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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

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REPORT ON THE CONSIDERATION OF THE NATIONAL LOTTERY BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 69 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 NOV 2023	DAY: Tuesday
TABLED BY:	Hon. James Wamacukuru (Vice Chairperson, Sports & Culture Committee)
CLERK-AT THE-TABLE:	Inzofu Mwale

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2023





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LIST OF ABBREVIATIONS AND ACRONYMS

AG	– Attorney General
AGOK	– Association of Gaming Operations Kenya
AML	– Anti-Money Laundering
AU	– African Union
BCLB	– Betting Control and Licensing Board
BL&GA	– Betting License and Gaming Act
CAF	– County Assemblies Forum
CEO	– Chief Executive Officer
CFT	– Counter Financing of Terrorism
CIE	– Complaints, Investigations and Enforcement
COG	– Council of Governors
CoK	– Constitution of Kenya
CPA	– Certified Public Accountant
CPF	– Counter Proliferation Financing
CRA	– Commission on Revenue Allocation
CS	– Cabinet Secretary
CSR	– Corporate Social Responsibility
DNFBPs	– Designated Non-Financial Businesses and Professions
DPA	– Data Protection Act
FATF	– Financial Action Task Force
FRC	– Financial Reporting Centre
GASK	– Gaming Awareness Society of Kenya
GDPR	– General Data Protection Regulation
GGR	– Gross Gambling Revenue
KRA	– Kenya Revenue Authority
ML	– Money Laundering
NGEC	– National Gender and Equality Commission
NGR	– Net Gambling Revenue
NLB	– National Lottery Board
NLF	– National Lottery Fund
ODM	– Orange Democratic Movement
ODPC	– Office of Data Protection Commission
PAA	– Pamoja African Alliance
PF	– Proliferation Financing
PFM	– Public Finance Management
POCAMLA	– Proceeds of Crime Anti-Money Laundering Act
PS	– Principle Secretary
PWDs	– Persons with Disabilities
SASDF	– Sports, Arts and Social Development Fund
UDA	– United Democratic Alliance
WDP-K	– Wiper Democratic Party Kenya

ANNEXURES

Annexure 1: Adoption Schedule

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Annexure 3: Advertisement inviting the public to submit memoranda on the Bill

Annexure 4: Letter inviting stakeholders for meetings with the Committee

Annexure 5: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Sports and Culture on its consideration of the National Lottery Bill (*National Assembly Bill No. 69 of 2023*) which was published on 31st October, 2023.

The Bill went through the First Reading on 8th November 2023 and was thereafter committed to the Departmental Committee on Sports and Culture for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill has Fifty One (51) Clauses and seeks to provide for a legislative framework for the establishment and operation of a National Lottery for pooling of additional resources to be directed to good causes and direct adequate funding to critical areas key to ensuring a socially responsible National Lottery. Further, the Bill proposes a framework for the conduct and regulation of the National Lottery.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on Friday 10th November, 2023 inviting the public to submit memoranda by way of written statements on the Bill.

In addition, the Clerk of the National Assembly vide letter REF: NA/DDC/S&C/2023/078 and REF: NA/DDC/S&C/2023/079 dated 15th November 2023 for a stakeholders' engagement meetings on the Bill which was held at Hilton Garden Inn Hotel on 21st to 22nd November 2023 where stakeholders submitted both written and oral presentations before the Committee.

State Department for Parliamentary Affairs, Ministry of Youth Affairs, Creative Economy and Sports, Kenya Law Reforms Commission, Kenya Revenue Authority, Commission on Revenue Allocation, Office of the Data Protection Commissioner, National Gender and Equality Commission, Betting Control and Licensing Board, the Law Society of Kenya, Council of Governors, County Assemblies Forum, Gaming Awareness Society of Kenya and Media Owners Association gave their views on the Bill which the Committee considered in the preparation of this report.

While considering the Bill, the Committee observed that the National Lottery Bill is proposing to create a government owned National Lottery with the purpose of raising resources towards good causes. However, it was noted that categories earmarked towards the good causes do not have percentage ceilings on how funds will be allocated. Further, there is a duplication of roles with other agencies like Sports, Arts and Social Development Fund and other government agencies in the health, agriculture and energy sectors.

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 further wishes to thank the sponsor of the Bill, Hon. Kimani Ichung'wah, MP, Leader of the Majority Party and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and Secretariat who made useful contributions towards consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Sports and Culture 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 National Lottery Bill (*National Assembly Bill No. 69 of 2023*)

It is my pleasure to report that the Committee has considered the National Lottery Bill (*National Assembly Bill No. 69 of 2023*) and has the honour to report back to the National Assembly with the recommendation that the Bill be **approved with amendments as reported by the Committee.**



Hon. Daniel Wanyama Sitati, M.P.
Chairperson, Departmental Committee on Sports and Culture

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Sports and Culture is one of the twenty (20) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
 - i. *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;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. ***To study and review all the legislation referred to it;***
 - v. *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;*
 - vi. *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;*
 - vii. *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);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider:-
 - a) Sports;
 - b) Culture;
 - c) Language;
 - d) Creative Economy including promotion of music, arts, film promotion and development;
 - e) National Heritage;
 - f) Betting and Lotteries.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) Ministry of Youth Affairs, Creative Economy and Sports; and
 - b) Ministry of Gender, Culture, the Arts & Heritage.

1.3 Committee Membership

4. The Departmental Committee on Sports and Culture was constituted by the House on 27th October 2022 and comprises of the following members:

Chairperson

Hon. Daniel Wanyama Sitati, MP
Webuye West Constituency

UDA Party

Vice-Chairperson

Hon. James Githua Wamacukuru, MP
Kabete Constituency

UDA Party

Members

Hon. Naomi Jillo Waqo, MP
Marsabit County

UDA Party

Hon. Mary Emaase Otucho, MP
Teso South Constituency

UDA Party

Hon. Stephen Mutinda Mule, MP
Matungulu Constituency

WDM-K Party

Hon. Chege Njuguna, MP
Kandara Constituency

UDA Party

Hon. Catherine Nakhabi Omanyo MP
Busia County

ODM Party

Hon. Paul Ekwom Nabuin, MP
Turkana North Constituency

ODM Party

Hon. BSP. (EM) Dr. Jackson Kipkemoi
Kosgei, MP

Nominated

UDA Party

Hon. Samuel Gonzi Rai, MP
Kinango Constituency

PAA Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency

WDM –K Party

Hon. Janet Jepkemboi Sitienei, MP
Turbo Constituency

UDA Party

Hon. Richard Kipkemoi Yegon, MP
Bomet East Constituency

UDA Party

Hon. Caroli Omondi
Suba South Constituency

ODM Party

Hon. Robert Ngui Basil, MP
Yatta Constituency

WDM-K Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following secretariat:

Mr. John Mugoma
Clerk Assistant I/Head of Secretariat

Ms Mary Kinyunye
Clerk Assistant III

Mr. Vitus Owino
Research Officer II

Ms. Christine Odhiambo
Senior Legal Counsel

Mr. Wilson Mwangi
Fiscal Analyst III

Mr. Moses Omoit
Audio Officer III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Stephen Otieno
Assistant Serjeant-At-Arms

Mr. Calvin Njoroge
Media Relations Officer III

Mr. David Ominde
Research Officer III

CHAPTER TWO

2.0 OVERVIEW OF THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023)

2.1 Background

6. The Bill which was sponsored by the Majority Leader, Hon. Kimani Ichung'wah, MGH, MP, was published on Monday 31st October 2023 and read for the first time in the House on Wednesday 8th November, 2023. It was thereafter committed to the Departmental Committee on Sport and Culture.

2.2 Situational Analysis

7. A lottery is a chance-based game where participants purchase tickets, and the winner is determined through a random drawing of numbers. A national lottery, operated by a country's government, involves selling tickets to the public, and a portion of the proceeds is allocated to fund public services or projects. It serves as a revenue source for national governments, contributing to areas such as healthcare, education, and infrastructure. National lotteries are organized by governments for the purpose of generating revenue and financing various beneficial causes.
8. Multiple unsuccessful attempts have been made to establish a government-run national lottery in Kenya, hindered by the absence of a policy framework governing the gambling sector and a lack of consensus among stakeholders. In 2006, the proposal for a government-owned national lottery was introduced, aiming to fund various worthy causes; however, it did not materialize, and the responsibility shifted to the Betting Control and Licensing Board (BCLB) to develop a suitable legal proposal. A second attempt in 2008 aimed to relieve pressure on the exchequer by supporting social welfare programs, but it faced hostility and did not succeed.
9. In 2011, a government taskforce suggested a National Lottery Bill, proposing a private company to run the lottery, which garnered limited support. In 2015, the Ministry of Sports expressed interest in a sports lottery, but the absence of a policy framework halted progress. In 2019, the Gaming Bill 2019, introduced proposed a state-owned national lottery operated by a private firm on behalf of the government. The Bill underwent numerous amendments and, by the Third Reading in the National Assembly, the Speaker directed it to be tabled afresh. However, the Bill lapsed at the end of the 13th Parliament.
10. According to the Presidential Taskforce Report, the national lottery in Kenya aims to grow citizen participation from 9.87% to 37.32% across all age groups in its initial three years. Strategies for increasing participation involve enhancing prize pay-outs, expanding game variety, and implementing comprehensive advertising within responsible gambling guidelines.
11. The projected national lottery turnover ranges from KShs. 9.9 billion in 2024 to KShs. 34.43 billion in 2033 in the low-case scenario. Assuming a 10.4% return on savings, players could accumulate KShs. 14.26 billion by 2033 (low case), KShs. 33.843 billion (mid-case), and KShs. 51.24 billion (best case). Prize winnings are estimated to reach KShs. 19.48 billion in the first three years (low case).

12. These funds, managed through forward-looking investment arrangements, could generate various economic opportunities. Funding for designated causes is estimated at KShs. 14.81 billion in the first three years (low case), with the national lottery contributing KShs. 7.28 billion in taxes, including corporation taxes, during this period.
13. Additionally, KShs. 10.88 billion in gambling taxes is expected to support the Sports Fund, reinforcing resources for good causes. The establishment of a national lottery is thus justified, presenting an opportunity for a distinctive, inclusive, and strategically valuable national asset, capable of engaging the entire population, providing a legitimate avenue for financial opportunities, and contributing transparently to selected causes nationwide.

2.3 Comparative Analysis

2.3.1 United Kingdom

14. The National Lottery, established in 1994 under the National Lottery etc. Act 1993, encompasses all lotteries constituting the National Lottery as a whole. A lottery becomes part of the National Lottery if it is promoted by the licensed person to run the National Lottery or in accordance with an agreement made between the licensed person and the lottery's promoter. The lottery's promotion must be authorized by a license granted to its promoter. The licensing of the National Lottery is the responsibility of the Director General, allowing only one licensee at any given time. Applicants must submit information specified by the Director General for evaluating the suitability of the applicant.
15. Section 4(1) of the Act empowers the Secretary of State and the Director General of the Gambling Commission to exercise their functions in the manner they consider the most likely to secure that the National Lottery is run, and every lottery that forms part of it is promoted, with all due propriety, and that the interests of every participant in a lottery that forms part of the National Lottery are protected. The Act enjoins the Secretary of State and the Director General in exercising those functions to secure that the net proceeds of the National Lottery are as great as possible.
16. The license is granted based on the satisfaction of the Director General regarding the applicant's fitness and propriety. In making this determination, the Director General considers the suitability of individuals likely to manage the lottery business and those likely to benefit from it. The license imposes a condition requiring the licensee to contribute funds to the National Lottery Distribution Fund from the proceeds of lotteries within the National Lottery, with provisions for determining the amounts and timing of payments. The license may also include conditions for arrangements ensuring that specified sums are paid to the Director General for distribution to participants in the National Lottery under specified circumstances.
17. The Director General has the authority to license individuals for the promotion of lotteries as part of the National Lottery. The grant of such a license is contingent upon a written application, providing information as specified by the Director General. The Director General, in deciding on the license, may assess the suitability of individuals likely to manage the lottery promotion business and those likely to benefit from it. The license may include a condition requiring the

licensee to obtain the Director General's approval for the rules of any lottery before its promotion under the license.

18. The Act empowers the Secretary of State to establish regulations mandating license holders for running and promoting the National Lottery to pay an annual levy to the Gambling Commission. Subject to the approval of the Treasury and the Secretary of State, the Commission is authorized to utilize the funds received through the levy for initiatives associated with addressing addiction to gambling, mitigating various forms of harm or exploitation linked to gambling, or achieving the licensing objectives outlined in the Gambling Act of 2005. Financial assistance may take the form of grants, loans, or any other financial support, provided under terms and conditions, including repayment with or without interest.
19. The UK prioritizes responsible gambling through the identification and management of problem gamblers, utilizing voluntary and forced exclusion measures. Strict measures, including extensive training, test purchasing programs, and robust age verification, are implemented to prevent underage play in both retail and digital platforms. Operators are mandated to have a comprehensive player protection strategy, including preventing excessive play and supporting problem gamblers, with regular monitoring and testing by the Gambling Commission. Online player protection tools, such as self-exclusion, spend and play limits, and an algorithm for identifying at-risk behavior, are provided.
20. Funds raised for good causes are deposited into the National Lottery Distribution Fund (NLDF) and allocated to distribution bodies based on a formula set by the Department for Digital, Culture, Media & Sport. The allocation includes Health, Education, Environment, Charitable Causes (40%), Sport (20%), Arts (20%), and Heritage (20%).
21. To ensure widespread access to winning opportunities, the UK employs the postcode system for the National Lottery, and a rational approach determines the supported causes and their extent. The National Lottery operator is considered a crucial entity, and the Gambling Commission rigorously procures operators, involving public input to enhance the procurement framework. Winnings from the National Lottery are not taxed, except for annuities.

2.3.2 South Africa

22. The Lotteries Act, 1997 defines a lottery as any game, scheme, arrangement, system, plan, promotional competition, or device distributing prizes by lot or chance. The National Lottery on the other hand, includes all lotteries conducted under the license for the National Lottery. Section 2 establishes the National Lotteries Board to advise the Minister on issuing the licence to conduct the National Lottery. The Board is enjoined to ensure the lawful conduct of the National Lottery and sports pools, safeguarding participants' interests and maximizing net proceeds.
23. Regarding licensing, section 13(1) empowers the Minister, in consultation with the Board, to issue one license at a time for conducting the National Lottery. To grant the licence, the Minister must be satisfied with the applicant's knowledge, financial capacity, and social responsibility to conduct National Lottery. The Minister and the Board must also ensure that no political party or

political office-bearer has any direct financial interest in the applicant or shareholder of the applicant.

24. Section 13(3) requires the Minister to consider the fitness and propriety of individuals involved in managing the National Lottery business, ensuring participant protection and maximizing net proceeds. Section 13(4) stipulates specified conditions for the license, with the possibility of appointing another person to conduct lotteries with Ministerial approval. The Minister and Board must not favour an applicant solely based on state association.
25. A license shall be in writing and granted for a minimum of five and a maximum of eight years, and may be extended by the Minister in consultation with the Board, for not exceeding eight years in total. A licensee has no rights or legitimate expectations regarding license period extension.
26. Section 21(1) of the Act establishes the National Lottery Distribution Trust Fund, overseen by the Board. The fund comprises proceeds from the National Lottery, specified payments, interest and dividends from invested money, and other lawfully contributed funds. Money in the Fund is held in an account titled "The National Lottery Distribution Trust Fund" at a financial institution.
27. The Minister, in consultation with the Board, may allocate the funds for various purposes, including reconstruction and development projects, charitable initiatives, sport and recreation development, cultural and arts-related endeavours, and expenditures approved for other designated purposes. Section 25(1) of the Act allows the investment of surplus funds from the National Lottery Distribution Trust Fund with either the Public Investment Commissioners or a financial institution approved by the Minister of Finance.
28. In South Africa, the National Lottery & Sports Pools allocate 25.5% (increasing to 29.5%) of total sales to good causes, with 45% dedicated to prizes, 5% to Retailer commission, and an average 3% for operational expenses. A 15% VAT is applied to total sales, and there is no tax on winnings. The Gross Gambling Revenue (GGR) for 2021-22 was R34 billion, with the National Lottery contributing R3.7 billion.
29. The National Lottery holds a 10% market share in the gaming sector, engaging an estimated 1 in 10 individuals in gambling activities, including participating in the National Lottery & Sports Pools. To ensure responsible play and protect vulnerable individuals, the National Lottery Commission follows the WLA Responsible Gaming Principles, implementing an internal policy covering key areas like license requirements, codes of practice, participant oversight, sales procedures, vetting, and game regulations with play limits, along with safeguards for winners' identities.

2.4 Summary of Legal Provisions

30. The National Lottery Bill seeks to provide for a legislative framework for the establishment and operation of a National Lottery for pooling of additional resources to be directed to good causes and direct adequate funding to critical areas key to ensuring a socially responsible National Lottery. Further, the Bill proposes a framework for the conduct and regulation of the National Lottery.

31. The Bill contains fifty one (51) clauses which provide as follows:

Part I provides for the Preliminary Provisions.

- i. **Clause 1** provides for the short title. The Act may be cited as the National Lottery Act, 2023.
- ii. **Clause 2** provides for definition of words and phrases used throughout the Bill.
- iii. **Clause 3** provides for the objects and principles of the Act which are to provide for additional resources to be directed to good causes and direct adequate funding to critical areas key to

Part II provides for provisions on the National Lottery Board.

- iv. **Clause 4** establishes the National Lottery Board. The Board is a body corporate whose headquarters shall be in Nairobi.
- v. **Clause 5** provides for the composition of the Board. It provides for a Board of nine members and the qualifications and disqualifications for appointment as a member. The members of the Board shall hold office for a term of three years which is renewable once.
- vi. **Clause 6** provides for the functions of the Board. The Board is responsible for supervising, controlling and monitoring the operations of the National Lottery; preventing fraud in the conduct of the National Lottery; make recommendations on the formulation of policies for the conduct of National Lottery; and advice the national government on the National Lottery. The clause also provides that the Board may operate the National Lottery or delegate this function to another entity.
- vii. **Clause 7** provides for that the Board shall have the necessary powers for the performance of its functions. These powers include power to manage, control and administer assets of the Board; receive any gifts, grants, donations or endowments made to the Board; open and operate a bank account; conduct investigations for the enforcement of the Act; and inquire into any complaint against an operator.
- viii. **Clause 8** provides that the procedure for the conduct of the business and affairs of the Board is provided in the Schedule.
- ix. **Clause 9** gives the Board powers to establish committees to assist in the performance of its functions and exercise of its powers.
- x. **Clause 10** provides that the Board members shall be paid salaries and allowances as approved by the Cabinet Secretary and on the advice of the Salaries and Remuneration Commission.

- xi. **Clause 11** provides for the appointment of the CEO by the Board; qualifications for appointment of the CEO; the roles of the CEO; and the tenure of office of the CEO.
- xii. **Clause 12** provides for the appointment of the Corporation Secretary, who is competitively recruited by the Board; and the roles of the Corporation Secretary.
- xiii. **Clause 13** gives the Board the power to appoint staff for the discharge of the functions of the Board.
- xiv. **Clause 14** provides that the Board may delegate the performance of its functions or exercise of its powers to a committee, member, officer, employee or agent of the Board.
- xv. **Clause 15** provides that the CEO of the Board or a person directed by the Board shall be the custodian of the common seal. The Board must order for the use of the common seal and shall be authenticated by the signature of the chairperson or the CEO.
- xvi. **Clause 16** provides for the sources of funds of the Board including money appropriated by Parliament; money payable by an operator of the National Lottery; money that may accrue to or vest in the Board; interest from investment of money of the Board; and loans and donations.
- xvii. **Clause 17** provides that the financial year of the Board is the period between 1st July and 30th June in every year.
- xviii. **Clause 18** provides for the preparation and approval of the annual estimates which is done in accordance with the Public Finance Management Act, 2012.
- xix. **Clause 19** provides that the Board shall ensure that proper books and records of account are kept. These books and records of accounts are prepared and audited in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.
- xx. **Clause 20** provides for reporting obligation by the Board to the National Treasury, Controller of Budget and Commission on Revenue Allocation. This is done through quarterly and annual financial and non-financial reports.

Part III provides for the National Lottery.

- xxi. **Clause 21** establishes the National Lottery which shall be conducted for the purposes of raising resources for the nation towards good causes such as charitable causes; economic empowerment causes; support for sports, recreation, arts, culture and national heritage; signature transformation projects; and emergencies.
- xxii. **Clause 22** provides that the National Lottery is exempted from the provisions of any written law relating to the regulation of public lotteries for charitable or other purposes.

- xxiii. **Clause 23** provides that the procurement of an operator to run the National Lottery shall be done in accordance with the law. For a person to be eligible to the National Lottery operator, the person is required to be knowledgeable and experienced to conduct a National Lottery; have necessary resources; is not a state officer, a public officer or a holder of a political office; and is a fit and proper person. It also provides for the considerations to be taken into account in determining if a person is fit and proper; and the time-frame for commencement of the procurement of a new operator extension of an operator's license.
- xxiv. **Clause 24** provides for the licensing of an operator of the National Lottery; the considerations for granting a license; obligations of a licensed operator; and the application of the National Lottery to the laws relating to licensing of gambling activity.
- xxv. **Clause 25** provides that the period of validity of a license shall be seven years. However, the licensing authority may extend the period for a further three years upon existence of a just and reasonable cause warranting the extension.
- xxvi. **Clause 26** lists the obligations of an operator. They include ensuring compliance with the requirements of the regulatory authority; providing information regarding the conduct of the National Lottery; arranging for the payment of sums out of the gross revenue of the National Lottery; obtaining approval before a lottery is conducted; and allowing entry to the premises of the operator for the protection of the integrity of the lottery.
- xxvii. **Clause 27** provides that the CS, the regulatory authority and the Board shall exercise their respective mandates under the Act to ensure the National Lottery is run with due propriety and the interests of every participant are protected.
- xxviii. **Clause 28** provides that the regulatory authority may vary a condition of a license with the consent of an operator or without the consent of an operator. When the consent of the operator is not sought, the regulating authority shall ensure that the variation is provided in the Act or the license; and the operator has been given an opportunity to make representation and the representation is considered insufficient.
- xxix. **Clause 29** give the regulating authority the power to apply to the High Court for an order prohibiting a contravention of a condition of a license which cannot be remedied and is of a continuous nature.
- xxx. **Clause 30** provides that the regulatory authority may revoke a National Lottery license due to gross violation of the Act; the licensee is no longer fit and proper person to conduct the lottery; breach of a condition of the license; giving materially false information; failure to take adequate steps to prevent a commission of fraud; obstruction.
- xxxi. **Clause 31** provides that the regulatory authority is required to notify the Board and the operator of the existence of grounds for revocation of the National Lottery license and to show cause why the license should not be revoked.

xxxii. **Clause 32** provides that the regulatory authority may order for the suspension of a National Lottery license upon giving notice and an opportunity to be heard.

Part IV deals with provisions on conducting a National Lottery.

- xxxiii. **Clause 33** states that the operator may conduct games for purposes of the National Lottery after obtaining approvals of the Board and the regulatory authority. The regulatory authority prescribes guideline, policies and procedure for the conduct of games including type and number of games; method and location of setting up or validating winning tickets; manner of payment of prizes; methods to used to selling tickets; and conduct of draws and determination of winners.
- xxxiv. **Clause 34** provides that the operator shall print all tickets bearing the operator's logo and imprint. These tickets shall have a serial number; a draw number; a draw date; and space for signature. The operator or authorized agents are responsible for selling a National Lottery ticket. The operator determines the form and prize of a lottery ticket sold.
- xxxv. **Clause 35** prohibits certain persons from purchasing a ticket in the National Lottery. These people include a child; a director, agent or employee of the operator; a member or employee of the Board or regulatory authority; a person who prints National Lottery tickets or an employee or a director of the printer; a person who supplies computers or other equipment for use by the operator; and an illegal immigrant.
- xxxvi. **Clause 36** provides that a person who allows a prohibited person to participate in an unauthorized lottery commits an offence.
- xxxvii. **Clause 37** requires an agent who bids for a supply contract to the operator to furnish the operator with names and addresses of all partners, trustees, members, officers or directors in an association; or officers, directors or holders of any equity, security or other evidence of ownership of any interest in a company.
- xxxviii. **Clause 38** provides that all draws shall be open to the members of the public. The time and place of conducting the draws shall be determined by the operator with the approval of the regulatory authority. The numbers or alphabets and the arrangement of the numbers or alphabets is determined by the regulatory authority and published in the *Gazette*, a newspaper or a medium of national coverage.
- xxxix. **Clause 39** prohibits the payment of a prize where a ticket is purchased or sold in violation of the Act. Upon payment of a prize, the operator shall be discharged from all liability to winners.
- xl. **Clause 40** provides that the Board shall determine the prize money to paid and publish this information. The time frame for payment of prizes is within 7 days after the draw. The prize money is exempted from income tax. Failure to claim an award will amount to forfeiture. A loss of a ticket shall be reported to the operator before a draw and where the

lost ticket is picked as a winning ticket, the person reporting the loss shall be entitled to claim the prize upon satisfying certain conditions.

- xli. **Clause 41** gives the regulatory authority power to appoint an auditor to audit the conduct of the National Lottery.
- xlii. **Clause 42** gives the regulatory authority power to apportion the proceeds of the National Lottery after taking into account the prizes; operator's profit, tax and operating costs; the regulatory authority and the Board's operational and administrative costs. The operator shall pay money due to the Fund on a weekly basis or as determined by the Board.

Part V deals with the National Lottery Fund.

- xliv. **Clause 43** establishes the National Lottery Fund whose object is to retain and disburse the proceeds of the National Lottery. The source of funds includes the proceeds of the National Lottery; earnings and interests from investments. The proceeds of the Fund shall be apportioned to good causes by the Board in consultation with the Cabinet Secretary. The Cabinet Secretary may make regulations prescribing additional criteria for consideration by the Board when proposing apportionments of the proceeds of the National Lottery.
- xlv. **Clause 44** provides that the Board is responsible for the general oversight of the Fund.
- xlv. **Clause 45** provides that the Board shall submit to the Cabinet Secretary the programmes and projects proposed for funding from the Fund.
- xlvi. **Clause 46** provides that the CEO of the Board shall be the administrator of the Fund and shall be responsible for the day to day running of the affairs of the Fund.
- xlvi. **Clause 47** provides that both the state and non-state actors will be beneficiaries of the funds to undertake programmes and projects for good causes. Those who are non-compliant matters tax shall not be eligible for funding. Also, foreign institutions shall not be eligible for funding unless it is registered in Kenya; has local presence; and its operations are impactful in Kenya. In addition, an institution is required to obtain certain clearances to be eligible to receive funding.
- xlvi. **Clause 48** provides for the financial year of the Fund and **Clause 49** allows the administrator of the Fund to invest funds of the Fund with the approval of the Board.
- xlix. **Clause 50** provides that all receipts, earnings and accruals to the Fund and balance of the Fund shall be retained by the Fund.
 - 1. **Clause 51** makes it an offence to misappropriate funds of the Fund.
 - li. The Schedule to the Bill provides for the conduct of business and affairs of the National Lottery Board pursuant to Clause 8 of the Bill.

3.0 CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework on Public Participation

32. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

33. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*“(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*

- a. inviting submission of memoranda;*
- b. holding public hearings;*
- c. consulting relevant stakeholders in a sector; and*
- d. consulting experts on technical subjects.*

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on the National Lottery Bill, 2023

34. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on Friday 10th November, 2023 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Clerk of the National Assembly vide letters Ref. No. *NA/DDC/S&C/2023/078* and *NA/DDC/S&C/2023/079* dated 15th November, 2023 invited key stakeholders to submit views on the Bill and attend a public participation forum on Tuesday 21st to 22nd November, 2023.

35. To this end, the Departmental Committee on Sports and Culture received memoranda from the State Department for Parliamentary Affairs, Ministry of Youth Affairs, Creative Economy and Sports, State Law Office, Kenya Law Reforms Commission, Kenya Revenue Authority, Commission on Revenue Allocation, Office of the Data Protection Commissioner, National Gender and Equality Commission, Betting Control and Licensing Board, the Law Society of Kenya, Council of Governors, County Assemblies Forum, Gaming Awareness Society of Kenya and Media Owners Association, Radio Africa Group. The memoranda are annexed to this report as *Annexure 5*.

36. The Ministry for Youth Affairs, Creative Economy and Sports, Kenya Law Reforms Commission, the Kenya Revenue Authority, Commission on Revenue Allocation, Office of Data Protection Commissioner, Law Society of Kenya, Council of Governors, County Assembly Forum, Media Owners Association and Gaming Awareness Society of Kenya submitted amendments to the Bill.

37. The State Department for Parliamentary Affairs, the Betting Control and Licensing Board, and the State Law Office supported the Bill without reservations.

3.2.1 Taskforce on the Establishment of the National Lottery

The Committee met the taskforce on 20th November 2023 and it briefed the Committee on the policy that informed the development of the Bill. The taskforce informed the Committee that:-

38. The Bottom-Up Economic Transformation Agenda (BETA) advocates for a national lottery as a vital component in mobilizing resources to complement governmental initiatives addressing diverse social needs. To fulfill this vision, the Presidential Taskforce on the Establishment of the National Lottery was established through Gazette Notice No. 2101 dated February 17, 2023.
39. The Taskforce was established to review the global best practices on national lotteries, formulate a policy and implementation plan for Kenya, facilitate stakeholder consultations, propose comprehensive reforms, develop an implementation matrix, and address related matters.
40. In alignment with its Terms of Reference, the Taskforce prepared the Gambling Policy for Kenya, 2023, to shape the gambling sector into a force for social progress. It also drafted the National Lottery Bill, 2023, to establish a framework for a national lottery pooling resources for good causes. The Taskforce outlined an Implementation Matrix Plan to guide the establishment and operation of the national lottery, ensuring regulatory efficiency and optimal functionality.
41. The National Lottery, if established, is projected to grow citizen participation from 9.87% to 37.32% within the first three years across all age groups. Anticipated measures include enhanced prize payouts, expanded game scope, and comprehensive advertising aligned with responsible gambling principles. The national lottery is expected to generate a turnover ranging from KShs. 9.9 billion in 2024 to KShs. 34.43 billion in 2033. Projected savings for players could reach KShs. 14.26 billion (low-case), KShs. 33.843 billion (mid-case), and KShs. 51.24 billion (best-case) by 2033. Prize winnings are estimated to total KShs. 19.48 billion in the first three years.
42. In the low-case scenario, taxes from national lottery operations are projected at KShs. 7.28 billion in the first three years, including KShs. 10.88 billion for the Sports Fund, fortifying funding for identified good causes. This overview underscores the rationale for establishing a national lottery as a distinctive, inclusive, and strategic asset with the potential to captivate the Kenyan populace, serve as a legitimate avenue for financial engagement, and transparently distribute resources for selected national causes.

