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THE NATIONAL ASSEMBLY

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

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DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER, 2023

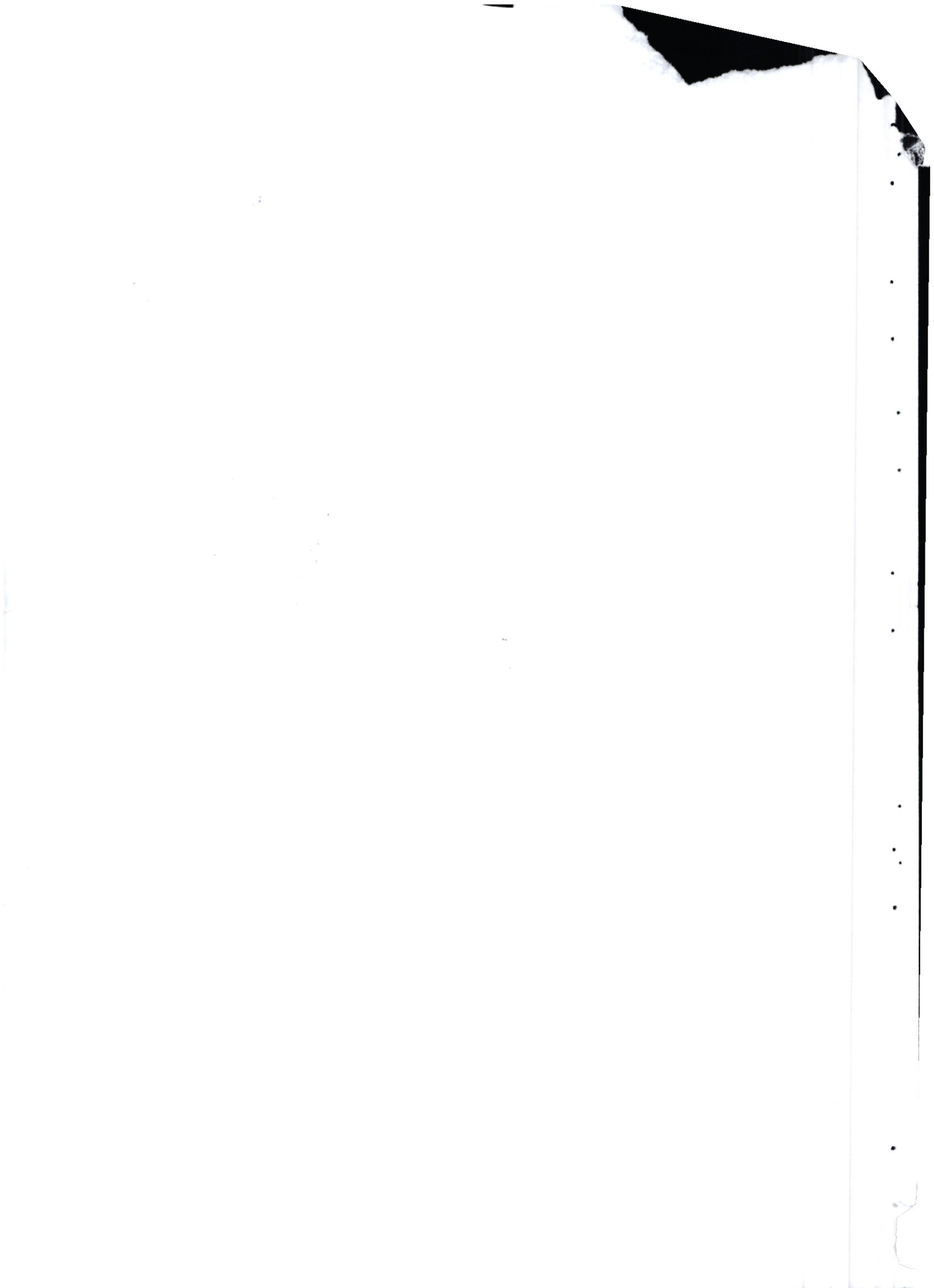


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LIST OF ABBREVIATIONS AND ACRONYMS

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

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes

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

Annexure 4: Letter inviting stakeholders for meetings with the Committee

Annexure 5: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Sports and Culture on its consideration of the Gambling Control Bill (*National Assembly Bill No. 70 of 2023*) which was published on 31st October 2023.

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

The Bill has one hundred and six (126) Clauses and seeks to repeal and replace the Betting, Lotteries and Gaming Act (Cap 131), provide for a legislative framework for the regulation of gambling in Kenya, and incorporate safe gambling principles in gambling sector. Further, the Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries and media promotions.

The Bill concerns County Governments in terms of Article 110 (1) (a) of the Constitution and the Fourth Schedule to the Constitution.

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

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

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

While considering the Bill, the Committee observed that while the Bill is seeking to establish self-exclusion mechanisms that will enable licensees to exclude persons with gambling addiction from all gambling establishments and all controlled games including online gambling or any other gambling activities or privileges. The Gambling Control Bill will establish the Gambling Regulatory Authority. However, all rights duties, obligations, assets and liabilities from the Betting, Control and Licensing Board shall be transferred to the Authority.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the sponsor of the Bill, Hon. Kimani Ichung'wah, MP, Leader of the Majority Party and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable

Members of the Committee and Secretariat who made useful contributions towards consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Sports and Culture and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Gambling Control Bill (*National Assembly Bill No. 70 of 2023*)

It is my pleasure to report that the Committee has considered the Gambling Control Bill (*National Assembly Bill No. 70 of 2023*) and has the honour to report back to the National Assembly with the recommendation that the Bill be **approved with amendments as reported by the Committee.**

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

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Sports and Culture is one of the twenty (20) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. ***To study and review all the legislation referred to it;***
 - v. *To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

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

1.3 Committee Membership

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

Chairperson

Hon. Daniel Wanyama Sitati, MP
Webuye West Constituency

UDA Party

Vice-Chairperson

Hon. James Githua Wamacukuru, MP
Kabete Constituency

UDA Party

Members

Hon. Naomi Jillo Waqo, MP
Marsabit County

UDA Party

Hon. Samuel Gonzi Rai, MP
Kinango Constituency

PAA Party

Hon. Mary Emaase Otucho, MP
Teso South Constituency

UDA Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency

WDM –K Party

Hon. Stephen Mutinda Mule, MP
Matungulu Constituency

WDM-K Party

Hon. Janet Jepkemboi Sitienei, MP
Turbo Constituency

UDA Party

Hon. Chege Njuguna, MP
Kandara Constituency

UDA Party

Hon. Richard Kipkemoi Yegon, MP
Bomet East Constituency

UDA Party

Hon. Catherine Nakhabi Omanyo, MP
Busia County

ODM Party

Hon. Caroli Omondi, MP
Suba South Constituency

ODM Party

Hon. Paul Ekwom Nabuin, MP
Turkana North Constituency

ODM Party

Hon. Robert Ngui Basil, MP
Yatta Constituency

WDM-K Party

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

Nominated

UDA Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following secretariat:

Mr. John Mugoma
Clerk Assistant I/Head of Secretariat

Ms Mary Kinyunye
Clerk Assistant III

Ms. Christine Odhiambo
Senior Legal Counsel

Mr. Moses Omoit
Audio Officer III

Mr. Stephen Otieno
Assistant Serjeant-At-Arms

Mr. Daniel Ominde
Research Officer III

Mr. Vitus Owino
Research Officer II

Mr. Wilson Mwangi
Fiscal Analyst III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Calvin Njoroge
Media Relations Officer III

CHAPTER TWO

2.0 OVERVIEW OF THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023)

2.1 Background

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

2.2 Situational Analysis

7. Kenya's gambling history dates back to traditional games played by local tribes before British colonialists introduced casino games and horse racing. Gambling, initially banned, was decriminalized in 1952. The Betting, Lotteries, and Gaming Act, 1966, currently governs the sector but has struggled to keep up with industry evolution, particularly the impact of the internet and mobile phones.
8. Gambling is deeply rooted in Kenyan culture, fuelled by passion for sports and gaming, especially through online platforms. The percentage of adults engaging in gambling increased from 1.9% to 13.9% between 2019 and 2021. Gambling is considered by many Kenyan adults as a source of income, particularly through mobile money channels. Indeed, unemployment and aspirations for a better future have contributed to the popularity of gambling in Kenya.
9. The gambling sector is a vital industry in Kenya, encompassing bookmakers, public lotteries, and public gaming. Bookmaking dominates the industry, followed by public gaming and lotteries. Despite generating over KShs 200 billion annually, the sector faces varied performance across segments. For instance, strict compliance and high taxation have seen decreased revenues among the bookmakers.
10. It is worth noting that, taxation varies across segments, with bookmakers paying 7.5% betting tax and 15% of Gross Gaming Revenue as withholding tax. Public lotteries and gaming also have specific tax structures. Late payments incur penalties and interest, and operators face additional license, compliance, and renewal fees.
11. Kenya's gambling sector growth, mirroring global trends, is driven by demographic factors, technological advances, increased product access, aggressive marketing, urbanization, unemployment, and global investments. However, the taxation approach, which varies across segments, has raised questions about economic optimization, attracting investment, creating quality jobs, and addressing sector negatives.
12. In many societies, gambling is seen as a problem characterized by disruptive and harmful impacts on an individual's health and well-being, including mental health issues, relationship difficulties, substantial financial losses, and, in extreme cases, crime or suicide. The severity and variety of harms vary among individuals and can be exacerbated by irresponsible conduct from gambling operators, such as encouraging excessive play. Harm from gambling extends beyond the gamblers themselves and can also affect friends, family, co-workers, and anyone connected to the individual engaging in gambling activities.
13. The regulation of gambling in Kenya is governed by the Betting, Lotteries and Gaming Act, Cap 131. This legislation outlines the control and licensing of betting and gaming premises, the imposition and

recovery of taxes related to betting and gaming, and the authorization of public lotteries. Supporting regulations include the Betting, Lotteries and Gaming Regulations (Remittance of Pool Betting Scheme Tax) Order, 1966; the Betting, Lotteries and Gaming Regulations; Betting, Gaming and Lotteries (Online Gaming) Regulations, 2019; and Legal Notice Number 81/2005 on the Authorization of the Executive Officer of the Board.

14. Section 3 of the Act establishes the Betting Control and Licensing Board (BCLB) to oversee gambling activities in Kenya. The Board comprises a chairperson appointed by the Cabinet Secretary, the Principal Secretary to the Treasury or their delegate, the Principal Secretary of the Ministry responsible for the police or their delegate, the Principal Secretary of the Ministry responsible for Betting, Lotteries and Gaming or their delegate, and up to five other members appointed by the Cabinet Secretary.
15. However, concerns arise regarding the lack of clarity on the functions of the head of the secretariat and the Secretary to the Board, potentially leading to a concentration of power and deviation from principles of good governance. The authority granted to the chairperson to unilaterally appoint officers raises the risk of abuse and conflicts with the principles of collective governance. For instance, section 4(3) of the Act allows the Board to authorize the chairperson to act on its behalf, potentially leading to power abuse and weakened controls.
16. The Act defines a game of chance to encompass both games of chance and skill combined, as well as pretended games of chance or those combining chance and skill, excluding athletic games or sports. It also defines gaming to involve playing a game of chance for winnings in money or money's worth. For a game to qualify as a game of chance under the Act, it must involve three elements: a player, consideration for money or money's worth, and an element of chance.
17. The legislative framework for regulating gaming activities is structured around three main objectives: establishing a licensing framework, implementing controls for specific gaming activities, and criminalizing certain conduct related to gaming. BCLB is required to supervise and inspect betting and gaming activities, oversee public lottery and prize competition draws, conduct spot checks on nationwide betting, lotteries, and gaming operations, and authorize amusement machines and pool tables.
18. Section 4(1) of the Act empowers BCLB to issue licenses and permits in accordance with the Act and its associated regulations. The issuance of a license or permit is contingent upon the Board's satisfaction that the applicant is a fit and proper person to hold such authorization and that the premises, if applicable, are suitable for the intended purpose.
19. The existing legal and institutional framework lacks responsiveness to contemporary challenges in the gambling sector. While county governments authorize select gambling activities, national oversight raises concern about organization, enforcement, and consumer protection. Attempts to develop a Gaming Policy and Gambling Bill were rejected by the National Assembly in 2019, emphasizing the need to avoid micromanaging county governments in these matters.

2.3 Comparative Analysis

2.3.1 United Kingdom

20. Approximately half of adults in the UK engage in gambling activities, involving paying to participate in games of chance with the opportunity to win monetary prizes. Various avenues, such as arcade games, online bingo, casinos, and sports betting, cater to diverse preferences within the gambling sphere. The UK's gambling industry generates approximately £3 billion annually in gambling duty.

21. The landscape of the gambling industry, like many sectors, undergoes changes influenced by technological and social advancements. Notably, the industry has expanded and become more accessible, experiencing a 57% real terms growth (equivalent to £4.1 billion) in licensed gambling over the past decade. This surge is primarily attributed to the substantial increase in licensed online and mobile gambling, a sector that required no UK licensing before November 2014 if operated from overseas.
22. In the UK, gambling encompasses activities such as gaming, betting, and participation in lotteries. Remote gambling refers to gambling conducted through remote communication channels, including the internet, telephone, television, radio, or other electronic technologies. The Gambling Act of 2005 specifies that providing facilities for gambling includes inviting others to gamble under one's arrangements, operating or administering gambling arrangements, or participating in the operation or administration of gambling by others. Additionally, providing facilities for gambling involves making remote communication facilities available, ensuring their adaptation or presentation encourages or highlights their potential for gambling use.
23. Gaming on the other hand, refers to engaging in a game of chance for a prize. Such games involve a combination of chance and skill, a chance element eliminable by exceptional skill, or a game presented as chance-based but not categorized as a sport. According to the Gambling Act, playing a game of chance occurs when an individual participates in it, regardless of the presence of other participants or computer-generated representations. Playing a game of chance for a prize involves acquiring a chance to win a prize, irrespective of the risk of losing something. In the context of gaming, a prize refers to monetary value, encompassing both prizes provided by organizers and money won through betting.
24. Betting involves making or accepting a bet on the outcome of various events, such as races, competitions, or processes, as well as the likelihood of events occurring or not, or the truth of statements. A betting intermediary is a person facilitating bets between others, and acting as such entails providing betting facilities.
25. The Gaming Act distinguishes between simple and complex lotteries. A simple lottery involves participants paying for a chance to win prizes allocated solely by chance to one or more members of a class. A complex lottery on the other hand, requires payment for participation and allocates prizes to a class through a series of processes, with the first process relying entirely on chance. In the context of this Act, a prize in lotteries encompasses money, articles, or services, regardless of the description, and whether consisting wholly or partly of contributions from the participating class.
26. Section 20(1) of the Gambling Act establishes the Gambling Commission. The Commission is mandated to pursue and consider the licensing objectives while exercising its functions under the Act, allowing gambling as long as it aligns reasonably with these objectives. The licensing objectives include preventing gambling-related crime, disorder, or support for crime, ensuring fair and transparent gambling practices, and safeguarding children and vulnerable individuals from harm or exploitation. Local authorities serve as the licensing authorities under the Gambling Act, while the Commission is responsible for issuing guidance on how local authorities should carry out their functions.
27. Additionally, the Commission provides advice to the Secretary of State on gambling incidence, conduct, effects, and regulation. The Commission is further empowered to ensure compliance with the Gambling Act, investigate potential offenses, and initiate criminal proceedings under the Act.
28. Section 33 of the Act criminalizes providing gambling facilities without a valid operating license or in violation of license terms. It is an offense for a person to use premises, or cause or permit premises

to be used, for operating a casino, providing facilities for playing bingo, making a gaming machine available for use, offering other gaming facilities, or providing facilities for betting without obtaining an authorized premises license.

29. Manufacturing, supplying, installing, or adapting gambling software without an operating license is also an offense. Gambling software refers to computer software for use in remote gambling, excluding anything intended solely for gaming machines. Cheating at gambling, attempting to deceive or interfere with the gambling process, is also an offense under the Act. Additionally, inviting others to join or participating in a chain-gift scheme, where participants make payments and recruit others, is prohibited.
30. Regarding children, it is an offense to invite, cause, or permit a child or young person to gamble or enter gambling premises. Young individuals participating in gambling activities or providing gambling facilities also commit offenses. It is prohibited to employ a child or young person for gambling-related activities, including lottery, football pools, bingo, or on premises with casino, betting, or adult gaming licenses under the Act. Offenders under the foregoing provisions are liable to imprisonment for up to six months or a fine not exceeding level 5 on the standard scale (maximum £5,000) upon summary conviction.
31. Section 83(1) of the Act mandates licensees to promptly return any money received from a child or young person using gambling facilities covered by an operating license and to refrain from awarding prizes to such individuals. Furthermore, the Act directs the Secretary of State to make Regulations that restrict activities permitted under an operating license, set limits on stakes and participation fees, control prize amounts, mandate a specified proportion of stakes for prizes, and establish specific requirements for multi-premises bingo games.

2.3.2 South Africa

32. In South Africa, the gambling industry plays an important role in the economy and job creation. The high unemployment rate, coupled with economic desperation, have contributed to widespread gambling in the country. Additionally, the accessibility of gambling through mobile devices, especially among young people, have further intensified the prevalence of gambling activities.
33. The gambling industry in South Africa has notably evolved, with younger individuals participating due to evolving offerings and technological advancements. Mobile devices facilitate simultaneous betting on various contingencies, appealing to new player demographics. Advertising, encompassing sponsorships and social media influence have equally played a role in fostering the industry's growth in South Africa.
34. The South African betting industry experienced annual growth in Gross Gambling Revenue (GGR), reaching R32 billion in FY2019/20. Taxes and levies totalled R3.2 billion, underscoring the need for effective industry regulation. Compulsive and addictive gambling presents a notable social problem affecting individuals, families, and society.
35. To address the issue, the Constitution of the Republic of South Africa designates gambling as a concurrent legislative function, necessitating regulation by both national and provincial governments. Subsequently, the government enacted the National Gambling Act, 2004, to coordinate national and provincial legislative competence over casinos, racing, gambling, and wagering. The Act seeks to regulate these matters, establish uniform norms and standards for national and provincial regulation and licensing of certain gambling activities, and create additional uniform norms and standards applicable throughout the country.

