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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION 2019

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

REPORT ON STUDY VISIT TO THE UNITED KINGDOM BY THE DEPARTMENTAL
COMMITTEE ON SPORTS, CULTURE AND TOURISM ON THE GAMING BILL,
2019 FROM 14TH -18TH OCTOBER, 2019

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
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FEBRUARY, 2020

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ABBREVIATIONS

APPG	All Party Parliamentary Group
ASA	Advertising Standards Authority
DCMS	Department of Culture, Media and Sport
GC	Gambling Commission
GGY	Gross Gambling Yield
Ofcom	Office of Communications
RET	Research, Education and Treatment
UK	United Kingdom

CHAIRPERSON'S FOREWORD

The Committee had proposed to undertake a study visit to the State of Nevada in the United States of America, the Republic of Singapore, Macao Special Administrative Region of the People's Republic of China, the French Riviera in the French Republic, and the Westminster Parliament in London, United Kingdom. The purpose of the study visit was to share and exchange views with the relevant committees and bodies charged with overseeing gambling activities in the countries proposed to be visited, learn and interrogate the effectiveness of gambling regimes in those countries in order to make adequate input in the Gaming Bill, 2019 which is under consideration by the Committee.

The Committee received confirmation from the United Kingdom and the United States of America and proposed the following members to constitute the delegation for the study visit to the United Kingdom:

1. The Hon. (Dr.) Victor Kioko Munyaka kavulu, MP- **Chairperson and Leader of Delegation**
2. The Hon. (Dr.) Tecla Chebet Tum, MP
3. The Titus Mukhwana khamala, MP
4. The Hon. Charles Ngusya Nguna, MP
5. The Hon. Jeremiah Lomurukai, MP
6. The Hon. Abdul Rahim Dawood, MP- Member of the Finance Committee
7. Mr. Salem Lorot- Legal Counsel/ Delegation Secretary

The delegation made the following observations:

- i) The Gambling Commission, the gambling regulatory body in the UK, is funded by fees charged by the gambling operators;
- ii) The Gambling Act 2005 has bestowed the Gambling Commission with powers to set and enforce licence conditions and codes of practice;
- iii) The UK imposes financial penalties to operators for failure to monitor problem gamblers and to stop money launderers;
- iv) The Gambling Commission requires all operators to make a financial contribution towards research, prevention or education and treatment of gambling-related harm;
- v) Self-exclusion, an option which customers can exercise by asking to be banned from gambling with an operator or group of operators, is available in the UK, though not in the Gambling Act but in the licence conditions and codes of practice;
- vi) The Advertising Standards Authority (ASA), the UK's independent self-regulatory organization of advertising across all media, regulates gambling advertisements and in particular to protect children, young people and vulnerable people; further, for serious or repeated breaches, the ASA can refer advertisers to the Gambling Commission and broadcasters to Office of Communications (Ofcom), the UK communications regulator;
- vii) Based on the Gambling Commission's report of May 2018 titled *Review of Gaming Machines and Social Responsibility Measures*, there is need to place emphasis on Research, Education and Treatment (RET), especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding;

- viii) The UK Gambling legislation does not prescribe minimum amount that a person can bet on;
- ix) Online gaming, or remote gambling as referred to in the UK, is regulated in the UK and the foreign gambling operators are required to be registered in the UK;
- x) The gaming advertisement thresholds have not been prescribed in the UK Gambling Act and it is industry-regulated;
- xi) The Gambling Commission does not conduct online surveillance of the activities of online operators due to the sheer number of operators and data available but the Commission can request for data from operators;
- xii) In the UK, if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence;
- xiii) There may a need to further discussion on global regulation of gambling with a view to address cross-border issues on gambling;
- xiv) In the UK, a Chief Executive Officer, a Marketing Director, a Compliance Director of a gambling operator may be licensed in their individual capacity apart from the licence to the operators as corporate entities; thus, if a Chief Executive Officer breaches licensing conditions and codes of practice, then the individual licence of the Chief Executive Officer is revoked, thereby acting as a deterrent;
- xv) The UK has a Parliamentary Group, or a caucus, on Gambling Related Harm which provides a forum for discussion and further investigation into the wider impact of gambling related harm in communities;
- xvi) There is an affordability test for gamblers in the UK— that is a system in banks to block gambling transactions;
- xvii) Problem gambling, or gambling addiction, is funded through voluntary donations from gaming operators in Great Britain;
- xviii) Under the UK Licence Conditions and Code of Practice of 2019 issued by the Gambling Commission, licensees are required to put into effect policies and procedures intended to promote socially responsible gambling. Further, licensees are required to make an annual financial contribution to one or more organizations which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

The delegation made the following recommendations:

- i) The Gaming Bill should be amended to include into the sources of funds for the National Gaming Authority fees charged upon gambling operators;
- ii) The Gaming Bill should be amended to require all licensees to make a financial contribution towards research, prevention or education and treatment of gambling-related harm; especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding;
- iii) Self-exclusion, an option which customers can exercise by asking to be banned from gambling with an operator or group of operators, should be provided for in the Gaming Bill;

- iv) There is need to provide in the Gaming Bill that if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence;
- v) There may a need to further discussion on global regulation of gambling with a view to address cross-border issues on gambling;
- vi) The Gaming Bill should provide for personal licences for key persons working for licensees;
- vii) Parliament may explore possibilities of establishing a parliamentary caucus on gambling related harm in order to have a structured dialogue on the negative consequences of gambling and how to address them.

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation. The Committee is grateful to the UK Foreign Commonwealth Office for confirming the Committee's invitation and making the study visit possible; the Ministry of Foreign Affairs for successfully coordinating the study visit in the UK with the Foreign Commonwealth Office and the Kenya High Commission in London; the Kenya High Commission in London for seamlessly coordinating the meetings of the delegation in the UK; the UK Department of Culture, Media and Sport for sharing their insight on gambling policy in the UK, the UK Gambling Commission for their presentation on the role of the Commission, the regulatory framework in the UK and the gambling statistics in the UK; and the UK Gambling Related Harm All Party Parliamentary Group for offering invaluable insights on the role of the Group and fielding various questions on the gambling.

On behalf of the Members of the Sports, Culture and Tourism Committee, I beg to table the report of the Committee on the study visit conducted on 14th to 18th October, 2019 in London, United Kingdom.

