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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION 2019

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

# REPORT ON THE CONSIDERATION OF THE GAMING BILL, 2019

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 14 NOV 2019
DAY. Thursday
TABLED BY: Hon. Korei Ole Lemein Vice Chair
CLERK-AT THE-TABLE: Lemuna Mosey.

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2019

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## CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings of the consideration of the Gaming Bill, 2019 which was read a first time on 11th June, 2019 and subsequently committed to the Departmental Committee on Sports, Culture and Tourism for consideration and facilitation of public participation pursuant to Article 118 of the Constitution of Kenya and Standing Order 127. In processing the Bill, the Committee invited comments from the public and informed them of the public hearings by placing advertisements in the Daily Nation, Standard Newspapers and the Star on 17th June, 2019 pursuant to Article 118 of the Constitution of Kenya and Standing Order 127(3). The Committee received memoranda and views from institutions and members of the public and as a result organized a stakeholders' forum, that was held in the Mini Chamber, County Hall, Parliament Buildings on 22nd August, 2019. The Committee also conducted public hearings in Mombasa County, Kwale County, Nyeri County, Uasin Gishu County, Nakuru County, Kisumu County, Kakamega County and Meru County.

In considering the Bill, the Committee noted that the Gaming Bill, 2019 seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131) of 1966 by providing for the control and licensing of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes.

The Committee observed the following during public participation and engagement with various stakeholders:

1. The Betting, Lotteries and Gaming Act (Cap. 131) is an old piece of legislation that needed to be repealed and a new, robust legislation to be enacted to regulate gaming effectively in Kenya; thus, the Gaming Bill 2019 seeks to address these issues.
2. There were overwhelming views on the Bill from stakeholders with most stakeholders being of the view that the gaming industry needed to be regulated effectively but there needed to be a balance so as not to stifle the growth of the gaming industry in Kenya.
3. The definition of the term "winnings" elicited a lot of views from the stakeholders and the Committee took it into considered to amend the definition to provide that winnings mean the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under this Act.

4. The Gaming Appeals Tribunal provided in the Bill ought to be replaced with the Gaming Appeals Committee to ensure that there is expeditious resolution of disputes. In addition, it will be less costly in its operation since it will be meeting on a need basis.
5. Most stakeholders expressed their reservations on clauses 67 and 68 which provide for restriction of foreign servers and restriction on use of telecommunication platforms for online gaming respectively and the Committee has proposed to amend clause 67 and delete clause 68 of the Bill in order to address these concerns.
6. There is a need to amend clause 159 of the Bill to provide for a gaming advertisement fee payable to the Authority instead of the gaming advertisement tax as proposed in the Bill.
7. There is a need to expand the sources of funds for the Authority to include fees and levies.
8. The Second and Fourth Schedule need to be amended in order to reduce the amounts provided for licence fees and renewal fees respectively and to reduce the renewal period from three years to one year.
9. There is need to amend the Bill to rectify all errors that occasion inconsistencies within the Bill or are grammatically incorrect.
10. The minimum betting amount should remain as proposed in the Bill in order to promote responsible gambling and to protect the larger public.

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

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank the National Treasury, Ministry of Interior and Coordination of National Government, Ministry of Information, Communication and Technology and all the other stakeholders for their participation in scrutinizing the Bill.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who dedicated their time and made useful contributions towards the preparation and production of this report.

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

SIGN: .....

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

**CHAIRPERSON OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM**

**Date:** 13/11/2019

## 1.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

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

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

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

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

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

## 1.1 COMMITTEE MEMBERSHIP

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

**Hon. (Dr.) Victor Kioko Munyaka, M.P – Chairperson**
Machakos Town Constituency
Jubilee Party

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 1.2 COMMITTEE *SECRETARIAT*

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

## 2.0 CONSIDERATION OF THE GAMING BILL, 2019

### 2.1 BACKGROUND INFORMATION

1. The Gaming Bill, 2019 was published on 27th May, 2019 and read a First Time on 11th June, 2019 and thereafter committed to the Departmental Committee on Sports, Culture and Tourism for consideration pursuant to Standing Order 127.
2. The Gaming Bill, 2019 seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131) of 1966 by providing for the control and licensing of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; the establishment of the National Lottery; the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes.
3. The Bill seeks to repeal the Betting, Lotteries and Gaming Act (Cap. 131), an Act of Parliament that has been in existence since 1966. It further seeks to address various inadequacies in the existing Betting, Lotteries and Gaming Act.
4. The Gaming industry in Kenya is today over 50 years old. The industry has for the last forty-five years seen a very slow growth and until five years ago very few people knew about the gaming industry given that it operated on the traditional "Bricks and Mortar" premises, i.e. licensed physical Casinos and Betting premises.
5. The situation has however changed. Today the number of casinos has increased and the competition as well, hence the access fee has since been removed and people can easily walk in and out. Betting operators have also exploited the advances in technology, globalization as well as mobile penetration; hence their services are now easily available on one's palm. Accessibility, availability, and affordability has been made so easy and simple. One can today bet from anywhere, anytime from the comfort of sitting rooms at their own convenient time.
6. The move has seen the gaming industry in Kenya reinvigorated and in particular the betting sector, which for a long time has been moribund becoming the number one revenue generator in the industry. The industry total turnover has snowballed from a mere Kshs 2 billion five years ago to Kshs 200 billion, with an average gaming tax of Kshs 15 billion.
7. Pursuant to Article 118 of the Constitution, the Committee invited comments from the public and informed them of the public hearings. The Commission on Revenue Allocation, Shop and Deliver Ltd, Gamecode Ltd, the Directorate of Gaming and Betting Nairobi City County, Anjarwalla & Khanna, County Attorney- County Government of Mombasa, Association of Gaming Operators of Kenya, Kenya Charity Sweepstake, Velex Advisory, Gaming Awareness Society of Kenya, and White Rhino Venture responded by sending their memoranda to the Committee. The Committee also held a stakeholders' forum on 22nd August, 2019 to consider stakeholders' memoranda pursuant to Article 118 of the Constitution.

## 2.2 SALIENT FEATURES OF THE BILL

8. The objective of this Bill is to establish an Act of Parliament to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries, establishment of the National Lottery, imposition of a tax on gaming and for connected purposes.

9. The salient features of the Bill are as follows:

**Part I** of the Bill contains the preliminary provisions.

**Part II** of the Bill contains provisions on the functions of national and county government. Clause 4 of the Bill provides for the functions of the national government. It provides that the national government shall establish policies, norms and standards for the conduct of betting, casinos and other forms of gaming; provide for the co-ordination of national, county and concurrent national functions relating to betting, casinos and other forms of gaming in accordance with this Act; licence all forms of gaming including remote gaming; licence national lotteries; conduct security checks, vetting and due diligence in respect of gaming activities; enforce compliance of this Act; provide capacity building and technical assistance to counties; and regulate the gaming industry. Clause 5 of the Bill provides for the functions of county governments. It provides that the county governments shall enforce compliance of this Act and other applicable laws; issue permits for gaming premises; monitor and evaluate gaming activities in the counties; implement policy standards and norms of gaming in the counties; and perform such other functions as are incidental to the exercise of any or all of the county functions provided for under the Act.

**Part III of the Bill provides for the establishment of the National Gaming Authority.** Clause 6 of the Bill provides for the establishment of the National Gaming Authority. Clause 7 of the Bill provides for the Board of the National Gaming Authority which shall consist of nine members. Clause 8 of the Bill provides for the qualifications for a person to be appointed as a chairperson or a member of the Board. Clause 9 of the Bill provides for the vacancy of the Board and the removal from office of a member of the Board. Clause 10 of the Bill provides for the functions of the National Gaming Authority which shall be to, among others, regulate, control and licence gaming activities; supervise and co-ordinate of all matters relating to gaming at national and county level; establish policies and standards for betting, lotteries, casinos and other forms of gaming in collaboration with the Ministry; supervise implementation of gaming policies at the national and county level; establish and maintain a register on all national gaming, gaming machines and devices; establish a central electronic real time gaming monitoring system; issue licences in accordance with this Act; monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act. Clause 11 provides for the powers of the National Gaming Authority. Clause 12 provides for the conduct of business and affairs of the Board. Clause 13 of the Bill provides

for the power of the Board to delegate its powers to any committee of the Board. Clause 14 of the Bill provides for the remuneration of the Board. Clause 15 of the Bill provides for the appointment of the Director General of the National Gaming Authority. Clause 16 of the Bill provides for the appointment of the staff of the National Gaming Authority. Clause 17 of the Bill provides for the common seal of the National Gaming Authority. Clause 18 of the Bill provides for the protection of a member of the Board or employee of the Authority from personal liability.

**Part IV of the Bill provides for licenses and permits.** Clause 20 of the Bill provides for gaming activities for which the National Gaming Authority licences. Clause 21 for the licence requirements. Clauses 22, 23, and 24 of the Bill provide for the application requirements for a licence, renewal of a licence, and refusal to grant or renew a licence respectively. Clause 25 of the Bill provides for the suspension of a licence while clause 26 of the Bill provides for the revocation of a licence. Clause 27 of the Bill provides for the duration of a licence. Clause 28 provides for the requirement that a licence should be displayed at a place of business. Clause 29 of the Bill provides for the transfer of a licence. Clause 30 of the Bill provides for the Board investigations of a licensee. Clause 31 of the Bill provides for a duplicate licence. Clause 32 of the Bill provides for the register of licences to be kept by the Board. Clause 33 of the Bill provides for security for gaming activity. Clause 34 of the Bill provides for gaming capital requirements; it is proposed that the capital for starting a casino business shall be one hundred million shillings whereas the capital for starting an online gaming business shall be two hundred million shillings. Clause 35 of the Bill provides for the books of accounts to be kept by a licensee. Clause 36 of the Bill provides for submission of accounts by a licensee. Clause 37 of the Bill provides for the gaming tax chargeable at the rate of fifteen per cent (15%) of all gaming activities. Clause 38 of the Bill provides for the application for a permit from the county government for gaming premises. Clause 39 provides for the form of the permit whereas clause 40 provides for the revocation of a permit. Clauses 41, 42 and 43 of the Bill provide for the duration of the permit, transfer of the permit, and requirement to display a permit at place of business respectively.

**Part V contains provisions on control and licensing of betting.**
The Part provides for betting premises, bookmakers licence, totalisator licence, laying of totalizator, betting pools and betting odds, promoters licence in respect of betting schemes and authorization of bookmarking at a race meeting. This part covers clauses 44 to 48. Clause 44 provides for bookmaker's licence. Clause 45 provides for totalisator's licence. Clause 46 of the Bill provides for totalisator's rules. Clause 47 of the Bill provides for a promoter's licence in respect of a pool betting scheme. Clause 48 of the Bill provides for the authorization of a bookmaking at a race meeting.

**Part VI contains provisions for control and licensing of lotteries.**

This Part covers clauses 49 to 55. Clause 49 of the Bill provides for the authorization by the Board of a public lottery for charitable purpose. Clause 50 of the Bill provides for the power of the Board to impose conditions on a public lottery. Clause 51 of the Bill provides for the authorization by the Board of a lottery relating to horse racing. Clause 52 of the Bill provides for a lottery conducted for charitable, sporting or other purposes. Clause 53 of the Bill provides for the authorization of lottery promoted and conducted as an incident of entertainment. Clause 54 of the Bill provides for the Board's issuance of a licence for a private lottery. Clause 55 of the Bill provides for the requirement of a promoter and a beneficiary of a lottery to submit accounts and returns in respect to a lottery.

**Part VII contains provisions for online gaming.**
This Part covers clauses 56 to 69 of the Bill. Clause 56 provides for licensing of online gaming. Clause 57 provides for the control of online gaming activities. Clause 58 of the Bill provides for what constitutes an online gaming transaction. Clause 59 of the Bill provides for payment of prizes and remittance of profits and winnings. Clause 60 of the Bill provides for the minimum amount a person can bet online. Clause 61 of the Bill provides for the registration of a player. Clause 62 of the Bill provides for the requirement of a licensee to establish and maintain a player's account for each player who is registered by the licensee. Clause 63 of the Bill imposes restrictions on licensee in dealing with players' money. Clause 64 of the Bill provides directions to the licensee in regard to inactive accounts. Clause 65 of the Bill provides for the requirement for a licensee to deposit all the player's money in a player's account to be held and operated in a bank approved by the Board. Clause 66 of the Bill provides for the requirement of a licensee to submit audited financial reports to the National Gaming Authority. Clause 67 of the Bill provides for the restriction on foreign servers used for purposes of playing online games. Clause 68 of the Bill provides for the restriction on use of telecommunication platform for online gaming. Clause 69 of the Bill provides for appeal to the Gaming Appeals Tribunal.

**Part VIII of the Bill contains provisions for establishment of the National Lottery.**
This Part covers clauses 70 to 78. Clause 70 of the Bill provides for the establishment of the National Lottery. Clause 71 of the Bill provides for the licensing of National Lottery. Clause 71 of the Bill provides for the duration of the National Lottery licence. Clause 73 of the Bill enumerates the obligations of a licencee. Clause 74 of the Bill provides for the variation of conditions of a National Lottery licence. Clause 75 of the Bill provides for the enforcement of a condition of a National Lottery licence. Clause 76 of the Bill provides for the revocation of a National Lottery licence. Clause 77 of the Bill provides for the notice of revocation of a National Lottery licence while clause 78 of the Bill provides for the suspension of a National Lottery licence.

**Part IX of the Bill contains provisions for conduct of a National Lottery.** This Part covers clauses 79 to 88. Clause 79 of the Bill provides for the conduct of National Lottery games and

it prescribes the guidelines that the Board shall prescribe for its conduct. Clause 80 of the Bill provides for the contents of a lottery ticket and its sale. Clause 81 of the Bill provides for persons prohibited from participating in National Lottery. Clause 82 of the Bill provides for the offences relating to national lottery tickets. Clause 83 of the Bill provides for the particulars that an agent to supply lottery equipment or tickets has to furnish to the licensee. Clause 84 of the Bill provides for the requirements that draws of a national lottery should adhere to. Clause 85 of the Bill provides for the prohibition of award of prizes upon a ticket purchased or sold in violation of the Act. Clause 86 of the Bill provides for unclaimed prizes and lost or stolen tickets. Clause 87 of the Bill provides for the audit of the conduct of a national lottery. Clause 88 of the Bill provides for the appointment of the gross revenue of a national lottery.

**Part X of the Bill contains provisions on the National Lottery Distribution Trust Fund.** This Part covers clauses 89 to 100. Clause 89 of the Bill establishes the National Lottery Distribution Trust Fund and where its funds would be drawn from. Clause 90 of the Bill enumerates the powers of the Board of Trustees of the Fund. Clause 91 of the Bill provides for the membership of the Board of Trustees. Clause 92 of the Bill provides for the headquarters of the Board of Trustees. Clause 94 provides for the qualifications for appointment to the Board of Trustees. Clause 95 of the Bill provides for the vacation from office of the chairperson or a member of the Board of Trustees whereas clause 96 of the Bill provides for the filling of a vacancy. Clause 97 of the Board provides for the requirement of the Board of Trustees to submit reports and programmes to the Cabinet Secretary at the beginning of the year. Clause 98 of the Bill provides for the distribution of money in the National Lottery Distribution Trust Fund to different good causes related to sports. Clause 100 of the Bill provides for preparation of estimates of revenue and expenditure of the Fund for the year.

**Part XI of the Bill contains provisions on casinos, slot machines and other forms of gaming.** This part covers clause 101 to 104. Clause 101 of the Bill provides licences for a casino and other related gaming activities. Clause 102 of the Bill provides for the Board's power to inspect a premise where a casino is operated. Clause 103 of the Bill provides for the requirement of officers of the National Gaming Authority to be present in all casinos to ensure compliance with the Act and licence conditions. Clause 104 of the Bill provides for the licensing of lotteries incidental to sports or games.

**Part XII of the Bill contains provisions on amusements with prizes, prize competitions, chain letters and gaming machines.** This Part covers clauses 105 to 110. Clause 105 of the Bill makes provision for a person to provide amusement with prize at non-commercial entertainment. Clause 106 of the Bill, unlike clause 105, makes provision for a person to provide amusement with a prize at a commercial entertainment and it sets out the conditions to be adhered to. Clause 107 of the Bill provides for issuance of a permit by a county government for the use of an amusement machine. Clause 108 of the Bill provides for the

issuance of a permit by the Board for the promotion and conduct of prize competitions. Clause 109 of the Bill provides for the prohibition of the delivery, supply or submission or receipt of money or money's worth in connection with a chain letter. Clause 110 of the Bill provides for the control of betting and gaming machines.

**Part XIII of the Bill establishes the Gaming Appeals Tribunal.** This Part covers clauses 111 to 123 of the Bill. Clause 111 of the Bill provides for the establishment of a Gaming Appeals Tribunal whose function shall be to resolve disputes between parties. Clause 112 of the Bill provides for the composition of the Board consisting of a Chairperson and four other members. Clause 113 of the Bill provides for the qualifications for appointment of the chairperson of the Gaming Appeals Tribunal. Clause 114 of the Bill provides for the circumstances under which the office of the chairperson or a member of the Gaming Appeals Tribunal becomes vacant. Clause 115 of the Bill provides for the remuneration and allowances of the members of the Tribunal. Clause 116 of the Bill provides for the powers of the Tribunal to confirm, set aside or vary a decision. Clause 117 of the Bill provides for a notice of a reference to a party to an appeal. Clause 118 of the Bill provides for the appointment of expert advisors to assist the Tribunal. Clause 119 of the Bill provides for the right of a person to appeal to the High Court if he or she is aggrieved by the decision of the Tribunal. Clause 120 of the Bill provides for the power of the Chief Justice to make rules regulating practice and procedure of the Tribunal. Clause 121 of the Bill provides for the appointment of a Secretary to the Tribunal and qualification for appointment. Clause 122 of the Bill provides for the appointment of the staff of the Tribunal. Clause 123 of the Bill provides for the funds of the Tribunal as monies allocated by the National Assembly to the Judicial Fund.

**Part XIV of the Bill contains financial provisions.** This Part covers clauses 124 to 128 of the Bill. Clause 124 of the Bill provides for the funds of the National Gaming Authority. Clause 125 of the Bill provides for the financial year of the Authority which ahll be the period of twelve months ending on the thirtieth of June every year. Clause 126 of the Bill provides for the annual estimates which shall make provisions for all the estimated expenditure of the Authority. Clause 127 of the Bill provides for the requirement of the Authority to keep proper books and records of accounts. Clause 128 of the Bill provides for the requirement for the Authority to prepare and submit to the Cabinet Secretary a report of the operations of the Authority.

**Part XV of the Bill contains provisions on offences and penalties.** This Part covers clauses 129 to 155 of the Bill. Various offences are listed and their penalties spelt out. These offences include offences relating to gaming premise, false declarations, failure to display a valid licence, transfer of a licence without the approval of the Board, failure to keep proper books of accounts, failure to submit accounts by a licensee, failure to pay a levy or a prescribed fee, operating without a licence or permit, conducting unauthorized lotteries, amongst other offences.

**Part XVI of the Bill contains miscellaneous provisions.** This Part covers clauses 156 to 161 of the Bill. Clause 156 of the Bill provides for the power of the gaming inspector, an officer of the Authority or a police officer to enter and inspect premises including a race course when he or she suspects an offence has been committed. Clause 157 of the Bill provides for the forfeiture of a licence or security. Clause 158 of the Bill provides for the requirements that gaming advertisements are supposed to adhere to. Clause 159 of the Bill provides for a gaming advertisement tax chargeable at the rate of thirty-five per centum for every gaming advertisement done through radio or television advertising. Clause 160 of the Bill provides for the power of the court to order production of documents related to the commission of an offence. Clause 161 of the Bill provides for the power of the police in coordination with the Board to seize any illegal gaming, betting and lottery machines.

**Part XVII of the Bill contains provisions on delegated powers.** Clause 162 of the Bill provides for the power of the Cabinet Secretary to make regulations.

**There are six Schedules in the Bill.** The **First Schedule** sets the Provisions for the meetings and procedure of the Board. The **Second Schedule** prescribes the licensing fee for various types of gaming. The **Third Schedule** provides for declarations to be made by an applicant of a gaming licence. The **Fourth Schedule** prescribes the renewal of licence. The **Fifth Schedule** prescribes security required during the application of a gaming licence. Finally, the **Sixth Schedule** provides for repeal and transition.

10. The Bill seeks to address various inadequacies in the existing Betting, Lotteries and Gaming Act. The notable differences between the Bill and the Act are provided in the table below:

| **THE BETTING, LOTTERIES AND GAMING ACT** | **THE GAMING BILL, 2019** |
|---|---|
| Devolution is not addressed in the Act yet the Constitution has established two levels of government and their respective functions; | Devolution is addressed in the Bill and in particular the role of county governments as provided under Part 2 of the Fourth Schedule of the Constitution which also assigns county governments a function on<br>betting, casinos and other forms of gambling<br>Thus, the respective functions of the national government and county governments are provided for in the Bill |
| It establishes the Betting Control and Licensing Board whose membership | It establishes the National Gaming Authority and one of the members is one |

| | |
|---|---|
| excludes representation from county governments | person nominated by the council of county governors |
| The membership of the Board is 9 | The membership of the Authority is 9 (excluding the Director-General) |
| Online gaming is not addressed in the Act | Part VII of the Bill provides for online gaming |
| The National Lottery is not provided for | Part VIII of the Bill provides for the establishment of the National Lottery (Clauses 70-78)<br><br>Also, Part IX of the Bill provides for the conduct of National Lottery |
| It does not establish any Fund | Part X of the Bill establishes the National Lottery Distribution Trust Fund (Clauses 89-100)<br><br>The purpose of the Fund is to retain and distribute the proceeds of the National Lottery |
| A person who is aggrieved by the decision of the Board can appeal to the High Court | It establishes the Gaming Appeals Tribunal to resolve disputes between parties and for persons to appeal to it |
| The penalties are not stiff<br><br>▪ Fines range- 3,000-10,000 shillings<br>▪ Imprisonment- 3 months - 1 year<br><br>The offences are not as many | Part XV of the Bill provides for offences and penalties (Clauses 129-155) providing for 27 different offences such as offences relating to gaming premise, false declarations, failure to display a valid licence, transfer of a licence without the approval of the Board, failure to keep proper book of accounts e.t.c<br><br>The penalties are now stiffer:<br><br>▪ Fines range- 250,000 - 2 million<br>▪ Imprisonment- 1 year to 5 years |
| The Act does not provide for Schedules on various aspects particularly on the amounts of licensing fees, securities, and renewal fees | The Bill has six schedules, notably the Second Schedule on licensing fees (*providing the respective amounts of licensing fees*) , the Fourth Schedule on Renewal of licence (*providing for the* |

| | |
|---|---|
| | *respective renewal periods and renewal fees for licences for different types of gaming*) and the Fifth Schedule on Gaming Security (*providing the amounts for security for different types of gaming*) |
| The Act is not comprehensive (containing around 70 provisions) | The Bill is comprehensive (containing 162 clauses) |

## 3.0 SUBMISSION BY THE STAKEHOLDERS

Following the call for memoranda from the public as contained in an advert in the Daily Nation, Standard newspapers and the Star on 17th June, 2019, the Committee received memoranda from ten (10) entities. All their proposals were deliberated on and considered by the Committee. Below are the views of the stakeholders and the Committee's recommendations on each proposal.

The Committee is required, pursuant to Standing Order 127(3), to facilitate public participation on the Bill through an appropriate mechanism including-

(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in the sector;
(d) consulting experts on technical subjects.

The requirement for the Committee to conduct public participation on the Bill is a constitutional imperative flowing from Article 118 of the Constitution which provides that Parliament shall-

*(a) conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and*

*(b) facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*

The Committee called for invitation of Memoranda through the Daily Nation, Standard newspapers and the Star on 17th June, 2019. Furthermore, there were public hearings to receive comments on the bill from stakeholders. The Committee conducted public hearing at Mombasa County, Kwale County, Kisumu County, Nairobi County, Kakamega County, Uasin Gishu County, Nyeri County and Meru County.

The Committee received memoranda from the following entities:

i) The National Treasury and Planning
ii) The Kenya Revenue Authority
iii) The Communication Authority of Kenya
iv) The Betting Control and Licensing Board
v) The Commission on Revenue Allocation
vi) The Gaming Awareness Society of Kenya
vii) The Kenya Charity Sweepstake
viii) The Velex Advisory
ix) The Association of Gaming Operators, Kenya
x) The White Rhino Ventures Ltd
xi) The Shop and Deliver Ltd (Betika)
xii) The Directorate of Gaming and Betting – Nairobi City County
xiii) The Gamecode Ltd and Anjarwalla & Khanna

xiv) Nanovas (K) International (Trading as betpawa)

xv) Golden Key Ltd

xvi) Shade Ltd

The following is a summary of the proposed amendments by the various stakeholders and the comments by the Committee:

| CLAUSE | GROUP/ PERSON | PROPOSAL/ AMENDMENT | COMMITTEE'S RECOMMENDATIONS |
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| LONG TITLE | The Betting Control and Licensing Board | Amend by inserting 'to delineate the functions of the National and County Governments' after the word "Parliament"<br><br>*Justification:*<br>In accordance with Fourth Schedule of the Constitution | The Committee agreed to the proposed amendment |
| Clause 2 | The Betting Control and Licensing Board | Amend clause 2 in the definition of the term "gaming equipment" by deleting paragraph (c)<br><br>*Justification:*<br>To bring it into conformity with the definition of a gaming machine | The Committee agreed to the proposed amendment since a gaming machine has been defined as any device which is operated *electronically* or mechanically or both.<br>Therefore, the deletion of paragraph (c) aligns the definition of the term "gaming equipment" to the definition of the term "gaming machine". |
| | | Amend clause 2 in the definition of the term "gaming employee" by deleting the repeated words "a person"<br><br>*Justification:*<br>To correct an error in repetition of the words | The Committee agreed to the proposed amendment since it corrects a typographical error. |
| | | Amend clause 2 in the definition of the term "gaming premise" by deleting the word 'the' appearing immediately after the words "has access for"<br><br>*Justification:*<br>To correct a typographical error | The Committee agreed to the proposed amendment since it corrects a typographical error. |
| | | Amend clause 2 by inserting the following new definition of the term "licensed gaming premises" immediately after | The Committee agreed to the proposed amendment since the term "licensed gaming premises" |

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| | | the definition of the term "licensed betting premises"—<br><br>"licensed gaming premises" means the premises specifically named, described and licensed in terms of this Act to which the public may resort for purposes of gaming;<br><br>*Justification:*<br>This definition is missing in the Bill. This definition is also an improvement of the definition in the current Act. | has been used in clauses 129 and 157(3) of the Bill. |
| | | Amend clause 2 by deleting the definition of the term "lottery ticket"<br><br>*Justification:*<br>This has already been captured in the definition in the word ticket. | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) The terms "ticket" and "lottery ticket" have been used in different senses in the Bill and they are not synonymous to each other:<br>(ii) A lottery ticket has been used in the Bill to refer to tickets used to participate in a lottery chance whereas a ticket has been used in the sense of a lottery or a game of chance. |
| | | Amend clause 2 in the definition of the term "manufacturer" in paragraph (c) by inserting the words "of gaming services" immediately after the word "provider" | The Committee agreed to the proposed amendment and further proposed an amendment to paragraph (a) by inserting the words "of gaming services" immediately after the words "a supplier". |

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| | | *Justification:*<br>Paragraph (c) was vague | |
| | | Amend clause 2 by deleting the definition of the term "net gaming revenue"<br><br>*Justification:*<br>It is gross gaming revenue which is used for tax purposes and what constitutes gaming revenue has already been defined.<br><br>The definition will lead to un necessary litigation on issues relating to computation of gaming revenue. | The Committee agreed to the proposed amendment. |
| | | Amend clause 2 by deleting the definition of the term "Principal Secretary" and substituting therefor the following—<br><br>"Principal Secretary" means the Principal Secretary in the State Department for the time being responsible for matters relating to gaming;<br><br>*Justification:*<br>The spelling of the word "Principle" was incorrect and the definition of "Principal Secretary" has been made to align it to that of the Cabinet Secretary | The Committee agreed to the proposed amendment except to retain the words "betting, lottery and gaming" at the end of the definition. |
| | | Amend clause 2 in the definition of the term "record" by deleting the word "matter" | The Committee agreed to the proposed amendment |

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| | | and substituting therefor the word "manner"<br><br>*Justification:*<br>To correct a typographical error | |
| | | Amend clause 2 in the definition of the term "stake" by deleting the word "hazard" and substituting therefor the word "risk"<br><br>*Justification:*<br>This is the Board proposal of definition of stake in the Bill | The Committee agreed to the proposed amendment |
| | | Amend clause 2 in the definition of the term "ticket" by deleting the words "a chances of" appearing immediately after the words "participate in"<br><br>*Justification:*<br>To correct a typographical error | The Committee agreed to the proposed amendment |
| | | Amend clause 2 by deleting the definition of the term "Tribunal"<br><br>*Justification:*<br>BCLB proposes the establishment of the Gaming Appeals Committee in the new part XIII of the Gaming Bill, 2019 | The Committee agreed to the proposed amendment |
| | | Amend clause 2 by deleting the definition of 'winning' and substituting therefor the following new definition— | The Committee rejected this proposed amendment and adopted a definition proposed by other stakeholders. |

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| | | "winnings" include winning of any kind and a reference to the amount or the payment of winnings shall be construed accordingly;<br><br>*Justification:*<br>To align the definition to the Finance Act, 2018 | |
| | | Amend clause 2 by inserting a new definition of the term "collector" as follows—<br><br>"Collector" means the Commissioner General of the Kenya Revenue Authority" | The Committee agrees to the proposed amendment since the term "collector" has been used severally in the Bill |
| | | Amend clause 2 by inserting a new definition of the term "Committee" as follows—<br><br>"Committee" means the Gaming Appeals Committee established under new part XIII<br><br>*Justification:*<br>Proposed replacing "The Gaming Appeal Tribunal" with "Gaming Appeals Committee" | The Committee agrees to the proposed amendment. |
| | The Velex Advisory | Amend clause 2 in the definition of the term "winnings" to be the difference between the bet placed by a punter (Stake) and the payout received on receipt of a prize<br><br>Winning = stake less payout<br><br>*Justification:*<br>(i) Limiting the definition of winnings to a prize of | The Committee agreed to the proposed amendment. |

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| | | any kind leaves loopholes for varied misinterpretations between various stakeholders in the Industry; This is the reason for current dispute between Kenya revenue Authority and Gaming operating companies;<br>(ii) The definition proposed is a literal interpretation of what winnings would mean to an ordinary reasonable man. A win should leave the Winner in a Better position that they were before they engaged in play;<br>**(iii)** Clarity on this definition is important since winnings is an emotive issue to consumers and subject to taxation by the Collector of taxes. | |
| | | Amend clause 2 by inserting a new definition of the term "vulnerable person" to mean anyone below 22 years of age and persons identified by the Authority as being addicted to gambling.<br><br>*Justification:*<br>This will protect children in schools and university from | The Committee rejected the proposed amendment since the term "vulnerable person" is not provided for in the Bill. |

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| | | engaging in gambling whilst still pursuing education. | |
| Clause 3 | The Betting Control and Licensing Board | Amend clause 3 (d) to read as follows "To establish the National Gaming Authority, National Lottery, The National Lottery Distribution Trust Fund and The Gaming Appeals Committee"<br><br>*Justification:*<br>For better operationalization of the Act and to provide a framework for the implementers of this Act | The Committee agreed to the proposed amendment |
| | | Amend by inserting a new clause 3A The guiding principles for the implementation of the Act shall be the following:<br>a. The need to prevent gambling from becoming a source of crime or disorder, being associated with crime or being used to support crime;<br>b. To ensure gambling is conducted in a fair and open way;<br>c. To ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;<br>d. Ensure gambling opportunities are controlled to a level | The Committee rejected the proposed amendment since clause 3 of the Bill providing for objects and purposes of the Act is sufficient. |

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| | | which does not harm the public;<br>e. That gambling operations are not owned, operated or infiltrated by persons involved in crime;<br>f. Ensure gambling licenses are privileged and revocable and no holder acquires any vested right in such a license, in order to protect public interest;<br>g. To ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers<br>h. To prevent gambling from being associated with or used for money laundering and financing of terrorism or other unlawful activities;<br>i. Maximize the economic benefits derived from gambling to fund social causes;<br>j. Provide for an efficient and effective regulatory oversight framework for regulating national and county gambling.<br><br>*Justification:* | |

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| | | For better operationalization of the Act and to provide a framework for the implementers of this Act | |
| Clause 4 | The Directorate of Gaming and Betting – Nairobi City County | Delete clause 4 and substitute the following—<br><br>1. (a) Policy formulation, legislation, standards & norms<br>(b) Development of standards and norms<br>(c) Regulation of the gaming industry<br>(d) Capacity building and technical assistance<br>2. licensing of public gaming (casino)<br>3. Vetting, security checks and due diligence<br>4. Licensing of prize competitions cross cutting several counties (on promotion of product and services)<br>5. Licensing of national lotteries<br>6. (a) Licensing of on-the course totalisators<br>(b) Licensing of off-the course totalisators.<br>7. Licensing of bookmakers<br>8. Online gaming<br>9. Handling of complaints and arbitration.<br><br>*Justification:*<br>These are the national government functions as per the Gazette notice 8753 of 8th September 2017 on delineation of functions Betting, casinos | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Clauses 4 and 5 of the Bill have delineated the functions of both the national and county governments;<br><br>(ii) Petition No. 295 of 2014 (*Africa Rafiki Ltd & 2 others v Nairobi City County Government & 3 others [2017] eKLR*) sought to fill a lacuna in the law in terms of delineation of functions between the national government and county governments which the Bill seeks to address;<br>(iii)The functions of the national government in relation to betting. Casinos and other forms of gambling have been provided for whereas the functions of county governments on betting, casinos and other forms of gambling have been provided for in the Bill. |

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| | | and other forms of gambling. Also adopted by final judgment in petition no. 295 of 2014 disposition & final orders No. 34 (i) and (ii) delivered on 4th May 2017. | |
| Clause 5 | The Betting Control and Licensing Board | Amend clause 5 (b) by inserting the words "single business" immediately after the word "issue"<br><br>*Justification:*<br>Inspection and approval of the gaming premises is the function of the Authority | The Committee agreed to the proposed amendment |
| | | Amend by deleting paragraph 5(c) of the Bill.<br><br>*Justification:*<br>This is the function of the Authority under clause 10 | The Committee agreed to the proposed amendment since clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to—<br><br>(i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act;<br>(ii)investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties. |
| | The Directorate of Gaming and Betting – Nairobi City County | Delete clause 5 and substitute with the following—<br><br>**1. (a)** Implementation of policy, standards and norms;<br>**(b)** Periodic monitoring and evaluation of betting, lotteries and gaming; | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Petition No. 295 of 2014 (*Africa Rafiki Ltd & 2 others v Nairobi City County Government & 3 others [2017] eKLR*) sought to fill a lacuna in |

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| | | **(c)** Development and implementation of county legislation on betting<br>**2. (a)** Licensing of public gaming (casino) premises;<br>**(b)** Enforcement and compliance i.e sport checks, daily supervisions of casinos.<br>**3.** Licensing of prize competition for promotions confined to a county.<br>**4.** Licensing of amusement machines.<br>**5.** Licensing and supervision of county lotteries (lotteries confined within a county).<br>**6.** Licensing of premises for totalisators.<br>**7.** Licensing and issuance of pool table permits within the counties.<br>**8.** Licensing of betting premises.<br>**9.** Handling of complaints and arbitration.<br><br>*Justification:*<br>These are the county government functions as per the Gazette notice 8753 of 8th September 2017 on delineation of functions Betting, casinos and other forms of gambling. Also adopted by final judgment in petition no. 295 of 2014 disposition & final orders No. 34 (i) and (ii) delivered on 4th May 2017. | the law in terms of delineation of functions between the national government and county governments which the Bill seeks to address;<br>(ii) Clause 5 of the Bill seeks to provide for the functions of county governments in terms of the Fourth Schedule of the Constitution. |

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| Clause 7 | The Betting Control and Licensing Board | Amend clause 7 (1) (a) by deleting the words "nominated by the Cabinet Secretary and" | The Committee agreed to the proposed amendment. |
| | | Amend clause 7 (1) (e) by deleting paragraph (e) and substituting it with the following new paragraph (e) "the Director General of Communications Authority of Kenya or a representative designated in writing;"<br><br>*Justification:*<br>To ensure the individual has knowledge in gaming thus informed decisions | The Committee agreed to the proposed amendment. |
| | | Amend clause 7 (1) (g) by deleting paragraph (g) and substituting therefor the following new paragraph (g) "one person, who shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary"<br><br>*Justification:*<br>To ensure the operations of the Authority are not disrupted | The Committee agreed to the proposed amendment for the reason that it proposes that the person shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary. |
| | | Amend clause 7(1) (h) by deleting the words "and secretary to the Board" to read (h) the Director General who shall be an *ex officio* member<br><br>*Justification:*<br>In accordance with the Mwongozo code | The Committee agreed to the proposed amendment since the Mwongozo Guidelines, the Code of Governance for State Corporations, recommends the provision of a Corporation Secretary who becomes secretary to the Board. |

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| | | Amend clause 7(2) by deleting the words "In appointment of the" and insert "In appointing the Chairperson"<br><br>*Justification:*<br>To correct a typographical error | The Committee rejected the proposed amendment since this is an accepted style of drafting. |
| | | Insert a new subclause (3A) to read as follows "the appointment of members under subclause 1 (f) and (g) shall be staggered to ensure their terms do not expire at the same term"<br><br>*Justification:*<br>To ensure the operations of the Authority are not disrupted | The Committee agreed to the proposed amendment but proposed that it should be an amendment to subclause (4).<br><br>The Mwongozo Guidelines, the Code of Governance for State Corporations, recommends that the appointing authority should ensure that the tenures of Board members are staggered to ensure a phased transition. |
| | The Association of Gaming Operators, Kenya | Amend clause 7 (1) (f)<br><br>Amend by deleting the words "who shall hold a university degree in a relevant field from a university recognised in Kenya" and replace with "by virtue of the knowledge and experience in gaming" to read (f) three persons appointed by the Cabinet Secretary by virtue of the knowledge and experience in gaming; | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) The proposed Board of the National Gaming Authority needs persons with a university education so that they could assist the Board discharge its mandate effectively;<br><br>(ii) The proposed amendment lowers the qualification threshold proposed in the Bill. |
| | The Velex Advisory | <u>Amend clause 7 to include the following as members of the Board:</u> | The Committee rejected the proposed amendments for the following reasons: |

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| | | One person nominated by the Kenya Revenue Authority<br><br>Two persons nominated by operators in the gaming industry.<br><br>*Justification:*<br>(i) KRA should nominate a person to the board to ensure harmony in tax administration and collection;<br>(ii) The industry is young and lacks developed knowledge and expertise. Operators can however contribute to the knowledge and expertise of the Board and nominate individuals with a wealth of knowledge to the Board. | (i) The Kenya Revenue Authority did not propose that they have representation in the Board in their submissions made to the Committee;<br>(ii) Since it has been proposed that the Principal Secretary responsible for National Treasury or a representative shall be in the Board, this representation is adequate;<br>(iii)The Kenya Revenue Authority will be able to discharge its mandate under the Act without the need of having their representative in the Board<br>(iv) Inclusion of a representative of the operators in the gaming industry might impede the regulator from effectively discharging its mandate. |
| Clause 8 | The Betting Control and Licensing Board | Insert a new paragraph (a) to read "is a Kenyan Citizen"<br>Renumber the ensuing paragraphs in 8 (1)<br><br>*Justification:*<br>In accordance with the Mwongozo code | The Committee agreed to the proposed amendment. The amendment proposes the inclusion of a further requirement for a person to be appointed as a chairperson of a member of the Board: Being a Kenyan citizen.<br><br>Article 78(1) of the Constitution provides that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. |

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| | | Amend clause 8 (2) (d) by inserting the words "or any other lawful reasons" after the word "misconduct" to read (d) has previously been removed from a public office on account of misconduct or any other lawful reasons.<br><br>*Justification:*<br>For avoidance of qualification of crime | The Committee agreed to the proposed amendment |
| | The Velex Advisory | Amend clause 8(2)(b) by deleting the words "and dishonest"<br><br>*Justification:*<br>(i) It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous;<br>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;<br>(iii) The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate;<br>(iv) Operators may disclose information to the Board which at the time | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) According to the Black's Law Dictionary, Fraud consists of some deceitful practice or wilful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury;<br>(ii) According to the Oxford Learner's Dictionary, the word dishonest is defined as "not honest, intending to trick people";<br>(iii) The use of the two words communicate different senses which is the intention of the Bill;<br>(iv) The terms "dishonest" and "dishonesty" have been used in a number of clauses in the Bill;<br>(v) Other legislations also use the term "dishonesty" for |

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| | | they reasonably thought was accurate only for the same to change via external factors or otherwise. | instance, section 172 of the Penal Code refers to "any person who dishonestly or with a fraudulent intention goes through the ceremony of marriage". |
| Clause 9 | The Betting Control and Licensing Board | Amend by deleting paragraph (b) and substituting therefor the following new paragraph "(b) resigns from office by notice in writing to the President or the Cabinet Secretary as the case may be.<br><br>*Justification:*<br>Propose for a discussion on whether there will be any need for representation of county governments in a national agency. | The Committee agrees to the proposed amendment since the appointing authority for the chairperson is the President hence the resignation should be to the President too. |
| | | Amend clause 9 in subclause 3 by inserting the word "reasonably" immediately after the words "as soon as it is".<br><br>*Justification:*<br>To amend typographical errors | The Committee rejected the proposed amendment since it is superfluous. |
| | The Velex Advisory | Amend clause 9(3) by deleting the words "as soon as it is practicable" and substitute therefor the words "within thirty days".<br><br>*Justification:*<br>(i) The words "as soon as it is practicable" are not definitive;<br>(ii) To avoid ambiguity in the law, there should be a set timeline for the | The Committee agreed to the proposed amendments. |

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| | | appointment of a Board member;<br>(iii) Ascertaining the time period further ensures that the Authority does not suffer from technical issues such as lack of quorum. | |
| Clause 10 | The Betting Control and Licensing Board | Amend clause 10 by deleting the clause and substituting therefor the following new clause;<br><br>10. The main functions of the Authority shall be to-<br><br>(1) (a) to be the principal agency at both levels of government in the implementation of all policies relating to gaming;<br>(b) Exercise general supervision and co-ordination over all matters relating to gaming at national and county levels;<br>(c) Advise the Cabinet Secretary on the formulation of overall policies, norms, standards for the conduct of betting casinos and other forms of gaming;<br>(d) Co-ordinate national, county and concurrent national and county functions relating to betting, casinos and other forms of gaming in accordance with this Act; | The Committee rejects the proposed amendment for the following reasons:<br><br>(i) Although the proposed functions for the Authority are detailed, many and specific, they reiterate the functions as proposed in the Bill;<br>(ii) The details as to how the Authority will carry out its function are provided for in the substantive provisions in the Bill;<br>(iii) Clause 162 of the Bill provides for matters which would be provided for in regulations, including the procedure to be followed by the Board in exercising any powers conferred upon it by the Act;<br>(iv) The delineation of functions between the national government and county governments have been provided for in clauses 4 and 5 of the Bill;<br>(v) Most of the functions listed in the proposed |

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| | | (2) In performance of its functions under this Act, the Authority shall-<br>a. Establish and maintain at the national level:-<br>b. A probity register<br>ii. A national register of games, gaming machines and devices<br>iii. The national central electronic gaming monitoring system<br>iv. The national register of excluded persons, and<br>v. A central registry of gaming information including data relating to betting, casinos and other forms of gaming in the country;<br>c. Issue licences in accordance with this Act;<br>d. Issue conditions of national gaming licenses issued in accordance with this Act and regulations made thereunder and enforce compliance therewith<br>e. Conduct security checks, vetting and due diligence in respect of gaming activities<br>f. Define standards, principles and procedures in respect of operations, premises, equipment, personnel, supplies of services and enforcing compliance herewith; | amendment are provided for in the Bill. |

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| | | g. Monitor and evaluate, when necessary, the issuance of permits by the Counties to ensure compliance with the Act;<br>h. Investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies and making recommendations to the Cabinet Secretary in relation to such matters.<br>i. Undertake and coordinate research and surveys in the field of gaming, and monitor social economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of-<br>i. The social economic impact of gaming; and<br>ii. Addictive or compulsive gaming<br>j. Conduct oversight evaluations of the performance of counties so as to ensure national norms, standards established by this Act are applied uniformly and consistently throughout the country; | |

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| | | k. Assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with appropriately<br>l. During the subsistence of a license or permit, cancel, suspend or vary such license after giving the licensee or a permit holder opportunity to show cause against the cancellation, suspension or variation<br>m. Coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;<br>n. Advise counties on matters relating to gaming operations;<br>o. Prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;<br>p. Improve capacity of counties in matters relating to gaming functions;<br>q. Register and issue annual gaming personnel licenses in the country<br>r. Collaborate with the Ministry in the formulation of policy | |

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| | | direction for purposes of this Act<br>s. Promote co-operation and linkage among county governments, public departments, private sector and the regional international organizations engaged in the regulation of gaming;<br>t. To inquire into complaints on matters arising under this Act.<br>u. To perform all other functions conferred to it by this Act or any other written law<br><br>(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution<br><br>*Justification:*<br>These powers are more comprehensive and touch on the day to day activities of the Board | |
| | The Directorate of Gaming and Betting – Nairobi City County | Delete paragraphs (b), (d), (h) and (i) of clause 10<br><br>*Justification:*<br>These are county government functions as per Gazette notice | The Committee agreed to the proposed amendment. |

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| | | 8753 of 8th September 2017. The sections as they are tend to micromanage the counties. | |
| Clause 11 | The Betting Control and Licensing Board | Amend clause 11 in the introductory statement by inserting the word "the" immediately after the words "generality of the foregoing, the Authority shall have"<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment since it corrects a typographical error. |
| | | Amend clause 11 in paragraph (c) by inserting the words "and operate" after the word "open" and delete the word "banking" and insert the word "bank" to read<br><br>(c)open and operate a bank account with the authority of the National Treasury;<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment since it brings clarity to the powers of the Authority on operation of a bank account. |
| | | Amend by inserting the following new paragraphs after paragraph (c);<br>(d) to conduct security checks, vetting and due diligence in respect of gaming activities;<br>(e) conduct such investigations as maybe necessary for enforcing this Act;<br>(f) require any person to furnish such returns and information as maybe necessary for implementing the provisions of this Act; | The Committee agreed to the proposed amendment except for the following proposed powers of the Board:<br><br>(i) the power to charge fees and levies;<br>(ii) the power to impose fines and penalties;<br>(iii) the power to seize, destroy, forfeit or condemn gaming machines and equipment found to be unfit for the intended use. |

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| | | (g) issue or approve codes of practice relating to gaming operations;<br>(h) inquire into complaints against licensees;<br>(i) set conditions and terms of a license issued under this Act;<br>(j) charge fees and levies;<br>(k) impose fines and penalties;<br>(l)seize, destroy, forfeit or condemn gaming machines and equipment found to be unfit for the intended use;<br>(m) exercise all other powers conferred to it by this Act or any other written law.<br><br>*Justification:*<br>These powers are more comprehensive and touch on the day to day activities of the Authority | |
| Clause 12 | The Betting Control and Licensing Board | Amend clause 12 by deleting the word "of" appearing after the word "procedure" and substitute therefor with the words "for the" to read<br><br>12. The procedure for the conduct of business and affairs of the Board shall be as provided in the First Schedule, but subject thereto, the Board may regulate its own procedure. | The Committee agreed to the proposed amendment |
| | | Amend by introducing a new clause 12A to provide for the committees of the Board to read "that the Board shall establish such committees as it | The Committee agreed to the proposed amendment |

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| | | considers necessary to assist it in the performance of its functions and exercise of any of its powers"<br><br>*Justification:*<br>For ease of execution of functions | |
| Clause 14 | The Betting Control and Licensing Board | Amend clause 14 by adding letter 's' in the word "disbursement" to read<br><br>14. The members of the Board shall be paid such allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment |
| Clause 15 | The Betting Control and Licensing Board | Amend by deleting paragraph (b) of clause 15 (2) and substitute therefor it with the following new paragraph "(b) holds a degree from a university recognised in Kenya"<br><br>*Justification:*<br>To avoid restricting the qualifications to specific disciplines (qualifications) | The Committee agreed to the proposed amendment |
| | | Amend by deleting paragraph (c) in clause 15(2) and substitute it with "has at least ten years' experience in senior | The Committee agreed to the proposed amendment |

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| | | management of a public or a private institution"<br><br>*Justification:*<br>This is the generally acceptable practice in management | |
| | | Amend by deleting clause 15 (3) paragraph (a) and substitute therefor with the following new paragraph "the Chief Executive Officer of the Authority"<br><br>*Justification:*<br>In accordance with the *Mwongozo code* | The Committee agreed to the proposed amendment |
| Clause 16 | The Betting Control and Licensing Board | Amend clause 16 by deleting sub-clause (1) and substitute therefor the following new subclause "(1) the Board shall appoint such officers and staff including Gaming Inspectors as are necessary for the proper discharge of its functions under this Act." | The Committee agreed to the proposed amendment |
| | | Gaming Inspectors<br>16A (1) A gaming inspector shall have the following functions-<br><br>(a) to inspect gaming premises to ensure compliance with the provisions of this Act;<br>(b) to monitor the operations of all licensed gaming operations;<br>(c) to examine equipment and devices used in gaming and records kept | The Committee rejected the following amendment for the following reasons:<br><br>(i) Clause 156 of the Bill provides for the power or a gaming inspector or a police officer to enter without warrant and inspect premises;<br>(ii) Clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, |

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| | | in respect of the gaming activities;<br>(d) to monitor the handling and counting of money on casino premises;<br>(e) to assist in any manner where necessary in the detection of offences committed under this Act on all gaming premises;<br>(f) to receive and investigate complaints from gaming patrons, licensees or members of the public relating to the conduct of gaming;<br>(g) to report to the Board on the conduct of gaming operations; and<br>(h) to perform any other functions incidental to the foregoing.<br><br>(2) In the performance of the functions specified under subsection (1) a gaming inspector shall have the powers to-<br>(a) require any person in possession of, or having control of, any machinery, equipment, device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto; | betting and lottery machines. |

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| | | (b) inspect any such machinery, equipment, device or records and take copies of, extracts from or notes relating to, those records;<br>(c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence;<br>(d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act;<br><br>(e) require, by written notice, any licensee, any employee of the licensee or any other person associated with the operations or management;<br>(f) of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the | |

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| | | notice, with respect to any activity regulated by this Act;<br>(g) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;<br>(h) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and<br>(i) do any other thing authorized to be done by the Board under this Act.<br><br>(3) If an inspector seizes anything under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.<br><br>*Justification:*<br>To provide powers to the Gaming Inspectors to ensure effective performance of the functions of the Authority | |

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| | | Insert a new clause 16B - Seizure and forfeiture of equipment and devices"<br><br>"Clause 16B a Gaming Inspector may seize;<br>(a) anything that the Gaming Inspector reasonably suspects is a gaming equipment that is not authorized under this Act to be on the gaming premises or;<br>(b) any item or thing the use or possession of which is unlawful<br><br>*Justification:*<br>To protect the public from the use of illegal, substandard/ un-authorised gaming equipment | The Committee rejected the proposed amendment since clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines. |
| Clause 18 | The Betting Control and Licensing Board | Amend by deleting "subject to Section 19" appearing on Section 18 to read<br>18. No matter or act done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever. | The Committee rejected the proposed amendment. |

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| | | *Justification:*<br>Because we have proposed deletion of Section 19 | |
| Clause 19 | The Betting Control and Licensing Board | Delete clause 19<br><br>*Justification:*<br>It impedes effective implementation of the Act | The Committee rejected the proposed amendment since clause 19 is an important provision that provides that the Authority shall pay compensation or damages to any person for any injury occasioned on the person or the person's property or any interests. |
| Clause 20 | The Betting Control and Licensing Board | Amend by inserting number (1) in clause 20 to read<br><br>20. (1) The Board shall have authority to issue gaming licences under this Act with respect to—<br><br>*Justification:*<br>To cure the omission as there is a 20 (2) | The Committee agreed to the proposed amendment. |
| | | Amend clause 20 (a) by deleting the word "generating" appearing in clause 20 (1) (a) and substitute it with the word "operating" to read (a) a public gaming for conducting a table game and operating slot machine;<br><br>*Justification:*<br>Due to a typographical error | |
| | | Amend clause 20(2) by inserting the words "from time to time" at the end of the subclause<br><br>*Justification:*<br>For clarity purposes | The Committee rejected the proposed amendment since it is superfluous. |

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| | | Amend clause 20 by inserting subclause (3) immediately after sub-clause (2) to read as follows—<br><br>(3) permit in respect of the use of gaming or betting premises will be issued by the County after issuance of a public gaming or betting license under this Act"<br><br>*Justification:*<br>For clarification since permits must only be issued to those who hold valid license issued by the Authority | The Committee rejected the proposed amendment since clause 38 of the Bill provides for the application for a permit. |
| | | Amend clause 20 (1) by inserting the following new paragraphs immediately after paragraph (j);<br><br>"(k) gaming equipment and devices manufacture or assembling licence;<br><br>(l) gaming equipment and devices sellers or distributor licences;<br><br>(m) gaming equipment testing laboratory licence"<br><br>The licenses set out under this section should be aligned with those proposed under the Second, Fourth and Fifth Schedules of the Act. | The Committee agreed to the proposed amendments. |

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| | | Realign and provide corresponding legal framework at least for each gaming activity. | |
| | The Association of Gaming Operators, Kenya | Delete clause 20(1) (j)<br><br>*Justification:*<br>(i) No local company has the capacity to maintain gaming equipment at the producers' standards better than the producers themselves;<br>(ii) In Kenya there are over 50 different technologies currently in the market and there is no local company that is certified for purposes of repairing gaming equipment.<br>(iii)The producers have trained staff for gaming technologies they own. | The Committee rejected the proposed amendment since it is important that gaming equipment repair and servicing should be licensed. Clause 162 of the Bill provides for the power of the Cabinet Secretary to make regulations on standardization of gaming machines, among other things. |
| | | Amend clause 20(2) so as to prevent mismanagement in the manner in which licenses will be awarded.<br><br>*Justification:*<br>Clause 20(2) as currently provided leaves a lot of room for mismanagement in the manner in which licenses will be awarded which is not articulated and documented. | The Committee rejected the proposed amendment. The Board will require the latitude to classify licences and this may be provided for in regulations. |
| | The Directorate of Gaming and Betting – Nairobi City County | Amend paragraphs (e) and (h) in clause 20 to specify whether the national government or | The Committee rejected the proposed amendment. |

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| | | county government to issue licence in regard to a prize competition and a public lottery.<br><br>*Justification:*<br>County governments are required to license prize competition and public lotteries which functions are confined to a county government as per Gazette notice 8753 of 8th September 2017. | |
| Clause 21 | The Betting Control and Licensing Board | Amend the marginal note of clause 21 to read "requirements for a licence" | The Committee rejected the proposed amendment |
| | | Amend by deleting Sections 21 & 22 and replace them with a new Section as follows;<br><br>**21.** (1) No person shall conduct any betting, lotteries, gaming or any activities related thereto unless such person applies for and obtains a license from the Board.<br><br>(2) A person who desires to obtain, renew or vary a license under this Act shall make an application to the Board in the prescribed form.<br>(3) On receipt of an application under subsection (2), the Board shall make such investigations or require the submission of such declarations or further | The Committee rejected the proposed amendment since the amendment seeks to provide for the procedure to be followed in making of an application for the issuance, renewal and variation of a licence. This will be provided for in regulations as indicated in clause 162(2) (a) of the Bill. |

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| | | information as it may deem necessary in order to enable it to examine the application.<br><br>(4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or refuse to grant a licence or renewal or variation thereof and shall, where the issuance or renewal is refused, furnish the applicant with the reasons for such refusal:<br>Provided that-<br><br>(a) no license shall be issued under this Act until the Board satisfies itself that the applicant-;<br>i. is a fit and proper person to hold the licence,<br>ii. holds a valid certificate of good conduct from the relevant authority<br>iii. has paid the prescribed application fee<br>iv. in case of a foreign company, fifty percent of its shares is owned by Kenyan(s)<br>v. maintains an account with an authorized financial institution into which it pays all monies relating to the licensed gaming activity | |

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| | | vi. has provided certified copies of bank deposit slips evidencing payment of applicable taxes as prescribed by law<br>vii. has demonstrated possession of financial and technical capacity to operate a gaming activity applied for<br>viii. has deposited the requisite security or cash deposit as prescribed in this Act<br>ix. has submitted such declarations and information as required under the Act or the regulations to enable the Board process the application<br>x. that the premises, if any, in respect of which the application is made are suitable for the purpose and<br>xi. that the activity in which the license is sought is legitimate under this Act;<br><br>(5) For purposes of this section, "fit and proper person" means a person who has not committed offences involving any of the following -<br>(a) fraud;<br>(b) money laundering;<br>(c) dishonesty;<br>(d) violence; | |

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| | | (e) drugs and drug trafficking;<br>(f) any form of organized crime; or<br>(g) any other conduct as the board may determine.<br><br>(6) The board in determining whether an applicant is suitable to hold a licence under this Act shall consider-<br>(a) the financial status or solvency of the person;<br>(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;<br>(c) the status of any other licence or approval granted to the applicant by any financial sector regulator;<br>(d) the ability of the applicant to carry on the regulated activity competently,<br>honestly and fairly and<br>(e) the reputation, character, financial integrity and reliability-<br>(f) (i) in the case of a natural person; or | |

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| | | (g) (ii) in the case of a company, its chairperson, directors, chief executive, management and all other personnel, including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company.<br><br>(7) Without prejudice to the generality of subsection (6) the Board may, in considering whether the applicant is fit and proper –<br><br>(h) Take into account whether the applicant –<br>(i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice in gaming or other business;<br>(ii) was a director of a liquidated entity;<br>(iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial | |

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| | | to public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;<br>(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<br>(v) denied any gaming licence or permit in any country.<br><br>(i) Take into account any information in the possession of the board whether provided by the applicant or not relating to –<br>(i) Any person who is to be employed with, or shall be acting for or on behalf of, the applicant for the purposes of a regulated activity including an agent; and<br>(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; | |

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| | | (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<br><br>(d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.<br><br>(8) The Board shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.<br><br>(9) an applicant who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.<br><br>*Justification:*<br>To ensure the application process of a license is clearly set in law and that there are no gaps in the licensing process. | |
| | The Shop and Deliver Ltd (Betika) | Amend clause 21(a) by deleting the word "citizens" | The Committee rejected the proposed amendments since the |