36. According to the Act, a gambling activity involves placing or accepting a bet or wager, totalisator bet, or making available and playing licensed bingo or gambling games. Placing or accepting a bet occurs when a player stakes money on a fixed-odds or open bet with a bookmaker, or when a bookmaker accepts such a stake. Placing or accepting a totalisator bet involves staking money on an event's outcome, with winnings distributed proportionally among winning bets. The Act defines placing or accepting bets and totalisator bets, encompassing various betting scenarios and systems.
37. A gambling game is defined as an activity played upon payment of consideration, with the chance that the player might become entitled to or receive a pay-out, determined by the skill of the player, chance, or both. It also includes a bet or wager placed in a casino. A pay-out refers to any form of value won by a player, irrespective of the skill of the player or operator, the application of chance, or both, and regardless of the form of the pay-out, such as money, merchandise, property, cheque, credit, electronic credit, debit, token, ticket, or any other valuable item.
38. The Act prohibits and restricts specific gambling activities. Section 7 outlines that engaging in, conducting, or making available a gambling activity is prohibited if its outcome depends on an unlawful event, if gambling machines are used for such purposes, if premises are maintained or operated for gambling without proper authorization, or if premises under one's control are permitted for gambling without authorization.
39. Section 8 prohibits engagement in, conducting, or making available a gambling activity except for licensed ones, licensed social gambling, or informal bets with valid contractual grounds. Additionally, Section 9 outlines restrictions on importing, manufacturing, supplying, selling, leasing, possessing, or altering gambling machines or devices without proper authorization. Section 10 imposes restrictions on maintaining or operating premises for restricted gambling activities without authorization, permitting unauthorized use of premises, and allowing individuals to engage in restricted gambling activities without proper authorization. Section 12 establishes offenses related to minors engaging in specific gambling activities or falsely claiming to be of legal age.
40. Moreover, it is an offense in section 15(2), to advertise gambling activities in a false, misleading, or unlawful manner, targeting minors, or promoting free or discounted gambling activities. This section also mandates warnings about addictive gambling in advertisements and prohibits promoting gambling activities as available to the public free of charge or at a discounted rate.
41. The Act establishes the National Gambling Policy Council to facilitate consultations between the national and provincial governments on the determination and establishment of national gambling policy, laws, and the promotion of uniform norms and standards at both levels. The Council addresses matters related to gambling within the national or provincial government's jurisdiction, the management or monitoring of gambling nationally or in specific provinces, and the resolution of disputes among provincial licensing authorities or between a provincial licensing authority and the board. Furthermore, the Council has the authority to provide oversight and direction to the board, refer matters for reports or recommendations, and make findings of non-compliance with the Act by a provincial licensing authority, with the power to direct corrective measures.
42. The Act establishes the National Gambling Board with responsibilities to oversee and investigate the issuance of national licenses by provincial licensing authorities for compliance with the Act. Additionally, the Board is mandated to monitor and assess the adherence to the Act by provincial licensing authorities, entering into agreements with them to address any deficiencies and providing recommendations to the National Gambling Policy Council on relevant matters. The Board is further tasked with monitoring socio-economic patterns of gambling activity nationwide and maintaining crucial registers and systems, including the national register of excluded persons, the national central

electronic monitoring system, the national register of gambling machines and devices, and a central registry of information, as well as the national probity register.

43. Section 30 of the Act grants exclusive jurisdiction to provincial licensing authorities within their respective provinces to investigate, consider applications for, and issue provincial licenses for activities such as casinos, racing, gambling, or wagering, excluding those requiring a national license under the Act. Each provincial licensing authority is tasked with preventing, detecting, and prosecuting unlawful activities associated with casinos, racing, gambling, and wagering, as well as unlicensed gambling activities within its jurisdiction. In contrast, a national license applies nationwide, enabling the licensee to conduct, engage in, or make available the licensed activities at any location within the country.

2.4 Summary of Legal Provisions

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

45. The Bill has One Hundred and Twenty-Six (126) Clauses and has the following provisions:

PART I contains the preliminary provisions.

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

PART II

- ii. **Clauses 4-5** contains provision on the functions of the National Government and county governments in the regulation of gambling activities. The functions of the national government are to—
- (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 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;
- (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.

i. The functions of the county governments are to—

- (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) periodic monitoring and evaluation of betting, lotteries and gaming licensed by counties;
- (e) handling of complaints and arbitration
- (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

- iii. **Clauses 6-26:** contains provisions on establishment of the Gambling Regulatory Authority as a body corporate, the composition of the Board, functions and powers of the Board, the conduct of business and affairs and remuneration of the Board. The Authority shall be the successor of the Betting Control and Licensing Board established under section 3 of the Betting, Lotteries and Gaming Act.
- iv. **Clause 7:** provides that the management of the Authority is vested in the Board, comprised of a Chairperson appointed by the President, the Principal Secretary for Interior and National Administration or a designated representative, the Principal Secretary for the National Treasury or a designated representative, the Attorney-General or a designated representative, three individuals appointed by the Cabinet Secretary, one person nominated by the Council of Governors and appointed by the Cabinet Secretary, and the Director-General.
- v. **Clause 10:** provides that the Authority shall oversee the development and maintenance of standards for gambling, issue licenses, and formulate policies, including a savings component for social benefits. It provides that the Authority shall monitor policy implementation, conduct security checks, and investigate compliance. It further provides that the Authority shall address illegal gambling, advise county governments, and handle complaints.
- vi. **Clause 11:** provides that the Authority shall issue and update codes of practice for gambling, focusing on fairness, protection of vulnerable individuals, data security, and ethical marketing. It provides that non-compliance with the code does not attract civil or criminal proceedings. It requires the Authority to consult various stakeholders, including government officials, law enforcement, gambling businesses, and the public before issuing the code.
- vii. **Clause 12:** provides that the Board shall manage the Authority's assets, receive and disburse funds, conduct investigations, address licensee complaints, and provide services as determined by the Authority. It also provides that the Board shall approve the opening, operating, and closing of the Authority's bank accounts.

- viii. **Clauses 13-15:** provide for the conduct of business and affairs of the Board, committees of the Board, and remuneration of the Board.
- ix. **Clauses 16-18** provide for the appointment of the Chief Executive Officer, Corporation Secretary and other staff of the Board.
- x. **Clauses 21-24** contain the financial provision of the Board. Clause 25 provides for preparation and submission of quarterly and annual financial and non-financial reports to the national Treasury and its performance and the performance of the operator.

PART IV

- xi. **Clauses 27-52:** contains provisions on issuance of licences and permits for gambling activities, application for licence and permits, license fees, application for gambling permits, permits fee, submission of security, security for casinos and online gambling, gambling capital.
- xii. **Clause 27** requires licensing for all gambling activities under the Act. It provides that the Authority shall issue licences for a range of activities, including public gambling, the national lottery, bookmaking, online gambling, and various aspects of gambling equipment.
- xiii. **Clause 28** requires license applicants under the Act to be corporations with a minimum of thirty percent of shares owned by Kenyan citizens and to maintain an account with a registered Kenyan financial institution.
- xiv. **Clause 29** details license application requirements, including documentation, fees, and proof of capital and security. It provides that the Authority shall assess applicants based on financial, educational, and regulatory factors, evaluating competence and integrity. It provides that fitness considerations encompass legal compliance, business practices, internal controls, and overall business affairs.
- xv. **Clauses 33-36** contains provisions on renewal of a licence, refusal to grant or renew a licence, revocation of a licence, suspension of licence, duration of a licence, display of a licence, and transfer of a licence.
- xvi. **Clause 36-39** provide for investigation by the Authority, duplicate licence, and register of licences.
- xvii. **Clause 40** mandates licensees to provide an insurance security bond or bank guarantee specified in the Fourth Schedule to cover potential liabilities from the licensed activity. It provides that the Authority can use the deposit to offset any incurred liabilities, and for activities not explicitly covered in the Act.
- xviii. **Clause 41** requires licensees to show sufficient capital for operations, with the Authority mandated to determine specific amounts for each regulated gambling activity.
- xix. **Clauses 42-43** provide for Keeping of books of accounts and submission of accounts by licensees.

- xx. **Clause 45** establishes a fifteen percent gambling tax on gross gambling revenue (GGR), due to the Collector by the 20th day of the following month, with proceeds deposited into the Sports, Art, and Social Development Fund under the Public Finance Management Act, 2012.
- xxi. **Clause 46** establishes a monthly gambling levy, not exceeding one percent of the monthly gross gambling revenue, payable by licensees to the Authority for purposes including mental health research, public awareness on gambling addiction, treatment programs, and eradicating illegal gambling.
- xxii. **Clause 47** requires gambling licence holders to apply for a permit from the county government for the licensed premises. It outlines the application process, including prescribed fees, licence issued by the Authority, and additional information at the discretion of the applicant.
- xxiii. **Clauses 48-52** provide for endorsement, revocation, duration, transfer, display of a permit.

PART V

- xxiv. **Clauses 53-60** provides for authorization of public lotteries for charitable purposes, the powers of the Authority in respect of public lotteries, authorization of lotteries relating to horse racing, exemption of certain types of lotteries conducted for charitable, sporting or other purposes, exemption of licence on lotteries for charitable, sporting or other specified purposes and regulation of private lotteries.
- xxv. **Clause 53** provides that the Authority shall license nationwide or multi-county public lotteries for charitable purposes, while county governments can license lotteries within their jurisdictions for up to one year. It provides that the Cabinet Secretary, in consultation with the Authority, shall set the percentage of gross revenue allocated to the lottery's purpose, ranging from thirty to forty-five percent.
- xxvi. **Clause 55** provides that county governments may issue licenses for horse race-related lotteries within or outside Kenya, and the Authority can issue on-the-course permits or off-course lottery licenses in Kenya.
- xxvii. **Clause 56** permits lotteries for charitable societies, with the Authority having the power to impose conditions, including uniform ticket prices and allocation of proceeds to society purposes. **Clause 57** provides for issuance of nationwide permits, multi-county, or media lottery licenses by the Authority and local lottery licenses by county governments.
- xxviii. **Clause 58** authorizes the Authority to issue licenses for individuals to organize and manage lotteries linked to sports or games, specifying the permitted type. It provides that conditions may be imposed on the conduct, operating hours, premises suitability, fraud protection, responsible gambling measures, and admission fees payment for gambling individuals.
- xxix. **Clause 59** provides that the Authority shall issue licences for private lotteries. It provides that conditions, such as dedicating net proceeds, exhibiting lottery notices, ensuring uniform ticket prices, indicating promoter details, restricting ticket sales, prohibiting returns, and disallowing postal ticket delivery, may be imposed upon licensees.

PART VI

- xxx. **Clause 61-66** provides for the issuance of permits for betting premises, issuance of bookmakers licence, totalisator licence and, laying of totalisator, betting pools and betting odds, promoters licence in respect of betting schemes and authorization of bookmaking at a race meeting and the control of betting machines.
- xxxi. **Clause 61** provides that the Authority shall issue on-the-course, off-the-course, on/off-course race, and online bookmaker's licenses.
- xxxii. **Clause 62** provides that the Authority shall issue on-the-course, off-the-course, and on/off-course totalisator licenses for each race day or up to one year.
- xxxiii. **Clause 63** provides that the Cabinet Secretary, in consultation with the Authority, shall establish rules for totalisator operations. It provides that license holders must adhere to these rules, ensuring that aggregate returns for winning bets are at least eighty-five percent of the total pooled amount or an Authority-approved amount for specific events.
- xxxiv. **Clause 64** provides that the Authority shall issue a promoter's license for one pool betting scheme at a time, enabling the promoter to operate within Kenya.
- xxxv. **Clause 65** outlines the process for a race meeting promoter to apply for a bookmaking license from the Authority, specifying the required fees and application form. It provides that the Authority, shall upon receiving the application, issue a license for bookmaking at a designated race meeting.
- xxxvi. **Clause 66** provides that licensees shall place betting machines exclusively in casinos, meeting international standards, and prohibits operating them without a valid bookmaker's license.

PART VII

- xxxvii. **Clauses 67-69** provides for the licensing of casinos, the prescription of the maximum number of casinos, and the power of the Authority to inspect casinos and to ensure compliance by the presence of its officers in casinos. **Clause 67** empowers the Cabinet Secretary to regulate the quantity of gambling establishments and machines within counties in consultation with the Authority and Council of Governors.

PART VIII

- xxxviii. **Clauses 70-83** provides for licensing of online gambling, conditions for grant of a licence, control of online gambling activities, conformity of online gambling systems to standards and conditions set by the Authority, online gambling transactions, payment of prizes and remittance of profits and winnings.
- xxxix. **Clause 70** outlines the application process for individuals seeking to engage in online gambling in Kenya. It requires applicants to submit a prescribed form for licenses such as online bookmakers, online lottery, or online casino, along with a proposed gambling control system, subject to the Authority for evaluation.

- xl. **Clause 71** provides that online gambling licensees shall adhere to an approved gambling control system covering security, safety, payment processes, age protection, vulnerability safeguards, awareness, responsible advertising, and data protection.
- xli. **Clause 74** provide for the minimum amount a person can bet online, registration of players, players accounts to be kept, dealing with players' monies restricted, handling of players' monies, players' monies to be kept in separate accounts, financial reporting by a licensee and the requirements to be met foreign operators for the issuance of a licence.

PART IX

- xlii. **Clauses 84-89** provides for the authorisation of amusements with prizes, amusement machines, prize competitions, media promotions with prizes and chain letters.

PART X

Provides for the manner in which advertisements of gambling activities should be carried out.

PART XI

- xliii. **Clauses 91-94** provides for establishment and jurisdiction of the Gambling Appeals Committee, the composition of the Committee and qualifications for appointment to the Committee, appeals from the decisions of the Committee and the conduct of business and the affairs of the Committee.

PART XII

- xliv. **Clause 95-114** provides for offences and penalties.

Part XIII

- xlv. **Clauses 115-126** contains provisions on miscellaneous provisions including the appointment of inspectors, power to enter and inspect premises, self-exclusion mechanisms, forfeiture of licence or security, power to seize machines, transitional provisions and consequential amendments.
- xlvi. **First Schedule** sets the Provisions for the meetings and procedure of the Board.
- xlvii. **Second Schedule** prescribes the licensing fee for the various types of gambling activities.
- xlviii. **Third Schedule** provides for declarations to be made by an applicant of a Gambling licence.
- xlix. **Fourth Schedule** provides for the amounts of security that licensee should deposit with the Authority to defray the liabilities of licensee which may arise from a licensed gambling activity.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework Public Participation

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

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

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

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

*(a) **inviting submission of memoranda;***

*(b) **holding public hearings;***

(c) consulting relevant stakeholders in a sector; and

(d) consulting experts on technical subjects.

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

3.2 Memoranda Received on the Gambling Control Bill, 2023

48. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on Friday 10th November, 2023 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Clerk of the National Assembly vide letters Ref. No. *NA/DDC/S&C/2023/078* and *NA/DDC/S&C/2023/079* dated 15th November, 2023 invited key stakeholders to submit views on the Bill and attend a public participation forum on Tuesday 21st to 22nd November, 2023.
49. To this end, the Departmental Committee on Sports and Culture received memoranda from the Department for Parliamentary Affairs, Ministry of Youth Affairs, Creative Economy and Sports, State Law Office, Kenya Law Reforms Commission, Kenya Revenue Authority, Commission on Revenue Allocation, Office of the Data Protection Commissioner, Betting Control and Licensing Board, National Gender and Equality Commission, the Law Society of Kenya, Financial Reporting Centre, Council of Governors, County Assemblies Forum, Association of Gaming Operators Kenya, Gaming Awareness Society of Kenya and Media Owners Association. The memoranda are annexed to this report as *Annexure 5*.
50. The Committee also held a consultative meeting with the Presidential Taskforce on the Establishment of a National Lottery where the Committee was briefed on the policy that informed the development of the Gambling Control Bill, 2023.
51. The Kenya Law Reforms Commission, the Kenya Revenue Authority, Commission on Revenue Allocation, the Office of Data Protection Commissioner, Law Society of Kenya, County Assembly Forum, Association of Gaming Operators, Media Owners Association and Gaming Awareness Society of Kenya submitted amendments to the Bill.

52. The Betting Control and Licensing Board, and the State Law Office supported the Bill without reservations. The Ministry of Youth Affairs, Creative Economy and Sports supported the Bill with some reservations.
53. The Council of Governors opposed the Bill in its entirety and called for its withdrawal since it takes away the functions and revenue of county governments. They stated that there is a need for the introduction of a new Bill that conforms with the constitutional assignment of functions and powers.
54. The stakeholders submitted as follows:

3.2.1 Taskforce on the Establishment of the National Lottery

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

55. Kenya's gambling industry, deeply rooted in its culture and fueled by a passion for sports and gaming, plays a significant role in the country's economy, particularly through online platforms. Despite the sector's substantial growth, the existing legal framework falls short in addressing contemporary challenges such as addiction, underage participation, lack of transparency, enforcement issues, and the failure to adopt global best practices.
56. Recognizing its potential contribution to the GDP, there have been calls for enhanced regulation to address issues like consumer protection and mitigate problem gambling. In the upshot, His Excellency the President, Hon. William Samoei Ruto, PhD., C.G.H. established the Presidential Taskforce on the Establishment of the National Lottery through Gazette Notice No. 2101 dated February 17, 2023. In regard to gambling, the Taskforce's primary objectives included (i) examining the current administrative, institutional, policy, and legislative structures in the betting and gaming industry, (ii) developing a prioritized implementation matrix for immediate, medium, and long-term sectoral reforms, (iii) expediting the review of the draft Gambling Bill for Cabinet consideration and onward transmission to Parliament, and (iv) addressing any other ancillary matters or subjects related to gambling.
57. The Taskforce, in adherence to its prescribed Terms of Reference, conducted essential meetings, reviewed pertinent documentation, and executed necessary functions to advance its objectives. As outlined in the Gazette Notice, the Taskforce formulated the draft Gambling Policy for Kenya, 2023, with the aim of transforming the gambling sector into a catalyst for social progress. Additionally, the Taskforce developed a draft Gambling Control Bill, 2023 to establish a framework for the reformation, regulation, and control of gambling activities in Kenya, emphasizing responsible gambling practices.
58. The potential repeal of the Betting, Lotteries, and Gaming Act Cap. 131 was poised to usher in a transformative phase in the licensing of public lotteries, betting, and gaming. This was aimed to address current societal challenges and align with the State's commitment to safeguarding the wellbeing of all individuals through the promotion of a national culture and ethos centered around 'responsible betting and gaming.'

