

REPUBLIC OF KENYA



*Rt. Hon. Speaker*

*Recommended for approval for tabling.*

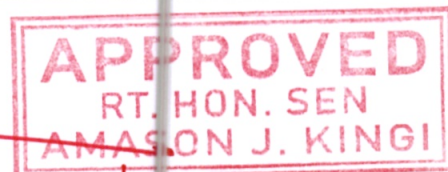
*E* *21/03/2024*

THE SENATE

THIRTEENTH PARLIAMENT | THIRD SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

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



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*21/3/24*



Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
NAIROBI.

MARCH, 2024

PAPERS LAID	
DATE	<i>26.3.24</i>
TABLED BY	<i>Maj. Leader</i>
COMMITTEE	<i>⓪</i>
CLERK AT THE TABLE	<i>Kawata</i>

## TABLE OF CONTENTS

ABBREVIATIONS.....	ii
PRELIMINARIES .....	iii
FOREWORD BY THE CHAIRPERSON .....	v
CHAPTER ONE: INTRODUCTION .....	1
1.0 Background.....	1
1.2 Consequences of the Bill .....	2
CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL.....	3
2.0 Committee Undertakings .....	3
2.1 Overview of Stakeholder Submissions on the Bill.....	4
CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS.....	11
3.0 Committee Observations on the Bill .....	11
3.1 Committee Recommendations.....	11
APPENDICES.....	14

## ABBREVIATIONS

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

## PRELIMINARIES

### Establishment and Mandate of the Committee

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

### Membership of the Committee

The Committee membership is comprised of –

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

The Committee oversees four ministries as follows –

- a) The Ministry of Labour and Social Protection,
  - i) State Department for Labour and Skills Development; and
  - ii) State Department for Social Protection and Senior Citizens Affairs.
- b) The Ministry of Public Service, Performance and Delivery Management,
  - i) State Department for Public Service; and
  - ii) State Performance and Delivery Management.
- c) The Ministry of Youth Affairs, Creative Economy and Sports
  - i) State Department for Youth Affairs and Creative Economy
  - ii) State Department for Sports

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

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

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

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

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

## FOREWORD BY THE CHAIRPERSON

**Hon. Speaker,**

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

The Bill proposes to repeal and replace the Betting, Lotteries and Gaming Act (Cap. 131), provide for a legislative framework for the regulation of gambling in Kenya and also incorporate safe gambling principles in the gambling sector. The Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries, media promotions.

**Hon. Speaker,**

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

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

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

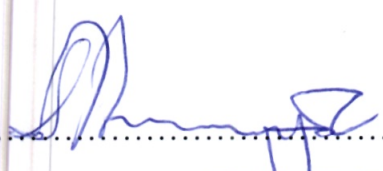
**Hon. Speaker,**

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

**Hon. Speaker,**

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

Signed .....



Date. *Wednesday, 20<sup>th</sup> March, 2024*

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

## CHAPTER ONE: INTRODUCTION

### 1.0 Background

1. Paragraph 34 of Part 1 of the Fourth Schedule to the Constitution assigns the function of national betting, casinos and other forms of gambling to the National government. On the other hand, paragraph 4 (a) of Part 2 of the Fourth Schedule to the Constitution assigns the function of cultural activities, public entertainment and public amenities, including betting, casinos and other forms of gambling to the county governments.
2. Under Article 186 (2) of the Constitution, a function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government. The Intergovernmental Relations Technical Committee, through *Gazette* Notice No. 8753 of 8 September 2017, clarified the responsibilities of each level of government.
3. The Kenyan gambling market is reportedly the third largest gambling market in Africa. A report by PricewaterhouseCoopers (PwC) valued the Kenyan gambling market at Kshs 202 billion in 2019. From 2020 to 2025, the market is anticipated to expand at a compound annual growth rate (CAGR) of 7.5 percent, propelled by rising popularity of on-line and mobile gaming.
4. The Gambling Control Bill, 2023 (National Assembly Bills No.70 Of 2023) is an ordinary Bill that originated in the National Assembly. It was read for the first Time in the Senate on Wednesday 14<sup>th</sup> February, 2023 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. A copy of the Bill is annexed to this Report as *Appendix 3*.
5. Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee published an advertisement in the Daily Nation and Standard Newspapers, inviting members of the public to submit written memoranda to the Committee on the Bill. A copy of the advertisement is attached as *Appendix 4*. The advertisement was also posted on the Parliament website and social media platforms.
6. Following the call for submissions, the Committee received written memoranda from various stakeholders including the Kenya Revenue Authority (KRA), Commission on Revenue Allocation (CRA), Office of the Data Protection Commissioner (ODPC),

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

7. The Bill proposes to repeal and replace the Betting, Lotteries and Gaming Act (Cap. 131) provide for a legislative framework for the regulation of gambling in Kenya and also incorporate safe gambling principles in the gambling sector. The Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries, media promotions.

### **1.1 Overview of the Bill**

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

### **1.2 Consequences of the Bill**

9. As prescribed in Paragraph 34 of Part 1 of the Fourth Schedule to the Constitution and paragraph 4 (a) of Part 2 of the Fourth Schedule, both the National and County governments have concurrent jurisdiction concerning national betting, casinos and other forms of gambling. The Bill seeks to clearly delineate the concurrent jurisdictions in their respective roles.
10. The Bill will facilitate the creation of the Gambling Regulatory Authority of Kenya, which is the institution tasked with regulating the industry as well as incorporating safe gambling principles and guidelines.

## CHAPTER TWO: PUBLIC PARTICIPATION ON THE BILL

### 2.0 Committee Undertakings

12. The Committee published an advertisement in the Daily Nation and Standard newspapers, inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is annexed to this Report as *Appendix 4*.
13. Subsequently, during consideration of the Bill, the Committee also resolved to invite additional submissions from the key stakeholders, including –
- a) Kenya Revenue Authority (KRA);
  - b) Commission on Revenue Allocation (CRA);
  - c) Office of the Data Protection Commissioner (ODPC);
  - d) County Assemblies Forum (CAF);
  - e) Ministry of Youth Affairs, Creative Economy;
  - f) Council of Governors (COG);
  - g) County Gaming Officers;
  - h) Financial Reporting Centre;
  - i) Attorney General;
  - j) Betting, Control & Licensing Board; and
  - k) Communications Authority of Kenya.
14. In response to the said invitations, the Committee received submissions from the stakeholders. Copies of the written submissions are attached to this Report as *Appendix 5*. Additionally, a matrix analysing the stakeholder submissions clause-by-clause is annexed as *Appendix 6*. The Committee proceeded to consider the Bill extensively, together with the stakeholder submissions received thereon.

## 2.1 Overview of Stakeholder Submissions on the Bill

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

- a) To provide for an administrative penalty and interest chargeable on the late remittance of tax as follows:
  - i) late payment penalty of 5% of the tax due payable; and
  - ii) late payment interest of 1% per month on the amount unpaid for the period commencing on the date the tax was due and ending on the date the tax is paid;
- b) To provide that a Gambling Tax shall be collected in accordance with the provisions of the Tax Procedures Act Cap (469B) to provide for enforcement powers for the collector;
- c) The Bill to provide for transitional provisions for treatment of taxes that had been due under the Betting, Lotteries and Gaming Act (*Cap131*), such that any taxes that were due and payable under the repealed law shall become due and payable as if it were assessed under the new law; and
- d) Consequential amendments to the KRA Act to make references to the Gambling Control Act and not the repealed Betting, lotteries and Gaming Act.

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

- a) That the ambiguous definitions in Clause 2 of the Bill be redrafted for clarity;
- b) Substitution of the phrase 'single business permits' in Clause 5 with '*trade licences*' in order to align with constitutional language;
- c) That counties are under-represented in the Board compared to national governments therefore CRA recommends a remedy which is to reduce the number of persons appointed by the Cabinet Secretary which is currently three to two, while adding the slot to the Council of Governors for nomination;
- d) Clause 7 sub clause 3 which prescribes the term limit of the Chair and members of the Board should have a caveat phrase that their re-appointment should be based on performance in order to align with Mwongozo Code of governance for state corporations;
- e) The addition of a new provision requiring the appointing authority of the Board membership to pay due regard to gender balance and representation of special interest groups to align with Article 27 of the CoK 2010;
- f) Concerning the remuneration of the Board, Clause 15 should clearly state that the Cabinet Secretary in consultation with the Salaries and Remuneration Commission shall determine the remuneration;
- g) Clause 16 to include the phrase "based on performance" on the eligibility of the Director General to be considered for re-appointment on conclusion of his term;

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

17. The **Office of the Data Protection Commissioner (ODPC)** submitted as follows -

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

18. The **Ministry of Youth Affairs, Creative Economy and Sports** submitted as follows -

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

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

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

20. The **County Gaming Officers** submitted as follows -

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

- g) Deletion of Clause 27(1)(d) since the Constitution in Fourth Schedule Part II (4) recognizes racing as a county function. The Gazette Notice 8753 on delineation of functions by IGRTC dated 8<sup>th</sup> September, 2017 recognizes totalizator licensing as a function of the county government. This would avoid conflict between the national & county governments;
- h) Clause 27(1)(e) should read a '*national prize competition or cutting across the counties*' as this is as per the Fourth Schedule Part I & II of the Constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8<sup>th</sup> September, 2017;
- i) Deletion of Clause 27(f) because Bingos are conducted within the counties, hence it would be in contravention with the Fourth Schedule Part II 4(a) of the constitution. The proposal would lead to conflict and double licensing by both levels of the government;
- j) That Clause 27(h) should read '*national lotteries*'. Additionally, on licensing of public lottery, it should also indicate that public lotteries within the county should be licensed by the county governments as per the Fourth Schedule of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8<sup>th</sup> September, 2017. This would also avoid intergovernmental conflicts;
- k) That Clause 45(3) on the proceeds of the gambling tax should include; '*..County Governments in proportion to the gambling activities in specific counties.*' Being a concurrent function, under Fourth Schedule Part 1 & 2 of the 2010 constitution, gambling tax should be shared by both levels of the governments in proportion to the functions under Gazette Notice 8753 on delineation of functions dated 8<sup>th</sup> September, 2017;
- l) That Clause 46(3) be amended to reflect the same change as in Clause 45 on the use of funds by including the phrase '*and County governments*';
- m) That Clause 53(4) which prescribes a one-year licensing period should be amended to make it a seven-year licence. The rationale being that the County Governments should not be limited to licensing lotteries not exceeding one year. A county lottery may require a contract of more than one year for the lottery to be economically viable;
- n) That Clause 55(1) be amended to grant County governments the authority to grant licences relating to horse races, on the grounds that racing is a County function as per the Fourth Schedule of the Constitution Part II (4) (b);
- o) That Clause 67(1) adds the phrase '*County Government shall issue Casino and other forms of gambling within a county.*' This is as per Fourth Schedule Part I (34) and II (4)(a) of the Constitution;

- p) Clause 69 which grants the Authority the power to have officers present for compliance in casinos to be amended to delegate that power to the County government and its gaming officers. The rationale being that this seriously conflicts with Gazette Notice 8753. Enforcement and compliance i.e. spot checks, daily supervision of casinos, implementation of policy, standards & norms is a county function. This would avoid role conflict by both levels of governments;
- q) Clause 151(1) be amended to remove the phrase '*The Authority*'. On appointment of inspectors, if both levels of government appoint inspectors, it will lead to duplication of roles. Enforcement and compliance and daily supervision of casinos is a county function as per Gazette Notice 8753 on delineation of functions;
- r) Clause 120 be amended to replace 'the Authority' with the '*County Government*'. This should also include the county governments. This is on the ground that enforcement and compliance is a function of the county governments as per Gazette Notice 8753 dated 8<sup>th</sup> September, 2017;
- s) Deletion of the Second schedule and include only charges under the national government. This is to avoid double charging and in compliance to the Fourth Schedule Part I and II and as directed by the Inter-Governmental Relations Technical Committee (IGRTC);
- t) General comments that the Bill flouts the Fourth Schedule;
- u) General comments that the establishment of a National Authority will lead to micro-managing of County government functions and in order to avoid any conflict, the establishment of an Authority must be re-considered; and
- v) Further proposal that betting, casinos and other forms of gambling activities being a concurrent function resources from various taxes imposed must be shared in proportion to the functions at each level of the government.

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

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

- b) The reintroduction of Clause 46 which sought to raise funds to support implementation of responsible gambling programs. The Gambling Levy was proposed not to exceed 1% of the monthly gross gambling revenue of a licensee. The purpose of the Levy was to deal with harmful effects of irresponsible gambling by introducing rehabilitative programs and creating awareness to the public on the potential addictive nature of gambling. The levy was also to be used to conduct research on social determinants of mental health and population impact of gambling; and
- c) That to seek the enhancement of the Board's powers Section 12 by introducing a **new clause 12 (2) (h)** which should read as follows; **“to impose administrative fines”**. It is an international best practice to have a supervisor or a regulator having corrective powers on its supervisees for non-compliance with its administrative guidelines.

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

- a) That Clause 18 be amended to include of the Salaries and Remuneration Commission (SRC) in determination of the terms and conditions of the staff of the Authority aligning with the constitutional mandate bestowed upon the SRC by Article 230(4) of the Kenyan Constitution, 2010; and
- b) Clause 90 is important for the following reasons; social responsibility, protection of vulnerable groups, mitigation of gambling addiction.

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

- a) that Clause 10 be amended to include beneficial owners under 1(g) to be in line with Financial Action Task Force (FATF) standards;
- b) that Clause 28 be amended to include internet casino under sub clause (2) (a) to be in line with Financial Action Task Force (FATF) standards;
- c) that Clause 30 be amended to include beneficial owners under subclause (4) (a) be in line with Financial Action Task Force (FATF) standards; and
- d) That Clause 88 in subclause (9) excludes matters of money laundering, terrorism financing and proliferation financing from the Tribunal.

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

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

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

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

## **CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

### **3.0 Committee Observations on the Bill**

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

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

### **3.1 Committee Recommendations**

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

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

## APPENDICES

**Appendix 1:** Minutes of the sittings

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

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

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

**Appendix 5:** Public Participation Submissions

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

**Appendix 6:** Public Participation Matrix

# APPENDIX 1



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**SECRETARIAT**

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

**MIN/SEN/SCLSW/067/2024: PRAYERS**

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

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

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

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

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

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

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

There were no matters arising.

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

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

**MIN/SEN/SCLSW/072/2024**

**CONSIDERATION AND ADOPTION OF THE  
REPORT ON THE GAMBLING CONTROL BILL,  
2023 (NATIONAL ASSEMBLY BILLS NO. 70 OF  
2023);**

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

**MIN/SEN/SCLSW/073/2024**

**ANY OTHER BUSINESS**

There was no other business.

**MIN/SEN/SCLSW/074/2024**

**ADJOURNMENT AND DATE OF THE NEXT  
MEETING**

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

**SIGNED.....DATE.....**

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



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**SECRETARIAT**

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

**MIN/SEN/SCLSW/059/2024: PRAYERS**

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

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

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

1. Prayers;
2. Adoption of the Agenda;

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

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

1. The Minutes of the Sixth sitting held on Thursday, 7<sup>th</sup> March, 2024 at 8.00 am were confirmed as a true reflection of the proceedings having been proposed by Sen. Mohammed Faki, CBS, MP, and seconded by Sen. Crystal Asige, MP.
2. The Minutes of the Seventh sitting held on Thursday, 7<sup>th</sup> March, 2024 at 12.00 noon were confirmed as a true reflection of the proceedings having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mbugua, MP.
3. The Minutes of the Eighth sitting held on Tuesday, 12<sup>th</sup> March, 2024 were confirmed as a true reflection of the proceedings having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Mohammed Faki, CBS, MP.

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

There were no matters arising.

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

The Committee considered the correspondence before the Committee as follows -

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

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

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

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


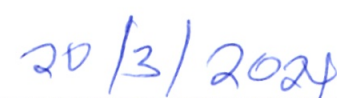
1. The Committee considered the Statements before the Committee and noted the following – That,
  - a) A total of seventy-three statements had been referred to the Committee: and
  - b) Thirty-seven (37) statements have been concluded while thirty-eight (38) are ongoing.
2. The Committee resolved to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

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

There was no other business.

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

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

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



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**SECRETARIAT**

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

**MIN/SEN/SCLSW/054/2024: PRAYERS**

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

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

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

1. Prayers;
2. Adoption of the Agenda;

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

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

The Legal Counsel presented the Matrix before the Committee.

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

**Committee Recommendations**

Align the functions of both levels of government with *Gazette* No. 8753 of 30<sup>th</sup> August, 2017.

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

**Committee Recommendation**

Align the functions of both levels of government with *Gazette* No. 8753 of 30<sup>th</sup> August, 2017.

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

**Committee Recommendation**

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

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

**Committee Recommendation**

Align the functions of both levels of government with *Gazette* No. 8753 of 30<sup>th</sup> August, 2017.

- ii. **Financial Reporting Centre** proposed an inclusion of beneficial owners under (1)(g) to comply with the Financial Action Taskforce (FAFT) standards.

**Committee recommendation**

Align with the requirements of the Companies Act.

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

**Committee recommendation**

Align the functions of both levels of government with *Gazette* No. 8753 of 30<sup>th</sup> August, 2017.

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

**Committee recommendation**

Align the functions of both levels of government with *Gazette* No. 8753 of 30<sup>th</sup> August, 2017.

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

**Committee recommendation**

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

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

**Committee recommendation**

Already provided for under the clause on the definition of a “casino”.

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

**Committee recommendation**

Not Adopted.

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

**Committee recommendation**

Align with the Companies Act.

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

**Committee recommendation**

Not Adopted

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

**Committee recommendation**

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

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

**Committee recommendation**

The clause was deleted in the National Assembly.

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

**Committee recommendation**

The clause was deleted in the National Assembly.

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

**Committee recommendation**

Not adopted, License to be renewed annually.

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

**Committee recommendation**

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

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

**16. Committee recommendation**

Not adopted.

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

**Committee recommendation**

Adopted.

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

**Committee recommendation**

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

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

**Committee recommendation**

Harmonise with the Kenya Information and Communication Act.

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

**Committee recommendation**

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

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

**Committee recommendation**

Not adopted, as it is already provided for.

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

**Committee recommendation**

Adopted.

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

**Committee recommendation**

Not adopted, as it is already catered for.

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

**Committee recommendation**

Not adopted, as it is already catered for.

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

**Committee recommendation**

Adopted.

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

**Committee recommendation**

Adopted.

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

**Committee recommendation**

Not adopted.

**CONSEQUENTIAL AMENDMENTS**

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

**Committee recommendation**

Adopted.

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

**Committee recommendation**

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

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

There was no other business.

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

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

SIGNED..........DATE Wednesday, 20<sup>th</sup> March, 2024

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



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**IN ATTENDANCE**

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

## SECRETARIAT

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

### MIN/SEN/SCLSW/049/2024: PRAYERS

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

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

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

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

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

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

#### **a) Ministry of Youth Affairs, Creative Economy and Sports**

The Cabinet Secretary made the following submissions –

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

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

- iii. The fund has well set out parameters with not more than 30% going towards Sports and Arts and not more than 60% going towards Social development which is shared with other ministries like the Ministry of Health; and
- iv. In the Arts sector, there was infrastructure earmarked for improvement i.e the repair of Kenya National Theaters and there were other programs to empower the Arts as evidenced by the Kalasha Awards.

**b) Betting Control and Licensing Board**

The Betting Control and Licensing Board made the following submissions –

- i. The introduction of an Appeals Tribunal as opposed to the Appeals Committee would introduce unnecessary bottlenecks for individuals and entities wanting to appeal;
- ii. The Gambling levy should be introduced on Clause 46 and should not exceed 1% of monthly gross revenue of a gambling licensee; and
- iii. An enhancement of the Board's powers (*Section 12*) by introducing a new *Section 12(2)(h)* to impose administrative fines as evidenced by other jurisdictions like the Gambling Commission of the United Kingdom that imposes administrative fines when licensing conditions are breached.

**c) Committee Observation**

The Committee made the following observations –

- i) The submissions from both the Ministry of Youth Affairs, Creative Economy and Sports and the Betting Control and Licensing Board did not have amendments on rehabilitation programs on gambling addiction; and
- ii) The Gambling Appeals Tribunal has more independence than the Gambling Appeals Committee.

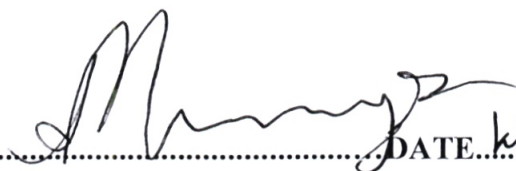
**MIN/SEN/SCLSW/052/2024      ANY OTHER BUSINESS**

There was no other business.

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

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

SIGNED.....



DATE *wednesday, 20<sup>th</sup> March, 2024*

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



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**SECRETARIAT**

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

**MIN/SEN/SCLSW/038/2024: PRAYERS**

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

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

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

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

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

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

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

The Committee was notified that the proposal lapses on 12<sup>th</sup> March, 2024.

**Committee Resolution**

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

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

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

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

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

**Committee Resolution**

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

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

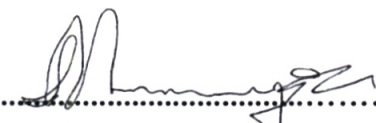
To carry out a retreat with Gambling stakeholders on the Bill.

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

There was no other business.

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

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

SIGNED..........DATE: Saturday, 16<sup>th</sup> March, 2024.....

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



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

**MEMBERS PRESENT**

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

**APOLOGIES**

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

**IN ATTENDANCE**

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

## **SECRETARIAT**

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

## **MIN/SEN/SCLSW/044/2024: PRAYERS**

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

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

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

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

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

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

### **a) Kenya Revenue Authority**

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

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

**b) Commission on Revenue Allocation**

The Commission on Revenue Allocation had the following submissions –

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

**c) Office of the Data Protection Commissioner**

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

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

**d) Ministry of Youth Affairs, Creative Economy and Sports**

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

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

**e) Committee Observation**

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

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

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

**f) Committee Resolution**

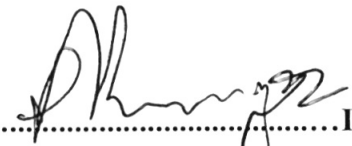
To ensure that express provisions are placed to ensure that the special interest groups are well catered for especially in the Sports, Arts and Social Development Fund; and To engage with the Ministry of Youth Affairs, Creative Economy and Sports to fully understand the importance of insertion of Clause 41 on the Gambling Tax.

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

There was no other business.

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

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

SIGNED..........DATE Saturday, 16<sup>th</sup> March, 2024  
**CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP**  
**STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

# APPENDIX 2

19<sup>th</sup> March, 2024

The Clerk of the Senate,  
Parliament Buildings,

**NAIROBI.**

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

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

**CLAUSE 5**

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

- (ea) develop and implement county legislation on betting and other forms of gambling;
- (eb) license prize competitions within a county;
- (ec) license amusement machines;
- (ed) issue trade permits for betting premises;
- (ee) license and issue pool table permits within the county;
- (ef) license and supervise county lotteries;
- (eg) issue trade permits for premises for totalisators;

**CLAUSE 7**

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

- (a) deleting paragraph (d) and substituting therefor the following new paragraph—
  - (d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that—
    - (i). one shall represent persons with disabilities;
    - (ii). one shall represent the youth; and

(iii). one shall represent faith based organisations;

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

(c) deleting paragraph (f)

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended by—

(a) deleting paragraph (c);

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

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

**CLAUSE 66**

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

**CLAUSE 87**

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

**CLAUSE 119**

**THAT** clause 119 (2) be amended by deleting-

(a) paragraph (d); and

(b) paragraph (g).

**CLAUSE 123**

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

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

7. The Gambling Control Act.

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

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

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

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

## NEW CLAUSES

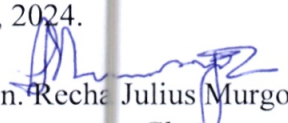
### NEW CLAUSE 117A

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

Operating  
hours

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

Date.. Wednesday, 20<sup>th</sup> March, 2024.

  
Sen. Recha Julius Murgor,  
Chairperson,

*Committee on Labour and Social Welfare.*

# APPENDIX 3



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REPUBLIC OF KENYA

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PARLIAMENT

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NATIONAL ASSEMBLY BILLS

*(Bill No. 70 of 2023)*

**THE GAMBLING CONTROL BILL, 2023**

(A Bill published in the Kenya Gazette Supplement No. 70 of 2023 and passed by the National Assembly, with amendments, on December 6<sup>th</sup>, 2023)

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N.A. /B/No. 70/2023

**THE GAMBLING CONTROL BILL, 2023**

*Clause*

**ARRANGEMENT OF CLAUSES**

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects and purpose of the Act.

**PART II—FUNCTIONS OF THE NATIONAL  
GOVERNMENT AND COUNTY GOVERNMENTS**

- 4—Functions of the National Government.
- 5—Functions of County Governments.

**PART III—ESTABLISHMENT OF THE GAMBLING  
REGULATORY AUTHORITY**

- 6—Establishment of the Authority.
- 7—Board of the Authority.
- 8—Qualification for appointment to the Board.
- 9—Vacancy in the Board.
- 10—Functions of the Authority.
- 11—Gambling operations guidelines.
- 12—Powers of the Board.
- 13—Conduct of business and affairs of the Board.
- 14—Committees of the Board.
- 15—Remuneration of the Board.
- 16—Director-General.
- 17—Removal of the Director-General.
- 18—Corporation Secretary.
- 19—Staff of the Authority.
- 20—Delegation of powers of the Board.
- 21—Seal of the Authority.

*The Gambling Control Bill, 2023*

- 22— Funds of the Authority.
- 23— Financial year.
- 24— Annual estimates.
- 25— Accounts and audit.
- 26— Reports of the Authority.
- 27— Protection from personal liability.

**PART IV— LICENCES AND PERMITS**

- 28— Licensed gambling activities.
- 29— Requirements for licensing.
- 30— Application for a licence.
- 31— Renewal of a licence.
- 32— Refusal to grant or renew a licence.
- 33— Revocation of a licence.
- 34— Suspension of a licence.
- 35— Duration of a licence.
- 36— Display of a licence.
- 37— Investigation by the Authority.
- 38— Duplicate licence.
- 39— Register of licences.
- 40— Security for gambling activity.
- 41— Gambling capital.
- 42— Books to be kept by a licensee.
- 43— Submission of accounts by a licensee.
- 44— Control of gambling machines.
- 45— Application for a permit.
- 46— Endorsement of permit.
- 47— Revocation of a permit.
- 48— Duration of a permit.
- 49— Display of a permit.

**PART V— CONTROL AND LICENSING OF  
LOTTERIES**

- 50—Authorization of a public lottery for charitable purposes.
  - 51—Conduct of a public lottery.
  - 52—Authorization of a lottery relating to horse racing.
  - 53—Lottery conducted for charitable, sporting or other purposes.
  - 54—Lottery incidental to entertainment.
  - 55—Licensing lotteries incidental to sports or games.
  - 56—Private lottery.
  - 57—Submission of audited accounts and returns in respect to a lottery.
- 

**PART VI—CONTROL AND LICENSING OF  
BETTING**

- 58—Bookmaker's licence.
- 59—Totalisator licence.
- 60—Laying of totalisator, betting pool and odds.
- 61—Promoter's licence in respect of pool betting scheme.
- 62—Authorization of bookmaking at a race meeting.
- 63—Control of betting machines.

