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THE REPORT OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)

Rt. Hon. Speaker
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J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 04/06/25

PAPERS LAID	
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COMMITTEE	—
CLERK AT THE TABLE	Belinda.

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JUNE 2025

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1.0 INTRODUCTION

1.1 Establishment of the Committee

1. The Mediation Committee on the Gambling Control Bill (National Assembly Bill No. 70 of 2023) was constituted by Speaker of the National Assembly and Speaker of the Senate on 13th March 2025 and 19th March, 2025, respectively, pursuant to Standing Order 148(b) of the National Assembly Standing Orders and Standing Order 166 (2) of the Senate Standing Orders.

2. The Committee membership was constituted as follows—

	Name	Designation
1.	**Hon. Daniel Wanyama, CBS, MP**	**Chairperson**
2.	Hon. Omboko Milemba, CBS, MP	Member
3.	Hon. (CPA) Kuria Kimani, CBS, MP	Member
4.	Hon. (Dr.) Jackson Kosgei, MP	Member
5.	Hon. Dominic Letipila, MP	Member
6.	Hon Kweya Thuku, MP	Member
7.	Hon. (Dr.) Ariko Namoit, MP	Member
8.	Hon. Mark Nyamita, MP	Member
9.	Hon. (Dr.) Irene Kasalu, MP	Member
10.	**Sen. Allan Kiprotich Chesang, MP**	**Vice Chairperson**
11.	Sen. Wakili Hillary Sigei, CBS, MP	Member
12.	Sen. Catherine Mumma, MP	Member
13.	Sen. Eddy Gicheru Oketch, MP	Member
14.	Sen. Julius Murgor Recha, CBS, MP	Member
15.	Sen. Issa Juma Boy, MP	Member
16.	Sen. Beatrice Akinyi Ogolla, MP	Member
17.	Sen. Raphael Chimera Mwinzagu, MP	Member
18.	Sen. Esther Anyieni Okenyuri, MP	Member

1.2 Mandate of the Mediation Committee

3. The Mediation Committee derives its mandate from the provisions of Articles 112 and 113 of the Constitution, Standing Order 41(1) of the National Assembly Standing Orders and Standing Order 166 (2) of the Senate Standing Orders which outline the functions of the Committee as follows-

   i. To consider Bills where the Houses do not agree on all or any of the amendments made by either Houses;

ii. *To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and*

iii. *To attempt to develop a version of the Bill that both Houses will pass.*

4. The Committee was established to develop an agreed version of the Gambling Control Bill (National Assembly Bill No. 70 of 2023). The version would then be presented to both Houses for approval pursuant to Standing Order 149(6) of the National Assembly Standing Oredrs and Standing Order 161 (1) of the Senate Standing Orders.

1.3 Committee Meetings

5. The Committee held a total of four (4) sittings to deliberate on the Bill in accordance with the Constitution and relevant provisions of the Standing Orders of the Senate and the National Assembly.

6. During the first sitting, the Committee appointed Hon. Daniel Wanyama, CBS, MP as the Chairman and Sen. Allan Kiprotich Chesang, MP, as the Vice Chairperson of the Committee, respectively, pursuant to Standing Order 166(4) of the Senate Standing Orders and Standing Order 149(4) of the National Assembly Standing Orders. The Committee then proceeded to consider the Senate amendments to the Bill.

7. Appended to this report is a version of the Bill developed by the Committee for consideration by both Houses.

1.4 Acknowledgements

8. The Mediation Committee appreciates the offices of the Speakers and the Clerks of both Houses of Parliament for the support extended in the execution of its mandate.

9. The Chairperson in particular extends his appreciation to all the Members of the Committee for their patience, sacrifice, endurance and commitment to completing the assignment under tight schedule.

10. Pursuant to Standing Order 223(2) of the Senate Standing Orders, and Standing Order 150(3) of the National Assembly Standing Orders, the Mediation Committee adopted the report on the Gambling Control Bill (National Assembly Bill No. 70 of 2023). The Members of the Committee hereby affix their signatures to this Report to affirm adoption the Report (Attached as Appendix 1 to this Report.)

11. Finally, it is now my pleasant duty and privilege, on behalf of the Mediation Committee, to table the report of the Mediation Committee on the Gambling Control Bill (National Assembly Bill No. 70 of 2023) and to recommend the adoption of the agreed version of the Bill to the Houses, pursuant to Article 113(2) of the Constitution and Standing Order 167(3) of the Senate Standing Orders and Standing Order 150(3) of the National Assembly Standing Orders.

Hon. Daniel Wanyama CBS, MP, Chairperson

SIGNED .....

DATE: 4th June 2025.....

Sen. Allan Kiprotich Chesang, MP, Vice Chairperson

SIGNED .....

DATE: 3/06/2025.....

2.0 BACKGROUND

12. The Gambling Control Bill (National Assembly Bill No. 70 of 2023) was published on 31st October 2023. The overall objective of the Gambling Control Bill is to repeal and replace the Betting, Lotteries and Gaming Act (Cap. 131) and to provide for a legislative framework for the regulation of gambling in Kenya, as well as to 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 and media promotions.

13. The Bill was read a First Time in the National Assembly on 8th November, 2023 and was considered and approved with amendments on 6th December, 2023. The National Assembly amendments were intended to ensure that the Gambling Regulatory Authority of Kenya, which will be the successor to the Betting Control and Licensing Board, should be empowered to ensure compliance with anti-money laundering and combating of terrorism financing laws.

14. Pursuant to Standing Order 142 of the National Assembly Standing Orders, the Bill was forwarded to the Senate for concurrence.

15. The Senate considered and passed the Bill with amendments on 8th October, 2024. The Senate proposed amendments to Clauses 5, 7, 10, 11, 28, 31, 64, 66, 69, 71, 79, 87, 119, 123 and the Third Schedule. Further, the Senate proposed new Clauses 57A, 63A, 66A, 82A and 117A.

16. Pursuant to Standing Order 46(1) and 164(c) of the Senate Standing Orders, the Speaker of the Senate conveyed a message to the Speaker of the National Assembly on the Senate consideration on the Bill and the amendments approved by the Senate.

3.0 CONSIDERATION OF SENATE AMENDMENTS BY THE NATIONAL ASSEMBLY AND FORMATION OF THE MEDIATION COMMITTEE

17. At the special sitting of the National Assembly held on 16th January 2025, the National Assembly considered and rejected the Senate amendments to the Gambling Control Bill, 2023.

18. Pursuant to Standing Order 148(b) of the National Assembly Standing Orders, the Speaker of the National Assembly conveyed a message to the Speaker of the Senate on the resolution by the National Assembly to reject the Bill as amended by the Senate. The Speaker then referred the Bill to a mediation committee under Article 113 of the Constitution, and in so doing appointed nine Members of the National Assembly to the Mediation Committee to consider the Bill.

19. On 19th March 2025, pursuant to Standing Order 166 of the Senate Standing Orders, the Speaker of the Senate conveyed a message to the National Assembly on the appointment of nine Senators to sit in the Mediation Committee.

20. Pursuant to Article 113 of the Constitution, the Mediation Committee was required to attempt to develop an amended version of the Bill that is agreeable to both Houses, within 30 days.

4.0 CONSIDERATION OF THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023) BY THE MEDIATION COMMITTEE

21. In its sitting held on 17th April 2025, the Committee considered the Senate amendments to the Gambling Control Bill, 2023 as follows—

a) Senate amendment to Clause 5

Clause 5 amended by inserting the following new paragraphs immediately after paragraph (e)–

(ea) develop and implement county legislation on betting and other forms of gambling;

(eb) license prize competitions within a county;

(ec) license amusement machines;

(ed) issue trade permits for betting premises;

(ee) license and issue pool table permits within the county;

(ef) license and supervise county lotteries;

(eg) issue trade permits for premises for totalisators;

Committee Observation

The amendment seeks to include additional functions of county governments in relation to gambling, specifically the development of county legislation and licensing of gambling activities.

Betting, casinos and other forms of gambling is a shared function between the national government and county governments as provided in the Fourth Schedule to the Constitution.

The Bill addresses the shared nature of gambling by providing for licensing under clause 28(2) to be performed by the Authority (national government), and subsequently the issuance of trade permits under clause 45(1) to be performed by the county governments. Further, clause 5(b) mandates the county governments to issue trade permits for all gambling premises.

The Committee takes note of the Gazette Notice No. 2 of 2012 by the Intergovernmental Relations Technical Committee on the delineation of functions between the national government and county governments on betting, casinos and other forms of gambling. In as much the assignment of the functions uses the term 'license' in respect of both national government and county governments, there is need for clarity in legislation to clearly

provide for licensing to be performed by the national government while issuance of trade permits to be performed by the county governments.

The Senate amendment therefore conflicts with the intention of the Bill.

Committee Resolution

The Mediation Committee recommends that—

(a) Clause 5 be retained as contained in the Bill; and

(b) for clarity purposes, clause 2 of the Bill be amended to provide distinct definitions of the terms "license" and "trade permit".

b) Senate amendment to Clause 7

Clause 7 amended by–

(a) deleting paragraph (d) and substituting therefor the following new paragraph–

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that–

(i) one shall represent persons with disabilities;
(ii) one shall represent the youth; and
(iii)one shall represent faith-based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph–
three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and

(c) deleting paragraph (f).

Committee Observation

The amendment seeks to–

(a) remove the Attorney-General from the composition of the Board of the Authority;
(b) specify the youth as one of the categories of the three persons appointed by the Cabinet Secretary; and
(c) increase the number of persons nominated by the Council of Governors from one person to three persons.

The effect of these amendments would increase the number of members of the Board from 9 to 10 members.

Section 6(1) of the State Corporations Act, Cap. 446 provides for the composition of Boards of state corporations. Paragraph (da) provides for the membership of the Attorney-General or his representative.

The recommendations of the Mwongozo Code of Governance for state corporations provides that the Board membership of state corporations shall be between 7 and 9 members.

The Senate amendment therefore conflicts with the provisions of the State Corporations Act, Cap. 446 as well as the recommendations of the Mwongozo Code of Governance for state corporations.

Committee Resolution

The Mediation Committee recommends that—

(a) Clause 7(1)(d) be retained as proposed by the National Assembly, preserving the Attorney-General's membership in the Board;
(b) Clause 7(1)(e) be amended by reducing the number of persons appointed by the Cabinet Secretary from three to two; and
(c) Clause 7(1)(f) be amended by increasing the number of representatives of the Council of Governors from one to two persons.

These amendments would ensure meaningful representation both by persons who are not public officers and county government representation while maintaining a manageable Board size that conforms with the recommendations of the *Mwongozo* Code on State Corporations.

c) Senate amendment to Clause 10

Clause 10 amended–

(a) by deleting paragraph (c);
(b) in paragraph (f) by inserting the words "in consultation with county governments" immediately after the word "maintain";
(c) in paragraph (g) by inserting the words "beneficial owners" immediately after the word "directors";
(d) by inserting the following new paragraph immediately after paragraph (n)–

(na) collaborate with the Kenya Revenue Authority, established under section 3 of the Kenya Revenue Authority Act, to establish a monitoring system for tax compliance under this Act;

Committee Observation

The amendment seeks to—

(a) remove the function of issuance of licences from the Authority;

(b) provide that the register of gambling machines and devices shall be established and maintained by the Authority in consultation with county governments;
(c) provide that the Authority shall conduct due diligence in respect of beneficial owners of gambling companies; and
(d) provide that the Authority shall establish a tax compliance monitoring system.

Clause 28(2) of the Bill provides that the Authority shall license all gambling activities under the Act, while clause 45(1) provides that the county governments shall issue trade permits to holders of gambling licences. The amendment to delete the function of licensing from the Authority therefore conflicts with the intention of the Bill.

The requirement of due diligence to be conducted in respect of beneficial owners of gambling companies is necessary so as to ensure accountability of persons who exercise ultimate effective control over a company.

The introduction of a new paragraph to specifically provide for the collaboration between the Authority and the Kenya Revenue Authority to establish a tax monitoring system would ensure enhanced monitoring and compliance of the tax obligations of the gambling operators.

Committee Resolution

The Mediation Committee recommends that—

(a) Paragraph (c) be retained as contained in the Bill, to ensure that the role of the Authority shall be to issue licences under the Act;
(b) The Senate amendment to paragraph (f) be adopted, to ensure that the Authority shall work in consultation with county governments in the establishment and maintenance of registers of gambling machines and devices; and
(c) The Senate amendment to paragraph (g) be adopted, to ensure accountability of beneficial owners who exercise ultimate control over a company.

d) Senate amendment to Clause 11

Clause 11 amended by inserting the following new subclauses immediately after subclause (4)–

(5) The Cabinet Secretary, in consultation with the Authority, may grant remote platform authorizations.

(6) The Cabinet Secretary may revoke an authorization granted under subsection (5) only if the platform is found to be in breach of the regulatory service requirements as prescribed by the Authority.

Committee Observation

The amendment seeks to introduce new subsections providing for the power of the Cabinet Secretary to grant or revoke remote platform authorizations.

There is need for clarity in regards to what constitutes a remote platform authorization. The term is not proposed to be defined in the interpretation section in clause 2. The Committee observes that the Senate amendment introducing "remote platform authorization" lacks definitional clarity, creating potential regulatory ambiguity. Such authorization would require precise definition to establish its scope, application, and relationship to existing licensing provisions.

Further, clause 11 of the Bill which is proposed to be amended provides for the power of the Cabinet Secretary to prescribe guidelines for gambling operations. The proposed amendments relating to remote platform authorization appear to be misplaced in the clause.

Committee Resolution

The Mediation Committee recommends that—

(a) the proposed new sub-clauses (5) and (6) be rejected;
(b) a new sub-clause be introduced to the Clause, providing for the power of the Cabinet Secretary to prescribe guidelines on remote platform authorization;
(c) Clause 2 of the Bill be amended to introduce the definition of the term "remote platform authorization".

e) Senate amendment to Clause 28

Clause 28 amended–

(a) in subclause (2) by deleting paragraphs (o), (p) and (q); and
(b) by deleting subclause (4).

Committee Observation

The amendment seeks to remove the power of the Authority to issue gambling licences with respect to–

(a) key gambling employees;
(b) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and
(c) all media promotions with prizes and prize competitions cutting across several counties.

Further, the amendment seeks to delete the definition of "gambling employee" under the clause.

The Committee noted that the requirement of issuance of licences for key gambling employees and persons within gambling premises is an international practice due to the precarious nature of gambling activities.

Further, the issuance of licences to the media promotions is necessary so as to regulate the electronic gambling activities effectively.

The requirement for the issuance of accreditation licence for a person engaged in non-gambling activity within a gambling premise is ambiguous and would be subject to abuse.

Committee Resolution

The Mediation Committee recommends that—

(a) paragraph (o) be retained in the Bill, to ensure compliance with international best practice which requires the licensing of key gambling employees;

(b) paragraph (p) be deleted, to ensure that there is no ambiguity arising as a result of the issuance of accreditation licences to persons engaged in non-gambling activities within a gambling premise;

(c) paragraph (q) be retained in the Bill, to ensure that the Authority shall issue licences for all media promotions so as to regulate the electronic gambling activities effectively; and

(d) sub-clause (4) be retained in the Bill to ensure clarity as to the limits of the term "gambling employee" for purposes of licensing.

f) Senate amendment to Clause 31

Clause 31 amended in subclause (3) by deleting the word "twelve" appearing immediately after the words "a period of" and substituting therefor the words "thirty six".

Committee Observation

The amendment seeks to extend the validity period of a gambling licence from 12 months to 36 months.

The Committee noted that the increase of the validity period of an operating licence was necessary to ensure that there is ease of doing business. The Committee further noted that section 26(1) of the National Lottery Act, No. 20 of 2023 provides that a licence for a National Lottery operator shall be valid for a period of seven years.

Committee Resolution

The Mediation Committee recommends that the Bill be amended in sub-clause (3) to increase the validity period of a licence from 12 months to 36 months.

g) New Clause 57A

The following new clause 57A inserted immediately after clause 57–

Lottery tax. 57A. (1) There shall be a tax to be known as lottery tax chargeable at the rate of fifteen per cent of the lottery turnover.

(2) The tax shall be paid to the Collector by a person authorized to promote the lottery on the 20th day of the month following the month of collection.

Committee Observation

The amendment seeks to introduce a lottery tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114 of the Constitution.

Further, during the consideration of the Bill in the National Assembly, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%),* 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill.

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Committee Resolution

The Mediation Committee recommends that the new Clause 56A not be included in the Bill.

h) New Clause 63A

The following new clause 63A inserted immediately after clause 63–

Betting tax. 63A. (1) There shall be a tax to be known as the betting tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by the licensed bookmaker on the 20th day of the month following the month of collection.

(3) This section shall not apply to horse racing.

Committee Observation

The amendment seeks to introduce a betting tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114 of the Constitution.

Further, during the consideration of the Bill in the National Assembly, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%),* 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill.

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Committee Resolution

The Mediation Committee recommends that the new Clause 63A not be included in the Bill.

i) Senate amendment to Clause 64

Clause 64 amended in subclause (5) by deleting the word "twenty shillings" appearing at the end of the sub-clause and substituting therefor the words "one shilling".

Committee Observation

The amendment seeks to reduce the minimum amount of a single bet in a casino machine from 20 shillings to 1 shilling.

The Committee noted that the amount of one shilling as a minimum bet amount is not practical, noting that this would be construed as an encouragement to gambling, and further noting that the intention of the Bill was to regulate gambling as a social vice.

Further, in conducting public participation on the Bill, the National Assembly Departmental Committee on Sports and Culture received submissions from various stakeholders who proposed that the minimum amount of a bet be increased to fifty shillings. The submissions from various stakeholders proposed the increase rather than the decrease of the minimum amount.

Committee Resolution

The Mediation Committee recommends that Clause 64(5) be retained as contained in the Bill, to provide that the minimum betting amount shall be 20 shillings.

j) Senate amendment to Clause 66

Clause 66 amended by deleting the words "shall ensure that its" appearing immediately after the word "Authority" and substituting therefor the words "and county governments shall ensure that their".

Committee Observation

The amendment seeks to provide that in addition to the Authority, the county governments shall also ensure that their officers are present in casinos for purposes of ensuring compliance.

The First Schedule to the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A provides that the current Betting Control and Licensing Board is a supervisory body for purposes of financial reporting in regards to casinos. The Bill envisages that the Authority, once established, shall supervise casinos in regards to financial reporting under the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A, and this is a function of the national government.

Committee Resolution

The Mediation Committee recommends that Clause 66 be retained as contained in the Bill, to ensure that the responsibility for financial reporting and anti-money laundering compliance rests with the national regulatory authority as provided in law.

k) New Clause 66A

The following new clause 66A inserted immediately after clause 66–

Gaming tax.

66A. (1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by a person carrying on a gaming business on the 20th day of the month following the month of collection.

Committee Observation

The amendment seeks to introduce a gaming tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114 of the Constitution.

Further, during the consideration of the Bill in the National Assembly, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%),* 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill.

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Committee Resolution

The Mediation Committee recommends that the new Clause 66A not be included in the Bill.

l) Senate amendment to Clause 69

Clause 69 amended by deleting clause 69 and substituting therefor the following new clause–

Online gambling transaction.

69. An online gambling transaction shall commence when a player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.

Committee Observation

The amendment seeks to amend the commencement and conclusion time of an online gambling transaction.
In terms of the amendment, an online gambling transaction shall commence at the time of deposit of money into a gaming account, and shall conclude at the time of withdrawal of money from a gaming account.

Section 4 of the Excise Duty Act, Cap. 472 provides for the time of supply in respect to excisable goods. Subsection (1A) provides that in relation to a betting transaction, the time of supply shall be the time when a person wagers or stakes money on a platform or other medium provided by a bookmaker.

The Senate amendment therefore conflicts with the provisions of the Excise Duty Act, Cap. 472.

Committee Resolution

The Mediation Committee recommends that Clause 69 be retained as contained in the Bill.

m) Senate amendment to Clause 71

Clause 71 amended in subclause (3) by deleting the words "five million" appearing immediately after the words "not less than" and substituting therefor the words "fifty thousand".

Committee Observation

The amendment seeks to reduce the penalty for the offence of permitting online gambling for an amount less than 20 shillings, from above 5 million shillings to above 50,000 shillings.

The Committee notes that while a fine of not less than five million shillings may be too punitive, a lower limit of fifty thousand shillings may be too lenient, given the substantial profits realized in the online gambling sector.

Committee Resolution

The Mediation Committee recommends that Clause 71(3) of the Bill be amended by deleting the amount of five million shillings and substituting therefor the amount of three million shillings.

n) Senate amendment to Clause 79

Clause 79 amended–

(a) in subclause (1) by deleting paragraph (c);

(b) by inserting the following new subclauses immediately after subclause (3)–

(4) Notwithstanding the provisions of subsection (1), a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya, may apply for a licence to the Authority under this section.

(5) A foreign based operator who applies for a licence under subsection (3) shall be exempt from the requirements under sections 29 and 40.

Committee Observation

The amendment seeks to–

(a) remove the requirement that for a foreign gambling operator to be licensed in Kenya, they must intend to carry on the online gambling business in Kenya; and

(b) provide that a foreign gambling operator shall be exempt from the provisions of clause 29 (requirements for licensing) and 40 (security for gambling activity).

Clause 79 provides for the conditions to be fulfilled by a foreign gambling operator that seeks to be issued with a licence by the Authority.

The Committee however notes that there is need to allow foreign gambling operators to seek licences from the Authority without necessarily having the foreign operators setting up physical gambling premises within the country. Further, a foreign gambling operator would be required to comply with the provisions of the Companies Act, Cap. 486 in relation to the registration of foreign companies.

The Committee further observes that allowing foreign gambling operators to apply for licences will lead to increased revenue to the Authority in the form of licence fees paid by the foreign gambling operators.

The Committee however notes that there is need to ensure that foreign gambling operators shall also be liable to comply with the provisions on gambling security.

Committee Resolution

The Mediation Committee recommends that—

(a) the Senate amendment to Clause 79 which introduces the new sub-clause (4) be adopted;

(b) the Senate amendment introducing the new sub-clause (5) be adopted and be further amended by deleting the expression "and 40";

(c) that there is need to delete the word "Notwithstanding" appearing in sub-clause (4) and substituting therefor the word "Despite" to conform with the House drafting style; and

(d) there is need to delete the expression "(3)" appearing in the proposed new sub-clause (5) and substituting therefor the expression "(4)" for purposes of correct referencing, since the application for licence referred to is contained in the proposed new sub-clause (4) and not in sub-clause (3).

o) New Clause 82A

The following new clause 82A inserted immediately after clause 82–

Prize competition tax.

82A. (1) There shall be a tax to be known as 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.

(2) The tax shall be paid to the Collector by the licensed person on the 20th day of the month following the month of collection.

Committee Observation

The amendment seeks to introduce a prize competition tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114 of the Constitution.

Further, during the consideration of the Bill in the National Assembly, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%),* 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill.

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Committee Resolution

The Mediation Committee recommends that the new Clause 82A not be included in the Bill.

p) Senate amendment to Clause 87

Clause 87 amended–

(a) in subclause (2) by deleting paragraph (e); and

(b) by deleting subclause (4) and substituting therefor the following subclause–

> (4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Committee Observation

The amendment seeks to–

(a) remove the restriction that a gambling advertisement shall not be broadcasted on television between 6am and 10pm unless it is done in a live sporting event; and

(b) reduce the penalty for the offence of contravening the provisions on advertisement of gambling, from 20 million shillings to 1 million shillings, and imprisonment from 20 years to 1 year.

The Committee noted that the objective of the restriction on the hours of gambling advertisement is to discourage gambling which is a social vice. Removing the restriction from the Bill would lead to the unregulated advertisement air-time on television which would subsequently increase the social vice.

The Committee further notes that the penalty proposed by the Senate for the contravention of provisions on gambling advertisement is too low.

Committee Resolution

The Mediation Committee recommends that Clause 87 be retained as contained in the Bill.

q) New Clause 117A

The following new clause 117A inserted immediately after clause 117–

Operating hours. **117A.** A licensed betting, gambling, lottery or gaming premise shall operate between ten o'clock in the evening and five o'clock in the morning.

Committee Observation

The amendment seeks to introduce a new clause in the Bill providing for the operating hours of betting, gambling, lottery or gaming premises, which shall be between 10pm and 5am.

The Committee noted that the imposition of operating hours of gambling premises may not be practical owing to the fact that the restriction would not apply in respect of online gambling.

The Committee observes that imposing fixed operating hours for physical gambling premises while online gambling remains accessible at any time would create an inconsistent regulatory approach that could inadvertently incentivize migration to online platforms and be viewed as discrimination against physical gambling premises.

Committee Resolution

The Mediation Committee recommends that the new Clause 117A not be included in the Bill.

r) Senate amendment to Clause 119

Clause 119 amended in subclause (2) by–

(a) deleting paragraph (d); and

(b) deleting paragraph (g).

Committee Observation

The amendment seeks to remove the conduct of a national lottery and national lottery rules form among the matters which the Cabinet Secretary shall have power to make regulations.

The Committee notes that the intention of the Bill is to ensure that the Gambling Regulatory Authority shall be the overall overseer of matters to do with betting, gaming and lotteries, including the national lottery. Clause 10(a) of the Bill provides that the Authority shall develop standards and norms for betting, lotteries, casinos and other forms of gambling.

It is therefore envisaged that as the Board develops standards for lotteries, it shall also, in consultation with the Cabinet Secretary, make regulations with respect to the conduct of a national lottery.

The Senate amendment therefore conflicts with the intention of the Bill.

Committee Resolution

The Mediation Committee recommends that Clause 119 be retained as contained in the Bill.

s) Senate amendment to Clause 123

Clause 123 amended by renumbering the current provision as subclause (1) and inserting therefor the following new subclauses immediately after the new subclause (1)–

Cap. 469. (2) The Kenya Revenue Authority Act is amended in Part II of the First Schedule by deleting paragraph 7 and substituting therefor the following new paragraph–

7. The Gambling Control Act.

Cap. 470. (3) The Income Tax Act is amended–

(a) by deleting section 10(1)(g); and

(b) in the Third Schedule, Head B, by deleting–

(i) paragraph 3(i); and

(ii) paragraph 5(i).

Cap. 472. (4) The Excise Duty Act is amended in Part II of the First Schedule by deleting paragraphs 4A, 4B, 4C and 4D.

No. 20 of 2023. (5) The National Lottery Act is amended by inserting the following new clause immediately after clause 52–

Regulations. 53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under thus section may provide for–

(a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;

(b) the conduct of a national lottery;

(c) apportionment of the proceeds of the national lottery;
(d) procedure for the sale of tickets, prizes of tickets and payment of prizes;
(e) announcement and protection of winners of the national lottery;
(f) the circumstances under which the national lottery may be advertised; and
(g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

Committee Observation

The amendment seeks to–

(a) amend the Kenya Revenue Authority Act, Cap. 469 to include the Gambling Control Act (once enacted) as one of the written laws relating to revenue;
(b) amend the Income Tax Act, Cap. 470–

(i) to exclude winnings from the definition of an income;
(ii) to remove the non-resident tax rate in respect of winnings (20%);
(iii)to remove the resident withholding tax rate in respect of winnings (20%);

(c) amend the Excise Duty Act, Cap. 472 to remove the excise duty in respect of betting, gaming, prize competition and lottery (12.5%); and
(d) amend the National Lottery Act, No. 20 of 2023 to introduce a provision on regulations.

The Committee notes that Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

The Committee further notes that the consequential amendment to the Kenya Revenue Authority is necessary to ensure that it conforms to the repeal of the Betting, Lotteries and Gaming Act, Cap. 131 and the subsequent enactment if the Gambling Control Act, for purposes of correct referencing.

Further, during the consideration of the Bill in the National Assembly, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

The National Lottery Act, No. 20 of 2023 is an Act of Parliament providing for the establishment of a national lottery at the national government level. Article 109(3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly. This therefore means that amendments to an Act concerning the national government may only be introduced in the National Assembly. The Committee therefore noted that substantial amendments to the National Lottery Act, No. 20 of 2023

would be introduced by the National Assembly in conformity to the provisions of Article 109 of the Constitution.

The Senate amendment therefore conflicts with the provisions of Article 109 of the Constitution.

Committee Resolution

The Mediation Committee recommends that—

(a) the proposed new sub-clause (2) be included in the Bill; and

(b) the proposed new sub-clauses (3), (4) and (5) not be included in the Bill.

t) Senate amendment to the Third Schedule

The Third Schedule amended in–

(a) paragraph (b) by deleting the amount "200,000,000" and substituting therefor the amount "20,000,000"; and

(b) paragraph (c) by deleting the amount "200,000,000" and substituting therefor the amount "20,000,000".

Committee Observation

The amendment seeks to reduce the security required in respect to online gambling and the national lottery, from 200 million shillings to 20 million shillings.

The Committee observes that online gambling and the national lottery would have significantly broader reach compared to physical gambling premises, potentially impacting a larger segment of the population. Proportionately higher security deposits for these operations are therefore necessary to ensure adequate consumer protection.

While the National Assembly version requiring 200 million shillings as gambling security may be considered too high, the Senate's proposed reduction to 20 million shillings would be inadequate given the scale and potential impact of these operations.

The Committee therefore notes the need to have a reasonable amount imposed as gambling security in respect of online gambling and the National Lottery.

Committee Resolution

The Mediation Committee recommends that—

(a) paragraph (b) of the Third Schedule be amended to provide for the amount of 100 million shillings as gambling security in respect of online gambling; and

(b) paragraph (c) of the Third Schedule be amended to provide for the amount of 100 million shillings as gambling security in respect of the National Lottery.

5.0 COMMITTEE RECOMMENDATION

Having considered the Senate amendments to the Gambling Control Bill, 2023, the Mediation Committee recommends that, pursuant to the provisions of Article 113(2) of the Constitution, this House approves the mediated version of the Gambling Control Bill (National Assembly Bills No. 70 of 2023).

SIGNED:.....**DATE:** 4th June, 2025

HON. DANIEL WANYAMA, CBS, MP

CHAIRPERSON

SIGNED:.....**DATE:** 3/06/2025

SEN. ALLAN CHESANG, MP

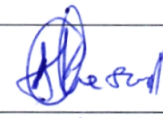
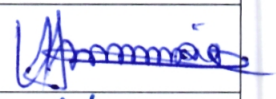
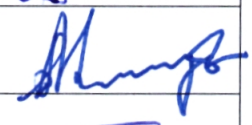
VICE-CHAIRPERSON

ANNEX 1:

ADOPTION PAGES FOR MEMBERS OF THE MEDIATION COMMITTEE

ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BIL, 20203(NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

We, the undersigned Members, do hereby append our signatures to adopt the Report-

	Name	**Designation**	**Signature**
1.	Sen. Allan Chesang', MP,	Vice-Chairperson	
2.	Sen. Wakili Hillary Sigei, CBS, MP	Member	
3.	Sen. Julius Murgor, CBS, MP	Member	
4.	Sen. Eddy Oketch, MP,	Member	
5.	Sen. Issa Boy Juma, MP,	Member	
6.	Sen. Catherine Mumma, MP,	Member	
7.	Sen. Beatrice Akinyi Ogola, MP,	Member	
8.	Sen. Raphael Chimera, MP,	Member	
9.	Sen. Esther Okenyuri, MP,	Member	

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - FOURTH SESSION - 2025

MEDIATION COMMITTEE ON GAMBLING CONTROL BILL, 2023

(NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

HON. MEMBERS ATTENDANCE SCHEDULE

Date: 23/4/2025 **Venue:** C/Room 16, 3rd floor

Time Started: 2.30 p.m **Time Ended:** 4.11 pm

AGENDA: Adoption Schedule - Report on the Gambling Control Bill (National Assembly Bill No. 70 of 2023)

No.	MEMBER	SIGNATURE
1.	The Hon. Daniel Wanyama, CBS, MP	
2.	The Hon. Omboko Milemba, CBS, MP	
3.	The Hon. (CPA) Kuria Kimani, CBS, MP	
4.	The Hon. BSP. (EM) Dr. Jackson Kosgei, M.P.	
5.	The Hon. Dominic Letipila, M.P.	
6.	The Hon. Kwenya Thuku, M.P.	
7.	The Hon. (Dr.) Ariko Namoit, MP	
8.	The Hon. Mark Nyamita, M.P.	
9.	The Hon. (Dr.) Irene Kasalu, MP	

ANNEX 2:

SIGNED MINUTES OF THE MEDIATION COMMITTEE SITTINGS.