THE HON. (DR.) VICTOR KIOKO MUNYAKA, MP

**CHAIRPERSON DEPARTMENTAL COMMITTEE ON SPORTS CULTURE & TOURISM
AND LEADER OF DELEGATION**

1.0 PREFACE

1.1 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. To 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. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
3. **To study and review all the legislation referred to it;**
4. To 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. To 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. To 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. To examine treaties, agreements and conventions;
8. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
9. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
10. To 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

1.2 Committee Membership

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

Hon. (Dr.) Victor Kioko Munyaka, M.P – Chairperson

Machakos Town Constituency
Jubilee 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. Lydia Haika Mnene Mizighi, M.P
Taita Taveta County
Jubilee Party

Hon. (Dr.) Christine Ombaka, M.P
Siaya County
Orange Democratic Movement Party

Hon. George Risa Sunkuyia, M.P
Kajiado West Constituency
Jubilee Party

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

Hon. Annie Wanjiku Kibeh, M.P
Gatundu North Constituency
Jubilee Party

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

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

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

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

Hon. Benard Masaka Shinali, M.P
Ikolomani Constituency
Jubilee Party

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

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

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

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

Hon. Charles Kamuren, M.P
Baringo South Constituency
Jubilee Party

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

1.3 Committee Secretariat

Samuel Kalama	-	Senior Clerk Assistant	
Fredrick Otieno	-	Second Clerk Assistant	
Salem Lorot	-	Legal Counsel II	
Vitus Okech	-	Research Officer III	
Abdirahim Omar	-	Fiscal Analyst III	
Joe Okong'o	-	Media Relations Officer	
Sheila Chebotibin	-	Sergeant At-Arms	-

2.0 BACKGROUND AND OBJECTIVES OF THE STUDY VISIT TO THE UNITED KINGDOM

2.1 Background of the Study Visit

1. The Gaming Bill, 2019 was published on 27th May, 2019 and introduced in the National Assembly by the Chairperson Hon. Dr. Victor Munyaka, MP on 11th June, 2019 and thereafter committed to the Departmental Committee on Sports, Culture and Tourism for consideration pursuant to Standing Order 127. 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; 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.
2. The Committee observed that the United Kingdom has had the Gambling Act 2005 that was enacted in 2005. The Act provides for gaming, betting, lottery, protection of children and young children, establishes the Gambling Commission and the Gambling Appeals Tribunal, provides for penalties and offences, provides for the issuance, conditions and regulation of licences, amongst others. The Committee therefore resolved to conduct a study visit in the United Kingdom in order to enrich the Bill.

2.2 Objectives of the Study Visit

3. The objectives of the study visit were as follows:
 - i) To meet with the United Kingdom's Department of Culture, Media and Sports with a view to learn the United Kingdom's regulatory landscape on gambling, the role of the Department in relation to gambling, its policy directions and future plans in the regulation of gambling;
 - ii) To meet with the UK Gambling Commission in order to understand its functions, how it has discharged them, their challenges and how they have addressed them and their thoughts on regulation of gambling;
 - iii) To meet with the UK Gambling Related Harm All Party Parliamentary Group with a view to learn the House of Commons' lessons in the legislation of gambling, the functions of the APPG, the advocacy role of the APPG and its comments on the challenges and lessons on regulation of gambling;
 - iv) To understand the UK Gambling Act 2005 and other relevant legislation with a view to incorporate into the Gaming Bill 2019 solutions that may suit Kenya's circumstances.

3.0 MEETING WITH THE DEPARTMENT OF CULTURE, MEDIA AND SPORT

4. The Delegation met Julie Carney, the Deputy Director of Gambling and Lotteries, Department of Culture, Media and Sport (DCMS) on Monday, 14th October 2019. DCMS is a ministerial department, supported by 45 agencies and public bodies. Julie Carney's major role is guiding Government on policy and legislation on gambling, charity lotteries and the UK's National Lottery.

5. The Department for Digital, Culture, Media & Sport (DCMS) helps to drive growth, enrich lives and promote Britain abroad. It is the equivalent of the Ministry of Sports, Culture and Heritage in Kenya. In Britain, Departments are the equivalents of Ministries in Kenya.
6. The Department protects and promotes Britain's cultural and artistic heritage and helps businesses and communities to grow by investing in innovation and highlighting Britain as a fantastic place to visit. It helps to give the UK a unique advantage on the global stage, striving for economic success.

3.1 Presentation on the Gambling Policy Overview

7. The presentation dealt with the following matters:
 - i) Gambling regulatory landscape in England, Scotland, and Wales;
 - ii) The Gambling Act 2005 and the Role of the Gambling Commission;
 - iii) Enforcement of the Gambling Act 2005;
 - iv) Problem gambling and protections;
 - v) Gambling advertising;
 - vi) Gambling Industry Statistics;
 - vii) Recent Government action: Review of Gaming Machines and Social Responsibility Measures.

3.2 Gambling regulatory landscape in England, Scotland, and Wales

8. It was indicated that the Gambling Act 2005 permits gambling under licence, subject to the three licensing objectives: (1) keeping it crime-free, (2) ensuring it is fair and open, and (3) protecting children and the vulnerable.
9. The industry regulator, that is the Gambling Commission (GC), licences operators, sets and enforces licence conditions, and regulates lottery in the United Kingdom. The GC also regulates all online gambling by British customers, even where the operator is based entirely overseas.
10. It is a criminal offence to provide gambling without GC licence. This includes online gambling.
11. The GC is funded entirely from fees charged to industry for its work. Local authorities (local government) licence and inspect premises whereas the Advertising Standards Authority (UK) enforces restrictions on gambling advertising. The Department for Health and Social Care has an interest in gambling as a health issue, as it does with alcohol dependency.

3.3 The Gambling Act 2005 and the Role of the Gambling Commission

12. Under sections 1 and 22 of the Gambling Act 2005, the Gambling Commission (GC) must permit gambling as long as it is consistent with the licensing objectives: keeping gambling fair, open and free from crime, and protecting children and vulnerable people.
13. Under section 26, the GC must advise the Secretary of State, on (a) the incidence of gambling, (b) the manner in which gambling is carried on, (c) the effects of gambling, and (d) the regulation of gambling.

14. The Gambling (Licensing and Advertising) 2014 Act provided for a switch from a 'point of sale' to 'point of consumption' model; meaning any operator providing gambling services to people in Britain, including offshore online operators, must be licensed by the GC and comply with its Licence Conditions and Codes of Practice.

3.4 Enforcement

15. The Gambling Act establishes a range of criminal offences related to gambling. It includes providing gambling facilities without the appropriate licence from the Commission, as well as offences like cheating.
16. Specific offences relating to children include inviting a child to gamble or permitting a child to enter gambling premises such as casinos or betting shops.
17. The Gambling Act also gives the Commission broad and flexible powers to set and enforce licence conditions which can be general or individual conditions.
18. In 2018, financial penalties for failures to monitor problem gamblers and stop money launderers totaled a record £19.7 million (up from £18.4 million in 2017 and £1.7 million in 2016).

