptions in this Act, no person shall offer, permit, entice, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises whether for the purpose of</p>	To provide a clear legal framework for the protection of children against gambling

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			<p>gaming or otherwise, plays a game of chance with, or permits the playing of a game by, a minor selling a gaming ticket, employment of a minor in the organization and management of gaming or engagement in the provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever.</p> <p>(2) A person who violates the provisions of subsection(1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both</p>	
5	PART XIV Section 124	<p>124. The funds of the Authority shall comprise of—</p> <p>(a) such monies as may be appropriated by the National Assembly for purposes of the Authority;</p> <p>(b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;</p> <p>(c) such levies as may be prescribed and approved by the Cabinet Secretary in consultation with the</p>	<p>Amend by deleting section 124 and substituting therefor with the following new section:</p> <p>124. The Funds of the Authority shall comprise of-</p> <p>(a) such monies as may be appropriated by the Parliament for purposes of the Authority;</p> <p>(b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers</p>	To include other sources of funds applicable to the Authority

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		<p>Cabinet Secretary responsible for National Treasury;</p> <p>(d) interest from the investment of money standing to the credit of the Fund; and</p> <p>(e) all monies from any other source provided for, donated or lent to the Authority.</p>	<p>or the performance of its function under this Act;</p> <p>(c) Except where otherwise provided, all monies recovered and charges, fees, levies, grants, donations, endowments, fines, composition sums and financial penalties collected by the Authority under this Act;</p> <p>(d) such other fees and levies as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary for the National Treasury;</p> <p>(e) interest from the investment of money standing to the credit of the Fund; and</p> <p>(f) all monies from any other source provided for, donated or lent to the Authority</p>	
6	Section 127	(b) a statement of the assets and liabilities of the Authority as on the last day of that year.	Amend subsection (2) paragraph (b) by deleting the word "on" replace it with the word "at" immediately after the word "as"	To correct typographical error
6	PART XV	PART X—OFFENCES AND PENALTIES	Amend by deleting the word "PART X" and substituting thereof with the word "PART XV"	To ensure the Parts in the Act follow in the right sequence
6	Section 131	Failure to display a valid licence.	Amend the marginal note to read as follows; "Failure to display a valid license or permit"	For consistency

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6		131. A person who wilfully fails to display a licence, or who displays a licence or permit which is not valid commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	Amend by inserting the word "permit" immediately after the word "licence"	
6	Section 133	133. A licensee who knowingly fails to keep any book, record or account required to be kept under this Act or keeps false records or information, or who makes or causes to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years.	Amend by deleting section 133 and substituting therefor with the following new section; 133 A licensee who knowingly fails to keep any books, records or accounts required to be kept under this Act or keeps false books, records or accounts, or who makes or causes to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding ten years	For clarity purposes and enhance penalty for making false declarations in respect of gaming activities
6	Section 134	134. A person who wilfully refuses or fails to submit a statement of accounts when required by the Board, or who knowingly submits a false or misleading statement, commits an offence and shall be liable upon conviction to a fine not exceeding one	Amend by inserting the word "of accounts" immediately after the word "statement"	For clarity

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		million shillings or to imprisonment for a term not exceeding five years or to both.		
6	Section 142	<p>142. A person who willfully acts, facilitates or carries on business as a bookmaker or otherwise contrary to the terms of a licence issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both,</p> <p>Provided that this section shall not apply to an employee of a person issued with a licence acting in the course of employment at a licensed betting premise or at an authorized race meeting.</p>	<p>Amend by deleting section 142 and substituting therefor with the following new section;</p> <p>142 (1) A person who wilfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both;</p> <p>(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker;</p> <p>(3) A person who settles or pays money or money's worth in respect of any</p>	<p>To increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill</p>