REPUBLIC OF KENYA
13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 1ST SITTING OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023) HELD ON THURSDAY, 17TH APRIL, 2025 AT 10.00A.M., IN COMMITTEE ROOM 25, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. The Hon. Daniel Wanyama, CBS, MP - Chairperson
2. The Hon. BSP. (EM) Dr. Jackson Kosgei, M.P. - Member
3. The Hon. Dominic Letipila, M.P. - Member
4. The Hon. Kwenya Thuku, M.P. - Member
5. The Hon. (Dr.) Irene Kasalu, MP - Member

ABSENT WITH APOLOGY

1. The Hon. Omboko Milemba, CBS, MP - Member
2. The Hon. (CPA) Kuria Kimani, CBS, MP - Member
3. The Hon. (Dr.) Ariko Namoit, MP - Member
4. The Hon. Mark Nyamita, M.P. - Member

SENATE

1. Sen. Allan Chesang', MP - Vice- Chairperson
2. Sen. Catherine Muma, MP - Member
3. Sen.Raphael Chimera, MP - Member
4. Sen. Julius Murgor, MP - Member
5. Sen. Esther Okenyuri, MP - Member

ABSENT WITH APOLOGY

1. Sen. Wakili Hillary Sigei, CBS, MP - Member
2. Sen. Issa Boy Juma, MP - Member
3. Sen. Eddy Oketch, CBS, MP - Member
4. Sen. Beatrice Akinyi Ogola, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Adan Gindicha - Principal Clerk Assistant I/ H.O.D
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Said Wako - Serjeant At Arms

SECRETARIAT FROM THE SENATE

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II

3. Mr. Jackson Wekesa - Legal Counsel II
4. Ms. Ndindi Kibathi - Research Officer III
5. Mr. Patrick Murindo - Serjeant At Arms

MIN. NO. 1/2025 PRELIMINARIES

The meeting was called to order at ten thirty am and opened with a word of prayer.

MIN. NO. 2/2025 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Hon. Irene Kasalu, M.P. and seconded by the Sen. Allan Chesang', MP as follows –

1. Prayer;
2. Introductions;
3. Adoption of the Agenda;
4. Election of Chairperson and Vice Chairperson;
5. Remarks by the Chairperson and Vice Chairperson;
6. **Consideration of the Gambling Control Bill, (National Assembly Bills No 70 of 2023);**
7. Any Other Business; and
8. Adjournment.

MIN. NO. 3/2025 ELECTION OF THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

1. The Committee considered the procedure for appointment of the Chairperson and Vice-Chairperson, as contained in the respective Houses' Standing Orders
2. Hon. Daniel Wanyama Sitati MP. was elected as Chairperson after being proposed by Sen. Allan Chesang, MP. and seconded by Sen. Raphael Chimera, MP;
3. Sen. Allan Chesang, MP. was elected as Vice Chairperson after being proposed by Sen. Julius Murgor, MP. and seconded by Sen. Raphael Chimera, MP; and
4. Thereafter, Hon. Daniel Wanyama Sitati, M.P. and Sen. Allan Chesang', MP were appointed as the Chairperson and Vice-Chairperson of the Committee respectively.

MIN. NO. 4/2025 REMARKS BY THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

The Chairperson thanked the Members for electing him and stressed on the importance of considering the Bill as a matter of priority. He urged the Members to attend all scheduled Mediation Committee meetings, and highlighted on the need to conclude discussions on the Bill and table the Committee's Report in both Houses at the earliest time possible.

MIN. NO. 5/2025 **CONSIDERATION OF THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023**

1. Members were informed that, to support the consideration of the clauses under mediation, a matrix had been prepared. The matrix outlined the provisions of the Bill as originally published, as passed by the National Assembly with amendments, and as passed by the Senate with amendments. The National Assembly Legal Counsel guided Members through the matrix; and
2. During deliberations, Members proposed amendments to various clauses of the Bill. However, due to time constraints, the Committee resolved to resume consideration of the matrix from Clause 66(b) at its next meeting, scheduled for Tuesday, 22nd April, 2025.

No	Clause	Senate Amendment	Analysis	Resolution of The Mediation Committee	Justification
1.	5	**Functions of county governments.** A county government shall— (a) implement and ensure compliance to this Act; (b) issue trade permits for gambling premises; (c) implement policy standards and norms of gambling within its jurisdiction; (d) ensure periodic monitoring and evaluation of betting, lotteries and gaming trade permits issued by county governments; (e) handle complaints and facilitate arbitration; and (f) **develop and implement county legislation on betting and other forms of gambling;** (g) **license prize competitions within a county;** (h) **license amusement machines;** (i) **issue trade permits for betting premises;** (j) **license and issue pool table**	The amendment seeks to include additional functions of county governments in relation to gambling, specifically the development of county legislation and licensing of gambling activities.	Retain the provision as passed by the National Assembly	**The Committee takes note of the Gazette Notice No. 2 of 2012 by the Intergovernmental Relations Technical Committee on the delineation of functions between the national government and county governments on betting, casinos and other forms of gambling. In as much the assignment of the functions uses the term 'license' in respect of both national government and county governments, there is need for clarity in legislation to clearly provide for licensing to be performed by the national government while issuance of trade**

		permits within the county; (k) **license and supervise county lotteries;** (l) **issue trade permits for premises for totalisators;** (m) perform such other functions as are incidental to the exercise of any or all of the county government functions provided for under this Act.			**permits to be performed by the county governments.** **The mediation committee therefore negatived the Senate amendment and retained the National Assembly provision.**
2.	7	**Board of the Authority.** (1) The management of the Authority shall vest in a Board which shall consist of— (a) a Chairperson who shall be appointed by the President; (b) the Principal Secretary in the ministry for the time being responsible for matters relating to gambling or a representative designated in writing; (c) the Principal Secretary in the ministry for the time being responsible for the National Treasury or a representative designated in writing; ~~(d) the Attorney-General or a representative designated in~~	The amendment seeks to– (a) remove the Attorney-General from the composition of the Board of the Authority; (b) specify the youth as one of the categories of the three persons appointed by the Cabinet Secretary; and (c) increase the number of persons nominated by the Council of Governors from one person to three persons. The effect of these amendments would increase the number of members of the Board from 9 to 10 members.	Retain the provision as passed by the National Assembly with the following amendments: *Clause 1(d) was retained as proposed by the National Assembly.* *Clause 1(e) three persons nominated by the Council of Governors and appointed by the Cabinet Secretary be reduced to two.*	**Section 6(1) of the State Corporations Act, Cap. 446 provides for the composition of Boards of state corporations.** **Paragraph (da) provides for the membership of the Attorney-General or his representative.** **The recommendations of the Mwongozo Code of Governance for state corporations provides that the Board membership of state corporations shall be between 7 and**

		~~writing;~~ **three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that–** **(i) one shall represent persons with disabilities;** **(ii) one shall represent the youth; and** **(iii) one shall represent faith-based organisations;** ~~(e) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with background in finance, law, betting and lotteries or business management, provided that—~~ ~~(i) one shall represent persons with disabilities; and~~ ~~(ii) one shall represent faith-based organizations;~~			**9 members.** **The mediation committee therefore adopted an amended version.**

		three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and ~~(f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and~~ (g) the Director-General who shall be an *ex officio* member.			
3.	10	**Functions of the Authority.** The Authority shall— (a) develop standards and norms for betting, lotteries, casinos and other forms of gambling; (b) regulate and control gambling activities; ~~(c) issue licences for gambling activities prescribed under this Act;~~ (d) develop policies for placing of bet for betting, lotteries and gambling that include a savings component for social health insurance or social retirement benefit; (e) monitor the implementation	The amendment seeks to– (a) remove the function of issuance of licences from the Authority; (b) provide that the register of gambling machines and devices shall be established and maintained by the Authority in consultation with county governments; (c) provide that the Authority shall conduct due diligence in respect of beneficial owners of gambling companies; and (d) provide that the Authority shall establish a tax compliance	Retain the provision as passed by the National Assembly with the following amendments: 1. To include definition of trade licence and trade permit 2. Senate amendment was adopted in clause (o)	**Clause 28(2) of the Bill provides that the Authority shall license all gambling activities under the Act, while clause 45(1) provides that the county governments shall issue trade permits to holders of gambling licences. The amendment to delete the function of licensing from the Authority therefore conflicts with the intention of the Bill.**

		of gambling policies at the national and county level; (f) establish and maintain, **in consultation with county governments,** a register of all gambling machines and devices, and other relevant data on licensed gambling activities; (g) conduct security checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, directors, **beneficial owners** and staff; (h) establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements; (i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, and patterns, causes and consequences of– (i) the socio-economic impact of gambling; (ii) addictive or compulsive	monitoring system.		**The requirement of due diligence to be conducted in respect of beneficial owners of gambling companies is necessary so as to ensure accountability of persons who exercise ultimate effective control over a company.** **The Senate's Clause (O) has been adopted to strengthen the requirement under 10(h) of the Bill which provides that the Authority shall establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements. This provision addresses the proposed amendment relating to the tax compliance monitoring system.**

		gambling; and (iii) any other matter that is relevant to the gambling sector; (j) coordinate research and surveys relating to the gambling industry; (k) monitor and alleviate illegal cross border gambling activities in collaboration with county governments; (l) advise county governments on matters relating to the regulation of gambling activities; (m) receive and make determination on complaints from companies and the public on matters pertaining to games of chance; and (n) establish programmes to improve the capacity of county governments on matters relating to the regulation of gambling activities; and (o) **collaborate with the Kenya Revenue Authority, established under section 3 of the Kenya Revenue Authority Act, to establish a monitoring system for tax**			

		compliance under this Act; (p) perform any other functions conferred by this Act or any other written law.			

4.	**11**	**Gambling operation guidelines.** (1) The Cabinet Secretary shall, in consultation with the Authority, prescribe guidelines of practice on the manner in which facilities for gambling are operated, whether by the holder of a licence under this Act or by any other person. (2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of— (a) ensuring that gambling is conducted in a fair and open way; (b) protecting children and other vulnerable persons from being harmed or exploited by gambling; (c) making assistance available to persons who are or may be affected by problems related to gambling; (d) protecting of vulnerable gamblers; (e) information and data protection in accordance with the Data Protection Act; (f) online payment protection; (g) creation of secure online	The amendment seeks to introduce new subsections providing for the power of the Cabinet Secretary to grant or revoke remote platform authorizations.	Sub-clause 2 be amended by adding the following new paragraph (k) -- *"Remote platform authorizations"* To marge Sub-clause 5 "the CS shall provide guidelines to …. and delete Sub clause 6 Define what "remote platform authorizations"	**There is need for clarity in regard to what constitutes a remote platform authorization. The term is proposed to be defined in the interpretation section in clause 2 as it is currently ambiguous.** **Further, clause 11 of the Bill which is proposed to be amended provides for the power of the Cabinet Secretary to prescribe guidelines for gambling operations.**

		gambling environment; (h) ethical and responsible marketing; (i) safety measures against criminal activities, anti-money laundering and terrorism; and (j) public awareness and education campaigns. (3) The Cabinet Secretary may, in consultation with the Authority, review the guidelines issued under this section. (4) Before issuing or revising the guidelines under this section, the Cabinet Secretary and the Authority shall consult— (a) any person who represents licensing authorities; (b) the body responsible for the protection of the best interests of the child, as established in the Children Act; (c) any person who represents the Inspector General of Police; (d) any person who represents the interests of punters; and (e) the members of public in such manner as the Authority considers appropriate.			

		(5) The Cabinet Secretary, in consultation with the Authority, may grant remote platform authorizations. **(6) The Cabinet Secretary may revoke an authorization granted under subsection (5) only if the platform is found to be in breach of the regulatory service requirements as prescribed by the Authority.**			

5.	28	**Licensed gambling activities.** (1) A person shall not offer any gambling activity or service unless the activity or service is licensed under this Act. (2) The Authority shall issue gambling licences under this Act with respect to— (a) a public gambling for conducting a table game and operating a slot machine; (b) the national lottery; (c) a bookmaking; (d) licensing of on-the course and off-the course totalisators; (e) a prize competition; (f) a bingo; (g) a pool betting scheme; (h) public lotteries as under section 50(2); (i) an online gambling; (j) gambling equipment and device manufacture or assembling; (k) gambling equipment and	The amendment seeks to remove the power of the Authority to issue gambling licences with respect to– (a) key gambling employees; (b) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and (c) all media promotions with prizes and prize competitions cutting across several counties. Further, the amendment seeks to delete the definition of "gambling employee" under the clause.	Subclause 2 is amended by deleting paragraph (p) Retaining paragraph (o) and (q)	**The requirement for issuance of licenses for key gambling employees and persons within gambling premises is an international practice due to the precarious nature of gambling activities.** **Further, the issuance of licenses to the media promotions is necessary so as to regulate the electronic gambling activities.** **The mediation Committee therefore negatived the Senate amendment and retained the National Assembly provisions.**

		device sale or distribution; (l) gambling equipment testing; (m) provision of any gambling software or platform; (n) gambling equipment repair and servicing; ~~(o) key gambling employees;~~ ~~(p) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and~~ ~~(q) all media promotions with prizes and prize competitions cutting across several counties;~~ (r) any other form of gambling as may be prescribed in regulations. (3) The Cabinet Secretary shall in consultation with the Authority, make regulations for the classification of licenses issued under this Act. ~~(4) In this section, "gambling employee" means a person who is employed or authorized, to make a decision that regulates the operations of a casino, bookmaker, lottery,~~			

		~~racecourse or any other form of gambling.~~			
6.	31	**Renewal of a licence.** (1) The Authority may, on application by a licensee, renew a licence for a further period provided for in subsection (3). (2) An application under this section shall— (a) be made in the prescribed form and forwarded to the Authority together with the prescribed fee; (b) be lodged with the Authority at least three months prior to the expiry of the licence; and (c) be considered in accordance with the provisions of section 30. (3) A gambling licence issued under this section shall be valid for a period of ~~twelve~~ **thirty six** months from the date of issue or for such other period as may be prescribed in regulations.	The amendment seeks to extend the validity period of a gambling license from 12 months to 36 months.	Retain the provision as passed by the National Assembly	**The proposal for a three-year period for gambling licenses conflicts with the validity period of trade permits which shall be issued to license holders under the Bill, since the trade permits are valid for 12 months.** **The mediation Committee therefore resolved to retain the 12 month licencing period as proposed by the National Assembly.**
7.	**New**	**Lottery tax.**	The amendment seeks to introduce a	Retain the provision as	**Article 109(5) of the**

	Clause 57A	(1) There shall be a tax to be known as lottery tax chargeable at the rate of fifteen per cent of the lottery turnover. (2) The tax shall be paid to the Collector by a person authorized to promote the lottery on the 20th day of the month following the month of collection.	lottery tax at the rate of 15%.	passed by the National Assembly	**Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.** **Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.** **In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax-***

					***15%)*, 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill.** **The mediation Committee therefore resolved to withdraw the proposed Senate amendment.**
8.	**New Clause 63A**	**Betting tax.** (1) There shall be a tax to be known as the betting tax chargeable at the rate of fifteen per cent of the gaming revenue. (2) The tax shall be paid to the Collector by the licensed bookmaker on the 20th day of the month following	The amendment seeks to introduce a betting tax at the rate of 15%.		**Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.** **Further, it was**

		the month of collection. (3) This section shall not apply to horse racing.			**resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.** **In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%)*, 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new**

					provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill. **The mediation committee therefore resolved to withdraw the proposed Senate Amendment.**
9.	**64**	**Casinos and other forms of gambling.** (1) A person may be granted a licence to operate a casino and other forms of gambling upon meeting the requirements set out in section 29. (2) The Cabinet Secretary may in consultation with the Authority and the Council of Governors, make regulations prescribing the number of casinos, amusement machines, slot machines and other forms of gambling that may be operated within the counties. (3) The Cabinet Secretary shall consider the following in making the regulations under subsection (2)— (a) the number and geographic	The amendment seeks to reduce the minimum amount of a single bet in a casino machine from 20 shillings to 1 shilling.	Retain the amendment by the National Assembly	**The amount of one shilling as a minimum bet amount is not practical, noting that excise duty is payable in respect of wagers made during betting.** **In conducting public participation on the Bill, the Committee received submissions from various stakeholders who proposed that the minimum amount of a bet be increased to**

		distribution of existing licensed casinos, slot machines and other forms of gambling at the time; (b) the presence of tourists in a county; (c) the cultural and religious distribution of the residents of each county; (d) the incidence and social consequences of compulsive and addictive gambling; (e) the promotion of — (i) job creation within the gambling industry; (ii) diversity of ownership within the gambling industry; (iii) efficiency of operation in the gambling industry; and (iv) competition within the gambling industry. (4) The Cabinet Secretary shall, in consultation with the Authority, make regulations prescribing the places where gambling machines shall be placed including the distance to— (a) learning institutions;			**fifty shillings.** **The mediation committee therefore resolved to negative the Senate amendment and retain the minimum amount of 20 shillings.**

		(b) religious establishment; and (c) residential areas. (5) A single bet in a casino machine shall be played for a minimum of ~~twenty shillings.~~ **one shilling.**			
10.	**66**	**Officers of the Authority to be present.** The Authority ~~shall ensure that its~~ **and county governments shall ensure that their** officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant licence.	The amendment seeks to provide that in addition to the Authority, the county governments shall also ensure that their officers are present in casinos for purposes of ensuring compliance.	Retain the amendment by the National Assembly	**The First Schedule to the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A provides that the current Betting Control and Licensing Board is a supervisory body for purposes of financial reporting in regard to casinos. The Bill envisages that the Authority once established shall supervise casinos in regard to financial reporting under the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A, and this is a function of the**

					national government. **The mediation committee therefore negatived the proposed Senate amendments to the Clause.**

MIN. NO. 6/2024 ANY OTHER BUSINESS

There was no other business.

MIN. NO. 7/2024 ADJOURNMENT

The Chairperson adjourned the meeting at fifteen minutes to one o'clock. The next meeting was scheduled to be held on Tuesday, 22nd April, 2025 at 10.00 am.

SIGNED: .....

THE HON. DANIEL WANYAMA SIATATI, M.P.

(CHAIRPERSON)

DATE: 24/4/2025 .....

REPUBLIC OF KENYA
13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 2ND SITTING OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023) HELD ON TUESDAY, 22ND APRIL, 2025 AT 11.00 A.M., IN COMMITTEE ROOM 2, SECOND FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. The Hon. Daniel Wanyama, CBS, MP - Chairperson
2. The Hon. BSP. (EM) Dr. Jackson Kosgei, M.P. - Member
3. The Hon. Dominic Letipila, M.P. - Member
4. The Hon. Kwenya Thuku, M.P. - Member

ABSENT WITH APOLOGY

1. The Hon. Omboko Milemba, CBS, MP - Member
2. The Hon. (CPA) Kuria Kimani, CBS, MP - Member
3. The Hon. (Dr.) Ariko Namoit, MP - Member
4. The Hon. Mark Nyamita, M.P. - Member
5. The Hon. (Dr.) Irene Kasalu, MP - Member

SENATE

1. Sen. Allan Chesang', MP - Vice Chairperson
2. Sen. Wakili Hillary Sigei, CBS, MP - Member
3. Sen. Julius Murgor, MP - Member
4. Sen. Esther Okenyuri, MP - Member

ABSENT WITH APOLOGY

1. Sen. Catherine Muma, MP - Member
2. Sen. Raphael Chimera, MP - Member
3. Sen. Issa Boy Juma, MP - Member
4. Sen. Eddy Oketch, CBS, MP - Member
5. Sen. Beatrice Akinyi Ogola, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Adan Gindicha - Principal Clerk Assistant I/ H.O.D
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Said Wako - Serjeant At Arms

SECRETARIAT FROM THE SENATE

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II

4. Ms. Ndindi Kibathi - Research Officer III
5. Mr. Patrick Murindo - Serjeant At Arms

MIN. NO. 8/2025 PRELIMINARIES

The meeting was called to order at 11.30 am and opened with a word of prayer.

MIN. NO. 9/2025 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Hon. Kwenya Thuku, M.P. and seconded by the Sen. Wakili Hillary Sigei, CBS, MP as follows –

1. Prayer;
2. Introductions;
3. Adoption of the Agenda;
4. Remarks by the Chairperson and Vice Chairperson;
5. **Consideration of the Gambling Control Bill, (National Assembly Bills No 70 of 2023);**
6. Any Other Business; and
7. Adjournment.

MIN. NO. 10/2025 REMARKS BY THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

The Chairperson highlighted on the need to conclude discussions on the Bill and table the Committee's Report in both Houses at the earliest time possible.

MIN. NO. 11/2025 CONSIDERATION OF THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023

1. The Committee resumed consideration of the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and commenced consideration of the matrix on the Clauses that are under mediation. The National Assembly Legal Counsel guided Members through the matrix; and made the following resolutions -

No.	Clause	Senate Amendment	Analysis	Resolution Of the Mediation Committee	Justification
1.	**New Clause 66A**	**Gaming tax.** (1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of the gaming revenue. (2) The tax shall be paid to the Collector by a person carrying on a gaming business on the 20th day of the month following the month of collection.	The amendment seeks to introduce a gaming tax at the rate of 15%.	The Committee resolved to retain the provision as passed by the National Assembly.	**Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.** **Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.** **In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the**

					provisions of sections 29A *(Betting tax- 15%)*, 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill. **The mediation committee therefore resolved to negative the proposed Senate amendment.**
2.	**69**	**Online gambling transaction.** ~~An online gambling transaction shall commence when a player's account is debited with an amount of a bet and shall conclude when a player's account is credited with an amount of winnings in the case of a winning bet or when a player loses the game.~~ **An online gambling transaction shall commence when a player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.**	The amendment seeks to amend the commencement and conclusion time of an online gambling transaction. In terms of the amendment, an online gambling transaction shall commence at the time of deposit of money into a gaming account, and shall	The Mediation Committee resolved to retain the provision as passed by the National Assembly	**Section 4 of the Excise Duty Act, Cap. 472 provides for the time of supply in respect to excisable goods. Subsection (1A) provides that in relation to a betting transaction, the time of supply shall be the time when a person wagers or stakes money on a platform or other medium provided by a bookmaker.**

			conclude at the time of withdrawal of money from a gaming account.		**The Senate amendment therefore conflicts with the provisions of the Excise Duty Act, Cap. 472.** **The mediation committee therefore resolved to negative the proposed Senate amendment.**
3.	71	**Minimum amount a person can bet online.** (1) A player in an online gambling activity shall not bet an amount of less than twenty shillings in a competition. (2) The minimum amount set under subsection (1) shall be inclusive of such saving component for the player as shall be determined by the Authority in consultation with the Cabinet Secretary. (3) An operator who permits a person to engage in an online gambling activity for an amount less than the amount prescribed under subsection (1) commits an offence and shall be liable upon conviction to a fine of not less than ~~five million~~ **fifty thousand** shillings or to imprisonment for a term not exceeding five years, or to both.	The amendment seeks to reduce the penalty for the offence of permitting online gambling for an amount less than 20 shillings, from above 5 million shillings to above 50,000 shillings.	The Mediation Committee resolved to retain the provision as passed by the National Assembly	**The Committee noted that while a fine of not less than five million shillings may be too punitive, a lower limit of fifty thousand shillings may be too lenient.** **The mediation committee therefore resolved to negative the proposed Senate amendment.**
4.	79	**Restriction on foreign operators.** (1) A gambling operator based in a foreign	The amendment seeks to–	The Mediation Committee agreed to the Amendment by the	**Clause 79 provides for the conditions to be fulfilled by a foreign gambling**

		country shall only be issued with an online gambling licence where the operator— (a) is registered in Kenya; (b) has a physical address registered in Kenya; ~~(c) intends to carry on the online gambling business in Kenya; and~~ (d) meets the requirements prescribed by the Authority in regulations. (2) In addition to the requirements under subsection (1), a gambling operator based in a foreign country shall be required to provide its audited books of accounts for the immediately preceding year. (3) A foreign based gambling operator who provides online gambling services in Kenya without a licence commits an offence and shall, upon conviction— (a) in the case of a natural person, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both; or (b) in the case of a corporate person, be liable to a fine not exceeding fifty million shillings. **(4) Notwithstanding the provisions of**	(a) remove the requirement that for a foreign gambling operator to be licensed in Kenya, they must intend to carry on the online gambling business in Kenya; and (b) provide that a foreign gambling operator shall be exempt from the provisions of clause 29 (requirements for licensing) and 40 (security for gambling activity).	Senate Retain subclause 1(c) and delete subclause 4 & 5 which will be contradictory to 1 (c)	**operator that seeks to be issued with a licence by the Authority.** **It follows that a foreign gambling operator seeking a licence from the Authority would seek a licence with the objective of carrying out online gambling business in Kenya, hence the requirement of paragraph (c).** **The proposed new sub-clause (4) conflicts with the provisions of sub-clause (1)(c). Further, it would be futile for a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya to apply for a licence to the Authority.** **Clause 40 provides for security for gambling activity to be deposited by all licensed gambling**

		subsection (1), a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya, may apply for a licence to the Authority under this section. **(5) A foreign based operator who applies for a licence under subsection (3) shall be exempt from the requirements under sections 29 and 40.**			**operators. The Third Schedule to the Bill provides for the actual amounts to be deposited in respect of each type of gambling, including online gambling. The Senate has not provided a justification of why a foreign online gambling company should be exempted from this provision.**
5.	**New Clause 82A**	**Prize competition tax.** (1) There shall be a tax to be known as 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. (2) The tax shall be paid to the Collector by the licensed person on the 20th day of the month following the month of collection.	The amendment seeks to introduce a prize competition tax at the rate of 15%.	The Mediation Committee resolved to retain the provision as passed by the National Assembly	**Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.** **Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be**

					introduced through a subsequent Finance Bill. In as much as the Bill proposes to repeal the existing Betting, Lotteries and Gaming Act, Cap. 131, Clause 121(6) of the Bill provides that the provisions of sections 29A *(Betting tax- 15%)*, 44A *(Lottery tax- 15%)*, 55A *(Gaming tax- 15%)* and 59B *(Prize competition tax- 15%)* of the repealed Act shall continue to be in force until new provisions are enacted. There will therefore be no lacuna that will arise as a result of the non-inclusion of the provisions in the Bill. The mediation committee therefore resolved to negative the proposed Senate amendment.

6.	87	**Advertisement of gambling.** (1) 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— (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling; (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place; (c) printing or publishing, or causing to be printed or published, any advertisement or notice; (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling; (e) 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. (2) A gambling advertisement shall— (a) indicate the addictive nature of gambling;	The amendment seeks to– (a) remove the restriction that a gambling advertisement shall not be broadcasted on television between 6am and 10pm unless it is done in a live sporting event; and (b) reduce the penalty for the offence of contravening the provisions on advertisement of gambling, from 20 million shillings to 1 million shillings, and imprisonment from 20 years to 1 year.	Amend and delete 2 (e) The Mediation Committee resolved to retain the sub-clause 4	**Analysis:** **The Committee noted that the objective of the restriction on the hours of gambling advertisement is to discourage gambling which is a social vice. Removing the restriction from the Bill would lead to the unregulated advertisement air-time on television which would subsequently increase the social vice.** **The Committee further notes that the penalty proposed by the Senate for the contravention of provisions on gambling advertisement is too low.** **The mediation committee therefore resolved to –** (i) **adopt the Senate amendment to delete the proposed sub-clause 2(e); and** (ii) **negatived the proposed Senate**

		(b) notify players to play responsibly; (c) prohibit children from playing; (d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling; ~~(e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;~~ (f) not be erected on an advertisement billboard of close proximity to a learning institution; and (g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling. (3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for— (a) the circumstances under which the national lottery and licensed gambling activities may be advertised; (b) information that is to appear in an advertisement; (c) the places where, circumstances or manner in which signs relating to a national lottery or gambling activity may be displayed; (d) conditions requiring advertisements			**amendment to delete sub-clause 4.**

		about the gambling service authorised by the licence including— (i) publication only to certain classes of persons; (ii) the content which may require specified words to be included in the advertisement; (iii) content not to be included in an advertisement; (iv) content not to be published in certain types of publications or media; and (v) requirement for the content of the advertisement to be approved by the Authority. ~~(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years, or to both.~~ **(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.**			
7.	**New Clause 117A**	**Operating hours.** A licensed betting, gambling, lottery or gaming	The amendment seeks to introduce a new	The Mediation Committee resolved to	**Analysis:**

		premise shall operate between ten o'clock in the evening and five o'clock in the morning.	clause in the Bill providing for the operating hours of betting, gambling, lottery or gaming premises, which shall be between 10pm and 5am. .	retain the provision as passed by the National Assembly and delete New clause 117A	**The Committee noted that the imposition of operating hours of gambling premises may not be practical owing to the fact that the restriction would not apply in respect of online gambling.** **Further, the Committee may consider amending clause 11(2) to provide operating hours as one of the matters in respect of which the Cabinet Secretary shall issue gambling operating guidelines** **The mediation committee therefore resolved to negative the new clause 117A.**
8.	**119**	**Power to make Regulations.** (1) The Cabinet Secretary shall, in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.	The amendment seeks to remove the conduct of a national lottery and national lottery rules form among the matters	The Mediation Committee resolved to retain the provision as passed by the National Assembly	**<u>Analysis:</u>** **The intention of the Bill is to ensure that the Gambling Regulatory Authority shall be the**

		(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for— (a) the procedure to be followed by the Authority in exercising any powers conferred upon it by this Act; (b) the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act; (c) the conduct of casinos, gambling machines and online gambling; ~~(d) the conduct of a national lottery;~~ (e) standardization of gambling machines; (f) the location and distribution of lotteries and gambling; ~~(g) national lottery rules;~~ (h) fees and levies charged under this Act; (i) the form and manner in which returns or statements of accounts shall be furnished to the Authority; (j) proximity of gambling premises and advertisements to learning institutions; (k) protection of winners; and (l) guidelines for gambler exclusion mechanisms including self-exclusion,	which the Cabinet Secretary shall have power to make regulations.		**overall overseer of matters to do with betting, gaming and lotteries, including the national lottery. Clause 10(a) of the Bill provides that the Authority shall develop standards and norms for betting, lotteries, casinos and other forms of gambling.** **It is therefore envisaged that as the Board develops standards for lotteries, it shall also, in consultation with the Cabinet Secretary, make regulations with respect to the conduct of a national lottery.** **The mediation committee therefore negatived the Senate amendments to the clause.**

		venue-initiated request for exclusion, court ordered exclusions and request by families or initiated parties. (3) For purposes of Article 94(6) of the Constitution— (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act; (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section; and (c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act, 2013.			
9.	**123**	**Consequential amendments.** **(1)** The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended in the First Schedule by deleting paragraph (c) and substituting therefor the following new paragraph– "(c) Gambling Regulatory Authority;"	The amendment seeks to– (a) amend the Kenya Revenue Authority Act, Cap. 469 to include the	Uphold the sub-clause 1 & 2 and delete sub-clause 3, 4 & 5	**Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article**

		(2) The Kenya Revenue Authority Act is amended in Part II of the First Schedule by deleting paragraph 7 and substituting therefor the following new paragraph– **7. The Gambling Control Act.** **(3) The Income Tax Act is amended–** **(a) by deleting section 10(1)(g); and** **(b) in the Third Schedule, Head B, by deleting–** **(i) paragraph 3(i); and** **(ii) paragraph 5(i).** **(4) The Excise Duty Act is amended in Part II of the First Schedule by deleting paragraphs 4A, 4B, 4C and 4D.** **(5) The National Lottery Act is amended by inserting the following new clause immediately after clause 52–** Regulations. **53. (1) The Cabinet Secretary ma Board, make regulations generall into effect of any provisions under t** **(2) Without prejudice to the for under thus section may provide for-** **(a) the procedure to be foll exercising any powers confe** **(b) the conduct of a national lot** **(c) apportionment of the procee**	Gambling Control Act (once enacted) as one of the written laws relating to revenue; (b) amend the Income Tax Act, Cap. 470– (i) to exclude winnings from the definition of an income; (ii) to remove the non-resident tax rate in respect of winnings (20%); (iii)to remove the resident withholding tax rate in respect of winnings (20%); (c) amend the Excise Duty Act, Cap. 472 to remove the excise duty in respect of betting, gaming, prize competition and		**114.** **Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.** **The National Lottery Act, No. 20 of 2023 is an Act of Parliament providing for the establishment of a national lottery at the national government level.** **Article 109(3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly. This therefore means that amendments to an Act concerning the national**

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<td>(d) procedure for the sale of tic
payment of prizes;
(e) announcement and protec
national lottery;
(f) the circumstances under w
may be advertised; and
(g) the places where, circumsta
signs relating to a national l</td>
<td>lottery (12.5%); and
(d) amend the National Lottery Act, No. 20 of 2023 to introduce a provision on regulations.</td>
<td></td>
<td>government may only be introduced in the National Assembly.
The Mediation Committee resolved to—
(i) uphold the consequential amendments under sub-clauses (1) and (2).
(ii) negatived the consequential amendments under sub-clauses (3), (4) & (5)</td>
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<td>10.</td>
<td>Third Schedule</td>
<td>THIRD SCHEDULE (s. 40(1))
Gambling Security
<table>
<tr><th>Type of Gambling</th><th>Amount (Shillings)</th></tr>
<tr><td>(a) Casinos including public Gambling for conducting tables and slots machines</td><td>20,000,000</td></tr>
<tr><td>(b) online Gambling</td><td><s>200,000,000</s>
20,000,000-</td></tr>
<tr><td>(c) National lottery</td><td><s>200,000,000</s></td></tr>
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<td>The amendment seeks to reduce the security required in respect to online gambling and the national lottery, from 200 million shillings to 20 million shillings.</td>
<td>The Mediation Committee agreed on a figure of 100m Kshs. As Gambling security.</td>
<td>The Committee noted that both online gambling and the national lottery would cover a wider scope of players as compared to physical gambling premises, therefore there is need to ensure that the security for online gambling and the national lottery is higher than that required for other forms of gambling.</td>
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			20,000,000–			
		(d) Totalisator	5,000,000			
		(e) Prize competition	5,000,000			
		(f) Non-online Gambling including non-online bookmakers, non-online casinos, non-online lotteries	20,000,000			
		(g) Amusement with prizes	200,000			
		(h) A premise or a shop operating under a licence of online Gambling including online bookmaker, online casino and online lottery	500,000			
						The Committee therefore resolved to negatie the Senate amendment and set the amounts under Paragraph (b) and (c) to 100 million shillings.