3.5 Problem gambling and protections

19. Problem gambling, or gambling addiction, in the UK is estimated at around 0.7% of adults. Further, 1.1% is estimated to be at moderate risk of harm, while 2.4% are estimated to be at low risk.
20. Operators are obligated to monitor play and intervene to protect customers if there is a risk of harm. Further, the GC requires all operators to make a financial contribution towards research, prevention or education and treatment of gambling-related harm.
21. Customers have the option to ask to be banned from gambling with an operator or group of operators. This is referred to as self-exclusion. For example, the GAMSTOP—the online multi-operator self-exclusion scheme—currently covers 95% of the UK online market with over 100,000 people signed up. Software, including Gamban, blocks gambling sites on phones and computers. Banks are also introducing gambling spend blocking tools. The tools help seek to put in place measures in the banking sector on finances used in gambling.

3.6 Gambling Advertising

22. Gambling operators who advertise in the UK are required to comply with the advertising codes of practice. This is enforced by the Advertising Standards Authority (ASA), the UK's independent regulator of advertising across all media.
23. Gambling advertising adverts must not be targeted at children, appeal particularly to children or young people, or exploit vulnerable people. In addition, adverts must not condone or encourage gambling behavior that is socially irresponsible or could lead to financial, social or emotional harm, play on people's financial concerns, or encourage specific risk factors in problem gambling.
24. Operators advertising on social media must use data on users' interests to form a view of their likely age and ensure adverts are directed away from under eighteen years.

25. If serious or repeated breaches occur, the ASA can refer advertisers to the Gambling Commission and broadcasters to Office of Communications (Ofcom), the UK communications regulator.

3.7 Gambling Industry Statistics

26. It was indicated that the UK gambling industry employs over 106,000 people. There are 8,423 betting shops, 1639 arcades; 650 bingo premises and 152 casinos.
27. The total Gross Gambling Yield (GGY) for the remote sector is £5.6 billion which is 39% of the total GGY £14.5 billion of the British gambling industry.
28. There are over 33 million active online gambling accounts in Great Britain, held by around 10 million individuals. In 2018/19, the gambling industry paid £3 billion in gambling taxes.
29. The National Lottery makes £7 billion a year in sales for the National Lottery whereas £1.5bn are spent as contributions to good causes. A sum of £314 million paid to good causes from large society lotteries.
30. In 2018, 32% of the UK population had gambled in the last 4 weeks, rising to 46% of those who had only played the National Lottery.
31. The National Lottery remains the most popular gambling activity whereas football and horse racing are the most popular sporting activities for betting on.

3.8 Recent Government action: Review of Gaming Machines and Social Responsibility Measures

32. The Department indicated that the Gambling Commission had published a report in May 2018 titled *Review of Gaming Machines and Social Responsibility Measures*.
33. The key aim of the report was to ensure the right balance between socially responsible growth and protecting the most vulnerable, including children, from gambling-related harm.
34. The report recommended the following:
- i) Reduction of maximum stake on machines in betting shops from £100 to £2;
 - ii) Proposals to improve player protections on other gaming machines;
 - iii) Plan of action to strengthen player protections online;
 - iv) Measures designed to strengthen existing advertising protections;
 - v) Research, Education and Treatment (RET), especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding.
35. The delegation inquired whether the UK has prescribed minimum amount that a person can bet on. It was indicated that they don't prescribe this in their legislation.
36. The delegation also sought to find out how online gambling is regulated in the UK. The Department informed the delegation that it is regulated in the UK and the foreign companies are required to be registered in the UK.
37. The delegation informed the Department that the Gaming Bill, 2019 proposed to regulate gaming advertisement and among other things, it has proposed that gaming

advertisement should not be featured or broadcasted on television or radio between six o'clock in the forenoon and ten o'clock in the afternoon unless during a live sporting event. The delegation therefore inquired if the UK has set thresholds for gaming advertisement. The Department indicated that the UK has not prescribed this and it is industry-regulated.

4.0 MEETING WITH THE GAMBLING COMMISSION

38. The delegation met with Mr. Brad Enright, Programme Director and Ms. Rab Grewal, Market Insight Specialist, both from the UK Gambling Commission (GC). Their presentation set out an overview of the UK regulatory framework and statistics on various aspects on gambling in the UK.
39. The UK Gambling Commission is established under section 20 of the UK Gambling Act 2005. Part 2 of the UK Gambling Act provides for the Gambling Commission. Sections 20 to 32 of the Act provide for substantive provisions on the Commission. The Act transfers the functions, rights and liabilities of the Gaming Board for Great Britain (under the previous Gaming Act 1968) to the Gambling Commission.
40. Section 22 of the Act provides that in exercising its functions under the Act the Gambling Commission shall aim—
 - a) to pursue, and wherever appropriate to have regard to, the licensing objectives, and
 - b) to permit gambling, in so far as the Commission thinks it reasonably consistent with pursuit of the licensing objectives.
41. The Gambling Commission listed further functions that it performs, namely: license operators and key individuals, issue codes of practice, offer guidance to licensing authorities, give statutory advice, assess compliance and offer regulatory or criminal enforcement on gambling.
42. The Commission informed the delegation that licensing objectives were as follows—
 - a) To keep crime out of gambling;
 - b) To ensure that gambling is conducted fairly and openly;
 - c) To protect children and other vulnerable people from being harmed or exploited by gambling.
43. Nationally there are around 106,670 employees in the gambling industry, 152 existing casinos, 650 bingo halls, 1,639 arcades and gaming centres, 183,813 gaming machines in Great Britain, and 8,423 bookmakers' shops. Further, there are around 506 remote casinos, betting and bingo licences; and over 1,400 websites targeting Great Britain. There are 30.81 million active accounts with remote operators.
44. Between April 2017 to March 2018, £5.6 billion GGY (Gross Gambling Yield) was generated. The GGY refers to the amount retained by operators after the payment of winnings but before the deduction of the costs of the operation. A sum of £ 1.5 billion constituted contributions to good causes from the National Lottery while a sum of £ 314 were contributions to good causes from large society lotteries.
45. The Commission indicated that 96% of online gamblers play at home while those aged under thirty-five years are more likely to gamble outside of the home. They also

revealed that 20% of those gambling outside the home, gamble at work and these fall within the age bracket of 18-34 years.