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			betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.	
6		(2) The provisions of section 1(a) and (b) shall not apply to an employee of a person issued with a licence to operate a totalisator who is engaged in lawful operation in a manner approved by the Board.	Amend subsection (2) by inserting the word “sub” immediately before the word “section” and therefor the number 1 in bracket as (1)	For typographical correction
6	Section 150	Prohibition against touting	Amend the marginal notes to read as follows: “Prohibition against touting and Soliciting”	For clarity purposes
6	Section 151	151. A person who without the approval of the Board in connection with any licensed betting premises, licensed bookmaking or licensed pool betting scheme— (a) holds himself or herself out by advertisement or notice or public placard as willing to bet with members of the public; (b) displays any written or printed placard or notice relating to betting in any shape or form so as to be visible in a public street or place; or (c) prints or publishes, or causes to be printed or published, any advertisement or notice, commits an offence and shall be liable upon conviction to a fine not exceeding five hundred	Amend by moving Section 151 to the new PART XIIA and merge under section 110A	For coherence and orderly arrangement of sections

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		thousand shillings or to imprisonment for a term not exceeding one year or to both.		
7	Section 152	Prohibition against playing games of chance in unlicensed betting premises.	Amend the marginal notes by deleting the word "unlicensed" and substituting therefor with the word "licensed"	For coherence and clarity purposes and to clearly define the offence under this section
7	Section 153	<p>153. A person who knowingly—</p> <p>(a) bets with a child;</p> <p>(b) employs a child in a licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting;</p> <p>(c) receives or negotiates a bet through a child; or</p> <p>(d) sends to a child any information, notice, advertisement, letter, or other document relating to betting,</p> <p>commits an offence and shall be liable upon conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.</p>	Amend by deleting the entire Section 153	Refer to the new Part XIIB which gives prominence to protection of children against gambling
7	Section 155	155. A person who willfully allows his or her premises to be used for a machine gaming operation without a	Amend by inserting the word "Authority" immediately before the word "County government" and the word	For typographical correctness

S/N o.	PART/SECTION	PRESENT BILL – COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
		licence or a permit or contravenes any condition imposed by a county government commits an offence and shall upon conviction liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both	be “immediately” after the word “conviction”	
7	Section 156	156. (1) It shall be lawful— (a) for a gaming inspector or any other officer of the Authority authorized in writing by the Board, on production of an authority document; or (b) for a police officer, to enter without warrant and inspect premises (including a race course) in which he or she has reason to believe that an offence under this Act or under any regulations made thereunder, has been committed to—	Amend by deleting subsection (1) paragraphs(a)&(b) substituting therefor with the following new subsection as follow; (1)It shall be lawful for a gaming inspector or any other officer of the Authority authorized in writing, on production of an authority document,, to enter without warrant and inspect premises (including a race course)in which he or she has reason to believe that an offense under this Act or under any regulation made thereunder ,has been committed to-	Pre-empt commission of gaming crimes to protect the public. This will ensure that the Authority and security apparatus are able to protect the public from any criminal gaming activities
7	Section 158	158. All gaming advertisements shall— (a) indicate the addictive nature of gambling; (b) notify players to play responsibly; (c) prohibit a child from playing; (d) not feature a former winner with a view	Moved to the new PART XIIIA and merged under section 110A	For coherence and orderly arrangement of sections

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDEMENT	RATIONALE
		<p>to encouraging the general public to bet, play or participate;</p> <p>(e) not be featured or broadcasted on television or radio between six o'clock in the fore noon and ten o'clock in the afternoon unless during a live sporting event;</p> <p>(f) not be erected on an advertisement billboard of close proximity to a school or a place frequented by children; and</p> <p>(g) dedicate ten per centum of aired advertisement towards promotion of responsible gaming.</p> <p>(3) All media companies holding licenses on gaming shall not use any of their broadcast frequencies to advertise or promote their gaming product or activities.</p> <p>(4) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both.</p>		