3.2.2 Ministry of Youth Affairs, Creative Economy and Sports

The Ministry of Youth Affairs, Creative Economy and Sports proposed the following amendments:-

43. **Clause 21** be amended by including a proviso as follows’ “to provide that 30% of all the Fund proceeds shall be paid into the Sports, Arts and Social Development Fund established under Section 24(4) Of the Public Finance Management Act, 2012.” This is to avoid conflict and duplication of roles and functions between Sports, Arts and Social Development Fund (SASDF), and the National Lottery Fund.

Committee Observation

The Committee agreed to the amendment. The Committee noted the need to provide specific percentages for the good causes to be undertaken under the Bill.

44. **Clause 22** be deleted. This is because under Section 21(4) as read with Section 21(5) and 22, the National Lottery may partner with other operators with respect to any game of chance and by dint of Section 22 and extension thereof, exempt such operators from the application of the Gambling Control Bill. This would in effect remove them from the purview of the Gambling Control Bill, the Public Finance Management (Sports, Arts and Social Development Fund) Regulations.

Committee Observation

The Committee rejected the amendment. The Committee noted that the conduct of a national lottery should be regulated under the National Lottery Bill and not under other laws regulating public lotteries.

3.2.3 Kenya Law Reforms Commission

The Kenya Law Reform Commission (KLRC) submitted that:-

45. The **long title** should be amended to read, “AN ACT of Parliament to provide for the establishment and operationalization of the National Lottery; establishment, functions, powers and management of the National Lottery Board; establishment and administration of the National Lottery Fund; and for connected purposes.” KLRC submitted that the long title is designed to provide an abstract of the contents of the Act. It further submitted that the long title is too brief and some of the context needed in creating the abstract is lost.

Committee Observation

The Committee agreed to the proposed amendment.

46. **Clause 2** - that the definition of “child” should be amended to have the meaning of “child” as assigned to it under the Children Act, 2022 (No. 29 of 2022)” so as to align it with the definition of the word with the Act of Parliament that has already defined the word.

Committee Observation

The Committee rejected the proposal since the definition provided for is similar to that in the Children Act.

47. **A new sub-clause (4)** be added immediately after sub-clause (3) providing that “The Board shall ensure access to its services in all parts of the Republic in accordance with Article 6 (3) of the Constitution.” KLRC submitted that the proposal seeks to ensure that there is access to the Board services even in towns where the Board does not have physical offices.

Committee Observation

The Committee agreed to the proposed amendment, but noted that this provision is already stated in Article 6(3) of the Constitution, therefore there is no need to restate the same.

48. **Clause 5** - that Clause 5(3)(e) be amended by increasing the period of time a chairperson and members of the Board requires not to have interest in the gambling sector. KLRC submitted that the amendment seeks to coincide with the tenure of office and reduce the chances of conflicts of interest in the Board.

Committee Observation

The Committee agreed to the proposal and resolved that period of time referred to in the Clause be 3 years.

49. **Clause 22** be deleted on the ground that allowing the National Lottery to operate outside other laws relating to gambling is not legally sound.

Committee Observation

The Committee rejected the proposed amendment.

50. **Clauses 24, 28, 30 and 31** be deleted since they are procedural provisions, noting that the procedural provisions are best provided for under the Regulations.

Committee Observation

The Committee rejected the proposal to delete Clause 24, 30 and 31 but agreed to the proposal to delete Clause 28.

3.2.4 Kenya Revenue Authority

51. **Clause 22** be amended to provide clarity on what provisions the National Lottery will be subjected to under the Gambling Control Bill, 2023. This is because the exemption is not clear and needs to be clarified for effective implementation.

Committee Observation

The Committee agreed to the proposed amendment.

52. **Clause 40 (3)** be deleted. That exemption of tax should be provided for in the Income Tax Act.

Committee Observation

The Committee agreed to the proposed amendment.

3.2.5 Commission on Revenue Allocation

53. **Clause 5(1)(f)** be amendment by designating the CEO as an *ex-officio* member of the Board since the CEO is a member of the Board by virtue of his or her office.

Committee Observation

The Committee agreed to the proposed amendment.

54. **Clause 5(1)** be amendment to read as follows “A member of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years based on performance.” That this is meant to align the sub-clause with the *Mwongozo* the Code of Governance for State Corporations.

Committee Observation

The Committee agreed to the proposed amendment.

55. Further, CRA proposed an insertion of a **new provision** requiring the appointing authority to pay regard to gender equity and representation of the special interest groups in appointment of the

Board members. That the amendment seeks to align clause 5 with Article 27 of the Constitution of Kenya.

Committee Observation

The Committee agreed to the proposed amendment.

56. **Clause 9** be amended by limiting the number of committees that may be established by the Board to four. That the amendment is meant to align the Clause with the *Mwongozo* the Code of Governance for State Corporations.

Committee Observation

The Committee agreed to the proposed amendment.

57. **Clause 11 (4)** be amended to read as follows “The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of three years based on performance.” That the amendment is meant to align the sub-clause with the *Mwongozo* the Code of Governance for State Corporations.

Committee Observation

The Committee agreed to the proposed amendment.

58. **Clause 20 (2)** be amended to specify which organ of the National Government is to develop the outcome-based performance framework. That the amendment is meant to ensure and ease of implementation of the sub-clause.

Committee Observation

The Committee agreed to the proposed amendment.

59. **Clause 21 (3)** be amended by reducing the scope of the good causes that may be facilitated by the proceeds of the National Lottery. In that regard, CRA submitted that some of the good causes listed are devolved functions, hence, there is need to align with the Fourth Schedule of the Constitution.

Committee Observation

The Committee agreed to the proposed amendment.

60. **Clause 22** be deleted on the ground that the clause contradicts the provisions of clause 24 (4).

Committee Observation

The Committee rejected the proposed amendment.

61. **Clause 44 (2) (c) and (g)** be amended by providing for the minimum requirements or criteria to guide the Board in determining various allocations and entities who may receive money from the Fund. In support CRA, submitted that the amendments are necessary for accountability and ease of implementation.

Committee Observation

The Committee rejected the proposed amendment since it is provided for in the proposed Gambling Control Bill, 2023

62. **Clause 44 (2)(m)** be amended to be in tandem with Clause 42 (2). CRA noted that Clause 42 (2) provides that the operational and administrative costs shall not exceed 3% while Clause 44 (2) (m) provides for 5%.

Committee Observation

The Committee accepted the proposed amendment.

63. **Clause 46 (4)** be redrafted to confirm as to whether it is an account or record, for clarity and practicability purposes.

Committee Observation

The Committee agreed to the proposed amendment with further amendments.

64. **Clause 47 (4)** be amended by stipulating the specific prior clearances required to be eligible to receive funding from the Fund to ensure openness and accountability.

Committee Observation

The Committee was of the opinion that the proposed amendment is best specified under regulations.

3.2.6 Office of the Data Protection Commissioner

65. **Clause 24** be amended by inserting a new sub-clause after sub-clause (4), “(5) Where the regulatory authority maintains such a register, the register shall be maintained in accordance with the principles of data protection set out in the Data Protection Act.” In support, the ODPC submitted that there is currently no obligation on ensuring that where a register is maintained, the register shall be maintained in accordance with the data protection principles.

Committee Observation

The Committee was of the opinion that there was no need to have a register since the license issued will only be one.

66. **Clause 33** be amended by inserting a new sub-clause after sub-clause (3), “(4) Personal data of individuals obtained under this Act shall be held and maintained in accordance with the principles of data protection set out in the Data Protection Act.” In that regard, the ODPC submitted that there is no obligation on ensuring that any processing of personal or sensitive personal data under the Bill is done in accordance with the data protection principles.

Committee Observation

The Committee was of the opinion of that the provisions of the Data Protection Act will automatically apply to the implementation of the National Lottery Bill.

67. **A New Clause** be introduced to provide for any processing of personal and sensitive data shall be done in accordance with the Data Protection Act No. 24 of 2019. In support, ODPC submitted

that the addition of such a provision will ensure any processing of personal or sensitive data under the Bill is in accordance with the Data Protection Act and the data protection principles.

Committee Observation

The Committee was of the opinion of that the provisions of the Data Protection Act will automatically apply to the implementation of the National Lottery Bill.

3.2.7 National Gender and Equality Commission

68. **Clause 5 (1)** be amended by deleting paragraph (e) and substituting with, “three persons representing persons with disabilities, community-based organisations and faith-based organisations and two other members who have proven business acumen or applicable knowledge or experience with regard to matters connected to the functions of the Board and of whom at least one shall be an advocate of the High Court of Kenya and at least one practising Certified Public Accountant appointed by the Cabinet Secretary.” This is to achieve inclusivity and equality.

Committee Observation

The Committee agreed to with amendments

69. **New Sub-clause.** That Clause 5 be amended by inserting the following new sub-clause after sub-clause (4) –

(5) The Cabinet Secretary in making appointments shall ensure that not more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and shall have due regard to the principle of fair representation for persons with disabilities.

Committee Observation

The Committee rejected the amendment since it is provided for in the Constitution.

70. **Clause 6 (1)** be amended by including the function of administering and managing the National Lottery Fund in line with section 44. This function has been omitted while clause 44 mandates the Board to be responsible for general oversight of the Fund.

Committee Observation

The Committee rejected the proposed amendment. Since it is a function provided for under Clause 44 and therefore there is no need of having it in Clause 6.

71. **Clause 11 (3)** be amended by including the function of administering the National Lottery Fund to be in line with Clause 46 which designates the CEO as the administrator of the Fund. Also, insert a New Sub-Clause on the removal of the CEO.

Committee Observation

The Committee agreed to with amendments.

72. **Clause 21 (3)** be amended by inserting the following words “in partnership and collaboration with the relevant entities” appearing immediately after the word “Lottery”. The partnership and collaboration by relevant entities will help identify the appropriate needs that need to be complemented or supplemented by the National Lottery.

Committee Observation

The Committee rejected the proposed amendments since it was addressed in previous clauses.

73. **Clause 21 (3)(a)(i)** be amended by deleting the word “physically and mentally afflicted” and substituting with the words “persons with disabilities”

Committee Observation

The Committee agreed to the proposed amendment.

3.2.8 The Law Society of Kenya

74. The **Long Title** be amended to include creating a legal framework for regulating the conduct of the National Lottery. This because the long title is not comprehensive enough.

Committee Observation

The Committee agreed to the proposed amendment.

75. **Clause (5) (1)** be implemented by including a member of the Law Society of Kenya in the membership of the Board. This is to ensure responsiveness to the rule of law and legislative compliance and risk management.

Committee Observation

The Committee rejected the proposed amendment since there is already an Advocate of the High Court of Kenya in the Membership of the Board.

76. **Clause 12 (2)** on the functions of the Corporation Secretary be amended to be in tandem with the practice standards set by Institute of Certified Public Secretaries – Kenya and the provisions of the *Mwongozo* Code of Governance for State Corporations.

Committee Observation

The Committee rejected the proposed amendment since the functions as provided in the Bill do not conflict with those provided under the *Mwongozo* code.

3.2.9 Council of Governors

77. The **Title of the Bill** be amended to read “**THE LOTTERIES BILL, 2023**”. The rationale given is that lotteries is a concurrent function between the national and county governments.

Committee Observation

The Committee rejected the proposed amendment since the Bill intends to establish a National Lottery whereas counties may legislate on county lotteries if they wish so.

78. **Clause 3** be amended by inserting a new paragraph to provide for the norms and standards for the management of lotteries in the country. This is to acknowledge the responsibility of the two levels of government in the management of lotteries.

Committee Observation

The Committee rejected the proposed amendment since the Bill intends to establish a National Lottery which is a function of the National Government.

79. **Clause 5** be amendment by reducing the members appointed sub-clause (2)(e) to two and including three members appointed by the Council of Governors to represent county governments. This is because good causes that shall be facilitated by the National Lottery include devolved functions. Therefore, a Board membership from the two levels of governments is ideal for management of a concurrent function.

Committee Observation

The Committee was of the opinion that the proposed amendment is already catered for in the Bill.

80. **Clause 6** be amended by deleting paragraph (e) in sub-clause (1) and substituting it with the function of advising the Cabinet Secretary on the National Lottery. They also proposed the inclusion of advice to the County Governments on lotteries. The justification provided was that reference to the Cabinet Secretary provides more clarity on the duty bearer in the national government and it provides a mechanism of collaboration and mutual relations between the two levels of government in the management of lotteries.

Committee Observation

The Committee was of the opinion that the National Lottery is a function of the National Government as provided for in the Bill and as such rejected the amendments.

81. **Clause 43** be amended by inserting a new sub-clause that provides for 30% of the Fund to be allocated to the national government and 70% to be allocated to county governments as conditional grants for implementation of good causes. The justification given is that lottery is a form of entertainment and county governments have the mandate to impose an entertainment tax.

Committee Observation

The Committee rejected the proposed amendment since the Bill does not concern Counties.

3.2.10 County Assemblies Forum

82. **Clause 2** be amended to provide for a designated Cabinet Secretary. This is to address potential ambiguity; ensure transparency and legal certainty.

Committee Observation

The Committee agreed to the proposed amendment

83. **Clause 11 (3)** be amended to designate the Chief Executive Officer of the Board as the corporation secretary. The justification provided is that the functions of the CEO and the Corporation Secretary should be consolidated to enhance efficiency the administrative framework of the Board.

Committee Observation

The Committee rejected the proposed amendment.

84. **Clause 12** be deleted. This is because the functions of the CEO and the Corporation Secretary should be consolidated to enhance efficiency the administrative framework of the Board.

Committee Observation

The Committee was of the opinion that the roles of a CEO and those of the Corporation Secretary should be played by different individuals and therefore rejected the amendment.

85. **Clause 20 (1)** be amended to include the National Assembly among the entities upon which the Board shall submit the financial and non-financial reports to. This is to enhance transparency, accountability and effective oversight.

Committee Observation

The Committee agreed to the proposed amendment.

86. **Clause 21 (3)** be amended by introducing a new sub-clause that mandates the National Lottery Board to collaborate with relevant Ministries Departments and Agencies (MDAs) and county governments in facilitating the good causes to be applied from the proceeds of the National Lottery. This is because some of the identified good causes are functions of existing MDAs and county governments.

Committee Observation

The Committee agreed to the proposed amendment with further amendment; delete “county governments”

87. **Clause 23 (3) (a)** be amended by inserting a new sub-paragraph where in the case of a company, the Board shall take into account if its directors or shareholders satisfies the requirements of Chapter Six of the Constitution.

Committee Observation

The Committee agreed to the proposed amendment.

88. **Clause 27 (2) (b)** be amended to specify the specific and clear frameworks for responsible gambling to be adopted by the Cabinet Secretary, the regulatory authority and the Board. Such as define the specific objectives and goals of responsible gambling. The absence of specific details that constitute strategic and inclusive frameworks for responsible gambling may lead to ambiguity.

Committee Observation

The Committee was of the opinion that the proviso is provided for in the Gambling Bill and therefore rejected the amendments.

89. **Clause 45** be amended by deleting sub-clause (2) and substitute with the following new sub-clause (2) “the Board shall, through regular publications, inform the public of its activities and operations and decisions. Such activities shall be accessible to the public, fostering transparency and accountability. Additionally, the Board shall actively engage in public participation processes to gather input, feedback and insights from the public on matters related to its mandate, ensuring inclusivity and democratic decision-making. The inclusion of public participation emphasizes the importance of involving the public in decision-making processes.

Committee Observation

The Committee rejected the proposed amendment since it is provided for in Article 10 of CoK 2010.

3.2.11 Gaming Awareness Society of Kenya

90. **Clause 3** be amended to provide for responsible gambling. GASK submitted that the Bill needs to explicitly emphasize the commitment to mitigate gambling harm and develop robust educational campaigns targeting the youth.

Committee Observation

The Committee rejected the proposed amendment since it is provided for in the proposed Gambling Bill.

91. **Clause 5 (1)** be amended to include experts or representatives specialized in addressing gambling addiction and the socio-economic impacts of gambling. GASK submitted that integrating experts or representatives specialized in addressing gambling addiction will ensure a comprehensive approach in addressing gambling-related issues.

Committee Observation

The Committee rejected the proposed amendment.

92. **Clause 11** on qualifications of appointment of the CEO be amended to include the requirement of being well-versed in gambling addiction prevention and treatment. That the amendment is meant to ensure emphasis on addressing gambling harm.

Committee Observation

The Committee was of the opinion that such qualification is not necessary and therefore rejected the amendment.

93. **Clause 44 (2)** be amended to provide for allocation of a portion of funds by the Board to initiatives that address gambling harm. In support, GASK submitted that allocating a portion of the funds to such programs would significantly contribute to mitigating gambling-related harm.

Committee Observation

The Committee rejected the proposed amendment since it is provided for in the proposed Gambling Bill.

3.2.12 Media Owners Association

94. **Clause 21 (3)** be amended by reducing the scope of the good causes that may be facilitated by the proceeds of the National Lottery. This is because the definition is broad and may lead to ambiguity.

Committee Observation

The Committee agreed to the proposed amendment.

3.2.13 Radio Africa Group

95. **Clause 21 (3)** be amended by reducing the scope of the good causes that may be facilitated by the proceeds of the National Lottery. This is because the definition of good causes is problematic.

Committee Observation

The Committee agreed to the proposed amendment.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

96. Upon reviewing the Bill and the submissions received, the Committee made the following observations:

- a) The Bill seeks to provide for a legislative framework for the establishment and operation of a National Lottery for pooling of additional resources to be directed to good causes and direct adequate funding to critical areas key to ensuring a socially responsible National Lottery. Further, the Bill proposes a framework for the conduct and regulation of the National Lottery.
- b) The long title of the Bill is not comprehensive enough since it does not provide for a summary of the purpose and scope
- c) The public participation exercise highlighted the need to amend various provisions of the Bill to correct grammatical errors; align the contents with the provisions of the Constitution and written law and to include missing provisions for purposes of clarity and completeness of the proposed legislation.
- d) The Bill does not provide for the exit clause for the Board Members.
- e) Some of the good causes listed in the Bill are devolved functions and some are existing in MDAs. Further, the Committee observed that the scope of good causes should be reduced.

CHAPTER FIVE

5. COMMITTEE RECOMMENDATIONS

97. The Committee, having considered the National Lottery Bill (*National Assembly No. 69 of 2023*) and the submissions from members of the public and stakeholders, **recommends that the House approves the Bill with amendments as proposed in the Schedule of Amendments.**

SIGNED.......... DATE..... 28th Nov 2023.....

**HON. DANIEL WANYAMA SITATI, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE**

CHAPTER SIX

SCHEDULE OF AMENDMENTS

98. In view of the observations made, the Committee proposed the following amendments to the Bill to be considered by the House in the Committee Stage:

LONG TITLE

THAT, the Bill be amended by deleting the long title and substituting the following new long title—
“An Act of Parliament to provide for the establishment of the National Lottery; provide for the establishment, powers and functions of the National Lottery Board; provide for the establishment and administration of the National Lottery Fund; and for connected purposes”

Justification

The amendment seeks to include all the objectives of the Bill, so as to conform to the House drafting style.

CLAUSE 2

THAT, clause 2 of the Bill be amended in the definition of “Cabinet Secretary” by deleting the words “the National Lottery” and substituting therefor the words “internal security and national administration”

Justification

The amendment seeks to ensure that the Cabinet Secretary responsible for national administration shall provide the ministerial oversight of the national lottery as well as to offer policy guidance. Further, the Cabinet Secretary for national administration would be best placed to put in place enforcement measures in the conduct of national lotteries, as well as effective management of the risks associated with the industry such as tax evasion, money laundering and financing of terrorism.

CLAUSE 5

THAT, clause 5 of the Bill be amended —

(a) in subclause (1)—

(i) by deleting the words “the National Lottery” appearing in paragraph (c) and substituting therefor the words “internal security and national administration”;

(ii) by inserting the words “or her” immediately after the word “his” appearing in paragraph (d);

(iii) by deleting paragraph (e) and inserting the following new paragraph—

“(e) four other members who have proven business acumen or applicable knowledge or experience with regard to matters connected to the functions of the Board, appointed by the Cabinet Secretary, and of whom—

(i) one shall be an Advocate of the High Court of Kenya;

(ii) one shall be a practicing Certified Public Accountant;

(iii) one shall be a representative of persons with disability; and

(iv) one shall be a representative of the faith-based organizations;

(iv) by inserting the words “who shall be an ex officio member” immediately after the words “the Chief Executive Officer” appearing in paragraph (f);

(b) by inserting the following new sub-clause immediately after sub-clause (1)—

“(1a) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall ensure that not more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and shall have due regard to the principle of fair competition and merit as the basis for the appointments.”

- (c) in sub-clause (2) by deleting the words “holds a university” appearing in paragraph (b) and substituting therefor the words “holds a bachelor’s”;
- (d) in sub-clause (3) by deleting the words “twelve months” appearing in paragraph (e) and substituting therefor the words “three years”;
- (e) in sub-clause (4) by inserting the words “based on satisfactory performance” immediately after the words “one further term of three years”.

Justification

The amendment seeks to—

- (a) **mandate the Principal Secretary in the ministry for the time being responsible for matters relating to internal security and national administration to sit in the Board as the representative of the parent ministry, in line with the provisions of section 6(1)(c) of the State Corporations Act, Cap. 446;**
- (b) **provide for the requirement of fair competition and merit as the basis of appointments, in line with Articles 10 and 232 of the Constitution;**
- (c) **provide for gender neutral drafting in paragraph (1)(d);**
- (d) **to remove repetition in paragraph (2)(b);**
- (e) **to ensure inclusivity and equality among the persons appointed by the Cabinet Secretary;**
- (f) **provide that the Chief Executive Officer shall be a member of the Board as an ex officio member, so as to align the provision with the recommendation of the Mwongozo Code of Governance for State Corporations;**
- (g) **to increase the period within which a member of the Board should be required to not have actively engaged in the gambling sector, so as to eliminate the possibility of conflict of interest; and**
- (h) **ensure that reappointment to the Board shall be based on satisfactory performance.**

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 5—
Vacancy in the Board.

5A. (1) The office of the Chairperson or a member of the Board appointed under section 5(1)(a) and (e) shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing—
 - (i) in case of the Chairperson, to the President; and
 - (ii) in case of a member, to the Cabinet Secretary;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) has been absent from three consecutive meetings of the Board without a notice to the Chairperson; or
- (e) is removed in accordance with subsection (2).

- (2) A member of the Board may be removed from office for—
- (a) violation of the Constitution or any other law;
 - (b) gross misconduct, whether in the performance of the functions of the office of a member or otherwise;
 - (c) physical or mental incapacity to perform the functions of the office of a member;
 - (d) incompetence; or
 - (e) bankruptcy.
- (3) The Cabinet Secretary shall ensure that any vacancy in the Board is filled as soon as practicable in accordance with the provisions of the Act.

Justification

The amendment seeks to introduce provisions relating to vacancy and removal of the members of the Board, which is currently not provided for in the Bill.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

- (a) in sub-clause (2) by deleting paragraph (f);
- (b) by deleting sub-clause (3).

Justification

The amendment seeks to—

- (a) **remove the ambiguity that would be caused by the provision that the Authority shall have power to offer services to any person on such terms as the Board may determine;**
- (b) **remove the repetition in sub-clause (3), since the provisions are contained in paragraph (2)(c).**

CLAUSE 9

THAT, clause 9 of the Bill be amended by—

- (a) renumbering the current provision as sub-clause (1); and
- (b) inserting the following new sub-clause after sub-clause (1)—
“(2) Despite the provisions of sub-section (1), not more than four committees may be established under this section.”

Justification

To align with the provisions of the Mwongozo Code which limits the number of committees to four.

CLAUSE 10

THAT, clause 10 of the Bill be amended by deleting the words “in consultation with the relevant Government Agencies”.

Justification

The amendment seeks to align the provision with the provisions of Article 230 (4) of the Constitution which provides that it is the function of the Salaries and Remuneration

Commission to advise the national government on the remuneration and benefits of public officers.

CLAUSE 11

THAT, clause 11 of the Bill be amended in subclause (4) by inserting the words “based on satisfactory performance” immediately after the words “further term of three years”.

Justification

The amendment seeks to provide for satisfactory performance as a factor to be used when considering the re-appointment of a member as well as align with the *Mwongozo* Code of Governance for State Corporations.

CLAUSE 12

THAT, clause 12 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Secretary to the Board” and substituting therefor the words “Corporation Secretary”;
- (b) in sub-clause (2) by deleting the words “Secretary to the Board” and substituting therefor the words “Corporation Secretary”.

Justification

The amendment seeks to align the title with the *Mwongozo* Code, to provide that the Secretary to the Board shall be the Corporation Secretary.

CLAUSE 13

THAT, clause 13 of the Bill be amended by deleting the words “in consultation with the relevant Government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission”.

Justification:

To align the provision with Article 230 (4) of the Constitution which provides that it is the function of the Salaries and Remuneration Commission to advise the national government on the remuneration and benefits of public officers.

CLAUSE 15

THAT, clause 15 of the Bill be amended in sub-clause (1) by deleting the words “Chief Executive Officer or such other person as the Board may direct” and substituting therefor the words “Corporation Secretary”.

Justification

The amendment seeks to align with the *Mwongozo* Code which provides that the Corporation Secretary shall be the custodian of the common seal and account to the Board for its use.

CLAUSE 18

THAT, the Bill be amended by deleting clause 18 and inserting the following new clause—

- Annual estimates. **18.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board of that year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the staff of the Board;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Board;
- (c) proper maintenance of the buildings and grounds of the Board;
- (d) maintenance, repair and replacement of the equipment and other property of the Board;
- (e) payment of allowances of the members of the Board and the members of the Board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit.

Justification

The amendment seeks to provide for the comprehensive provision on annual estimates as per the House drafting style.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “and the National Assembly” immediately after the words “Controller of Budget”;
- (b) by deleting sub-clause (2) and inserting the following new sub-clause—

“(2) The Board shall continuously and on a regular basis monitor and report on its performance and on the performance of the operator on a quarterly basis, with a summary of performance reported through the Board’s annual report on the basis of a clear outcome-based performance framework based on the policy developed by the ministry responsible for performance and service delivery.”

Justification

The amendments seek to—

- (a) **ensure that the reports of the Board are also be submitted to the National Assembly, to enable the National Assembly to exercise oversight of the Board pursuant to Article 95(5)(b) of the Constitution; and**
- (b) **specify the organ of the National Government which is responsible for developing the framework on performance. According to the Executive Order No. 2 of 2023 on the organization of the government of the Republic of Kenya, the function of overseeing performance of government ministries, departments and agencies is placed in the Ministry of Public Service, Performance and Delivery Management.**

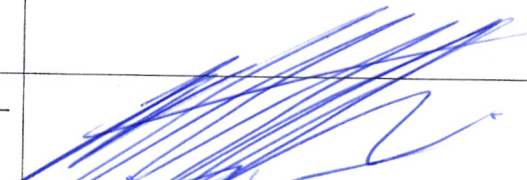
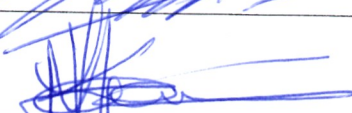
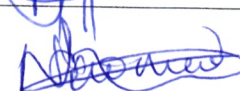
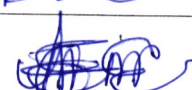
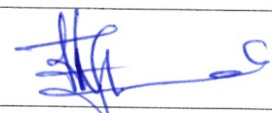
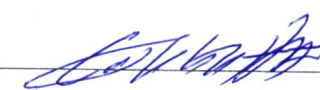

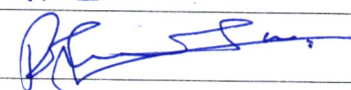

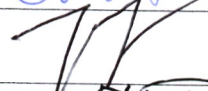
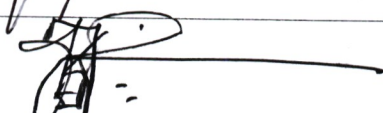
ANNEXURES

ANNEXURE 1: REPORT ADOPTION SCHEDULE



THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE
REPORT ADOPTION SCHEDULE

Date: 28TH NOV, 2023 Venue: RED CROSS BOARDROOM
PARLIAMENT BUILDINGS

No.	HON. MEMBER	SIGNATURE
1.	The Hon. Daniel Wanyama Sitati, M.P. - Chairperson	
2.	The Hon. James Githua Wamacukuru, M.P. - Vice Chairperson	
3.	The Hon. Naomi Jillo Waqo, M.P.	
4.	The Hon. Mary Emaase Otucho, M.P.	
5.	The Hon. Samuel Gonzi Rai, M.P.	
6.	The Hon. Stephen Mutinda Mule, M.P.	
7.	The Hon. Chege Njuguna, M.P.	
8.	The Hon. Charles Ngusya Nguna, M.P.	
9.	The Hon. Janet Jepkemboi Sitienei, M.P.	
10.	The Hon. Richard Kipkemoi Yegon, M.P.	
11.	The Hon. Catherine Nakhabi Omanyoo, M.P.	
12.	The Hon. Caroli Omondi, M.P.	
13.	The Hon. Paul Ekwom Nabuin, M.P.	
14.	The Hon. Robert Ngui Basil, M.P.	
15.	The Hon. BSP. (EM) Dr. Jackson Kipkemoi Kosgei, M.P.	

ANNEXURE 2: MINUTES

MINUTES OF THE 87TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE HELD ON 28TH NOVEMBER 2023 AT 10:30 A.M. IN RED CROSS BUILDING, 1ST FLOOR BOARDROOM, PARLIAMENT BUILDINGS

PRESENT

1. **The Hon. Githua Wamacukuru, M.P. -Vice Chairperson**
2. The Hon. Naomi Jillo Waqo, M.P.
3. The Hon. Stephen Mutinda Mule, M.P
4. The Hon. Mary Emaase Otucho, M.P.
5. The Hon. Janet Jepkemboi Sitienei, M.P.
6. The Hon. Chege Njuguna, M.P.
7. The Hon. Paul Ekwom Nabuñ, M.P.
8. The Hon. Robert Ngui Basil, M.P.
9. The Hon. Richard Kipkemoi Yegon, M.P.
10. The Hon. BSP.(EM) Dr. Jackson Kipemoi Kosgei, M.P

APOLOGY

1. **The Hon. Daniel Wanyama Siatati, M.P -Chairperson**
2. The Hon. Samuel Gonzi Rai, M.P.
3. The Hon. Charles Ngusya Nguna, M.P.
4. The Hon. Caroli Omondi, M.P.
5. The Hon. Catherine Nakhabi Omanyo, M.P.

IN-ATTENDANCE

Committee Secretariat

- | | |
|---------------------------|------------------------------|
| 1. Mr. John Mugoma | - Clerk Assistant II |
| 2. Ms. Mary Kinyunye | - Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - Senior Legal Counsel |
| 4. Mr. Wilson Mwangi | - Fiscal Analyst III |
| 5. Mr. Daniel Ominde | - Research Officer III |
| 6. Mr. Moses Esamai | - Audio Officer |
| 7. Mr. Stephen Otieno | - Assistant Serjeant-At-Arms |

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Adoption of the Agenda;
 - ii. Communication from the Chairperson;
3. Consideration and Adoption of the reports on the following Bills:-
 - i. The Gambling Control Bill, 2023; and
 - ii. The National Lottery Bill, 2023.
4. Any Other Business; and
5. Adjournment.