46. Increasing number of people use their mobile phones to gamble and as such, 55% of online gamblers have used a mobile phone or tablet to gamble. In 2018, the use of mobile phones for gambling increased by 44%. Conversely, although use of laptops for online gambling is still popular, its use declined from 50% in 2017.
47. The Commission also indicated to the delegation that 23% of online gamblers have bet in-play in the last four weeks from the date that the delegation met the Commission. Also, 5% of all respondents had bet on eSports (gambling on computer games) in the last twelve months. The average number of online accounts for a player in UK is three. The Commission gets these statistics through online and telephone surveys on gambling trends.

4.1 Overview of UK Regulatory Framework on Gambling

4.1.1 The Gambling Act

48. The delegation was taken through the UK Gambling Act and regulatory landscape on gambling.
49. Section 23 of the Act provides that the Commission shall prepare a statement setting out the principles to be applied by it in exercising its functions under the Act. The statement shall explain how the principles to be applied are expected to assist the Commission in its pursuit of the licensing objectives.
50. Under section 24 of the Act, the Commission is obligated to issue one or more codes of practice about the manner in which facilities for gambling are provided. In this regard, the GC published licence conditions and codes of practice in May 2019. The document provides for operating licence conditions, code of practice provisions, personal licence conditions.
51. Under operating licence conditions, it provides for qualified persons and personal licences, technical standards, equipment specifications, remote gambling equipment and gambling software; peer to peer gaming, other networks and hosting, protection of customer funds, provision of credit by licensees and the use of credit cards, protection mechanisms against anti-money laundering.
52. Under code of practice provisions, it provides for protection of children and other vulnerable persons, provides for 'fair and open' provisions, provides for marketing, provides for mechanisms of addressing complaints and disputes, among other provisions.
53. Under section 25 of the Act, the Gambling Commission is obligated from time to time to issue guidance as to the manner in which local authorities are to exercise their functions under the Act, and in particular, the principles to be applied by local authorities in exercising functions under the Act.
54. It is a duty prescribed in the Act for the Gambling Commission to give advice to the Secretary of State about the incidence of gambling, the manner in which gambling is carried on, the effects of gambling, and the regulation of gambling.

55. Under section 27 of the Act, the Commission may undertake activities for the purpose of assessing compliance with provision made by or by virtue of the Act; whether an offence is being committed under or by virtue of the Act.
56. Section 28 of the Act provides that the Gambling Commission may investigate whether an offence has been committed under the Act, and may institute criminal proceedings in respect of an offence under the Act.
57. Section 29 of the Act provides that the Gambling Commission may require a licensing authority to provide information that forms part of a register maintained by the authority under the Act, or is in the possession of the authority in connection with a provision of the Act.
58. Section 32 of the Act provides for consultation between the Gambling Commission and Commissioners of Customs and Excise. It provides that—
 - a) If in the course of the exercise of its functions the Gambling Commission becomes aware of a matter about which the Commissioners of Customs and Excise are likely to have an opinion, the Gambling Commission shall consult the Commissioners of Customs and Excise.
 - b) The Gambling Commission shall comply with any direction of the Secretary of State (which may be general or specific) to consult the Commissioners of Customs and Excise.

4.1.2 The Gambling policy in UK, Approach to regulation and reflection

59. The gambling policy in the UK seeks to ensure fair, safe and crime free gambling as a legitimate leisure activity. The gambling authorities in the UK are the Secretary of State, Gambling Commission, local licensing authorities and point of consumption regulation. Their approach to regulation is two-fold: outcomes-based approach and use of a range of regulatory tools and partners.
60. The Gambling Commission's Strategy 2018-21 seeks to protect the interests of consumers, prevent harm to consumers and the public, optimise returns to good causes from lotteries, and improve the way the Commission regulates gambling. The Commission seeks to be clear on its purpose, objectives and legal status by aiming to be proportionate, accountable, consistent, and transparent. It advocates for regulatory flexibility and listening to gambling consumers. The Commission observed that there exists tension between protection and profit in the gambling arena.
61. The delegation informed the Commission that the Gaming Bill sought to provide real time monitoring of gaming by operators. The Commission indicated that the UK does not conduct online surveillance due to the sheer number of operators and data available but can request for data from operators.
62. The delegation was informed that if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence. Further, the Commission indicated that although high amounts for capital for operators may assist in offering protection to players, the demerit to this is that it may be a barrier to entry for operators.

63. On the question of global regulation of gambling, the Commission indicated that this will present an opportunity in addressing the international nature of gambling but the challenge will lie in different socio-cultural and religious attitudes of societies and countries in regard to gambling.
64. The delegation learnt from the Commission that there is a new approach of licensing a Chief Executive Office, Marketing Director, Compliance Director in their individual capacity apart from granting licences to operators as corporate entities. It was indicated that if a Chief Executive Officer breaches licensing conditions and codes of practice, then the individual licence of the Chief Executive Officer is revoked, thereby acting as a deterrent.
65. The Commission indicated that it was content with the current Act since it is not prescriptive but leaves room for the Commission to regulate the industry despite the rapid changes witnessed.
66. The Commission also indicated that the testing of gambling equipment is done separately by other entities and a certificate is submitted to the Commission.

5.0 MEETING WITH THE GAMBLING RELATED HARM ALL PARTY PARLIAMENTARY GROUP

67. The delegation met the UK Gambling Related Harm All Party Parliamentary Group on Tuesday, 15th October 2019 at the Palace of Westminster. The Parliamentary Group consists of the following Members:
 - i) Hon. Carolyn Harris- Chair & Registered Contact, from the Labour Party;
 - ii) Hon. Ronnie Cowan- Vice Chair, from the Scottish National Party;
 - iii) Hon. Tracey Crouch- Vice Chair, from the Conservative Party;
 - iv) Hon. Iain Duncan Smith- Vice Chair, from the Conservative Party;
 - v) Lord Chadlington- Vice Chair, from the Conservative Party;
 - vi) Lord Foster of Bath- Vice Chair, from the Liberal Democrat Party;
 - vii) Hon. Gerald Jones- Treasurer, from the Labour Party;
 - viii) Hon. Stuart C. McDonald- Secretary, from the Scottish National Party;
68. The Committee met Hon. Carolyn Harris, the Chairperson of the Parliamentary Group, and Hon. Iain Duncan Smith, a Vice Chairperson of the Parliamentary Group.
69. The Gambling Related Harm All Party Parliamentary Group provides a forum for discussion and further investigation into the wider impact of gambling related harm in communities. The group's statement of purpose is: "To address the issues associated with Gambling Related Harm".
70. The Group indicated that there are various inducements to gambling, including through the phones, and the changing of bets mid-way, which require better regulation. There are targeted gambling advertisement especially to men.
71. The Group also indicated that huge amounts of money have been invested into software development. Further, people have been borrowing money in order to gamble and this needed effective enforcement. The Group pointed out that the rules against this are in place but the challenge remains in enforcement.