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDEMENT	RATIONALE
7	Section 159	159. (1) There shall be a tax to be known as the gaming advertisement tax chargeable at the rate of thirty five per centum for every gaming advisement done through radio or television broadcasting. (2) The tax under subsection (1) shall be paid to the collector not later than fourteen days of the expiry of the month in respect of which the tax is payable.	Amend by deleting Section 159 and moving it to the new Part XIIA under Section 110B	For coherence and orderly arrangement of sections
7	Section 161	161. The police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.	Amend by deleting the word "Police" substituting therefor with the word "Authority" and the word "Board" and substituting therefor with the word "Police"	It is the mandate of the Authority to cease any illegal gaming equipment
7	PART XVII Section 162		Amend Section 162 by deleting the word "Board" and substituting therefor with the word "Authority"	For consistency
7	NEW Section 162 (1) (j)		Amend subsection (2) by inserting a new paragraph (j) to read as follows; (j)secure the payment of any fee or levy	
7	Section 163 subsection 3(c)	(c) the principles and standards applicable to the rules made under this section are those set out in the General provisions Act (Cap 2) and the Statutory Instruments Act, 2013.	Amend subsection (3) by deleting paragraph (c) substituting therefor with following new paragraph “(c) the principles and standards applicable to the rules made under this section are both set out in the Interpretation and General Provisions Act	To correct typographical error

S/N o.	PART/SECTION	PRESENT BILL - COMMITTEE STAGE AMENDMENTS	PROPOSED AMENDEMENT	RATIONALE
			(Cap 2) and the Statutory Instruments Act, 2013.”	
8	NEW PART XVIII- Repeal and Transition Section 163		Amend the Sixth Schedule by transferring it to a new PART XVIII and making it Section 163	For consistency
8	Section 163 subsection 7(1)	7. (1) All gaming activities including casinos and online gaming whose licences were issued under the repealed Act shall stand revoked within six months from the enactment of this Act.	Amend Section 163 (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and replace therefor with the words “remain valid for the period of the license”	To avoid disruption of business within the license period
8			Delete subsections 163 (2) (3) and (4)	For align with sub-section (7)

TYPE OF GAMING	LICENSE FEE	RENEWAL
Online	50,000,000	25,000,000
Non-online Bookmaker	20,000,000	10,000,000
Totalisator	5,000,000	2,000,000
License authorizing Bookmaking at Race meeting	100,000	-

Pool Betting Scheme	5,000,000	2,000,000
Casino	10,000,000	5,000,000
Non- online Lottery <i>Annual</i>	2,000,000	1,000,000
<i>Lottery Short term</i>	20,000	-
Prize Competition	10% of total promotion budget	-
Transfer (location) Casino Bookmaker	100,000 100,000	
Pool Tables	10,000 per table	5,000 per table
Gaming Premises	500,000	250,000
Amusement with prizes	10,000 per machine	5,000 per machine

SUMMARY OF PROPOSED AMENDMENTS ON THE GAMING BILL, 2019

S/No	PART/SECTION	THE GAMING BILL, 2019	COMMITTEE STAGE PROPOSED AMENDMENTS	PROPOSED AMENDMENT	RATIONALE
1.	Clause 2 Interpretation	Clause 2 Interpretation	Clause 2 Interpretation	Introduce the following new definitions. "Collector" means the Commissioner General of the Kenya Revenue Authority "promoter" means a person licenced to run and operate a lottery	The term collector as appearing under clause 37(2) needs to be defined to reflect the tax collecting body/agency. It is critical to define who a promoter is in the context of betting, lottery and gaming. Also appears in various clauses -including 49 (4), 52(2) (3)53(2)(d)
2.	PART III Clause 7(1)	7(1) The management of the Authority shall vest in a Board which shall consist of- (a) a chairperson nominated by the Cabinet Secretary and appointed by the President; (b) the Principal Secretary responsible for matters related to gaming or a representative designated in writing; (c) the Principal Secretary responsible for matters	THAT, clause 7 of the Bill be amended- (a) in sub-clause (1)- (i) in paragraph (a), by deleting the words "nominated by the Cabinet Secretary and"; (ii) by deleting paragraph "(c) and substituting therefor the following new paragraph- "(e) the Director General of the Communications	Introduce provisions to include the Principal Secretary for Sports and the Principal Secretary for Arts To read; <i>Principal Secretary responsible for matters relating to sports or a representative designated in writing</i> <i>Principal Secretary responsible for matters</i>	Betting and lotteries and the revenues thereon depend greatly on sporting activities hence the need for representation from Sports since it is a key stakeholder. The State Department for Culture is also a key stakeholder since sports and arts are related