3.2.2 Ministry of Youth Affairs, Creative Economy and Sports

The Ministry of Youth Affairs, Creative Economy and Sports submitted on additional clause on Gambling Tax: -

59. **Clause 45(4)** This provision shall apply to all games of chance included games of chance operated by the National Lottery Board under the National Lottery Act or any other law. That it 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, the National Lottery Bill.

Committee Observation

The Committee was of the opinion that the National Lottery Board under the proposed National Lottery Bill can operate any game of chance, but within the regulation of the law relating to gambling, and therefore rejected the proposal.

3.2.3 Kenya Law Reform Commission

The Kenya Law Reform Commission made submissions on the following clauses:

60. **Clause 7(4)(a)** and **Clause 7(4)(e)** be recast to provide that board members of the Gambling Regulatory Authority to be appointed through an open and competitive process so as to guarantee transparency, fair competition and merit as a basis for appointment as contemplated under Articles 10 and 232 (1) (g) of the Constitution.

Committee Observation

The Committee agreed to the proposal to recast the clauses.

61. That the phrase “**without the option of a fine**” be added immediately after the words “six months” in **Clause 8(2)(b)** to ensure that the membership of the Authority is not affected where a member has paid the requisite fine.

Committee Observation

The Committee agreed to the proposal to insert the phrase “without the option of a fine.”

62. **Clause 10(1)(b)** be deleted as the provision is redundant. All the functions of the Authority listed between Clause 10 (a-q) aim at regulating and controlling gambling activities.

Committee Observation

The Committee agreed to the proposal to delete clause 10(1)(b).

63. **Clause 10(1)(e)** be deleted as the issue of monitoring compliance with policies and regulations on gambling is repeated under clause 10(1)(j).

Committee Observation

64. **Clause 10(1)(l)** be deleted as issue of monitoring the socio-economic impacts of gambling is repeated under clause 10(1)(i).

Committee Observation

The Committee agreed to the proposal to delete clause 10(1)(l).

65. **Clause 10(1)(o)** be redrafted to provide that the Gambling Regulatory Authority shall receive **and make a determination** on complaints from companies and the public on matters pertaining to games of chance so as to align to drafting standards.

Committee Observation

The Committee agreed to the proposal to redraft 10(1)(o).

66. The Phrase 'Code of practice' in **Clause 11** be replaced with 'Gambling Practice Guidelines' to facilitate enforcement under the Statutory Instruments Act, 2013.

Committee Observation

The Committee agreed to the proposed replacement of the title, and recommended the deletion of sub-clause (8).

67. **Clause 11(11)** to be amended to include a representation from the National Council for Children Services; the Office of the Secretary of Children's Services and other institutions on the welfare of children to facilitate consideration of the best interests of the child as contemplated by Article 53(2) of the Constitution.

Committee Observation

The Committee agreed to the proposed amendment.

68. **Clause 15** be amended to include the Salaries and Remuneration Commission as the institution responsible for offering advice on the remuneration and benefits of public officers so as to comply with Article 230(4) (b) of the Constitution.

Committee Observation

The Committee agreed to the proposed amendment.

69. **Clause 29(3)(d) and Clause 29(3)(e)** be deleted as the threshold provided under (d) and (e) is subjective and not measurable.

Committee Observation

The Committee agreed to the deletion of clause 29(3)(d) and recommended that clause 29(3)(e) be redrafted.

70. The phrase “**Mutatis Mutandis**” in **Clause 33(2)** be deleted as legalese is discouraged in modern styles of drafting law.

Committee Observation

The Committee agreed to the deletion of the legalese in the clause.

71. The phrase “**prominently**” appearing immediately after the words “that is” be deleted as it is an editorial error.

Committee Observation

72. Delete the word “prominently” appearing immediately after the words “that is” in **clause 35**.

Committee Observation

The Committee agreed to the proposal.

73. **Clause 46(3)(d)** be redrafted to provide clarity on the specific activities to be undertaken in eradication of illegal gambling so as to avoid ambiguity.

Committee Observation

The Committee agreed to the proposed amendment, and further recommended the deletion of clause 46(3)(d) to avoid ambiguity.

74. **Clause 47(2)(c)** be recast to establish the County Government as the ‘subject’ in the sentence. The County Government has the responsibility of determining any additional information that it may require for the purposes of considering an application.

Committee Observation

The Committee agreed to the proposed amendments subject to further redrafting.

75. **Clause 67(4)** should define the distance from a learning or religious institutions within which gambling activities are prohibited to be measurable in units. The use of the word ‘near’ is subjective and prone to abuse.

Committee Observation

The Committee recommended that sub-clause (4) be amended to require the responsible Cabinet Secretary to prescribe the proximity in Regulations.

76. **Clause 90(1)** be redrafted to read “A person may, promote the advertisement of a gambling activity on electronic medium or any other form, with the approval of the Authority” to avoid double negatives in drafting.

Committee Observation

The Committee was of the opinion that the proviso is already provided for in the Bill and therefore rejected the proposed amendment.

3.2.4 Kenya Revenue Authority

77. The Kenya Revenue Authority presented recommendations suggesting the **inclusion of a new clause, providing that taxes outlined in section 45** should be collected in accordance with the provisions of the Tax Procedures Act, Cap 469B. The rationale for the proposed amendment is to establish assessment and enforcement powers for the Collector of gambling tax, functions previously provided for in section 69AA of the Betting, Lotteries, and Gaming Act, Cap 131

Committee Observation

The Committee rejected the proposed inclusion of a new clause.

78. Additionally, the Kenya Revenue Authority **recommended the incorporation of a new clause** to establish a transitional provision for treatment of taxes that had been due under the Betting, Lotteries, and Gaming Act, Cap 131, which is slated for repeal. The transitional clause, is designed to empower the Collector to enforce the collection of any outstanding taxes under the Betting, Lotteries and Gaming Act, Cap 131.

Committee Observation

The Committee rejected the proposed amendment since the clause on transition adequately provides for liabilities.

3.2.5 Commission on Revenue Allocation

The Commission on Revenue Allocation made submissions and recommended the following:

79. That the definitions "**Horse race**", "**online gambling**" and "**remote communications**" in **Clause 2** be redrafted as they were ambiguous and lacked clarity.

Committee Observation

The Committee noted that there was no proposed amendment.

80. That the phrase '**single business permits**' in **Clause 5(b)** be replaced with '**trade licenses**' to align with constitutional language as per **section 7(b) Part 2 of the Fourth Schedule** of the Constitution of Kenya. Committee agreed to the proposed substitution of the phrase "single business permit" with "trade licences."

Committee Observation

The Committee accepted the proposed amendment.

81. That the number of persons appointed by the Cabinet secretary in **Clause 7(e)** be reduced from '3' to '2' and the number of persons nominated by the Council of Governors in **Clause 7(f)** be increased from '1' to '2' as Counties are under-represented in the Board compared to the national government, yet gambling is a concurrent function under the Fourth Schedule of the Constitution.

Committee Observation

The Committee rejected the proposed reduction of the number of persons appointed by the Cabinet Secretary.

82. Increase the number of persons nominated by the Council of Governors under **clause 7(1)(f)** from "1" to "2". Counties are underrepresented in the Board compared to the national government yet gambling is a concurrent function under the Fourth Schedule of the Constitution.

Committee Observation

The Committee was of the opinion that the concerns have been addressed in the Bill and rejected the proposed amendment.

83. The phrase "**based on performance**" after the word "**years**" at the end of the statement in **Clause 7(3)** be added in order to align with the Mwongozo Code of Governance for State Corporations.

Committee Observation

The Committee agreed to the proposed amendment.

84. That **a new provision** be included requiring for 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 to align with Article 27 of the Constitution of Kenya on equality.

Committee Observation

The Committee rejected the proposed introduction of a new clause noting that the same is already catered for.

85. That the phrase "**the relevant government agencies**" in **Clause 15** be replaced with "**the Salaries and Remuneration Commission**" as the institution responsible for offering advice on the remuneration and benefits of public officers in compliance with Article 230(4) (b) of the Constitution of Kenya.

Committee Observation

The Committee agreed to the proposed amendment.

86. Include the phrase “based on performance” after the word “years” at the end of the statement in **clause 16(4)**.

Committee Observation

The Committee agreed to the proposed amendment.

87. That a percentage of the gambling levy going towards the financing of the Authority be set in **Clause 21(b)** to avoid ambiguity.

Committee Observation

The Committee rejected the proposed amendment and instead proposed a deletion of clause 46.

88. **That Clause 21(c)** be deleted as the Authority is set to receive 3% from the National Lottery to cater for its administrative function. This is to ensure that there is prudent management of financial resources in line with Article 201 of the Constitution of Kenya.

Committee Observation

The Committee rejected the proposal to delete sub-clause 21(c).

89. That the phrase “Public Finance Act, 2012” in **Clause 23** and **Clause 24** be replaced with "Public Finance Management Act, 2012" to quote the correct citation of the Act.

Committee Observation

The Committee agreed to the proposal but recommended that the proposals be redrafted to conform to the House drafting style.

90. That **Clause 28(1)(a)** be harmonized with **Clause 23(2)** of the National Lottery Bill, 2023 to define the operator of a license for clarity.

Committee Observation

The Committee agreed to the proposal to harmonize clause 28(1)(a) with clause 23(2).

91. That **Clause 91** provides for an appeal framework be included for county level decisions as the Bill only caters to appeals at the national level.

Committee Observation

The Committee agreed to the proposed amendment, recommending that sub-clause (8)(a) be amended to include County Lotteries.

3.2.6 Office of the Data Protection Commissioner

92. **Clause 29 (1)** - The Office of Data Protection Commissioner noted that the Bill as it is currently lacked the provision on the data protection policies and procedures accompanying application for the license.

They recommended that the Bill be amended by inserting a new subsection after paragraph g, “Data protection policies and procedures in line with the Data Protection Act” to ensure necessary steps are taken to secure the integrity of personal data under their possession.

Committee Observation

The Committee was of the opinion that the proposal was already provided for in the Bill and rejected the proposed amendment.

93. **Clause 31** - The Office of Data Protection Commissioner further noted the Bill in its current form did not provide for the need to adopt data protection measures and therefore recommended inserting a new section (d), “The Application does not provide for data protection measure under the Data Protection Act.” This, they emphasized is to ensure necessary steps are taken to protect the personal data under their possession and control.

Committee Observation

The Committee rejected the proposed amendment since the provisions of the Data Protection Act will automatically apply to the implementation of the Gambling Control Bill, 2023.

94. **Clause 39** - The Office of the Data Protection Commissioner submitted that the bill did not give an obligation to ensure the register of licenses is kept and maintained in accordance with the Data Protection Act. They proposed an amendment to insert a new subsection after paragraph 2, “The register kept and maintained by the Authority in clause (1) shall be maintained in accordance with the principles of data protection set out in the Data Protection Act.”

Committee Observation

The Committee rejected the proposed amendment since the provisions of the Data Protection Act will automatically apply to the implementation of the Gambling Control Bill, 2023.

95. The Office of the Data Protection Commissioner noted that the Bill did not have a provision that referenced the Data Protection Act. They recommended an amendment to include additional provision that reads “**The register kept and maintained by the Authority in clause (1) shall be maintained in accordance with the principles of data protection set out in the Data Protection Act No. 24 of 2019,**” to ensure any processing of personal or sensitive data is done in accordance with the Data Protection Act and the Data Protection Principles.

Committee Observation

The Committee rejected the proposed amendment since the provisions of the Data Protection Act will automatically apply to the implementation of the Gambling Control Bill, 2023.

3.2.7 National Gender and Equality Commission

The National Gender and Equality Commission recommended the following amendments:

96. That **Clause 7(1)(e)** be amended to read “Three other persons representing:
i.) Persons with Disabilities,

- ii.) ii.) Civil society organizations,
- iii.) iii.) Faith-based organizations

So as to factor in inclusivity and not affect the wider society represented by the persons proposed by the Commission.

Committee Observation

The Committee accepted the proposed amendment to clause 7(1)(e).

97. That **Clause 7(5)** is amended to read as “The appointment of the members of the Board shall be staggered to ensure continuity of the business of the Board” as 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 *Mwongozo* code (and generally great practices in governance).

Committee Observation

The Committee rejected the proposed amendment since it is already contained in the Bill.

98. That a new sub clause is added to **Clause 7(6)** to read as “The Cabinet Secretary in making appointments shall ensure that no more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and, shall have due regard to the principle of fair representation for persons with disabilities.”. This sub-clause is proposed so as to comply with the *Mwongozo* code on the composition of Boards of public entities.

Committee Observation

The Committee agreed with the proposed amendment, noting however, that PWDs are already catered for in clause 7(1)(e).

99. That **sub-clause 8(1)(d)** is deleted the without any replacement, as this qualification is discriminatory as there is no justification for not allowing an employee to rise through the ranks if they have the requisite qualifications.

Committee Observation

The Committee rejected the proposed deletion of sub-clause (d) without any replacement.

100. That **Clause 8(2)** is amended by substituting the phrase “at the time of appointment’ with “holds a political office” as a holder of a political office is disqualified from being considered for the position unless they have resigned

Committee Observation

The Committee rejected the proposed substitution of phrase “at the time of appointment” with “holds a political office.”

101. That **Clause 9(2)** is deleted as the clause is prejudicial and discriminatory to persons with physical and mental disabilities who are entitled to reasonable accommodation in line with the provisions in the Convention on the Rights of Persons with Disabilities (CRPD) once appointed to an office that will enable them to carry out the duties of that office.

Committee Observation

The Committee rejected the proposed deletion of clause 9(2), since inability to perform the functions of office by reason of physical or mental incapacity is a valid ground for removal from office.

102. That **Clause 10(1)** is amended by inserting the words “*and recommend corrective measures*” after the word consequences and to delete the word “*within*” after the word “*activities*” as it is not enough for the Board to undertake research and identify consequences without recommending corrective measures.

Committee Observation

The Committee agreed to the proposed amendment, but with further improvement.

103. That a **New Sub-Clause under Clause 16** be included to state the factors for the removal of the Director General to read as “**The Director General may be removed from office by the Board in accordance with the terms and conditions of service for**
- a) gross misconduct or misbehavior;
 - b) incompetence or neglect of duty;
 - c) violation of the Constitution; or
 - d) any other ground that would justify removal from office under the terms and conditions of service.

Before the Director General is removed under subsection (1), the Director General Officer shall be given –

- (a) sufficient notice of the allegations made against him or her; and
- (b) an opportunity to present his or her defense against the allegations” as the proposed Bill does not contain an exit clause for the Director General.

Committee Observation

The Committee agreed to the proposed inclusion of the new sub-clause.

104. That **Clause 91(2)(b)** is amended to read as “ten members of whom four members shall be advocates of the high court of Kenya with at least seven years in dispute handling and six other members with qualifications and experience enumerated in sub section 4 (ii) and (iii)” as sub-clause (2) as phrased is not very clear.

Committee Observation

The Committee rejected the proposed amendment.

105. That **Clause 112** should include regulations that will be effective in protecting children effectively as provided for in clause 122 on “powers to make Regulations” as Children are not protected from the dangers of gambling in spite of the current law sought to be repealed.

Committee Observation

The Committee rejected the proposed amendment.

106. That **Clause 115** be amended by substituting the word “may” after the word “government” with the word “shall” as “May” is discretionary but “shall” places an obligation on the duty bearers that must be complied with.

Committee Observation

The Committee agreed to the proposed amendment.

107. That **Clause 118** is deleted as **self-exclusion** may not be realized because it involves a person who has become addicted to gambling and is in no state of mind to exclude themselves from such activities and a license holder who is business minded interested in profit making and maybe not interested in the welfare of the addicted persons.

Committee Observation

The Committee rejected the proposed amendment, further recommending that interested parties be included with the approval of the Authority.

3.2.9 The Law Society of Kenya

108. **Long title-** The title of the Authority should be “The National Gambling Regulatory Authority”. The title should speak to Parts 1 and 2 of the Fourth Schedule to the Constitution.

Committee Observation

The Committee agreed to the proposed amendment noting that the Authority be renamed to Gambling Regulatory Authority of Kenya.

109. The content of **Clause 3** should be merged to form the Long Title of the Bill. To rid the legislation of superfluous provisions. The Committee rejected the proposal, noting that it is proper drafting practice to include a clause on the objects and purpose of the Bill.

Committee Observation

The Committee rejected the proposed amendment.

110. **Part II (4&5)** – Part II be deleted. The functions are already provided for under the Fourth Schedule to the Constitution. The Committee rejected the proposed deletion of Part II noting that it is necessary to expressly delineate the functions of the respective governments since gambling is a concurrent function of the national and county governments.

Committee Observation

The Committee rejected the proposed amendment.

111. **Clause 5(a)** be deleted - This conflicts with Article 243 of the Constitution which grants the mandate of law enforcement to the National Police Service. The Committee agreed to the proposed amendment noting that there is need to redraft the clause to eliminate ambiguity.

Committee Observation

112. **Amend Clause 11(11)(d)-** to add the words “in accordance with Chapter Six of the Constitution.” The public participation must accord with the constitutional imperative of public participation.

Committee Observation

The Committee rejected the proposed amendment as it is not necessary to restate the provisions of the Constitution.

3.2.9 Financial Reporting Centre

The **Financial Reporting Centre** submitted as follows:

113. **Clause 2** should be amended by adding the definition of the word “Beneficiary Owner” - “Beneficial owner” has the meaning assigned to it under the Companies Act, 2015 - To provide the definition of a beneficial owner in line with the Financial Action Task Force (FATF) Recommendations and to mirror the definition under the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA);

Committee Observation

The Committee agreed to the proposed amendment, noting that the term is used in the Third Schedule to the Bill.