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| | | appearing immediately after the words "shares held by" and substituting therefor the word "residents" | intention of the clause is to provide for a specified percentage of shares to be held by Kenyan citizens and not foreigners. The reason for this is to prevent capital flight. Substitution of "citizens" with "residents" will defeat this purpose. |
| | The Gamecode Ltd and Anjarwalla & Khanna | Amend clause 21(a) by deleting the word "citizens" appearing immediately after the words "shares held by" and substituting therefor the word "residents" | The Committee rejected the proposed amendments since the intention of the clause is to provide for a specified percentage of shares to be held by Kenyan citizens and not foreigners. The reason for this is to prevent capital flight. Substitution of "citizens" with "residents" will defeat this purpose. |
| | The Association of Gaming Operators, Kenya | Amend clause 21(a) to provide that the paragraph shall not apply to existing licensees but to new establishments.<br><br>*Justification:*<br>Local investors may not be capable of buying up to 30% of current shareholding of current establishments. | The Committee rejected the proposed amendment. Clause 7 of the Sixth Schedule of the Bill provides for transitional provision and it provides that within six months from the commencement of the Act, a person licensed under the repealed Act shall apply to the Board afresh for a new licence. |
| | The Velex Advisory | Amend clause 21(a) by deleting the words "Kenyan citizens" appearing immediately after the words "shares held by" and substituting therefor the word "persons resident in Kenya"<br><br>*Justification:*<br>(i) It appears the intention of the National Assembly is to limit | The Committee rejected the proposed amendments since the intention of the clause is to provide for a specified percentage of shares to be held by Kenyan citizens and not foreigners. The reason for this is to prevent capital flight. Substitution of "citizens" with "residents" will defeat this purpose. |

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| | | capital flight by introduction of this clause; However, this doesn't cure this vice;<br>(ii) The provision for 30% local shareholding can be easily cured by nominee shareholder services which is what is the current practice on the ground. Further, the context of this provision is to provide opportunity for the bourgeoisie of society to hold shares in such companies and any income received would only further be transferred to offshore accounts;<br>(iii) The proposed amendment ensures that the shareholders are resident in the country, can easily be traced herein and will be subject to taxation as a resident;<br>(iv) There are other mechanisms of prevention of capital flight such as a provision in law that 20% of income be directed to social cultural responsibilities in the country | |
| Clause 22 | The Betting Control and Licensing Board | Amend by deleting clause 22 and insert a new clause 22 to | The Committee rejected the proposed amendment. |

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| | | read "The Cabinet Secretary shall from time to time through a *gazette* notice prescribe applicable fees for each of the licenses"<br><br>Justification:<br>To give powers to the Cabinet Secretary to prescribe fees from time to time | |
| | The Association of Gaming Operators, Kenya | Amend clause 22(a) to provide that the paragraph shall not apply to existing casinos but to new ones. | The Committee rejected the proposed amendment. Clause 7 of the Sixth Schedule of the Bill provides for transitional provision and it provides that within six months from the commencement of the Act, a person licensed under the repealed Act shall apply to the Board afresh for a new licence. |
| Clause 23 | The Betting Control and Licensing Board | Amend clause 23(3) by deleting the word "shall" and substituting therefor the word "may"<br><br>*Justification:*<br>Renewal of licence is not mandatory hence the use of the word "may" instead of "shall" | The Committee agreed to the proposed amendment. |
| Clause 24 | The Betting Control and Licensing Board | Amend clause 24(1) (b) by deleting the word "issue" and substitute it with the word "issuance" to read "(b) the application does not meet any of the requirements for the issuance or renewal of a licence".<br><br>*Justification:*<br>To correct the typographical error | The Committee agreed to the proposed amendment. |

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| | | Amend clause 24(3) by deleting the word "Tribunal" and substituting thereof with the word "Committee" to read<br><br>(3) A person aggrieved by the decision of the Board under this section may, within twenty one days from the day of notification of reasons under subsection (2) lodge an appeal at the Committee.<br><br>*Justification:*<br>To simplify dispute resolution process and borrowing the best practices from other sectors | The Committee agreed to the proposed amendment |
| Clause 25 | The Betting Control and Licensing Board | Delete clause 25 and substitute it with the following new clause<br><br>"25. The Board may suspend a licence issued under this Act where the holder is found to be in breach of the provisions of this Act "<br><br>*Justification:*<br>The nature of the reasons that may lead to the suspension of a licence under the Act, e.g. fraud may require investigations, prosecution which involve other multi-agency approach. Such issues are ordinarily beyond the mandate of the Board. | The Committee agreed to the proposed amendment. |
| | The Velex Advisory | Amend clause 25 by— | The Committee has proposed an amendment of the clause to take into consideration the concern. |

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| | | (i) Deleting the word "dishonesty";<br>(ii) Deleting the word "charged" and substituting therefor the word "convicted"<br><br>*Justification:*<br>(i) It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous;<br>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;<br>(iii)The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate;<br>(iv)Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise. | The Clause is thus deleted and substituted with the following new clause:<br><br>25. The Board may suspend a licence issued under this Act where the holder is found to be in breach of the provisions of this Act. |
| Clause 26 | The Betting Control and Licensing Board | Amend by deleting subsections (2) and (3) and substituting them therefor with the following new sub-sections; | The Committee agreed to the proposed amendment. |

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| | | "(2) where the revocation of a license is contemplated under subsection (1), the Board shall serve the licensee with a notice of intended revocation specifying the grounds for such revocation.<br><br>(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the licensee will be required to provide a written explanation as to why the license should not be revoked."<br><br>*Justification:*<br>For the purposes of granting an opportunity for fair administrative action | |
| | | Amend clause 26 by deleting subclause (6) and substituting therefor with following new subsection;<br><br>(6) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the licensee.<br><br>*Justification:*<br>To align it with the mandate of the Gaming Appeals Committee | The Committee agreed to the proposed amendment. |

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| Clause 27 | The Betting Control and Licensing Board | Amend by deleting Section 27 and substitute therefor with the following new Section<br><br>"27. Every license issued under this Act shall, unless therewith otherwise provided expire on the 30th June next following the date of issue."<br><br>*Justification:*<br>For consistence with the Government Financial Year | The Committee rejected the proposed amendment. Expiry of licences should be at the end of a calendar year. |
| Clause 28 | The Betting Control and Licensing Board | Amend clause 28 by deleting the words "or permit holder" appearing immediately after the word "licensee" to read "(1) A licence shall, during the period of its validity, be prominently displayed by the licensee at a place of business, in a place to which the public has access"<br><br>*Justification:*<br>For consistency with the functions of the Board to issue licenses | The Committee agreed to the proposed amendment. |
| Clause 29 | The Betting Control and Licensing Board | Amend clause 29 by deleting subclauses (1), (2) and (3) and substitute therefore with the following new sub-clauses<br><br>"(1) the holder of a license issued under this Act may after a period of five years, with the approval of the Board transfer such license to any person who would be qualified to be a license holder under this Act | The Committee agreed to the proposed amendment. Although the Board sought to delete and substitute subclauses (1), (2) and (3), the amendment was to subclause (1) to delete the words "shillings one hundred thousand" and substitute therefor the words "requisite fees". Since the transfer of licence fees shall change from time time, the use of the words "requisite fees" will not |

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| | | upon payment of the requisite fees prescribed<br><br>(2) the Board shall, upon receipt of an application to transfer a license, carry out investigations on the suitability of the proposed licensee,<br><br>(3) for purposes of subsection (2), the Board may require the submission of such declaration or further information as it may deem necessary including;<br>(a) a written authorization from the Applicant permitting the Board to procure information from third parties;<br>(b) a report from relevant investigative agencies; and<br>any other information as the Board may deem appropriate<br><br>*Justification:*<br>The section is dealing with transfer of licenses only. Fees shall be prescribed in the regulations. | necessitate future amendment to the Bill if enacted. |
| Clause 30 | The Betting Control and Licensing Board | Amend clause 30 (1) by deleting the words "in any gaming premise for which a license has been granted" appearing immediately after the word Act" to read "(1) The Board may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct | The Committee agreed to the proposed amendment. |

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| | | of a person holding a licence under this Act."<br><br>*Justification:*<br>To avoid redundancy | |
| | | Amend subclause (2) by deleting the word "cancellation" and substitute therefor with the word "suspension" to read "(2) The Board 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 action, including revocation or suspension of a licence, as may be appropriate where the licensee fails or refuses to comply with directions issued by the Board."<br><br>*Justification:*<br>Revocation and cancellation the same thing, the Bill also omitted suspension which is also an action which can be taken by the Board | The Committee agreed to the proposed amendment. |
| | The Velex Advisory | Amend clause 30(2) by inserting the words "and after being given the opportunity to be heard" immediately after the words "pursuant to subsection (1)".<br><br>*Justification:*<br>To provide fair administrative action to the operator being subjected to investigation as | The Committee agreed to the proposed amendment. |

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| | | per Article 49 of the Constitution of Kenya, 2010 and the Fair Administrative Action Act, | |
| Clause 31 | The Betting Control and Licensing Board | Amend clause 31 by deleting the words "one hundred thousand shillings" and substitute therefore with the words "the prescribed fees" to read "31. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of the prescribed fees."<br><br>*Justification:*<br>The fees shall be prescribed from time to time by the Cabinet Secretary | The Committee agreed to the proposed amendment. |
| Clause 33 | The Velex Advisory | Delete clause 33<br><br>*Justification:*<br>The Bill in clause 34 provides for minimum capital requirements for operating a gambling operation. Subjecting operators to an additional gaming security is double jeopardy as both serve the same purpose. Therefore, clause 33 should be deleted in favour of clause 34. | The Committee rejected the proposed deletion of clause 33 since its purpose as provided for in subclause (4) is for use by the Board to defray a licensee's liability which may arise from the licensed activity. |
| | The Shop and Deliver Ltd (Betika) | Clause 33 be deleted<br><br>*Justification:*<br>A gaming business would have already demonstrated its capacity to carry out the | The Committee rejected the proposed amendment since the purpose of the security is to defray a licensee's liability which may arise from the licensed activity and that a specified amount as |

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| | | business by providing minimum capital requirements of KES 200 million<br><br>In the alternative, if all gaming companies must be required to provide a security a proposal for the following:<br>(i) The security to be based on a percentage of each companies' average monthly gross gaming revenue. Thus both large and small players in the industry have equal footing to comply with the security requirement; or<br>(ii) The security to be based on an equivalent amount of the companies' jackpot amount. | prescribed is appropriate unlike each companies' average monthly gross gaming revenue as proposed in the alternative. |
| | The Association of Gaming Operators, Kenya | Amend clause 33(1) to provide for<br>conditions or actions that will necessitate the Board to request for a security. | The Committee rejected the proposed amendment. |
| Clause 34 | The Shop and Deliver Ltd (Betika) | Amend clause 34(3) (b) by deleting the words "two hundred" and substituting therefor the words "one hundred"<br><br>*Justification:*<br>(i) The minimum capital requirement coupled with the gaming security will unduly restrict players taking | The Committee rejected the proposed amendment since the amount as proposed in the Bill is appropriate. |

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| | | part in gaming activities;<br>**(ii)** The minimum capital requirement is extremely high. | |
| | The Association of Gaming Operators, Kenya | Amend clause 34(3) (a) to provide that the requirement in the paragraph shall apply to new casinos and not existing casinos.<br><br>*Justification:*<br>Prescribing a gaming capital of 100 million will pose a problem to existing casinos. | The Committee rejected the proposed amendment since the law ought to apply to all parties equally. |
| Clause 36 | The Betting Control and Licensing Board | Amend clause 36(2) by deleting the words "to audit the accounts" appearing immediately after the word "appointment" to read "(2) Accounts submitted under this section shall be audited by an auditor whose appointment shall be approved by the Board."<br><br>*Justification:*<br>To correct the grammatical error and for clarity | The Committee agreed to the proposed amendment. |
| Clause 37 | The Betting Control and Licensing Board | Amend by deleting clause 37 and substituting therefor with the following new Section<br><br>"37 (1) There shall be a tax to be known as Gaming Tax chargeable at the rate of fifteen percent (15%) of the Gross Gaming Revenue | The Committee agreed to the proposed amendment. |

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| | | (2) The tax under subsection (1) shall be paid to the collector on or before the 20th day of the following month"<br><br>*Justification:*<br>As proposed by KRA | |
| | | New clause 37A<br><br>Gaming levy<br><br>37A (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.<br><br>(2) The Board shall in consultation with the Cabinet Secretary determine and gazette the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed 1% of the monthly gross gaming revenue.<br><br>(3) The levy collected under this Section shall be paid into an account operated by the Authority on or before the 20th day of the following month.<br><br>(4) A person who fails to pay levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the Authority all outstanding amounts of levy together with a penalty of two | The Committee agreed to the proposed amendment. |

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| | | hundred thousand shillings for each such payment.<br><br>Application of the monies<br><br>The monies of the Authority shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Authority and in making any payment that the Authority is authorized or required to make<br><br>*Justification:*<br>To facilitate operations of the Authority | |
| Clause 38 | The Betting Control and Licensing Board | Amend clause 38(2) by inserting the word "premises" immediately after the word "gaming" to read "(2) An application for a gaming premises permit shall be in such manner as may be prescribed by a respective county government and shall be accompanied by—"<br><br>*Justification:*<br>To properly define the nature of the permit issued under the Act | The Committee agreed to the proposed amendment. |
| | The Shop and Deliver Ltd (Betika) | Clause 37 be deleted<br><br>*Justifications:*<br>(i) The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill 2019 to introduce excise duty | The Committee rejected the proposed amendment but proposed to amend the provision, in light of KRA's submissions, to define the base for taxation to be the gross gaming revenue. The clause will then read |

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| | | on amounts staked by players;<br>(ii) Clause 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities;<br>(iii)Clause 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax. | 37(1). There shall be a tax to be known as gaming tax chargeable at the rate of 15% of the gross gaming revenue.<br><br>Also, the provision is proposed to be amended to provide the due date for remitting the tax to be the 20th day of the following month. The clause will then read<br><br>37(2). The tax under subsection(i) shall be paid to the collector on or before the 20th day of the following month |
| | The Gamecode Ltd and Anjarwalla & Khanna | Clause 37 be deleted<br><br>*Justifications:*<br>(i) The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill 2019 to introduce excise duty on amounts staked by players;<br>(ii) Clause 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities; | The Committee rejected the proposed amendment but proposed to amend the provision, in light of KRA's submissions, to define the base for taxation to be the gross gaming revenue. The clause will then read<br><br>37(1). There shall be a tax to be known as gaming tax chargeable at the rate of 15% of the gross gaming revenue.<br><br>Also, the provision is proposed to be amended to provide the due date for remitting the tax to be the 20th day of the following month. The clause will then read |

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| | | (iii)Clause 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax. | 37(2). The tax under subsection(i) shall be paid to the collector on or before the 20th day of the following month |
| Clause 37 | The Kenya Charity Sweepstake | **Proposal:** Section 37 of the Gaming Bill be amended by deleting lottery tax on lottery companies.<br><br>*Justification:*<br>Lottery companies are mandatorily required to contribute to charity hence imposition of the lottery tax would in effect cause greater difficulties for the lottery companies to contribute towards charity hence recommend this section be deleted | The Committee rejected the proposed amendment. The tax ought to apply to all gaming activities. |
| Clause 38 | The Directorate of Gaming and Betting – Nairobi City County | Amend clause 38(4) by deleting the word "Board" and substituting therefor the word "county government".<br><br>*Justification:*<br>Permits issued by the county governments should only be transferred by the authority of the same government. | The Committee agreed to the proposed amendment. |
| | The Velex Advisory | Amend clause 38(2) in the introductory statement by | The Committee agreed to the proposed amendment. |

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| | | deleting the word "gaming" and substituting therefor the word "premises"<br><br>*Justification:*<br>The proposed amendment seeks to prevent conflict of roles and duties of national and county governments in issuance of permits. County Governments issue premises permit and not gaming permits. | |
| Clause 40 | The Betting Control and Licensing Board | Amend clause 40 by deleting subclauses (2), (3), (4) and (6) substituting therefor with the and following new sub-sections;<br><br>(2) where a license is revoked by the Board, under subsection (1), County Government shall serve the permit holder with a notice of intended revocation of a permit specifying the grounds for such revocation<br><br>(3) a notice issued under sub-section (2) shall be served not less than 21 days before the date of the intended revocation and the permit holder will be required to provide a written explanation as to why the permit should not be revoked;<br><br>(4) the revocation of a permit shall take effect upon the expiry of the notice issued under sub-section (3). | The Committee rejected the proposed amendment because this should be provided for in regulations. Clause 162(2) (b) of the Bill provides for regulations to be made to provide for the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under the Act. |

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| | | (6) A person aggrieved by the decision of the County Government under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the permit holder | |
| | The Velex Advisory | Amend clause 40(1) in the introductory statement by inserting the words "by the County Government" immediately after the words "permit issued by them under this Act".<br><br>*Justification:*<br>(i) The county government should only be able to revoke Licenses or Permits issued by them in the Act;<br>(ii) The clause read as it is, gives powers to the County Government to revoke any License issued under the Act including Licenses issued by the Authority | The Committee agreed to the proposed amendment. |
| Clause 41 | The Association of Gaming Operators, Kenya | Amend clause 41 in order to synchronize the duration of a permit with the duration of a licence under clause 27.<br><br>*Justification:*<br>Clause 41 of the Bill provides for the duration of a permit as twelve months from the date of issue. Clause 27 of the Bill provides for the duration of a | The Committee agreed to the proposed amendment and consequently proposes that the Fourth Schedule be amended to provide for renewal period for various types of gambling of one year together with one for a premise or a shop. |

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| | | licence as that which shall carry for each gaming and betting activity subject to the provisions of clause 23. Clause 23 makes reference to the Fourth Schedule which provides for renewal periods of three years for various types of gambling and one year for a premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery. | |
| Clause 42 | The Betting Control and Licensing Board | Amend 42(2) by inserting the words "and with assistance of the Authority" immediately after the word "transfer" to read "(2) A county government shall, upon receipt of an application to transfer and with assistance of the Authority, carry out an investigation on the suitability of a proposed permit holder"<br><br>*Justification:*<br>Investigations is one of the powers accorded to the Authority by the Bill | The Committee agreed to the proposed amendment. |
| Clause 45 | The Directorate of Gaming and Betting – Nairobi City County | Amend clause 45(1) in the introductory statement by the deleting the word "Board" and substituting therefor the words "county governments".<br><br>*Justification:*<br>This is as per Gazette notice 8753 of 8th September 2017. | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) The Gazette Notice No. 8753 provided, in respect to national government, the function of licensing of on-the course totalisators and licensing of off-the course |

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| | | | totalisators whereas the county government were assigned the function of licensing of premises for totalisators;<br>(ii) Clause 45 of the Bill does not therefore offend the Gazette Notice No. 8753 and mainly deals with the role of the national government. |
| Clause 46 | The Betting Control and Licensing Board | Amend by deleting sub-clause (1) and substitute with the following words "the Authority may prescribe rules for the operations of a totalisator"<br><br>*Justification:*<br>To correct grammar | The Committee agreed to the proposed amendment. |
| | | Delete clause 46(6)<br><br>*Justification:*<br>Its already covered in Part X, clause 144 of the Act | The Committee rejected the proposed amendment since the elements of the offences in clause 46 and clause 144 are different. |
| Clause 48 | The Betting Control and Licensing Board | Amend clause 48(1) by deleting subclause (1) and substitute therefor with the following new Sub-section<br>"(1) a promoter of a race meeting who desires to permit a bookmaker to carry out bookmaking at a race meeting shall apply to the Board for a licence in the prescribed form upon payment of the prescribed fees."<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment. |
| | | Amend clause 48(2) by deleting the word "permit" and substituting therefor with the | The Committee agreed to the proposed amendment. |

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| | | word "licence" to read "(2) The Board may, upon receipt of an application under subsection (1), issue a licence authorizing bookmaking to take place at a race meeting held on a race course and on a day specified in the licence."<br><br>*Justification:*<br>To amend typographical errors | |
| | | Amend clause 48(3) by deleting the word "premise" and substituting therefor with the word "racecourse" to read "(3) A licence issued under this section shall specify the number of race meetings which may be held within a year on a licensed racecourse."<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment. |
| Clause 49 | The Betting Control and Licensing Board | Amend clause 49 by deleting subclause (2) and substitute therefor with the following new sub-subclause—<br><br>"(2) the Board shall set at least 30% of the Gross Public Lottery Revenue to be devoted to the objects for which the lottery is promoted"<br><br>*Justification:*<br>To put a distinct percentage so as to ensure equity<br><br>*Justification:* | The Committee agreed to the proposed amendment. |

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| | | To put a distinct percentage so as to ensure equity | |
| | The Kenya Charity Sweepstake | Section 49 of the bill be amended by deleting the words 25%-45% of the gross revenue and substituting therefor the words with 5%- 25%of the Net Gaming revenue (sale minus prize and 20% expenses)<br><br>*Justification:*<br>If the amendments are not affected the operation of the lottery sector will become impossible and hence closing down of the business | The Committee rejected the proposed amendment and adopted the proposed amendment by the Betting Control and Licensing Board to amend clause 49(2) to provide for the Board to set at least 30% of the Gross Public Lottery Revenue to be devoted to the objects for which the lottery is promoted.<br><br>The rationale for this is to provide for a distinct percentage unlike the current provision of a minimum of twenty five and a maximum of forty five per centum of the gross revenue of a public lottery. |
| | The White Rhino Ventures Ltd | Amend clause 49(2)<br><br>Maintaining the 25% to 45% of Gross Revenue on Lotteries limits what Lotteries can do in order to compete with the Bookmakers and Casinos. This should be on Net Gaming Revenue. It also is different from the terms outlined for the National Lottery. | The Committee rejected the proposed amendment and adopted the proposed amendment by the Betting Control and Licensing Board to amend clause 49(2) to provide for the Board to set at least 30% of the Gross Public Lottery Revenue to be devoted to the objects for which the lottery is promoted.<br><br>The rationale for this is to provide for a distinct percentage unlike the current provision of a minimum of twenty five and a maximum of forty five per centum of the gross revenue of a public lottery. |
| Clause 50 | The Betting Control and Licensing Board | Amend clause 50 by deleting Sub-clause (2) (c) and substitute therefor with the following new paragraph | The Committee agreed to the proposed amendment. The amendment seeks to insert in paragraph (c) the words "of the |

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| | | "(2) (c) shall guarantee the expected proceeds of the lottery or any part thereof;"<br><br>*Justification:*<br>To amend typographical errors | lottery" immediately after the words "expected proceeds". This brings clarity to the paragraph. |
| | The White Rhino Ventures Ltd | Amend clause 50(2) to define gross proceeds. | The Committee agreed to the proposed amendment since the term "gross proceeds" as used in clause 50 needs to be defined.<br><br>The Committee therefore proposed that clause 50 be amended by inserting the following new subclause immediately after clause (2)—<br><br>"(3) In this section, the term "gross proceeds" means the total proceeds received from a lottery before any deductions are made." |
| Clause 52 | The Betting Control and Licensing Board | Amend clause 52 (2) by deleting the word "issue" appearing immediately after the words "upon the" and substitute therefor with the word "issuance" to read "(2) The Board 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—"<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment. |
| | | Amend clause 52 (2) (b) by deleting the words "who | The Committee agreed to the proposed amendment. |

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| | | operates on a betting premises or a person" appearing immediately before the word "engaged" to read "(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"<br><br>*Justification:*<br>To amend typographical errors | |
| | | Amend clause 52(2) by deleting paragraph (c)<br><br>*Justification:*<br>Already provided for in paragraph (g) | The Committee rejected the proposed amendment since paragraphs (c) and (g) address different matters. |
| | | Amend clause 52 (2) (d) by deleting the word "exceeding twenty shillings" appearing immediately after "not" and substitute therefor with the words "not below fifty shillings" to read "(d) a ticket or chance shall be sold for a price not below fifty shillings;"<br><br>*Justification:*<br>To promote responsible gaming | The Committee agreed to the proposed amendment. |
| | | Delete paragraph (i)<br><br>*Justification:*<br>To enhance raising of funds for charitable causes | The Committee agreed to the proposed amendment. |
| | | Delete paragraph "k"<br><br>*Justification:* | The Committee rejected the proposed amendment since it is still applicable. |

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| | | Not applicable in the modern world | |
| Clause 53 | | Amend clause 53 by deleting the word "Board" and substituting therefor with the word "Authority" to read "(1) The Authority may, issue a licence for a lottery promoted and conducted as an incident of entertainment"<br><br>*Justification:*<br>To ensure consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Amend clause 53 by deleting subclause (2) and substitute therefor with the following new sub-section<br><br>"(2) The Authority may, upon issuance of a licence under this section, impose such conditions in the manner in which a person issued with a licence under this Section may conduct the lottery including- "<br><br>*Justification:*<br>To ensure consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(iv) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(v) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill; |

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| | | | (vi) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Amend clause 53 (2) (a) by deleting the words "to be" and substitute therefor with the word "is" to read "(2) (a) requiring that the ticket or chance is sold or issued in a premise which the lottery may take place;"<br><br>*Justification:*<br>To ensure consistency | The Committee agreed to the proposed amendment. |
| | | Delete clause 53 (2) (f) and substitute therefor with the following new paragraph<br><br>"(f) requiring that the price of a ticket or chance is displayed on each ticket"<br><br>*Justification:*<br>To ensure consistency | The Committee agreed to the proposed amendment. |
| | | Clause 53(4) delete the word "who" appearing after the word "section," and substitute therefor the word "and"<br><br>*Justification:*<br>To ensure consistency | The Committee agreed to the proposed amendment. |
| Clause 54 | The Betting Control and Licensing Board | Clause 54(1)<br><br>Amend by deleting the word "Board" and substituting therefor with the word "Authority" | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the |

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| | | *Justification:*<br>To ensure consistency | corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 54(2)<br><br>Amend by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>To amend typographical errors | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 54(2) (c) | The Committee agreed to the proposed amendment. |

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| | | Amend paragraph (c) of subsection (2) by deleting the word "and" appearing after the word "chance"<br><br>*Justification:*<br>To amend typographical errors | |
| Clause 55 | The Betting Control and Licensing Board | Amend clause 55 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 56 | The Betting Control and Licensing Board | Anywhere the word "Board" appears, replace it with the word "Authority"<br><br>*Justification:*<br><br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board; |

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| | | | (ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 56(1)<br><br>Delete subclause (1) and substitute therefor with the following new sub-clause:<br><br>"(1) A person who desires to operate, sell or promote online gaming in Kenya shall apply for the requisite licence from the Authority including-<br>(a) an online bookmakers license;<br>(b) an online lottery licence;<br>(c) an online casino license."<br><br>*Justification:*<br>Not to restrict the licensing of other types of online gaming activities that may arise from time to time | The Committee rejected the proposed amendment since it defeats the purpose of the provision which is to provide for particular licences on online gaming. |
| | | Clause 56(2)<br><br>Delete sub-clause (2) substituting therefor with the following new subsection; | The Committee rejects the proposed amendment to delete the word "Board" and replace it with "Authority" since it is the Board, under clause 7 of the Bill that has |

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| | | "(2) in granting a licence under this Section, the Authority shall require an applicant to deposit such security and provide proof of adequate gaming capital as prescribed under Sections 33 and 34 of this Act."<br><br>*Justification:*<br>To align with the requirements of section 33 & 34 for deposit of security & provision of gaming capital | been vested with the management function of the Authority. |
| Clause 57 | The Betting Control and Licensing Board | Anywhere the word "Board" appears, replace it with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 57(2)<br><br>Amend Subsection (2) by inserting the words "and any other relevant government | The Committee agreed to the proposed amendment. |

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| | | agencies" immediately after the word "Kenya"<br><br>*Justification:*<br>To enable other relevant Government agencies such as KRA have access to the systems to ensure compliance with the Act | |
| | The White Rhino Ventures Ltd | Amend clause 57(4)<br>The provision contradicts the provisions on mobile operator payments and should be reconsidered. | The Committee rejected the proposed amendment since it proposes to delete clause 68 of the Bill. |
| Clause 59 | The Betting Control and Licensing Board | Anywhere the word "Board" appears, replace it with the word "Authority"<br><br>*Justification:*<br><br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 59(3) | The Committee rejected the proposed amendment for the following reasons— |

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| | | Delete sub-clause (3) and substitute therefor with the following new sub-clause<br><br>"(3) If a prize is not credited to the winner's account as prescribed in sub-section (1) or it is not collected within a period of three months after the winner has been notified of the place and time where the prize may be collected, a licensee shall surrender such uncredited or unclaimed prize to the Authority and the Authority shall determine the manner in which such prize will be disposed of."<br><br>*Justification:*<br>To ensure prizes are collected with reasonable time and to empower the authority to deal with unclaimed non-monetary prizes | (i) Surrender and of unclaimed financial assets falls within the ambit of the Unclaimed Financial Assets Authority under the Unclaimed Financial Assets Authority;<br>(ii) Clause 64 (2) of the Bill takes cognisance of this and if the proposed amendment is retained, it will conflict with clause 64(2) of the Bill. |
| | | Clause 59(4)<br><br>Amend by deleting the words "one year" appearing after the word "after" and substitute it therefor with the words "three months." | The Committee rejected the proposed amendment. |
| Clause 60 | The Betting Control and Licensing Board | Clause 60(1)<br><br>Amend by deleting the word "fifty" and substitute therefor with the words "one hundred"<br><br>*Justification:* | The Committee agreed to the proposed amendment taking into consideration comments from other stakeholders who proposed that the minimum betting amount should be lower. |

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| | | To promote responsible gaming and to prevent addictive gaming | |
| | | Delete sub-clause (2) and substitute therefor with the following new sub-section<br><br>"(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"<br><br>*Justification:*<br>To deter a licensee from allowing illegal gaming | The Committee agreed to the proposed amendment. |
| | The Shop and Deliver Ltd (Betika) | Delete clause 60<br><br>*Justification:*<br>(i) Imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities thus not only hindering the industry but leading to a lower amount of taxes collected from the earnings of companies involved in gaming activities;<br>(ii) The penalty proposed by clause 60 (2) is excessive especially where it would be easier to enforce the | The Committee rejected the amendment for the following reasons:<br><br>(i) The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and redrafted the provision to remove ambiguities;<br>(ii) The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:<br><br>"(2) A licensee who allows any person to wager an amount other than that prescribed under sub- |

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| | | minimum online betting amount by requiring online gaming companies to all set a minimum stake; thus, it would be impossible for any person to bet at a lower amount than a prescribed minimum;<br>(iii) Clause 60 (2) is drafted in a manner that is ambiguous as it makes engaging in betting for an 'amount than' fifty shillings is an offence; It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.<br><br>In the alternative, if this is not possible, clause 60(1) should be amended by deleting the words "fifty shillings" and substituting therefor the words "ten shillings".<br><br>*Justification for the alternative proposal:*<br>In order to allow any consenting adult to participate in betting. | section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years" |
| | The Gamecode Ltd and Anjarwalla & Khanna | Delete clause 60<br><br>*Justification:* | The Committee rejected the amendment for the following reasons: |

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| | | (i) Imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities thus not only hindering the industry but leading to a lower amount of taxes collected from the earnings of companies involved in gaming activities;<br>(ii) The penalty proposed by clause 60 (2) is excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake; thus, it would be impossible for any person to bet at a lower amount than a prescribed minimum;<br>(iii) Clause 60 (2) is drafted in a manner that is ambiguous as it makes engaging in betting for an 'amount than' fifty shillings is an offence; It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence. | (iii)The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and redrafted the provision to remove ambiguities;<br>(iv)The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:<br><br>"(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years" |

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| | | In the alternative, if this is not possible, clause 60(1) should be amended by deleting the words "fifty shillings" and substituting therefor the words "ten shillings".<br><br>*Justification for the alternative proposal:*<br>In order to allow any consenting adult to participate in betting. | |
| | The White Rhino Ventures Ltd | Delete clause 60(1)<br><br>*Justification:*<br>There should not be such a limit. Ample research suggests that putting a price up does not deter gambling, it actually encourages higher spending.<br>It is not clear that this is per transaction or per deposit. | The Committee rejected the amendment for the following reasons:<br><br>(i) The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and restrict the larger population from gambling and redrafted the provision to remove ambiguities;<br>(ii) The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:<br><br>"(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to |

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| | | | imprisonment for a term not exceeding six years" |
| Clause 61 | The Betting Control and Licensing Board | Clause 61(4)<br>Amend by deleting the word "a" appearing before the word 'licensee' and substitute with the word "the"<br><br>*Justification:*<br>To amend typographical errors | The Committee rejected the proposed amendment. |
| | | Clause 61(5)<br>Subsection (5) delete the word "a" appearing before the word 'licensee' and substitute with the word "the"<br><br>*Justification:*<br>To amend typographical errors | The Committee rejected the proposed amendment. |
| | The Velex Advisory | Amend clause 61(2) by—<br>(i) deleting the word "child" and substituting therefor "vulnerable person";<br>(ii) inserting the words "casino, game of chance" immediately after the word "lottery".<br><br>*Justification:*<br>(i) Protection of persons identified and published by the Board as problem gamblers from participating in any gambling activities;<br>(ii) To ensure that vulnerable persons are not able to access any forms of gambling | The Committee agreed to proposed insertion of the words "casino, game of chance" immediately after the word "lottery" in subclause 2.<br><br>However, it rejected the proposed deletion of the term "child" and substituting therefor the words "vulnerable person" since a vulnerable person may have different interpretations unlike a child. |

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| | | including online betting, casinos | |
| | The White Rhino Ventures Ltd | Amend clause 61(5) by clarifying the provision since it is unclear whether this means that an operator cannot match deposits as this could be classed as providing credit. | The Committee rejected the amendment since deposits are not credits. |
| Clause 62 | The Betting Control and Licensing Board | Amend subclause (4) by deleting the word "a" appearing in paragraphs (a) & (b)<br><br>*Justification:*<br>To provide for other modes of money transfer | The Committee agreed to the proposed amendment since it corrects typographical errors in paragraphs (a) and (b). |
| | | Clause 62(4)<br><br>Amend subclause (4) by inserting the following new paragraph immediately after paragraph (c)<br><br>"(d) mobile money transfer;"<br><br>*Justification:*<br>To provide for other modes of money transfer | The Committee agreed to the proposed amendment. |
| | | Amend subclause (5) by inserting the word "an" immediately before the word "agent"<br><br>*Justification:*<br>To amend typographical errors | The Committee agreed to the proposed amendment. |
| | The Velex Advisory | Amend clause 62(4) by—<br><br>(i) Inserting a new paragraph immediately after paragraph (c) to | The Committee agreed to the first proposed amendment to provide for money mobile services as one of the mechanisms of receiving funds from a player. However, it |

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| | | provide for mobile money services;<br>(ii) Deleting paragraph (d).<br><br>*Justification:*<br>(i) With the rise in technology innovations and mobile money services, the players are able to access their money through the various mobile money platforms registered and regulated by the relevant authorities;<br>(ii) There are over two hundred payment methods which are increasing forthwith. It would be a cumbersome endeavor for the board to vet and approve each especially without the requisite technical knowledge;<br>(iii)Further payment systems are a means of employment for hundreds of deserving Kenyans; this clause only thus limits business and growth in the sector. | rejected the second proposal to delete paragraph(d) since paragraph (d) takes into consideration other methods of payments which may arise in future or which may not have been listed. |
| | The White Rhino Ventures Ltd | Delete clause 62(4) (a)<br><br>*Justification:*<br>Clause 62(4)(a) allows the use of credit card betting. This is not allowed in most sophisticated jurisdictions and | The Committee agreed to the proposed deletion of clause 62(4) (a). |

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| | | it is unclear what motivates this provision. Research shows that this is not a good measure. It also conflicts with clause 62(5) on the provision of credit and therefore is ambiguous. | |
| Clause 64 | The Betting Control and Licensing Board | Clause 64(1) and (2)<br><br>Amend by deleting clauses 64 (1) and (2) and substitute therefor with the following new subsections<br><br>(1) where a transaction has not been recorded in a player's account for three consecutive months, the licensee shall deactivate the account and report such an incident to the Authority<br><br>(2) before deactivating the players' account as contemplated under sub-section (1), the licensee shall notify the player of the intended action and such notification shall be copied to the Authority<br><br>(3) where a player's account has been deactivated under this Section, and reported to the Authority, the licensee shall not be allowed to transact with the players' deposits or activate the account without an express approval by the Authority | The Committee rejected the proposed amendment because it has removed the linkage to the Unclaimed Financial Assets Authority which has a role to play in unclaimed financial assets. |

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| | | (4) if the player does not claim the amount held in the deactivated account after three months, the licensee shall remit the same to the Authority save for the expenses incurred by the licensee<br><br>(5) no claim shall lie against the Authority or the licensee who has remitted money in the player's account under this section to the Authority"<br><br>*Justification:*<br>To ensure betting platforms are not used for money laundering and other criminal activities | |
| | The White Rhino Ventures Ltd | Amend clause 64(1) to clarify the provision.<br><br>It is unclear what happens to an amount that are too low to actually be able to spend – for example where the amount would exceed the cost of the transaction cost. | |
| Clause 67 | The Betting Control and Licensing Board | Amend by deleting sub-clause (1) and substitute it therefor with the following paragraph<br><br>"67 (1) It shall be unlawful for overseas based operators to provide online gaming sites to Kenyan residents"<br><br>*Justification:*<br>For prohibiting unlicensed foreign based gaming | The Committee noted the concerns of the Board and other stakeholders on this clause and proposes that the clause be redrafted to provide for the licensing of foreign operators. |

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| | | companies from accessing Kenyan market | |
| | The Shop and Deliver Ltd (Betika) | Amend sub-section (4) by deleting the word "Board" and substituting therefor with the word "Authority" | The Committee rejected the proposed amendment for the following reasons:<br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | The Gamecode Ltd and Anjarwalla & Khanna | Clause 67 should be deleted<br><br>*Justification:*<br>(i) The physical location of the servers has little bearing on the ability of the proposed National Gaming Authority to regulate the activities of licensed online gaming service providers;<br>(ii) Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to | The Committee noted the concerns of the stakeholders on this clause and proposes that the clause be redrafted to provide for the licensing of foreign operators. |

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| | | select locations where the data they have collected may be more effectively protected. | |
| | The White Rhino Ventures Ltd | Delete clause 67(1)<br><br>*Justification:*<br>This is a very unrealistic requirement in the modern world. Half of the companies in the world now use Cloud based systems which by definition could sit anywhere. | The Committee noted the concerns of the stakeholders on this clause and proposes that the clause be redrafted to provide for the licensing of foreign operators. |
| Clause 68 | The Betting Control and Licensing Board | Delete clause 68<br><br>*Justification:*<br>Telecommunication is the essence online gaming and banning its use will render online gaming obsolete | The Committee agreed to the proposed deletion. |
| | The Shop and Deliver Ltd (Betika) | Clause 68 should be deleted<br><br>*Justification:*<br>(i) The clause does not define what a telecommunication platform is and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices;<br>(ii) Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the Bill. | The Committee agreed to the proposed deletion. |

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| | The Gamecode Ltd and Anjarwalla & Khanna | Clause 68 should be deleted<br><br>*Justification:*<br>(i) The clause does not define what a telecommunication platform is and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices;<br>(ii) Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the Bill. | The Committee agreed to the proposed deletion. |
| | The Velex Advisory | Clause 68 should be deleted<br><br>*Justification:*<br>(i) This clause has the effect of banning any form of online gaming or sports betting, which from the text herein is not the intent of the National Assembly;<br>(ii) It is proposed that this clause should be deleted as it will greatly curtail all progress made in the industry and will result in closure of all online operators;<br>(iii) Gambling will go back to retail shops all over the country | The Committee agreed to the proposed deletion. |

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| | The White Rhinos Ventures Ltd | Delete clause 68 but work with mobile operators to create a more informed method of control and monitoring.<br><br>*Justification:*<br>This would be the most drastic proposed change as almost all online betting in Kenya is done via Safaricom's mobile money platform, Mpesa. In essence, if this provision was included in the final legislation, it would effectively put all online gaming operators out of business. By removing mobile money, this Act is going to push up cash-based gaming which will lead to even more problems in society and is virtually impossible to monitor from a taxation perspective.<br><br>The mobile money platforms in place in Kenya have a mandatory age restriction of 18. It is through the Mobile Money platforms that the government would have more control over usage and restrictions. | The Committee agreed to the proposed deletion. |
| Clause 69 | The Betting Control and Licensing Board | Amend by deleting the word "Tribunal" substitute therefor with the word "Committee"<br><br>*Justification:*<br>The nature of the disputes to be handled are more administrative in nature than legal and therefore a committee | The Committee agreed to the proposed amendment. |

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| | | would ensure expeditious disposal of disputes<br><br>Further, the committee will bring in all gaming players who handle day to day issues touching on gaming | |
| Clause 71 | The Betting Control and Licensing Board | Amend Section 71 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 71(3)<br><br>Amend by deleting subsection (3) and substituting therefor with the following new sub-section<br>"(3) The Authority shall, before granting a license under this Section, satisfy itself that- | The Committee rejected the proposed amendment save for condition in paragraph (c) which enriches the existing paragraph (c) in the Bill. |

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| | | (a) The applicant has appropriate knowledge or experience to conduct a National Lottery in accordance with this Act and any other written law<br>(b) The applicant has the necessary financial and relevant technical capability to conduct the lottery<br>(c) No political party or political office bearer has any direct or indirect financial interest in the licensed applicant or shareholder thereof<br>The applicant is fit and proper person to conduct the lottery<br><br>*Justification:*<br>To ensure that the operator has appropriate technical and financial capacity to conduct a lottery<br><br>To ensure that the objective of the lottery is achieved by the operator<br><br>This will also ensure the integrity of the conduct of the lottery | |
| Clause 72 | The Betting Control and Licensing Board | Amend subsection (1) by deleting the word "the" appearing immediately after the word "by" and substituting therefor with the word "this" | The Committee agreed to the proposed amendment. |

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| | | Clause 72(2)<br><br>Amend sub-section (2) by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>Justification:<br><br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 73 | The Betting Control and Licensing Board | Amend Section 73 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>Justification:<br><br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of |

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| | | | bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 74 | The Betting Control and Licensing Board | Amend section 74 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 75 | The Betting Control and Licensing Board | Amend Section 75 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous |

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| | | | unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 76 | The Betting Control and Licensing Board | Amend Section 76 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 77 | The Betting Control and Licensing Board | Amend Section 77 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the |

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| | | | Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 78 | The Betting Control and Licensing Board | Amend Section 78 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 79 | The Betting Control and Licensing Board | Clause 79(1) and (2)<br><br>Amend Section 79 by deleting the word "Board" and | The Committee rejected the proposed amendment for the following reasons: |

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| | | substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | (i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 79(3) (f)<br><br>Amend by deleting the word "prizes" appearing immediately after the word "the" and substituting therefor with the word "price"<br><br>*Justification:*<br>To correct a typographical error and differentiate 'prize' from 'price' | The Committee agreed to the proposed amendment. |
| Clause 80 | The Betting Control and Licensing Board | Clause 80(3) and (4)<br><br>Amend Section 80 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the |

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| | | | Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 80(5)<br>Amend by deleting subclause (5) and substituting therefor with the following new subclause—<br><br>"(5) agent authorization under sub-section (4) shall be in writing and shall be subject to such terms and conditions as may be determined by the licensee with the approval of the Authority"<br><br>*Justification:*<br>To align with subclause (4) on agent authorization | The Committee agreed to the proposed amendment. |
| | | Clause 80(6)<br>Amend sub-section (6) by deleting the word "prize" appearing after the word "and" and substituting therefor with the word "price"<br><br>*Justification:*<br>Correct a typographical error | The Committee agreed to the proposed amendment. |

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| Clause 81 | The Betting Control and Licensing Board | Amend Section 81 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>To amend a typographical error | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 84 | The Betting Control and Licensing Board | Amend Section 84 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a |

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| | | | Board in order to carry out the mandate of the Authority. |
| | The White Rhino Ventures Ltd | Amend sub-section (2) by deleting the word "Board" and substituting therefor with the word "Authority" | The Committee rejected the proposed amendment for the following reasons:<br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 86 | The Betting Control and Licensing Board | Amend Section 86 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill; |

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| | | | (iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 87 | The Betting Control and Licensing Board | Amend Section 87 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Clause 87(2)<br>Amend subsection (2) by inserting the words "the following, and not limited to-" immediately after the word "audit,"<br><br>*Justification:*<br>To amend typographical error | The Committee rejected the proposed amendment since it muddles the provision. |
| | | Clause 87(2) (d)<br>Amend subsection (2) paragraph (d) by deleting the | The Committee agreed to the proposed amendment. |

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| | | word "of" immediately after the word "compliance" and substituting therefor with the word "with"<br><br>*Justification:*<br>To amend typographical error | |
| Clause 88 | The Betting Control and Licensing Board | Clause 88(1)<br>Amend by deleting subsection (1) paragraphs (a), (b) (c), (d) and substituting with the following new paragraphs<br><br>"(a)Forty per centum to the holders of winning tickets<br>(b)Twenty per centum to licensee to meet its administrative costs<br>(c)Thirty per centum to the Fund established under section (89) for distribution to good cause; and<br>(d)Ten per centum to agents and retailers of the Lottery"<br><br>*Justification:*<br>To amend typographical error | The Committee agreed to the proposed amendment save that paragraph (c) should provide that thirty per centum be distributed to the Fund established under section 89 for distribution to different good causes related to sports. |
| Clause 89 | The Betting Control and Licensing Board | Amend subsection (2) & (3) by renumbering in order of sequence<br><br>*Justification:*<br>To amend typographical error | |
| | | Amend subsection (2) paragraph (d) by deleting the word "Board" and substituting it therefor with the word "Fund"<br><br>*Justification:* | The Committee agreed to the proposed amendment. |

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| | | The section deals with the National Lottery Distribution Fund and not the Board of the Authority | |
| Clause 91 | The Betting Control and Licensing Board | Amend subsection (1) as follows;<br>"(a)by deleting the words "nominated by the Cabinet Secretary and"<br><br>*Justification:*<br>The Authority is responsible for all gaming matters and is the principal implementer of the gaming Act therefore must be represented in the governance structure of the Fund | The Committee agreed to the proposed amendment. |
| | | Amend by deleting paragraph (d) and substitute with the following new paragraph<br>"(d)one person who shall be nominated by the Council of County Governors and appointed by the cabinet Secretary | |
| | | Amend by deleting paragraph (f) and inserting a new paragraph (f) to read as follows the words "managing trustee who shall be an ex officio member" | |
| | | Amend by inserting a new paragraph as (g) to read;<br>"(g)The Director General of the Authority or any designated person" | The Committee rejected the proposed amendment. The Director-General of the Authority cannot serve in both the National Lottery Distribution Trust Fund and the National Gaming Authority Board. |

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| Clause 94 | The Betting Control and Licensing Board | Amend clause 94(1) (d)<br><br>Amend subsection (1) paragraph (d) by deleting the words "of economic crimes or fraud" appearing after the word "offence<br><br>*Justification:*<br>To ensure that all criminal offences are covered and not limited to economic crime and fraud only | The Committee agreed to the proposed amendment. |
| Clause 98 | The Betting Control and Licensing Board | Amend by deleting the word "sports" and insert the following new words "social economic activities"<br><br>*Justification:*<br>The term "social economic activities" is broader and includes sports and other activities | The Committee rejected the proposed amendment. |
| Clause 100 | The Betting Control and Licensing Board | Amend subclause (4) by deleting the words "National Assembly" and substituting it therefor with the words "Cabinet Secretary, responsible for National Treasury"<br><br>*Justification:*<br><br>The annual estimates are submitted through the Cabinet Secretary of The National Treasury | The Committee rejected the proposed amendment. |
| | | Insertion of New Clause 100A on Exemption to read; Notwithstanding any other | |

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| | | provisions of this Act, the following sections of this Act shall not apply to the National Lottery and the National Lottery Distribution Trust fund-<br>(a) Section 27 Duration of licenses and permits;<br>(b) section 49 Authorization of public Lotteries for charitable purposes<br>(c) Section 52 Lottery conducted for charitable, sporting or other purposes;<br>(d) Section 53 Lottery incidental to entertainment; and<br>(e) Section 54 Private Lottery<br><br>*Justification:*<br>National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries | |
| Clause 101 | The Betting Control and Licensing Board | Amend clause 101 (1) by deleting the word "related" appearing immediately before the word "gaming" and substituting therefor with the word "forms of" | The Committee agreed to the proposed amendment. |

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| | | *Justification:*<br>To amend typographical error | |
| | | Clause 101(2)<br>Amend by deleting subsection (2) and substituting thereof with the following new subsection<br><br>"(2) The Cabinet Secretary may make regulations on the operation of casinos"<br><br>*Justification:*<br>It is more practical to control the number of casinos through conditions attached to the licenses and taxes. | The Committee rejected the proposed amendment since clause 162(2) (c) of the Bill provides for this. |
| | | Amend by deleting subsection 3 (a) | The Committee rejected the proposed amendment |
| | The Association of Gaming Operators, Kenya | Amend clause 101(2) to provide that the provision shall not apply to existing casinos. | The Committee rejected the proposed amendment |
| | | Amend clause 101(5)<br><br>*Justification:*<br>The proposal to require casinos gaming machines to play a minimum bet of Kshs. 50 is a high bet, the combination of which can lead casinos to pay out very huge amounts if all the machines adopted a Ksh 50 minimum bet. | |
| Clause 102 | The Betting Control and Licensing Board | Amend Section 102 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:* | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate |

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| | | For consistency | entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 103 | The Betting Control and Licensing Board | Amend by deleting the words "of" appearing immediately after the word "compliance" substituting therefor with the word "with"<br><br>*Justification:*<br>To correct typographical error | The Committee agreed to the proposed amendment. |
| | The Directorate of Gaming and Betting – Nairobi City County | Delete clause 103<br><br>*Justification:*<br>County Gaming Inspectors are charged with responsibility of enforcement, compliance spot checks & daily supervision of the casinos. This is as per Gazette Notice 8753 of 8th September 2017 | The Committee rejected the proposed amendment |
| Clause 104 | The Betting Control and Licensing Board | Clause 104(1) and (3)<br>Amend Section 104 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the |

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| | | | Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| Clause 105 | The Directorate of Gaming and Betting – Nairobi City County | Delete clause 105<br><br>*Justification:*<br>Licensing of the amusement machines can only be done under the county government. This is as per Gazette Notice 8753 of 8th September 2017. | The Committee rejected the proposed amendment |
| Clause 106 | The Association of Gaming Operators, Kenya | Amend clause 106 to provide that<br>prizes on amusement machines should not exceed Kshs. 500/- and the aggregate amount issued by way of sale of chance should not be more than Kshs. 2000/-<br><br>*Justification:*<br>(i) Prizes level proposed does not appear correct or right as all of the prizes won on amusement machines are not subject of any tax currently applicable on gaming; | The Committee rejected the proposed amendment since the provision applies to commercial entertainment. |

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| | | (ii) Under clause 106(2) and (3), Prize limits for amusement are unreasonable and extremely high.;<br>(iii) As per the proposed prize scales, underage persons will engage in the game and play them on much higher level with expectations to make huge winnings. | |
| Clause 107 | The Betting Control and Licensing Board | Amend by deleting section 107 and substituting therefor with the following new section:<br><br>107. (1) The Authority may issue an amusement license authorizing the use of an amusement machine in a licensed premise.<br>(2) A license issued under this section shall be subject to such conditions as the Authority may impose and in every case to the condition that no person under the age of eighteen years shall play an amusement machine unless<br>in the presence of, and with the permission of, his parent or guardian.<br><br>(3) Any person who–<br><br>(a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or | The Committee agreed to the proposed amendment |

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| | | (b) contravenes or allows the contravention of any condition provided for or imposed by the Authority under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.<br>(4) In this section, "amusement machine" means a machine, other than a<br>gaming machine –<br><br>(a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and<br>(b) whereby a successful player neither receives nor is offered any benefit other than –<br>(c) the opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or<br>(d) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once. | |

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| | | *Justification:*<br>It is the mandate of the Authority to regulate and control all forms of gaming including the use of Amusement machines<br><br>The current legal framework does not provide mechanism to regulate to use of Amusement machines thereby enabling abuse | |
| | The Association of Gaming Operators, Kenya | Amend clause 107(1) to the effect that importation and certification of amusement machine shall be under national government.<br><br>*Justification:*<br>(i) Importation and certification equipment should be strictly under national government. Clear guidelines should be issued to the Kenya Bureau of Standards (KEBS) for a pre shipment inspection of amusement machines. None of the amusement machines should be imported without producer certificate clearly stating that equipment is for amusement only. KEBS should have clear guidelines regarding importation and pre-shipment | |

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| | | certificates of these machines and equipment. Pre-shipment certification must confirm the purpose of such equipment;<br>(ii) Due to the bad experience and reputation with the Chinese coin machines, this proposed bill is leaving a huge loophole for misuse once again. | |
| Clause 108 | The Betting Control and Licensing Board | Amend Section 108 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | The Committee rejected the proposed amendment for the following reasons:<br><br>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;<br>(ii) Substitution of the term "Board" with "Authority" will necessitate numerous unnecessary amendments to the Bill;<br>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority. |
| | | Amend by deleting the word "Permit" and substituting therefor with the word" Licence" | |

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| | | *Justification:*<br>To correct typographical error | |
| | The Directorate of Gaming and Betting – Nairobi City County | Amend clause 108(1) to provide that<br>county government shall license prize competitions for promotions confined to a county.<br><br>*Justification:*<br>This is as per Gazette notice 8753 of 8th September 2017 and adopted by final orders of petition no. 295 of 2015. | |
| Clause 110 | The Betting Control and Licensing Board | Amend Subsection (1) by deleting the word "Betting and" appearing before the word "gaming"<br><br>*Justification:*<br>Betting Machines are covered under subsection (2) | The Committee agreed to the proposed amendment |
| | | Amend subsection (1) paragraph(a) by deleting the word "a" appearing before the word "licensed"<br><br>*Justification:*<br>To correct typographical error | |
| | | Amend subsection (2) by inserting the words "in licensed premises" immediately after the words "license"<br><br>*Justification:*<br>To correct typographical error | |
| | | **PART XIIA — ADVERTISING OF GAMING** | The Committee agreed partly to the proposed amendment which |

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| | | **Gaming advertisement**<br><br>**110A.** (1) No person shall promote the advertisement of a gaming activity, without the approval of the Authority, on any medium of electronic or any other form of communication by: -<br>(a) holding himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;<br>(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;<br>(c) printing or publishing, or causes to be printed or published, any advertisement or notice;<br>(d) using a prominent personality or celebrity, public vehicle or use of lifestyle advertising to promote gaming;<br>(e) using false, misleading or deceptive message likely to create an erroneous positive impression of gaming;<br>(f) using a testimonial or endorsement displayed or | has been incorporated in the amendments. |

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

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| | | (4) The Authority shall determine where, when and how gaming is to be advertised.<br><br>(5) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both<br><br>*Justification:*<br>To provide comprehensive legal framework in relation to gaming advertisements | |
| | The Betting Control and Licensing Board | Insertion of new section 110B<br><br>Gaming advertisement fee<br><br>110B. (1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement.<br><br>(2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.<br><br>*Justification:*<br>Advertisement charges should not be categorized as taxes. | The Committee agreed to the proposed amendment |

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| | | It is a fee that should be payable to the Authority to enable it properly discharge its mandate. | |
| | The Betting Control and Licensing Board | **PART XIIB Protection of children**<br><br>**110C.**(1) Notwithstanding any exceptions in this Act, no person shall offer, permit, entice, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises whether for the purpose of gaming or otherwise, plays a game of chance with, or permits the playing of a game by, a minor selling a gaming ticket, employment of a minor in the organization and management of gaming or engagement in the provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever.<br><br>(2) A person who violates the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both | The Committee rejected the proposed amendment |

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| | | *Justification:*<br>To provide a clear legal framework for the protection of children against gambling | |
| | The Velex Advisory | Amend clause 110—<br>(a) in subclause (1) —<br>(i) by deleting paragraph (a) and substituting therefor the following new paragraph—<br>(a) be in a licensed casino;<br>(ii) in paragraph (d) by deleting the words "after three months" and substituting therefor the words "once every year"<br>(b) by deleting subclause (2) and substituting therefor the following new subclause—<br>(2) A betting machine shall only be operated.<br>*Justification:*<br>(i) The amendment to subclause (1) paragraph (a) is a cleanup;<br>(ii) The amendment to subclause 2 is | The Committee agreed to the proposed amendment save for the proposed amendment to subclause (2). |

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| | | because is an expensive exercise, that requires high expertise. Not easily found locally. It may also interfere with services agreements if this exercise was to be assigned to non-manufacture recommended testers. | |
| | The Betting Control and Licensing Board | Amend by deleting PART XIII and substituting therefor with the following new Part;<br><br>PART XIII~DISPUTE RESOLUTION MECHANISM<br><br>Section 111. (1) there is hereby established a committee to be known as the Gaming Appeals Committee to consider and decide appeals under this Act.<br><br>(2) The Cabinet Secretary shall, by notice in the *Gazette*, appoint the following persons to serve in the Committee;<br><br>(i) A representative of the Principal Secretary for the time being responsible for matters relating to gaming | The Committee agreed to the proposed amendment |

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| | | (ii) A representative of the Attorney-General<br>(iii) A representative of the Inspector General of Police<br>(iv) A representative of the Consumer Protection Advisory Committee<br>(v) A representative from Association of Gaming Operators<br>(vi) Three other persons with knowledge and experience in gaming matters<br>(3) The quorum for a meeting of the appeals committee shall be five members<br><br>(4) the functions of the appeals committee shall be to hear and determine appeals;<br><br>(a) against the decision of the Authority including;<br>(b) against a gaming inspector or authorized officer;<br>(c) Regarding complaints arising out of the outcome of a gaming transaction;<br>(d) Regarding Complaints arising out of the functionality of gaming machines and equipment; and<br>(e) Regarding any other matter as may be prescribed by this Act or referred to it by the Authority. | |

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| | | (5) An appeal to the Committee shall not automatically operate as a stay of the decision appealed against.<br><br>(6) The Committee shall convene as and when an appeal has been filled save as expressly provided in this Act the Committee shall regulate its own procedure;<br><br>(7) The Ministry shall provide secretariat services for the Committee.<br><br>112. Members of the Committee shall be paid such remuneration and allowances as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.<br><br>113. The Authority may refer a matter or complaint to the Committee for hearing and determination.<br><br>114. A person aggrieved by the decision of the Committee, may appeal to the High Court within fourteen days from the date of the decision of the Committee.<br><br>*Justification:*<br>The nature of the disputes to be handled are more administrative in nature than | |

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| | | legal and therefore a committee would ensure expeditious disposal of disputes<br><br>Further, the committee will bring in all gaming players who handle day to day issues touching on gaming<br><br>The dispute resolution framework provided has been borrowed from best practices. Examples being;<br>(i) the Committees that resolve disputes between KEPHIS and traders in plant material,<br>(ii)the Committee dealing with dispute resolution involving the status of refugees. | |
| Clause 113 | The Velex Advisory | Amend clause 113(2) (d) by deleting the word "dishonesty"<br><br>*Justification:*<br>(i) It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous;<br>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;<br>(iii)The repercussions of dishonesty are really | The Committee rejected the proposed amendment |