MIN. NO. 12/2024 ANY OTHER BUSINESS

The Committee resolved to relook into Clauses 31 & 79 in the following Sitting.

MIN. NO. 13/2024 ADJOURNMENT

The Chairperson adjourned the meeting at eight minutes past one o'clock. The date of the next meeting will be communicated by notice.

SIGNED: .....

THE HON. DANIEL WANYAMA SIATATI, M.P.

(CHAIRPERSON)

DATE: 24/4/2025

REPUBLIC OF KENYA
13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 3RD SITTING OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023) HELD ON WEDNESDAY, 23RD APRIL, 2025 AT 11.00 A.M., IN COMMITTEE ROOM 16, THIRD FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. The Hon. Daniel Wanyama, CBS, MP - Chairperson
2. The Hon. (CPA) Kuria Kimani, CBS, MP - Member - Chairing
3. The Hon. BSP. (EM) Dr. Jackson Kosgei, M.P. - Member
4. The Hon. Dominic Letipila, M.P. - Member
5. The Hon. Kwenya Thuku, M.P. - Member

ABSENT WITH APOLOGY

1. The Hon. Omboko Milemba, CBS, MP - Member
2. The Hon. (Dr.) Ariko Namoit, MP - Member
3. The Hon. Mark Nyamita, M.P. - Member
4. The Hon. (Dr.) Irene Kasalu, MP - Member

SENATE

1. Sen. Allan Chesang', MP - Vice Chairperson (Virtual)
2. Sen. Wakili Hillary Sigei, CBS, MP - Member (Virtual)
3. Sen. Issa Boy Juma, MP - Member (Virtual)
4. Sen. Eddy Oketch, CBS, MP - Member
5. Sen. Julius Murgor, MP - Member (Virtual)
6. Sen. Raphael Chimera, MP - Member (Virtual)
7. Sen. Esther Okenyuri, MP - Member (Virtual)

ABSENT WITH APOLOGY

1. Sen. Catherine Muma, MP - Member
2. Sen. Beatrice Akinyi Ogola, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Adan Gindicha - Principal Clerk Assistant I/ H.O.D
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Eugene Luteshi - Audio Assistant Officer

SECRETARIAT FROM THE SENATE

1. Ms. Mwanate Shaban - Principal Clerk Assistant II (Virtual)
2. Mr. Jackson Wekesa - Legal Counsel II (Virtual)
3. Ms. Ndindi Kibathi - Research Officer III (Virtual)
4. Mr. Patrick Murindo - Serjeant At Arms
5. Mr. Joseph Otieno - Audio Assistant Officer

MIN. NO. 14/2025 PRELIMINARIES

The acting Chairperson called the meeting to order at 10.30 am and opened with a word of prayer.

MIN. NO. 15/2025 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Hon. Kwenya Thuku, M.P. and seconded by the Sen. Wakili Hillary Sigei, CBS, MP as follows –

1. Prayer;
2. Preliminaries;
   i. Adoption of the Agenda;
   ii. Confirmation of Minutes of the previous Sittings
   iii. Matters Arising.
3. **Consideration of clauses 31 & 79 of the Bill**
4. **Consideration and Adoption of a Report on the Gambling Control Bill, (National Assembly Bills No 70 of 2023);**
5. Any Other Business; and
6. Adjournment.

MIN. NO. 16/2025 REMARKS BY THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

The Ag. Chairperson informed the Committee that the main agenda of the meeting was the Consideration of clauses 31 & 79 of the Bill; in addition to consideration and adoption of the report on the Gambling Control Bill, (National Assembly Bills No 70 of 2023). He also requested that Clause 87 be recommitted.

MIN. NO. 17/2025 CONFIRMATION MINUTES OF THE PREVIOUS OF SITTING

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN. NO. 18/2025 CONSIDERATION OF CLAUSES 31, 79 & 87 OF THE BILL

The Committee considered the following clauses under the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and made the following resolution

No.	Clause	Senate Amendment	Analysis	Resolution Of the Mediation Committee	Justification
1.	31	**Renewal of a licence.** (1) The Authority may, on application by a licensee, renew a licence for a further period provided for in subsection (3). (2) An application under this section shall— (a) be made in the prescribed form and forwarded to the Authority together with the prescribed fee; (b) be lodged with the Authority at least three months prior to the expiry of the licence; and (c) be considered in accordance with the provisions of section 30. (3) A gambling licence issued under this section shall be valid for a period of ~~twelve~~ **thirty six** months from the date of issue or for such other period as may be prescribed in regulations.	The amendment seeks to extend the validity period of a gambling license from 12 months to 36 months.	The Committee agreed with the Senate Amendment	**To allow operators more flexibility**
2.	79	**Restriction on foreign operators.** (1) A gambling operator based in a foreign country shall only be issued with an online gambling licence where the operator— (a) is registered in Kenya;	The amendment seeks to– (a) remove the requirement that for a foreign gambling	Retain the provision as passed by the National Assembly	**Clause 79 provides for the conditions to be fulfilled by a foreign gambling operator that seeks to be issued with a licence by**

		(b) has a physical address registered in Kenya; ~~(c) intends to carry on the online gambling business in Kenya; and~~ (d) meets the requirements prescribed by the Authority in regulations. (2) In addition to the requirements under subsection (1), a gambling operator based in a foreign country shall be required to provide its audited books of accounts for the immediately preceding year. (3) A foreign based gambling operator who provides online gambling services in Kenya without a licence commits an offence and shall, upon conviction— (a) in the case of a natural person, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both; or (b) in the case of a corporate person, be liable to a fine not exceeding fifty million shillings. **(4) Notwithstanding the provisions of subsection (1), a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya, may apply for a licence to the Authority under this**	operator to be licensed in Kenya, they must intend to carry on the online gambling business in Kenya; and (b) provide that a foreign gambling operator shall be exempt from the provisions of clause 29 (requirements for licensing) and 40 (security for gambling activity).		**the Authority.** **It follows that a foreign gambling operator seeking a licence from the Authority would seek a licence with the objective of carrying out online gambling business in Kenya, hence the requirement of paragraph (c).** **The proposed new sub-clause (4) conflicts with the provisions of sub-clause (1)(c). Further, it would be futile for a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya to apply for a licence to the Authority.** **Clause 40 provides for security for gambling activity to be deposited by all licensed gambling operators. The Third Schedule to the Bill**

		section. **(5) A foreign based operator who applies for a licence under subsection (3) shall be exempt from the requirements under sections 29 and 40.**			**provides for the actual amounts to be deposited in respect of each type of gambling, including online gambling. The Senate has not provided a justification of why a foreign online gambling company should be exempted from this provision.**
3.	87	**Advertisement of gambling.** (1) 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— (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling; (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place; (c) printing or publishing, or causing to be printed or published, any advertisement or notice; (d) using a prominent personality or celebrity, public vehicle or lifestyle	The amendment seeks to– (a) remove the restriction that a gambling advertisement shall not be broadcasted on television between 6am and 10pm unless it is done in a live sporting event; and (b) reduce the penalty for the offence of contravening the provisions on advertisement of	The Mediation Committee resolved to retain the sub-clause 4, thus retaining the amendment by the National Assembly	**Analysis:** **The Committee noted that the objective of the restriction on the hours of gambling advertisement is to discourage gambling which is a social vice. Removing the restriction from the Bill would lead to the unregulated advertisement air-time on television which would subsequently increase the social vice.** **The Committee further notes that the penalty proposed by the Senate for the contravention of**

		advertising to promote gambling; (e) 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. (2) A gambling advertisement shall— (a) indicate the addictive nature of gambling; (b) notify players to play responsibly; (c) prohibit children from playing; (d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling; ~~(e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;~~ (f) not be erected on an advertisement billboard of close proximity to a learning institution; and (g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling. (3) The Cabinet Secretary may, in consultation	gambling, from 20 million shillings to 1 million shillings, and imprisonment from 20 years to 1 year.		**provisions on gambling advertisement is too low.** **The mediation committee therefore resolved to –** (i) **adopt the Senate amendment to delete the proposed sub-clause 2(e); and** (ii) **negatived the proposed Senate amendment to delete sub-clause 4.**

		with the Authority, make regulations providing for— (a) the circumstances under which the national lottery and licensed gambling activities may be advertised; (b) information that is to appear in an advertisement; (c) the places where, circumstances or manner in which signs relating to a national lottery or gambling activity may be displayed; (d) conditions requiring advertisements about the gambling service authorized by the licence including— (i) publication only to certain classes of persons; (ii) the content which may require specified words to be included in the advertisement; (iii) content not to be included in an advertisement; (iv) content not to be published in certain types of publications or media; and (v) Requirement for the content of the advertisement to be approved by the Authority. ~~(4) A person who contravenes the provisions of this section commits an offence and shall, on~~			

		~~conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years, or to both.~~ **(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.**			

MIN. NO. 19/2024 **ANY OTHER BUSINESS**

The Committee resolved to relook into Clauses 31 & 79 in the following Sitting.

MIN. NO. 20/2025 **ADJOURNMENT**

The Chairperson adjourned the meeting at 12.05 p.m. until 2.30 p.m. on the same day.

SIGNED: .....

THE HON. DANIEL WANYAMA SIATATI, M.P.

(CHAIRPERSON)

DATE: 24/4/2025

REPUBLIC OF KENYA
13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 4TH SITTING OF THE MEDIATION COMMITTEE ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023) HELD ON WEDNESDAY, 23RD APRIL, 2025 AT 2.40 P.M., IN COMMITTEE ROOM 16, THIRD FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. The Hon. Daniel Wanyama, CBS, MP - Chairperson
2. The Hon. (CPA) Kuria Kimani, CBS, MP - Member - Chairing
3. The Hon. (Dr.) Ariko Namoit, MP - Member
4. The Hon. BSP. (EM) Dr. Jackson Kosgei, M.P. - Member
5. The Hon. Dominic Letipila, M.P. - Member
6. The Hon. Kwenya Thuku, M.P. - Member
7. The Hon. (Dr.) Irene Kasalu, MP - Member

ABSENT WITH APOLOGY

1. The Hon. Omboko Milemba, CBS, MP - Member
2. The Hon. Mark Nyamita, M.P. - Member

SENATE

1. Sen. Allan Chesang', MP - Vice Chairperson
2. Sen. Wakili Hillary Sigei, CBS, MP - Member
3. Sen. Issa Boy Juma, MP - Member
4. Sen. Julius Murgor, MP - Member
5. Sen. Raphael Chimera, MP - Member
6. Sen. Esther Okenyuri, MP - Member

ABSENT WITH APOLOGY

1. Sen. Catherine Muma, MP - Member
2. Sen. Beatrice Akinyi Ogola, MP - Member
3. Sen. Eddy Oketch, CBS, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Adan Gindicha - Principal Clerk Assistant I/ H.O.D
2. Ms. Mary Kinyunye - Clerk Assistant III
3. Ms. Christine Odhiambo - Senior Legal Counsel
4. Mr. Eugene Luteshi - Audio Assistant Officer

SECRETARIAT FROM THE SENATE

1. Ms. Mwanate Shaban - Principal Clerk Assistant II
2. Ms. Florence Waweru - Clerk Assistant II
3. Mr. Jackson Wekesa - Legal Counsel II

4. Ms. Ndindi Kibathi - Research Officer III
5. Mr. Patrick Murindo - Serjeant- at- Arms
6. Mr. Joseph Otieno - Audio Assistant Officer

MIN. NO. 21/2025 PRAYER AND PRELIMINARIES

The meeting commenced at 2.40 p.m with a word of prayer.

The Chairperson then informed the Committee that the main agenda of the meeting was to consider and adopt the report on the mediated version of the Gambling Control Bill, (National Assembly Bills No 70 of 2023).

MIN. NO. 22/2025 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Sen. Allan Chesang', MP, and seconded by the Hon. Dominic Letipila, M.P.

MIN. NO. 23/2025 CONFIRMATION MINUTES OF THE PREVIOUS OF SITTING

The following Minutes were confirmed as true record of the proceedings as follows –

i. Minutes of the 1st Sitting held on 17th April, 2025 were confirmed as a true record of deliberations having been proposed by the Hon. Kwenya Thuku, M.P. and seconded by Sen. Julius Murgor, MP.

ii. Minutes of the 2nd Sitting held on 22nd April, 2025 were confirmed as a true record of deliberations having been proposed by Sen. Allan Chesang', MP and seconded by the Hon. BSP. (EM) Dr. Jackson Kosgei, M.P.

iii. Minutes of the 3rd Sitting held on 23rd April, 2025 were confirmed as a true record of deliberations having been proposed by the Hon. (Dr.) Irene Kasalu, MP and seconded by the Hon. (CPA) Kuria Kimani, CBS, MP.

MIN. NO. 24/2025 CONSIDERATION AND ADOPTION OF REPORT ON THE MEDIATED VERSION OF GAMBLING CONTROL BILL, (NATIONAL ASSEMBLY BILLS NO 70 OF 2023);

The Mediation Committee agreed on the following contentious Clauses: 5, 7, 10, 11, 28, 31, New Clause 57, New Clause 63A, 64, 66, New Clause 66A, 69, 71, 79, New Clause 82A, 87, New Clause 117A, 119, 123, and Section 40(1) of the Third Schedule. The mediated versions of each of the Clauses is contained in the attached schedule.

Consequently, the Committee adopted its Mediation Report on the Gambling Control Amendment Bill (National Assembly Bills No. 70 of 2023 having been proposed by the . Hon. (Dr.) Ariko Namoit, MP and seconded by the Hon. (Dr.) Irene Kasalu, MP.

MIN. NO. 26/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at ten minutes past three O'clock. The date of the next meeting will be communicated by notice.

SIGNED: .....

THE HON. DANIEL WANYAMA SIATATI, M.P.

(CHAIRPERSON)

DATE: 24/4/2025

ANNEX 3(a):

COMMUNICATION FROM THE SPEAKER OF THE NATIONAL ASSEMBLY.

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - FOURTH SESSION

THE NATIONAL ASSEMBLY

MESSAGES

MESSAGE TO THE SENATE

(No. 003 of 2025)

SUBJECT: DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO.70 OF 2023)

PURSUANT to the provisions of Standing Order 41(1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly—

WHEREAS, on 6th December 2023, the National Assembly passed the Gambling Control Bill (National Assembly Bill No.70 of 2023) and thereafter referred the Bill to the Senate for consideration in accordance with the provisions of Article 110(4) of the Constitution;

AND WHEREAS, on 8th October 2024 the Senate considered and passed the said Bill with amendments and referred it back to the National Assembly for reconsideration in accordance with the provisions of Article 112(1)(b) of the Constitution;

FURTHER WHEREAS, on 16th January 2025, the National Assembly **negatived** a Motion on consideration of the Senate Amendments to the Gambling Control Bill (National Assembly Bill No.70 of 2023), thereby committing the Bill to a mediation committee in accordance with the provisions of Article 112(2)(b) of the Constitution;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Orders 41(1) and 148(b) of the National Assembly Standing Orders, I hereby **convey** the said decision of the National Assembly to the Senate and seek the appointment of nine (9) Senators to a mediation committee to consider the Bill in accordance with Article 113 of the Constitution.

Wetang'ula

THE RT. HON. (DR.) MOSES F. M. WETANG'ULA, EGH, MP

SPEAKER OF THE NATIONAL ASSEMBLY

12th March 2025

Ms. Kiarie (CA III)
Please deal.
I-Mbaya
12-03-2025

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12th March 2025

Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

DC(MA)
Please process.
12/03/25

Dear Distinguished Colleagues,

RE: DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO.70 OF 2023)

The above-mentioned subject matter refers.

Attached herewith, please find a Message in respect of the **decision** by the National Assembly on the Senate amendments to the Gambling Control Bill (National Assembly Bill No.70 of 2023).

Consequent to the said decision, the Speaker of the National Assembly has appointed the following Members to a Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution—

(1) The Hon. Daniel Wanyama, CBS, MP;
(2) The Hon. Omboko Milemba, CBS, MP;
(3) The Hon. (CPA) Kuria Kimani, CBS, MP;
(4) The Hon. (Dr.) Jackson Kosgei, MP;
(5) The Hon. Dominic Letipila, MP;
(6) The Hon. Kwenya Thuku, MP;
(7) The Hon. (Dr.) Ariko Namoit, MP;
(8) The Hon. Mark Nyamita, MP; and,
(9) The Hon. (Dr.) Irene Kasalu, MP.

(2) DLPS
Please deal
MA
13/3/25

I have also enclosed copies of the respective Order Paper, the Votes and Proceedings and the Hansard Report, for your reference.

Yours Sincerely,

Samuel Njoroge, CBS
CLERK OF THE NATIONAL ASSEMBLY

//: Encls.

(3) Mr. Amolo (ODLPS)
Pls deal accordingly
12/3/25

ANNEX 3(b):

COMMUNICATION FROM THE SPEAKER OF THE SENATE.

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

MESSAGE FROM THE NATIONAL ASSEMBLY

DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

Honourable Senators,

I wish to report to the Senate that I have, pursuant to Standing Order 46 (3), received the following Message from the Speaker of the National Assembly regarding the **decision** of the National Assembly on the Senate amendments to the Gambling Control Bill (National Assembly Bill No. 70 of 2023).

The Message, dated Wednesday, 12th March, 2025, was received in the Office of the Clerk of the Senate on the same day.

Pursuant to Standing Order 46(4), I now report the Message –

*"**PURSUANT** to the provisions of Standing Order 41(1) and 148 (b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly—*

***WHEREAS,** on Wednesday, 6th December 2023, the National Assembly passed the Gambling Control Bill (National Assembly Bill No. 70 of 2023) and thereafter referred the Bill to the Senate for consideration in accordance with Article 110(4) of the Constitution;*

***AND WHEREAS**, on Tuesday, 8th October, 2024, the Senate considered and passed the said Bill with amendments and referred it back to the National Assembly in accordance with the provisions of Article 112(1)(b) of the Constitution;*

***FURTHER WHEREAS**, on Thursday, 16th January 2025, the National Assembly **negatived** a Motion on consideration of the Senate amendments to the Gambling Control Bill (National Assembly Bill No. 70 of 2023), thereby committing the Bill to a Mediation Committee in accordance with the provisions of Article 112(2)(b) of the Constitution;*

***NOW THEREFORE**, in accordance with the provisions of Article 112 of the Constitution and Standing Orders 41(1) and 148(b) of the National Assembly Standing Orders, I hereby **convey** the said decision of the National Assembly to the Senate and seek the appointment of nine (9) Senators to a Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution."*

Honourable Senators,

Consequent to the said decision, the Speaker of the National Assembly appointed the following Members of the National Assembly to the Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution –

(1) Hon. Daniel Wanyama, CBS, MP;
(2) Hon. Omboko Milemba, CBS, MP;
(3) Hon. (CPA) Kuria Kimani, CBS, MP;
(4) Hon. (Dr.) Jackon Kosgei, MP;
(5) Hon. Dominic Letipila, MP;
(6) Hon. Kwenya Thuku, MP;
(7) Hon. (Dr.) Ariko Namoit, MP;
(8) Hon. Mark Nyamita, MP; and
(9) Hon. (Dr.) Irene Kasalu, MP.

Honourable Senators,

Pursuant to the provisions of Standing Order 166 (2) of the Senate, and in consultation with the Senate Majority Leader and Senate Minority Leader, I will, at an appropriate time, appoint Senators to the Mediation Committee.

I thank you.

RT. HON. AMASON JEFFAH KINGI, EGH, MP
SPEAKER OF THE SENATE

13th March, 2025

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

MESSAGE FROM THE NATIONAL ASSEMBLY

DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

Honourable Senators,

I wish to report to the Senate that I have, pursuant to Standing Order 46 (3), received the following Message from the Speaker of the National Assembly regarding the **decision** of the National Assembly on the Senate amendments to the Gambling Control Bill (National Assembly Bill No. 70 of 2023).

The Message, dated Wednesday, 12th March, 2025, was received in the Office of the Clerk of the Senate on Wednesday, 12th March, 2025.

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***AND WHEREAS**, on Tuesday, 8th October, 2024, the Senate considered and passed the said Bill with amendments and referred it back to the National Assembly in accordance with the provisions of Article 112(1)(b) of the Constitution;*

***FURTHER WHEREAS**, on Thursday, 16th January 2025, the National Assembly **negatived** a Motion on consideration of the Senate amendments to the Gambling Control Bill (National Assembly Bill No. 70 of 2023), thereby committing the Bill to a Mediation Committee in accordance with the provisions of Article 112(2)(b) of the Constitution;*

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Honourable Senators,

Consequent to the said decision, the Speaker of the National Assembly appointed the following Members of the National Assembly to the Mediation Committee to consider the Bill in accordance with Article 113 of the Constitution –

(1) Hon. Daniel Wanyama, CBS, MP;
(2) Hon. Omboko Milemba, CBS, MP;
(3) Hon. (CPA) Kuria Kimani, CBS, MP;
(4) Hon. (Dr.) Jackon Kosgei, MP;
(5) Hon. Dominic Letipila, MP;
(6) Hon. Kwenya Thuku, MP;
(7) Hon. (Dr.) Ariko Namoit, MP;
(8) Hon. Mark Nyamita, MP; and
(9) Hon. (Dr.) Irene Kasalu, MP.

Honourable Senators,

Pursuant to Article 113 of the Constitution and Standing Order 166 (2) of the Senate, and in consultation with the Senate Majority Leader and Senate Minority Leader, I have appointed the following Senators to the Mediation Committee –

(1) Sen. Wakili Hillary Sigei, CBS, MP;
(2) Sen. Catherine Mumma, MP;
(3) Sen. Allan Kiprotich Chesang', MP;
(4) Sen. Eddy Gicheru Oketch, MP;
(5) Sen. Julius Murgor Recha, CBS, MP;
(6) Sen. Issa Juma Boy, MP;

(7) Sen. Beatrice Akinyi Ogola, MP;
(8) Sen. Raphael Chimera Mwinzagu, MP; and
(9) Sen. Esther Anyieni Okenyuri, MP.

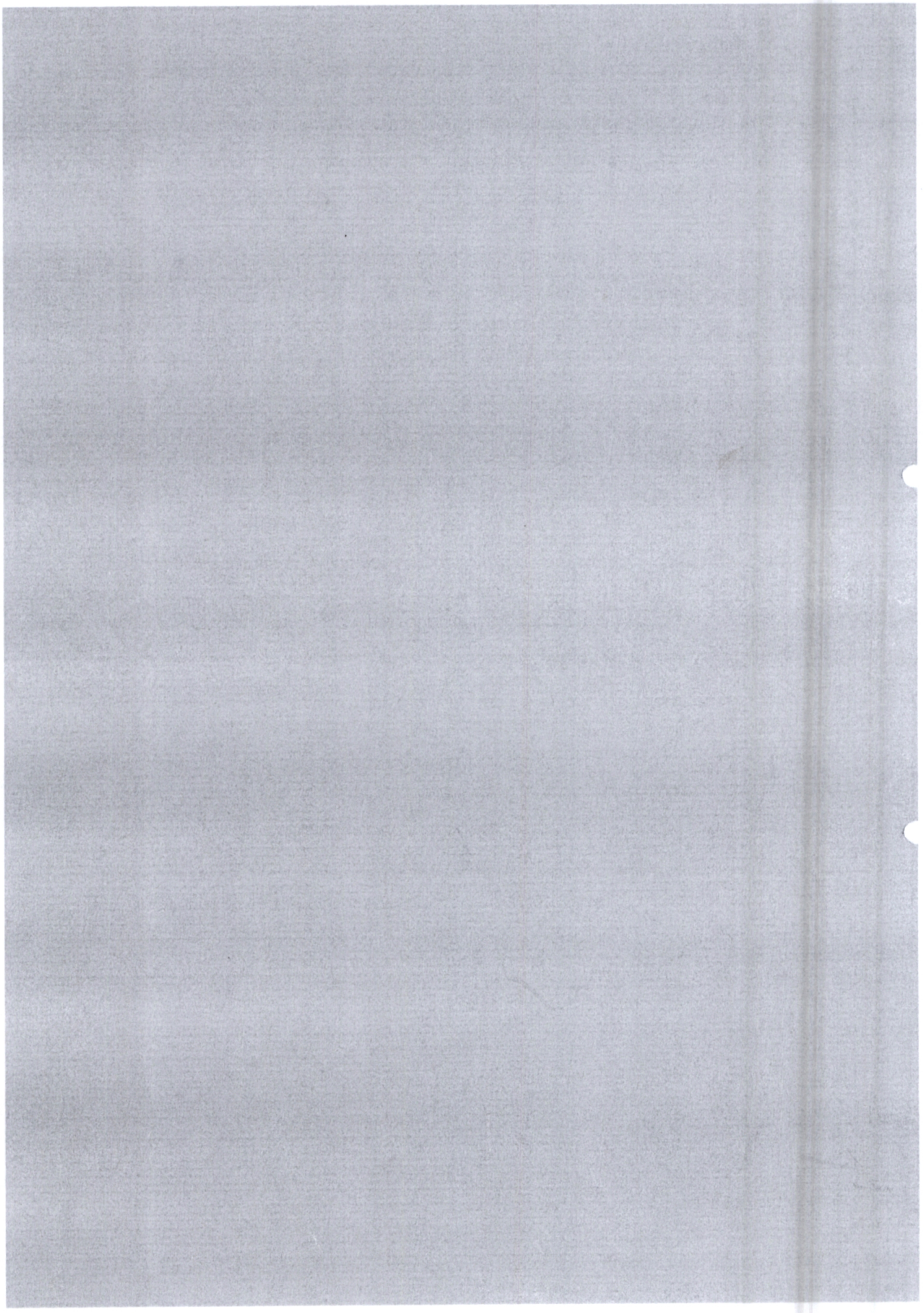
The Mediation Committee will attempt to develop a version of the Bill that both Houses will pass and table its report in both Houses of Parliament.

The House is so guided.

I thank you.

RT. HON. AMASON JEFFAH KINGI, EGH, MP
SPEAKER OF THE SENATE

19th March, 2025



ANNEX 4(a):

SENATE REPORT ON THE GAMBLING CONTROL BILL,2023

(NATIONAL ASSEMBLY BILLS NO.70 of 2023).

REPUBLIC OF KENYA

Rt. Hon. Speaker
Recommended for approval for tabling.
21/03/2024

THE SENATE

THIRTEENTH PARLIAMENT | THIRD SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE GAMBLING CONTROL BILL, 2023
(NATIONAL ASSEMBLY BILLS NO.70 of 2023)

APPROVED
RT. HON. SEN
AMASON J. KINGI
21/3/24

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ABBREVIATIONS

CAGR	-	Compound Annual Growth Rate
ODPC	-	Office of the Data Protection Commissioner
KRA	-	Kenya Revenue Authority
CRA	-	Commission on Revenue Allocation
CAF	-	County Assemblies Forum
IGRTC	-	Inter-Governmental Relations Technical Committee
CoK 2010	-	Constitution of Kenya, 2010
SRC	-	Salaries and Remuneration Commission
FAFT	-	Financial Action Task Force

PRELIMINARIES

Establishment and Mandate of the Committee

The Senate Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to - *Manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare, national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

Membership of the Committee

The Committee membership is comprised of –

1.	**Sen. Julius Murgor Recha, MP**	**- Chairperson**
2.	**Sen. George Mungai Mbugua, MP**	**- Vice Chairperson**
3.	Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP	- Member
4.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	- Member
5.	Sen. Erick Okong'o Mogeni, SC, MP	- Member
6.	Sen. Alexander Munyi Mundigi, MP	- Member
7.	Sen. Crystal Kegehi Asige, MP	- Member
8.	Sen. Miraj Abdullahi Abdulrahman, MP	- Member
9.	Sen. Gloria Magoma Orwoba MP	- Member

The Committee oversights four ministries as follows –

a) The Ministry of Labour and Social Protection,
   i) State Department for Labour and Skills Development; and
   ii) State Department for Social Protection and Senior Citizens Affairs.

b) The Ministry of Public Service, Performance and Delivery Management,
   i) State Department for Public Service; and
   ii) State Performance and Delivery Management.

c) The Ministry of Youth Affairs, Creative Economy and Sports
   i) State Department for Youth Affairs and Creative Economy
   ii) State Department for Sports

d) The Ministry of Gender, Culture, the Arts and Heritage
   i) State Department for Gender and Affirmative Action; and
   ii) State Department for Culture, the Arts and Heritage.

The Committee also oversights the **Pensions Department in the National Treasury & Economic Planning** which includes the following institutions –

a) The Retirement Benefits Authority;
b) The Local Authorities Provident Fund;
c) Public Service Superannuation Scheme; and
d) The Civil Servants Accident Claim Fund.

The Committee also oversights the following **Commissions and State Corporations**

a) The Public Service Commission;
b) The Salaries and Remuneration Commission;
c) National Gender & Equality Commission;
d) The Commissioner of Sports & Sports Registrar; and
e) Permanent Presidential Music Commission.

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Gambling Control Bill, 2023 (National Assembly Bill No. 70 0f 2023) is an ordinary Bill that originated in the National Assembly. It was read a First Time in the Senate on Wednesday 14th February, 2023 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration.

The Bill proposes 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.

Hon. Speaker,

Pursuant to Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers inviting members of the public to submit written memoranda to the Committee on the Bill. The advertisement was also posted on the Parliament website and social media platforms. Following the call for submissions, the Committee received written memoranda from stakeholders.