**PART VII—CASINOS, SLOT MACHINES AND  
OTHER FORMS OF GAMBLING**

- 64—Casinos and other forms of gambling.
  - 65—Powers of the Authority to inspect.
  - 66—Officers of the Authority to be present.
- 

**PART VIII—ONLINE GAMBLING**

- 67—Licensing of online gambling.
- 68—Control of online gambling.
- 69—Online gambling transaction.
- 70—Payment of prizes and remittance of winnings.

- 71—Minimum amount a person can bet online.
- 72—Registration of a player.
- 73—Player's accounts to be kept.
- 74—Restriction on credit and inducements.
- 75—Restriction on dealing with a player's money.
- 76—Player's account.

- 77—Inactive account.
- 78—Financial reporting by a licensee.
- 79—Restriction on foreign operators.
- 80—Dispute resolution.

**PART IX—AMUSEMENTS WITH PRIZES, PRIZE  
COMPETITIONS, CHAIN LETTERS AND  
GAMBLING MACHINES**

- 81—Provision of amusements with prizes at non-commercial entertainments.
- 82—Provision of amusements with prize at a commercial entertainment.
- 83—Amusement machines.
- 84—Authorization of prize competitions.
- 85—Authorization of media promotions with prizes.
- 86—Chain letters.

**PART X—ADVERTISEMENT OF GAMBLING  
ACTIVITIES**

- 87—Advertisement of gambling.

**PART XI—THE GAMBLING APPEALS  
COMMITTEE**

- 88—The Gambling Appeals Tribunal.
- 89—Remuneration of members of the Tribunal.
- 90—Appeals from decisions of the Tribunal.
- 91—Conduct of business and affairs of the Tribunal.

**PART XII—OFFENCES AND PENALTIES**

- 92—Offences relating to gambling premise.

- 93—False declaration.
- 94—Transfer of a licence without approval by the Authority.
- 95—Failure to keep proper books of accounts.
- 96—Failure to submit accounts.
- 97—Failure to pay levy or a prescribed fee.
- 98—Operating without a licence or permit prohibited.
- 99—Advertisements of unauthorized lotteries.
- 100—Sale or distribution of unauthorized tickets.
- 101—Prohibition against unlicensed bookmaking.
- 102—Prohibition of late bets.
- 103—Promotion of unauthorized pool betting.
- 104—Offences relating to pool betting schemes.
- 105—Unauthorized bookmaking.
- 106—Unauthorized racing.
- 107—Prohibition against touting.
- 108—Prohibition against playing games of chance on licensed betting premises.
- 109—Prohibition against betting with a child.
- 110—Obtaining money by cheating in a lawful gambling or by wagering on an event.
- 111—Consideration by a court.

**PART XIII—MISCELLANEOUS PROVISIONS**

- 112—Appointment of inspectors.
- 113—Power to enter and inspect land and premises.
- 114—Offences by body corporate.
- 115—Self-exclusion.
- 116—Forfeiture of licence or security.
- 117—Power to seize machines.
- 118—Prosecution of offences.
- 119—Power to make regulations.

*The Gambling Control Bill, 2023*

120—Repeal of Cap. 131.

121—Transitional Provisions.

122—Transition of licences and permits.

123—Consequential amendments.

**FIRST SCHEDULE— PROVISIONS  
RELATING TO  
CONDUCT OF  
BUSINESS AND  
AFFAIRS OF THE  
BOARD OF THE  
AUTHORITY.**

**SECOND SCHEDULE— DECLARATIONS.**

**THIRD SCHEDULE—GAMBLING  
SECURITY.**

**THE GAMBLING CONTROL BILL, 2023**

**A Bill for**

**AN ACT of Parliament to provide for the regulation of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the Gambling Regulatory Authority of Kenya; for the imposition of tax on betting and other forms of gambling, and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Gambling Control Act, 2023.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Authority” means the Gambling Regulatory Authority of Kenya established by section 6;

“authorized race meeting” means a race meeting in respect of which a permit authorizing bookmaking has been issued under this Act;

“amusement game” means a game that is played by means of an amusement machine with a restricted prize;

“amusement machine” means a machine or a device whether operated electronically, manually or otherwise on which an amusement game is played exclusively for amusement purposes and is operated by insertion of money or amusement machine token, and includes pool tables;

“beneficial owner” has the meaning assigned to it in the Companies Act;

No. 17 of 2015.

“bet” means a wager or stake of money or money’s worth, or any other valuable thing by or on behalf of any person; agreement to wager or stake by or on behalf of any person money or a valuable thing on a horse race, fight, game, sport, lottery or exercise or any other event, race or contingency;

“betting premises” means premises used for the purposes of betting to which the public has access and which are kept or used, on one or more occasions, for the

purpose of—

- (a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or
- (b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

“betting transaction” includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

“bingo” means a game where a player marks off numbers on cards or screens as the numbers are drawn randomly, the winner being the first to mark off all the numbers required and includes playing by electronic means or by online communication;

“Board” means the Board of the Gambling Regulatory Authority of Kenya constituted in accordance with section 7 of this Act;

“bookmaker” means a person who, whether on his own account or as a servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving and negotiating bets excluding—

- (a) a person who carries on, or is employed to

operate a totalisator in respect of which a licence has been issued under this Act; or

- (b) a person employed in a business that is wholly concerned with a pool betting scheme in respect of which a licence has been issued under this Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to gambling;

“casino” means any designated premise or part of a premise, approved virtual or online platform or a site where a person may participate in a game approved by the Authority;

“chain letter” means a scheme or an investment promising a high rate of return made up of money from a gambling operator or licensee luring a player into a bigger risk;

“Collector” means the Commissioner-General appointed under section 11 of the Kenya Revenue Authority Act, 1995;

No. 2 of 1995

“coupon” in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected designed to assist in the making of a bet by way of pool betting;

“Director-General” means the Director-General of the Authority appointed under section 16;

“electronic device” means an electrical, digital, magnetic, wireless, optical, or electro-magnetic device used in gambling;

“Fund” means the National Lottery Fund established by section 44 of the National Lottery Act, 2023;

“gambling” means the playing of a game of chance for prize winning and includes lottery betting, prize competitions, and media promotions with prizes;

“gambling equipment” means any software, device, instrument, including a chip, a token, a voucher or any other instrument with a fixed monetary wagering value used instead of money for the purpose of gambling, tokens dice, counter, ticket, gambling table, board, box, bird or an animal used for purposes of or capable of being used for or in connection with gambling and includes—

*The Gambling Control Bill, 2023*

- (a) a linked jackpot equipment;
- (b) an electronic monitoring system including any electronic, computer, communications system or device used or adapted to send or receive data from a gambling equipment in relation to security, accounting, monitoring, evaluation or operation of gambling and gambling equipment;
- (c) any online gambling machine; or
- (d) part of a replacement or part of any gambling machine equipment or system;

“gambling machine” means any device which is operated electronically or mechanically or both electronically and mechanically that is designed for—

- (a) placing bets for playing a game of chance which does not require action by a player other than the manipulation of the machine;
- (b) playing a game of chance which requires no action by a player other than the manipulation of the machine; or
- (c) the purpose of playing a game of chance or a game of fixed chance and skill which may result in payable winnings;

“gambling premises” means premises which are kept or used, whether on one or more than one occasion, for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

“gambling platform” means a system that offers a full range of services for effecting a gambling activity;

“gambling service” means any service that is required to facilitate any component of an activity for gambling and may be provided by an intermediary;

“game of chance” includes a game of chance and skill combined but does not include an athletic game or sport;

“good cause” means a charitable cause or an event for charity;

“gross gambling revenue” means total revenue received from a gambling activity before any deductions

are made;

“horse race” includes a pony race;

“jackpot” means the highest prize resulting from a combination of letters, numbers, symbols or representations displayed or advertised in a game of chance and payable either from a fixed prize schedule or accumulates as contributions are made to a special prize pool;

“licensee” means a person issued with a licence under this Act;

“licensed betting premises” means premises duly licensed where bets may be made and settled;

“lottery” includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any property depending upon or as determined by a slot or a chance, whether by throwing or casting a dice, or by withdrawing a ticket, card, slot, numbers or figures, or by means of a wheel;

“lottery ticket” means any document or electronic evidence entitling a person to participate in a lottery chance;

- (a) to supplier;
- (b) to performs maintenance of gambling equipment;  
or
- (c) provider of gambling services;

“manufacture” means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and may include—

- (a) to supply;
- (b) to perform maintenance of gambling  
equipment; or
- (c) to provide gambling services;

“National Lottery” means the national lottery established under section 22 of the National Lottery Act, 2023;

“odd” means a gambling chance;

“online bookmaker” means a person who carries on any form of betting by means of remote communications, including virtual games, virtual sports as well as other forms of gambling;

“online gambling” means any form of gambling in which persons participate by the use of remote communication and on the internet;

“person” includes a partnership, association, trust, or a juristic person established by operation of any other law;

“pool betting” means the making of bets, other than bets made by means of totalisator, whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

“pool betting scheme” means a scheme involving the receiving or negotiating of bets made by way of pool betting;

“prize” means the prize awarded to a winner of a lottery or a prize promotion;

“punter” means a person who is in possession of a valid ticket or other kind of valid receipt issued by a licensee relating to gambling;

“race meeting” means a gathering of the public or of members of an association of persons to watch an authorized horse race or any other related race;

“record” includes any book, account, document, paper or other source of information compiled, recorded, stored in written form or on micro film, or by electronic process, or in any other matter or by any other means;

“reporting institution” has the meaning assigned to it in the Proceeds of Crime and Anti-Money Laundering Act;

“security” means any deposit provided as security under this Act;

“slot machine” means any mechanical, electrical or other device, contrivance or machine that is metered and which is able to record history of play, which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value, whether the payoff is made automatically from the machine or in any other manner;

“stake” means money or money’s worth that a player may risk to make a bet or buy into a gambling game;

“testing agent” means a person licensed under this Act to test and calibrate gambling machines, equipment or devices;

“ticket” in relation to any lottery or game of chance, includes any written or electronic document evidencing the claim of a person to participate in a lottery or a game of chance;

“totalisator” means an instrument, a machine, a contrivance, or a scheme for enabling any number of persons to make bets on any event or contingency and includes a device showing the number and amount of bets staked in a race; and

“Tribunal” means the Gambling Appeals Tribunal established in section 88.

3. The objects and purpose of this Act is to—

Objects and  
purpose of the  
Act.

- (a) provide a framework for regulation and control of gambling activities;
- (b) authorise some gambling activities and prohibit the rest as unlawful gambling;
- (c) promote the development of a responsible

- gambling industry;
- (d) minimize social harm associated with gambling;
- (e) ensure integrity and fairness in licensed gambling activities; and
- (f) provide for the establishment of mechanisms for resolution of disputes relating to gambling.

**PART II—FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS**

4. (1) The National Government shall—

Functions of the  
National  
Government.

- (a) establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gambling;
- (b) regulate the gambling industry in accordance with Act;
- (c) licence gambling activities including online gambling in accordance with this Act;
- (d) licence national lotteries;
- (e) conduct security checks, vetting and due diligence in respect of gambling activities;
- (f) enforce compliance with this Act;
- (g) conduct anti-money laundering risk-based inspections and inspections to combat financing of terrorism through casinos and any other forms of gambling;
- (h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and the Anti-money Laundering Act, 2009, regulate and supervise the reporting institutions licensed under this Act;
- (i) provide capacity building and technical assistance to county governments; and
- (j) perform any other function as may be prescribed under this Act or any other written law.

No. 9 of 2009.

(2) In the discharge of its mandate under subsection

(1), the Authority shall collaborate with county governments and county gambling regulatory authorities in the discharge of functions relating to betting, lotteries, casinos and other forms of gambling.

5. A county government shall—

Functions of  
county  
governments.

- (a) implement and ensure compliance to this Act;
- (b) issue trade permits for gambling premises;
- (c) implement policy standards and norms of gambling within its jurisdiction; and
- (d) ensure periodic monitoring and evaluation of betting, lotteries and gaming trade permits issued by county governments;
- (e) handle complaints and facilitate arbitration; and
- (f) perform such other functions as are incidental to the exercise of any or all of the county government functions provided for under this Act.

### **PART III—ESTABLISHMENT OF THE GAMBLING REGULATORY AUTHORITY OF KENYA**

6. (1) There is established an Authority to be known as the Gambling Regulatory Authority of Kenya.

Establishment of  
the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of—

- (a) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (b) borrowing money;
- (c) entering into contracts;
- (d) suing and being sued; and
- (e) doing or performing all such other acts necessary for the performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) The Authority shall be the successor of the Betting Control and Licensing Board established under section 3 of

the Betting, Lotteries and Gaming Act.

Cap. 131.

(4) The headquarters of the Authority shall be in Nairobi, but the Authority may establish offices at such other places in Kenya as may be necessary for the execution of its mandate.

7. (1) The management of the Authority shall vest in a Board which shall consist of—

Board of the Authority.

- (a) a Chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for matters relating to gambling or a representative designated in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for the National Treasury or a representative designated in writing;
- (d) the Attorney-General or a representative designated in writing;
- (e) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with background in finance, law, betting and lotteries or business management, provided that—
  - (i) one shall represent persons with disabilities; and
  - (ii) one shall represent faith-based organizations;
- (f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and
- (g) the Director-General who shall be an *ex officio* member.

(2) The appointment of the Chairperson and members appointed under subsection (1)(a), (e) and (f) shall be by name and notice in the *Gazette*.

(3) The Chairperson and members of the Board appointed under subsection (1)(a), (e) and (f) shall hold office for a term of three years and shall be eligible for re-

appointment for one further term of three years based on satisfactory performance.

(4) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall—

- (a) ensure that not more than two-thirds of the members are of the same gender;
- (b) observe the principle of regional and ethnic balance; and
- (c) have due regard to the principle of fair competition and merit as the basis for the appointments.

(5) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

8. (1) A person shall be qualified for appointment as the Chairperson or a member of the Board, if the person—

Qualification for  
appointment to the  
Board.

- (a) is a Kenyan citizen;
- (b) holds a university degree from a university recognized in Kenya;
- (c) has a minimum of ten years working experience in a relevant field;
- (d) was not a director, employee, or shareholder of a gambling operator in the preceding five years;
- (e) meets the requirements of Chapter Six of the Constitution; and
- (f) has submitted to the Cabinet Secretary a written declaration stating that the person does not have any interests in the gambling sector or an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the Board.

(2) A person shall not be appointed as a Chairperson or member of the Board if the person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;

- (c) at the time of appointment holds a political office;
- (d) has previously been removed from a public office on account of misconduct or any other lawful reasons; or
- (e) in the last twelve months immediately preceding the appointment, had personal direct or indirect commercial interest in the sector regulated under this Act.

9. (1) The office of the Chairperson or a member of the Board appointed under section 7(1)(a), (e) and (f) shall become vacant if the holder—

Vacancy in the Board.

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

(2) A member of the Board may be removed from office for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the functions of the office of a member or otherwise;
- (c) physical or mental incapacity to perform the functions of the office of a member;
- (d) incompetence; or
- (e) bankruptcy.

(3) The Cabinet Secretary shall ensure that any vacancy in the Board is filled as soon as practicable in accordance with the provisions of the Act.

10. The Authority shall—

Functions of the Authority.

- (a) develop standards and norms for betting, lotteries, casinos and other forms of gambling;

- (b) regulate and control gambling activities;
- (c) issue licences for gambling activities prescribed under this Act;
- (d) develop policies for placing of bet for betting, lotteries and gambling that include a savings component for social health insurance or social retirement benefit;
- (e) monitor the implementation of gambling policies at the national and county level;
- (f) establish and maintain a register of all gambling machines and devices, and other relevant data on licensed gambling activities;
- (g) conduct security checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, directors and staff;
- (h) establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements;
- (i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, and patterns, causes and consequences of—
  - (i) the socio-economic impact of gambling;
  - (ii) addictive or compulsive gambling; and
  - (iii) any other matter that is relevant to the gambling sector;
- (j) coordinate research and surveys relating to the gambling industry;
- (k) monitor and alleviate illegal cross border gambling activities in collaboration with county governments;
- (l) advise county governments on matters relating to the regulation of gambling activities;
- (m) receive and make determination on complaints from companies and the public on matters pertaining to games of chance; and
- (n) establish programmes to improve the capacity of

county governments on matters relating to the regulation of gambling activities; and

- (o) perform any other functions conferred by this Act or any other written law.

**11.** (1) The Cabinet Secretary shall, in consultation with the Authority, prescribe guidelines of practice on the manner in which facilities for gambling are operated, whether by the holder of a licence under this Act or by any other person.

Gambling  
operation  
Guidelines.

(2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling;
- (c) making assistance available to persons who are or may be affected by problems related to gambling;
- (d) protecting of vulnerable gamblers;
- (e) information and data protection in accordance with the Data Protection Act;
- (f) online payment protection;
- (g) creation of secure online gambling environment;
- (h) ethical and responsible marketing;
- (i) safety measures against criminal activities, anti-money laundering and terrorism; and
- (j) public awareness and education campaigns.

(3) The Cabinet Secretary may, in consultation with the Authority, review the guidelines issued under this section.

(4) Before issuing or revising the guidelines under this section, the Cabinet Secretary and the Authority shall

consult—

- (a) any person who represents licensing authorities;
- (b) the body responsible for the protection of the best interests of the child, as established in the Children Act;
- (c) any person who represents the Inspector General of Police;
- (d) any person who represents the interests of punters; and
- (e) the members of public in such manner as the Authority considers appropriate.

No. 29 of 2022.

**12.** (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

Powers of the Board.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

- (a) control, supervise and administer the assets of the Authority in such manner as best promotes the purpose for which the Authority is established;
- (b) receive any grants, gifts, donations or endowments made to the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (c) conduct such investigations as may be necessary for the enforcement of this Act;
- (d) approve the opening, operation and closing of the bank accounts of the Authority with the approval of the National Treasury;
- (e) conduct such investigations as may be necessary for the implementation of the Act;
- (f) inquire into any complaint against a licensee; and
- (g) undertake any activity necessary for the fulfilment of any of the functions of the Board.

**13.** (1) The procedure for the conduct of the business and affairs of the Board shall be as provided in the First Schedule.

Conduct of business and affairs of the Board.

(2) Subject to the First Schedule, the Board shall

regulate its own procedure.

14. The Board may establish such committees as it may consider necessary to assist it in the performance of its functions and the exercise of any of its powers.

Committees of the Board.

15. The members of the Board shall be paid such allowances and disbursements, for expenses, as may be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Remuneration of the Board.

16. (1) There shall be a Director-General of the Authority who shall be appointed by the Board through an open, transparent and competitive process on such terms and conditions as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

Director-General.

(2) A person shall be qualified for appointment as the Director-General if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years' experience in senior management in a public or a private institution; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be—

- (a) the Chief Executive Officer of the Authority;
- (b) the custodian of all the records of the Authority;
- (c) responsible for—
  - (i) the day-to-day management of the affairs and staff of the Authority;
  - (ii) ~~facilitating, coordinating and ensuring~~ execution of the mandate of the Authority;
  - (iii) the management and maintenance of efficiency of the staff of the Authority;
  - (iv) the execution of decisions of the Board;
  - (v) preparing and submitting for approval, by the Board, programmes of work for the

achievement of the mandate of the Authority; and

(vi) the performance of such other duties as may be assigned by the Board or any written law.

(4) The Director-General shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

17. (1) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

Removal of the  
Director-General.

(a) gross misconduct or misbehavior;

(b) bankruptcy;

(c) incompetence or neglect of duty;

(d) violation of the Constitution or any other written law; or

(e) inability to perform the functions of office by reason of physical or mental incapacity.

(2) Before the Director General is removed under subsection (1), the Director-General shall be given—

(a) sufficient notice of the allegations made against him or her; and

(b) an opportunity to present his or her defence against the allegations.

18. (1) The Authority shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to the Board.

Corporation  
Secretary.

(2) The Secretary to the Board shall—

(a) provide guidance to the Board on the Board's duties, responsibilities and powers;

(b) ensure that Board follows its procedures and complies with the respective laws and

regulations;

- (c) prepare the Board's work plans and assist the Chairperson to organise the activities of the Board including meetings, agendas of meetings, issuing notices to other members of the Board, circulating Board papers before meetings, keeping a record of attendance at meetings;
- (d) take and keep the minutes of the meetings of the Board, and circulating the minutes to the members of the Board;
- (e) keep a record of the usage of the seal of the Authority;
- (f) keep a record of the appointment letters, notices of appointment and the written acceptance of appointment by members of the Board;
- (g) keep a record of conflicts of interest declared by each member of the Board; and
- (h) perform such other duties as the Board may direct.

19. The Authority may appoint such number of professional, technical and administrative staff for the Authority as it may consider necessary for the discharge of its functions, on such terms and conditions as the Board may determine, on the advice of the Salaries and Remuneration Commission.

Staff of the Authority.

20. The Board may by resolution, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Delegation of powers of the Board.

21. (1) The common seal of the Authority shall be kept in the custody of the Director-General or such other person as the Board, may direct and shall not be used except upon the order of the Board.

Seal of the Authority.

(2) The common seal of the Authority shall be authenticated by the signature of the Chairperson of the Board and of the Director-General:

Provided that the Board shall, in absence of either the Chairperson or the Director-General, in any particular

matter nominate one member of the Board to authenticate the seal of the Authority on behalf of either the Chairperson or the Director-General.

(3) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed and unless the contrary is proven, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

~~22. The funds of the Authority shall comprise of—~~

Funds of the Authority.

- (a) such monies as may be appropriated by the National Assembly for purposes of the Authority;
- (b) the moneys paid by the operator of the National Lottery under section 43(1)(c) of the National Lottery Act, 2023;
- (c) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (d) such license fees, charges and penalties as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for National Treasury;
- (e) interest from the investment of money standing to the credit of the Authority; and
- (f) all monies from any other source provided for, donated or lent to the Authority.

~~23. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.~~

Financial year.

~~24. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board of that year.~~

Annual estimates.

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

- (a) payment of salaries, allowances and other charges in

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

25.(1) The Authority shall cause to be kept all proper books and records of accounts relating to the income, expenditure, assets and liabilities of the Authority.

Accounts and audit.

(2) The accounts of the Authority shall be prepared and audited in accordance with the Public Finance Management Act, 2012 and Public Audit Act, 2015.

No. 18 of 2012.  
No. 34 of 2015.

26.(1) The Authority shall prepare quarterly and annual financial and non-financial reports in a format prescribed by the Public Sector Accounting Standards Board and submit the same to the National Treasury with copies to the Controller of Budget and the Commission on Revenue Allocation.

Reports of the Authority.

(2) The Authority shall continuously and on a regular basis monitor and report on its performance and on the performance of all of its licensees on a quarterly basis, with a summary of performance reported through Authority's annual report on the basis of a clear outcome-based performance framework developed by the National Government.

27. No matter, thing or act done by a member of the Board, an officer, employee or agent of the Authority shall if the matter or thing is done in good faith in the course of executing the functions, powers of member of the Board,

Protection from personal liability.

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.

#### **PART IV—LICENCES AND PERMITS**

28. (1) A person shall not offer any gambling activity or service unless the activity or service is licensed under this Act. Licensed gambling activities.

(2) The Authority shall issue gambling licences under this Act with respect to—

- (a) a public gambling for conducting a table game and operating a slot machine;
- (b) the national lottery;
- (c) a bookmaking;
- (d) licensing of on-the course and off-the course totalisators;
- (e) a prize competition;
- (f) a bingo;
- (g) a pool betting scheme;
- (h) public lotteries as under section 50(2);
- (i) an online gambling;
- (j) gambling equipment and device manufacture or assembling;
- (k) gambling equipment and device sale or distribution;
- (l) gambling equipment testing;
- (m) provision of any gambling software or platform;
- (n) gambling equipment repair and servicing;
- (o) key gambling employees;
- (p) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and
- (q) all media promotions with prizes and prize

competitions cutting across several counties;

- (r) any other form of gambling as may be prescribed in regulations.

(3) The Cabinet Secretary shall in consultation with the Authority, make regulations for the classification of licenses issued under this Act.

(4) In this section, "gambling employee" means a person who is employed or authorized, to make a decision that regulates the operations of a casino, bookmaker, lottery, racecourse or any other form of gambling.

29. A person shall not be licensed to offer any gambling or betting activity under this Act unless that person—

Requirements for licensing.

- (a) is a body corporate in which a minimum of thirty per cent of shares are held by Kenyan citizens; and
- (b) maintains an account with an authorized financial institution registered in Kenya into which it pays all monies relating to the licensed gambling and lottery activity.

30. (1) An application for a licence shall be made in the prescribed form and, be accompanied by—

Application for a licence.

- (a) the application fee prescribed by the Cabinet Secretary in regulations;
- (b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gambling capital;
- (c) security by way of such insurance bond or bank guarantee as security as may be prescribed under the Act or regulations;
- (d) information from the applicant of the proximity of the intended premise to a learning institution;
- (e) declarations as provided for in the Second Schedule;
- (f) such other information as it may consider necessary to enable the Authority to determine the application; and

(g) a declaration of the good causes the applicant intends to undertake and the proposed budget devoted to the good causes.

(2) The Authority shall vet all applications for a licence under this Act.

(3) The Authority shall, in determining whether an applicant is suitable to hold a licence or permit under this Act, consider, in relation to the body corporate and its directors, as applicable—

- (a) the financial status or solvency of the person;
- (b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which, if the application is granted, the person shall perform;
- (c) the status of any other licence or approval granted to the applicant by any financial sector regulator;

(4) Without prejudice to the generality of subsection (1), the Authority may, in considering whether an applicant is fit and proper—

- (a) take into account whether the applicant or the directors of the body corporate—
  - (i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice by persons engaged in transacting with marketable securities;
  - (ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;
  - (iii) has taken part in any business practice which, is proven to be fraudulent, prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;
  - (iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of

- that applicant; or
- (v) has acted in such a manner as to cast doubt on the applicant's competence and soundness of judgment;
- (b) take into account any information in the possession of the Authority, whether provided by the applicant or not, relating to—
- (i) any person who is to be employed by, associated with, or who shall be acting for or on behalf of, the applicant for the purposes of a regulated activity, including an agent; and
  - (ii) where the applicant is a company in a group of companies, any other company in the same group of companies, or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;
- (c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and
- (d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.
- (5) The Authority shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.
- (6) A person who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.
- (7) For the purposes of this section, "group of companies" means any two or more companies, one of which is the holding company of the others.

(8) The Authority may grant a licence upon considering all the requirements under this section.

(9) The Authority shall within fourteen days of issuance of a license under this section, transmit a copy of the licence to the relevant county government.

**31.** (1) The Authority may, on application by a licensee, renew a licence for a further period provided for in subsection (3).

Renewal of a licence.

(2) An application under this section shall—

- (a) be made in the prescribed form and forwarded to the Authority together with the prescribed fee;
- (b) be lodged with the Authority at least three months prior to the expiry of the licence; and
- (c) be considered in accordance with the provisions of section 30.

(3) A gambling licence issued under this section shall be valid for a period of twelve months from the date of issue or for such other period as may be prescribed in regulations.

**32.** (1) The Authority may refuse to grant or renew a licence if it is satisfied that—

Refusal to grant or renew a licence.

- (a) the information contained in the application is false or untrue in any material particulars;
- (b) the application does not meet any of the requirements for the issuance or renewal of a licence; or
- (c) the application is not in conformity with the obtaining policy regarding use of any software system as prescribed by the Cabinet Secretary in consultation with the Authority and the Communications Authority of Kenya.