MIN.NO. DC/SC/2023/453: PRAYER AND PRELIMINARIES

The meeting commenced at 10.30 a.m. with the Prayer followed welcoming remarks from the Vice Chairperson.

MIN.NO. DC/SC/2023/454: ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Naomi Jillo Waqo, M.P and the Hon. Richard Kipkemoi Yegon, M.P. respectively.

MIN.NO. DC/SC/2023/455: CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETINGS

Confirmation of the minutes of the previous Sittings was deferred to the next meeting.

MIN.NO. DC/SC/2023/456: ADOPTION OF THE COMMITTEE REPORT ON CONSIDERATION OF THE GAMBLING CONTROL BILL, 2023

The Committee considered and adopted the report on the proposed Gambling Control Bill (National Assembly Bill No. 70 of 2023) by the Hon. Kimani Ichung'wah, M.P, the Majority Leader, having been proposed by the Hon. Richard Kipkemoi Yegon, M.P.and seconded by the Hon. Naomi Jillo Waqo, M.P. and made the following key observations:-

- a) That the Bill seeks to repeal and replace the Betting, Lotteries and Gaming Act (Cap 131), provide for a legislative framework for the regulation of gambling in Kenya, and incorporate safe gambling principles in the gambling sector. Further, the Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries and media promotions.
- b) The public participation exercise highlighted the need to amend various provisions of the Bill to correct grammatical errors; align the contents with the provisions of the Constitution and written law and to include missing provisions for purposes of clarity and completeness of the proposed legislation.
- c) The bill proposes concurrent functions of the National and County Governments in the regulation of gambling activities therefore transitioning Kenya's gambling law into the governance realities under the Constitution of Kenya.
- d) Taxes under Clause 45 need to be collected in accordance with the provisions of the Tax Procedure Act, Cap 469B so as to provide for assessment and enforcement powers to the collector of the gambling tax.
- e) That tax exemptions in the bills should be included in the Income Tax Act. In addition, there in need for clarity to expound the provision on the exemption to provide clarity on what provisions under the proposed Gambling Bill applies to.
- f) That there is need for a transition clause that will enable the collector to enforce collection of any taxes that are due under the Betting, Lotteries and Gaming Act that is being repealed

by the proposed bill, as well as provide for assessment and enforcement powers to the collector of the gambling tax.

- g) That gambling is a demerit good and has risks if overindulged like similar products. Therefore, the bill proposed measures to mitigate harm from gambling such as: public sensitization; self-exclusion measures; enforcement to curb illegal gambling; promotion of responsible gambling behaviors; restriction in advertising; and criminalizing gambling by young persons and the vulnerable in the community.
- h) That the Gambling Regulatory Authority that is transiting from the Betting Control and Licensing Board, should be empowered to ensure compliance with Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act.
- i) That by increasing the gambling tax including a 1% gambling levy in the gambling industry will promote offshore gambling which the government will have no jurisdiction to regulate. This will lead to a loss of revenue for the government because websites from offshore gambling companies cannot be monitored efficiently.

COMMITTEE RECOMMENDATION

The Committee having reviewed the Gambling Control Bill, (National Assembly Bill No. 70 of 2023) recommended that the House approve the Bill with amendments as proposed in Chapter Six of the Report.

MIN.NO. DC/SC/2023/457: ADOPTION OF THE COMMITTEE REPORT ON CONSIDERATION OF THE NATIONAL LOTTERY BILL, 2023

The Committee considered and adopted the report on the National Lottery Bill, (National Assembly Bill No. 69 of 2023) by the Hon. Kimani Ichung'wah, M.P, the Majority Leader, having been proposed by the Hon. Naomi Jillo Waqo, M.P. and seconded by the Hon. Robert Ngui Basil, M.P with the following observations.

- a) The Bill seeks to provide for a legislative framework for the establishment and operation of a National Lottery for pooling of additional resources to be directed to good causes and direct adequate funding to critical areas key to ensuring a socially responsible National Lottery. Further, the Bill proposes a framework for the conduct and regulation of the National Lottery.
- b) The long title of the Bill is not comprehensive enough since it does not provide for a summary of the purpose and scope
- c) The public participation exercise highlighted the need to amend various provisions of the Bill to correct grammatical errors; align the contents with the provisions of the Constitution and written law and to include missing provisions for purposes of clarity and completeness of the proposed legislation.
- d) The Bill does not provide for the exit clause for the Board Members.

- e) Some of the good causes listed in the Bill are devolved functions and some are existing functions in other MDAs. Further, the Committee observed that the scope of good causes should be reduced.

COMMITTEE RECOMMENDATION

The Committee having reviewed the National Lottery Bill, (National Assembly Bill No. 69 of 2023) recommended that the House approve the Bill with amendments as proposed in Chapter Six of the Report.

MIN.NO. DC/SC/2023/458: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/SC/2023/459: ADJOURNMENT/DATE OF THE NEXT SITTING

There being no other business, the meeting was adjourned at 11.30 a.m. The date of the next meeting to be communicated by notice.

for 

SIGNED:

**THE HON. DANIEL WANYAMA SIATATI, M.P.
(CHAIRPERSON)**

DATE: 28th NOV 2023

ANNEXURE 3:
ADVERTISEMENT
INVITING THE PUBLIC TO
SUBMIT MEMORANDA ON
THE BILL

Dialogue team agrees on five issues, retreats to compile its report



National Dialogue Committee members led by co-chairs Kimani ichung'wah and Kalonzo Musyoka at Bomas of Kenya yesterday. (Samson Wire Standard)

Cost of living among issues given priority as committee set to write a report.

Economic experts gave their views to team in a bid to ease cost of living.

DAH BEN-HUR, NAIROBI

The National Dialogue Committee concluded its deliberations yesterday and announced it had reached consensus on all five issues including the cost of living.

This marks the end of 73 days of extensive deliberations. Committee co-chairman Kimani ichung'wah announced that they had made significant progress on all agenda items. "We have made tremendous progress and agreed on all agenda items," he said.

Development comes nearly a month after the committee agreed on four other issues including the cost of living. This prompted invitation for economic experts to arrive at a workable solution to the high cost of living that continues to plague Kenyans.

Last week, economic experts blamed unnecessary government expenditure, exaggerated borrowing and integrity issues on the economic challenges that have seen a rise in inflation, increased and skyrocketing cost of living.

The Controller of Budget Margaret Nyakang'o and others said that some solutions to economic perils can be dealt with by addressing government spending and Parliament's scrutiny of the budgeting process.

Parliament did its work diligently and by line on the budget and asking why this quantity of things, you would have space for savings," said Kwame Nyakang'o expressed unease with the Treasury's inability to provide a clear picture of the projects to which loans were allo-

ated. "I have been approving payments for public debt, and I have seen many of those things cannot be identified. You cannot tell what the money was meant for, and therefore there was no economic gain from that borrowing. That is what we have been doing for a long time," she said.

The experts also called for a review of the tax regime which has seen taxes rise in the past year. Appearing before the committee on Monday, Dr Abraham Rugo said the government should continue cutting down on spending and taxation arguing that a lot can be saved by reviewing state-owned enterprises which gobble up resources and offer no returns. "We can't continue to save companies that are not performing yet doing businesses," he said.

But Treasury Cabinet Secretary Njuguna Ndung'u denied allegations of exaggerating the budget. He argued that the only way to resuscitate the economy and deal with the rising cost of living would be to nurture the markets and support manufacturing and housing sectors.

"The Hustler Fund, government to government deal, affordable housing is an intervention. The issue is you start it off and once it is working, you release it to the market. For it to work, the market has to be nurtured," he said.

"If markets don't function, production will fail downstream. You cannot produce if the market is not going to give you the returns. There's no way you will find people producing food when they cannot sell the food," he added.

The committee is tasked with facilitating dialogue on national issues around cost of living, audit of the 2022 elections and fidelity of political parties.

The team that was also looking at proposals of entrenching the office of the Prime Cabinet Secretary and creating the office of the official leader of opposition has not only addressed the predetermined agenda items but has also taken into consideration additional matters raised by Kenyans during the deliberations.

newsdesk@standardmedia.co.ke

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT-SECOND SESSION (2023)

- IN THE MATTER OF ARTICLE 118(1)(b) OF THE CONSTITUTION AND IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:
1. THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS No. 40 OF 2023);
 2. THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILLS No. 69 OF 2023);
 3. THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS No. 70 OF 2023);
 4. THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS No. 4 OF 2023); AND
 5. THE EQUALISATION FUND (ADMINISTRATION) BILL (SENATE BILLS No. 14 OF 2023)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees,

AND WHEREAS, the Anti-Corruption and Economic Crimes (Amendment) Bill (National Assembly Bills No. 40 of 2023); the National Lottery Bill (National Assembly Bills No. 69 of 2023), the Gambling Control Bill (National Assembly Bills No. 70 of 2023); the Learners with Disabilities Bill (Senate Bills No. 4 of 2023), and the Equalisation Fund (Administration) Bill (Senate Bills No. 14 of 2023) have been read a First Time and referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that:

1. **The Anti-Corruption and Economic Crimes (Amendment) Bill (National Assembly Bills No. 40 of 2023)** sponsored by Hon. Geoffrey Kariuki Ruku, MP seeks to amend section 45 of the Anti-Corruption and Economic Crimes Act, 2003 to remove the inordinate and undue criminalization of flaws in public procurement law
2. **The National Lottery Bill (National Assembly Bills No. 69 of 2023)** sponsored by Hon. Kimani Ichung'wah, MP, the Leader of Majority Party seeks to provide a legislative framework for the establishment and operation of a socially responsible National Lottery for pooling of resources to be directed to good causes and funding of critical areas. The Bill further proposes a framework for the conduct and regulation of the National Lottery.
3. **The Gambling Control Bill (National Assembly Bills No. 70 of 2023)** sponsored by Hon. Kimani Ichung'wah, MP, the Leader of Majority Party seeks to repeal and replace the Betting, Lotteries and Gaming Act (Cap 131) and provide a legislative framework for the regulation of gambling in Kenya and incorporate safe gambling principles in the gambling sector. Further, the Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries and media promotions.
4. **The Learners with Disabilities Bill (Senate Bills No. 4 of 2023)** seeks to provide a proper legal framework to ensure the actualization of the right to basic education for learners with disabilities in Kenya at all three levels of education. The Bill obligates the National Government, through the Ministry of Education and the County governments, to carry out their duties and bring the special needs education of learners with disabilities to parity with normal learners and to end the exclusion of learners with disabilities from the education cycle.
5. **The Equalisation Fund (Administration) Bill (Senate Bills No. 14 of 2023)** seeks to provide the administrative structure for the management of the Equalisation Fund and to establish the criteria through which projects contemplated under Article 204(2) of the Constitution are to be funded. The Bill also seeks to extend the pendency of the Fund in accordance with Article 204(8) of the Constitution to ensure the purpose of the Fund is met.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees listed below-

S/ No.	BILL	COMMITTEE
1.	The Anti-Corruption and Economic Crimes (Amendment) Bill (National Assembly Bills No. 40 of 2023)	Justice and Legal Affairs
2.	The National Lottery Bill (National Assembly Bills No. 69 of 2023)	Sports and Culture
3.	The Gambling Control Bill (National Assembly Bills No. 70 of 2023)	
4.	The Learners with Disabilities Bill (Senate Bills No. 4 of 2023)	Education
5.	The Equalisation Fund (Administration) Bill (Senate Bills No. 14 of 2023)	Finance and National Planning

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to cna@parliament.go.ke to be received on or before Friday 17th November, 2023 at 5.00 p.m.

S. NJOROGI
CLERK OF THE NATIONAL ASSEMBLY

10th November 2023

"For the Welfare of Society and the Just Government of the People"


REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT-SECOND SESSION (2023)

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION
 AND
 IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT) BILL [NATIONAL ASSEMBLY BILLS No. 40 OF 2023];
2. THE NATIONAL LOTTERY BILL [NATIONAL ASSEMBLY BILLS No. 69 OF 2023];
3. THE GAMBLING CONTROL BILL [NATIONAL ASSEMBLY BILLS No. 70 OF 2023];
4. THE LEARNERS WITH DISABILITIES BILL [SENATE BILLS No. 4 OF 2023]; AND
5. THE EQUALISATION FUND (ADMINISTRATION) BILL [SENATE BILLS No. 14 OF 2023]

INVITATION TO SUBMIT MEMORANDA

WHEREAS Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

AND WHEREAS, the Anti-Corruption and Economic Crimes (Amendment) Bill (National Assembly Bills No. 40 of 2023), the National Lottery Bill (National Assembly Bills No. 69 of 2023); the Gambling Control Bill (National Assembly Bills No. 70 of 2023), the Learners with Disabilities Bill (Senate Bills No. 4 of 2023), and the Equalisation Fund (Administration) Bill (Senate Bills No. 14 of 2023) have been read a First Time and referred to the relevant Departmental Committees for consideration and reporting to the House;

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5.	The Equalisation Fund (Administration) Bill (Senate Bills No. 14 of 2023)	Finance and National Planning

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to cna@parliament.go.ke to be received on or before **Friday 17th November, 2023 at 5.00 p.m.**

S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY

10th November 2023

"For the Welfare of Society and the Just Government of the People"



NATIONAL YOUTH SERVICE



Telegrams: VJANA
 Tel: +254-020-26322925
 Fax: +254-020-2376129
 Website: www.nys.go.ke
 Email: Director.general@nys.go.ke

National Youth Service
 Headquarters
 P.O. Box 30397 - 01000
 NAIROBI - KENYA

ADDENDUM ON JOB ADVERTISEMENT FOR THE DIRECTOR GENERAL / CHIEF EXECUTIVE OFFICER POSITION AT THE NATIONAL YOUTH SERVICE (NYS)

Please note that the closing date for submission of applications in respect of the advertised post of Director General, NYS which appeared on MyGov on **Tuesday, 30th October, 2023** has been extended from **Sunday, 12th November, 2023** to **Tuesday, 21st November, 2023**.

Lt Gen (Rtd) Njuki Mwaniki, MGH, CBS, OGW, ndc (K)
CHAIRMAN, NATIONAL YOUTH SERVICE COUNCIL



THE CO-OPERATIVE UNIVERSITY OF KENYA
 Empowering Communities

P.O. BOX 24814-00502, Karen-Nairobi Tel: 020-2430127 / 2679456, 0724 311 606
 Website: www.cuk.ac.ke Email: registrar@cuk.ac.ke

OFFICE OF THE REGISTRAR
(ACADEMIC, CO-OPERATIVE DEVELOPMENT, RESEARCH AND INNOVATION)

THE 8th GRADUATION CEREMONY ADVERTISEMENT

The 8th Graduation Ceremony of The Co-operative University of Kenya (CUC) will be held at the **Graduation Square, Main Campus, Karen - Nairobi on Friday, 1st December 2023** starting at **8:00 a.m.** All students who have fulfilled the requirements for degrees and award of Diplomas and Certificates during the **2022/2023 Academic Year** are invited to participate.

GRADUATION STATUS
Students who successfully completed their studies in the **2022/2023 Academic Year** and those from previous Academic Years, who had not graduated are advised to confirm their appearance in the graduation list by **Wednesday, 22nd November 2023**.

APPLICATION FOR GRADUATION
Graduates who have not yet applied are permitted to apply for the **2023 Graduation** online through the Students' Portal: <https://studentsportal.cuk.ac.ke> or per the instructions and guidelines that have been available on the University website: <https://www.cuk.ac.ke/graduation> before **Wednesday, 15th November 2023**.

CLEARING OF FEES BALANCES
Graduates are required to clear all applicable fees (including graduation fee) **before applying for graduation**. Amounts with fees arrears will therefore be excluded from the graduation list.

GRADUATION FEES
The graduation fees are indicated in the table below:

S/N	AWARD	GRADUATION FEE (KES)	S/N	AWARD	GRADUATION FEE (KES)
1	Certificates	4,000.00	2	Diplomas	5,000.00
3	Bachelors	5,000.00	4	Masters	7,000.00

All graduation fee payments must be made before **Friday, 17th November 2023** through Co-operative Bank. Account Number: 01129062663600, Nairobi Branch. Swift Code: CUKKEN. Account Number: 125027707852, Karen Branch. Failure to pay the graduation fees on time will lead to exclusion from the graduation list.

ACADEMIC ATTIRE
Graduation gowns will be available for hire upon presentation of original National Identity card and duly filled gown hiring form printed from the Students' Portal upon successful application for graduation. Gowns shall be collected from respective Schools/Directories at Main Campus (Karen - Nairobi) starting from **Thursday, 23rd November 2023** to **Wednesday, 29th November 2023** and should be returned at its sole owner by **Thursday, 16th December 2023**. Failure to return the gown by the stated date will attract a penalty of **KES. 500 per day**.

REHEARSAL
All Graduates are expected to attend the rehearsal on **Thursday, 30th November 2023** at **10:00 a.m.** at the Graduation Square, Main Campus, Karen - Nairobi.

INVITATION CARDS
As the date of submitting the graduation gown, each graduate will be issued with **two (2) invitation cards** for their guests. Persons with graduation invitation cards shall **NOT** be allowed into the Graduation Square.






COLLECTION OF CERTIFICATES
Graduates are required to collect their certificates within a period of **5 (5) Months** after the graduation. Any uncollected certificates will attract an administrative penalty as specified in the University Policy.


PUNCTUALITY
Graduates and their guests are required to be seated by **8:00 a.m.** The late arrivals shall **NOT** be allowed into the Graduation Square.

For further information contact the Office of the Registrar (Academic & Co-operative Development, Research and Innovation) (ACDRI) via Telephone: 0724 311606 or email: registrar@cuk.ac.ke Website: www.cuk.ac.ke

REGISTRAR, ACDRI

[Apply Now!](https://www.cuk.ac.ke/graduation) | [View Details](https://www.cuk.ac.ke/graduation) | www.cuk.ac.ke/graduation

 [Facebook](#) |  [Twitter](#) |  [Instagram](#) |  [LinkedIn](#) |  [YouTube](#)



ANNEXURE 4:
LETTER INVITING
STAKEHOLDERS FOR
MEETINGS WITH THE
COMMITTEE



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

REF: NA/DDC/S&C/2023/078

15th November, 2023

Hon. Shadrack J. Mose
The Solicitor-General
The State Law Office
Sheria House
NAIROBI

Ms. Aurelia C. Rono
Principal Secretary
State Department for Parliamentary Affairs
Office of the Prime Cabinet Secretary Ministry of Foreign and Diaspora Affairs
Kenya Railways Headquarters
NAIROBI

Amb. (Prof) Julius Bitok, CBS
Principal Secretary
State Department for Immigration and Citizen Services
Ministry of Interior and National Administration
Harambee House
NAIROBI

Eng. Peter K. Tum, OGW
Principal Secretary
State Department for Sports
Ministry of Youth Affairs, Creative Economy and Sports
Talanta Plaza, Upper Hill
NAIROBI

Eng. John K. Tanui, MBS
Principal Secretary
State Department for ICT and the Digital Economy
Ministry of Information, Communication and the Digital Economy
Teleposta Towers
NAIROBI

Mr. Joash Dache, MBS
Chief Executive Officer
Kenya Law Reform Commission
3rd Floor, Reinsurance Plaza, Taifa Road
NAIROBI

Mr. Humphrey Wattanga Mulongo
Commissioner General
Kenya Revenue Authority
Times Tower
Haile Selassie Avenue
NAIROBI

CPA James Katule
Chief Executive Officer
Commission on Revenue Allocation
14 Riverside Drive,
Grosvenor Suite, 2nd Floor
NAIROBI

Ms. Immaculate Kassait, MBS
Data Commissioner
Office of the Data Protection Commissioner
12th Floor, Britam Tower, Hospital Road
NAIROBI.

Mr. Peter K. Mbugi
Chief Executive Officer
Betting Control and Licensing Board
ACK Gardens Annex, Bishop Road, 1st Ngong Avenue
NAIROBI

Ms. Florence W. Muturi
Commission Secretary/CEO
The Law Society of Kenya
Lavington, Opposite Valley Arcade
Gitanga Road
NAIROBI.

Ms. Mary Mwiti
Chief Executive Officer
The Council of Governors
Delta House, Rhapta Road
NAIROBI.

Ms. Judy Oduma
Chief Executive Officer
County Assembly Forum
Flamingo Towers, 5th Floor Wing B, Mara Road
NAIROBI

Dear *Sir,*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS AND
CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL
ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING CONTROL BILL
(NATIONAL ASSEMBLY BILL NO. 70 OF 2023)**

The Departmental Committee on Sports and Culture is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to, *inter alia*, “**study and review all legislation referred to it**”.

The National Lottery Bill (National Assembly Bill No. 69 of 2023) and the Gambling Control Bill (National Assembly Bill No. 70 of 2023); were read a First Time on **Wednesday, 8th November 2023** and thereafter referred to the Departmental Committee on Sports and Culture for consideration and reporting to the House.

Article 118(1)(b) of the Constitution provides that, “*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.*” Further, the National Assembly Standing Order 127(3) provides that, “*the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House*”.

Pursuant to the above-stated provisions, the Committee on 10th November 2023 placed an advertisement in the local daily newspapers and the parliamentary website calling for the submission of memoranda from the public on the two Bills. In this regard, the Committee invites you to a public hearing and stakeholder meetings on **Tuesday, 21st and Wednesday, 22nd November 2023 from 10:00 a.m.** as per the attached programme. The venue of the meeting will be communicated in due course.

Copies of the Bills may be obtained from the Parliamentary website: www.parliament.go.ke/the-national-assembly/house-business/bills.

You are requested to submit electronic copies of your submissions to the Committee through the email addresses provided in this letter not later than **Monday, 20th November 2023 at 5.00 p.m.** and appear before the Committee with twenty (20) hard copies of the submissions.

The officers responsible for the coordination of these meetings are **Mr. John Mugoma**, Tel. No. 0724330358 or email: john.mugoma@parliament.go.ke and **Ms. Mary Njeri Kinyunye**, Tel. No. 0723179346 or email: mary.kinyunye@parliament.go.ke.

Yours *Sincerely*



SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: Hon. Justin B.N. Muturi, E.G.H

The Hon. Attorney-General

The State Law Office

Sheria House

NAIROBI

Prof. Kithure Kindiki, EGH

Cabinet Secretary

Ministry of Interior and National Administration

Harambee House

NAIROBI

Hon. Ababu Namwamba, EGH
Cabinet Secretary
Ministry of Youth Affairs, Creative Economy and Sports
Talanta Plaza, Upper Hill
NAIROBI

Mr. Eliud O. Owalo
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Teleposta Towers
NAIROBI

H.E. Anne Waiguru, EGH, OGW
Chairperson
Council of Governors
Delta House, Rhapta Road
NAIROBI



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/S&C/2023/079

15th November, 2023

Mr. Yaron Farachi
Chief Executive Officer
Kenya Charity Sweepstake
KCS House Building, 11th Floor
Mama Ngina Street
NAIROBI

Dr. Habil Olaka
Chief Executive Officer
Kenya Bankers Association
13th Floor, International House
Mama Ngina Street
NAIROBI

Mr. Peter Ndegwa
Chief Executive Officer
Safaricom PLC
Safaricom House, Waiyaki Way
NAIROBI

Mr. Ashish Malhotra
Chief Executive Officer
Airtel Kenya
Parkside Towers
Mombasa Road
NAIROBI

Ms. Judith Kiragu
Chairperson
Association of Gaming Operators Kenya
10th Floor, Suite 1020
Utalii Street/Uhuru Highway Junction
NAIROBI

Ms. Carol Nganga
Jockey Club of Kenya
Ngong Road
NAIROBI

Ms. Agnes Kalekye
Chairperson
Media Owners Association of Kenya
NAIROBI

Mr. Nelson Bwire
Co-Founder
Gaming Awareness Society of Kenya
Watermark Business Park
NAIROBI

Dear *Sir,*

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

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Yours *sincerely*



SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

ANNEXURE 5:
MEMORANDA BY
STAKEHOLDERS.



**CONSULTATION WITH
PARLIAMENT ON THE
GAMBLING CONTROL BILL,
2023 AND THE NATIONAL
LOTTERY BILL, 2023**

**PRESENTATION TO THE
DEPARTMENTAL
COMMITTEE ON SPORTS
AND CULTURE**

20 November 2023

Pride-Inn, Plaza, Machakos County.

Table of Contents

1. **Generating the Proposed Gambling Regulatory Framework**
 - a. Membership and Structure of the Presidential Taskforce
 - b. Key Milestones of the Taskforce
 - c. What the Public Told Us?
2. **The Policy Framework for Transforming Gambling into a Force for Social Progress**
 - a. Kenya's Gambling Industry: The Status Quo
 - b. The Nine Pillars for Transformation
 - c. Elements of the Transformation Framework
 - d. The Policy Framework for Transforming the Gambling Sector
3. **The Proposed Legal and Regulatory Framework**
4. **Projected Revenues from the National Lottery**
5. **A Final Reflection**

I. DENERATING THE PROPOSED GRAMMING REGULATORY

Framework

MEMBERSHIP AND STRUCTURE OF THE TASKFORCE

THE STEERING COMMITTEE

1. Narendra Raval (Dr.) — Chairperson
2. Gideon G. Thurania — Vice-Chairperson
3. Principal Secretary, National Treasury
4. Principal Secretary, Interior
5. Principal Secretary, Social Protection
6. Principal Secretary, Culture and Heritage
7. Solicitor-General
8. Representative of the Council of Governors
9. Paul Russo
10. Judith Karigu Kiragu
11. Anne Wakathiru Njenga
12. Grace Kamau
13. Jackline Chelangat Tonui

TECHNICAL COMMITTEE

1. Linda Musumba (Dr.) — Chairperson
2. Wanjiku Wakogi
3. Eric Alligula (Dr.)
4. Collins Kiprono
5. Peter Mbugi
6. Fred Mbasii
7. Geoffrey Malombe
8. Eric Korir
9. Wilson Njega
10. Catherine Ochanda
11. Muriimi Murage

JOINT SECRETARIES

1. Clinton Mwita
2. Margaret Githaiga

In addition, the Taskforce incorporated a Team of 16 Technical Resource Persons

1. Generating the Proposed Gambling Regulatory Framework

KEY MILESTONES OF THE TASKFORCE

DATE	KEY MILESTONE
16 February 2023	Established by Your Excellency, Sir through Gazette Notice No. 2101
20 February 2023	Formal Inauguration of the TF by the Chief of Staff and Head of Public Service, Mr. Felix Koskei;
24 February 2023	Desk studies and reviews, as well as targeted consultations with MDAs
22 March 2023	Mid-term presentation of progress by TF to Your Excellency, Sir, for your input and guidance
27 & 28 March 2023	Publication by TF of its plan for stakeholder engagement and public participation
3 – 6 April 2023	Stakeholder engagement session held at KICC
11 – 21 April 2023	Public Participation in 13 Counties spanning across 8 regions, with sufficient consideration of the centrality of venues
24 April 2023	External physical Benchmarking undertaken (South Africa, United Kingdom, Italy and Singapore) Virtual re Emirates, South Africa and UK
2 May 2023	TF Retreat to write Report
8 May 2023	Virtual National Validation Forum held (737 Kenyans Participated) and Final TF Meeting to approve documents following incorporation of feedback.
Assignment completed 6 days before the end of the 3-month period.	

1. Generating the Proposed Gambling Regulatory Framework

WHAT THE PUBLIC TOLD US?

There were different views based on factors including gender, age group, religion, geography and occupation. However, overall, the public said that:

- i. Gambling as it currently exists is considered more a vice than a virtue – changing this will require safe gambling principles to be inculcated and enforced in the Sector;
- ii. Those already suffering from addiction and those vulnerable to the effects of wanton gambling MUST be protected;
- iii. The cry by small businesspersons running illegal gambling sites/operations for recognition and the establishment of an enabling framework that allows them to operate legally was unmistakable;
- iv. The national lottery is a welcome idea, BUT the public needs to be included in decision-making with respect to the good causes to be funded; and
- v. The public was also desirous that the national lottery have devolved structures that incorporate the public up to the Ward level.

Gambling into a Force for Social Progress KENYA'S GAMBLING INDUSTRY: THE

STATUS QUO 1

- a. Data from the gambling sector is not readily available, even from sector regulators. However, available data shows that:
 - Kenya, with an estimated market size of KShs. 200 billion is reported to be the THIRD LARGEST market in Africa after South Africa and Nigeria.
 - This market is expected to continue growing at a CAGR of 7.5% from 2020 to 2025, driven by the increasing popularity of online and mobile gambling.
 - Kenya has the highest percentage of young gamblers in Sub-Saharan Africa (76%), who outspend their peers on a per-capita basis, with 96% of them using mobile devices.
 - Withholding tax on winnings from betting increased by 116.9% from KShs. 465 million in December 2021 to KShs. 1.008 billion in December 2022, reflecting significant growth potential.
 - Kenyans staked a record Sh88.5 billion through online bets in the full year to June 2023, from which the Kenya Revenue Authority (KRA) a major windfall after it collected Sh6.64 billion in excise taxes

- b. A typical Gambler is Male, below 36 years of age, from a Low-Income household, with at least a secondary school level of education.

SUBMISSION BY CHAIRPERSON BETTING CONTROL AND LICENSING BOARD DURING THE CONSULTATIVE MEETING WITH DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL LOTTERY BILL NO.69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY NO.70 OF 2023 ON 22ND NOVEMBER, 2023

Hon. Chair, and Hon. Members, May I once more thank you for inviting the Board today to this consultative retreat to consider the National Lottery Bill No.69 of 2023 and the Gambling Control Bill (National Assembly Bill No.70 of 2023).

Hon. Chair, and Members, during our appearance to the Committee yesterday the 21st November, 2023, members raised the following issues which we respond as follows:-

1. Tax Issues

Hon. Chair, and Members, The Board works closely with the Kenya Revenue Authority in matters relating to taxes. It is a requirement that an applicant/ licensee who intends to renew a license has to present Tax Compliance Certificate for both the operator and the gaming company.

Hon. Chair and Members, the regulatory consequence of not submitting the requisite Tax Compliance will lead to non-renewal of license. Further, since December 2023, gaming operators and especially those who operate online have been integrated to the Kenya Revenue Authority Real-time tax payment system. This System allows the government to monitor the taxes raised by the operators. The applicable taxes are paid on daily basis thus preventing any issues relating to tax.

2. Financial Reporting Centre

Hon. Chair, and Members, The issues relating to the mandate of the Financial Reporting Centre (FRC) as you directed yesterday is the preserve of the organization. However, there is need to bring into the attention of the committee that the Board is one of the supervisory bodies under the proceeds of Crime and Anti-Money Laundry Act 2009.