114. **Clause 2** be further amended by adding the definition of the word “Reporting Institution” - “Reporting Institution” means a Reporting Institution as defined under Section 2 of the Proceeds of Crime and Anti-Money Laundering Act - To provide definition of a Reporting Institution as provided for under Section 2 of the Proceeds of Crime and Anti-Money Laundering Act and limit the application of the anti-money laundering provisions to casinos only. Section 2 of POCAMLA identifies casinos, including internet casinos as being subject to regulation under POCAMLA;

Committee Observation

The Committee agreed to the proposed amendment.

115. **Clause 4 (1)** is amended by deleting and inserting therefor: 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 - To insert Clause 4 (1) to indicate that the National Government shall undertake its functions through the Gambling Regulatory Authority.

Committee Observation

The Committee agreed that the clause may be mended for clarity.

116. **Clause 4 (1)** is amended by deleting sub-paragraph (h) and inserting therefor to read as follows: (h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, regulate and supervise, for anti-money laundering and combating the financing of terrorism and countering proliferation financing purposes by Reporting Institutions licensed under this Act.

Committee Observation

The Committee agreed to the proposed amendment.

117. Add the words “in accordance with Chapter Six of the Constitution” to **clause 11(11) (d)**.

Committee Observation

The Committee rejected the proposed amendment.

118. **Clause 29** is amended by inserting a new sub-clause (h) to read as follows: 29 (1) An application for a license shall be made in the prescribed form and, be accompanied by— (a) ... (h) A sworn declaration of the ownership structure of the applicant, including a declaration of the beneficial owner or the proposed beneficial owners, whichever is applicable, in the form prescribed by the Authority - To amend Clause 4(1)(h) to include monitoring compliance with the Prevention of Terrorism Act and limit the application of this Act to Reporting Institutions as defined under Section 2 of POCAMLA who are licensed under the Act. These are casinos, including internet casinos, as is the requirement in the FATF Standards.

Committee Observation

The Committee accepted the proposed amendment.

119. **Clause 126** be amended by deleting Clause 126 (a) to read as follows: 126. The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended —
(a) in the First Schedule by deleting paragraph (c) and substituting therefor the following paragraph—
(c) Gambling Regulatory Authority –
The proposed section would broaden the application of the Proceeds of Crime and Anti-Money Laundering Act beyond the scope of the FATF Standards. These standards only require the regulation of casinos and does not extend to other regulated entities under the proposed bill. There is no objection to the amend the First Schedule of POCAMLA by deleting paragraph (c) to include the Gambling Regulatory Authority in place of the Betting Control and Licensing Board;

Committee Observation

The Committee agreed to the proposed amendment.

120. **Clause 10** be amended by inserting a new Section 10A to read as follows: Powers on anti-money laundering, combating the financing of terrorism and Countering proliferation financing matters - Insert a new section to give the Authority powers to supervise for AML/CFT/CPF in accordance with the FATF Standards.

Committee Observation

The Committee rejected the proposed amendment.

121. Pursuant to Sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Gambling Regulatory 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 Gambling Regulatory Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.

Committee Observation

The Committee agreed to the proposed insertion of the new clause subject to redrafting to remove repetitions.

122. In undertaking its mandate under subsection (1), the Gambling Regulatory Authority may—
- a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;
 - b) conduct onsite inspection;
 - c) conduct offsite surveillance;
 - d) undertake consolidated supervision of a reporting institution and its group;
 - e) compel the production of any document or information the Gambling Regulatory Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;
 - f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
 - g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
 - h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
 - i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.
 - j) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Committee Observation

The Committee rejected the proposed amendment.

3.2.10 County Assemblies Forum

The County Assemblies Forum appeared before the committee and recommended for the following amendments;

123. That **Clause 18** be amended to include the phrase “as advised by the Salaries and Remuneration Commission” at the end of the clause. The inclusion of the Salaries and Remuneration Commission (SRC) aligns with the constitutional mandate bestowed upon the SRC by Article 230(4) of the Constitution.

Committee Observation

The Committee agreed to the proposed amendment.

124. That **Clause 74** be amended to read “A player in an online gambling activity shall not bet an amount of less than **ten** shillings in a competition.” As capping the bets at KES 20 might restrict access to low-stakes gambling, affecting those who engage in casual, recreational betting.

Committee Observation

The Committee rejected the proposed amendment.

3.2.11 Association of Gaming Operators Kenya

125. The Association of Gaming Operators Kenya made the following submissions: -

Clause 2

126. The **definition** of the word “**betting premises**” is incomplete as the words “**and which is**” are **misplaced** due to most likely clerical error. They proposed definition be amended to read “betting premises” means premises used for the purposes of betting to which the public has access;

Committee Observation

The Committee agreed to the proposed amendment.

127. The **definition** of “**gross gambling revenue**” is ambiguous and does not match the definition provided by London’s Financial Reporting Interpretations Committee. They recommended an amendment to read “gross gambling revenue” means the overall difference between the total amount played and the amount paid out to punters before any deductions are made;

Committee Observation

The Committee rejected the proposed amendment.

128. The use of words “**or otherwise howsoever**” in defining “**lottery**” causes unlimited generality. They suggested an amendment to the definition to read “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;

Committee Observation

The Committee agreed to the proposed amendment.

129. The **definition** of “**manufacture**” be revised to reflect grammatical correctness. They proposed the amendment to read “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;

Committee Observation

The Committee agreed to the proposed amendment.

130. **New Definition-** That “**Net gambling revenue**” be defined to mean the gross gambling revenue after the applicable taxes and have been deducted; to enable the bill to consider the globally accepted definition of “net gambling revenue” which considers the applicable taxes in order to calculate the after-tax sum.

Committee Observation

The Committee noted the proposed amendment which is not used in the Bill.

131. That the **definition** of “**a player**” in the bill narrows it to only lottery and promotional competition whereas other forms of gambling should be included as well as for the purpose of the Act. To that effect, they recommend the word “player” be accordingly replaced with the word “**punter**” throughout the text of the Bill.

Committee Observation

The Committee agreed to the proposed amendment.

132. The Bill lacks precision in defining “**pool betting**.” They recommend it be amended to read “**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;

Committee Observation

The Committee agreed to the proposed amendment.

133. The **definition** of the word “**winning**” be revised to “winning” means the difference between the pay-out received on the valid receipt issued by a licensee relating to gambling and the bet or stake placed by a punter to adapt it to the language used in the Gambling Control Bill.

Committee Observation

The Committee agreed to the proposed amendment.

Part II-

134. **Clause 4 (1) (h)**, be amended to read “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 **applying to** all licensees; for grammatical precision and avoiding confusion.”

Committee Observation

The Committee rejected the proposal noting that the proposal was not necessary.

135. **Clause 4 (2)** be amended to read “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 the functions relating to betting, lotteries, casinos and other forms of gambling **given under this Act**. That using the term concurrent in the Bill is not desirable as it may create confusion and conflict of powers between national and county offices.

Committee Observation

The Committee rejected the proposed amendment.

136. **Clause 10 (1)(d)** be amended to read “develop policies for betting, lotteries and gambling and other forms of gambling; so that it can describe how the competent bodies distribute all the incoming proceeds from the licensees to social causes.

Committee Observation

The Committee rejected the proposed amendment.

137. **Clause 21 (b)** be deleted to remove the introduction of additional tax to the gambling industry.

Committee Observation

The Committee agreed to the proposed amendment.

138. **Clause 29(1)(b)** be amended to read “sufficient evidence to show that the applicant is in possession of, or commands **the adequate** gambling capital.” This is because the Bill does not provide the amount prescribed gambling capital.

Committee Observation

The Committee rejected the proposed amendment.

139. **Clause 29 (1) (g)** be amended to read “a declaration of the good causes the applicant intends to undertake”

Committee Observation

The Committee rejected the proposed amendment.

140. **Clause 29 (8)** be deleted because the gambling betting industry in Kenya is already burdened with excessive tax obligations.

Committee Observation

The Committee agreed to the proposed amendment.

141. **Clause 31 (1) (c)** be deleted as it introduces legal uncertainty which has the potential to introduce the possibilities of abuse, manipulations and subjectivity in the interpretation of the acquired rights.

Committee Observation

The Committee agreed to the deletion of the phrase “as may be determine” in clause 31(1)(c) and substitution with “as may be prescribed.”

142. **Clause 32 (1) (d)** be amended to read “if the licensee is in breach of any condition attached to the license as prescribed in provisions of this Act to define the wording of the provision in which conditions attached to licenses.” This is to avoid broad interpretations that can open the doors of abuse, manipulation and subjectivity when deciding on revocation of the license.

Committee Observation

The Committee agreed to the proposed amendment.

143. **Clause 32 (8)** be amended to change the number of years of eligibility to hold a license from 5 years to one year. A period of five years of prohibition to apply for a gambling license is unjustifiably long given that the grounds for revocation of license provided in Subsection (1) of the Section 32 of the Bill are given on general terms, whereas precise stipulations of legal offences were not provided. Hence, a five-year prohibition to apply for a license is unproportionally long period given the provisions regulating the acts of breach by the licensee.

Committee Observation

The Committee rejected the amendment, noting that punishment must serve as a deterrent.

144. **Clause 36 (1)** be amended to change the application of transfer of licenses from five years to one year so as to accommodate the business reality, the period after which the transfer could be possible is shortened. Moreover, and due to similar grounds, conditions for the transfer of locational permits should be alleviated.

Committee Observation

The Committee agreed to the deletion of clause 36 to deter possibility of money-laundering. The Committee noted that each applicant should make a fresh application to the Authority in the prescribed manner.

145. **Clause 36 (5)** be amended to read “A report under subsection (3) may include the particulars of any conviction recorded against a person to the extent that those particulars are relevant for the purposes of determining whether the proposed licensee is qualified to hold any interest in the business to which a license relates” The Clause was shortened and revised as to accommodate the previous proposed revision from this submission.

Committee Observation

The Committee rejected the proposed amendment.

146. **Clause 40 (3)** be deleted since requiring security bonds or even bank guarantees for activities not prescribed in the Act and not requiring a license under the Act opens the door to various abuses, manipulations and subjectivity when deciding on gambling activities by the Authority. Accordingly, it can be argued that the terms of clause, otherwise unknown in comparative practice, will directly permit numerous unlawfulness.

Committee Observation

The Committee agreed to the proposed amendment.

147. **Clause 40 (4)** be deleted since it is a repetition of Section 40 (2).

Committee Observation

The Committee agreed to the proposed deletion of clause 40(4).

148. **Clause 41 (2)** be amended to be in conjunction with Section 41(1) “to note and take into account provisions under this Act that gives prescription of how gambling capital is determined” If gambling capital is to be one of the conditions for the issuance of the license, its precise amounts should be determined in a legislative procedure in force for the Act itself.

Committee Observation

The Committee rejected the proposed amendment.

149. **Clause 44 (c) and (d)** be amended to read “have a certificate issued by the Supplier indicating the model and the functions of the machine”; and

(d) “undergo standards verification after every calendar year from the day it was put into operation”

That the Section in its entirety should be moved to PART VII—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING of the Bill which regulates gambling machines. Here it is underlined that the issuance of import certificates for gambling machines and their certification every third month would burden and over formalize the process and eventually dissuade licensees from installing gambling machines, leading to the growth of unlicensed gambling market.

Committee Observation

The Committee rejected the proposed amendment.

150. **Clause 45** be amended to add a **new subsection** to be “(4) The tax under subsection (1) shall be the only tax, i.e., levy to be charged on licensees directly or indirectly in connection with their gambling operations. No other tax can be imposed on the licensees by the virtue of other bills or acts or any legal acts of any kind except in this Act and its Schedules.”

That the gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State Treasury.

Committee Observation

The Committee rejected the proposed addition of a new sub-section.

151. **Clause 46** be deleted in its entirety. That this is because the gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury.

Committee Observation

The Committee agreed to the proposed amendment.

152. **Clause 47** be amended to ensure there is proper numbering in the sections further to ensure the requirements which determine the grant of a permit given by county government should be precisely set in the Act, so that the licensees are not subject to discretionary and uncertain requirements.

Committee Observation

The Committee rejected the proposed amendment, noting that the county governments should determine suitability of premises before grant of a permit.

153. **Clause 48** be amended to read “A permit issued under this Act shall state the location of the premise to which it relates”

That no further conditions should be imposed on the licensees except those clearly stipulated under the present Act. Since the Act does not elaborate on such conditions, the licensees cannot be exposed to legal uncertainty regarding their given rights nor to the possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in the interpretation of the acquired rights.

Committee Observation

The Committee agreed to the proposed amendment.

154. **Clause 49 (1)** should be amended to ensure that no further conditions should be imposed on the licensees except those clearly stipulated under the present Act. Since the Act does not elaborate on such conditions, the licensees cannot be exposed to legal uncertainty regarding their given rights nor to possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.

Committee Observation

The Committee agreed to the proposed amendment.

155. **Clause 49 (9)** to be amended to read “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 of one year with effect from the effective date of the revocation”

That the period of five years of prohibition to apply for a permit is unjustifiably long period given that no precise grounds for revocation of the permit or conditions attached to the license are presented in the Bill. Five-year long prohibition period has a punishment character and as such should be prescribed for specified and named offences and acts.

Committee Observation

The Committee rejected the proposed amendment.

156. **Clause 61 (d)** be amended to read “online bookmakers license that includes any form of betting by means of remote communications (betting, virtual games, virtual sports, as well as other forms of gambling and betting)”

In order to eliminate potential legal gaps and doubts, avoid different interpretations and to provide legal certainty and rule of law, it is necessary to specify in the Act precise meaning of online bookmakers’ license.

Committee Observation

The Committee recommended that the definition be moved to clause 2.

157. **New Subsections (2) and (3)** are added to the Section 61 as follows: (2) Licensee is entitled to install betting terminals, electronic table gaming machines and terminals for electronic games of chance in an authorized betting premise. The Authority may approve to the licensee to place

aforementioned terminals and gaming machines in public premises. (3) Licensee is entitled to install up to ten slot machines in each of the authorized betting premises.”

For the purpose of more rational use of business premises, it is proposed that an operator who owns a license to carry on the business of a bookmaker at authorized betting premises has the right to place betting terminals, electronic table gaming machines, terminals for electronic games of chance, as well as slot machines in the same premises.

Committee Observation

The Committee rejected the proposed amendment, noting that the matter will be addressed in Regulations.

158. **Clause 66** be amended to expound the control of betting machines - Betting machines should be allowed in all locations for which licensee already has a license and / or permit, not only in casinos. For example, there is no compelling argument as to why a betting machine should not be allowed in at an authorized betting premise. Furthermore, both issuance of import certificates for both betting and gambling machines and their certification every third month would burden and over formalize licensing process and eventually dissuade licensees from installing betting and gambling machines, leading to the growth of unlicensed gambling market. Amount in the Subsection 3 was adapted to reflect the economic reality in the gambling industry.

Committee Observation

The Committee agreed to the proposed amendment.

159. **Clause 67 (4)** be deleted - Given that the term “near” is not defined in the Act nor in its Schedules, wording of the provision of the Subsection (4) in which the conditions regarding the location of gambling machines including slot machines in relation to other objects are not defined, leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in the interpretation of the acquired rights.

Committee Observation

The Committee agreed to the proposed amendment noting that the distance should be prescribed in Regulations.

160. **Clause 67 (5)** be amended to make a single bet in a casino machine shall be played to be a minimum of ten shillings from a minimum of twenty shillings - Amount in the Subsection 5 was adapted to reflect the economic reality in the gambling industry.

Committee Observation

The Committee rejected the proposed amendment.

161. **Clause 69** be deleted. This is because the continued presence of the officers of the Authority in all casinos is contrary to the nature of casino as private businesses not controlled nor founded by any government. Given the legal nature of casinos and the fact that the Authority has powers of inspection

provided in the Clause 68, continuous presence of the officers of the Authority is contrary to constitutional rights and freedoms of licensees, and does not exist as such in the comparative practice

Committee Observation

The Committee agreed to the proposed amendment.

162. **Clause 70** be amended by adding a new subsection (2) to be – “In this Act online gambling means any form of betting and gambling (betting, slots and other casino games, virtual games, as well as other forms of gambling) in which persons participate by the use of remote communication.” In order to eliminate potential legal gaps and doubts, avoid different interpretations and to provide legal certainty and rule of law, it is necessary to specify in the Act precise meaning of online gambling.

Committee Observation

The Committee agree to the proposed amendments noting however that the definition should be moved to clause 2.

163. **Clause 71 (3)** be amended to be a requirement of an approved gambling control system as a condition of the license granted under subsection (1) which the licensee shall be required to strictly comply with is outlined in Fifth Schedule to this Act - Since the grant and validity of the licence are preconditioned upon requirement of requirement of an approved gambling control system, the licensees, due to reasons of legislative and constitutional fairness, should have such requirements outlined beforehand in a schedule to this act or its accompanying regulations. Licensees should not be left to discretionary imposition of such conditions by the Authority at any given time, but should rather cooperate with it as to find the reasonable and applicable solution for the industry. Furthermore, as not complying with the requirements of this system leads to offence in accordance with the next subsection of the Bill, and due to the fundamental and worldwide legal principle – *Nullum crimen sine lege* – Latin for "no crime without law", such legal provisions, existence thereof conditioning an offence, have to be provided in advance to the licensees and the protentional licensees.

Committee Observation

The Committee agreed to the proposed amendment but recommended that the proposal be moved to application.

164. **Clause 71 (8)** be amended to have a customer care centre within Kenya by removing **within Kenya**. That given the global tendencies, maintaining a customer care centre within the territory of the respective country is not necessary if respective customer care centre performs all its designated duties within the prescribed work hours, in which it is fully available to provide customer care.

Committee Observation

The Committee rejected the proposed amendment.

165. **Clause 73 (4)** be deleted as the section in not necessary.

Committee Observation

The Committee recommended that sub-clause 73(4) be redrafted in line with the Unclaimed Financial Assets Act, 2011.