(2) Where the Authority refuses to grant or renew a licence, it shall forthwith notify the applicant in the prescribed form stating the reason for such refusal.

(3) A person aggrieved by the decision of the Authority under this section may, within twenty-one days from the day of notification under subsection (2) lodge an

appeal before the Committee.

33. (1) The Authority may revoke a licence issued under this Act—

Revocation of a licence.

- (a) where the holder is in breach of any of the provisions of this Act;
- (b) where it discovers that a licensee made a statement in connection with the application which he knew to be false or untrue;
- (c) where the gambling business is wound up or dissolved; or
- (d) if the licensee is in breach of any condition prescribed in the Act and which is required for the issuance of a licence.

(2) Where the Authority intends to revoke a licence under subsection (1), the Authority shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation and require the licensee to, within fourteen days of service of the notice, give reasons why the licence should not be revoked.

(3) A notice under subsection (2) shall be served not less than twenty-one days before the date of the intended revocation and shall specify the grounds for such revocation.

(4) Where a licensee fails to give reasons within the period stated, the licence shall cease to be valid.

(5) If reasons are furnished by the licensee, the Authority, as the case may be, shall after considering such reasons—

- (a) decide whether or not to revoke the licence; or
- (b) call upon the licensee to appear before it on a specified date to make oral representations in support of any written representations made by the licensee or to answer any questions which the Authority, as the case may be, regarding such written representations, thereafter the Authority shall determine whether or not to revoke the licence.

(6) The revocation of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its revocation.

(7) The revocation of a licence shall take effect upon the expiry of the notice under subsection (3).

(8) A licensee whose licence has been revoked shall surrender the licence to the Authority and shall not be eligible to hold a licence under this Act for a period not exceeding five years with effect from the effective date of the revocation.

(9) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within twenty-one days with effect from the date upon which such decision was conveyed to a licensee.

~~34. (1) The Authority may suspend a licence issued under this Act if the holder of the licence contravenes the provisions of the Act upon giving notice and giving the licensee an opportunity to be heard.~~

Suspension of licence.

(2) The procedure under section 33 shall apply with the necessary modifications when the Authority is considering the suspension of a licence.

(3) Where the Authority suspends a licence under subsection (1), it shall forthwith inform the public through a notice in the *Gazette*, and two newspapers of nationwide circulation or any media of national coverage.

(4) Where a licence ceases to be valid under subsection (1), the Authority shall inform the licensee in writing the date upon which the licence was suspended.

(5) The suspension of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its suspension.

~~35. The duration of every licence issued under this Act shall vary for each gambling and betting activity subject to the provisions of section 31(3).~~

Duration of a licence.

36. (1) A licensee shall display the licence issued under this Act at a place that is visible to the public during the period of validity of the licence.

Display of a licence.

*The Gambling Control Bill, 2023*

(2) Where the licence allows for the establishment of a branch, a copy of the licence shall be displayed at the branch at a place that is prominently visible to the public during the period of validity of the licence.

(3) A holder of an online gambling license shall display the license issued under this Act in their online platform.

37. (1) The Authority may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct of a licensee under this Act.

Investigation by the Authority.

(2) The Authority may direct any person who is investigated pursuant to subsection (1) to take such action as may be necessary to rectify any shortcomings discovered, and may take such other action as may be appropriate where the licensee fails or refuses to comply with directions issued by the Authority.

38. The Authority may issue a duplicate licence to a licensee whose licence is lost, destroyed or mutilated upon application for a duplicate in the prescribed form and payment of the prescribed fees to the Authority.

Duplicate licence.

39. (1) The Authority shall keep and maintain a register of licences in such form as it may determine and shall record in the register in respect of every licence—

Register of licences.

- (a) the name, identity and registration number of a licensee;
- (b) particulars of the gambling activity to which a licence relates;
- (c) the county or counties to which a licence relates;
- (d) the date of expiry of the licence;
- (e) particulars of any revocation or suspension of the licence;
- (f) particulars of any amendment to a licence; and
- (g) any other particulars that the Authority may consider necessary.

(2) The register maintained by the Authority shall be open to the public at reasonable times and upon payment of the prescribed fee.

40. (1) The Authority shall require a licensee to

Security for

deposit an insurance security bond or bank guarantee equivalent to cover the amounts provided in the Third Schedule.

gambling activity.

(2) The insurance security bond or bank guarantee deposited under this section may be used by the Authority to defray a licensee's liability, which may arise from the licensed activity.

(3) The Authority shall prescribe applicable insurance security bond or bank guarantee for a gambling activity prescribed under section 28(2)(r).

(4) The Cabinet Secretary may by notice in the *Gazette* revise the Third Schedule.

**41.** (1) Each licensee shall provide proof of adequate gambling capital to set up the licensed operations.

Gambling capital.

(2) The Authority shall, in consultation with the Cabinet Secretary, determine and publish by notice in the *Gazette* the amount of capital for each gambling activity regulated under this Act.

**42.** (1) The Authority shall prescribe books of accounts to be kept by a licensee.

Books to be kept by a licensee.

(2) A licensee shall regularly enter or cause to be entered particulars of entries on the books of accounts as prescribed by the Authority.

**43.** (1) A licensee shall submit to the Authority audited statement of accounts within three months after the end of a financial year.

Submission of accounts by a licensee.

(2) The accounts of a licensee submitted under this section shall be audited by an auditor approved by the Authority.

**44.** A licensee shall ensure that their gambling machines—

Control of gambling machines.

- (a) are located in premises in which the respective county government has issued a permit;
- (b) are sourced from a certified source with international certification standards;
- (c) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

*The Gambling Control Bill, 2023*

- (d) undergo standards verification after every three months.

45. (1) A holder of a gambling licence issued by the Authority under section 28 shall apply for a trade permit from the respective county government for a premise within which the person intends to carry out the licensed gambling activity.

Application for a permit.

(2) An application for a gambling permit shall be in such manner as may be prescribed by the respective county government and shall be accompanied by—

- (a) the fee prescribed by the respective county government;
- (b) a licence issued by the Authority; and
- (c) such other information as the county government may consider necessary for the determination of the application.

(3) A county government shall grant a permit upon determining the suitability of the intended premises for which the application is made and considering the requirements set out in subsection (2).

(4) A permit issued under this Act shall not be transferable.

46. A permit issued under this Act shall state the location of the premise to which it relates, and shall be endorsed with all conditions imposed by the Authority and respective county government.

Endorsement of permit.

47. (1) A county government may revoke a permit issued under this Act where—

Revocation of a permit.

- (a) the holder is in breach of any condition attached to the permit; or
- (b) the Authority has revoked a licence of a permit holder.

(2) Where a county government intends to revoke a permit under subsection (1), the county government shall

serve the permit holder with the notice of the intended revocation specifying the grounds for such revocation and require the person to, within fourteen days of service of the notice furnish reasons why the permit should not be revoked.

(3) Where the person fails to give reasons within the period specified, the permit shall cease to be valid.

(4) If the person furnishes reasons, the county government, shall after considering such reasons—

- (a) decide whether or not to revoke the permit; or
- (b) call upon the permit holder to appear before it on a specified date to make oral representations in support of any written representations made by the permit holder or to answer any questions which the county government may have, regarding the written representations, and thereafter the county government shall determine whether or not to revoke the permit.

(5) The revocation of a permit shall not prejudice any liability or obligation incurred under or in relation to the permit prior to its revocation.

(6) Where a permit is revoked, under subsection (1), the county government shall serve the permit holder with a notice of revocation of a permit in the prescribed form.

(7) A notice under subsection (2) shall be served not less than twenty-one days before the date of the intended revocation and shall specify the grounds for such revocation.

(8) The revocation of a permit shall take effect after twenty-one days upon expiry of a notice issued under this section (7).

(9) The holder of a permit that is revoked shall surrender the permit to the county government and shall not be eligible to hold a permit under this Act for a period not exceeding five years with effect from the effective date of the revocation.

(10) A person aggrieved by the decision of the county government under this section may appeal to the

Committee within twenty-one days from the date of receipt of the decision.

48. Every permit issued by the county government shall be valid for a period of twelve months from the date of issue unless a different duration has been prescribed under this Act.

Duration of a permit.

49. A holder of a permit issued under this Act shall, during the period of its validity display the permit within the business or premise at a place that is prominently visible to the public.

Display of a permit.

#### PART V—CONTROL AND LICENSING OF LOTTERIES

50. (1) The Authority shall issue a licence authorizing the promotion and conduct of a public lottery intended to raise funds for charitable purposes which may include charitable activities for—

Authorization of a public lottery for charitable purpose.

- (a) social service;
- (b) public welfare;
- (c) relief of distress;
- (d) recreational purposes;
- (e) sporting purposes;
- (f) any other purpose that may be assigned to it by the Authority.

(2) The authorization by the Authority under subsection (1) shall be for public lotteries where the promotion and lottery activities are undertaken countrywide, across more than one county or through media.

(3) The county governments may licence the promotion and conduct of a public lottery intended to raise funds for the charitable activities set out in subsection (1), where the promotion and the lottery activities are confined within the respective counties.

(4) The license issued under sub-section (3) shall be for a period not exceeding one year.

(5) The Cabinet Secretary shall in consultation with the Authority, set the percentage of the gross revenue of a

public lottery that shall be devoted to the object for which the lottery was promoted.

(6) Despite section 30(1)(g), the percentage set by the Cabinet Secretary under subsection (5), shall not be less than thirty per cent of the gross revenue of the public lottery, but in no case shall the Authority require a proportion greater than forty-five per cent of the gross proceeds.

(7) The Authority shall grant a licence for the promotion of a lottery under this section only to a body corporate.

(8) A promoter of a lottery authorized under this section who devotes proceeds of the lottery to activities not permitted or to a purpose other than expenses and prizes permitted commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years, or to both.

51. (1) The Authority or county government shall, in respect of any public lottery, impose the conditions prescribed in the Act or in regulations to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

Conduct of a public lottery.

(2) In conducting a public lottery under this Act, a promoter—

- (a) may deduct operating expenses not exceeding twenty per cent of gross proceeds of the lottery;
- (b) shall provide insurance bond or bank guarantee for the conduct of the lottery;
- (c) shall ensure proper and equitable distribution of the charitable funds of the lottery;
- (d) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud; and
- (e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Authority are complied with.

(3) In this section, the term “gross proceeds” means

the total proceeds received from a lottery prior to any deductions.

52. (1) A county government may issue a licence authorizing promotion of a lottery relating to a horse race, promoted within or outside Kenya.

Authorization of a lottery relating to horse racing.

(2) The Authority may, in respect of a lottery to be promoted and conducted in Kenya under this section, issue—

- (a) an on-the-course permit authorizing the promotion and conduct of a lottery on a course specified; or
- (b) a licence authorizing the promotion and conduct of a lottery off the course.

53. (1) A lottery may be promoted and conducted on behalf of a society established for—

Lottery conducted for charitable, sporting or other purposes.

- (a) charitable purposes;
- (b) participation in a sport, support of athletics, or cultural activities; or
- (c) purposes for raising money to be applied for purposes of public good and are not for private gain or purposes of commercial undertaking.

(2) The Authority may, upon the issuance of a licence under this section impose such conditions to the manner in which a person issued with a licence may conduct the promotion and conduct of a lottery under this section, including—

- (a) requiring a promoter to be a member of a society duly authorized to act as such;
- (b) prohibiting the payment of remuneration to a promoter or any person engaged by way of business or employed in the promoter's organization in connection with the lottery;
- (c) capping the prize of a ticket to twenty thousand shillings;
- (d) a ticket or chance shall be sold for a price of at least twenty shillings;

- (e) requiring the application of the whole proceeds, upon deduction of sums lawfully appropriated on account of expenses or for the provision of prizes, to purposes of the society, as described in subsection (1);
  - (f) requiring the amount of proceeds appropriated on account of expenses not to exceed fifteen per cent of the whole proceeds;
  - (g) capping the amount of the proceeds appropriated for the provision of prizes not to exceed one half of the whole proceeds;
  - (h) requiring the price of each ticket or a chance to be the same on all the tickets;
  - (i) requiring every ticket, notice of a lottery lawfully exhibited, distributed or published to specify the name of the society sponsoring the lottery, the name and address of the promoter and the date on which the draw, determination or event to which the prize winners are ascertained is expected to take place;
  - (j) prohibiting the delivery of a ticket through post to a person who is not a member of the society;
  - (k) prohibiting the admittance of a person to participate in a lottery except upon payment to the promoter of the whole price of the ticket or chance; and
  - (l) requiring payment for expenses or prizes out of proceeds of the lottery.
- (3) A person, including a promoter of a lottery who contravenes any of the conditions set out in subsection (2) commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**54.** (1) The Authority may issue a licence for a lottery promoted and conducted as an incident of entertainment countrywide, across more than one county or through the media.

Lottery incidental to entertainment.

(2) A county government may issue a licence for a lottery promoted and conducted as an incident of

entertainment confined within the respective county.

(3) The Authority or a county government may, upon the issuance of a licence under this section, impose such conditions on the manner in which a person issued with a licence may conduct the lottery, including—

- (a) requiring that the ticket or chance is sold or issued in a premise which the lottery may take place;
- (b) requiring that the result of the lottery is declared on the premises in which the lottery took place;
- (c) requiring that the facility provided for participating in a lottery or the gambling entertainment is not held for private gain;
- (d) requiring that a prize in a lottery is in the custody and disposal of a promoter of a lottery;
- (e) requiring that a ticket or chance in a lottery is issued or allotted upon the receipt of the full price;
- (f) directing that the price of a ticket or chance shall be displayed on each ticket;
- (g) prohibiting money prize in a lottery; and
- (h) capping the price of a ticket or a chance to not more than fifty shillings.

(4) This section shall apply to entertainments including bazaars, sales of work, fetes, dinners, dances, sporting or athletic events limited to one or more days.

(5) A person who contravenes any of the conditions set out in subsection (3) commits an offence and, shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

55. (1) The Authority may issue a licence authorizing a person to organize and manage a lottery incidental to a sport or game.

Licensing lotteries incidental to sports or games.

(2) A licence shall state the lottery incidental to the game or sport which a licensee may organize and manage.

(3) The Authority may, in respect of a licence issued

under this section, impose conditions on—

- (a) the manner in which a person may conduct a sport or game lottery;
- (b) the hours during which the premises may be open;
- (c) the suitability, condition and conduct of the premises;
- (d) the protection of persons taking part in the gamble against fraud;
- (e) measures to ensure responsible gambling; and
- (f) payment of admission fees for persons gambling in the premises.

(4) Where an admission fee is charged under subsection (3)(f) it shall be subject to the payment of tax under the Entertainment Tax Act.

Cap 479.

**56.** (1) The Authority may issue a licence for a private lottery.

Private Lottery.

(2) The Authority may, upon the issuance of a licence under this section, impose such conditions to be met by a person issued with a licence, including—

- (a) requiring the net proceeds or part thereof of lottery to be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of the society shall be devoted to the purposes of the society;
- (b) requiring a notice or advertisement of a lottery to be exhibited on a premise or the club of the members whom the lottery is promoted;
- (c) requiring the price of each ticket or a chance to be the same on all the tickets;
- (d) requiring each ticket to bear the name and address of a promoter of the lottery and a statement of a person to whom the sale of the tickets or chances is restricted;
- (e) requiring a ticket or a chance to be issued or allotted by a promoter by way of sale upon receipt of a full price;
- (f) prohibiting the return of money or anything of

value received by a promoter; or

- (g) prohibiting delivery of a ticket in a lottery through the post office.

(3) A person or a promoter of a lottery who contravenes the conditions specified in subsection (2) commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

57. A promoter and a beneficiary of a lottery promoted or conducted under this Act shall be required to submit audited accounts and make returns in such form and within such period as the Authority or respective county government may specify.

Submission of audited accounts and returns in respect to a lottery.

#### PART VI—CONTROL AND LICENSING OF BETTING

58. The Authority may, in respect of bookmaking, issue—

Bookmaker's licence.

- (a) an on-the-course licence authorizing a person to carry out the business of a bookmaker at any authorized race meeting;
- (b) an off-the-course licence authorizing a person to carry on the business of a bookmaker at any authorized betting premises;
- (c) a licence authorizing a person to carry on the business as a bookmaker of both on and off the course race; or
- (d) an online bookmakers licence.

59. (1) The Authority may issue any of the following licences for each totalisator—

Totalisator licence.

- (a) an on-the-course licence authorizing a person to operate a totalisator on specified a course;
  - (b) an off-the-course licence authorizing a person to operate a totalisator at a specified betting premise; or
  - (c) a licence authorizing a person to operate a totalisator both on and off the course.
- (2) A licence under this section may be issued in

respect of each race day or for a period not exceeding one year.

(3) Every transaction effected by means of a totalisator shall be recorded in such manner as may be prescribed by the Authority to ensure that as far as is practicable, the record is in an uninterrupted view of the public.

(4) In this section, "race day" means an approved day in which a race meeting is held.

**60.** (1) The Cabinet Secretary may, in consultation with the Authority, make rules for the operation of totalisators.

Laying of  
totalisator, betting  
pools and odds.

(2) A holder of a totalisator licence shall conduct a totalisator or a betting pool in accordance with totalisator rules issued by the Authority.

(3) The aggregate of returns by a holder of a totalisator licence or a person who has made a winning bet on any event, or combination of events, shall not be less than eighty-five per cent of the total amount pooled or such other amount, as may be approved by the Authority, in respect of an event or combination of events.

(4) A person who participates in a totalisator's bet shall not—

- (a) bet upon the result of a horse race or any other race;
- (b) sell or offer for sale, or purchase from a person a ticket or card entitling a purchaser or a holder thereof to an interest in the result of the working of a totalisator on a horse race or any other race;
- (c) make a contract or bargain of any kind to pay or to receive money upon an event determined or to be determined by the result of the working of a totalisator on a horse race or any other race;
- (d) receive or permit receipt of a betting transaction in respect of a totalisator in respect of a horse race or any other race after the start of the race;
- (e) register on a totalisator after the start of a horse race or any other race any money received in respect of the race; or

*The Gambling Control Bill, 2023*

(f) take into account in the calculation or payment of a betting transaction which has not been registered on a totalisator.

(5) The provisions of subsections (4)(a) and (b) shall not apply to an employee engaged in the lawful operation of a totalisator in a manner approved by the Authority.

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

**61.** (1) The Authority shall issue a promoter's licence in respect to a pool betting scheme authorizing a promoter to provide a pool betting scheme within Kenya.

Promoter's licence in respect of a pool betting scheme.

(2) A licence issued under this section shall apply to one pool betting scheme at a time.

**62.** (1) A promoter of a race meeting who intends to permit a bookmaker to carry out bookmaking at a race meeting shall upon payment of the prescribed fees, apply to the Authority for the relevant licence in the prescribed form.

Authorization of bookmaking at a race meeting.

(2) The Authority may upon receipt of an application under subsection (1), issue a licence authorizing bookmaking to take place at a race meeting held on a racecourse on the day specified in the licence.

(3) A licence issued under this section shall specify the number of race meetings that may be held on a licensed racecourse within a year.

(4) In this section, "racecourse" means an approved ground used or intended for use for the purpose of horse racing or a related race.

**63.** (1) A licensee shall ensure that their betting machines—

Control of betting machines.

(a) are sourced from a certified source with international certification standards;

(b) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

(c) undergo standards verification after every three months.

(2) The standards verification referred to in subsection (1)(c) and developed by the Authority shall be conducted by the Kenya Bureau of Standards.

(3) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker's licence.

(4) A single bet in a gambling machine shall be a minimum of twenty shillings only.

**PART VII—CASINO, SLOT MACHINE AND  
OTHER FORMS OF GAMBLING**

64. (1) A person may be granted a licence to operate a casino and other forms of gambling upon meeting the requirements set out in section 29.

Casinos and other  
forms of  
gambling.

(2) The Cabinet Secretary may in consultation with the Authority and the Council of Governors, make regulations prescribing the number of casinos, amusement machines, slot machines and other forms of gambling that may be operated within the counties.

(3) The Cabinet Secretary shall consider the following in making the regulations under subsection (2)—

- (a) the number and geographic distribution of existing licensed casinos, slot machines and other forms of gambling at the time;
- (b) the presence of tourists in a county;
- (c) the cultural and religious distribution of the residents of each county;
- (d) the incidence and social consequences of compulsive and addictive gambling;
- (e) the promotion of —

- (i) job creation within the gambling industry;
- (ii) diversity of ownership within the gambling industry;
- (iii) efficiency of operation in the gambling industry; and

(iv) competition within the gambling industry.

(4) The Cabinet Secretary shall, in consultation with the Authority, make regulations prescribing the places where gambling machines shall be placed including the distance to—

- (a) learning institutions;
- (b) religious establishment; and
- (c) residential areas.

(5) A single bet in a casino machine shall be played for a minimum of twenty shillings.

65. A licensee shall, in respect of each premise where a casino is operated allow the Authority or any person designated by the authority in writing to—

Powers of the Authority to inspect.

- (a) enter any licensed premise or facility belonging to or under the control of the licensee for purposes of inspection;
- (b) examine or inspect any machine, document or data in a licensed premises or facility, and make copies or extracts from it;
- (c) seize, for the purpose of examination, any information, machine, document or data, on the conduct of a casino;
- (d) seal or otherwise secure any such premise, facility, machine, document or data in the casino where an offence has been committed;
- (e) secure a valid and enforceable written undertaking from a person controlling a licensee in any way not to change, transfer, cede the control of a licence or in any way encumber the licence to another person without the consent of the Authority; and
- (f) take such steps as may be reasonably necessary to protect all gambling players.

66. The Authority shall ensure that its officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant licence.

Officers of the Authority to be present.

**PART VIII — ONLINE GAMBLING**

67. (1) A person who desires to operate, sell or promote online gambling in Kenya, shall apply, in the prescribed form, for a licence from the Authority for the following—

Licensing of  
online gambling.

- (a) an online bookmakers licence;
- (b) an online lottery licence; or
- (c) an online casino licence.

(2) A person making an application for an online gambling licence under subsection (1) shall submit to the Authority a proposed gambling control system, which shall be duly considered by the Authority with or without variation.

(3) In granting a licence under this section, the Authority shall require an applicant to deposit with the Authority such security as prescribed under the Act.

68. (1) A person licensed to carry out an online gambling activity shall conduct the activity under a gambling control system approved by the Authority.

Control of online  
gambling.

(2) The Authority shall not approve a system under subsection (1) unless the licensee provides for—

- (a) online security of information;
- (b) safety and security against criminal activities;
- (c) online payment system;
- (d) protection measures against under age gambling;
- (e) protection measures against vulnerability in gambling;
- (f) awareness and education;
- (g) responsible advertising; and

(h) data protection measures under the Data Protection Act, 2019.

No. 24 of 2019.

(3) The Authority shall impose the requirement of an approved gambling control system as a condition of the licence granted under subsection (1) which the licensee shall be required to comply with.

*The Gambling Control Bill, 2023*

(4) The failure by the licensee to comply with the requirements of the approved gambling control system shall lead to revocation of the licence and offence.

(5) The Authority shall establish a framework to facilitate real time monitoring of casinos and online gambling activities, which shall be accessible for monitoring by the Communications Authority of Kenya and any other relevant government agency.

(6) In order to facilitate the real time monitoring of gambling, an operator shall be required to provide the Authority with—

(a) the platforms for participation which may, where applicable, include—

(i) all visual and audio communication channels;  
or

(ii) an online website platform;

(b) particulars of the charges to be levied by an operator;

(c) particulars and the location of servers of the operator's system to show how a player may be registered and deregistered on the system;

(d) particulars and the location of all other servers;

(e) a valid telecommunication licence; and

(f) any other information required by the Authority.

(7) In the case of mobile online gambling, lottery or a betting licence, particulars of network connectivity with two links to mobile operators shall be provided to the Authority.

(8) An operator shall maintain a customer care centre within Kenya to monitor and respond to issues raised by consumers.

69. An online gambling transaction shall commence when a player's account is debited with an amount of a bet and shall conclude when a player's account is credited with an amount of winnings in the case of a winning bet or when a player loses the game.

Online gambling transaction.

70. (1) Where a player in an online gambling transaction wins a monetary prize, a licensee shall within two days credit the amount to the player's account.

Payment of prizes and remittance of winning.

(2) Where a player wins a non-monetary prize, the licensee shall—

(a) deliver the prize to the player within seven days; or

(b) notify the player in writing of an address within Kenya where the prize may be collected.

(3) If a non-monetary prize is not collected within a period of six months after the winner has been notified of the place where the prize may be collected, a licensee may dispose of the prize by public auction, or in a manner approved by the Authority.

(4) The proceeds of sale under subsection (3) may be used to pay for the cost of disposal of the prize, and any remainder be deposited in the Fund.

(5) Any claim against a licensee for uncollected prize shall lapse after six months from the date of declaration of the winnings.

(6) An operator shall require proof of age of majority prior to the remittance of the prize to the registered player.

71. (1) A player in an online gambling activity shall not bet an amount of less than twenty shillings in a competition.

Minimum amount a person can bet online.

(2) The minimum amount set under subsection (1) shall be inclusive of such saving component for the player as shall be determined by the Authority in consultation with the Cabinet Secretary.

(3) An operator who permits a person to engage in an online gambling activity for an amount less than the amount prescribed under subsection (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding five years, or to both.

72. (1) A licensee shall not allow any person to participate as a player in an authorized game conducted by

Registration of a player.

a licensee unless the person is registered as a player and holds an account with the licensee.

(2) An operator shall put in place mechanisms to ensure that a child is not registered for an online game, lottery or bet for which they are licensed to operate.

(3) An operator shall require proof of age of majority prior to the registration of every player.

(4) The Authority may make regulations for the prevention of the registration of a child from an online game, lottery or bet.

(5) Where a licensee becomes aware that a person has provided false information during registration, the licensee shall not register such person and where such a person has already been registered, the licensee shall immediately cancel the person's registration.

(6) A licensee shall avail the following to a player—

- (a) all the rules relating to authorized games conducted by a licensee; and
- (b) the particulars of any processing fee which may be incurred by the player.

(7) A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits, the use of credit cards or meeting third party costs incurred by a player:

Provided that this provision shall not apply to free bets and bonus bets conducted in the ordinary course of business.

73. (1) A licensee shall establish and maintain a player's account for each player who is registered by the licensee.

Player's account  
to be kept.

(2) A licensee shall credit to an account established under subsection (1) in respect of a registered player all funds—

- (a) received by a licensee from or on behalf of a player; or
- (b) owed by a licensee to the player.

(3) A licensee shall not accept a wager from a player unless—

- (a) there are adequate funds in the player's account

to cover the amount of the wager; and

(b) the funds necessary to cover the amount of the wager are approved by the player.

(4) A licensee may receive funds from a player through—

(a) a debit card;

(b) an electronic funds transfer;

(c) mobile money transfer;

(d) cash deposits; or

(e) any other method as may be approved by the Authority from time to time.

74. (1) A licensee shall not—

Restriction on credit and inducements.

(a) provide credit to a player or on a player's account or act as an agent for a credit provider to facilitate the provision of credit to a player;

(b) make an offer designed to induce persons to participate or increase their participation in licensed activities;

(c) participate in arrangements for inducing persons to gamble.

(2) A person who breaches the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years.

(3) Nothing in this section shall be construed as limiting an operator from offering free bets and bonus bets in the ordinary course of business.