3. Proposed Fees

Hon. Chair and Members, The committee during our meeting yesterday advised the Board to submit the existing fees and a list of the countries benchmarked when coming up with the fee proposals. However, after further perusal we wish to withdraw our earlier proposal on proposed fee under the fourth schedule.

4. What strategies have been proposed by the Bill to mitigate gambling.

Hon Chair and Members, As explained yesterday, gambling is a demerit good and it has risks when over indulged like similar products. The Bill therefore proposes the following measures to mitigate gambling harm; this also includes other measures taken by governments to minimize harm occasioned by excessive gambling:

- (i) Public sensitization on dangers of gambling
- (ii) Self-Exclusion measures
- (iii) Enforcement measures to curb illegal gambling
- (iv) Promotion of Responsible Gambling behaviours
- (v) Restriction on advertisement of gambling
- (vi) Criminalizing gambling by young persons and the vulnerable Persons.

Hon Chair, and Members, The Bill proposes the following measures to mitigate harm associated to gambling:

- (i) Clause 44 – Control of gambling machines
- (ii) Clause 46 – Gambling levy
- (iii) Clause 75 – Player Protection
- (iv) Clause 77 – Restriction on credit and inducements
- (v) Clause 90 – Advertisement of Gambling

Hon Chair, like any other activity gambling has its own merits and demerits. The positive attributes include :-

- (i) **Source of Government Revenue:** For the last three years the Industry has generated approximately Kshs.52 billion in taxes and Kshs.465.6 million from issuance of licenses and permits.

- (ii) **Employment creation:** The Industry provides employment opportunity both directly and indirectly to young Kenyans.
- (iii) In developed jurisdiction gambling promotes tourism with the resultant benefits to Governments
- (iv) Supports other related services providers. In Kenya Telco's are the major beneficiaries.
- (v) Engagement in CSR activities that support community projects, Medical camps, food relief, payment of school fees etc.
- (vi) Source of investment to winners

RISKS

This occurs when one is unable to know when to stop or betting with resources that one is not ready to loose.

- (i) Problem gambling (addiction) with heavy social cost to communities
- (ii) Change of gambling attitude from source of livelihood, with services consequences to the participants (loss of employment, truancy indebtedness, depression e.t.c)
- (iii) If not well regulated and monitored it can be used for money laundering especially in physical casinos (cash transactions)

Hon Chair and Members, in conclusion we pray that the committee will examine whether the measures we had mentioned above are adequate to mitigate harm which may be caused by excessive gambling.

Finally, we hope the Board has addressed the concerns raised by the committee in your sitting yesterday and thank you Chair and Members for granting us this opportunity.



Dr. Jane Makau
Chairperson



REPUBLIC OF KENYA
OFFICE OF THE PRIME CABINET SECRETARY & MINISTRY OF
FOREIGN AND DIASPORA AFFAIRS

SUBMISSION BY MS. AURELIA CHEPKIRUI RONO, PRINCIPAL SECRETARY FOR PARLIAMENTARY AFFAIRS ON THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

A. INTRODUCTION

The Departmental Committee on Sports and Culture through letter Ref: NA/DDC/S&C/2023/078 dated **15th November, 2023** invited the Principal Secretary for Parliamentary Affairs to a meeting scheduled for **Tuesday 21st November, 2023 and Wednesday, 22nd November, 2023** to consider the National Lottery Bill (National Assembly Bill No. 69 of 2023) and the Gambling Control Bill (National Assembly Bill No. 70 of 2023) respectively.

Honourable Members,

I want to take this opportunity to convey my gratitude for availing me and my colleagues from the Executive an opportunity to make representations before the Departmental Committee on the two critical Bills under consideration. Due to the cross-cutting nature of the Department's mandate and the intertwined nature of the Bills, allow me submit on them simultaneously.

I wish to start-off my presentation by giving a brief background on the State Department for Parliamentary Affairs.

B. BACKGROUND OF THE STATE DEPARTMENT

1. Mandate

- The State Department is newly established in the Government of Kenya with the overall mandate of the day-to-day coordination of the Government Legislative Agenda and Parliamentary Liaison Services across MDAs. This includes the coordination of the development and review of policies and legislation aligned to the Government development agenda.
- This is meant to ensure the timely and effective delivery of the policy and legislative frameworks necessary for the realization of the national development agenda and promotion of harmonious relations between the Executive and Parliament for the effective dispatch of Government Business in Parliament.
- This mandate is set out in greater particulars under **Executive Order No. 2 of 2023** and is implemented through the Legislative and Parliamentary Affairs Directorate, the Policy Coordination and Strategy Directorate and General Administration Planning and Support Services Department.

2. Achievements

- During the relatively short period since its establishment, the State Department has made great strides in putting in place the foundation necessary for the effective implementation of its mandate.
- These includes -
 - a) **Crystallization of the Government Legislative Agenda. This has included the holding of round table forums with MDAs to**

consider their ongoing and proposed policy and legislative initiatives and preparing a draft GLA Programme Report for the period 2023/24-2027/28 The GLA Programme is critical due to the overarching need to ensure a coordinated delivery of policy and legislative initiatives necessary to implement the National Development Agenda. In addition, it will streamline the prioritization of necessary policy and legislation, enhance the effective and timely realization of supportive policy and legislative frameworks and avoid wastage occasioned by duplication of efforts. The coordination of the GLA is supported by various offices of the National Executive as well as the PCS Chaired Steering Committee on the Government Legislative Agenda and Parliamentary Liaison.

- b) **Formulation of a criteria for prioritization of policy and legislative initiatives in the Executive** informed by various parameters. They include: linkages with the Bottom-Up Economic Transformation Agenda (BETA); implementation of Cabinet/Presidential Directive; Status in the development phases in the Executive; Implementation of global and regional legal requirements or mandatory compliance with global best practice; furtherance of and implementation of the Constitution; Priority under MTPIV of Vision 2030; Commitment in the current Performance Contract; and furtherance of MDA's core mandate.
- c) **Preparation of a Public Policy Handbook** This is intended to guide Ministries, Departments and Agencies in ensuring that the policies developed are relevant, comprehensive and responsive to the National Development Agenda.

- d) **Preparation of Guidelines for the process of developing National Government Legislation** This is meant to codify and standardize processes for formulating legislation by MDAs. The documentation and standardization of legislative development processes is critical for the effective tracking and monitoring of status.
- e) **Coordination of the Executive's participation in Parliament-convened capacity building and status review forums** The State Department coordinated the participation of Parliamentary Liaison and other technical officers in the Senate convened forum of **27th -30th August, 2023** and the National Assembly convened forum of **29th September, 2023 - 2nd October 2023**.
- f) **Preparation of reports on Government Business in Parliament** These reports apprise the National Executive on the status of Government business in Parliament; and serve as a guide for the effective coordination of Government Business in Parliament and the Executive.

Honourable Members, allow me to now turn my attention to the two subject Bills in light of the mandate highlighted above.

3. The Bills

- Kenya has a long and convoluted gambling history. However, despite the advances the world has made on various fronts such as the evolution of games, lotteries and attendant technology, the Betting, Lotteries and Gaming Act (Cap. 131, laws of Kenya), which was enacted in 1966 has remained largely the same to date.

- While this Act has undergone some patchwork of amendments, it has unfortunately not kept pace with the evolving regulatory nature of the gambling sector. With the promulgation of the Constitution of Kenya in 2010 for example, the Betting, Lottery and Gaming Act has raised regulatory tensions in light of the mandate of the County Governments to license gambling premises and the national governments mandate of national-wide licensing and regulation.
- The implementation of this dual mandate has raised concerns about tax administration, administrative organization, enforcement and consumer protection.
- Even as the policy and law-making agencies continue to grapple with the regulatory and societal tensions associated with the sector, the gambling phenomena has continued its expansion which is propelled by -
 - a) A growing, youthful population characterized by urbanization, with significant levels of unemployment and under-employment;
 - b) Pro-gambling technological developments, their diffusion and quick adoption of increasing access to and gambling opportunities;
 - c) Changing social values influences by global and other voices, including gambling industry responses;
 - d) Increased institutionalization and commercialization stimulating the growth of popular gambling; and
 - e) Rising demand for taxes and other public resources key to addressing the growing demand for public service.

- To respond to these real issues, the Chief of Staff and Head of Public Service vide Gazette Notice No. 2101 dated 16th February, 2023, gazetted the Presidential Taskforce on the Establishment of the National Lottery.
- The Presidential Taskforce was vested with the following Terms of Reference: -
 - a) To undertake a comprehensive review of the best practice on the establishment of national lotteries in other jurisdictions;
 - b) To develop the policy and implementation plan that will guide the establishment and operationalization of the National Lottery in Kenya;
 - c) To facilitate the necessary consultations with all key stakeholders in the country on the establishment of a National Lottery;
 - d) To examine existing administrative, institutional, policy and legislative structures and systems in the betting and gaming industry; and to recommend comprehensive reforms that will support and facilitate a sustainable framework for the implementation and operationalization of the National Lottery;
 - e) To develop a prioritized implementation matrix that clearly states the immediate, medium and long-term sectoral reforms and the attendant budgetary requirements necessary for the efficient operation of the National Lottery;
 - f) To cause the review and fast-tracking of the draft Gambling Bill with the requisite legislative framework establishing the National Lottery, for further consideration by Cabinet and onward transmittal to Parliament; and

- g) To consider, perform, or advise on any other matter or subject ancillary to the above.
- As an output of its work, the Taskforce recommended the National Lottery Bill and the Gambling Control Bill which have since been approved by Cabinet, transmitted to the National Assembly and published as National Assembly Bills No. 69 and 70 respectively.

Honourable Members

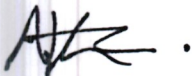
- The Public Policy Goal behind the two Bills is that of **transforming the gambling industry into a force for social progress** (based on the Gambling Policy 2023). This policy goal aims to transform gambling into a force for social progress by leveraging the triple opportunities of enhanced tax revenues, creating good jobs and fostering a national culture of responsible betting and gaming. This is intended to promote and safeguard the wellness of all people while mitigating the social, economic and public health risks of gambling.
- **The Object of the National Lottery Bill** is to provide for the establishment of the first-ever Government owned National Lottery, the National Lottery Board and the National Lottery Fund. This Government owned lottery shall be licensed by the Gambling Regulatory Authority, the proposed successor to the Betting Licensing and Control Board under the Gambling Control Bill, 2023. The longest lottery Kenya has known is the Kenya Charity Sweepstake (KCS). The objects of KCS are *to uplift the nation by alleviating hardship and deficiency for the needy and the general population, by allocating profits from its activities to critical projects in Health, Literacy, Humanitarian Aid, Environment & Wildlife and Sports.* The KCS is private.

- **The National Lottery is an instrument for providing a legal and regulated form of gambling that pools resources for promoting good causes** The funding from the National Lottery is intended to support good causes including charitable causes, economic empowerment, sports, recreation, the arts, culture and national heritage, signature transformation projects and emergencies.
- **The object of the Gambling Control Bill, 2023** is to provide for the regulation of betting, casinos and other forms of gambling; authorization of prize competition and public lotteries; establishment of the Gambling Regulatory Authority and imposition of tax on betting and other forms of gambling.
- **The Gambling Control Bill, 2023 brings the regulation of the gambling industry into the 21st Century** by transiting the Betting Control and Licensing Board into the Gambling Regulatory Authority and repealing the 1966 Betting, Lotteries and Gambling Act (Cap. 131, laws of Kenya).
- **With respect to devolution,** Part II of the Bill provides for the concurrent functions of the National and County Governments in the regulation of gambling activities. This finally transitions Kenya's gambling law into the governance realities under the Constitution of Kenya, 2010.
- I would however wish to alert the Committee that there are similar efforts to align Kenya's laws to devolution. Accordingly, the Inter-Governmental Relations Technical Committee (IGRTC) has been spearheading a multi-agency exercise on the completion of transfer of devolved functions which has included the review of national laws impacting on concurrent or devolved functions. The Committee may consider inviting the IGRTC to

shed light on any progress that may impact on the form and content of the two Bills.

- As I conclude, I wish to confirm that the two Bills have been developed pursuant to Presidential imprimatur. They are in furtherance of the national development plan espoused under BETA; the plan envisages a national lottery as part of the institutional framework to mobilize resources to supplement government efforts towards addressing various social causes and needs as highlighted above. They are also necessary to secure BETA's objective of building a national culture and psyche of responsible betting and gambling as well as nurturing and protecting the well-being of all persons.
- I therefore beseech this Committee and Parliament at large to prioritize the two Bills as the Executive's worthwhile partner in the legislative reform process.

Thank you, Honourable Members



**CPA AURELIA CHEPKIRUI RONO
PRINCIPAL SECRETARY
STATE DEPARTMENT FOR PARLIAMENTARY AFFAIRS**

22nd November, 2023

SUBMISSION TO THE NATIONAL ASSEMBLY'S DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE ON THE DRAFT NATIONAL LOTTERY BILL, 2023 AND DRAFT GAMBLING CONTROL BILL, 2023

NAME OF INSTITUTION: Sports, Arts and Social Development Fund (SASDF).

MINISTRY: Ministry of Youth Affairs, Creative Economy and Sports

DATE: 24th November 2023

Section/ Clause	Specific Provisions in the draft National Lottery Bill, 2023	Proposed Amendment	Explain the Reason for the Proposed Amendment
<p>Section 21(3)(i)-(xiii) and the Bill</p> <p>Section 21(5)</p>	<p>NATIONAL LOTTERY BILL Section 21(3)(i)-(xiii) of the National Lottery Bill</p> <p>21. (3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include—</p> <p>(a) charitable causes including—</p> <p>(ii) promote social development including universal health care;</p> <p>(c) sports, recreation, arts, culture and national heritage including—</p>	<p>It is proposed that Section 21 of the Draft National Lottery Bill be amended by including a proviso to the said Section as follows:</p> <p>Provided that 30% of all the Fund proceeds shall be paid into the Sports, Arts and Social Development Fund established under Section 24(4) Of the Public Finance Management Act, 2012 towards good causes set out under subsection (3)((i)-</p>	<p>1. The causes to be supported under this this section are identical /similar to Regulation 7(2)(a)-(m) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018</p> <p>2. Justification: to avoid conflict and duplication of roles and functions between Sports, Arts and Social Development Fund</p>

		<p>(xiii), Sub-Section (5) of the Act and Regulation 7(2)(a)-(m) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018.</p> <p><u>Additional Clause:</u> The funding of the good causes under sports, recreation, arts, culture and national heritage in sub-section 3 above shall be done through the Sports, Arts and Social Development Fund.</p>	<p>(SASDF), and the National Lottery Fund.</p> <p>3. It is further noted that under Regulation 4(1)(b) all the proceeds under section 35 (5A) of the Income Tax Act (Cap. 470) with respect to winnings under Section 35(5A) of the Income Tax Act are paid into the Sports, Arts and Social Development Fund.</p> <p>Under the Income Tax Act, "Winnings" includes winnings of any kind and a reference to the amount or the payment of winnings shall be construed accordingly. Under Section 2 of the National Lottery Bill, the definition is winnings is similar to that in the Income Tax Act, which is a source of revenue for the Fund under Regulation 4(1)(b) of the SASDF Regulations.</p> <p>4. The National Lottery just like all other lotteries should have a percentage of funds apportioned for sports. It is noted that in South Africa 28% and 23% of the revenue of the National Lottery is</p>
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			<p>apportioned to sports and the arts respectively, while in the United Kingdom Sports and Arts get each 20% with health, education, environment and charitable causes 40%. Considering that the mandate of the Sports, Arts and Social Development Fund includes sports, the arts, social development including universal health care, a 30% apportionment to the Fund is recommended.</p>
<p>Section 21(5)</p>	<p>Any proceeds from any other game of chance operated by the Board under subsection (4) shall be paid into the Fund</p>	<p>Section 21(5) <u>be deleted</u></p>	<p>It is noted that under Section 2 of the Gambling Control Bill, 2023 Gambling is defined as “a game of chance for prize winning and includes lottery, betting, prize competitions and media promotions with prizes. By this provision the National lottery seeks to extend to other categories of gambling falling outside the object and purpose of the Bill as set out in the long title of the Bill.</p> <p>Whereas under Section 45 of the Gambling Control Bill, Gambling tax chargeable at the rate of fifteen centum of the gross gambling revenue payable to the Collector who shall</p>

			pay all the proceeds of tax paid under subsection (2) into the <u>Sports, Art and Social Development Fund established under the Public Finance Management Act, 2012</u> , it is noted that Section 21(5) proceeds for other game of chance, which would include other forms of gambling are to be paid into the National Lottery Fund. This introduces a conflict in the law.
Section 22	Despite any other provision of this Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purpose and lotteries incidental to entertainment shall not apply to the National Lottery.	It is proposed that this Section be deleted or the specific clauses sought to be exempted cleared stated. In the alternative the same be amended to read: <i>Save for Section 45(1), (2) and (3) of the Gambling Control Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purpose and lotteries incidental to entertainment shall not apply to the National Lottery</i>	It is noted that under Section 21(4) as read with Section 21(5) and 22, the National Lottery may partner with other operators with respect to any game of chance and by dint of Section 22 and extension thereof, exempt such operators from the application of the Gambling Control Bill. This would in effect remove them from the purview of the Gambling Control Bill, the Public Finance Management (Sports Arts and Social Development Fund) Regulations, 2018.
Section/ Clause	Specific Provisions in the draft Gambling Control Bill, 2023	Proposed Amendment	Explain the Reason for the Proposed Amendment
45	Gambling Tax	Additional Clause:	This is for harmonization of laws:

		Section 45(4) This provision shall apply to all games of chance included games of chance operated by the National Lottery Board under the National Lottery Act or any other law.	the Income Tax Act, the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 the Gambling Control Bill, the National Lottery Bill and the
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<p>Purpose/Object</p>	<p>To provide for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries; and for connected purposes</p>	<p>For the regulation of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the Gambling Regulatory Authority; for the imposition of tax on betting and other forms of gambling, and for connected purposes</p>	<p>For the establishment of the National Lottery, the National Lottery Board and the National Lottery Fund, and for connected purposes</p> <p>Purpose of the Fund under Sec. 21 shall be for raising resources for the nation to facilitate the conduct of good causes in Kenya and for any other purposes provided in this Act.</p> <p>The good causes that shall be facilitated by the National Lottery include:</p> <ul style="list-style-type: none"> a). Charitable Causes b). Economic empowerment c). Sports, Recreation, Arts, Culture and National Heritage d). Signature transformation projects e). Emergencies 	<p>Regulation 7(1) to provide funding to support the development and promotion of sports and arts and the promotion of social development including universal health care.</p>
<p>Definition</p>	<p>"gaming" means the playing of a game of chance for winnings in money or money's worth "Lottery" includes a sweepstake, a raffle and any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or</p>	<p>"gambling" means the playing of a game of chance for prize winning and includes lottery and betting;</p>	<p>Defined as set out in Sec. 21:</p>	<p>N/A</p>

	chance, whether by the throwing or casting of dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;	Section 3: Betting Control and Licensing Board, (Body corporate-perpetual) (a) Chairperson, not being a public officer, to be appointed by the Minister by notice in the Gazette; (b) PS- Treasury; (c) PS- responsible for the Police (d) PS- responsible for Betting, Lotteries and Gaming (e) such other persons, not exceeding five in number, as the Minister may, by notice in the Gazette, appoint.	Section 6.(1) National Gambling Regulatory Authority. (Body corporate-perpetual) (3) The Authority shall be the successor of the Betting Control and Licensing Board established under section 3 of the Betting, Lotteries and Gaming Act (now repealed). (a) Chairperson who shall be appointed by the President; (b) PS responsible for matters gambling (c) PS responsible for matters the National Treasury (d) the Attorney-General (e) three persons, not being public officers appointed by the Cabinet Secretary with knowledge and experience in matters connected with the objects of the board and shall include persons with background in finance, law, betting and lotteries, business management, or any other relevant field;	Section 4: I. National Lottery Board (Body corporate-perpetual) (i) Chair appointed by President (ii) PS-National Treasury (iii) PS-matters matters-social security (iv) A.G (v) 4 other persons appointed by CS-(1 Advocate, 1 practicing CPA) (vi) CEO Section 41: II. National Lottery Fund Oversight Board (i) Chair appointed by President (ii) PS-matters gambling (iii) PS-National Treasury (iv) A.G (v) 4 other persons appointed by CS-matters relating to National Lottery (vi) Administrator	Regulation 8: Oversight Board (i) Chair appointed by the President (ii) P.S -Finance; (iii) PS-Sports; (iv) PS-Arts; (v) PS-Health (vi) PS-Education (vii) 1 appointee of CS- areas of competence sports (viii) 1 appointee of CS- areas of competence health (ix) 1 appointee of CS- areas of competence finance.
GOVERNING BODY & COMPOSITION					

	<p>(f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and</p> <p>(g) the Director-General who shall be an ex officio member.</p>		
<p>DUPLICITY OF PURPOSE/MANDATE</p>	<p>PFM (SASDF) REGULATIONS, 2018 Regulation 7(2)(a)-(m)</p> <p>Objects and purpose of the Fund</p> <p>(2) Without prejudice to the generality of paragraph (1), the Fund shall provide for—</p> <p>(a) promote social development including universal health care;</p> <p>-</p> <p>-</p> <p>-</p> <p>-</p> <p>(b) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;</p> <p>(c) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;</p> <p>(d) facilitation for the acquisition and provision of equipment to sports and recreation facilities;</p> <p>(e) support for the identification, nurturing and development of talent in sports and arts;</p> <p>(f) facilitation of training and capacity building programmes for persons involved in sports and recreation, creative arts, artistic production, contemporary and cultural practitioners;</p>	<p>NATIONAL LOTTERY BILL Section 21(3)(i)-(xiii) of the National Lottery Bill</p> <p>21. (3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include—</p> <p>(a) charitable causes including—</p> <p>(ii) promote social development including universal health care;</p> <p>(c) sports, recreation, arts, culture and national heritage including—</p> <p>(i) support for national teams to participate in regional and international events;</p> <p>(ii) financing the development of sports and recreation facilities including stadia, gymnasias, buildings, tracks;</p> <p>(iii) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;</p> <p>(iv) facilitation for the acquisition and provision of equipment to sports and recreation facilities;</p> <p>(v) support for the identification, nurturing and development of talent in sports and arts;</p> <p>(vi) facilitating training and capacity building programmes for persons involved in sports and</p>	

<p>recreation, creative arts, artistic production, contemporary and cultural practitioners;</p> <p>(vii) facilitating the identification, development and capacity building of technical personnel and sports support personnel involved in sports and recreation;</p> <p>(viii) support for the development, marketing, and promotion of artistic production of contemporary or cultural goods and services;</p> <p>(ix) support for linkages with domestic, regional, and international markets for sports, artistic productions and contemporary or cultural goods and services;</p> <p>(x) facilitating the exhibition and promotion of contemporary or cultural artistic production of goods and services for national identity and pride;</p> <p>(xi) financing the acquisition, development, and preservation of, among others, heritage sites, cultural centres, national monuments, tangible and intangible heritage and culture and heritage equipment and tools;</p> <p>(xii) facilitate innovation, research and documentation in arts, culture and the creative industry, sports, and social development; and</p> <p>(xiii) promotion of culture, arts, and heritage, such as through the support of museums or cultural events.</p>	<p>(g) facilitation for the identification, development and capacity building of technical personnel and sports support personnel involved in sports and recreation;</p> <p>(h) support for the promotion and development of artistic production of contemporary or cultural goods and services;</p> <p>(i) facilitation for the marketing and promotion of artistic productions and contemporary or cultural goods and services;</p> <p>(j) support linkages with domestic, regional and international markets for sports, artistic productions and contemporary or cultural goods and services;</p> <p>(k) facilitation for exhibition and promotion of contemporary or cultural artistic production of goods and services for national identity and pride;</p> <p>(l) financing the acquisition, development and preservation of, among others, heritage sites, cultural centres, national monuments, tangible and intangible heritage and culture and heritage equipment and tools; and</p> <p>(m) facilitate innovation, research and documentation in arts, culture and the creative industry, sports and social development.</p>
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APPORTIONMENT OF FUNDS

Regulation 4: The proceeds of the Fund shall be apportioned as follows—

- (a) an amount not exceeding sixty percent to social development including universal health care;
- (b) an amount not exceeding thirty five percent to the promotion and development of sports;
- (c) an amount not exceeding twenty percent to the promotion and development of arts; and
- (d) an amount not exceeding five percent to government strategic interventions whose expenditure shall be subject to approval by Cabinet.

Of note during stakeholder engagement 38% of the gross revenue of the National lottery would be paid into the National Lottery Fund, which was to be apportioned towards the good causes set out in section 21(3) as follows—

- (a) forty per centum to charitable causes;
- (b) thirty per centum to economic empowerment;
- (c) twenty per centum to sports, recreation, arts, culture and heritage;
- (d) eight per centum to signature transformation projects; and
- (e) two per centum to emergencies.

Given that the said provision has now been deleted and replaced with Section 43(4), which stipulates that the proceeds of the Fund shall be apportioned to good causes set out in Section 21(3) by the NLB, in accordance with relevant legislation, guidelines, in consultation with the CS for approval by the CS-Finance, there is need to ring-fence/specif apportionment for sports.

Of note therefore, the provision of Section 21(3)(a)(ii), (c)(ii)-(xiii) of the National Lottery Bill is a copy-paste (mirrors word for word) Regulation 7(2)(a)-(m) of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2013. This will create duplicity and conflict of mandate between SASDF and NLF.

It is also noted that under the DRAFT NATIONAL GAMBLING POLICY, 2023 the good causes to be supported by the National Lottery Fund as classified both under Section 21 of the National Lottery Bill and the Draft National Gambling Policy, 2023, are apportioned funds as follows:

S/N	Apportionment	
i.	Good Causes	40
ii.	Economic Empowerment	30
iii.	Sports, Recreation, Arts, Culture & National Heritage	20
iv.	Signature Transformation Projects	8
v.	Emergencies	2

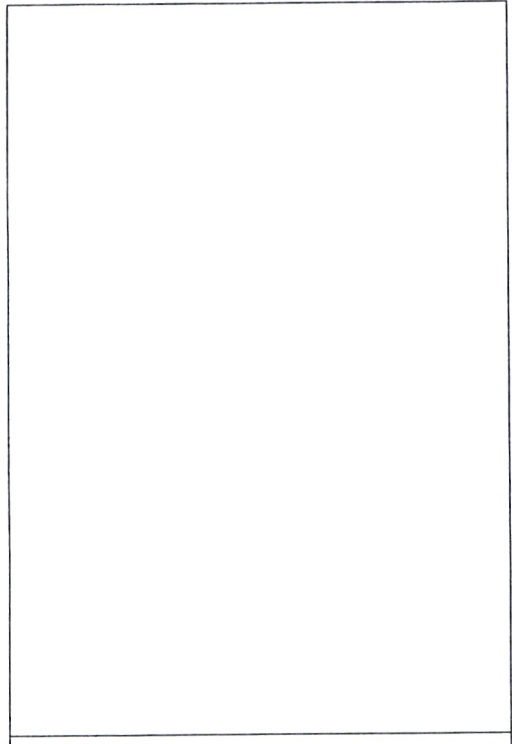
It is further noted that taxes from all winnings, under Section 35(5A) of the Income Tax Act are paid into the Sports, Arts and Social Development, Under the said Act, "Winnings" includes winnings of any kind and a reference to the amount or the payment of winnings shall be construed accordingly:

PROPOSAL: In view of the foregoing, it is proposed that Section 21 of the Draft National Lottery Bill be amended by including a proviso to the said Section 21 as follows:
Provided that all funds apportioned towards Sports, Recreation, Arts, Culture & National Heritage under subsection (3) shall be paid into the Sports, Arts and Social Development Fund established under Section 24(4) Of the Public Finance Management Act, 2012.

<p>BL&GA Section 69A The Collector shall pay all the proceeds of tax paid under sections 29A(2), 44A(2), 55A(2) and 59B(2) into the Sports, Arts and Social Development Fund established under section 24 of the Public Finance Management Act, 2012".</p> <p>29A(2):Betting tax: chargeable at the rate of fifteen per cent of the gaming revenue and payable to the Collector by the licensed bookmaker.</p> <p>44A(2): Lottery tax chargeable at the rate of fifteen per cent of the lottery turnover payable to the Collector by a person authorized to promote the lottery</p>	<p>PFM (SASDF) REGULATIONS, 2018 Regulation 4(1) The Fund shall consist of— (a) all the proceeds required to be paid into the Fund under section 69A of the Betting, Lotteries and Gaming Act (Cap. 131); (b) all the proceeds required to be paid into the Fund under section 35 (5A) of the Income Tax Act (Cap. 470); (Winnings) (c) all the proceeds required to be paid into the Fund under section 36 (5) of the Excise Duty Act (No. 23 of 2015); (on MMT) (d) such moneys as may be appropriated by the National Assembly; (e) grants and donations; (f) income generated from the proceeds of the Fund; and (g) any moneys accruing to or received by the Fund from any other source.</p>	<p>GCA Section 45 Gambling tax chargeable at the rate of fifteen per centum of the gross gambling revenue payable to the Collector who shall pay all the proceeds of tax paid under subsection (2) into the <u>Sports, Arts and Social Development Fund established under the Public Finance Management Act, 2012.</u></p> <p>Section 46 Gambling levy: payable to the Authority, and the Cabinet Secretary shall in consultation with the Authority, prescribe the amount of the gambling levy payable under subsection (1): the same shall not exceed not exceed one per centum of the monthly gross gambling revenue of a licensee.</p> <p>Purposes for the Levy: research on social determinants of mental health and population impact of gambling; awareness creation on the addictive potential of gambling and association; establishment of treatment and rehabilitation programs to support management of addictive disorders in public health facilities; and eradication of illegal gambling.</p>
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55A(2) Gaming tax: chargeable at the rate of fifteen per cent of the gaming revenue payable to the Collector by a person carrying on a gaming business.

59B(2) Prize competition tax: chargeable on the cost of entry to a competition which is premium rated at the rate of fifteen per cent of the total gross turnover payable to the Collector by the licensed person



		"child" has the meaning assigned to it under the Children Act, 2022" (No. 29 of 2022)	
3	Clause 4: Establishment of the National Lottery	Insert a new sub-clause (4) immediately after sub-clause (3) as follows— "The Board shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution."	This obligatory statement ensures that the Board strives to ensure that there is access to its services, even in towns where it does not have physical offices.
4	Clause 5(3)(e): Composition of the Board	Increase the period of time a Chairperson or member of the Board requires to not have had a personal direct or indirect commercial interest in the gambling sector to the preceding 3 years instead of the preceding twelve months	This is to coincide with the terms of office of a Chairperson or member to reduce the chances of conflicts of interest in the Board.
5	Clause 22: Exemption	We propose the deletion of this clause.	Allowing the National Lottery to operate outside of other laws relating to gambling is not legally sound. There could instead be, should it be necessary, a clause allowing a regulator to exempt the National Lottery from certain laws, based on a specific criteria.
6	Clause 24, 28, 30 & 31	Procedural provisions could be left out of the Bill, for Regulations.	The Bill presents certain number of procedures and steps which could best be provided for under Regulations.
7	Clause 44: Oversight of the Fund.	Overlapping mandate of the functions of the Board and the administration of the Fund.	The Board as presented oversees the National Lottery and the Fund. The CEO of the Board is also proposed as the Administrator of the Fund. Sound Corporate Governance would dictate that the two entities have separate governance and management

A. The National Lottery Bill, 2023

While the object of the National Lottery Bill is to establish the national lottery, it may be needful to consider the same need arising for counties. By dint of Article 191(3) (b), this National legislation should, in one part be concerned with the establishment, operations and regulation of county lotteries by providing for the norms and standards or policies that would ensure uniformity in the manner that county lotteries, when established, operate.