72. The Group observed that it doesn't believe that more taxation solves any harm occasioned by gambling but believed that effective regulation would achieve a better outcome.
73. The Group pointed out the multiple addiction of alcoholism and gambling and the harmful effects of gambling to communities. The Group pointed out that gambling does not bring development to communities.
74. The Group indicated that it is easier to regulate casinos than online gambling. It also revealed that fixed-odd betting is now effectively regulated in the UK. In addition, the UK conducts an affordability test for gamblers— that is a system in banks to block gambling transactions. The banks have mechanisms to device a gambling code.
75. Although the Gambling Act 2005 provides for remote gambling, the Group indicated that there has been a gap in relation to the regulation of online gaming in the Act.
76. In UK, there's the option of self-exclusion where persons can apply to be excluded from gaming activities. Although this is not in law yet, the Group indicated that it is still a discretionary option but should be provided for in law.
77. Problem gambling, or gambling addiction, is funded through voluntary donations from gaming operators in Great Britain. Section 24 of the Gambling Act provides that the codes of practice shall provide for mechanisms by gambling operators for making assistance available to persons who are or may be affected by problems related to gambling.
78. Under the Licence Conditions and Code of Practice of 2019, licensees are required to put into effect policies and procedures intended to promote socially responsible gambling. Further, licensees are required to make an annual financial contribution to one or more organization(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

6.0 OBSERVATIONS

79. The delegation made the following observations:

- i) The Gambling Commission, the gambling regulatory body in the UK, is funded by fees charged by the gambling operators;
- ii) The Gambling Act 2005 has bestowed the Gambling Commission with powers to set and enforce licence conditions and codes of practice;
- iii) The UK imposes financial penalties to operators for failure to monitor problem gamblers and to stop money launderers;
- iv) The Gambling Commission requires all operators to make a financial contribution towards research, prevention or education and treatment of gambling-related harm;
- v) Self-exclusion, an option which customers can exercise by asking to be banned from gambling with an operator or group of operators, is available in the UK, though not in the Gambling Act but in the licence conditions and codes of practice;
- vi) The Advertising Standards Authority (ASA), the UK's independent self-regulatory organization of advertising across all media, regulates gambling advertisements and in particular to protect children, young people and vulnerable people; further, for serious or repeated breaches, the ASA can refer advertisers to the Gambling Commission and broadcasters to Office of Communications (Ofcom), the UK communications regulator;
- vii) Based on the Gambling Commission's report of May 2018 titled *Review of Gaming Machines and Social Responsibility Measures*, there is need to place emphasis on Research, Education and Treatment (RET), especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding;
- viii) The UK Gambling legislation does not prescribe minimum amount that a person can bet on;
- ix) Online gaming, or remote gambling as referred to in the UK, is regulated in the UK and the foreign gambling operators are required to be registered in the UK;
- x) The gaming advertisement thresholds have not been prescribed in the UK Gambling Act and it is industry-regulated;
- xi) The Gambling Commission does not conduct online surveillance of the activities of online operators due to the sheer number of operators and data available but the Commission can request for data from operators;
- xii) In the UK, if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence;
- xiii) There may a need to further discussion on global regulation of gambling with a view to address cross-border issues on gambling;
- xiv) In the UK, a Chief Executive Officer, a Marketing Director, a Compliance Director of a gambling operator may be licensed in their individual capacity apart from the licence to the operators as corporate entities; thus, if a Chief Executive

- Officer breaches licensing conditions and codes of practice, then the individual licence of the Chief Executive Officer is revoked, thereby acting as a deterrent;
- xv) The UK has a Parliamentary Group, or a caucus, on Gambling Related Harm which provides a forum for discussion and further investigation into the wider impact of gambling related harm in communities;
 - xvi) There is an affordability test for gamblers in the UK— that is a system in banks to block gambling transactions;
 - xvii) Problem gambling, or gambling addiction, is funded through voluntary donations from gaming operators in Great Britain;
 - xviii) There is no excise duty charged on operators in the UK and this prevents double taxation;
 - xix) Under the UK Licence Conditions and Code of Practice of 2019 issued by the Gambling Commission, licensees are required to put into effect policies and procedures intended to promote socially responsible gambling. Further, licensees are required to make an annual financial contribution to one or more organizations which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

7.0 RECOMMENDATIONS

80. The delegation makes the following recommendations:

- i) The Gaming Bill should be amended to include into the sources of funds for the National Gaming Authority fees charged upon gambling operators;
- ii) The Gaming Bill should be amended to require all licensees to make a financial contribution towards research, prevention or education and treatment of gambling-related harm; especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding;
- iii) Self-exclusion, an option which customers can exercise by asking to be banned from gambling with an operator or group of operators, should be provided for in the Gaming Bill;
- iv) There is need to provide in the Gaming Bill that if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence;
- v) There may a need to further discussion on global regulation of gambling with a view to address cross-border issues on gambling;
- vi) The Gaming Bill should provide for personal licences for key persons working for licensees;
- vii) Parliament may explore possibilities of establishing a parliamentary caucus on gambling related harm in order to have a structured dialogue on the negative consequences of gambling and how to address them.

SIGN: 

THE HON. (DR.) VICTOR KIOKO MUNYAKA, MP

CHAIRPERSON DEPARTMENTAL COMMITTEE ON SPORTS CULTURE & TOURISM AND LEADER OF DELEGATION

DATE: 17/02/2020

REPUBLIC OF KENYA

Twelfth Parliament

Third Session



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (THIRD SESSION)

MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 14TH NOVEMBER, 2019 IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:15 PM

PRESENT

1. The Hon. (Dr.) Korei Ole Lemein, MP. - **Vice Chairperson**
2. The Hon. Christopher Omulele, MP.
3. The Hon. Dr. Christine Ombaka, MP.
4. The Hon. Kubai Iringo, MP.
5. The Hon. Jones Mlolwa, MP.
6. The Hon. (Prof.) Jacqueline Oduol, MP.
7. The Hon. Annie Wanjiku Kibeh MP.
8. The Hon. Charles Ngusya Nguna, MP.
9. The Hon. George Risa Sunkuyia, MP.
10. The Hon. Lydia Haika Mnene Mizighi, MP.
11. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
12. The Hon. Charles Kamuren, MP.