		<p>related to security or a representative designated in writing;</p> <p>(d) the Principal Secretary responsible for the National Treasury or a representative designated in writing;</p> <p>(e) the Principal Secretary responsible for matters related to information, communication and technology or a representative designated in writing;</p> <p>(f) three persons appointed by the Cabinet Secretary who shall hold a university degree in a relevant field from a university recognized in Kenya;</p> <p>(g) one person appointed by the Council of County Governors; and</p> <p>(h) the Director General who shall be an <i>ex officio</i> member and secretary to the Board</p>	<p>Authority of Kenya or a representative designated in writing;</p> <p>(iii) by deleting paragraph (f) and substituting therefor the following new paragraph-</p> <p>“(f) three persons with knowledge and experience in gaming”;</p> <p>(iv) by inserting the following new paragraph immediately after paragraph (f)-</p> <p>“(fa) one person nominated by the umbrella body of the operators in the gaming industry”</p> <p>(v) by deleting paragraph (g) and substituting therefor the following new paragraph-</p> <p>“(g) one person nominated by the Council of County Governors</p>	<p>relating to culture or a representative designated in writing</p>	<p style="transform: rotate(-45deg);"> P.O. BOX 4989 - 00100 NAIROBI STATE DEPARTMENT OF SPORTS PRINCIPAL SECRETARY OF SPORTS </p>
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			<p>(vi) in paragraph (h) by deleting the words "and secretary to the Board";</p> <p>(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause-</p> <p>"(3) The Cabinet Secretary shall, by name and notice in the <i>Gazette</i>, appoint members nominated under subsection (1) (f), (fa) and (g)."</p> <p>(c) in sub-clause (4) by inserting the following new sub-clause immediately after sub-clause 4-</p> <p>"(5) The appointment of members under subsection (1) (f), (fa) and (g) shall be staggered to ensure that their terms do not expire at the same term."</p>		<p>PRINCIPAL SECRETARY STATE DEPARTMENT OF SPORTS DEVELOPMENT P.O. Box 49849 - 00100 NAIROBI</p>
3.	PART III Clause 8 (2)(b)	A person shall not be appointed as a chairperson or member of the Board if the person-		Amend sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph	Ensure compliance with Chapter Six of the Constitution 2010 and Leadership and Integrity Act, No. 19 of 2012

4.	PART III Clause 11 (b)	(b) has been convicted for a criminal offence involving fraud and dishonest		<i>“has been convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months”</i>	by including all other criminal offences and not only fraud and dishonesty.
5.	PART IV Clause 37	The Authority shall have the powers necessary for the proper performance of its functions under this Act and, in particular but without to the generality of the foregoing, the Authority shall have power to- (b) receive any gifts, grants and donations or endowments made to the Authority or any other moneys in respect of the Authority and make disbursements therefrom in accordance with the provisions of this Act		Amend paragraph (b) to read as follows; <i>“receive any gifts, grants and donations or endowments made to the Authority or any other moneys in respect of the Authority”</i>	The Authority being a regulatory body should restrict its mandate to only receiving the gifts, grants and donations and not disbursement, to avoid conflict of interests.
		37. (1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of all gaming activities unless a different tax is prescribed under this Act.		Define the term <i>“Collector”</i> Introduce a new sub-clause 37(3) to read; <i>“The Collector shall pay all the proceeds of tax paid</i>	The same funds are currently being remitted to the Sports, Arts and Social Development Fund as provided under Regulation 4(1)(a) of the Public Finance Management (Sports, Arts and Social

6.	NEW	<p>(2) The tax under subsection (1) shall be paid to the collector not later than fourteen days of the expiry of the month in respect of which tax is payable</p>	<p>37 (A) (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.</p> <p>(2) The Board shall in consultation with the Cabinet Secretary prescribe-</p> <p>(a) the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed one per centum of the monthly gross gaming revenue;</p> <p>(b) the amount from the gaming levy shall be used for the establishment of</p>	<p><i>under sub clause (2) into the Sports, Arts and Social Development Fund established under Section 24 of the Public Finance Management Act, 2012.</i></p>	<p>Development Fund Regulations, 2018. If the Betting, Lotteries and Gaming Act is repealed and the proposed amendment is not included, the revenues of the Sports, Arts and Social Development Fund as well as programs/projects that are being financed from those funds will be adversely affected.</p>	<p>Being a regulatory Authority, the responsibility of establishing rehabilitation centres be assigned to different persons or bodies to avoid conflict of interest</p>
			<p>Delete sub-clause 37A.(2), (b) and substitute therefor the following new clause;</p> <p><i>"The Board shall disburse funds collected under clause 37A (1) to persons or bodies responsible for establishing rehabilitation centres for problem gamblers"</i></p>			