Further to this proposal, the Kenya Law Reform Commission could in partnership with the responsible Ministry and relevant stakeholders such as the Council of Governors, develop a model county legislation on county lotteries to guide their establishment in the counties.

- (a) The proposals in the Bill align with global best practice when it comes to the establishment, management and oversight of National Lotteries;
- (b) The operationalization of the Bill will, as has been witnessed in other countries, contribute positively to enhanced knowledge and appreciation of responsible gambling; and
- (c) The Bill could be improved further by a review of certain clauses. The proposals are presented in the matrix below.

No.	Clause	Proposed Amendment	Rationale for the proposed amendment
1	Long Title	Delete the long title and substitute with the following— “AN ACT of Parliament to provide for the establishment and operationalization of the National Lottery; for the establishment, functions and management of the National Lottery Board; for the establishment and administration of the National Lottery Fund; and for connected purposes.”	The long title is designed to provide an abstract of the contents of an Act of Parliament. Where it is too brief like in the present case, some of the context needed in creating the abstract is lost. This proposal enhances the long title to achieve its textual role.
2	Clause 2: Interpretation	Delete the definition of “child” and substitute with the following—	This is to align with the subject-matter Act of Parliament that has already defined the word.

The Commission, attends to this request, in response to the invitation and pursuant to section 6(1) (a) of the Kenya Law Reform Commission Act, 2013, which requires the Commission to keep under review all the law and recommend its reform to ensure that the law conforms to the letter and spirit of the Constitution, and that the law is, among others, consistent, harmonized, just, simple, accessible, modern and cost-effective in application.

II. INTRODUCTION

The National Lottery Bill, 2023

The National Lottery Bill, 2023 is a Government sponsored Bill that seeks to provide for the establishment of the National Lottery, the National Lottery Board to oversee the administration and management of the National Lottery and the National Lottery Fund to be administered by the Board.

The object of the proposed Bill is to enable the pooling of resources to be directed to good causes by establishing the structure for its collection. In addition, the Bill seeks to ensure that there is enough funding that is key to ensuring a socially responsible National Treasury.

The Gambling Control Bill, 2023

The Gambling Control Bill, 2023 seeks to provide for a legislative framework for regulation of gambling in Kenya through licensing of gambling activities, incorporation of gambling safe practices and prevention of illegal gambling.

The Bill proposes the establish of the Gambling Regulatory Authority as the primary agency setting the norms and standards on gambling and licensing of gambling activities in Kenya and the Gambling Appeals Committee for resolution of disputes arising from the decisions of the Authority.

Similarly, the Bill seeks to introduce a Gambling Tax, chargeable at the rate of 15% of the gross gambling revenue to be used for research on the impacts of gambling, creation of awareness on the negative effects of excessive gambling and establishment of rehabilitation centers.

In addition, Clause 46 of the Gambling Control Bill proposes the introduction of a Gambling levy to be paid by any person licensed by the Gambling Regulatory Authority

III. OUR CONSIDERATION OF THE BILLS

We have reviewed the National Lottery Bill, 2023 and the Gaming Control Bill, 2023 and find that the Bills conform to the constitutionally assigned functional separation of powers between the two levels of government and Gazette Notice No. 8753 of 8th September 2017.

KENYA LAW REFORM COMMISSION



"A Vibrant Agency for Responsive Law Reform"

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When replying please quote

Ref. No. **KLRC/8/64(26)** and Date



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

20th November, 2023

The Clerk of National Assembly
Clerk's Chambers
National Assembly
Parliament Building
P.O Box 41842 -00100
NAIROBI

(Attn: Ms. Serah Kioko, MBS)

Dear *Serah*,

REF: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

We acknowledge with thanks receipt of your letter Ref.No.NA/DDC/S&C/2023/078 dated 15th November, 2023 on the above matter.

I. BACKGROUND

The Kenya Law Reform Commission (the Commission) is in receipt of a letter from the National Assembly dated 15th November, 2023 requesting KLRC to submit its comments on the National Lottery Bill, 2023 and the Gambling Control Bill, 2023. This is in accordance with the provisions of Article 118 of the Constitution and standing order 127(3) of the National Assembly Standing Orders.

		interest arising out of lack of management and administrative demarcation between the two entities, given that they have different functions.
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The Gambling Control Bill, 2023

The Commission has considered the provisions of the Gaming and Control Bill (National Assembly Bill No. 70 of 2023) and wishes to make the following proposals.

Clause	Proposal	Justification
7(4)	Recast to provide that members of the Authority shall be appointed through an open and competitive process.	To guarantee transparency, fair competition and merit as a basis for appointment as contemplated under Articles 10 and 232(1) (g) of the Constitution.
8(2)(b)	Insert the phrase "without the option of a fine" immediately after the words "six months"	To ensure that the membership of the Authority is not affected where a member has paid the requisite fine.
10(1)(b)	Delete	The provision is redundant as all the functions of the Authority listed between (a-q) aim at regulating and controlling gambling activities.
10(1)(e)	Delete	The issue of monitoring compliance with policies and regulations on gambling is repeated under clause 10(1) (j).
10(1)(l)	Delete	The issue of monitoring the socio-economic impacts of gambling is repeated under clause 10(1)(l)
10(1)(o)	Redraft to provide that the Authority shall receive and make a determination on complaints from companies and the public on matters pertaining to games of chance.	To align to drafting standards
11	Replace the title 'Code of practice' with 'Gambling Practice Guidelines'	To facilitate enforcement under the Statutory Instruments Act, 2013.
11(11)	Include representation from the National Council for Children Services; the Office of the Secretary of Children's Services and other institutions on the welfare of children.	To facilitate consideration of the best interests of the child as contemplated by Article 53(2) of the Constitution
15	Include the Salaries and Remuneration Commission as the institution responsible for offering advice on the	To comply with Article 230(4) (b).

	remuneration and benefits of public officers	
29 (3)(d), (e)	Delete	The threshold provided under (d) and (e) is subjective and not measurable.
33(2)	Delete the phrase “mutatis mutandis”	Legalese is discouraged in modern styles of drafting law.
35(1)	Delete the word “prominently” appearing immediately after the words “that is”	Editorial issue.
46(3)(d)	Redraft to provide clarity on the specific activities to be undertaken in eradication of illegal gambling.	To avoid ambiguity.
47(2)(c)	Recast to establish the County Government as the ‘subject’ in the sentence.	The County Government has the responsibility of determining any additional information that it may require for the purposes of considering an application.
67(4)	Define the distance in measurable units from a learning or religious institutions within which gambling activities are prohibited.	Use of the word ‘near’ is subjective and prone to abuse.
90(1)	Redraft as follows- “A person may, promote the advertisement of a gambling activity on electronic medium or any other form, with the approval of the Authority.	To avoid double negatives in drafting.

IV. CONCLUSION AND RECOMMENDATION

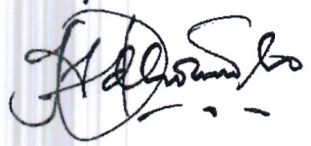
The proposed National Lottery Bill, 2023 and Gambling Control Bill, 2023 demonstrate adherence to the delineation of functional responsibility between the national government and county governments.

While recognizing, global best practices, our consideration also prompts us to recommend a forward-looking approach. Considering the potential establishment of county lotteries, we propose an extension of the legislative scope to address the norms and standards governing county lotteries. This expansion, in collaboration with the Ministry and relevant stakeholders, could lead to the development of a model county legislation, facilitating uniformity in county lottery operations.

Furthermore, we affirm the positive impact of the Bills on responsible gambling practices but advocate for a meticulous review of specific clauses for potential enhancements, as outlined in the matrix.

Lastly, we appreciate your invitation to appear and present our consideration of the Bill and hereby confirm our attendance, pending your confirmation of the venue.

Yours *Joash Dache*



Joash Dache, MBS
SECRETARY/CEO


Copy to: Ms. Christine Agimba, Chairperson to see file copy





**SUBMISSIONS ON THE PROPOSED NATIONAL LOTTERY BILL
(NATIONAL ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING
CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)**

NOVEMBER 2023

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240-00100, NAIROBI
Date: 22/11/2023
Sign: 

1.0 Introduction

Reference is made to a letter from the Clerk of the National Assembly Ref: NA/DDC/S&C/2023/078 dated 15th November 2023 inviting Kenya Revenue Authority (KRA) to a meeting with The Departmental Committee on Sports and Culture to submit its recommendations on *The National Lottery Bill* (National Assembly Bill No. 69 of 2023) and *The Gambling Control Bill* (National Assembly Bill No. 70 of 2023).

This report details Kenya Revenue Authority (KRA)'s response as follows:

2.0 KRA's Response

This report details KRA's views and comments on *The National Lottery Bill, 2023* and *The Gambling Control Bill, 2023*.

Comments on Specific Provisions

A. THE NATIONAL LOTTERY BILL, 2023

Table 1 Recommendations on the National Lottery Bill, 2023

CLAUSE	PROVISIONS IN THE BILL	PROPOSED AMENDMENTS IN THE BILL	COMMENTS
Section 22	Despite any other provisions of this Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purposes and lotteries incidental to entertainment shall not apply to the National Lottery.	Expound the provision on the exemption to provide clarity on what provisions under the proposed <i>Gambling Bill</i> it applies to.	The Exemption under Section 22 is unclear and needs to be clarified for effective implementation.
Section 40(3)	The prize monies paid under this Act shall be exempt from Income Tax	Delete this clause	Exemption from Income tax should be included in the <i>Income Tax Act</i>

B. THE GAMBLING CONTROL BILL, 2023

Table 2 Recommendations on the Gambling Control Bill, 2023

CLAUSE	PROVISIONS IN THE BILL	PROPOSED AMENDMENTS TO THE BILL	COMMENTS
New Clause	None	The taxes under Section 45 shall be collected in accordance with the provisions of the <i>Tax Procedures Act</i> , CAP 469B	This is to provide for assessment and enforcement powers to the Collector of the gambling tax. These powers had been provided for under Section 69AA of the <i>Betting, Lotteries and Gaming Act</i> , Cap 131 by the <i>Finance Act, 2023</i> .
New Clause	None	Provide transition clause for treatment of taxes that had been due under the <i>Betting, Lotteries and Gaming Act</i> , Cap 131 that is being repealed.	Transition clause will enable the Collector to enforce collection of any taxes that are due under the <i>Betting, Lotteries and Gaming Act</i> that is being repealed.

3.0 Conclusion

KRA is committed to complying with all the laws in place as it executes its mandate of tax administration and trade facilitation. We also wish to state that we are willing to provide the committee with any other relevant information that they will request from us.





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Memorandum

Rcf: NA/DDC IS&C12023/079

DATE: 20/11/2023

To: The Departmental Committee on Sports and Culture
From: Gaming Awareness Society of Kenya
Subject: Critique of The National Lottery Bill, 2023

The Gaming Awareness Society of Kenya (GASK) appreciates the effort in formulating The National Lottery Bill, 2023, aiming to establish a framework for the National Lottery Board, ensuring transparency, directing funds towards charitable causes, and maintaining social responsibility. However, we would like to offer a comprehensive critique and suggestions for improvements in addressing gambling harm, socio-economic impacts, and enhancing educational campaigns to prevent gambling addiction, particularly among young individuals.

Objectives of the Act:

The objective of establishing a National Lottery for supporting good causes and charitable events is commendable. However, the bill needs to explicitly emphasize the commitment to mitigate gambling harm and develop robust educational campaigns targeting youth before they reach gambling age. Best practices from other countries, like the United Kingdom's "Safer Gambling Campaigns," could serve as a model for Kenya in raising awareness about gambling risks among young people.

Establishment and Composition of the National Lottery Board:

While the composition of the Board is inclusive, we recommend including experts or representatives specialized in addressing gambling addiction and socio-economic impacts. Integrating professionals from this field ensures a comprehensive approach in addressing gambling-related issues and directs lottery proceeds more effectively toward gambling harm mitigation and education.

Regulation and Compliance Measures:

While the bill outlines stringent measures for licensing requirements and conditions, incorporating mandatory responsible gambling training for lottery operators and staff could significantly contribute to gambling harm mitigation. Additionally, setting strict guidelines on advertisements that promote responsible gambling and highlight gambling addiction helplines or resources is crucial. Australia has stringent regulations on gambling advertisements, ensuring they include responsible gambling messaging, which could be a good practice to adopt.

National Lottery Games:

The inclusion of guidelines for responsible gaming within lottery games is pivotal. Implementing features such as self-exclusion tools, limiting spending, and age verification mechanisms within lottery games could significantly prevent underage gambling and protect vulnerable individuals.



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Adopting measures similar to those in the United Kingdom's online gambling regulations could serve as a benchmark for Kenya's lottery games.

Audit and Compliance:

The appointment of auditors for lottery conduct and penalties for non-compliance are commendable. However, there should be an explicit focus on auditing gambling harm prevention strategies and the allocation of funds toward responsible gambling initiatives. This auditing practice aligns with the United Kingdom's Gambling Commission's oversight, which ensures operators' compliance with responsible gambling obligations.

Establishment of National Lottery Fund:

The establishment of a Fund to support various social and charitable causes is praiseworthy. Nonetheless, a dedicated portion of this fund should be allocated explicitly for gambling harm prevention initiatives and education campaigns. Allocating a specific percentage of the Fund to such programs would significantly contribute to mitigating gambling-related harm.

Administrator of the Fund:

The Chief Executive Officer (CEO) as the Administrator is crucial for effective Fund management. It is recommended to appoint an individual well-versed in gambling addiction prevention and treatment to ensure an emphasis on addressing gambling harm through the Fund's administration.

In conclusion, while The National Lottery Bill, 2023, displays comprehensive efforts to direct funds towards good causes, we strongly recommend amendments that explicitly target gambling harm prevention. Incorporating these suggestions will not only ensure responsible lottery operations but also effectively address the socio-economic impact of gambling on Kenyan society. Thank you for considering our recommendations.

Sincerely,

Nelson.

Project Lead,

Gaming Awareness Society of Kenya.



KENYA GAMBLING INDUSTRY TAXATION STUDY

PREPARED FOR THE ASSOCIATION OF GAMING OPERATORS OF KENYA BY BDO

MAY 2023

BDO

INTRODUCTION

The Government has in the past, made many attempts, without fruitfulness, at increasing the economic rent it gets from the gambling sector as every attempt causes unwarranted controversies. To resolve this perennial wrangles with the Gambling Industry the Government of Kenya has included in their Draft Gambling Policy for Kenya, 2023, three clear strategies (Numbers 31, 32 and 33) for developing a facilitative Gambling Sector Taxation Framework.

GENERAL OVERVIEW

KENYA: GAMBLING INDUSTRY GROSS GAMING REVENUES

GGR, IN USD	2018	2019	2020	2021
Bookmakers	299,714,173	84,623,314	146,514,126	148,525,839
Public Gaming	83,662,613	37,583,754	16,230,843	58,713,242
TOTAL	383,376,786	122,207,067	162,744,968	207,239,082

SOURCE: DRAFT GAMBLING POLICY FOR KENYA 2023; BDO ANALYSIS

- ▶ Kenya's Gambling Industry generated gross gaming revenue in the amount of USD 207 million (2021). This figure represents a y-o-y increase of 27.3% following robust growth in 2020/2019 (33.2%).
- ▶ However, in comparison to 2018, there has been a sharp decline in Industry's GGR, which is predominantly a result of the introduction of Excise Tax.
- ▶ Kenya's tax policy amendments have adversely affected the Gambling Industry starting 2019.

*2018 - 2018/2019

*2019 - 2019/2020

*2020 - 2020/2021

*2021 - 2021/2022

KENYA GAMBLING INDUSTRY TAXATION STUDY • MAY 2023

GAMBLING INDUSTRY TAX RATES

NON-COMPETITIVE TAXATION MODEL

GGR TAX 15.0%

- ▶ GGR Tax, as a taxation model (with no Tax on Stakes and Tax on Winnings) of online Gambling, is applied in a large number of developed countries as the optimum approach to tax the industry.
- ▶ Kenya's GGR Tax rate is considered competitive compared to most of jurisdictions.

WITHHOLDING TAX 20.0%

- ▶ A taxation model including Withholding Tax (Tax on Winnings) has been abandoned by most of developed jurisdictions due to its negative impact on the game in the long-term.
- ▶ WHT is a direct cost for the players leading them to place their bets on platforms with 0% WHT. In the mid-term, it has a strong negative impact on state budget revenues.

EXCISE DUTY 7.5%

- ▶ Excise Duty/Tax (Tax on Stakes) has been abolished by most of the governments due to the adverse effects on total tax revenues and negative impact on the Industry and its further development.
- ▶ Tax on Stakes is directly linked to a high % of players going off-shore/illegal, which adversely affects state budget revenues.

WITH AN EFFECTIVE TAX RATE IN THE RANGE OF 55.0-65.0%, KENYA'S TAX MODEL FOR THE GAMBLING INDUSTRY IS PERCEIVED AS EXTREMELY NON-FRIENDLY IN COMPARISON TO DEVELOPED COUNTRIES APPLYING UNIFORM GGR TAX AT RATES OF 3.0-28.0%.

EFFECTIVE TAX RATE is determined as all gambling taxes paid divided by GGR as a measure of tax burden of the Gambling Industry

KENYA GAMBLING INDUSTRY TAXATION STUDY • MAY 2023

GAMBLING INDUSTRY TAX RATES

COMPARATIVE EFFECTIVE TAX RATE ANALYSIS

COUNTRY/FEDERAL STATE	ETR ON GGR, IN %	OFF-SHORE GAMBLING, IN %	COUNTRY/FEDERAL STATE	ETR ON GGR, IN %	OFF-SHORE GAMBLING, IN %
Kenya	55.00-65.00%	N/A	South Africa	6.00-15.00%	N/A
Malta	3.00%	N/A	Nigeria	7.50%	N/A
Belgium	11.00%	11.00%	Ghana	20.00%	N/A
Serbia	12.50%	N/A	Panama	10.00%	N/A
Sweden	18.00%	8.00%	Peru	12.00%	N/A
Bulgaria	20.00%	11.00%	Colombia	15.00%	N/A
UK	21.00%	N/A			
Denmark	28.00%	15.00%			
France	54.90%	N/A			
Croatia	57.01%	36.00%			
Germany	65.47%	53.00%			
Poland	82.09%	50.00%			
			New Jersey	20.65%	2.02%
			Virginia	21.51%	5.62%
			Michigan	24.35%	1.44%
			Nevada	44.12%	17.44%
			Pennsylvania	48.03%	N/A

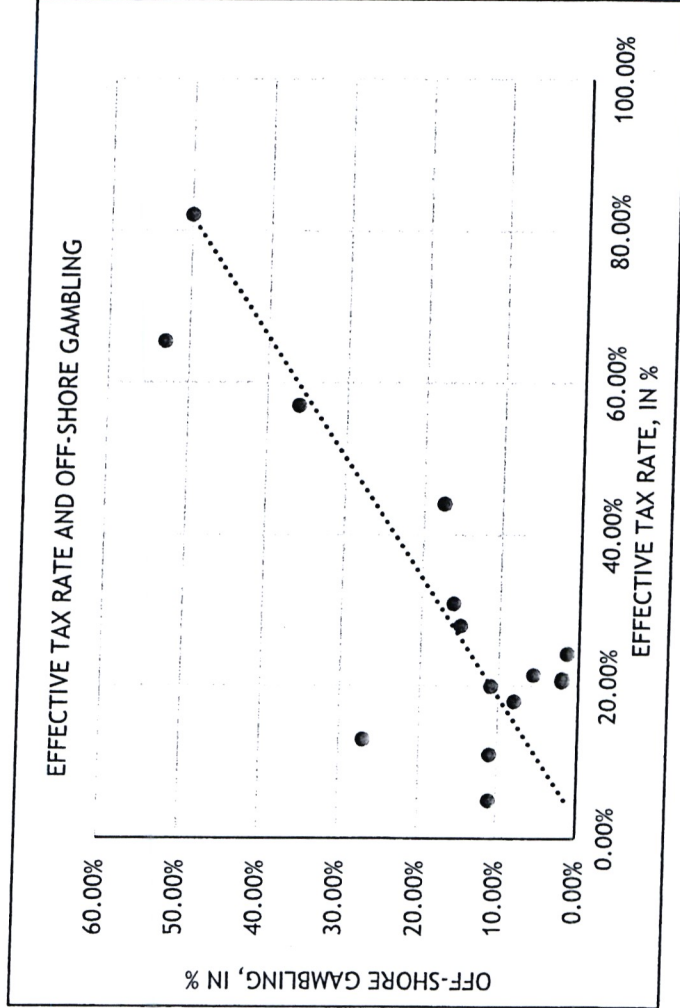
▶ Most tax-friendly EU, South America countries, and US federal states maintain uniform GGR Tax rates of 3.00-28.00%.

▶ These jurisdictions apply 0% Excise Tax and 0% Withholding Tax.

▶ Countries with extremely high tax burden show correspondingly high level of off-shore/illegal gambling (Poland more than 50% illegal gambling, Germany cc 55% illegal gambling, Croatia more than 35% illegal gambling).

GAMBLING INDUSTRY TAX RATES

EFFECTIVE TAX RATE (ETR) AND OFF-SHORE/ILLEGAL GAMBLING: HIGHER ETR - HIGHER OFF-SHORE/ILLEGAL GAMBLING



- ▶ An increase in GGR Tax leads to a surge in off-shore/illegal Gambling activities across the observed group of countries.
- ▶ Extensive and burdensome tax policies may lead to tax evasion in terms of the rise of the so-called ‘black market’ as well as the increase in off-shore/illegal Gambling activities. Both Gambling operators and governments face decreasing revenues (in terms of profit and taxes), which may result in a number of operators exiting the market.
- ▶ Even in jurisdictions with efficient tax control mechanisms (Germany, as an example), there is massive off-shore/illegal activity (Germany—55%) indicating that tax controls cannot compensate for favorable tax rates to ensure optimum tax revenues for the state budget.
- ▶ Most countries have the effective tax rate on GGR below 25%, showing a low level of gambling in a grey area/off-shore/illegal gambling.

GAMBLING INDUSTRY TAX MODEL CASE STUDY

UNITED KINGDOM - THE MOST DEVELOPED GAMBLING MARKETS WORLDWIDE, SERVING AS A ROLE MODEL

UK SINGLE GAMBLING INDUSTRY TAX RATE

- ▶ United Kingdom boasts one of the most developed Gambling markets worldwide serving as a role model in general.
- ▶ The online Gambling Industry in the UK is subject to a uniform Remote Gaming Duty (RGD), the tax on the gross gaming yield (GGR) of online gambling companies set at 21.0%.

▶ RGD has been set as part of the Gambling Industry tax reform executed in 2019, when RGD has been increased from 15.0% to 21.0%.

▶ Neither Excise Tax nor Withholding Tax are levied within the UK Gambling Industry.

HIGH PERCENTAGE OF ON-SHORE/LEGAL GAMBLING

▶ In UK, there is an extremely high percentage of on-shore/legal Gambling, which is close to 100%.

▶ In effect, players' bets are almost entirely realized on the UK online platforms leading to massive state budget revenues from the local Gambling operators.

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

KEY ADVERSE EFFECTS OF KENYA'S TAX POLICY: TAX BURDEN IS ON OF THE HIGHEST IN THE WORLD

ADVERSE IMPACT OF GAMBLING INDUSTRY TAXES ON KENYA'S ECONOMY

- ▶ Kenya's Gambling Industry tax burden is one of the highest in the world—the effective rate is 55-65% and the average of developed countries (EU, USA) stands at 20-25%.
- ▶ There are no countries or very few examples could be found of a market like Kenya where all three forms of taxation are in place (Excise Tax, Withholding Tax, GGR Tax).
- ▶ Comparative international practice has shown that, overall, Excise Tax combined with a Withholding Tax lead to mounting popularity of off-shore/illegal Gambling or market exits of a number of players.
- ▶ International practice showcases that increased tax rates, including GGR Tax, have proven to diminish competitiveness of local games of chance operators. Adversely, reduced tax rates add to operators' competitiveness, while attracting players from other markets.
- ▶ Most notable economic effects of the tax system including all taxation forms (Excise, WHT on Winnings, GGR Tax) include, but are not limited to, the following:
 - market exits of licensed operators and outflow of the capital;
 - tax evasion leading to a decline in state budget revenues from the games of chance industry;
 - subsequent loss of official job posts and applicable salary taxes and social insurance contributions;
 - mounting popularity of off-shore/illegal online Gambling operators;
 - non-developed CSR practices of Gambling operators compared to their activities in more tax-friendly markets.

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

- ▶ Kenya's tax policy amendments proposal results from a taxation model developed for the Gambling Industry. The model implies two basic scenarios as follows:
 - Scenario 1: As-Is: This is based on the present tax rates (7.5% Excise Tax; 20% Withholding Tax; 15% GGR Tax);
 - Scenario 2: Proposed single GGR tax: This includes uniform GGR Tax at the 23% rate with 0% Excise Duty and 0% Withholding Tax.
- ▶ Other model assumptions are:
 - In Scenario 1, an estimated GGR growth rate is -5% p.a.;
 - In Scenario 2, an estimated increase in GGR in the 1st implementation year of the amended tax policy equals 100% with organic annual growth rates of 70% (1st year), 40% (2nd year), 15% (3rd year), and 10% (4th year and 5th year).
- ▶ In case there is no Excise Tax and WHT, players will return their money to the game, which instantly and substantially increases GGR on two grounds: 1) the direct effect of spending money that currently goes to the taxes; 2) due to a more stimulative system, the players are likely to increase their games.
- ▶ Abolishment of Excise Tax and WHT, it is very likely that the market will double in the short period of time.

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

SCENARIO 1: TAX REVENUES IN PRESENT TAX POLICY, IN USD

GGR	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Estimated growth rate	180,500,000	171,475,000	162,901,250	154,756,188	147,018,378	
GGR Tax	-5%	-5%	-5%	-5%	-5%	
Excise Duty	25,112,842	23,857,200	22,664,340	21,531,123	20,454,567	113,620,072
Withholding Tax	49,060,934	46,607,887	44,277,493	42,063,618	39,960,437	221,970,369
TOTAL TAXES	56,233,909	53,422,213	50,751,103	48,213,547	45,802,870	254,423,642
	130,407,684	123,887,300	117,692,935	111,808,289	106,217,874	590,014,083

SCENARIO 2: TAX REVENUES IN PROPOSED TAX POLICY, IN USD

GGR	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Estimated GGR growth from change in tax policy	513,000,000	718,200,000	825,930,000	908,523,000	999,375,300	
Estimated organic GGR growth	100%					
GGR Tax	70%	40%	15%	10%	10%	
TOTAL TAX	23%	117,990,000	165,186,000	189,963,900	208,960,290	911,956,509
	117,990,000	165,186,000	189,963,900	208,960,290	229,856,319	911,956,509
DIFFERENCE IN TOTAL TAX	-	12,417,684	41,298,700	72,270,965	97,152,001	321,942,426

KENYA GAMBLING INDUSTRY TAXATION STUDY • MAY 2023

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

SCENARIO 1: TAX REVENUES IN PRESENT TAX POLICY, INDEX

GGR	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Estimated growth rate	0.95	0.90	0.86	0.81	0.77
GGR Tax	-5%	-5%	-5%	-5%	-5%
Excise Duty	0.95	0.90	0.86	0.81	0.77
Withholding Tax	0.95	0.90	0.86	0.81	0.77
TOTAL TAXES	0.95	0.90	0.86	0.81	0.77

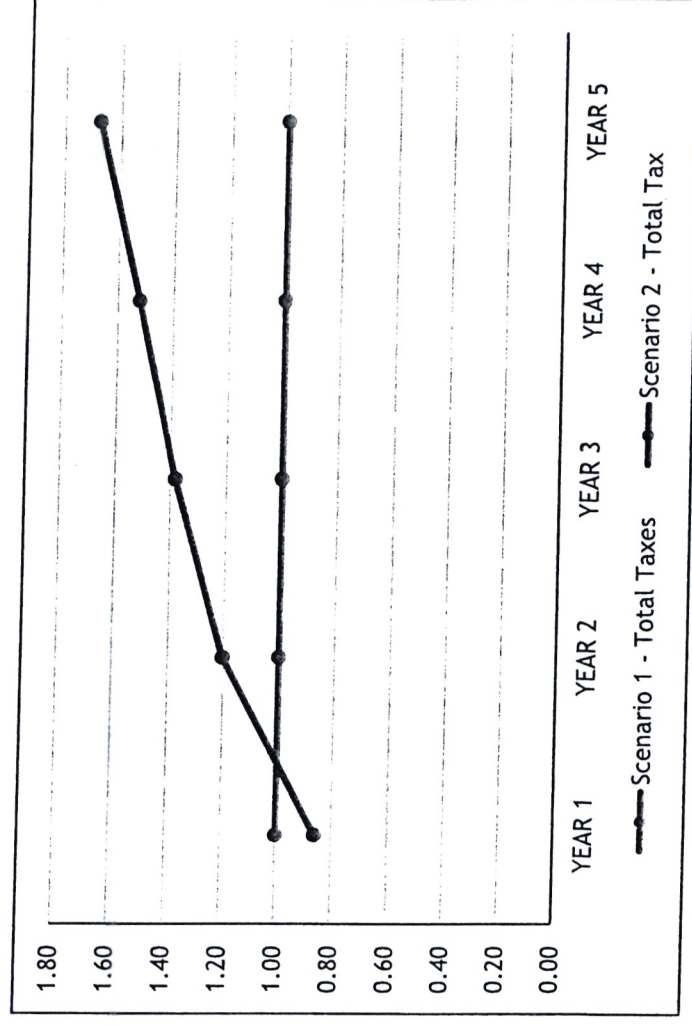
SCENARIO 2: TAX REVENUES IN PROPOSED TAX POLICY, INDEX

GGR	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Estimated GGR growth from change in tax policy	2.70	3.78	4.35	4.78	5.26
Estimated organic GGR growth	100%				
GGR Tax	70%	40%	15%	10%	10%
TOTAL TAX	0.86	1.20	1.38	1.52	1.67
	0.86	1.20	1.38	1.52	1.67

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

- ▶ In Scenario 1, based on present tax rates, GGR is expected to drop 5% annually over the Year 1-Year 5 period. By end-Year 5, total estimated GGR as well as GGR Tax should be at the level of merely 77% of that in the starting year. This applies to Excise Duty and WHT as well.
- ▶ Scenario 2, providing for the introduction of the uniform GGR tax rate equal to 23.0%, is forecast to lead to a robust increase in total estimated GGR starting from Year 2. As at end-Year 5, the state should levy more GGR Tax by 1.67x compared to the starting 1.
- ▶ In absolute terms, greater total tax take for the state in Scenario 1 is projected in Year 1 only. As of Year 2 onwards, total taxes levied in Scenario 2 are expected to outperform those in Scenario 1. Over the entire projection period, **Scenario 2—with the single 23.0% GGR tax and 0% Excise Duty and Withholding Tax—should bring more taxes to the Kenya’s state budget summed up to USD 322 million.**



GAMBLING INDUSTRY TAX MODEL AMENDMENTS

RATIONALE FOR AMENDMENTS OF TAX POLICY

- ▶ Kenya's gambling tax burden (including all forms) is one of the highest in the world—the effective rate is 55.0-65.0% and the average of developed countries (EU, USA) stands at 20.0-25.0%.
- ▶ The comparable international practice shows that most markets have significantly lower effective tax rates—role model examples include USA (which liberalized markets and have the average effective rate of 18.0-24.0%) and United Kingdom (with the effective tax rate of 21.0%), while some European countries (Germany, Poland, Croatia, France) are extremely negative examples, where there is a clear consequence of players playing on the off-shore/illegal web sites or through illegal streams.
- ▶ Selected cases of other countries have revealed that the level of tax burden has a direct negative impact on: 1) the development of the gambling markets and 2) the rise of the gray/black market (for example, Poland has 50%+ off-shore/illegal activities and Germany has 55%+ off-shore/illegal activities).
- ▶ There are no countries or very few examples could be found of a market like Kenya where all three forms of taxation are in place (Excise Duty, GGR Tax, Withholding Tax on winnings); this is extremely negative from a market development point of view.
- ▶ Excise Duty (Tax on Stakes or Turnover Tax) is very unfavorable in terms of market development with most notable examples including EU countries such as Germany, Poland, or Croatia. Most developed markets do not introduce Withholding Tax on winnings, and some developed countries have defined thresholds and mostly only large winnings are taxed. Overall, Excise Duty combined with Withholding Tax lead to mounting popularity of off-shore/illegal Gambling or market exits of a number of players.
- ▶ An increase in the tax burden above the optimum level (Laffer Curve) can lead to a short-term increase in tax revenues, but in the long term it inevitably leads to a decrease in state budget revenues.
- ▶ Furthermore, increased tax rates, including GGR Tax, have proven to diminish competitiveness of local games of chance operators. Adversely, reduced tax rates add to operators' competitiveness, while attracting players to return from other markets.
- ▶ The analysis of the financial model for the Kenya's market indicates that greater budget revenues can be achieved by increasing GGR Tax and abolishing all other forms of taxation (Excise Tax, Withholding Tax).
- ▶ International best practice analyzed shows that if the tax regime is set up in an optimum manner, it leads to: 1) higher budget revenues in the medium term; 2) the companies from the industry significantly increasing their budgets for CSR activities, which achieves a positive multiplier effect on the economy and society of a given country, and 3) the decrease in the operator's margin and consequently higher returns to players.