75. A licensee shall not deal with any amount standing to the credit of a player's account except—

Restriction on dealing with a player's money.

(a) to debit to the account a wager made by a player or an amount as directed by a player for purposes of a wager;

(b) to remit funds standing to the credit of an account of a player at the player's request; or

(c) to pay bank charges for deposits received and

funds withdrawn.

76. (1) A licensee shall deposit all the player's money in a bank account or mobile money or, upon a player's request, make a cash payment to the player:

Player's account.

Provided that a licensee shall maintain a register of all monies paid out to a punter.

(2) Any money in a player's account, including money in transit or in the process of being cleared shall at any time be at least equal to the aggregate amount standing to the credit of players' accounts held by a licensee:

Provided that where funds standing to the credit of a player's account falls below the aggregate total of the amount standing to the credit of a players' accounts, the licensee shall make good the shortfall from the licensee's own money within a period of thirty days from the end of the month in which the shortfall occurs.

(3) A licensee holding a player's bank account shall—

- (a) not enforce or execute, any charge, write-off, set-off or other claim against a player's account;
- (b) not combine the account with any other account in respect of any debt owed to it by a player; or
- (c) credit any interest payable on a player's account, only to the player's account.

77. (1) Where a transaction has not been recorded on a player's account for three months, a licensee shall remit the balance in the account to a player.

Inactive account

(2) Where the whereabouts of a player remain unknown for a period of five years, the monies standing to the credit of the player's account shall be presumed abandoned and the licensee shall remit such monies to the Unclaimed Financial Assets Authority.

(3) A licensee shall maintain a register of all monies remitted under subsection (2).

78. A licensee shall at the end of each financial year submit audited financial reports to the Authority indicating—

Financial reporting by a licensee.

- (a) its gross revenue for the financial year;
- (b) its net revenue for the financial year;
- (c) the amount remitted to the Collector for the financial year;
- (d) the good causes they implemented as part of the license conditions.

79. (1) A gambling operator based in a foreign country shall only be issued with an online gambling licence where the operator—

Restriction on foreign operators.

- (a) is registered in Kenya;
- (b) has a physical address registered in Kenya;
- (c) intends to carry on the online gambling business in Kenya; and
- (d) meets the requirements prescribed by the Authority in regulations.

(2) In addition to the requirements under subsection (1), a gambling operator based in a foreign country shall be required to provide its audited books of accounts for the immediately preceding year.

(3) A foreign based gambling operator who provides online gambling services in Kenya without a licence commits an offence and shall, upon conviction—

- (a) in the case of a natural person, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to both; or
- (b) in the case of a corporate person, be liable to a fine not exceeding fifty million shillings.

80. A party to a dispute arising out of an online

Dispute resolution.

gambling activity, may appeal to the Tribunal for resolution of the dispute within fourteen days from the date of the dispute.

**PART IX—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMBLING MACHINES**

**81.** (1) A person may provide amusement with prize at non-commercial entertainment where the whole proceeds of the entertainment after deducting the expenses of the entertainment are devoted to purposes other than private gain.

Provision of amusements with prize at non-commercial entertainments.

(2) The opportunity to win a prize at an amusement to which this section applies shall not be the only inducement to a person to attend the entertainment.

(3) A person who breaches the conditions specified in subsection (1) commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

**82.** (1) A person may, subject to subsections (2) and (3), provide for amusement with a prize—

Provision of amusements with prize at a commercial entertainment.

(a) on a premise which a permit for the provision of an amusement has been granted by a county government under the relevant law; and

(b) at a pleasure fair consisting wholly or mainly of an amusement provided by travelling showmen held on any day of the year on the premises not previously used in that year on more than twenty-seven days for the holding of a pleasure fair.

(2) The following conditions shall be observed in connection with amusements under this section—

(a) the amount paid by a person for any one chance to win a prize shall not exceed five thousand shillings;

(b) the aggregate amount issued by way of sale of a chance in a determination of a winner of a prize shall not exceed five million shillings;

(c) the sale of a chance and a declaration of a result

shall take place on the same day and on the same premise on which the amusement took place;

- (d) money prize for distribution shall not exceed one million shillings;
- (e) the winning or the purchase of a chance to win a prize shall not entitle a person to any further opportunity to win money by taking part in any amusement with prize or in any gamble or lottery; and

- (f) in the case of a pleasure fair under subsection (1)(b), the opportunity to win a prize at an amusement to which this subsection applies shall not be the only inducement to a person to attend the fair.

(3) Where an amusement with a prize takes the form of a game played by use of a machine played by insertion of a coin or a token into a machine, the following conditions shall apply—

- (a) a successful player may receive—
  - (i) a money prize not exceeding one million shillings;
  - (ii) a prize other than money of a value not exceeding five million shillings; or
  - (iii) a token of a nominal value exchangeable for a prize other than money on the basis of a prize of a value or aggregate value not exceeding five million shillings or for a number of tokens equal to a maximum number of tokens which may be won by any one playing of the game; and
- (b) a player's success at the game shall not entitle a person to exchange any prize or token for a benefit other than those provided for under paragraph (a).

(4) A person who breaches the conditions specified in this section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

83. (1) A county government may issue an amusement

Amusement  
machines.

machine licence authorizing the use of an amusement machine in a licensed premise.

(2) A person commits an offence if the person—

- (a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or
- (b) contravenes or allows the contravention of any condition provided for or imposed by the county government.

(3) A person who commits an offence under subsection (2) shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(4) In this section, “amusement machine” means a machine, ~~other than a gambling machine—~~

- (a) which is operated by the insertion of a coin or coins or other equivalent into the machine;
- (b) whereby a successful player neither receives nor is offered any benefit other than—
  - (i) opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or
  - (ii) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.

**84.** (1) The Authority may, issue a licence authorizing the promotion and conduct of prize competitions cutting across several counties.

Authorization of  
prize  
competitions

(2) A county government may issue a licence authorizing the promotion and conduct of prize competitions confined to a county.

(3) A person who promotes or advertises any prize licence issued under this section shall be subject to such conditions as shall be prescribed in regulations by the Authority and county governments, and in every case, to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of,

and with the permission of the parent or guardian.

**85.** (1) A person shall not, without a license issued by the Authority, conduct a media promotion with prizes.

Authorization of media promotions with prizes.

(2) A person who undertakes media promotion in either electronic or print media with prizes licensed under this section shall be subject to the conditions prescribed by the Authority in regulations.

(3) The conditions referred to in subsection (2) shall include—

- (a) eligibility of participants;
- (b) costs of participation;
- (c) dates of the promotion;
- (d) prizes to be won;
- (e) verification of winnings by the Authority;
- (f) process of claiming prizes won; and
- (g) publication of prize awards.

**86.** A person who sends or causes to be sent, or supplies or delivers any chain letter or who sends or receives money or money's worth in connection with a chain letter, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Chain letters.

#### **PART X — ADVERTISEMENT OF GAMBLING ACTIVITIES**

**87.** (1) A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by—

Advertisement of gambling.

- (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing

*The Gambling Control Bill, 2023*

members of the public to participate in gambling;

- (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;
- (c) printing or publishing, or causing to be printed or published, any advertisement or notice;
- (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling;
- (e) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.

(2) A gambling advertisement shall—

- (a) indicate the addictive nature of gambling;
- (b) notify players to play responsibly;
- (c) prohibit children from playing;
- (d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling;
- (e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;
- (f) not be erected on an advertisement billboard of close proximity to a learning institution; and
- (g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling.

(3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for—

- (a) the circumstances under which the national lottery and licensed gambling activities may be advertised;
- (b) information that is to appear in an advertisement;
- (c) the places where, circumstances or manner in

which signs relating to a national lottery or gambling activity may be displayed;

- (d) conditions requiring advertisements about the gambling service authorised by the licence including—
  - (i) publication only to certain classes of persons;
  - (ii) the content which may require specified words to be included in the advertisement;
  - (iii) content not to be included in an advertisement;
  - (iv) content not to be published in certain types of publications or media; and
  - (v) requirement for the content of the advertisement to be approved by the Authority.

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

#### **PART XI — THE GAMBLING APPEALS TRIBUNAL**

**88.** (1) There is established a body to be known as the Gambling Appeals Tribunal.

The Gambling  
Appeals Tribunal.

- (2) The Tribunal shall consist of—
  - (a) a Chairperson appointed by the President from among persons qualified to be judges of the High Court;
  - (b) two persons appointed by the Judicial Service Commission who shall be advocates of the High Court; and
  - (c) four persons appointed by the Cabinet Secretary from among persons who possess knowledge and experience in matters relating to gambling, business administration, risk management or law enforcement studies.

(3) The Chairperson and members of the Tribunal shall be appointed by the Cabinet Secretary by notice in the

*Gazette.*

(4) A person shall be eligible for appointment as a member of the Tribunal if that person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) has a relevant bachelors' degree from a university recognized in Kenya;
- (c) has at least ten years' experience in a relevant sector;
- (d) is not a public officer;
- (e) has not at any time within the preceding five years been an employee of the Authority or the National Lottery Board;
- (f) has not been convicted of an offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (g) has not been adjudged bankrupt by a court of competent jurisdiction; and
- (h) has not in the last twelve months immediately preceding the appointment, had direct or indirect personal or commercial interest in the sector regulated under this Act.

(5) The Chairperson or a member of the Tribunal shall hold office—

- (a) in case of the Chairperson, for a term not exceeding three years and shall not be eligible for re-appointment; and
  - (b) in case of a member, for a term not exceeding three years and shall be eligible for re-appointment for one further term of three years based on satisfactory performance.
- (6) The members of the Tribunal, other than the Chairperson, shall serve on a part-time basis.
- (7) The Chairperson or member of the Tribunal shall

cease to hold office if that person—

(a) resigns from office by notice in writing addressed to—

(i) the President, in the case of the Chairperson;  
or

(ii) the Cabinet Secretary, in the case of a member;

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(b) becomes a public servant or an employee of the Authority or the National Lottery Board;

(c) is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;

(d) is adjudged bankrupt by a court of competent jurisdiction;

(e) is convicted of a criminal offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(f) is unable to perform the functions of the office by reason of physical or mental infirmity; or

(g) is otherwise unable or unfit to discharge the functions of the office.

(8) A person appointed as the Chairperson or a member of the Tribunal shall, before assuming office, take or subscribe to the oath or affirmation before the Chief Registrar of the Judiciary.

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(9) The functions of the Tribunal shall be to hear and determine appeals, from the national or county governments,—

(a) against any decision of the Authority or the National Lottery Board;

- (b) regarding complaints arising out of the outcome of a gambling transaction;
- (c) regarding complaints arising out of the functionality of gambling machines and equipment; and
- (d) regarding any other matter as may be prescribed under this Act or referred to it by the Board.

~~(10) Save as expressly provided by this Act, the Tribunal shall regulate its own procedure.~~

(11) The Judicial Service Commission shall provide secretariat services to the Tribunal and shall assign or appoint such secretary and other support staff as may be necessary for the Tribunal to effectively perform its functions.

~~(12) The Cabinet Secretary shall prescribe, in regulations, the procedures for the operationalization of the Tribunal.~~

**89.** The Chairperson and the members of the Tribunal shall be paid such remuneration and allowance as shall be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Remuneration of members of the Tribunal.

**90.** A person aggrieved by a decision of the Tribunal may appeal to the High Court within fourteen days from the date of the decision of the Tribunal.

Appeals from decisions of the Tribunal.

**91.** (1) The Chairperson shall ensure the orderly and expeditious discharge of the mandate of the Tribunal.

Conduct of business and affairs of the Tribunal.

(2) Without limiting the generality of subsection (1), the Chairperson shall—

- (a) constitute a panel to hear any matter before the Tribunal;
- (b) determine the place at which a panel may sit; and
- (c) determine the procedure for the conduct of the business of the Tribunal.

(3) A panel constituted for any proceedings shall have at least three members, one of whom shall be an advocate of the High Court.

- (4) At a hearing of a matter before the panel—
- (a) if the chairperson is a member of the panel as constituted, the Chairperson shall preside; or
  - (b) in any other case, the Chairperson shall designate one of the members of the panel who being an advocate of the High Court to preside over the proceedings.

(5) Where a member of the panel ceases to be such a member, or is not available for the proceedings, the Chairperson of the Tribunal shall assign another member to the panel and the proceedings shall continue.

## **PART XII — OFFENCES AND PENALTIES**

**92.** A person who, being the owner or occupier of a licensed gambling premises or electronic site who—

Offences relating to gambling premise.

- (a) allows such premise to be used for unlicensed gambling activities;
- (b) aids in the carrying out of unlicensed management of electronic gambling site or unlicensed betting activities;
- (c) announces, publishes, cause to be announced, cause to be published, either orally or by means of any print, writing, design, sign, or otherwise or solicit any person to bet in an unlicensed gambling activity or site;
- (d) advances, furnishes, or receives money for the purpose of establishing or conducting unlicensed gambling activity; or
- (e) opens, keeps, uses, causes or permits the use of a premise for carrying on an unauthorized lottery,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or both.

**93.** A person who makes a false statement or declaration in an application for issuance or renewal of a licence or permit, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

False declaration.

*The Gambling Control Bill, 2023*

94. A person who transfers a licence without the approval of the Authority or a county government commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Transfer of a licence without the approval of the Authority.

95. A licensee who fails to keep any book, record or account required to be kept under this Act, or keeps false records or information, or who makes or causes to be made any book entry which is false, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to keep proper books of accounts.

96. A licensee who refuses or fails to submit a statement of accounts when required by the Authority, the respective county government or the Collector or submits a false or misleading statement of accounts commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to submit accounts.

97. A person who fails to pay a levy or any fees prescribed under this Act shall be liable to pay to the Authority and County Government all outstanding amounts of levies or fees together with interest that will accrue at the rate prescribed by the Cabinet Secretary in Regulations.

Failure to pay levy or a prescribed fee.

98. A person who operates or conducts any form of gambling without a valid licence commits an offence and shall be liable upon conviction—

Operating without a licence or permit prohibited.

- (a) for a first offence, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years or to both; and
- (b) for a second or subsequent offence to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

99. A person who prints, publishes, or causes to be printed or published an advertisement or any notice relating to an unauthorized lottery, or relating to the sale of a ticket or chance in any such lottery commits an offence, and shall be liable upon conviction to a fine not exceeding one million shillings, or to imprisonment for a term not

Advertisements of unauthorized lotteries.

exceeding one year or to both.

**100.** A person who promotes or proposes an unauthorized lottery be promoted either in Kenya or elsewhere or—

Sale or  
distribution of  
unauthorized  
tickets.

- (a) prints a ticket to be used in an unauthorized lottery;
- (b) sells or distributes, or offers or advertises for sale or distribution, or has in his or her possession for the purpose of sale or distribution, tickets or chances in a lottery;
- (c) distributes, or has in his or her possession for the purpose of distribution—
  - (i) an advertisement of an unauthorized lottery;
  - (ii) a list of prize winners or winning tickets in an unauthorized lottery; or
  - (iii) any matter descriptive of the drawing or intended drawing of a lottery relating to an unauthorized lottery, which is intended to act as an inducement to persons to participate in the lottery or in other lottery;
- (d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution of a ticket or advertisement of unauthorized lottery; or
- (e) sends or attempts to send out of Kenya any valuable thing received in respect of the sale or distribution, or a document recording the sale or distribution, or the identity of the holder, of a ticket or chance in the lottery,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**101.** (1) A person who acts, facilitates or carries on business contrary to the terms of a licence issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both:

Prohibition  
against unlicensed  
bookmaking.

Provided that this section shall not apply to an employee of

a licensee acting in the course of employment, at a licensed betting premise, or at an authorized race meeting.

(2) The provisions of subsection (1) shall not apply to an employee of a person licensed to operate a totalisator who is engaged in lawful operation in a manner approved by the Authority.

**102.** A person who in connection with a totalisator in respect of which a licence has been issued under this Act—

Prohibition of late bets.

- (a) receives or permits to be received a betting transaction on a totalisator in respect of a horse race or any other race after the start of the race;
- (b) registers on that totalisator after the start of a horse race or other race any moneys received in respect of that race; or
- (c) takes into account in the calculation or payment of a betting transaction which has not been registered on that totalisator,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**103.** (1) A person shall not—

Promotion of unauthorized pool betting.

- (a) promote a pool betting scheme within Kenya in contravention of the terms of a licence issued under this Act; or
- (b) promote, receive or negotiate bets on behalf of a promoter of an unauthorized pool betting scheme.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**104.** A person who in connection with an unauthorized pool betting scheme—

Offences relating to pool betting schemes.

- (a) prints a coupon to use in such a scheme;
- (b) sells, distributes, offers or advertises for sale or

distribution;

- (c) has in his or her possession for the purpose of sale or distribution a coupon relating to such a scheme;
- (d) distributes or has in his or her possession for the purpose of distribution—
  - (i) an advertisement of the scheme;
  - (ii) a list of prize winners or winning coupons in the scheme; or
  - (iii) any such matter descriptive of the determination or intended determination of a prize of a winner relating to the scheme with the intention of inducing a person to participate in the scheme;
- (e) brings, or invites any person to send into Kenya for the purpose of sale or distribution a coupon relating to an advertisement of the scheme;
- (f) sends or attempts to send out of Kenya any money or valuable thing received in respect of the sale or distribution, or any document recording the sale distribution, or the identity of the holder of a coupon in the scheme;
- (g) prints, publishes, or causes to be printed or published, an advertisement or any notice or to the issue of a coupon or a dividend relating to the scheme; or
- (h) takes or sends out of Kenya money in connection with any pool betting scheme authorized under the Act;

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

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**105.** A person who permits a bookmaker to carry on business at a race meeting outside the scope of the conditions of permit issued commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not

Unauthorized  
bookmaking.

exceeding one year, or to both.

**106.** A person who holds a race meeting or owns or operates a racecourse without a valid licence commits an offence and shall upon conviction be liable to a fine not exceeding four million shillings or to imprisonment for a term not exceeding four years, or to both.

Unauthorized racing.

**107.** A person who touts or solicits the members of the public with a bookmaker outside a licensed betting premises or at an authorized race meeting, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against touting

**108.** A person who permits in an unlicensed betting premise the playing of a game of chance commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against playing games of chance in unlicensed betting premises.

**109.** A person who—

Prohibition against betting with a child.

- (a) bets with a child;
- (b) employs a child in a licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting;
- (c) receives or negotiates a bet through a child; or
- (d) sends to a child any information, notice, advertisement, letter, or other document relating to betting,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**110.** A person who while playing with an instrument of gambling or in taking part in the stakes or wagers or in betting on the sides, or hands of those that are playing or in wagering on the event of a gamble, sport, pastime or exercise through unlawful means wins from another person or on behalf of another person, a sum of money or valuable thing commits, an offence and shall be liable upon conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years, or to

Obtaining money by cheating in lawful gambling or by wagering on any event.

both.

111. In exercising discretion on the amount of penalty to be charged or imprisonment term to be imposed on an offender, the court shall consider the following factors—

Consideration by a court.

- (a) the gambling activity in issue;
- (b) the investment amount incurred in the gambling activity in issue;
- (c) the duration of the offence; and
- (d) any other aggravating factors.

### **PART XIII— MISCELLANEOUS PROVISIONS**

112. (1) The Authority and the county government shall appoint duly qualified officers to be inspectors of the Authority and county government, respectively for such areas units as shall be specified.

Appointment of inspectors.

(2) An inspector appointed under subsection (1) shall—

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

**113.** (1) A gambling inspector on production of an authority document, may in the performance of duties under this Act, at all reasonable times enter without warrant and inspect a gambling premise or any other gambling event in which he or she has reason believe that an offence under this Act or under any regulations made thereunder, has been committed to—

Power to enter and inspect land and premises.

- (a) examine and take copies of books, accounts and documents relating or appearing to relate to any betting transaction, lottery or gambling;
- (b) seize, remove or detain a book, account or document or any equipment which he or she has reasonable cause to believe shall afford evidence of an offence under this Act or any regulations made thereunder; or
- (c) require the owner or occupier of the premises to render such explanation or give such information relating to any betting transaction, lottery or gambling as may be reasonably required by him or her in the performance of his or her duties.

(2) A person who resists hinders or obstructs a person acting in pursuance of any of the provisions of this section or who on a requisition under subsection (1), withholds information or gives information knowing or having reason to believe that the information is false or misleading commits, an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**114.** Where an offence under this Act is committed by a body corporate, every person charged with or concerned or acting in, the control or management of the affairs, or activities of such body corporate, commits that offence and shall be liable to be punished accordingly unless it is proved by such person that the offence was not committed through no act or omission, on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Offences by body corporate.

**115.** (1) A person who has recognized that their gambling is harmful to himself or herself, or giving rise to

Self-exclusion.

difficulties in limiting the money or time or both, spent on gambling, leading to adverse consequences for that person, others, or for the community, may voluntarily enter a self-exclusion agreement between himself or herself and a licensee to be excluded from all gambling establishments and all controlled games, including online gambling or any other gambling activities or privileges.

(2) A person who enters an agreement under subsection (1) shall notify the Authority of the agreement.

(3) The Authority shall maintain a register of all notifications made under subsection (2) and shall notify all licensees of the self-exclusion agreement.

(4) The holder of a licence issued under this Act shall—

- (a) establish mechanisms to give effect to self-exclusion and take all reasonable steps to refuse service to a person who enters a self-exclusion agreement from participating in gambling;
- (b) as soon as practicable, take all reasonable steps to prevent any marketing material from being availed to a self-excluded customer;
- (c) take steps to remove the name, contact information and other details of a self-excluded person from any marketing databases used by the licensee within two days of receiving the completed self-exclusion notification;
- (d) close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account; and
- (e) put into effect procedures designed to ensure that an individual who has self-excluded shall not gain access to the licensee's gambling services.

(5) An operator who fails to implement a self-exclusion request within seven days of receipt of a written notification commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(6) Despite the provisions of this section, the Cabinet Secretary shall prescribe regulations providing for the manner in which an affected person may petition the Authority for the application of the self-exclusion provisions on a vulnerable gambler.

**116.** (1) Where a person issued with a licence under this Act is convicted of an offence under this Act, the court may order forfeiture or cancellation of licence or a forfeiture of the insurance security bond or bank guarantee provided by the licensee, where applicable.

Forfeiture of licence or security.

(2) A person whose licence is cancelled in pursuance of an order under subsection (1) shall, be disqualified from holding or obtaining a licence or a further licence for a period of five years beginning on the date of the conviction which gave rise to the order:

Provided that the court may include in the order a direction that the period of disqualification shall be shorter than five years as the court may specify where it appears to the court to be just in all the circumstances.

(3) A bookmaker, promoter of a pool betting scheme, organizer or manager of licensed gambling premises, or a servant or agent, who employs in his or her business any person known to him or her to be disqualified under subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

**117.** The police shall, in coordination with the Authority and county governments have power to seize any illegal gambling, betting and lottery machines.

Power to seize machines.

**118.** The Director of Public Prosecutions may appoint a duly qualified officer of the Authority, to be a public prosecutor for the purposes of any case.

Prosecution of offences.

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

Power to make Regulations.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

*The Gambling Control Bill, 2023*

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- (a) the procedure to be followed by the Authority in exercising any powers conferred upon it by this Act;
  - (b) the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act;
  - (c) the conduct of casinos, gambling machines and online gambling;
  - (d) the conduct of a national lottery;
  - (e) standardization of gambling machines;
  - (f) the location and distribution of lotteries and gambling;
  - (g) national lottery rules;
  - (h) fees and levies charged under this Act;
  - (i) the form and manner in which returns or statements of accounts shall be furnished to the Authority;
  - (j) proximity of gambling premises and advertisements to learning institutions;
  - (k) protection of winners; and
  - (l) guidelines for gambler exclusion mechanisms including self-exclusion, venue-initiated request for exclusion, court ordered exclusions and request by families or initiated parties.
- (3) For purposes of Article 94(6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;
  - (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this

section; and

- (c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act, 2013.

No. 29 of 2013

**120.** The Betting, Lotteries and Gaming Act is repealed.

Repeal of Cap. 131.

**121.** (1) For the purposes of this section “former Board” means the Betting Control and Licensing Board existing immediately before the commencement of this Act.

Transitional provisions.

(2) Upon the commencement of this Act, all rights, duties, obligations, assets and liabilities attaching to the former Board shall be automatically and fully transferred to the Authority established under section 6, and any reference to the former Board in any contract or document shall, for all purposes, be deemed to be a reference to the Board established under section 6 of this Act.

(3) A person who immediately before the commencement of this Act was a member of the former Board shall, upon the commencement of this Act, be deemed to be a member of the Board for the unexpired period of their term.

(4) A person who was, immediately before the commencement of this Act, an employee of the former Board shall, upon the commencement of this Act, be deemed to be an employee of the Authority, subject to subsection (5).

(5) Despite subsection (4), all the employees of the former Board shall upon the commencement of this Act be given an option to elect to serve in the Board or be redeployed in the public service within a period of one year.

(6) Without prejudice to section 120, the provisions of sections 29A, 44A, 55A and 59B of the repealed Act shall continue to be in force until new provisions are enacted.

**122.** (1) All gambling activities including casinos and online gambling whose licences were issued under the repealed Act shall remain valid for the period of the

Transition of licences and permits.



**FIRST SCHEDULE** (s. 13)  
**CONDUCT OF BUSINESS AND AFFAIRS OF**  
**THE BOARD**

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Unless three quarters of the members otherwise agree, at least fourteen days' notice in writing of a meeting shall be given to every member.

(3) A meeting shall be presided over by the chairperson or in the absence of the Chairperson, the members present shall appoint one of their members to preside at the meeting.

(4) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in any case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(5) The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.

(6) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. (1) Subject to subparagraph (2), the quorum of the meeting shall be two thirds of the members. Quorum.

(2) A decision of the Board shall not be invalid by reason only of a vacancy among the members thereof.

3. (1) If a person has a personal or fiduciary interest in any matter before the Board and is present at a meeting of the Board or any committee at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching on such matter. Conflict of interest.



**SECOND SCHEDULE**

(s. 30(1)(e))

**DECLARATIONS**

- (a) A certificate of incorporation of the business;
- (b) A business plan indicating the minimum investments and sources of the funds;
- (c) A valid premium rated service provider where applicable;
- (d) A valid contract with an odds feed provider where applicable;
- (e) Income tax declarations for the preceding two years (if applicable);
- (f) Tax compliance certificate;
- (g) Financial reports for the preceding two years (if any);
- (h) Licensee's gambling account;
- (i) List of directors of the company;
- (j) A disclosure of its beneficial ownership information in accordance with the Companies Act, 2015;
- (k) Memorandum of association or partnership deed or a business registration certificate where applicable; and
- (l) Relevant documents showing technical specifications of hardware and software to be used to conduct the Gambling.