The Committee proceeded to consider the Bill extensively, scheduled and held meetings with various targeted stakeholders including the Kenya Revenue Authority (KRA), Commission on Revenue Allocation (CRA), Office of the Data Protection Commissioner (ODPC), County Assemblies Forum (CAF), Ministry of Youth Affairs, Creative Economy and Sports and the Betting Control and Licensing Board. The Minutes of the Committee in considering The Gambling Control Bill, 2023 (National Assembly Bill No.70 0f 2023) are annexed to this Report as ***Appendix 1***.

The Committee received amendments to the Bill from some of the above-mentioned stakeholders. This Report by the Committee is therefore an account of the deliberations, including its resolutions at Committee Stage Amendments attached to the Report as *Appendix 2*.

Hon. Speaker,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful. I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this assignment.

Hon. Speaker,

It is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders, to present the Report of the Standing Committee on Labour and Social Welfare on The Gambling Control Bill, 2023 (National Assembly Bill No. 70 0f 2023).

Signed ..... Date. Wednesday, 20th March, 2024

SEN. JULIUS MURGOR RECHA, MP

CHAIRPERSON, STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

CHAPTER ONE: INTRODUCTION

1.0 Background

1. Paragraph 34 of Part 1 of the Fourth Schedule to the Constitution assigns the function of national betting, casinos and other forms of gambling to the National government. On the other hand, paragraph 4 (a) of Part 2 of the Fourth Schedule to the Constitution assigns the function of cultural activities, public entertainment and public amenities, including betting, casinos and other forms of gambling to the county governments.

2. Under Article 186 (2) of the Constitution, a function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government. The Intergovernmental Relations Technical Committee, through *Gazette* Notice No. 8753 of 8 September 2017, clarified the responsibilities of each level of government.

3. The Kenyan gambling market is reportedly the third largest gambling market in Africa. A report by PricewaterhouseCoopers (PwC) valued the Kenyan gambling market at Kshs 202 billion in 2019. From 2020 to 2025, the market is anticipated to expand at a compound annual growth rate (CAGR) of 7.5 percent, propelled by rising popularity of on-line and mobile gaming.

4. The Gambling Control Bill, 2023 (National Assembly Bills No.70 0f 2023) is an ordinary Bill that originated in the National Assembly. It was read for the first Time in the Senate on Wednesday 14th February, 2023 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. A copy of the Bill is annexed to this Report as ***Appendix 3***.

5. Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers, inviting members of the public to submit written memoranda to the Committee on the Bill. A copy of the advertisement is attached as ***Appendix 4***. The advertisement was also posted on the Parliament website and social media platforms.

6. Following the call for submissions, the Committee received written memoranda from various stakeholders including the Kenya Revenue Authority (KRA), Commission on Revenue Allocation (CRA), Office of the Data Protection Commissioner (ODPC),

County Assemblies Forum (CAF), Ministry of Youth Affairs, Creative Economy and Sports.

7. The Bill proposes 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.

1.1 Overview of the Bill

8. The Bill purposes to:
   a) provide a framework for regulation and control of gambling activities;
   b) authorise some gambling activities and prohibit the rest as unlawful gambling;
   c) promote the development of a responsible gambling industry;
   d) minimise social harm associated with gambling;
   e) ensure integrity and fairness in licensed gambling activities; and
   f) provide for the establishment of mechanisms for resolution of disputes relating to gambling.

1.2 Consequences of the Bill

9. As prescribed in Paragraph 34 of Part 1 of the Fourth Schedule to the Constitution and paragraph 4 (a) of Part 2 of the Fourth Schedule, both the National and County governments have concurrent jurisdiction concerning national betting, casinos and other forms of gambling. The Bill seeks to clearly delineate the concurrent jurisdictions in their respective roles.

10. The Bill will facilitate the creation of the Gambling Regulatory Authority of Kenya, which is the institution tasked with regulating the industry as well as incorporating safe gambling principles and guidelines.

CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL

2.0 Committee Undertakings

12. The Committee published an advertisement in the Daily Nation and Standard newspapers, inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is annexed to this Report as ***Appendix 4***.

13. Subsequently, during consideration of the Bill, the Committee also resolved to invite additional submissions from the key stakeholders, including –

    a) Kenya Revenue Authority (KRA);
    b) Commission on Revenue Allocation (CRA);
    c) Office of the Data Protection Commissioner (ODPC);
    d) County Assemblies Forum (CAF);
    e) Ministry of Youth Affairs, Creative Economy;
    f) Council of Governors (COG);
    g) County Gaming Officers;
    h) Financial Reporting Centre;
    i) Attorney General;
    j) Betting, Control & Licensing Board; and
    k) Communications Authority of Kenya.

14. In response to the said invitations, the Committee received submissions from the stakeholders. Copies of the written submissions are attached to this Report as ***Appendix 5***. Additionally, a matrix analysing the stakeholder submissions clause-by-clause is annexed as ***Appendix 6***. The Committee proceeded to consider the Bill extensively, together with the stakeholder submissions received thereon.

2.1 Overview of Stakeholder Submissions on the Bill

15. The **Kenya Revenue Authority (KRA)** submitted as follows -

a) To provide for an administrative penalty and interest chargeable on the late remittance of tax as follows:
   i) late payment penalty of 5% of the tax due payable; and
   ii) late payment interest of 1% per month on the amount unpaid for the period commencing on the date the tax was due and ending on the date the tax is paid;

b) To provide that a Gambling Tax shall be collected in accordance with the provisions of the Tax Procedures Act Cap (*469B*) to provide for enforcement powers for the collector;

c) The Bill to provide for transitional provisions for treatment of taxes that had been due under the Betting, Lotteries and Gaming Act (*Cap131*), such that any taxes that were due and payable under the repealed law shall become due and payable as if it were assessed under the new law; and

d) Consequential amendments to the KRA Act to make references to the Gambling Control Act and not the repealed Betting, lotteries and Gaming Act.

16. The **Commission on Revenue Allocation (CRA)** submitted as follows -

a) That the ambiguous definitions in Clause 2 of the Bill be redrafted for clarity;

b) Substitution of the phrase 'single business permits' in Clause 5 with '*trade licences*' in order to align with constitutional language;

c) That counties are under-represented in the Board compared to national governments therefore CRA recommends a remedy which is to reduce the number of persons appointed by the Cabinet Secretary which is currently three to two, while adding the slot to the Council of Governors for nomination;

d) Clause 7 sub clause 3 which prescribes the term limit of the Chair and members of the Board should have a caveat phrase that their re-appointment should be based on performance in order to align with Mwongozo Code of governance for state corporations;

e) The addition of a new provision requiring the appointing authority of the Board membership to pay due regard to gender balance and representation of special interest groups to align with Article 27 of the CoK 2010;

f) Concerning the remuneration of the Board, Clause 15 should clearly state that the Cabinet Secretary in consultation with the Salaries and Remuneration Commission shall determine the remuneration;

g) Clause 16 to include the phrase "based on performance" on the eligibility of the Director General to be considered for re-appointment on conclusion of his term;

h) That the Authority is poised to have too many financial sources for instance; under Clause 21 (c), the Authority is to get 3% from the National Lottery to cater for its administrative expenses. CRA therefore proposed scrapping of this clause as well as amendment of Clause 42(1)(c) the National Lottery Bill 2023. Further a distinct 'set percentage' of the gambling levy that is going towards financing authority;
i) Harmonisation of Clause 28(a) with Clause 23(2) of the National Lottery Bill 2023 which infers that an operator is a natural person yet 28(a) requires such licensee to be a body corporate; and
j) Provide for a standardised appeal framework for county governments.

17. The **Office of the Data Protection Commissioner (ODPC)** submitted as follows -
a) Clause 28 on the requirements for licensing to include a sub clause that requires an applicant for a licence under the Bill to be a registered data controller or processor with the ODPC;
b) Clause 29(1) on application for a licence to include a sub clause requiring an applicant to provide proof of a concluded Data Protection Impact Assessment approved by the ODPC;
c) Clause 33 on the suspension of licence to include an additional ground for revocation of a licence under the Act to be a violation of the Data Protection Act 2019;
d) Clause 7 on registration of a player should include a provision that registration must comply with the principles of data protection; and
e) Clause 120 on the power to seize machines should include a clause that provides the safeguarding of all personal data contained in the seized machines.

18. The **Ministry of Youth Affairs, Creative Economy and Sports** submitted as follows -
a) Align the provisions of Section 119(1) of the Bill and Section 23 of the National Lottery Act. This is necessary for harmonisation of laws: the Income Tax Act, the Public Finance Management (Sports, Arts and Social Development Fund Regulations, 2018) the Gambling Control Bill and the National Lottery Act; and
b) That the collector shall pay all the proceeds of tax under clause 45 into the Sports Arts and Social Development Fund established under the Public Finance Management Act,2012.

19. The **Council of Governors** (COG) submitted as follows -

a) Clause 4(1) of the Bill on the functions of the National Assembly, be deleted since licensing, conducting inspections, vetting and due diligence are functions of the County Governments;
b) Clause 7 (1) to increase the number of COG nominees from one to three for sufficient representation;
c) Clause 10 (e,f,g) on the functions of the authority be deleted. The justification being that licensing of the gambling activities is a function of the County Governments. Further, the County Government should be the custodian of data at the County level, while the Authority can amalgamate data across counties to form a national database. Further, conducting checks cannot be done at a central place, in this case Nairobi. Such activities require active participation of the County Governments; and
d) Clause 39(1) to be amended to read; the County government shall keep and maintain a register of licences in such form as it may determine and shall record in the register in respect of every licence. This is because the counties are tasked with licensing.

20. The **County Gaming Officers** submitted as follows -
a) That Clause 4(1) on the National government functions should be as per the Fourth Schedule Part I (34) and Inter-Governmental Relations Technical Committee on delineation of functions of National & County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27th November, 2023. The submission contains complete rewording of the clause as evidenced in Annex 5(g);
b) That Clause 5 on the functions of the County government should be as per the Fourth Schedule Part II (4(a) and Inter-Governmental Relations Technical Committee on delineation of functions of National & County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27th November, 2023. The submission contains complete rewording of the clause as evidenced in Annex 5(g);
c) That Clause 10(b) should specify that regulation by the National government is only on '*National gambling activities*', on the grounds that the Fourth Schedule Part 1 (34) mandates the National Government to regulate only national betting, casinos and other gambling activities;
d) Deletion of Clause 10(e) as it would lead to micro-managing of the County Governments by the Authority;
e) Deletion of Clause 10(n) May also lead to micro-managing of the County Governments by the Authority;
f) That Clause 27(1)(a) should include the word '*national*' in order to comply with the fourth schedule part 1 (34). This would also avoid conflict with the county government performing the same functions under fourth schedule part II (4)(a) of the constitution;

g) Deletion of Clause 27(1)(d) since the Constitution in Fourth Schedule Part II (4) recognizes racing as a county function. The Gazette Notice 8753 on delineation of functions by IGRTC dated 8th September, 2017 recognizes totalizator licensing as a function of the county government. This would avoid conflict between the national & county governments;

h) Clause 27(1)(e) should read a '*national prize competition or cutting across the counties'* as this is as per the Fourth Schedule Part I & II of the Constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8th September, 2017;

i) Deletion of Clause 27(f) because Bingos are conducted within the counties, hence it would be in contravention with the Fourth Schedule Part II 4(a) of the constitution. The proposal would lead to conflict and double licensing by both levels of the government;

j) That Clause 27(h) should read '*national lotteries'*. Additionally, on licensing of public lottery, it should also indicate that public lotteries within the county should be licensed by the county governments as per the Fourth Schedule of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8th September, 2017. This would also avoid intergovernmental conflicts;

k) That Clause 45(3) on the proceeds of the gambling tax should include; '*..County Governments in proportion to the gambling activities in specific counties.*' Being a concurrent function, under Fourth Schedule Part 1 & 2 of the 2010 constitution, gambling tax should be shared by both levels of the governments in proportion to the functions under Gazette Notice 8753 on delineation of functions dated 8th September, 2017;

l) That Clause 46(3) be amended to reflect the same change as in Clause 45 on the use of funds by including the phrase '*and County governments';*

m) That Clause 53(4) which prescribes a one-year licensing period should be amended to make it a seven-year licence. The rationale being that the County Governments should not be limited to licensing lotteries not exceeding one year. A county lottery may require a contract of more than one year for the lottery to be economically viable;

n) That Clause 55(1) be amended to grant County governments the authority to grant licences relating to horse races, on the grounds that racing is a County function as per the Fourth Schedule of the Constitution Part II (4) (b);

o) That Clause 67(1) adds the phrase '*County Government shall issue Casino and other forms of gambling within a county.'* This is as per Fourth Schedule Part 1 (34) and II (4)(a) of the Constitution;

p) Clause 69 which grants the Authority the power to have officers present for compliance in casinos to be amended to delegate that power to the County government and its gaming officers. The rationale being that this seriously conflicts with Gazette Notice 8753. Enforcement and compliance i.e. spot checks, daily supervision of casinos, implementation of policy, standards & norms is a county function. This would avoid role conflict by both levels of governments;

q) Clause 151(1) be amended to remove the phrase '*The Authority*'. On appointment of inspectors, if both levels of government appoint inspectors, it will lead to duplication of roles. Enforcement and compliance and daily supervision of casinos is a county function as per Gazette Notice 8753 on delineation of functions;

r) Clause 120 be amended to replace 'the Authority' with the '*County Government* This should also include the county governments. This is on the ground that enforcement and compliance is a function of the county governments as per Gazette Notice 8753 dated 8th September, 2017;

s) Deletion of the Second schedule and include only charges under the national government. This is to avoid double charging and in compliance to the Fourth Schedule Part I and II and as directed by the Inter-Governmental Relations Technical Committee (IGRTC);

t) General comments that the Bill flouts the Fourth Schedule;

u) General comments that the establishment of a National Authority will lead to micro-managing of County government functions and in order to avoid any conflict, the establishment of an Authority must be re-considered; and

v) Further proposal that betting, casinos and other forms of gambling activities being a concurrent function resources from various taxes imposed must be shared in proportion to the functions at each level of the government.

21. The **Betting Control and Licensing Board** submitted as follows -

a) That the Committee consider deleting Part XI of the Bill and replacing it with the Appeals Committee as proposed. By introducing a new **Part XI – The Gambling Appeals Tribunal** to replace **The Gambling Appeals Committee**. The Board is of the opinion that this shall introduce unnecessary bottlenecks as anyone who is not satisfied with the decisions of the Board can appeal its decision directly to the High Court without going through the Tribunal;

b) The reintroduction of Clause 46 which sought to raise funds to support implementation of responsible gambling programs. The Gambling Levy was proposed not to exceed 1% of the monthly gross gambling revenue of a licensee. The purpose of the Levy was to deal with harmful effects of irresponsible gambling by introducing rehabilitative programs and creating awareness to the public on the potential addictive nature of gambling. The levy was also to be used to conduct research on social determinants of mental health and population impact of gambling; and

c) That to seek the enhancement of the Board's powers Section 12 by introducing a **new clause 12 (2) (h)** which should read as follows; **"to impose administrative fines".** It is an international best practice to have a supervisor or a regulator having corrective powers on its supervisees for non-compliance with its administrative guidelines.

22. The **County Assemblies Forum** submitted the following -

a) That Clause 18 be amended to include of the Salaries and Remuneration Commission (SRC) in determination of the terms and conditions of the staff of the Authority aligning with the constitutional mandate bestowed upon the SRC by Article 230(4) of the Kenyan Constitution, 2010; and

b) Clause 90 is important for the following reasons; social responsibility, protection of vulnerable groups, mitigation of gambling addiction.

23. The **Financial Reporting Centre** submitted as follows -

a) that Clause 10 be amended to include beneficial owners under 1(g) to be in line with Financial Action Task Force (FATF) standards;

b) that Clause 28 be amended to include internet casino under sub clause (2) (a) to be in line with Financial Action Task Force (FATF) standards;

c) that Clause 30 be amended to include beneficial owners under subclause (4) (a) be in line with Financial Action Task Force (FATF) standards; and

d) That Clause 88 in subclause (9) excludes matters of money laundering, terrorism financing and proliferation financing from the Tribunal.

24. The **Attorney General** submitted as follows -

a) That, clause 119 of the Bill be amended by deleting paragraph (d); and by deleting paragraph (g). This is proposed to be amended to delete the clauses that provide for the Regulations on the conduct of the national lottery and the national lottery rules and in order that the same be provided for in the National Lottery Act, 2023 through a consequential amendment to the National Lottery Act, 2023.

25. The **Communications Authority of Kenya** submitted as follows -

a) That Clause 84 subclause (2) (e) be amended to prohibit gambling advertisement between five o' clock in the morning to ten o'clock in the evening. This is in line with *Section 46H* of the Kenya Information and Communication Act that prescribes watershed period to be between 5am to 10pm.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 Committee Observations on the Bill

26. Having considered the Gambling Control Bill, 2023 (National Assembly Bills No. 70 of 2023) and the submissions received thereon, the Standing Committee on Labour and Social Welfare therefore made the following observations –

a) That although Kshs.12 Billion (equivalent to 90% of the Sports Fund) is received annually in the Sports Fund, there have been massive outcries from federations citing lack of support when attending events;
b) That some special interest groups like the Kenya Sports Association for the visually impaired did not receive any funding from the Sports Fund to carry out their activities;
c) That it is not prudent for 90% of funds of the Sports Fund to come from just the gambling tax and therefore the Ministry of Youth Affairs, Creative Economy and Sports should think of additional funding avenues for the Fund;
d) That the youth addicted to gambling had no programs or aspects of rehabilitation to help curb their addiction;
e) That the arts were not sufficiently catered for as compared in regards to the Sports, Arts and Social Development Fund to the Sports sector; and
f) That the Gambling Appeals Tribunal has more independence than the Gambling Appeals Committee contrary to proposal by the Betting Control and Licensing Board.

3.1 Committee Recommendations

27. Arising from the above observations, the Committee recommends that the Senate passes the Gambling Control Bill, 2023 (National Assembly Bill No. 70 of 2023) with the following amendments –

a) On Clause 4, align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017;
b) On Clause 5, Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017;

APPENDICES

Appendix 1: Minutes of the sittings

Appendix 2: Committee Stage Amendments of the Gambling Control Bill, 2023 (National Assembly Bills No.70 0f 2023)

Appendix 3: Gambling Control Bill, 2023 (National Assembly Bills No.70 0f 2023)

Appendix 4: Advertisement as published in the *Daily Nation* and *Standard* Newspapers

Appendix 5: Public Participation Submissions

1. Ministry of Youth Affairs, Creative Economy and Sports, and the Sports, Arts, and Social Development Fund;
2. Executive Office of the President, Chief of Staff and Head of Public Service;
3. The Betting, Control and Licensing Board; (BCLB)
4. Council of Governors (COG);
5. Commission on Revenue Allocation (CRA);
6. Kenya Revenue Authority; (KRA)
7. The National Gender and Equality Commission; (NGEC)
8. Office of the Data Protection Commissioner (ODPC);
9. County Assemblies Forum (CAF);
10. Association of Gaming Operators Kenya;
11. County Gaming Officers; and
12. Financial Reporting Centre.

Appendix 6: Public Participation Matrix

APPENDIX 1

MINUTES OF THE TWELFTH (12TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON THE ZOOM ONLINE PLATFORM ON WEDNESDAY, 20TH MARCH, 2024 AT 1.00 PM

MEMBERS PRESENT

1. Sen. Julius Murgor Recha, CBS, MP	- **Chairperson**
2. Sen. George Mungai Mbugua, MP	- **Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP	- Member
4. Sen. Mohamed Mwinyihaji Faki, CBS, MP	- Member
5. Sen. Alexander Munyi Mundigi, MP	- Member

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, MP	- Member
2. Sen. Miraj Abdulahi Abdulrahman, MP	- Member
3. Sen. Gloria Orwoba, MP	- Member
4. Sen. Crystal Asige, MP	- Member

SECRETARIAT

1. Ms. Mwanate Shaban	- Senior Clerk Assistant
2. Mr. Reinhardt Choge	- Clerk Assistant III
3. Mr. Jeremy Chabari	- Legal Counsel
4. Ms. Ndindi Kibathi	- Research Officer III
5. Ms. Ndindi Kibathi	- Research Officer III
6. Ms. Juliet Masinde	- Media Relations Officer
7. Mr. Joseph Otieno	- Audio Officer
8. Mr. John Pere	- Sergeant-at-Arms

MIN/SEN/SCLSW/067/2024: PRAYERS

The Chairperson called the meeting to order at 1.07 pm followed with a word of prayer.

MIN/SEN/SCLSW/068/2024: ADOPTION OF AGENDA

The Agenda which was part of the program of the retreat was adopted having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. George Mbugua, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. **Consideration of Minutes of the 9th, 10th and 11th Sittings;**
4. **Consideration of Matters Arising;**
5. **Consideration and Adoption of the Amendments on the Gambling Control Bill, 2023 (National Assembly Bills No. 70 of 2023);**
6. **Consideration and Adoption of the Report on the Gambling Control Bill, 2023 (National Assembly Bills No. 70 of 2023);**
7. Any Other Business; and
8. Adjournment.

MIN/SEN/SCLSW/069/2024 CONSIDERATION OF MINUTES OF THE 9TH, 10TH AND 11TH SITTINGS;

1. The Minutes of the Ninth (9th) Sitting held on Saturday, 16th March, 2024 at 10.00 am were confirmed as a true reflection of the proceedings having been proposed by Sen. Alexander Mundigi, MP, and seconded by Sen. Mohamed Faki, CBS, MP.
2. The Minutes of the Tenth (10th) Sitting held on Saturday, 16th March, 2024 at 2.00 pm were confirmed as a true reflection of the proceedings having been proposed by Sen. George Mbugua, MP and seconded by Sen. Alexander Mundigi, MP.
3. The Minutes of the Eleventh (11th) Sitting held on Saturday, 16th March, 2024 at 5.00 pm were confirmed as a true reflection of the proceedings having been proposed by Sen. Mohamed Faki, CBS, MP and seconded by Sen. George Mbugua MP.

MIN/SEN/SCLSW/070/2024 MATTERS ARISING;

There were no matters arising.

MIN/SEN/SCLSW/071/2024 CONSIDERATION AND ADOPTION OF THE AMENDMENTS ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023);

The Committee considered the draft Amendments as presented by the Legal Counsel and adopted them having been proposed by Sen. George Mbugua, MP and seconded by Sen. Mohamed Mwinyihaji Faki, CBS, MP.

MIN/SEN/SCLSW/072/2024 **CONSIDERATION AND ADOPTION OF THE REPORT ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023);**

The Committee considered the Report on the Gambling Control Bill, 2023 and adopted it having been proposed by Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP and seconded by Sen. Mohamed Mwinyihaji Faki, CBS, MP.

MIN/SEN/SCLSW/073/2024 **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCLSW/074/2024 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 1.34 pm, the next meeting will be by notice.

SIGNED.....DATE.....

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE ELEVENTH (11TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD AT THE BARAZA 3 CONFERENCE ROOM, SAROVA WHITESANDS HOTEL ON SATURDAY, 16TH MARCH, 2024 AT 5.00 PM

MEMBERS PRESENT

1.	Sen. Julius Murgor Recha, CBS, MP	**- Chairperson**
2.	Sen. George Mungai Mbugua, MP	**- Vice-Chairperson**
3.	Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP	- Member
4.	Sen. Mohamed Mwinyihaji Faki, CBS, MP	- Member
5.	Sen. Alexander Munyi Mundigi, MP	- Member
6.	Sen. Crystal Asige, MP	- Member
7.	Sen. Miraj Abdulahi Abdulrahman, MP	- Member
8.	Sen. Gloria Orwoba, MP	- Member

APOLOGIES

1.	Sen. Erick Okong'o Mogeni, SC, MP	- Member

SECRETARIAT

1.	Ms. Mwanate Shaban	- Senior Clerk Assistant
2.	Mr. Reinhardt Choge	- Clerk Assistant III
3.	Mr. Jeremy Chabari	- Legal Counsel
4.	Ms. Ndindi Kibathi	- Research Officer III
5.	Ms. Juliet Masinde	- Media Relations Officer
6.	Mr. Joseph Otieno	- Audio Officer
7.	Mr. John Pere	- Sergeant-at-Arms

MIN/SEN/SCLSW/059/2024: PRAYERS

The Chairperson called the meeting to order at 5.00 pm followed with a word of prayer.

MIN/SEN/SCLSW/060/2024: ADOPTION OF AGENDA

The Agenda which was part of the program of the retreat was adopted having been proposed by Sen. Mohamed Mwinyihaji Faki, CBS, MP and seconded by Sen. Alexander Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;

3. **Consideration of Minutes of the 6th, 7th and 8th sitting;**
4. **Consideration of Matters Arising:**
5. **Consideration of Statements before the Committee;**
6. **Consideration of correspondence before the Committee;**
7. Any Other Business; and
8. Adjournment.

MIN/SEN/SCLSW/061/2024 CONSIDERATION OF MINUTES OF THE 6TH, 7TH AND 8TH SITTING;

1. The Minutes of the Sixth sitting held on Thursday, 7th March, 2024 at 8.00 am were confirmed as a true reflection of the proceedings having been proposed by Sen. Mohammed Faki, CBS, MP, and seconded by Sen. Crystal Asige, MP.

2. The Minutes of the Seventh sitting held on Thursday, 7th March, 2024 at 12.00 noon were confirmed as a true reflection of the proceedings having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mbugua, MP.

3. The Minutes of the Eighth sitting held on Tuesday, 12th March, 2024 were confirmed as a true reflection of the proceedings having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Mohammed Faki, CBS, MP.

MIN/SEN/SCLSW/062/2024 CONSIDERATION OF MATTERS ARISING;

There were no matters arising.

MIN/SEN/SCLSW/063/2024 CONSIDERATION OF CORRESPONDENCE BEFORE THE COMMITTEE;

The Committee considered the correspondence before the Committee as follows -

	TITLE	DATE	COMMITTEE RESOLUTION
1.	Africa Practice: Invitation to aSectoral Workshop on Labour Policy and The Gig Economy	14th March, 2024	Though there is a scheduled Committee meeting at that time, Any Member who wishes to attend may attend.
2	Ministry of Youth Affairs, Creative Economy and Sports, State Department of Sports: Invitation To The WRC Safari Rally	28th To 31st March, 2024	Members who wish to attend to notify the secretariat and Secretariat to process once quorum is attained.
3.	Ministry Of Sports: State Department Of Sports: Invitation To Participate In The 13th Africa Games, Accra	6th March, 2024	Committee Has No Fund In This Financial Year. Overtaken by events.

	Ghana From 8th To 23rd March, 2024		
4.	Ministry Of Sports, State Department Of Sports: Invitation To The Paris 2024 Summer Olympic Games	22nd January, 2024	Committee resolved to participate in the Games. Nominations will be done at a later date.
3.	European Social Network Invitation to The European Social Services Conference Form 26th To 28th June, 2024 In Antwerp, Belgium	6th March, 2024	Declined to attend
4.	Ministry Of Labour And Social Protection: State Department Of Social Protection: Engagement On The Social Protection Bill	31st January, 2024	Secretariat to consult on new date and brief the Committee
5.	Krsrbs Pensioners: Pension Arrears	9th January, 2024	Secretariat To Schedule Meeting Date
6.	Cancellation Of Promotions By The Public Service Commission	April, 2023	Committee to write to PSC seeking further clarifications
7.	Daniel Karanja Gitahi: Seeking Arrears From Nduti Tea Factory	18th October, 2023	Committee to invite daniel to provide more information
8.	National Treasuryon The Payment Of One Off Honorarium To Former Councillors And Krsrbs	11 Oct 2023	Committee to invite National Treasury to provide a status update
9.	Machakos County Sports Youth And Community Development Association On Equitable Affordable And Sustainable Management And Development Of Sports Youth	28th September, 2023	Committee in on going consultations with the Ministry over the same.

	And Community Affairs Committee Proposal		
10	Julius Wairiuko Wanjogi On Behalf Of Youth Polytechnic Instructors: Requesting For Policies To Govern Youth Polytechnics In The Country	22 September, 2023	Secretariat to schedule a Meeting

MIN/SEN/SCLSW/064/2024 **CONSIDERATION OF STATEMENTS BEFORE THE COMMITTEE:**

1. The Committee considered the Statements before the Committee and noted the following – That,
   a) A total of seventy-three statements had been referred to the Committee: and
   b) Thirty-seven (37) statements have been concluded while thirty-eight (38) are ongoing.
2. The Committee resolved to invite Cabinet secretaries to come respond to the various pending statements.

MIN/SEN/SCLSW/065/2024 **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCLSW/066/2024 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 11.05 am, the next meeting will be by notice.

SIGNED.....**DATE**.....20/3/2024.....

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE TENTH (10TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD AT THE BARAZA 3 CONFERENCE ROOM, SAROVA WHITESANDS HOTEL ON SATURDAY, 16TH MARCH, 2024 AT 2.00 PM

MEMBERS PRESENT

1. Sen. Julius Murgor Recha, CBS, MP	- **Chairperson**
2. Sen. George Mungai Mbugua, MP	- **Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP	- Member
4. Sen. Mohamed Mwinyihaji Faki, CBS, MP	- Member
5. Sen. Alexander Munyi Mundigi, MP	- Member
6. Sen. Crystal Asige, MP	- Member
7. Sen. Miraj Abdulahi Abdulrahman, MP	- Member
8. Sen. Gloria Orwoba, MP	- Member

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, MP	- Member

SECRETARIAT

1. Ms. Mwanate Shaban	- Senior Clerk Assistant
2. Mr. Reinhardt Choge	- Clerk Assistant III
3. Mr. Jeremy Chabari	- Legal Counsel
4. Ms. Ndindi Kibathi	- Research Officer III
5. Ms. Juliet Masinde	- Media Relations Officer
6. Mr. Joseph Otieno	- Audio Officer
7. Mr. John Pere	- Sergeant-at-Arms

MIN/SEN/SCLSW/054/2024: PRAYERS

The Chairperson called the meeting to order at 2.18 pm followed with a word of prayer.

MIN/SEN/SCLSW/055/2024: ADOPTION OF AGENDA

The Agenda which was in the program of the retreat was adopted having been proposed by Sen. Mohamed Mwinyihaji Faki, CBS, MP and seconded by Sen. Alexander Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;

3. **Consideration of the Public Participation Matrix on the Gambling Control Bill, 2023 (National Assembly No. 70 of 2023) (Committee Paper No. 48);**
4. Any Other Business; and
5. Adjournment.

MIN/SEN/SCLSW/056/2024 **CONSIDERATION OF THE PUBLIC PARTICIPATION MATRIX ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY NO. 70 OF 2023);**

The Legal Counsel presented the Matrix before the Committee.

1. Under **Clause 4** as presented by:
   i. **County Gaming Officers** on the National functions, they presented that these functions should align to the Fourth Schedule *Part 1 (34)* and Inter-Governmental Relations Technical Committee on delineation of functions of National and County Governments. Gazette Notice No. 16170 Vol. CXXV-No. 251 dated 27th November, 2023; and
   ii. **Council of Governors** proposes to delete subclause 4(1)(d) as the licensing, conducting inspections, vetting and due diligence are functions of county governments.

Committee Recommendations
Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017.

2. Under **Clause 5** as presented by:
   i. **County Gaming Officers** that county functions should align to the Fourth Schedule *Part 1 (34)* and Inter-Governmental Relations Technical Committee on delineation of functions of National and County Governments. Gazette Notice No. 16170 Vol. CXXV-No. 251 dated 27th November, 2023;

Committee Recommendation
Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017.

3. Under Clause 7 as presented by the Council of Governors, they proposed an increase in the numbers nominated by the Council of Governors to the Authority to three as Gambling is a county government function hence the need for adequate representation.

Committee Recommendation
Adopted as proposed and to include the youth among members nominated by the Cabinet Secretary and include two members to represent the Council of Governors.

4. Under Clause 10 as presented by:
i. **County Gaming Officers** proposed to delete *Section 10(e)* and *Section 10(n)* as this may lead to micro-managing of county governments by the Authority and under *Section 10(b)* to regulate and control national gambling activities.