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

STATE BUDGET BENEFITS UNDER PROPOSED TAXATION MODEL

KEY RECOMMENDATIONS

- ▶ A comprehensive reform of the Gambling Industry tax policy in Kenya is proposed by the Association of Gaming Operators of Kenya (AGOK), with the ultimate aim to introduce a straightforward and transparent tax system for the Gambling Industry operators, which in turn would allow them to operate more profitably and generate greater state budget revenues combined with more job posts and stronger CSR practices in the local market.
- ▶ There are a number of proposed amendments to the Kenya's Gambling Industry tax policy that would benefit both the industry and the national economy with an immediate effect in the short-term:
 1. introduction of a straightforward and transparent tax policy with the Gambling Industry operators taxed at the single GGR Tax rate of 20-23%;
 2. abolishment of the Withholding Tax and Excise Tax that prove to be uncommon to most tax-friendly markets.
- ▶ Upon the implementation of the proposed amendments, an increase in state budget tax revenues is forecast starting from the 2nd year of the single 20-23% GGR Tax implementation.
- ▶ By the 5th year of the projection period, a total tax take is expected to pick up by approx. USD 322 million compared to the present state budget revenues.

BRIEF BY THE FINANCIAL REPORTING CENTRE ON AMENDMENT OF SECTION 2 OF THE PROCEEDS OF CRIME ANS ANTI-MONEY LASUNDERING ACT, 2009, THROUGH THE GAMBLING BILL, 2023

1. The Financial Reporting Centre (FRC) is a body established pursuant to Section 21 of the Proceeds of Crime Anti-Money Laundering Act, 2009 (POCAML A). The principal objective of the FRC is to assist in the identification of the proceeds of crime and the combatting of money laundering, terrorism financing and proliferation financing. Further, The FRC ensures compliance with international best practice and best practice in anti-money laundering measures.
2. The Financial Action Task Force (FATF) is the international standard setter for anti-money laundering (AML), counter financing of terrorism (CFT) and counter proliferation financing (CPF) measures. The FATF Standards requires, *inter alia*, the regulation of Financial Institutions and Designated Non-Financial Businesses and Professions (DNFBPs) for the implementation of AML/CFT/CPF measures. DNFBPs includes casinos, including internet casinos. In compliance with the FATF Standards, casinos, including internet casinos, have been designated as Reporting Institutions under Section 2 of POCAML A and are regulated for AML/CFT/CPF purposes.
3. The Gambling Control Bill, 2023, seeks to, amongst others, amend the POCAML A in the definition of “designated non-financial businesses and professions” by deleting paragraph (a) and substituting therefor the following new paragraph-
(a) person licensed under the Gambling Control Act, 2023.
4. The import of this amendment will be to extend the scope of application of the POCAML A from casinos to all other persons licensed under the proposed Act including casinos, bookmakers, totalisators, promoters and lotteries.
5. The inclusion of the above licenses goes beyond the scope of the FATF Standards, and may have negative implications on Kenya’s compliance with the FATF Standards.
6. The FATF Standards requires Designated Non-Financial Businesses and Professions (DNFBPs) to apply preventative measures to combat money laundering (ML), terrorism financing (TF) and Proliferation financing (PF). Additionally, the Standards requires countries to regulate and supervise the DNFBPs on the implementation of the said preventative measures.
7. The FATF Standards defines DNFBPs to mean:
 - a) Casinos;

- b) Real estate agents;
 - c) Dealers in precious metals;
 - d) Dealers in precious stones;
 - e) Lawyers, notaries, other independent legal professionals and accountants– this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures; and
 - f) Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:
 - acting as a formation agent of legal persons;
 - acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; and
 - acting as (or arranging for another person to act as) a nominee shareholder for another person.
8. Kenya is required to comply with these standards and is periodically assessed on its level of compliance through the Mutual Evaluation process, with the most recent assessment being in 2021.
9. The Mutual Evaluation Report (MER) for Kenya highlighted deficiencies in the implementation of preventative measures by DNFBPs, which includes casinos. Further, the MER indicated gaps in the supervision of DNFBPs.
10. Kenya is required to address the identified deficiencies as soon as possible. The definite timelines of implementation are subject to the FATF’s decision in February 2023, having regard to the progress made so far as indicated in the Post Evaluation Progress Report (POPR) submitted by Kenya on November 17, 2024.

11. To address the deficiencies requiring legislative intervention, Kenya amended 17 Acts of Parliament through The Anti-Money Laundering and Combating of Terrorism Financing Laws (amendment) Act, 2023, which came into force in 15th September, 2023.
12. The proposed inclusion of bookmakers, totalisators, promoters and lotteries as DNFBPs under POCAMLA not only goes beyond the FATF Standards but will cause undue burden on the country in addressing the gaps identified in the supervision of DNFBPs.
13. Further, the detection of possible ML, TF and PF by non-regulated entities, e.g. the licensees other than casinos under the Gambling Control Bill, is well covered through the regulation of financial institutions such as banks and payment service providers, as well as other DNFBPs who are required to monitor transactions and report suspicious transaction reports. Through these reports and the customer due diligence measures put in place, the FRC received reports and disseminates intelligence to law enforcement agencies which conduct further investigations on the subject matter of the disseminations.
14. The law enforcement agencies are actively pursuing cases of ML, TF and PF as perpetrated by all persons and entities, regardless of their regulation under POCAMLA.
15. Based on the foregoing, it is the FRC's view that the proposed amendment to Section 2 of the POCAMLA should not be effected as it goes beyond the FATF Standards.

November 21, 2023

FINANCIAL REPORTING CENTRE



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE









WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE


DATE: 20th Nov 2023 VENUE: Pside in Hotel

MINISTRY/DEPARTMENT/AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

AGENDA: Consultative Meetings with Presidential Taskforce

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	Japheth Tompa		EOP	072611855	kyptergem@gmail.com	
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5.	Duncan Kichimo		EOP	0710152041	d.kichimo@gmail.com	
6.	Tom Chelwa		EOP	0724086472	tomchelwa@gmail.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	MARGARET - GITHARA	UNDO SECRETARY	HR	0707720549	meegym2012	
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10.	Lilian Mendo	SECRETARIAL	EOP	0128406286	Nambudharam	
11.	Jacet Kare	SECRETARIAL	EOP	0727985673	Karejacet2002@yahoo.com	
12.	Merey Musang	NEWS SECRETARIAL CORRESPONDENT	MBATI FM	0705041762	MMusangi2005@yahoo.com	
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15.	Gloria Njorja	SENIOR MEMBER OFFICER	EOP	0120373255	clustormarketing@gmail.com	
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S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
23.	ICFCA I. J. M. W. I. W. 2	BJ Guard	Med	0727604013	danielignacio@sigmad1	
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE






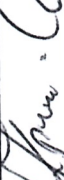


DATE: 21-11-2023 VENUE: Hilton Garden Inn

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultation Meeting with Stakeholders on the two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
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2.	Kestimet Okuku	Vice Chair	CRA	0722820131	Ko.kanobekius@cra.go.ke	
3.	Jonas M. Kuku	Commissioner	CRA	0723404539	jiras.kukule@cra.go.ke	
4.	Dr. Kabel Wanyiri	Commissioner	CRA	0721481112	kabel.wanyiri@cra.go.ke	
5.	JAMES KATULE	CEO	CRA	0722362273	James.katule@cra.go.ke	
6.	CAROLINE ASSOCIATE	CHIEF STATE COUNSEL	XIGYUETS	0774223489	carolamwandi@gmail.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
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10.	EDWIN RONNEN	Director BCLB	BCLB	0922931384	edwinronnen@gmail.com	
11.	Fredrick Alassi	Deputy Director Principals	BCLB	0922631569	fredricka@ghs.com.gh	
12.	Judy Kitchu	State Counsel	BCLB	0101952288	judykitchu@gmail.com	
13.	Dr. June Mawu	Chairperson	BCLB	0724813394	junemawu@gmail.com	
14.	Judy Kabilala	Senior Research Officer Director of Ministry Office	N/A	0725351324	nijickabilalagmail.com	
15.	Walter Mawu	Research Officer				
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17.	Emmy N. Kwasi	Manager, Legal	CPA	0725505535	emmy.kwasi@gmail.com	
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22.	Alex Mwanika	Advocate	AKA	0704719159	mwanika@gmail.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
23.	Mohi Thando	COMMUNICATIONS OFFICER	CRA	07028 30354	Mohi.Thando@cr.gov.ke	
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28.	SASA KENYA	COUNTRY MANAGER	AGOK	0742144322	sasa.kenya@kenya.com	
29.	Maurice Odhamboto	AGOK SECRETARY	AGOK	0715874781	Maurice.odhamboto@agok.com	
30.	Boniface Okendo	Photojournalist	Standard News paper	0722-592753	otokendo@standardnews.com	



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

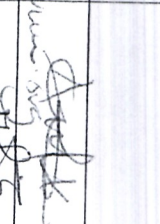
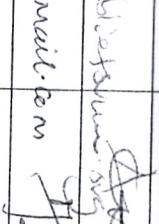
WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

DATE: 21-11-2023 VENUE: Hilton Garden Inn

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultation meeting with Stakeholders on top two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	Sally Ngunjiri	Legal Counsel N/A	Ministry of Education, Science and Technology	0720315321	sallyngunji@gmail.com	
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3.	Kaito Wangilia	Director	CoG	0722358690	kaito.wangilia@co.g.ke	
4.	ERIC ALIQUILA	Secretary	FOP	0721868216	ericaliqula@fopki.com	
5.	DUNCAN KIBONYI	Deputy Secretary	FOP	0710152041	duncan.kibonyi@fopki.com	
6.	Collins Obhuro	Deputy CEO	KSU	0722865265	collins.obhuro@ksu.co.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

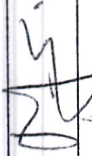






DATE: 22/11/2023 VENUE: HILTON GARDEN INN

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: CONSULTATIVE RETREAT WITH STAKEHOLDERS ON THE NATIONAL ASSEMBLY BILL NO 69 OF 2023

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.						
2.						
3.	Carlyne Chilango	Director Parliamentary Affairs	State Dept for Parliamentary Affairs	071500117	carlyne.chilango@parncs.go.ke	
4.	Fidel Salach	Parliamentary Affairs Officer	State Dept for Parliamentary Affairs	0722478074	fidelach@parncs.go.ke	
5.	Eugene Odhiambo	Legal Department	ODPC	0795890568	eugene.odhiambo@odpc.go.ke	
6.	Muneeb Baniyan	Compliance Officer	FRC	-	muniyan@frc.go.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	JAVES MATHURUA	Director Gen. Works Buildings & Ext. Res.	FR C	0709858000	mathurua@fr.c.go.ke	
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11.	Peter L. Mwangi	Director	BCLB	071346104	petemwangi@bclb.go.ke	
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17.	Miriam Chege	Secretary AGOK	AGOK	0725609915	miriam@agok.go.ke	
18.	SASA KENETHA	Country Manager	AGOK	0742144322	SASA.KENETHA@NORTHNETSOLUTIONS.COM	
19.	Princess Catherine	Assistant Secretary	AGOK	0722270641	princesscatherine@agok.go.ke	
20.	Robert Mwangi	Secretary	AGOK	0722200920	robertmwangi@agok.go.ke	
21.	Moses Nyang'ya	Ag. Com. STD	KRA	0721417305	Moses.Nyang'ya@kr.go.ke	
22.	L. A. Oluwalana	CR STD	KRA	0759012673	lana.oluwalana@kr.go.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
23.	Oscar Orens	DDC	DDPC	0723535006		
24.	Judy Kabikibi	Researcher Leader of Minority Office	N/A	0725351324	micjicabillibey@mail.com	
25.	Sally Naugi	Legal Counsel Leader of Majority Office	N/A	0720315381		
26.	Austin Muregesi	Legal	CAF	0720214773	amstrmuregesi@caf.or.ke	
27.	Nelson Bwire	Project Lead	Growing Awareness Society of Kenya	0114411290	bwiresn@gsma.or.ke	
28.	Collins Ochiengo	LSK	Deputy CEO	0722556265	collins.o@lsk.or.ke	
29.	Fredrick Kiamba	Parliament Liaison	KRA	0703324063	fredrick.kiamba@kra.go.ke	
30.	Evet Milka	Parliament Liaison	KRA	0113800141	evet.otieno@kra.go.ke	





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

DATE: 24/11/2023 VENUE: Hilton Garden Inn

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultative Meeting with Stakeholders on the two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	HASSAN A. BON	Asst. Comm. Secy SASDEF	SASDEF	0722423498	hassanbon@gmail.com	[Signature]
2.	CAROLINE AMWOTI	CSC	NOYACES	0774 223189	carolamwoti@gmail.com	[Signature]
3.	Alex Mwaniki	Legal Counsel	EOP	0704719159	mwaniki.alex@gmail.com	[Signature]
4.	Clinton Mwangi	DL	EOP			[Signature]
5.	Judy Kobilah	Researcher Office of leader of Minority	National Assembly	0725351324	missjkebilah@gmail.com	[Signature]
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S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
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REPUBLIC OF KENYA



COUNTY ASSEMBLIES FORUM (CAF)

Flamingo Towers, 5th Floor Wing B, Mara Road, Upper Hill P.o Box 73552- 00200 Nairobi Kenya Tel: 0701 046 933
Email:communication@countyassembliesforum.org www.countyassembliesforum.org

CAF MEMORANDUM ON THE NATIONAL LOTTERY BILL, 2023 (NATIONAL ASSEMBLY BILLS NO.69 OF 2023)

TO: Mr. Samuel Njoroge
Clerk of the National Assembly, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 20th October 2023.

SUBJECT: CAF Memorandum on the National Lottery Bill,2023



1.0 INTRODUCTION

1. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.
2. As one of the pillars of the devolved government system, CAF is committed to engage in processes that lead to good causes and direct adequate funding to critical areas key to ensuring a socially responsible National Lottery.

2.0. BACKGROUND

- 2.1. The principal object of this Bill is to repeal and replace the Betting, Lotteries and Gaming Act (Cap. 131) provide for a legislative framework for the regulation of gambling in Kenya and also incorporate safe gambling principles in the gambling sector. The Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries, media promotions. The following are the salient features of the Bill.
- 2.2. This Bill is a Bill not concerning county governments within the meaning of Article 110 of the constitution and the Fourth schedule to the Constitution.

3.0. GENERAL COMMENTS.

- 3.1. We commend the sponsor of the National Lottery Bill 2023, Hon. Kimani Inchung'wah, the Leader of Majority, for his commitment to establishing a legislative framework for a National Lottery. This initiative demonstrates a proactive approach to harnessing resources for good causes and fostering social responsibility. The establishment of various management teams and committees enhances transparency and accountability, allowing county assemblies to have a clearer view of how funds are utilized within health facilities.
- 3.2. The overarching aim of the bill, which is to create a National Lottery for pooling additional resources directed toward good causes, aligns with the broader goal of enhancing public welfare. We support initiatives that seek to improve the quality of life for citizens through sustainable funding mechanisms.
- 3.3. The focus on supporting various sectors such as charitable causes, sports, heritage, arts, and culture reflects a comprehensive approach to addressing societal needs. The bill's emphasis on these key areas demonstrates a commitment to holistic development.
- 3.4. While supporting the bill's objectives, there are concerns about the potential negative consequences associated with increased gambling activities. The bill should incorporate robust measures to mitigate the risk of addiction and other social problems that may arise from the operation of a National Lottery.
- 3.5. The financial implications for individuals and households need careful consideration. There is a need to strike a balance between revenue generation for good causes and ensuring that vulnerable populations are not disproportionately affected by the financial burdens associated with participating in the National Lottery.
- 3.6. The introduction of a National Lottery, if not carefully regulated, may have unintended consequences on the existing betting industry. It is crucial to conduct a comprehensive impact assessment to understand how the National Lottery will coexist with other forms of gambling, ensuring fair competition and preventing market distortions.
- 3.7. CAF appreciates the opportunity to contribute to this Bill and on the basis of the foregoing proposes the following amendments:

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

	CLAUSE	AMENDMENT	JUSTIFICATION/COMMENTS
1.	<p>Clause 2 "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to the National Lottery;</p>	<p>No Amendment</p>	<p>Clause 2 of the National Lottery Bill defines "Cabinet Secretary" as the Cabinet Secretary responsible for matters relating to the National Lottery. While the intent of this definition is understood, there is a need to address potential ambiguity arising from the absence of a designated Cabinet Secretary at the present moment. The following justification seeks clarity on this matter:</p> <p>1. Transparency and Legal Certainty:</p> <ul style="list-style-type: none"> Given the dynamic nature of government structures, it is crucial to ensure legal certainty and transparency in the interpretation of

			<p>legislative provisions. Currently, there might not be a designated Cabinet Secretary explicitly responsible for the National Lottery. Requesting clarity on which Cabinet Secretary would assume this role in the absence of a designated official ensures that the legislation remains applicable and enforceable.</p> <p>2. Avoidance of Ambiguity:</p> <ul style="list-style-type: none">• Ambiguity in legal language can lead to challenges in implementation and enforcement. To prevent confusion regarding the role of the Cabinet Secretary in charge of the National Lottery, it is advisable to insert a provision specifying
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			<p>the interim arrangement or the process by which the responsibility will be assigned until a dedicated Cabinet Secretary is appointed.</p> <p>3. Flexibility in Government Restructuring:</p> <ul style="list-style-type: none"> Government structures may undergo changes, and ministries can be reorganized. Specifying a process for assigning responsibility ensures that the legislation remains adaptable to such changes. It provides a mechanism for seamlessly transitioning responsibilities in the event of future government restructuring. <p>4. Consistency with Legislative Intent:</p> <ul style="list-style-type: none"> Clarity in defining the responsible Cabinet Secretary
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			<p>aligns with the overall legislative intent of the National Lottery Bill. It enhances the effectiveness of the implementation process by clearly identifying the authority overseeing matters related to the National Lottery.</p> <ul style="list-style-type: none">• <p>5. Legal Interpretation:</p> <ul style="list-style-type: none">• Legal practitioners, regulatory bodies, and other stakeholders involved in the interpretation and application of the National Lottery Bill would benefit from explicit provisions regarding the appointment or assignment of the Cabinet Secretary. This aids in consistent and uniform
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			interpretation across different contexts.
2.	<p>Clause 11 and 12</p> <p>Clause 11</p> <p>11. (1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Board through open, transparent and competitive process, on such terms and conditions of services the Board may determine.</p> <p>(2) A person shall be qualified for appointment as the Chief Executive Officer if the person—</p> <p>(a) is citizen of Kenya;</p> <p>(b) holds a degree from a university recognized in Kenya;</p> <p>c) has at least ten years' experience in senior management in a public or a private institution;</p> <p>and</p> <p>(d) satisfies the requirements of Chapter Six of the Constitution.</p>	<p>Amend by deleting clause 12 and amend clause 11 (3) to state as follows: -</p> <p><i>"3) The Chief Executive Officer shall be—</i></p> <p><i>(a) The corporate secretary to the Board</i></p> <p><i>(b) the custodian of all the records of the Board;</i></p> <p><i>(c) responsible for the day-to-day management of the affairs and staff of the Board;</i></p> <p><i>(d) responsible for the management and maintenance of efficiency of the staff of the Board;</i></p> <p><i>and</i></p> <p><i>(e) responsible for—</i></p>	<p>In reviewing the proposed structure outlined in Clause 11 and considering the duties prescribed for both the Chief Executive Officer (CEO) and the Secretary to the Board in Clause 12, it becomes apparent that the functions of the Corporate Secretary are essentially duplicated by the responsibilities assigned to the CEO. Consolidating these roles under the CEO can enhance efficiency and streamline the administrative framework of the Board. Here are the justifications for eliminating the position of Corporate Secretary:</p> <p>1. Streamlined Decision-Making:</p> <ul style="list-style-type: none"> The CEO, as per Clause 11(3)(d)(i), is tasked with executing decisions of

<p>(3) The Chief Executive Officer shall be—</p> <p>(a) the custodian of all the records of the Board;</p> <p>(b) responsible for the day-to-day management of the affairs and staff of the Board;</p> <p>(c) responsible for the management and maintenance of efficiency of the staff of the Board; and</p> <p>(d) responsible for—</p> <p>(i) executing decisions of the Board;</p> <p>(ii) facilitating, coordinating and ensuring execution of the mandate of the Board;</p> <p>(iii) preparing and submitting for approval, by the Board, programmes of work for the achievement of the mandate of the Board; and</p> <p>(iv) the performance of such other duties as may be assigned by the Board or any written law.</p> <p>(4) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of three years</p> <p>Clause 12</p> <p>12. (1) The Board shall competitively recruit a person qualified to serve as the Secretary to the</p>	<p>(i) <i>executing decisions of the Board;</i></p> <p>(ii) <i>facilitating, coordinating and ensuring execution of the mandate of the Board;</i></p> <p>(iii) <i>preparing and submitting for approval, by the Board, programmes of work for the achievement of the mandate of the Board; and</i></p> <p>(iv) <i>the performance of such other duties as may be assigned by the Board or any written law.</i></p>	<p>the Board. Combining this responsibility with the duties traditionally associated with the Corporate Secretary eliminates unnecessary bureaucratic layers and ensures a more direct and streamlined decision-making process.</p> <p>2. Coordinated Management:</p> <ul style="list-style-type: none"> • Clause 11(3)(b) designates the CEO as responsible for the day-to-day management of the affairs and staff of the Board. This includes managing and maintaining the efficiency of the staff, a role that aligns with traditional Corporate Secretary functions related to governance and organizational efficiency. <p>3. Unified Record Keeping:</p> <ul style="list-style-type: none"> • Clause 11(3)(a) appoints the CEO as the custodian of all the records of the Board. This includes record-keeping
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<p>Board.</p> <p>(2) The Secretary to the Board shall —</p> <p>(a) provide guidance to the Board on the duties, responsibilities and powers of the Board;</p> <p>(b) ensure that the Board follows its procedures and complies with the respective laws and regulations;</p> <p>(c) prepare the Board's work plans and assist the Chairperson to organize the Board's activities including meetings, agendas of meetings, issuing notices to other members of the Board, circulating Board papers before meetings, keeping a record of attendance at meetings;</p> <p>take and keep the minutes of the meetings of the Board, and circulating the minutes to the members of the Board;</p> <p>(e) keep a record of the usage of the seal of the Board, and prepare the annual meetings of the Board;</p> <p>(f) keep a record of the appointment letters, notices of appointment and the written acceptance of appointment by members of the Board;</p>		<p>duties that are typically associated with the Corporate Secretary role, such as keeping records of meetings and decisions. Consolidating these tasks under the CEO ensures a unified approach to record-keeping.</p> <p>4. Avoidance of Duplication:</p> <ul style="list-style-type: none"> The duties listed under Clause 12 for the Secretary to the Board, while essential, overlap significantly with the responsibilities assigned to the CEO. Combining these roles avoids redundancy, reduces administrative overhead, and ensures a more efficient allocation of resources. <p>5. Alignment with Best Practices:</p> <ul style="list-style-type: none"> Many organizations globally follow a model where the CEO or an equivalent executive holds responsibilities akin to those traditionally assigned to a Corporate Secretary. This consolidation aligns
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	<p>(g) keep a record of conflicts of interest declared by each member of the Board; and</p> <p>(h) perform such other duties as the Board direct .</p>		<p>with modern governance practices and supports agility in decision-making and operations.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> In light of the above considerations, it is recommended to eliminate the position of Corporate Secretary and amend Clause 11 to explicitly recognize the CEO as the corporate secretary, thereby unifying the key administrative and governance functions under a single leadership position. This consolidation promotes efficiency, accountability, and a more coherent organizational structure.
<p>3.</p>	<p>Clause 20</p> <p>The Board shall prepare quarterly and annual financial and non-financial reports in a format prescribed by the Public Sector Accounting Standards</p>	<p>Amend the Clause to state;</p> <p><i>“The Board shall prepare quarterly and annual financial and non-financial reports in a format</i></p>	<p>Section 20 of the National Lottery Bill outlines the requirement for the Board to prepare quarterly and annual reports, submitting them to specified entities. To enhance</p>

	<p>Board and submit the same to the National Treasury with copies to the Controller of Budget and the Commission on Revenue Allocations</p>	<p><i>prescribed by the Public Sector Accounting Standards Board and submit the same to the National Treasury with copies to the Controller of Budget and the Commission on Revenue Allocations and the National Assembly”</i></p>	<p>transparency, accountability, and effective oversight, it is prudent to amend this section to include the National Assembly among the bodies receiving these reports. Below are justifications for this proposed amendment:</p> <p>1. Enhanced Legislative Oversight:</p> <ul style="list-style-type: none"> • Including the National Assembly in the list of recipients for quarterly reports aligns with principles of democratic governance. The National Assembly, as the primary legislative body, plays a crucial role in overseeing government activities. Inclusion ensures that elected representatives are well-informed about the operations of the National Lottery Board.
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			<p>2. Public Accountability and Scrutiny:</p> <ul style="list-style-type: none">• The National Assembly serves as a representative of the public, and its involvement in receiving reports enhances public accountability. Quarterly reports from the National Lottery Board should be subject to parliamentary scrutiny, allowing Members of Parliament to assess the Board's performance and address any concerns raised by their constituents. <p>3. Policy Alignment and Legislative Harmony:</p> <ul style="list-style-type: none">• Establishing a direct reporting line to the National Assembly ensures that the activities of the National Lottery Board are in harmony with
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			<p>legislative policies and objectives. It facilitates better communication between the Board and the legislative arm of the government, fostering a collaborative approach in achieving national goals.</p> <p>4. Timely Intervention and Issue Resolution:</p> <ul style="list-style-type: none"> • Timely submission of reports to the National Assembly provides a mechanism for swift intervention in case of any issues or concerns. Members of Parliament can proactively address challenges or suggest improvements, contributing to the efficient functioning of the National Lottery system. <p>5. Strengthening Checks and Balances:</p> <ul style="list-style-type: none"> • Including the National
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			<p>Assembly as a recipient of reports strengthens the system of checks and balances within the government. Parliamentary oversight acts as an additional layer of scrutiny, complementing the roles of other oversight bodies and ensuring comprehensive accountability.</p> <p>6. Public Trust and Confidence:</p> <ul style="list-style-type: none">• Direct involvement of the National Assembly in the oversight process enhances public trust and confidence in the National Lottery system. The public can be assured that their elected representatives are actively monitoring the operations of the Lottery Board, promoting
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			<p>transparency and integrity.</p> <p>7. Legislative Recommendations and Reforms:</p> <ul style="list-style-type: none"> • Reports submitted to the National Assembly provide a platform for Members of Parliament to make recommendations and propose legislative reforms based on the performance and challenges identified. This iterative process contributes to the continuous improvement of the regulatory framework.
<p>3.</p>	<p>Clause 21(3) (3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include— (a) charitable causes including—</p>	<p>No Amendment</p>	<p>Clause 21(3) of the National Lottery Bill outlines a comprehensive list of good causes to be facilitated by the National Lottery. While the intentions behind these causes are commendable, there is a valid</p>