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| | | high to operators including suspension and cancellation of license to operate;<br>(iv) Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise. | |
| Clause 121 | The Velex Advisory | Amend clause 121(1) by deleting the words "Public Service Commission" and substituting therefor the words "Judicial Service Commission".<br><br>*Justification:*<br>The Tribunal proposed will be under the Judicial Service Commission and therefore the JSC should be the recruiter. | The Committee agreed to the proposed amendment. |
| Clause 124 | The Betting Control and Licensing Board | Amend by deleting clause 124 and substituting therefor with the following new section:<br><br>124. The Funds of the Authority shall comprise of-<br><br>(a) such monies as may be appropriated by the Parliament for purposes of the Authority;<br><br>(b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its function under this Act; | The Committee agreed to the proposed amendment |

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| | | (c)Except where otherwise provided, all monies recovered and charges, fees, levies, grants, donations, endowments, fines, composition sums and financial penalties collected by the Authority under this Act;<br><br>(d) such other fees and levies as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary for the National Treasury;<br><br>(e) interest from the investment of money standing to the credit of the Fund; and<br><br>all monies from any other source provided for, donated or lent to the Authority<br><br>*Justification:*<br>To include other sources of funds applicable to the Authority | |
| Clause 127 | The Betting Control and Licensing Board | Amend subsection (2) paragraph (b) by deleting the word "on" replace it with the word "at" immediately after the word "as"<br><br>*Justification:*<br>To correct typographical error | The Committee agreed to the proposed amendment |
| PART X—OFFENCES | The Betting Control and Licensing Board | Amend by deleting the word "PART X"- and substituting | |

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| AND PENALTIES | | thereof with the word "PART XV"<br><br>*Justification:*<br>To ensure the Parts in the Act follow in the right sequence | |
| Clause 131 | The Betting Control and Licensing Board | Amend the marginal note to read as follows;<br><br>"Failure to display a valid license or permit" | |
| | | Amend by inserting the word "permit" immediately after the word "licence" | |
| Clause 132 | The Betting Control and Licensing Board | Delete the word "Board" and replace it with the word "Authority"<br><br>*Justification:*<br>For consistency | |
| Clause 133 | The Betting Control and Licensing Board | Amend by deleting clause 133 and substituting therefor with the following new section;<br><br>133 A licensee who knowingly fails to keep any books, records or accounts required to be kept under this Act or keeps false books, records or accounts, or who makes or causes to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding ten years<br><br>*Justification:* | |

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| | | For clarity purposes and enhance penalty for making false declarations in respect of gaming activities | |
| Clause 134 | The Betting Control and Licensing Board | Amend by inserting the word "of accounts" immediately after the word "statement"<br><br>*Justification:*<br>For clarity | |
| Clause 135 | The Betting Control and Licensing Board | Amend Section 135 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | |
| Clause 140 | The Betting Control and Licensing Board | Amend section 140 by deleting the word "betting" and substituting therefor with the word 'gaming"<br><br>*Justification:*<br>To cover all forms of gaming activities | |
| Clause 141 | The Shop and Deliver Ltd (Betika) | Amend clause 141 to provide that<br>a list of all licensed betting premises and licensed electronic_sites be published in the Kenya Gazette and two newspapers of national circulation as well as the Board's website<br><br>Justification:<br>This will ensure that the public is not a party to the licensing process as this is adequately protected in the Bill. | |

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| Clause 142 | The Betting Control and Licensing Board | Amend by deleting clause 142 and substituting therefor with the following new section;<br><br>142 (1) A person who willfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both;<br><br>(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have<br>been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker;<br><br>(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker. | |

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| | | *Justification:*<br>To increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill | |
| Clause 144 | The Betting Control and Licensing Board | Amend Section 144 (2) by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | |
| | | Amend subsection (2) by inserting the word "sub" immediately before the word "section" and therefor the number 1 in bracket as (1)<br><br>*Justification:*<br>For typographical correction | |
| Clause 146 | The Betting Control and Licensing Board | Amend paragraph (b) by inserting the word "of" immediately after the word "promoter"<br><br>*Justification:*<br>For typographical correctness | |
| Clause 150 | The Betting Control and Licensing Board | Amend the marginal notes to read as follows:<br>"Prohibition against touting and Soliciting"<br><br>*Justification:*<br>For clarity purposes | |
| Clause 151 | The Betting Control and Licensing Board | Amend by moving Section 151 to the new PART XIIA and merge under section 110A | |

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| | | *Justification:*<br>For coherence and orderly arrangement of sections | |
| Clause 152 | The Betting Control and Licensing Board | Amend the marginal notes by deleting the word "unlicensed" and substituting therefor with the word "licensed"<br><br>*Justification:*<br>For coherence and clarity purposes and to clearly define the offence under this section | |
| Clause 153 | The Betting Control and Licensing Board | Amend by deleting the entire Section 153<br><br>*Justification:*<br>Refer to the new Part XIIB which gives prominence to protection of children against gambling | |
| Clause 154 | The Betting Control and Licensing Board | Amend by deleting the words "five hundred thousand" and replace with the words "one million"<br><br>*Justification:*<br>To discourage malpractice in gaming activities | |
| Clause 155 | The Betting Control and Licensing Board | Amend by inserting the word "Authority" immediately before the word "County government" and the word be "immediately" after the word "conviction"<br><br>*Justification:*<br>For typographical correctness | |
| Clause 156 | The Betting Control and Licensing Board | Amend by deleting subsection (1) paragraphs(a)&(b) | |

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| | | substituting therefor with the following new subsection as follow;<br><br>(1)It shall be lawful for a gaming inspector or any other officer of the Authority authorized in writing, on production of an authority document,, to enter without warrant and inspect premises (including a race course)in which he or she has reason to believe that an offense under this Act or under any regulation made thereunder ,has been committed to-<br><br>*Justification:*<br>Pre-empt commission of gaming crimes to protect the public.<br><br>This will ensure that the Authority and security apparatus are able to protect the public from any criminal gaming activities | |
| Clause 157 | The Betting Control and Licensing Board | Amend subsection (3) by inserting the words "or to imprisonment for a term not exceeding one year or to both" immediately after the word "shillings" | |
| | The Velex Advisory | Amend clause 157(1) by deleting the word "dishonesty".<br><br>*Justification:*<br>(i) It is not possible to qualify the wording | |

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| | | "dishonest" in this context. The wording is ambiguous;<br>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;<br>(iii)The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate;<br>Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise. | |
| Clause 158 | The Association of Gaming Operators, Kenya | Amend clause 158 to ban advertising of gaming activities.<br><br>*Justification:*<br>Casinos do not advertise. Betting and online gaming should also not be allowed. | |
| | The Velvex Advisory | Amend clause 158(f) by deleting the words "or a place frequented by children".<br><br>*Justification:*<br>(i) The wording "a place frequented by children" is ambiguous and may | |

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| | | be subject to abuse by stakeholders of authority;<br>(ii) Leaving the text to schools is sufficient in this case | |
| | The White Rhinos Ventures Ltd | Amend clause 158 to provide that a cross section of operators, Media owners, government and other stakeholders to form a culture committee on responsible gaming and advertising and submit to the voluntary guidelines dictated by the committee. The guidelines would cover areas such as:<br>i. Content of advertising<br>ii. Area or amount of time of advertising given over to responsible gaming messages.<br>iii. Removal of any advertising during programming targeting children.<br><br>*Justification:*<br>**Clause 158** introduces new advertising restrictions heavily targeting TV and Radio | |

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| | | advertising, while giving concessions to TV advertising during sporting events and on DSTV, and not targeting social media and newspapers. This heavily favours the major sports betting operators to the detriment of the rest of the industry.<br>This would have a significant impact on the Ventures revenues due to the fact that Radio and TV advertising are the most important media in White Rhino Venture's advertising strategy. These changes to advertising would decimate the local media industry to the benefit of foreign owned and controls companies, namely DSTV, Google and Facebook.<br>Lastly, outdoor advertising was not mentioned and is the most prevalent form of Gambling advertising in Kenya. Proximity to schools is an irrelevance in this case as it is assumed that children only go to school.<br><br>Furthermore, these companies do not have guidelines on who has access to their content and social media is very much geared to the youth audience while Television and Radio are in decline with same demographic. | |

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| | | Clause 158 on advertising does not address the fact that the biggest issue with Gambling is Sports Betting and the advertising ban expressly allows it. It also does not deal with the issue of DSTV TV where most people consume their sports content. There is also no express requirement for responsible gaming on billboards. | |
| | | Amend clause 158(3)<br><br>It is not clear if this provision holds for prize promotions. It is also against competition rules. Basically, the act punishes Local TV and Radio media owners and their advertisers. Most of the big Sports Betting companies place their advertising on:<br>i) Sport Events (so exempt)<br>ii) DSTV<br>iii) Social Media<br>iv) Newspapers<br>1. It can easily be argued that Social Media advertising is much harder to regulate than spot advertising on TV and Radio. Permitting the advertising of betting on online and offshore satellite media at the expense of local electronic media will | |

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| | | have the following consequences:<br>a. Social and satellite media is hard to regulate vs domestic electronic media where all content and standards of responsible gaming can be subject to vetting before flight.<br>b. The audience of social media skews younger than linear broadcasting and combined with the difficulty of controlling it gives rise to much higher risks of attracting vulnerable players.<br>c. It does not seem in the national interest to restrict the revenues from the electronic advertising of gaming to offshore | |

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| | | unregulated broadcast and internet companies to the severe detriment of the local media industry which is already facing economic challenges<br>d. This ruling would also be anti-competitive significantly favouring brands established before the local advertising restrictions came into effect.<br>2. This basically allows the big companies to cement their position and would make it impossible for any new operators to compete (including local companies and THE NATIONAL LOTTERY). | |
| | The Betting Control and Licensing | Moved to the new PART XIIA and merged under section 110A<br><br>*Justification:* | |

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| | | For coherence and orderly arrangement of sections | |
| New Clause 158A | | Amend by inserting a new subsection 158A:<br>SECTION 158A: PROSECUTION OF OFFENCES<br>(1) The Authority shall, pursuant to Article 157(12) of the Constitution, have the power to undertake prosecution of any offence under this Act.<br>An officer duly authorised in writing by the Authority may conduct a prosecution for any offence under this Act.<br><br>*Justification:*<br>To provide for prosecutorial powers of officers of the Board in line with other regulatory bodies such as section 104 of the Kenya Communications Act No. 2 of 1998. | |
| Clause 159 | The Association of Gaming Operators, Kenya | Amend clause 159(1)<br><br>*Justification:*<br>(i) Considering all the differences between online operators and brick and mortar establishments like casinos, the bill is proposing the same fees or just twice higher for online activities; This is not proper considering the brick and mortar | |

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| | | establishments like the casinos which are barely surviving due to the high taxation;<br>(ii) Land based operators have been in existence in Kenya for over 50 years and they are greatly affected by the huge cost of maintaining their equipment and sustaining their business;<br>(iii)The casinos establishments are not in a position to invest in modern technologies at the moment as they are not making any profits on a scale to invest or expand;<br>(iv)The excise taxes on betting and online gambling is highly supported for betting and online gaming. | |
| | The Velvex Advisory | Delete clause 159<br><br>*Justification:*<br>(i) The industry is heavily taxed. Subjecting the industry to further taxation will highly affect the affairs of the industry and lead to its closure. As of this date the industry is the | |

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| | | highest taxed in the economy including: Corporate Tax – 30%; Gaming Tax – 15%; Winnings Tax – 20%; Proposed Excise tax – 10%;<br>(ii) It is also not clear who the tax liability falls to the media house or gaming company;<br>(iii)This will also curtail any available income for use by the operators towards social responsibilities in society | |
| | The White Rhinos Ventures Ltd | Delete clause 159<br><br>*Justification:*<br>Given a projected media spend of $75 to $100K per month, this tax would result in an additional tax of up to $420,000 per annum that will be levied upon White Rhino Ventures for its TV and Radio advertising campaigns, further rendering the business unviable.<br><br>This tax is only going to affect Kenyan businesses and have no corresponding tax on international companies. | |
| Clause 159 | The Betting Control and Licensing Board | Amend by deleting Section 159 and moving it to the new Part XIIA under Section 110B<br><br>*Justification:* | |

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| | | For coherence and orderly arrangement of sections | |
| Clause 160 | The Betting Control and Licensing Board | Amend by inserting the word "be" immediately before the word "produce" | |
| Clause 161 | The Betting Control and Licensing Board | Amend by deleting the word "Police" substituting therefor with the word "Authority" and the word "Board" and substituting therefor with the word "Police"<br><br>*Justification:*<br>It is the mandate of the Authority to seize any illegal gaming equipment | |
| Clause 162 | The Betting Control and Licensing Board | Amend clause 162 by deleting the word "Board" and substituting therefor with the word "Authority"<br><br>*Justification:*<br>For consistency | |
| | | Amend subclause (2) by inserting a new paragraph (j) to read as follows;<br><br>(j)secure the payment of any fee or levy | |
| Clause 163 | The Betting Control and Licensing Board | Amend subclause (3) by deleting paragraph (c) substituting therefor with following new paragraph<br><br>"(c) the principles and standards applicable to the rules made under this section are both set out in the Interpretation and General Provisions Act (Cap 2) and the | |

<table>
<tr><td></td><td></td><td>Statutory Instruments Act, 2013."</td><td></td></tr>
<tr><td></td><td></td><td>Amend clause 163 (7) (1) by deleting the words "stand revoked within six months from the enactment of this Act" and replace therefor with the words "remain valid for the period of the license"<br><br>Justification:<br><br>To avoid disruption of business within the license period</td><td></td></tr>
<tr><td></td><td></td><td>Delete subsections 163 (2) (3) and (4)<br><br>Justification:<br>For align with sub-section (7)</td><td></td></tr>
<tr><td>Second Schedule</td><td>The Betting Control and Licensing Board</td><td>Amend the Bill by deleting the Second Schedule and substituting therefor the following new Schedule—<br><br><table><tr><th>TYPE OF GAMING</th><th>LICENSE FI</th></tr><tr><td>Online</td><td>50,000,000</td></tr><tr><td>Non-online Bookmaker</td><td>20,000,000</td></tr><tr><td>Totalisator</td><td>5,000,000</td></tr></table></td><td></td></tr>
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| | | License authorizing Bookmaking at Race meeting | 100,000 | | - |
| | | Pool Betting Scheme | 5,000,000 | | 2,000,000 |
| | | Casino | 10,000,000 | | 5,000,000 |
| | | Non- online Lottery<br>*Annual*<br><br>*Lottery Short term* | 2,000,000<br><br>20,000 | | 1,000,000<br><br>- |
| | | Prize Competition | 10% of total promotion budget | | - |
| | | Transfer (location)<br>Casino<br>Bookmaker | 100,000<br>100,000 | | |
| | | Pool Tables | 10,000 per table | | 5,000 per table |
| | | Gaming Premises | 500,000 | | 250,000 |
| | | Amusement with prizes | 10,000 per machine | | 5,000 per machine |
| Second Schedule | The Association of Gaming Operators, Kenya | Amend the Second Schedule by—<br>(i) rationalizing the amounts of licensing fees to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective | | | |

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| | | rates and deposits proportions between land-based brick and mortar and online gaming which should be minimum 30 times less in a favour of land-based establishments;<br>(ii) deleting the amount of fifty million provided as licensing fees for casinos and substituting therefor ten million for new casinos. | |
| | The Velvex Advisory | Amend the Second Schedule<br><br>**<u>Proposal to review</u>** the license fees in the Second Schedule (a)<br><br>**<u>Proposal to review and reduce</u>** the license fees in the Second Schedule (c) for Kenyan citizens to:<br>(a) All forms of online gaming fifty million<br>(b) Casinos including public gaming for conducting tables and slot machines-twenty-five million<br>(c) Non-online bookmakers ten million<br>(d) Totalisator five Million<br>(e) Prize competition ten million<br>(f) Non-online public lotteries, thirty million private lotteries and | |

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| | | pool betting scheme- fifteen million<br>(g) Amusement with prizes- five hundred thousand<br>Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery-two hundred and fifty thousand<br><br>*Justification:*<br><br>- The proposed license fees are high and will lock out investors from accessing the market.<br>- Will lead to set up of monopolies in the industry and subject the consumers to unfair consumer practices.<br>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.<br>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition of technological platforms to conduct this business. | |
| | The White Rhinos Ventures | Amend the Second Schedule<br><br>*Introduce a Tier model to Licensing fees based on a* | |

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| | | *mature market like the UK. This allows smaller local operators access to the Kenyan market and increases the fees for operators that are likely to generate more in sales. Projections should be used for new operators and the difference in fees applicable during the year if they exceed projections. In the case of existing operators, the previous year's revenue figures should be used as the basis of the licence fee.*<br><br>*Justification:*<br>3. The new licence fees are simply unsustainable and will most likely lead to a duopoly or oligopoly in the market. There is no differentiation between different online operators. Once again, this is closing the market to local players and making it a duopoly.<br>4. Internationally, application fees and subsequent operating fees are based on projected turnover of the licensee.<br>5. The proposed fees on prize competitions will distort the market and only allow for the | |

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| | | biggest brands (and international ones) to be able to run basic prize promotions, even free ones.<br>6. The small fees on premises would allow online operators to flood the market with shops and casinos. | |
| Fourth Schedule | The Association of Gaming Operators, Kenya | Amend the Fourth Schedule by—<br>(i) rationalizing the renewal fees to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land-based brick and mortar and online gaming which should be minimum 30 times less in a favour of land-based establishments;<br>(ii) deleting the renewal fees prescribed for casinos (thirty million) and substituting therefor three million. | |
| | The Velex Advisory | **Proposal to review** the renewal fees in the Fourth Schedule (a)<br><br>**Proposal to review** the renewal fees in the Fourth Schedule for Kenyan citizens to; | |

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| | | (a) Casinos including public gaming for conducting tables and slot machines renewal period- three years renewal fee- fifteen million<br>(b) Online gaming three years renewal fee fifteen million<br>(c) Non online bookmakers- three years – one million<br>(d) Totalisator- ten million- five hundred thousand<br>(e) Prize Competition- three years- two hundred thousand<br>(f) Non-online gaming including book makers, online casinos, online lotteries- three years- two hundred thousand<br>(g) Amusement with prizes- three years- two hundred thousand<br>(h) A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery- one year- one million<br><br>*Justification:*<br>- The proposed license fees are high and will lock out locals from venturing into the business.<br><br>- out investors from accessing the market.<br>- Will lead to set up of monopolies in the industry | |

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| | | and subject the consumers to unfair consumer practices.<br>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.<br>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition of technological platforms to conduct this business. | |
| Fifth Schedule | The Betting Control and Licensing Board | Under Fifth Schedule, amend by deleting twenty million appearing in paragraph (f) and replacing therefor with "an amount equivalent to the total cost of the prizes". The rationale being that they are seasonal and their budgets are mostly lower than ten million. The amount proposed in the Bill will disadvantage promoters of goods and services with less capital. | |
| | The Association of Gaming Operators, Kenya | Amend the Fifth Schedule by—<br>(i) rationalizing the gaming security to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land-based | |

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| | | brick and mortar and online gaming which should be minimum 30 times less in a favour of land-based establishments;<br>(ii) deleting the proposed gaming security for casinos of fifty million and substituting therefor a five million security. | |
| | The Velex Advisory | Delete the Fifth Schedule<br><br>Delete clause 33<br><br>*Justification:*<br>The Bill in clause 34 provides for minimum capital requirements for operating a gambling operation. Subjecting operators to an additional gaming security is double jeopardy as both serve the same purpose. | |
| | The White Rhino Ventures Ltd | Amend the Fifth Schedule<br><br>*Security should be based on the value of the book. At no point should the operator be able to offer prizes that exceed the cash in the bank, not including player deposits. This is standard operating procedure in the gambling industry worldwide and is more onerous than banking liquidity rules. This can be monitored by government and at any time be checked.* | |

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| Sixth Schedule | The Association of Gaming Operators, Kenya | Amend section 7 of the Sixth Schedule to provide that changes regarding the renewal of existing licenses be applied for the period 2020/2021 and not affect the current operating year | |
| | The Velex Advisory | **Amend Sixth Schedule clause 7(1)**<br><br>**Propose to amend to**<br>All gaming activities including casinos and gaming activities online gaming whose licences were issued under the repealed Act shall continue to run till their expiry as provided for in the repealed Act. Licensees shall be obliged to apply for renewal to the Authority three months before expiry of the License<br><br>*Justification:*<br>Operators have just been subjected to a exhaustive renewal process it will be double jeopardy to subject them to similar process and budgeting prior to expiry of the License. | |
| | The Betting Control and Licensing Board | Amend the Sixth Schedule by transferring it to a new PART XVIII and making it Section 163<br><br>*Justification:*<br>For consistency | |
| General | The Kenya Charity Sweepstake | **Withholding tax 20% on winnings** | |

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| | | To be affected on prizes paid at the office from 10,000 and above<br><br>*Justification:*<br>It's impossible since small prizes below Ksh 10,000 are paid by our agents' country wide | |
| General | The Gaming Awareness Society of Kenya | Proposal: Mandatory Alternative Dispute Resolution Model<br><br>Adoption of the United Kingdom Model of resolving disputes through ADR. Gaming operators in UK are required to enlist an independent dispute resolution body to help resolve complaints. This will ensure that consumer disputes are adjudicated fairly especially in instances where some of the members of the betting control and licensing board have an interest in the sector. | |
| | | Recognition of gambling as an addiction.<br>The Bill is silent on the addiction aspect of Gambling.<br>***Proposal**: That some percentage of the Sports Fund be dedicated to fund research and treatment on gambling addiction.* | |
| | | Unfair terms and conditions<br>Operators have the exclusive right to cancel bets before and even after the game has ended. | |

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| | | The reason they give is that there was an error in the odds (Palpable error).<br><br>*There is need for a clear guidance as to when a contract comes into place during betting after which no party should be allowed to cancel a bet.* | |
| | | Restrictions on withdrawals<br>Some operators have set daily withdrawal limits to like KES 10,000. This basically means that a person who wins KES 100,000 will take 10 days to withdraw his or her funds in full. Due to the addictive nature of gambling such a person will end up gambling the funds before the 10 days lapse.<br><br>*There should be no daily withdrawal limit. The withdrawal limit should be in line with the daily MPESA limit of 120,000/-.(One justification of setting daily limit by gaming operators is to fight money laundering, however, the 120,000/- daily transaction limit set by MPESA was put in place as a way of fighting money laundering, this limit should also apply to operators).* | |

## 4.0 SUBMISSIONS BY THE MINISTRIES/STATE AGENCIES

The Committee also invited the National Treasury and Planning together with Kenya Revenue Authority, in accordance with Article 114(2) of the Constitution regarding processing of Money Bills, and as the Ministry concerned with the issues of tax collection from betting activities, the Ministry of Interior and Coordination of National Government and the Ministry of information Technology which were represented by the Betting, Control and Licensing Board and the Communication Authority respectively for a retreat that was held on 29th and 30th August, 2019 to give their comments on the Bill.

### 4.1 THE NATIONAL TREASURY AND PLANNING

The National Treasury submitted the following proposals:

#### 4.1.1 Clause 7

In line with the current practice, the National Treasury recommends that clause 7 should be amended to include a representative from the industry.

#### 4.1.2 Clause 8 (1)

The clause provides for qualification of appointment of the Board. For a member to be appointed to the Board, he/she should hold a university degree in a relevant field.

**Recommendation:** *that the qualification should also include a minimum of three years working experience in the relevant field.*

#### 4.1.3 Clause 15 (2) (c)

The Director General of the Authority should have a vast knowledge and experience in the industry. *It is therefore recommended that the post qualification experience to be at least 10 years.*

#### 4.1.4 Clause 37 (2)

The word "Collector" as used in the Bill is not defined in Clause 2 of the Bill.

**Recommendation:** *that the Kenya Revenue Authority be the collector of the Gaming Tax as provided under Section 78 of the Public Finance Management Act (PFMA). Similarly, Clause 159 (2) should also be amended accordingly.*

#### 4.1.5 Third Schedule

It is recommended that Paragraph F of this schedule should be amended to read "Tax Compliance Certificate" in place of Income Tax Compliance" since KRA only issues the former.

### 4.2 THE KENYA REVENUE AUTHORITY

The Kenya Revenue Authority submitted the following proposals:

| S/No. | Section | Proposed Amendment | Rationale |
|---|---|---|---|
| 1. | **PART I. PRELIMINARY**<br><br>**2.** | Define the Collector to be the Commissioner general of the Kenya Revenue Authority<br><br>"Collector" means the Commissioner-General appointed under the Kenya Revenue Authority Act; | To specify the collector |
| 2. | **PART III- ESTABLISHMENT OF THE GAMING AUTHORITY**<br><br>10 (1) (f)<br><br>Establish a central electronic real time gaming monitoring system. | To include the words **"for compliance with regulatory authorities"**<br><br>The section 10 (1) (f) to read:<br><br>Establish a central electronic real time gaming monitoring system **for compliance with regulatory authorities**. | This is to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction. |
| 3. | **PART IV – LICENCES AND PERMITS**<br><br>37 (1) Gaming tax | i) Define the base for taxation to be the **gross gaming revenue**. This section should now read;<br>37(1). *There shall be a tax to be known as gaming tax chargeable at the rate of 15% of* ***the gross gaming revenue***.<br><br>ii) Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read<br>*37(2). The tax under subsection(i) shall be paid to the collector* ***on or before the 20th day of the following month*** | To avoid misinterpretation and align it with due dates. |
| 4. | **PART VI – CONTROL AND LICENSING OF LOTTERIES** | Instead of requiring operators of lotteries to dedicate 25% - 45% of their | This clause existed before taxation of lotteries and winnings |

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| | 49.<br><br>Authorization of a public lottery for charitable purpose. | revenue to charitable causes, the same may be shifted to be a proper tax.<br><br>The requirement may therefore be married together with the lottery tax (gaming tax from Lotteries) to be a tax and collected by the collector | was effected. With the current taxation regime, requiring lotteries to again contribute 25% after suffering 15% tax on lottery will amount to double taxation. With the establishment of the Sports and Arts fund, the government is better placed to collect and distribute these monies to charitable causes |
| 5. | **PART VII - ONLINE GAMING**<br>**Introduce a new sub-section 62(6)**<br>Records to be kept | To include requirement for unique identifier for tax purposes. | To provide the Authority with a head start on information containing all the players' details. |
| 6. | **PART X – THE GAMING APPEAL TRIBUNAL**<br><br>111.<br><br>Gaming Appeals Tribunal | Consider inclusion of;<br><br>(4) To refer all tax disputes arising from the actions and decisions of the collector to the Tax Appeal Tribunal for arbitration.<br><br>(5) Recovery of taxes shall be effected as provided for in the Tax Procedure Act. | |
| 7. | **PART X - OFFENCES AND PENALTIES**<br><br>134<br><br>Failure to submit accounts by a licensee | To include the words "**collector**" after the word "Board" and "or" to read as follows;<br><br>134. A person who willfully refuses or fails to submit a statement of account when required by the Board, or **"collector"** or who knowingly submits a false or misleading statement, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to | This is to provide for penalties for offences in relation to failure to file returns or any other information as may be deemed necessary by the Commissioner herein referred as "Collector". |

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| | | imprisonment for a term not exceeding five years or to both. | |
| 8. | **PART XVI – MISCELLANEOUS PROVISIONS**<br><br>**159(1). Gaming advertisement tax** | i) Define the base for taxation to be the cost of the advertisement and expand the modes of advertisement to cover all media. This section should now read;<br>*159(1). There shall be tax to be known as gaming advertisement tax chargeable at the rate of thirty-five per centum on the **cost** of the gaming advertisement done through radio, television, **newspapers, online, billboards, short messaging service and any other advertisement medium***<br><br>***ii)*** Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read<br>*159(2). The tax under subsection(i) shall be paid to the collector **on or before the 20th day of the following month*** | To avoid misinterpretation and align it with due dates. |

### 4.3 COMMUNICATION AUTHORITY OF KENYA

The Communication Authority of Kenya Submitted the following proposals:

**THAT:**

1. Section 20 provides for Online Gaming licence that falls under the ambit of the Authority's mandate as it pertains to telecommunications. Therefore, it is proposed that the Online Gaming licence should be granted in consultation with the Authority.
2. Section 57 provides for control of online gaming where it states that the Board shall establish a framework to facilitate real time monitoring of casinos and online gaming activities which shall be accessible for monitoring by CA.

N/B:

i. there needs to be further consultations on this as the Communication Authority legal framework might need to be revised.
ii. This proposal, if implemented, might have privacy concerns and Data Protection implications.

3. Section 57 – (e) to be expanded to include that an appropriate telecommunications licence is silent as a condition precedent as a requirement for Remote Gaming licence. It is proposed that a valid telecommunication licence be included as part of the qualifications.
4. Section 68 restricts use of a telecommunication platform for online gaming. As much as the proposal sounds directory, the rationale is not clear and the spirit thereof seems inconsistent with Section 57(4) which provides for the role of an operator in case of Mobile online gaming to provide particulars of network connectivity to the Board.

### 4.4 COMMISSION ON REVENUE ALLOCATION

The Commission on Revenue Allocation submitted the following proposals:

| S/No. | Clause | Recommendation | Justification for Change |
|---|---|---|---|
| | **Clause 4 Functions of the National Government** | Align with IGRTC Gazette Notice No. 8753 on functions of both levels of government on matters betting. More specifically, some functions of the national government are omitted e.g. licensing of prize competitions cross cutting several counties and handling of complaints and arbitration | To align with IGRTC Gazette Notice No. 8753 and the court finding in *Africa Rafiki Ltd & 2 others v Nairobi City County Government & 3 others [2017] eKLR (Petition No.295 OF 2014)* |
| | **Clause 5 Functions of the county governments** | a) Under para 5(e) as read with clause 4(f), enforcement is concurrent on the two levels of government. There is need to vest this enforcement mandate to one level of government as per the Gazette Notice<br>b) Paragraph 5(b)-add the phrase *'within the county'* | a) To avoid fragmentation of one function and to align with the Gazette notice<br>b) To specify jurisdiction |
| | **Clause 10 Functions of the Authority** | a) Clause 10(1)(d)- the term *'supervise' vis-a-vis* counties should be substituted<br>b) Clause 10(1)(b) and (d) appear similar and should be harmonized | a) To avoid conflict of mandate given gaming is a concurrent function and the Authority is a national government entity<br>b) To avoid repetition<br>c) To curtail conflict of mandates |

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| | | c) Clause 10(1)(h) should be deleted as it offends county functions on gaming<br>d) There is need to have a clear demarcation of functions at the national level between the line ministry and the Authority<br>e) Clause 10(1)(i) –delete the phrase *'by the counties'* | d) To avoid duplication<br>e) To curtail conflict of mandates |
| | **Clause 15**<br>**Director General** | Under paragraph (b)-avoid prescribing the fields | For inclusivity |

## 5.0 OBSERVATIONS FROM THE PUBLIC HEARINGS ON THE GAMING BILL, 2019

The Committee made visits to nine (9) counties and had engagements with the public between the periods 24th June and 3rd August, 2019. Further, the Committee held stakeholders meeting and public hearing for Nairobi County in the Mini Chamber, Parliament Buildings on 22nd August, 2019. The following were the issues that may also inform possible areas of amendment to the Gaming Bill, 2019.

### 5.1 MOMBASA COUNTY

The following issues were raised by the members of the public in Mombasa County:

1. There are several Chinese Slot Machines in the region, close to 820 spread all over the villages, town centers and even in small shops. These are targeting people with little or no income including children and vulnerable people. It was noted that in these machines, a person can use as little as Ksh. 10 coin to gamble.
2. Gambling has led to low education standards in the county since most of the pupils/students spend most of their time either on phones betting online or in places where there are gambling machines forgetting their school work. Some end up not reporting to school and even end up using school fees given to them by their parents in gambling or betting. This has led to school dropouts and problems in the families. Some students end up committing suicide after realizing they have lost all the school fees given to them in betting or gambling.
3. It was noted that youth resort to betting/gambling because of unemployment and lack of any other engaging activities.
4. Insecurity is on the rise since youths have resorted to robbing people to get money for betting or gambling. Some youths including children steal the little coins from their parents to go and bet.
5. There are family breakups due to betting/gambling. Some families have broken up because either one of the parents have resorted to betting/gambling consuming the little amounts of money they could have used to provide for the basic needs leading to quarrels and fights within the families hence breakup.
6. The Members of the public noted that there is need to provide for the creation of public awareness to Kenyans on the vises of online betting and gambling especially the youths. This can be done by creating public education centres specifically to address the issues of gambling.
7. There should be a provision in the Bill to provide for the Special Fund meant to rehabilitate those who are already addicted to betting/gambling. A special levy to be charged to casinos and other gaming operators to go to the fund.
8. The illegal Chinese slot machines and online gaming including sms be completely banned.
9. There should be strict regulation to service providers to stop them from giving data to the betting operators.
10. The gaming operators, specifically casino indicated that there is need to regulate but not close since very many people are employed by the casinos and closure will mean loss of jobs hence increase in unemployment.

### 5.2 KWALE COUNTY

The following issues were raised in Kwale County:

1. It was noted that the administration had challenges since there are court orders by the operators of the slot machines but, they work together with the public to get the machines and confiscate as per the directives of the Cabinet Secretary for Interior and Coordination of National Government.
2. Most people have been addicted to gambling and they have taken online gaming as a full-time job hence no other productive work they can do and this has really affected the economic growth in the area.
3. Betting has really interfered with the children; the age is narrowing down to young boys and girls of 10 years. They end up stealing even the little coins available from parents to go and bet.
4. Education has gone down since pupils/students no longer concentrate on their academic work and even helping their parents at home, instead they spend much of their time betting/gambling either online or where there are slot machines and other gaming activities. Some end up stealing money from their parents to go and bet, some use school fees to bet hence case of suicide when the money is lost. Teachers are also affected since some of them also spend most of their time on phones betting instead of going to teach students.
5. It has affected even the elderly people in the area both men and women. Most men concentrate on betting with all their resources forgetting their responsibilities of taking care of their families. Women on the other hand use the money that has been left for food to bet instead of buying food for their families. This has led to problems in families and family breakups.
6. In totality, online gaming and slot machines should be completely banned, they are not good for Kenyans.

### 5.3 KISUMU COUNTY

The following issues were raised by the Members of the Public in Kisumu County:

1. That the government should be blamed for letting illegal slot machines that have spread into the villages into the country. Slot machines are all over the villages making it difficult for the administration to control.
2. Students/pupils have dropped out of schools because of gambling.
3. Some women have left their marriages because either their husbands can no longer provide for the basic needs, they have used all their resources in betting or have forgotten their responsibilities, they spend most of their time in betting places or on phones betting. Some women have also left their husbands because of the fear of being attacked after using the money left for food to bet and ends up losing it and cannot provide for food.
4. Parents have had serious problems with their children in colleges and in high schools. When they are given school fees to go and pay, instead, they use it to bet and end up losing. After realizing the money is lost, some of them resort to committing suicide, some disappear from school and do not go back home.

5. Crime is on the rise since those who are addicted to gambling robe people of their little resources and belongings, they have to get money for betting.
6. There is need for strict regulations on the advertisement of gaming activities. There has been too much advertisements on televisions and radio stations about betting which affects even children, they may think the only way to get money is through betting or gambling. Some of these adverts are vague and meant to entice people to bet.
7. There is need for provisions to safeguard the information of the people who are involved in betting.
8. There has to be a stringent regulation on the ownership of the betting companies, it must include Kenyans.
9. The Board must be constituted by people of high integrity for purposes of proper management, transparency and accountability.
10. There has to be strict provisions to ensure that the betting companies pay the required taxes.
11. Licenses should only be given after proper and thorough vetting and verification of the applicants. There should be no any temporary license to operators.
12. The betting amount should be very stringent that can only be afforded by those with enough money. This will be able to bar young people, vulnerable and students from betting.

### 5.4 KAKAMEGA COUNTY

The following issues were raised by the Members of the Public in Kakamega County:

1. Members of the public were concerned to know how the betting companies get individual information and contacts to be able to send them messages to bet and the role of Safaricom in regards to provision of individual data as well as benefits acquired from betting activities.
2. It was noted that most of people announced as winners during adverts in television or radio are normally from specific regions and they can never be traced.
3. That the licensing of the betting companies should be flexible to avoid over exploitation by the companies on the players to be able to recover their money. However, there has to be strong regulations.
4. It was noted that betting companies like Sportpesa are sponsoring clubs outside Kenya like for instance in the United Kingdom, Spain and Italy while in Kenya they only sponsor two clubs and with little amounts of money. It is proposed that:
    i. All the betting companies should support local clubs with at least Kshs. 100 million and should emphasize on supporting local talent
    ii. Each betting company to sponsor at least three (3) local clubs
5. It is also proposed that 60% of the betting companies' directors be Kenyan citizens.
6. The expiry date should be pronounced for purpose of clarity and adherence.
7. All taxes collected from betting activities should be channeled to the grassroot to develop talent academy schools.
8. There has to be stringent provisions on the age limits for those who are willing to bet or gamble.
9. There is need to establish betting control offices in all regions for ease of access and sensitization of the public.

10. Mr. Brian noted that closure of betting companies like Sportpesa may lead to collapse of big clubs in the country like Gor Mahia and AFC Leopards which are fully supported by the company. He also indicated that Sportpesa has tried to raise the football standards in the country by bringing English Premier League Clubs like Everton and Hull City to play in Kenya with local clubs like Kariobangi Sharks and Gor Mahia which is really encouraging for young footballers.
11. A section of youths indicated that unemployment has led them to resort to betting and it helps them get their source of livelihood hence betting should continue. They proposed that:
    i. If a person bets and loses, a certain amount of money should be returned to the loser.
    ii. Betting amount to be regulated
    iii. Winners should not be taxed but the companies to be taxed
    iv. Winners identity to remain secret due to security issues.
12. The elderly persons also indicated that betting/gambling should be completely banned because it has destroyed children, some of them have become thieves.

### 5.5 UASIN GISHU COUNTY

The following issues were raised by the Members of the Public in Uasin Gishu County:

1. The Deputy County Commissioner indicated that gambling has really destroyed families in the area and most of the youths are involved in gambling.
2. Mr. Biwot Arap Bitok proposed that the Gaming law should not be hurried like other Acts, it should be well looked at for purposes of strong law that will help in proper regulation of the betting industry. He further indicated that betting/gambling has been a problem, youths stopped working but they want money, they leave their homes early in the morning to go and bet or play pool table and this has also led to increased crime because they have to rob people to get money for betting.
3. Mr. Biwot further indicated that the questions asked in radios to be answered by the listeners through messages for a certain amount of money and adverts of winners on television should be completely stopped or banned. He proposed that there has to be strict laws and the betting amounts should be made high as possible.
4. Mr. Ibrahim Murgor proposed complete ban of online or mobile betting.
5. Ms. Veronica Ondieki proposed that the slot machines be completely banned and those which are already in existence should be confiscated since all the coins have been consumed by these machines and the money is taken by the Chinese.
6. Ms. Rael Limo proposed that the betting amount should be increased to more than Kshs. 50 to limit youths and children from betting/gambling.
7. Mr. Abraham Chesire indicated that complete ban of betting/gambling will affect youths nad may be rendered jobless if there is no replacement with another activity since betting/gambling has become a source of employment to many youths. Government should open more factories to create jobs for youths.

8. Mr. Kipkemoi Koech indicated that the cost of startup is too high especially for opening casinos which might disadvantage Kenyans who may be interested in opening casinos and give opportunity to foreign investors.
9. Mr. Mutai Eliud indicated that slot machines were initially operated by the Chinese but currently, they are fully operated by Kenyans who do not have jobs hence get their source of income from operating the machines. There should be provision on taxation based on the number of slot machines being operated by one operator.
10. Ms. Salome Wangari proposed that there should be sensitization by the government on betting activities for Kenyans to understand that betting/gambling is a form of entertainment but not a source of income.
11. Mr. David Gitonga was concerned why some companies were denied licenses by the Betting Control and Licensing Board while other were allowed to operate. He indicated that if it is closure then there has to be a complete closure to all companies.
12. Mr. Wilfred Chesinge proposed that the Bill should give administration more powers to be able to deal with the illegal betting activities.
13. Mr. Barnabas Cherop proposed that betting/gambling should be in restricted areas in towns, not in the rural and more charges should be put.

### 5.6 NAKURU COUNTY

The following issues were raised by the Members of the Public in Nakuru County:

1. The Regional Commissioners indicated that gambling is a meness in the region especially slot machines and it is a challenge dealing with it, when culprits are arrested, they run to courts and obtain court orders. However, the administration has been using the orders by the Cabinet Secretary for Interior and Coordination of National government to confiscate and burn the slot machines. The machines are currently manufactured in Kericho. Another challenge is that some of the police officers are also in the business and collude with the operators whenever there is planned operation, but the administration officers have been put on performance contract and are supposed to report on the issues every two weeks.
2. It was noted that most of the affected individuals currently are women.
3. Members of the public noted that betting is totally an illegal activity which needs to be banned and all licenses issued to any betting company should be cancelled.
4. That the ownership of the betting companies' directors should consist of two thirds of the Kenyan citizens.
5. It was proposed that 50% of revenue collected should go to the National government, 20% to the county sports kitty to help in developing talents in the counties and 10% to support the National football team.
6. It was also proposed that any jackpot winner should be paid in lumpsum, the amount has to be broken down to Kshs. 20 million on the first payment and then Kshs. 100 million after 3 years based on the amount won. The payment should be made immediately to the account of the winner and any person who is willing to bet must have an account.
7. The age limit must be at 25-40 years for any person to bet.

8. Any online gaming or use of sms to be limited to Kshs. 500 for a person to bet.

### 5.7 NYERI COUNTY

The following issues raised by the Members of the Public in Nyeri County:

1. That the online gaming should completely be banned especially on phones which can easily be accessed by children and also the Chinese slot machines which are spread all over the villages.
2. The minimum bet amount should be at least Kshs. 1,000 to discourage those who cannot afford and children to stop betting.
3. The time for gambling/betting should be limited to the night when most of the people are a sleep especially the children and school goers.
4. The amount that has been won should be indicated out of how much the betting company has collected. This will also help in determining how much taxes the companies should pay.
5. The low administration officers should be given powers in the Bill and the role of police officers be clearly captured.

### 5.8 MERU COUNTY

The following issues were raised by the Members of the Public in Meru County:

1. There is need to impose huge penalties on gaming operators who does not comply with the law and strict regulations on the betting time.
2. The government should have a proper system to be able to monitor how much the betting companies collect and how much they submit as taxes.
3. The advertisements should be completely banned and there is need for tracking on those who are advertised as winners to determine whether they are real winners or they are being used by the betting companies to lore people to bet.
4. 50% of shareholding should be Kenyan citizens.
5. A certain percentage of the tax collected should be channeled back to the community for development (Community Social Responsibility).
6. It was noted that suicide cases on youths is on the rise because of betting/gambling after losing.
7. Mr. Stephen Mucheke indicated that the committee should benchmark with other countries where there are betting activities to learn on the international best practices and to determine whether they also use the illegal slot machines.
8. Mr. Boniface proposed that there should be a provision to come up with a questionnaire to be filled by any individual who is interested in betting or not with all the details to be able to regulate access to the system.
9. There should a provision for mandatory contribution to the community by the betting companies including employments.
10. Ms. Floric Gaiti indicated that youths and some of those who are employed no longer take their work seriously, they spend much of the time on either their phones or computers betting. Economy has also been affected because even the business community have resorted to betting in order to get quick money instead of working hard.

11. There is need for heavy taxes on betting companies and even the winners.
12. There is need for provision on declaration of wealth by any person who wants to bet before placing any bet.

## 6.0 COMMITTEE OBSERVATIONS

The Committee observed the following during public participation and engagement with various stakeholders:

1. The Betting, Lotteries and Gaming Act (Cap. 131) is an old piece of legislation that needed to be repealed and a new, robust legislation to be enacted to regulate gaming effectively in Kenya; thus, the Gaming Bill 2019 seeks to address these issues.
2. There were overwhelming views on the Bill from stakeholders with most stakeholders being of the view that the gaming industry needed to be regulated effectively but there needed to be a balance so as not to stifle the growth of the gaming industry in Kenya.
3. The definition of the term "winnings" elicited a lot of views from the stakeholders and the Committee took it into considered to amend the definition to provide that winnings mean the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under this Act.
4. The Gaming Appeals Tribunal provided in the Bill ought to be replaced with the Gaming Appeals Committee to ensure that there is expeditious resolution of disputes. In addition, it will be less costly in its operation since it will be meeting on a need basis.
5. Most stakeholders expressed their reservations on clauses 67 and 68 which provide for restriction of foreign servers and restriction on use of telecommunication platforms for online gaming respectively and the Committee has proposed to amend clause 67 and delete clause 68 of the Bill in order to address these concerns.
6. There is a need to amend clause 159 of the Bill to provide for a gaming advertisement fee payable to the Authority instead of the gaming advertisement tax as proposed in the Bill.
7. There is a need to expand the sources of funds for the Authority to include fees and levies.
8. The Second and Fourth Schedule need to be amended in order to reduce the amounts provided for licence fees and renewal fees respectively and to reduce the renewal period from three years to one year.
9. There is need to amend the Bill to rectify all errors that occasion inconsistencies within the Bill or are grammatically incorrect.
10. The minimum betting amount should remain as proposed in the Bill in order to promote responsible gambling and to protect the larger public.

## 7.0 COMMITTEE STAGE AMENDMENTS

Having considered the memoranda on each of the Clauses, the Committee wishes to propose the following amendments:

### LONG TITLE

THAT the long title of the Bill be amended by inserting the words "to delineate the functions of the National and County Governments" immediately after the word "Parliament".

### CLAUSE 2

**THAT** the Bill be amended in clause 2—

(a) in the definition of the term "gaming equipment" by—

(i) deleting paragraph (c);

(ii) renumbering the existing paragraphs.

**Justification:**

Gaming machine has been defined as any device which is operated *electronically* or mechanically or both. Therefore, the deletion of paragraph (c) aligns the definition of the term "gaming equipment" to the definition of the term "gaming machine".

(b) in the definition of the term "gaming employee" by deleting the words "a person" appearing immediately after the word "means";

**Justification:**

To correct a typographical error

(c) in the definition of the term "gaming premise" by deleting the word "the" appearing immediately after the words "access for";

**Justification:**

To correct a typographical error

(d) by inserting the following new definition of the term "licensed gaming premises" immediately after the definition of the term "licensed betting premises"—

"licensed gaming premises" means the premises specifically named, described and licensed in terms of this Act to which the public may resort for purposes of gaming;

**Justification:**

The term "licensed gaming premises" has been used in clauses 129 and 157(3) of the Bill

(e) in the definition of the term "manufacturer"—

(i) in paragraph (a) by inserting the words "of gaming services" at the end of the paragraph;

(ii) in paragraph (c) by inserting the words "of gaming services" at the end of the paragraph;

**Justification:**
For clarity of paragraphs (a) and (c).

(f) by deleting the definition of the term "net gaming revenue";

**Justification:**
It is gross gaming revenue which is used for tax purposes and what constitutes gaming revenue has already been defined.

(g) In the definition of the term "Principal Secretary" by deleting the word "Principle" appearing immediately after the words "means the" and substituting therefor the word "Principal";

**Justification:**
To correct a typographical error

(h) in the definition of the term "record" by deleting the word "matter" appearing immediately after the words "in any other" and substituting therefor the word "manner";

**Justification:**
To correct a typographical error

(i) in the definition of the term "stake" by deleting the word "hazard" and substituting therefor the word "risk";

**Justification:**
To enrich the definition of the term by using an ordinary, plain language

(j) in the definition of the term "ticket" by deleting the words "a chances of" appearing immediately after the words "participate in";

**Justification:**
To correct a typographical error

(k) deleting the definition of the term "Tribunal"

**Justification:**
The Committee proposes to establish the Gaming Appeals Committee in place of the Tribunal

(l) by deleting the definition of 'winning' and substituting therefor the following new definition—
"winnings" means the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under this Act;

(m) by inserting the following new definition of the term "collector" in the proper alphabetical order—
"Collector" means the Commissioner General of the Kenya Revenue Authority"

**Justification:**

The term "collector" has been used severally in the Bill.

(n) by inserting the following new definition of the term "Committee" in the proper alphabetical order—

"Committee" means the Gaming Appeals Committee established under clause 111;

**Justification:**

The Committee proposes to establish the Gaming Appeals Committee in place of the Tribunal

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in paragraph (d) by inserting the words "the National Lottery, the Gaming Appeals Committee" immediately after the words "the National Gaming Authority".

**Justification:**

The objects and purposes of the Act had omitted the providing of the establishment of the National Lottery and the proposed Gaming Appeals Committee.

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended by deleting paragraph (c).

**Justification:**

The Committee agreed to the proposed amendment since clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to (i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act; (ii)investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties.

**CLAUSE 7**

THAT clause 7 of the Bill be amended—

(a) in subclause (1)—

(i) in paragraph (a) by deleting the words "nominated by the Cabinet Secretary and";

**Justification:**

It is not within the mandate of the Cabinet Secretary to nominate the chairperson to be appointed by the President.

(ii) by deleting paragraph (e) and substituting it with the following new paragraph—

"(e) the Director General of Communications Authority of Kenya or a representative designated in writing;"

**Justification:**
Some clauses of the Bill, particularly on online gaming, require the assistance of the Communications Authority of Kenya. Having the Director General of the Communications Authority of Kenya in the Board will enhance the effectiveness of the Board.

(iii) by amending paragraph (f) by deleting the words "who shall hold a university degree in a relevant field from a university recognised in Kenya" and substitute therefor the words "by virtue of their knowledge and experience in gaming";
(iv) by inserting the following new paragraph immediately after paragraph (f)—
"(fa) one person nominated by the umbrella body of the operators in the gaming industry and appointed by the Cabinet Secretary;

**Justification:**

In order to include representation of the gaming industry operators.
(v) by deleting paragraph (g) and substituting therefor the following new paragraph—
" (g) one person nominated by the Council of County Governors and appointed by the Cabinet Secretary;"

**Justification:**
The amendment corrects an error in order to provide that one person shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary.
(vi)by amending paragraph (h) by deleting the words "and secretary to the Board";

**Justification:**
The Mwongozo Guidelines, the Code of Governance for State Corporations, recommends the provision of a Corporation Secretary who becomes secretary to the Board.
(b) In subclause (4) by inserting the following new subclause immediately after subclause 4—

"(5) The appointment of members under subclause 1 (f) and (g) shall be staggered to ensure that their terms do not expire at the same term"

**Justification:**
The Mwongozo Guidelines, the Code of Governance for State Corporations, recommends that the appointing authority should ensure that the tenures of Board members are staggered to ensure a phased transition.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

"(1) A person shall be appointed as a chairperson or a member of the Board if the person—
(a) is a Kenyan citizen;
(b) holds a university degree in a relevant field from a university recognized in Kenya;
(c) has a minimum of three years working experience in the relevant field; and
(d) meets the requirements of Chapter Six of the Constitution."

**Justification:**
Article 78(1) of the Constitution provides that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya.

(a) in subclause (2) by inserting the words "or any other lawful reasons" immediately after the word "misconduct".

**CLAUSE 9**
**THAT** clause 9 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

"(b) resigns from office by notice in writing to the President or the Cabinet Secretary as the case may be."

**Justification:**
The appointing authority for the chairperson is the President hence the resignation should be to the President too.

**CLAUSE 10**
**THAT** clause 10 of the Bill be amended in subclause (1) by inserting the words "for compliance with regulatory authorities" at the end of paragraph (f).

**Justification:**
To ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction.

**CLAUSE 11**
**THAT** clause 11 of the Bill be amended—

(i) in the introductory statement by inserting the word "the" immediately after the words "generality of the foregoing, the Authority shall have";

**Justification:**
To correct a typographical error.

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph—

"(c) open and operate a bank account with the authority of the National Treasury;"

**Justification:**
It brings clarity to the powers of the Authority on operation of a bank account.

(iii) by inserting the following new paragraphs after paragraph (c)—

(a) conduct security checks, vetting and due diligence in respect of gaming activities;
(b) conduct such investigations as maybe necessary for enforcing this Act;
(c) require any person to furnish such returns and information as maybe necessary for implementing the provisions of this Act;
(d) inquire into complaints against licensees;
(e) set conditions and terms of a license issued under this Act;
(f) charge fees and levies;
(g) impose fines and penalties;
(h) exercise all other powers conferred to it by this Act or any other written law.

**Justification:**
To provide for more comprehensive powers of the Authority.

**CLAUSE 12**
**THAT** the Bill be amended in clause 12 by deleting the word "of" appearing immediately after the word "procedure" and substituting therefor the words "for the".

**Justification:**
To correct typographical errors.

**NEW CLAUSE**
**THAT** the Bill be amended by inserting the following new clause immediately after clause 12—

Committees of the Board.

**12A.** The Board shall establish such committees as it considers necessary to assist it in the performance of its functions and exercise of any of its powers.

**CLAUSE 14**

**THAT** the Bill be amended in clause 14 deleting the word "disbursement" appearing immediately after the words "allowances and" and substituting the word "disbursements".

**Justification:**

To correct a typographical error.

**CLAUSE 15**

**THAT** the Bill be amended—

(a) in subclause (2) by—

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

"(b) holds a degree from a university recognised in Kenya;"

**Justification:**

To avoid restricting the qualifications to specific disciplines

(ii) deleting paragraph (c) and substituting therefor the following new paragraph—

"(c) has at least ten years' experience in senior management of a public or a private institution;"

**Justification:**

This is the generally acceptable practice in management

(b) in subclause (3) by deleting paragraph (a).

**Justification:**

This is in accordance with the Mwongozo Code.

**CLAUSE 20**

**THAT** the Bill be amended in clause 20—

(i) by numbering the existing subclause as "(1)";

(ii) in paragraph (a) by deleting the word "generating" and substituting therefor the word "operating".

(iii) by inserting the following new paragraphs immediately after paragraph (j);

"(ja) gaming equipment and devices manufacture or assembling;

(jb) gaming equipment and devices selling or distribution;

(jc) gaming equipment testing;

**Justification:**
To correct an omission.

**CLAUSE 23**
**THAT** the Bill be amended in clause 23 in subclause (3) by deleting the word "shall" and substituting therefor the word "may".

**Justification:**
Renewal of licences should be discretionary and not mandatory.

**CLAUSE 24**
**THAT** the Bill be amended in clause 24—

(a) in subclause (1) in paragraph (b) by deleting the word "issue" appearing immediately after the words "for the" and substituting therefor the word "issuance";
(b) in subclause (3) by deleting the word "Tribunal" appearing immediately after the words "an appeal at the" and substituting therefor the word "Committee".

**Justification:**

(i) To correct a typographical error;
(ii) To simplify dispute resolution process.

**CLAUSE 25**
**THAT** the Bill be amended in clause 25 by deleting the words "charged with any offence involving fraud, dishonesty or any offence related to gaming" and substituting therefor the words "found to be in breach of the provisions of this Act".

**Justification:**
The nature of the reasons that may lead to the suspension of a licence under the Act, e.g. fraud may require investigations, prosecution which involve other multi-agency approach. Such issues are ordinarily beyond the mandate of the Board.

**CLAUSE 26**
**THAT** the Bill be amended in clause 26—

(a) in subclause (2) by deleting the word "revocation" and substituting therefor the words "intended revocation specifying the grounds for such revocation".
(b) in subclause (6) by deleting the words "Tribunal within twenty one days" and substituting therefor the words "Committee within fourteen days".

**Justification:**

(i) In order to provide for fair administrative action;

(ii) In order to align subclause (6) to the mandate of the proposed Gaming Appeals Committee.

**CLAUSE 28**

**THAT** the Bill be amended in clause 28 by deleting the words "or permit holder" appearing immediately after the word "licensee".

**Justification:**

For consistency with the functions of the Board to issue licenses

**CLAUSE 29**

**THAT** the Bill be amended in clause 29 by deleting the words "shillings one hundred thousand" and substituting therefor the words "requisite fees".

**Justification:**

Since the transfer of licence fees shall change from time time, the use of the words "requisite fees" will not necessitate future amendment to the Bill if enacted.

**CLAUSE 30**

**THAT** the Bill be amended in clause 30—

(a) in subclause (1) by deleting the words "in any gaming premise for which a license has been granted" appearing immediately after the words "under this Act";
(b) in subclause (2) by deleting the word "cancellation" appearing immediately after the words "including revocation or" and substituting therefor the word "suspension"

**Justification:**

(i) To avoid redundancy;
(ii) Revocation and cancellation have the same thing, the Bill also omitted suspension which is also an action which can be taken by the Board.

**CLAUSE 31**

**THAT** the Bill be amended in clause 31 by deleting the words "one hundred thousand shillings" and substitute therefore with the words "the prescribed fees".

**Justification:**

The fees shall be prescribed from time to time by the Cabinet Secretary

**CLAUSE 36**

**THAT** the Bill be amended in clause 36 in subclause (2) by deleting the words "to audit the accounts" appearing immediately after the word "appointment".

**Justification:**
To correct the grammatical error and for clarity.

**CLAUSE 37**
**THAT** the Bill be amended by deleting clause 37 and substituting therefor the following new clause—

Gaming tax.

37. (1) There shall be a tax to be known as Gaming Tax chargeable at the rate of fifteen percent of the gross gaming revenue

(2) The tax under subsection (1) shall be paid to the Collector on or before the 20th day of the following month.

**NEW CLAUSE**
**THAT** the Bill be amended by inserting the following new clause immediately after clause 37—

Gaming levy.

37A. (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.

(2) The Board shall in consultation with the Cabinet Secretary determine and gazette the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed 1% of the monthly gross gaming revenue.

(3) The levy collected under this section shall be paid into an account operated by the Authority on or before the 20th day of the following month.

(4) A person who fails to pay levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the Authority all outstanding amounts of levy together with a penalty of two hundred thousand shillings for each such payment.

**Justification:**
To facilitate operations of the Authority

**CLAUSE 38**

**THAT** the Bill be amended in clause 38—

(a) In subclause (1) by deleting the word "licence" appearing immediately after the words "A holder of a gaming" and substituting therefor the words "premises permit";

(b) in subclause (2) in the introductory statement by inserting the word "premises" immediately after the word "gaming".

**Justification:**
To properly define the nature of the permit issued under the Act

**CLAUSE 40**

**THAT** the Bill be amended in clause 40 in subclause (1) by inserting the words "by the County Government" immediately after the words "permit issued by them under this Act".

**Justification:**
The county government should only be able to revoke permits issued by them in the Act.

**CLAUSE 42**

**THAT** the Bill be amended in clause 42 in subclause (2) by inserting the words "with assistance of the Board" immediately after the word "transfer".

**Justification:**
Investigations is one of the powers accorded to the Authority by the Bill.

**CLAUSE 46**

**THAT** the Bill be amended in clause 42 in subclause (1) by deleting the words "make totalisator's rules" and substituting therefor the words "rules for the operation of a totalisator".

**Justification:**
To correct typographical errors.

**CLAUSE 48**

**THAT** the Bill be amended in clause 48—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

"(1) A promoter of a race meeting who desires to permit a bookmaker to carry out bookmaking at a race meeting shall apply to the Board for a licence in the prescribed form upon payment of the prescribed fees."