Committee Recommendation
Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017.

ii. **Financial Reporting Centre** proposed an inclusion of beneficial owners under *(1)(g)* to comply with the Financial Action Taskforce (FAFT) standards.
Committee recommendation
Align with the requirements of the Companies Act.

iii. **Council of Governors** proposed a deletion of paragraphs (c), (f) and (g) as licensing is a function of county governments and each County should be the custodian of data at the county level while the Authority can amalgamate data across the counties to form a national database.

Committee recommendation
Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017.

5. Under **Clause 27** as presented by the **County Gaming Officers,** they proposed that *Clause 27 (1) (e)* should read *a national prize competition or cutting across the counties,* amend *27(1) (h)* to read *national lotteries*, to delete *Section 27(1)(d)* and amend *Clause 27(1)(a)* to read – *a national public gambling for conducting a table game and operating a slot machine.*

Committee recommendation
Align the functions of both levels of government with *Gazette* No. 8753 of 30th August, 2017.

8. Under **Clause 28**:
   i. The **Office of the Data Protection Commissioner** proposed an inclusion of a requirement that an applicant for a license under the Bill be a registered data processor or controller with the ODPC.

Committee recommendation
Not adopted as compliance with the Data Protection Act is mandatory.

   ii. The **Financial Reporting Centre** proposed the inclusion of internet casinos under *subclause (2)(a)* to be in line with the FAFT standards.

Committee recommendation
Already provided for under the clause on the definition of a "casino".

9. Under **Clause 29** the **Office of the Data Protection Commissioner** proposed to include requirement of a concluded Data Protection Impact Assessment approved by the ODPC when applying for a license.

Committee recommendation
Not Adopted.

10. Under **Clause 30** the **Financial Reporting Centre** proposed inclusion of beneficial owners under *subclause (4)(a)* to be in line with the FAFT standards.

Committee recommendation
Align with the Companies Act.
Under **Clause 33** the **Office of the Data Protection Commissioner** proposed an additional revocation ground for licensees under the Act should they be in violation of the Data Protection Act, 2019.

Committee recommendation
Not Adopted

11. Under **Clause 39** the **Council of Governors** proposed to replace the Authority with the county governments in *subclause (1)* as county governments are mandated with licensing and hence they should keep and maintain a register of licenses.

Committee recommendation
Counties should keep their own county specific registers by the county governments.

12. Under **Clause 45** the **Kenya Revenue Authority** proposed for the provision of administrative penalty and interest chargeable on late remittance of tax to be in line with the Tax Procedures Act, *Cap 269B* and *Sections 69A* and *69B* of the *Betting, Lotteries and Gaming Act, cap 131* that is being repealed.

Committee recommendation
The clause was deleted in the National Assembly.

13. Under **Clause 46** the **County Gaming Officers** proposed to amend *Clause 46(3)* to provide that monies paid under *subsection (1)* shall be used by the Authority and County Governments because it is a concurrent function under *Fourth Schedule, Part 1 & 2* of the Constitution of Kenya, 2010.

Committee recommendation
The clause was deleted in the National Assembly.

14. Under **Clause 53** the **County Gaming Officers** proposed to amend *Clause 53 (4)* to read that the license issued under *subsection (3)* above shall be for a period not exceeding seven years.

Committee recommendation
Not adopted, License to be renewed annually.

15. Under **Clause 55** the **County Gaming Officers** proposed to amend *Clause 55 (1)* to provide that the County Government may issue a license authorizing promotion of a lottery relating to a horse race within a county.

Committee recommendation
Not adopted, as it is already provided for in the clause.

Under **Clause 64** the **County Gaming Officers** proposed to amend *Clause 64 (1)* to read "a person may be granted a license to operate a national casino and other forms of gambling upon meeting the requirements set out in *Section 28*. County Government shall issue Casino and other forms of gambling within a county".

16. Committee recommendation
Not adopted.

17. Under **Clause 69** the **County Gaming Officers** proposed to amend *Clause 69* to read "The County Government shall unsure that its Gaming officers are present at all casions for purpose of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant license".

Committee recommendation
Adopted.

18. Under **Clause 75** the **Office of the Data Protection Commissioner** proposed to include a provision that registration must comply with the principles of data protection.

Committee recommendation
Not adopted, as it is already catered for under the Bill.

19. Under **Clause 84** the **Communications Authority of Kenya (CAK)** proposed to amend *subclause 2 (e)* to prohibit gambling advertisement between five o' clock in the morning to ten o' clock in the evening to be inline with the Kenya Information and Communication Act that prescribes the watershed period to be between 5am to 10pm.

Committee recommendation
Harmonise with the Kenya Information and Communication Act.

20. Under **Clause 88** the **Financial Reporting Centre** proposed to amend *subclause (9)* to exclude matters of money laundering, terrorism financing and proliferation financing from the Tribunal.

Committee recommendation
Not adopted, the jurisdiction of the Tribunal is already defined under the Bill.

21. Under **Clause 112** the **County Gaming Officers** proposed to amend *Clause 112* to read "the county government may appoint duly qualified officers to be inspectors of the county government".

Committee recommendation
Not adopted, as it is already provided for.

22. Under **Clause 119** the **Attorney General** proposed to amend *Clause 119* by deleting paragraph (d) and (g) as these regulations are necessary for the effective implementation of the National Lottery Act, 2023.

Committee recommendation
Adopted.

23. Under **Clause 117** the **County Gaming Officers** proposed to amend *Clause 117* to read that the Police shall in coordination with the Authority and County Governments have power to seize any illegal gambling, betting and lottery machines.

Committee recommendation
Not adopted, as it is already catered for.

24. Under **Clause 117** the **Office of the Data Protection Commissioner** proposed that the Bill should introduce a clause that provides for safeguarding of all personal data that may be contained in seized machines.

Committee recommendation
Not adopted, as it is already catered for.

25. Under **Clause 121** the **Kenya Revenue Authority** proposed that the taxes that were due and payable under the Betting, Lotteries and Gaming Act, Cap 131 shall become due and payable as if it was assessed under this Act.

Committee recommendation
Adopted.

26. Under **Clause 123** the **Kenya Revenue Authority** proposed to provide for consequential amendments to *Part II* of the *First Schedule* to KRA Act, *Cap 469* as follows – Delete paragraph 7 and replace with the *Gambling Control Act*.

Committee recommendation
Adopted.

27. Under **Second Schedule** the **County Gaming Officers** proposed to delete and include only charges under the national government.

Committee recommendation
Not adopted.

CONSEQUENTIAL AMENDMENTS

28. The **Attorney General** proposed amendments to the *National Lotteries Act, 2023* to provide new clause 53 to provide for the power to make regulations.

Committee recommendation
Adopted.

29. The **Attorney General** proposed to include a clause on regulation and supervision by the Gambling Regulatory Authority in line with the sections 2A, 36A and 36C of the Proceeds of Crime and Anti – Money Laundering Act.

Committee recommendation
Not adopted as it is already catered for under clause 4.

MIN/SEN/SCLSW/057/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/058/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 4.45pm, for a Health Break and in readiness for the next meeting.

SIGNED.....**DATE** Wednesday, 20th March, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE NINTH (9TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD AT THE BARAZA 3 CONFERENCE ROOM, SAROVA WHITESANDS HOTEL ON SATURDAY, 16TH MARCH, 2024 AT 10.00 AM

MEMBERS PRESENT

1. Sen. Julius Murgor Recha, CBS, MP - **Chairperson**
2. Sen. George Mungai Mbugua, MP - **Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Mohamed Mwinyihaji Faki, CBS, MP - Member
5. Sen. Alexander Munyi Mundigi, MP - Member
6. Sen. Crystal Asige, MP - Member
7. Sen. Miraj Abdulahi Abdulrahman, MP - Member
8. Sen. Gloria Orwoba, MP - Member

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, MP - Member

IN ATTENDANCE

1. Hon. Ababu Namwamba, EGH - Cabinet Secretary, Ministry of Youth Affairs, Creative Economy and Sports
2. Eng. Peter K. Tum, CBS - Principal Secretary, State Department for Sports, Ministry of Youth Affairs, Creative Economy and Sports
3. Mr. Nuh Ibrahim - Chief Executive Officer, Sports, Arts and Social Development Fund
4. Mr. Peter K. Mbugi - Director, Betting Control and Licensing Board
5. Mr. Hassan Boru - Director, Sports, Arts and Social Development Fund
6. Mr. Fredrick M. Mbasi - Deputy Director, Betting Control and Licensing Board
7. Ms. Caroline Amondi - Chief State Counsel, Betting Control and Licensing Board
8. Ms. Judy Kirichu - Principal State Counsel, Betting Control and Licensing Board

SECRETARIAT

1.	Ms. Mwanate Shaban	- Senior Clerk Assistant
2.	Mr. Reinhardt Choge	- Clerk Assistant III
3.	Mr. Jeremy Chabari	- Legal Counsel
4.	Ms. Ndindi Kibathi	- Research Officer III
5.	Ms. Juliet Masinde	- Media Relations Officer
6.	Mr. Joseph Otieno	- Audio Officer
7.	Mr. John Pere	- Sergeant-at-Arms

MIN/SEN/SCLSW/049/2024: PRAYERS

The Chairperson called the meeting to order at 10.18 pm followed with a word of prayer. This was followed by introductions by all present.

MIN/SEN/SCLSW/050/2024: ADOPTION OF AGENDA

The Agenda which was part of the program of the retreat was adopted having been proposed by Sen. Mohamed Mwinyihaji Faki, CBS, MP and seconded by Sen. Alexander Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. **Stakeholder engagement on the Gambling Control Bill, 2023 (National Assembly No. 70 of 2023) (Committee Paper No. 48);**
4. Any Other Business; and
5. Adjournment.

MIN/SEN/SCLSW/051/2024 STAKEHOLDER ENGAGEMENT THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY NO. 70 OF 2023) (COMMITTEE PAPER NO. 48);

The Chairperson welcomed the invited stakeholders and invited them to make submissions on the Bill.

a) Ministry of Youth Affairs, Creative Economy and Sports

The Cabinet Secretary made the following submissions –

i. The Bill as is currently does not provide a ring fence for the Gambling tax which leaves it open and unanchored to the Sports, Arts and Social Development Fund as is the case currently. The Committee was further informed that the Sports, Arts and Social Development Fund was domiciled in the State Department for Sports, but that it works hand in hand with other ministries that are affected or benefit from the fund;
ii. The Sports, Arts and Development Fund has been vital in identification, promotion and monetizing of Creative Arts by nurturing various programs, enhanced reward schemes

for sportsmen and sportswomen in various disciplines and cleared all outstanding rewards awarded since 2021. This nurturing of new talents is best done when they are identified at school levels and followed up to the higher competitive levels;

iii. The fund has well set out parameters with not more than 30% going towards Sports and Arts and not more than 60% going towards Social development which is shared with other ministries like the Ministry of Health; and

iv. In the Arts sector, there was infrastructure earmarked for improvement i.e the repair of Kenya National Theaters and there were other programs to empower the Arts as evidenced by the Kalasha Awards.

b) Betting Control and Licensing Board

The Betting Control and Licensing Board made the following submissions –

i. The introduction of an Appeals Tribunal as opposed to the Appeals Committee would introduce unnecessary bottlenecks for individuals and entities wanting to appeal;

ii. The Gambling levy should be introduced on Clause 46 and should not exceed 1% of monthly gross revenue of a gambling licensee; and

iii. An enhancement of the Board's powers (*Section 12*) by introducing a new *Section 12(2)(h)* to impose administrative fines as evidenced by other jurisdictions like the Gambling Commission of the United Kingdom that imposes administrative fines when licensing conditions are breached.

c) Committee Observation

The Committee made the following observations –

i) The submissions from both the Ministry of Youth Affairs, Creative Economy and Sports and the Betting Control and Licensing Board did not have amendments on rehabilitation programs on gambling addiction; and

ii) The Gambling Appeals Tribunal has more independence than the Gambling Appeals Committee.

MIN/SEN/SCLSW/052/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/053/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.50 pm for the lunch break and in readiness for the next meeting at 2.00 pm.

SIGNED.....DATE..Wednesday, 20th March, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE SEVENTH (7TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN THE FIRST FLOOR BOARDROOM, RED CROSS BUILDING ON THURSDAY, 7TH MARCH, 2024 AT 12.00 PM.

MEMBERS PRESENT

1. Sen. Julius Murgor Recha, CBS, MP	**- Chairperson**
2. Sen. George Mungai Mbugua, MP	**- Vice-Chairperson**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP	- Member
4. Sen. Miraj Abdulahi Abdulrahman, MP	- Member
5. Sen. Mohamed Mwinyihaji Faki, CBS MP	- Member
6. Sen. Alexander Munyi Mundigi, MP	- Member
7. Sen. Crystal Asige, MP	- Member

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, MP	- Member
2. Sen. Gloria Orwoba, MP	- Member

SECRETARIAT

1. Mr. Reinhardt Choge	- Third Clerk Assistant
2. Mr. Jeremy Chabari	- Legal Counsel
3. Ms. Joy Kyalo	- PBO officer
4. Ms. Ndindi Kibathi	- Research Officer III
5. Ms. Nigma Duale	- Research Officer III
6. Ms. Swaluha Yusuf	- Protocol Officer
7. Mr. Joseph Otieno	- Audio Officer
8. Mr. John Pere	- Sergeant at Arms

MIN/SEN/SCLSW/038/2024: PRAYERS

The Chairperson called the meeting to order at 12.29 pm followed with a word of prayer.

MIN/SEN/SCLSW/039/2024: ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Mohamed Mwinyihaji Faki, CBS, MP and seconded by Sen. Alexander Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. **Consideration of the legislative proposal on the Labour Relations (Amendment) Bill, 2024 (Committee Paper No. 46);**
4. **Consideration of the Gambling Control Bill, 2023 (National Assembly No. 70 of 2023) (Committee Paper No. 47);**
5. Any Other Business; and
6. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/040/2024 **CONSIDERATION OF THE LEGISLATIVE PROPOSAL ON THE LABOUR RELATIONS (AMENDMENT) BILL, 2024 (COMMITTEE PAPER NO. 46);**

The Committee was taken through the legislative proposal by the Legal Counsel. They were informed that the bill proposes to amend the Labour Relations Act to provide for terms of office of officials of trade unions, organizations or federations.

The Committee was informed that the proposed introduction of a new section would affect County governments as it would provide clarity on term limits of officials of labour unions.

The Committee was notified that the proposal lapses on 12th March, 2024.

Committee Resolution
The Committee resolved to adopt the legislative proposal having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Miraj Abdulahi Abdulrahman, MP.

MIN/SEN/SCLSW/041/2024 **CONSIDERATION OF THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY NO. 70 OF 2023) (COMMITTEE PAPER NO. 47);**

The Committee was informed that Kenya is the third largest Gambling market in the African Continent with an annual turnover of Kshs. 202 Billion as of 2019 according to a report by Pricewaterhouse Coopers and is expected to grow at an annual rate of 7.5%.

It was noted that the Bill affects both National and County governments as it fully defines the roles of the National and County governments whilst also establishing a Gambling Authority that will work in collaboration with both levels of government.

The Committee was informed that the Gambling Authority would replace the Betting Control and Licensing Board.

Committee Resolution
The Committee resolved to invite the Cabinet Secretary for the Ministry of Interior and National Administration to make submissions to the Gambling Control Bill, 2023 (National

Assembly Bills No. 70 of 2023) and further inform the Committee on what measures the Ministry takes after confiscating Gambling equipment and paraphernalia from unlicensed operators.

To carry out a retreat with Gambling stakeholders on the Bill.

MIN/SEN/SCLSW/042/2024 **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCLSW/043/2024 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 1.11 pm, the next meeting will be by notice.

SIGNED.....**DATE:** Saturday, 16th March, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE EIGHTH (8TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD AT THE FIRST FLOOR BOARDROOM, RED CROSS BUILDING ON THURSDAY, 12TH MARCH, 2024 AT 10.00 AM

MEMBERS PRESENT

1. Sen. Julius Murgor Recha, CBS, MP - **Chairperson**
2. Sen. George Mungai Mbugua, MP - **Vice-Chairperson (Chairing)**
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Miraj Abdulahi Abdulrahman, MP - Member
5. Sen. Mohamed Mwinyihaji Faki, CBS, MP - Member
6. Sen. Alexander Munyi Mundigi, MP - Member
7. Sen. Crystal Asige, MP - Member
8. Sen. Gloria Orwoba, MP - Member
9. Sen. Enoch Kiio Wambua, CBS, MP - Friend of the Committee

APOLOGIES

1. Sen. Erick Okong'o Mogeni, SC, MP - Member

IN ATTENDANCE

1. Mr. Wilfred Koitamet Olekina - Vice Chairperson, Commission on Revenue Allocation
2. Ms. Immaculate Kassait, MBS - Data Commissioner, Office of the Data Protection Commissioner
3. Dr. Isabel Waiyaki - Commissioner, Commission on Revenue Allocation
4. Ms. Rose Mosero, HSC - Deputy Data Commissioner, Office of the Data Protection Commissioner
5. Mr. Maurice Oray - Deputy Commissioner for Corporate Policy, Kenya Revenue Authority
6. Mr. Julius Yiega - Assistant Commissioner, CM Policy and Tax Advisory, Kenya Revenue Authority
7. Ms. Caroline Amondi - Head of Legal, Ministry of Youth Affairs, Creative Economy and Sports
8. Mr. Hassan Boru - Director, Sports, Arts and Social Development Fund

SECRETARIAT

1.	Mr. Reinhardt Choge	- Clerk Assistant III
2.	Mr. Jeremy Chabari	- Legal Counsel
3.	Ms. Joy Kyalo	- PBO officer
4.	Ms. Ndindi Kibathi	- Research Officer III
5.	Ms. Nigma Duale	- Research Officer III
6.	Ms. Swaluha Yusuf	- Protocol Officer
7.	Mr. Joseph Otieno	- Audio Officer
8.	Mr. John Pere	- Sergeant at Arms
9.	Ms. Esther Mrisa	- Attache

MIN/SEN/SCLSW/044/2024: PRAYERS

The Chairperson called the meeting to order at 10.18 pm followed with a word of prayer.

MIN/SEN/SCLSW/045/2024: ADOPTION OF AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. **Stakeholder engagement on the Gambling Control Bill, 2023 (National Assembly No. 70 of 2023) (Committee Paper No. 48);**
4. Any Other Business; and
5. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/046/2024 STAKEHOLDER ENGAGEMENT THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY NO. 70 OF 2023) (COMMITTEE PAPER NO. 48);

The Committee was taken through the Committee paper and informed of that of the seven invited Stakeholders the Kenya Revenue Authority, the Commission on Revenue Allocation, Office of the Data Protection Commissioner, Ministry of Youth Affairs, Creative Economy and Sports and the County Assemblies Forum had responded to the invitations and had come to the meeting. The Chairperson welcomed the Stakeholders present and invited them to make their submissions.

a) Kenya Revenue Authority

The Deputy Commissioner presented before the Committee that the Authority has only three areas of concern as expressed below –

i. Imposition of Gambling Tax chargeable at a rate of 15% of gross gambling revenue and payable to the collector on or before the 29th day of the following month. This provides for enforcement powers for the collector of the gambling tax;
ii. Transitional Provisions that will enable the Collector enforce collection of any taxes that are due under the *Betting, Lotteries and Gambling Act*, Cap 131 that is being repealed; and
iii. Consequential amendments to Part II of the First Schedule to the KRA Act, because with the repealing of the *Betting, Lotteries and Gaming Act*, Cap 131 that will be repealed.

b) Commission on Revenue Allocation

The Commission on Revenue Allocation had the following submissions –

i. On the interpretation redraft the ambiguous definitions;
ii. Change the issuance of single business permits to Trade Licenses to align with constitutional language as per section 7(b) Part 2 of the Fourth Schedule of the Constitution of Kenya 2010;
iii. Counties are under represented on the Board of the Gambling Authority yet Gambling is a concurrent function under the Fourth Schedule. Add the phrase "based on performance" after the word "years" at the end of the Statement as this will allow it to conform to Mwongozo Guidelines;
iv. Substitute the phrase "relevant government agencies" with Salaries and Remuneration Commission to align with Article 230(4) of the Constitution of Kenya (2010); and
v. Clause 23 and 24 reference a "Public Finance Act, 2012" which should be substituted with "Public Finance Management Act, 2012" thereby correcting the citation of the Act.

c) Office of the Data Protection Commissioner

The Data Commissioner proposed the following since they touch on digital and physical data. The proposals are as follows:

i. Clause 28 – Requirements for licensing to include a subclause that requires applicants for license under the bill be a registered data controller or processor with the ODPC;
ii. Clause 29(1) – Application for license to include a sub clause requiring that an applicant for a license under the Act must provide proof of a concluded Data Protection Impact Assessment approved by the ODPC;
iii. Clause 33(10) – Suspension of a License. The Bill should include additional ground for revocation of a license under the Act to be violation of the Data Protection Act, 2019;
iv. Clause 75 – Registration of a player should include a provision that registration of play must comply with the principles of Data Protection; and
v. Clause 120 – Power to seize machines. There should be a clause providing for safeguarding of all personal data that may be contained in seized machines.

d) Ministry of Youth Affairs, Creative Economy and Sports

i. The Ministry presented that Section 119(1) of the Bill needs to be aligned with the Section 23 of the National Lottery Act; and
ii. Insertion of Clause 41A to introduce the Gambling tax as provided for in the Betting Lotteries and Gaming Act that will be repealed once the Gambling Control Bill is

enacted. They further stated that the Gaming tax forms 90% of revenue of the sports, Arts and Social Development Fund and that the Bill as is threatens to kill the fund.

e) Committee Observation

The Committee noted that though Kshs 12 Billion (equivalent to 90% of the Sports Fund) is received in the Sports Fund, there have been massive outcries from federations citing lack of support when attending events.

Some Special Interest groups like the Kenya Sports Association for the Visually Impaired did not receive any funding from the Sports Fund to carry out their activities.

It is not prudent for 90% of funds of the Sports Fund to come from just the Gambling Tax therefore the Ministry of Youth Affairs, Creative Economy and Sports should think of additional funding avenues for the Fund.

f) Committee Resolution

To ensure that express provisions are placed to ensure that the special interest groups are well catered for especially in the Sports, Arts and Social Development Fund; and

To engage with the Ministry of Youth Affairs, Creative Economy and Sports to fully understand the importance of insertion of Clause 41 on the Gambling Tax.

MIN/SEN/SCLSW/047/2024 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/048/2024 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.20 pm, the next meeting will be by notice.

SIGNED.....DATE..Saturday, 16th March, 2024

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

APPENDIX 2

19th March, 2024

The Clerk of the Senate,
Parliament Buildings,

NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE GAMBLING CONTROL BILL, 2023, NATIONAL ASSEMBLY BILLS NO. 70 OF 2023

NOTICE is given that Sen. Recha Julius Murgor, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Gambling Control Bill, National Assembly Bills No. 70 of 2023, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill is amended by inserting the following new paragraphs immediately after paragraph (c)—

(ca) develop and implement county legislation on betting and other forms of gambling;

(cb) license prize competitions within a county;

(cc) license amusement machines;

(cd) issue trade permits for betting premises;

(ce) license and issue pool table permits within the county;

(cf) license and supervise county lotteries;

(cg) issue trade permits for premises for totalisators;

CLAUSE 7

THAT clause 7 (1) of the Bill be amended by-

(a) deleting paragraph (d) and substituting therefor the following new paragraph—;

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that—

(i). one shall represent persons with disabilities;

(ii). one shall represent the youth; and

(iii). one shall represent faith based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph—;
(e)three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and

(c) deleting paragraph (f)

CLAUSE 10

THAT clause 10 of the Bill be amended by—

(a) deleting paragraph (e);

(b) in paragraph (f) by inserting the words "in consultation with county governments" immediately after the word "maintain" and

(c) in paragraph (g) by inserting the words "beneficial owners" immediately after the word "directors" .

CLAUSE 66

THAT clause 66 of the Bill be amended by deleting the words "shall ensure that its" appearing immediately after the word "Authority" and substituting therefor the words "and county governments shall ensure that their".

CLAUSE 87

THAT clause 87 (2) of the Bill be amended in paragraph (e) by deleting the word "six" appearing immediately after the words " radio between" and substituting therefor the word "five".

CLAUSE 119

THAT clause 119 (2) be amended by deleting-

(a) paragraph (d); and

(b) paragraph (g).

CLAUSE 123

THAT clause 123 of the Bill be amended by renumbering the current provision as sub clause (1) and inserting therefor the following new sub clauses immediately after the new clause (1)—

Cap 269 (2) The Kenya Revenue Authority Act, is amended in Part II of the First Schedule, by deleting paragraph 7 and substituting therefor the following new paragraph—

7. The Gambling Control Act.

No. 20 of 2023 (3) The National Lottery Act, is amended by inserting the following new clause immediately after clause 52—

Regulations

53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

(a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
(b) the conduct of a national lottery;
(c) apportionment of the proceeds of the national lottery;
(d) procedure for the sale of tickets, prizes of tickets and payment of prizes;
(e) announcement and protection of winners of the national lottery;
(f) the circumstances under which the national lottery may be advertised; and
(g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

NEW CLAUSES

NEW CLAUSE 117A

THAT the Bill be amended by inserting the following new clause immediately after clause 117—

Operating hours

117A. A licensed betting, gambling, lottery or gaming premise shall operate between ten o' clock in the evening and five o' clock in the morning.

Date..Wednesday, 20th March, 2024.

Sen. Recha Julius Murgor,
Chairperson,
Committee on Labour and Social Welfare.

ANNEX 4(b):

NATIONAL ASSEMBLY REPORT ON THE CONSIDERATION OF THE SENATE AMMENDMENTS TO THE GAMBLING CONTROL BILL,2023 (NATIONAL ASSEMBLY BILLS NO.70 of 2023).

Approved
SNA
3/12/24

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

.....

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 03 DEC 2024 DAY: Tuesday
TABLED BY: Hon. Daniel Maryuma (Chairperson, Sports and Culture Committee)
CLERK-AT-THE-TABLE: Anastacia

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER, 2024

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Sports and Culture on its consideration of the Senate Amendments to Gambling Control Bill *(National Assembly Bills No. 70 of 2023)*.

The National Assembly considered the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and passed it with amendments on 6th December 2023 and forwarded the same to the Senate for concurrence pursuant to the provisions of Standing Order 144 and Article 110 of the Constitution. The Senate considered the Bill and passed it with amendments on 8th October, 2024 and referred back to the National Assembly for consideration in accordance with Article 112 of the Constitution.

The Senate amendments to the Bill were subsequently referred to the Departmental Committee on Sports and Culture for consideration and reporting back to the House.

In considering the Senate amendments to the Bill, the Committee noted that some of the amendments were in contravention of Article 109 of the Constitution that provides for the origination of Bills.

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 Senate Amendment to the Gambling Control Bill (*National Assembly Bill No. 70 of 2023*) with recommendation that the House REJECTS all the Senate amendments.

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

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

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:

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;
To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
To study and review all the legislation referred to it;
To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
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;
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);
To examine treaties, agreements and conventions;
To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
To examine any questions raised by Members on a matter within its mandate.

Mandate of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider:-
Sports;
Culture;
Language;
Creative Economy including promotion of music, arts, film promotion and development;
National Heritage;
Betting and Lotteries.

In executing its mandate, the Committee oversees the following Ministries/Departments:
Ministry of Youth Affairs, Creative Economy and Sports; and
Ministry of Gender, Culture, the Arts & Heritage.

1.3 Committee Membership

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		Hon. Samuel Gonzi Rai, MP
Marsabit County		Kinango Constituency
UDA Party		PAA Party
Hon. Mary Emaase Otucho, MP		Hon. Charles Ngusya Nguna, MP
Teso South Constituency		Mwingi West Constituency
UDA Party		WDM –K Party
Hon. Stephen Mutinda Mule, MP		Hon. Janet Jepkemboi Sitienei, MP
Matungulu Constituency		Turbo Constituency
WDM-K Party		UDA Party
Hon. Chege Njuguna, MP		Hon. Richard Kipkemoi Yegon, MP
Kandara Constituency		Bomet East Constituency
UDA Party		UDA Party
Hon. Catherine Nakhabi Omanyo, MP		Hon. Caroli Omondi, MP
Busia County		Suba South Constituency
ODM Party		ODM Party
Hon. Paul Ekwom Nabuin, MP		Hon. Robert Ngui Basil, MP
Turkana North Constituency		Yatta Constituency
ODM Party		WDM-K Party
Hon. BSP. (EM) Dr. Jackson Kipkemoi Kosgei, MP		
Nominated		
UDA Party		

Committee Secretariat

The Committee is facilitated by the following secretariat:

Mr. Adan Gindicha
Principal Clerk Assistant II/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. Peter Atsiaya
Media Relations Officer III

Mr. Said Babo Wako
Assistant Serjeant-At-Arms

PART II

BACKGROUND ON THE GAMBLING CONTROL BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)

The Gambling Control Bill (National Assembly Bill No. 70 of 23) was published vide Kenya Gazette Supplement No. 212 of 31st October 2023 as a Bill to provide for the regulation of betting, casinos and other forms of gambling, to establish the Gambling Regulatory Authority of Kenya, and to repeal and replace the Betting, Lotteries and Gaming Act (Cap 131).

The National Assembly considered the said Bill and passed it on Wednesday, 6th December, 2023 with amendments and referred the Bill to the Senate for consideration pursuant to the provisions of Standing Order 142. The Senate considered and passed the said Bill on Tuesday, 8th October, 2024 with amendments as contained in this Report.

The Senate amendments to the Gambling Control Bill, 2023 were subsequently committed to the Departmental Committee on Sports and Culture for consideration and reporting to the House.

PART III

OVERVIEW OF THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL (*NATIONAL* ASSEMBLY *BILL NO. 70 OF 2023*)

The following amendments to the Gambling Control Bill (National Assembly Bills No. 70 of 2023) were passed by the Senate on Tuesday, 8th October, 2024 —

Clause 5

Clause 5 amended by inserting the following new paragraphs immediately after paragraph (e)–

(ea) develop and implement county legislation on betting and other forms of gambling;

(eb) license prize competitions within a county;

(ec) license amusement machines;

(ed) issue trade permits for betting premises;

(ee) license and issue pool table permits within the county;

(ef) license and supervise county lotteries;

(eg) issue trade permits for premises for totalisators;

Clause 7

Clause 7 amended by–

(a) deleting paragraph (d) and substituting therefor the following new paragraph–

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that–

(i)one shall represent persons with disabilities;
(ii) one shall represent the youth; and
(iii) one shall represent faith-based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph–

three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and

(c) deleting paragraph (f).

Clause 10

Clause 10 amended–

(a) by deleting paragraph (c);
(b) in paragraph (f) by inserting the words "in consultation with county governments" immediately after the word "maintain";
(c) in paragraph (g) by inserting the words "beneficial owners" immediately after the word "directors";
(d) by inserting the following new paragraph immediately after paragraph (n)–

(na) collaborate with the Kenya Revenue Authority, established under section 3 of the Kenya Revenue Authority Act, to establish a monitoring system for tax compliance under this Act;

Clause 11

Clause 11 amended by inserting the following new subclauses immediately after subclause (4)–

(5) The Cabinet Secretary, in consultation with the Authority, may grant remote platform authorizations.

(6) The Cabinet Secretary may revoke an authorization granted under subsection (5) only if the platform is found to be in breach of the regulatory service requirements as prescribed by the Authority.

Clause 28

Clause 28 amended–

(a) in subclause (2) by deleting paragraphs (o), (p) and (q); and
(b) by deleting subclause (4).

Clause 31

Clause 31 amended in subclause (3) by deleting the word "twelve" appearing immediately after the words "a period of" and substituting therefor the words "thirty six".

New Clause 57A

The following new clause 57A inserted immediately after clause 57–

Lottery tax.

57A. (1) There shall be a tax to be known as lottery tax chargeable at the rate of fifteen per cent of the lottery turnover.

(2) The tax shall be paid to the Collector by a person authorized to promote the lottery on the 20th day of the month following the month of collection.

New Clause 63A

The following new clause 63A inserted immediately after clause 63–

Betting tax.

63A. (1) There shall be a tax to be known as the betting tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by the licensed bookmaker on the 20th day of the month following the month of collection.

(3) This section shall not apply to horse racing.