	<p>(i) providing care and protection for the physically or mentally afflicted, the aged, orphans and vulnerable children;</p> <p>(ii) promote social development including universal health care;</p> <p>(iii) facilitate the protection and rehabilitation of vulnerable or problem gamblers;</p> <p>(iv) promote the protection and conservation of the environment, efforts towards sustainable development or support animal welfare initiatives;</p> <p>(v) aid to the needy, such as through the provision of food, shelter, or healthcare services; and</p>		<p>concern regarding potential duplication of roles with various Ministries, Departments, and Agencies (MDAs) at the national and county levels. The following justifications seek to address this concern:</p> <p>1. Efficient Resource Allocation:</p> <ul style="list-style-type: none"> Some of the identified good causes, such as support for education, health, and economic empowerment, align with the core functions of existing line ministries. To ensure efficient resource allocation and avoid duplication, collaboration and coordination mechanisms should be established between the National Lottery Board and relevant government entities.
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<p>(vi) advancing religious or spiritual purposes, through the promotion of interfaith dialogue;</p> <p>(b) economic empowerment including—</p> <p>(i) support for the development of small businesses or other economic development initiatives;</p> <p>(ii) support education, including, among others, through the provision of scholarships or educational resources, including libraries, laboratories;</p> <p>(iii) promotion of scientific research, innovation, and technological development; and</p> <p>186 9 The National Lottery Bill, 2023</p> <p>(iv) support for health and medical</p>	<p>This will prevent unnecessary competition for resources and enhance the impact of initiatives.</p> <p>2. Avoidance of Redundancy:</p> <ul style="list-style-type: none"> • Many line ministries and county governments already have established programs and projects addressing social development, economic empowerment, health, and education. Incorporating these into the National Lottery's scope without proper coordination may lead to redundancy and inefficiency. A streamlined approach ensures that activities are complementary rather than duplicative. <p>3. Clear Mandate Definition:</p> <ul style="list-style-type: none"> • The National Lottery Board's
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	<p>research, including through the funding of clinics or medical facilities;</p> <p>(c) sports, recreation, arts, culture and national heritage including—</p> <p>(i) support for national teams to participate in regional and international events;</p> <p>(ii) financing the development of sports and recreation facilities including stadia, gymnasias, buildings, tracks;</p> <p>(iii) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;</p> <p>(iv) facilitation for the acquisition and</p>		<p>mandate should be clearly defined to avoid encroaching on the functions of other government entities. Collaboration should be encouraged, but the Board's role should focus on unique initiatives that may not fall squarely within the responsibilities of existing MDAs.</p> <p>4. Enhanced Monitoring and Evaluation:</p> <ul style="list-style-type: none"> To prevent duplication, a robust monitoring and evaluation framework should be established. This ensures that the impact of National Lottery-funded projects is measurable and distinct from initiatives implemented by other entities. Regular
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	<p>provision of equipment to sports and recreation facilities;</p> <p>(v) support for the identification, nurturing and development of talent in sports and arts;</p> <p>(vi) facilitating training and capacity building programmes for persons involved in Sports arts, artistic and cultural and recreation, creative production, contemporary practitioners;</p> <p>(vii) facilitating the identification, development</p> <p>And capacity building of technical personnel and sports support personnel involved in sports and recreation;</p> <p>(viii) support for the development, marketing, and artistic production of</p>		<p>reporting and evaluation mechanisms can help identify areas of overlap and adjust strategies accordingly.</p> <p>5. Stakeholder Engagement and Consultation:</p> <ul style="list-style-type: none"> • Meaningful consultation with relevant ministries, county governments, and other stakeholders is crucial. This will facilitate the identification of areas where the National Lottery's interventions can fill gaps or address specific needs not adequately covered by existing programs. <p>Recommendations</p> <ul style="list-style-type: none"> • In light of the above, Introduce a provision in Clause 21(3) that mandates the National Lottery Board
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	<p>cultural goods and promotion of contemporary or services;</p> <p>(ix) support for linkages with domestic, regional, and international markets for sports, artistic productions and contemporary or cultural goods and services;</p> <p>(x) facilitating the exhibition and promotion of contemporary or cultural artistic production</p> <p>18 70 The National Lottery Bill, 2023</p> <p>of goods and services for national identity and pride;</p> <p>(xi) financing the acquisition, development, and preservation of, among others, heritage sites, cultural centres, national monuments, tangible and intangible heritage and culture and heritage equipment and tools;</p>		<p>to collaborate and coordinate with relevant line ministries and county governments. This collaboration should focus on aligning the National Lottery's activities with existing government initiatives to avoid redundancy.</p> <ul style="list-style-type: none"> Specify that the National Lottery Board shall conduct regular consultations with relevant government entities to identify areas where its support can complement existing efforts without replicating services.
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	<p>(xii) facilitate innovation, research and documentation in arts, culture and the creative industry, sports, and social development; and</p> <p>(xiii) promotion of culture, arts, and heritage, such as through the support of museums or cultural events,</p> <p>(d) signature transformation projects including—</p> <p>strategic initiatives, projects, or programs developed by the National Government, county governments, non-governmental organizations, that are unique and distinctive, with high and visible impacts, including being key to positioning the country regionally or internationally economically, socially, or otherwise;</p> <p>(ii) affordable housing;</p>		
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	<p>(iii) community centres for youth programs</p> <p>underprivileged communities;</p> <p>(iv) sustainable agriculture or energy initiatives;</p> <p>(v) healthcare programs; and</p> <p>(vi) scientific research or innovations addressing challenges including climate change, infectious diseases, cybersecurity, infrastructure projects improving access to water, sanitation, clean energy in remote of underdeveloped areas,</p> <p>(e) emergencies including—</p> <p>(i) response to emergencies or crises affecting communities or populations including natural disasters, conflicts, public health crises, or</p> <p>Other unforeseen events that require urgent intervention; and</p> <p>(ii) response as well as disaster risk</p>		
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	<p>reduction initiatives that help communities prepare for and respond to emergencies and disasters.</p>		
<p>4.</p>	<p>Clause 23 (3) (a)</p> <p>The (a) take into account whether the person—</p> <p>(i) has contravened the provisions of any law, in Kenya or elsewhere, designed for the protection of members of the public against financial loss due to dishonesty, incompetence, or malpractice by persons engaged in gambling;</p> <p>(ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;</p> <p>(iii) has taken part in any business practice which, in the opinion of the Board, was fraudulent prejudicial to the gambling market or public interest, or was otherwise improper, which would</p>	<p>Amend the Clause by adding a subclause (vi) ;</p> <p><i>“The (a) take into account whether the person—</i></p> <p><i>(i) has contravened the provisions of any law, in Kenya or elsewhere, designed for the protection of members of the public against financial loss due to dishonesty, incompetence, or malpractice by persons engaged in gambling;</i></p> <p><i>(ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;</i></p> <p><i>(iii) has taken part in any business practice which, in the opinion of the Board, was fraudulent prejudicial to the gambling market or public interest, or was otherwise improper, which would otherwise discredit the person’s methods of conducting business;</i></p> <p><i>(iv) has taken part or has been associated with any business practice which casts doubt on the competence</i></p>	<p>The inclusion of a subclause in Section 23(3)(a)(vi) requiring that "its directors or shareholders satisfy the requirements of Chapter Six of the Constitution" is justified for the AS Chapter Six of the Constitution of Kenya outlines the principles of leadership and integrity. By including this subclause, the National Lottery Bill ensures that operators and their key personnel adhere to constitutional requirements, promoting a culture of accountability and ethical conduct in the gambling industry.</p>

	<p>otherwise discredit the person's 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 person; or</p> <p>(V) has acted in a manner that casts doubt on the person's competence and soundness of judgment;</p>	<p><i>or soundness of judgment of that person; or</i></p> <p><i>(V) has acted in a manner that casts doubt on the person's competence and soundness of judgment;</i></p> <p><i>(vi) its directors or shareholders satisfies the requirements of Chapter Six of the Constitution. "</i></p>	
<p>5.</p>	<p>Clause 27 (2) (b)</p> <p>(2) Subject to subsection (1), the Cabinet Secretary, the regulatory authority and the Board shall in exercising their respective mandates under this Act—</p> <p>(a) ensure that the net proceeds of the National Lottery are maximized; and</p> <p>(b) adopt strategic and inclusive frameworks for responsible gambling</p>	<p>No Amendment</p>	<p>The phrase "adopt strategic and inclusive frameworks for responsible gambling" lacks specificity and clear guidelines, making it open to interpretation. The absence of specific details on what constitutes "strategic and inclusive frameworks" may lead to ambiguity in implementation. Stakeholders, including the regulatory authority, operators, and the public, might have varying interpretations of the intended strategies.</p>

			<p>To ensure clarity and effectiveness, the Forum proposes the National Lottery Bill should explicitly outline the key components and principles that define "strategic and inclusive frameworks for responsible gambling." This may include:</p> <ol style="list-style-type: none">a. Define the specific objectives and goals of the responsible gambling frameworks, such as preventing addiction, protecting vulnerable populations, and promoting awareness.b. Specify mechanisms for involving various stakeholders, including regulatory bodies, operators,
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			<p>non-governmental organizations, and the public, in the development, review, and implementation of responsible gambling strategies.</p> <p>c. Incorporate a requirement for public awareness campaigns to educate lottery participants about responsible gambling practices. This could include information on setting limits, recognizing signs of addiction, and accessing support services.</p>
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6.	<p>Clause 45 (2)</p> <p>(2) The Board shall, through regular publications, inform the public of its activities and operations and that such activities and operations shall be accessible to the public.</p>	<p>Amend to state: -</p> <p><i>"The Board shall, through regular publications, inform the public of its activities, operations, and decisions. Such activities and operations shall be accessible to the public, fostering transparency and accountability. Additionally, the Board shall actively engage in public participation processes to gather input, feedback, and insights from the public on matters related to its mandate, ensuring inclusivity and democratic decision-making."</i></p>	<ul style="list-style-type: none"> • The inclusion of public participation emphasizes the importance of involving the public in decision-making processes. It recognizes the public as stakeholders and ensures that diverse perspectives are considered in the Board's activities. • Public participation aligns with democratic principles, allowing citizens to contribute to the decision-making processes that impact them. It enhances the legitimacy of the Board's actions by incorporating the views of those affected by its decisions. • Actively engaging in public participation processes promotes inclusivity, allowing for a broader range of voices to be heard. This is essential in ensuring that decisions made by the Board reflect the interests and concerns of the public.
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Thank you.
Yours sincerely,

A handwritten signature in black ink, appearing to read "Philemon Sabulei". The signature is written in a cursive style with a large, prominent initial "P".

HON. PHILEMON SABULEI
CHAIRPERSON, CAF



MEDIA OWNERS ASSOCIATION OF KENYA
Empowering The Fourth Estate

<p>Contentious clauses</p>	<p>National Lottery Bill Clause 21, "The National Lottery shall be conducted for the purpose of raising resources for the nation towards <u>good causes</u> in Kenya and for any other purposes provided in this Act." The definition of "good causes" is problematic because it gives the Board wide powers to determine what constitutes a good cause. What parameters will be used to determine how much money will be dedicated to these causes given that Clause 22 provides that the National Lottery is exempted from provisions of any law regulating public lotteries for charitable purposes? Will the amount be a particular percentage of the proceeds in the Fund or how will it be calculated? <u>Impact</u></p>	<p>Gambling Control Bill Under Sections 30 /34 - On Licensing <u>Our Proposal</u> No durations of the license period for the various categories of licenses are spelt out. Also, no such information in the addendums/ schedules attached. B. Ensure gambling is undertaken fairly, safely, and is not harmful to society, providing robust safeguards for vulnerable segments of society, including minors, the elderly, problematic individuals, and their families. C. Establish comprehensive and inclusive consumer awareness, rehabilitation, and other support programs to mitigate against problem gambling, including: developing and deploying gambling</p>
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	<p>There may be an arbitrary use of the resources in the National Lottery Fund given that there is no indication of the amount that may be dedicated to the good causes, and the number of these good causes that the Fund may be dedicated to in a given financial year.</p> <p><u>Our Proposal</u></p> <p>The Bill should specifically indicate the definition of good causes, i.e. breakdown the good causes, number of good causes that the Fund is to cater to in a given financial year, and the percentage of the Fund that may be dedicated to these good causes in a financial year.</p> <p>The Bill should further indicate the frequency of the payment. Is it a one-off prorated amount or is the same payable quarterly?</p> <p>Draws. 38. (1) All draws and prize draws shall be open to members of the public. (2) Draws for all games comprising of a lottery shall be conducted at such times and at such places as may be determined by the licensee with the approval of the Authority. (3) The number or alphabet letter and permutation of numbers or alphabet letters drawn that constitute winnings of National Lottery shall be determined by the Authority and published in the Gazette, a newspaper or other medium of information of national coverage. (4) An officer of the Authority shall supervise the selection of winning entries in all draws. (5) Any equipment used in a public</p>	<p>products and services that are fair, transparent, well-regulated and cause no harm to society.</p> <p><u>Our Proposal</u></p> <p>As part of this clause, the Policy should mandate, - Public awareness through use of various media, regular publication of licensed companies, audit, and publication of charitable causes</p> <p>- The advertising requirements should also cover online advertising and not just the traditional</p> <p>Advertising platforms of TV, radio, and print.</p> <p>- There is a need for the guidelines on advertising to be issued in a sustained manner and subject to review annually</p> <p><u>Reason for proposal</u></p> <p>To safeguard public interest and transparency, this information is necessary and not in an ad-hoc manner. Stability in the regulations/ guidelines.</p> <p>To allow for cross checking of valid licenses as well as ensure the charitable causes are done.</p> <p>Clause 46, "There shall be a monthly levy to be known as gambling levy which shall be paid by a licensee to the Authority." This is yet another financial obligation to be met by each licensee to the government, despite the Bill providing under sub-clause (2) that this levy shall not exceed one per cent of the monthly gross gambling revenue of a licensee. Is this in addition to the license fee that is payable to the BCLB?</p> <p><u>Impact</u></p>
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<p>draw to select a winning number, alphabet letter or entry for a prize shall be examined and tested by the Authority together with an internal auditor of a licensee or a designated representative prior to and after each public draw. (6) A licensee shall adopt rules, policies, and procedures to conduct fair and equitable draws and establish a system for verifying validity of tickets presented for the awarding of prizes.</p>	<ul style="list-style-type: none"> • Increase operational costs for affected companies • Multiple levels of taxation given that there is already a Betting tax of 15% under the current Betting, Lotteries and Gaming Tax, which is to be referred to as Gambling Tax in this Bill (Clause 45). • Reduction of advertisement revenue • Loss of employment or retrenchments
<p><u>Our Proposal</u> Delete this proposal</p> <p>Clause 88 (1) and (2), “The Authority shall issue a license authorizing media promotions with prizes. A person who undertakes media promotion, in either electronic or print media with prizes licensed under this section shall be subject to such conditions as may be imposed by the Authority.” This clause leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board</p>	<p><u>Our Proposal</u> Delete this proposal</p> <p>Clause 88 (1) and (2), “The Authority shall issue a license authorizing media promotions with prizes. A person who undertakes media promotion, in either electronic or print media with prizes licensed under this section shall be subject to such conditions as may be imposed by the Authority.” This clause leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board</p>
<p><u>Our Proposal</u> Clause on LIVE Draws - To support trust, draws should be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw.</p> <p>- Results in at least 2 nationally circulated news papers</p> <p>- To support trust, draws should be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw.</p>	<p><u>Our Proposal</u> Delete this proposal</p> <p>Clause 88 (1) and (2), “The Authority shall issue a license authorizing media promotions with prizes. A person who undertakes media promotion, in either electronic or print media with prizes licensed under this section shall be subject to such conditions as may be imposed by the Authority.” This clause leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board</p>
<p><u>Our Proposal</u> The Gambling Appeals Committee Strategy 22. Create a Gambling Appeals Committee that will work on an as-needed basis to guarantee that complaints are resolved quickly. The gambling appeals committee's duties include hearing and ruling on appeals:</p> <p>- Strategy 25 On Code of Practice</p>	<p><u>Our Proposal</u> Delete this proposal</p> <p>Clause 88 (1) and (2), “The Authority shall issue a license authorizing media promotions with prizes. A person who undertakes media promotion, in either electronic or print media with prizes licensed under this section shall be subject to such conditions as may be imposed by the Authority.” This clause leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board</p>

Our Proposal
Require a clear complaints transmission and handling process for each licensee. Complaints are managed to be well-publicized for continuous education and safeguarding of the public.

Reason for Proposal
This is for transparency and accountability on the licensee's part

Strategy 23..... (d). incorporating Gambler Exclusion Orders, including through self-exclusion requests, venue-initiated requests, court ordered exclusions or requests by families or interested parties.
These shall be published in an Exclusion List containing the name of the person, their date of birth, date of exclusion and their photo ID. The Exclusion List shall be capable of being queried and shall be available on the website of the Gambling Regulatory Authority. Appropriate procedures for removal from this Exclusion List shall be provided for.

Our Proposal
Doesn't this go against Privacy and Data protection regulation?

Reason for Proposal
This should be anchored on existing laws and regulations
Strategy 23.... (e). provide for Gambling Advertising Restrictions with strict guidelines around times,

places, types, and content of messages for broadcast and the attendant responsible gambling messaging requirements.

Our Proposal

Guidelines on advertising should be issued comprehensively on an annual basis - subject to yearly rather than ad hoc/ reactive reviews that bring confusion into the control and management of gambling. Need stability in the regulations/ guidelines.

Reason for Proposal

Proper process for better planning by all stakeholders.

Clause 90(1)(c) and (g) should be deleted from the Bill because they affect advertising revenue earned by those activities. It states, "A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by (c) printing or publishing, or causing to be printed or published, any advertisement or notice; and (g) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.

Clause 90(4) should also be deleted because it further seeks to deny media houses revenue that they earn from advertising their own gambling services. It would be improper to deny media houses to earn revenue from their gambling services despite paying the necessary taxes and

after they have sought and received licenses from the Betting Control and Licensing Board. It says, "All media companies holding licenses on gambling shall not use any of their licenses on gambling and shall not use any of their broadcast frequencies to advertise or promote their gambling product or activities."

PART X — ADVERTISING OF GAMBLING ACTIVITIES

Advertisement of gambling: 89.(1)

.....

- (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling;
- (e) using false, misleading or deceptive message likely to create an erroneous positive impression of gambling; (f) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gambling; or (g) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event. (3) A gambling advertisement shall—
- (a) indicate the addictive nature of gambling; (b) notify players to play responsibly; (c) prohibit children from playing; (d) not feature a former winner with a view to encouraging the public to bet, play or participate; (e) not be featured or broadcasted on television or radio between

Our Proposal

Should allow CSR related advertising within Watershed period

- LIVE Draws should be excluded for the National Lottery should be excluded

- Restrictions should apply on advertisements airing online as well where there even more direct connection???
- Comprehensive guidelines needed from the get -go and avoidance of frequent, ad hoc, or erratic changes to advertising guidelines.
- To support trust, drawing to be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw.

(4) All media companies holding licenses on gambling shall not use any of their licenses on gambling and shall not use any of their broadcast frequencies to advertise or promote their gambling product or activities.

Our Proposal

All media companies holding licenses on gambling shall only use their licenses on gambling as prescribed in the Bill and shall only advertise or promote their gambling product or activities as prescribed in 3(e) above

Reason for proposal

The Bill on PART 4- LICENSES & PERMITS provides for requirements onto which a person shall be licensed. According to these provisions then it goes to say that a Media company that fulfils all the conditions on licensing should then be able to apply for a licence and use it in accordance with the Bill

The Schedule of fees - Sports betting fees are not

		clearly indicated in the license fee schedule. This should be reconsidered
ADDITIONAL COMMENTS		
	<p>NOTABLE OMISSION</p> <p>For a public benefit initiative, a notable omission is failure to provide for a framework for media engagement.</p> <p>Proposal</p> <p>Introduce a clause on media engagement with the national lottery operator or the board. This may include provisions on how advertisements will be carried out by the national lottery operator for the purpose of widest public participation.</p>	



MEDIA OWNERS ASSOCIATION OF KENYA

Empowering The Fourth Estate

We, the Media Owners Association of Kenya, are formally submitting observations and proposals concerning the National Lottery Bill and Gambling Control Bill. The clauses and contentions outlined within these bills necessitate comprehensive considerations for the effective and equitable regulation of gambling activities in Kenya.

Contentious Clauses Analysis:

- **Clause 21:** The definition of "good causes" in the National Lottery Bill poses concerns due to its broad nature, providing discretionary powers to the Board without clear parameters. This ambiguity raises questions about the allocation and determination of funds.
- **Impact:** The absence of defined parameters may result in arbitrary resource allocation from the National Lottery Fund, lacking clarity on dedicated amounts or the number of causes supported in a financial year.

Proposals:

- **Defining Good Causes:** It is imperative that the Bill explicitly defines 'good causes', specifying the number of causes to be supported annually and the percentage of the Fund allocated to each cause.
- **Frequency and Transparency:** The Bill should outline the frequency of payments from the Fund, ensuring clarity regarding one-off or quarterly payments and necessitating publication to maintain transparency.

Draws and Licensing:

- **Live Draws and Transparency:** To ensure trust and transparency, we propose that draws be conducted live and broadcasted on national television, with results published in nationally circulated newspapers the following day.

- **License Duration:** The Bill lacks clarity on the duration of license periods for various categories, necessitating explicit information on license durations in the schedules attached.

Safeguards and Responsible Gambling:

- **Consumer Awareness and Rehabilitation Programs:** Mandating public awareness through various media channels, regular publication of licensed companies, and consistent audit and publication of charitable causes is crucial.
- **Advertising Guidelines:** Guidelines for advertising should encompass online platforms, ensuring stability through sustained annual reviews rather than ad-hoc changes.

Concerns on Levies and Advertising Restrictions:

- **Impact of Gambling Levy:** The monthly gambling levy, in addition to existing taxes, may escalate operational costs for companies, potentially leading to reduced advertising revenue and job losses.
- **Advertising Restrictions:** Certain clauses inhibit media houses' advertising revenues, necessitating reconsideration and alignment with licensing provisions.

Media Engagement Framework:

- **Omission in Media Engagement:** Notably absent is a framework for media engagement in public benefit initiatives, suggesting the introduction of clauses outlining media engagement for the National Lottery operator or board.

I trust that these proposals and observations will be given due consideration in the revision and refinement of the National Lottery Bill and Gambling Control Bill. Should you require further elucidation or discussion on these matters, please do not hesitate to contact .

Thank you for your attention to this matter.

Sincerely,

Agnes Kalekye

Chairperson, Media Owners Association of Kenya





COMMENTARY ON THE NATIONAL LOTTERY BILL, 2023

A. Constitutional Basis of this Memorandum

This memorandum is premised on Chapter 12 of the Constitution, Articles 205(1), 209(5) and 216(2).

1. Of special reference, is Article 205(1), which spells out the requirement to make recommendations to Parliament “(1) When a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate

AND

2. Article 205(2), which states that these recommendations shall be tabled in Parliament, and each house shall consider the recommendations before voting on the Bill.

B. Clause by Clause Analysis

Upon review of the Bill, the following issues arise-

Serial No.	Clause	Provision	Justification for CRA Position
1.	<p>Clause 5 Composition of the Board</p>	<p>Under sub-clause 1- (1) The Board shall consist of— (f) <i>the Chief Executive Officer of the Board</i> Recommendation: <i>Delete or include the CEO in his capacity as ex-officio</i></p> <p>Under sub-clause 4- A member of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years. Recommendation: Add the phrase “based on performance” after the word “years” at the end of the statement. Add a new provision requiring the appointing authority of the Board membership to pay due regard to gender balance and representation of special</p>	<p>To align with <i>Mwongozo</i> The Code of Governance for State Corporations which stipulates that the role of the Board should be separated from management (pg. 14 part 1.22). Additionally, the CEO is an employee of the Board as per clause 11 of the Bill hence cannot be a member.</p> <p>To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1.5)</p> <p>To align with Article 27 of the CoK</p>

	interest groups in the Board and in all other appointments under the proposed law		
<p>2.</p> <p>Clause 11 Chief Executive Officer</p>	<p>Under sub-clause 4- (4) <i>The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of three years.</i></p> <p>Recommendation: Add the phrase “based on performance” after the word “years” at the end of the statement.</p>	<p>To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1-5)</p>	
<p>3.</p> <p>Clause 20 Reports of the Board</p>	<p>Under sub-clause 2- 2) <i>The Board shall continuously and on a regular basis monitor and report on its performance and on the performance of all of its licensees on a quarterly basis, with a summary of performance reported through Board’s annual report on the basis of a clear outcome-based performance framework based on developed by <u>the National Government.</u></i></p>	<p>For clarity and ease of implementing the law once passed</p>	

4.	<p>Clause 21 Establishment of the National Lottery</p>	<p>Recommendation: specify which organ of the “<u>national government</u>” e.g. the relevant Ministry etc.</p> <p>This clause under sub clause 3 lists various good causes that shall be facilitated by the National Lottery including charitable causes, economic empowerment including support for the development of small businesses or other economic development initiatives, signature transformation projects including affordable housing, sustainable agriculture initiatives and emergencies</p> <p>Recommendations: some of the good causes listed are devolved functions e.g. agriculture and affordable housing under Part 2 of the Fourth Schedule of the Constitution. There is need to have a clear funds flow framework to facilitate flow of such funds. Additionally, the areas of facilitation are very broad and touch on</p>	<p>To align with Part 2 of the Fourth Schedule of the CoK and for clarity</p>
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		<p>existing Funds e.g. Emergency Fund, Sports Fund etc. Rationalize this provision against these existing frameworks for harmony.</p>	
<p>5.</p>	<p>Clause 22 Exemptions</p>	<p>The clause reads- <i>Despite any other provision of this Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purposes and lotteries incidental to entertainment shall not apply to the National Lottery</i></p> <p>Recommendation: rationalize this provision with Clause 24(4) which provides that <i>the provisions of any written law relating to the requirements, standards, norms, and conditions relating to licensing of gambling activity shall apply to National Lottery. These two provisions appear contradictory as regulation covers the aspects in 24(4)</i></p>	<p>To clear inconsistency and for ease of implementation.</p>

6.	<p>Clause 23 Procurement of an Operator</p>	<p>Under sub-clause 2- (2) A person shall be eligible to be the National Lottery operator if that person— (a) has appropriate knowledge or experience to conduct a national lottery in accordance with this Act and any condition imposed on the licence; (b) has the necessary financial and other resources to conduct the lottery (c) does not have direct or indirect financial interest exists on any applicant by a person who is the holder of a political office; and (d) is a fit and proper person to conduct the lottery</p> <p>Recommendation: Recast provision to include a legal person scenario. The current provision infers that the procured operator as a natural person.</p>	For comprehensiveness
7.	<p>Clause 44 Board shall-</p>	<p>Under sub clause (2) (c) and (g) the Board shall-</p>	For accountability and ease of implementation

Oversight of the Fund	<p>(c) determine, in accordance <u>with relevant legislation and guidelines</u>, the amount of money that will be allocated to various programmes and projects to promote good causes as provided under for under section 21(3);</p> <p>(g)propose for approval by the Cabinet Secretary, <u>statutory bodies or non-statutory bodies, or non-state actors who may receive monies from the Fund</u> for further distribution to potential beneficiaries including any conditions attached to such grants to promote the object and purpose for which the Fund was established;</p> <p>Recommendation: <i>Stipulate the minimum requirements or criteria to guide the Board in determining the various allocations and entities who may receive monies from the Fund instead of leaving it to “relevant legislation and guidelines”</i></p>
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		<p>which are not specified. Alternatively, the “<u>relevant legislation and guidelines</u>” be specified and where none exist, the criteria should be clearly set out in this proposed law.</p>	
		<p>(2) Notwithstanding the generality of subsection (1) above, the Board shall— (m) ensure that the ceiling of the amount of money that may be spent from the Fund on administrative expenses, <u>does not exceed five per centum</u> of the total funds in a fiscal year;</p> <p>Recommendation: The 5% indicated in this paragraph contradicts clause 42(2) of the Bill which states that the amount payable for operational and administrative costs for the National Lottery Board and the Regulatory Authority shall not <u>exceed three per centum of the total gross revenue</u></p>	<p>For harmony</p>

	<p><u>proceeds of the National Lottery for each institution</u></p> <p>Harmonize these two allocations.</p>	
<p>8.</p> <p>Clause 47</p> <p>Beneficiaries of the Fund</p>	<p>47.(1) The funds from the Fund shall be accessible to <u>both state and non-state actors</u> for the purposes of undertaking projects and programmes for good causes.</p> <p>(2) A person or institution shall not be eligible for funding from the Fund if the person or institution is <u>not tax compliant</u></p> <p>(4) An <u>institution whose officials have not met any applicable prior clearance requirements shall not be eligible to receive funding from the Fund.</u></p> <p>Recommendations: stipulate within this provision the inferred clearance requirements for officials and institutions to access the Fund. The application process should also be clearly articulated.</p>	<p>For openness and accountability</p>



OFFICE OF THE DATA PROTECTION COMMISSIONER

When replying please quote:

Ref: ODPC/ADM/4/6/4

Email: info@odpc.go.ke

Britam Tower
12th Floor
P.O. Box 30920 - 00100
NAIROBI

21st November 2023

Office of the Clerk
The National Assembly
Main Parliament Buildings
P.O Box 41842-00100
Nairobi, Kenya

Dear *Madam,*

RE: THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023) & THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023).

Reference is made to your letter dated **15th November 2023, Ref: NA/DDC/S&C/2023/078**, inviting the Office of the Data Protection Commissioner (Office) to submit views on the National Lottery Bill (National Assembly Bill No. 69 of 2023) and the Gambling Control Bill (National Assembly Bill No. 70 of 2023).