166. **Clause 74 (2)** be deleted since the clause is misleading as to imply that social security fee is going to be due on each bet made. Rather, these policies should describe how the competent bodies distribute all the incoming proceeds from licensees (from gambling tax and licence and other fees) to social causes.

Committee Observation

The Committee rejected the proposed amendment.

167. **Clause 75 (7)** be amended to read “A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits or meeting third party costs incurred by a player and does not include free bets, bonus bets, done in the ordinary course of business.” That credit cards are worldwide accepted means of payment across all the industries, hence it is contrary to the postulates of modern market economy to omit them as a mean of payment. Free bets and bonus bets are promotions activities and not financing.

Committee Observation

The Committee agreed to the proposed amendment further recommending that the proposal be redrafted in proper language.

168. **Clause 76 (4)** be amended to read “A licensee may receive funds from a player through-
- (a) a credit card;
 - (b) a debit card;
 - (c) an electronic funds transfer;
 - (d) mobile money transfer;
 - (e) cash deposits to the player’s account made at the locations with permits given under this Act; or
 - (f) any other method as may be approved by the Authority from time to time

As stated above, credit cards are worldwide accepted means of payment across all the industries. There is no compelling reason to exclude this payment mean from Kenyan gambling legislature. Moreover, there is no reason not to accept cash deposits made by players at the locations with permits, since this is accepted mean of depositing funds on player’s account balance worldwide and is in accordance with industry accepted standards and norms.

Committee Observation

The Committee agreed to the proposed amendment.

169. **Clause 77 (1)** to be amended to read “A licensee shall not 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.” That the subsection b) and c) of the section use general terms which may lead to the interpretation of the Act as to prohibit bonuses to players, which are worldwide accepted in the industry and in all

developed gambling jurisdictions departing thereby from restrictive and retrograde approach to bonuses. Free bets and bonus bets are promotions activities and not financing.

Committee Observation

The Committee agreed to the proposed amendment.

170. **Clause 79(1)** be amended to read “A licensee shall deposit all the player’s money in a bank account or, upon player’s request, directly pay the player out with cash at the locations with permits given under this Act.” This is because a requirement for approval of the Board with regard to licensees’ banks and their accounts on which the players’ money is received would lead to over formalization of the gambling payment procedure, both regarding receiving deposits and paying out the players. The reason to omit this requirement should be also taken into account with the fact that, in the current climate, many banks, due to legally unfounded reasons, are reluctant to open accounts for operators of games of chance and gambling. Moreover, if direct cash deposit from the player is accepted as a mean of receiving players’ deposits, direct cash out to the player on the location with permit should be accepted as well.

Committee Observation

The Committee agreed to the proposed amendment.

171. **Clause 79(3)** be amended to read “A licensee’s bank account holding a player’s money shall –
- (a) not enforce or execute, any charge, write-off, set-off or other claim against a licensee’s account;
 - (b) not combine the account with any other account in respect of any debt owed to it by a licensee;
 - or
 - (c) credit any interest payable on a licensee’s account, only to the account.

That it should be clarified that set-off prohibition relates to licensee’s account since the term client could be misleading given the lack of its definition and interpretation in the Act.

Committee Observation

The Committee agreed to the proposed amendment.

172. **Clause 80 (1)** be amended to read “Where a transaction has not been recorded on a player’s account for eighteen months, a licensee shall remit the balance in the account to a player.” That more reasonable time period to record player’s activity is proposed in accordance with the postulates of modern market economy and industry accepted standards.

Committee Observation

The Committee agreed to the proposed amendment recommending however, that the reasonable time period be reduced to twelve months.

173. **Clause 80 (2)** be amended to read “Where a player may not be satisfactorily located, the money may be remitted to the Unclaimed Financial Assets Authority.” This is because potential set-off could

only be done in relation to the player, but since he was inactive for eighteen months and has no claims against licensee, no set-off is possible in accordance with this Subsection.

Committee Observation

The Committee agreed to the proposed amendment.

174. **Clause 81 (d)** be amended to read “the good causes they implemented.” This is because the conditions which could be attached to the license in general are not defined neither in the Gambling Control Bill nor in its Schedules. However, licensees could provide good causes report at the end of each financial year.

Committee Observation

The Committee agreed to the proposed amendment.

175. **Clause 82 (1) (d)** be deleted. That the operators should in advance know all the requirements regarding the conditions for issuance of license to foreign operators and not be left to uncertain conditions which would later be discretionarily prescribed. Such legal uncertainty would open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.

Committee Observation

The Committee agree to the proposed amendment.

176. **Clause 86 (2) (b) (ii)** be deleted. This is because the wording of the provisions of the cited subsections relates to the conditions attached to the licence which are not defined neither in the Act nor in its Schedules thereby leading to the possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights, at the same time prescribing severe monetary and personal sanctions.

Committee Observation

The Committee rejected the proposed amendment.

177. **Clause 87 (3)** be amended to read “Any person who promotes or advertises any prize license issued under this section shall in every case procure 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.” The wording of the provisions of the Subsection (3) in which conditions attached to the license are not defined neither in the Act nor in its Schedules but are to be later defined either by the Authority or county governments leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.

Committee Observation

The Committee agreed to the proposed amendment.

178. **Clause 87 (4)** be deleted. This is because it is a repetition of the previous subsection. Section 87 (3).

Committee Observation

The Committee agreed to the proposed amendment.

179. **Clause 91 (12)** be deleted because the provision stipulating that the Committee shall operate as quasi-judicial body without any further clarification as to which functions or characteristics of its decisions render it a “quasi-judicial body” leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.

Committee Observation

The Committee rejected the proposed amendment, recommending that sub-clause (12) be amended to change Gambling Appeals Committee to Gambling Appeals Tribunal and for the same to be redefined in clause 2.

180. **Clause 118 (3)** be deleted since the cited subsection should stipulate precise amount of the administrative fine, given that, according to the worldwide accepted principles of penalty and criminal law, both the offence and its penalty should be clearly prescribed in the law. Hence, such an imprecise provision would lead to the possibility of a broad interpretation and open the door to various abuses, manipulations and subjectivity in interpretation.

Committee Observation

The Committee rejected the proposed amendment, further recommending an insertion of a general penalty clause of one million shillings or one year.

181. **Clause 122 (2) (f) (h) (j)** be deleted because passing of such provisions should be done through legislative procedure for passing or amending the Act in the Parliament, given the fact they regulate and refer to completely new statutory obligations for licensees and as such could only be prescribed by the Parliament as the only body in Kenya empowered to pass such legislative acts. Anything to the contrary would lead to unconstitutionality of the cited clauses and is in fact contrary to the terms of Section 122 (2) (b) of the which itself sets limit to the authority of the Cabinet Secretary to pass such regulations: *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.*

Committee Observation

The Committee rejected the proposed amendment, only acceding to the deletion of paragraph (h).

182. The **Fourth Schedule** on gambling security be amended so that the security bond be based on the size and business operation of each company. They can borrow from the Insurance and Banking Industry. The Fourth Schedule to the Gambling Control Bill should be rephrased to show the matching of risks to the security basically all game companies do not carry the same risk.

Committee Observation

The Committee agreed to the proposed amendment.

3.2.12 Media Owners Association

183. The Media Owners Association of Kenya proposed the following amendments:

Clause 2

184. The word “**Lottery**” should be amended to include 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 a chance, whether by throwing or casting a dice, or by withdrawing a ticket, card, slot, numbers or figures, or by means of, or otherwise howsoever.

Committee Observation

The Committee rejected the proposed amendment.

185. The word “**players**” should be amended to mean a person who is in possession of a valid ticket for a lottery or a promotional competition or a player that makes a bet.

Committee Observation

The Committee rejected the proposed amendment.

186. The word “**winning**” should be amended to mean “total revenue received from a gambling activity after prizes, good causes and tax.”

Committee Observation

The Committee rejected the proposed amendment.

187. The word “**gross gambling revenue**” should be amended to read, “total revenue received from a gambling activity after prizes, good causes and tax.”

Committee Observation

The Committee rejected the proposed amendment.

188. **Clause 10 (1) (d)** be deleted since it amounts to double taxation. Gambling is done with disposable income, players have already paid for social health insurance etc.

Committee Observation

The Committee agreed to the proposed deletion of the phrase “social healthcare” in sub-clause (1) (d).

189. **Clause 29 (8)** be deleted since it is anti-competitive and arbitrary. This is also because GGR in definitions is defined as gross revenue. This could make any operator bankrupt based on the whims of the Cabinet Secretary.

Committee Observation

The Committee agreed to the deletion of clause 29(8).

190. Amend clauses on licensing in **clause 34**.

Committee Observation

The Committee agreed to the amendment.

191. **Clause 36 (1)** be amended to read “the holder of a license issued under the Act to apply after a period of one year to transfer a license or a permit to any person who is eligible for a license under this Act upon payment of the prescribed fees to the Authority.”

Committee Observation

The Committee rejected the proposed amendment.

192. **Clause 45 (1)** be amended to read, “There shall be a tax to be known as gambling tax chargeable at the rate of fifteen per cent of the gross gambling revenue. This may be problematic as the definition of Gross Gambling Revenue implies the Gross Revenue.

Committee Observation

The Committee rejected the proposed amendment.

193. **Clause 46** be deleted as it is yet another financial obligation to be met by each licensee to the government, despite the Bill providing under sub-clause (2) that this levy shall not exceed one per cent of the monthly gross gambling revenue of a licensee.

Committee Observation

The Committee agreed to the proposed amendment.

194. **Clause 53 (4)** be deleted. Lotteries are singled out to only have licenses for one year

Committee Observation

The Committee agreed to the proposed amendment.

195. **Clause 53 (6)** be deleted as this it is unworkable, similar in structure to the national lottery. There is no mechanism for how this to be an open discussion with the Cabinet Secretary.

Committee Observation

The Committee rejected the proposed amendment.

196. **Clause 54 (2) (a)** be deleted since there is a complete lack of understanding of operating costs are in the industry. Lotteries have been singled out as having a cap but not casinos or bookmakers.

Committee Observation

The Committee rejected the proposed amendment.

197. **Clause 54 (2) (c)** be deleted because the industry is completely dependent on success and sales.

Committee Observation

The Committee agreed to the proposed amendment.

198. **Clause 54 (3)** be deleted due to the definition for Gross Gambling as specified in the definitions.

Committee Observation

The Committee rejected the proposed amendment.

199. **Clause 63 (3)** be deleted since it is an operator's decision based on market conditions.

Committee Observations

The Committee rejected the proposed amendment noting that gross gaming revenue (GGR) is already defined.

200. **Clause 74 (2)** be deleted as it will result to double taxation.

Committee Observation

The Committee rejected the proposed amendment.

201. **Clause 88 (1) and (2)** be deleted because these clauses leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board.

Committee Observation

The Committee rejected the proposed amendment recommending that sub-clause (2) be redrafted to provide for Regulations.

202. **Clause 90 (1) (c) and (g)** be deleted because it affects advertising revenue earned by those activities.

Committee Observation

The Committee agreed to the proposed amendment.

203. **Clause 90 (3) (d)** be deleted because this clause shouldn't be there since there are different rules for different products. That why are live sporting events allowed when lotteries (including the national lottery) are not anti-competitive.

Committee Observation

The Committee agreed to the proposed amendment.

204. **Clause 90 (4)** should be deleted since seeks to deny media houses revenue that they earn from advertising their own gambling services. It would be improper to deny media houses to earn revenue from their gambling services despite paying the necessary taxes and after they have sought and received licenses from the Betting Control and Licensing Board.

Committee Observation

The Committee agreed to the proposed amendment.

205. **Clauses on licensing** should be amended since no durations of the license period for the various categories of licenses are spelt out including such information in the addendums/ schedules attached.

3.2.13 Gaming Awareness Society of Kenya

206. The Gaming Awareness Society of Kenya (GASK) proposed the inclusion of the following provisions in the Bill:

- (a) Establish strict deposit limits to introduce a maximum betting amount in online gambling accounts to prevent individuals from impulsively gambling away substantial amounts.
- (b) Prohibit Credit facilities for gambling payment by banning those facilities from using platforms such as Fuliza for gambling payments to prevent individuals from using borrowed money to gamble.
- (c) Allocate resources for public awareness to facilitate education and outreach programs that inform the public about responsible gambling.
- (d) Provision objecting licensing of gambling prediction apps which the GASK submitted that they mislead players by promoting a false sense of assured winnings. The Gambling apps therefore exacerbate gambling addiction, especially among young people.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

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

- a) That the Bill seeks to repeal and replace the Betting, Lotteries and Gaming Act (Cap 131), provide for a legislative framework for the regulation of gambling in Kenya, and incorporate safe gambling principles in gambling sector. Further, the Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries and media promotions.
- b) The public participation exercise highlighted the need to amend various provisions of the Bill to correct grammatical errors; align the contents with the provisions of the Constitution and written law and to include missing provisions for purposes of clarity and completeness of the proposed legislation.
- c) The bill proposes concurrent functions of the National and County Governments in the regulation of gambling activities therefore transitioning Kenya's gambling law in to the governance realities under the Constitution of Kenya.
- d) Taxes under Clause 45 need to be collected in accordance with the provisions of the Tax Procedure Act, Cap 469B so as to provide for assessment and enforcement powers to the collector of the gambling tax.
- e) That tax exemptions in the bills should be included in the Income Tax Act. In addition, there is need for clarity to expound the provision on the exemption to provide clarity on what provisions under the proposed Gambling Bill applies to.
- f) That there is need for a transition clause that will enable the collector to enforce collection of any taxes that are due under the Betting, Lotteries and Gaming Act that is being repealed by the proposed bill, as well as provide for assessment and enforcement powers to the collector of the gambling tax.
- g) That gambling is a demerit good and has risks if over indulged like similar products. Therefore, the bill proposed measures to mitigate harm from gambling such as: public sensitization; self-exclusion measures; enforcements to curb illegal gambling; promotion of responsible gambling behaviours; restriction in advertising; and criminalizing gambling by young persons and the vulnerable in the community.
- h) That the Gambling Regulatory Authority that is transitioning from the Betting Control and Licensing Board, should be empowered to ensure compliance with Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

208. The Committee, having considered the Gambling Control Bill (*National Assembly Bill No. 70 of 2023*) and the submissions from members of the public and stakeholders, **recommends that the House approves the Bill with amendments as proposed in the Schedule of Amendments.**

for



SIGNED.....

DATE.....

23rd NOV 2023

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

CHAPTER SIX

SCHEDULE OF PROPOSED AMENDMENTS

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

LONG TITLE

THAT, the Long Title be amended by inserting the words “of Kenya” immediately after the words “Gambling regulatory Authority”.

Justification

The amendment seeks to change the name of the Authority to the Gambling Regulatory Authority of Kenya.

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of “Authority” by inserting the words “of Kenya” immediately after the words “Regulatory Authority”;
- (b) by deleting the definition of “betting premises”;
- (c) in the definition of Cabinet Secretary” by deleting the word “gambling” and substituting therefor the words “internal security and national administration”;
- (d) by deleting the definition of “Committee”;
- (e) in the definition of “lottery” by deleting the words “or otherwise howsoever”;
- (f) by deleting the definition of “manufacture”;
- (g) by deleting the definition of ‘online gambling”;
- (h) by deleting the definition of “player”;
- (i) by deleting the definition of “pool betting”;
- (j) by deleting the definition of “winning”;
- (k) by inserting the following new definitions in their proper alphabetic sequence—

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

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

“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;

“online bookmaker’s licence” means 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;

“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;

“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;

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

“Tribunal” means the Gambling Appeals Tribunal established in section 91;

“winning” means the difference between the pay-out received on valid receipt issued by a licensee relating to gambling and the bet or stake placed by a punter.”

Justification- The amendments in clause 2 seek to—

- (a) change the name of the Authority to the Gambling Regulatory Authority of Kenya;**
- (b) introduce the definition of the term “beneficial owner” which is used in the Third Schedule to the Bill;**
- (c) amend the definition of “Cabinet Secretary” to ensure that the Cabinet Secretary responsible for national administration shall provide the ministerial oversight over gambling activities as well as to offer policy guidance. Further, the Cabinet Secretary for national administration would be best placed to put in place enforcement measures to curb illegal gambling, tax evasion money laundering and financing of terrorism;**
- (d) remove the brackets appearing in the definition of “betting premises” as well as the capital letter appearing in paragraph (b), so as to conform to the House drafting style;**
- (e) eliminate the ambiguity in the definition of “lottery” by deleting the words “or otherwise howsoever”;**
- (f) to correct grammatical errors in the definition of the term “manufacture”;**
- (g) introduce the definition of “online bookmaker’s licence” which is used in the Bill;**

- (h) redraft the definition of the term ‘online gambling’ for clarity purposes;
- (i) to amend the definition of “pool betting” so as to avoid the use of broad terms and overlap of other games of chance;
- (j) replace the definition of “player’ with the term “punter” so as to expand its scope as well as to extend its application to all forms of gambling;
- (k) introduce the definition of the term “reporting institution” so as to subject casinos to the application of the anti-money laundering provisions as contained in the Proceeds of Crime and Anti-Money Laundering Act;
- (l) change the name of the appeals body to the Gambling Appeals Tribunal;
- (m) to amend the definition of the term “winning” for clarity purposes.

CLAUSE 4

THAT, clause 4 of the Bill be amended in sub-clause (1) by deleting paragraph (h) and inserting the following new paragraph—

“(h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, regulate and supervise the reporting institutions licensed under this Act;”

Justification

The amendment seeks to ensure that reporting institutions regulated under the Bill will also be subject to the regulation by the Financial Reporting Centre established under the Proceeds of Crime and Anti-Money Laundering Act, No. 9 of 2009.

CLAUSE 5

THAT, clause 5 of the Bill be amended—

- (a) by deleting paragraph (a) and inserting the following new paragraph—
“(a) implement and ensure compliance to this Act;”
- (b) in paragraph (b) by deleting the words “single business permits” and substituting therefor the words “trade licences”;
- (c) in paragraph (d) by inserting the word “ensure” immediately before the words “periodic monitoring”;
and
- (d) by deleting paragraph (e) and inserting the following new paragraph—
“(e) handle complaints and facilitate arbitration; and”

Justification- The amendment seeks to correct grammatical errors as well as to insert the the word “trade licences” which aligns with the language used in Paragraph 7(b) of Part 2 of the Fourth Schedule to the Constitution.