(b) in subclause (2) by deleting the word "permit" appearing at the end of the subclause and substituting therefor the word "licence";

(c) in subclause (3) by deleting the word "premise" appearing at the end of the subclause and substituting therefor the word "racecourse".

**Justification:**

(i) For clarity of the subclause;
(ii) To align the provision with its intentions.

**CLAUSE 49**

**THAT** the Bill be amended in clause 49 in subclause (2) by deleting the words "twenty five and a maximum of forty five per centum" and substituting therefor the words "thirty per centum".

**Justification:**

To put a distinct percentage so as to ensure equity.

**CLAUSE 50**

**THAT** the Bill be amended in clause 50 in subclause (2)—

(a) in paragraph (c) by inserting the words "of the lottery" immediately after the words "expected proceeds";
(b) by inserting the following new subclause immediately after clause (2)—

"(3) In this section, the term "gross proceeds" means the total proceeds received from a lottery before any deductions are made."

**Justification:**

To make the paragraph (c) clear and to clarify the meaning of the term "gross proceeds" as used in the clause.

**CLAUSE 52**

**THAT** the Bill be amended in clause 52 in subclause (2)—

(a) in the introductory statement by deleting the word "issue" appearing immediately after the words "upon the" and substituting therefor with the word "issuance";
(b) in paragraph (b) by deleting the words "who operates on a betting premises or a person" appearing immediately after the words "any person";
(c) in paragraph (d) by deleting the words "not exceeding twenty shillings" appearing immediately after the words "a price not" and substituting therefor the words "not below fifty shillings"

**Justification:**

(i) To amend typographical errors and to bring clarity to the provisions;
(ii) To promote responsible gaming.

**CLAUSE 53**

**THAT** the Bill be amended in clause 53 in subclause (2)—

(a) in paragraph (a) by deleting the words "to be" appearing immediately after the words "or chance" and substitute therefor the word "is";
(b) by deleting paragraph (f) and substituting therefor the following new paragraph—
"(f) requiring that the price of a ticket or chance is displayed on each ticket;"
(c) in subclause (4), by deleting the word "who" appearing immediately after the words "under this section" and substituting therefor the word "and".

**Justification:**
To correct a typographical error and maintain consistency.

**CLAUSE 54**

**THAT** the Bill be amended in clause 54 in subclause (2) in paragraph (c) by deleting the word "and" appearing immediately after the words "or a chance".

**Justification:**
To correct typographical errors.

**CLAUSE 57**
**THAT** the Bill be amended in clause 57—

(a) in subclause (2) by inserting the words "and any other relevant government agencies" at the end of the subclause;
(b) in subclause (3) by inserting the following new paragraph immediately after paragraph (c)—

"(ca) a valid telecommunications licence;"

**Justification:**
To enable other relevant Government agencies such as KRA have access to the systems to ensure compliance with the Act.

**CLAUSE 60**

**THAT** the Bill be amended in clause 60 by deleting sub-clause (2) and substituting therefor the following new subclause—

"(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"

**Justification:**
To deter a licensee from allowing illegal gaming.

**CLAUSE 61**
**THAT** the Bill be amended in clause 61 in subclause (2) by inserting the words "casino, game of chance" immediately after the word "lottery".

**Justification:**
To ensure that children do not participate in any gambling activities.

**CLAUSE 62**
**THAT** the Bill be amended in clause 62 in subclause (4)—

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

"(d) mobile money transfer;"

**Justifications:**

(i) To provide for other modes of money transfer;
(ii) To remove the use of credit cards to gamble or bet;
(iii) To correct typographical errors.

**CLAUSE 68**
**THAT** clause 68 of the Bill be deleted.

**Justification:**
Stakeholders had proposed deletion of the clause indicating that telecommunication is the essence off online gaming and banning its use will render online gaming obsolete. Also, stakeholders indicated that half of the companies in the world now use cloud based systems which could sit anywhere.

**CLAUSE 69**

**THAT** the Bill be amended in clause 69 by deleting the word "Tribunal" appearing immediately after the words "appeal to the".

**Justification:**
The amendment is aligned to the Committee's proposed amendment to establish a Gaming Appeals Committee.

**CLAUSE 71**
**THAT** the Bill be amended in clause 71 in subclause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

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

**Justification:**
To bring clarity to licensing condition under paragraph (c) and to expand its application to direct or indirect financial interest.

**CLAUSE 72**

**THAT** the Bill be amended in clause 72 by deleting the word "the" appearing immediately after the words "prescribed by" and substituting therefor with the word "this".

**Justification:**
To correct a typographical error.

**CLAUSE 79**
**THAT** the Bill be amended in clause 79 in subclause (3) in paragraph (f) by deleting the word "prizes" appearing at the beginning of the paragraph and substituting therefor with the word "price".

**Justification:**
To correct a typographical error and differentiate 'prize' from 'price'

**CLAUSE 80**
**THAT** the Bill be amended in clause 80—

(i) in subclause (5) by deleting the expression "(3)" and substituting therefor the expression "(4)";
(ii) in subclause (6) by deleting the word "prize" appearing immediately after the words "the form and prize" and substituting therefor the word "price".

**Justification:**

To correct typographical errors.

**CLAUSE 88**

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

"(1) The gross revenue of a national lottery shall be distributed as follows—

(a) forty per centum to the holders of winning tickets;

(b) twenty per centum to licensee to meet its administrative costs;

(c) thirty per centum to the Fund established under section 89 for distribution to different good causes related to sports; and

(d) ten per centum to agents and retailers of the Lottery."

**Justification:**

The amendment seeks to increase the apportionment to good causes related to sports in order to promote the sports industry in Kenya.

**CLAUSE 89**

**THAT** the Bill be amended in clause 89—

(i) by renumbering the existing subclauses (3) and (2) as (2) and (3);

(ii) in subclause (2) in paragraph (d) by deleting the word "Board" appearing at the end of the paragraph.

**Justification:**

To correct typographical errors.

**CLAUSE 91**

**THAT** the Bill be amended in clause 91 in subclause (1)—

(i) in paragraph (a) by deleting the words "nominated by the Cabinet Secretary and";

(ii) by deleting paragraph (d) and substituting therefor the following new paragraph—

"(d) one person who shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary";

**Justification:**

The amendments correct anomalies in the provision. A Cabinet Secretary cannot nominate a chairperson of a Fund for the President to appoint. Paragraph (d) did not provide for the appointing authority.

**CLAUSE 94**

**THAT** the Bill be amended in clause 94 in subclause (1) in paragraph (d) by deleting the words "of economic crimes or fraud" appearing immediately after the words "criminal offence".

**Justification:**

To ensure that all criminal offences are covered and not limited to economic crime and fraud only

**CLAUSE 101**

**THAT** the Bill be amended in clause 101 in subclause (1) by deleting the word "related" appearing immediately after the words "and other" and substituting therefor with the word "forms of".

**Justification:**

In order to bring clarity to the provision.

**CLAUSE 103**

**THAT** the Bill be amended in clause 103 by deleting the word "of" appearing immediately after the words "ensuring compliance" substituting therefor the word "with".

**Justification:**

To correct typographical error

**CLAUSE 110**

**THAT** the Bill be amended in clause 110 in subclause (1)—

(a) by deleting the words "Betting and" appearing at the beginning of the subclause;

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

" (a) be located in a licensed casino only;"

**Justification:**

(i) Betting machines are covered under subclause (2).

(ii) To correct typographical errors.

**CLAUSE 124**

**THAT** the Bill be amended in clause 124—

(a) by inserting the following new paragraph immediately after paragraph (c)—

"(ca)Except where otherwise provided, all monies recovered and charges, fees, levies, grants, donations, endowments, fines, composition sums and financial penalties collected by the Authority under this Act;"

(b) in paragraph (c) by inserting the words "fees" immediately after the words "such" appearing at the beginning of the paragraph;

(c) in paragraph (e) by deleting the word "lend" appearing immediately after the words "donated or" and substituting therefor the word "lent".

**Justification:**
To include other sources of funds applicable to the Authority.

**CLAUSE 134**
**THAT** the Bill be amended in clause 134 by inserting the word "or Collector" immediately after the word "Board,"

**Justification:**
This is to provide for penalties for offences in relation to failure to file returns or any other information as may be deemed necessary by the Collector.

**CLAUSE 140**
**THAT** the Bill be amended in clause 140—

(a) in paragraph (a) by deleting the word "betting" appearing at the end of the paragraph and substituting therefor the word "gaming";
(b) in paragraph (b) by deleting the word "betting" appearing immediately after the words "used as an unlicensed" and substituting therefor the word "gaming";
(c) in paragraph (c) by deleting the word "betting" appearing immediately after the words "bet in unlicensed" and substituting therefor the word "gaming";
(d) in paragraph (d) by deleting the word "betting" appearing immediately after the words "business of unlicensed" and substituting therefor the word "gaming";

**Justification:**
In order to cover all gaming activities.

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

**Justification:**
To correct a typographical error.

**CLAUSE 146**

**THAT** the Bill be amended in clause 144 in subclause (2) in paragraph (b) by inserting the word "of" immediately after the words "of a promoter".

**Justification:**

To correct a clerical error.

**CLAUSE 154**

**THAT** the Bill be amended in clause 154 by deleting the words "five hundred thousand" appearing immediately after the words "a fine not exceeding" and substituting therefor the words "one million".

**Justification:**

In order to discourage malpractice in gaming activities.

**CLAUSE 155**

**THAT** the Bill be amended in clause 155 by inserting the words "the Authority" immediately after the words "any condition imposed by".

**Justification:**

In order to align licences with the Authority and permits with county governments.

**CLAUSE 157**

**THAT** the Bill be amended in clause 157 in subclause (3) by inserting the words "or to imprisonment for a term not exceeding one year or to both" at the end of the subclause.

**Justification:**

In order to provide for imprisonment which was missing in the provision.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 159—

| | |
|---|---|
| Prosecution of offences. | **159A.** (1) The Authority shall, pursuant to Article 157(12) of the Constitution, have the power to undertake prosecution of any offence under this Act.<br><br>(2) An officer duly authorised in writing by the Authority may conduct a prosecution for any offence under this Act. |

**Justification:**

To provide for prosecutorial powers of officers of the Board in line with other regulatory bodies such as section 104 of the Kenya Communications Act No. 2 of 1998.

**CLAUSE 158**

**THAT** the Bill be amended in clause 158 by—

(a) numbering the existing subclause (1) by inserting the expression "(1)";
(b) renumbering the existing subclause "(3)" as "(2)"
(c) inserting the following new subclause immediately after subclause (3)—

(3) A person shall not—

(a) hold himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;
(b) display 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.

**CLAUSE 159**

**THAT** the Bill be amended by deleting clause 159 and substituting therefor the following new clause—

Gaming advertisement fee

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

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

**CLAUSE 160**

**THAT** the Bill be amended in clause 160 by inserting the word "be" immediately after the words "commission of an offence to".

**Justification:**

To correct a clerical error.

**CLAUSE 162**

**THAT** the Bill be amended in clause 162—

(a) in subclause (2) by inserting the following new paragraph immediately after the paragraph (g)—

"(ga) fees or levies;"

(b) in subclause (3) in paragraph (c) inserting the words "Interpretation and" immediately after the words "set out in the".

**Justification:**

(i) It has been proposed that one of the sources of funds for the Authority is fees and levies. The amendment further provides for this;

(ii) To correct a clerical error.

**PART XIII**

**THAT** the Bill be amended by deleting Part XIII and substituting therefor the following new Part—

**PART XIII¬DISPUTE RESOLUTION MECHANISM**

Gaming Appeals Committee.

111. (1) There is hereby established a committee to be known as the Gaming Appeals Committee to consider and decide appeals under this Act.

(2) The Cabinet Secretary shall, by notice in the Gazette, appoint the following persons to serve in the Committee—

(a) a representative of the Principal Secretary for the time being responsible for matters relating to gaming;

(b) a representative of the Attorney-General;

(c) a representative of the Inspector General of Police;

(d) a representative of the Consumer Protection Advisory Committee;

(e) a representative from Association of Gaming Operators;

(f) three other persons with knowledge and experience in gaming matters

(3) The quorum for a meeting of the appeals committee shall be five members.

(4) The functions of the appeals committee shall be to hear and determine appeals—

(a) against the decision of the Authority;

(b) regarding complaints arising out of the outcome of a gaming transaction;

(c) regarding complaints arising out of the functionality of gaming machines and equipment; and

(d) regarding any other matter as may be prescribed by this Act or referred to it by the Authority.

(5) An appeal to the Committee shall automatically operate as a stay of the decision appealed against.

(6) The Committee shall convene as and when an appeal has been filed.

(7) Save as expressly provided in this Act, the Committee shall regulate its own procedure.

(7) The Ministry shall provide secretariat services for the Committee.

112. Members of the Committee shall be paid such remuneration and allowances as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

113. The Authority may refer a matter or complaint to the Committee for hearing and determination.

114. A person aggrieved by the decision of the Committee, may appeal to the High Court within fourteen days from the date of the decision of the Committee.

**Justification:**

The proposed Gaming Appeals Committee will ensure that there is expeditious resolution of disputes. In addition, it will be less costly in its operation since it will be meeting on a need basis.

**SECOND SCHEDULE**

**THAT** the Bill be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

**SECOND SCHEDULE (s. 22(1)(a))**

**Licensing fees**

| **Type of gaming** | **Amount (shillings)** |
|---|---|
| (a) All forms of online gaming | fifty million |
| (b) Casinos including public gaming for conducting tables and slots machines | ten million |
| (c) Non-online bookmakers | twenty million |
| (d) Totalisator | five Million |
| (e) Prize competition | ten million |
| (f) Non-online public lotteries, private lotteries and pool betting scheme | fifteen million |
| (g) Amusement with prizes | one million |
| (h) Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery | five hundred thousand |

**Justification:**
The Licensing fees have been reduced in order to take into consideration the views from the stakeholders who felt that the amounts were extremely high.

**THIRD SCHEDULE**

**THAT** the Bill be amended by deleting paragraph (f) and substituting therefor the following new paragraph—

"(f) Tax compliance certificate;"

**FOURTH SCHEDULE**

**THAT** the Bill be amended by deleting the Fourth Schedule and substituting therefor the following new Schedule—

**FOURTH SCHEDULE**

**Renewal of licence s. 23(3)**

| Type of gaming | Renewal period | Renewal fee (shillings) |
|---|---|---|
| (a) Casinos including public gaming for conducting tables and slots machines | one year | five million |
| (b) Online gaming | one year | fifteen million |
| (c) Non-online bookmakers | one year | five million |
| (d) Totalisator | one year | one million |
| (e) Prize competition | one year | five hundred thousand |
| (f) Non-online gaming including book makers, online casinos, online lotteries | one year | three million |
| (g) Amusement with prizes | one year | Five hundred thousand |
| (h) A premise or a shop operating under a licence of online | one year | Three million |

| | |
|---|---|
| | gaming including online bookmaker, online casino and online lottery |

**Justification:**

The renewal fees have been reduced in order to take into consideration the views from the stakeholders who felt that the amounts were extremely high. The renewal period has been reduced from three years to one year in order to effectively regulate the industry.

**SIGNED:** ..... **DATE:** 13/11/2019

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

**THE CHAIRPERSON**

**DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM**

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

We, the undersigned Honorable Members of the Departmental Committee on Sports, Culture and Tourism, today 12th November, 2019 do hereby affix our signatures to this **Report on the Consideration of the Gaming Bill, 2019** to affirm our approval and confirm its accuracy, validity and authenticity: -

| | | |
|---|---|---|
| 1. | The Hon. (Dr.) Victor Kioko Munyaka, MP. | |
| 2. | The Hon. (Dr.) Korei Ole Lemein, MP. | |
| 3. | The Hon. Christopher Omulele, MP. | |
| 4. | The Hon. (Dr.) Christine Ombaka, MP. | |
| 5. | The Hon. Cyprian Kubai Iringo, MP. | |
| 6. | The Hon. Jones Mlolwa, MP. | |
| 7. | The Hon. Daniel Wanyama Sitati, MP. | |
| 8. | The Hon. Benard Masaka Shinali, MP. | |
| 9. | The Hon. (Prof.) Jacqueline Oduol, MP. | |
| 10. | The Hon. (Dr.) Tecla Chebet Tum, MP. | |
| 11. | The Hon. Jane Jepkorir Kiptoo Chebaibai, MP. | |
| 12. | The Hon. Lydia Haika Mnene Mizighi, MP. | |
| 13. | The Hon. George Risa Sunkuyia, MP. | |
| 14. | The Hon. Annie Wanjiku Kibeh, MP. | |
| 15. | The Hon. Sylvanus Maritim, MP. | |
| 16. | The Hon. Jeremiah Lomurukai, MP. | |
| 17. | The Hon. Charles Ngusya Nguna, MP. | |
| 18. | The Hon. Titus Mukhwana Khamala, MP. | |
| 19. | The Hon. Charles Kamuren, MP | |

**REPUBLIC OF KENYA**

**Twelfth Parliament** **Third Session**

**THE NATIONAL ASSEMBLY**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**MINUTES OF THE 47TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON TUESDAY 12TH NOVEMBER, 2019 IN THE BOARD ROOM ON 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 11:50 AM**

**PRESENT**

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

**APOLOGY**

1. The Hon. Dr. Christine Ombaka, MP.
2. The Hon. Benard Masaka Shinali, MP.
3. The Hon. (Dr.) Tecla Chebet Tum, MP.
4. The Hon. Titus Mukhwana Khamala, MP.
5. The Hon. Sylvanus Maritim, MP.
6. The Hon. Jeremiah Lomorukai, MP.

**IN-ATTENDANCE**
**NATIONAL ASSEMBLY**
**THE SECRETARIAT**

| | | | |
|---|---|---|---|
| 1. | Mr. Samuel Kalama | - | Senior Clerk Assistant |
| 2. | Mr. Fredrick Otieno | - | Second Clerk Assistant |
| 3. | Mr. Salem Lorot | - | Legal Counsel |
| 4. | Ms. Sheila Chebotibin | - | Sergeant At-Arm |
| 5. | Mr. John Mungai | - | Audio Recording Officer |

**MIN.NO.NA/SCT/2019/224: PRELIMINARIES & ADOPTION OF AGENDA**

The Chairperson called the meeting to order at ten minutes to noon and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. Kubai Iringo, MP and the Hon. Jones Mlolwa, MP respectively.

**Agenda:**

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of Previous Minutes
5. Matters arising
6. Pending Bills: One (1)
    i. The Gaming Bill, 2019
7. Pending Petition(s): None
8. Questions: None
9. **Consideration and adoption of the Report on Gaming Bill, 2019**
10. Any Other Business
11. Adjournment & Date for the Next Sitting

**MIN.NO.NA/SCT/2019/225: CONFIRMATION OF MINUTES OF PREVIOUS SITTING**

1. Minutes of the 44th sitting held on 24th October, 2019 were confirmed as a true record of the proceedings having been proposed and Seconded by the Hon. Charles Ngusya Nguna, MP and the Hon. Christopher Omulele, MP respectively.
2. Minutes of the 45th sitting held on 5th November, 2019 were confirmed as a true record of the proceedings having been proposed and Seconded by the Hon. Jones Mlolwa, MP and the Hon. Kubai Iringo, MP respectively.

**MIN.NO.NA/SCT/2019/226: MATTERS ARISING**

Under **MIN.NO.NA/SCT/2019/217 Submission by the Presidents of the Federations on the failure to be funded by the National Sports Fund**

It was reported that the Committee met with the Presidents of federations in which they demonstrated their frustrations and failure to be funded by the Ministry of Sports, Culture and Heritage, specifically the State Department of Sports and the National Sports Fund. Members raised concerns on how the Sports sector is currently being managed by the Ministry of Sports based on the complaints by the federations and the public outcry. The Committee resolved that it will objectively continue with its inquiry into the management of stadiums and the funding of National Teams and come up with binding recommendations that will help cure the mess in the sector and to ensure full implementation of the Sports Act, 2016.

**MIN.NO.NA/SCT/2019/227: CONSIDERATION AND ADOPTION OF THE REPORT ON GAMING BILL, 2019**

The Committee considered and unanimously adopted the report on the consideration of the Gaming Bill, 2019 having been proposed and seconded by the Hon. Kubai Iringo, MP and the Hon. George Sunkuyia, MP respectively.

**MIN.NO.NA/SCT/2019/228: ANY OTHER BUSINESS**

The following matters arose

1. **Status of Stadia in the Country**
   (i) The Committee resolved to visit Nyayo Stadium Swimming Pool, Stadium Hotel and indoor arena at Kasarani, Marsabit, Ruringu, Kamariny and Kinoru Stadiums in one week's time.
   (ii) Secretariat to undertake a detailed analysis and research on the issues raised and present to the Committee.
2. **Tourism Sector**

The Meeting was informed that the Cabinet Secretary for Tourism and Wildlife established and launched a new Kenya Convention Bureau under the State Department of Tourism despite his indications that he wanted to reduce the parastatals under the department. The Committee deliberated on this and was concerned on how the decision to come up with entity was arrived at and failure to involve the Committee in the process.

It was further noted that the Cabinet Secretary created a board to be in charge of Mama Ngina Water Front which is just a public place even though it was stopped by the court. It was resolved that:

(i) The secretariat to undertake research and obatin facts on the issues and present to the Committee

(ii) The Cabinet Secretary to be invited for a meeting to address the issues including the status of Ushanga Kenya Initiative.

**3. International Conference on Population and Development (ICPD 25)**

The Hon. Prof. Jacqueline Oduol, MP raised concern over the exclusion of the Departmental Committee on Sports, Culture and Tourism from participation in the above-mentioned conference and yet the mandate of the Committee handles aspect of population.

**East Africa Interparliamentary Games**

The Committee nominated the following Members to form part of the delegation that will participate in the upcoming for the EALA Games in Kampala, Uganda.

1. The Hon. (Dr.) Korei Ole Lemein, MP. - **Vice Chairperson**
2. The Hon. Dr. Christine Ombaka, MP.
3. The Hon. Kubai Iringo, MP.
4. The Hon. Jones Mlolwa, MP.
5. The Hon. (Prof.) Jacqueline Oduol, MP.
6. The Hon. George Risa Sunkuyia, MP.
7. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP
8. The Hon. (Dr.) Tecla Chebet Tum, MP.
9. The Hon. Titus Mukhwana Khamala, MP.
10. The Hon. Jeremiah Lomorukai, MP.
11. The Hon. Charles Kamuren, MP.

**MIN.NO.NA/SCT/2019/229: ADJOURNMENT AND DATE OF NEXT MEETING**

There being no other business, the meeting was adjourned at half past one O'clock and to reconvene on Thursday, 14th November, 2019.

**Signed**.....

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

**Date**.....13/11/2019.....

**Twelfth Parliament** **REPUBLIC OF KENYA** **Third Session**

**THE NATIONAL ASSEMBLY**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**MINUTES OF THE 46TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 7TH NOVEMBER, 2019 IN THE COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 11:55 AM**

**PRESENT**

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

**APOLOGY**

1. The Hon. Dr. Christine Ombaka, MP.
2. The Hon. Benard Masaka Shinali, MP.
3. The Hon. (Dr.) Tecla Chebet Tum, MP.
4. The Hon. Daniel Wanyama Sitati, MP.
5. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
6. The Hon. Titus Mukhwana Khamala, MP.
7. The Hon. Sylvanus Maritim, MP.
8. The Hon. Jeremiah Lomorukai, MP.

**IN-ATTENDANCE**
**NATIONAL ASSEMBLY**
**THE SECRETARIAT**

| | | | |
|---|---|---|---|
| 1. | Mr. Samuel Kalama | - | Senior Clerk Assistant |
| 2. | Mr. Fredrick Otieno | - | Second Clerk Assistant |
| 3. | Mr. Salem Lorot | - | Legal Counsel |
| 4. | Ms. Sheila Chebotibin | - | Sergeant At-Arm |
| 5. | Mr. Simon Muinde | - | Audio Recording Officer |

**MIN.NO.NA/SCT/2019/220: PRELIMINARIES & ADOPTION OF AGENDA**

The Chairperson called the meeting to order at five minutes to noon and said a prayer. The agenda of the meeting was adopted as hereunder after being proposed and seconded by the Hon. Kubai Iringo, MP and the Hon. (Dr.) Lemein Korei, MP respectively.

**Agenda:**

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of Previous Minutes
5. Matters arising
6. Pending Bills: One (1)
    i. The Gaming Bill, 2019
7. Pending Petition(s): None
8. Questions: None
9. **Consideration and adoption of the Report on Gaming Bill, 2019**
10. Any Other Business
11. Adjournment & Date for the Next Sitting

**MIN.NO.NA/SCT/2019/221: CONFIRMATION OF MINUTES OF PREVIOUS SITTING**

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

**MIN.NO.NA/SCT/2019/222: CONSIDERATION AND ADOPTION OF THE REPORT ON GAMING BILL, 2019**

The Committee considered the Report and adopted the following recommendations:

**LONG TITLE**

THAT the long title of the Bill be amended by inserting the words "to delineate the functions of the National and County Governments" immediately after the word "Parliament".

**CLAUSE 2**

**THAT** the Bill be amended in clause 2—

(a) in the definition of the term "gaming equipment" by—
    (i) deleting paragraph (c);
    (ii) renumbering the existing paragraphs.

**Justification:**
Gaming machine has been defined as any device which is operated *electronically* or mechanically or both. Therefore, the deletion of paragraph (c) aligns the definition of the term "gaming equipment" to the definition of the term "gaming machine".

(b) in the definition of the term "gaming employee" by deleting the words "a person" appearing immediately after the word "means";

**Justification:**
To correct a typographical error

(c) in the definition of the term "gaming premise" by deleting the word "the" appearing immediately after the words "access for";

**Justification:**
To correct a typographical error

(d) by inserting the following new definition of the term "licensed gaming premises" immediately after the definition of the term "licensed betting premises"—
"licensed gaming premises" means the premises specifically named, described and licensed in terms of this Act to which the public may resort for purposes of gaming;

**Justification:**
The term "licensed gaming premises" has been used in clauses 129 and 157(3) of the Bill

(e) in the definition of the term "manufacturer"—
    (i) in paragraph (a) by inserting the words "of gaming services" at the end of the paragraph;
    (ii) in paragraph (c) by inserting the words "of gaming services" at the end of the paragraph;

**Justification:**
For clarity of paragraphs (a) and (c).

(f) by deleting the definition of the term "net gaming revenue";

**Justification:**
It is gross gaming revenue which is used for tax purposes and what constitutes gaming revenue has already been defined.

(g) In the definition of the term "Principal Secretary" by deleting the word "Principle" appearing immediately after the words "means the" and substituting therefor the word "Principal";

**Justification:**
To correct a typographical error

(h) in the definition of the term "record" by deleting the word "matter" appearing immediately after the words "in any other" and substituting therefor the word "manner";

**Justification:**
To correct a typographical error

(i) in the definition of the term "stake" by deleting the word "hazard" and substituting therefor the word "risk";

**Justification:**
To enrich the definition of the term by using an ordinary, plain language

(j) in the definition of the term "ticket" by deleting the words "a chances of" appearing immediately after the words "participate in";

**Justification:**
To correct a typographical error

(k) deleting the definition of the term "Tribunal"

**Justification:**
The Committee proposes to establish the Gaming Appeals Committee in place of the Tribunal

(l) by deleting the definition of 'winning' and substituting therefor the following new definition—

"winnings" means the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under this Act;

(m) by inserting the following new definition of the term "collector" in the proper alphabetical order—

"Collector" means the Commissioner General of the Kenya Revenue Authority"

**Justification:**
The term "collector" has been used severally in the Bill.

(n) by inserting the following new definition of the term "committee" in the proper alphabetical order—

"Committee" means the Gaming Appeals Committee established under clause 111;

**Justification:**
The Committee proposes to establish the Gaming Appeals Committee in place of the Tribunal

**CLAUSE 3**
**THAT** clause 3 of the Bill be amended in paragraph (d) by inserting the words "the National Lottery, the Gaming Appeals Committee" immediately after the words "the National Gaming Authority".

**Justification:**
The objects and purposes of the Act had omitted the providing of the establishment of the National Lottery and the proposed Gaming Appeals Committee.

**CLAUSE 5**
**THAT** clause 5 of the Bill be amended by deleting paragraph (c).

**Justification:**
The Committee agreed to the proposed amendment since clause 10(1) (h) and (i) of the Bill provides for two of the functions of the proposed National Gaming Authority as to (i) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with the Act; (ii)investigate, monitor and evaluate compliance of policies and regulations under the Act by the counties.

**CLAUSE 7**
THAT clause 7 of the Bill be amended—

(a) in subclause (1)—

(i) in paragraph (a) by deleting the words "nominated by the Cabinet Secretary and";

**Justification:**
It is not within the mandate of the Cabinet Secretary to nominate the chairperson to be appointed by the President.

(ii) by deleting paragraph (e) and substituting it with the following new paragraph—

"(e) the Director General of Communications Authority of Kenya or a representative designated in writing;"

**Justification:**
Some clauses of the Bill, particularly on online gaming, require the assistance of the Communications Authority of Kenya. Having the Director General of the Communications Authority of Kenya in the Board will enhance the effectiveness of the Board.

(iii) by amending paragraph (f) by deleting the words "who shall hold a university degree in a relevant field from a university recognised in Kenya" and substitute therefor the words "by virtue of their knowledge and experience in gaming";

(iv) by inserting the following new paragraph immediately after paragraph (f)—

"(fa) one person nominated by the umbrella body of the operators in the gaming industry and appointed by the Cabinet Secretary;

**Justification:**
In order to include representation of the gaming industry operators.

(v) by deleting paragraph (g) and substituting therefor the following new paragraph—

" (g) one person nominated by the Council of County Governors and appointed by the Cabinet Secretary;"

**Justification:**
The amendment corrects an error in order to provide that one person shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary.

(vi)by amending paragraph (h) by deleting the words "and secretary to the Board";

**Justification:**
The Mwongozo Guidelines, the Code of Governance for State Corporations, recommends the provision of a Corporation Secretary who becomes secretary to the Board.

(b) In subclause (4) by inserting the following new subclause immediately after subclause 4—

"(5) The appointment of members under subclause 1 (f) and (g) shall be staggered to ensure that their terms do not expire at the same term"

**Justification:**
The Mwongozo Guidelines, the Code of Governance for State Corporations, recommends that the appointing authority should ensure that the tenures of Board members are staggered to ensure a phased transition.

**CLAUSE 8**
**THAT** clause 8 of the Bill be amended—

(a) in subclause (1) by—

(i) inserting the following new paragraph immediately after the introductory statement—

"(a) is a Kenyan citizen;"

(ii) renumbering the paragraphs.

**Justification:**
Article 78(1) of the Constitution provides that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya.

(b) in subclause (2) by inserting the words "or any other lawful reasons" immediately after the word "misconduct".

**CLAUSE 9**
**THAT** clause 9 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

"(b) resigns from office by notice in writing to the President or the Cabinet Secretary as the case may be."

**Justification:**
The appointing authority for the chairperson is the President hence the resignation should be to the President too.

**CLAUSE 11**
**THAT** clause 11 of the Bill be amended—

(i) in the introductory statement by inserting the word "the" immediately after the words "generality of the foregoing, the Authority shall have";

**Justification:**
To correct a typographical error.

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph—

"(c) open and operate a bank account with the authority of the National Treasury;"

**Justification:**
It brings clarity to the powers of the Authority on operation of a bank account.

(iii) by inserting the following new paragraphs after paragraph (c)—

(a) conduct security checks, vetting and due diligence in respect of gaming activities;
(b) conduct such investigations as maybe necessary for enforcing this Act;
(c) require any person to furnish such returns and information as maybe necessary for implementing the provisions of this Act;
(d) inquire into complaints against licensees;
(e) set conditions and terms of a license issued under this Act;
(f) charge fees and levies;
(g) impose fines and penalties;
(h) exercise all other powers conferred to it by this Act or any other written law.

**Justification:**
To provide for more comprehensive powers of the Authority.

**CLAUSE 12**
**THAT** the Bill be amended in clause 12 by deleting the word "of" appearing immediately after the word "procedure" and substituting therefor the words "for the".

**Justification:**
To correct typographical errors.

**NEW CLAUSE**
**THAT** the Bill be amended by inserting the following new clause immediately after clause 12—

Committees of the Board.

**12A.** The Board shall establish such committees as it considers necessary to assist it in the performance of its functions and exercise of any of its powers.

**CLAUSE 14**

**THAT** the Bill be amended in clause 14 deleting the word "disbursement" appearing immediately after the words "allowances and" and substituting the word "disbursements".

**Justification:**
To correct a typographical error.

**CLAUSE 15**
**THAT** the Bill be amended—
(a) in subclause (2) by—

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

"(b) holds a degree from a university recognised in Kenya;"

**Justification:**
To avoid restricting the qualifications to specific disciplines

(ii) deleting paragraph (c) and substituting therefor the following new paragraph—

"(c) has at least ten years' experience in senior management of a public or a private institution;"

**Justification:**
This is the generally acceptable practice in management

(b) in subclause (3) by deleting paragraph (a).

**Justification:**
This is in accordance with the Mwongozo Code.

**CLAUSE 20**
**THAT** the Bill be amended in clause 20—

(i) by numbering the existing subclause as "(1)";
(ii) in paragraph (a) by deleting the word "generating" and substituting therefor the word "operating".
(iii) By inserting the following new paragraphs immediately after paragraph (j);

"(ja) gaming equipment and devices manufacture or assembling;

(jb) gaming equipment and devices selling or distribution;

(jc) gaming equipment testing;

**Justification:**
To correct an omission.

**CLAUSE 23**
**THAT** the Bill be amended in clause 23 in subclause (3) by deleting the word "shall" and substituting therefor the word "may".

**Justification:**
Renewal of licences should be discretionary and not mandatory.

**CLAUSE 24**
**THAT** the Bill be amended in clause 24—

(a) in subclause (1) in paragraph (b) by deleting the word "issue" appearing immediately after

the words "for the" and substituting therefor the word "issuance";

(b) in subclause (3) by deleting the word "Tribunal" appearing immediately after the words "an appeal at the" and substituting therefor the word "Committee".

**Justification:**

(i) To correct a typographical error;

(ii) To simplify dispute resolution process.

**CLAUSE 25**

**THAT** the Bill be amended in clause 25 by deleting the words "charged with any offence involving fraud, dishonesty or any offence related to gaming" and substituting therefor the words "found to be in breach of the provisions of this Act".

**Justification:**

The nature of the reasons that may lead to the suspension of a licence under the Act, e.g. fraud may require investigations, prosecution which involve other multi-agency approach. Such issues are ordinarily beyond the mandate of the Board.

**CLAUSE 26**

**THAT** the Bill be amended in clause 26—

(a) in subclause (2) by deleting the word "revocation" and substituting therefor the words "intended revocation specifying the grounds for such revocation".

(b) in subclause (6) by deleting the words "Tribunal within twenty-one days" and substituting therefor the words "Committee within fourteen days".

**Justification:**

(i) In order to provide for fair administrative action;

(ii) In order to align subclause (6) to the mandate of the proposed Gaming Appeals Committee.

**CLAUSE 28**

**THAT** the Bill be amended in clause 28 by deleting the words "or permit holder" appearing immediately after the word "licensee".

**Justification:**

For consistency with the functions of the Board to issue licenses

**CLAUSE 29**

**THAT** the Bill be amended in clause 29 by deleting the words "shillings one hundred thousand" and substituting therefor the words "requisite fees".

**Justification:**

Since the transfer of licence fees shall change from time, the use of the words "requisite fees" will not necessitate future amendment to the Bill if enacted.

**CLAUSE 30**

**THAT** the Bill be amended in clause 30—

(a) in subclause (1) by deleting the words "in any gaming premise for which a license has been granted" appearing immediately after the words "under this Act";

(b) in subclause (2) by deleting the word "cancellation" appearing immediately after the words "including revocation or" and substituting therefor the word "suspension"

**Justification:**

(i) To avoid redundancy;

(ii) Revocation and cancellation have the same thing, the Bill also omitted suspension which is also an action which can be taken by the Board.

**CLAUSE 31**

**THAT** the Bill be amended in clause 31 by deleting the words "one hundred thousand shillings" and substitute therefore with the words "the prescribed fees".

**Justification:**

The fees shall be prescribed from time to time by the Cabinet Secretary

**CLAUSE 36**

**THAT** the Bill be amended in clause 36 in subclause (2) by deleting the words "to audit the accounts" appearing immediately after the word "appointment".

**Justification:**

To correct the grammatical error and for clarity.

**CLAUSE 37**

**THAT** the Bill be amended by deleting clause 37 and substituting therefor the following new clause—

Gaming tax.

37. (1) There shall be a tax to be known as Gaming Tax chargeable at the rate of fifteen percent of the gross gaming revenue

(2) The tax under subsection (1) shall be paid to the Collector on or before the 20th day of the following month.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 37—

Gaming levy.

37A. (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.

(2) The Board shall in consultation with the Cabinet Secretary determine and gazette the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed 1% of the monthly gross gaming revenue.

(3) The levy collected under this section shall be paid into an account operated by the Authority on or before the 20th day of the following month.

(4) A person who fails to pay levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the Authority all outstanding amounts of levy together with a penalty of two hundred thousand shillings for each such payment.

**Justification:**
To facilitate operations of the Authority

**CLAUSE 38**
**THAT** the Bill be amended in clause 38—

(a) In subclause (1) by deleting the word "licence" appearing immediately after the words "A holder of a gaming" and substituting therefor the words "premises permit";

(b) in subclause (2) in the introductory statement by inserting the word "premises" immediately after the word "gaming".

**Justification:**
To properly define the nature of the permit issued under the Act

**CLAUSE 40**
**THAT** the Bill be amended in clause 40 in subclause (1) by inserting the words "by the County Government" immediately after the words "permit issued by them under this Act".

**Justification:**
The county government should only be able to revoke permits issued by them in the Act.

**CLAUSE 42**
**THAT** the Bill be amended in clause 42 in subclause (2) by inserting the words "with assistance of the Board" immediately after the word "transfer".

**Justification:**
Investigations is one of the powers accorded to the Authority by the Bill.

**CLAUSE 46**
**THAT** the Bill be amended in clause 42 in subclause (1) by deleting the words "make totalisator's rules" and substituting therefor the words "rules for the operation of a totalisator".

**Justification:**
To correct typographical errors.

**CLAUSE 48**
**THAT** the Bill be amended in clause 48—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

"(1) A promoter of a race meeting who desires to permit a bookmaker to carry out bookmaking at a race meeting shall apply to the Board for a licence in the prescribed form upon payment of the prescribed fees."

(b) in subclause (2) by deleting the word "permit" appearing at the end of the subclause and substituting therefor the word "licence";

(c) in subclause (3) by deleting the word "premise" appearing at the end of the subclause and substituting therefor the word "racecourse".

**Justification:**
(i) For clarity of the subclause;
(ii) To align the provision with its intentions.

**CLAUSE 49**

**THAT** the Bill be amended in clause 49 in subclause (2) by deleting the words "twenty-five and a maximum of forty-five per centum" and substituting therefor the words "thirty per centum".

**Justification:**
To put a distinct percentage so as to ensure equity.

**CLAUSE 50**
**THAT** the Bill be amended in clause 50 in subclause (2)—

(a) in paragraph (c) by inserting the words "of the lottery" immediately after the words "expected proceeds";
(b) by inserting the following new subclause immediately after clause (2)—

"(3) In this section, the term "gross proceeds" means the total proceeds received from a lottery before any deductions are made."

**Justification:**
To make the paragraph (c) clear and to clarify the meaning of the term "gross proceeds" as used in the clause.

**CLAUSE 52**
**THAT** the Bill be amended in clause 52 in subclause (2)—

(a) in the introductory statement by deleting the word "issue" appearing immediately after the words "upon the" and substituting therefor with the word "issuance";
(b) in paragraph (b) by deleting the words "who operates on a betting premises or a person" appearing immediately after the words "any person";
(c) in paragraph (d) by deleting the words "not exceeding twenty shillings" appearing immediately after the words "a price not" and substituting therefor the words "not below fifty shillings"

**Justification:**

(i) To amend typographical errors and to bring clarity to the provisions;
(ii) To promote responsible gaming.

**CLAUSE 53**

**THAT** the Bill be amended in clause 53 in subclause (2)—

(a) in paragraph (a) by deleting the words "to be" appearing immediately after the words "or chance" and substitute therefor the word "is";
(b) by deleting paragraph (f) and substituting therefor the following new paragraph—
"(f) requiring that the price of a ticket or chance is displayed on each ticket;"
(c) in subclause (4), by deleting the word "who" appearing immediately after the words "under this section" and substituting therefor the word "and".

**Justification:**

To correct a typographical error and maintain consistency.

**CLAUSE 54**

**THAT** the Bill be amended in clause 54 in subclause (2) in paragraph (c) by deleting the word "and" appearing immediately after the words "or a chance".

**Justification:**

To correct typographical errors.

**CLAUSE 57**

**THAT** the Bill be amended in clause 57 in subclause (2) by inserting the words "and any other relevant government agencies" at the end of the subclause.

**Justification:**

To enable other relevant Government agencies such as KRA have access to the systems to ensure compliance with the Act.

**CLAUSE 60**

**THAT** the Bill be amended in clause 60 by deleting sub-clause (2) and substituting therefor the following new subclause—

"(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"

**Justification:**
To deter a licensee from allowing illegal gaming.

**CLAUSE 61**
**THAT** the Bill be amended in clause 61 in subclause (2) by inserting the words "casino, game of chance" immediately after the word "lottery".

**Justification:**
To ensure that children do not participate in any gambling activities.

**CLAUSE 62**
**THAT** the Bill be amended in clause 62 in subclause (4)—

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

"(d) mobile money transfer;"

Justifications:
(i) To provide for other modes of money transfer;
(ii) To remove the use of credit cards to gamble or bet;
(iii) To correct typographical errors.

**CLAUSE 67**
**THAT** the Bill be amended in clause 67 in subclause (1)—

**CLAUSE 68**
**THAT** clause 68 of the Bill be deleted.

**Justification:**
Stakeholders had proposed deletion of the clause indicating that telecommunication is the essence off online gaming and banning its use will render online gaming obsolete. Also, stakeholders indicated that half of the companies in the world now use cloud-based systems which could sit anywhere.

**CLAUSE 69**
**THAT** the Bill be amended in clause 69 by deleting the word "Tribunal" appearing immediately after the words "appeal to the".

**Justification:**
The amendment is aligned to the Committee's proposed amendment to establish a Gaming Appeals Committee.

**CLAUSE 71**

**THAT** the Bill be amended in clause 71 in subclause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

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

Justification:

To bring clarity to licensing condition under paragraph (c) and to expand its application to direct or indirect financial interest.

**CLAUSE 72**

**THAT** the Bill be amended in clause 72 by deleting the word "the" appearing immediately after the words "prescribed by" and substituting therefor with the word "this".

**Justification:**

To correct a typographical error.

**CLAUSE 79**

**THAT** the Bill be amended in clause 79 in subclause (3) in paragraph (f) by deleting the word "prizes" appearing at the beginning of the paragraph and substituting therefor with the word "price".

**Justification:**

To correct a typographical error and differentiate 'prize' from 'price'

**CLAUSE 80**

**THAT** the Bill be amended in clause 80—

(i) in subclause (5) by deleting the expression "(3)" and substituting therefor the expression "(4)";

(ii) in subclause (6) by deleting the word "prize" appearing immediately after the words "the form and prize" and substituting therefor the word "price".

**Justification:**

To correct typographical errors.

**CLAUSE 88**

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

"(1) The gross revenue of a national lottery shall be distributed as follows—

(a) forty per centum to the holders of winning tickets;

(b) twenty per centum to licensee to meet its administrative costs;

(c) thirty per centum to the Fund established under section 89 for distribution to different good causes related to sports; and
(d) ten per centum to agents and retailers of the Lottery."

**Justification:**
The amendment seeks to increase the apportionment to good causes related to sports in order to promote the sports industry in Kenya.

**CLAUSE 89**
**THAT** the Bill be amended in clause 89—
(i) by renumbering the existing subclauses (3) and (2) as (2) and (3);
(ii) in subclause (2) in paragraph (d) by deleting the word "Board" appearing at the end of the paragraph.

**Justification:**
To correct typographical errors.

**CLAUSE 91**
**THAT** the Bill be amended in clause 91 in subclause (1)—
(i) in paragraph (a) by deleting the words "nominated by the Cabinet Secretary and";
(ii) by deleting paragraph (d) and substituting therefor the following new paragraph—

"(d) one person who shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary";

**Justification:**
The amendments correct anomalies in the provision. A Cabinet Secretary cannot nominate a chairperson of a Fund for the President to appoint. Paragraph (d) did not provide for the appointing authority.

**CLAUSE 94**
**THAT** the Bill be amended in clause 94 in subclause (1) in paragraph (d) by deleting the words "of economic crimes or fraud" appearing immediately after the words "criminal offence".

**Justification:**
To ensure that all criminal offences are covered and not limited to economic crime and fraud only

**CLAUSE 101**
**THAT** the Bill be amended in clause 101 in subclause (1) by deleting the word "related" appearing immediately after the words "and other" and substituting therefor with the word "forms of".

**Justification:**
In order to bring clarity to the provision.

**MIN.NO.NA/SCT/2019/223: ADJOURNMENT AND DATE OF NEXT MEETING**

There being no other business, the meeting was adjourned at twenty-five minutes past two O'clock and to reconvene on Tuesday, 12th November, 2019.

**Signed**.....

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

**Date**.....13/11/2019.....

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON FRIDAY 30TH AUGUST, 2019 IN PAVILION CONFERENCE HALL, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 10:40 AM

**PRESENT**

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
3. The Hon. Kubai Iringo, MP.
4. The Hon. Benard Masaka Shinali, MP.
5. The Hon. Daniel Wanyama Sitati, MP.
6. The Hon. Jones Mlolwa, MP.
7. The Hon. (Dr.) Tecla Chebet Tum, MP.
8. The Hon. Titus Mukhwana Khamala, MP.
9. The Hon. Jeremiah Lomorukai, MP.
10. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
11. The Hon. George Risa Sunkuyia, MP.

**APOLOGY**

1. The Hon. Christopher Omulele, MP.
2. The Hon. Dr. Christine Ombaka, MP.
3. The Hon. (Prof.) Jacqueline Oduol, MP.
4. The Hon. Charles Ngusya Nguna, MP.
5. The Hon. Lydia Haika Mnene Mizighi, MP.
6. The Hon. Annie Wanjiku Kibeh MP.
7. The Hon. Sylvanus Maritim, MP.
8. The Hon. Charles Kamuren, MP.

**IN-ATTENDANCE**

**NATIONAL ASSEMBLY**

1. Mr. Samuel Kalama - Senior Clerk Assistant
2. Mr. Fredrick Otieno - Second Clerk Assistant
3. Mrs. Jane Serem - Audio Recording Officer
4. Mr. Yeziel Jillo - Serjeant At-Arm

**THE NATIONAL TREASURY AND PLANNING & KENYA REVENUE AUTHORITY**

1. Hon. Nelson Gaichuhie - CAS, National Treasury
2. Mr. Caxton M. Ngeywo - Deputy Commissioner KRA
3. Mr. Tom Kegen - Ag. Relationship Manager KRA
4. Ms. Lenah Olum - Assistant Manager KRA
5. Ms. Sheila Adoragal - Assistant Manager KRA

**MINISTRY OF INTERIOR/BETTING CONTROL AND LICENSING BOARD**

6. Mr. Dann Mwangi - Legal Counsel Ministry of Interior
7. Mr. Fredrick M. Mbasi - Principal Gaming Inspector
8. Ms. Esther K. Muli - Principal Gaming Inspector
9. Ms. Pauline A. Opar - Senior Gaming Inspector

**MIN.NO.NA/SCT/2019/164: PRELIMINARIES**

The Chairperson called the meeting to order at forty minutes past ten O'clock and said a prayer. He then welcomed everyone in the meeting followed by self-introduction. The Chairperson further indicated that the agenda of the meeting was to get comments from the National Treasury and Kenya Revenue Authority on the Gaming Bill, 2019.

**MIN.NO.NA/SCT/2019/165: SUBMISSIONS NATIONAL TREASURY AND PLANNING**

The National Treasury submitted the following proposals:

1. **Clause 7**

In line with the current practice, the National Treasury recommends that clause 7 should be amended to include a representative from the industry.

2. **Clause 8 (1)**

The clause provides for qualification of appointment of the Board. For a member to be appointed to the Board, he/she should hold a university degree in a relevant field.

**Recommendation:** *that the qualification should also include a minimum of three years working experience in the relevant field.*

3. **Clause 15 (2) (c)**

The Director General of the Authority should have a vast knowledge and experience in the industry. *It is therefore recommended that the post qualification experience to be at least 10 years.*

4. **Clause 37 (2)**

The word "Collector" as used in the Bill is not defined in Clause 2 of the Bill.

**Recommendation:** *that the Kenya Revenue Authority be the collector of the Gaming Tax as provided under Section 78 of the Public Finance Management Act (PFMA). Similarly, Clause 159 (2) should also be amended accordingly.*

5. **Third Schedule**

It is recommended that Paragraph F of this schedule should be amended to read "Tax Compliance Certificate" in place of Income Tax Compliance" since KRA only issues the former.

**MIN.NO.NA/SCT/2019/166: SUBMISSIONS BY THE KENYA REVENUE AUTHORITY**

The Kenya Revenue Authority submitted the following proposals:

| S/No. | Section | Proposed Amendment | Rationale |
|---|---|---|---|
| 1. | **PART I. PRELIMINARY**<br>2. | Define the Collector to be the Commissioner general of the Kenya Revenue Authority<br>"Collector" means the Commissioner-General appointed under the Kenya Revenue Authority Act; | To specify the collector |
| 2. | **PART III- ESTABLISHMENT OF THE GAMING AUTHORITY**<br>10 (1) (f)<br>Establish a central electronic real time gaming monitoring system. | To include the words **"for compliance with regulatory authorities"**<br>The section 10 (1) (f) to read:<br>Establish a central electronic real time gaming monitoring system **for compliance with regulatory authorities**. | This is to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction. |
| 3. | **PART IV – LICENCES AND PERMITS**<br>37 (1) Gaming tax | i) Define the base for taxation to be the **gross gaming revenue**. This section should now read;<br>37(1). *There shall be a tax to be known as gaming tax chargeable at the rate of 15% of* ***the gross gaming revenue****.*<br>ii) Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read | To avoid misinterpretation and align it with due dates. |

| | | | |
|---|---|---|---|
| | | *37(2). The tax under subsection(i) shall be paid to the collector* ***on or before the 20th day of the following month*** | |
| 4. | **PART VI – CONTROL AND LICENSING OF LOTTERIES**<br><br>49.<br><br>Authorization of a public lottery for charitable purpose. | Instead of requiring operators of lotteries to dedicate 25% - 45% of their revenue to charitable causes, the same may be shifted to be a proper tax.<br><br>The requirement may therefore be married together with the lottery tax (gaming tax from Lotteries) to be a tax and collected by the collector | This clause existed before taxation of lotteries and winnings was effected. With the current taxation regime, requiring lotteries to again contribute 25% after suffering 15% tax on lottery will amount to double taxation. With the establishment of the Sports and Arts fund, the government is better placed to collect and distribute these monies to charitable causes |
| 5. | **PART VII - ONLINE GAMING**<br><br>**Introduce a new sub-section 62(6)**<br><br>Records to be kept | To include requirement for unique identifier for tax purposes. | To provide the Authority with a head start on information containing all the players' details. |
| 6. | **PART X – THE GAMING APPEAL TRIBUNAL**<br><br>111.<br><br>Gaming Appeals Tribunal | Consider inclusion of;<br><br>(4) To refer all tax disputes arising from the actions and decisions of the collector to the Tax Appeal Tribunal for arbitration.<br><br>(5) Recovery of taxes shall be effected as provided for in the Tax Procedure Act. | |
| 7. | **PART X - OFFENCES AND PENALTIES**<br><br>134 | To include the words "**collector**" after the word "Board" and "or" to read as follows;<br><br>134. A person who willfully refuses or fails to submit a statement of account | This is to provide for penalties for offences in relation to failure to file returns or any other information as may be deemed necessary by the |

| | | | |
|---|---|---|---|
| | Failure to submit accounts by a licensee | when required by the Board, or "collector" or who knowingly submits a false or misleading statement, 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 five years or to both. | Commissioner herein referred as "Collector". |
| 8. | **PART XVI – MISCELLANEOUS PROVISIONS**<br><br>**159(1). Gaming advertisement tax** | i) Define the base for taxation to be the cost of the advertisement and expand the modes of advertisement to cover all media. This section should now read;<br>*159(1). There shall be tax to be known as gaming advertisement tax chargeable at the rate of thirty-five per centum on the cost of the gaming advertisement done through radio, television, newspapers, online, billboards, short messaging service and any other advertisement medium*<br><br>*ii)* Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read<br>*159(2). The tax under subsection(i) shall be paid to the collector* ***on or before the 20th day of the following month*** | To avoid misinterpretation and align it with due dates. |

**MIN.NO.NA/SCT/2019/167: OBSERVATIONS/CONCERNS**

1. It was noted that the amendments as proposed by the National Treasury and Kenya Revenue Authority were meant to enrich the Bill. However, the Committee was concerned on the role of KRA and if they are aware of the illegal gaming machines that entered into the country and has become disastrous to the communities especially the Chinese slot machines.

2. The Committee was also concerned on how KRA will ensure that all the funds collected from the gaming activities will help in social development in the country without any misappropriation.
3. The Committee also raised the issues of winnings and withholding of tax which was responded to by indicating that if anybody wins, there should be withholding tax of 20% on winnings by the betting company which should submit to KRA.

**MIN.NO.NA/SCT/2019/168: ANY OTHER BUSINESS.**

There being no other business the meeting was adjourned at twenty-six minutes past two O'clock.

**SIGN:** ..... **DATE:** 24/09/2019

**CHAIRPERSON**

MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 29TH AUGUST, 2019 IN PAVILION CONFERENCE HALL, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 10:20 AM

**PRESENT**

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
3. The Hon. Kubai Iringo, MP.
4. The Hon. Benard Masaka Shinali, MP.
5. The Hon. Daniel Wanyama Sitati, MP.
6. The Hon. Jones Mlolwa, MP.
7. The Hon. (Dr.) Tecla Chebet Tum, MP.
8. The Hon. Titus Mukhwana Khamala, MP.
9. The Hon. Jeremiah Lomorukai, MP.
10. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.

**APOLOGY**

1. The Hon. Christopher Omulele, MP.
2. The Hon. Dr. Christine Ombaka, MP.
3. The Hon. (Prof.) Jacqueline Oduol, MP.
4. The Hon. Charles Ngusya Nguna, MP.
5. The Hon. Lydia Haika Mnene Mizighi, MP.
6. The Hon. George Risa Sunkuyia, MP.
7. The Hon. Annie Wanjiku Kibeh MP.
8. The Hon. Sylvanus Maritim, MP.
9. The Hon. Charles Kamuren, MP.

**IN-ATTENDANCE**

**NATIONAL ASSEMBLY**

1. Mr. Samuel Kalama - Senior Clerk Assistant
2. Mr. Fredrick Otieno - Second Clerk Assistant
3. Mrs. Jane Serem - Audio Recording Officer
4. Mr. Yeziel Jillo - Serjeant At-Arm

**COMMUNICATION AUTHORITY OF KENYA**

1. Mr. Christopher Kemei - Director Licensing
2. Mr. Robin Busolo - Manager Regulatory Affairs
3. Ms. Janet Kiprono - Legal Officer

**BETTING CONTROL AND LICENSING BOARD**

4. Mr. Peter K. Mbugi - Ag. Director
5. Mr. Fredrick M. Mbasi - Principal Gaming Inspector
6. Ms. Esther K. Muli - Principal Gaming Inspector
7. Ms. Pauline A. Opar - Senior Gaming Inspector

**MIN.NO.NA/SCT/2019/159: PRELIMINARIES**

The Chairperson called the meeting to order at twenty minutes past ten O'clock and said a prayer. He then welcomed everyone in the meeting followed by self-introduction. The Chairperson further indicated that the agenda of the meeting was to get comments from the Betting, Control and Licensing Board and the Communication Authority of Kenya, both presenting on behalf Ministry of Interior and Coordination of National Government and Ministry of Information, Communication and Technology respectively on the Gaming Bill, 2019.

**MIN.NO.NA/SCT/2019/160: SUBMISSIONS BY THE BETTING, CONTROL AND LICENSING BOARD**

Mr. Peter K. Mbugi, Ag. Director, Betting Control and Licensing Board made the following submissions before the Committee:

1. The Gaming industry in Kenya is today over 50 years old. The industry has for the last forty-five years seen a very slow growth and until five years ago very few people knew about the gaming industry given that it operated on the traditional "Bricks and Mortar" premises, i.e licensed physical Casinos and Betting premises. People who wished to gamble had to make a trip to those locations. Casinos were out of reach for many Kenyans since they were located in the exclusive five-star hotels although still is the case for most of them, and there was an entry fee for one to be allowed to gamble, hence there was very little or no interaction at all with gambling and the general members of the public.
2. The situation has however changed. Today the number of casinos has increased and the competition as well, hence the access fee has since been removed and people can easily walk in and out. Betting operators have also exploited the advances in technology, globalization

as well as mobile penetration; hence their services are now easily available on one's palm, accessibility, availability, and affordability has been made so easy and simple. One can today bet from anywhere, anytime from the comfort of sitting rooms at their own convenient time.

3. The move has seen the gaming industry in Kenya reinvigorated and in particular the Betting sector, which for a long time has been moribund becoming the number one revenue generator in the industry. The industry total turnover has snowballed from a mare Kshs 2 billion five years ago to Kshs 200 billion, with an average gaming tax of Kshs 15 billion.
4. The growth of the industry has however brought about some challenges that must be addressed given that gambling is demerit good. Despite the economic benefits derived from the industry operations the social cost is now weighing heavily on the public and there is an urgent need to ameliorate the plight of the public, the youth and the vulnerable from gambling.
5. Gambling today in Kenya is easily available via mobile, online or the shop next door! a day hardly passes without seeing a complaint about gambling in the media, we have also had reported cases of suicide by the youth. Every day Kenyans are bombarded on TV and radio with a litany of advertisements for gambling where you are invited to send money and stand a chance to win millions of shillings we also witness a number of winners being paraded on TV being awarded with the prizes they have won and also inviting others to play and win like them. There has also been an upsurge of illegal gambling. Gambling is therefore posing a great danger to the public and in particular the young and the vulnerable.