APOLOGY

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - **Chairperson**
2. The Hon. Benard Masaka Shinali, MP.
3. The Hon. Daniel Wanyama Sitati, MP.
4. The Hon. (Dr.) Tecla Chebet Tum, MP.
5. The Hon. Titus Mukhwana Khamala, MP.
6. The Hon. Sylvanus Maritim, MP.
7. The Hon. Jeremiah Lomorukai, MP.

IN-ATTENDANCE

NATIONAL ASSEMBLY

THE SECRETARIAT

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. Fredrick Otieno | - | Second Clerk Assistant |
| 2. Mr. Salem Lorot | - | Legal Counsel II |
| 3. Mr. Omar Abdirahim | - | Fiscal Analst III |
| 4. Ms. Sheila Chebotibin | - | Sergeant At-Arm |

MIN.NO.NA/SCT/2019/230: PRELIMINARIES & ADOPTION OF AGENDA

The Vice Chairperson called the meeting to order at a quarter past noon and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. George Sunkuyia, 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 Gaming Bill, 2019
7. Pending Petition(s): None
8. Questions: None
9. **a) Consideration and adoption of the Report on Study Visit on Gaming Bill, 2019 to the United Kingdom**
b) Briefing on the Supplementary Budget 1 of 2019
10. Any Other Business
11. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2019/231: CONFIRMATION OF MINUTES OF PREVIOUS SITTING

1. Minutes of the 46th sitting held on 7th November, 2019 were confirmed as a true record of the proceedings having been proposed and Seconded by the Hon. Christopher Omulele, MP and the Hon. Prof. Jacqueline Oduol, MP respectively.
2. Minutes of the 47th sitting held on 12th November, 2019 were confirmed as a true record of the proceedings having been proposed and Seconded by the Hon. Kubai Iringo, MP and the Hon. Charles Kamuren, MP respectively.

MIN.NO.NA/SCT/2019/232: MATTERS ARISING

The following matters arose from the Minutes of the 47th Sitting:

Under **MIN.NO.NA/SCT/2019/228 Any other business**

East Africa Interparliamentary Games

It was reported that the Chairperson and the Hon. Kubai Iringo, MP consulted the Clerk of the National Assembly on the matter and requested that the resolutions of the Committee on the same be forwarded to his Office which was done. It was further reported that the Hon. Jane Jepkorir Kiptoo Chebaibai, MP and the Hon. George Risa Sunkuyia, MP had already been included in the athletics list as participants.

The Committee further resolved that two (2) members of the secretariat should form part of the delegation for purposes of facilitation and reporting.

MIN.NO.NA/SCT/2019/233: CONSIDERATION AND ADOPTION OF THE REPORT ON STUDY VISIT ON GAMING BILL, 2019 TO THE UNITED KINGDOM

The Committee considered and unanimously adopted the report on the Study Visit on Gaming Bill, 2019 in the United Kingdom having been proposed and seconded by the Hon. Charles Kamuren, MP and the Hon. Prof. Jacqueline Oduol, MP respectively.

MIN.NO.NA/SCT/2019/234: BRIEFING ON THE SUPPLEMENTARY BUDGET 1 OF 2019

The Fiscal Analyst briefed the Committee on the Supplementary Budget 1 of 2019 as follows:

That: -

1. The supplementary estimate was necessitated by the government resolve to rationalize its budget in the face of consistent shortfall in revenue over the years. It was also occasioned by the need to realign and enhance the provision for the Programmes and projects under the “Big Four” Plan as well as the need to institute policy measures against wastage.

The State Department of Sports

a) Overview of Approved 2019/20 Budget

2. In the financial year 2019/20, the State Department for Sports has been allocated a total of **Kshs 15.2 billion** comprised of **Kshs 1.3 billion** for recurrent expenditure and **Kshs 13.9 billion** for development expenditure. The department allocation has increased significantly by Kshs 13.1 billion in FY 2019/20 from Kshs 2.2 billion in FY 2018/19 representing a percentage growth 590.9%.

3. The significant growth in budgetary allocation has been occasioned by the projected Appropriation in Aid (AIA) of Kshs 13.2 billion for Sport, Arts, and Social Development Fund. It is important to note that the funds will be shared as per the provisions of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.

Table 1: Allocation to the State Department for Sports FY 2019/20 – Kshs millions

Programme	Item	FY 2018/19	Resource Requirement 2019/20	Budget Estimates 2019/20	% Gross Change
Sports	Current	1.5	5.5	1.3	(13.3%)
	Dev't	0.7	4.0	13.9	1885.7%
Total		2.2	9.5	15.2	590.9%

Source: National Treasury- Program based budget and Budget summary

4. In the financial 2019/20, the department is expected to deliver a number of outputs under the Programme of sports and key amongst them are the following; 50% completion of the 7 regional stadia, 100% completion of phase 1 of the Kenya Academy of Sports, and infrastructure upgrade for Moi International Sports Centre Kasarani and Nyayo International Stadium.
5. The department is also expected to coordinate and host five regional and international competitions, train 19,000 persons in sports and recreational activities, test 1,700 athletes for banned substance, undertake 120 anti-doping education seminars' and train 1,500 coaches, referees and umpires.

b) Budget Performance for the First quarter 2019/20 Fiscal Year

6. The department's exchequer release as at 30th September, 2019 stood at **Kshs 0.3 billion** representing 2% of the approved budget. The released funds were solely for the department's recurrent expenditure representing 19% of the approved recurrent budget while there were no funds released for development expenditure as at the end of the quarter. The department's cumulative expenditure as at 30th September, 2019 was Kshs 0.24 billion which was solely spent on the department's recurrent expenses. The table 2 below shows the 1st quarter budget implementation for FY 2019/20.

Table 2: 1st Quarter Budget Implementation FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate	Exchequer Issues	Actual Expenditure	Absorption Rate
State Department for Sports	Recurrent	1.3	0.3	0.24	19%
	Dev't	13.9	0	0	0
	Total	15.2	0.3	0.24	2%

Source: Printed Supp. Estimates, National Treasury

c) Supplementary Estimates I: Key Changes to programmes and Projects

7. In the proposed supplementary 1 budget, the department's recurrent budget has been decreased by Kshs 0.05 billion representing 5% decline on the department budget. However, the development budget has been adjusted upwards by Kshs 0.1 billion. In

overall terms, the net effect is an increase of Kshs 0.05 billion representing a percentage change of 0.3%.