PART III

THAT, the title to Part III be amended by inserting the words “OF KENYA” immediately after the words “REGULATORY AUTHORITY”.

Justification

The amendment seeks to change the name of the Authority to the Gambling Regulatory Authority of Kenya.

CLAUSE 6

THAT, clause 6 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “of Kenya” immediately after the words “Regulatory Authority”;
- (b) by deleting sub-clause (3) and inserting the following new sub-clause—
“(3) The Authority shall be the successor to the Betting Control and Licensing Board established under section 3 of the Betting, Lotteries and Gaming Act.”
- (c) by deleting sub-clause (4).

Justification

The amendment seeks to—

- (a) change the name of the Authority to the Gambling Regulatory Authority of Kenya; and
- (b) correct grammatical errors as well as to delete sub-clause (4) whose provisions are already contained in clause 124 of the Bill.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

- (a) in sub-clause (1) by deleting paragraph (e) and inserting the following new paragraph—
“(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, of whom—
(i) one shall represent persons with disabilities;
(ii) one shall represent the civil society organizations; and
(iii) one shall represent faith-based organizations.
- (b) by deleting sub-clause (4) and inserting the following new sub-clause—
“(4) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall ensure that not more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and shall have due regard to the principle of fair competition and merit as the basis for the appointments.”
- (c) in sub-clause 3 by inserting the words “based on satisfactory performance” immediately after the words “one further term of three years”.

Justification

The amendments to the clause seek to—

- (a) provide for greater inclusivity in the membership of the Board, since the objectives of the Bill affect the wider society who may be represented by persons with disability, civil society organisations and faith-based organisations;
- (b) provide for fair competition and merit as a basis for appointment, so as to align to the provisions of Articles 10 and 232 of the Constitution;
- (c) expressly provide that re-appointment to the Board shall be based on previous satisfactory performance of the members.

CLAUSE 8

THAT, clause 8 of the Bill be amended—

- (a) in sub-clause (1) by deleting paragraph (d) and inserting the following new paragraph—
“(d) was a director, employee or shareholder of a gambling operator in the preceding five years;”
- (b) in sub-clause (2) by inserting the words “without the option of a fine” immediately after the words “imprisonment for a term exceeding six months”;

Justification

The amendments seek to—

- (a) delete paragraph (d) to allow for current and former employees of the Authority to be eligible for appointment as the Chairperson of the Board, to allow for institutional memory and technical expertise;
- (b) inserting a new paragraph (d) to prohibit persons who were, in the preceding five years, directors or employees of gambling operators, so as to avoid conflict of interest; and
- (c) amend sub-clause (2)(b) to insert the aspect of imprisonment without an option of a fine, for clarity purposes.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in sub-clause (1) by deleting paragraph (d) and inserting the following new sub-clause—
“(d) develop policies for placing of bets for betting, lotteries and gambling that includes a savings component;”
- (b) by deleting the opening sentence in paragraph (i) and inserting the following new opening sentence—
“(i) monitor socio-economic patterns of gambling activities at the national level including to undertake research and identify factors relating to, and patterns, causes, and consequences of—”
- (c) by deleting paragraph (j);
- (d) by deleting paragraph (l); and
- (e) in paragraph (o) by inserting the words “and make determination on” immediately after the word “receive”.

Justification

The amendments seek to—

- (a) provide clarity in paragraph (d), and to eliminate the ambiguity that would arise with the requirement that the policies on betting must contain a savings element for social health insurance;
- (b) correct a grammatical error in paragraph (i), as well as to delete the aspect of monitoring at the county level, since the Bill only provides for the conduct of national lotteries at the national government level;
- (c) delete paragraph (j) which is a repetition of the provisions contained in paragraph (e);
- (d) delete paragraph (l) which is a repetition of the provisions contained in sub-paragraph (i) of paragraph (h);
- (e) to add the words in paragraph (o) for clarity purposes.

CLAUSE 11

THAT, the Bill be amended by deleting clause 11 and inserting the following new clause—

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

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

No. 24 of 2019.

- (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.

No. 29 of 2022.

(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.

Justification

The amendment seeks to—

- (a) redraft clause 11 to provide that the Cabinet Secretary shall prescribe guidelines which shall have the force of law as stipulated in the Statutory Instruments Act, No. 23 of 2013;**
- (b) include the aspect of consultation with the body responsible for the protection of the best interests of the child, so as to give effect to the provisions of Article 53(2) of the Constitution which provides that a child's best interests are of paramount importance in every matter concerning the child.**

CLAUSE 12

THAT, the Bill be amended by deleting clause 12 and inserting the following new clause—

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

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

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

Justification

The amendment seeks to redraft the clause for purposes of proper grammatical flow.

CLAUSE 15

THAT, clause 15 of the Bill be amended by deleting the words “in consultation with relevant government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission.”

Justification

The amendment seeks to align the provision with the provisions of Article 230(4) of the Constitution which provides that the Salaries and Remuneration Commission shall advise the national and county governments on the remuneration and benefits of public officers.

CLAUSE 16

THAT, clause 16 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “in consultation with relevant government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission,”;
- (b) in sub-clause (4) by inserting the words “based on satisfactory performance” immediately after the words ‘one further term of three years’

Justification

The amendment seeks to—

- (a) align the provision with the provisions of Article 230(4) of the Constitution which provides that the Salaries and Remuneration Commission shall advise the national and county governments on the remuneration and benefits of public officers; and
- (b) provide for the requirement that the reappointment of the Director-General shall be based on satisfactory performance.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 16—
Removal of the Director-General. **16A.** (1) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

- (a) gross misconduct or misbehavior;
- (b) bankruptcy;
- (c) incompetence or neglect of duty;
- (d) violation of the Constitution or any other written law; or
- (e) inability to perform the functions of office by reason of physical or mental incapacity.

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

- (a) sufficient notice of the allegations made against him or her; and
- (b) an opportunity to present his or her defence against the allegations.

Justification

The amendment seeks to provide for the grounds for removal of the Director-General from office, which is not included in the Bill.

CLAUSE 17

THAT, clause 17 of the Bill be amended in sub-clause (2)—

- (a) by deleting the word “keeping” appearing in paragraph (f) and substituting therefor the word “keep”; and
- (b) by deleting the word “keeping” appearing in paragraph (g) and substituting therefor the word “keep”.

Justifications

The amendment seeks to correct grammatical errors.

CLAUSE 18

THAT, clause 18 of the Bill be amended by deleting the words “in consultation with the relevant Government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission”.

Justification

The amendment seeks to align the provision with the provisions of Article 230(4) of the Constitution which provides that the Salaries and Remuneration Commission shall advise the national and county governments on the remuneration and benefits of public officers.

CLAUSE 21

THAT, clause 21 of the Bill be amended in paragraph (g) by deleting the word “lend” and substituting therefor the word “lent”.

Justification

The amendment seeks to correct a grammatical error.

CLAUSE 23

THAT, the Bill be amended by deleting clause 23 and inserting the following new clause—

Annual estimates. **23.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board of that year.

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

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

Justification

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

CLAUSE 24

THAT, clause 24 of the Bill be amended in sub-clause (2) by inserting the word “Management” immediately after the words “Public Finance”.

Justification

The amendment seeks to provide the correct citation of the Public Finance Management Act.

CLAUSE 26

THAT, clause 26 of the Bill be amended by deleting paragraph (b).

Justification

The amendment seeks to remove the gambling levy as a source of fund of the Authority, since clause 46 of the Bill providing for the payment of gambling levy is deleted.

CLAUSE 27

THAT, clause 27 of the Bill be amended

- (a) in sub-clause (1) by inserting the words “or service” immediately after the words “the activity”; and
- (b) by deleting paragraph (r).

Justification

The amendment seeks to—

- (a) insert the words for clarity purposes; and
- (b) delete paragraph (r) so as to eliminate the possibility of ambiguity that would arise with allowing the Authority to issue licences in respect of any other form of gambling as it may deem fit.

CLAUSE 29

THAT, clause 29 of the Bill be amended—

- (a) in sub-clause (3)—
 - (i) by inserting the words “in relation to the body corporate and its directors, as applicable” immediately after the words “consider” appearing in the opening sentence;
 - (ii) by deleting paragraph (d);
 - (iii) by deleting paragraph (e);
- (b) in sub-clause (4)—
 - (i) by inserting the words “or the directors of the body corporate” immediately after the word “applicant” appearing in the opening sentence in paragraph (a);
 - (ii) by deleting the words “in the opinion of the Authority, was” appearing in sub-paragraph (a)(iii) and substituting therefor the words “is proven to be”;
- (c) in sub-clause (6) by deleting the word ‘applicant’ and substituting therefor the word ‘person’;
- (d) by deleting sub-clause (8).

Justification

The amendment seeks to—

- (a) amend sub-clauses (3) and (4) to ensure that the considerations shall be applied both to the body corporate as well as its directors;
- (b) delete paragraphs (3)(d) and (e), since the threshold provided for consideration in the paragraphs is subjective and not measurable; and
- (c) to ensure that correct reference is made to a person in subclause (6) to ensure that the penalty imposed attaches to a natural person who makes a false statement.

CLAUSE 30

THAT, clause 30 of the Bill be amended by deleting sub-clause (3) and inserting the following new sub-clause—

“(3) A gambling licence issued under this section shall be valid for a period of twelve months from the date of issue.”

Justification

The amendment seeks to ensure that the validity period of licenses issued under the Bill is expressly stated in the main legislation and not left to be prescribed in regulations.

CLAUSE 31

THAT, clause 31 of the Bill be amended in sub-clause (1) by deleting the words “may be determined by the Communications Authority of Kenya from time to time” appearing in paragraph (c) and substituting therefor the words “prescribed by the Cabinet Secretary in consultation with the Authority and the Communications Authority of Kenya”.

Justification

The amendment seeks to ensure that all licence conditions are made available to the applicants in regulations to avoid uncertainty.

CLAUSE 32

THAT, clause 32 of the Bill be amended in sub-clause (1) by deleting the words “attached to the” appearing in paragraph (d) and substituting therefor the words “in the Act required for the issuance of a”.

Justification

The amendment seeks to provide clarity, and ensure that all license conditions shall be those set out in the Act.

CLAUSE 33

THAT, clause 33 of the Bill be amended in sub-clause (2) by deleting the words “mutatis mutandis” and substituting therefor the words “with the necessary modifications”.

Justification

The amendment seeks to provide simple language as required in the House drafting style.

CLAUSE 34

THAT, the Bill be amended by deleting clause 34.

Justification

The amendment seeks to delete the provision on varying licence periods, since clause 30(3) as amended provides for a 12-month validity period in respect of gambling licences issued under the Bill.

CLAUSE 35

THAT, clause 35 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “prominently” wherever it appears;
- (b) in sub-clause (3) by deleting the word “licenses” and substituting therefor the word “license”.

Justification

The amendment seeks to remove subjective drafting and correct a grammatical error.

CLAUSE 36

THAT, the Bill be amended by deleting clause 36.

Justification

The amendment seeks to remove the provisions on transfer of licences from the Bill. Instead, any entity intending to be issued with a gambling licence must make an application to the Authority in the prescribed manner. This will ensure the deterrence of the possibility of money laundering by the gambling operators.

CLAUSE 40

THAT, clause 40 of the Bill be amended—

- (a) by deleting sub-clause (3); and

(b) by deleting sub-clause (4).

Justification

The amendment seeks to—

- (a) delete the requirement of security bonds for a gambling activity not provided for under the Bill. This would open avenues for abuse, since the Bill expressly sets out the gambling activities to be regulated under the Bill. Any other gambling activity not regulated under the Bill is therefore illegal, and the consequences for illegal gambling activities should ensue in that respect.
- (b) provide for the deletion of sub-clause (4) is necessary since it is a repetition of sub-clause (2).

CLAUSE 43

THAT, clause 43 of the Bill be amended in sub-clause (1) by deleting the word “by”.

Justification

The amendment seeks to correct a grammatical error.

CLAUSE 45

THAT, clause 45 of the Bill be amended in sub-clause (1) by deleting the word “fifteen” and substituting therefor the word “thirteen”.

Justification

The amendment seeks to lower the amount of gambling tax from fifteen per cent to thirteen per cent. This will create a conducive economic environment for the gambling sector and allow the State to collect more revenue, while discouraging tax evasion and illegal offshore gambling.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 45—
Collection of taxes. **45A.** The taxes under section 45 shall be collected in accordance with the provisions of the Tax Procedures Act.
No. 29 of 2015.

Justification

The amendment seeks to provide for assessment and enforcement powers to the Collector of the gambling tax. These powers had been provided for under section 69AA of the Betting, Lotteries and Gaming Act, Cap 131.

CLAUSE 46

THAT, the Bill be amended by deleting clause 46.

Justification

The amendment seeks to remove the introduction of the gambling levy. The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes or levies will lead to the shutting down of business activities

by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury.

CLAUSE 47

THAT, the Bill be amended by deleting cause 47 and inserting the following new clause—

Application for a permit. **47.** (1) A holder of a gambling licence issued by the Authority under section 27 shall apply for a permit from the respective county government for a premise within which the person intends to carry out the licensed gambling activity.

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

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

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

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

Justification

The amendments seek to—

- (a) remove the errors in numbering of the clauses and referencing;**
- (b) amend paragraph (2)(c) to ensure that the county government shall have the responsibility of determining any additional information that it may require for the purposes of considering the application; and**
- (c) amend sub-clause (4) to ensure that a permit once issued shall not be transferable to another party.**

CLAUSE 48

THAT, clause 48 of the Bill be amended by deleting the words “and shall be endorsed with all conditions imposed by the Authority and respective county government.”

Justification

The amendment seeks to ensure that there should be no further conditions imposed on the licences except those stipulated under the Bill, so as to avoid abuse and ambiguity in interpretation of the provision.

CLAUSE 49

THAT, clause 49 of the Bill be amended in sub-clause (1) by deleting the word “permit” appearing in paragraph (a) and substituting therefor the word “licence”.

Justification

The amendment seeks to ensure that a revocation of a permit may occur where the holder breaches a license condition issued by the Authority.

CLAUSE 50

THAT, clause 50 of the Bill be amended by deleting the words “unless a different duration has been prescribed under this Act”.

Justification

The amendment seeks to ensure that the validity period of a permit is expressly stated in the Act, as well as to remove the ambiguity in the provision.

CLAUSE 51

THAT, the Bill be amended by deleting clause 51.

Justification

The deletion of clause 51 seeks to ensure that no transfer of permits shall be allowed under the Bill, and any license holder intending to acquire a permit from the county government shall make an application to the respective county government in the prescribed manner for issuance of the permit. This further corresponds to the Committee proposal that transfer of a licence issued by the Authority should be prohibited.

CLAUSE 53

THAT, clause 53 of the Bill be amended in sub-clause (4) by deleting the word “above”.

Justification

The amendments seek to correct a grammatical error in sub-clause (4).

CLAUSE 54

THAT, the Bill be amended by deleting clause 54 and inserting the following new clause—

Conduct of a public lottery.

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

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

- (a) may deduct operating expenses not exceeding twenty per cent of gross proceeds of the lottery;
- (b) shall provide insurance bond or bank guarantee for the conduct of the lottery;
- (c) shall ensure proper and equitable distribution of the charitable funds of the lottery;
- (d) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud; and

(e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Authority are complied with.

(3) In this section, the term “gross proceeds” means the total proceeds received from a lottery prior to any deductions.

JUSTIFICATION

The amendment seeks to—

- (a) remove the possibility of the Authority or the county government imposing conditions that are not expressly provided in the Bill or regulations; and**
- (b) to remove repetition in paragraphs (b) and (e).**

CLAUSE 56

THAT, clause 56 of the Bill be amended in sub-clause (2) by deleting paragraph (l).

Justification

The amendment seeks to delete the ambiguity contained in paragraph (l), since a promoter who conducts a public lottery should receive money for tickets.

CLAUSE 59

THAT, clause 59 of the Bill be amended in sub-clause (2)—

- (a) by deleting the words “or otherwise” appearing in paragraph (b); and**
- (b) by deleting the words “or otherwise” appearing in paragraph (c).**

Justification

The amendment seeks to remove ambiguity and uncertainty in the paragraphs.

CLAUSE 63

THAT, clause 63 of the Bill be amended—

- (a) in sub-clause (1) by inserting the word “the” immediately after the words “in consultation with”; and**
- (b) by deleting sub-clause (3).**

Justification

The amendment seeks to—

- (a) correct a grammatical error in sub-clause (1); and**
- (b) by eliminating the ambiguity contained in sub-clause (3), since the definition of gross gambling revenue has been provided.**

CLAUSE 66

THAT, the Bill be amended by deleting clause 66 and inserting the following new clause—

Control of betting **66.** (1) A licensee shall ensure that their betting machines—
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) shall be conducted by the Authority in consultation with 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.

Justification

The amendment seeks to—

- (a) correct the numbering in the clause;
- (b) allow for betting machines to be placed in areas approved by the Authority; and
- (c) ensure that the standards verification is guarded against abuse, and is conducted by the Authority in consultation with the Kenya Bureau of Standards, which is the body mandated to set standards in Kenya.

CLAUSE 67

THAT, clause 67 of the Bill be amended by deleting sub-clause (4) and inserting the following new sub-clause—

“(4) The Cabinet Secretary shall, in consultation with the Authority, develop regulations prescribing the places where gambling machines shall be placed, and in doing so the Cabinet Secretary shall prescribe the proximity to—

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

Justification

The amendment seeks to delete the word “near” as used in the Bill which would be subject to vague interpretations, and to expressly provide that the Cabinet Secretary shall bear the responsibility to prescribe the actual proximity within which gambling machines shall not be placed near the various institutions.

CLAUSE 70

THAT, clause 70 of the Bill be amended in sub-clause (3) by inserting the word ‘the’ immediately after the words “prescribed under”.