The Office has reviewed the Bills and submits as follows:

SUBMISSION ON NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023)

PROVISION IN THE BILL	ISSUE /CONCERN	RECOMMENDATIONS	JUSTIFICATIONS
Clause 24 on the Licensing the National Lottery.	There is currently no obligation on ensuring that where the Regulatory Authority maintains a register, then the same shall be maintained in accordance with the Data Protection Principles.	The Bill should be amended so as to insert/add the following new subsection after paragraph (4): "Where the Regulatory Authority maintains such a register, the register shall be maintained in accordance with the principles of data protection set out in the Data Protection Act"	Where the Regulatory Authority maintains such a register, the register shall be maintained in accordance with the principles of data protection set out in the Data Protection Act.
Clause 33 on the Conduct of a National Lottery	There is currently no obligation on ensuring that any processing of personal or sensitive personal data under this Bill is done in accordance with the Data Protection Principles.	The Bill should be amended so as to insert/add the following new subsection after paragraph (h): "Personal data of individuals obtained under this Act shall be held and maintained in accordance with the principles of data protection set out in the Data Protection Act"	The addition of such provision will ensure any processing of personal or sensitive personal data under this Bill is done in accordance with the Data Protection Principles which prompt transparency, confidentiality and integrity and accountability.
Additional Provisions	There is currently no provision that referenced the Data Protection Act	The Bill should be amended so as to include a new provision that reads as follows: "Any processing of personal and sensitive personal shall be done in accordance with the Data Protection Act No. 24 of 2019."	The addition of such provision will ensure any processing of personal or sensitive personal data under this Bill is done in accordance with the Data Protection Act and the Data Protection Principles

			which prompt transparency, confidentiality and integrity and accountability.
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SUBMISSION ON GAMING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023)

PROVISION IN THE BILL	ISSUE /CONCERN	RECOMMENDATIONS	JUSTIFICATIONS
Clause 29 (1) (h) on Application of a Licence.	There is currently no provision on the data protection policies and procedures accompanying the application for the licence.	The Bill should be amended so as to insert/add the following new subsection after paragraph (g): (h) "Data protection policies and procedures in line with the Data Protection Act"	To ensure necessary steps are taken to secure the integrity of personal data under their possession or control through the adoption of appropriate, reasonable, technical and organizations measures to prevent the loss of, damage to or unauthorized destruction and prevent any unlawful access to or unauthorized processing of personal data
Clause 31 on Refusal to Grant or Renew a Licence.	There is currently no provision on the need to adopt data protection measures (appropriate, reasonable, technical and organizational safeguards) under the Data Protection Act.	The Bill should be amended so as to insert/add the following new subsection after paragraph (c): (d) "The Application does not provide for data protection measures under the Data Protection Act."	To ensure necessary steps are taken to secure the integrity of personal data under their possession or control through the adoption of appropriate, reasonable, technical and organizations measures to prevent

			the loss of, damage to or unauthorized destruction and prevent any unlawful access to or unauthorized processing of personal data
Clause 39 on Register of Licences.	There is currently no obligation on ensuring that the register of licences kept and maintained by the Authority shall be maintained in accordance with the Data Protection Principles.	The Bill should be amended so as to insert/add the following new subsection after paragraph (2): "The register kept and maintained by the Authority in clause (1) shall be maintained in accordance with the principles of data protection set out in the Data Protection Act"	The register kept and maintained by the Authority should be maintained in accordance with the principles of data protection set out in the Data Protection Act.
Additional Provisions	There is currently no provision that referenced the Data Protection Act	The Bill should be amended so as to include a new provision that reads as follows: "Any processing of personal and sensitive personal shall be done in accordance with the Data Protection Act No. 24 of 2019."	The addition of such provision will ensure any processing of personal or sensitive personal data under this Bill is done in accordance with the Data Protection Act and the Data Protection Principles which prompt transparency, confidentiality and integrity and accountability.

The Office looks forward to working closely with National Assembly as it continues to perform its mandate to protect the data protection rights of data subjects.

In case of further clarification on this matter, please contact the Office by email address through info@odpc.go.ke.

Yours

A handwritten signature in blue ink, appearing to read 'Oscar Otieno', with a horizontal line extending to the right.

OSCAR OTIENO
For: DATA COMMISSIONER



THE DO'S AND DON'TS IN DATA PROTECTION (THE NATIONAL LOTTERY BILL, 2023)

Presentation by: Oscar Otieno,
Deputy Data Commissioner-CIE



21st November 2023



info@odpc.go.ke



www.odpc.go.ke



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OFFICE OF THE DATA
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COMMISSIONER

The Data Protection Regulations

Data Protection (Civil Registration) Regulations, 2020

Data Protection (General) Regulations, 2021

Data Protection (Complaints Handling and Enforcement Procedure) Regulations, 2021

Data Protection (Registration of Data Controllers & Data Processors) Regulations, 2021



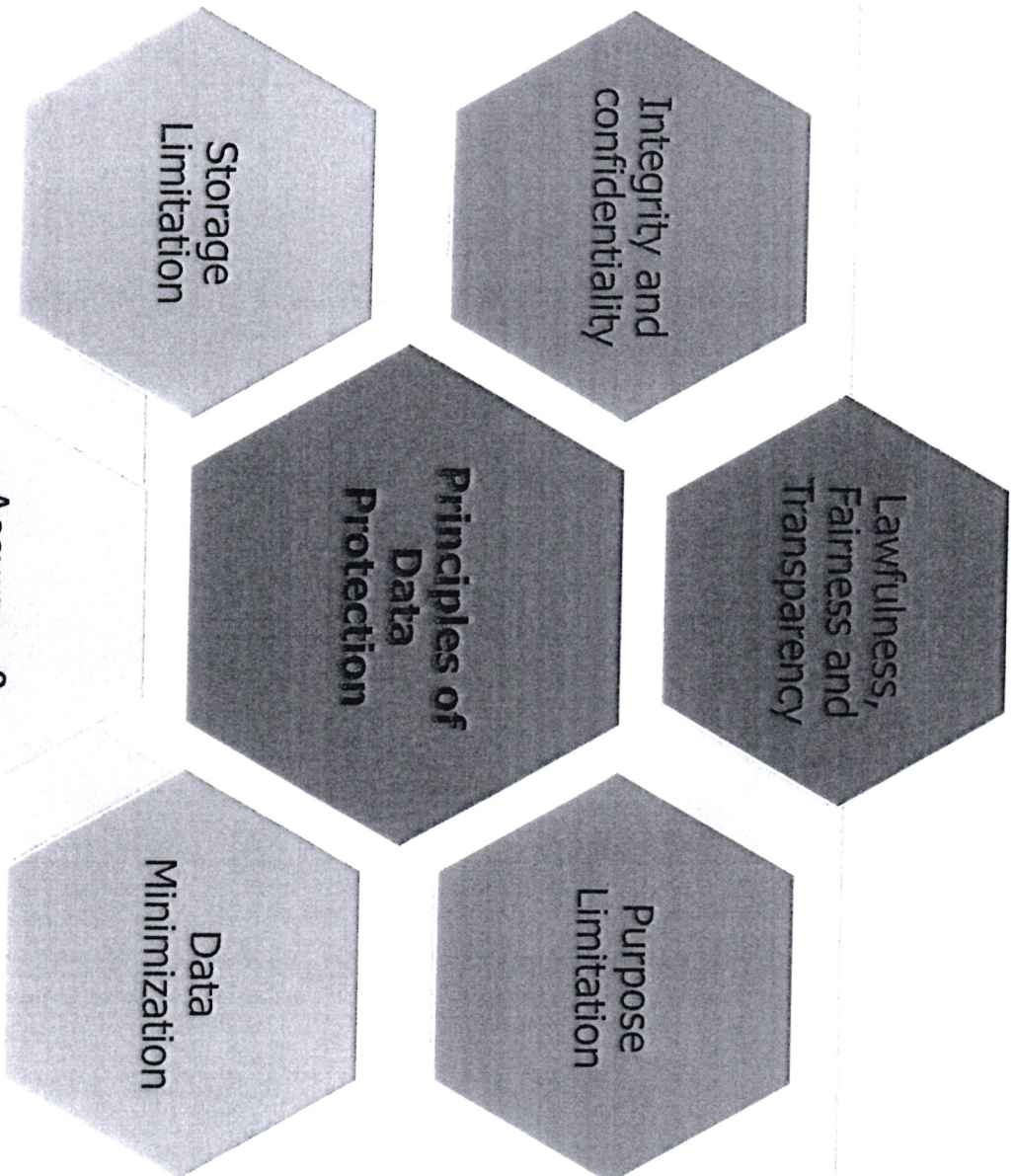
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2031



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COMMISSIONER



KENYA
VISION 2030

DATA
PROTECTION ACT, 2019



Office of the Data Protection Commissioner





Rights of Data Subjects

OFFICE OF THE DATA PROTECTION COMMISSION

Right to be informed

Right to access Personal Data

Right to correction

Right to deletion

Right to erasure

Right to data portability

Automated decision making

Object of processing



DO's in Data Protection

1. Register as Data Handlers

- Register as a Data Controller or a Data Processor with the Office of the Data Protection Commissioner.
- Renew the registration
- Appoint a Data Protection Officer (Optional)

2. Data Protection by design or default

- Implement the data protection principles in an effective manner.
- Integrate necessary safeguards for that purpose into the processing.
- Implement appropriate technical and organizational measures for ensuring that by default, only personal data which is necessary for each specified purpose is processed

3. Conduct Data Protection Impact Assessments

- Carry out Data protection Impact assessment where data processing operation is likely to result in high risk to the rights and freedoms of a data subject, by virtue of its nature, scope, context and purposes
- Consult the Data Commissioner prior to the processing personal data if a data protection impact assessment has to be conducted.



OFFICE OF THE DATA

PROTECTION

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4. Data Sharing Agreements

- Determine the purpose and means of sharing personal data.
- Enter into data sharing agreements
- Ensure that requests for sharing data are; in writing specify the purpose, duration and safeguards in place prior to sharing.

5. Data Processor contracts

- Enter into written contracts between data controllers and data processors.
- The contract should outline:
 - ❖ The processing details,
 - ❖ Instructions of the data controller,
 - ❖ Commitment on confidentiality,
 - ❖ Security measures,
 - ❖ Handling of the data upon conclusion of the agreement,
 - ❖ Auditing and inspection provisions.

6. Data breaches notification

- Notify the Data Commissioner without delay, within 72 hours of becoming aware of the personal data breach.
- Communicate to the data subject in writing within a reasonably practical period, unless the identity of the data subject cannot be established.

PROTECTION ACT, 2019



Kenya Data Protection Authority

KENYA

2030

7. Retention schedules

- Establish a personal data retention schedule with appropriate time limits.
- Erase, delete Pseudonymize or anonymize personal data.
- The retention schedule should outline; purpose of retention, retention period, provision for the periodic audit, actions to be taken after the audit.

8. Data Protection policy

- Develop and publish a data protection policy outlining the following:
 - ❖ The nature of personal data collected and held,
 - ❖ Access and exercise rights by data subject,
 - ❖ Complaints handling mechanisms (internal),
 - ❖ Lawful purpose of processing
 - ❖ Retention scheduled,
 - ❖ Obligations on transfer of personal data,
 - ❖ Collection of personal data from children and criteria to be applied.

9. Lawful Processing

- Always obtain consent from individuals before collecting their personal data.
- Clearly explain how you will use the data and give data subjects the option to opt out.
- Only use personal data for the purposes for which it was collected.
- Inform individuals about how you are processing their personal data, including the purpose of processing, the categories of data processed, and the recipients of the data.
- Keep data secure and have records of data processing.



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DON'T's in Data Protection



1. Unlawful Processing

- Only collect the minimum amount of personal data necessary for the specified purpose.
- Failure to report breach.
- Don't use personal data for profiling purposes without individuals' consent.

2. Share data with unauthorized parties

- Do not disclose personal data to third parties without the individual's consent or a lawful basis.
- Don't transfer personal data to countries that do not have adequate data protection laws.

3. Make data processing decisions without appropriate safeguards

- Implement appropriate safeguards when making automated decisions based on personal data, such as profiling, and provide individuals with the right to object or challenge these decisions.





LAW SOCIETY OF KENYA
Lavington, Opposite Valley Arcade
Gitanga Road
P.O. Box 72219-00200
NAIROBI
Tel. 387 4664
0720 904983

MEMORANDUM TO
PARLIAMENT

ON

THE NATIONAL LOTTERY BILL ,2023.

NOVEMBER, 2023

Eric Theuri, President Law Society of Kenya
Lavington, opp Valley Arcade,
Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya
Tel: +254 111 045 300
Email: [lskpresidenttheuri@gmail.com/](mailto:lskpresidenttheuri@gmail.com) president@lsk.or.ke
Website: www.lsk.or.ke

Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya currently numbering to over 21,000.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- **President**, Eric Theuri
- **Vice President**, Faith Mony Odhiambo
- **General Membership Representatives**, Chrysostom Akhaabi, Kabata Mwaura, Tom K'opere
- **Nairobi Representatives**, Cohen Amany, Njoki Mboce, Ochieng Gor
- **Up-country Representatives**, Byron Menezes, Lindah Kiome, Michael Wabwile, Vincent Githaiga
- **Coast Representative**, Riziki Emukule
- **Secretary/CEO**, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to the statutory mandate, the Law Society of Kenya makes the following submissions on The National Lottery Bill 2023.

About the Law Society of Kenya

The Law Society of Kenya is Kenya's premier bar association with membership of all practicing advocates, currently numbering over twenty thousand members. It has the legal mandate to advise and assist members of the legal profession, the government and the larger public in all matters relating to legislation and the administration of justice in Kenya.

Though the shared Bill does not have a section on Object and Memorandum of reasons, it is imperative to regulate business where the public invest their money in trust. This legislative framework will go along way in ensuring that every Tom Dick and Hurry with sinister motives does not take advantage of innocent unsuspecting public, The Long title does not also talk of creating a legal framework for regulating conduct of business in this sector.

In specific we recommend that the duties by the corporate secretary should be in tandem with the practice standards set by ICPS Kenya, and should also be in consonance with good practice as prescribed by SCAC in Mwongozo document. (Section 12)

Further still where the opinion of the Board is invoked it should be objective or judicious to avoid situations of exercise of arbitrary opinion. (Section 23)

It is my submission that this Board should be sharing a report of their annual schedule of events and accounts with Departmental Committee on Sports and Culture.

We support inclusion of a member of the Law Society in the Board as it will engender responsiveness to the rule of law and legislative compliance and risk management. The more advocates the merrier. (Section 5)

We support the letter and the spirit of the Bill.

In conclusion, we humbly submit.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Eric Theuri', written in a cursive style.

Eric Theuri
President Law Society of Kenya



COUNCIL OF GOVERNORS

THE NATIONAL LOTTERY BILL, 2023

FROM

THE COUNCIL OF GOVERNORS

TO

THE NATIONAL ASSEMBLY

CRS

THE NATIONAL LOTTERY BILL, 2023

A. INTRODUCTION

The Council of Governors,

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In further recognition of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution.

B. GENERAL COMMENTS

1. **Lottery is a concurrent function.** Article 186 of the Constitution assigns functions to National Government and the County Governments: The Fourth Schedule, Part 1 paragraph 34 for national government and Part 2 paragraph 4a for county governments.
2. The National lottery is created as an institution of the National Government. Review so that it does not infringe on the powers and functions of the county government on lottery.
3. A majority of the good causes that concern the Bill are either, concurrent functions of exclusive functions of the county governments. Review so that the framework complies with provisions of Article 189(1).
4. A single Bill on lotteries creating the National Lottery and County lotteries. This would create clarity on the respective roles of the two levels of government on the concurrent function.
5. Provide clarity on the roles of the Cabinet Secretary, the Board and the regulator in lottery. Provide further clarity on relationship between the national entities and the County Governments.
6. The CoG shall provide a detailed review on the Bill by **COB Friday, 22nd November 2023**.



COUNCIL OF GOVERNORS

THE NATIONAL LOTTERY BILL, 2023

FROM

THE COUNCIL OF GOVERNORS

TO

THE NATIONAL ASSEMBLY

THE NATIONAL LOTTERY BILL, 2023

A. INTRODUCTION

The Council of Governors,

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In further recognition of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution.

B. GENERAL COMMENTS

1. Petition number 295 of 2014 emphasized the functions of National and County Governments in the Betting, Casinos and other forms of Gambling in the matter between the **Association of Gaming Operators in Kenya and Others vs. Nairobi City County Government and others**. Further, legal Notice number 132 of 8th September, 2017, set out the functions relating to Betting, Casinos and other forms of Gambling between the National and County Governments. This clearly delineated the functions of both the National and County Governments.

2. The Bill needs to align with the Court decision and the gazette notice and should therefore have a disclaimer stating that while the Bill is specific for a National Lottery, County Governments are not precluded from establishing their own lotteries as highlighted in the two binding documents shared above.

3. Additionally, given the National Lottery's involvement in advancing essential causes within devolved functions like sports, culture, health, museums, and libraries, the participation of the County Governments is crucial.
4. The aforementioned impact on various devolved functions highlights the necessity of including a representative from the Council of Governors on the Board to guarantee that decisions thereto align with the principles of devolution as provided for in the Constitution of Kenya 2010
5. The National Lottery's commitment to supporting significant causes within devolved functions, including sports, culture, health, museums, and libraries, emphasizes the need for representation from the Council of Governors on the board to ensure a comprehensive and regionally-informed perspective.
6. Further, in the face of a rising trend in Gender-Based Violence (GBV) cases, the absence of government-constructed shelters or rescue centers underscores a critical gap in addressing the urgent needs of survivors. As such, it is imperative that the lottery funds generated be directed towards SGBV interventions.

C. SPECIFIC COMMENTS

The Council proposes the following specific amendments to the Bill:-

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
PART III – THE NATIONAL LOTTERY Establishment of the National Lottery	(i) Providing care and protection for the physically or mentally afflicted, the needy, the aged, orphans and vulnerable children;	Providing care and protection for the physically or mentally afflicted, the needy, the aged, orphans, vulnerable children and survivors of Gender-Based Violence and victims of Natural disasters.	The provision of much-needed services for survivors of Gender-Based Violence (GBV) is facing a significant gap. This gap can be attributed to the low budgetary allocations to the Gender Sector at both the National and County levels. The funds generated from the lottery could help support deserving cases of GBV.
Title	National Lottery Bill	Lotteries Act	Lotteries is a concurrent function between the two levels of government. This provides a basis for establishing uniform norms and standards for application by the two levels of government.
3	The objects and purpose of the bill is to:	Add: Provide the norms and standards for the management of lotteries in the country	To acknowledge the responsibility of the two levels of government in the management of lotteries
	(3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include—	(xii) Building and equipping GBV shelters and rescue homes	Although GBV cases continue to spike, the government has not constructed any GBV shelters or rescue centres. The lottery funds should take this into account.

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
5	5.(1) The Board shall consist of—	Amend as follows: ... (e) Two other members ... (f) Three members nominated by the Council of Governors to represent the County Governments (g) the Chief Executive Officer of the Board	Article 189 of the Constitution provides for cooperation between the two levels of government, including establishing joint committees and joint authorities. A Board with membership from the two levels of government and members of the public is ideal for management of a concurrent function. The good causes that shall be facilitated by the National Lottery include various devolved functions such as sports, Culture, health, museums and libraries.
6	The board shall...	Amend as follows: ... (e) advise the Cabinet Secretary on the National Lottery (ee) Advise the county governments on lotteries	(e) reference to the Cabinet Secretary provides more clarity on the duty bearer in national government. (ee) provides a mechanism of collaboration and mutual relations between the two levels of government in the management of the sector
		Insert new clauses 21(6) Despite subsection (1) a county government may establish a lottery either on its own or jointly with another county or other counties	The scope of the National Lottery should be national in nature. This will provide room for county governments to exercise their constitutional functions and minimise overlaps in the concurrent function.

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
		21 (7) Subsection (4) shall only apply to a lottery of national scope	
43		Insert a new clause 43 (3) Notwithstanding the provisions of subsection (4), 30% of the Fund shall be allocated to National governments and 70% to county governments as conditional funds for implementation of the good causes.	The United Nations defines lottery as a form of entertainment seeing as it presents some form of entertainment value. For this reason and according to Article 209 (3b), county governments have the mandate to impose entertainment tax. In addition, majority of the good causes are either exclusive functions of county governments or concurrent functions. A predictable budget outlook for financing good causes provides for the integration of the good causes in the planning instruments of the county governments, including the CIDPs and the Annual Development Plans and Budgets
45		Insert a new clause 45 d(xiii) provide capacity building to government entities on matters relating to lotteries	Technical assistance and capacity development are critical for the growth of the sector.

DIP c
Please deal.
Seri
23/11/23



REPUBLIC OF KENYA
OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE



Our Ref. AG/LDD/497/1/3
Your Ref. NA/DDC/S&C/2023/078

21st November, 2023

The Clerk of the National Assembly
Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI


(Attn: Ms. Serah M. Kioko)

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO. 69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

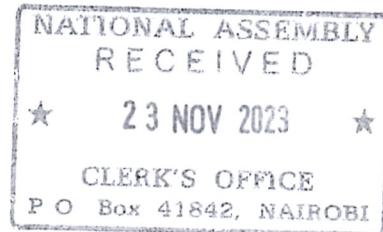
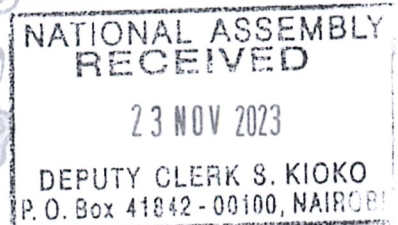
This has reference to your letter dated the 15th November, 2023, under Ref. NA/DDC/S&C/2023/078, and the request for written submissions in respect of the National Lottery Bill (National Assembly Bill No. 69 Of 2023) and the Gambling Control Bill (National Assembly Bill No. 70 Of 2023).

This Office has participated in the development of the National Lottery Bill, 2023, and the Gambling Control Bill, 2023, as a key member of the task force and in respect of the legal drafting of the two Bills. Consequently, subject to any substantive changes being made to the Bill after the public participation phase, and if requested to consider the legal implications of such changes, this Office has no submissions to make in respect of the two Bills at this time.

We trust that this is in order.


Hon. Shadrack J. Mose
SOLICITOR-GENERAL

Copies to: Hon. J.B.N. Muturi EGH
Attorney-General



Mr. Joh Mugoma
Pls note. DM 24/11/23

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NGEC
National Gender and
Equality Commission

National Gender and Equality Commission

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RECEIVED
DIRECTOR
10 NOV 2023
Directorate of Departmental Committees

John Mugo
to facilitate
16/11/23
16th November 2023

Ref. No. NGEC/CS/NAS/005/VOL.III (129)

Mr. Samuel Njoroge
Clerk of the National Assembly
Clerk's Chambers
Parliament Building
P.O. Box 41842-00100
NAIROBI
cna@parliament.go.ke

D/DC
Please deal
[Signature]
17/11/23

Dear *Mr. Njoroge*,

MEMORANDUM ON THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILLS NO 69 OF 2023)

Reference is made to the call for submission of memoranda on the National Lottery Bill (National Assembly Bills No. 69 of 2023).

The National Gender and Equality Commission (NGEC) is a Constitutional Commission with the mandate of promoting and ensuring gender equality, principles of equality and non-discrimination for all persons in Kenya, with a focus on Special Interest Groups (SIGs) who include women, children, Persons with Disabilities (PWDs), youth, older members of society and minority and marginalized groups.

Section 8 (b) of the National Gender and Equality Commission Act, No. 15 of 2011 mandates the Commission to, *'monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions'*;

In line with its mandate, the Commission presents the attached memorandum analyzing the proposed Bill and making proposals where necessary.

Yours sincerely,

[Signature]

Betty Sungura, MBS
COMMISSION SECRETARY/ CEO

NATIONAL ASSEMBLY
RECEIVED
17 NOV 2023
DEPUTY CLERK S. KIOKO
P. O. Box 41842 - 00100, NAIROBI

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17 NOV 2023
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

Encl.

"Gender Equality and Non-Discrimination"



MEMORANDUM ON THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILLS NO 69 OF 2023)

S/NO	PROVISION	PROPOSAL FOR AMENDMENTS	RATIONALE/JUSTIFICATION
1.	<p>Clause 5 Composition of the Board</p> <p>5.(1) The Board shall consist of— (a) a Chairperson appointed by the President; (b) the Principal Secretary National Treasury or his or her representative, appointed in writing; (c) the Principal Secretary responsible for the National lottery or his or her representative, appointed in writing; (d) the Attorney General or his representative, appointed in writing; (e) four other members who have proven business acumen or applicable knowledge or experience with regard to matters connected to the functions of the Board and of whom at least one shall be an Advocate of the High Court of Kenya, and at least one practicing</p>	<p>a. Amend by substituting the following “four other members” in clause 5(1)(e) with the following-</p> <p>“Three other persons representing Persons with disabilities, Community-Based organizations and faith-based</p>	<p>a. The proposal by the commission introduces the inclusiveness of 3 persons representing the wider society who are either beneficiaries or stakeholders of the sector as envisaged in clause 21 on the purposes of the National lottery.</p>

	<p>Certified Public Accountant appointed by the Cabinet Secretary; and</p> <p>(f) the Chief Executive Officer of the Board.</p>	<p>organisations and two..." to read as follows -;</p> <p>e) Three other persons representing Persons with disabilities, Community-based organisations and Faith-based organisation and two other members who have proven business acumen or applicable knowledge or experience with regard to matters connected to the functions of the Board and of whom at least one shall be an Advocate of the High Court of Kenya, and at least one practicing Certified Public Accountant appointed by the Cabinet Secretary; and</p> <p>b. Amend (f) by inserting after the word "Board" the following " who shall be an ex officio member"</p>	<p>The proposed amendment is also supported by clause 47(1) on Beneficiaries of the Fund as follows-;</p> <p>47.(1) The funds from the Fund shall be accessible to both state and non-state actors for the purposes of undertaking projects and programmes for good causes</p> <p>The total membership as proposed by the Commission is 9 in compliance with the <i>Mwongozo</i> code on Governance on membership i.e sub-clause (e) has 5 members in addition to a-d</p> <p>b. The Chief Executive officer is an Ex officio member and so does not form part of the membership</p>
<p>Clause 5(4) (4) A member of the Board shall hold office for a term of three years and shall be eligible for reappointment for one a further term of three years.</p>		<p>The Commission proposes to amend 5(4) by inserting after the phrase "three years" the following -;</p> <p>"The appointment of the members of the Board shall be staggered to ensure continuity of the business of the Board"</p>	<p>The proposal ensures the continuity of the Board because there will always be a quorum to transact the Board Business.</p>
<p>New proposed Sub-clause (5) on compliance</p>		<p>Propose to amend by inserting an additional Sub clause (5) as follows</p>	<p>To comply with the <i>Mwongozo</i> code on the composition of Boards of gender balance and representation</p>

	<p>5(5) The Cabinet Secretary in making appointments shall ensure that not more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and shall have due regard to the principle of fair representation for persons with disabilities.</p>	<p>of persons with disabilities for public entities.</p>
<p>New Proposed clause on vacancy in the Board 5A</p>	<p>5A Vacancy in the Board</p> <p>(1) The office of the Chairperson or a member of the Board appointed under section 5(1)(a) and (e) shall become vacant if the holder—</p> <p>(a) dies;</p> <p>(b) resigns from office by notice in writing, in case of the Chairperson, to the President and, in case of a member, to the Cabinet Secretary;</p> <p>(c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months;</p> <p>(d) has been absent from three consecutive meetings of the Board without a notice to the Chairperson; or (e) is removed in accordance with subsection (2).</p> <p>(2) A member of the Board may be removed from office for—</p>	<p>The proposed Bill does not have an exit clause for board members.</p>

		<p>(a) violation of the Constitution or any other law;</p> <p>(b) gross misconduct, whether in the performance of the functions of the office of a member or otherwise;</p> <p>(c) incompetence; or</p> <p>(d) bankruptcy.</p> <p>(3) The Cabinet Secretary shall ensure that any vacancy in the Board is filled as soon as practicable in accordance with the provisions of the Act.</p>	
<p>2.</p>	<p>Clause 6 Functions of the Board</p> <p>6.(1) The Board shall—</p> <p>(a) supervise, control and monitor the operations of National Lottery or National Lottery operator;</p> <p>(b) put in place measures to prevent fraud in the conduct of the National Lottery;</p> <p>(c) make recommendations to the Cabinet Secretary for the formulation of policies for the conduct of National Lottery;</p> <p>(d) advise the Cabinet Secretary on Regulations which would be required for the effective operation of the National Lottery;</p>	<p>Amend by inserting an additional function (f) as follows -;</p> <p>(f) Administer and manage the National lottery Fund in line with section 44</p>	<p>The proposed function has been omitted while clause 44 mandates the Board with the function as follows-;</p> <p>44.(1) The Board shall be responsible for the management and general oversight of the Fund;</p>

<p>(e) advice the National Government on the National Lottery; and (f) perform such other functions as the Cabinet Secretary may assign to the Board.</p>	<p>4</p>	
<p>3. Clause 11 Chief Executive Officer (3) The Chief Executive Officer shall be— (a) the custodian of all the records of the Board; (b) responsible for the day-to-day management of the affairs and staff of the Board; (c) responsible for the management and maintenance of efficiency of the staff of the Board; (d) responsible for— (i) executing decisions of the Board; (ii) facilitating, coordinating and ensuring execution of the mandate of the Board</p>	<p>Amend by inserting an additional function (e) as follows-; (e) The administrator of the National Lottery Fund.</p>	<p>This is in line with clause 46 of the Bill which designates the CEO as the administrator of the fund.</p>
<p>Chief Executive Removal of Chief Executive Officer - Clause 11A</p>	<p>Amend by introducing a sub-clause on exit of the chief Executive as follows-' 11A Removal of the Chief Executive Officer</p>	<p>The Proposed Bill does not contain an exit clause for the Chief Executive Officer.</p>

		<p>(1) The Chief Executive Officer may be removed from office by the Board in accordance with the terms and conditions of service for—</p> <p>(a) gross misconduct or misbehaviour; (b) incompetence or neglect of duty; (c) violation of the Constitution; or (e) any other ground that would justify removal from office under the terms and conditions of service.</p> <p>(2) Before the Chief Executive Officer is removed under subsection (1), the Chief Executive Officer shall be given—</p> <p>(a) sufficient notice of the allegations made against him or her; and (b) an opportunity to present his or her defence against the allegations.</p>	
4.	<p>Clause 21 Establishment of the National Lottery</p> <p>21.(1) There is established a National Lottery to be operated within the Republic of Kenya. (2) The National Lottery shall be conducted for the purpose of raising resources for the nation to facilitate the conduct of good causes in Kenya and for any other purposes provided in this Act.</p>	<p>a. Amend clause 21(2) by substituting the words “facilitate the conduct of after the word “to” with the following “supplement and complement identified”</p>	<p>a. All the good causes listed in (3), including charitable, economic empowerment, sports, creation, preservation and emergencies are substantive functions of various State actors e.g the National Council of Persons with Disability</p>

<p>(3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include—</p> <p>(a) charitable causes including—</p> <p>(i) providing care and protection for the physically or mentally afflicted, the needy, the aged, orphans and vulnerable children;</p> <p>(ii) promote social development including universal health care;</p>		
	<p>b. Amend 21(3) by inserting after the word "lottery" the following "in partnership and collaboration with the relevant entities"</p> <p>c. Amend clause 21(3) (i) by substituting the words "the physically or mentally afflicted" with "Persons with disabilities" and "the aged" with "older members of society"</p>	
	<p>b. Partnership and collaboration by the statutory bodies will help identify the appropriate needs that need to be complemented or supplemented by the lottery</p> <p>Complement means to make better and supplement means to make something larger.</p> <p>c. To align with the interpretations in the Constitution</p>	<p>with attendant funding and the National lottery as established would be best suited to supplement and complement the same. Many non-state actors also attend to a number of good causes.</p> <p>This will help avoid overlaps, conflict or duplicity of functions of the various entities and will also create a greater impact.</p>

	(iii) facilitate the protection and rehabilitation of vulnerable or problem gamblers;		
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Observation

NGEC has noted that the purpose of the Act is to establish a National Lottery for pooling additional resources to be directed to good causes. In Serial no 4 above on clause 21 on good causes, the Commission as an oversight authority proposes that the Board can work with the various state and non-state Actors who are already carrying out such good causes because it will complement the programs that are already in place and even increase the value of the funds given towards the same instead of taking on programs as a solo Board.