Table 3: 1st Supplementary Estimates FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate			Adjustments			Revised Estimate			% change
		Net	AIA	Total	Net	AIA	Total	Net	AIA	Total	
State Department for Sports	Recurrent	1.26 0	0.0946	1.355	(0.053)	0.00	(0.053)	1.20 7	0.09 45	1.30	-5%
	Dev't	0.70	13.20	13.9	0.1	-	0.1	0.80	13.2	14.0	0.7%
	Total	1.96	13.30	15.2	0.047	0.00	0.047	1.95	13.2	15.3	0.3%

Source: Printed Supp. Estimates, National Treasury

- The supplementary budget will affect the department's budgetary provision on the operation and maintenance. The items to be affected will include the following; domestic travel, foreign travel, printing, advertising and information supplies, training, hospitality, office and general supplies, purchase of motor vehicles, equipment and furniture. In the development vote there is an additional allocation of Kshs 100 million which is specifically meant to expedite the completion of Kipchoge Keino Stadium which is a critical sports infrastructure for the athletes.

The State Department of Culture and Heritage

a) Overview of 2019/20 Budget for the MDA

- The approved allocation to the state department was **Kshs 3.6 billion**. Out of this amount, **Kshs 3.0 billion** was for recurrent expenditure while **Kshs 0.6 billion** is for development expenditure. In comparison, the department was allocated Kshs 3.9 billion in FY 2018/19 comprised of Kshs 3.1 for recurrent expenditure and Kshs 0.9 billion for development expenditure. This represents a reduction of Kshs 0.6 billion in budgetary provision.

Table 4: Allocation to the State Department for Culture FY 2019/20 – Kshs millions

Programme	Item	FY 2018/19	Budget Estimates 2019/20	% Gross Change
General Administration planning and support services	Current	0.186	0.172	(44.9%)
	Dev't	-	-	-
	Total	0.186	0.172	(44.9%)
Culture /Heritage	Current	1.41	1.84	(7.6%)
	Dev't	0.51	0.088	(36.3%)
	Total	1.92	1.93	(9.4%)
The Arts	Current	0.774	0.235	100%
	Dev't	0.075	-	-
	Total	0.849	0.235	100%
Library Services	Current	0.687	0.77	1.7%
	Dev't	0.300	463.4	7%
	Total	0.988	1.235	3.6%
Total		3.939.0	3.57	(8.2%)

Source: Printed Estimate FY 2019/20 - National Treasury

10. During the medium-term period 2019/20 – 2021/22, the department plans to implement programmes and projects aimed at improving heritage and culture awareness, knowledge appreciation and conservation and develop a vibrant Arts industry.

b) Budget Performance for the First quarter 2019/20 Fiscal Year

11. During the 1st quarter of the FY 2019/20, The State Department's received an exchequer release of Kshs 0.569 billion which represents 19% of its approved budget for the FY 2019/20. The department actual expenditure stood at Kshs 0.568 billion which was spent on its recurrent expenses. The department has not incurred any expenditure on its development vote during the 1st quarter of the financial year.

Table 5: 1st Quarter Budget Implementation FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate	Exchequer Issues	Actual Expenditure	Absorption Rate
State Department for Culture and Heritage	Recurrent	3.1	0.569	0.568	19%
	Dev't	0.6	0	0	0
	Total	3.7	0.569	0.568	19%

Source: Printed Estimates, National Treasury

c) Supplementary Estimates I: Key Changes to programmes and Projects

12. In the proposed supplementary budget, the department recurrent budget has been decreased by Kshs 0.122 billion representing 5% of its approved budget. However, the development budget has not been affected. In overall terms, the budget has been revised by 3.8%.

Table 6: 1st Supplementary Estimates FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate			Adjustments			Revised Estimate			% change
		Net	AIA	Total	Net	AIA	Total	Net	AIA	Total	
State Department for Culture and Heritage	Recurrent	2.577	0.441	3.018	(0.122)	-	(0.122)	2.455	0.441	2.896	-5%
	Dev't	0.552	-	0.552	0.017	-	0.017	0.569	-	0.569	3.1%
	Total	3.099	0.441	3.570	(0.105)	-	(0.105)	3.024	0.441	3.465	2.3%

Source: Printed Estimates, National Treasury

13. The supplementary budget will affect the department's budgetary provision on the operation and maintenance items. The items to be affected will include the following; domestic travel, foreign travel, printing, advertising and information supplies, training, hospitality, office and general supplies, purchase of motor vehicles, equipment and furniture.
14. The development budget of the department has been increased by Kshs 17 million. The projects to be affected by the adjustment in the development include the following; a new provision of Kshs 40 million for the fencing of Kapenguria Museum, the budgets for the

Refurbishment of Archives Offices, Rehabilitation and upgrade of Maralal Kenyatta House, Rehabilitation and upgrade of Lokitaung Memorial have been reduced by Kshs 12.4 million, Kshs 5.3 million, and Kshs 5.3 million respectively. Table 7 highlights the projects affected by the supplementary budget.

Table 7: Capital Projects affected by the Supplementary Estimate – Kshs million

No.	Capital Projects	Approved Estimate	Amendments	Revised Estimate
1.	Refurbishment of Archives Offices	37.0	(12.4)	24.6
2.	Rehabilitation and upgrade of Lokitaung Memorial	15.8	(5.3)	10.5
3.	Rehabilitation and upgrade of Maralal Kenyatta House	15.8	(5.3)	10.5
4.	Fencing of Kapenguria Museum	-	40.0	40.0
Total		68.6	17.0	85.6

Source: Printed Estimates, National Treasury

State Department for Tourism

a) Overview of 2019/20 Budget for the MDA

15. In the financial year 2019/20, the department has been allocated **Kshs 7,875.9 million** which is composed of **Kshs 6,345 million** is for recurrent expenditure while **Kshs 1,530** is for development expenditure. The amount allocated exceeds the budget policy statement ceiling by **Kshs 1,886.1 million**. This increase is attributed to Appropriation In Aid of **Kshs 3.7 billion** under the tourism fund which was not previously reflected during the consideration of the budget policy statement. This is illustrated in the table 14 below.