Justification

The amendment seeks to correct a grammatical error.

CLAUSE 71

THAT, clause 71 of the Bill be amended—

- (a) in sub-clause (2) by deleting the word “ecosystem” appearing in paragraph (c) and substituting therefor the word “system”;
- (b) in sub-clause (3) by deleting the word “strictly”;
- (c) in sub-clause (4) by deleting the word “may” and substituting therefor the word “shall”; and
- (d) in sub-clause (6) by deleting the opening sentence in paragraph (a) and inserting the following new opening sentence—

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

Justification

The amendments seek to—

- (a) correct grammatical errors;**
- (b) ensure that a failure to comply with the gambling control system shall lead to a revocation of a licence.**

CLAUSE 75

THAT, clause 75 of the Bill be amended in sub-clause (7) by inserting the following proviso—

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

Justification

The amendment seeks to ensure that free bets and bonus bets are not included in the ambit of the prohibition of inducement, since free bets and bonus bets are promotional activities which cannot be termed as financing.

CLAUSE 76

THAT, clause 76 of the Bill be amended in sub-clause (4) by deleting paragraph (d) and inserting the following new paragraph—

“(d) cash deposits to the player’s account.”

Justification

The amendment seeks to allow for cash payments in the conduct of gambling activities, since the minimum amount as provided in the Bill is twenty shillings, which payment may not be possible to be made through debit card or electronic funds transfer.

CLAUSE 77

THAT, clause 77 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “permitting or assisting” appearing in paragraph (c);
- (b) by deleting sub-clause (3) and inserting the following new sub-clause—

“(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.”

Justification

The amendment seeks to—

- (a) amend sub-clause (1) for clarity, since for a licensee to conduct a gambling activity they must permit persons to gamble; and
- (b) to correct grammatical errors in sub-clause (3).

CLAUSE 79

THAT, clause 79 of the Bill be amended—

- (a) by deleting sub-clause (1) and inserting the following new sub-clause—
 - “(1) A licensee shall deposit all the player’s money in a bank account or, upon player’s request, make a cash payment to the player.”
- (b) by deleting sub-clause (3) and inserting the following new sub-clause—
 - “(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.”

Justification

The amendment seeks to—

- (a) remove the requirement that a player’s bank account must be approved by the Authority, as this is not possible;
- (b) provide correct reference to a player’s account in sub-clause (3).

CLAUSE 80

THAT, clause 80 of the Bill be amended—

- (a) by deleting sub-clause (2) and inserting the following new sub-clause—
 - “(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.”
- (b) by deleting sub-clause (3) and inserting the following new sub-clause—
 - “A licensee shall maintain a register of all monies remitted under subsection (2).”

Justification

The amendment seeks to—

- (a) align the Bill with the provisions of section 6 of the Unclaimed Financial Assets Act, No. 40 of 2011 which provides for a presumption of abandonment of monies after five years; and
- (b) impose an obligation on a licensee to maintain a register of all monies remitted to the Unclaimed Financial Assets Authority, for accountability purposes.

CLAUSE 81

THAT, clause 81 of the Bill be amended—

- (a) in paragraph (c) by deleting the words ‘collector of taxes’ and substituting therefor the word “Collector”;
- (b) by deleting paragraph (d) and inserting the following new paragraph—
“(d) the good causes implemented.”

Justification

The amendment seeks to—

- (a) make use of the term “Collector” as defined in the Bill; and**
- (b) remove the requirement that implementation of good causes is a condition for issuance of a license under the Bill.**

CLAUSE 82

THAT, clause 82 of the Bill be amended in sub-clause (1) by deleting paragraph (d) and inserting the following new paragraph—

“(d) meets the requirements prescribed by the Authority in regulations.”

Justification

The amendment seeks to guard against uncertainty by ensuring that all license conditions are prescribed in regulations.

CLAUSE 83

THAT, clause 83 of the Bill be amended by deleting the word “Committee’ and substituting therefor the word “Tribunal’.

Justification

The amendment seeks to change the name of the appeals body to the Gambling Appeals Tribunal.

CLAUSE 86

THAT, clause 86 of the Bill be amended by deleting sub-clause (2) and inserting the following new sub-clause—

“(2) A person who—

- (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,

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.”

Justification

The amendment is necessary for purposes of proper grammatical flow, and to remove the repetition in sub-paragraphs (i) and (ii).

CLAUSE 87

THAT, clause 87 of the Bill be amended—

- (a) in sub-clause (3) by deleting the words “as may be imposed” and substituting therefor the words “as shall be prescribed in regulations”;
- (b) by deleting sub-clause (4).

Justification

The amendment seeks to—

- (a) expressly provide that conditions shall be prescribed in regulations; and
- (b) delete sub-clause (4) which is a repetition of sub-clause (3).

CLAUSE 88

THAT, the Bill be amended by deleting clause 88 and inserting the following new clause—

Authorization of media promotions with prizes. **88.** (1) A person shall not, without a license issued by the Authority, conduct a media promotion with prizes.

(2) A person who undertakes media promotion in either electronic or print media with prizes licenced 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.

Justification

The amendment seeks to redraft clause 88 for proper grammatical flow, as well as to provide the scope of conditions for media promotions which shall be prescribed in regulations.

CLAUSE 90

THAT, the Bill be amended by deleting clause 90 and inserting the following new clause—

Advertisement of gambling. **90.** (1) A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by—

- (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling;
- (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;
- (c) printing or publishing, or causing to be printed or published, any advertisement or notice;

- (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling; or
 - (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 ten 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 ten years, or to both.

Justification

The amendment seeks to—

- (a) correct grammatical and referencing errors;
- (b) delete paragraphs (1)(e) and (f) which are a repetition, and move the prohibition to sub-clause (2) which provides for the content of a gambling advertisement; and
- (c) delete the ambiguity caused in paragraph (3)(f) by use of the words “a place frequented by children”.

CLAUSE 91

THAT, the Bill be amended by deleting clause 91 and inserting the following new clause—

The Gambling Appeals Tribunal. **91.** (1) There is established a body to be known as the Gambling Appeals Tribunal.

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

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

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

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

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

- (a) in case of the Chairperson, for a term not exceeding three years and shall not be eligible for re-appointment; and
- (b) in case of a member, for a term not exceeding three years and shall be eligible for re-appointment for one further term of three years based on satisfactory performance.

(6) The members of the Tribunal, other than the Chairperson, shall serve on a part-time basis.

(7) The Chairperson or member of the Tribunal shall cease to hold office if that person—

- (a) resigns from office by notice in writing addressed to—
 - (i) the President, in the case of the Chairperson; or
 - (ii) the Cabinet Secretary, in the case of a member;
- (b) becomes a public servant or an employee of the Authority or the National Lottery Board;
- (c) is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;
- (d) is adjudged bankrupt by a court of competent jurisdiction;
- (e) is convicted of a criminal offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (f) is unable to perform the functions of the office by reason of physical or mental infirmity; or
- (g) is otherwise unable or unfit to discharge the functions of the office.

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

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

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

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

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

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

Justification

The amendment seeks to—

- (a) correct the grammatical errors in the clause;**
- (b) change the name of the appeals body to the Gambling Appeals Tribunal;**
- (c) provide for the appointing authority of the Chairperson of the Tribunal as the President;**
- (d) provide for membership of the Tribunal of persons with knowledge in matters relating to gambling and business administration; and**
- (e) provide for the power of the Cabinet Secretary to prescribe regulations to give better effect to the provisions of the clause.**

CLAUSE 92

THAT, the Bill be amended by deleting clause 92 and inserting the following new clause—

Remuneration of members of the Tribunal. **92.** 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.

Justification

The amendment seeks to make reference to the Tribunal instead of Committee, as amended, as well as to delete the ambiguity caused by reference to consultation with relevant government agencies.

CLAUSE 94

THAT, clause 94 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Committee” and substituting therefor the word “Tribunal”;**
- (b) in sub-clause (2)—**
 - (i) by deleting the word “Committee” appearing in paragraph (a) and substituting therefor the word “Tribunal”;**
 - (ii) by deleting the word “Committee” appearing in paragraph (c) and substituting therefor the word “Tribunal”; and**
- (c) in sub-clause (5) by deleting the word “Committee” and substituting therefor the word “Tribunal”.**

Justification

The amendment seeks to change the name of the appeals body from a Committee to a Tribunal.

CLAUSE 95

THAT, clause 95 of the Bill be amended in the opening sentence by inserting the words “who, being the” immediately after the words “A person”.

Justification

The amendment is necessary for proper grammatical flow.

CLAUSE 98

THAT, clause 98 of the Bill be amended by inserting the words “or to both” immediately after the words “term not exceeding one year”.

Justification

The amendment is necessary for purposes of proper grammatical flow.

CLAUSE 106

THAT, the Bill be amended by deleting clause 106 and inserting the following new clause—

- Promotion of **106.** A person who—
unauthorized pool betting.
- (a) promotes a pool betting scheme within Kenya in contravention of the terms of a licence issued under this Act; or
 - (b) promotes, receives or negotiates bets on behalf of a promoter of an unauthorized pool betting scheme,
- 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.

Justification

The amendment is necessary for purposes of correction of grammatical and drafting errors.

CLAUSE 112

THAT, clause 112 of the Bill be amended in the closing sentence by deleting the words ‘be liable’ appearing immediately after the words “shall be liable upon conviction”.

Justification

The amendment is necessary to remove repetition of the words “be liable” for proper grammatical flow.

CLAUSE 115

THAT, clause 115 of the Bill be amended in sub-clause (1) by deleting the word “may” and substituting therefor the word “shall”.

Justification

The amendment seeks to eliminate the discretionary nature of the use of the word “may” and instead ensure that the Authority and the county governments shall have an obligation to appoint inspectors.

CLAUSE 118

THAT, clause 118 of the Bill be amended—

- (a) in sub-clause (2)—
 - (i) by deleting the word “or” appearing in paragraph (a);
 - (ii) in paragraph (e) by inserting the words “the licensee’s” immediately after the words “gain access to”;
- (b) in sub-clause (3) by deleting the words “shall be liable to pay an administrative fine as may be prescribed by the Authority” and substituting therefor the words “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”;
- (c) by inserting the following new sub-clause immediately after sub-clause (3)—

“(3) 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.”

Justification

The amendments seek to—

- (a) correct grammatical errors;**
- (b) amend sub-clause (2)(e) to ensure that the obligation to deny access to a self-excluded gambler shall attach to a licensee only in respect of the licensee's gambling services. It may not be practical to require that the licensee shall deny access to such a person in respect of gambling services offered by other operators;**
- (c) provide that the Cabinet Secretary shall prescribe regulations to allow affected persons to petition the Authority for application of the self-exclusion provisions to a vulnerable gambler.**

CLAUSE 122

THAT, clause 122 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “may” and substituting therefor the word “shall”;**
- (b) in sub-clause (2)—**
 - (i) by deleting the word “foregoing” appearing in the opening sentence and substituting therefor the words “generality of subsection (1)”;**
 - (ii) by deleting paragraph (h);**
- (c) by deleting the expression “(2) For purposes of Article 94(6) of the Constitution—” and substituting therefor the expression “(3) For purposes of Article 94(6) of the Constitution—”.**

Justification

The amendment seeks to—

- (a) ensure that the Cabinet Secretary shall have an express obligation and not a discretion to prescribe regulations to give better effect to the provisions of the Bill once enacted;**
- (b) to delete the power of the Cabinet Secretary to prescribe fees and levies, so that they may be expressly provided for in the Act;**
- (c) conform to the House drafting style; and**
- (d) correct numbering.**

CLAUSE 123

THAT, clause 123 of the Bill be amended by deleting the word “Gambling” and substituting therefor the word “Gaming”.

Justification

The amendment seeks to provide the correct title of the Act to be repealed, being the Betting, Lotteries and Gaming Act, Cap. 131.

CLAUSE 124

THAT, clause 124 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “at”;**
- (b) in sub-clause (2) by deleting the words “Government on behalf of the”;**
- (c) in sub-clause (3) by inserting the words “for the unexpired period of their term” immediately after the words “be deemed to be a member of the Board”;**
- (d) by deleting sub-clause (4) and inserting the following new sub-clause—**
 - “(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).”**

(e) in sub-clause (5)—

- (i) by deleting the expression “(2)” and substituting therefor the expression “(4)”;
- (ii) by deleting the words “Government who were serving at the”.

Justification

The amendments seek to—

- (a) correct grammatical errors;
- (b) provide that the members of the former Board shall continue to serve as members of the Board of the Authority for the unexpired period of their term, to ensure smooth transition;
- (c) conform to the House drafting style; and
- (d) provide correct referencing.

CLAUSE 126

THAT, clause 126 of the Bill be amended by deleting paragraph (a).

Justification

The amendment seeks to ensure that the application of the Proceeds of Crime and Anti-Money Laundering Act is not broadened beyond its scope, as provided by the Financial Accounting Taskforce Standards. These standards only require the regulation of casinos and does not extend to other regulated entities under the Bill.

FOURTH SCHEDULE

THAT, the Bill be amended by deleting the Fourth Schedule and inserting the following new Schedule—

FOURTH SCHEDULE (s. 40(1))

Gambling Security

Type of Gambling	Amount (shillings)
(a) Casinos including public Gambling for conducting tables and slots machines	15,000,000
(b) online Gambling	150,000,000
(c) National lottery	150,000,000
(d) Totalisator	3,750,000
(e) Prize competition	3,750,000
(f) Non-online Gambling including non-online bookmakers, non-online casinos, non-online lotteries	15,000,000
(g) Amusement with prizes	150,000
(h) A premise or a shop operating under a licence of online Gambling including online	375,000

bookmaker, online casino and
online lottery

Justification

The amendment seeks to reduce the amounts required to be paid by licensees as gambling security. There is need to reduce the amount required as gambling security so as to guard against the possibility of the opening up of illegal gambling avenues that would result in the State losing out on tax collections.

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

ANNEXURES

ANNEXURE 1: REPORT ADOPTION SCHEDULE



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

Date: 28/11/2023.

Venue: RED CROSS BOARDROOM
PARLIAMENT BUILDING

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



ANNEXURE 2: MINUTES

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

PRESENT

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

APOLOGY

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

IN-ATTENDANCE

Committee Secretariat

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

AGENDA

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE RECOMMENDATION

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

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

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

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

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

COMMITTEE RECOMMENDATION



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

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

No Any Other Business Arose

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

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

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

DATE: 23th Nov 2023

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

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



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

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

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

DAH BEN-HUR, NAIROBI

The National Dialogue Committee concluded its deliberations yesterday and announced it had reached consensus on all five issues including the cost of living. This marks the end of 73 days of extensive deliberations. Committee co-chairman Kimani Ichung'wah announced that they had made significant progress on all agenda items. "We have made tremendous progress and agreed on all agenda items," he said. The committee agreed on four other issues besides the cost of living. This prompted invitations for economic experts to arrive at a workable solution to the high cost of living that continues to plague Kenyans.

Last week, economic experts blamed unnecessary government expenditure, exaggerated borrowing and integrity issues on the economic challenges that have seen a rise in inflation, increased and skyrocketing cost of living. The Controller of Budget Margaret Nyakang'o and others said that some solutions to the economic perils can be dealt with by addressing government spending and Parliament's scrutiny of the budgeting process.

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

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

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

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

"The Hustler Fund, government to government deal, affordable housing is an intervention. The issue is you start it off and once it is working, you release it to the market. For it to work, the market has to be nurtured." he said. "If markets don't function, production will fail downstream. You cannot produce if the market is not going to give you the returns. There's no way you will find people producing food when they cannot sell the food," he added.

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

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

newsdesk@standardmedia.co.ke

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

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

INVITATION TO SUBMIT MEMORANDA

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

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

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

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

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

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

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

S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY

10th November 2023

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

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

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

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

INVITATION TO SUBMIT MEMORANDA

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

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

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S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY

10th November 2023

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



NATIONAL YOUTH SERVICE



Telegrams: VIJANA
 Tel: +254-020-26322925
 Fax: +254-020-2378129
 Website: www.nys.go.ke
 Email: Director.general@nys.go.ke

National Youth Service
 Headquarters
 P.O. Box 30397 - 00100
NAIROBI - KENYA

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

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

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



THE CO-OPERATIVE UNIVERSITY OF KENYA

Empowering Communities
 P.O. BOX 24814-00502, Karen-Nairobi Tel:020-2430127 / 2679456, 0724 311 808
 Website: www.cuk.ac.ke Email: registrar@cuk.ac.ke

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

THE 8TH GRADUATION CEREMONY ANNOUNCEMENT

The 8th Graduation Ceremony of the Co-operative University of Kenya (Cuk) will be held at the **Graduation Square, Main Campus, Karen - Nairobi on Friday, 17th December 2023** starting at 9:00 a.m. All students who have fulfilled the requirements, conferment of Degrees and award of Diplomas and Certificates during the **2022/2023 Academic Year** are invited to participate.

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

APPLICATION FOR GRADUATION
 Graduates who have not yet applied are reminded to apply for the **2023** graduation online through the Students Portal studentsportal.cuk.ac.ke or at the instructions and guidelines that have been emailed on the University website through registrar@cuk.ac.ke before **Wednesday, 15th November 2023**.

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

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

S/No	ARRANGEMENT	GRADUATION FEES (KES)	S/No	ARRANGEMENT	GRADUATION FEES (KES)
1	Certificates	4,000.00	2	Diplomas	5,000.00
3	Bachelors	8,000.00	4	Masters	7,000.00

All graduation fee payments must be made before **Friday, 17th November 2023** through Co-operative Bank. **Account Number: 01125062669600** Karen Branch. **Swift Bank Account Number: 1250277107862** Karen Branch. Failure to pay the graduation fees in time will lead to exclusion from the graduation list.

ACADEMIC ATTIRE
 Graduation gowns will be available for hire upon presentation of original National Identity card and of duly filled gown hiring form online from the Students Portal upon successful application for graduation forms shall be collected from respective Schools/Directorates at Main Campus, Nairobi starting from **Thursday, 23rd November, 2023** (Wednesday, 29th November, 2023 are required for returned at the same venue on **Thursday, 14th December, 2023**. Failure to return the gown on the stated date will attract a penalty of **KES. 500 per day**.