Clause 64

Clause 64 amended in subclause (5) by deleting the word "twenty shillings" appearing at the end of the subsclause and substituting therefor the words "one shilling".

Clause 66

Clause 66 amended by deleting the words "shall ensure that its" appearing immediately after the word "Authority" and substituting therefor the words "and county governments shall ensure that their".

New Clause 66A

The following new clause 66A inserted immediately after clause 66–

Gaming tax.

66A. (1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by a person carrying on a gaming business on the 20th day of the month following the month of collection.

Clause 69

Clause 69 amended by deleting clause 69 and substituting therefor the following new clause–

Online gambling transaction.

69. An online gambling transaction shall commence when a player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.

Clause 71

Clause 71 amended in subclause (3) by deleting the words "five million" appearing immediately after the words "not less than" and substituting therefor the words "fifty thousand".

Clause 79

Clause 79 amended–

(a) in subclause (1) by deleting paragraph (c);

(b) by inserting the following new subclauses immediately after subclause (3)–

(4) Notwithstanding the provisions of subsection (1), a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya, may apply for a licence to the Authority under this section.

(5) A foreign based operator who applies for a licence under subsection (3) shall be exempt from the requirements under sections 29 and 40.

New Clause 82A

The following new clause 82A inserted immediately after clause 82–

Prize competition tax.

82A. (1) There shall be a tax to be known as 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.

(2) The tax shall be paid to the Collector by the licensed person on the 20th day of the month following the month of collection.

Clause 87

Clause 87 amended–

(a) in subclause (2) by deleting paragraph (e); and
(b) by deleting subclause (4) and substituting therefor the following subclause–

(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

New Clause 117A

The following new clause 117A inserted immediately after clause 117–

Operating hours.

117A. A licensed betting, gambling, lottery or gaming premise shall operate between ten o'clock in the evening and five o'clock in the morning.

Clause 119

Clause 119 amended in subclause (2) by–

(a) deleting paragraph (d); and
(b) deleting paragraph (g).

Clause 123

Clause 123 amended by renumbering the current provision as subclause (1) and inserting therefor the following new subclauses immediately after the new subclause (1)–

Cap. 469.

(2) The Kenya Revenue Authority Act is amended in Part II of the First Schedule by deleting paragraph 7 and substituting therefor the following new

paragraph–

7. The Gambling Control Act.

Cap. 470. (3) The Income Tax Act is amended–

(a) by deleting section 10(1)(g); and

(b) in the Third Schedule, Head B, by deleting–

(i) paragraph 3(i); and

(ii) paragraph 5(i).

Cap. 472. (4) The Excise Duty Act is amended in Part II of the First Schedule by deleting paragraphs 4A, 4B, 4C and 4D.

No. 20 of 2023. (5) The National Lottery Act is amended by inserting the following new clause immediately after clause 52–

Regulations. 53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under thus section may provide for–

(a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;

(b) the conduct of a national lottery;

(c) apportionment of the proceeds of the national lottery;

(d) procedure for the sale of tickets, prizes of tickets and payment of prizes;

(e) announcement and protection of winners of the national lottery;

(f) the circumstances under which the national lottery may be advertised; and

(g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

Third Schedule

The Third Schedule amended in–

(a) paragraph (b) by deleting the amount "200,000,000" and substituting therefor the amount "20,000,000"; and

(b) paragraph (c) by deleting the amount "200,000,000" and substituting therefor the amount "20,000,000".

PART IV

4.0 COMMITTEE OBSERVATIONS

Having considered the Senate Amendments to Gambling Control Bill, 2023 the Committee made the following observations:

Senate Amendment to Clause 5

The amendment seeks to include additional functions of county governments in relation to gambling, specifically the development of county legislation and licensing of gambling activities.

Analysis:

Betting, casinos and other forms of gambling is a shared function between the national government and county governments as provided in the Fourth Schedule to the Constitution.

The Bill addresses the shared nature of gambling by providing for licensing under clause 28(2) to be performed by the Authority (national government), and subsequently the issuance of trade permits under clause 45(1) to be performed by the county governments. Further, clause 5(b) mandates the county governments to issue trade permits for all gambling premises.

The Committee takes note of the Gazette Notice No. 2 of 2012 by the Intergovernmental Relations Technical Committee on the delineation of functions between the national government and county governments on betting, casinos and other forms of gambling. In as much the assignment of the functions uses the term 'license' in respect of both national government and county governments, there is need for clarity in legislation to clearly provide for licensing to be performed by the national government while issuance of trade permits to be performed by the county governments.

Committee Observation

The Senate amendment therefore conflicts with the intention of the Bill.

Senate Amendment to Clause 7

The amendment seeks to–

(a) remove the Attorney-General from the composition of the Board of the Authority;
(b) specify the youth as one of the categories of the three persons appointed by the Cabinet Secretary; and
(c) increase the number of persons nominated by the Council of Governors from one person to three persons.

The effect of these amendments would increase the number of members of the Board from 9 to 10 members.

Analysis:

Section 6(1) of the State Corporations Act, Cap. 446 provides for the composition of Boards of state corporations. Paragraph (da) provides for the membership of the Attorney-General or his representative.

The recommendations of the Mwongozo Code of Governance for state corporations provides that the Board membership of state corporations shall be between 7 and 9 members.

Committee Observation

The Senate amendment therefore conflicts with the provisions of the State Corporations Act, Cap. 446 as well as the recommendations of the Mwongozo Code of Governance for state corporations.

Senate Amendment to Clause 10

The amendment seeks to–

(a) remove the function of issuance of licences from the Authority;
(b) provide that the register of gambling machines and devices shall be established and maintained by the Authority in consultation with county governments;
(c) provide that the Authority shall conduct due diligence in respect of beneficial owners of gambling companies; and
(d) provide that the Authority shall establish a tax compliance monitoring system.

Analysis:

Clause 28(2) of the Bill provides that the Authority shall license all gambling activities under the Act, while clause 45(1) provides that the county governments shall issue trade permits to holders of gambling licences. The amendment to delete the function of licensing from the Authority therefore conflicts with the intention of the Bill.

The requirement of due diligence to be conducted in respect of beneficial owners of gambling companies is necessary so as to ensure accountability of persons who exercise ultimate effective control over a company.

Committee Observation

Clause 10(h) of the Bill provides that the Authority shall establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements. This provision addresses the proposed amendment relating to the tax compliance monitoring system. There is therefore no need to restate the provision as proposed by the Senate.

Senate Amendment to Clause 11

The amendment seeks to introduce new subsections providing for the power of the Cabinet Secretary to grant or revoke remote platform authorizations.

Analysis:

There is need for clarity in regards to what constitutes a remote platform authorization. The term is not proposed to be defined in the interpretation section in clause 2.

Committee Observation

Further, clause 11 of the Bill which is proposed to be amended provides for the power of the Cabinet Secretary to prescribe guidelines for gambling operations. The proposed amendments relating to remote platform authorization appear to be misplaced in the clause.

Senate Amendment to Clause 28

The amendment seeks to remove the power of the Authority to issue gambling licences with respect to–

(a) key gambling employees;
(b) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and
(c) all media promotions with prizes and prize competitions cutting across several counties.

Further, the amendment seeks to delete the definition of "gambling employee" under the clause.

Analysis:

The requirement of issuance of licences for key gambling employees and persons within gambling premises is an international practice due to the precarious nature of gambling activities.

Further, the issuance of licences to the media promotions is necessary so as to regulate the electronic gambling activities.

Committee Observation

The Senate amendment therefore goes against best practice.

Senate Amendment to Clause 31

The amendment seeks to extend the validity period of a gambling licence from 12 months to 36 months.

Analysis:

The proposal for a three year period for gambling licences conflicts with the validity period of trade permits which shall be issued to licence holders under the Bill, since the trade permits are valid for 12 months.

New Clause 57A

The amendment seeks to introduce a lottery tax at the rate of 15%.

Analysis:

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

Committee Observation

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

New Clause 63A

The amendment seeks to introduce a betting tax at the rate of 15%.

Analysis:

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

Committee Observation

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Senate Amendment to Clause 64

The amendment seeks to reduce the minimum amount of a single bet in a casino machine from 20 shillings to 1 shilling.

Analysis:

The amount of one shilling as a minimum bet amount is not practical, noting that excise duty is payable in respect of wagers made during betting.

Committee Observation

Further, in conducting public participation on the Bill, the Committee received submissions from various stakeholders who proposed that the minimum amount of a bet be increased to fifty shillings.

Senate Amendment to Clause 66

The amendment seeks to provide that in addition to the Authority, the county governments shall also ensure that their officers are present in casinos for purposes of ensuring compliance.

Analysis:

The First Schedule to the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A provides that the current Betting Control and Licensing Board is a supervisory body for purposes of financial reporting in regards to casinos. The Bill envisages that the Authority once established shall supervise casinos in regards to financial reporting under the Proceeds of Crime an Anti-Money Laundering Act, Cap. 59A, and this is a function of the national government.

New Clause 66A

The amendment seeks to introduce a gaming tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Senate Amendment to Clause 69

The amendment seeks to amend the commencement and conclusion time of an online gambling transaction.

In terms of the amendment, an online gambling transaction shall commence at the time of deposit of money into a gaming account, and shall conclude at the time of withdrawal of money from a gaming account.

Analysis:

Section 4 of the Excise Duty Act, Cap. 472 provides for the time of supply in respect to excisable goods. Subsection (1A) provides that in relation to a betting transaction, the time of supply shall be the time when a person wagers or stakes money on a platform or other medium provided by a bookmaker.

Committee Observation

The Senate amendment therefore conflicts with the provisions of the Excise Duty Act, Cap. 472.

Senate Amendment to Clause 71

The amendment seeks to reduce the penalty for the offence of permitting online gambling for an amount less than 20 shillings, from above 5 million shillings to above 50,000 shillings.

Committee Observation

The Committee notes that while a fine of not less than five million shillings may be too punitive, a lower limit of fifty thousand shillings may be too lenient.

Senate Amendment to Clause 79

The amendment seeks to–

(a) remove the requirement that for a foreign gambling operator to be licensed in Kenya, they must intend to carry on the online gambling business in Kenya; and
(b) provide that a foreign gambling operator shall be exempt from the provisions of clause 29 (requirements for licensing) and 40 (security for gambling activity).

Analysis:

Clause 79 provides for the conditions to be fulfilled by a foreign gambling operator that seeks to be issued with a licence by the Authority.

It follows that a foreign gambling operator seeking a licence from the Authority would seek a licence with the objective of carrying out online gambling business in Kenya, hence the requirement of paragraph (c).

The proposed new sub-clause (4) conflicts with the provisions of sub-clause (1)(c). Further, it would be futile for a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya to apply for a licence to the Authority.

Clause 40 provides for security for gambling activity to be deposited by all licensed gambling operators. The Third Schedule to the Bill provides for the actual amounts to be deposited in respect of each type of gambling, including online gambling. The Senate has not provided a justification of why a foreign online gambling company should be exempted from this provision.

New Clause 82A

The amendment seeks to introduce a prize competition tax at the rate of 15%.

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

Committee Observation

The Senate amendment therefore contravenes the provisions of Article 109(5) of the Constitution.

Senate Amendment to Clause 87

The amendment seeks to–

(a) remove the restriction that a gambling advertisement shall not be broadcasted on television between 6am and 10pm unless it is done in a live sporting event; and
(b) reduce the penalty for the offence of contravening the provisions on advertisement of gambling, from 20 million shillings to 1 million shillings, and imprisonment from 20 years to 1 year.

Analysis:

The Committee noted that the objective of the restriction on the hours of gambling advertisement is to discourage gambling which is a social vice. Removing the restriction from the Bill would lead to the unregulated advertisement air-time on television which would subsequently increase the social vice.

Committee Observation

The Committee further observed that the penalty proposed by the Senate for the contravention of provisions on gambling advertisement is too low.

New Clause 117A

The amendment seeks to introduce a new clause in the Bill providing for the operating hours of betting, gambling, lottery or gaming premises, which shall be between 10pm and 5am.

Analysis:

The Committee noted that the imposition of operating hours of gambling premises may not be practical owing to the fact that the restriction would not apply in respect of online gambling.

Further, the Committee may consider amending clause 11(2) to provide operating hours as one of the matters in respect of which the Cabinet Secretary shall issue gambling operating guidelines.

Senate Amendment to Clause 119

The amendment seeks to remove the conduct of a national lottery and national lottery rules form among the matters which the Cabinet Secretary shall have power to make regulations.

Analysis:

The intention of the Bill is to ensure that the Gambling Regulatory Authority shall be the overall overseer of matters to do with betting, gaming and lotteries, including the national lottery. Clause 10(a) of the Bill provides that the Authority shall develop standards and norms for betting, lotteries, casinos and other forms of gambling.

It is therefore envisaged that as the Board develops standards for lotteries, it shall also, in consultation with the Cabinet Secretary, make regulations with respect to the conduct of a national lottery.

Committee Observation

The Senate amendment therefore conflicts with the intention of the Bill.

Senate Amendment to Clause 123

The amendment seeks to–

(a) amend the Kenya Revenue Authority Act, Cap. 469 to include the Gambling Control Act (once enacted) as one of the written laws relating to revenue;
(b) amend the Income Tax Act, Cap. 470–

(i) to exclude winnings from the definition of an income;
(ii) to remove the non-resident tax rate in respect of winnings (20%);
(iii)to remove the resident withholding tax rate in respect of winnings (20%);

(c) amend the Excise Duty Act, Cap. 472 to remove the excise duty in respect of betting, gaming, prize competition and lottery (12.5%); and
(d) amend the National Lottery Act, No. 20 of 2023 to introduce a provision on regulations.

Analysis:

Article 109(5) of the Constitution provides that a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Further, it was resolved that matters relating to taxation measures be withdrawn from the Bill pending the engagement of the Departmental Committee on Finance and the relevant stakeholders, after which the same would be introduced through a subsequent Finance Bill.

The National Lottery Act, No. 20 of 2023 is an Act of Parliament providing for the establishment of a national lottery at the national government level.

Article 109(3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly. This therefore means that amendments to an Act concerning the national government may only be introduced in the National Assembly.

The Senate amendment therefore conflicts with the provisions of Article 109 of the Constitution.

Senate Amendment to the Third Schedule

The amendment seeks to reduce the security required in respect to online gambling and the national lottery, from 200 million shillings to 20 million shillings.

Analysis:

The Committee noted that both online gambling and the national lottery would cover a wider scope of players as compared to physical gambling premises, therefore there is need to ensure that the security for online gambling and the national lottery is higher than that required for other forms of gambling.

PART V

COMMITTEE RECOMMENDATIONS

Having considered the Senate amendments to the Gambling Control Bill 2023 (National Assembly Bill No. 70 of 2023), the Committee recommends that the House **REJECTS** the Senate amendments to-

(a) Clause 5;
(b) Clause 7;
(c) Clause 10;
(d) Clause 11;
(e) Clause 28;
(f) Clause 31;
(g) New Clause 57A;
(h) New Clause 63A;
(i) Clause 64;
(j) Clause 66;
(k) New Clause 66A;
(l) Clause 69;
(m) Clause 71;
(n) Clause 79;
(o) New Clause 82A;
(p) Clause 87;
(q) New Clause 117A;
(r) Clause 119;
(s) Clause 123; and
(t) Third Schedule.

SIGNED..... **DATE**.3/12/2024.....

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

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 03 DEC 2024 DAY: Tuesday
TABLED BY: Hon. Daniel Wanyama (Chairperson, Sports and Culture Committee)
CLERK AT THE TABLE: Anastacia

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

REPORT ADOPTION SCHEDULE

DATE: 30/11/2024 VENUE: HILTON GARDEN INN.

REPORT ON COMMITTE CONSIDERATION TO THE SENATE AMENDMENTS TO THE GAMBLING CONTROL BILL, 2023

No.	NAME	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. CBS	–
4.	The Hon. Samuel Gonzi Rai, M.P.	–
5.	The Hon. Stephen Mutinda Mule, M.P.	
6.	The Hon. Mary Emaase Otucho, M.P.	
7.	The Hon. Janet Jepkemboi Sitienei, M.P.	
8.	The Hon. Charles Ngusya Nguna, M.P.	
9.	The Hon. Caroli Omondi, M.P.	
10.	The Hon. Catherine Nakhabi Omanyo, M.P.	
11.	The Hon. Chege Njuguna, M.P	–
12.	The Hon. Paul Ekwom Nabuin, M.P.	
13.	The Hon. Robert Ngui Basil, M.P.	–
14.	The Hon. Richard Kipkemoi Yegon, M.P.	–
15.	The Hon. BSP. (EM) Dr. Jackson Kipkemoi Kosgei, M.P.	

ANNEX 5:

COPY OF THE MEDIATED BILL.



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(***Bill No. 70 of 2023***)

THE GAMBLING CONTROL BILL, 2023

(A version of the Gambling Control Bill, 2023 (National Assembly Bill No. 70 of 2023) as agreed on 23rd April, 2025 by a mediation committee appointed pursuant to Article 113 of the Constitution)

N.A. /B/No. 70/2023

THE GAMBLING CONTROL BILL, 2023

Clause

ARRANGEMENT OF CLAUSES

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1—Short title.

2—Interpretation.

3—Objects and purpose of the Act.

PART II—FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS

4—Functions of the National Government.

5—Functions of County Governments.

PART III—ESTABLISHMENT OF THE GAMBLING REGULATORY AUTHORITY

6—Establishment of the Authority.

7—Board of the Authority.

8—Qualification for appointment to the Board.

9—Vacancy in the Board.

10—Functions of the Authority.

11— Gambling operations guidelines.

12— Powers of the Board.

13— Conduct of business and affairs of the Board.

14— Committees of the Board.

15— Remuneration of the Board.

16— Director-General.

17— Removal of the Director-General.

18— Corporation Secretary.

19—Staff of the Authority.

20— Delegation of powers of the Board.

21—Seal of the Authority.

22— Funds of the Authority.

23— Financial year.

24— Annual estimates.

25— Accounts and audit.

26— Reports of the Authority.

27— Protection from personal liability.

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THE GAMBLING CONTROL BILL, 2023

A Bill for

AN ACT of Parliament to provide 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 of Kenya; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Gambling Control Act, 2023.

Interpretation.

2. In this Act, unless the context otherwise requires—

"Authority" means the Gambling Regulatory Authority of Kenya established by section 6;

"authorized race meeting" means a race meeting in respect of which a permit authorizing bookmaking has been issued under this Act;

"amusement game" means a game that is played by means of an amusement machine with a restricted prize;

"amusement machine" means a machine or a device whether operated electronically, manually or otherwise on which an amusement game is played exclusively for amusement purposes and is operated by insertion of money or amusement machine token, and includes pool tables;

"beneficial owner" has the meaning assigned to it in the Companies Act; Cap. 486.

"bet" means a wager or stake of money or money's worth, or any other valuable thing by or on behalf of any person; agreement to wager or stake by or on behalf of any person money or a valuable thing on a horse race, fight, game, sport, lottery or exercise or any other event, race or contingency;

"betting premises" means premises used for the purposes of betting to which the public has access and which are kept or used, on one or more occasions, for the

purpose of—

(a)bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or

(b)any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

"betting transaction" includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

"*bingo*" means a game where a player marks off numbers on cards or screens as the numbers are drawn randomly, the winner being the first to mark off all the numbers required and includes playing by electronic means or by online communication;

"Board" means the Board of the Gambling Regulatory Authority of Kenya constituted in accordance with section 7 of this Act;

"bookmaker" means a person who, whether on his own account or as a servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving and negotiating bets excluding—

(a) a person who carries on, or is employed to

operate a totalisator in respect of which a licence has been issued under this Act; or

(b) a person employed in a business that is wholly concerned with a pool betting scheme in respect of which a licence has been issued under this Act;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to gambling;

"casino" means any designated premise or part of a premise, approved virtual or online platform or a site where a person may participate in a game approved by the Authority;

"chain letter" means a scheme or an investment promising a high rate of return made up of money from a gambling operator or licensee luring a player into a bigger risk;

"Collector" means the Commissioner-General appointed under section 11 of the Kenya Revenue Authority Act; Cap. 469.

"coupon" in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected designed to assist in the making of a bet by way of pool betting;

"Director-General" means the Director-General of the Authority appointed under section 16;

"electronic device" means an electrical, digital, magnetic, wireless, optical, or electro-magnetic device used in gambling;

"Fund" means the National Lottery Fund established by section 44 of the National Lottery Act; No. 20 of 2023.

"gambling" means the playing of a game of chance for prize winning and includes lottery betting, prize competitions, and media promotions with prizes;

"gambling equipment" means any software, device, instrument, including a chip, a token, a voucher or any other instrument with a fixed monetary wagering value used instead of money for the purpose of gambling, tokens dice, counter, ticket, gambling table, board, box, bird or an animal used for purposes of or capable of being used for or in connection with gambling and includes—

(a) a linked jackpot equipment;

(b) an electronic monitoring system including any electronic, computer, communications system or device used or adapted to send or receive data from a gambling equipment in relation to security, accounting, monitoring, evaluation or operation of gambling and gambling equipment;

(c) any online gambling machine; or

(d) part of a replacement or part of any gambling machine equipment or system;

"gambling machine" means any device which is operated electronically or mechanically or both electronically and mechanically that is designed for—

(a) placing bets for playing a game of chance which does not require action by a player other than the manipulation of the machine;

(b) playing a game of chance which requires no action by a player other than the manipulation of the machine; or

(c) the purpose of playing a game of chance or a game of fixed chance and skill which may result in payable winnings;

"gambling premises" means premises which are kept or used, whether on one or more than one occasion, for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

"gambling platform'' means a system that offers a full range of services for effecting a gambling activity;

"gambling service" means any service that is required to facilitate any component of an activity for gambling and may be provided by an intermediary;

"game of chance" includes a game of chance and skill combined but does not include an athletic game or sport;

"good cause" means a charitable cause or an event for charity;

"gross gambling revenue" means total revenue received from a gambling activity before any deductions

are made;

"horse race" includes a pony race;

"jackpot" means the highest prize resulting from a combination of letters, numbers, symbols or representations displayed or advertised in a game of chance and payable either from a fixed prize schedule or accumulates as contributions are made to a special prize pool;

"licence" means a legal authorization issued by the Authority and which—

(a)is subject to compliance with specific conditions and standards prescribed by the Authority;

(b)may be cancelled a any time if the conditions or standards are violated; and

(c)is assigned to a specific person and may not be re-assigned to another person;

"licensee" means a person issued with a licence under this Act;

"licensed betting premises" means premises duly licensed where bets may be made and settled;

"lottery" includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any property depending upon or as determined by a slot or a chance, whether by throwing or casting a dice, or by withdrawing a ticket, card, slot, numbers or figures, or by means of a wheel;

"lottery ticket" means any document or electronic evidence entitling a person to participate in a lottery chance;

(a) to supplier;

(b) to performs maintenance of gambling equipment; or

(c) provider of gambling services;

"manufacture" means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and may include–

(a)to supply;

(b)to perform maintenance of gambling equipment; or

(c) to provide gambling services;

"National Lottery" means the national lottery established under section 22 of the National Lottery Act; No. 20 of 2023.

"odd" means a gambling chance;

"online bookmaker'" means a person who carries on any form of betting by means of remote communications, including virtual games, virtual sports as well as other forms of gambling;

"online gambling" means any form of gambling in which persons participate by the use of remote communication and on the internet;

"person" includes a partnership, association, trust, or a juristic person established by operation of any other law;

"pool betting" means the making of bets, other than bets made by means of totalisator, whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

"pool betting scheme" means a scheme involving the receiving or negotiating of bets made by way of pool betting;

"prize" means the prize awarded to a winner of a lottery or a prize promotion;

"punter" means a person who is in possession of a valid ticket or other kind of valid receipt issued by a licensee relating to gambling;

"race meeting" means a gathering of the public or of

members of an association of persons to watch an authorized horse race or any other related race;

"record" includes any book, account, document, paper or other source of information compiled, recorded, stored in written form or on micro film, or by electronic process, or in any other matter or by any other means;

"remote platform authorization" means a formal approval granted by the Cabinet Secretary, in consultation with the Authority, to a person to operate a technological system, software or infrastructure that enables or facilitates online gambling activities including—

(a)digital platforms that host multiple gambling operators;

(b)software systems that process gambling transactions across multiple operators;

(c)technological infrastructure that enables the integration of payment systems with gambling operations;

(d)shared systems for player verification, anti-money laundering compliance, or fraud detection; or

(e) any other technological solution that serves as an intermediary or enabling system for online gambling activities.

"reporting institution" has the meaning assigned to it in the Proceeds of Crime and Anti-Money Laundering Act; Cap. 59A.

"security" means any deposit provided as security under this Act;

"slot machine" means any mechanical, electrical or other device, contrivance or machine that is metered and which is able to record history of play, which, upon insertion of a coin, token or similar object, or upon

payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value, whether the payoff is made automatically from the machine or in any other manner;

"stake" means money or money's worth that a player may risk to make a bet or buy into a gambling game;

"testing agent" means a person licensed under this Act to test and calibrate gambling machines, equipment or devices;

"ticket" in relation to any lottery or game of chance, includes any written or electronic document evidencing the claim of a person to participate in a lottery or a game of chance;

"totalisator" means an instrument, a machine, a contrivance, or a scheme for enabling any number of persons to make bets on any event or contingency and includes a device showing the number and amount of bets staked in a race; and

"trade permit" means a legal authorization issued by a county government and which authorizes a person to engage in a business within the specific county government;

"Tribunal" means the Gambling Appeals Tribunal established in section 88.

Objects and purpose of the Act.

3. The objects and purpose of this Act is to—

(a) provide a framework for regulation and control of gambling activities;

(b) authorise some gambling activities and prohibit the rest as unlawful gambling;

(c) promote the development of a responsible

gambling industry;

(d) minimize social harm associated with gambling;

(e) ensure integrity and fairness in licensed gambling activities; and

(f) provide for the establishment of mechanisms for resolution of disputes relating to gambling.

PART II—FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS

Functions of the National Government.

4. (1) The National Government shall—

(a) establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gambling;

(b) regulate the gambling industry in accordance with this Act;

(c) licence gambling activities including online gambling in accordance with this Act;

(d) licence national lotteries;

(e) conduct security checks, vetting and due diligence in respect of gambling activities;

(f) enforce compliance with this Act;

(g) conduct anti-money laundering risk-based inspections and inspections to combat financing of terrorism through casinos and any other forms of gambling;

(h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and the Anti-money Laundering Act, 2009, regulate and supervise the reporting institutions licensed under this Act; Cap. 59A.

(i) provide capacity building and technical assistance to county governments; and

(j) perform any other function as may be prescribed under this Act or any other written law.

(2) In the discharge of its mandate under subsection

(1), the Authority shall collaborate with county governments and county gambling regulatory authorities in the discharge of functions relating to betting, lotteries, casinos and other forms of gambling.

Functions of county governments.

5. A county government shall—

(a) implement and ensure compliance to this Act;

(b) issue trade permits for gambling premises;

(c) implement policy standards and norms of gambling within its jurisdiction;

(d) ensure periodic monitoring and evaluation of betting. lotteries and gaming trade permits issued by county governments;

(e) handle complaints and facilitate arbitration; and

(f) perform such other functions as are incidental to the exercise of any or all of the county government functions provided for under this Act.

PART III—ESTABLISHMENT OF THE GAMBLING REGULATORY AUTHORITY OF KENYA

Establishment of the Authority.

6. (1) There is established an Authority to be known as the Gambling Regulatory Authority of Kenya.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of—

(a) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;

(b) borrowing money;

(c) entering into contracts;

(d) suing and being sued; and

(e) doing or performing all such other acts necessary for the performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(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. Cap. 131.

(4) The headquarters of the Authority shall be in Nairobi, but the Authority may establish offices at such other places in Kenya as may be necessary for the execution of its mandate.

Board of the Authority.

7. (1) The management of the Authority shall vest in a Board which shall consist of—

(a) a Chairperson who shall be appointed by the President;

(b) the Principal Secretary in the ministry for the time being responsible for matters relating to gambling or a representative designated in writing;

(c) the Principal Secretary in the ministry for the time being responsible for the National Treasury or a representative designated in writing;

(d) the Attorney-General or a representative designated in writing

(e) two persons, not being public officers, appointed by the Cabinet Secretary, being persons with background in finance, law, betting and lotteries or business management, provided that—

(i)one shall represent persons with disabilities; and

(ii)one shall represent faith-based organizations;

(f) two persons nominated by the Council of Governors and appointed by Cabinet Secretary; and

(g) the Director-General who shall be an *ex officio* member.

(2) The appointment of the Chairperson and members appointed under subsection (1)(a), (e) and (f) shall be by name and notice in the *Gazette.*

(3) The Chairperson and members of the Board appointed under subsection (1)(a), (e) and (f) 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 satisfactory performance.

(4) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall–

(a)ensure that not more than two-thirds of the members are of the same gender;

(b)observe the principle of regional and ethnic balance; and

(c)have due regard to the principle of fair competition and merit as the basis for the appointments.

(5) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

Qualification for appointment to the Board.

8. (1) A person shall be qualified for appointment as the Chairperson or a member of the Board, if the person—

(a) is a Kenyan citizen;

(b) holds a university degree from a university recognized in Kenya;

(c) has a minimum of ten years working experience in a relevant field;

(d) was not a director, employee, or shareholder of a gambling operator in the preceding five years;

(e) meets the requirements of Chapter Six of the Constitution; and

(f) has submitted to the Cabinet Secretary a written declaration stating that the person does not have any interests in the gambling sector or an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the Board.

(2) A person shall not be appointed as a Chairperson or member of the Board if the person—

(a) is an undischarged bankrupt;

(b) has been convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(c) at the time of appointment holds a political office;

(d) has previously been removed from a public office on account of misconduct or any other lawful reasons; or

(e) in the last twelve months immediately preceding the appointment, had personal direct or indirect commercial interest in the sector regulated under this Act.

Vacancy in the Board.

9. (1) The office of the Chairperson or a member of the Board appointed under section 7(1)(a), (e) and (f) shall become vacant if the holder—

(a) dies;

(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;

(c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months;

(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.

Functions of the Authority.

10. The Authority shall—

(a) develop standards and norms for betting, lotteries, casinos and other forms of gambling;

(b) regulate and control gambling activities;

(c) issue licences for gambling activities prescribed under this Act;

(d) develop policies for placing of bet for betting, lotteries and gambling that include a savings component for social health insurance or social retirement benefit;

(e) monitor the implementation of gambling policies at the national and county level;

(f) establish and maintain, in consultation with county governments, a register of all gambling machines and devices, and other relevant data on licensed gambling activities;

(g) conduct security checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, directors, beneficial owners and staff;

(h) establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements;

(i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, and patterns, causes and consequences of–

(i) the socio-economic impact of gambling;

(ii) addictive or compulsive gambling; and

(iii) any other matter that is relevant to the gambling sector;

(j) coordinate research and surveys relating to the gambling industry;

(k) monitor and alleviate illegal cross border gambling activities in collaboration with county governments;

(l) advise county governments on matters relating to the regulation of gambling activities;

(m) receive and make determination on complaints from companies and the public on matters

pertaining to games of chance; and

(n) establish programmes to improve the capacity of county governments on matters relating to the regulation of gambling activities; and

(o) collaborate with the Kenya Revenue Authority, established under the Kenya Revenue Authority Act, to establish a monitoring system for tax compliance under this Act; Cap. 469.

(p) perform any other functions conferred by this Act or any other written law.

Gambling operation Guidelines.

11. (1) The Cabinet Secretary shall, in consultation with the Authority, prescribe guidelines of practice on the manner in which facilities for gambling are operated by the holder of a licence under this Act.

(2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—

(a) ensuring that gambling is conducted in a fair and open way;
(b) protecting children and other vulnerable persons from being harmed or exploited by gambling;
(c) making assistance available to persons who are or may be affected by problems related to gambling;
(d) protecting of vulnerable gamblers;
(e) information and data protection in accordance with the Data Protection Act;
(f) online payment protection;
(g) creation of secure online gambling environment;
(h) ethical and responsible marketing;
(i) safety measures against criminal activities, anti-money laundering and terrorism; and
(j) public awareness and education campaigns.