No. 17 of 2015

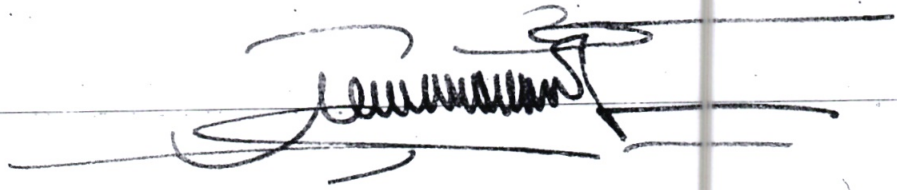
**THIRD SCHEDULE (s. 40(1))**

**Gambling Security**

<b>Type of Gambling</b>	<b>Amount (Shillings)</b>
(a) Casinos including public Gambling for conducting tables and slots machines	20,000,000
(b) online Gambling	200,000,000
(c) National lottery	200,000,000
(d) Totalisator	5,000,000
(e) Prize competition	5,000,000
(f) Non-online Gambling including non-online bookmakers, non-online casinos, non-online lotteries	20,000,000
(g) Amusement with prizes	200,000
(h) A premise or a shop operating under a licence of online Gambling including online bookmaker, online casino and online lottery	500,000

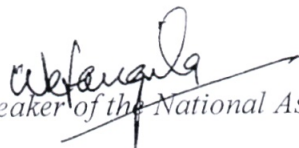
*The Gambling Control Bill, 2023*

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 6<sup>th</sup> December, 2023.



*Clerk of the National Assembly*

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.



*Speaker of the National Assembly*

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# APPENDIX 4

# Rugby player in rape case accuses judicial officers of neglect of duty

BY SAM KIPLAGAT

A former international rugby player facing rape charge has accused judicial officers of neglect of duty for delaying the hearing of his appeal three years after filing a notice.

Mr Frank Lawrence Wanyama, who was found guilty of gang rape together with Alex Olaba, only for the judgement

to be declared a mistrial and an order issued for the hearing to start afresh, says he is unable to lodge his appeal because of dereliction of duty by judicial officers.

Three years after lodging a notice at the Court of Appeal, Mr Wanyama says he could not get the record, and at one point, the ombudsman admitted that the High Court file had been interfered with.

"Based on the foregoing, it is imperative that this matter is heard as a matter of urgency in order to remedy the past abuses of the legal process and to put a stop to further abuses related to the fundamental rights and freedoms of the petitioner," Mr Wanyama says in a petition.

Justice Lawrence Mugambi directed Chief Justice Martha Koome, of

the Court of Appeal president Daniel Musinga and presiding judge of the criminal division of the High Court, Milimani, among others, to file their replies to the petition within 14 days.

The petition will be mentioned on March 3 for directions.

The two former Kenya Sevens rugby players were charged with gang raping a woman in February 2018. They

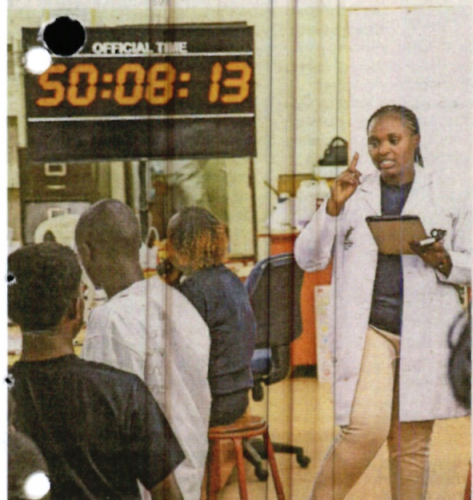
were found guilty and sentenced to 15 years each on August 16, 2019. However, the conviction and the sentence were quashed by then High Court judge Grace Ngugi Macharia who declared it a mistrial because the complainant was not sworn when she gave her evidence.

Through senior counsel Pravin Bowry, Mr Wanyama filed a notice of appeal at the Court of Appeal on July 13, 2020.

rules She has a 20-minute break for every hour and she has to have at least 10 students in class at any one time

# Teacher attempts to set science lesson record

Tata is aiming to get into Guinness World Records for teaching longest science lesson



Rose Tata during her marathon science class as she attempts to enter the Guinness World Records for the longest science lesson. BY ALFRED NYANGARESHI/NATION

BY ELVIS ONDIEKI

It is Valentine's Day. As Kenyans share love and chemistry with their loved ones in different ways, one teacher is teaching real chemistry in a laboratory.

The lab coat-clad Rose Tata Wafula is teaching as cameras roll. Her lesson is being live-streamed on YouTube and Facebook. A timer is running. Some of her students look like they are questioning their life choices as they appear to be fighting sleep. Spirit, filling, flesh, weak. She is there talking about chemical reactions and bonds. You might call Tata a killjoy if you weren't versed with what she is up to on this day when love is in the air and when some other bonds would be ideal. She wants to enter the Guinness World Records (GWR) for teaching science class for the longest time. The timer reads 30:12:53 at

11.03pm on Valentine's Day. That means that this marathon class has gone on for 30 hours and 12 minutes. Her target is 50 hours.

It is 10am on the day after Valentine's. Tata finally gets to take a break and she looks ever so eager to get some rest. Outside the laboratory is her husband Victor Wafula who hugs her passionately and whispers some things into her ear. She looks at him lovingly

**She really wants to inspire not only girls, but everyone who has a negative perception about science.**

Mr Victor Wafula



as she takes the stairs down to her room. She has about 20 minutes to take a shower, eat, visit the toilet, change clothes, get a massage and medical tests, among other things. Every minute is precious.

Her husband doesn't follow her there. She is under the care of Mercy Macharia, a security company director who has come to support her friend.

We pull Mr Wafula aside. We have a lot of questions for the telecommunication engineer who works with Nokia. How does he feel that this year's Valentine's found his wife in a lab? Is he worried his wife may collapse for attempting to be awake for four solid days?

Tata, born in 1987, is a teacher at St Austin's Academy in Lavittingo.

Mr Wafula starts by telling us how all this started. His wife of 11 years, with whom they have three daughters, conceptualised the idea late last year and contacted GWR. Her first application to hold the longest chemistry class was rejected.

"Then she applied for the science lesson, in which she included chemistry, biology and physics. So, science in itself, is what caused her to be approved for this attempt," says Mr Wafula.

No one in the world holds the record for the longest science class, so it means Tata is like an athlete competing in a new race. GWR told her to hold the marathon lesson for at least 24 hours to qualify for a record. She chose to do 50.

She is allowed a five-minute break every hour. She has chosen to accumulate the hours so as to have a longer break. The rules require that at any given time, there should be at least 10 students in the class, actively taking part.

"I think our students are around 24. So, they have been going for health breaks and coming back. But at a given time, we've not had less than 15 in the class," Mr Wafula says.

We attend the class and it emerges that Tata is a skilled teacher who knows when to throw a

light-hearted word to keep her class glued.

Her students are all university students, the bulk of them from Multimedia University (MMU), whose physics and chemistry lab is being used for the record attempt.

Another rule they have to follow is that there has to be at least one

camera on the timer all the time. "The moment the stopwatch pauses or stops, then you start afresh. So, it has to be on throughout," says Mr Wafula.

In one corner of the laboratory is a makeshift studio where feed from the two cameras in the room is mixed, alongside the audio from a wireless microphone Tata wears all the time.

GWR did not send its own team to the event but it stipulated that there have to be at least two independent witnesses at any given time. So, they have four who are working in shifts.

After getting the approval from GWR, they approached various institutions to host the event but could not secure space for one reason or another, including the price being asked for. Until they found MMU.

According to Prof Livingstone Mugo, the acting vice-chancellor, the university saw it wise to host the event because "it recognises that science is a key pillar in the national development agenda." MMU has full confidence in the team and wishes them all the best," he adds.

Mr Wafula says their children are following the proceedings via the livestream.

The initial budget for the record attempt was Sh3 million, Mr Wafula says. Thanks to well-wishers, about three-quarters of the budget was met.

"She really wants to inspire not only girls, but everyone who has a negative perception about science, that this is actually an enjoyable thing; that it can be taught and it can be understood," says Mr Wafula.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION  
THE SENATE

## INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Wednesday, 14<sup>th</sup> February, 2024, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 14 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 1<sup>st</sup> March, 2024 at 5.00 p.m.**

Bill	Committee Referred To	Email Address
a) The Conflict of Interest Bill (National Assembly Bills No. 12 of 23)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senatejlahrc@parliament.go.ke">senatejlahrc@parliament.go.ke</a>
b) The Gambling Control Bill (National Assembly Bills No. 70 of 2023)	Standing Committee on Labour and Social Welfare	<a href="mailto:laboursocialwelfare@comm.senate@parliament.go.ke">laboursocialwelfare@comm.senate@parliament.go.ke</a>
c) The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023)	Standing Committee on Land, Environment and Natural Resources	<a href="mailto:landenvironmentcommittee.senate@parliament.go.ke">landenvironmentcommittee.senate@parliament.go.ke</a>
d) The Nuts and Oil Crops Development Bill (Senate Bills No. 47 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:agriculturecommittee.senate@parliament.go.ke">agriculturecommittee.senate@parliament.go.ke</a>
e) The Constitution of Kenya (Amendment) (No. 2) Bill (Senate Bills No. 52 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senatejlahrc@parliament.go.ke">senatejlahrc@parliament.go.ke</a>

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J.M. NYEGENYE, CBS,  
CLERK OF THE SENATE.

# APPENDIX 5



Subject Ministry of Youth Affairs, Creative Economy and Sports\_Gambling Control Bill, 2023\_Memorandum

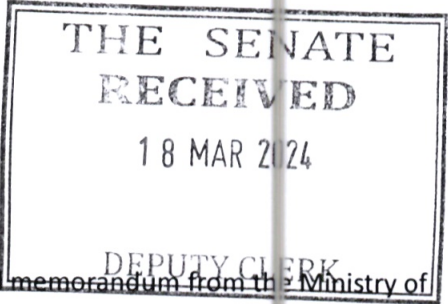
From Harriet Tergat <htergat@outlook.com>

To clerk senate <clerk.senate@parliament.go.ke>

Cc laboursocialwelfare.senate@parliament.go.ke <laboursocialwelfare.senate@parliament.go.ke>, carolamondi@gmail.com <carolamondi@gmail.com>, Isaac Kimisoi <kimisoi@gmail.com>, mwanateshaban@gmail.com <mwanateshaban@gmail.com>, pssports@moysa.go.ke <pssports@moysa.go.ke>, pktum@yahoo.com <pktum@yahoo.com>

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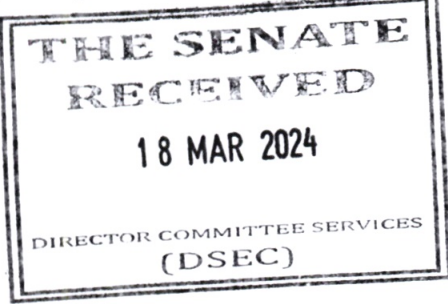
CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.



Dear Mr. Jeremiah Nyegenye, CBS, Clerk of the Senate

I hope this finds you well.

Further to our earlier submission, kindly find herewith attached the signed memorandum from the Ministry of Youth Affairs, Creative Economy and Sports on the Gambling Control Bill, 2023.



Many thanks.

Best,  
 Harriet Tergat  
 Policy and Programmes  
 FOR: Principal Secretary  
 State Department for Sports  
 Ministry of Youth Affairs, Creative Economy and Sports

Attachments  
 MOYACE&S Gambling Control Bill 2023\_signed.pdf (3.45 MB)

① DSEC  
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Kindly deal

Eg 18/03/2024

② DDSEE (VK)

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18/03/2024

③ Ms. Mwanate  
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REPUBLIC OF KENYA

THE SENATE

SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

MEMORANDUM ON THE GAMBLING CONTROL BILL, 2023  
(NATIONAL ASSEMBLY BILLS No. 70 of 2023)

BY

MINISTRY OF YOUTH AFFAIRS, THE CREATIVE ECONOMY AND SPORTS  
AND  
THE SPORTS ARTS AND SOCIAL DEVELOPMENT FUND

SUBMITTED TO THE CLERK OF THE SENATE.

BY

HON. ABABU NAMWAMBA, EGH

**WHEREAS** a Bill entitled “An Act of Parliament to provide for the regulation of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the Gambling Regulatory Authority of Kenya; for the imposition of tax on betting and other forms of gambling, and for connected purposes”(hereinafter referred to as Senate Bill No. 70 of 2023)

**AND WHEREAS** pursuant to Article 118 of the Constitution and Standing Orders 140 (5) of the Senate Standing Orders inviting the undersigned vide a letter dated 14<sup>th</sup> March, 2024 to submit written submissions to be referred to during the Committee meeting that is scheduled to be held on Saturday, 16<sup>th</sup> March 2024 at 9.00a.m on the Senate Bill at Sarova Whitesands Hotel, Mombasa;

**NOW THEREFORE,** The Ministry of Youth Affairs, the Creative Economy and Sports, jointly with the Sports, Arts and Social Development Fund being key stakeholders hereby submit the following views on the Gambling Control Bill, 2023 (Senate Bill No. 70 of 2023):

Specific Provisions in the draft Gambling Control Bill, 2023	Proposed Amendment	Explain the Reason for the Proposed Amendment
<p><b>Section 6 (3)</b> The Gambling Regulatory Authority shall be the successor of the Betting, Control and Licensing Board established under Section 3 of the Betting, Lotteries and Gaming Act as read together with Section 120 The Betting, Lotteries and Gaming Act is repealed.</p> <p>and</p> <p><b>Section 121(6):</b> Without prejudice to Section 120, the provisions of</p>	<p><b>Amending by;</b></p> <p>I. inserting Clause 41A with a marginal note: <b>Gambling Tax</b> as follows:</p> <p><u>(1) There shall be a tax to be known as gambling tax chargeable at the rate of fifteen per cent of the gross gambling revenue.</u></p> <p><u>(2) The Tax under subsection (1) shall be paid to the collector on or before the 20<sup>th</sup> day of the following month.</u></p> <p><u>(3) The Collector shall pay all the proceeds</u></p>	<p>1. It is noted that the Gambling Control Bill, upon enactment will repeal the <b>Betting Lotteries and Gaming Act (BLGA)</b>.</p> <p>2. Section 69A of BLGA provides that taxes derived from Betting, Lotteries and Gaming are to be paid into Sports, Arts and Social Development Fund;</p> <p><b><u>Section 69A The Collector shall pay all the proceeds of tax paid under sections 29A(2) (Betting Tax), 44A(2) (Lottery Tax), 55A(2) (Gaming Tax) and 59B(2) (Prize Competitions Tax) into the Sports, Arts and Social Development Fund established under section 24 of the Public Finance Management Act</u></b></p>

Sections 29A, 44A, 55A and 59B	<p><u>of the tax paid under subsection (2) into the Sports Arts and Social Development Fund established under the Public Finance Management Act, 2012</u></p>	<p><u>(Cap. 412A).</u></p>
	<p><u>(4) The Taxes under Section 41A(1) and 41A(2) shall be collected in accordance with the provisions of the Tax Procedures Act (Cap. 469B)</u></p>	<p>3. It is noted that under the Transitional Provisions of the Gambling Control Bill, 2023 taxes erstwhile imposed under Sections <u>29A(2) (Betting Tax), 44A(2) (Lottery Tax), 55A(2) (Gaming Tax) and 59B(2) (Prize Competitions Tax)</u> of the Betting, Lotteries and Gaming Act shall continue to be in force until new provisions are enacted. However, Section 69A on the taxes to be paid into SASDF has not been transitioned.</p>
	<p>II. Inserting the words "and 69A" immediately after the word 59B to read: <i>Without prejudice to Section 120, the provisions of Sections 29A, 44A, 55A and 59B and 69A of the repealed Act shall continue to be in force until new provisions are enacted.</i></p>	<p>Therefore the Bill, as currently is, does not provide where the taxes collected under <u>29A(2) (Betting Tax), 44A(2) (Lottery Tax), 55A(2) (Gaming Tax) and 59B(2) (Prize Competitions Tax)</u> will be channeled.</p>
		<p>The inclusion of this provision (Section 121(6) without a corresponding provision on where the funds will be channeled creates ambiguity, gives room for mischief and also robs the Sports Arts and Social Development Fund of its source.</p>
		<p>4. Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018</p>
		<p>Regulation 4(1) of the said regulations stipulates the sources of funds for the Sports Arts and Social Development Fund, as follows:</p> <ul style="list-style-type: none"> <li>i. All the proceeds required to be paid into the Fund</li> </ul>

		<p>under Section 69A of the Betting, Lotteries and Gaming Act;</p> <ul style="list-style-type: none"> <li>ii. All the proceeds required to be paid into the Fund under Section 35 (5A) of the Income Tax Act;</li> <li>iii. All the proceeds required to be paid into the Fund under section 36 (5) of the Excise Duty Act, 2015;</li> <li>iv. Such moneys as may be appropriated by the National Assembly;</li> <li>v. Grants and donations;</li> <li>vi. Income generated from the investments of the Fund; and</li> <li>vii. Any moneys accruing to or received by the Fund from any other source.</li> </ul> <p>5. It is noted that draft Gambling Control Bill discussed in the National Assembly had the proposed provision.</p> <p>6. There is therefore need to align the provisions of the draft Gambling Control Bill, and the PFM (SASDF) Regulations, and ensure that the Fund continues to fulfil its mandate.</p>
<p><b>Section 22</b> The funds of the Authority shall comprise of—</p> <ul style="list-style-type: none"> <li>(a) such monies as may be appropriated by the National Assembly for purposes of the Authority;</li> <li><b>(b) the moneys paid by the operator</b></li> </ul>	<p>Deletion of Section 22(b)</p>	<p>Considering that the Gambling Regulatory Authority is a regulator of the Sector, and given that under to Section 22(4) of the National Lottery Act, the Board of the NLF can enter into collaboration, partnership or joint venture with any person, society, association or corporate entity to operate a game of chance in accordance to existing laws, there is high chance that the Authority will indirectly receive funding from entities they regulate through the partnership of such</p>

<p>of the National Lottery under section 43(1)(c) of the National Lottery Act, 2023; as read together with Section 43(1)(c) of the National Lottery Act in on apportionment of proceeds of the Fund:</p> <p><b><i>(1) The gross revenue of a National Lottery shall be distributed by the National Lottery Board after taking into account the (c) the regulatory authority's operational and administrative costs;</i></b></p>		<p>entities with NLF</p> <p>This will also safeguard against the issue of Conflict of Interest and the principle of independence, that is key for a regulatory body.</p>
<p>119 (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.</p> <p>2) Without prejudice to the foregoing, regulations made under this section may provide for-</p> <p>(a) the procedure to be followed by the Authority in exercising any powers conferred upon it by this Act;</p> <p>(b) the procedure to be followed in the making of an application for the issuance, renewal and variation of a license or permit issued under this Act;</p> <p>(c) the conduct of casinos, gambling</p>	<p>Align the provisions of Section 119(1) of the Bill and Section 23 of the National Lottery Act</p>	<p>It is noted that Section 23 of the National Lottery Act exempts the application of any written law relating to the regulation of public lotteries.</p> <p><b><i>Despite any other provision of this Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purposes and lotteries incidental to entertainment shall not apply to the National Lottery.</i></b></p> <p>This is necessary for harmonization of laws: the Income Tax Act, the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 the Gambling Control Bill, and the National Lottery Act.</p>

<p>machines and online gambling;  (d) the conduct of a national lottery;  (e) standardization of gambling machines;  (f) the location and distribution of lotteries and gambling;  (g) national lottery rules;  (h) fees and levies charged under this Act;</p>		
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Chair and Honourable Members, allow me to separately support the submission of the Ministry and the Fund on the following:

**1. Rational for funding of Sports through Gambling**

Most of the funding for the Sports, Arts, and Social Development Fund (SASDEF) is derived from gambling taxes. The Sports Fund is essential in the identification, nurturing and monetizing of sporting talent and potential greatness of our nation. Research finds by TGM’s Gambling and Sports Betting Survey in Kenya 2022 Report, 63.82% of the population was involved in sports betting activities within 12 months preceding the Report. Sports betting is the predominant form of gambling. It follows, therefore, that since the bulk of the gambling revenue is generated through sports, the same should be earmarked for sports. It’s a practice in many countries that tax revenue from sports gambling is used to predominantly fund sports development in the country.

**2. Impact of the Fund on sports development in the country**

The State Department for Sports Development and the Sports, Arts and Social Development Fund have contributed to the development of sports in the country through the support of Federations, National Teams and infrastructure development.

The Fund is facilitating flagship projects including world and continental championships for different sports disciplines, hosting of the CAF African Nations Championship in 2024 and the Africa Cup of Nations (AFCON) Championship in 2027, the Sirikwa Classic Cross Country Championship, the Magical Kenya Ladies Open and the Magical Kenya Open golf tournaments, the World Rally Championship – Safari Rally, the Ministry’s flagship initiative – Talanta Hela, the All Africa Games, and the Summer Paris Olympic and Paralympic 2024 Games. This support includes preparing the national teams to participate in these games.

Further, in order to encourage our athletes to improve their performance, the Fund has initiated and implemented an award scheme to reward athletes who bring honour and glory to our beloved country, Kenya. The amount funded under the Awards and Rewards Scheme for athletes and world record breakers so far is KShs. Three Hundred and Eleven Million, Nine Hundred and Fifty Five Thousand (311,955,000). This amount includes all previously outstanding award payments dating back to the year 2011.

**4. The rationale of transitional clauses:**

The Court has held in Nairobi High Court Const. Petition No. 499 of 2016 that *the rationale behind clauses in legislation is to obviate confusion and prevent the possibility of creating a vacuum that a new law might bring if not properly managed. Transitional clauses ensure such changes are introduced in a smooth and coordinated manner. This position was also underscored by the Court in Timothy Njoya & 17 Others vs Attorney General & 4 Others (2013) eKLR that "Transitional provisions are included in legislation in order to facilitate a change from the old regime to a new regime...they contain special arrangements or structures that will apply, for a limited period of time, as the changes brought about in the new law are being implemented and appreciated.."*

**Final submissions**

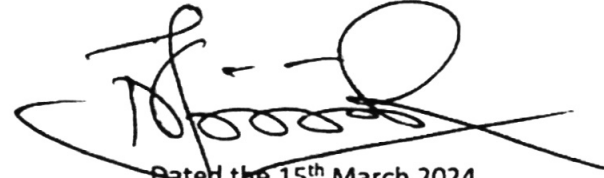
Honourable Chairman, the Bill in its current form poses an existential threat to the development of sports in the country. The Fund stands to lose the main source of revenue for supporting sports development in the country. It is the humble submission of both the Ministry and the Fund therefore, that the above proposals be adopted by the Committee to ensure the various projects and competitions to support sports development is not interrupted.



Dated the 15<sup>th</sup> March 2024

Hon. Ababu Namwamba, FGH

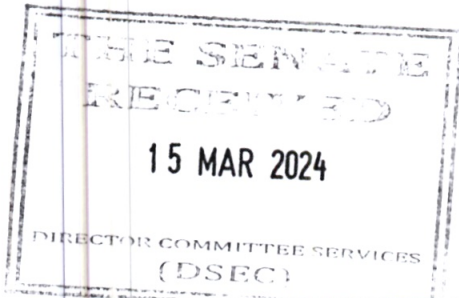
CABINET SECRETARY

A handwritten signature in black ink, consisting of a large, stylized initial 'N' followed by a series of loops and a long horizontal stroke.

Dated the 15<sup>th</sup> March 2024

**Mr. Nuh Ibrahim**

**CHIEF EXECUTIVE OFFICER; SPORTS, ARTS AND SOCIAL DEVELOPMENT FUND**



**EXECUTIVE OFFICE OF THE PRESIDENT  
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE**

Telegraphic Address  
Telephone: +254-20-2227436  
When replying please quote

**STATE HOUSE  
P.O. Box 40530-00100  
Nairobi, Kenya**

**OP/CAB.9/15**

**12<sup>th</sup> March, 2024**

Ref. No. ....  
and date



**Mr. J. M. Nyegenye, CBS**  
Clerk of the Senate  
Parliament  
**NAIROBI**

**RE: SUBMISSION OF MEMORANDA ON THE GAMBLING CONTROL BILL**

Reference is made to the Newspaper circulation of 16<sup>th</sup> February, 2024, inviting interested members of the public and institutions, to submit any representations that they may have on the listed Bills as indicated in the schedule, therein.

In furtherance thereof, and to facilitate efficiency in the implementation of the National Lottery Act, 2023, please find annexed hereto, this Office's submissions, with particular respect to the Gambling Control Bill (National Assembly Bills No. 70 of 2023) for consideration by the honorable Standing Committee on Labour and Social Welfare.

**ARTHUR A. OSIYA, CBS**  
**FOR: CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE**

① DSEC  
JLS

Kindly deal.

**Copy to: Hon. Sen. Aaron C. Kipkirui, EGH**  
Senate Majority Leader  
The Parliament  
**NAIROBI**

**Hon. Sen. Recha J. Murgor**  
Chairperson  
Senate Committee on Labour & Social Welfare  
**NAIROBI**

② DDSEC (VK)  
Kindly deal  
14/03/2024  
15/03/2024

③ Ms. Mwanate  
Kindly deal  
Wobosi  
15/03/2024

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

The Gambling Control Bill was read in the Senate on the 14<sup>th</sup> February, 2024. Upon review of the Bill, we noticed that Clause 119 of the Bill provides for Regulations to provide for *inter alia* the Regulations on the conduct of a national lottery and the national lottery Rules.

These Regulations are necessary for the effective implementation of the National Lottery Act, 2023 (No. 20 of 2023). We therefore propose the Bill to be amended to delete the clauses that provide for the Regulations on the conduct of the national lottery and the national lottery rules and in order that the same be provided for in the National Lottery Act, 2023 through a consequential amendment to the National Lottery Act, 2023.

In this regard, we hereby propose the following amendments to the Gambling Control Bill and the consequential amendment to the National Lottery Act, 2023, as indicated herein below, for the Committee's consideration.

**CLAUSE 119**

**THAT**, clause 119 of the Bill be amended—

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

**CONSEQUENTIAL AMENDMENTS**

**THAT**, the National Lottery Act, 2023 be amended by inserting the following new section immediately after section 52—

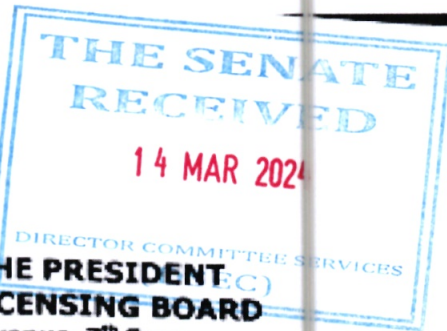
<b>Written law</b>	<b>Provision</b>	<b>Amendment</b>
The National Lottery Act, 2023 (No of 2023	New	Insert the following new section immediately after section 52—  Power to make Regulations. <b>53.</b> (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.  (2) Without prejudice to the foregoing, regulations

made under this section may provide for—

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

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act; and;
- (b) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.
- (c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act, 2013.



**EXECUTIVE OFFICE OF THE PRESIDENT  
BETTING CONTROL AND LICENSING BOARD**  
ACK Garden Annex, 1<sup>st</sup> Ngong Avenue, 7<sup>th</sup> floor.

Téléphone : 0111021400

Email : [info@bcib.go.ke](mailto:info@bcib.go.ke) [complaints@bcib.go.ke](mailto:complaints@bcib.go.ke)

P. O. Box 43977 - 00100,  
NAIROBI.

**BCLB 1/15/VOL.I (38)**



14<sup>th</sup> March, 2024

**The Clerk of the Senate**  
Parliament Building  
Parliament Road  
**NAIROBI**

**RE: THE GAMBLING CONTROL BILL, (NATIONAL ASSEMBLY NO. 70 OF 2023)**

We make reference to the above-mentioned subject and to the Senate's invitation for public participation on the above-mentioned Bill.

The Betting Control and Licensing Board as the regulator of the gaming industry requests for an opportunity to make its formal submissions before the Committee on Labour and Social Welfare on its proposals for consideration before the Bill is finalized by the Senate.