7.	PART VI Clause 49 (2)	49. (2) The Board shall set a minimum of twenty five and a maximum of forty five per centum of the gross revenue of a public lottery to be devoted to the object for which a lottery is promoted	rehabilitation centres for problem gamblers THAT, clause 49 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clauses- “(2) The Board shall set the percentage of gross revenue of a public lottery which shall be devoted to the object for which the lottery is promoted	Delete minimum and maximum per centum Amend by deleting sub-clause (2) and substituting therefor the following new sub-clause to read; <i>“The Board shall set aside 50 per centum of the gross revenue of a public lottery which shall be devoted to the object for which the lottery is promoted”</i>	Provide clarity and eliminate ambiguity. The funds being of charitable purposes should be enhanced to meet the specific objective, which the lottery was established for, and which are normally urgent in nature. These include interventions to deal with the vagaries of fire disasters, floods, drought and other unforeseen pandemics.
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8.	Clause 88(1)(c)	The gross revenue of a national lottery shall be distributed as follows- (c) fifteen per centum to the Fund established under section 89 for distribution to good causes; and	THAT, clause 88 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause- “(1) The gross revenue of a national lottery shall be distributed as follows- (c) thirty per centum to the Fund established under section 89 for distribution to different good causes related to sports; and	Delete sub-clause 1(c) and substitute therefor the following new sub-clause; “ <i>Thirty per centum to be paid into the Sports, Arts and Social Development Fund established under section 24 (4) of the Public Finance Management Act, 2012 for distribution to support sports, arts, social development and government strategic interventions</i> ”	The Sports, Arts and Social Development Fund is currently a beneficiary of the taxes provided under section 69A of the Betting, Lotteries and Gaming Act, Cap 131. Should this Act be repealed, the sources of revenue of the Fund and the funded programs including sports, arts, social development and strategic interventions shall be adversely affected
9.	PART X Clauses 89-100	THE NATIONAL LOTTERY DISTRIBUTION TRUST FUND		Delete the PART X (clauses 89-100)	Establishment of all public funds must comply with Sections 6 (f), 24 (4), (5) (12) of the Public Finance Management Act, No.18 of 2012 There already exists a Fund (Sports, Arts and Social Development Fund) established by the Government under section 6 and 24 of the Public Finance Management Act, No.18 of 2012 with the mandate of providing financial

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			<p style="text-align: center;"> 1111 PARCEAL SECRETARY STATE DEPARTMENT OF SPORTS P.O. BOX 3889 - 00100 NAIROBI </p>	<p>support to the sports, arts, social development and government strategic interventions.</p> <p>Establishing the proposed National Lottery Distribution Trust Fund is in contravention of the sections 6 (f) and 24 (4), (5) and (12) of the Public Finance Management Act, No.18 of 2012.</p> <p>Majority of the activities in the sectors of social development (including Universal Health Care), sports and arts are currently being financed by the Sports, Arts and Social Development Fund (See attached Report).</p> <p>Denying funds to Sports, Arts and Social Development Fund will adversely affect the implementation of these programs.</p> <p>The creation of the proposed National Lottery Distribution Trust Fund shall result in</p>
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10.				<p>Delete the word National Lottery Trust Fund wherever it appears in the Bill</p>	<p>We have proposed deletion of Part X, which establishes the National Lottery Trust Fund since its establishment does not comply with the provisions of the Public Finance Management Act 2012. Specifically, Section 6(f) of the Public Finance Management Act 2012 provides that:</p> <p><i>"This Act shall prevail in the case of any inconsistency between this Act and any other legislation, on the following matters—</i></p> <p><i>establishment and management of public funds;"</i></p>