    - Being a demerit good Gambling like others such as Alcohol and tobacco, has the potential to not only harm but also ruin the consumer. Consequently, its availability, accessibility and affordability must be heavily regulated. We believe rigorous and effective regulation is a hallmark of the gaming industry. In fact, a strong regulatory environment is essential to maintaining the integrity of the business in line with the principles that guide regulations in gambling.
    - Ensure that Gaming is conducted with due propriety
    - Keep Gaming crime free
    - Protect members of the public against fraud
    - Safeguard the underage and the vulnerable
    - Ensure that the public and government visibly gain from Gaming operations, through employment creation, revenue generation and tourism stimulation
    - Maximise economic benefits derived from gambling to fund social causes

6. The Board came up with the following raft of regulatory mechanisms geared towards sanitizing the industry and ensure that gambling does not become a source of disorder: -

i) Revamping its licensing and compliance procedures by developing a clear licensing process that would be informed by impact assessment as well as a fit and proper test for those entering the gaming industry.

ii) Reviewing the gambling advertisement services by: -

- Banning outdoor advertising of gambling
- banning advertising of gambling on social media
- restricting advertising of gambling to watershed hours
- stopping endorsement of gambling operations by celebrities. (These attempts have been challenged court cases)

iii) Continuous prevention and eradication of illegal gambling

iv) Fresh vetting of all foreigners in the gaming industry with the assistance of state department for immigration and security to ensure they are in the county legitimately and they are not performing jobs that could easily be done by Kenyans.

v) Public sensitization and awareness creation on the gambling impact

vi) Participate in the effort to repeal the betting lotteries and gaming act cap 131 laws of Kenya and come up with a law that is more robust, formidable and awake to the emerging technological trends and dynamics in the gaming industry.

7. Areas of concern:

i) The need to comply with the constitution as relates to the concurrent functions between the National and the County governments. The definition of distinctive functional areas is necessary so as to avoid confusion and conflict between the two levels of government arising from performance of the functions.

ii) The law as mentioned earlier must be awake to the ever-changing technological environment particularly in relation to online gaming and advertisements. The law should allow sufficient latitude and power to the Authority to make regulations to address such emerging issues.

iii) The term of office for the members of the Board and that of the Director General ie 3 years. There is need to revisit so as to insulate the authority from operation crisis that would occur in case the term for both ends at the same time.

iv) Enhancement of penalties for noncompliance is key aspect that the Bill should consider in bid to inculcate order and discipline in the gaming industry.

v) Deleting Part XIII that establishes a Gaming Appeals Tribunal reason being that other than increasing the operational cost of implementing the Act, the roles/jurisdiction conferred to the tribunal can be effectively carried out by the High court as currently provided for under section 62 of Cap 132 laws of Kenya.

**MIN.NO.NA/SCT/2019/161: SUBMISSIONS BY THE COMMUNICATION AUTHORITY OF KENYA**

Mr. Christopher Kemei, Director Licensing, mad the following submissions before the Committee:

1. CA is the regulatory body for the communications sector in Kenya, established in 1999 by the Kenya Information and Communications Act, 1998.
2. It is responsible for facilitating the development of the Information and Communications sectors including broadcasting, multimedia, telecommunications, electronic commerce, postal and courier services.
3. This responsibility entails;
    - Licensing all systems and services in the communications industry.
    - Protecting consumer rights within the communications environment.
    - Managing competition within the sector to ensure a level playing ground for all players.
    - Monitoring the activities of licensees to enforce compliance with the license terms and conditions.

**Role of Communication Authority in Promoting Gaming Industry**

1. Most and emerging gaming activities are conducted online and through ICT platforms and in particular mobile phones and computers.
2. The enabling law (Betting Licensing and Control Act) is silent on the emerging gaming practices such as Remote gaming.
3. Such practices and the prevalent preoccupation with gaming activities predominantly among the youth and children have necessitated the need for reform of the Gaming framework.

**Current Practice**

1. Like in mobile money transfer service, the financial services regulator would authorize a telecommunications services provider to provide mobile money services on the strength of an appropriate licence from the communications regulator.

2. In the same vein, the betting regulator would only license a gaming player to render such gaming services on an ICT platform in the strength of a licence from the communications regulator.

**CONTRIBUTIONS TO THE GAMING BILL, 2019**

1. Section 20 provides for Online Gaming licence that falls under the ambit of the Authority's mandate as it pertains to telecommunications. Therefore, it is proposed that the Online Gaming licence should be granted in consultation with the Authority.
2. Section 57 provides for control of online gaming where it states that the Board shall establish a framework to facilitate real time monitoring of casinos and online gaming activities which shall be accessible for monitoring by CA.

N/B:

i. there needs to be further consultations on this as the CA legal framework might need to be revised.
ii. This proposal, if implemented, might have privacy concerns and Data Protection implications.

3. Section 57 – (e) to be expanded to include that an appropriate telecommunications licence is silent as a condition precedent as a requirement for Remote Gaming licence. It is proposed that a valid telecommunication licence be included as part of the qualifications.
4. Section 68 restricts use of a telecommunication platform for online gaming. As much as the proposal sounds directory, the rationale is not clear and the spirit thereof seems inconsistent with Section 57(4) which provides for the role of an operator in case of Mobile online gaming to provide particulars of network connectivity to the Board.

**MIN.NO.NA/SCT/2019/162: OBSERVATIONS/CONCERNS**

1. It was observed that there is need for compliance with the Constitution of Kenya as relates to concurrent functions between the National and the County governments. The definition of distinctive functional areas is necessary so as to avoid confusion and conflict between the two levels of government arising from performance of the functions.
2. That the enhancement of penalties for noncompliance is key aspect that the Bill should consider in bid to inculcate order and discipline in the gaming industry.
3. Deletion of Part XIII of the Bill that establishes a Gaming Appeals Tribunal which was supported by a section of Members, the reason being that other than increasing the

operational cost of implementing the Act, the roles/jurisdiction conferred to the tribunal can be effectively carried out by the High court as currently provided for under section 62 of Cap 132 laws of Kenya.

4. That monitoring private data or communication is prohibited, the Communication Authority should be alive to the possibility of complaints of monitoring personal data/private information.

**MIN.NO.NA/SCT/2019/163: ANY OTHER BUSINESS.**

There being no other business the meeting was adjourned at twenty-six minutes past two O'clock.

**SIGN:** ..... **DATE:** 24/09/2019

**CHAIRPERSON**

# MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 22ND AUGUST, 2019 IN MINI CHAMBER, COUNTY HALL, PARLIAMENT AT 10:00 AM

**PRESENT**

1. The Hon. (Dr.) Victor Kioko Munyaka, MP. - Chairperson
2. The Hon. (Dr.) Korei Ole Lemein, MP. - Vice Chairperson
3. The Hon. Christopher Omulele, MP.
4. The Hon. Kubai Iringo, MP.
5. The Hon. Benard Masaka Shinali, MP.
6. The Hon. George Risa Sunkuyia, MP.
7. The Hon. Sylvanus Maritim, MP.
8. The Hon. Titus Mukhwana Khamala, MP.
9. The Hon. Annie Wanjiku Kibeh MP.

**APOLOGY**

1. The Hon. Dr. Christine Ombaka, MP.
2. The Hon. Daniel Wanyama Sitati, MP.
3. The Hon. Jones Mlolwa, MP.
4. The Hon. (Prof.) Jacqueline Oduol, MP.
5. The Hon. (Dr.) Tecla Chebet Tum, MP.
6. The Hon. Charles Ngusya Nguna, MP.
7. The Hon. Jeremiah Lomorukai, MP.
8. The Hon. Lydia Haika Mnene Mizighi, MP.
9. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.
10. The Hon. Charles Kamuren, MP.

**IN-ATTENDANCE**

**NATIONAL ASSEMBLY**

1. Ms. Hellen Kina - Second Clerk Assistant
2. Mr. Fredrick Otieno - Second Clerk Assistant
3. Mr. Salem Lorot - Legal Counsel
4. Mrs. Jane Serem - Audio Recording Officer

**STAKEHOLDERS/MEMBERS OF THE PUBLIC**

| | | |
|---|---|---|
| 1. Ms. Judith K. Kiragu | - | Director Golden Key Ltd and Secretary AGOK |
| 2. Mr. Peter K. Njoroge | - | General Manager Kenya Charity Sweepstake |
| 3. Ms. Caroline W. Muikia | - | Accountant Kenya Charity Sweepstake |
| 4. Mr. George Mburu | - | Director Shop & Deliver (Betika) |
| 5. Mr. Chris Mwirigi | - | Director Shop & Deliver (Betika) |
| 6. Mr. Daniel Ngumi | - | Advocate Gamecode |
| 7. Ms. Pauline Opar | - | Betting Control & Licensing Board |
| 8. Ms. Esther Muli | - | Betting Control & Licensing Board |
| 9. Mr. Fredrick M. Mbasi | - | Betting Control & Licensing Board |
| 10. Ms. Vivian W. Njoroge | - | Legal Counsel Velex Advisory |
| 11. Mr. David Moshi | - | Director Velex Advisory |
| 12. Mr. Ogega K. Gichawa | - | Ag. Asst. Director Nairobi City County |
| 13. Mr. Christopher Okengo | - | Ag. Asst. Director Nairobi City County |
| 14. Mr. Aloyce Omondi | - | CEO Association of Gaming Operators Kenya |
| 15. Mr. George E. Mealy | - | In-House Legal Counsel White Rhino Ventures |
| 16. Mr. Weldon Koros | - | Chairperson Gaming Awareness Society of Kenya |
| 17. Mr. Nelson Bwire | - | Sec. Gen. Gaming Awareness Society of Kenya |

**MIN.NO.NA/SCT/2019/149: PRELIMINARIES**

The Chairperson called the meeting to order at ten O'clock and said a prayer. He then welcomed everyone in the meeting and requested for self-introduction. The Chairperson further indicated that the agenda of the meeting was for the stakeholders and members of the public to make their presentation on the Gaming Bill, 2019 to the Committee.

**MIN.NO.NA/SCT/2019/150: SUBMISSIONS BY THE SHOP AND DELIVER LTD (BETIKA)**

Mr. Chris Mwirigi representing shop and deliver made the following presentation:

1. **Local Shareholding Requirement**

**Section 21** of the Bill outlines the requirements for licensing to offer gaming or betting services. One of the proposed requirements is that a body corporate which intends to be licenced ought to have a minimum of 30% of its shares owned by Kenya citizens.

**Recommendation:** that this provision be amended to state that the minimum number of local shares be held by Kenyan residents as opposed to citizens.

2. **Gaming Taxes**

**Section 37** of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

**Recommendation:** that these provisions be deleted for the following reasons:

i. The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill 2019 to introduce excise duty on amounts staked by players.
ii. Section 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.
iii. Section 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

3. **Security for Gaming Activity**

**Section 33** of the Bill requires a licensee to pay an online gaming security of KES 200 million. We see this amount as exorbitant and anti-competitive, as this requirement serves as a barrier to entry for players who wish to engage in gaming activities.

The security deposited under this section is required to be deposited in the Board's bank account and shall be refunded to a licensee upon expiry or cancellation of a licence. In their view, the Board is not a deposit taking entity that would warrant the receipt of such funds from gaming players.

Further, based on the assumption that these funds will be placed in a deposit bearing account, they would expressly require that any interest that has accrued be remitted to the gaming player.

**Recommendation**: that this requirement be deleted in its entirety, given that a gaming business would have already demonstrated its capacity to carry out the business by providing minimum capital requirements of KES 200 million as discussed below.

In the alternative, if all gaming companies must be required to provide a security we would recommend as follows:

i. The security is based on a percentage of each companies' average monthly gross gaming revenue. In this way, both large and small players in the industry have equal footing to comply with the security requirement; or

ii. The security is based on an equivalent amount of the companies' jackpot amount.

### 4. Gaming Capital

In addition to the security for gaming activities, Section 34 of the Bill introduces a minimum capital requirement of KES 200 million for online gaming businesses. This minimum capital requirement coupled with the gaming security will unduly restrict players taking part in gaming activities.

In their view, this minimum capital requirement is extremely high and therefore propose a capital requirement of [KES 100 million].

### 5. Minimum Online Betting Amount

**Section 60** of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, "*A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years*" [emphasis ours]

In their view, imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only hinders the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

In their view, the penalty proposed by Section 60 (2) is excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake. In that way it would be impossible for any person to bet at a lower amount than a prescribed minimum.

**Section 60 (2)** is drafted in a manner that is ambiguous as it makes engaging in betting for an '*amount than*' fifty shillings an offence. It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.

**Recommendation**: that the minimum online betting amount be deleted in its entirety. Where this is not possible, they would recommend that if a minimum requirement must be introduced, that the amount is kept at KES 10 to allow any consenting adult to participate in betting.

6. **Restriction on Foreign Servers**

**Section 67** of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

In their view, the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

7. **Restriction on the use of a telecommunication platform for online gaming**

**Section 68** of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

**Recommendation**: that this provision is removed in its entirety.

8. **Unlicensed Betting Premises or electronic sites**

**Section 141** of the Bill which outlines an offence where any person knowingly bets in an unlicensed betting premise. This section further imposes a penalty of KES 1 million or imprisonment for a term not exceeding one year or both. In order to facilitate compliance of this offence, they would recommend that a list of all licensed betting premises and licensed electronic sites be published in the Kenya Gazette and 2 newspapers of national circulation as well as the Board's website. This will ensure that the public is not a party to the licensing process is adequately protected.

**MIN.NO.NA/SCT/2019/151: SUBMISSIONS BY THE GAMECODE LTD AND ANJARWALLA & KHANNA**

Mr. Daniel Ngumy representing Gamecode Ltd and Anjarwalla & Khanna presented the following:

**1. Local Shareholding Requirement**

**Section 21** of the Bill outlines the requirements for licensing to offer gaming or betting services. One of the proposed requirements is that a body corporate which intends to be licenced ought to have a minimum of 30% of its shares owned by Kenya citizens.

**Recommendation:** that this provision be amended to state that the minimum number of local shares be held by Kenyan residents as opposed to citizens.

**2. Gaming Taxes**

**Section 37** of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

**Recommendation:** that these provisions be deleted for the following reasons:

i. The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill, 2019 to introduce excise duty on amounts staked by players.

ii. **Section 37** of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.

iii. **Section 159** of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

**3. Minimum Online Betting Amount**

**Section 60** of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, "*A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years*" [emphasis ours]

It is viewed that, imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only hinders the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

It is viewed that the penalty proposed by Section 60 (2) is also excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake. In that way it would be impossible for any person to bet at a lower amount than a prescribed minimum.

**Section 60 (2)** is drafted in a manner that is ambiguous as it makes engaging in betting for an '*amount than*' fifty shillings an offence. It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.

In conclusion, it is viewed that the idea of a minimum online gaming amount to be easier to enforce other than by making it a statutory requirement and as such Section 60 as a whole should be removed.

4. **Restriction on Foreign Servers**

**Section 67** of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

It is viewed that the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

5. **Restriction on the use of a telecommunication platform for online gaming**

**Section 68** of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

**Recommendation:** that this provision is removed in its entirety.

**MIN.NO.NA/SCT/2019/152: SUBMISSIONS BY THE ASSOCIATION OF GAMING OPERATORS, KENYA**

Ms. Judith Kiragu, Secretary, Association of Gaming Operators, Kenya made the following presentation:

Strategy and approach should be fully differentiated between ONLINE and LAND BASED gaming establishments and also a differentiation between existing and new gaming establishments.

**Section 7 (1) -** states that all gaming activities including casinos whose licenses were issued under the repealed act shall stand revoked within six months from enactment of this ACT

Gaming establishments have just gone through a rigorous vetting and renewal process in for purposes of renewing their licenses for 2019/2020. Those who met the required standards have already paid the new year's renewal license and obtained a bank guarantee.

*The Association request that any changes regarding the renewal of existing licenses be applied for the period 2020/2021 and not affect the current operating year.*

**Section 16.** (1) - The Board may appoint such officers and staff of the board.

*Association of Gaming Operators, Kenya, as key stakeholder in gaming industry, should have representative on board.*

*The Association believes that as operators, they are authorities in their fields and would like to request that they are treated as such by enabling industry of subsector representation.*

**PART IV LICENSING FEES AND SECURITY DEPOSIT (SCHEDULES 2,4 AND 5)**
The AGOK propose that the Committee considers (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land-based brick and mortar and online gaming must be minimum 30 times less in a favor of land-based establishments.

AGOK also propose the authority to license all gaming establishments be under the national authority and County governments only issue business premise licenses.

**Section 20** - The Board shall have authority to issue gaming licenses under this Act with respect to-
(J) Gaming equipment repair and servicing;

No local company has the capacity to maintain gaming equipment at the producers' standards better the producers themselves. In Kenya there are over 50 different technologies currently in the market and there is no local company that is certified for purposes of repairing gaming equipment. The producers have trained staff for gaming technologies they own.

**Section 20 (2)** states that the board shall classify licenses in a manner as it may be prescribed.

This statement leaves a lot of room for mismanagement if the manner in which licenses will be awarded are not articulated and documented.

**Section 21 (a)** on Ownership structure states that a minimum of 30% of shares are held by Kenyan Citizens.

Is this applicable to new establishments or how will existing establishments be treated? AGOK believes that local investors may not be capable of buying up to 30% of current shareholding of **current establishments** however, this rule should be enforced to new establishments.

**Section 22(a) License fees for casinos under the 2nd schedule is 50 million.**

There is need to clarify that this will only apply to new casinos and not existing casinos.

*AGOK proposes **10 million** for new casinos.*

**Section 22 (b) - prescribed gaming capital**
Prescribing a gaming capital of 100 million will pose a problem to existing establishments. Unless it is applied to new casinos.

Under the **fourth schedule,** AGOK proposes renewal for Casinos to be 3 million and not 30 million

**Section 22 (c)** As per the 5th schedule Casinos will deposit with the authority a security of 50 Million.

*AGOK Proposes a 5 million insurance bond.*

**Section 33 (1)** ~ Board may require a licensee to pay such a security.
What conditions or actions will necessitate the board to requesting for a security?

**Section 34 (1)** Each licensee shall provide proof of adequate gaming capital. 100 million will be a problem for existing establishments.

**MAJOR DIFFERENCES BETWEEN ONLINE AND LAND BASED OPERATORS):**

**Online Gaming (Online Casino and Online Bookmakers)**

1. Popular sport betting, jackpots are over 200 million shillings
2. Online betting and online casinos are operating country wide, with the access to the millions of customers
3. Turnovers of online companies cannot be compared with land-based operators. online turnovers are, in average, more than 200 times

**Gaming (Land Based Casinos and Online Bookmakers)**

1. Casino Average Jack Pot Max Up To 1 Million Shillings (200 times less then land based)
2. Access to market is limited (not more than 500 clients (within a month)
3. Land based establishments are creators of employment. over 90% of gaming staff are employed in land-based gaming companies.
4. Land based establishments do not pose a threat to society like the online establishments as one has to make a conscious effort to visit them.
5. Land based establishments have a government inspector and do not allow underage gamblers in their premises

**Section 41** - Every permit issued by the county government Duration of a shall be valid for a period of twelve months from the date permit of issue unless a different duration is prescribed under the Act.

*Validity period should be synchronized with gaming license period.*

**Part XI CASINOS SLOTS MACHINES**

**Section 101 (2)** ~ The Cabinet Secretary may, in consultation with the Board and the Council of Governors, propose regulations on the number of casinos in the different regions of Kenya.
How will this affect existing establishments? Not an issue if this is related only for new establishments.

**Section 101 (5) requires** casinos gaming machines to play a minimum bet of ksh 50

*This is a high bet, the combination of which can lead establishment to pay out very huge amounts if all the machines adopted a ksh 50 minimum bet.*

**PART XII AMUSEMENTS WITH PRIZES ETC**

**Section 106 (3) a I, ii & iii** ~ A matter of concern about the Amusement Machines

This can be a serious issue. Prizes level proposed does not appear correct or right as all of the prizes won on amusement machines are not subject of any tax currently applicable on gaming.

**Section 106 2 & 3** Prize limits for amusement are unreasonable and extremely high. As per the proposed prize scales, underage persons will engage playing them on much higher level with expectations to make huge winnings.

As for the prizes won on amusement machines, they have not been subjected to gaming tax, betting tax or tax on winnings. This can be seriously misused.

*Further AGOK proposes that prizes on amusement machines should not exceed Kshs. 500/- and the aggregate amount issued by way of sale of chance not more than Kshs. 2000/-*

**Section 107. (1)** - Each county government shall issue a permit of Amusement machines authorizing the use of amusement machine in a Machines approved premise.

Importation and certification equipment must be strictly under national government. Clear guidelines must be issues to KEBS for a pre shipment inspection of those equipment.
None of the amusement machines should be imported without producer certificate clearly stating that equipment is FOR AMUSEMENT ONLY. KEBS should have clear guidelines regarding importation and pre-shipment certificates of these machines and equipment. Pre-shipment certification must confirm the purpose of such equipment.

*Due to the bad experience and reputation with the Chinese coin machines, this proposed bill is leaving a huge loophole for misuse once again*

**Section 159. (1)** - There shall be a tax to be known as the Gaming advertisement tax chargeable at the rate of thirty-five per centum for every gaming advisement done through tax, radio or television broadcasting.

This will mostly affect sports betting.

Considering all the differences mentioned above, the bill is proposing the same fees or just twice higher for online activities. This is not proper considering the brick and mortar establishments like the casinos which are barely surviving due to the high taxation. Land based operators have been in existence in Kenya for over 50 years and they are bulking under the huge cost of maintaining their equipment and sustaining their business. The casinos establishments are not in a position to invest in modern technologies at the moment as they are not making any profits on a scale to invest or expand.

The excise taxes on betting and online gambling is highly supported for betting and online gaming.

*AGOK proposes that all create awareness of the dangers of gambling. Let people understand the social dangers they pose.*

*Advertising of gaming activities should not be allowed. Casinos do not advertise. Betting and online gaming should also not be allowed.*

*The chines machines and amusement machines posing as gaming machines should be banned and removed from society completely.*

*Online betting regulation should be stringent and the licenses should be very high.*

*AGOK highly proposes that the Committee considers reducing the proposed license fees and security fees for existing land-based and casino establishment by more than 20 times or else they will have not be sustainable leading to business closure and loss of over 6,000 jobs.*

**MIN.NO.NA/SCT/2019/153: SUBMISSIONS BY THE DIRECTORATE OF GAMING AND BETTING – NAIROBI CITY COUNTY**

Mr. Ogega K. Gichawa, Ag. Assistant Director, Nairobi City County made the following submissions:

**THAT,** the gaming bill 2019, must be aligned to the constitution of Kenya 2010 schedule 4 part 1 (34) (National government) and part 2 (4) (County government).

**SPECIFIC PROPOSALS**

| SECTION | PROVISION IN THE GAMING BILL, 2019 | PROPOSED AMENDMENTS | JUSTIFICATION |
|---|---|---|---|
| 4 | **(a)** Establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gaming;<br>**(b)** Provide for the co-ordination of national, county and concurrent national functions relating to betting, lotteries, casinos & other forms of gaming in accordance with this Act;<br>**(c)** License all forms of gaming including online gaming;<br>**(d)** License national lotteries;<br>**(e)** Conduct security checks, vetting & due diligence in respect of gaming activities;<br>**(f)** Enforce compliance with this Act;<br>**(g)** Provide capacity building & technical assistance to counties; and<br>**(h)**Regulate the gaming industry. | **1. (a)** Policy formulation, legislation, standards & norms<br>**(b)** Development of standards and norms<br>**(c)** Regulation of the gaming industry<br>**(d)** Capacity building and technical assistance<br>**2.** licensing of public gaming (casino)<br>**3.** Vetting, security checks and due diligence<br>**4.** Licensing of prize competitions cross cutting several counties (on promotion of product and services)<br>**5.** Licensing of national lotteries<br>**6. (a)** Licensing of on-the course totalisators<br>**(b)** Licensing of off-the course totalisators.<br>**7.** Licensing of bookmakers<br>**8.** Online gaming<br>**9.** Handling of complaints and arbitration. | These are the national government functions as per the Gazette notice 8753 of 8th September 2017 on delineation of functions Betting, casinos and other forms of gambling. Also adopted by final judgment in petition no. 295 of 2014 disposition & final orders No. 34 (i) and (ii) delivered on 4th May 2017. |
| 5 | **(a)** Enforce compliance of this Act & other applicable laws;<br>**(b)** Issue permits for gaming premises; | **1. (a)** Implementation of policy, standards and norms; | These are the county government functions as per the Gazette notice 8753 of 8th September 2017 on |

| | | | |
|---|---|---|---|
| | **(c)** Monitor & evaluate gaming activities in the within its jurisdiction;<br>**(d)** Implement policy standards & norms of gaming within its jurisdiction; and<br>**(e)** Perform such other functions as are incidental to the exercise of any or all of the county functions provided for under this act. | **(b)** Periodic monitoring and evaluation of betting, lotteries and gaming;<br>**(c)** Development and implementation of county legislation on betting<br>**2. (a)** Licensing of public gaming (casino) premises;<br>**(b)** Enforcement and compliance i.e sport checks, daily supervisions of casinos.<br>**3.** Licensing of prize competition for promotions confined to a county.<br>**4.** Licensing of amusement machines.<br>**5.** Licensing and supervision of county lotteries (lotteries confined within a county).<br>**6.** Licensing of premises for totalisators.<br>**7.** Licensing and issuance of pool table permits within the counties.<br>**8.** Licensing of betting premises.<br>**9.** Handling of complaints and arbitration. | delineation of functions Betting, casinos and other forms of gambling. Also adopted by final judgment in petition no. 295 of 2014 disposition & final orders No. 34 (i) and (ii) delivered on 4th May 2017. |
| **10** | **(b)** Supervise & co-ordinate all matters relating to gaming at national & county level; | Delete the provision | These are county government functions as per Gazette notice 8753 of 8th September 2017. The sections as they are tend to micromanage the counties. |
| | **(d)** Supervise implementation of gaming policies at the national & county level; | Delete the provision | |
| | **(h)** Monitor & evaluate when necessary, the issuance of permits by the counties to ensure compliance with this Act. | Delete the provision | |
| | **(i)** Investigate, monitor & evaluate compliance of policies & regulations established under this Act by the counties | Delete the provision | |
| **20** | **(e)** A prize competition<br><br>**(h)** A public lottery | Both should be amended to specify whether national or county | County governments are required to license prize competition & public lotteries confined to a county as per Gazette notice 8753 of 8th September 2017. |

| | | | |
|---|---|---|---|
| 38 | (4) A permit issued under this Act shall not be transferable unless with the authority of the Board | A permit issued under this Act shall not be transferable unless with the authority of the County government | Licenses issued by the county governments should only be transferred by the authority of the same government. |
| 45 | (1) The Board may, in respect of each totalisator, issue- | Include, totalisator premises license should be issued by the county governments | This is as per Gazette notice 8753 of 8th September 2017. |
| 49 | (1) The Board shall issue a license authorizing the promotion & conduct of a lottery intended to raise funds for charitable purposes which may include charitable activities for social service, public welfare, relief of distress, patriotic purposes, recreational or sporting purposes. | Amend to read national lottery to differentiate from lotteries within the counties. | Licensing & supervision of county lotteries (lotteries confined within a county should be licensed by specific counties as per Gazette notice 8753 of 8th September 2017 |
| 103 | Officers of the Authority shall be present in all casinos for purposes of ensuring compliance of the Act and conditions imposed on a license by the Board. | Delete | County Gaming Inspectors are charged with responsibility of enforcement, compliance spot checks & daily supervision of the casinos. This is as per Gazette notice 8753 of 8th September 2017 |
| 105 | (1) A person may provide amusement with prize at non-commercial entertainment after deducting the expenses of the entertainment are devoted to purposes other than private gain. | Delete in its entirety | Licensing of the amusement machines can only be done under the county government. This is as per Gazette Notice 8753 of 8th September 2017. |
| 108 | (1) The Board may, in accordance with any regulations made under this Act, issue a permit authorizing the promotion and conduct of prize competitions. | The Board may in accordance with any regulation made under this Act, issue a permit authorizing the promotion & conduct of national prize competitions. County government to license prize competitions for promotions confined to a county. | This is as per Gazette notice 8753 of 8th September 2017 and adopted by final orders of petition no. 295 of 2015. |

**MIN.NO.NA/SCT/2019/154: SUBMISSIONS BY THE VELEX ADVISSORY**

David Moshi, Director, Compliance & Regulatory Advisor Velex Advisory made the following submissions:

| | Current Clause in the Bill | Proposed Amendment | Rationale and Justification |
|---|---|---|---|
| 1. | **Current Section 2 reads:** **"winnings"** includes a prize of any kind | **Proposal to amend the** definition of Winnings to: be the difference between the bet placed by a punter (Stake) and the payout received on receipt of a prize<br>**Winning = stake less payout** | - Limiting the definition of winnings to a prize of any kind leaves loopholes for varied misinterpretations between various stakeholders in the Industry. The reason for current dispute between Kenya revenue Authority and Gaming operating companies.<br>- The definition proposed is a literal interpretation of what winnings would mean to an ordinary reasonable man. A win should leave the Winner in a Better position that they were before they engaged in play.<br>- Clarity on this definition is important since winnings is an emotive issue to consumers and subject to taxation by the Collector of taxes. |
| 2. | | **Proposal for an inclusion of Section 2 the** definition of "***vulnerable person***" to mean anyone below 22 years of age and persons identified by the Authority as being addicted to Gambling. | - Protection of Children in schools and university from engaging in gambling whilst still pursuing education; |
| 3. | **Current Section 61 (2) reads;** "an operator shall put in place mechanisms to ensure that a child is not child is not registered for an online game, lottery or bet for which they are licensed to operate;" | **Proposal to delete the** word "**child**" and replace with "**Vulnerable Person".**<br>**Proposal to include the word "casino, game of chance" after lottery** | - Protection of persons identified and published by the Board as problem gamblers from participating in any gambling activities.<br>- Ensures that vulnerable persons are not able to access any forms of gambling including online betting, casinos, lottery or slot machines. |
| 4. | **Current Section 21 (a) reads:** A person shall not be licensed to offer any gaming or betting activity under this Act unless the person | **Proposal to delete the** words "**Kenyan Citizens**" and replace with "**Persons Resident in Kenya".** | - It appears the intention of parliament is to limit capital flight by introduction of this clause. However, this doesn't cure this vice. |

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| | (a) Is a body corporate in which a minimum of thirty per centum of shares are held by Kenyan Citizens | | - The provision for 30% local shareholding can be easily cured by nominee shareholder services which is what is the current practice on the ground. Further, the context of this proviso is to provide opportunity for the bourgeoisie of society to hold shares in such companies and any income received would only further be transferred to offshore accounts.<br><br>- The proposed amendment ensures that the shareholders are resident in the country, can easily be traced herein and will be subject to taxation as a resident.<br><br>- There are other mechanisms of Prevention of Capital Flight such as proviso in law that 20% of income be directed to social cultural responsibilities in the Country |
| 5. | **Current Section 8(2) (b) reads;** "has been convicted of a criminal offence in involving fraud and dishonest;" | **<u>Proposal to delete</u> the word "and dishonest"** | - It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous<br>- What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time.<br>- The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate |

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| | | | - Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise |
| 6. | **Current section 25 reads;**<br>"The Board may suspend a license issued under this Act for a period not exceeding six months where a licensee is charged with any offence involving fraud, dishonesty or any offence related to gaming." | **<u>Proposal to delete</u> the word "dishonest"**<br><br>**<u>Proposal to delete</u> the word "charged" and replace with 'convicted'** | - It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous<br>- What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time.<br>- The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate<br>- Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise |
| 7. | **Current section 113 (2) (d) reads;**<br>"has never been convicted of any criminal offence<br>involving fraud or dishonesty" | **<u>Proposal to delete</u>** the word **"dishonest"** | - It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous<br>- What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time.<br>- The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate<br>- Operators may disclose information to the board which at the time |

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| | | | they reasonably thought was accurate only for the same to change via external factors or otherwise |
| 8. | **Current section 157 (1) reads;** "Where a person issued with a license under this Act is convicted of an offence involving fraud or dishonesty, the court by or before which he is convicted may order a forfeiture or cancellation of his or her licence or a forfeiture of his or her security." | **Proposal to delete the word "dishonest"** | - It is not possible to qualify the wording "dishonest" in this context. The wording is ambiguous<br>- What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time.<br>- The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate<br>- Operators may disclose information to the board which at the time they reasonably thought was accurate only for the same to change via external factors or otherwise |
| 9. | **Current section 9 (3) reads;** "The Cabinet Secretary shall ensure that where a vacancy occurs in the Board, it is as soon as it is practicable be filled in accordance with the provisions of the Act." | **Proposal to delete the words** "as soon as it is practicable" and **replace with** 30 days | - The words "as soon as it is practicable" is not definitive.<br>- To avoid ambiguity in the law, there should be a set timeline for the appointment of a Board member.<br>- Ascertaining the time period further ensures that the Authority does not suffer from technical issues such as lack of quorum. |
| 10. | **Section 7 of the Bill; Membership of the Board** | **Proposal to include the following as members of the Board:**<br><br>One person appointed by the Kenya Revenue Authority | - KRA should nominate a person to the board to ensure harmony in tax administration and collection<br>- The industry is young and lacks developed |

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| | | Two Persons appointed by Operators in the Gaming Industry | knowledge and expertise. Operators can however contribute to the knowledge and expertise of the Board and nominate individuals with a wealth of knowledge to the Board. |
| 11. | **Current Section 30 (2) reads;** "The Board 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 action, including revocation or cancellation of a license, as may be appropriate where the licensee fails or refuses to comply with directions issued by the Board." | **Proposal to Insert** the words; **"and after being given the opportunity to be heard"** after the words **"pursuant to subsection (1)"** | To provide fair administrative action to the operator being subjected to investigation as per Article 49 of the Constitution of Kenya, 2010 and the Fair Administrative Act, |
| 12. | **Section 33 – Gaming Security**<br><br>(1) The Board may require a licensee to pay such Security for security as provided for in the Fifth Schedule. | **Propose to delete entire Section 33 & The Fifth Schedule** | - The Bill in section 34 provides for Minimum Capital Requirements for operating a gambling operation. Subjecting operators to an additional Gaming Security are double jeopardy as both serve the same purpose.<br>- We propose to delete section 33 in favor of section 33. |
| 13. | **Current Section 38 (2) reads:** An application for a gaming permit shall be in such manner as may be prescribed by a respective county government and shall be accompanied by<br>- such fee as may be prescribed by the respective county government;<br>a licence as issued by the Board; and any information as it may deem necessary to enable the county examine the application. | **Propose to amend by deletion of word gaming permit to premises permit** | - The section as is will result in conflict of roles and duties of national and county governments in issuance of permits. County Governments issue premises permit not gaming permits |
| 14. | **Current Section 40 (1) reads;** "A county government may revoke a permit issued under this Act where" | **Proposal to Insert the words "by the County Government"** after the words **"permit issued by them under this Act"** | - The county government should only be able to revoke Licenses or Permits issued by them in this act. |

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| | | | - The section read as is, gives powers to the County Government to revoke any License issued under the Act including Licenses issued by the Authority |
| 15. | **Current section 62 (4) reads;**<br>"Funds may be received from a player through<br>a) credit cards;<br>b) a debit cards;<br>c) an electronic fund transfer; or<br>d) any other method approved by the Board." | **Proposal for an inclusion** of Section 62 (4) (e) to read;<br>"Mobile money services"<br><br>Propose to delete section d | - With the rise in technology innovations and mobile money services, the players are able to access their money through the various mobile money platforms registered and regulated by the relevant authorities.<br>- There are over two hundred payment methods which are increasing forthwith. It would be a cumbersome endeavor for the board to vet and approve each especially without the requisite technical knowledge.<br>- Further payment systems are a means of employment for hundreds of deserving Kenyans; this clause only thus limits business and growth in the sector. |
| 16. | **Current section 68 (1) reads;**<br>"A person in Kenya may not use a telecommunication platform for purposes of playing online games which includes betting, lottery, casino games or any other form of online gaming." | **Proposal to delete** the current section to allow the use of a telecommunication platform | - This section has the effect of banning any form of online gaming or sports betting, which from the text herein is not the intent of parliament.<br>- We propose to delete this section as it will greatly curtail all progress made in the industry and will result in closure of all online operators. |

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| | | | - Gambling will go back to retail shops all over the country |
| 17. | **Current Section 110**<br>**Section (1)**<br>a) Be located in licensed a Casino only.<br>d). Undergo standards verification after every three months<br><br>**Section (2)**<br>A betting machine shall only be operated | Rephrase for clarity<br>a).be in a licensed Casino<br><br>replace three months with once every year. To read ..<br>d). Undergo standards verification **once every year** | Clean up<br><br>It is an expensive exercise, that requires high expertise. Not easily found locally. It may also interfere with services agreements if this exercise was to be assigned to non-manufacture recommended testers. |
| 18. | **Current section 121 (1) reads;**<br>"The Public Service Commission shall through a competitive recruitment, appoint a Secretary to the Tribunal." | **<u>Proposed to replace the words</u> "Public Service Commission"** with **"Judicial Service Commission"** | - The tribunal proposed will be under the Judicial Service Commission and therefore the JSC should be the recruiter |
| 19. | **Current section 158 (f) reads;**<br>"not be erected on an advertisement billboard of close proximity to a school or a place frequented by children; and" | **<u>Proposal to define</u> "a place frequented by children"** | - The wording "a place frequented by children" is ambiguous and may be subject to abuse by stakeholders of authority.<br>- Leaving the text to schools is sufficient in this case |
| 20. | **Current section 159 (1) reads;**<br>"There shall be a tax to be known as the gaming advertisement tax chargeable at the rate of thirty-five per centum for every gaming advisement done through radio or television broadcasting" | **<u>Proposal to delete section 159</u>** on advertisement tax chargeable | - The industry is heavily taxed. Subjecting the industry to further taxation will highly affect the affairs of the industry and lead to its closure. As of this date the industry is the highest taxed in the economy including: Corporate Tax – 30%; Gaming Tax – 15%; Winnings Tax – 20%; Proposed Excise tax – 10%.<br>- It is also not clear who the tax liability falls to the media house or gaming company.<br>- This will also curtail any available income for use by the operators towards social responsibilities in society |
| 21. | **Current Second Schedule reads;**<br>**Totalisator ten Million** | **<u>Proposal to review</u>** the license fees in the Second Schedule (a) | - The proposed license fees are high and will lock out |

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| | (a) All forms of online gaming one hundred million<br>(b) Casinos including public gaming for conducting tables and slot machines- fifty million<br>(c) Non-online bookmakers thirty million<br>(d) Totalisator ten Million<br>(e) Prize competition twenty million<br>(f) Non-online public lotteries, thirty million private lotteries and pool betting scheme- thirty million<br>(g) Amusement with prizes- one million<br>(h) Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery-five hundred thousand | <u>Proposal to review and reduce</u> the license fees in the Second Schedule (c) for Kenyan citizens to:<br>(a) All forms of online gaming fifty million<br>(b) Casinos including public gaming for conducting tables and slot machines- twenty-five million<br>(c) Non-online bookmakers ten million<br>(d) Totalisator five Million<br>(e) Prize competition ten million<br>(f) Non-online public lotteries, thirty million private lotteries and pool betting scheme- fifteen million<br>(g) Amusement with prizes- five hundred thousand<br>(h) Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery-two hundred and fifty thousand | investors from accessing the market.<br>- Will lead to set up of monopolies in the industry and subject the consumers to unfair consumer practices.<br>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.<br>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition of technological platforms to conduct this business. |
| 22. | **Current Fourth Schedule reads;**<br>(a) Casinos including public gaming for conducting tables and slot machines renewal period- three years renewal fee- thirty million<br>(b) Online gaming three years renewal fee thirty million<br>(c) Non online bookmakers- three years – five million<br>(d) Totalisator- ten million- one million | <u>**Proposal to review**</u> the renewal fees in the Fourth Schedule (a)<br><br><u>**Proposal to review**</u> the renewal fees in the Fourth Schedule for Kenyan citizens to;<br>(a) Casinos including public gaming for conducting tables and slot machines renewal period- three years renewal fee- fifteen million<br>(b) Online gaming three years renewal fee fifteen million<br>(c) Non online bookmakers- three years – one million<br>(d) Totalisator- ten million- five hundred thousand<br>(e) Prize Competition- three years- two hundred thousand<br>(f) Non-online gaming including book makers, online casinos, online lotteries- three years- two hundred thousand | - The proposed license fees are high and will lock out locals from venturing into the business.<br><br>- out investors from accessing the market.<br>- Will lead to set up of monopolies in the industry and subject the consumers to unfair consumer practices.<br>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.<br>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition |

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| | (e) Prize Competition- three years- five hundred thousand<br>(f) Non-online gaming including book makers, online casinos, online lotteries- three years- Five hundred thousand<br>(g) Amusement with prizes- three years- five hundred thousand<br>(h) A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery- one year- Three million | (g) Amusement with prizes- three years- two hundred thousand<br>(h) A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery- one year- one million | of technological platforms to conduct this business. |
| 23. | **Sixth Schedule, Clause 7 (1)**<br><br>All gaming activities including casinos and gaming activities online gaming whose licences were issued under the repealed Act shall stand revoked within six months from the enactment of this Act. | **Propose to amend to**<br><br>All gaming activities including casinos and gaming activities online gaming whose licences were issued under the repealed Act shall continue to run till their expiry as provided for in the repealed Act. Licensees shall be obliged to apply for renewal to the Authority three months before expiry of the License. | - Operators have just been subjected to a exhaustive renewal process it will be double jeopardy to subject them to similar process and budgeting prior to expiry of the License. |

**MIN.NO.NA/SCT/2019/155: SUBMISSIONS BY THE KENYA CHARITY SWEEPSTAKE**

Ms. Caroline W. Muikia, Accountant, Kenya Charity Sweepstake made the following submissions before the Committee:

The Kenya Charity Sweepstake is the oldest charitable organization in Kenya, established in 1966 with the blessings of and duly given mandate by Kenya's founding father, Mzee Jomo Kenyatta, as a way of engaging citizens in nation building through poverty eradication programs, education and improvement of health standards amongst other noble causes. The Kenya Charity Sweepstake has been in operation for over 50 years. The following are the proposals to the Gaming Bill, 2019:

| The Clause Number | Current Clause | Proposed Amendment | Rationale and Justification |
|---|---|---|---|
| **Gaming Bill, CAP 131, Laws of Kenya** | The current bill under section 49 states that lottery operating companies are required to pay 25% -45%of the gross gaming revenue to charity. This policy is impracticable to adhere to due to payment of prizes at 50% and the other establishments cost that have to be paid by the lottery companies | Section 49 of the bill be amended by deleting the words 25%-45% of the gross revenue and substituting therefor the words with 5%- 25%of the Net Gaming revenue (sale minus prize and 20% expenses) | if the amendments are not affected the operation of the lottery sector will become impossible and hence closing down of the business |
| | The Gaming bill section 37 stipulates payments of lottery tax at 15% on turnover on all gaming activities | **Proposal:** Section 37 of the Gaming Bill be amended by deleting lottery tax on lottery companies | Lottery companies are mandatorily required to contribute to charity hence imposition of the lottery tax would in effect cause greater difficulties for the lottery companies to contribute towards charity hence recommend this section be deleted |
| | withholding tax 20% on winnings | To be affected on prizes paid at the office from 10,000 and above | it's impossible since small prizes below Ksh 10,000 are paid by our agents' country wide |

**MIN.NO.NA/SCT/2019/156: SUBMISSIONS BY THE GAMING AWARENESS SOCIETY OF KENYA**

Mr. Nelson Bwire, Secretary General, Gaming Awareness Society of Kenya made the following submissions before the Committee:

1. **Mandatory Alternative Dispute Resolution Model**

**Proposal:** Adoption of the United Kingdom Model of resolving disputes through ADR. Gaming operators in UK are required to enlist an independent dispute resolution body to help resolve complaints. This will ensure that consumer disputes are adjudicated fairly especially in instances where some of the members of the betting control and licensing board have an interest in the sector.

2. **Recognition of gambling as an addiction**

The Bill is silent on the addiction aspect of Gambling.

***Proposal**: That some percentage of the Sports Fund be dedicated to fund research and treatment on gambling addiction.*

3. **Unfair Terms and Conditions**

Operators have the exclusive right to cancel bets before and even after the game has ended. The reason they give is that there was an error in the odds (Palpable error).

*There is need for a clear guidance as to when a contract comes into place during betting after which no party should be allowed to cancel a bet.*

4. **Restrictions on withdrawals**

Some operators have set daily withdrawal limits to like KES 10,000. This basically means that a person who wins KES 100,000 will take 10 days to withdraw his or her funds in full. Due to the addictive nature of gambling such a person will end up gambling the funds before the 10 days lapse.

*There should be no daily withdrawal limit. The withdrawal limit should be in line with the daily MPESA limit of 120,000/-.(One justification of setting daily limit by gaming operators is to fight money laundering, however, the 120,000/- daily transaction limit set by MPESA was put in place as a way of fighting money laundering, this limit should also apply to operators).*

**MIN.NO.NA/SCT/2019/157: OBSERVATIONS/CONCERNS**

It was observed that the stakeholders were concerned with the Section 33 of the Bill on the Security for Gaming Activity as provided for in the fifth schedule indicating that the amount is exorbitant and might make it difficult for Kenyans willing to start the business.

There were further concerns on section 34 on Gaming capital. The Stakeholders indicated that the amounts of starting casinos and online gaming businesses of Kes. 100 million and Kes. 200 million respectively are extremely high and needed to be reviewed down wards.

**MIN.NO.NA/SCT/2019/158: ANY OTHER BUSINESS.**

There being no other business the meeting was adjourned at twenty-six minutes past one O'clock.

**SIGN:** ..... **DATE:** 24/09/2019

**CHAIRPERSON**

**Revealed > Treasury CS sought Duale's help on the issue**

# SRC tried to get MPs not to slash its budget

ommission sought
have legislators
rationalise its use of
sh without approval

DAVID MWERE
davidmwere
dmwere@ke.nationmedia.com

t has emerged that the Salaries and Remuneration Commission (SRC) tried to sweet-talk Ps in a last-ditch effort to convince them not to slash its current budget by Sh125.6 mil-

he commission chaired by Ms Mengich had spent Sh99.19 lion on vehicles and transport, h20 million refurbishing its offices and Sh2.85 million on estic, subsistence and other ts without a budget or the of the National Treasury ed by law. It was seeking e MPs rationalise the expe... ...ure in the supplementary dget passed last week.

National Assembly Majority ader Aden Duale made the elations in Parliament last rsday, shortly before Treasury CS Henry Rotich presented the dget highlights for the 2019/20



> The Treasury CS sent me a note with an amendment on behalf of SRC and I said that's their business ... I won't be used as a rubber stamp."
> **Majority Leader Aden Duale**

financial year.

"For the first time, SRC sent me amendments that I carry for them but I told them to come to the House and carry the amendments themselves (sic)," Mr Duale said. His remarks came after it emerged that SRC had written to Mr Rotich, asking him to plead with the MPs to have the money reinstated.

"The Treasury CS sent me a note with an amendment on behalf of SRC, and I said their business is about their commission and my business is that of lawmaking, and that I will not be used as a rubber stamp," Mr Duale said.

### Backdated to October 2018

The House Committee on Budget and Appropriations, chaired by Kikuyu MP Kimani Ichung'wah, slashed the SRC's budget on the recommendations of the Finance and National Planning Committee chaired by Kipkelion East MP Joseph Limo, which said the expenditure was not an emergency.

The SRC is currently embroiled in a legal battle with the 416 MPs and senators over the decision by the Parliamentary Service Commission (PSC) to approve a Sh250,000 monthly house allowance for them. The money was paid in April this year and backdated to October 5, 2018, the day High Court Judge Chacha Mwita ruled that all State officers are entitled to a house or a housing allowance from the government.



FILE | NATION

Imported second-hand vehicles at a yard in Mombasa early this year. Importers have asked the government to scrap the Import Declaration Fee to reduce costs.

# Car importers want IDF fee scrapped

BY ANTHONY KITIMO
akitimo@ke.nationmedia.com

Car importers have urged the government to abolish the Import Declaration Fee (IDF) to reduce cost following the introduction of a tax on all vehicles with engines above 1500cc.

Car Importers Association of Kenya chairperson Peter Otieno said the IDF charges are illegal since the government suspended the Import Verification Programme, which was meant to establish an international price database for all imported vehicles.

Mr Otieno said the government has been charging two per cent of the cost of used vehicles despite the programme having been suspended in 2005.

"We are shocked to see the government reducing the IDF fee from 2 per cent to 1.5 per cent of the total vehicles imported. We have been pushing for the abolishment of the fee as the process no longer takes place," said the chairman.

Mr Otieno said that in April 1998, the government appointed M/s Swiss Procurement Company S.A to establish the price database for imports to Kenya based on the verification and transfer the database to the government at agreed intervals, but the company's contract was terminated in 2004.

REPUBLIC OF KENYA

**THE NATIONAL ASSEMBLY**
**TWELFTH PARLIAMENT - THIRD SESSION**

**In the matters of consideration by the National Assembly:-**

**1. The Traffic (Amendment) Bill (National Assembly Bill No. 28 of 2019)**
**2. The Crops (Amendment) Bill (National Assembly Bill No.32 of 2019)**

**SUBMISSION OF MEMORANDA**

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

**...ffic (Amendment) Bill (National Assembly Bill No. 28 of 2019)** seeks to amend the Traffic ... make provision for the standardization of the use of all roads classified as super highways.

**The Crops (Amendment) Bill (National Assembly Bill No.32 of 2019)** seeks to ensure that coffee shall not be exported from Kenya in its raw form for purposes of favourable balance of trade and payment. The Bill recognizes that the principal Act provides for coffee in its First Schedule as a scheduled crop which the Agriculture, Fisheries and Food Authority is mandated to develop and promote and for which, the Cabinet Secretary is required under section 40(1)(a) to make regulations to provide for declaration of regulation, including production, distribution and marketing of coffee among others.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the **Departmental Committee on Transport, Public Works & Housing** and **Departmental Committee on Agriculture & Livestock** respectively for consideration and thereafter report to the House

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the respective Committees invite members of the Public to submit representations they may have on the said Bills. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to **clerk@parliament.go.ke;** to be received **on or before Monday, 24th June, 2019 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA

**THE NATIONAL ASSEMBLY**
**TWELFTH PARLIAMENT - THIRD SESSION**

**In the matter of consideration by the National Assembly of the Gaming Bill (National Assembly Bill No. 38 of 2019)**

**PUBLIC HEARINGS AND SUBMISSION OF MEMORANDA**

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

**The Gaming Bill, 2019** seeks to repeal the Betting, Lotteries and Gaming Act (Cap 131), provide for the control and licensing of betting, casinos and other forms of gaming, authorization of price competitions and public lotteries; provide for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming and for connected purposes.

**The Gaming Bill, 2019** has undergone First Reading pursuant to Standing Order 127(3) and stands committed to the **Departmental Committee on Sports, Culture and Tourism** for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the public to submit representations they may have on the said Bill. The representations may be made orally or by submission of written memoranda in the following manner:-

1. Written Memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to clerk@parliament.go.ke, pbo@parliament.go.ke, to be received on or before **Monday, 24th June, 2019.**

2. Public Hearings shall be held in the following three (3) counties from **9.00 am to 5.00 pm.** Other counties will be notified accordingly of the Public Hearings in due course.

| | COUNTY | VENUE | DATE |
|---|---|---|---|
| 1. | Mombasa | Kenya School of Government Hall | Monday 24th June, 2019 |
| 2. | Kilifi | Makio Kinamai Social Hall | Tuesday 25th June, 2019 |
| 3 | Kwale | Culture Centre Hall | Wednesday, 26th June, 2019 |

**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

NEWS GENERAL

RESTORING WATER TOWERS

# Prison warders guard forest

## About 24,000 hectares of South Marmanet was under trees before settlers invaded it



MOSES ODHIAMBO
@TheStarKenya

The government has posted Kenya Prisons Service wardens to Marmanet forest to keep out herders.

The prisons service will also reforest the dilapidated forestland amid pressure by locals to be allowed to farm in it "to sustain the trees".

Under the Greening Kenya campaign, prisons and the Kenya Forest Service among other partners at the weekend planted about 33,000 indigenous trees on about 100 acres.

The ministries of Interior, Public Works, Environment, and the UN Environment are part of the cause to restore Kenya's threatened water catchments.

An additional 50,000 seedlings, including fruit trees and bamboo, were distributed to locals during the fairly-attended tree planting drive.

Interior CAS Patrick ole Ntutu, Correctional Services PS Zeinab Hussein, Laikipia Governor Ndiritu Murtithi, and Commissioner General of Prisons Wycliffe Ogalo led the occasion.

PS Hussein asked the Prison wardens, who will work with forest officers, to ensure no animals graze in the forest as they have usually destroyed trees hence defeating restoration efforts.

She said her department is keen on helping the government attain 10 per cent forest cover by 2022 as directed by President Uhuru Kenyatta in May.

"Owing to the cries about animals grazing here, we will fence the forest and have our officers patrol it day and night. Let us work together to conserve this water catchment," Hussein said. She said there was urgent need to mitigate cyclic droughts attributed to low acreage of forest cover countrywide, affecting farming.



KFS deputy conservator Patrick Karluki, Correctional Services PS Zeinab Hussein and Commissioner General of Prisons Wycliffe Ogallo in Marmanet, Laikipia, on June 14 /COURTESY

Kenya Prisons has about 10 million tree seedlings, with 27 other stations expected to help raise 150 million seedlings in two years. The seedlings are being produced in collaboration with the National Youth Service, and other agencies that have also established fuel woodlots.

Security officers say the animals come in droves, "not just 1,000 or 2,000 but herds on top of herds", a situation CAS Ntutu said has to stop.

About 24,000 hectares of South Marmanet was under trees before it was invaded by settlers whose activities depleted the forest. However, Kwa Maina and Kwa Wanjiku were degazetted for settlement.

Residents want to practice Shamba System citing alleged successes in other areas where farmers were allocated an acre each to conserve.

Clement Gitau, a community forest association chairman, said the move would help end joblessness, hence cut down on activities that lead to deforestation of Marmanet.

"Farmers will conserve the trees as they raise potatoes. That way, even animals will not be allowed in the forest as no one would want their crops trampled on," he said.

Ntutu said the government will hold talks with concerned agencies on how best to engage locals in the conservation efforts in line with their quest for adoption of a Shamba system.

"I agree we need to work together. This is a matter we will discuss as government so that our efforts to restore this forest are not in vain," the CAS said.

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – THIRD SESSION

**In the matter of consideration by the National Assembly of the Gaming Bill (National Assembly Bill No. 38 of 2019)**

**PUBLIC HEARINGS AND SUBMISSION OF MEMORANDA**

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

**The Gaming Bill, 2019** seeks to repeal the Betting, Lotteries and Gaming Act (Cap 131); provide for the control and licensing of betting, casinos and other forms of gaming; authorization of price competitions and public lotteries; provide for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming and for connected purposes.

**The Gaming Bill, 2019** has undergone First Reading pursuant to Standing Order 127(3) and stands committed to the **Departmental Committee on Sports, Culture and Tourism** for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the public to submit representations they may have on the said Bill. The representations may be made orally or by submission of written memoranda in the following manner:-

1.Written Memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to clerk@parliament.go.ke, pbo@parliament.go.ke, to be received **on or before Monday, 24th June, 2019.**

2.Public Hearings shall be held in the following three (3) counties from **9.00 am to 5.00 pm.** Other counties will be notified accordingly of the Public Hearings in due course.

| | COUNTY | VENUE | DATE |
|---|---|---|---|
| 1. | Mombasa | Kenya School of Government Hall | Monday 24th June, 2019 |
| 2. | Kilifi | Makio Kinamai Social Hall | Tuesday 25th June, 2019 |
| 3. | Kwale | Culture Centre Hall | Wednesday, 26th June, 2019 |

**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – THIRD SESSION

**In the matters of consideration by the National Assembly:-**
**1. The Traffic (Amendment) Bill (National Assembly Bill No. 28 of 2019)**
**2. The Crops (Amendment) Bill (National Assembly Bill No.32 of 2019)**

**SUBMISSION OF MEMORANDA**

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**The Traffic (Amendment) Bill (National Assembly Bill No. 28 of 2019)** seeks to amend the Traffic Act to make provision for the standardization of the use of all roads classified as super highways.

**The Crops (Amendment) Bill (National Assembly Bill No.32 of 2019)** seeks to ensure that coffee shall not be exported from Kenya in its raw form for purposes of favourable balance of trade and payment. The Bill recognizes that the principal Act provides for coffee in its First Schedule as a scheduled crop which the Agriculture, Fisheries and Food Authority is mandated to develop and promote and for which, the Cabinet Secretary is required under section 40(1)(a) to make regulations to provide for declaration of regulation, including production, distribution and marketing of coffee among others.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the **Departmental Committee on Transport, Public Works & Housing** and **Departmental Committee on Agriculture & Livestock** respectively for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the respective Committees invite members of the Public to submit representations they may have on the said Bills. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to **clerk@parliament.go.ke;** to be received **on or before Monday, 24th June, 2019 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA

## THE NATIONAL ASSEMBLY
## TWELFTH PARLIAMENT - THIRD SESSION

**In the matter of consideration by the National Assembly of the Gaming Bill (National Assembly Bill No. 38 of 2019)**

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**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA

## THE NATIONAL ASSEMBLY
## TWELFTH PARLIAMENT - THIRD SESSION

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**MICHAEL R. SIALAI, EBS**
**CLERK OF THE NATIONAL ASSEMBLY**

# EGERTON UNIVERSITY

P.O. Box 536 - 20115
EGERTON, NJORO

Tel: (051) 2217989, 2113248

### PUBLIC NOTICE

## Conferment of the Degree of Doctor of Science (D.Sc.) (*Honoris Causa*)

Egerton University is a chartered Public University in accordance with the provisions of the Universities Act No. 42 of 2012. It is located in Njoro, Nakuru County, Kenya. The University envisions to be a world-class university for the advancement of humanity. It generates knowledge and offers exemplary education and training to society for national and global development.

The public is hereby informed that Egerton University has taken the decision to confer on Mr. Narendra Rameshchandra Raval (Guru), EBS, the degree of Doctor of Science (D.Sc.) (*Honoris Causa*), in line with the Universities Act, 2012 [Article 20 (1) (e)], the Egerton University Charter (2013) [Article 9 (1) (c)], and the Egerton University Statutes (2013) (Statute 43).



**Mr. Narendra Raval**

Mr. Raval has made a distinct contribution to the modernisation and expansion of Kenya's industry, and to the realisation of the national development agenda. His entrepreneurial success, especially in the manufacturing sector, has been recognised internationally. He has received many awards and accolades for his various accomplishments. Mr. Raval is a philanthropist par excellence. His philosophy is founded on the principle that truth is the greatest religion. His acts, overall life and vision serve to advance humanity. Mr. Raval is also the Chancellor of Egerton University.

The conferment of the Honorary Degree to Mr. Raval will take place on 21 June 2019, during the 40th Graduation Ceremony of the University, at the Sports Pavilion, Njoro Campus.