Thank you for your continued support.

**P.K MBUGI, OGW  
DIRECTOR**

3) Ms. Mwanate  
Kouolly deal.  
Kobati  
18/03/2024

① DSFC  
Kindly deal.

② D.D&EC (VK)  
Kindly deal  
14/03/2024

Kindly deal.  
Eg  
14/03/2024



**EXECUTIVE OFFICE OF THE PRESIDENT  
BETTING CONTROL AND LICENSING BOARD  
ACK Garden Annex, 1<sup>st</sup>Ngong Avenue, 7<sup>th</sup> floor.**

Téléphone : 0111021400  
Email : [info@bclb.go.ke](mailto:info@bclb.go.ke)

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NAIROBI.

**BCLB 1/15/VOL.I (39)**

**16<sup>th</sup> March, 2024**

**THE COMMENTS OF THE BETTING CONTROL AND LICENSING BOARD  
ON THE GAMBLING CONTROL BILL, 2023 (BILL NO. 70 OF 2023).  
PRESENTATION TO THE SENATE COMMITTEE ON LABOUR AND SOCIAL  
WELFARE**

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Hon. Chair and Hon. Members of the Committee, the Board appreciates the efforts being made by the Committee towards enactment of the Bill which seeks to repeal The Betting, Lotteries and Gaming Act of 1966. The Board wishes to address the Committee as follows;

1. Hon. Chair, this Bill was product of a taskforce appointed by the President vide Gazette No. 2101 dated 16<sup>th</sup> February, 2023 known as 'Presidential Taskforce on the Establishment of the National Lottery'. The Board was a member of the taskforce and participated fully in the formulation of the Bill.
2. Hon. Chair, the Board notes that there was a significant departure from its recommendation to the taskforce by the National Assembly by introducing a new **Part XI – The Gambling Appeals Tribunal** to replace **The Gambling Appeals Committee**. The Board is of the opinion that this shall introduce unnecessary bottle-necks as anyone who is not satisfied with the decisions of the Board can appeal its decision directly to the High Court without going through the Tribunal. We would like to persuade the Committee to consider deleting Part XI of the Bill and replacing it with the Appeals Committee as proposed.

3. Hon. Chair, the Board also notes that **Clause 46 (The Gambling Levy)** of the initial Bill was also deleted. Clause 46 sought to raise funds to support implementation of responsible gambling programs. The Gambling Levy was proposed not to exceed 1% of the monthly gross gambling revenue of a licensee. The purpose of the Levy was to deal with harmful effects of irresponsible gambling by introducing rehabilitative programs and creating awareness to the public on the potential addictive nature of gambling. The levy was also to be used to conduct research on social determinants of mental health and population impact of gambling.
  
4. Hon. Chair, the Board would also seek the enhancement of the Board's powers Section 12 by introducing a **new clause 12 (2) (h)** which should read as follows; **"to impose administrative fines"**. It is an international best practice to have a supervisor or a regulator having corrective powers on its supervisees for non-compliance with its administrative guidelines. For example The Gambling Commission of the United Kingdom imposes administrative fines if its licensing conditions are breached and this enables the Commission to protect consumer interests and the general public so that a licensee can uphold its license obligations. We therefore request the Committee to consider introducing this new clause.

We humbly submit.



**P.K MBUGI, OGW  
DIRECTOR**



## COUNCIL OF GOVERNORS

Westlands Delta House 2<sup>nd</sup> Floor, Waiyaki Way.  
P.O. BOX 40401-00100,  
Nairobi.

Tel: (020) 2403314, 2403313  
E-mail: [info@cog.go.ke](mailto:info@cog.go.ke)

Our Ref: COG/6/45 VOL.3 (35)

12<sup>th</sup> March 2024

**Mr. Jeremiah Nyegenye, CBS**  
Clerk of the Senate  
Parliament Buildings  
**NAIROBI**

Dear Mr. Nyegenye

### SUBMISSION OF MEMORANDA ON THE GAMBLING CONTROL BILL, 2023

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 Gambling Control Bill, 2023 and would like to forward for your consideration the Council's submissions attached herewith.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mary Mwiti'.

**Mary Mwiti**  
Chief Executive Officer

DSEC  
05.02.2024

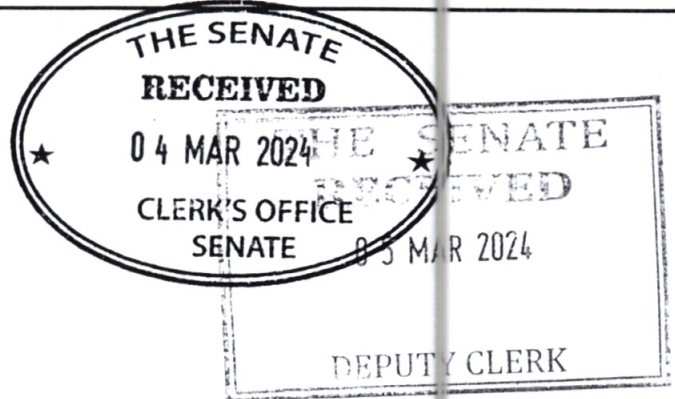


# ASSOCIATION OF GAMING OPERATORS - KENYA

(10th Floor Utalii House, Suite 1020, Utalii Street, Nairobi)

4<sup>th</sup> March 2024

CLERK OF THE SENATE  
P.O. BOX 41842-00100  
NAIROBI.  
clerk.senate@parliament.go.ke



Dear Sir,

**SUBMISSION ON THE GAMBLING CONTRL BILL 2023 (NATIONAL ASSEMBLY BILL NO 70 OF 223)**

Please refer to the above subject

This is to acknowledge receipt of the Gambling Control bill 2023 notice as published in the local dailies which invited Association of Gaming Operators - Kenya (AGOK) to give submissions and views on the Gambling Control Bill 2023 under public participation platform.

We confirm having gone through the contents of the bill and hereby submit that, as AGOK, we are satisfied with the proposals therein.

We take this opportunity to thank you for inviting us to participate in this important exercise.

Yours Faithfully

JUDITH KIRAGU - 0721485493

CHAIRPERSON

ASSOCIATION OF GAMING OPERATORS - KENYA

① DLG  
DSEC  
Kindly deal.  
05/03/2024

② DCAT/HOD  
Kindly deal  
05/03/2024

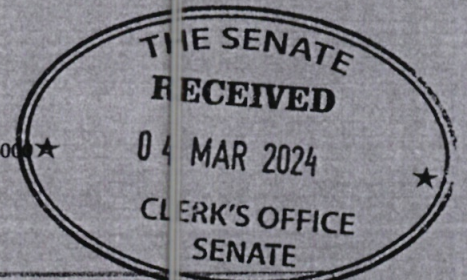
③ Ms. Mwanate  
Kindly deal  
05/03/2024

DSEC

05-03-2024



REPUBLIC OF KENYA  
FINANCIAL REPORTING CENTRE  
PRIVATE BAG 00200, NAIROBI TEL: 0709858000 ★



FRC/3/3A/9

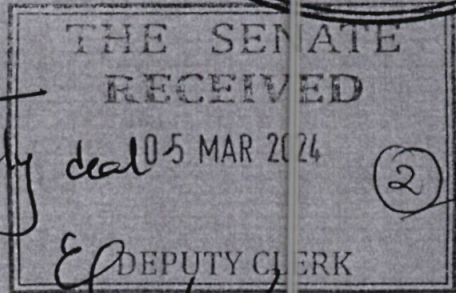
February 26, 2024

Mr. Jeremiah M. Nyegenye, CBS  
Clerk of the Senate  
P.O Box 41842-001100  
Main Parliament Building, Parliament  
NAIROBI.

① DSKC  
DKY

Kindly deal

05 MAR 2024



Eg  
05/03/2024

② PCA/HC  
Kindly deal  
05/03/24  
Mc Mwan  
Kindly deal  
05/03/24

Dear

Mr. Nyegenye,

**RE: INVITATION FOR SUBMISSION OF MEMORANDA ON THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)**

The above matter refers.

The Financial Reporting Centre (FRC) is a body corporate established under the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA). The primary objective of the FRC is to assist in the identification of the proceeds of crime and to combat money laundering (ML) and terrorism financing (TF). The FRC regulates and supervises Reporting Institutions, including casinos, on matters anti-money laundering (AML) and counter terrorism financing (CFT).

Further, Section 36A of POCAMLA obligates the FRC, and Supervisory Bodies, to supervise Reporting Institutions for compliance with the Act. The Betting Control and Licensing Board (BCLB) is designated under the First Schedule of POCAMLA as the Supervisory Body responsible for supervising casinos, which role will be transferred to the proposed Gambling Regulatory Authority should the proposed Gambling Control Bill be passed into law.

By reason of Kenya's membership to the East and Southern Africa Anti-Money Laundering Group (ESAAMLG), the country was subjected to an Anti-Money Laundering/Combating the Financing of Terrorism Mutual Evaluation in 2021. This process examined the country's implementation of the Standards set by the Financial Action Task Force (FATF) to counter money laundering, the financing of terrorism and proliferation of weapons of mass destruction. The Mutual Evaluation Report (MER), which is the product of Kenya's assessment, was adopted and published in September 2022. The MER revealed, amongst others, significant gaps in supervision of casinos and in the application of measures to prevent money laundering and the financing of terrorism in the casino sector. The MER is available on the FRC's website on <https://www.frc.go.ke/>.

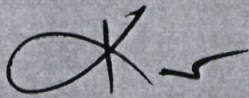
Following the Plenary Meeting of the Financial Action Task Force (FATF) held on 22<sup>nd</sup> and 23<sup>rd</sup> February 2024, which is the decision making body of the FATF, Kenya was identified as a Jurisdiction under

increased monitoring are actively working with the FATF to address strategic deficiencies in our regime. The import of this identification is a requirement to address deficiencies within strict timelines, including improving risk-based AML/CFT supervision of Designated Non-Financial Businesses and Professions (DNFBPs), which includes casinos. The proposals in the annexed memoranda will go a long way in addressing some of the deficiencies identified relating to the regulation of casinos in line with the FATF Standards.

It is against this backdrop that the FRC hereby submits memoranda on the proposed Gambling Control Bill, 2023. The submitted memoranda aims to address the gaps identified in the MER, and to strengthen the supervisory role and powers of the proposed Gambling Regulatory Authority. The FRC is available to provide any clarifications on the submitted comments.

The Centre thanks Parliament for the great efforts put towards legal reforms in the gambling sector and welcomes your support towards achieving addressing the gaps identified in the MER.

Yours faithfully,



**SAITOTI MAIKA, MBS**  
**DIRECTOR GENERAL**

Encl:

1. Memoranda by the Financial Reporting Centre on the proposed Gambling Control Bill, 2023.



REPUBLIC OF KENYA  
 FINANCIAL REPORTING CENTRE  
 PRIVATE BAG 00200, NAIROBI TEL: 0709858000

MEMORANDA SUBMITTED BY THE FINANCIAL REPORTING CENTRE TO THE SENATE ON THE GAMBLING CONTROL BILL, 2023

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
Clause 4	4.(1) The National Government shall— (a) establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gambling; ...	<b>Amend Clause 4(1) by deleting and inserting therefor:</b>  <i>4.(1) The National Government, in undertaking its functions under this Act, shall do so through the Gambling Regulatory Authority established pursuant to Section 6 of this Act.</i>	To insert <b>Clause 4 (1)</b> to indicate that the National Government shall undertake its functions through the Gambling Regulatory Authority. Without it there is a lacuna as to who will undertake the duties of responsibilities of the National Government.
Clause 7(1)	7. (1) The management of the Authority shall vest in a Board which shall consist of— .....	<b>Insert sub-clause (h) to read as follows:</b>  (h) the Director General Financial Reporting Centre or a representative designated in writing;	Include the Director General, FRC on the Board to provide input on matters regulation for AML/CFT purposes.
Clause 10 (1) (g)	(g) conduct security checks, vetting and due diligence in respect of gambling activities,	Add the words “beneficial owners” between the words shareholders” and “directors” to read as follows:	To include vetting of beneficial owners are required under the Financial Action Task Force (FATF) Standards.

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
	licensees, their shareholders, directors and staff;	<i>(g) conduct security checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, beneficial owners, directors and staff;</i>	
Clause 28	28. (2) The Authority shall issue gambling licenses under the Act with respect to  (a) a public gambling for conducting a table game and operating a slot machine	Include the following paragraph after paragraph 2(a).  <i>(aa) For purposes of this Act, Public gaming includes casinos, including internet casinos.</i>	To clarify the meaning of public gambling and to indicate the licensing of casinos, including internet casinos in line with the FATF Standards.
Clause 30	30.(4) Without prejudice to the generality of subsection (1), the Authority may, in considering whether an applicant is fit and proper – (a) take into account whether the applicant or the directors of the body corporate -	<b>Add the words “beneficial owners” after the words “directors” to read as follows:</b>  30.(4) Without prejudice to the generality of subsection (1), the Authority shall, in considering whether an applicant is fit and proper – (a) take into account whether the applicant, the directors and the beneficial owners of the body corporate –	To create a mandatory requirement for the vetting of the applicant, its directors and beneficial owners in line with the FATF Standards.
Clause 88 (9)	(9) The functions of the Tribunal shall be to hear and determine appeals from the national or county governments – (a) against any decision of the Authority or the National Lottery Board;	<b>Add the following proviso at the end of paragraph (a):</b>  <i>Provided that such matters shall exclude decisions relating to the enforcement and regulation of reporting institutions under this Act for money laundering, terrorism</i>	Regulation of reporting institutions in compliance with the FATF Standards are technical in nature and require subject matter experts. In addition, no other reporting institution has access to a tribunal in cases where aggrieved by a decision of a supervisory body but have access to the

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		<p><i>financing and proliferation financing purposes;</i></p> <p>To read as follows:</p> <p>(9) The functions of the Tribunal shall be to hear and determine appeals from the national or county governments –</p> <p>(a) against any decision of the Authority or the National Lottery Board. Provided that such matters shall exclude decisions relating to the enforcement and regulation of reporting institutions under this Act for money laundering, terrorism financing and proliferation financing purposes;</p>	<p>Courts where aggrieved. The proposed provision as is may be prejudicial to other reporting institutions such as banks, money and value transfer services, insurance real estate agencies etc. who do not have access to tribunals to hear matters on AML/CFT/CPF related decisions.</p>
N/A	N/A	<p><b>Insert a new section:</b></p> <p><b>Power to Supervise</b></p> <p>(1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Authority shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act apply.</p>	<p>Insert a new section to give the Authority powers to supervise for AML/CFT/CPF in accordance with the FATF Standards. This provision was replicated in the legislation empowering Supervisory Bodies under the Proceeds of Crime and Anti-Money Laundering Act, 2009,<sup>1</sup> and is necessary to cure the deficiencies identified in Kenya's Mutual Evaluation Report.</p>

<sup>1</sup> This provision was introduced through The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 to amend Section 194 Insurance Act (Cap. 487), Section 33D of the Banking Act, Section 51A of the Banking Act and Section 36B Microfinance Act, 2006 (No. 19 of 2006).

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		<p>(2) In undertaking its mandate under subsection (1), the Authority shall—</p> <ul style="list-style-type: none"> <li>a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;</li> <li>b) conduct onsite inspection;</li> <li>c) conduct offsite surveillance;</li> <li>d) compel the production of any document or information the Central Bank may require for the purpose of discharging its supervisory mandate under Proceeds of Crime and Anti-Money Laundering Act, 2009;</li> <li>e) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;</li> <li>f) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;</li> <li>g) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</li> </ul>	

SECTION/CLAUSE	SPECIFIC SENTENCE/S ION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		h) take such action as is necessary to supervise and enforce compliance by reporting institutions with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.	



SAITOTI MAIKA, MBS  
 DIRECTOR GENERAL, FINANCIAL REPORTING CENTER



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE GAMBLING CONTROL BILL (NA BILL NO.70 OF 2023)

FROM

THE COUNCIL OF GOVERNORS

## **MEMORANDUM ON THE GAMBLING CONTROL BILL (NA BILL NO.70 OF 2023)**

The Council of Governors,

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

**In further recognition** of Article 6 (2) that governments at the National and County levels are distinct; and

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

### **A. GENERAL COMMENTS**

1. The Fourth schedule of the Constitution assigns the gambling function as a concurrent function between two levels of Government. National betting, casinos and other forms of gambling is assigned to the National Government while cultural activities, public entertainment and public amenities including betting, casinos and other forms of gambling is assigned to County Governments.
2. **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. In this case, it was adjudged that the National Government is responsible for policy formulation, legislation, and regulation, while the County Government oversees implementation, monitoring, and local legislation. Licensing of public gaming, prize competitions, amusement machines, and national lotteries falls under the National Government, while county lotteries, totalisators, pool table permits, bookmakers, and betting premises licensing are managed by the County Government. It also notes that online gaming was unassigned which according to the constitution Article 186 (3) shall be a function under the National Government.

3. Further, legal Notice number 132 of 8<sup>th</sup> September, 2017, set out the functions relating to Betting, Casinos and other forms of Gambling between the National and County Governments. This clearly delineated the functions of both the National and County Governments.
4. The Council notes that the function assigned to national Government is “prefixed” national. This requires that the Bill restricts National Government to national policy, norms and standards as the County Governments undertake licensing, enforcement and day to day management of gambling.
5. The Council posits that all revenue from gambling in the Country is revenue due to County Governments. The UN classifies gambling and betting activities as “Arts, entertainment and recreation”. Article 209 (3b) allows County Governments to impose an entertainment tax while Article 209 (2) prohibits an Act of parliament from authorizing National Government to impose a tax or duty on entertainment.

#### 6. **SPECIFIC COMMENTS**

The Council proposes the following specific amendments to the Bill;

CLAUSE/ SUB-CLAUSE OF THE BILL	PROVISION IN THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
4 (1)	Functions of the National Government:  d.) Conducting security checks, vetting and due diligence in respect of gambling activities	Delete this provision	Licensing, conducting inspections, vetting and due diligence are functions of the County Governments

CLAUSE/ SUB-CLAUSE OF THE BILL	PROVISION IN THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
7 (1)	<p><b>Board of the Authority</b></p> <p>(f) One person nominated by the Council of Governors and appointed by the Cabinet Secretary</p>	3 people nominated by the Council of Governors	Gambling is a function of the County Governments and hence there should be enough representation
10	<p><b>Functions of the Authority</b></p> <p>c) Issue licenses for gambling activities</p> <p>f.) Establishing and maintaining registers for gambling machines, devices and other relevant data on licensed gambling activities</p> <p>g.) Conduct checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, directors and staff</p>	Delete the provisions	<p>Licensing of the gambling activities is a function of the County Governments.</p> <p>Further, the County Government should be the custodian of data at the County level, while the Authority can amalgamate data across counties to form a national database.</p> <p>Further, conducting checks cannot be done at a central place, in this case Nairobi. Such activities require active participation of the County Governments.</p>

CLAUSE/ SUB-CLAUSE OF THE BILL	PROVISION IN THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
39 (1)	The authority shall keep and maintain a register of licenses in such form as it may determine and shall record in the register in respect of every license....	Amend to read as follows: The County Government shall keep and maintain a register of licenses in such form as it may determine and shall record in the register in respect of every license	County Governments are mandated with licensing and hence they should keep and maintain the register of licenses.



## **COMMENTARY ON THE GAMBLING CONTROL BILL, 2023**

### **A. Constitutional Basis of this Memorandum**

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

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

**AND**

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

### **B. Clause by Clause Analysis**

Upon review of the Bill, the following issues arise-

Serial No.	Clause	Provision	Justification for CRA Position
1.	<b>Clause 2</b> Interpretation	Some definitions are ambiguous such as – “horse race” includes a pony race; <i>-This does not define what such a race is but rather provides for what it entails</i>  “online gambling” means any form of gambling by means of a remote communication; <i>-it is unclear what ‘remote communication’ is</i> <b>Recommendation:</b> Redraft such ambiguous definitions	For clarity
2.	<b>Clause 5</b> Functions of County Governments	Under paragraph 5(b), a county government shall- <i>issue <b>single business permits</b> for gambling premises;</i>  <b>Recommendation:</b> Substitute the phrase ‘ <i>single business permits</i> ’ with ‘ <i>trade licenses</i> ’ as follows-  <i>(b) issue <b>trade licenses</b> for gambling premises;</i>	To align with constitutional language as per section 7(b) Part 2 of the Fourth Schedule of the CoK
3.	<b>Clause 7</b>	The proposed Board membership includes-	Counties are under-represented in the Board compared to the national government yet gambling is a

		Board of the Authority	(e) <b>three persons</b> , not being public officers appointed by the Cabinet Secretary with knowledge and experience in matters connected with the objects of the board and shall include persons with background in finance, law, betting and lotteries, business management, or any other relevant field; (f) one person nominated by the Council of Governors and appointed by Cabinet Secretary;	concurrent function under the Fourth Schedule of the Constitution
			<p><b>Recommendation:</b> Reduce the number under paragraph (e) from three to two and add that slot to Council of Governors under paragraph (f) to read as follows-</p> <p><i>(e) two persons, not being public officers appointed by the Cabinet Secretary with knowledge and experience in matters connected with the objects of the board and shall include persons with background in finance, law, betting and lotteries, business management, or any other relevant field;</i></p> <p><i>(f) two persons nominated by the Council of Governors and appointed by Cabinet Secretary;</i></p>	

		<p>Sub clause 3 provides-</p> <p><i>(3) The Chairperson and members of the Board appointed under subsection (1) (a), (e) and (f) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.</i></p> <p><b>Recommendation:</b> Add the phrase “based on performance” after the word “years” at the end of the statement.</p>	<p>To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1.5)</p>
		<p>Add a new provision requiring the appointing authority of the Board membership to pay due regard to gender balance and representation of special interest groups in the Board and in all other appointments under the proposed law</p>	<p>To align with Article 27 of the CoK</p>
4.	<p><b>Clause 15</b></p> <p>Remuneration of the Board</p>	<p>The clause reads-</p> <p><i>The members of the Board shall be paid such allowances and disbursements, for expenses, as may be, determined by the Cabinet Secretary in consultation with relevant government agencies.</i></p> <p><b>Recommendation:</b> Substitute the phrase “the relevant government</p>	<p>To align with Article 230(4) of the CoK</p>

		agencies” with “ <i>the Salaries and Remuneration Commission</i> ”	
5.	<b>Clause 16</b> Director-General	Sub clause 4 provides- (4) The Director-General shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years <b>Recommendation:</b> Add the phrase “ <i>based on performance</i> ” after the word “ <i>years</i> ” at the end of the statement.	To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1.5)
6.	<b>Clause 21</b> Funds of the Authority	The funds of the Authority shall comprise of— such monies as may be appropriated by the National Assembly for purposes of the Authority; (b) the gambling levy paid under section 46; <b>(c) <u>the moneys paid by the operator of the National Lottery under section 42 (1) (c) of the National Lottery Act, 2023;</u></b> (d) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;  (e) such license fees, charges and penalties as may be prescribed and approved by the Cabinet Secretary in consultation with the	For prudent management of financial resources in line with Article 201 of the Constitution.

		<p>Cabinet Secretary responsible for National Treasury;</p> <p>(f) interest from the investment of money standing to the credit of the Authority; and</p> <p>(g) all monies from any other source provided for, donated or lend to the Authority.</p> <p><b>Recommendations:</b> The Authority is poised to have too many financial sources. Under (c) for instance, the Authority is to get 3% from the National Lottery to cater for its administrative expenses under the National Lottery Bill, 2023. Delete paragraph (c) and consequently amend clause <b><u>42 (1) (c) of the National Lottery Bill, 2023.</u></b></p> <p>Further, <b>set a percentage</b> of the gambling levy going towards financing the Authority under <b>clause 21(b).</b></p>	
7.	<b>Clauses 23 &amp; 24</b>	<p>Both provisions reference a “<i>Public Finance Act, 2012</i>”</p> <p><b>Recommendation:</b> Substitute with “<i>Public Finance Management Act, 2012</i>”</p>	To correct the citation of the Act

8.	<b>Clause 28</b> Requirements for Licensing	<p>The clause reads-</p> <p>28. A person shall not be licensed to offer any gambling or betting activity under this Act unless that person—</p> <p>(a) is a <b>body corporate</b> in which a <u>minimum of thirty per cent of shares are held by Kenyan citizens</u>; and</p> <p>(b) maintains an account with an authorized financial institution registered in Kenya into which it pays all monies relating to the licensed gambling and lottery activity</p> <p><b>Recommendation:</b> <i>Harmonize 28(a) with Clause 23(2) of the National Lottery Bill, 2023 which appears to infer that an operator is a natural person yet 28(a) requires such a licensee to be a body corporate</i></p>	For clarity
9.	<b>General recommendations</b>	Provide for an appeal framework for county level decisions as the Bill only caters for the national level under part XI	To provide for a standardized appeal framework for county governments
<p>Clauses 4 &amp; 5 are generally consistent with Gazette Notice No. 8753 by the Intergovernmental Relations Technical Committee of 8<sup>th</sup> September, 2017</p>			

		delineating the functions between the two levels of government which is a positive aspect to note.
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**KENYA REVENUE AUTHORITY'S SUBMISSIONS ON THE GAMBLING  
CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023) TO THE  
SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

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**MARCH, 2024**

Page 1 of 4

KENYA REVENUE AUTHORITY  
Confirmed  
P.O. Box 48240 - 00100, NAIROBI  
Date: 11/03/2024  
Sign:

## 1.0 Introduction

The Senate Standing Committee on Labour and Social Welfare vide letter Ref: SEN/DSEC/SCLSW/2024/8 dated 4<sup>th</sup> March 2024 has invited Kenya Revenue Authority (KRA) to submit views, written submissions and any documents to be referred to in the meeting on the *Gambling Control Bill* (National Assembly Bill No.70 of 2023) on Tuesday, 12<sup>th</sup> March 2024.

## 2.0 KRA's Views and Comments

This report details KRA's views and comments on the Gambling Control Bill, 2023.

### Comments on Specific Provisions

KRA was established by an Act of Parliament, Chapter 469 of the laws of Kenya, which became effective on 1<sup>st</sup> July 1995. KRA is charged with collecting revenue on behalf of the Government of Kenya.

The core functions of the Authority are:

- a) To assess, collect and account for all revenues in accordance with the written laws and the specified provisions of the written laws.
- b) To advise on matters relating to the administration of, and collection of revenue under the written laws or the specified provisions of the written laws.
- c) To perform such other functions in relation to revenue as the Minister may direct.

In view of the *Gambling Control Bill*, below in Table are the views of KRA on the proposed amendments to the bill.