(3) The Cabinet Secretary may, in consultation with the Authority, review the guidelines issued under this

section.

(4) Before issuing or revising the guidelines under this section, the Cabinet Secretary and the Authority shall consult—

(a)any person who represents licensing authorities;
(b)the body responsible for the protection of the best interests of the child, as established in the Children Act; No. 29 of 2022.
(c)any person who represents the Inspector General of Police;
(d)any person who represents the interests of punters; and
(e)the members of public in such manner as the Authority considers appropriate.

(5) The Cabinet Secretary shall prescribe guidelines providing for remote platform authorization.

Powers of the Board.

12. (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

(a) control, supervise and administer the assets of the Authority in such manner as best promotes the purpose for which the Authority is established;

(b) receive any grants, gifts, donations or endowments made to the Authority and make disbursements therefrom in accordance with the provisions of this Act;

(c) conduct such investigations as may be necessary for the enforcement of this Act;

(d) approve the opening, operation and closing of the bank accounts of the Authority with the approval of the National Treasury;

(e) conduct such investigations as may be necessary for the implementation of the Act;

(f) inquire into any complaint against a licensee; and

(g) undertake any activity necessary for the fulfilment of any of the functions of the Board.

Conduct of business and affairs of the Board.

13. (1) The procedure for the conduct of the business and affairs of the Board shall be as provided in the First Schedule.

(2) Subject to the First Schedule, the Board shall regulate its own procedure.

Committees of the Board.

14. The Board may establish such committees as it may consider necessary to assist it in the performance of its functions and the exercise of any of its powers.

Remuneration of the Board.

15. The members of the Board shall be paid such allowances and disbursements, for expenses, as may be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Director-General.

16. (1) There shall be a Director-General of the Authority who shall be appointed by the Board through an open, transparent and competitive process on such terms and conditions as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

(2) A person shall be qualified for appointment as the Director-General if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya;

(c) has at least ten years' experience in senior management in a public or a private institution; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be—

(a) the Chief Executive Officer of the Authority;

(b) the custodian of all the records of the Authority;

(c) responsible for—

(i) the day-to-day management of the affairs and staff of the Authority;

(ii) facilitating, coordinating and ensuring

execution of the mandate of the Authority;

(iii) the management and maintenance of efficiency of the staff of the Authority;

(iv) the execution of decisions of the Board;

(v) preparing and submitting for approval, by the Board, programmes of work for the achievement of the mandate of the Authority; and

(vi) the performance of such other duties as may be assigned by the Board or any written law.

(4) The Director-General shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

Removal of the Director-General.

17. (1) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

(a)gross misconduct or misbehavior;

(b)bankruptcy;

(c)incompetence or neglect of duty;

(d)violation of the Constitution or any other written law; or

(e)inability to perform the functions of office by reason of physical or mental incapacity.

(2) Before the Director General is removed under subsection (1), the Director-General shall be given—

(a)sufficient notice of the allegations made against him or her; and

(b)an opportunity to present his or her defence against the allegations.

Corporation Secretary.

18. (1) The Authority shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to

the Board.

(2) The Secretary to the Board shall—

(a) provide guidance to the Board on the Board's duties, responsibilities and powers;

(b) ensure that Board follows its procedures and complies with the respective laws and regulations;

(c) prepare the Board's work plans and assist the Chairperson to organise the activities of the Board 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;

(d) take and keep the minutes of the meetings of the Board, and circulating the minutes to the members of the Board;

(e) keep a record of the usage of the seal of the Authority;

(f) keep a record of the appointment letters, notices of appointment and the written acceptance of appointment by members of the Board;

(g) keep a record of conflicts of interest declared by each member of the Board; and

(h) perform such other duties as the Board may direct.

Staff of the Authority.

19. The Authority may appoint such number of professional, technical and administrative staff for the Authority as it may consider necessary for the discharge of its functions, on such terms and conditions as the Board may determine, on the advice of the Salaries and Remuneration Commission.

Delegation of powers of the Board.

20. The Board may by resolution, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Seal of the Authority.

21. (1) The common seal of the Authority shall be kept in the custody of the Director-General or such other

person as the Board, may direct and shall not be used except upon the order of the Board.

(2) The common seal of the Authority shall be authenticated by the signature of the Chairperson of the Board and of the Director-General:

Provided that the Board shall, in absence of either the Chairperson or the Director-General, in any particular matter nominate one member of the Board to authenticate the seal of the Authority on behalf of either the Chairperson or the Director-General.

(3) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed and unless the contrary is proven, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

Funds of the Authority.

22. The funds of the Authority shall comprise of—

(a) such monies as may be appropriated by the National Assembly for purposes of the Authority;

(b) the moneys paid by the operator of the National Lottery under section 43(1)(c) of the National Lottery Act; No. 20 of 2023.

(c) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;

(d) such license fees, charges and penalties as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for National Treasury;

(e) interest from the investment of money standing to the credit of the Authority; and

(f) all monies from any other source provided for, donated or lent to the Authority.

Financial year.

23. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.

Annual estimates.

24. (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.

Accounts and audit.

25.(1) The Authority shall cause to be kept all proper books and records of accounts relating to the income, expenditure, assets and liabilities of the Authority.

(2) The accounts of the Authority shall be prepared and audited in accordance with the Public Finance Management Act and the Public Audit Act.

Cap. 412A.
Cap. 412B.

Reports of the Authority.

26.(1) The Authority shall prepare quarterly and annual financial and non-financial reports in a format 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 Allocation.

(2) The Authority 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 Authority's

annual report on the basis of a clear outcome-based performance framework developed by the National Government.

Protection from personal liability.

27. No matter, thing or act done by a member of the Board, an officer, employee or agent of the Authority shall if the matter or thing is done in good faith in the course of executing the functions, powers of member of the Board, officer, employee or agent of the Authority shall, if the mater or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

PART IV—LICENCES AND PERMITS

Licensed gambling activities.

28. (1) A person shall not offer any gambling activity or service unless the activity or service is licensed under this Act.

(2) The Authority shall issue gambling licences under this Act with respect to—

(a) a public gambling for conducting a table game and operating a slot machine;

(b) the national lottery;

(c) a bookmaking;

(d) licensing of on-the course and off-the course totalisators;

(e) a prize competition;

(f) a bingo;

(g) a pool betting scheme;

(h) public lotteries as under section 50(2);

(i) an online gambling;

(j) gambling equipment and device manufacture or assembling;

(k) gambling equipment and device sale or distribution;

(l) gambling equipment testing;

(m) provision of any gambling software or platform;

(n) gambling equipment repair and servicing;

(o) key gambling employees;

(p) all media promotions with prizes and prize competitions cutting across several counties; and

(q) any other form of gambling as may be prescribed in regulations.

(3) The Cabinet Secretary shall in consultation with the Authority, make regulations for the classification of licenses issued under this Act.

(4) In this section, "gambling employee" means a person who is employed or authorized, to make a decision that regulates the operations of a casino, bookmaker, lottery, racecourse or any other form of gambling.

Requirements for licensing.

29. A person shall not be licensed to offer any gambling or betting activity under this Act unless that person—

(a) is a body corporate in which a minimum of thirty per cent of shares are held by Kenyan citizens; and

(b) maintains an account with an authorized financial institution registered in Kenya into which it pays all monies relating to the licensed gambling and lottery activity.

Application for a licence.

30. (1) An application for a licence shall be made in the prescribed form and shall be accompanied by—

(a) the application fee prescribed by the Cabinet Secretary in regulations;

(b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gambling capital;

(c) security by way of such insurance bond or bank guarantee as security as may be prescribed under the Act or regulations;

(d) information from the applicant of the proximity of the intended premise to a learning institution;

(e) declarations as provided for in the Second Schedule;

(f) such other information as it may consider necessary to enable the Authority to determine the application; and

(g) a declaration of the good causes the applicant intends to undertake and the proposed budget devoted to the good causes.

(2) The Authority shall vet all applications for a licence under this Act.

(3) The Authority shall, in determining whether an applicant is suitable to hold a licence or permit under this Act, consider, in relation to the body corporate and its directors, as applicable—

(a) the financial status or solvency of the person;

(b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which, if the application is granted, the person shall perform;

(c) the status of any other licence or approval granted to the applicant by any financial sector regulator;

(4) Without prejudice to the generality of subsection (1), the Authority may, in considering whether an applicant is fit and proper—

(a) take into account whether the applicant or the directors of the body corporate—

(i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice by persons engaged in transacting with marketable securities;

(ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;

(iii) has taken part in any business practice which, is proven to be fraudulent, prejudicial to the market or public interest, or was

otherwise improper, which would otherwise discredit the applicant's methods of conducting business;

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

(v) has acted in such a manner as to cast doubt on the applicant's competence and soundness of judgment;

(b) take into account any information in the possession of the Authority, whether provided by the applicant or not, relating to—

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

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

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

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

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

(6) A person who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and

shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(7) For the purposes of this section, "group of companies" means any two or more companies, one of which is the holding company of the others.

(8) The Authority may grant a licence upon considering all the requirements under this section.

(9) The Authority shall within fourteen days of issuance of a license under this section, transmit a copy of the licence to the relevant county government.

Renewal of a licence.

31. (1) The Authority may, on application by a licensee, renew a licence for a further period provided for in subsection (3).

(2) An application under this section shall—

(a) be made in the prescribed form and forwarded to the Authority together with the prescribed fee;

(b) be lodged with the Authority at least three months prior to the expiry of the licence; and

(c) be considered in accordance with the provisions of section 30.

(3) A gambling licence issued under this section shall be valid for a period of thirty-six months from the date of issue or for such other period as may be prescribed in regulations.

Refusal to grant or renew a licence.

32. (1) The Authority may refuse to grant or renew a licence if it is satisfied that—

(a) the information contained in the application is false or untrue in any material particulars;

(b) the application does not meet any of the requirements for the issuance or renewal of a licence; or

(c) the application is not in conformity with the obtaining policy regarding use of any software system as prescribed by the Cabinet Secretary in consultation with the Authority and the Communications Authority of Kenya.

(2) Where the Authority refuses to grant or renew a licence, it shall forthwith notify the applicant in the prescribed form stating the reason for such refusal.

(3) A person aggrieved by the decision of the Authority under this section may, within twenty-one days from the day of notification under subsection (2) lodge an appeal before the Committee.

Revocation of a licence.

33. (1) The Authority may revoke a licence issued under this Act—

(a) where the holder is in breach of any of the provisions of this Act;

(b) where it discovers that a licensee made a statement in connection with the application which he knew to be false or untrue;

(c) where the gambling business is wound up or dissolved; or

(d) if the licensee is in breach of any condition prescribed in the Act and which is required for the issuance of a licence.

(2) Where the Authority intends to revoke a licence under subsection (1), the Authority shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation and require the licensee to, within fourteen days of service of the notice, give reasons why the licence should not be revoked.

(3) A notice under subsection (2) shall be served not less than twenty-one days before the date of the intended revocation and shall specify the grounds for such revocation.

(4) Where a licensee fails to give reasons within the period stated, the licence shall cease to be valid.

(5) If reasons are furnished by the licensee, the Authority, as the case may be, shall after considering such reasons—

(a) decide whether or not to revoke the licence; or

(b) call upon the licensee to appear before it on a specified date to make oral representations in

support of any written representations made by the licensee or to answer any questions which the Authority, as the case may be, regarding such written representations, thereafter the Authority shall determine whether or not to revoke the licence.

(6) The revocation of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its revocation.

(7) The revocation of a licence shall take effect upon the expiry of the notice under subsection (3).

(8) A licensee whose licence has been revoked shall surrender the licence to the Authority and shall not be eligible to hold a licence under this Act for a period not exceeding five years with effect from the effective date of the revocation.

(9) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within twenty-one days with effect from the date upon which such decision was conveyed to a licensee.

Suspension of licence.

34. (1) The Authority may suspend a licence issued under this Act if the holder of the licence contravenes the provisions of the Act upon giving notice and giving the licensee an opportunity to be heard.

(2) The procedure under section 33 shall apply with the necessary modifications when the Authority is considering the suspension of a licence.

(3) Where the Authority suspends a licence under subsection (1), it shall forthwith inform the public through a notice in the *Gazette*, and two newspapers of nationwide circulation or any media of national coverage.

(4) Where a licence ceases to be valid under subsection (1), the Authority shall inform the licensee in writing the date upon which the licence was suspended.

(5) The suspension of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its suspension.

Duration of a licence.

35. The duration of every licence issued under this Act shall vary for each gambling and betting activity subject to the provisions of section 31(3).

Display of a licence.

36. (1) A licensee shall display the licence issued under this Act at a place that is visible to the public during the period of validity of the licence.

(2) Where the licence allows for the establishment of a branch, a copy of the licence shall be displayed at the branch at a place that is prominently visible to the public during the period of validity of the licence.

(3) A holder of an online gambling license shall display the license issued under this Act in their online platform.

Investigation by the Authority.

37. (1) The Authority may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct of a licensee under this Act.

(2) The Authority may direct any person who is investigated pursuant to subsection (1) to take such action as may be necessary to rectify any shortcomings discovered, and may take such other action as may be appropriate where the licensee fails or refuses to comply with directions issued by the Authority.

Duplicate licence.

38. The Authority may issue a duplicate licence to a licensee whose licence is lost, destroyed or mutilated upon application for a duplicate in the prescribed form and payment of the prescribed fees to the Authority.

Register of licences.

39. (1) The Authority shall keep and maintain a register of licences in such form as it may determine and shall record in the register in respect of every licence—

(a) the name, identity and registration number of a licensee;

(b) particulars of the gambling activity to which a licence relates;

(c) the county or counties to which a licence relates;

(d) the date of expiry of the licence;

(e) particulars of any revocation or suspension of the licence;

(f) particulars of any amendment to a licence; and

(g) any other particulars that the Authority may consider necessary.

(2) The register maintained by the Authority shall be open to the public at reasonable times and upon payment of the prescribed fee.

Security for gambling activity.

40. (1) The Authority shall require a licensee to deposit an insurance security bond or bank guarantee equivalent to cover the amounts provided in the Third Schedule.

(2) The insurance security bond or bank guarantee deposited under this section may be used by the Authority to defray a licensee's liability, which may arise from the licensed activity.

(3) The Authority shall prescribe applicable insurance security bond or bank guarantee for a gambling activity prescribed under section 28(2)(r).

(4) The Cabinet Secretary may by notice in the *Gazette* revise the Third Schedule.

Gambling capital.

41. (1) Each licensee shall provide proof of adequate gambling capital to set up the licensed operations.

(2) The Authority shall, in consultation with the Cabinet Secretary, determine and publish by notice in the *Gazette* the amount of capital for each gambling activity regulated under this Act.

Books to be kept by a licensee.

42. (1) The Authority shall prescribe books of accounts to be kept by a licensee.

(2) A licensee shall regularly enter or cause to be entered particulars of entries on the books of accounts as prescribed by the Authority.

Submission of accounts by a licensee.

43. (1) A licensee shall submit to the Authority audited statement of accounts within three months after the end of a financial year.

(2) The accounts of a licensee submitted under this section shall be audited by an auditor approved by the Authority.

Control of gambling machines.

44. A licensee shall ensure that their gambling machines—

(a) are located in premises in which the respective

county government has issued a permit;

(b) are sourced from a certified source with international certification standards;

(c) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

(d) undergo standards verification after every three months.

Application for a permit.

45. (1) A holder of a gambling licence issued by the Authority under section 28 shall apply for a trade permit from the respective county government for a premise within which the person intends to carry out the licensed gambling activity.

(2) An application for a gambling permit shall be in such manner as may be prescribed by the respective county government and shall be accompanied by—

(a)the fee prescribed by the respective county government;

(b)a licence issued by the Authority; and

(c)such other information as the county government may consider necessary for the determination of the application.

(3) A county government shall grant a permit upon determining the suitability of the intended premises for which the application is made and considering the requirements set out in subsection (2).

(4) A permit issued under this Act shall not be transferable.

Endorsement of permit.

46. A permit issued under this Act shall state the location of the premise to which it relates, and shall be endorsed with all conditions imposed by the Authority and respective county government.

Revocation of a permit.

47. (1) A county government may revoke a permit issued under this Act where—

(a) the holder is in breach of any condition attached to the permit; or

(b) the Authority has revoked a licence of a permit holder.

(2) Where a county government intends to revoke a permit under subsection (1), the county government shall serve the permit holder with the notice of the intended revocation specifying the grounds for such revocation and require the person to, within fourteen days of service of the notice furnish reasons why the permit should not be revoked.

(3) Where the person fails to give reasons within the period specified, the permit shall cease to be valid.

(4) If the person furnishes reasons, the county government, shall after considering such reasons—

(a) decide whether or not to revoke the permit; or

(b) call upon the permit holder to appear before it on a specified date to make oral representations in support of any written representations made by the permit holder or to answer any questions which the county government may have, regarding the written representations, and thereafter the county government shall determine whether or not to revoke the permit.

(5) The revocation of a permit shall not prejudice any liability or obligation incurred under or in relation to the permit prior to its revocation.

(6) Where a permit is revoked, under subsection (1), the county government shall serve the permit holder with a notice of revocation of a permit in the prescribed form.

(7) A notice under subsection (2) shall be served not less than twenty-one days before the date of the intended revocation and shall specify the grounds for such revocation.

(8) The revocation of a permit shall take effect after twenty-one days upon expiry of a notice issued under this section (7).

(9) The holder of a permit that is revoked shall

surrender the permit to the county government and shall not be eligible to hold a permit under this Act for a period not exceeding five years with effect from the effective date of the revocation.

(10) A person aggrieved by the decision of the county government under this section may appeal to the Committee within twenty-one days from the date of receipt of the decision.

Duration of a permit.

48. Every permit issued by the county government shall be valid for a period of twelve months from the date of issue unless a different duration has been prescribed under this Act.

Display of a permit.

49. A holder of a permit issued under this Act shall, during the period of its validity display the permit within the business or premise at a place that is prominently visible to the public.

PART V—CONTROL AND LICENSING OF LOTTERIES

Authorization of a public lottery for charitable purpose.

50. (1) The Authority shall issue a licence authorizing the promotion and conduct of a public lottery intended to raise funds for charitable purposes which may include charitable activities for—

(a) social service;

(b) public welfare;

(c) relief of distress;

(d) recreational purposes;

(e) sporting purposes;

(f) any other purpose that may be assigned to it by the Authority.

(2) The authorization by the Authority under subsection (1) shall be for public lotteries where the promotion and lottery activities are undertaken countrywide, across more than one county or through media.

(3) The county governments may licence the promotion and conduct of a public lottery intended to raise funds for the charitable activities set out in subsection (1),

where the promotion and the lottery activities are confined within the respective counties.

(4) The license issued under sub-section (3) shall be for a period not exceeding one year.

(5) The Cabinet Secretary shall in consultation with the Authority, set the percentage of the gross revenue of a public lottery that shall be devoted to the object for which the lottery was promoted.

(6) Despite section 30(1)(g), the percentage set by the Cabinet Secretary under subsection (5), shall not be less than thirty per cent of the gross revenue of the public lottery, but in no case shall the Authority require a proportion greater than forty-five per cent of the gross proceeds.

(7) The Authority shall grant a licence for the promotion of a lottery under this section only to a body corporate.

(8) A promoter of a lottery authorized under this section who devotes proceeds of the lottery to activities not permitted or to a purpose other than expenses and prizes permitted commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years, or to both.

Conduct of a public lottery.

51. (1) The Authority or county government shall, in respect of any public lottery, impose the conditions prescribed in the Act or in regulations to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

(2) In conducting a public lottery under this Act, a promoter—

(a) may deduct operating expenses not exceeding twenty per cent of gross proceeds of the lottery;

(b) shall provide insurance bond or bank guarantee for the conduct of the lottery;

(c) shall ensure proper and equitable distribution of the charitable funds of the lottery;

(d) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is

protected against fraud; and

(e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Authority are complied with.

(3) In this section, the term "gross proceeds" means the total proceeds received from a lottery prior to any deductions.

Authorization of a lottery relating to horse racing.

52. (1) A county government may issue a licence authorizing promotion of a lottery relating to a horse race, promoted within or outside Kenya.

(2) The Authority may, in respect of a lottery to be promoted and conducted in Kenya under this section, issue—

(a) an on-the-course permit authorizing the promotion and conduct of a lottery on a course specified; or

(b) a licence authorizing the promotion and conduct of a lottery off the course.

Lottery conducted for charitable, sporting or other purposes.

53. (1) A lottery may be promoted and conducted on behalf of a society established for—

(a) charitable purposes;

(b) participation in a sport, support of athletics, or cultural activities; or

(c) purposes for raising money to be applied for purposes of public good and are not for private gain or purposes of commercial undertaking.

(2) The Authority may, upon the issuance of a licence under this section impose such conditions to the manner in which a person issued with a licence may conduct the promotion and conduct of a lottery under this section, including—

(a) requiring a promoter to be a member of a society duly authorized to act as such;

(b) prohibiting the payment of remuneration to a promoter or any person engaged by way of business or employed in the promoter's

organization in connection with the lottery;

(c) capping the prize of a ticket to twenty thousand shillings;

(d) a ticket or chance shall be sold for a price of at least twenty shillings;

(e) requiring the application of the whole proceeds, upon deduction of sums lawfully appropriated on account of expenses or for the provision of prizes, to purposes of the society, as described in subsection (1);

(f) requiring the amount of proceeds appropriated on account of expenses not to exceed fifteen per cent of the whole proceeds;

(g) capping the amount of the proceeds appropriated for the provision of prizes not to exceed one half of the whole proceeds;

(h) requiring the price of each ticket or a chance to be the same on all the tickets;

(i) requiring every ticket, notice of a lottery lawfully exhibited, distributed or published to specify the name of the society sponsoring the lottery, the name and address of the promoter and the date on which the draw, determination or event to which the prize winners are ascertained is expected to take place;

(j) prohibiting the delivery of a ticket through post to a person who is not a member of the society;

(k) prohibiting the admittance of a person to participate in a lottery except upon payment to the promoter of the whole price of the ticket or chance; and

(l) requiring payment for expenses or prizes out of proceeds of the lottery.

(3) A person, including a promoter of a lottery who contravenes any of the conditions set out in subsection (2) commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Lottery incidental to entertainment.

54. (1) The Authority may issue a licence for a lottery

promoted and conducted as an incident of entertainment countrywide, across more than one county or through the media.

(2) A county government may issue a licence for a lottery promoted and conducted as an incident of entertainment confined within the respective county.

(3) The Authority or a county government may, upon the issuance of a licence under this section, impose such conditions on the manner in which a person issued with a licence may conduct the lottery, including—

(a) requiring that the ticket or chance is sold or issued in a premise which the lottery may take place;

(b) requiring that the result of the lottery is declared on the premises in which the lottery took place;

(c) requiring that the facility provided for participating in a lottery or the gambling entertainment is not held for private gain;

(d) requiring that a prize in a lottery is in the custody and disposal of a promoter of a lottery;

(e) requiring that a ticket or chance in a lottery is issued or allotted upon the receipt of the full price;

(f) directing that the price of a ticket or chance shall be displayed on each ticket;

(g) prohibiting money prize in a lottery; and

(h) capping the price of a ticket or a chance to not more than fifty shillings.

(4) This section shall apply to entertainments including bazaars, sales of work, fetes, dinners, dances, sporting or athletic events limited to one or more days.

(5) A person who contravenes any of the conditions set out in subsection (3) commits an offence and, shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Licensing lotteries incidental to

55. (1) The Authority may issue a licence authorizing

a person to organize and manage a lottery incidental to a sport or game. sports or games.

(2) A licence shall state the lottery incidental to the game or sport which a licensee may organize and manage.

(3) The Authority may, in respect of a licence issued under this section, impose conditions on—

(a) the manner in which a person may conduct a sport or game lottery;

(b) the hours during which the premises may be open;

(c) the suitability, condition and conduct of the premises;

(d) the protection of persons taking part in the gamble against fraud;

(e) measures to ensure responsible gambling; and

(f) payment of admission fees for persons gambling in the premises.

(4) Where an admission fee is charged under subsection (3)(f) it shall be subject to the payment of tax under the Entertainment Tax Act.

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Private Lottery.

56. (1) The Authority may issue a licence for a private lottery.

(2) The Authority may, upon the issuance of a licence under this section, impose such conditions to be met by a person issued with a licence, including—

(a) requiring the net proceeds or part thereof of lottery to be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of the society shall be devoted to the purposes of the society;

(b) requiring a notice or advertisement of a lottery to be exhibited on a premise or the club of the members whom the lottery is promoted;

(c) requiring the price of each ticket or a chance to be the same on all the tickets;

(d) requiring each ticket to bear the name and address of a promoter of the lottery and a statement of a person to whom the sale of the tickets or chances

is restricted;

(e) requiring a ticket or a chance to be issued or allotted by a promoter by way of sale upon receipt of a full price;

(f) prohibiting the return of money or anything of value received by a promoter; or

(g) prohibiting delivery of a ticket in a lottery through the post office.

(3) A person or a promoter of a lottery who contravenes the conditions specified in subsection (2) commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Submission of audited accounts and returns in respect to a lottery.

57. A promoter and a beneficiary of a lottery promoted or conducted under this Act shall be required to submit audited accounts and make returns in such form and within such period as the Authority or respective county government may specify.

PART VI—CONTROL AND LICENSING OF BETTING

Bookmaker's licence.

58. The Authority may, in respect of bookmaking, issue—

(a) an on-the-course licence authorizing a person to carry out the business of a bookmaker at any authorized race meeting;

(b) an off-the-course licence authorizing a person to carry on the business of a bookmaker at any authorized betting premises;

(c) a licence authorizing a person to carry on the business as a bookmaker of both on and off the course race; or

(d) an online bookmakers licence.

Totalisator licence.

59. (1) The Authority may issue any of the following licences for each totalisator—

(a) an on-the-course licence authorizing a person to operate a totalisator on specified a course;

(b) an off-the-course licence authorizing a person to

operate a totalisator at a specified betting premise; or

(c) a licence authorizing a person to operate a totalisator both on and off the course.

(2) A licence under this section may be issued in respect of each race day or for a period not exceeding one year.

(3) Every transaction effected by means of a totalisator shall be recorded in such manner as may be prescribed by the Authority to ensure that as far as is practicable, the record is in an uninterrupted view of the public.

(4) In this section, "race day" means an approved day in which a race meeting is held.

Laying of totalisator, betting pools and odds.

60. (1) The Cabinet Secretary may, in consultation with the Authority, make rules for the operation of totalisators.

(2) A holder of a totalisator licence shall conduct a totalisator or a betting pool in accordance with totalisator rules issued by the Authority.

(3) The aggregate of returns by a holder of a totalisator licence or a person who has made a winning bet on any event, or combination of events, shall not be less than eighty-five per cent of the total amount pooled or such other amount, as may be approved by the Authority, in respect of an event or combination of events.

(4) A person who participates in a totalisator's bet shall not—

(a) bet upon the result of a horse race or any other race;

(b) sell or offer for sale, or purchase from a person a ticket or card entitling a purchaser or a holder thereof to an interest in the result of the working of a totalisator on a horse race or any other race;

(c) make a contract or bargain of any kind to pay or to receive money upon an event determined or to be determined by the result of the working of a totalisator on a horse race or any other race;

(d) receive or permit receipt of a betting transaction in respect of a totalisator in respect of a horse race or any other race after the start of the race;

(e) register on a totalisator after the start of a horse race or any other race any money received in respect of the race; or

(f) take into account in the calculation or payment of a betting transaction which has not been registered on a totalisator.

(5) The provisions of subsections (4)(a) and (b) shall not apply to an employee engaged in the lawful operation of a totalisator in a manner approved by the Authority.

(6) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Promoter's licence in respect of a pool betting scheme.

61. (1) The Authority shall issue a promoter's licence in respect to a pool betting scheme authorizing a promoter to provide a pool betting scheme within Kenya.

(2) A licence issued under this section shall apply to one pool betting scheme at a time.

Authorization of a bookmaking at a race meeting.

62. (1) A promoter of a race meeting who intends to permit a bookmaker to carry out bookmaking at a race meeting shall upon payment of the prescribed fees, apply to the Authority for the relevant licence in the prescribed form.

(2) The Authority may upon receipt of an application under subsection (1), issue a licence authorizing bookmaking to take place at a race meeting held on a racecourse on the day specified in the licence.

(3) A licence issued under this section shall specify the number of race meetings that may be held on a licensed racecourse within a year.

(4) In this section, "racecourse" means an approved ground used or intended for use for the purpose of horse racing or a related race.

Control of betting machines.

63. (1) A licensee shall ensure that their betting

machines—

(a) are sourced from a certified source with international certification standards;

(b) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

(c) undergo standards verification after every three months.

(2) The standards verification referred to in subsection (1)(c) and developed by the Authority shall be conducted by the Kenya Bureau of Standards.

(3) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker's licence.

(4) A single bet in a gambling machine shall be a minimum of twenty shillings only.

PART VII—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING

Casinos and other forms of gambling.

64. (1) A person may be granted a licence to operate a casino and other forms of gambling upon meeting the requirements set out in section 29.

(2) The Cabinet Secretary may in consultation with the Authority and the Council of Governors, make regulations prescribing the number of casinos, amusement machines, slot machines and other forms of gambling that may be operated within the counties.

(3) The Cabinet Secretary shall consider the following in making the regulations under subsection (2)—

(a) the number and geographic distribution of existing licensed casinos, slot machines and other forms of gambling at the time;

(b) the presence of tourists in a county;

(c) the cultural and religious distribution of the residents of each county;

(d) the incidence and social consequences of compulsive and addictive gambling;

(e) the promotion of—

(i) job creation within the gambling industry;

(ii) diversity of ownership within the gambling industry;

(iii) efficiency of operation in the gambling industry; and

(iv) competition within the gambling industry.

(4) The Cabinet Secretary shall, in consultation with the Authority, make regulations prescribing the places where gambling machines shall be placed including the distance to—

(a) learning institutions;

(b) religious establishment; and

(c) residential areas.

(5) A single bet in a casino machine shall be played for a minimum of twenty shillings.

Powers of the Authority to inspect.

65. A licensee shall, in respect of each premise where a casino is operated allow the Authority or any person designated by the authority in writing to—

(a) enter any licensed premise or facility belonging to or under the control of the licensee for purposes of inspection;

(b) examine or inspect any machine, document or data in a licensed premises or facility, and make copies or extracts from it;

(c) seize, for the purpose of examination, any information, machine, document or data, on the conduct of a casino;

(d) seal or otherwise secure any such premise, facility, machine, document or data in the casino where an offence has been committed;

(e) secure a valid and enforceable written undertaking from a person controlling a licensee in any way not to change, transfer, cede the control of a licence or in any way encumber the licence to another person without the consent of

the Authority; and

(f) take such steps as may be reasonably necessary to protect all gambling players.

Officers of the Authority to be present.

66. The Authority shall ensure that its officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant licence.

PART VIII — ONLINE GAMBLING

Licensing of online gambling.

67. (1) A person who desires to operate, sell or promote online gambling in Kenya, shall apply, in the prescribed form, for a licence from the Authority for the following—

(a) an online bookmakers licence;

(b) an online lottery licence; or

(c) an online casino licence.

(2) A person making an application for an online gambling licence under subsection (1) shall submit to the Authority a proposed gambling control system, which shall be duly considered by the Authority with or without variation.

(3) In granting a licence under this section, the Authority shall require an applicant to deposit with the Authority such security as prescribed under the Act.

Control of online gambling.

68. (1) A person licensed to carry out an online gambling activity shall conduct the activity under a gambling control system approved by the Authority.

(2) The Authority shall not approve a system under subsection (1) unless the licensee provides for—

(a) online security of information;

(b) safety and security against criminal activities;

(c) online payment system;

(d) protection measures against under age gambling;

(e) protection measures against vulnerability in gambling;

(f) awareness and education;

(g) responsible advertising; and

(h) data protection measures under the Data Protection Act. Cap. 411C.

(3) The Authority shall impose the requirement of an approved gambling control system as a condition of the licence granted under subsection (1) which the licensee shall be required to comply with.