**Prof. Rose A. Mwonya**
**Vice-Chancellor, Egerton University**
**http://www.egerton.ac.ke/**

**"Transforming Lives through Quality Education"**

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### INVITATION FOR BIDS

**PROCUREMENT TITLE: SUPPLY AND INSTALLATION OF ICT INFRASTRUCTURE FOR THE EAC MEDICINE REGULATION HARMONIZATION INFORMATION MANAGEMENT SYSTEM.**

**REFERENCE NUMBER: PRQ20180948**

The East African Community is implementing the East African Community Medicines Regulation Harmonization (EAC-MRH) program that aims to improve access to priority medicines through harmonization of medicines registration requirements and standards. TradeMark East Africa (TMEA) has been working with EAC National Medicines Regulatory Authorities (NMRAs) at a national level to develop and implement the Information Management System for regulation of medicines. TMEA intends to support the ICT infrastructure for hosting the EAC MRH IMS and will be contracting a firm to supply and setup the hardware and software infrastructure as per the specifications provided.

Terms of reference for this procurement and the Invitation For bid (IFB) document can be obtained at https://www.trademarkea.com/get-involved/procurement/. All queries quoting the above Tender Title and Number should be emailed to procurement@trademarkea.com. The closing date for submission of this tender is on 11 JULY 2019.

Interested and qualified firms/consortiums must submit their bids through TMEA's mail box using the email address, procurement@trademarkea.com, clearly indicating the tender number and description. All attachments must be 5 MBs or less.

TMEA cannot answer any query relating to this tender 7 days or less prior to the submission deadline

REPUBLIC OF KENYA

THE NATIONAL TREASURY AND PLANNING

# PRESENTATION BY THE NATIONAL TREASURY AND PLANNING ON THE GAMING BILL, 2019

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## Overview

1. This presentation is on **"Gaming Bill, 2019"**. It highlights comments and recommendations of the National Treasury and Planning on the Bill.

## Background

2. The Bill provides for the control and licensing of betting, Casinos and other forms of gaming; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes

## Comments and Recommendation by the National Treasury and Planning on the Bill

### 3. Clause 7

In line with the current practice, we recommend that clause 7 should be amended to include a representative from the Industry.

### 4. Clause 8 (1)

The clause provides for qualification of appointment of the Board. For a member to be appointed to the Board he/she should hold a University degree in a relevant field.

We recommend that the qualification should also include a minimum of three years working experience in the relevant field.

**5. Clause 15 (2) (c)**

The Director General of Authority should have a vast knowledge and experience in the Industry. We therefore recommend the post qualification experience to be at least 10 years.

**6. Clause 37 (2)**

The word *"Collector"* as used in the Bill is not defined in Clause 2 of the Bill. We recommend that the Kenya Revenue Authority be the collector of the Gamming Tax as provided under Section 78 of the Public Finance Management Act (PFMA). Similarly, Clause 159 (2) should be also be amended accordingly.

**7. Third Schedule**

We recommend that Paragraph F of this schedule should be amended to read "Tax Compliance Certificate" in place of "Income Tax Compliance" since KRA only issues the former.

**Concluding Remarks**

In view of the foregoing, and considering the need to streamline this Industry, the National Treasury and Planning supports the enactment of the Gamming Bill 2019 with the amendments as proposed to ensure its objectives are fully achieved.

KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

# MEMORANDUM FOR SUBMISSION TO THE COMMITTEE ON SPORTS, TOURISM AND CULTURE DURING A RETREAT SCHEDULED FROM 28TH TO 31ST AUGUST 2019 AT HILTON HOTEL MOMBASA ROAD, NAIROBI ON

# THE GAMING BILL, 2019

**AUGUST 28TH 2019**

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 29/08/2019
Sign:

## 1.0 INTRODUCTION

The National

[redacted] Assembly Departmental Committee on Sports, Tourism & Culture vide its letter Ref: NA/DCS/SCT/2019/(060), dated 22nd August 2019 invited KRA to attend a scheduled retreat on 28th to 31st August 2019 at Hilton Hotel, Mombasa Road Nairobi. KRA being the Authority concerned with tax collection from betting activities was invited to provide comments on the Gaming Bill, 2019.

The Bill seeks to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and connected purposes.

The Bill is cited as "The Gaming Bill, 2019".

## 2.0 KRA'S PROPOSALS

Kenya Revenue Authority proposes as follows;

| S/No. | Section | Proposed Amendment | Rationale |
|---|---|---|---|
| 1. | **PART I. PRELIMINARY**<br>**2.** | Define the Collector to be the Commissioner general of the Kenya Revenue Authority<br>"Collector" means the Commissioner-General appointed under the Kenya Revenue Authority Act; | To specify the collector |
| 2. | **PART III- ESTABLISHMENT OF THE GAMING AUTHORITY**<br>10 (1) (f) | To include the words **"for compliance with regulatory authorities"**<br>The section 10 (1) (f) to read:<br>Establish a central electronic real time gaming | This is to ensure that the syste[redacted] not only account for any [redacted] winnings but will populate the tax [redacted] transaction. |



[redacted]
KENYA REVEN[redacted]
P. O. Box [redacted]
Date:
Sig

## 1.0 INTRODUCTION

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| 2. | **PART III- ESTABLISHMENT OF THE GAMING AUTHORITY**<br><br>10 (1) (f) | To include the words **"for compliance with regulatory authorities"**<br><br>The section 10 (1) (f) to read:<br><br>Establish a central electronic real time gaming | This is to ensure that the system will not only account for any stakes and winnings but will automatically populate the tax aspect from every transaction. |



KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 27/02/2019
Sign:

KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

# MEMORANDUM FOR SUBMISSION TO THE COMMITTEE ON SPORTS, TOURISM AND CULTURE DURING A RETREAT SCHEDULED FROM 28TH TO 31ST AUGUST 2019 AT HILTON HOTEL MOMBASA ROAD, NAIROBI ON

## THE GAMING BILL, 2019

AUGUST 28TH 2019

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 29/08/2019
Sign:

| | | | |
|---|---|---|---|
| | Establish a central electronic real time gaming monitoring system. | monitoring system **for compliance with regulatory authorities**. | |
| 3. | **PART IV – LICENCES AND PERMITS**<br><br>37 (1) Gaming tax | i) Define the base for taxation to be the **gross gaming revenue**. This section should now read;<br><br>37(1). *There shall be a tax to be known as gaming tax chargeable at the rate of 15% of* ***the gross gaming revenue***.<br><br>ii) Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read<br><br>*37(2). The tax under subsection(i) shall be paid to the collector* ***on or before the 20th day of the following month*** | To avoid misinterpretation and align it with due dates. |
| 4. | **PART VI – CONTROL AND LICENSING OF LOTTERIES**<br><br>49.<br><br>Authorization of a public lottery for charitable purpose. | Instead of requiring operators of lotteries to dedicate 25% - 45% of their revenue to charitable causes, the same may be shifted to be a proper tax.<br><br>The requirement may therefore be married together with the lottery tax (gaming tax from Lotteries) to be a tax and collected by the collector | This clause existed before taxation of lotteries and winnings was effected. With the current taxation regime, requiring lotteries to again contribute 25% after suffering 15% tax on lottery will amount to double taxation. With the establishment of the Sports and Arts fund, the government is better placed to collect and distribute these monies to charitable causes |



KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 29/02/2017
Sign:

| | | | |
|---|---|---|---|
| 5. | **PART VII - ONLINE GAMING**<br><br>**Introduce a new sub-section 62(6)**<br><br>Records to be kept | To include requirement for unique identifier for tax purposes. | To provide the Authority with a head start on information containing all the players' details. |
| 6. | **PART X – THE GAMING APPEAL TRIBUNAL**<br><br>111.<br><br>Gaming Appeals Tribunal | Consider inclusion of;<br><br>(4) To refer all tax disputes arising from the actions and decisions of the collector to the Tax Appeal Tribunal for arbitration.<br><br>(5) Recovery of taxes shall be effected as provided for in the Tax Procedure Act. | |
| 7. | **PART X - OFFENCES AND PENALTIES**<br><br>134<br><br>Failure to submit accounts by a licensee | To include the words "**collector**" after the word "Board" and "or" to read as follows;<br><br>134. A person who willfully refuses or fails to submit a statement of account when required by the Board, or **"collector"** or who knowingly submits a false or misleading statement, 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 five years or to both. | This is to provide for penalties for offences in relation to failure to file returns or any other information as may be deemed necessary by the Commissioner herein referred as "Collector". |
| 8. | **PART XVI – MISCELLANEOUS** | i) Define the base for taxation to be the cost of the advertisement and expand | To avoid misinterpretation and align |



KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 27/02/2019
Sign:

| | | | |
|---|---|---|---|
| | **PROVISIONS**<br><br>**159(1). Gaming advertisement tax** | the modes of advertisement to cover all media. This section should now read;<br><br>*159(1). There shall be tax to be known as gaming advertisement tax chargeable at the rate of thirty five percentum on the* ***cost*** *of the gaming advertisement done through radio, television,* ***newspapers, online, billboards, short messaging service and any other advertisement medium***<br><br>***ii)*** Provide the due date for remitting the tax to be the 20th day of the following month. This section should now read<br><br>*159(2). The tax under subsection(i) shall be paid to the collector* ***on or before the 20th day of the following month*** | it with due dates. |

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 24/12/2019
Sign: G.W

(2) KALAMA
Please deal
FA
09/9/19

(1) DICaffees
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KENYA CHARITY SWEEPSTAKE

16/08/2019

The Chairman,

The Departmental committee,

On Sports, Culture and Tourism,

National Assembly,

Parliament Building,

Nairobi.

NATIONAL ASSEMBLY
RECEIVED
02 SEP 2019
DEPUTY CLERK
J.W.N
P. O. Box 41842 -00100, NAIROBI

RE: GAMING BILL 2019

The Kenya Charity Sweepstake is the oldest charitable organization in Kenya, established in 1966 with the blessings of and duly given mandate by Kenya's founding father, Mzee Jomo Kenyatta, as a way of engaging citizens in nation building through poverty eradication programs, education and improvement of health standards amongst other noble causes. The Kenya Charity Sweepstake has been in operation for over 50 years.

Our structured operational frame work ensures that between 50% - 55% of our gross proceeds is given back to the public in the form of prizes to assist in uplifting their living standards; while 25% of Lottery gross proceed is allocated to the Kenya Charity Sweepstake Trust fund for distribution as donation to good causes countrywide. However for maintenance of proper and transparent of utilization of funds given to projects, the Kenya Charity Sweepstake ensures that both County officials as well as County commissioners are involved during the presentation of donations

The Kenya Charity Sweepstake has over 600 representatives (Agents) who receive 10% commission for selling tickets which also serves as a way of job creation.

To date we are proud that we have built a truly authentic recognizable Kenyan brand and remained true to our mandate in supporting the government in the fight against the three enemies of development namely poverty, illiteracy and disease by specifically giving donations to schools, hospitals, sports, polytechnics and other community based projects in an increasingly challenging and highly competitive environment.

This is evident countrywide in the many local communities we have empowered, youth potential nurtured, national sports teams' development via NOCK, National disasters, Health and related initiatives like Beyond Zero Campaign, environmental conservation and contributions to the vulnerable and elderly members of our society

THE NATIONAL ASSEMBLY
RECEIVED
09 SEP 2019
DIRECTOR COMMITTEE SERVICES
Time:.....

Currently, the position of 'limbo 'that our industry is in is at an all-time low.

We at the Kenya charity sweepstake ltd have been quiet for a few years awaiting some form of stability and some true direction ,so that we may move forward unhindered by above issues to continue doing the right things by Kenya

In the past, we were operating under a tax regime of 25% (of the gross gaming revenue) with the funds flowing to our charitable foundation as a donation. The new tax regime has added an additional 15% tax (of gross gaming revenue) destined to social causes - on top of the existing 25% donation – already oriented for good causes.

This effective double taxation, amounting to 40% of the Gross Gaming Revenue, has been extremely untenable for us, and led us to the current critical situation where we question our further existence as a company.

We have investors lined up to help us take The Kenya charity sweepstake ltd back to its former glory –to make ourselves ,The President ,The BCLB ,and our country and fellow Kenyans proud.

We are therefore requesting the following

1. To continue to pay donations on 5 % - 25% on Net gaming revenue (sale minus winnings and 20% expense

2. Delete 15% lottery tax on lottery companies

3. To pay Withholding tax on winnings from ksh 10,000 and above

Our kind consideration of the above request will not only save the company from closing down but also many Kenyans losing their jobs.

Attached herewith please find the summary of the affected clauses

We look forward to your positive reply

Yours Faithfully

Peter Njoroge

General Manager

Kenya Charity Sweepstake

THE KENYA Charity SWEEPSTAKE
11th Floor, K.C.S. House, Mama Ngina St.
P.O. Box 30411 - 00100 Nairobi, Kenya
Tel: 246893, 0725 944066 Fax: 216606

**Gaming Bill 2019**

| The Clause Number | Current Clause | Proposed Amendment | Rationale and Justification |
|---|---|---|---|
| **Gaming Bill, CAP 131 ,Laws of Kenya** | The current bill under section 49 states that lottery operating companies are required to pay 25% -45%of the gross gaming revenue to charity .This policy is impracticable to adhere to due to the cost that have to be paid by the lottery companies | Section 49 of the bill be amended by deleting the words 25%-45% of the gross revenue and substituting therefor the words with5%-25% the Net Gaming revenue sale minus prize and 20% expenses | if the amenedments are not effected the operation of the lottery sector will become immpossible and hence closing down of the business |
| | The Gaming bill section 37 stipulates payments of lottery tax at 15% onturnover all gaming activities | we propose The Gaming bill section 37 that stipulates payment of Lottery Tax at 15% be deleted | Lottery companies are mandatorily reqiurded to contribute to charity hence imposition of the Lottery tax would be in effect cause grater difficulties for the lottery companies to contribute towards charity hence recommend this section be deleted. |
| | withholding tax 20% on winnings | To be effected on prizes paid at the office | It is impossible to withhold tax onsmall prizes paid by our agents country wide |

(1) DLoms
Please deal.
07/10/19

Tel: 254 (20) 4298000
Fax: 254 (20) 4298251
Email: info@crakenya.org
Website: www.crakenya.org

14 Riverside Drive
Grosvenor block
2nd Floor
P.O. Box 1310 – 00200
NAIROBI

**COMMISSION ON REVENUE ALLOCATION**

**OUR REF:** CRA/CSO/P &R/11/Vol. III **DATE:** 1st October 2019

**Mr. Michael R. Sialai, EBS**
Clerk of the National Assembly
**NAIROBI**

Dear Mr. Sialai,

**RE: MEMORANDUM ON THE GAMING BILL, 2019**

We refer to the above subject matter.

The Commission is mandated under Article 205 of the Constitution to make recommendations to the National Assembly and Senate when any Bill containing provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published.

In view of this constitutional role, please find our enclosed memorandum touching on several provisions in Gaming Bill for your consideration.

Yours sincerely,

**George Ooko**
**COMMISSION SECRETARY/CEO**

(2) KAMAMA
Please deal
FA
07/10/19

(3) CHEMWOGO
Please note
FA
07/10/19

NATIONAL ASSEMBLY
RECEIVED
03 OCT 2019
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

# CLAUSE BY CLAUSE ANALYSIS OF THE GAMING BILL, 2019

| Serial Number | Clause | Recommendation | Justification For Change |
|---|---|---|---|
| | **Clause 4 Functions of the National Government** | Align with IGRTC Gazette Notice No. 8753 on functions of both levels of government on matters betting. More specifically, some functions of the national government are omitted e.g. licensing of prize competitions cross cutting several counties and handling of complaints and arbitration | To align with IGRTC Gazette Notice No. 8753 and the court finding in *Africa Rafiki Ltd & 2 others v Nairobi City County Government & 3 others [2017] eKLR (Petition No.295 OF 2014)* |
| | **Clause 5 Functions of the county governments** | a) Under para 5(e) as read with clause 4(f), enforcement is concurrent on the two levels of government. There is need to vest this enforcement mandate to one level | a) To avoid fragmentation of one function and to align with the Gazette notice<br>b) To specify jurisdiction |

| | | | |
|---|---|---|---|
| | | of government as per the Gazette Notice<br>b) Paragraph 5(b)-add the phrase *'within the county'* | |
| | **Clause 10 Functions of the Authority** | a) Clause 10(1)(d)- the term *'supervise' vis-a-vis* counties should be substituted<br>b) Clause 10(1)(b) and (d) appear similar and should be harmonized<br>c) Clause 10(1)(h) should be deleted as it offends county functions on gaming<br>d) There is need to have a clear demarcation of functions at the national level between the line ministry and the Authority<br>e) Clause 10(1)(i) –delete the phrase *'by the counties'* | a) To avoid conflict of mandate given gaming is a concurrent function and the Authority is a national government entity<br>b) To avoid repetition<br>c) To curtail conflict of mandates<br>d) To avoid duplication<br>e) To curtail conflict of mandates |
| | **Clause 15** | Under paragraph (b)-avoid prescribing the fields | For inclusivity |

| | | | |
|---|---|---|---|
| | **Director General** | | |
| | **Clause 45 Totalisator Licence** | Clause 45 (b) conflicts with the Gazette by granting the Board powers to licence permits for totalisators | To align with IGRTC Gazette Notice No. 8753 and the court finding in *Africa Rafiki Ltd & 2 others v Nairobi City County Government & 3 others [2017] eKLR (Petition No.295 OF 2014)* |

GASK

A NATION FREE FROM GAMBLING RELATED HARM

GAMING AWARENESS SOCIETY OF KENYA

# GAMING BILL 2019.

## ISSUES.

### 1. MANDATORY ALTERNATIVE DISPUTE RESOLUTION MODEL

We propose the adoption of the United Kingdom Model of resolving disputes through ADR. Gaming operators in UK are required to enlist an independent Dispute Resolution body to help resolve complaints. This will ensure that consumer disputes are adjudicated fairly especially in instances where some of the members of the betting control and licensing board have an interest in the sector.

### 2. RECOGNITION OF GAMBLING AS AN ADDICTION.

The bill is silent on the addiction aspect of Gambling. We propose that some percentage of the sports fund be dedicated to fund research and treatment on Gambling addiction.

Nelson Bwire

SECRETARY GENERAL

0780 688 550

# GAMCODE LTD

P.O. BOX 5468, 80401
Diani Beach, Kenya

| | |
|---|---|
| **Our Ref** | DNG/MMP/GEN/10212528 |
| **Your Ref** | TBA |
| **Date** | 24 June 2019 |

The Clerk of the National Assembly,
Main Parliament Buildings, Nairobi
Parliament Road
P.O. Box 41842-00100
Nairobi,
Kenya
**Attention: Mr. Michael Sialai, EBS**
**(clerk@parliament.go.ke)**
**pbo@parliament.go.ke**

NATIONAL ASSEMBLY
MAIN RECORDS UNIT
24 JUN 20
RECEIVED (4)
NAIROBI – KENYA

Dear Sirs,

**Re: The Gaming Bill, 2019 – Submission of Memoranda**

We refer to your public notice inviting the public to submit their comments on the draft Gaming Bill, 2019 (the **Bill**).

We have set out below our key comments and proposals on certain areas of the Bill for your kind consideration.

Yours faithfully,
on behalf of Gamcode Limited

**For and on behalf of Anjarwalla & Khanna**
**Daniel Ngumy**

cc

The Director
The Betting Control and Licensing Board
Kenya Charity Sweepstake House,
3rd and 8th Floors
Mama Ngina Street,
**NAIROBI**

# GAMCODE LTD

P.O. BOX 5468, 80401
Diani Beach, Kenya


1.**Local Shareholding Requirement**

1.Section 21 of the Bill outlines the requirements for licensing to offer gaming or betting services. One of the proposed requirements is that a body corporate which intends to be licenced ought to have a minimum of 30% of its shares owned by Kenya citizens.

2.We recommend that this provision be amended to state that the minimum number of local shares be held by Kenyan residents as opposed to citizens.

3.**Gaming Taxes**

4.Section 37 of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

5.We propose that these provisions be deleted for the following reasons:

1.The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill, 2019 to introduce excise duty on amounts staked by players.

2.Section 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.

3.Section 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

4.**Minimum Online Betting Amount**

6.Section 60 of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, *"A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"* [emphasis ours]

7.In our view imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only hinders the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

8.In our view, the penalty proposed by Section 60 (2) is also excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake. In that way it would be impossible for any person to bet at a lower amount than a prescribed minimum.

9.Section 60 (2) is drafted in a manner that is ambiguous as it makes engaging in betting for an '*amount than*' fifty shillings an offence. It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.

10.In conclusion, we view the idea of a minimum online gaming amount to be easier to enforce other than by making it a statutory requirement and as such Section 60 as a whole should be removed.

GAMCODE LTD
P.O. BOX 5468, 80401
Diani Beach, Kenya

11. Restriction on Foreign Servers

12. Section 67 of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

13. In our view, the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

14. Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

15. **Restriction on the use of a telecommunication platform for online gaming**

16. Section 68 of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

17. The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

18. Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

19. We propose that this provision is removed in its entirety.

1518

# COUNCIL OF GOVERNORS

*Westlands Delta House 2nd Floor, Waiyaki Way.*
*P.O. BOX 40401 -00100,*
*Nairobi.*

*Tel :(020) 2403314,2403313*
*+254 729 777 281*
*E-mail: info@cog.go.ke*

**Ref: COG/6/11 Vol.2 (30)** **21st August, 2019**

**Mr. Michael Sialai, EBS**
The Clerk of the National Assembly
Parliament Buildings
**NAIROBI**

(1) D/Cmts
29/8/19

Dear Mr. Sialai;

**LETTER FORWARDING THE LEGISLATIVE MEMORANDUM ON THE GAMING BILL 2019**

The above matter refers.

The Council of Governors appreciates that in realizing the objects of devolution, the principles of consultation and cooperation under Article 6(2) and Article 189 of the Constitution are inevitable.

Based on these principles, the Council of Governors has reviewed the Gaming Bill 2019 and would like to forward for your consideration the following legislative memorandum attached herewith.

Yours Sincerely,

**Jacqueline Mogeni, MBS**
**Chief Executive Officer**

(2) KATAMA
Please deal
FA
27/8/19



# COUNCIL OF GOVERNORS

## LEGISLATIVE MEMORANDUM ON THE GAMING BILL, 2019

To
THE NATIONAL ASSEMBLY

From
THE COUNCIL OF GOVERNORS

**THE COUNCIL OF GOVERNORS,**

**In recognition** of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

**In further recognition** of the need to ensure that all legislation is cognizant of devolved governments; and

**Aware** of the need for coordinated action between the National and County Governments to ensure that these legislations properly respond to the key issues, and further reflects the spirit and purpose of the devolution process.

The Council recommends as follows on the Gaming Bill, 2019

**A. <u>General comments</u>**

**Petition number 295 of 2014** emphasized the functions of National and County Governments in the Betting, Casinos and other forms of Gambling in the matter between the ***Association of Gaming Operators in Kenya and Others vs. Nairobi City County Government and others.***

Further, **legal Notice number 132 of 8th September, 2017,** set out the functions relating to Betting, Casinos and other forms of Gambling between the National and County Governments. This clearly delineated that concurrent function.

The proposed Bill cannot deviate from the Court decision and the gazette notice as seen in among others Section 4 and 5.

The Council therefore recommends that the proposed Bill take into consideration the aforementioned Court decision and the gazette notice as outlined in Section B below.

B. **Specific comments**

| Section | Provision in the Bill | COG Proposal | Justification |
|---|---|---|---|
| 4 (b) | provide for the co-ordination of national, county and concurrent national functions relating to betting, lotteries, casinos and other forms of gaming in accordance with this Act | provide for the co-ordination of national, county and concurrent national functions relating to betting, lotteries, casinos and other forms of gaming in collaboration with County Governments in accordance with this Act | Gaming is a concurrent function and therefore coordination of the functions should be done by the two levels of government to ensure effectiveness in regulating the sector and to avoid information gap. |
| 4 (h) | The National Government shall regulate the gaming industry | **Amend to read as follows;**<br><br>The National Government shall regulate the gaming industry in collaboration with County Governments. | Regulation of the gaming industry is a concurrent function and as such, regulations should be done by both levels of government. |
| 5 (a) – (e) | (a) enforce compliance of this Act and other applicable laws;<br><br>(b) issue permits for gaming premises;<br><br>(c) monitor and evaluate gaming activities in the within its jurisdiction; | **Amend to read as follows;**<br>a) Implementation of policy, standards and norms;<br>b) Periodic monitoring and evaluation of betting, lotteries and gaming;<br>c) Development and implementation of county legislation on betting and other forms of gambling. | To ensure that the provision is in conformity with the Petition number 295 of 2014 and legal Notice number 132 of 8th September, 2017 |

| | | | |
|---|---|---|---|
| | (d) implement policy standards and norms of gaming within its jurisdiction; ad<br><br>(e) perform such other functions as are incidental to the exercise of any or all of the county functions provided for under this Act. | d) Licensing of public gaming (casino) premises;<br>e) Enforcement and compliance i.e, sport checks, daily supervision of casinos<br>f) Licensing of price competition for promotions confined to a county<br>g) Licensing of amusement machines<br>h) Licensing and supervision of county lotteries (lotteries confined within a county)<br>i) Licensing of premises for totalisators<br>j) Licensing and issuance of pool table permits within the counties<br>k) Licensing of betting premises<br>**l)** Handling of complaints and arbitration | |
| 7 (g) | The management of the Authority shall vest in a Board which shall consist of:<br><br>One person appointed by the Council of County Governors | **Amend to read as follows;**<br><br>Four persons appointed by the Council of County Governors | More representation for County Governments as betting is a concurrent function. |

| | | | |
|---|---|---|---|
| 10 (b) | supervise and co-ordinate all matters relating to gaming at national and county level; | **Amend to read as follows;**<br><br>Coordinate the implementation of all matters relating to gaming at National and County Level | National and County Governments are distinct but interdependent. As such, an authority cannot supervise gaming matters. |
| 10 (d) | supervise implementation of gaming policies at the national and county level | **Amend to read as follows;**<br><br>Advise on the implementation of gaming policies at the National and County Levels | National and County Governments are distinct but interdependent. As such, an authority cannot supervise gaming matters but can advise on how a function can properly be implemented. |
| 10 (h) | The Functions of the Authority shall be to:<br><br>Monitor and evaluate when necessary the issue of permits by Counties to ensure compliance with this Act | **Amend to read as follows;**<br><br>Develop in consultation with the Ministry and County Governments norms and standards for issuance of gaming, betting and other forms of gambling permits by county governments | Monitoring and Evaluation and Issuance of permits is an exclusive function of County Governments and the Authority should therefore not interfere with the same. |
| 10 (i) | The Functions of the Authority shall be;<br><br>Investigate, monitor and evaluate compliance of Policies and | **Amend to read as follows;**<br><br>Monitor and evaluate implementation of Policies and regulations by National and County | The Authority should limit itself to monitoring and evaluation so as to advise both levels on the areas of implementation of the policies and regulation. |

| | | | |
|---|---|---|---|
| | regulations established under this Act by the Counties | Governments established under this Act by the Counties | |
| 10 (m) | The Functions of the Authority shall be;<br><br>To advise Counties on matters relating to gaming operations | **Amend to read as follows;**<br><br>Advise both levels of government on matters relating to gaming operations | Gaming is a concurrent function and the Authority should therefore advise both levels of government. |
| 20 (b) and (h) | The Board shall have authority to issue gaming licenses under this Act with respect to;<br><br>(b) the national lottery<br><br>(h) a public lottery | **Amend for clarification** | There is need for clarity on the difference between a national lottery and a public lottery as seen also in Section 49 of the Bill. |
| 38 (4) | A permit issued under this Act shall not be transferrable unless with the authority of the Board | **Amend to read as follows;**<br><br>A permit issued under this Act shall not be transferable unless with the Authority of the County Governments. | County governments issue permits for business premises and therefore should be the ones to transfer the permits. This should also be aligned with Section 40 (2) and 42. |
| 41 | Every Permit issued by the County Government shall be valid for a period of twelve months from the | **Delete this provision** | Counties have laws which describe the timeliness. |

| | | | |
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| | date of issue unless a different duration is prescribed under the Act | | |
| 49 | The Board shall issue a license authorizing the promotion and conduct of a lottery intended to raise funds for charitable purposes which may include charitable activities for social service, public welfare, recreational or sporting purposes | **Amend to read as follows;**<br><br>**The Authority** shall issue a license authorizing the promotion and conduct of a lottery intended to raise funds for charitable purposes which may include charitable activities for social service, public welfare, recreational or sporting purposes | For uniformity across the Bill. The Authority is the one that facilitates the functions of the board.<br><br>This applies to the entire Section 49, 50, 51, 53(2), 102, 103, 108 and any other section in the Bill. |
| 57 (2) | The Board shall establish a framework to facilitate real time monitoring of Casinos and online gaming activities which shall be accessible for monitoring by the Communications Authority of Kenya. | **Amend to read as follows:**<br>The Board shall establish a framework to facilitate real time monitoring of Casinos and online gaming activities which shall be accessible for monitoring by the Communications Authority of Kenya established under the Information and Communication Act | For clarity purposes, cross reference with the Kenya Information and Communications Act |
| 70 | There shall be established a National Lottery to be operated within the Republic of Kenya | **Define the term National Lottery for purposes of clarity** | The National Lottery needs to be defined as it is not clear the purpose for which it is established and the purpose it will serve in the Bill. |

| | | | |
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| 110 | Betting and gaming machines shall be located in a licensed Casino only. | **Amend to read as follows;**<br><br>Betting and gaming machines shall be located in a licensed and authorized casino | This Bill in Section 101(4) also provides for Betting and Gaming machines to be located in a permitted premise which shall not be near learning institutions, Religious establishments and residential areas |
| 161 | The police shall in coordination with the Board have power to seize any illegal gaming betting and lottery machines | **Amend to read as follows:**<br>The police shall in coordination with the Board and the County Gaming inspectors have power to seize any illegal gaming betting and lottery machines | Include county gaming inspectors as this is also their role in Counties. |

**Recommendation**

The Council recommends that the National Assembly considers the above proposals taking into account that *betting, gaming and other forms of gambling* is a concurrent function.

Shade.co.ke
Get an Edge!

Our Ref
**Your Ref** TBA
**Date** 24 June 2019

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

**Attention: Michael Sialai EBS (clerk@parliament.go.ke)**

Dear Sirs,

**Re: The Gaming Bill, 2019 – Submission of Memoranda**

We refer to your public notice inviting the public to submit their comments on the draft Gaming Bill, 2019 (the **Bill**).

We have set out below our key comments and proposals on certain areas of the Bill for your kind consideration.

Yours faithfully,
**For on behalf of on behalf of Shop and Deliver Limited**

**Chris Mwirigi**

**Director**

cc

The Director
The Betting Control and Licensing Board
Kenya Charity Sweepstake House,
3rd and 8th Floors
Mama Ngina Street,
**NAIROBI**

1 Local Shareholding Requirement

1.1 Section 21 of the Bill outlines the requirements for licensing to offer gaming or betting services. One of the proposed requirements is that a body corporate which intends to be licenced ought to have a minimum of 30% of its shares owned by Kenya citizens.

1.2 We recommend that this provision be amended to state that the minimum number of local shares be held by Kenyan residents as opposed to citizens.

**2 Gaming Taxes**

2.1 Section 37 of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

2.2 We propose that these provisions be deleted for the following reasons:

2.2.1 The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill 2019 to introduce excise duty on amounts staked by players.

2.2.2 Section 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.

2.2.3 Section 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

**3 Security for Gaming Activity**

3.1 Section 33 of the Bill requires a licensee to pay an online gaming security of KES 200 million. We see this amount as exorbitant and anti-competitive, as this requirement serves as a barrier to entry for players who wish to engage in gaming activities.

3.2 The security deposited under this section is required to be deposited in the Board's bank account and shall be refunded to a licensee upon expiry or cancellation of a licence. In our view, the Board is not a deposit taking entity that would warrant the receipt of such funds from gaming players.

3.3 Further, based on the assumption that these funds will be placed in a deposit bearing account, we would expressly require that any interest that has accrued be remitted to the gaming player.

3.4 We propose that this requirement be deleted in its entirety, given that a gaming business would have already demonstrated its capacity to carry out the business by providing minimum capital requirements of KES 200 million as discussed below.

3.5 In the alternative, if all gaming companies must be required to provide a security we would recommend as follows:

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3.5.1 The security is based on a percentage of each companies' average monthly gross gaming revenue. In this way, both large and small players in the industry have equal footing to comply with the security requirement; or

3.5.2 The security is based on an equivalent amount of the companies' jackpot amount.

**4 Gaming Capital**

4.1 In addition to the security for gaming activities, Section 34 of the Bill introduces a minimum capital requirement of KES 200 million for online gaming businesses. This minimum capital requirement coupled with the gaming security will unduly restrict players taking part in gaming activities.

4.2 In our view, this minimum capital requirement is extremely high and we therefore propose a capital requirement of [KES 100 million].

**5 Minimum Online Betting Amount**

5.1 Section 60 of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, *"A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"* [emphasis ours]

5.2 In our view imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only hinders the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

5.3 In our view, the penalty proposed by Section 60 (2) is excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake. In that way it would be impossible for any person to bet at a lower amount than a prescribed minimum.

5.4 Section 60 (2) is drafted in a manner that is ambiguous as it makes engaging in betting for an '*amount than*' fifty shillings an offence. It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.

5.5 **Recommendation**: We would recommend that the minimum online betting amount be deleted in its entirety. Where this is not possible, we would recommend that if a minimum requirement must be introduced, that the amount is kept at KES 10 to allow any consenting adult to participate in betting.

**6 Maximum Jackpot Amount**

6.1 We would recommend that a maximum jackpot amount of KES 10 million per single user is introduced, as this will ensure that more punters have a higher chances of winning.

**7 Restriction on Foreign Servers**

7.1 Section 67 of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

7.2 In our view, the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

7.3 Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

**8 Restriction on the use of a telecommunication platform for online gaming**

8.1 Section 68 of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

8.2 The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

8.3 Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

8.4 We propose that this provision is removed in its entirety.

**9 Unlicensed Betting Premises or electronic sites**

9.1 Section 141 of the Bill which outlines an offence where any person knowingly bets in an unlicensed betting premise. This section further imposes a penalty of KES 1 million or imprisonment for a term not exceeding one year or both. In order to facilitate compliance of this offence, we would recommend that a list of all licensed betting premises and licensed electronic sites be published in the Kenya Gazette and 2 newspapers of national circulation as well as the Board's website. This will ensure that the public is not a party to the licensing process is adequately protected.

**Golden Key Ltd**
P.O. Box 33 - 80100
Mombasa, Kenya
Tel.: +254 772 053037
Email: goldenkey.casino@tamarind.co.ke

24th June 2019

The Clerk of the National Assembly
P O Box 41842 – 00100
Nairobi

**RE: PUBLIC HEARING AND SUBMISSION OF MEMORUNDUM ON THE GAMING BILL,2019**

Dear Sir,

We the Casinos of Kenya a subsector of the Association of Gaming Operators in Kenya hereby make our submissions on the 2019 Gaming Bill.

Strategy and approach should be fully differentiated between ONLINE and LAND BASED gaming establishments and also a differentiation between existing and new gaming establishments.

**Section 16.** (1) ~The Board may appoint such officers and staff of the board...

**AGOK, AS KEY STAKEHOLDER IN GAMING INDISTRY, SHOULD HAVE REPRESENTATIVE ON BOARD.**
We believe that we as operators are authorities in our fields and would like to request that you treat us as such by enabling industry of subsector representation.

**PART IV LICENSING FEES AND SECURITY DEPOSIT (SCHEDULES 2,4 AND 5)**

We propose that you consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land based brick and mortar and online gaming must be minimum 30 times less in a favor of land based establishments.

We also propose the the authority to license all gaming establishments be under the national authority and County governments only issue business premise licenses.

**Section 20.** ~ The Board shall have authority to issue gaming licenses under this Act with respect to-(J) Gaming equipment repair and servicing;

No local company has the capacity to maintain gaming equipment at the producers' standards better the the producers themselves. In Kenya there are over 50 different technologies currently in the market and there is no local company that is certified for

purposes of repairing gaming equipment. The producers have trained staff for gaming technologies they own.

**Section 20. 2 states ~ the board shall classify licenses in a manner as it may be prescribed.**

This statement leaves a lot of room for mismanagement if the manner in which licenses will be awarded are not articulated and documented.

**Section 21 (a) on Ownership structure states ~ a minimum of 30% of shares are held by Kenyan Citizens....**

Is this applicable to new establishments or how will existing establishments be treated?

**Section 22(a) License fees for casinos under the 2nd schedule is 50 million.**

Clarify that this will only apply to new casinos and not existing casinos.

We propose 10m for new casinos

**Section 22 (b) ~ prescribed gaming capital**
Prescribing a gaming capital of 100m will pose a problem to existing establishments this will pose a problem. Unless it is applied to new casinos.

4th schedule we propose renewal for Casinos to be 3m and not 30m

**Section 22 ( c) As per the 5th schedule Casinos will deposit with the authority a security of 50 M.**
We Propose a 5 million insurance bond.

**Section 33 (1) ~ Board may require a licensee to pay such a security ...**
What conditions or actions will necessitate the board to requesting for a security?

**Section 34 (1) Each licensee shall provide proof of adequate gaming capital ...**

100m?? This will be a problem for existing establishments.

**PLEASE TAKE NOT OF THE MAJOR DIFFERENCES BETWEEN ONLINE AND LAND BASED OPERATORS):**

**ONLINE GAMING (ONLINE CASINO AND ONLINE BOOKMAKERS)**

1. **POPULAR SPORT BETTING, JACKPOTS ARE OVER 200 MILLION SHILINGS**
2. **ONLINE BETTING AND ONLINE CASINOS ARE OPERATING COUNTRY WIDE, WITH THE ACCESS TO THE MILLIONS OF CUSTOMERS**
3. **TURNOVERS OF ONLINE COMPANIES CAN NOT BE COMPARED WITH LAND BASED OPERATORS. ONLINE TURNOVERS ARE, IN AVERAGE, MORE THEN 200 TIMES**

**GAMING (LAND BASED CASINOS AND ONLINE BOOKMAKERS)**

1. **CASINO AVERAGE JACK POT MAX UP TO 1 MILLION SHILLINGS (200 TIMES LESS THEN LAND BASED)**
2. **ACCESS TO MARKET IS LIMITED (NOT MORE THEN 500 CLIENTS (WITHIN A MONTH)**

3. **LAND BASED ESTABLISMENTS ARE CREATORS OF EMPLOYMENT. OVER 90% OF GAMING STAFF ARE EMPLOYED IN LAND BASED GAMING COMPANIES.**
4. **LAND BASED ESTABLISHMENTS DO NOT POSE A THREAT TO SOCIETY LIKE THE ONLINE ESTABLISHMENTS AS ONE HAS TO MAKE A CONSCIOUS EFFORT TO VISIT THEM.**
5. **LAND BASED ESTABLISHMENTS HAVE A GOVERNMENT INSPECTOR AND DO NOT ALLOW UNDERAGE GAMBLERS IN THEIR PREMISES**

**Section 41. ~Every permit issued by the county government Duration of a shall be valid for a period of twelve months from the date permit of issue unless a different duration is prescribed under the Act.**

Validity period should be synchronized with gaming license period.

**Part XI CASINOS SLOTS MACHINES**

**Section 101 (2) ~** The Cabinet Secretary may, in consultation with the Board and the Council of Governors, propose regulations on the number of casinos in the different regions of Kenya.
How will this affect existing establishments? Not an issue if this is related only for new establishments.

**Section 101 (4) 5 ~ requires casinos gaming machines to play a minimum bet of ksh 50**

This is a high bet, the combination of which can lead establishment to pay out very huge amounts if all the machines adopted a ksh 50 minimum bet.

**PART XII AMUSEMENTS WITH PRIZES ETC...**

**Section 106 (3) a I, ii & iii ~ A matter of concern about the AMUSEMENT MACHINES –**

This can be a serious issue. Prizes level proposed does not appear correct or right as all of the prizes won on amusement machines are not subject of any tax currently applicable on gaming.

Section 106 2 & 3 Prize limits for amusement are unreasonable and extremely high. As per the proposed prize scales, underage persons will engage playing them on much higher level with expectations to make huge winnings.
As for the prizes won on amusement machines they have not been subjected to gaming tax, betting tax or tax on winnings. This can be seriously misused.

Further we propose that prizes on amusement machines should not exceed ksh 500/- and the aggregate amount issued by by way of sale of chance not more than ksh 2000/-

**107. (1) ~Each county government shall issue a permit of Amusement machines authorizing the use of amusement machine in a Machines approved premise.**

Importation and certification equipment must be strictly under national government. Clear guidelines must be issues to KEBS for a pre shipment

inspection of those equipment.
None of the amusement machines should be imported without producer certificate clearly stating that equipment is FOR AMUSEMENT ONLY. KEBS should have clear guidelines regarding importation and pre-shipment certificates of these machines and equipment. Pre-shipment certification must confirm the purpose of such equipment.
Due to the bad experience and reputation with the Chinese coin machines, this proposed bill is leaving a huge loophole for misuse once again

**159. (1) There shall be a tax to be known as the Gaming gaming advertisement tax chargeable at the rate of thirty advertisement five per centum for every gaming advisement done through tax, radio or television broadcasting.**

This will mostly affect sports betting.

Considering all the differences mentioned above, the bill is proposing the same fees or just twice higher for online activities. This is not proper considering the brick and mortar establishments like the casinos which are barely surviving due to the high taxation. Land based operators have been in existence in Kenya for over 50 years and they are bulking under the huge cost of maintaining their equipment and sustaining their business. The casinos establishments are not in a position to invest in modern technologies at the moment as they are not making any profits on a scale to invest or expand.

We highly propose that you consider reducing the proposed license fees and security fees for existing land based and casino establishment by more than 20 times or else they will have not be sustainable leading to business closure and loss of over 6,000 jobs.



**JUDITH KIRAGU**
**Secretary - Association of Gaming Operators – Kenya**
**+254 721 485493**

# MEMORANDUM

**TO** : **CLERK OF THE NATIONAL ASSEMBLY**

FROM : COUNTY ATTORNEY, MOMBASA COUNTY GOVERNMENT

**CC** : H.E THE GOVERNOR, COUNTY GOVERNMENT OF MOMBASA

:EXECUTIVE COMMITTEE MEMBER, TRADE, TOURISM & INVESTMENTS

: CHIEF OFFICER, TOURISM

: COUNTY DIRECTOR, DIRECTORATE OF GAMING & BETTING

OUR REF : **CGM/OCA/19/6/24 -3**

DATE : 24TH JUNE, 2019

**RE: PROPOSED CHANGES TO THE GAMING BILL 2019 BEFORE CONSIDERATION FOR THE SECOND READING BY NATIONAL ASSEMBLY.**

**Background Information**

On 20th May, 2019 the Directorate for Betting Control and Licensing Board gave an invitation to counties to present their memoranda in regard to the proposed Gaming Bill, 2019 at the Kenya School of Government Nairobi. After perusal of the bill which underwent the first reading at the floor of the house, it is evident that the views proposed by selected counties were not put into consideration by the directorate before presenting the bill to the National Assembly.

In light of the above, this memorandum endeavors to draw your attention to the clauses of the proposed bill posing a threat to obliterate devolution by infringing on the provisions of the Fourth Schedule of the Constitution.

It is our submission that the proposed Gaming Bill 2019 should be wholly shelved for purposes of aligning it to the delineation of functions as stipulated by the Fourth Schedule of the Constitution 2010.



Bima Towers, 6th Floor, Digo Road. P. O. Box 84569-80100, Mombasa
Email: countyattorney@mombasa.go.ke
Website: www.mombasa.go.ke

1. **The proposed Gaming Bill, 2019 threatens and offend the constitution on division of shared functions.**

Article 186(1) of the constitution stipulates that, ***"except as otherwise provided by this constitution, the functions and powers of the national government and the county governments respectively, are as set out in the Fourth Schedule of the constitution"***. From provision of article 186(1), it can be stated that the Fourth Schedule of the Constitution is the focal point in determining the functions of the two levels of the governments.

The Fourth Schedule to the constitutions comprises of three categories of functions between the two levels of government:-

i. National Governments functions,
ii. County Governments Functions, and;
iii. Function or power that is conferred on more than one level of government or a function or power within the concurrent jurisdictions of each of those levels of government (shared functions)

It is our observation that the **betting, casinos and other forms of gambling** are both enlisted as functions of National Government and County Government pursuant to Fourth Schedule part 1 paragraph 34 and part 2 paragraphs 4(a) respectively. This being the case, it shows that issues to do with betting, casinos and other forms of gambling is a shared function and calls to explore on delineation formula or criteria when formulating a policy or a legislation to avoid usurping or overstepping of the powers and functions of any level of government may it be a County Government or National Government.

Therefore, it is my submission that in drafting the Gaming Bill, 2019 it should strictly adhere to the following dictates of the law:-

i. **THAT** the bill should be confined to the provision of the Constitution Article 186(1) and Fourth Schedule part 1 paragraph 34 and part 2 paragraph 4(a).
ii. **THAT** the bill should not divert from delineated functions which were arrived at by the Inter-governmental technical taskforce.
iii. **THAT** the basis for formulating any policy or drafting any legislation by either level of government should be guided by the Gazette Notice No. 8753 dated 8th September, 2017
iv. **THAT** the National Assembly in considering the proposed bill should pay attention to the decision of the court in petition No. 295 of 2014 as consolidated with petitions No.1 of 2015 and petition No. 315 of 2015.

v. **THAT** there is no controversy or confusion in terms of the functions and duties of the National Government and County Government in regards to betting, lotteries, and gaming activities since in the above case the court referred the matter to the Transitional Authority for alternative dispute resolution and following a consultative stakeholder engagement of all the players, the Transition Authority filed a report in court on delineated functions which the court adopted in its final judgement.

*vi.* **THAT** by the directorate presenting the present bill before the floor of the house with glaring clauses contradicting the decision of the court will be indulging the August House in a process of ***"Making and Breaking the Law".***

Finally, the Inter-governmental Technical Relations Committee by virtue of taking over the residual functions of the Transition Authority gazetted the delineated functions in gazette Notice No. 8753 of 8th September, 2017. Basing on the above fact of law, it is our humble submission that it would be illegal to develop a policy or to enact the proposed Gaming Bill, 2019 whether by the County Government or National Government interfering with the function of each level of the governments.

2. **Clauses in the bill which are inconsistent with the delineated functions**

a) The introduction of the bill should have the word "national" an Act of Parliament to provide for the control and licensing of National betting, casinos and other forms of gaming; authorization of national prize competition and public lotteries....."This is due to the fact that there are functions delineated to the County Governments these include prize competitions and lotteries within specific counties.

b) It is evident from the provision of the Fourth Schedule part 1 paragraph 34 and part 2 paragraph 4a of constitution outline the following;

- National betting, casinos and other forms of gambling(part1-national government paragraph 34)
- Cultural activities, public entrainment and public amenities, including (a) betting, casinos and other forms of gambling (part2-county government paragraph 4a).

It is crystal clear that the wording of the constitution contains the words ***betting, casinos and other forms of gambling*** hence those functions have been forthwith been allocated to the two levels of government and could be a recipe of confusion in discharging the functions or in formulating and enacting laws to regulate the same by either level of government.

It could be prudent if the proposed bill could under interpretations clause define what is ***National betting, casinos and other forms of gambling*** and **betting, casinos and**

**other forms of gambling** in the context of the functions, role and scope of each level of government including classifications, categorization or examples of the facilities to be operated by each level of the government to avoid confusion and controversy.

3. **Part 11- Functions of National and County Governments**
   a) **Clauses 4 and 5** of the proposed gaming bill, 2019 on the functions of the National Government and County Governments is contravention of the **court judgement in petition no. 295 of 2014 and legal notice no.8753** since it interferes with the Inter-governmental Technical Relations Committee negotiated and agreed report with key industry players which was adopted by the court.
   b) Specifically **clause 4(b)** of the proposed bill is an added function which does not form part of the **gazette Notice 8753** of the delineated functions.
   c) **Clauses 4(f) and 5(a)** are duplication of functions which are bound to create conflicts between the two levels of governments. Enforcements of the Act is a function of the County Government.
   d) **Clause 10(b), (d), (h), (i) and (m) functions** of the authority tends to micromanage the counties. County Governments have their own clear structure of checks and balances and the proposed bill should vest the authority with responsibility of coordination role in formulations and development of the sectoral policies.
4. **Part iv- Licenses and permits**
   a) **Causes 20(e) and (h)** should be clear on licensing of national prize competition and public lottery. The counties should license prize competitions and Lotteries falling in specific counties as per the Gazette Notice No. 8753 of 8/09/2017.
   b) Clause 38(4), the board should not have authority over licenses issued by the county. Licenses issued by the County Governments should only be transferred by the authority of the same government.
   c) Clause 45 of the proposed bill should include totalizator premises which should be authorized by specific County government as per Gazette Notice No.8753 of 08/09/2017.
5. **Part vi- Control and Licensing of Lotteries**
   **a)** Clause 105 of the proposed bill should be clear since licensing of amusement machines fall under the county governments pursuant to Gazette Notice No. 8753 of 08/09/2017.
   **b) Clause 108 sh**ould be clear on national prize competitions and prize competations within specific counties which are licensed by the counties as per gazette notice no. 8753 of 08/09/2017.
   **c) Clause 110** should indicate Betting or Gaming premises should have a premises license issued by the County Government within that jurisdiction.

**Conclusions**

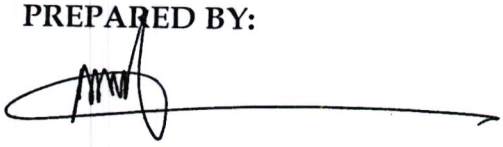
In conclusion, I reiterate the words of the court in the case of ***R. vs. Returning Officer of Kamukunji Constituency and ECK*** the court held ***"Just as nature abhors a vacuum, even the enforcements of the rule of law abhors a vacuum or a gap in its enforcements. Accordingly the courts should uphold the jurisprudence that helps to "illuminate the dark spots and shadows in all circumstances so that justice as a beacon of light and democratic ideals is practiced and hailed at all times over the hills, valleys, towns and homes in this beautiful land Kenya. Courts have a continuing obligations to be foremost protectors of the rule of law"***

Our court have discharged their obligations of upholding jurisprudence in helping illuminate the controversies on the matter at hand petition 295 of 2014

***In Chege Kimotho & Others vs. Vesters*** the court held ***"The law is a living thing: it adopts and develops to fulfil the needs of living people whom it both governs and serves. Like clothes it should be made to fit people. It must never be strangled by the dead hands of long discarded custom, belief, doctrine or principle"***

In respects to the above case, it is our expectations that in the development of the Gaming Bill, 2019 will consider the needs and meet the legal requirement envisaged by the constitution 2010.

**PREPARED BY:**



**JIMMY WALIAULA**

**Ag. COUNTY ATTORNEY**

**COUNTY GOVERNMENT OF MOMBASA**

# COUNTY GOVERNMENT OF KILIFI

## DEPARTMENT OF GENDER, CULTURE, SOCIAL SERVICES, AND SPORTS.

### BETTING CONTROL AND LICENSING

**SUBJECT: MEMORANDUM ON GAMING BILL 2019**

**TO: CLERK TO NATIONAL ASSEMBLY**

**INTRODUCTION**

Pursuant to the invitation of public to submit memoranda to the Gaming Bill, 2019, we hereby submit as follows:

**Betting, casinos and other forms of gambling as a shared function**

The Gaming Bill, 2019 should legislate on functions that fall under the ambit of the National Government. Betting, casinos and other forms of gambling is a shared function between the National and County Governments as provided for in Part 1, Paragraph 34 and Part 2 Paragraph 4 (a) of the Fourth Schedule of the Constitution. Through Legal Notice No. 8753 and Petition No. 295 of 2014 as consolidated with Petition Nos. 1 of 2015 and Petition No. 315 of 2014, the functions were further delineated for clarity purposes and to avoid overstepping of functions by one level of government to another.

The following clauses in the Gaming Bill, 2019 should be in line with legal notice no. 8753 Petition No. 295 of 2014 as consolidated with Petition Nos. 1 of 2015 and Petition No. 315 of 2014-

a) **Clause 4** and **5** which provides for the functions of the national and county governments
b) **Clause 10** on functions of the Authority
c) **Clause 20 (a), (e)** and **(h)** which contains provisions on licensed gaming activities

d) **Clause 38 (4)** on transfer of a gaming permit

e) **Clause 45 (1)** on totalisator license

f) **Clause 53** on licensing of lotteries

g) **Clause 105** on provision of amusement with prize at non-commercial entertainment

h) **Clause 108** on authorization of prize competitions

As the County Government of Kilifi, we feel that the functions as delineated should remain so, having already set our systems for implementation in motion. Any changes on the same as the gaming Bill 2019 seem to suggest will impact negatively our service delivery to the citizens of our County. We feel that the proposed Bill through the National Gaming authority wants to micro manage the functions that are already being undertaken the Counties.

We are attaching the following documents for ease of reference:

- Copy of Gazette notice number 8753 (Delineation of functions Betting, Casinos, and other forms of Gambling)
- Report of the sectoral forum on betting, licensing, and other forms of gambling held on 3rd to 4th April at Burch hotel, Naivasha.

As a County department we are fully committed to devolution and as such functions mandated to us by law, we do undertake them accordingly.

For any clarification and or engagements, we have a dedicated technical team that are willing and ready to partner with you in making our laws citizen friendly.

Regards,

Hon. Maureen Mwangovya.

CECM.

GENDER, CULTURE, SOCIAL SERVICES AND SPORTS

**COUNTY GOVERNMENT OF KILIFI.**

IGRTC
INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE

Consultation, Cooperation & Coordination in Devolution

**REPORT OF THE SECTORAL FORUM ON BETTING CONTROL, LICENCING AND OTHER FORMS OF GAMBLING HELD ON 3RD TO 4TH APRIL, 2019 AT BURCH HOTEL, NAKURU COUNTY**

## INTRODUCTION

The Intergovernmental Relations Technical Committee (IGRTC) is established under Section 11 of the Intergovernmental Relations Act, 2012. Section 12 (b) of the Act provides that the Technical Committee shall take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity. Among the residual functions that IGRTC took over from the defunct Transition Authority (TA) was the finalization of the unbundling of concurrent functions as stipulated in the 4th schedule of the CoK 2010. While the sector function was transferred to both levels of government as per Gazette Notice No.152. Further unbundling and clarification of roles to be performed by the National and County Government was implemented by IGRTC through Gazette Notice No. 8753.

Subsequent to the unbundling, issues continued to emanate from the day to day operations of the sector which necessitated the need for dialogue through sector forums. To this end, the IGRTC therefore organized this sector forum to offer a platform to relevant stakeholders to deliberate on the way forward in regard to resolving the emerging issues in the sector, as guides by the IGR Act section 13 (1).

## BACKGROUND

The constitutional assignment of the betting, casinos and other forms of gambling function to the National and County Governments is concurrent in nature. The Fourth Schedule to the Constitution of Kenya 2010 assigns the functions as follows: Part 1- (No.34) National Government: National betting, casinos and other forms of gambling. Part 2- (No.4) County Government: betting, casinos and other forms of

Part 1- (No.34) National Government: National betting, casinos and other forms of gambling. Part 2- (No.4) County Government: betting, casinos and other forms of gambling. Consequently, the functions related to the betting, lotteries, gaming and other forms of gambling business fall within the purview of both the national and county governments.

The Betting Control and Gaming Act, (Cap 131) was, prior to the Constitution 2010, the primary legislation charged with the regulation of betting, lotteries, gaming and other forms of gambling business, both at the national and local levels. The regulation function was carried out by the stewardship of the Betting, Control and Licensing Board established undersection 3 of the aforementioned act.

The concurrency nature of the function between the two levels of governments has since 2013 brought about operational challenges since the inception of devolution and transfer of functions.

The following have been major challenges reported to IGRTC;

1. Licensing and Collection of payments of Pool Tables in Nairobi City County
2. Stoppage of Staff Salaries in Mombasa County
3. Recruitment of Gaming Inspectors by Public Service Commission

To resolve this challenges, IGRTC has held several meetings with the stakeholders, concerned with this function in order to bring harmony between the two levels of government within the spirit of consultation, cooperation and coordination.

IGRTC has resolved the challenges successfully but throughout the process of mediation there was a resounding need to develop modalities on how the two levels of government will sustain harmony through consultation, coordination and cooperation. The purpose of the sectoral forum was therefore to provide a platform for consultation between the National and County Governments with a view to charting a way forward on matters pertaining to execution of this concurrent function, as recommended by the Intergovernmental Steering Committee (IGSC). The IGSC in their CARPS report to summit recommended that IGRTC convenes a sector forum on the roles and responsibilities of the National and County Governments in the betting control and licensing function.

## OBJECTIVES

1. To chart a way forward in key national policy goals, with clear objectives informed by the delineation of the betting and licensing function
2. To enhance coherence and accountability in service delivery by the two levels of government
3. To explore human resource capacity development interventions for the counties in cases where capacity is poor.
4. To enhance the comprehension of revenue collection strategies at both levels of government.

## WORKSHOP ATTENDANCE

The workshop was attended by over fifty participants, representing the following institutions; Nairobi City County, Ministry of Interior and Coordination of National Government, The County Government of Kilifi, The County Government of Kisumu, The County Government of Kiambu, The County Government of Laikipia, The County Government of Nakuru, Council of Governors, Betting Control Licensing Board, Commission for Revenue Allocation, Ministry of Devolution and ASAL, Public Service Commission and Kenya Revenue Authority.

*A list of participants is provided in Annexe 1*

## OPENING REMARKS

The workshop was officially opened by the IGRTC, CEO and in his welcome remarks; he said that the workshop provided an opportunity to discuss issues in the Betting and Licensing industry with all relevant key stakeholders who were in attendance. He thereafter thanked and appreciated the presence of each participant and officially opened the workshop. The CEO then welcomed the Chairperson of the chairperson of the Consultation, Cooperation and Coordination in Devolution and Human Resources subcommittee, IGRTC to give her opening remarks.

The chairperson started by appreciating the presence of the participants and informed the meeting that the essence of having the workshop was to ensure that the two levels of government worked together in consultation and to iron out the challenges between the two levels of government through plenary discussions so as to enhance harmony.

She further stated that the legal basis for the convention of the sector forum, was Section 13 (1) of the Intergovernmental Relations Act on Sectoral working groups or committees which states that; "The Technical Committee may establish sectoral working groups or committees for the better carrying out of its function".

She noted that the main objective of the forum was to enhance sustainable, effective service delivery and promoting harmonious intergovernmental relations at both the National and County Governments. She then welcomed the chairperson of the Functional Analysis Costing and Transfer of Functions Subcommittee, IGRTC to give his opening remarks.

The chairperson commenced by observing that the IGRTC had received various disputes emanating from the transfer of the betting, licensing and other forms of gambling function, which was implemented by the Transition Authority through a Legal Notice No. 152. To this end IGRTC delineated the functions of both the National and County Governments for better execution of the betting control and licensing function, through a Gazette Notice No. 8753 of 8th of September 2017.

Upon continued receipt of dispute reports from both levels of governments, IGRTC convened this meeting so as to provide a platform for candid discussion on how best the two levels of government can execute the function in a coordinated manner. He noted that in order to achieve the day's objective IGRTC had invited key stakeholders in betting and licensing to enrich and guide the workshop on a way forward through plenaries.