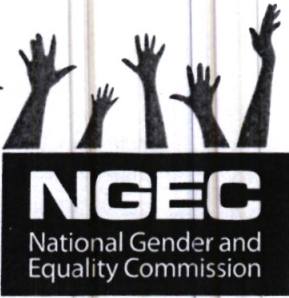
## A. THE GAMBLING CONTROL BILL, 2023

Table 1 Recommendations on the Gambling Control Bill, 2023

CLAUSE	PROVISIONS IN THE BILL	PROPOSED AMENDMENTS TO THE BILL	COMMENTS
<b>Clause 45</b>	Imposition of Gambling Tax chargeable at the rate of 15% of gross gambling revenue and payable to the Collector (KRA) on or before the 20 <sup>th</sup> day of the following month.	<ol style="list-style-type: none"> <li>1. Provide for an administrative penalty and interest chargeable on the late remittance of the tax. We propose: <ol style="list-style-type: none"> <li>(a) Late payment penalty of 5% of the tax due and payable; and</li> <li>(b) Late payment interest of 1% per month on the amount unpaid for the period commencing on the date the tax was due and ending on the date the tax is paid.</li> </ol> </li> <li>2. Provide that the Gambling Tax shall be collected in accordance with the provisions of the <i>Tax Procedures Act</i>, Cap 469B</li> <li>3. The taxes under Section 45 shall be collected under the provisions of the <i>Tax Procedures Act</i>, Cap 469B</li> </ol>	<p>This is to anchor the late payment penalty and interest which is currently provided under section 69B of the <i>Betting, Lotteries and Gaming Act</i>, Cap 131. The penalty and interest is to ensure compliance with remittance of the taxes under the law and there is no incentive for non-compliance.</p> <p>This is to provide for enforcement powers for the collector of the gambling tax. The enforcement powers had been provided for under Sec 69AA of the <i>Betting, Lotteries and Gaming Act</i>, Cap 131 by the <i>Finance Act, 2023</i>.</p>
<b>Clause 124</b>	Transitional Provisions	Provide transition clause for treatment of taxes that had been due under the <i>Betting, Lotteries and Gaming Act</i> , Cap 131 that is being repealed. Provide that any taxes that were due and payable under the repealed law shall become due and payable as if it was assessed under the new law.	Transition clause will enable the Collector to enforce collection of any taxes that are due under the <i>Betting, Lotteries and Gaming Act</i> , Cap 131 that is being repealed.
<b>Clause 126</b>	Consequential Amendment to Part II of the First Schedule to the KRA Act	<p>Provide for consequential amendments to Part II of the First Schedule to the Kenya Revenue Authority Act, Cap 469 as follows:</p> <ul style="list-style-type: none"> <li>• Delete Paragraph 7 of Part II of the KRA Act which provides for the “Betting, Lotteries and Gaming Act (Cap. 131)” and replace it with the Gaming Control Act.</li> </ul>	With the repeal of the <i>Betting, Lotteries and Gaming Act</i> (Cap. 131), there is need for consequential amendments to the KRA Act to make reference to the Gambling Control Act.

### 3.0 Conclusion

KRA is committed to complying with all the laws in place as it executes its mandate of tax administration and trade facilitation. We also wish to state that we are willing to provide the Senate Standing Committee with any other relevant information that will be required.



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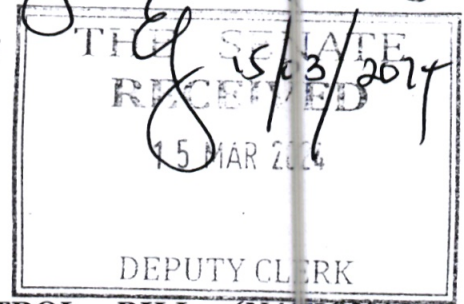
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**Mr. Jeremiah M. Nyegenye, CBS.**  
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Dear *Mr Nyegenye*

*(1) DSFC DKS*  
*(3) Ms. Mwanate kindly deal. 18/03/2024*  
*(2) DSECC (NK) kindly deal 15/3/2024*



**MEMORANDA ON THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO 70 OF 2023)**

Reference is made to the call for submission of memoranda on the Gambling Control Bill 2023

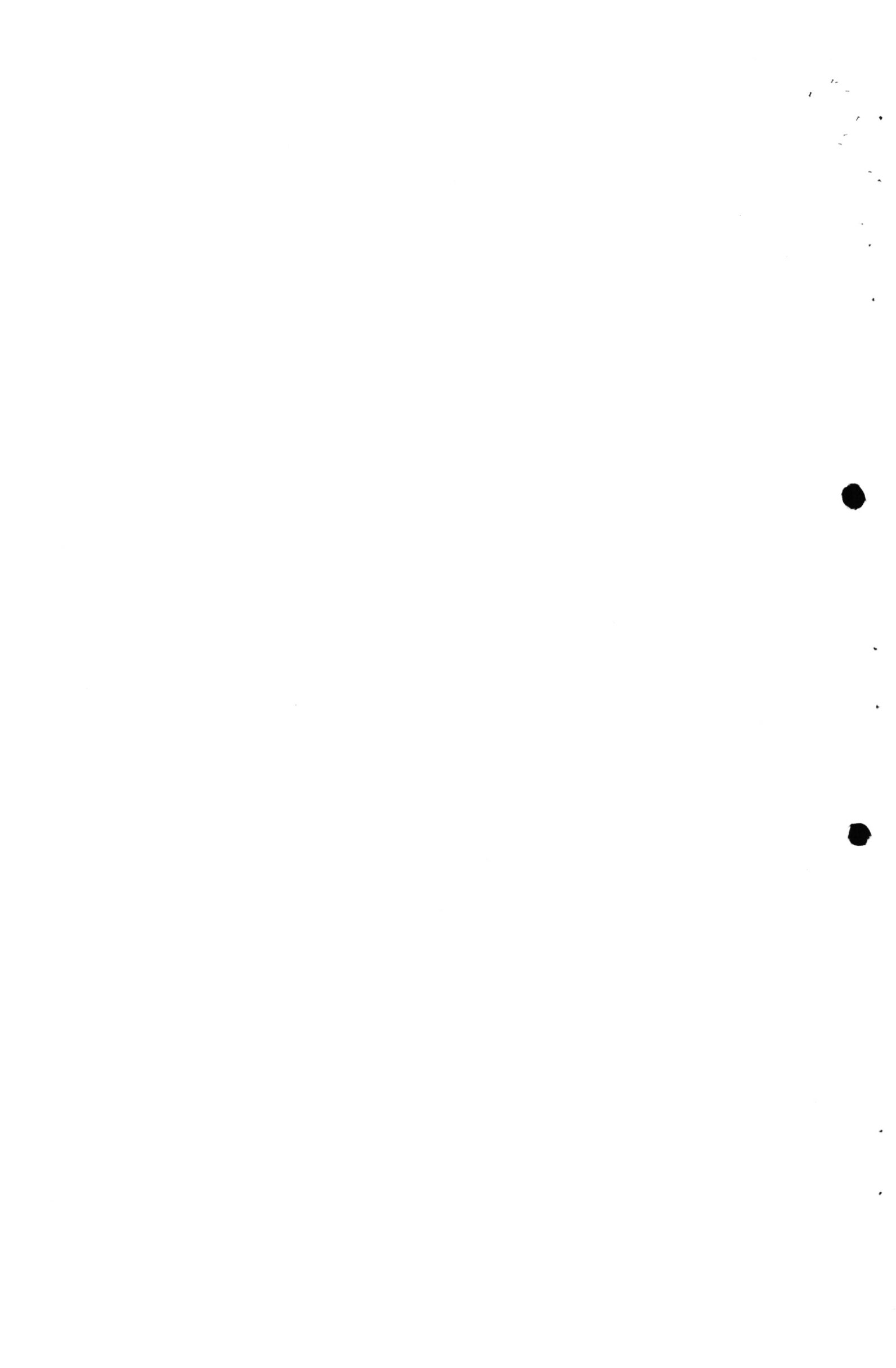
The National Gender and Equality Commission (NGEC) is a Constitutional Commission with the mandate of promoting gender equality and freedom from discrimination for all persons in Kenya, with a focus on Special Interest Groups (SIGs) who include women, children, Persons with Disabilities (PWDs), youth,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

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

In line with its mandate, the Commission presents to you a memoranda analyzing the proposed Bill and making proposals where necessary.

Yours sincerely,

Mr. Paul Kuria, OGW  
**Ag. COMMISSION SECRETARY/ CEO**





**MEMORANDA ONE: DRAFT GAMBLING CONTROL BILL, 2023**

**DATE: 11<sup>th</sup> March 2024**

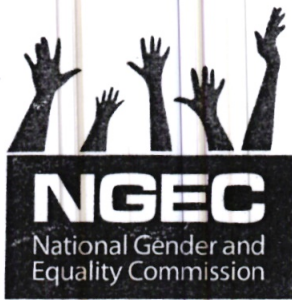
**Submitted to:** [Clerk.senate@parliament.go.ke](mailto:Clerk.senate@parliament.go.ke)

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Clause	PROVISION	PROPOSALS FOR AMENDMENT	JUSTIFICATION/RATIONALE
Clause 7 Board of the Authority	7.(1) The management of the Authority shall vest in a Board which shall consist of— (a) a Chairperson who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to gambling or a representative designated in writing; (c) the Principal Secretary responsible for the National Treasury or a representative designated in writing; (d) the Attorney-General or a representative designated in writing (e) three persons, not being public officers appointed by the Cabinet Secretary being persons with background in finance, law, betting and lotteries, business management provided that—	Amend Clause 7 by inserting a new sub-clause 7(1)(e) (iii) as follows—  iii) one shall represent Civil society organizations	Clause 7(1) (e) proposes three persons but only provides for appointment of two. The Commission proposes the third to be a representative of the Civil Society Organisations because of the nature of charitable work they do at the Society level

	<p>(i) one shall represent persons with disabilities</p> <p>(ii) one shall represent faith based organisations</p> <p>(f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and</p>		
	<p>Sub-clause 7(4) in appointing the members of the Board under subsection (1) (e) the Cabinet Secretary shall-</p> <p>(a) Ensure that not more than two-thirds of the members are of the same gender</p> <p>(b) Observe the Principle of regional and ethnic balance</p> <p>(c) have due regard to the principle of fair competition and merit as the basis for the appointments</p>	<p>Amend 7(4) by inserting a new subclause (b) as follows-;</p> <p>(b) have due regard to the principle of fair representation for persons with disabilities.</p> <p>Re- Number the rest of the sub-clauses accordingly</p>	<p>For inclusion purposes to comply with the Mwongonzo Code on Governance. Disability representation not provided for.</p>
	<p>Sub clause 7(5)</p> <p>The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times</p>	<p>The Commission proposes to amend the phrasing of the sub clause as follows-;</p> <p>“The appointment of the members of the Board shall be staggered to ensure continuity of the business of the Board”</p>	<p>The Sub-clause as proposed is not very clear on the reason for the appointments and exits of Board members at different times. The proposal is also in line with the <i>Mwongozo</i> code (and generally great practices in governance)</p>
<p>Clause 8 Qualification for appointment to the Board</p>	<p>8.(1) A person shall be qualified for appointment as the Chairperson or a member of the Board, if the person—</p> <p>(d) was not a Director, employee or shareholder of a gambling operator in</p>	<p>The rationale for the Disqualification is not very clear</p>	<p>Can this be considered discriminatory and unjustifiable in the absence of a convincing reason.</p>

	the preceding five years;		
Clause 9(2) Vacancy in the Board	A member of the Board may be removed from the office for-  (c) physical or mental incapacity to perform the functions of the office of a member;	Delete the subclause without any replacement	The clause is prejudicial and discriminatory to persons with physical and mental disabilities who are entitled to reasonable accommodation once appointed to an office that will enable them to carry out the duties of that office.
Clause 10 Functions of the Authority	10.(1) The Authority shall—  (i) monitor socio-economic patterns of gambling activities within at the national and county level including to undertake research and identify factors relating to, and patterns, causes, and consequences of— (i) the socio-economic impact of gambling; (ii) addictive or compulsive gambling; and (iii) any other matter that is relevant to the gambling sector;	Amend by inserting the words “and recommend corrective measures” after the word consequences and to delete the word “within” after the word “activities” to read as follows-;  i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, patterns, causes, consequences and recommend corrective measures of-	The commission is of the opinion that it is not enough for the Board to undertake research and identify consequences without recommending corrective measures.  It is evident gambling has in some cases negatively affected special interest groups and their families who have been left in vulnerable positions and need rehabilitation.



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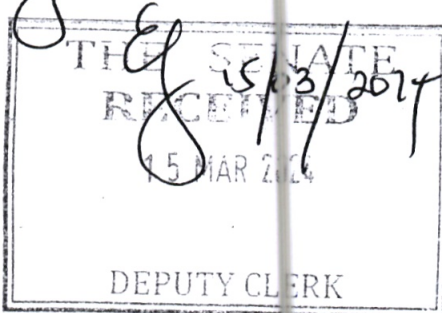
NGEC/Ag.CS/SEN/VOL.I/(02)

DSFC 13<sup>th</sup> March, 2024

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Dear Mr Nyegenye

**MEMORANDA ON THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO 70 OF 2023)**

Reference is made to the call for submission of memoranda on the Gambling Control Bill 2023

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

In line with its mandate, the Commission presents to you a memoranda analyzing the proposed Bill and making proposals where necessary.

Yours sincerely,

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**MEMORANDA ONE: DRAFT GAMBLING CONTROL BILL, 2023**

**DATE: 11<sup>th</sup> March 2024**

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Clause	PROVISION	PROPOSALS FOR AMENDMENT	JUSTIFICATION/RATIONALE
Clause 7 Board of the Authority	7.(1) The management of the Authority shall vest in a Board which shall consist of— (a) a Chairperson who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to gambling or a representative designated in writing; (c) the Principal Secretary responsible for the National Treasury or a representative designated in writing; (d) the Attorney-General or a representative designated in writing; (e) three persons, not being public officers appointed by the Cabinet Secretary being persons with background in finance, law, betting and lotteries, business management provided that-;	Amend Clause 7 by inserting a new sub-clause 7(1)(e) (iii) as follows-;  iii) one shall represent Civil society organizations	Clause 7(1) (e) proposes three persons but only provides for appointment of two. The Commission proposes the third to be a representative of the Civil Society Organisations because of the nature of charitable work they do at the Society level

	<p>(i) one shall represent persons with disabilities</p> <p>(ii) one shall represent faith based organisations</p> <p>(f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and</p>		
	<p>Sub-clause 7(4) in appointing the members of the Board under subsection (1) (e) the Cabinet Secretary shall-</p> <p>(a) Ensure that not more than two-thirds of the members are of the same gender</p> <p>(b) Observe the Principle of regional and ethnic balance</p> <p>(c) have due regard to the principle of fair competition and merit as the basis for the appointments</p>	<p>Amend 7(4) by inserting a new subclause (b) as follows-;</p> <p>(b) have due regard to the principle of fair representation for persons with disabilities.</p> <p>Re- Number the rest of the sub-clauses accordingly</p>	<p>For inclusion purposes to comply with the Mwongonzo Code on Governance. Disability representation not provided for.</p>
	<p>Sub clause 7(5)</p> <p>The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times</p>	<p>The Commission proposes to amend the phrasing of the sub clause as follows-;</p> <p>“The appointment of the members of the Board shall be staggered to ensure continuity of the business of the Board”</p>	<p>The Sub-clause as proposed is not very clear on the reason for the appointments and exits of Board members at different times. The proposal is also in line with the <i>Mwongozo</i> code (and generally great practices in governance)</p>
<p>Clause 8 Qualification for appointment to the Board</p>	<p>8.(1) A person shall be qualified for appointment as the Chairperson or a member of the Board, if the person—</p> <p>(d) was not a Director, employee or shareholder of a gambling operator in</p>	<p>The rationale for the Disqualification is not very clear</p>	<p>Can this be considered discriminatory and unjustifiable in the absence of a convincing reason.</p>

	the preceding five years;		
Clause 9(2) Vacancy in the Board	A member of the Board may be removed from the office for-  (c) physical or mental incapacity to perform the functions of the office of a member;	Delete the subclause without any replacement	The clause is prejudicial and discriminatory to persons with physical and mental disabilities who are entitled to reasonable accommodation once appointed to an office that will enable them to carry out the duties of that office.
Clause 10 Functions of the Authority	10.(1) The Authority shall—  (i) monitor socio-economic patterns of gambling activities within at the national and county level including to undertake research and identify factors relating to, and patterns, causes, and consequences of— (i) the socio-economic impact of gambling; (ii) addictive or compulsive gambling; and (iii) any other matter that is relevant to the gambling sector;	Amend by inserting the words “ and recommend corrective measures” after the word consequences and to delete the word “within” after the word “activities” to read as follows-;  i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, patterns, causes, consequences and recommend corrective measures of-	The commission is of the opinion that it is not enough for the Board to undertake research and identify consequences without recommending corrective measures.  It is evident gambling has in some cases negatively affected special interest groups and their families who have been left in vulnerable positions and need rehabilitation.

<p>Clause 17</p>	<p>Removal of the Director General</p> <p>1) The Director General may be removed from office by the Board in accordance with the terms and conditions of service for—</p> <p>(a) gross misconduct or misbehaviour;</p> <p>(b) Bankruptcy</p> <p>(b) incompetence or neglect of duty;</p> <p>c) violation of the Constitution or any other written law</p> <p>(e) Inability to perform the functions of the Office by reason of physical or mental incapacity</p> <p>(2) Before the Director General is removed under subsection (1), the Director General Officer shall be given—</p> <p>(a) sufficient notice of the allegations made against him or her; and</p> <p>(b) an opportunity to present his or her defence against the allegations.</p>	<p>Delete 17(1)(e) without replacement.</p>	<p>The same is prejudicial and discriminatory to persons with mental and physical disabilities</p>
<p>Clause 68 Control of online gambling</p>	<p>68.(1) A person licensed to carry out an online gambling activity shall conduct the activity under a gambling control system approved by the Authority</p> <p>(2) The Authority shall not approve a</p>	<p>Amend 68(1)]by substituting the phrase “approved” with the phrase “prescribed”</p>	<p>A plain reading of clause 68 indicates that the Authority has shifted its responsibility to individual licensees to formulate their own control system which will then be approved by it.</p> <p>For uniformity, the Authority as a</p>

	<p>system under subsection (1) unless the licensee provides for—</p> <p>(a) online security of information; (b) safety and security against criminal activities; (c) online payment ecosystem; (d) protection measures against under age gambling; (e) protection measures against vulnerability in gambling; (f) awareness and education; (g) responsible advertising; and (h) data protection measures under the Data Protection Act, 2019</p>	<p>Amend 68(2) by substituting the words “ unless the licensee provides for” with “unless the licensee has complied with the requirements of”</p>	<p>Regulator should prescribe a control system and require all the licensees to adhere to that control system in the matters enumerated in 68(2).</p> <p>The current situation is that mobile subscribers’ data is not protected. Minors gamble without any control attributable to the fact that each gambling licensee have their own systems.</p>
<p>Clause 88 Gambling Appeals Committee</p>	<p>There is established a committee to be known as the Gambling Appeals Committee</p>	<p>Amend the Sub title and any other subsequent reference thereto by inserting the word “complaints” after the word “Gambling” to read as follows-;</p> <p>“The Gambling Complaints Appeals Committee</p>	<p>The proposed amendment clears any misconstrued meaning and it also aligns with the functions of the proposed committee in clause 88(8) which is; to hear and determine appeals from complaints</p>
<p>Clause 109 Prohibition of betting with a</p>	<p>A person who—</p> <p>(a) bets with a child;</p> <p>(b) employs a child in a licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting;</p> <p>(c) receives or negotiates a bet through a child; or</p> <p>(d) sends to a child any information, notice, advertisement, letter, or other document relating to betting,</p>	<p><b>Concern/observation</b></p> <p>This clause specifically and others on advertisements on billboards near schools, prohibiting children from playing, and Registration of a child on online games speaks to the protection of children.</p> <p>However, the reality on the ground is that children are</p>	<p><b>The Betting, Lotteries and gaming Act CAP 131</b></p> <p>Section 28</p> <p>28. Betting with young persons an offence</p> <p>(1) A person who—</p> <p>(a) bets with a young person; or</p> <p>(b) employs a young person on licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting other</p>

	<p>commits an offence and shall be liable upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both</p>	<p>not protected from the dangers of gambling in spite of the current law sought to be repealed i.e The Betting, Lotteries and Gaming Act having provisions on the same. Children have even used the money for their school fee for gambling and on realizing they have lost, they disappear.</p> <p><b>Proposal</b> This proposed law needs to have regulations that will be effective in protecting children effectively as provided for in clause 119 on powers to make Regulations.</p> <p>The practice Guidelines envisaged in Clause 11 may not be sufficient</p>	<p>than—</p> <p>(i) the effecting of betting by post; or (ii) the carriage of a communication relating to betting for the purpose of its conveyance by post; or (c) receives or negotiates a bet through a young person; or (d) sends to a young person any circular, notice, advertisement, letter or other document relating to betting, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.</p> <p>(2) In this section, "young person" means a person—</p> <p>(a) who is under <b>the age of eighteen years</b> and whom the person committing an offence in relation to him under this section knows, or ought to know, to be under that age; or (b) who is apparently under that age.</p>
<p>Clause 115 Self-exclusion</p>	<p>115.(1) A person who has recognized that their gambling is harmful to himself or herself, or giving rise to difficulties in limiting the money or time or both, spent on gambling, leading to adverse consequences for that person, others, or for the community, may voluntarily enter a self-exclusion agreement between</p>	<p><b>Concern</b></p> <p>The letter and spirit of clause 115 is very noble however the same may not be able to be realized because it involves a person who has become addicted to gambling and is in no state of mind to exclude</p>	<p><b>Clause 11 gambling operational guidelines</b></p> <p>11.(1) The Cabinet Secretary shall in consultation with the Authority prescribe guidelines of practice in which facilities for gambling are provided, whether by the holder of a licence under this Act or by any other</p>

	<p>himself or herself and a licensee to be excluded from all gambling establishments and all controlled games, including online gambling or any other gambling activities or privileges.</p> <p>(2) The holder of a licence issued under this Act shall—</p> <p>(a) establish mechanisms to give effect to self-exclusion and take all reasonable steps to refuse service or to a person who enters a self-exclusion agreement from participating in gambling;</p> <p>(b) as soon as practicable, take all reasonable steps to prevent any marketing material from being availed to a self-excluded customer;</p> <p>(c) take steps to remove the name, contact information and other details of a self-excluded person from any marketing databases used by the licensee within two days of receiving the completed self-exclusion notification;</p> <p>(d) close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account;</p> <p>(e) put into effect procedures designed to ensure that an individual who has self-excluded shall not gain access to gambling services.</p> <p>(3) An operator who fails to implement a self-exclusion request</p>	<p>themselves from such activities and a licence holder who is business minded interested in profit making and maybe not interested in the welfare of the addict.</p> <p>The concern here is that there is no Authority to supervise such agreements.</p> <p><b>Proposal</b></p> <p>a. The Commission proposes the deletion of this clause without any replacement.</p> <p>b. Alternative proposal is to re- think on how the intention envisaged in this clause can be realized.</p> <p>Can the inspectors appointed in clause 112 supervise and enforce this clause or will the Gambling operation guidelines envisaged in clause 11 be effective in achieving the intention</p>	<p>person.</p> <p>(2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—</p> <p>(a) ensuring that gambling is conducted in a fair and open way;</p> <p>(b) protecting children and other vulnerable persons from being harmed or exploited by gambling;</p> <p>(c) making assistance available to persons who are or may be affected by problems related to gambling</p>
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within seven days of receipt of a written notification shall be liable to pay an administrative fine as may be prescribed by the Authority.

### **General comment**

The Commission as a human rights oversight body lauds the steps taken to put in place a legal framework aimed at controlling gambling activities in Kenya. We are specifically concerned with unregulated online betting activities, and installations of slot machines which have negatively affected many youth and breadwinners who are addicted to the hobby, and the resultant effects are mirrored at community and family level. Children also needs protection from such addiction.



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The Commission as a human rights oversight body lauds the steps taken to put in place a legal framework aimed at controlling gambling activities in Kenya. We are specifically concerned with unregulated online betting activities, and installations of slot machines which have negatively affected many youth and breadwinners who are addicted to the hobby, and the resultant effects are mirrored at community and family level. Children also needs protection from such addiction.



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(2) The holder of a licence issued under this Act shall—

- (a) establish mechanisms to give effect to self-exclusion and take all reasonable steps to refuse service or to a person who enters a self-exclusion agreement from participating in gambling;
- (b) as soon as practicable, take all reasonable steps to prevent any marketing material from being availed to a self-excluded customer;
- (c) take steps to remove the name, contact information and other details of a self-excluded person from any marketing databases used by the licensee within two days of receiving the completed self-exclusion notification;
- (d) close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account;
- (e) put into effect procedures designed to ensure that an individual who has self-excluded shall not gain access to gambling services.

(3) An operator who fails to implement a self-exclusion request

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The concern here is that there is no Authority to supervise such agreements.

**Proposal**

a. The Commission proposes the deletion of this clause without any replacement.

b. Alternative proposal is to re- think on how the intention envisaged in this clause can be realized.