(4) The failure by the licensee to comply with the requirements of the approved gambling control system shall lead to revocation of the licence and offence.

(5) The Authority shall establish a framework to facilitate real time monitoring of casinos and online gambling activities, which shall be accessible for monitoring by the Communications Authority of Kenya and any other relevant government agency.

(6) In order to facilitate the real time monitoring of gambling, an operator shall be required to provide the Authority with—

(a) the platforms for participation which may, where applicable, include—

(i) all visual and audio communication channels; or

(ii) an online website platform;

(b) particulars of the charges to be levied by an operator;

(c) particulars and the location of servers of the operator's system to show how a player may be registered and deregistered on the system;

(d) particulars and the location of all other servers;

(e) a valid telecommunication licence; and

(f) any other information required by the Authority.

(7) In the case of mobile online gambling, lottery or a betting licence, particulars of network connectivity with two links to mobile operators shall be provided to the Authority.

(8) An operator shall maintain a customer care centre

within Kenya to monitor and respond to issues raised by consumers.

Online gambling transaction.

69. An online gambling transaction shall commence when a player's account is debited with an amount of a bet and shall conclude when a player's account is credited with an amount of winnings in the case of a winning bet or when a player loses the game.

Payment of prizes and remittance of winning.

70. (1) Where a player in an online gambling transaction wins a monetary prize, a licensee shall within two days credit the amount to the player's account.

(2) Where a player wins a non-monetary prize, the licensee shall—

(a) deliver the prize to the player within seven days; or

(b) notify the player in writing of an address within Kenya where the prize may be collected.

(3) If a non-monetary prize is not collected within a period of six months after the winner has been notified of the place where the prize may be collected, a licensee may dispose of the prize by public auction, or in a manner approved by the Authority.

(4) The proceeds of sale under subsection (3) may be used to pay for the cost of disposal of the prize, and any remainder be deposited in the Fund.

(5) Any claim against a licensee for uncollected prize shall lapse after six months from the date of declaration of the winnings.

(6) An operator shall require proof of age of majority prior to the remittance of the prize to the registered player.

Minimum amount a person can bet online.

71. (1) A player in an online gambling activity shall not bet an amount of less than twenty shillings in a competition.

(2) The minimum amount set under subsection (1) shall be inclusive of such saving component for the player as shall be determined by the Authority in consultation with the Cabinet Secretary.

(3) An operator who permits a person to engage in an

online gambling activity for an amount less than the amount prescribed under subsection (1) commits an offence and shall be liable upon conviction to a fine of not less than three million shillings or to imprisonment for a term not exceeding five years, or to both.

Registration of a player.

72. (1) A licensee shall not allow any person to participate as a player in an authorized game conducted by a licensee unless the person is registered as a player and holds an account with the licensee.

(2) An operator shall put in place mechanisms to ensure that a child is not registered for an online game, lottery or bet for which they are licensed to operate.

(3) An operator shall require proof of age of majority prior to the registration of every player.

(4) The Authority may make regulations for the prevention of the registration of a child from an online game, lottery or bet.

(5) Where a licensee becomes aware that a person has provided false information during registration, the licensee shall not register such person and where such a person has already been registered, the licensee shall immediately cancel the person's registration.

(6) A licensee shall avail the following to a player—

(a) all the rules relating to authorized games conducted by a licensee; and

(b) the particulars of any processing fee which may be incurred by the player.

(7) A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits, the use of credit cards or meeting third party costs incurred by a player:

Provided that this provision shall not apply to free bets and bonus bets conducted in the ordinary course of business.

Player's account to be kept.

73. (1) A licensee shall establish and maintain a player's account for each player who is registered by the licensee.

(2) A licensee shall credit to an account established under subsection (1) in respect of a registered player all funds—

(a) received by a licensee from or on behalf of a player; or

(b) owed by a licensee to the player.

(3) A licensee shall not accept a wager from a player unless—

(a) there are adequate funds in the player's account to cover the amount of the wager; and

(b) the funds necessary to cover the amount of the wager are approved by the player.

(4) A licensee may receive funds from a player through—

(a) a debit card;

(b) an electronic funds transfer;

(c) mobile money transfer;

(d) cash deposits; or

(e) any other method as may be approved by the Authority from time to time.

Restriction on credit and inducements.

74. (1) A licensee shall not–

(a) provide credit to a player or on a player's account or act as an agent for a credit provider to facilitate the provision of credit to a player;

(b) make an offer designed to induce persons to participate or increase their participation in licensed activities;

(c) participate in arrangements for inducing persons to gamble.

(2) A person who breaches the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years, or to both.

(3) Nothing in this section shall be construed as limiting an operator from offering free bets and bonus bets in the ordinary course of business.

Restriction on dealing with a player's money.

75. A licensee shall not deal with any amount standing to the credit of a player's account except—

(a) to debit to the account a wager made by a player or an amount as directed by a player for purposes of a wager;

(b) to remit funds standing to the credit of an account of a player at the player's request; or

(c) to pay bank charges for deposits received and funds withdrawn.

Player's account.

76. (1) A licensee shall deposit all the player's money in a bank account or mobile money or, upon a player's request, make a cash payment to the player:

Provided that a licensee shall maintain a register of all monies paid out to a punter.

(2) Any money in a player's account, including money in transit or in the process of being cleared shall at any time be at least equal to the aggregate amount standing to the credit of players' accounts held by a licensee:

Provided that where funds standing to the credit of a player's account falls below the aggregate total of the amount standing to the credit of a players' accounts, the licensee shall make good the shortfall from the licensee's own money within a period of thirty days from the end of the month in which the shortfall occurs.

(3) A licensee holding a player's bank account shall—

(a) not enforce or execute, any charge, write-off, set- off or other claim against a player's account;

(b) not combine the account with any other account in respect of any debt owed to it by a player; or

(c) credit any interest payable on a player's account, only to the player's account.

Inactive account.

77. (1) Where a transaction has not been recorded on a player's account for three months, a licensee shall remit the

balance in the account to a player.

(2) Where the whereabouts of a player remain unknown for a period of five years, the monies standing to the credit of the player's account shall be presumed abandoned and the licensee shall remit such monies to the Unclaimed Financial Assets Authority.

(3) A licensee shall maintain a register of all monies remitted under subsection (2).

Financial reporting by a licensee.

78. A licensee shall at the end of each financial year submit audited financial reports to the Authority indicating—

(a) its gross revenue for the financial year;

(b) its net revenue for the financial year;

(c) the amount remitted to the Collector for the financial year; and

(d) the good causes they implemented as part of the license conditions.

Restriction on foreign operators.

79. (1) A gambling operator based in a foreign country shall only be issued with an online gambling licence where the operator—

(a) is registered in Kenya;

(b) has a physical address registered in Kenya;

(c) meets the requirements prescribed by the Authority in regulations.

(2) In addition to the requirements under subsection (1), a gambling operator based in a foreign country shall be required to provide its audited books of accounts for the immediately preceding year.

(3) A foreign based gambling operator who provides online gambling services in Kenya without a licence commits an offence and shall, upon conviction—

(a) in the case of a natural person, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years,

or to both; or

(b) in the case of a corporate person, be liable to a fine not exceeding fifty million shillings.

(4) Despite the provisions of subsection (1), a gambling operator based in a foreign country who does not intend to carry out online gambling activities in Kenya may apply for a licence to the Authority under this section.

(5) A foreign based operator who applies for a licence under subsection (4) shall be exempt from the requirement under section 29(a).

Dispute resolution.

80. A party to a dispute arising out of an online gambling activity, may appeal to the Tribunal for resolution of the dispute within fourteen days from the date of the dispute.

PART IX—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMBLING MACHINES

Provision of amusements with prize at non-commercial entertainments.

81. (1) A person may provide amusement with prize at non-commercial entertainment where the whole proceeds of the entertainment after deducting the expenses of the entertainment are devoted to purposes other than private gain.

(2) The opportunity to win a prize at an amusement to which this section applies shall not be the only inducement to a person to attend the entertainment.

(3) A person who breaches the conditions specified in subsection (1) commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Provision of amusements with prize at a commercial entertainment.

82. (1) A person may, subject to subsections (2) and (3), provide for amusement with a prize—

(a) on a premise which a permit for the provision of an amusement has been granted by a county government under the relevant law; and

(b) at a pleasure fair consisting wholly or mainly of an amusement provided by travelling showmen held on any day of the year on the premises not

previously used in that year on more than twenty-seven days for the holding of a pleasure fair.

(2) The following conditions shall be observed in connection with amusements under this section—

(a) the amount paid by a person for any one chance to win a prize shall not exceed five thousand shillings;

(b) the aggregate amount issued by way of sale of a chance in a determination of a winner of a prize shall not exceed five million shillings;

(c) the sale of a chance and a declaration of a result shall take place on the same day and on the same premise on which the amusement took place;

(d) money prize for distribution shall not exceed one million shillings;

(e) the winning or the purchase of a chance to win a prize shall not entitle a person to any further opportunity to win money by taking part in any amusement with prize or in any gamble or lottery; and

(f) in the case of a pleasure fair under subsection (1)(b), the opportunity to win a prize at an amusement to which this subsection applies shall not be the only inducement to a person to attend the fair.

(3) Where an amusement with a prize takes the form of a game played by use of a machine played by insertion of a coin or a token into a machine, the following conditions shall apply—

(a) a successful player may receive—

(i) a money prize not exceeding one million shillings;

(ii) a prize other than money of a value not exceeding five million shillings; or

(iii) a token of a nominal value exchangeable for a prize other than money on the basis of a prize of a value or aggregate value not exceeding five million shillings or for a number of tokens equal to a maximum

number of tokens which may be won by any one playing of the game; and

(b) a player's success at the game shall not entitle a person to exchange any prize or token for a benefit other than those provided for under paragraph (a).

(4) A person who breaches the conditions specified in this section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Amusement machines.

83. (1) A county government may issue an amusement machine licence authorizing the use of an amusement machine in a licensed premise.

(2) A person commits an offence if the person—

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

(b) contravenes or allows the contravention of any condition provided for or imposed by the county government.

(3) A person who commits an offence under subsection (2) shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(4) In this section, "amusement machine" means a machine, other than a gambling machine—

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

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

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

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

Authorization of prize

84. (1) The Authority may, issue a licence authorizing

the promotion and conduct of prize competitions cutting across several counties. competitions.

(2) A county government may issue a licence authorizing the promotion and conduct of prize competitions confined to a county.

(3) A person who promotes or advertises any prize licence issued under this section shall be subject to such conditions as shall be prescribed in regulations by the Authority and county governments, and in every case, to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of, and with the permission of the parent or guardian.

85. (1) A person shall not, without a license issued by the Authority, conduct a media promotion with prizes. Authorization of media promotions with prizes.

(2) A person who undertakes media promotion in either electronic or print media with prizes licensed under this section shall be subject to the conditions prescribed by the Authority in regulations.

(3) The conditions referred to in subsection (2) shall include—

(a)eligibility of participants;

(b)costs of participation;

(c)dates of the promotion;

(d)prizes to be won;

(e)verification of winnings by the Authority;

(f)process of claiming prizes won; and

(g)publication of prize awards.

86. A person who sends or causes to be sent, or supplies or delivers any chain letter or who sends or receives money or money's worth in connection with a chain letter, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or Chain letters.

to imprisonment for a term not exceeding one year, or to both.

PART X — ADVERTISEMENT OF GAMBLING ACTIVITIES

Advertisement of gambling.

87. (1) 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—

(a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling;

(b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;

(c) printing or publishing, or causing to be printed or published, any advertisement or notice;

(d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling;

(e) 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.

(2) A gambling advertisement shall—

(a) indicate the addictive nature of gambling;

(b) notify players to play responsibly;

(c) prohibit children from playing;

(d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling;

(e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;

(f) not be erected on an advertisement billboard of

close proximity to a learning institution; and

(g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling.

(3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for—

(a) the circumstances under which the national lottery and licensed gambling activities may be advertised;

(b) information that is to appear in an advertisement;

(c) the places where, circumstances or manner in which signs relating to a national lottery or gambling activity may be displayed;

(d) conditions requiring advertisements about the gambling service authorised by the licence including—

(i) publication only to certain classes of persons;

(ii) the content which may require specified words to be included in the advertisement;

(iii) content not to be included in an advertisement;

(iv) content not to be published in certain types of publications or media; and

(v) requirement for the content of the advertisement to be approved by the Authority.

(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years, or to both.

PART XI — THE GAMBLING APPEALS TRIBUNAL

The Gambling Appeals Tribunal.

88. (1) There is established a body to be known as the Gambling Appeals Tribunal.

(2) The Tribunal shall consist of—

(a) a Chairperson appointed by the President from among persons qualified to be judges of the High Court;

(b)two persons appointed by the Judicial Service Commission who shall be advocates of the High Court; and

(c)four persons appointed by the Cabinet Secretary from among persons who possess knowledge and experience in matters relating to gambling, business administration, risk management or law enforcement studies.

(3) The Chairperson and members of the Tribunal shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(4) A person shall be eligible for appointment as a member of the Tribunal if that person—

(a)meets the requirements of Chapter Six of the Constitution;

(b)has a relevant bachelors' degree from a university recognized in Kenya;

(c)has at least ten years' experience in a relevant sector;

(d)is not a public officer;

(e)has not at any time within the preceding five years been an employee of the Authority or the National Lottery Board;

(f)has not been convicted of an offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(g)has not been adjudged bankrupt by a court of competent jurisdiction; and

(h)has not in the last twelve months immediately preceding the appointment, had direct or indirect personal or commercial interest in the sector regulated under this Act.

(5) The Chairperson or a member of the Tribunal shall

hold office—

(a) in case of the Chairperson, for a term not exceeding three years and shall not be eligible for re-appointment; and

(b) in case of a member, for a term not exceeding three years and shall be eligible for re-appointment for one further term of three years based on satisfactory performance.

(6) The members of the Tribunal, other than the Chairperson, shall serve on a part-time basis.

(7) The Chairperson or member of the Tribunal shall cease to hold office if that person—

(a)resigns from office by notice in writing addressed to—

(i)the President, in the case of the Chairperson; or

(ii)the Cabinet Secretary, in the case of a member;

(b)becomes a public servant or an employee of the Authority or the National Lottery Board;

(c)is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;

(d)is adjudged bankrupt by a court of competent jurisdiction;

(e)is convicted of a criminal offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(f)is unable to perform the functions of the office by reason of physical or mental infirmity; or

(g)is otherwise unable or unfit to discharge the functions of the office.

(8) A person appointed as the Chairperson or a member of the Tribunal shall, before assuming office, take or subscribe to the oath or affirmation before the Chief Registrar of the Judiciary.

(9) The functions of the Tribunal shall be to hear and determine appeals, from the national or county governments,—

(a) against any decision of the Authority or the National Lottery Board;

(b) regarding complaints arising out of the outcome of a gambling transaction;

(c) regarding complaints arising out of the functionality of gambling machines and equipment; and

(d) regarding any other matter as may be prescribed under this Act or referred to it by the Board.

(10) Save as expressly provided by this Act, the Tribunal shall regulate its own procedure.

(11) The Judicial Service Commission shall provide secretariat services to the Tribunal and shall assign or appoint such secretary and other support staff as may be necessary for the Tribunal to effectively perform its functions.

(12) The Cabinet Secretary shall prescribe, in regulations, the procedures for the operationalization of the Tribunal.

Remuneration of members of the Tribunal.

89. The Chairperson and the members of the Tribunal shall be paid such remuneration and allowance as shall be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Appeals from decisions of the Tribunal.

90. A person aggrieved by a decision of the Tribunal may appeal to the High Court within fourteen days from the date of the decision of the Tribunal.

Conduct of business and affairs of the Tribunal.

91. (1) The Chairperson shall ensure the orderly and expeditious discharge of the mandate of the Tribunal.

(2) Without limiting the generality of subsection (1),

the Chairperson shall—

(a) constitute a panel to hear any matter before the Tribunal;

(b) determine the place at which a panel may sit; and

(c) determine the procedure for the conduct of the business of the Tribunal.

(3) A panel constituted for any proceedings shall have at least three members, one of whom shall be an advocate of the High Court.

(4) At a hearing of a matter before the panel—

(a) if the chairperson is a member of the panel as constituted, the Chairperson shall preside; or

(b) in any other case, the Chairperson shall designate one of the members of the panel who being an advocate of the High Court to preside over the proceedings.

(5) Where a member of the panel ceases to be such a member, or is not available for the proceedings, the Chairperson of the Tribunal shall assign another member to the panel and the proceedings shall continue.

PART XII — OFFENCES AND PENALTIES

Offences relating to gambling premise.

92. A person, owner or occupier of a licensed gambling premises or electronic site who—

(a) allows such premise to be used for unlicensed gambling activities;

(b) aids in the carrying out of unlicensed management of electronic gambling site or unlicensed betting activities;

(c) announces, publishes, cause to be announced, cause to be published, either orally or by means of any print, writing, design, sign, or otherwise or solicit any person to bet in an unlicensed gambling activity or site;

(d) advances, furnishes, or receives money for the purpose of establishing or conducting unlicensed gambling activity; or

(e) opens, keeps, uses, causes or permits the use of a

premise for carrying on an unauthorized lottery,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

False declaration.

93. A person who makes a false statement or declaration in an application for issuance or renewal of a licence or permit, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Transfer of a licence without the approval of the Authority.

94. A person who transfers a licence without the approval of the Authority or a county government commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to keep proper books of accounts.

95. A licensee who fails to keep any book, record or account required to be kept under this Act, or keeps false records or information, or who makes or causes to be made any book entry which is false, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to submit accounts.

96. A licensee who refuses or fails to submit a statement of accounts when required by the Authority, the respective county government or the Collector or submits a false or misleading statement of accounts commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to pay levy or a prescribed fee.

97. A person who fails to pay a levy or any fees prescribed under this Act shall be liable to pay to the Authority and County Government all outstanding amounts of levies or fees together with interest that will accrue at the rate prescribed by the Cabinet Secretary in Regulations.

Operating without a licence or permit prohibited.

98. A person who operates or conducts any form of gambling without a valid licence commits an offence and shall be liable upon conviction—

(a) for a first offence, to a fine not exceeding three million shillings or to imprisonment for a term

not exceeding three years or to both; and

(b) for a second or subsequent offence to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Advertisements of unauthorized lotteries.

99. A person who prints, publishes, or causes to be printed or published an advertisement or any notice relating to an unauthorized lottery, or relating to the sale of a ticket or chance in any such lottery commits an offence, and shall be liable upon conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year or to both.

Sale or distribution of unauthorized tickets.

100. A person who promotes or proposes an unauthorized lottery be promoted either in Kenya or elsewhere or—

(a) prints a ticket to be used in an unauthorized lottery;

(b) sells or distributes, or offers or advertises for sale or distribution, or has in his or her possession for the purpose of sale or distribution, tickets or chances in a lottery;

(c) distributes, or has in his or her possession for the purpose of distribution—

(i) an advertisement of an unauthorized lottery;

(ii) a list of prize winners or winning tickets in an unauthorized lottery; or

(iii) any matter descriptive of the drawing or intended drawing of a lottery relating to an unauthorized lottery, which is intended to act as an inducement to persons to participate in the lottery or in other lottery;

(d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution of a ticket or advertisement of unauthorized lottery; or

(e) sends or attempts to send out of Kenya any valuable thing received in respect of the sale or distribution, or a document recording the sale or distribution, or the identity of the holder, of a

ticket or chance in the lottery,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against unlicensed bookmaking.

101. (1) A person who acts, facilitates or carries on business contrary to the terms of a licence issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both:

Provided that this section shall not apply to an employee of a licensee acting in the course of employment, at a licensed betting premise, or at an authorized race meeting.

(2) The provisions of subsection (1) shall not apply to an employee of a person licensed to operate a totalisator who is engaged in lawful operation in a manner approved by the Authority.

Prohibition of late bets.

102. A person who in connection with a totalisator in respect of which a licence has been issued under this Act—

(a) receives or permits to be received a betting transaction on a totalisator in respect of a horse race or any other race after the start of the race;

(b) registers on that totalisator after the start of a horse race or other race any moneys received in respect of that race; or

(c) takes into account in the calculation or payment of a betting transaction which has not been registered on that totalisator,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Promotion of unauthorized pool betting.

103. (1) A person shall not—

(a) promote a pool betting scheme within Kenya in contravention of the terms of a licence issued under this Act; or

(b) promote, receive or negotiate bets on behalf of a promoter of an unauthorized pool betting scheme.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Offences relating to pool betting schemes.

104. A person who in connection with an unauthorized pool betting scheme—

(a) prints a coupon to use in such a scheme;

(b) sells, distributes, offers or advertises for sale or distribution;

(c) has in his or her possession for the purpose of sale or distribution a coupon relating to such a scheme;

(d) distributes or has in his or her possession for the purpose of distribution—

(i) an advertisement of the scheme;

(ii) a list of prize winners or winning coupons in the scheme; or

(iii) any such matter descriptive of the determination or intended determination of a prize of a winner relating to the scheme with the intention of inducing a person to participate in the scheme;

(e) brings, or invites any person to send into Kenya for the purpose of sale or distribution a coupon relating to an advertisement of the scheme;

(f) sends or attempts to send out of Kenya any money or valuable thing received in respect of the sale or distribution, or any document recording the sale distribution, or the identity of the holder of a coupon in the scheme;

(g) prints, publishes, or causes to be printed or published, an advertisement or any notice or to the issue of a coupon or a dividend relating to the scheme; or

(h) takes or sends out of Kenya money in connection

with any pool betting scheme authorized under the Act,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Unauthorized bookmaking.

105. A person who permits a bookmaker to carry on business at a race meeting outside the scope of the conditions of permit issued commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Unauthorized racing.

106. A person who holds a race meeting or owns or operates a racecourse without a valid licence commits an offence and shall upon conviction be liable to a fine not exceeding four million shillings or to imprisonment for a term not exceeding four years, or to both.

Prohibition against touting.

107. A person who touts or solicits the members of the public with a bookmaker outside a licensed betting premises or at an authorized race meeting, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against playing games of chance in unlicensed betting premises.

108. A person who permits in an unlicensed betting premise the playing of a game of chance commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against betting with a child.

109. A person who—

(a) bets with a child;

(b) employs a child in a licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting;

(c) receives or negotiates a bet through a child; or

(d) sends to a child any information, notice, advertisement, letter, or other document relating to betting,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment

for a term not exceeding one year, or to both.

Obtaining money by cheating in lawful gambling or by wagering on any event.

110. A person who while playing with an instrument of gambling or in taking part in the stakes or wagers or in betting on the sides, or hands of those that are playing or in wagering on the event of a gamble, sport, pastime or exercise through unlawful means wins from another person or on behalf of another person, a sum of money or valuable thing commits, an offence and shall be liable upon conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both.

Consideration by a court.

111. In exercising discretion on the amount of penalty to be charged or imprisonment term to be imposed on an offender, the court shall consider the following factors—

(a) the gambling activity in issue;

(b) the investment amount incurred in the gambling activity in issue;

(c) the duration of the offence; and

(d) any other aggravating factors.

PART XIII— MISCELLANEOUS PROVISIONS

Appointment of inspectors.

112. (1) The Authority and the county government shall appoint duly qualified officers to be inspectors of the Authority and county government respectively for such areas or units as shall be specified.

(2)An inspector appointed under subsection (1) shall—

(a) monitor compliance with the provisions of this Act;

(b) monitor the operations of all licensed gambling operations;

(c) examine equipment and devices used in gambling and scrutinize records maintained in respect of the gambling activities;

(d) monitor the handling and counting of money on casino premises;

(e) receive and investigate complaints from gambling patrons, licensees or members of the public in

relation to gambling;

(f) assist in any manner where necessary in the detection of offences committed under this Act on all gambling premises;

(g) report to the Board on the conduct of gambling operations; and

(h) perform such other functions as may be required under this Act.

Power to enter and inspect land and premises.

113. (1) A gambling inspector on production of an authority document, may in the performance of duties under this Act, at all reasonable times enter without warrant and inspect a gambling premise or any other gambling event in which he or she has reason believe that an offence under this Act or under any regulations made thereunder, has been committed to—

(a) examine and take copies of books, accounts and documents relating or appearing to relate to any betting transaction, lottery or gambling;

(b) seize, remove or detain a book, account or document or any equipment which he or she has reasonable cause to believe shall afford evidence of an offence under this Act or any regulations made thereunder; or

(c) require the owner or occupier of the premises to render such explanation or give such information relating to any betting transaction, lottery or gambling as may be reasonably required by him or her in the performance of his or her duties.

(2) A person who resists hinders or obstructs a person acting in pursuance of any of the provisions of this section or who on a requisition under subsection (1), withholds information or gives information knowing or having reason to believe that the information is false or misleading commits, an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Offences by body corporate.

114. Where an offence under this Act is committed by a body corporate, every person charged with or concerned or acting in, the control or management of the affairs, or

activities of such body corporate, commits that offence and shall be liable to be punished accordingly unless it is proved by such person that the offence was not committed through no act or omission, on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Self-exclusion.

115. (1) A person who has recognized that their gambling is harmful to himself or herself, or giving rise to difficulties in limiting the money or time or both, spent on gambling, leading to adverse consequences for that person, others, or for the community, may voluntarily enter a self-exclusion agreement between himself or herself and a licensee to be excluded from all gambling establishments and all controlled games, including online gambling or any other gambling activities or privileges.

(2) A person who enters an agreement under subsection (1) shall notify the Authority of the agreement.

(3) The Authority shall maintain a register of all notifications made under subsection (2) and shall notify all licensees of the self-exclusion agreement.

(4) The holder of a licence issued under this Act shall—

(a) establish mechanisms to give effect to self-exclusion and take all reasonable steps to refuse service to a person who enters a self-exclusion agreement from participating in gambling;

(b) as soon as practicable, take all reasonable steps to prevent any marketing material from being availed to a self-excluded customer;

(c) take steps to remove the name, contact information and other details of a self-excluded person from any marketing databases used by the licensee within two days of receiving the completed self-exclusion notification;

(d) close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account; and

(e) put into effect procedures designed to ensure that

an individual who has self-excluded shall not gain access to the licensee's gambling services.

(5) An operator who fails to implement a self-exclusion request within seven days of receipt of a written notification commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(6) Despite the provisions of this section, the Cabinet Secretary shall prescribe regulations providing for the manner in which an affected person may petition the Authority for the application of the self-exclusion provisions on a vulnerable gambler.

Forfeiture of licence or security.

116. (1) Where a person issued with a licence under this Act is convicted of an offence under this Act, the court may order forfeiture or cancellation of licence or a forfeiture of the insurance security bond or bank guarantee provided by the licensee, where applicable.

(2) A person whose licence is cancelled in pursuance of an order under subsection (1) shall, be disqualified from holding or obtaining a licence or a further licence for a period of five years beginning on the date of the conviction which gave rise to the order:

Provided that the court may include in the order a direction that the period of disqualification shall be shorter than five years as the court may specify where it appears to the court to be just in all the circumstances.

(3) A bookmaker, promoter of a pool betting scheme, organizer or manager of licensed gambling premises, or a servant or agent, who employs in his or her business any person known to him or her to be disqualified under subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Power to seize machines.

117. The police shall, in coordination with the Authority and county governments have power to seize any illegal gambling, betting and lottery machines.

Prosecution of offences.

118. The Director of Public Prosecutions may appoint

a duly qualified officer of the Authority, to be a public prosecutor for the purposes of any case.

Power to make Regulations.

119. (1) The Cabinet Secretary shall, in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

(a) the procedure to be followed by the Authority in exercising any powers conferred upon it by this Act;

(b) the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act;

(c) the conduct of casinos, gambling machines and online gambling;

(d) the conduct of a national lottery;

(e) standardization of gambling machines;

(f) the location and distribution of lotteries and gambling;

(g) national lottery rules;

(h) fees and levies charged under this Act;

(i) the form and manner in which returns or statements of accounts shall be furnished to the Authority;

(j) proximity of gambling premises and advertisements to learning institutions;

(k) protection of winners; and

(l) guidelines for gambler exclusion mechanisms including self-exclusion, venue-initiated request for exclusion, court ordered exclusions and request by families or initiated parties.

(3) For purposes of Article 94(6) of the Constitution—

(a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;

(b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section; and

(c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act. Cap. 2A.

Repeal of Cap. 131.

120. The Betting, Lotteries and Gaming Act is repealed.

Transitional provisions.

121. (1) For the purposes of this section "former Board" means the Betting Control and Licensing Board existing immediately before the commencement of this Act.

(2) Upon the commencement of this Act, all rights duties, obligations, assets and liabilities attaching to the former Board shall be automatically and fully transferred to the Authority established under section 6, and any reference to the former Board in any contract or document shall, for all purposes, be deemed to be a reference to the Board established under section 6 of this Act.

(3) A person who immediately before the commencement of this Act was a member of the former Board shall, upon the commencement of this Act, be deemed to be a member of the Board for the unexpired period of their term.

(4) A person who was, immediately before the commencement of this Act, an employee of the former Board shall, upon the commencement of this Act, be deemed to be an employee of the Authority, subject to subsection (5).

(5) Despite subsection (4), all the employees of the former Board shall upon the commencement of this Act be given an option to elect to serve in the Board or be redeployed in the public service within a period of one

year.

(6) Without prejudice to section 120, the provisions of sections 29A, 44A, 55A and 59B of the repealed Act shall continue to be in force until new provisions are enacted.

Transition of licences and permits.

122. (1) All gambling activities including casinos and online gambling whose licences were issued under the repealed Act shall remain valid for the period of the licence.

(2) A person licensed under the repealed Act shall, upon expiry of the licence issued under the repealed Act, apply to the Authority for a new licence.

Consequential amendments. Cap. 59A.

123. (1) The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended in the First Schedule by deleting paragraph (c) and substituting therefor the following new paragraph–

"(c) Gambling Regulatory Authority;"

Cap. 469.

(2) The Kenya Revenue Authority Act is amended in Part II of the First Schedule by deleting paragraph 7 and substituting therefor the following new paragraph—

"7. The Gambling Control Act."

FIRST SCHEDULE (s. 13)

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Meetings.

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Unless three quarters of the members otherwise agree, at least fourteen days' notice in writing of a meeting shall be given to every member.

(3) A meeting shall be presided over by the chairperson or in the absence of the Chairperson, the members present shall appoint one of their members to preside at the meeting.

(4) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in any case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(5) The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.

(6) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

Quorum.

2. (1) Subject to subparagraph (2), the quorum of the meeting shall be two thirds of the members.

(2) A decision of the Board shall not be invalid by reason only of a vacancy among the members thereof.

Conflict of interest.

3. (1) If a person has a personal or fiduciary interest in any matter before the Board and is present at a meeting of the Board or any committee at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching on such matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

Rules of procedure.

4. Subject to the provisions of this Schedule, the Board shall determine rules of procedure for the conduct of its business.

Minutes.

5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

SECOND SCHEDULE (s. 30(1)(e)

DECLARATIONS

(a) A certificate of incorporation of the business;

(b) A business plan indicating the minimum investments and sources of the funds;

(c) A valid premium rated service provider where applicable;

(d) A valid contract with an odds feed provider where applicable;

(e) Income tax declarations for the preceding two years (if applicable);

(f) Tax compliance certificate;

(g) Financial reports for the preceding two years (if any);

(h) Licensee's gambling account;

(i) List of directors of the company;

(j) A disclosure of its beneficial ownership information in accordance with the Companies Act; Cap. 486.

(k) Memorandum of association or partnership deed or a business registration certificate where applicable; and

(l) Relevant documents showing technical specifications of hardware and software to be used to conduct the gambling.

THIRD SCHEDULE (s. 40(1))

Gambling Security

Type of Gambling	Amount (Shillings)
(a) Casinos including public Gambling for conducting tables and slots machines	20,000,000
(b) online Gambling	100,000,000
(c) National lottery	100,000,000
(d) Totalisator	5,000,000
(e) Prize competition	5,000,000
(f) Non-online Gambling including non-online bookmakers, non-online casinos, non-online lotteries	20,000,000
(g) Amusement with prizes	200,000
(h) A premise or a shop operating under a licence of online Gambling including online bookmaker, online casino and online lottery	500,000