**The representative of the Principal Secretary, Ministry of Interior and Coordination of National Government**

The representative thanked IGRTC for convening the meeting and reiterated that there was need for participants to give their views on the emerging issues in the operationalization of the function and give resolutions with a view to ensuring that the

implementation of the function is seamless. He noted that there was need to address revenue collection in the betting, licensing and other forms of gambling function for purposes of regulation.

**The representative of the Principal Secretary, Ministry of Devolution and ASAL**

The representative noted that there was need for the two levels of government to ensure that their mandate was discharged effectively through consultation, cooperation and coordination.

He observed that betting was a concurrent function assigned to both levels of government, and appreciated the efforts by IGRTC towards addressing the betting and licensing matters by using a multiagency approach in the identification of emerging issues in the sector.

He noted that there was need to protect the citizenry of Kenya, against exploitation owing to the common practice of companies in the betting industry of prioritizing profits and disregarding the interests of the society as a whole.

**HIGHLIGHTS OF PRESENTATIONS BY RESOURCE PERSONS**

The workshop was facilitated by a number of experts from the following institutions;

1) **A presentation from the Kenya Law Reform Commission on the Legislative framework for Betting Control, Licensing and other forms of gambling presented by Ms. Damaris Mukala**

The Kenya Law Reform Commission is a state agency established under the Kenya Law Reform Commission Act, (No. 19 of 2013) as a successor to the Law Reform Commission previously established in 1982 which served as department in the Office of the Attorney General.

a) Overview of the legislative framework on betting, lotteries and gaming in Kenya

• Betting, Gaming and Lotteries Act, CAP 131, L 1961

An Act of Parliament to provide for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries; and for connected purposes ,

Establishes the Betting Control and Licensing Board

The Board shall have power— (a) to issue licenses and permits in accordance with this Act and any regulations made thereunder; (b) during the subsistence of a license or permit, to vary, or for good cause to suspend or cancel it; but the Board shall not suspend a license or permit for more than fourteen days and shall not vary or cancel a license or permit without giving the licensee or permit-holder opportunity to show cause against the variation or cancellation; and (c) to inquire into complaints against licensees or permit-holders

**b) Mandate of KLRC**

The KLRC is mandated to carry out the following roles:

a) Review the law and recommend its reform to ensure;

(i) that the law conforms to the letter and spirit of the Constitution;

(ii) that the law systematically develops in compliance with the values and principles enshrined in the Constitution;

(iii) that the law is, among others, consistent, harmonized, just, simple, accessible, modern and cost-effective in application;

(iv) the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution;

(v) Keep the public informed of review or proposed reviews of any laws; and

(vi) Keep an updated data of all laws passed and reviewed by Parliament;

(b) Work with the Attorney-General and the Commission for the Implementation of the Constitution in preparing for tabling, in Parliament, the legislation and administrative procedures required to implement the Constitution;

(c) Provide advice technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law;

(d) Upon request or on its own motion, undertake research and comparative studies relating to law reform;

(e) Formulate and implement programmes, plans and actions for the effective reform of laws and administrative procedures at national and county government levels;

(f) Consult and collaborate with State and non-State organs, departments or agencies in the formulation of legislation to give effect to the social, economic and political policies for the time being in force;

(g) Formulate, by means of draft Bills or otherwise, any proposals for reform of national or county government legislation;

(h) Upon request or on its own motion, advise the national or county governments on the review and reform of their legislation;

(i) Undertake public education on matters relating to law reform; and

(j) Perform such other functions as may be prescribed by the Constitution, this Act or any other written law.

**c) Statutory framework**

**The Standards Act Chapter 496**

• The Betting, Lotteries and Gaming Act, Chapter 131 Laws of Kenya is silent on the applicationoftheStandardsActChapter496 Laws of Kenya (herein after referred to as the Standards Act),or application of any Standards on gaming equipment and devices.

• The Standards Act requires all equipment and devices used, manufactured or imported to Kenya to meet certain local and International Standards.

• Gaming equipment are central to gaming operations.

• Ensures the security and integrity of gaming equipment, which in turn protects the interests of the players, operators and the government. Standardization of gaming

equipment and devices ensures the government realizes its revenue by sealing operational loopholes and impoverishment of gamers from unscrupulous operators.

**d)Constitutional framework for the betting, gaming and other forms of gambling function**

**Fourth Schedule**

**Part 1**

| **National Government** | **Part II**<br><br>County Governments |
|---|---|
| National betting, casinos and other forms of gambling. | Cultural activities, public entertainment and public amenities, including—<br>• betting, casinos and other forms of gambling;<br>• racing;<br>• liquor licensing;<br>• cinemas;<br>• video shows and hiring;<br>• libraries;<br>• museums;<br>• sports and cultural activities and facilities and<br>• county parks, beaches and recreation facilities |

c) Overview of the legislative framework on betting, lotteries and gaming in Kenya

**d) Law Reform issues**

Due to the concurrency, the necessity for clarity in unbundling and mapping out all activities in order to bring out clarity on function assignment to both levels of Government;

- Matters relating to security and financing of terrorism must be considered;
- Consider regulation by a central oversight body to ensure the function is carried out in the best interests of the public in a crime free environment;
- Enforcement of regulatory mechanisms in order to protect consumers from exploitation;
- Develop model legislation to guide County Governments in development of legislation on Betting, Gaming, Lotteries and other forms of gambling

**2) A presentation from the Public Service Commission on Human Resource Management at the County Governments presented by Mr. Jeremiah Kagwe**

a) Introduction

The Public Service Commission is an independent Commission established under Article 233 of the Constitution of Kenya. Its mandate includes establishment and abolition of offices, provision of competent human resource, promotion of good governance and ensuring efficiency and effectiveness in the provision of quality services in the Public Service.

b) Role of Public Service Commission

The Public Service Commission is mandated to hear and determine County appeals (Article 234(2)(i) of CoK and Section (77)of the CGA;

Capacity Building and Technical support (4th Schedule of CoK).

Setting of norms and standards under Article 235 of CoK.

Setting of Labour standards under the 4th Schedule of CoK.

Within the intergovernmental collaboration, PSC has been collaborating with counties mainly through the CPSBs

Advising county governments in handling human resource matters

c) Challenges in Human Resource Management at County Level

1. Policy issues.

i) Disparities in remuneration where former local authorities' staff are currently earning higher salaries compared to the rest of the devolved staff.

Recommendation: remuneration of county staff be harmonized.

ii) Pension Officers from Defunct Local Authorities are in Lap fund /Lap trust pension schemes whereas former national government staff belong to the National Government noncontributory scheme.

Recommendation: enactment of the proposed county Pension Scheme Bill be fast tracked and County Governments be declared 'Public Service' for Pension purposes.

iii) The provisions on Inter county transfers are unclear.

Recommendation: guidelines/mechanism for inter counter transfers be developed.

iv) Requests for re-absorption by former county staff following participation in a general election.

Those who had resigned from service are considered as having exited and can only return on fresh appointment.

Recommendation: an advisory to this effect be released.

vi) Lack of records management policy and systems resulting in improper handling of records.

Recommendation: a policy on access and handling of files from the National Government should be developed or adopted as appropriate.

vii) Disparity in allowances for designated hardship areas and/ variation in application and coverage of Hardship Allowance.

Recommendation: harmonization and review be carried out for areas designated as hardship for employees of various organizations in the Public Service.

2. Legislative Issues and Recommended Interventions

i) The County Governments Act contains a provision for retirement in public interest, while the same is not a provision in the Public Service Commission Act, 2017.
Recommendation: County Governments Act (CGA) be reviewed to remove the clause so as to be in tandem with the provision of the PSC Act.

ii) Disparities in job level and Position of County staff.

Recommendation: a review of status of County staff viz a viz national government staff be carried out in tandem with existing norms and standards on grading and scope.

iii) Inconsistencies in HR practice in the devolved structure.

Recommendation: A policy and HR Bill on uniform norms and standards for the Public Service be developed; continuous capacity building of CPSBs to fully comply with provisions of various relevant statutes and policy Guidelines

3. Administrative Issues and Recommended Interventions

i) Counties are not remitting pension deductions among other statutory deductions.

Recommendation: heads of HR and accounts Unit to remit statutory deductions as required and CPSBs should monitor this activity.

ii) There are no guidelines on induction and for on-the-Job training, particularly for senior positions.

Recommendation: Counties develop or adopt Public Service guidelines on induction and on the Job training, particularly for senior positions.

iii) Delays in determining cases of retirement on medical grounds.

Recommendation: Director of Medical Services constitutes/reviews the constitution of medical boards in each county to facilitate handling of cases and onward transmission to Director of Medical Services office

iv) Delegation of the HR Function

(a)Misuse of delegated powers by officers who employ staff without consulting the Board which has the Mandate to employ, leading to duplication of roles.

Recommendation: CPSBs develop delegation instrument and identify roles that can be delegated and thereafter monitor the discharge of the delegated powers.

b) Allegation that Chief Officers appoint staff and extend contracts through the Governor's office without involving the CPSBs.

Recommendation: CPSBs should enhance consultation with the executive to address such anomalies.

c) Some cases of Governors appointing personal staff without reference to the CPSBs.

Recommendation: Governor may nominate the staff with CPSBs appointing and determining their terms of service.

v) Disciplinary and County Appeals Procedure

(a) Lack of effective grievance handling procedure such as disciplinary appeals.

Recommendations: CPSBs adopt the Public Service grievance handling guide and regulations.

b) Governors, CECs and COs take disciplinary action without going through CHRMAC and CPSB.

Recommendation: there should be an induction and consultative forums with Governors, CECs and COs on HR management issues.

c) Lengthy disciplinary process/delays in processing cases due to Court cases.

Recommendation: administrative action should continue even when criminal proceedings are active in court.

vi) County Appeal Procedures

a) Non adherence to laid down procedures and regulations.

Recommendation: counties should adhere to the laid down regulations and procedures in HRM to avoid complaints and appeals.

b) Premature submission of appeals to PSC without the CPSB exhausting the matter under its jurisdiction.

Recommendation: CPSBs should exhaustively handle appeals/ complaints to PSC.

c) Ignorance among officers on the procedures governing lodging of appeals with PSC.

Recommendation: CPSBs should sensitize officers on the appeals procedures.

d) Failure to promptly communicate to officers on outcome of requests/actions affecting them.

Recommendation: CPSBs should inform the officers the outcome of their request/actions affecting them.

vii) Values and Principles of the Public Service

a) Lack of compliance with values and principles of the Public Service.

Recommendation: a standard tool developed by PSC be adopted and customized.

b) Lack of standard tool for measuring extent to which Counties comply with the implementation of values and principles and a code of conduct and ethics for their staff.

Recommendation: technical support be provided to counties for implementation and application of universal tool for measuring values and principles; Counties to develop or customize the code of conduct and ethics developed by PSC.

viii) Most counties have not undertaken to promote staff devolved from national government leading to stagnation.

Recommendation: Counties adapt existing career guidelines or develop new ones to guide career paths; and identify all officers who are due for promotion and take necessary action as per existing guidelines

ix) Some counties have not been implementing Commission decisions on appeals.

Recommendation: CPSBs ensure all Commission decisions on appeals are implemented and a report submitted to the Commission.

x) There are no structures in place in CPSBs for Monitoring and Evaluation.

Recommendation: respective CPSBs should establish Monitoring and Evaluation units for the effective performance of this function.

xi) Capacity Building for Boards

Low capacity amongst the CPSBs to deliver the required services.

Recommendation: frequency of the capacity support workshops be increased to bi-annual so as to meet the dynamic needs of the Boards.

xii) Officers in counties lack requisite skills to negotiate with trade unions.

Recommendation: The PSC in partnership with other government agencies will ensure collective bargaining agreement framework is finalized and circulated while counties should train their offices to equip them with negotiation skills.

xiii) Integrity of Records

Lack of security and integrity of records.

Recommendation: CPSBs conduct annual vetting exercise; and consider digitizing their records with the support of the Ministry of ICT & Ministry of Public Service Youth & Gender Affairs

xiv) Counties do not have skills inventory of staff.

Recommendation: CPSBs conduct skills Audit to identify available or critical skills and establish the gaps.

xv) Some counties are not supporting their employees in membership subscriptions to professional bodies.

Recommendation: Counties seek modalities for facilitating employees in continuous professional development through a budget line; and CPSBs oversee the development of staffing levels and schemes of service in respective counties using existing guidelines.

xvi) In some counties, deployment of staff results in officers being placed in positions they do not fit as they lack requisite skills, expertise or qualification.

Recommendation: CPSBs adhere as much as possible to the HR policies and procedures.

xvii) Non-adherence to guidelines and policy on work environment.

Recommendation: customize national policies on work environment, health and safety; ensure a healthy and safe environment by implementing the provisions of OSHA 2007; provide adequate office space to all employees

xviii) Lack suitable facilities for Persons with disability.

Recommendation: County governments should customize national policies on PWDs and put facilities in place in existing and new buildings

xix) Cross cutting issues of HIV/AIDS, Alcohol, Drug and Substance Abuse, gender mainstreaming and provision of equipment and office space.

Recommendation: CPSBs customize relevant policies on cross cutting issues

3) **A presentation by from KRA on revenue collection strategies presented by Mr. Kigen T. Kandie**

a) Taxation of the Industry

A withholding tax of 20% applies on all punter winnings with effect from 21st September 2018. This in essence means that all winnings from horse racing, bookmakers, casinos and price competition, in whichever form, are taxable at the rate of 20%.

Betting/ Gaming/ Lottery Tax of 15% applies to all the monthly gross gaming revenue received by the bookmaker/ lottery/ casino/ totalizer etc.

Lottery: Has a special provision of distributing 25% of their gross income to charity as per Betting and Gaming Act.

b) Changes in the legislations governing

Betting Control and Licensing taxes are popularly referred to as Betting Tax.

Betting taxation is provided under Sections 29A, 44A, 55A and 59B which taxes Betting, Gaming, Lotteries and Prize Competitions respectively.

The Finance bill 2012 introduced 20% withholding Tax on winnings

The Parliament failed to pass WTH on winnings and was consequently dropped.

Finance Act 2013 introduced again WHT on winnings which commenced in January 2014

Finance Act 2015 reduced the tax rate from 20% to 7.5%.

Finance Act 2016 deleted taxation of winnings and sought to lay the burden to the operators. Betting, gaming & Prize competition tax was introduced at 7.5%, 12% & 15% of the GGR while Lottery tax was introduced at 5% of turnover.

Preceded Finance Act 2018 and defined winnings;

Section 2 of the Income Tax Act is amended by deleting the existing definition of winnings and defining winnings afresh as the monthly positive difference per punter between Winnings and Stakes.

This means the totals for the Wins and stakes per player are obtained and the difference between the total wins against total stakes is generated. Where there is positive difference, the amount is taxed at 20%

All other gambling activities other than book marking exempted from this legislation

c) Revenue Collection Strategies

i. Enhance legislative provisions to improve revenue collection e.g Introduction of excise tax on stakes – May replace tax on winnings

ii. Suspension of noncompliant taxpayers in the digital payment channels on recommendation by the commissioner

iii. Conducting taxpayer engagement to educate them on the new tax regime

iv. Carrying data based verification on the risk profiled taxpayers

v. Improve interdepartmental data sharing from other government agencies to enhance monitoring

vi. Liase closely with the KRA internal departments for intelligence gathering

**4) A presentation from the Betting Control and Licensing Board on emerging issues on betting control and licensing in Kenya by Ms. Esther Muli**

The Board was established by an Act of Parliament of 1966; The Betting Lotteries and Gaming Act Cap 131 Laws of Kenya. The Board was mandated to;

1. Control and licensing of Betting and Gaming premises and activities carried therein
2. Imposition and recovery of tax
3. Authorization of lotteries and prize competitions
4. Eradication of illegal gambling

The objectives of the board include;

1. Ensure gaming is conducted with due propriety
2. Keep gaming crime free
3. Protect public against fraud
4. Safeguard underage and vulnerable
5. Ensure public and government gain visibly from gaming i.e employment creation, revenue generation and tourism stimulation

The following are the operational challenges hampering the implementation processes of the board;

1. Lack of legislation at the county level
2. Lack of training policy
3. Lack of facilitation at county level
4. Technological changes
5. Cross- county operational challenges
6. Upsurge of illegal gambling the Board faces various operational challenges which include;

The following are the emerging issues o betting control and licensing in Kenya

a) Lack of BCLB offices and technical staff in many Counties
b) Cross-County Operational Challenges
c) Misunderstanding of tax and License fees by the County Governments
d) Lack of facilitation of the County Gaming officers to execute their role in the betting and licensing function
e) Lack of Career progression of betting staff
f) Lack of Legal framework for the BCLB function at the Counties
g) Responsible betting and upsurge of illegal betting practices

**5) A presentation from IGRTC on the delineation of functions presented by Mr. Shalle Mahat**

Section 12 (b) of the IGR Act, provides that the Technical Committee shall "take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity". One such function inherited was the delineation of the licensing control and betting function between the National and County Governments.

**a)** Gazette Notice on delineation of functions

| | **National Government** | | **County Government** |
|---|---|---|---|
| 1 | a) Policy formulation, legislation, standards and norms<br>b) Development of standards and norms<br>c) Regulation of the gaming industry<br>d) Capacity building and technical assistance | 1 | a) Implementation of policy, standards and norms<br>b) Periodic monitoring and evaluation of betting, lotteries and gaming<br>c) Development and implementation of county legislation on betting and other forms of gambling |
| 2 | Licensing of public gaming (casino) | 2 | a) Licensing of the public gaming (casino)premises<br>b) Enforcement and compliance i.e. Spot |

| | | | |
|---|---|---|---|
| | | | checks, daily supervision of casinos |
| 3 | Vetting, security checks and due diligence | 3 | N/A |
| 4 | Licensing of prize competitions crosscutting several counties ( on promotion of product and services) | 4 | Licensing of prize competitions for promotions confined to a county<br>Authorization of permit Amusement machines |
| 5 | N/A | 5 | Licensing of amusement machines |
| 6 | Licensing of national lotteries | 6 | Licensing and supervision of county lotteries (lotteries confined within a county) |
| 7 | a) Licensing of the on-the course totali-sators<br>b) Licensing of the on-the course totali-sators | 7 | Licensing of premises for totalisators |
| 8 | N/A | 8 | Licensing and issuance of pool table permits within the counties |
| 9 | Licensing of bookmakers | 9 | Licensing of betting premises |
| 10 | Online gaming | 10 | N/A |
| 11 | Handling of complaints and arbitration | 11 | Handling of complaints and arbitration |

**b)** Disputes reported to IGRTC from implementation of the betting control, licensing and other forms of gambling function

Various disputes have emanated from the betting control and licensing function. Most of the disputes have been reported to IGRTC, on matters to do with management of pool tables, stoppage of remuneration of betting staff, duplication of roles, Misconception of the staff as revenue collectors and pegging of their worth on the revenue they collect for the county

**c) Need to regulate the betting practices in Kenya among the youth**

The youth in Kenya have slowly become pathological gamblers and are addicted to betting. They are using this as their main source of income to fund their daily needs. Some are in school so there is the tendency not to prioritize studies among the youth. This is leading to increased dropouts, increased suicide rates and murders because of the frustrations that come with betting of losing money, at time because wins are not guaranteed.

There is need to regulate the sector and put in place stringent measures that will curb the tendency to popularize betting by gambling companies. These attraction strategies are leading to large numbers of youth in Kenya turning to betting as a source of income as it appears as easy as 'money in money out'. The government needs to come up with strategies of luring the youth to work hard for their money and invest in other sectors other than gambling. There is also need to strategize on rehabilitating those who are addicted to gambling by offering counseling services to them.

**PLENARY DISCUSSIONS**

**Reactions from the Plenary were that;**

1) There is need to further unbundle the concurrent function of betting and licensing to bring out the areas of ambiguity.
2) Thereis need to develop clear norms and standards to govern the betting and other forms of gambling taking into consideration the uniqueness of each county in the process of harmonization and standardization of the legislations
3) There is need to develop revenue sharing strategies for both the National and County Governments

4) There is need to harmonize the legal framework governing the function taking into consideration the uniqueness of each county in the process of harmonization and standardization
5) There is need for public participation in policy development on concurrent functions, for purposes of inclusivity.
6) There is need to develop a bill which shall govern the implementation of the function at both levels of governments.
7) There is need to develop a scheme of service for gaming and betting officers, which will allow professionalism.
8) Gaming inspectors should be adequately facilitated for purposes of carrying out of their function effectively.
9) There is need to have controls in advertisement of gamming programs which were aired the whole day (24hrs)
10) There is need for the gaming industry to invest in Corporate social responsibility (CSR) for the good of the citizenry
11) There is need for job evaluation at the county level, owing to the stagnation of County officers in charge of betting to cure stagnation in the same job groups.

**ACTION AREAS**

1. **Capacity Building of the County Officers executing the Betting, licensing and other forms of gambling**
   Actors: National and County Governments
   The BCLB should develop a framework to guide the implementation of capacity building for the counties by the national government.

2. **Policy, laws and regulations**
   Actors: National government, County governments, IGRTC, KLRC
   The Betting, Lotteries and Gaming Act, CAP 131 should be reviewed to align it to the CoK, 2010. The Gazette Notice No. 8753 should be fast-tracked. The counties should also develop county laws to regulate the industry in the counties. The KLRC should also assist counties in developing model laws to govern implementation of the function in counties.

3. **Public participation**
   Actors: The National Government and the BCLB

The meeting agreed that going forward stakeholders should be involved in the operationalization of the sector. The Ministry of Interior and Coordination of the National Government should involve the stakeholders in the development of the draft bill in the next 30 days.

4. **Regulation of betting and other forms of gambling advertisements**
   Actors: National Government and BCLB
   Due to the high addiction to gambling among the young citizens in this country, there is need for enhancing the regulations governing advertisements done by the media operators.

5. **Revenue generated from the sector**
   Actors: National government, Counties, Council of Governors, KRA, CRA, IGRTC
   There is need to have a revenue sharing formula, and legislative provisions to govern revenue sharing collected from implementation of the function. The Kenya Revenue Authority should escalate information on tax collection strategies at the county level

6. **Payment of allowances, issuance of uniforms and identity cards for gaming inspectors in the counties**
   Actors: Counties
   In order for gaming inspectors in the counties to carry out their duties effectively, the county governments should provide administrative support and facilitation to the gaming inspectors.

7. **Civic education and sensitization of the public on the rules and regulations of the sector.**
   Actors: National government and BCLB
   There should be civic education and sensitization for the public to understand the rules and regulations of the sector.

8. **Intergovernmental forum on standardization of Human Resource Management practices at the counties**
   Actors: PSC & IGRTC
   The Public Service Commission in partnership with IGRTC shall convene an intergovernmental forum to initiate the process of developing a framework to govern the Human Resource practices at the County Governments.

**CLOSING REMARKS**

The Director, Governance Affairs, IGRTC, observed that the workshop was the first sector forum organized on betting and licensing.

She noted that participants present had articulated and drawn out issues which needed to be looked further. She observed that the National Government needed to undertake its mandate of building the capacity of the staff in the betting industry – a key issue that was featured in the discussions.

She noted that there was need to have further discussions on revenue sharing. She informed the workshop that the report would be shared among stakeholders, she thanked and appreciated the technical team for coordinating and ensuring a successful workshop.

In her closing remarks, the chairperson CCC&HR, IGRTC, noted that the workshop had achieved its stated objectives, which was enriched by the active participation of members present. She thanked the contribution of all participants who brought out key issues in the betting and licensing sector.

She also stated that the recommendations of the intergovernmental forum would be documented for reference and feedback to the CARPS Intergovernmental Steering Committee.

*Annexe 1*

**LIST OF KEY STAKEHOLDERS**

| No. | Name | Institution | Designation |
|---|---|---|---|
| 1. | Geoffrey Mwithimbu | Nairobi County Government | Ag Director |
| 2. | Ogega Gichana | Nairobi County Government | Gamming Officer |
| 3. | Pauline Opar | Interior | Gaming Inspector |
| 4. | Esther Muli | Interior | Gaming Inspector |
| 5. | Mary Marwa | Interior | Chief Accountant |
| 6. | Christopher Kipketer | County Government of Kilifi | Director BCL-Kilifi |
| 7. | Samuel Onyanga | County Government of Kisumu | CO |
| 8. | Victor Odanga | CoG | Finance |
| 9. | Patrick Karanja | MODA | AD |
| 10. | Kigen T. Kandie | KRA | Relationship Manager |
| 11. | Jeremiah Kague | PSC | AD |
| 12. | Zephaniah Osake | CGK | CCC |

| | | | |
|---|---|---|---|
| 13. | Fredrick Mbasi | BCLB | PGI |
| 14. | Dr. Kennedy Ole Kerei | MODA | PS Office |
| 15. | Damaris Mukala | KLRC | Legal Officer |
| 16. | Peter Musakhi | MODA | SAD |
| 17. | Dr. Margarete Ruinge | County Government of Kiambu | Administration & Public service |
| 18. | John Busaka | BCLB Nakuru | Principal Gaming Inspector |
| 19. | William Kimani | County Government of Kiambu | Chief Officer Administration |
| 20. | Dr. Alfred Mungai | BCLB | D/Director |
| 21. | Stephen Khadondi | CRA | RO |
| 22. | Mrs Njambi Muchane | Member | IGRTC |
| 23. | Dr. Francis Fondo | Member | IGRTC |
| 23. | Prof. Miguda-Attyang | Member | IGRTC |
| 24. | Dr. Raymond Nyeris | Member | IGRTC |
| | Dr Billow Khalid | Member | IGRTC |
| | Mr. Peter Leley | CEO | IGRTC |

# NAIROBI CITY COUNTY

Telephone: +254 20 2221349
Website: www.nairobi.go.ke

City Hall
P. O. Box 30075 00100
Nairobi
Kenva

## MEMORANDUM

**FROM : NAIROBI CITY COUNTY: GAMING & BETTING**

**TO : CLERK OF THE NATIONAL ASSEMBLY**

**DATE : 19TH JUNE, 2019**

---

**RE: OBSERVATIONS AND RECOMMENDATION ON THE PROPOSED GAMING BILL 2019 BEFORE THE NATIONAL ASSEMBLY**

**INTRODUCTION**

The gaming bill 2019, must be aligned to the constitution of Kenya 2010 schedule 4 part 1 (34) (National government) and part 2 (4) (County government).

The Bill must strictly adhere to the delineated functions which were arrived at after a long consultation by the Inter-governmental technical taskforce. The functions shared between the National and County Government were Gazetted via Gazette Notice No. 8753 dated 8th September, 2017. This should be the basis of developing a policy and Gaming Bill 2019 or any bill developed by the county. This is supported by the final judgment in petition No. 295 of 2014 as consolidated with petition No. 1 of 2015 and petition No. 315 of 2014 disposition and final orders No. 34 (i) and (ii) delivered on 4th May 2017 by E. Chacha Mwita on behalf of Justice Isaac Lenaola.

During the period of unbundling a constitutional petition no. 295 of 2014 was filed in the High Court at Nairobi. The petition sought clarification on the delineation of functions with regard to betting, lotteries and gaming activities between the National and County Governments. The Court referred the matter to the Transitional Authority for alternative dispute resolution. Following stakeholder engagement, the Transition Authority filed a report in court on the delineated functions. The Court in its final judgment adopted the report of the Transition Authority which delineated the functions.

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The IGRTC having taken over the residual functions of the Transition Authority gazetted the delineated functions in Gazette Notice No. 8753 of 8th September 2017.

Considering the above fact of law, it would be illegal to develop a policy or a gaming Bill whether in National government or County government interfering with each level of government functions.

**SECTIONS NOT CONSISTENT WITH THE DELINEATED FUNCTIONS**

The introduction of the bill should have the word "national" "an Act of parliament to provide for the control and licensing of National betting, casinos and other forms of gaming; authorization of national prize competition and public lotteries....." This is due to the fact that there are functions delineated to the County Governments these includes prize competitions and lotteries within specific counties.

**PART II – FUNCTIONS OF NATIONAL AND COUNTY GOVERNMENTS**

**Section 4 and 5** of the bill on functions of the National and County Governments should appear as gazetted in the Kenya Gazette Notice No 8753 of the 8th September 2017 as negotiated and agreed upon by the Inter-Governmental Relation Technical Committee IGRTC taskforce and adopted by final judgment of the Petition No. 295 of 2014. According to the proposed bill the functions have been interfered with.

**Section 4 (b)** in the proposed bill seems to be an added function which is not part of the Gazette Notice 8753 of the delineated functions.

**Section 4 (f)** and **5(a)** are duplicated functions which are bound to create conflicts between the two levels of governments. Enforcement of the Act is a function of the County governments.

**Section 10 (b), (d), (h), (i), (l)** and **(m)** functions of the authority tends to micromanage the counties. County Governments have their own checks and balances.

**PART IV – LICENSES AND PERMITS**

**Section 20 (e)** and **(h)** should be clear on licensing of national prize competition and public lottery. The counties should license prize competitions and Lotteries falling in specific counties as per the Gazette Notice No. 8753 of 8th September 2017.

**Section 38 (4),** the board should not have authority over licenses issued by the county. Licenses issued by the County Governments should only be transferred by the authority of the same government.

**Section 45** should include totalisator premises license which should be authorized by specific County Governments as per Gazette Notice No. 8753 of 8th September 2017.

**PART VI – CONTROL AND LICENSING OF LOTTERIES**

**Section 49-** should read national lottery to differentiate from lotteries within the counties that are licensed by specific counties as per Gazette Notice No. 8753 of 8th September 2017.

**Section 103-** duplicates the roles of the county gaming inspectors who are mandated to **enforce compliance**, **spot checks** and **daily supervision of casinos** as per Gazette Notice No. 8753 of 8th September 2017. To avoid duplication of roles the authority officers should be restricted to the functions delineated to the national government as per the above Gazette Notice and the court ruling of petition 295 of 2014.

**PART XII – AMUSEMENT WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS & GAMING MACHINES**

**Section 105-** The bill should be clear since licensing of amusement machines fall under the county governments as per Gazette Notice 8753 of 8th September 2017.

**Section 108-** should also be clear on national prize competitions and prize competitions within specific counties which are licensed by the counties as per Gazette notice no. 8753 of 8th September 2017.

**Section 110-** should also indicate Betting or Gaming premises should have a premises license issued by the county government within that jurisdiction.

**PREPARED BY:**

**DIRECTORATE OF GAMING & BETTING**
**NAIROBI CITY COUNTY**

A&K | ALN
ANJARWALLA & KHANNA

Eldama Ravine Close
Off Eldama Ravine Road, Westlands
P.O. Box 200-00606, Nairobi, Kenya
T +254 70 303 2000
F +254 20 364 0201
E info@africalegalnetwork.com
W www.africalegalnetwork.com/kenya

The African Legal Awards 2018 — African Network/Alliance of the Year — Winner

741

**Our Ref**: DN/MMP/10212664
**Your Ref**: TBA
**Date**: 25 June 2019

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

(1) D/Committees & 26/06

Attn: Mr. Michael Sialai, EBS

(2) Hezron Please deal FA 26/6/19

Dear Sirs,

**The Gaming Bill, 2019 – Submission of Memoranda**

We refer to your public notice inviting the public to submit comments on the Gaming Bill, 2019 (the **Bill**).

Further to an advance copy sent by way of email to *clerk@parliament.go.ke*; *pbo@parliament.go.ke*; and *fredowis83@gmail.com* on 24 June 2019, please find enclosed a physical copy of the Memorandum setting out key comments and proposals on the Bill.

Please acknowledge receipt of this letter by signing, stamping and returning to us a copy of this letter enclosed hereto.

Yours faithfully,

P.P.

**Daniel Ngumy**

**for and on behalf of ANJARWALLA & KHANNA**

**cc** Nanovas International (K) Limited

RECEIVED
25 JUN 2019
CLERK'S OFFICE

betPawa

**Our Ref** [240919 ]
**Your Ref** TBA
**Date** 24 June 2019

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

**Attention: Mr. Michael Sialai, EBS** (clerk@parliament.go.ke)
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Dear Sirs,

**Re: The Gaming Bill, 2019 – Submission of Memoranda**

We refer to your public notice inviting the public to submit their comments on the draft Gaming Bill, 2019 (the **Bill**).

We have set out below our key comments and proposals on certain areas of the Bill for your kind consideration.

Yours faithfully,

**Nikolai**
**For and on behalf of Nanovas International (K) Limited**

cc

The Director
The Betting Control and Licensing Board
Kenya Charity Sweepstake House,
3rd and 8th Floors
Mama Ngina Street,
**NAIROBI**

NANOVAS INTERNATIONAL (K) LIMITED
24 JUN 2019

## 1 Local Shareholding Requirement

1.1 Section 21 of the Bill outlines the requirements for licensing to offer gaming or betting services. One of the proposed requirements is that a body corporate which intends to be licenced ought to have a minimum of 30% of its shares owned by Kenya citizens.

1.2 We recommend that this provision be amended to state that the minimum number of local shares be held by Kenyan residents as opposed to citizens.

## 2 Gaming Taxes

2.1 Section 37 of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

2.2 We propose that these provisions be deleted for the following reasons:

2.2.1 The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill, 2019 to introduce excise duty on amounts staked by players.

2.2.2 Section 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.

2.2.3 Section 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

## 3 Minimum Online Betting Amount

3.1 Section 60 of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, *"A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"* [emphasis ours]

3.2 In our view imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only adversely affects the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

3.3 As an alternative, by setting the deposit limit to KES 50 instead of setting the limit on every bet, there will be a barrier to keep the people with the least means from participating in betting and gaming activities. However, one allows people to spend their money over a longer period of time, rather than forcing them to spend more money on gaming by having to deposit KES 50 every time they want to bet.





3.4 There is no empirical evidence that suggest that setting a minimum stake limit restricts and lowers betting activities. On the contrary, we fear that minimum bet limits will create a network of middle men who will pool bets below the minimum limit. That will create an underground market and the people who will continue to bet small through these middle men will have no protection under the regulator. While the intention of the law is to protect the most vulnerable, this section as drafted might have the contrary effect of exposing them to illegal and underground betting networks.

3.5 Imposition of a penalty of KES 5 million for non-compliance is too excessive in our view and is excessively punitive rather than serving as a deterrent.

**4 Restriction on Foreign Servers**

4.1 Section 67 of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

4.2 In our view, the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

4.3 Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

**5 Restriction on the use of a telecommunication platform for online gaming**

5.1 Section 68 of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

5.2 The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

5.3 Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

5.4 We propose that this provision is removed in its entirety.

NANOVAS INTERNATIONAL (K) LIMITED
24 JUN 2019
P.O. BOX [illegible] NAIROBI

771

A&K | ALN
ANJARWALLA & KHANNA

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2.1 Section 37 of the Bill proposes to introduce a 'gaming tax' at the rate of 15% of all gaming activities. Section 159 of the Bill proposes the introduction of a 'gaming advertisement tax' which would be chargeable at a rate of 35% for every advertisement done on radio and television.

2.2 We propose that these provisions be deleted for the following reasons:

2.2.1 The additional taxes will be burdensome to the industry in light of the proposal by the Finance Bill, 2019 to introduce excise duty on amounts staked by players.

2.2.2 Section 37 of the Bill does not set out whether the gaming tax is chargeable on the gross earnings or on net earnings from gaming activities.

2.2.3 Section 159 of the Bill does not set out whether the gaming advertisement tax is to be remitted by either the person offering the gaming services or the entity advertising the gaming activities. This will cause uncertainty as to who is required to account for the tax.

## 3 Minimum Online Betting Amount

3.1 Section 60 of the Bill proposes to set the minimum betting amount for online bets at fifty Kenya shillings. Section 60 (2) states, *"A person who engages in an online gaming activity for an amount than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years"* [emphasis ours]

3.2 In our view imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities. This not only adversely affects the industry but it also leads to a lower amount of taxes collected from the earnings of companies involved in gaming activities.

3.3 As an alternative, by setting the deposit limit to KES 50 instead of setting the limit on every bet, there will be a barrier to keep the people with the least means from participating in betting and gaming activities. However, one allows people to spend their money over a longer period of time, rather than forcing them to spend more money on gaming by having to deposit KES 50 every time they want to bet.





3.4 There is no empirical evidence that suggest that setting a minimum stake limit restricts and lowers betting activities. On the contrary, we fear that minimum bet limits will create a network of middle men who will pool bets below the minimum limit. That will create an underground market and the people who will continue to bet small through these middle men will have no protection under the regulator. While the intention of the law is to protect the most vulnerable, this section as drafted might have the contrary effect of exposing them to illegal and underground betting networks.

3.5 Imposition of a penalty of KES 5 million for non-compliance is too excessive in our view and is excessively punitive rather than serving as a deterrent.

**4 Restriction on Foreign Servers**

4.1 Section 67 of the Bill states, *"The Board shall not issue any online gaming or betting license to any foreign or local operator who has not local physical location and servers located in Kenya..."*

4.2 In our view, the physical location of the servers has little bearing on the ability of the National Gaming Authority (to be established under the Bill) to regulate the activities of licensed online gaming service providers.

4.3 Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to select locations where the data they have collected may be more effectively protected.

**5 Restriction on the use of a telecommunication platform for online gaming**

5.1 Section 68 of the Bill proposes to prohibit the use of a telecommunication platform for purposes of playing online games.

5.2 The section does not define what a telecommunication platform is and its generality and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices.

5.3 Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the drafter of the Bill.

5.4 We propose that this provision is removed in its entirety.

NANOVAS INTERNATIONAL (K) LIMITED
24 JUN 2019
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No. 5, The Crescent,
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Nairobi
PO Box 2683-00606

16th September 2019

(1) D Lewis 7/10/19

**FAO COMMITTEE ON SPORTS, CULTURE, AND TOURISM**

**Response to Proposed Draft Gaming Bill 2019**

The Proposed Draft Gaming Bill 2019 was published in the Kenya Gazette Supplement on 27th May 2019 having been drafted 9th May 2019. It was introduced by Victor Munyaka, chairperson on the Departmental Committee on Sports, Tourism and Culture. It proposes several significant changes to the current regulatory framework and taxation of the Betting, Gaming and Lotteries industry in Kenya, the combined effect of which could make compliant profitable operation within the industry in Kenya impossible. If it were to pass, it would replace the current Cap 131 (The Betting, Lotteries, and Gaming Act) of 1966 and all its amendments. If a number of significant issues are not addressed, it would effectively result in the closing of the majority of operators in the industry.

The key proposed changes from the legacy legislation together with our observations are as follows:

1. There are significant changes to the licence fees as per the provisions of schedule 2:
   A) All forms of online gaming: Ksh100,000,000
   B) Casinos, including public gaming for conducting tables and slot machines: Ksh50,000,000
   C) Non-online bookmakers: Ksh30,000,000
   D) Totalisator: Ksh10,000,000

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E) Prize Competition: Ksh20,000,000

F) Non-online public lotteries, private lotteries, and pool betting scheme: Ksh30,000,000

G) Amusement with prizes: Ksh1,000,000

H) Premises of shops operating under licenses of online gaming including online bookmaker, online casino, and online lottery: Ksh500,000

Note: Renewal of Licences are also subject to significant changes. Renewals of licences will also be subject to significant increases in fees, with both casino and online gaming renewals costing Ksh30m for three years; while all non-online licence renewals will cost significantly less. It is our contention that this unfairly penalises those in the online arena.

Given that White Rhino Ventures currently holds a public gaming licence and a sportsbook licence, the net effect of the above would likely be that a new licence application would need to be made, and the total licence fee would be Ksh200,000,000, or $2m to bring us back to the status quo in year one of the new legislation; as a new licence will be required by all applicants (including those who already have valid licences) if the bill were to become law. Then an additional Ksh60,000,000, or $600,000 would be required for renewals to cover the following three years. This weighs heavily against the current annual fees of Ksh525,000 ($5250) for public gaming licence renewal and Ksh110,000 ($1100) for sportsbook licence renewal.

The new licence fees are simply unsustainable and will most likely lead to a duopoly or oligopoly in the market. There is no differentiation between different online operators. Once again, this is closing the market to local players and making it a duopoly.
Internationally, application fees and subsequent operating fees are based on projected turnover of the licensee.

The proposed fees on prize competitions will distort the market and only allow for the biggest brands (and international ones) to be able to run basic prize promotions, even free ones.

The small fees on premises would allow online operators to flood the market with shops and casinos.

Logically, under this model. An online bookmaker could spend Ksh100 million on an online licence, then open 10 shops @Ksh500,000 = Ksh5,000,000; whereas the non-online bookmaker would need to spend Ksh30m per shop = Ksh300m. So an online operator would be spending less per shop compared to the offline operators. As an online operator (the big ones at least) can easily absorb Ksh100M for their online licence, any offline operator would be paying 29.5M extra per year compared to the big companies.

Again, it is cementing the position of the biggest companies in the industry.

**Recommendation:** Introduce a Tier model to Licensing fees based on a mature market like the UK. This allows smaller local operators access to the Kenyan market and increases the fees for operators that are likely to generate more in sales. Projections should be used for new operators and the difference in fees applicable during the year if they exceed projections. In the case of existing operators, the previous year's revenue figures should be used as the basis of the licence fee.

Example of UK fees for Online Gaming

| | Annual fees | | | | |
|---|---|---|---|---|---|
| **Fee category** | **F1** | **F2** | **G1** | **H1** | **H2** |
| **Annual gross value of sales** | Less than £200,000 | £200,000 or greater, up to but excluding £550,000 | £550,000 or greater, up to but excluding £6.6 million | £6.6 million or greater, up to but excluding £30 million | £30 million or greater |
| **Annual Fee** | £3,748 | £5,798 | £17,803 | £28,867 | £49,219 |

2. Security Deposits are being introduced as outlined in Schedule 5:
    a) Casinos: Ksh50m
    b) Online Gaming: Ksh200m
    c) National Lottery: Ksh200m
    d) Non-online bookmakers: Ksh30m
    e) Totalisator: Ksh10m
    f) Prize Competition: Ksh20m

g) Non-online gaming: Ksh100m

Thus, White Rhino Ventures and other operators would need to put Ksh250,000,000 or $2.5m on deposit for security to renew their two licences. Up until now, there were no security deposits required for operators in the industry, so this is a new cost of doing business and as above in the case of licences, would make the industry wholly unviable for the majority of smaller to medium enterprises and create the duopoly or oligopoly scenario.

In addition to the licence fees and security deposits, section 34.3 of the Bill also introduces capital requirements:

(a) the capital for starting a casino business shall be one hundred million shillings; and

(b) the capital for starting an online gaming business shall be two hundred million shillings.

The mechanics of this capital requirement are not detailed, but one might assume that betting companies will need to show evidence of additional capital. In the case of White Rhino Ventures, this would mean access to an additional Ksh300,000,000 or $3m to cover both casino and sportsbook activities. These capital requirements are a new introduction and were not in existence under the previous gambling regulations.

**Recommendation:** Security should be based on the value of the book. At no point should the operator be able to offer prizes that exceed the cash in the bank, not including player deposits. This is standard operating procedure in the gambling industry worldwide and is more onerous than banking liquidity rules. This can be monitored by government and at any time be checked.

3. Section 158 introduces new advertising restrictions heavily targeting TV and Radio advertising, while giving concessions to TV advertising during sporting events and on DSTV, and not targeting social media and newspapers. This heavily favours the major sports betting operators to the detriment of the rest of the industry.

This would have a significant impact on our revenues due to the fact that Radio and TV advertising are the most important media in White Rhino Venture's advertising strategy.

These changes to advertising would decimate the local media industry to the benefit of foreign owned and controls companies, namely DSTV, Google and Facebook.

Lastly, outdoor advertising was not mentioned and is the most prevalent form of Gambling advertising in Kenya. Proximity to schools is an irrelevance in this case as it is assumed that children only go to school.

Furthermore, these companies do not have guidelines on who has access to their content and social media is very much geared to the youth audience while Television and Radio are in decline with same demographic.

**Recommendation:** A cross section of operators, Media owners, government and other stakeholders to form a culture committee on responsible gaming and advertising and submit to the voluntary guidelines dictated by the committee. The guidelines would cover areas such as:

1. Content of advertising
2. Area or amount of time of advertising given over to responsible gaming messages.
3. Removal of any advertising during programming targeting children.

4. Section 159 introduces a Gaming Advertising Tax of 35%. *'There shall be a tax to be known as the gaming advertisement tax chargeable at the rate' of thirty-five per centum for every gaming advisement done through radio or television broadcasting'.*

Given a projected media spend of $75 to $100K per month, this tax would result in an additional tax of up to $420,000 per annum that will be levied upon White Rhino Ventures for its TV and Radio advertising campaigns, further rendering the business unviable.

This tax is only going to affect Kenyan businesses and have no corresponding tax on international companies.

**Recommendation:** Remove this provision.

5. The Bill aims to specifically eradicate the use of mobile money platforms as a payment method for any betting, gaming or lottery activity as per the provisions of s.68:

   *A person in Kenya may not use a tele-communication platform for purposes of playing online games which includes betting, lottery, casino games or any other form of online gaming*

   This would be the most drastic proposed change as almost all online betting in Kenya is done via Safaricom's mobile money platform, Mpesa. In essence, if this provision was included in the final legislation, it would effectively put all online gaming operators out of business. By removing mobile money, this Act is going to push up cash based gaming which will lead to even more problems in society and is virtually impossible to monitor from a taxation perspective.

   The mobile money platforms in place in Kenya have a mandatory age restriction of 18. It is through the Mobile Money platforms that the government would have more control over usage and restrictions.

   **Recommendation:** Remove but work with mobile operators to create a more informed method of control and monitoring.

6. The Bill provides the mechanics for the establishment of a National Lottery with extensive details on how this would operate provided in Parts VIII & IX; including the mechanics of a National Lottery Distribution Trust Fund (detailed in Part X). This change is in principle supported.

7. In Part III the Bill proposes a major restructuring of the current regulatory authority, under which the current regulatory authority, the Betting Control and Licencing Board (BCLB), would be superseded by a new National Gaming Authority. This change is in principle supported.

8. A range of new offences have been introduced in Part XV with significantly heavier penalties being applied for non-compliance, which we fully support, if compliance is made more realistic by taking into consideration the points above. This in principle is supported.

9. S.49(2) states that:

   The Board shall set a minimum of twenty-five and a maximum of forty-five per centum of the gross revenue of a public lottery to be devoted to the object for which a lottery is promoted.

   **Recommendation:** It is our contention that maintaining the 25% to 45% of Gross Revenue on Lotteries limits what Lotteries can do in order to compete with the Bookmakers and Casinos. This should be on Net Gaming Revenue. It also is different from the terms outlined for the National Lottery.

10. S.50(2) states that a lottery promoter:

    may deduct operating expenses not exceeding twenty per centum of gross proceeds of the lottery;

    **Recommendation:** Gross Proceeds need to be defined here to avoid ambiguity.

11. S.57 states that:

    *in the case of mobile online gaming, lottery or a betting licence, particulars of network connectivity with two links to mobile operators shall be provided to the Board.*

    **Recommendation:** It is our contention that this contradicts the provisions on mobile operator payments and should be reconsidered.

12. S.60(1) states that:

*A player in an online gaming activity shall not bet an amount of less than fifty shillings in a competition*

It is our contention that there should not be such a limit. Ample research suggests that putting a price up does not deter gambling, it actually encourages higher spending.

It is not clear that this is per transaction or per deposit.

**Recommendation:** Remove

13. S61(5) states that:

*A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits or meeting third party costs incurred by a player.*

It is unclear whether this means that an operator cannot match deposits as this could be classed as providing credit.

**Recommendation:** This should be clarified.

14. S62(4)(a) allows the use of credit card betting.

**Recommendation:** This is not allowed in most sophisticated jurisdictions and it is unclear what motivates this provision. Research shows that this is not a good measure. It also conflicts with clause 62(5) on the provision of credit and therefore is ambiguous.

15. S64(1) states that:

*Where a transaction has not been recorded on a player's account for thirty months, a licensee shall remit the balance in the account to a player.*

It is unclear what happens to an amount that are too low to actually be able to spend – for example where the amount would exceed the cost of the transaction cost.

**Recommendation:** This should be clarified and limited appropriately.

16. S67(1) states that:

*A person in Kenya may only access servers hosted in Kenya for purposes of playing online games which includes betting, lottery, casino games or any other form of online gaming.*

*The Board shall not issue any online gaming or betting license to any foreign or local operator who has no local physical location and servers located within Kenya.*

**Recommendation:** This is a very unrealistic requirement in the modern world. Half of the companies in the world now use Cloud based systems which by definition could sit anywhere.

17. S.84(1) states that:
    *All draws shall be held within a licensee's premise and prize draws shall be open to members of the public*
    **Recommendation:** This is ambiguous as it should surely be dependent on the game type. How can a member of the public attend a virtual horse race.

18. S.158 on advertising does not address the fact that the biggest issue with Gambling is Sports Betting and the advertising ban expressly allows it. It also does not deal with the issue of DSTV TV where most people consume their sports content. There is also no express requirement for responsible gaming on billboards.

19. Clause (3) of s.158 requires:
    *All media companies holding licenses on gaming shall not use any of their broadcast frequencies to advertise orpromote their gaming product or activities.*
    It is not clear if this provision holds for prize promotions. It is also against competition rules.

    Basically, the act punishes Local TV and Radio media owners and their advertisers. Most of the big Sports Betting companies place their advertising on:

    1. Sport Events (so exempt)
    2. DSTV
    3. Social Media
    4. Newspapers

    It can easily be argued that Social Media advertising is much harder to regulate than spot advertising on TV and Radio. Permitting the advertising of betting on online and

offshore satellite media at the expense of local electronic media will have the following consequences:

1. Social and satellite media is hard to regulate vs domestic electronic media where all content and standards of responsible gaming can be subject to vetting before flight.
2. The audience of social media skews younger than linear broadcasting and combined with the difficulty of controlling it gives rise to much higher risks of attracting vulnerable players.
3. It does not seem in the national interest to restrict the revenues from the electronic advertising of gaming to offshore unregulated broadcast and internet companies to the severe detriment of the local media industry which is already facing economic challenges
4. This ruling would also be anti-competitive significantly favouring brands established before the local advertising restrictions came into effect.

This basically allows the big companies to cement their position and would make it impossible for any new operators to compete (including local companies and THE NATIONAL LOTTERY).

## ADDITIONAL POINTS FOR CONSIDERATION

There is no doubt that betting in Kenya has become a public health crisis. A disproportionate number of bettors are drawn from the unemployed and the student population. Amongst these vulnerable groups there is a widely held and highly naive perception that gambling provides a means of making a living. This has been encouraged by irresponsible advertising and unsolicited SMS.

The temptation must be to look to an outright ban on betting but there is a weight of evidence that prohibition does not work and is almost impossible to enforce. Even the Chinese have been unable to close off access to foreign gaming sites. Betting is

prohibited in China, India and the United States but billions are bet on offshore sites. That is one of the reasons the US and India are opening up their markets and starting to license operators on state by state basis with the dual aim of protecting consumers and capturing lost revenues through taxation. There may be an assumption in Government that offshore betting in Kenya would be confined to those who had international credit cards which would constrain its reach. But in reality, there are already many easy ways for consumers to use Mpesa by going through Skrill (or another intermediary payment provider).

Aside from the Kenyan Government and public concern about the exploitation of the vulnerable and the social impact of compulsive gambling, there is also widespread anger at the expatriation of profits by the industry. As there is no perceived value creation and no material social contribution - FDI does not seem a priority in this sector.

The challenge is how to regulate and tax a sustainable industry whilst minimising social harm. No Kenyan should borrow money to bet and those who have problems with compulsive gaming should be prevented from damaging themselves and their families and have access to professional treatment.

The authors of the new gaming bill are misguided in seeking to outlaw mobile betting which would drive customers into a harder to regulate and police retail environment in which there are little enforceable safeguards against underage betting. The digitisation of the betting industry driven by Mpesa holds the key to efficient regulation on an ongoing basis and provides the opportunity for a data driven solution to the problems listed above. It facilitates the following key initiative.

We propose a central database of all remote betting activity that would record the activity of all licensees on a real time basis. Such would allow for continuous monitoring of all player activity and allow:

1. For the introduction of self-exclusion. We have already developed a USSD application that allows users to self-exclude. To be effective this would need to be applied on an industry wide basis so that a player who self-excluded from the service of one operator was also blocked from using any other. The exclusion would also

apply to marketing messages.

2. The central database could also allow for elective or prescriptive spending caps. A first stage could be to set universal spending caps but provide the opportunity for wealthier users to opt into higher thresholds based on the provision of proof of earnings and credit checks. A better way to set these caps would be to individually and 'intelligently' customise the caps based on the disposable income of the player. The means to do this rests with the participation of Safaricom who could provide a ready reference based on their existing knowledge of user behaviour derived from transaction records (as they do now to qualify loan recipients).

   When this data is cross referenced with data on player gambling behaviour this initiative can significantly prevent people from being able to borrow money in order to increase their betting to win back their losses and getting trapped in a desperate cycle.

3. In addition to addressing problem gaming this central database will facilitate custom reporting functions and could be interrogated by various Government agencies to ensure proposer revenue reporting and tax payments in addition to identifying money laundering activity. Like iTax or eCitizen, this can be done in real time so the Government of Kenya could review detailed reports about the industry at any moment in time. It is also something that the industry does itself for commercial and security reasons but doesn't share.

4. By working with the CAK, the regulator and the government. We can implement mandatory controls such as:

   1) Indebted players cannot play (by restricting playing to people who don't have payday loans)

   2) Monitor playing habits to halt salary day overspend

   3) Link with the CBK so that loan defaulters cannot play

The above initiative needs to be combined with the implementation of robust responsible gaming standards and a program of ongoing consumer education into the dangers of addiction and the resources for prevention and treatment of compulsive play. Such need includes 24hr helplines and the availability of trained counselling.

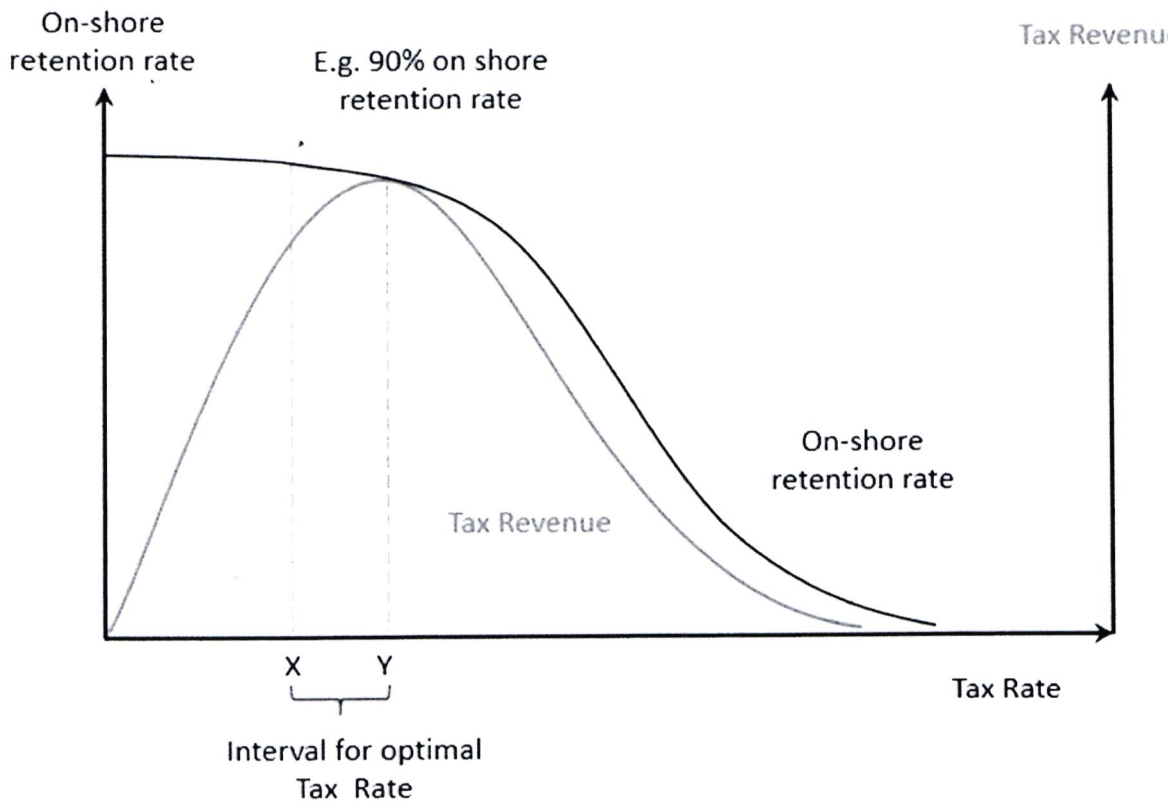
To fund the above and the responsible gaming initiatives we propose that there is levy on the industry of Responsible Gaming initiatives need to be properly funded to be effective and really address the problem of youth gambling and addictive play. We propose a .5% to 1% levy on GGR that to be used to promote responsible gaming. This levy would fund:

1. The production and advertising of responsible gambling messages for mass media.
2. The set up and operation of call centres where players can request opt-outs and compulsive gamblers and their families can get trained support.
3. The building of a web site and app that players can use to set limits and self-exclude. This centralised information should be shared amongst all operators.
4. The provision of reporting mechanisms for players to report rule breaking by operators (unsolicited SMS, non-compliance with self-exclusion or spending limits, underage presence in betting shops, etc.)
5. Central reporting of illegal gaming activities.

## TAXATION & THE EXPATRIATION OF PROFITS

There are 3 primary forms of taxation that can be derived from the gambling and betting industry. The first is a tax on GGR (Gross Gaming Revenue after prizes), withholding tax on winnings and tax on the profits of betting operators.

There has been extensive research conducted on the how to set tax on gambling at a level that optimises yield for Governments. This has clearly demonstrated that there are levels at which increasing tax will diminish returns by driving gambling underground or offshore, in which case revenues would fall and consumers cannot be protected. The tax-rate on online gambling, within a licensing system therefore needs to balance these effects to achieve both high onshore regulated participation as well as high tax revenues. Pan European research conducted by the Copenhagen Institute concludes that a tax-rate of online gambling, which gives both high onshore retention as well as high tax revenues, lies within the range of 15 to 20 percent of the gross gaming revenue (GGR).




Analysis of European markets demonstrates that rates in excess of 20% will be a significant incentive for operators to relocate offshore, given that digital betting platforms can be hosted from any location in the world and are accessible by any Kenyan. Such a relocation would result in significant loss of tax revenue for the Kenyan Government together with a loss of jobs. The negative tax revenue impact of over-taxation has been demonstrated in Poland, where the Government recently introduced new regulations to tax licensed remote gambling operators at the rate of 12% of the turnover effective 1 April 2017 (this is the equivalent of 35-45% of GGR). This new tax has resulted in an exodus of large industry operators from the Polish gambling market. These operators continue to service the Polish market but from an offshore location (Source: PricewaterhouseCoopers).

The two current ends of the spectrum in Europe are the UK and France. The UK taxes all forms of online gambling at 15% GGR. In France, the tax is set at 45% GGR. As a result, France loses about 50% of users to offshore operators, whereas the UK retains 95% onshore. Consequently tax per capita from gambling is around US$5 per annum in France compared to US$14 in the UK. This translates to France generating around US$400 million in taxes from online gambling compared to over US$1billion in taxes

raised in the UK.