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- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling;
- (c) making assistance available to persons who are or may be affected by problems related to gambling



	<p>commits an offence and shall be liable upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both</p>	<p>not protected from the dangers of gambling in spite of the current law sought to be repealed i.e The Betting, Lotteries and Gaming Act having provisions on the same. Children have even used the money for their school fee for gambling and on realizing they have lost, they disappear.</p> <p><b>Proposal</b> This proposed law needs to have regulations that will be effective in protecting children effectively as provided for in clause 119 on powers to make Regulations.</p> <p>The practice Guidelines envisaged in Clause 11 may not be sufficient</p>	<p>than—</p> <p>(i) the effecting of betting by post; or</p> <p>(ii) the carriage of a communication relating to betting for the purpose of its conveyance by post; or</p> <p>(c) receives or negotiates a bet through a young person; or</p> <p>(d) sends to a young person any circular, notice, advertisement, letter or other document relating to betting, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.</p> <p>(2) In this section, "young person" means a person—</p> <p>(a) who is under <b>the age of eighteen years and</b> whom the person committing an offence in relation to him under this section knows, or ought to know, to be under that age; or</p> <p>(b) who is apparently under that age.</p>
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<p>Clause 88 Gambling Appeals Committee</p>	<p>There is established a committee to be known as the Gambling Appeals Committee</p>	<p>Amend the Sub title and any other subsequent reference thereto by inserting the word “complaints” after the word “Gambling” to read as follows;</p> <p>“The Gambling Complaints Appeals Committee</p>	<p>The proposed amendment clears any misconstrued meaning and it also aligns with the functions of the proposed committee in clause 88(8) which is; to hear and determine appeals from complaints</p>
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<p>Clause 17</p>	<p>Removal of the Director General</p> <p>1) The Director General maybe removed from office by the Board in accordance with the terms and conditions of service for—</p> <p>(a) gross misconduct or misbehaviour;</p> <p>(b) Bankruptcy</p> <p>(b) incompetence or neglect of duty;</p> <p>c) violation of the Constitution or any other written law</p> <p>(e) Inability to perform the functions of the Office by reason of physical or mental incapacity</p> <p>(2) Before the Director General is removed under subsection (1), the Director General Officer shall be given—</p> <p>(a) sufficient notice of the allegations made against him or her; and</p> <p>(b) an opportunity to present his or her defence against the allegations.</p>	<p>Delete 17(1)(e) without replacement.</p>	<p>The same is prejudicial and discriminatory to persons with mental and physical disabilities</p>
<p>Clause 68 Control of online gambling</p>	<p>68.(1) A person licensed to carry out an online gambling activity shall conduct the activity under a gambling control system approved by the Authority</p> <p>(2) The Authority shall not approve a</p>	<p>Amend 68(1)]by substituting the phrase “approved” with the phrase “prescribed”</p>	<p>A plain reading of clause 68 indicates that the Authority has shifted its responsibility to individual licensees to formulate their own control system which will then be approved by it.</p> <p>For uniformity, the Authority as a</p>



**OFFICE OF THE DATA PROTECTION COMMISSIONER**

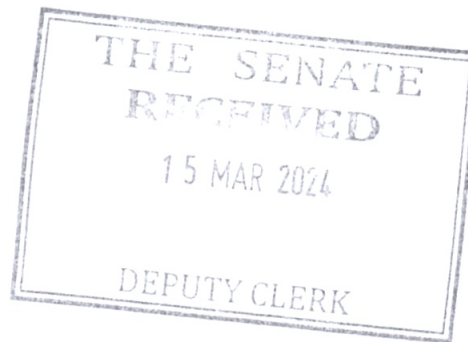
**When replying please quote  
Ref: ODPC/LEG/8/3**

Britam Towers  
P.O. Box 30920 - 00100  
**NAIROBI**

Email: [info@odpc.go.ke](mailto:info@odpc.go.ke)

11<sup>th</sup> March, 2024

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



*DLS  
DSEC*

*Kindly deal.*

*Ep  
15/03/2024*

Dear *Clerk,*

**RE: STAKEHOLDERS ENGAGEMENT ON THE GAMBLING CONTROL BILL, 2023  
(NATIONAL ASSEMBLY BILLS NO.70 OF 2023)**

Reference is made to your letter SEN/DSEC/SCLSW/2014/10 dated 4<sup>th</sup> March 2024 inviting the Office of the Data Protection Commissioner (ODPC) to submit views on the Gambling Control Bill,2023 (National Assembly Bills No.70 of 2023) and appear before the Senate Standing Committee on Labour and Social Welfare on the 12<sup>th</sup> March 2024 at 10.00 am. The ODPC has perused the said bill and we would like to comment as follows:

**Legal Mandate**

The ODPC was established pursuant to Section 5 of the Data Protection Act,2019 to give effect to Article 31 (c) and (d) of the Constitution of Kenya,2010. The ODPC under Section 8 of the Act, has the following specific mandate:

*(a) oversee the implementation of and be responsible for the enforcement of this Act;*



*ML*

- (b) establish and maintain a register of data controllers and data processors;*
- (c) exercise oversight on data processing operations, either of own motion or at the request of a data Qualifications of Data Commissioner;*
- (d) promote self-regulation among data controllers and data processors;*
- (e) conduct an assessment, on its own initiative of a public or private body, or at the request of a private or public body for the purpose of ascertaining whether information is processed according to the provisions of this Act or any other relevant law;*
- (f) receive and investigate any complaint by any person on infringements of the rights under this Act;*
- (g) take such measures as may be necessary to bring the provisions of this Act to the knowledge of the general public;*
- (h) carry out inspections of public and private entities with a view to evaluating the processing of personal data;*
- (i) promote international cooperation in matters relating to data protection and ensure country's compliance on data protection obligations under international conventions and agreements;*
- (j) undertake research on developments in data processing of personal data and ensure that there is no significant risk or adverse effect of any developments on the privacy of individuals; and*
- (k) perform such other functions as may be prescribed by any other law or as necessary for the promotion of object of this Act.*

## **Proposals**

The Bill proposes activities which involve handling of personal data both in physical and digital format which relates to the mandate of the ODPC. In light of that, we would like to propose the following for consideration under the bill:

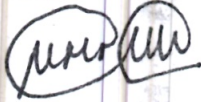
- i) **Clause 28 – Requirements for Licensing:** Include a sub clause that requires an applicant for a license under the bill to be a registered data controller or processor with the ODPC.

- ii) **Clause 29 (1) – Application for a License:** Include a sub clause requiring that an applicant for a license under the act must provide proof of a concluded of Data Protection Impact Assessment approved by the ODPC.
- iii) **Clause 33 (1) - Suspension of a License:** The Bill should include an additional ground for revocation of a license under the Act to be violation of the Data Protection Act, 2019.
- iv) **Clause 75 – Registration of a Player:** Include a provision that registration of play must comply with the principles of Data Protection.
- v) **Clause 120 – Power to seize machines:** The Bill should include a clause that provides for safeguarding of all personal data that may be contained in the seized machines.

In the alternative to the foregoing, we propose that a general provision be added stating that all the activities covered under the bill must comply with the Data Protection Act, 2019 making the latter an overriding statute in case the two conflict. The justification for this is that the right to privacy is a fundamental constitutional human right and that the data subjects who may engage in such activities out of choice must be protected from personal data violations.

Yours

*Sincerely,*



**Immaculate Kassait, MBS  
DATA COMMISSIONER**

# MEMORANDUM ON THE DRAFT GAMBLING CONTROL BILL, 2023

**NAME OR INSTITUTION:** COUNTY GAMING OFFICERS

**DATE:** 27/02/2023

<b>Section/ Clause</b>	<b>Copy and paste here the specific provisions in the draft Gambling Control Bill, 2023 you wish to comment about</b>	<b>Proposed Amendment</b> (provide the exact wording of how your proposed amendment should read.)	<b>Explain the reason for the Proposed Amendment</b>
<b>Clause 4(1)</b>	<p>(1) The National Government shall—</p> <p>(a) establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gambling;</p> <p>(b) regulate the gambling industry in accordance with Act;</p> <p>(c) license gambling activities including online gambling in accordance with this Act;</p> <p>(d) license national lotteries;</p> <p>(e) conduct security checks, vetting and due diligence in respect of gambling activities;</p> <p>(f) enforce compliance with this Act;</p> <p>(g) conduct anti-money laundering risk-based inspections and inspections to combat financing of terrorism through casinos and any other forms of gambling;</p> <p>(h) pursuant to section 36A of the Proceeds of Crime and the Anti-money Laundering Act, 2009, supervise and enforce compliance with that Act or any instruction, direction, guideline or rule made pursuant to or in terms of that Act by all licensees;</p> <p>(i) provide capacity building and technical assistance to county governments; and</p> <p>(j) perform any other function as may be prescribed under this Act or any other written law.</p>	<p>(1) The National Government shall—</p> <p>(a) Develop national policies, legislation, norms &amp; standards for betting, casinos and other forms of gambling;</p> <p>(b) develop national regulations for the racing and gaming industry;</p> <p>(c) facilitate capacity building and provide technical assistance to county governments;</p> <p>(d) license national betting, casinos and other forms of gambling;</p> <p>(e) conduct vetting, security checks and due diligence;</p> <p>(f) license prize competitions that cut across counties (on promotion of products and services;</p> <p>(g) license of national lotteries;</p> <p>(h) license on-the course totalizators;</p> <p>(i) license off-the course totalizators.</p> <p>(j) license bookmakers</p> <p>(k) handle complaints and arbitration on betting, casinos and other forms of gambling at the national level.</p>	<p>The National functions should be as per the Fourth Schedule Part I (34) and Inter-Governmental Relations Technical Committee on delineation of functions of National &amp; County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27<sup>th</sup> November, 2023.</p>

**Clause 5**

A county government shall—  
(a) enforce compliance of this Act and other applicable laws;  
(b) issue single business permits for gambling premises;  
(c) implement policy standards and norms of gambling within its jurisdiction; and  
(d) perform such other functions as are incidental to the exercise of any or all of the county government functions provided for under this Act.

- a) Implement national policy, legislation, standards & norms on Betting, casinos & other forms of gambling
  - b) Undertake periodic monitoring & evaluation of betting, lotteries and gaming
  - c) Develop and implement County specific legislation on betting & other forms of gambling
  - d) License betting, casinos & other forms of gambling within a county.
  - e) Issue single business permits for national betting, casinos and other forms of gambling.
  - f) Enforce policies, legislation, standards & norms on betting, casinos & other forms of gambling
  - g) License prize competitions for promotions within the county
  - h) License and supervise lotteries within the county.
  - i) License and issue pool table permits within the county.
  - j) Handle complaints on betting, casinos and other forms of gambling at the county level
- Racing**
- a) Develop, implement and enforce county specific policies and legislation
  - b) Develop and implement county specific norms and standards
  - c) Regulate racing within the county

The County functions should be as per the Fourth Schedule Part II (4(a) and Inter-Governmental Relations Technical Committee on delineation of functions of National & County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27<sup>th</sup> November, 2023.

<b>Clause 10(b)</b>	Regulate and control gambling activities;	Regulate and control national gambling activities	The fourth schedule part 1 (34) mandates the National Government to regulate only national betting, casinos and other gambling activities.
<b>Clause 10(e)</b>	monitor the implementation of gambling policies at the national and county level;	To delete section 10(e)	This would lead to micro-managing of County Governments by the Authority.
<b>Clause 10(n)</b>	advise county governments on matters relating to the regulation of gambling activities;	To delete section 10(n)	May also lead to micro managing the County Governments by the Authority.
<b>Clause 27 (1)(a)</b>	(a) a public gambling for conducting a table game and operating a slot machine;	(a) a national public gambling for conducting a table game and operating a slot machine	This is to comply with the fourth schedule part 1 (34). This would also avoid conflict with the county government performing the same functions under fourth schedule part II (4)(a) of the constitution.
<b>Clause 27 (1)(d)</b>	(d) a totalizator;	To delete section 27(1)(d)	The constitution in fourth schedule part II (4) recognizes racing as a county function. The Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017 recognizes totalizator licensing as a function of the county government. This would avoid conflict between the national & county governments.
<b>Clause 27 (1)(e)</b>	(e) a Prize competition	(e) a national prize competition or cutting across the counties	This is as per the fourth schedule part I & II of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017.
<b>Clause 27(f)</b>	(f) a bingo;	To delete section 27(f)	Bingos are conducted within the counties, hence would be in contravention with the fourth schedule part II 4(a) of the constitution. The proposal would lead

			to conflict and double licensing by both levels of the government.
<b>Clause 27(h)</b>	(h) a public lottery;	(h) national lotteries;	On licensing of public Lottery, it should also indicate that public Lotteries within the county should be licensed by the county governments as per the fourth schedule of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017. This would also avoid intergovernmental conflicts.
<b>Clause (3)</b>	The Collector shall pay all the proceeds of tax paid under subsection (2) into the Sports, Art and Social Development Fund established under the Public Finance Management Act, 2012.	The Collector shall pay all the proceeds of tax paid under subsection (2) into the Sports, Art and Social Development Fund established under the Public Finance Management Act, 2012 and the County Governments in proportion to the gambling activities in specific counties.	Being a concurrent function, under fourth schedule part 1 & 2 of the 2010 constitution, gambling tax should be shared by both levels of the governments in proportion to the functions under Gazette Notice 8753 on delineation of functions dated 8 <sup>th</sup> September, 2017.
<b>Clause 46 (3)</b>	The monies paid under subsection (1) shall be used by the Authority for the purposes of—	The monies paid under subsection (1) shall be used by the Authority and the County Governments for the purposes of—	Being a concurrent function, under fourth schedule part 1 & 2 of the 2010 constitution, gambling levy should be shared by both levels of the governments in proportion to the functions under the fourth schedule part (1) & (II).
<b>Clause 53 (4)</b>	The license issued under subsection (3) above shall be for a period not exceeding one year.	The license issued under sub-section (3) above shall be for a period not exceeding seven years.	The County Governments should not be limited to licensing lotteries not exceeding one year. A county lottery may require a contract of more than

			one year for the lottery to be economically viable.
<b>Clause 55 (1)</b>	The Authority may issue a license authorizing promotion of a lottery relating to a horse race, promoted within or outside Kenya.	The County Government may issue a license authorizing promotion of a lottery relating to a horse race, promoted within a county	Authorization of a lottery relating to horse racing. Racing is a County function as per Fourth Schedule of the constitution part II (4) (b)
<b>Clause 67(1)</b>	A person may be granted a license to operate a casino and other forms of gambling upon meeting the requirements set out in section 28.	A person may be granted a license to operate a national casino and other forms of gambling upon meeting the requirements set out in section 28. County Government shall issue Casino and other forms of gambling within a county.	This is as per fourth schedule part 1 (34) and II 4)(a) of the constitution.
<b>Clause 69</b>	The Authority shall ensure that its officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant license.	The County Government shall ensure that its Gaming officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant license.	Officers of the Authority to be present. This seriously conflicts with Gazette Notice 8753. Enforcement & compliance i.e spot checks, daily supervision of casinos, implementation of policy, standards & norms is a county function. This would avoid role conflict by both levels of governments.
<b>Clause 115 (1)</b>	The Authority and the county government may appoint duly qualified officers to be inspectors of the Authority and county government, respectively for such areas units as shall be specified.	The county government may appoint duly qualified officers to be inspectors of the county government.	On appointment of inspectors, if both levels of government appoint Inspectors, it will lead to duplication of roles. Enforcement and compliance & daily supervision of casinos is a county function as per Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017.
<b>Clause 120</b>	The police shall, in coordination with the Authority have power to	The police shall, in coordination with the Authority and County	This should also include the county governments. Enforcement &

	seize any illegal gambling, betting and lottery machines.	Governments have power to seize any illegal gambling, betting and lottery machines.	compliance is a function of the county governments as per Gazette Notice 8753 dated 8 <sup>th</sup> September, 2017.
<b>Second schedule</b>	Fees and charges for licenses	Delete and include only charges under the national government.	This should be in compliance to the fourth schedule part I and II and as directed by the Inter-Governmental Relations Technical Committee (IGRTC). This is to avoid double charging.

**GENERAL COMMENTS IF ANY**

The County Gaming officers raised the following concerns in the Gambling Control Bill, 2023:

1. The Gambling Bill, 2023 flouts the fourth schedule of the constitution 2010 the major law governing Betting, Casinos and other forms of gambling function.
2. The Bill is establishing an Authority at the National government level. This may lead to the Authority micro-managing the County governments. To avoid any conflict, the establishment of an Authority must be re-considered.
3. We feel Betting, Casinos and other forms of gambling being a concurrent function must be drafted with care to avoid conflict of roles in both levels of government.
4. We also propose that Betting, casinos & other forms of gambling activities being a concurrent function resources from various taxes imposed must be shared in proportion to the functions at each level of the government.

# APPENDIX 6

**THE SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.**

**THE GAMBLING CONTROL BILL  
(NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)**

<b>CLAUSE</b>	<b>STAKEHOLDER</b>	<b>PROPOSED AMENDMENT</b>	<b>JUSTIFICATION</b>	<b>COMMITTEE RESOLUTION</b>
4	County Gaming Officers	<p>1) The National Government shall—</p> <p>(a) Develop national policies, legislation, norms &amp; standards for betting, casinos and other forms of gambling;</p> <p>(b) develop national regulations for the racing and gaming industry;</p> <p>(c) facilitate capacity building and provide technical assistance to county governments;</p> <p>(d) license national betting, casinos and other forms of gambling;</p> <p>(e) conduct vetting, security checks and due diligence;</p> <p>(f) license prize competitions that cut across counties (on promotion of products and services;</p> <p>(g) license of national lotteries;</p> <p>(h) license on-the course totalizators;</p> <p>(i) license off-the course totalizators.</p> <p>(j) license bookmakers</p> <p>(k) handle complaints and arbitration on betting, casinos and other forms of gambling at the national level.</p>	<p>The National functions should be as per the Fourth Schedule Part I (34) and Inter-Governmental Relations Technical Committee on delineation of functions of National &amp; County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27<sup>th</sup> November, 2023.</p>	
	Council of Governors	Delete subclause 4 (1) (d).	Licensing, conducting	

	(COG).		inspections, vetting and due diligence are functions of the county governments.	
5	County Gaming Officers.	<ul style="list-style-type: none"> <li>(a) Implement national policy, legislation, standards &amp; norms on Betting, casinos &amp; other forms of gambling</li> <li>(b) Undertake periodic monitoring &amp; evaluation of betting, lotteries and gaming</li> <li>(c) Develop and implement County specific legislation on betting &amp; other forms of gambling</li> <li>(d) License betting, casinos &amp; other forms of gambling within a county.</li> <li>(e) Issue single business permits for national betting, casinos and other forms of gambling.</li> <li>(f) Enforce policies, legislation, standards &amp; norms on betting,</li> </ul>	The County functions should be as per the Fourth Schedule Part II (4(a) and Inter-Governmental Relations Technical Committee on delineation of functions of National & County Governments. Gazette Notice No. 16170 Vol. CXXV-No.251 dated 27 <sup>th</sup> November, 2023.	

		<p>casinos &amp; other forms of gambling</p> <p>(g) License prize competitions for promotions within the county</p> <p>(h) License and supervise lotteries within the county.</p> <p>(i) License and issue pool table permits within the county.</p> <p>(j) Handle complaints on betting, casinos and other forms of gambling at the county level</p> <p><b>Racing</b></p> <p>(a) Develop, implement and enforce county specific policies and legislation</p> <p>(b) Develop and implement county specific norms and standards</p> <p>(c) Regulate racing within the county</p>		
7	COG	Increase the members nominated by COG to the Authority.	Gambling is a county government function hence the need for adequate representation.	
10	County Gaming Officers.	Regulate and control national gambling activities in clause 10 (b).	The fourth schedule part 1 (34) mandates the National Government to regulate only national betting, casinos and other gambling activities.	
		To delete section 10(c).	This would lead to micro-managing of County Governments by the Authority.	
		To delete section 10(n)	May also lead to micro	

			managing the County Governments by the Authority.	
	Financial Reporting Centre (FRC)	Include beneficial owners under (1) (g).	To comply with Financial Action Task Force (FATF) standards	
	Council of Governors (COG)	Delete paragraphs (c), (f) and (g).	Licensing of gambling is a function of county governments.  Each county should be the custodian of data at the county level while the Authority can amalgamate data across counties to form a national data base.  There should be participation of county governments.	
27	County Gaming Officers.	Amend clause 27 (1) (e) to read— (e) a national prize competition or cutting across the counties	This is as per the fourth schedule part I & II of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017.	
		Delete section 27 (1) (f)	Bingos are conducted within the counties, hence would be in contravention with the fourth schedule part II 4(a) of the constitution. The proposal would lead to conflict and double licensing by both levels of the government.	
		Amend 27(1) (h) to read—	On licensing of public Lottery,	

		(h) national lotteries	it should also indicate that public Lotteries within the county should be licensed by the county governments as per the fourth schedule of the constitution and Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017. This would also avoid intergovernmental conflicts.	
		To delete section 27(1)(d)	The constitution in fourth schedule part II (4) recognizes racing as a county function. The Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017 recognizes totalizator licensing as a function of the county government. This would avoid conflict between the national & county governments.	
		Amend clause 27 (1) (a) to read—  (a) a national public gambling for conducting a table game and operating a slot machine.	This is to comply with the fourth schedule part I (34). This would also avoid conflict with the county government performing the same functions under fourth schedule part II (4)(a) of the constitution.	
28	Office of the Data Protection Commissioner (ODPC)	Include a requirement that an applicant for a licence under the Bill to be a registered data processor or controller with the ODPC.		

	FRC	Include internet casino under subclause (2) (a).	This is in line with FAFT standards.	
29	ODPC	Include requirement for proof of a concluded Data Protection Impact Assessment approved by the ODPC when applying for a licence.		
30	FRC	Include beneficial owners under subclause (4) (a).	This is in line with FAFT standards.	
33	ODPC	Include an additional ground for revocation of a licence under the Act to be a violation of Data Protection Act, 2019.		
39	COG	In subclause (1) replace the Authority with the county governments.	County governments are mandated with licensing and hence they should keep and maintain the register of licenses.	
45	County Gaming Officers.	Amend clause 45 (3) to read—  (3) The Collector shall pay all the proceeds of tax paid under subsection (2) into the Sports, Art and Social Development Fund established under the Public Finance Management Act, 2012 and the County Governments in proportion to the gambling activities in specific counties.	Being a concurrent function, under fourth schedule part 1 & 2 of the 2010 constitution, gambling tax should be shared by both levels of the governments in proportion to the functions under Gazette Notice 8753 on delineation of functions dated 8 <sup>th</sup> September, 2017.	

	KRA		<p>1. Provide for an administrative penalty and interest chargeable on late remittance of tax as follows—</p> <p>(a) late payment penalty of 5% of tax payable and due;</p> <p>(b) late payment interest of 1 % per month on the amount unpaid for the period commencing on the date the tax was due and ending on the date the tax is paid.</p> <p>2. Provide that the Gambling Tax shall be collected under the Tax Procedures Act, Cap.469B</p>	<p>This is in line with the Tax Procedures Act, Cap 269B and sections 69A and 69B of the Betting, Lotteries and Gaming Act, Cap 131 that is being repealed.</p>	
46	County Officers.	Gaming	<p>Amend clause 46 (3) to provide that the monies paid under subsection (1) shall be used by the Authority and the County Governments.</p>	<p>Being a concurrent function, under fourth schedule part 1 &amp; 2 of the 2010 constitution, gambling levy should be shared by both levels of the governments in proportion to the functions under the fourth schedule part (1) &amp; (II).</p>	
53	County Officers	Gaming	<p>Amend clause 53 (4) to read that the license issued under sub-section (3) above shall be for a period not exceeding seven years.</p>	<p>The County Governments should not be limited to licensing lotteries not exceeding one year. A county lottery may require a contract of more than one year for the lottery to be</p>	

			economically viable.	
55	County Gaming Officers.	Amend clause 55 (1) to provide that the County Government may issue a license authorizing promotion of a lottery relating to a horse race, promoted within a county.	Authorization of a lottery relating to horse racing. Racing is a County function as per Fourth Schedule of the constitution part II (4) (b).	
67	County Gaming Officers.	Amend clause 67 (1) to read—  (1) A person may be granted a license to operate a national casino and other forms of gambling upon meeting the requirements set out in section 28. County Government shall issue Casino and other forms of gambling within a county.	This is as per fourth schedule part 1 (34) and II (4)(a) of the constitution.	
69	County Gaming Officers.	Amend clause 69 to read— The County Government shall ensure that its Gaming officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant license.	This seriously conflicts with Gazette Notice 8753. Enforcement & compliance i.e spot checks, daily supervision of casinos, implementation of policy, standards & norms is a county function. This would avoid role conflict by both levels of governments.	
75	ODPC	Include a provision that registration of play must comply with the principles of Data Protection.		
84	Communications Authority of Kenya (CAK).	Amend subclause (2) (e) to prohibit gambling advertisement between five o' clock in the morning to ten o'clock in the evening.	This is in line with section 46H of the Kenya Information and Communication Act that prescribes watershed period to	

			be between 5 am to 10pm.	
88	FRC		In subclause (9) exclude matters of money laundering, terrorism financing and proliferation financing from the Tribunal.	
115	County Gaming Officers.		Amend clause 115 to read—  115. The county government may appoint duly qualified officers to be inspectors of the county government.	On appointment of inspectors, if both levels of government appoint Inspectors, it will lead to duplication of roles. Enforcement and compliance & daily supervision of casinos is a county function as per Gazette Notice 8753 on delineation of functions by IGRTC dated 8 <sup>th</sup> September, 2017.
119	The Attorney General (AG)		<b>THAT</b> , clause 119 of the Bill be amended— (a) by deleting paragraph (d); and (b) by deleting paragraph (g).	These Regulations are necessary for the effective implementation of the National Lottery Act, 2023 (No. 20 of 2023). We therefore propose the Bill to be amended to delete the clauses that provide for the Regulations on the conduct of the national lottery and the national lottery rules and in order that the same be provided for in the National Lottery Act, 2023 through a consequential amendment to the National Lottery Act, 2023.
120	County Gaming Officers.		Amend clause 120 to read that the police shall, in coordination with the Authority and County Governments	This should also include the county governments. Enforcement & compliance is a

		have power to seize any illegal gambling, betting and lottery machines.	function of the county governments as per Gazette Notice 8753 dated 8 <sup>th</sup> September, 2017.	
	ODPC	The Bill should include a clause that provides for safeguarding of all personal data that may be contained in the seized machines.		
124	KRA	Provide that the taxes that were due and payable under the Betting, Lotteries and Gaming Act, Cap. 131 shall become due and payable as if it was assessed under this Act.	This is to enable collection of taxes that were due and payable under Betting, Lotteries and Gaming Act, Cap. 131.	
126	KRA	Provide for consequential amendments to Part II of the First Schedule to KRA Act, Cap. 469 as follows— Delete paragraph 7 and replace with the Gambling Control Act.	This is because Betting, Lotteries and Gaming Act, Cap. 131 is being repealed.	
Second Schedule	County Gaming Officers.	Delete and include only charges under the national government.	This should be in compliance to the fourth schedule part I and II and as directed by the Inter-Governmental Relations Technical Committee (IGRTC). This is to avoid double charging.	
<b>CONSEQUENTIAL AMENDMENTS</b>				
	The Attorney General (AG)	Amend the National Lottery Act, 2023 to provide new clause 53 to provide for the Power to make		

Regulations as follows—

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

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

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

		<p>circumstances or manner in which signs relating to a national lottery may be displayed.</p> <p>(3) For the purposes of Article 94(6) of the Constitution—</p> <p>(a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;</p> <p>(b) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section;</p> <p>(c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act, 2013.</p>		
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CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
	FRC	Include a clause on regulation and supervision by the Gambling Regulatory Authority in line with sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti- Money Laundering Act.	This is in line with FAFT standards and shall cure the deficiencies identified in Kenya Mutual Evaluation Report.	Not adopted. Already catered for under clause 4.

#### **OTHER COMMITTEE RESOLUTIONS**

1. Include a clause on restrictions on the time and period for gambling.
2. Include all transitional clauses on betting.

#### **OTHER COMMENTS**

1. The Commission on Revenue Allocation made the following recommendations—
  - (a) inclusion of two persons to represent the Council of Governors in the Board;
  - (b) inclusion of moneys paid by the operator of the National Lottery under section 42 (1) (c) of the National Lottery Act;
  - (c) that the administrative expenses of the Gaming Regulatory Authority should be not more than 3% of its funds from the National Lottery; and
  - (d) that clauses 4 and 5 of the Bill are consistent with the functions of the National and county governments as delineated by the Intergovernmental Relations Technical Committee (IGTRC) in gazette notice No. 8753 of 8<sup>th</sup> September, 2017.
2. The County Gaming officers raised the following concerns in the Gambling Control Bill, 2023—
  - (a) The Gambling Bill, 2023 flouts the fourth schedule of the constitution 2010 the major law governing Betting, Casinos and other forms of gambling function.
  - (b) The Bill is establishing an Authority at the National government level. This may lead to the Authority micro-managing the County governments. To avoid any conflict, the establishment of an Authority must be re-considered.
  - (c) Betting, casinos & other forms of gambling activities being a concurrent function resources from various taxes imposed must be shared in proportion to the functions at each level of the government.
3. Financial Reporting Centre noted the need for—
  - (a) inclusion of beneficial owners in the Bill;

- (b) inclusion of internet casinos in the Bill; and
  - (c) financial reporting mechanisms.
4. The Sports, Arts and Social Development Fund submitted that—
    - (a) section 119 (1) of the Bill should be aligned with section 23 of the National Lottery Act; and
    - (b) the Bill should introduce a gambling tax chargeable at the rate of fifteen per cent of the gross gambling revenue.
  5. Association of Gaming Operators Kenya concurred with the Bill.
  6. County Assemblies Forum noted that individual counties were free to enact their county specific gambling laws.
  7. The Betting Control and Licensing Board requested the Committee to—
    - (a) replace the Gambling Appeals Tribunal with the Gambling Appeals Committee as proposed in the Bill as published;
    - (b) reintroduce clause 46 of the Bill as published on the Gambling Levy; and
    - (c) empower the Authority to impose administrative fines under clause 12 (2) (h).

#### **LIST OF STAKEHOLDERS**

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