Table 8: Allocation to the State Department for Tourism FY 2019/20 – Kshs millions

Programme	Item	Approved allocation 2018/19	Budget Estimates 2019/20	% Gross Change
Tourism Dev't and Promotion	Current	2,759.7	6,345.9	116.7%
	Dev't	2,050.0	1,530	-
Total		4,809.7	7,875.9	76.6%

Source: National treasury

16. The sector's priorities during the medium term period are to increase tourist arrivals and earnings, industrial development, improving trade and ease of doing business promotion, mobilize savings and widen credit facility for investments and promote regional integration. This is intended to contribute to the attainment of the desired sustainable economic growth of 10% p.a. in line with the country's development agenda of attaining newly industrialized nation providing high quality of life for all its citizens.

b) Budget Performance for the First quarter 2019/20 Fiscal Year

17. During the 1st quarter of the FY 2019/20, The State Department's received an exchequer release of Kshs 298.8 million which represents 3% of its approved budget for the FY 2019/20. The department actual expenditure stood at Kshs 241.1 million which was spent on its recurrent expenses. The department has not incurred any expenditure on its development vote during the 1st quarter of the financial year.

Table 9: 1st Quarter Budget Implementation FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate			Exchequer Issues	Actual Expenditure	Absorption Rate
		Net	AIA	Total			
State Department for Tourism	Recurrent	1,729.90	4,616	6,345.90	298.8	241.1	4%
	Dev't	1,530.00	-	1,530	0	0	0
	Total	3,259.90	4,616	7,875.90	298.8	241.1	3%

Source: Printed Supp. Estimates, National Treasury

c) Supplementary Estimates I: Key Changes to programmes and Projects

18. In the proposed supplementary budget, the department recurrent budget has been decreased by Kshs 324.9 million representing 5% of its approved budget. In addition, the development budget of the department has significantly been reduced by Kshs 701 million (54.2%). In overall terms, the budget has been revised downwards by 14.9%.

Table 10: 1st Supplementary Estimates FY 2019/20 – Kshs Billions

Vote	Items	Approved Estimate			Adjustments			Revised Estimate			% change
		Net	AIA	Total	Net	AI A	Total	Net	AIA	Total	
State Department for Tourism	Recurrent	1,729.90	4,616	6,345.90	-468.9	-	-468.9	1,261.00	4,616	5,877.00	-7.4%
	Dev't	1,530.00	-	1,530.0	-701.0	-	-701.0	829.00	-	829.00	-54.2%
	Total	3,259.9	4,616	7,875.9	-1,169.9	-	1,169.9	2,090.0	4,616	6,706.0	14.9%

Source: Printed Supp. Estimates, National Treasury

19. The proposed reduction of **Kshs 468.9 million** under the recurrent budget is due to budget rationalization and will affect the following budget items; Domestic travel, foreign travel, printing, advertising and information supplies, training, hospitality, office and general supplies, purchase of motor vehicles, equipment and furniture.

20. The department's development budget has a net reduction of Kshs 701 million and the following projects will be affected; Sustaining new markets and sitting booths in Tourism Target Markets – KTB – (Kshs 375 million), Kenyatta International Convention Center (KICC) – (Kshs 120 million), Mama Ngina Beach Management – Kshs 120 million, Coastal Beach Management Programme – (Kshs 100 million), Open Space Office

Modelling and Security System – Kshs 24 million, Kisumu Water Front – (Kshs 120 million) and Malindi Beach Management – (Kshs 130 million).

Table 11: Capital Projects affected by the Supplementary Estimate – Kshs million

No.	Capital Projects	Approved Estimate	Amendments	Revised Estimate
1.	Sustaining new markets and sitting booths in Tourism Target Markets - KTB	500	(375)	125
2.	Kenyatta International Convention Center (KICC)	120.0	(120)	0
3.	Mama Ngina Beach Management	-	120.0	120.0
4.	Coastal Beach Management Programme	130	(100.0)	30.0
5.	Open Space Office Modelling and Security System	-	24.0	24.0
6.	Kisumu Water Front	240.0	(120.0)	120.0
7.	Malindi Beach Management	240.0	(130.0)	110.0
Total		1,230.0	(701.0)	829.0

Source: Printed Estimates, National Treasury

Summary of Key Issues

21. The PFM regulation requires that any adjustments to various programmes, whether increase or decrease should not be more than 10% of the approved estimates per programme. However, the budget for the programme of tourism development and promotion has been significantly reduced by 14.9% contrary to the provisions of the PFM regulations.
22. **New Projects** - it is also noted that there are a number of new projects that have been introduced through the supplementary budget. The State Department of Tourism is proposing the introduction of two new projects such as Open Space Office Modelling and Security System – **Kshs 24 million** and Mama Ngina Beach Management – **Kshs 120 million** while the state department of Culture and Heritage is proposing to undertake the Fencing of Kapenguria Museum at a cost of **Kshs 40 million**. It is important to ascertain whether the new proposed projects meet the provisions of Article 223 of the Constitution.

23. Policy options

- a) **Option 1:** Approve the Supplementary budget as proposed. The major outcome of the option will be reduced allocations towards the operation and maintenance items and development projects in the State Department for Sports, State Department for Culture and Heritage and state department of tourism respectively.

- b) **Option 2:** Amend the Proposed Supplementary by retaining the development allocations for the votes to allow for the timely completion of projects particular in the State Department for Tourism.
- c) **Option 3:** Reject the Proposed supplementary budget thereby retaining the approved budget for the state department of Sports, state department of Tourism and state department of Culture and Heritage.

MIN.NO.NA/SCT/2019/235: MEMBERS OBSERVATIONS/CONCERNS ON THE SUPPLEMENTARY BUDGET 1 OF 2019

Members made the following observations/concerns which need to be raised with the respective State Departments or agencies when they appear before the Committee on Tuesday 19th November, 2019.

1. It was noted that there are a number of new projects that have been introduced through the supplementary budget. The State Department of Tourism is proposing the introduction of two new projects such as Open Space Office Modelling and Security System – **Kshs 24 million** and Mama Ngina Beach Management – **Kshs 120 million** while the state department of Culture and Heritage is proposing to undertake the Fencing of Kapenguria Museum at a cost of **Kshs 40 million**. Members were concerned to ascertain whether the new proposed projects meet the provisions of Article 223 of the Constitution.
2. It was noted that additional Kshs. 100M has been allocated under the State Department for Sports to expedite completion of Kipchoge Keino Stadium. However, Members were concerned whether this amount will be enough to complete the stadium.
3. It was further observed that the budget for Kenya Tourism Board was reduced by Kshs. 375M. The Committee indicated that this money must be reinstated based on the work that KTB does to ensure tourist arrivals in the country has increased.

MIN.NO.NA/SCT/2019/236: ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at a quarter to two O'clock and to reconvene on Tuesday 19th November, 2019.

Signed.....

**HON. (DR.) VICTOR MUNYAKA, M.P
(CHAIRPERSON)**

Date.....