The misapplication of winning taxes can also drive consumers offshore and so for this reason we recommend the Government revert to the generally accepted standard of applying winnings only on the difference between the stake and the win i.e. on the amount won excluding the amount staked.

One of the biggest concerns of Government is the expatriation of profits abroad. And this should be of concern irrespective of whether the operator in question is Kenyan or foreign owned.

In this regard our suggestion is to create a scheme that makes it extremely unattractive to move post tax profits off shore to keep those finds invested in the Kenyan economy.

Our basic approach (and we are still awaiting legal advice on this) , is to have a punitive rate of dividend tax for companies wanting to take their profits off shore. This basic approach would mean that the proceeds of gaming would end up being invested in the local economy rather than been funnelled offshore. There could be certain categories of investment approved for this scheme which could for example be designed to fund local tech start-ups as per the UK EIS scheme

If we take a coordinated approach to taxation in gaming, keep the income tax levels at about 15% and introduce a penalising off shore tax penalty, Government of Kenya can have its cake and eat it.

All of this discussion is predicated on a CIMS being in place to effectively collate tax compliance.

## RESONSIBLE GAMING STANDARDS

The industry has a responsibility to protect those of its players that may be susceptible to compulsive behaviour and to operate in a more transparent fashion. Our recommendation is that we establish a code of practice that adopts the key principles of

the EGBA (the European Gaming & Betting Association) and that compliance with these principles is made compulsory to all licensees. The EGBA standards complement the licensing requirements imposed by online gaming regulators in different jurisdictions in the European Union. The EGBA standards incorporate the Remote Responsible Gambling Standards as agreed in the European Committee for standardisation (CWA 16259 : 2011 – 'Responsible Remote Gambling Measures').

The key objective is to ensure Kenyan consumers can enjoy playing within their means in a safe, secure and reliable environment. As such, it is vital to implement a set of standards that:

- Stay ahead of this fast-changing technological environment
- Enforce a consistent and high level of consumer protection
- Offer binding and independent dispute settlement for consumers

Principle 1: PROMOTE RESPONSIBLE GAMING AND BETTING

- Providing customers with explicit information about the possible risks and harms of online gaming
- Providing a link to qualified sources of help
- Allowing customers to request the setting of betting/deposit limits
- Offering customers, the opportunity to self-exclude
- Not providing credit to customers

Principle 2: KNOW-YOUR-CUSTOMER AND PREVENT UNDERAGE GAMING AND BETTING

- Prominently displaying a 'no under 18s' sign on the homepage of the licensees' website(s), linking to a clear message about underage play
- Advising parents regarding recognised filtering programmes, including a link to a recognised filtering programme to enable customers/parents to prevent minors from accessing gaming and betting sites
- Regularly monitoring underage gaming and betting by conducting random checks of customers to ensure compliance with age restrictions

Principle 3: ZERO TOLERANCE OF FRAUDULENT AND CRIMINAL

BEHAVIOUR

- Enforcing anti-money laundering policies and procedures to cater for the identification, escalation and reporting of unusual or suspicious activities, including investigating material or unusual deposits, withdrawals and customer accounts where little or no gaming or betting activity takes place

- Logging of all information regarding changes to customer details and requesting appropriate verification documentation for significant changes (e.g. changes to customers' names and banking details)

- Introducing anti-money laundering practices including the provision of suspicious transaction reports to the BCLB

Principle 4: PROTECT CUSTOMER PRIVACY AND SAFEGUARD INFORMATION

- Protecting confidential customer information from unauthorised or unnecessary disclosure

- Ensuring privacy and confidentiality: customers will be informed on licensees' websites about the exact terms and conditions of the member's privacy policy

Principle 5: PROMPT AND ACCURATE CUSTOMER PAYMENTS

- Ensuring prompt and accurate processing of payments subject to appropriate and necessary checks and verifications

- Allowing customers to open only one account, by providing the following minimum information: name, age, address, unique username and password.

Principle 6: RIGOROUS INDEPENDENT ASSESSMENT OF PRODUCT FAIRNESS AND RANDOMNESS

- Implementing a product testing policy, approved and supported by licensees' management, which will provide for the internal and external testing of all products for fairness and randomness

Principle 7: ETHICAL AND RESPONSIBLE MARKETING

- Ensuring that advertisements shall not entice the underage to bet, and shall not be displayed in media that is clearly targeted at the underage

- Ensuring that advertisements only contain factually correct information and avoid misleading information

- Ensuring that licensees do not knowingly engage in the distribution of unsolicited advertisements (i.e. SPAM) either directly or through a third party

Principle 8: COMMITMENT TO CUSTOMER SATISFACTION AND SUPPORT

- Giving customers the opportunity to log complaints and disputes on a 24/7 basis
- Ensuring that an independent third party shall be available for mediation or resolution of disputes received from members or their customers.

If one has any questions relating to the foregoing, please contact:

George Gerard Mealy, General Counsel at White Rhino Ventures Limited

T. 0797192273

E. George@whiterhino.co.ke

George G. Mealy

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 22/08/2019 TIME: 10:00AM.

AGENDA: STAKEHOLDERS/PUBLIC HEARING MEETING.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | Judith K. Kiragu | Golden Key Ltd AGOK | Director Secretary of Association | 0721485493 | |
| 2. | PETER K. NJOROGE | KENYA CHARITY SWEEPSTAKE | GENERAL MANAGER. | 0723359063 | |
| 3. | CAROLINE W. MUKIA | KENYA CHARITY SWEEPSTAKE | ACCOUNTANT | 0727419546 | |
| 4. | GEORGE MBUM | SHOP & DELIVER (BETIKA) | DIRECTOR | 0724297066 | |
| 5. | CHRIS MWIQISI | SHOP & DELIVER | DIRECTOR | 0714423224 | |
| 6. | DANIEL NGUMY | ADVOCATE for HAMCONE | ADVOCATE | 0720075625 | DN |

| | | | | | |
|---|---|---|---|---|---|
| 7. | Pauline Opar | BCLB | S.G.I | 0725743755 | |
| 8. | ESTHER MUGI | BCLB | C.C.I | 0722508589 | |
| 9. | Fredrick M. Mbossi | BCLB | DGI | 0722631569 | |
| 10. | Vivian W. Njoroge | Velex Advisory | Legal Counsel | 0725619600 | |
| 11. | DAVID MOSETI | VELEX ADVISORY | DIRECTOR. | 0721808528 | |
| 12. | Ogega K. Gichana | Nairobi City County | Ag Ass. Director | 0736188030 | |
| 13. | Christopher Okengo | Nairobi City County | Ag. Dep. Director | 0723954210 | |
| 14. | Aloyce Omondi | ACCOK | C L O | 0722803215 | |
| 15. | GEORGE G. MEALY | WHITE RHINO VENTURES | IN-HOUSE LEGAL COUNSEL | 0797192273 | George Mealy. |
| 16. | Weldon Koros | Gaming Awareness Society of Kenya | chairperson | 0725688550 | |
| 17. | Nelson Bwire. | Gaming Awareness Society of Kenya | Secretary General | 07144411290 | |
| 18. | | | | | |
| 19. | | | | | |
| 20. | | | | | |
| 21. | | | | | |
| 22. | | | | | |

# KENYA SCHOOL OF GOVERNMENT - M

## ADMISSION REGISTER

### THE NATIONAL ASSEMBLY PUBLIC PARTICIPATION

### 24TH JUNE, 2019

| NO. | NAME | GENDER | ID/NO. | ~~MINISTRY/ADDRESS~~ AREA | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| 1. | HERI BAKARI | M | 5393663 | M TAYARI | 0727030560 | [signature] |
| 2. | HASSAN MAH'D | M. | 2266679 | OLD TOWN | 0722795558 | [signature] |
| 3. | FAUZ AL | M | 0713789 | M TAYARI | 0720034938 | [signature] |
| 4. | TIMOTHY NGOVI | M | 2247418 | M/TAYARI | 0721269285 | [signature] |
| 5. | SAMIHA ABDUL BABILO | F | 8389857 | OLD TOWN | 0723018299 | [signature] |
| 6. | MARIA ABDALLA ALI NOLFAN | F | 3170247 | OLD TOWN | 072301899 | MARIA |
| 10. | [illegible] Athman | F | 0668188 | Old Town. | 0722870213 | [signature] |
| 11. | [illegible] | F | 5376829 | Old Town | 0726602527 | [signature] |
| | | | 5377209 | Old Town | 0727303696 | [signature] |

| | | | /NO. | MINISTRY/ADDRESS | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| | ...RIKA SAID | F | 9988430 | OLD TOWN | 0718888965 | [signature] |
| | JOMES KAMYIVA | F | 13264947 | CHANGAMWE | 0721550447 | [signature] |
| 12. | CHARLES OLIVER | M | 9919709 | CHANGAMWE | 0721960008 | [signature] |
| 13. | JOHN NGUTHU | M | 14698476 | CHANGAMWE | 0721600268 | [signature] |
| 14. | HUSSEIN SHEIKH | M | 1164512 | OLD TOWN | 076607888 | [signature] |
| 15. | Pfi. PHILIP HINGA | M | 3881386 | CHANGAMWE | 0722829061 | [signature] |
| 16. | ANTONY NDUNDA | M | 25114768 | CHANGAMWE | 0728011658 | [signature] |
| 17. | JAMES MUKOMA | M | 22882885 | Changamwe | 0726284565 | [signature] |
| 18. | Hamis. Juma | M | 22443863 | changamwe | 0726693275 | [signature] |
| 19. | ERICK CANTONA | M. | 29812982 | CHANGAMWE-CHANNI | 0728267612 | [signature] |
| 20. | GABRIEL ... | M | 22785624 | C[illegible] | 0729283427 | [signature] |
| 21. | ANJELINA MALOBA | F | 2230166 | Tudor | 0797342268 | [signature] |

| NO. | NAME | GENDER | ID/NO. | MINISTRY/ADDRE. | | SIGNATURE |
|---|---|---|---|---|---|---|
| 22. | ALI OMAR MOHD | M | 0309839 | OLD TOW | | |
| 23. | SAYYID AWADH MOHD | M | 13594912 | OLD TOW | | |
| 24. | JAMES H. OMINDO | ELDER | 1012379 | Ganjoni | 0722318729 | |
| 25. | JAAD HAMED | M | 8384309 | OLD TOWN | 0723673554 | |
| 26. | KELVIN MWANIKI | M | 27786117 | NYALI CENTER | 0720 420258 | |
| 27. | ISAACK OPIYO | | 16019760 | TUDOR | 0727366800 | |
| 28. | MULATI FANUEL | M | 10918057 | BCLB | 0724168496 | |
| 29. | GEORGE NJENGA | M | 13125038 | BCLB | 0723913135 | |
| 30. | ZACHARY GITHA | M | 13675042 | BCLB MOMBASA | 0722168907 | |
| 31. | ESTHER K. MULI | F | 11352406 | MINISTRY OF INTERIOR | 0722508589 | |
| 32. | OMAR CHAI | M | 29816562 | KADZANDANI WARD | 0700636154 | |
| 33. | SOFIA JUMA | F | 30191976 | R. RAHMA | 0719768649 | |
| 34. | | | | | | |

| | | GENDER | ID/NO. | ~~MINISTRY/ADDRESS~~ AREA | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| | MAURICE LICHINA | | 11578671 | TUDOR | 0721908944 | [signature] |
| 35. | VIRGINIA KIANGUI | F | 2233580 | CHANGAWE | 0718396833 | [signature] |
| 36. | ANGELINE NDAMBARI | F | 14676617 | OPERATOR | 0722552888 | [signature] |
| 37. | DORIS KADII | F | 33947782 | KADZANDANI | 0713534540 | [signature] |
| 38. | FRIDA MSAE | F | 35221810 | KADZANDANI | 0790033212 | [signature] |
| 39. | PETER KOMBE | M | 23668360 | KISAUNI | 0701739693 | [signature] |
| 40. | SAID FARAH | M | 34309751 | KADZANDANI | 0712204517 | FSaid |
| 41. | IAN NYALE | M | 33999058 | KADZANDANI | 0700608293 | [signature] |
| 42. | GEORGE WEAH | M | 33784278 | BOMBOLULU | 0702367752 | |
| 43. | VINCENT KINARA | M | 10927658 | CHANGAMWE | 0799741901 | [signature] |
| 44. | SABRINA KAPINI | F | 10958215 | MVITA | 0722787141 | [signature] |
| 45. | BERNARD KIPYEGON | M | 25900000 | MVITA | 0725417897 | |

| NO. | NAME | GENDER | ID/NO. | ~~MINISTRY/ADDRES.~~ AREA | | SIGNATURE |
|---|---|---|---|---|---|---|
| 46. | ALFANI A ALFANI | M | 29948212 | Ziwa la njoube | | |
| 47. | SULEIMAN MWATATA | M | 34990693 | KADZANDANI | | |
| 48. | Rodgers Mitsanze | M | 32093505 | kadzandani | 0725381455 | |
| 49. | Kelvin Inanga | M | 32055282 | Mkomani | 0705468763 | |
| 50. | Frederick Mbasi | M | 8967227 | BCLB | 0722631569 | |
| 51. | Edwins Okey | M | 24159024 | BCLB | 0722378180 | |
| 52. | MAVEDA MIRITI | M | 27180267 | CGM | 0710692841 | |
| 53. | Ali-A.MBARUK | M | 27305408 | CGM | 0701934315 | |
| 54. | John Rufere | M | 10058130 | BCLB | 0721541366 | |
| 55. | Chacha M. Chacha | M. | 22326130 | BCLB | 0722494386 | |
| 56. | Ernest Mugambi | M | 11327683 | INTERIOR | 0715436575 | |
| 57. | KIBIBI MWINYI | F | 33572529 | R. Kaya | 0792682081 | |

| | | NDER | ID/NO. | MINISTRY/ADDRESS AREA | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| | ...no | MALE | 291855411 | PAMBAZUKO NP | 0705573491 | [signature] |
| | ...zarus Martha | M | 33079757 | K24N | 0714418195 | [signature] |
| | Sally Vuvu | F | 25271545 | INTERIOR | 0723227853 0723 22 | [signature] |
| 61. | Janet Rothe | F | 27581728 | " | 0724663694 | [signature] |
| 62. | FEISAL BAHERO | M | 8461614 | M/GAYARI | 0723952271 | [signature] |
| 63. | MOSES MAINDA | M | 30231146 | INTERIOR | 0708678999 | [signature] |
| 64. | Sheila chabutibin | F | 21263271 | KNA | 0728513218 | [signature] |
| 65. | DENNIS MWAGAYA | M | 11459091 | INTERIOR | 0722374572 | [signature] |
| 66. | DAVID ORUKO | M | 12898741 | INTERIOR | 0722601759 | [signature] |
| 67. | Judith Kiraj | F | 7411083 | MOMBASA | 0724485493 | [signature] |
| 68. | Joshua MOHAD | M | 0306673 | KUZA | 0728054076 | [signature] |
| 69. | ROBERT KWEMOI | M | 29636335 | KWITA | 071010378 | [signature] |

| NO. | NAME | GENDER | ID/NO. | ~~MINISTRY/ADDRESS~~ AREA | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| 70. | Tossy Otum | M | [illegible] | Sunday Express | [illegible] | [signature] |
| 71. | Sammy Kamande | M | 32293259 | R. Kenya | 0718556389 | [signature] |
| 72. | Aisha Amani | F | 28252472 | Milele fm | 0739525315 | [signature] |
| 73. | HEZRON ONYAMASI | M | 11787347 | INTERIOR (POLICE) | 0700138038 | [signature] |
| 74. | ROBERT KWEMOI | M | 29636335 | INTERIOR (police | 0710103782 ~~29636~~ | [signature] |
| 75. | UKASHA ATHMAN | M | 16068092 | OLD TOWN | 0722723081 | [signature] |
| 76. | Bantace Msangi | M | 25210864 | Media | 0720974487 | [signature] |
| 77. | GEORGE AGOO | M | 21931893 | Media | 0726725587 | [signature] |
| 78. | Ndegwa wahome | M | 0813703 | Mombasa - County Government Betting & Gaming | 0722109354 | [signature] |
| 79. | Mwanamkuu Kombo | F | 29925381 | Kenya Broadcast Corporation (Pwani fm) | 0792491152 | [signature] |
| 80. | Omar Shungu | M | 26352242 | Sunday Express Mombasa | 0721815657 | [signature] |
| 81. | WILFRED GAMBO | M | 34045946 | NYALI | 0724676244 | [signature] |

| NO. | NAME | GENDER | ID/NO. | MINISTRY/ADDRESS | MOBILE NO. | SIGNATURE |
|---|---|---|---|---|---|---|
| 94. | BAYA ARNOLD BAYA | M | 23956658 | NTALI | 0706-547972 | |
| 95. | ALFRED T. KITI | M | 31893565 | NYALI | 0712061762 | |
| 96. | AISHA KOMBO ALI | F | 11457266 | OLD TOWN | 0726 328931 | |
| 97. | JUMA ABDULRAHMAN | M | 22523856 | SAR/G01 | 0721 831394 | |
| 98. | | | | | | |
| 99. | | | | | | |
| 100. | | | | | | |

**Admission Officer's Signature:** ..... **Date:** .....

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 17/08/2019 TIME: 10:00 AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN MERU COUNTY - MERU - SLOPES HOTEL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | James Muchui | Mayumba Kumi | Tigania East | 0720567227 | |
| 2. | Dancun Kinyua | PAS to | South Imenti | 0726288783 | |
| 3. | Pauline Opiu | BCLB | S.G.I | 0725743755 | |
| 4. | Esther Nkuki | BCLB | C.G.I | 0722508589 | |
| 5. | Fredrick Mbasi | BCLB | PGI | 0720631569 | |
| 6. | Joshua Muvango | BCLB | Security | 0720933565 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | DAVID MWANGI | BUSSINESS MAN | EMBU COUNTY | 0716293056 | [illegible] |
| 8. | Mary Kadogo | Youth rep | Tigania central | 0717046035 | [illegible] |
| 9. | GLADY KAIMURI S | youth chamber MTS | TIGANIA EAST | 0728028170 | [illegible] |
| 10. | ROSEMARY MURWANA KATHIORI | Gladys myw Kigwa | Tigania Central | 0711463271 | [illegible] |
| 11. | SABINA MGUCHI | BISHOP | TIGANIA CENTRAL | 0714808532 | [illegible] |
| 12. | RICHARD RITHINJI | CHURCH ELDER | BUURI WEST | 0723105014 | [illegible] |
| 13. | Marisella Karema | BISHOP | Tigania West | 0791131840 | [illegible] |
| 14. | Mgeo M Muniina | Youth | Ejembe | 0727970416 | [illegible] |
| 15. | | | | | |
| 16. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 17/08/2019 TIME: 10:00AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN MERU COUNTY - MERU SLOPES HOTEL

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | CHERAMGOI C. LANGAT | INTERIOR | DCC | 0711253380 | |
| 2. | MUGO GICHIRI | Interior | DCC | 0723664746 | |
| 3. | MIKA KAPUKI | INTERIOR | ACC | 0725640723 | |
| 4. | Kennedy Mwangemi | Interior | DCC | 0723287704 | |
| 5. | WALTER KALONON | INTERIOR | ACC | 0721760921 | |
| 6. | STANSLAUS APWOKHA | INTERIOR | DCC | 0727854611 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | BENJAMIN MUGAMBI | NJURI NCHEKE | REGIONAL DEPUTY SECRETARY GENERAL | 0727440875 | [signature] |
| 8. | ABRAHAM KITHINJI | NYUMBAKUMI | 2 OC. CHAIR person | 0779438565 | [signature] |
| 9. | FREDRICK LIMIRI ERIMBA | NJURI NCHEKE | SECRETARY | 0722234925 | [signature] |
| 10. | FREDRICK M'HGORDU (HSC) | NYUMBA KIMI | SECRETARY | 0727265753 | [signature] |
| 11. | HENRY KAIMENYI MARETE | NJURI NCHEKE | CHAIRMAN BUURI W. | 0713408458 | [signature] |
| 12. | MUTHEE MBOYA | NJURI NCHEKE | KIATHANDI CHAIRMAN | 0728350466 | [signature] |
| 13. | PST. JAMES MARETE | PASTOR G.C.I KENYA | PASTOR | 0725302744 | [signature] |
| 14. | PST MWAURA / PST. MUTUA | Gospel outreach | PASTOR | 0721964172 | [signature] |
| 15. | PRISCILLA MITHIKA | M.Y.W.O' | CHAIRLADY | 0723713913 | [signature] |
| 16. | Edward Kiriinya | Youth Leader | Chairman Abo-west | 0726520588 | [signature] |
| 17. | JUSTINE MWITI | Youth Leader | BUURI-WEST | 0714953269 | [signature] |
| 18. | Samuel K. Ruchin | INTERIOR | SWR CHIEF | 0721409289 | [signature] |
| 19. | IABITHA G. MUTHURI | Maendeleo chairperson | Buuri sub-county chairperson | 0721537279 | [signature] |
| 20. | ANTONY MUTHOMI MUTWIRI | | youth | 0708 065883 | [signature] |
| 21 | Anthony Njeru | | youth | 0720767709 | [signature] |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 17/08/2019 TIME: 10:00AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN MERU COUNTY – MERU SLOPES HOTEL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | BONIFACE MWIRIGI | B/S | Youth | 0720 [illegible] 658 | |
| 2. | FLORIC GAITI | MERU COUNTY | YOUTH | 0723500658 | |
| 3. | ESTER KAWIRA | meru county Govt | Youth- | 072A001527 | |
| 4. | Leah Wathenya | B, west | Mama Kijiji | 0712411195 | |
| 5. | SARAH KARWIRWA | IMENTI CENTRAL | NYUMBA KUMI | 0720653931 | |
| 6. | JULIAND NCORORO | IGEMBE NORTH | M. Wamake | 0711406902 | Julianda |

| | | | | | |
|---|---|---|---|---|---|
| 7. | Regina kangai | Igembe North | nyumba kumi | 0718327094 | RD |
| 8. | ANNE N-NGECHU | TIGANIA WEST | MY WANAKE.O | 0726702394 | [illegible] |
| 9. | BISHOP RICHARD KIMAITA | IMENTI NORTH | NICA CHURCH | 0725106170 | [illegible] |
| 10. | TITUS MWITI | Meru central | Youth | 0720226060 | [illegible] |
| 11. | Domene Kamanja | Tigania West | Area manager | 071666325 | [illegible] |
| 12. | ANGELINE GIKUNDA | BUURI | MAEDERE WD | 0724124308 | [illegible] |
| 13. | REV DAVID MWITHALI | IGEMBE NORTH | Full gospel church | 0727471210 | [illegible] |
| 14. | HAJI KAKI KANAKE | TIGANIA EST | SUPIKEM | 0711175 60 | [illegible] |
| 15. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 16/08/2019 TIME: 11:30AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NYERI COUNTY - YMCA HALL

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | Joyce Kagure Kihara | Elder | MEMBER | 0715888689 | |
| 2. | Grace Wanjiku Mwangi | ELDER | MEMBER | 0714743332 | |
| 3. | DUNCAN KARUE NGATIA | ASS/ CHIEF_ ADMIN. | ASS. CHIEF | 0710591294 | |
| 4. | JOHN NDUNGU MURIITHI | ELDER | MEMBER | 0722586910 | |
| 5. | Benson Muriuki Wairimu | Youth representative | member | 0725280236 | |
| 6. | Solomon M. Mburugu | K.U | lecturer | 0721335838 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | GRACE HJOKI KAHUCHA | ELDER | MEMBER | 0721481762 | |
| 8. | JOHN MWANGI MAINA | | MEMBER | 0724387245 | |
| 9. | ANTHONY WAMBUGU | | MEMBER | 0722770974 | |
| 10. | JOSEPH WAMAI MUTORO | | MEMBER | 0724261053 | |
| 11. | DRESTER GITONGA | | MEMBER | 0727245196 | |
| 12. | Sebastian musiboli | | member | 0715224321 | |
| 13. | | | | | |
| 14. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 16/08/2019 TIME: 11:30 AM.

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NYERI COUNTY – YMCA HALL

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | MARY-W. GITONGA | NGAO | SAR ASS CHIEF | 0722505546 | |
| 2. | ESTHER W. KARU | NGAO | ASST CHIEF | 0726693877 | |
| 3. | GICHU MWANGI | NGAO | VILLAGE ELDER | 0724792243 | |
| 4. | PAUL M. WAMBUGU | NGAO | VILLAGE ELDER | 0724366802 | |
| 5. | ALICE W. MAIGUA | NGAO | VILLAGE ELDER | 0726322821 | |
| 6. | MARTHAR W. GITHAIGA | NGAO | VILLAGE ELDER | 0724684414 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | JAMES WANJAU | NGAO | VILLAGE ELDER | 0726538441 | |
| 8. | STEPHEN KAHUTHIA | NGAO | VILLAGE ELDER | 0721698064 | |
| 9. | STEPHEN M. MURETHI | NGAO | SUB ASST. CHIEF | 0724317308 | |
| 10. | JOHN K. WAIROCHI | N.GA.O | SUB ASST. CHIEF | 0724718634 | |
| 11. | STEPHEN G. KAMAU | NGAO | VILLAGE ELDER | 0726388211 | |
| 12. | JOSEPH N. MICHUKI | NGAO | SUB ASST Chief | 0724749172 | |
| 13. | MARGARET WANJIRU | NGAO | VILLAGE ELDER | 0722355276 | |
| 14. | WINFRED N. GITONGA | NGAO | VILLAGE ELDER | 0720867044 | |
| 15. | MARY M. MWANGI | NGAO | ASST-CHIEF ~~VILLAGE~~ | 0724532878 | |
| 16. | PATRICK MAINA | NGAO | ELDER | 0726638938 | |
| 17. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 16/08/2019 TIME: 11:30 AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NYERI COUNTY – TMCA HALL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | FRED NJENGA | O.O.P | ACC / IRTA | 0715467798 | |
| 2. | PETER LIALO | O.O.P | ACC NYERI MUNICIPALITY | 0726636655 | |
| 3. | Fredrick Mbasi | BCLB | PGI | 0722631569 | |
| 4. | ESTHER MUKI | BCLB | C.G.I | 0725085894 | |
| 5. | Joshua Murango | BCLB | Security | 0720933565 | |
| 6. | Joseph Kingori | Municipality | Member/Elder | 0724925708 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | Agnes Mumbi | NYERI Municipality | WITEMERE Nyumba Kumi | 0701358793 | [illegible] |
| 8. | MICHAEL MBAI | Nyeri municipality | ELDER CHOLONGI | 0721588754 | [illegible] |
| 9. | Bernard Muritha Mechaire | Nyeri Central | Elder [illegible] | 0720812909 | [illegible] |
| 10. | PETER K. KIMATHI | NYERI CENTRAL | ELDER [illegible] | 0726486079 | [illegible] |
| 11. | JACKLINE NYAMBURA | NYERI CENTRAL | ELDER | 0703484331 | [illegible] |
| 12. | HENRY MAINA | NYERI CENTRAL | ELDER | 0722933656 | [illegible] |
| 13. | PATRICK M GICHUHI | NYERI CENTRAL | Elder | 0723240329 | [illegible] |
| 14. | RUTH M MUNDIA | NYERI CENTRAL | NGAO | 0723219818 | [illegible] |
| 15. | Pauline Opar | BCLB | SG1 | 0725743755 | [illegible] |
| 16. | JERIOTH NJERI | NYERI CENTRAL | NGAO | 0721424524 | [illegible] |
| 17. | RHODA M. GICHOHI | NYERI CENTRAL | NGAO | 0721387488 | [illegible] |
| 18. | CHARLES MATHENGE | NYERI CENTRAL | NGAO | 0711132957 | [illegible] |
| 19. | RAPHAEL WANYEKI MBUTHA | NYERI CENTRAL | NGAO | 0725463879 | [illegible] |
| 20. | | | | | |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 16/05/2019 TIME: 11:30 AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NYERI COUNTY - YMCA HALL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | PAUL NDIRANGU | ELDER. | CHAIRMAN | 0728769688 | |
| 2. | LEAH KIMONDO | ELDER | MEMBER | 0715559865 | |
| 3. | PETER WANGOMBE | ELDER | MEMBER | 0724809220 | |
| 4. | GREGORY NJERU | Elder | member | 0720980223 | |
| 5. | SAMUEL N. NDEGE | ELDER | MEMBER | 0723860098 | |
| 6. | SIMON. N. RUKWARO | ELDER | LOC. MEMBER | 0720925107 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | MARTIN MUCHIRI | ELDER | MEMBER | 0727982043 | |
| 8. | KAMANGARA KIONGO | ELDER | MEMBER | 0798322590 | |
| 9. | Joseph Njiraini | ELDER | MEMBER | 0726298227 | |
| 10. | Joseph Mdumia | Elder | MEMBER | 0720891416 | |
| 11. | CHARLES W. WAMBUGU | C/MAN/ELDER | MEMBER | 0729924274 | |
| 12. | JOHN NDUNGU | ELDER | MEMBER | 0722169458 | |
| 13. | ANTONY MBINDA | ELDER | MEMBER | 0721313842 | |
| 14. | DUNCAN WANGUNGU | ELDER | MEMBER | 0725485678 | |
| 15. | DAVID MUNYUA KINYUA | ELDER | V/CHAIRMAN | 0714276941 | |
| 16. | KENNEDY AGUSIMA | | MEMBER | 0720615827 | |
| 17. | ZAKAYO KARIUKI | ELDER | MEMBER | 0712030949 | |
| 18. | ERIC MWIRIA | | Member | 0746675895 | |
| 19. | JOHN GATIBA | ELDER | | 0724821358 | |
| 20. | JAMES NDUNGU | ELDER | V/Chairman | 0720428317 | |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 15/08/2019 TIME: 10:30AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NAKURU COUNTY - NAKURU OLD TOWN HALL

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | JANE WANGO | Bandas TAIC | Member | 0722429735 | |
| 2. | TOBIAS OKELLO | COMMUNITY | MEMBER | 0721365588 | |
| 3. | ISAAC OTIENO | Community | MEMBER | 0707196809 | |
| 4. | MICHAEL O. OPAR | Community | MEMBER | 0733174200 | |
| 5. | PETER KAKAI | community | MEMBER | — | |
| 6. | FAITH MUIGAI | — | MEMBER | 0720999723 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | ELIZABETH WANJIRU | — — | MEMBER | 0721325993 | [illegible] |
| 8. | Jenelicah N JOKI | — | member | 0717221003 | [illegible] |
| 9. | Lucy Njeri | — | member | 0727740822 | [illegible] |
| 10. | JANE MUGO | PANDAPARTAI | member | 0728118398 | [illegible] |
| 11. | LUCY WAITHERA | | member | 0728330657 | [illegible] |
| 12. | JOSEPH MUNGAI | | | 0711511610 | [illegible] |
| 13. | Peter. N. Cathae | Private | " | 0721105220 | [illegible] |
| 14. | ADEN OGUTU | — — — | — — — | 0716516646 | [illegible] |
| 15. | WILSON KIMALINY | C.P.C | Member. | 0712276328 | [illegible] |
| 16. | GEORGE OTIENO | NAKURU EAST PWD GROUP | CHAIR PERSON | 0728652882 | [illegible] |
| 17. | ALPHAS ABWAO | PWD NAK COUNTY | VICE CHAIRMAN | 0724977800 | [illegible] |
| 18. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 15/08/2019 TIME: 10:30 AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NAKURU COUNTY - NAKURU OLD TOWN HALL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | ELIJAH NJITEMI | DOP | ACC | 0724067350 | |
| 2. | JAMES KARIUKI | N.T.E CONSTITUENCY OFFICE | WARD REP | 0722537850 | |
| 3. | MARY KIWOTHO | DOP | SNR A/CHIEF | 0726791839 | |
| 4. | JOSEPH MUNANU | ELDER | Senior Citizen | 0725557697 | |
| 5. | CYNTHIA NAEKU | KIUUMBINI YOUTH | YOUTH | 0714258201 | |
| 6. | George Ngange | NGAO | Snr A/Chief | 0723341618 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | JANE MWANGI | OOP | SENIOR ASSISTANT CHIEF | 0773707087 | [signature] |
| 8. | JOSPHINE RICHUGU | OOP | | 0718955116 | [signature] |
| 9. | SOPHIA MWIHAKI | ELDER Maendeleo Women Member | Maendeleo Wanawali - [signature] | 0722418189 | [signature] |
| 10. | DENNIS DIKIRE | LEGAL HQ | LAWYER | 0716219153 | [signature] |
| 11. | TIMOTHY M KATEU | OOP | ASST CHIEF AFRAHA | 0712382723 | [signature] |
| 12. | JAMES GAMBA | OOP | [illegible] | 0703871439 | [signature] |
| 13. | JAMES KINYUA | Business | | 0720570147 | [signature] |
| 14. | Wanjiru Macharia | Capital Group | Correspondent | 0722942746 | [signature] |
| 15. | MANOTI ISAAC | RADIO YETU | Reporter | 0742850681 | [signature] |
| 16. | Jackson Oketa | County dispatch | Reporter | 0713615035 | [signature] |
| 17. | GILBERT GITONGA | " " | ACTIVATE | 0727821218 | [signature] |
| 18. | STEPHEN MWANGI | " | " | 0722632747 | [signature] |
| 19. | GILBERT KARITU MUGAI | Chairman CAGS | " | 0716401659 | [signature] |
| 20. | LAWRENCE MAINA | Vice Chair Mem | " | 0721740765 | [signature] |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 15/08/2019 TIME: 10:30AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NAKURU COUNTY - NAKURU OLD TOWN HALL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | DANIEL MURUGU | NKR-OPINION | SEC | 0720988086 | |
| 2. | BSP, Charles C. Ogetonto | From Grace Holy Church | BISHOP | 0797251409 | |
| 3. | Josphat Thiongo | Church | R.E.V | 0721900916 | |
| 4. | Cllr Issa Gichangi | AMAN Community | Chairman | 0721-720858 | |
| 5. | JANE NYANDIKO | VILLAGE ELDER M.Y.W.O. | V/ CHAIR NAKURU TOWN EAST | 0723-249358 | |
| 6. | Lydia Mwangi | M.Y.W.O | Kiu Ward Sec. Town N.E. | 0723-628841 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | AMINA Yusuf | C.P.C | Youth | 0708670082 | [illegible] |
| 8. | AMINA HUSEIN JAMA | Peace Member | Elder | 0720459382 | [illegible] |
| 9. | LYNETTE NYAMBURA | C.P.C | member | 0713614005 | [illegible] |
| 10. | EVERLYNE KORIR | community policy | member | 0712323933 | [illegible] |
| 11. | ELIZABETH WANJIRU | community policy | member | 0728478652 | [illegible] |
| 12. | JAMEN AGESA | COMMUNITY POLICY | ELDER | 0705100508 | [illegible] |
| 13. | FRANCIS NJIHIA | Opinion Leader | [illegible] | 0722-847929 | [illegible] |
| 14. | DAVID K. KIHONGE | peace member | ELDER | 0722244259 | [illegible] |
| 15. | DANIEL M. KIRUNGUI | CPC | ELDER | 0722680970 | [illegible] |
| 16. | NAOMI KIMANI | C.P.C | ELDER | 0721520985 | [illegible] |
| 17. | GEORGE MBURU | COMMUNITY MEMBER | Member | 0722249073 | [illegible] |
| 18. | PETER MACHARIA | CPC | ELDER | 0726529564 | [illegible] |
| 19. | Isaac Kihara Kiiru | C.P.C | Elder | 0706632347 | [illegible] |
| 20. | DICKSON MAYAKA | C.P.C | ELDER | 0733679412 | [illegible] |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 15/08/2019 TIME: 10:30 AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019 IN NAKURU COUNTY – ~~OLD~~ NAKURU OLD TOWN HALL.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | Fredrek Mbasi | BCLB HQTS | PGI | 0722631569 | |
| 2. | ~~ESTHER~~ K. MWAI | BCLB HQTS | C. G-I | 0722508554 | |
| 3. | JOHN BUSAKA | BCLB NAKURU | PGI | 0721446413 | |
| 4. | REV. FIDELIS ADUNGO | CHURCH | PASTOR | 0721729688 | |
| 5. | FRANCIS SHINALI | COMMUNITY | ~~LEADER~~ | 0723470029 | |
| 6. | Amos Koech | BCLB Nakuru | SGI | 0721623258 | |

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|---|---|---|---|---|---|
| 7. | Mugo Ndungi | BCLB Nakuru County | SGI | 0733256937 | |
| 8. | Pauline Opar | BCLB -HEADQUATER | SGI | 0725743755 | |
| 9. | Charles Okumu | CPC NAKURU EAST | LEADER | 0727790960 | |
| 10. | Ibrahim Ogeto | CPC - Chair KE | Chair | 0726007283 | |
| 11. | Brenda Wachuma | Resident Association | Sec | 0725141492 | |
| 12. | MAURICE OTIENO | BAHARINI COMMUNITY FORUM RESIDENT ASSOCIATION | CHAIR | 0723733303 | |
| 13. | SUSAN NJAMBI | Elder | Chairlady | 0721417570 | |
| 14. | LUCY WAITHERA | LANET | | 0728330657 | |
| 15. | JOSEPH THUBI | BUSSINESS | | 0711511660 | |
| 16. | DAVID KIBAGENDI | COONDINATOR NAKURU COUNTY BODA BODA | COONDINATOR NAKURU BODA | 0720139138 | |
| 17. | SAMUEL MUNYIRI | NAKURU COUNTY Overall Chairman | BODABODA CHAIR | 0726604960 | |
| 18. | SUSAN CHEPKORIR | Pandap Tai Group | Treasurer | 0723318029 | |
| 19. | MONICA WANJIRU | Pandap Tai Member | member | 0726643590 | |
| 20. | Margret Njambi | Pandap Tai | member | 0725788287 | |

# LIST OF ATTENDANCE → 15/08/2019

1. FRANCIS SHINAN 0723470027
2. REV. FIDELIS A. WANDERA 0721729688
3. JOHN BISAGA 0721446413
4. ESTHER MWE 0722508589
5. Fredrick Mbesi 0722631569
6. SNM CHIEF STEPHEN MACHAMIA. 0720482508
7. Charles Okumu 0727790960
8. Ibrahim Ogeto 0726007283
9. Brenda Vadima 0725141492
10. MAURICE OTIENO 0723733803
11. SUSAN NJAMBI 0721417570
12. LUCY WAITHERA 0728330657
13. JOSEPH THUBI 0711511610
14. Samuel MUNYIRI 0721664960
15. DAVID KIBAGENDI 0720139138
16. MARGARET NJAMBI 0725788287.
17. Stephen M. Karanja 0721897966.
18. Janelicah NJOKI 0712221005
19. Jane Wangare 0728118398
20. Lucy NJeri 0727740822
21. Faith Mugai 0720999723.
22. MICHAEL O. OPAR 0733174200
23. JANE WANGOI 0722429735
24. ISAAC OTIENO 0707196809.
25. TOBIAS OKELLO 0721335580

26 - SUSAN CHEPKORIR - 0723 318029
27 MONICA WANJIRU — 0712 643590
28 PETER KAKAI —
29 JAMES KARIUKI — 0722537850
30 MARY KIGOTHO — 0726791839
31 JOSEPH MUNANU 0725-557687
32 MARY WACHAMIA - 0726930976
33 Sur/Ass Chief Kiratina/Sarah — 0723307002
34. CYNTHIA NAEKU - 0714 358201
35. SOPHIA MWIDAKI — 0722418189
36 JANE MWANGI - 0773707087 | 0701311731
37. JOSPHINE RIUNGU - 0718955116
38 SERAH MBARU, - 0713 495341
39 George Ngange - 0722341618
40 ~~SYPROSE~~ SYPROSE ANYANGO - 0727985900
41. John Njoroge. - 0731557441
42. George Otieno - 0720652882.
43. Alfonce Abwao - 0724977800.
44. Willy the Bress - 0729606149
45. PATRICK CHEKE - 0721-217443
46 TIMOTHY MUINDE KITEZU — 0712382723
47 JOHN KYALO 0712624831
48. John Kimani 0722 857841
49 ROBERT MATHENGE 0725278827
50 PETER MWANGI 0759475911

KISUMU

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 26/07/2019 TIME: 10:30 AM

AGENDA: PUBLICE HEARINGS ON GAMING BILL, 2019 IN KISUMU COUNTY (NEW NYANZA REGIONAL HEADQUARTERS

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | NASHON O. OTTO | NATIONAL ADMINS. | ASIC CHIEF | 0727420218 | |
| 2. | LENA 'A. JOBITA | NAT. ADM. | A/CHIEF | 0718687490 | |
| 3. | CAMLUS ANAM | √ " | √/ELDER | 0726777320 | |
| 4. | SAMSON JUMA | " | √/ELDER | 0704556377 | |
| 5. | SAMSON OWINO AYIEGA | " | V/ELDER | 0712672097 | |
| 6. | GASTON OOKECH | MIGOSI ELDER | V/ELDER | 0722599713 | |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 26/07/2019 TIME: 10:30AM

AGENDA: PUBLIC HEARING ON GAMING BILL, 2019, KISUMU COUNTY.

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | BIRONE ROCHE. | standard media | Media. | 0727019189 | |
| 2. | MAURICE OTIENO | FROM HIB | | 0715720006 | |
| 3. | CORNEL OCHIENG | OBUNGA ESTATE | Community policing Chair - Kanyakwar | 0722660074 | |
| 4. | MAURICE O. NYANGA | KANYAKWAR | Ag Chief | 0714757478 | |
| 5. | GEORGE M. OJOUSI | KUNDELE RESIDENT | COMM. MEMBER | 0726258961 | |
| 6. | JUDITH A. OBURE | MINISTRY OF INTERIOR. | A/CHIEF | 0720606586 | |

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|---|---|---|---|---|---|
| 7. | HEZRON YALO | MINISTRY OF INTERIOR. | A/CHIEF | 072721142 | |
| 8. | SAMUEL C WILLIAM | MINISTRY OF INTERIOR | COC OFFICE | 0714771163 | |
| 9. | Noven Onyango | media | media | 0715361669. | |
| 10. | Vichar Omondi | Media | Media | 0716058050 | |
| 11. | BETTY JUMA | media | media | 0791582525. | |
| 12. | GEORGE NYAMLORI | VILLAGE ELDER | VILLAGE ELDER | 0724569089 | |
| 13. | ANTONY OKEW | County peace forum ICSM | VICE CHAIRPERSON | 0710116134 | |
| 14. | ROSE ORESI | Kisumu Peace forum | Chairlady | 0726468070 | |
| 15. | MILTON ONYANGO | MOICT - MEDIA / KNA | JOURNALIST | 0732646562 | |
| 16. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 26/07/2019 TIME: 10:30 AM

AGENDA: Public Participation Kisumu County

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | PHILLIP ONYONA | NAT ADMIN | SNR CHIEF | 0726837713 | [signature] |
| 2. | WILLIS ONYONA OCHENG | ~~SNR~~ NAT. GOVER. | SNR CHIEF | 0726548141 | [signature] |
| 3. | WYCLIFFE. ONYANGO | V. ELDER. | | 0727638877 | [signature] |
| 4. | NICKOLAS. OWINO | | CHAIRMAN. C. POLICING. | 0791780423 | [signature] |
| 5. | STEVEN BALA MAGAK | Bussines | Resident | 0707609206 | [signature] |
| 6. | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | MAURICE OGULLA | CPC | CHAIRMAN ST. | 0713143445 | [signature] |
| 8. | Erick Onyango Ogello | CPC | Member | 0795668071 | [signature] |
| 9. | TOM OBUYA | ADMINISTRATION | VILLAGE ELDER | 0719500548 | [signature] |
| 10. | DOMNICK ADEMBA | V.ELDER | MANYATTA 'A' ~~MATTHA~~ | 0710358659 | [signature] |
| 11. | VINCENT OTIENO OYOO | CHAIRMAN | KONDELE | 0712104932 | [signature] |
| 12. | GEORGE RAMBO | O.D.M. | KONDELE | 0710368853 | [signature] |
| 13. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 26/07/2019 TIME: 10:30 am

AGENDA: Public Participation Kisumu County

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | Fredrick M. Mbasi | BCLB | Principal Gaming Inspector | 0722631569 | |
| 2. | ESTHER MUKI | BCLB | CHIEF Gaming Inspector | 0722585579 | |
| 3. | PAULINE A. OPAR | BCLB | SENIOR GAMING INSPECTOR | 0725743755 | |
| 4. | JOAN CHEBET | INTERIOR | ASSISTANT COUNTY COMMISSIONER-WINAM | 0726258489 | |
| 5. | Magrd Odenge | Elder | Railwaly | 0741351848 | |
| 6. | ZADOCK OTHIAMBO | C/P | MANTAITA A | 0723319039 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | OTIENO LODHOCH | NAT. ADM. | ASST. CHIEF | 0722381278 | |
| 8. | HENRY REMMY SIMIYU | OCS Kisumu CENTRAL | OCS | 0703408873 | |
| 9. | JOSEPH O. OWUOR | KONDELE | CP MEMBER | 0726595965 | |
| 10. | Daniel O. Otuoma | Kondele | CP member | 0710877744 | |
| 11. | Peter O. Awinda | Kondele | Elder Magadi United | 0720701932 | |
| 12. | OSCAR OUYA | MEMBER | Senior Citizen | 0728270397 | |
| 13. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 30/08/2019 TIME: 10:40AM

AGENDA: GAMING BILL 2019

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | Nelson Grichuhie | National Treasury | CAS. | 0722849469 | |
| 2. | Caxton M. Ngeywo | KRA | Deputy Commissione | 0729888438 | |
| 3. | ESTHER K. MULI | BCLB | PRINCIPAL GAMING INSP | 0722508589 | |
| 4. | PAULINE A. OPAR | BCLB | SENIOR GAMING INSPECTOR | 0725743755 | |
| 5. | FREDRICK M. MBASI | BCLB | P.G.I | 0722681569 | |
| 6. | Dann Mwangi | Ministry of Interior | Legal Counsel | 0714602583 | |

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|---|---|---|---|---|---|
| 7. | Tony Kegen | KRA | Ag. Refunds Mgr-Eldoret | 0723434255 | |
| 8. | Lenah Okum | KRA | Assistant Manager | 0704012673 | |
| 9. | Sheila Adoyagal | KRA | Ass. Manager | 0721 777871 | |
| 10. | | | | | |
| 11. | | | | | |
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REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: 29/08/2019 TIME: 10:20AM

AGENDA: CONSIDERATION OF THE GAMING BILL, 2019, WITH THE COMMUNICATION AUTHORITY OF KENYA & BETTING CONTROL & LICENSING BOARD

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | PETER K. MBUGI | BCLB | AG. DIRECTOR | 0713469104 | [signature] |
| 2. | FREDRICK M. MBASI | BCLB | PRINCIPAL GAMING INSP | 0722631569 | [signature] |
| 3. | ESTHER K. MULI | BCLB | PRINCIPAL GAMING INSP | 0722508589 | [signature] |
| 4. | PAULINE A. OPAR | BCLB | SENIOR GAMING INSPECTOR | 0725743755 | [signature] |
| 5. | CHRISTOPHER KENYA | CA | DIRECTOR LICENSING | 0722204144 | [signature] |
| 6. | Robin Busolo | CA | M/Regulatory Affairs | 0716435609 | [signature] |

| | | | | | |
|---|---|---|---|---|---|
| 7. | JANET KIPRONO | CA | LEGAL OFFICER | 0701561162 | |
| 8. | ~~[illegible]~~ | ~~[illegible]~~ | ~~[illegible]~~ | ~~0723[illegible]~~ | |
| 9. | | | | | |
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KAKAMEGA

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: ..... TIME: .....

AGENDA: .....

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| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | AINEA JAPIA | | | 0710175111 | |
| 2. | FLORENCE ANDATI | | | 0791471423 | |
| 3. | MARY KANOTI | | | 0712129100 | |
| 4. | DANIEL YABATISA | | | 0724946056 | |
| 5. | GERALD KENYA | | | 0714114980 | |
| 6. | ZABLON OKINDA | | | 0721160048 | |
| | Evelyn Kageiga | | | 0723304729 | |
| | Patricia Imbodio | | | 0721160083 | |
| | Maurice Lumiti | | | 0715274949 | |

| | | | |
|---|---|---|---|
| 25 STEPHEN | S. MATAKA | 0726915207 | |
| ABDI | S. MUHAMED | 0725137922 | |
| LINET | Munai | 0703246051 | |
| Mwanamisi | HASANI | 0723665956 | |
| VINCENT | ATEYA | 0715854841 | |
| Salim | MALALA | 0711231590 | |
| DAMEL | AKHONYA | 0724746056 | |
| SiFrose | Bahati | 0714107713 | |
| JOHNSTONE | ASUTSI | 0720391088 – Asutsi | |
| WYCLIFFE | ALUVISIA | 0704167114 – | |
| DOUGLAS | MUKHWANA | 0721272817 – | |
| NELSON | MANDELA | 0704166939 – | |
| SELIMU | Kangusha | 0796219325 – | |
| MONRICE | LUKALE | 0728754185 | |
| DUPA | CHETO | 0714485096 | |
| MESHACH | WELSVA | 0711516213 | |
| Ali | mohammed | 0792362119 | |
| Abdallah | Haiqal | 0704806838 | |
| HARUN | MAOLYA | 0748276988 | |
| CHARLES | LUYIAKHA | 0791369686 | |
| SADAM | MUKOLOKHU | 0722346784 | |
| Abdallah | hassan | 0704100755 | |
| PATRICK | Rumile | 0725484883 | |
| Mildred | Stiwa | 0722620507 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | ADAMS OKALI | JUA KALI | CHAIRPERSON | 0722345855 | [signature] |
| 8. | Okisako Peter | office of the Senator Kakamega County | County Affairs Ch. | 0724830310 | [signature] |
| 9. | SALMA KHAVETSA | | | | [signature] |
| 10. | ELIZABETH MUMACHI | | | 0796576509 | [signature] |
| 11. | MARIUM ROVI | | | | [signature] |
| 12. | Amza Ashitiva | | | 0758527690 | [signature] |
| 13. | Suleiman Ramachan | | | 0748276994 | [signature] |
| 14. | Dismus Mokaya | | | 0723100976 | [signature] |
| 15. | SHEM WITABA | | | 0795649454 | |
| 16. | Hesbon Khayesi | Kakamega C. | | 0727775528 | [signature] |
| 17. | EDWIN IBELIA | | | 0711554685 | [signature] |
| 18. | Ephantus Elijah | Kakamega | | 0725748491 | [signature] |
| 19. | Juma Mwinyi | Kakamega | | 0790588001 | [signature] |
| 20. | Abel Amoyo | Kakamega | | 0723306316 | [signature] |

21 MOSES OTUNGA 0717058101 [signature]
22 Kamuta Ashibaka Kakamega 0726 840274 [signature]
23 ALFRED MPAKAYA 0746778837 [signature]
24 DOMINIC Malungu 0728982252 [signature]
ROSE K. ASHIHUNDU KAKAMEGA

| NAME | | PHONE NO. | SIGN |
|---|---|---|---|
| FREDRICK | LUKHUMWA | 0708838680 | FM |
| Eugine | Shyuka | 0704912311 | [illegible] |
| NASORO | Ramadhan | 0725540631 | [illegible] |
| HASSAN | LUKOYE | 0715845652 | [illegible] |
| JOHNSTONE | SISUNI | 0705433762 | [illegible] |
| JACKTON | KHEBELI | 0724507259 | [illegible] |
| YOSOF | MOSA | — | |
| David | Chagema | 0702688667 | [illegible] |
| Peter | Shipmilee | — | [illegible] |
| THOMAS | SHAPAYA | 0711453600 | [illegible] |
| Bosco | Onsongo | 0725832493 | [illegible] |
| GEOFFREY | NINDI | 0719220067 | [illegible] |
| ELIZABETH | ADIKA | — | E.A |
| RITA | KHAYERA | — | R.K |
| Imeldah | Ikalikhu | 0718660346 | [illegible] |
| Josephine | Atulwa | — | |
| Felister | Khasiala | | |
| Benendah | Shitukhu | | |
| Adriano | Achela | | |

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM
VISITORS/WITNESS ATTENDANCE SCHEDULE

DATE: ..... TIME: .....

AGENDA: .....

.....

| No. | NAME | ORGANIZATION / INSTITUTION | DESIGNATION | TELEPHONE NUMBER | SIGNATURE |
|---|---|---|---|---|---|
| 1. | WANDERA JOHNSTONE BISHOP | KAKAMEGA COUNTY PASTORS ASSOCIATION | BISHOP | 0722876225 | |
| 2. | JOSEPH BIMANZI | POLICE OFFICER | SECURITY | 0724002979 | |
| 3. | MARTAR OPUNA | @ KAKAMEGA | — — | 0707730552 | MARTAR. |
| 4. | LUCY OPONDO | @ KAKAMEGA | . | 0720254453 | |
| 5. | ASHA JUMA | @ KAKAMEGA | — | 0773501141 | |
| 6. | AMIJA MUSA | @ KAKAMEGA | — | 0700909484 | |

| | | | | | |
|---|---|---|---|---|---|
| 7. | Matilda Anyona | © Kakamega KK | Teacher KK pri sch | 0726134531 | [signature] |
| 8. | EUNICE LAGAT | © KAKAMEGA KK | — | 0722836952 | [signature] |
| 9. | BETTY ANTANGO | © KAKAMEGA KK | — | 0728118646 | [signature] |
| 10. | AMINA JUMA | © KAKAMEGA KK | — | 0724049777 | [signature] |
| 11. | HASINA JUMA | © KAKAMEGA KK | — | 0706158545 | [signature] |
| 12. | MARTHA ESHITETI | County Kakamega | — | 0769665766 | [signature] |
| 13. | MUSIKOHE GODFREY | © Kakamega | — | 0710492087 | [signature] |
| 14. | SAMMY KEGOCHA | County kakamega | | 0711142963 | [signature] |
| 15. | BRAMUEL WANJALA | County Kakamega | Pastor Salvation Army | 0708489126 | [signature] |
| 16. | WILLIAMS OTUGA | © KAKAMEGA KK | | 0797005068 | [signature] |
| 17. | Eugine Isinga | Kakamega County. | | 0746787094 | [signature] |
| 18. | Bonfaco Wafula | Kakamega County | | 0720137261 | [signature] |
| 19. | MICHAEL SHIVACHI | © KAKAMEGA KK | — | 0702915377 | [signature] |
| 20. | ANNE KITALIA | KAKAMEGA | PASTOR | 0718306420 | [signature] |

Bishop Olumasai Nicholas Kakamega County Bishop 0720499909 [signature]

| S/NO. | NAME | CONTACT | SIGNATURE |
|---|---|---|---|
| 39 | Bentoo | 0720371020 | |
| 40 | EDWIN K. KIBOR | 0723491442. | |
| 41 | SAMUEL KILEL | 0726778373 | |
| 42 | Kipkemoi Boit | 0721335589 | |
| 43 | Willian Omwata | 0722247404 | |
| 44 | SAMSON KOSGEY | 0720630469 | |
| 45 | ANTHONY Mbaria. | 0720819071 | |
| 46. | ELEY MUTAI BIRIR | 0705656061 | |
| 47 | RAEL LIMO | 0721833855 | |
| 48 | VERONICA ONDIEN | 0727298238 | |
| 49 | ABRAHAM CHESIRE | 0726424400 | |
| - | ABDULKADIR M. OSORE | 0702870992 | |
| | DAVID K. KIPTOO | 0722935877 | |
| | VERONICA TAIWA | 0725364264 | |
| | Salla Sam | | Salla. |
| | BENARD ONGOMO | 0721-517685 | |
| | ELISHEBA BIWOTT | 0721554748 | |
| | NGAH WAMBUA | 0718043374 | |
| | Maxwell E. Onguira | 0721289081 | |
| | MOURENE ATYANG | 0711297086 | |
| | Joshua Kimaiyo | 0723366855 | |
| | PST STEPHEN CHEPCHOS | 0722669440 | |
| 61 | JOSEPH KOYIEKO | 0721510455 | |
| 62 | REBECCAH KOGO | 0715768405 | |
| 63 | SAMSON K. ROTICH | 0723980143 | |
| 64 | A. Kouse Kura | 0721016138 | |
| 65 | ANN WAMBUI | 0714282867 | |
| 66 | mark Kibet | 0722685521 | |
| 67. | MICAH CHUMO | 0717953555 | |
| 68 | Victor Walela | 0713644115 | |
| 67 | T. MUNSON | 0788756068 | |
| 68 | ADAMS Serem | 0729720[illegible] | |

# KISUMU COUNTY

| S/NO | NAME | CONTACT | SIGNATURE |
|---|---|---|---|
| 1 | SOLOMON KIPLAGAT KANGI | 072720189 | |
| 2 | JOSHUA CHEGE MWANGI | 0725366379 | |
| 3 | Rose Jelagat Kiilany | 0721719282 | |
| 4 | SAMMY MWANJA | 0713062834 | |
| 5 | DAVID KIRWA SIGILAI | 0722558735 | |
| 6 | ELIUD K. KOSICHIYANY | 0722975081 | |
| 7 | JAMES MWENE KABURI | 0787775001 | |
| 8 | ZIPPORAH J. TARUS | 0712298201 | |
| 9 | CLEOPHAS KIPRONO | 0712298184 | |
| 10 | EDWARD NYAMBOK | 0722216394 | |
| 11 | Emily Chemanyiir | 0726412809 | |
| 12 | BARNABA CHEROP | 0720738435 | |
| 13 | ISAAC KERTONEI | 0721418105 | |
| 14 | DAVID SIMATEI | 0721380062 | |
| 15 | VINCENT WIDE | 0713672797 | |
| 16 | PETER AMBIA | 0717292250 | |
| 17 | James Machan | 0722274118 | |
| 18 | Stanley Yann | 0715105107 | |
| 19 | BARNABAS ROTO | 0722603527 | |
| 20 | JONAH KIBET | 0722618245 | |
| 21 | Anthony Kamau | 0722333824 | |
| 22 | Esther Gitau | 0707489434 | |
| 23 | GEORGE O AMOLO | 0720814213 | |
| 24 | PETER NJUGUNA | 0716901101 | |
| 25 | William K. Sang | 0722-975749 | |
| 26 | MATHEW K ARUSEI | 0723267588 | |
| 27 | CHRISTINE MUNDIA | 0722662617 | |
| 28 | SALOME WANGARE | 0719 541119 | |
| 29 | David Muigai Githinga | 0714667183 | |
| 30 | John Onyango | 0728541844 | |
| 31 | Peter Chege | 0728 735671 | |
| 32 | Festo Okoth | 0710449810 | |
| 33 | LILIAN CHESERE | 0724444431 | |

C
D

| S/NO | NAME | CONTACT | SIGN |
|---|---|---|---|
| 69 | SHUKRI SOMO | 0722 464125 | |
| 70 | PHILEMON K. BIRECH | 0725633399 | |
| 71 | MOHAMED ABDI ALI | 0720494906 | |
| 72 | JAMES K. MUNENE | 0724776377 | |
| 73 | PHILIP K KAGO | 0721242978 | |