REHEARSAL
 All graduates are expected to attend the rehearsal on **Thursday, 30th November 2023 at 10.00 a.m.** in the graduation square, Main Campus, Karen - Nairobi.

INVITATION CARDS
 All the tasks of collecting the graduation gown and graduation list should start **two (2) invitation cards** for their guests. Invitations with graduation invitation cards shall NOT be allowed into the Graduation Square.

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

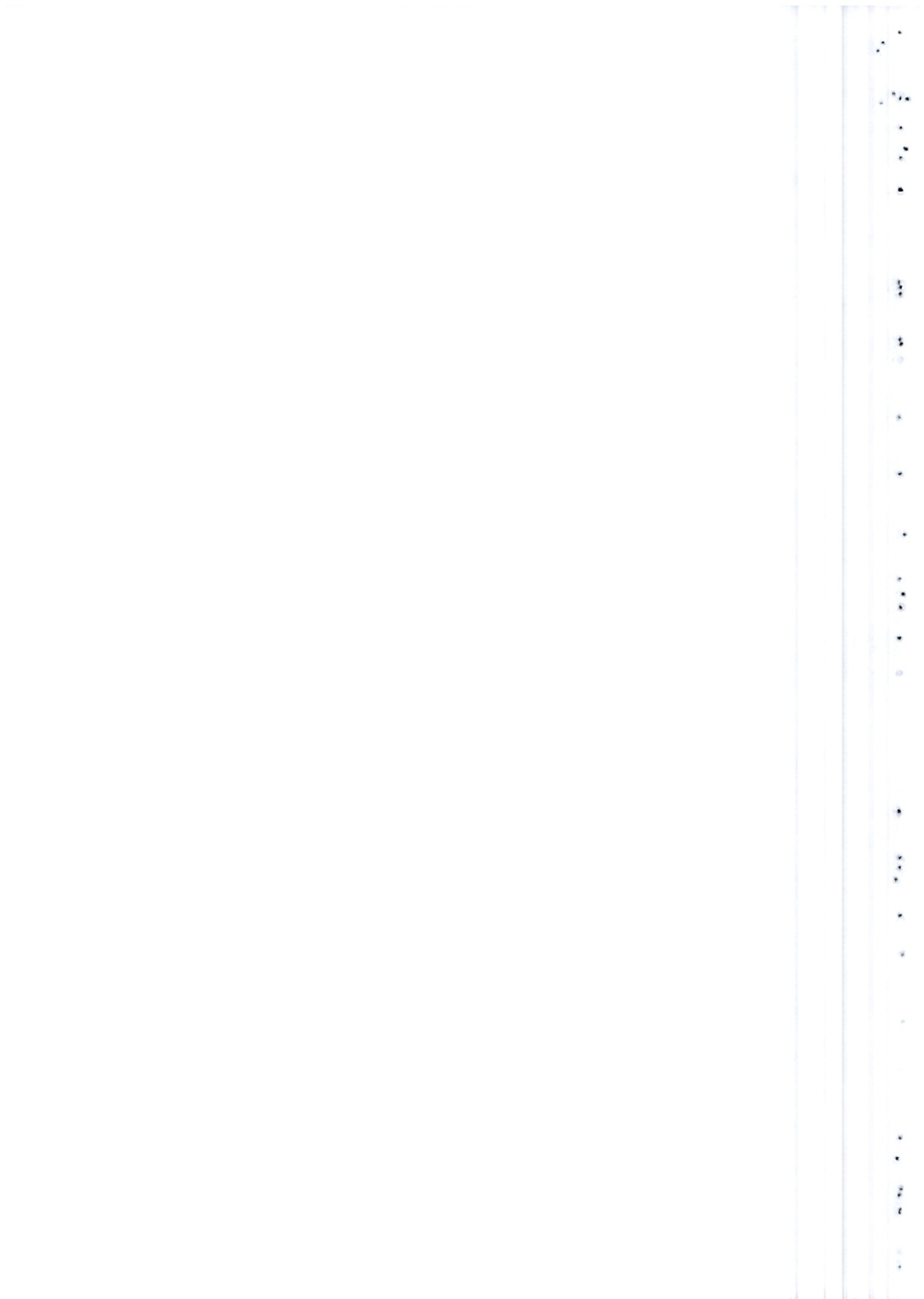
PUNCTUALITY
 Graduates and their guests are required to be seated by **8.00 a.m.** The late arrival late shall NOT be allowed into the Graduation Square.

For further information contact the Office of the Registrar, Academic, Co-operative Development, Research and Innovation, ACCO via Telephone: 020-2430127 or email: registrar@cuk.ac.ke Website: www.cuk.ac.ke

REGISTRAR, ACCO

Apply now | www.cuk.ac.ke/programmes

ANNEXURE 4:
LETTER INVITING
STAKEHOLDERS FOR
MEETINGS WITH THE
COMMITTEE





**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

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

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

When replying, please quote

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

15th November, 2023

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

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

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

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

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

Mr. Joash Dache, MBS
Chief Executive Officer
Kenya Law Reform Commission
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NAIROBI

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

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

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

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

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

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

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

Dear *Sing*

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

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

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

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

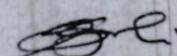
Pursuant to the above-stated provisions, the Committee on 10th November 2023 placed an advertisement in the local daily newspapers and the parliamentary website calling for the submission of memoranda from the public on the two Bills. In this regard, the Committee invites you to a public hearing and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

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

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

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

Yours *sincerely,*



SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

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

The Hon. Attorney-General

The State Law Office

Sheria House

NAIROBI

Prof. Kithure Kindiki, EGH

Cabinet Secretary

Ministry of Interior and National Administration

Harambee House

NAIROBI

Hon. Ababu Namwamba, EGH

Cabinet Secretary

Ministry of Youth Affairs, Creative Economy and Sports

Talanta Plaza, Upper Hill

NAIROBI

Mr. Eliud O. Owalo

Cabinet Secretary

Ministry of Information, Communication and the Digital Economy

Teleposta Towers

NAIROBI

H.E. Anne Waiguru, EGH, OGW

Chairperson

Council of Governors

Delta House, Rhapta Road

NAIROBI



THE NATIONAL ASSEMBLY
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When replying, please quote

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

15th November, 2023

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

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

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

Mr. Ashish Malhotra
Chief Executive Officer
Airtel Kenya
Parkside Towers
Mombasa Road
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Ms. Judith Kiragu
Chairperson
Association of Gaming Operators Kenya
10th Floor, Suite 1020
Utalii Street/Uhuru Highway Junction
NAIROBI

Ms. Carol Nganga
Jockey Club of Kenya
Ngong Road
NAIROBI

Ms. Agnes Kalekye
Chairperson
Media Owners Association of Kenya
NAIROBI

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

Dear Sir,

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

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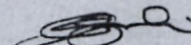
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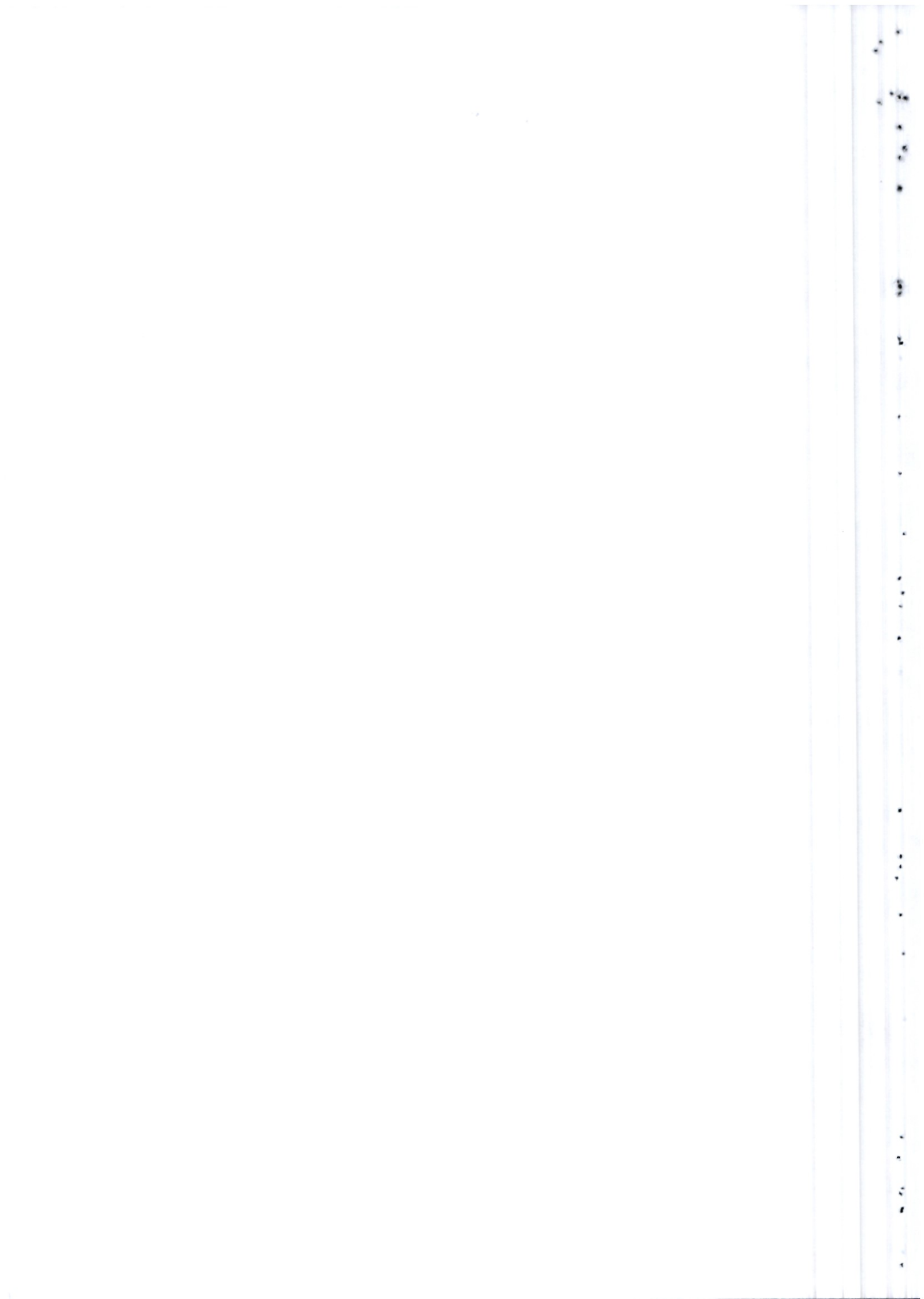
The officers responsible for the coordination of these meetings are **Mr. John Mugoma**, Tel. No. 0724330358 or email: john.mugoma@parliament.go.ke and **Ms. Mary Njeri Kinyunye**, Tel. No. 0723179346 or email: marv.kinyunye@parliament.go.ke.

Yours sincerely,


SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

ANNEXURE 5:
MEMORANDA BY
STAKEHOLDERS.





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

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

**20 November 2023
Pride-Inn Plaza, Machakos County**

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1. **Generating the Proposed Gambling Regulatory Framework**
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 - a. Kenya's Gambling Industry: The Status Quo
 - b. The Nine Pillars for Transformation
 - c. Elements of the Transformation Framework
 - d. The Policy Framework for Transforming the Gambling Sector
3. **The Proposed Legal and Regulatory Framework**
4. **Projected Revenues from the National Lottery**
5. **A Final Reflection**

Framework

MEMBERSHIP AND STRUCTURE OF THE TASKFORCE

THE STEERING COMMITTEE

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

TECHNICAL COMMITTEE

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

JOINT SECRETARIES

1. Clinton Mwita
2. Margaret Githaiga

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

1. Generating the Proposed Gambling Regulatory Framework

KEY MILESTONES OF THE TASKFORCE

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

1. Generating the Proposed Gambling Regulatory Framework

WHAT THE PUBLIC TOLD US?

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

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

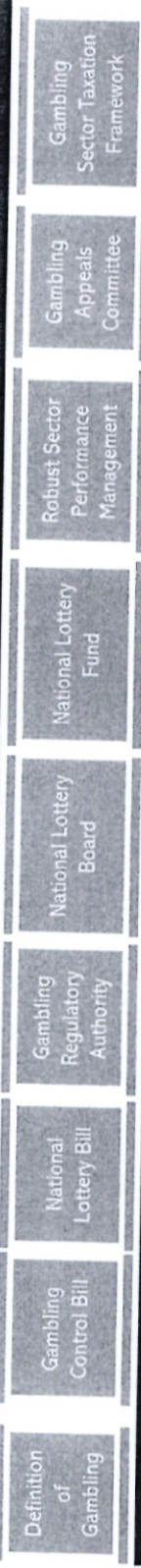
2. THE POLICY FRAMEWORK FOR TRANSFORMING Gambling into a Force for Social Progress KENYA'S GAMBLING INDUSTRY: THE STATUS QUO .. 1

- a. Data from the gambling sector is not readily available, even from sector regulators. However, available data shows that:
- Kenya, with an estimated market size of KShs. 200 billion is reported to be the THIRD LARGEST market in Africa after South Africa and Nigeria.
 - This market is expected to continue growing at a CAGR of 7.5% from 2020 to 2025, driven by the increasing popularity of online and mobile gambling.
 - Kenya has the highest percentage of young gamblers in Sub-Saharan Africa (76%), who outspend their peers on a per-capita basis, with 96% of them using mobile devices.
 - Withholding tax on winnings from betting increased by 116.9% from KShs. 465 million in December 2021 to KShs. 1.008 billion in December 2022, reflecting significant growth potential.
 - Kenyans staked a record Sh88.5 billion through online bets in the full year to June 2023, from which the Kenya Revenue Authority (KRA) a major windfall after it collected Sh6.64 billion in excise taxes
- b. A typical Gambler is Male, below 36 years of age, from a Low-Income household, with at least a secondary school level of education.

2. THE POLICY FRAMEWORK FOR TRANSFORMING Gambling into a Force for Social Progress KENYA'S GAMBLING INDUSTRY: THE STATUS QUO .. 2

1. NO SINGLE POLICY FRAMEWORK governs the operation of the gambling sector in the country.
2. The Betting, Lotteries and Gaming Act, Cap. 131 of the Laws of Kenya, enacted in 1966, establishes a framework for regulating gambling in the country and allows for the licensing and regulating betting shops and other gaming establishments, including public lotteries, but:
 - a. **INADEQUATE DEFINITION OF GAMBLING** that does not consider current developments in the sector.
 - b. **INSUFFICIENT ENFORCEMENT CAPACITY** based on existing laws and regulations creates room for unscrupulous operators, perpetuating gambling harms and enabling illicit financial flows.
 - c. **DOES NOT** specifically speak to the creation of a National Lottery.
 - d. **DOES NOT** comprehensively incorporate responsible gambling principles in its policy, institutional and regulatory frameworks.
 - e. **DOES NOT** have a comprehensive mechanism for the distribution of resources to good causes, including activities that mitigate gambling industry harms and those that promote youth engagement and entrepreneurship.
3. SUB-OPTIMAL TAXATION REGIME focuses on revenue generation but insufficiently accounts for the growth needs of the sector, including the need to address industry harms.
4. THE ABSENCE OF A COHERENT, UNIFYING GAMBLING SECTOR perspective prevents the country from optimally exploiting the growing national and global gambling sector and positively applying it to the country's development aspirations.

Gambling into a Force for Social Progress THE NINE PILLARS FOR TRANSFORMATION



NEW GAMBLING POLICY FOR KENYA, 2023 - 2027
Transforming Gambling to a Force for Social Progress

RESPONSIBLE GAMBLING FRAMEWORK
National culture and psyche of "responsible betting and gambling", nurturing and protecting the wellbeing of all persons

BOTTOM-UP ECONOMIC TRANSFORMATION AGENDA, 2022 - 2027
Economic turnaround and inclusive growth built on increased investments in at least five sectors - agricultural transformation; micro, small and medium enterprises; housing and settlement; healthcare; digital superhighway and creative industry - that will have the largest impact and linkages to the economy as well as on household welfare

2. THE POLICY FRAMEWORK FOR TRANSFORMING Gambling into a Force for Social Progress

ELEMENTS OF THE TRANSFORMATION FRAMEWORK

THE LEGISLATURE

Policy Approval
Passage of Laws, Regulations & Other Statutory
Instruments to secure responsible gambling

THE EXECUTIVE

The Cabinet Secretaries

primary mandate to secure responsible gambling

Responsible for
Gambling Sector,
Gambling Policy,
2023 and
Gambling Control
Law, 2023
Secure Responsible
Gambling in Kenya

Responsible for National
Lottery Law, National
Lottery Board
Maximise Good Cause
Funding
Secure Responsible
Gambling at the
National Lottery

The Principal Secretaries

Accounting Officers
State Departments responsible for
Gambling & the National Lottery

- Gambling Regulatory Authority
- National Lottery Board
- National Lottery Fund
- Gambling Appeals Committee

SECTOR OPERATORS

CONSUMERS

GAMBLING SECTOR REGULATION

Why Regulate?

1. Gambling is a demerit good, whose legalisation is a privilege, not a right.
2. Generate public resources (revenues) i.e. maximise economic rent for the state to facilitate reallocation
3. Create good, well paying jobs through funding of clear good causes
4. Mediate externalities and attendant costs including problem gambling, susceptibility of the gambling environment to money laundering & criminal enterprise and harmful effects on players families, friends, employers
5. Deal with emerging challenges to national sovereignty from advances in technology

REGULATE PROBITY OF REGULATORS

1. Prior clearance schemes
2. Legal Status
3. Financial Condition
4. Known prior associates
5. Solvency
6. Sufficient capital reserves
7. Skill, honesty & probity of employees

REGULATE PROBITY OF SUPPLIERS

1. Prior clearance schemes
2. Legal Status
3. Financial Condition
4. Known prior associates
5. Solvency
6. Sufficient capital reserves
7. Efficacy of equipment
8. Skill, honesty & probity of employees
9. Effective internal financial, managerial and administrative structures
10. Prevent information assymetry between the player and operator

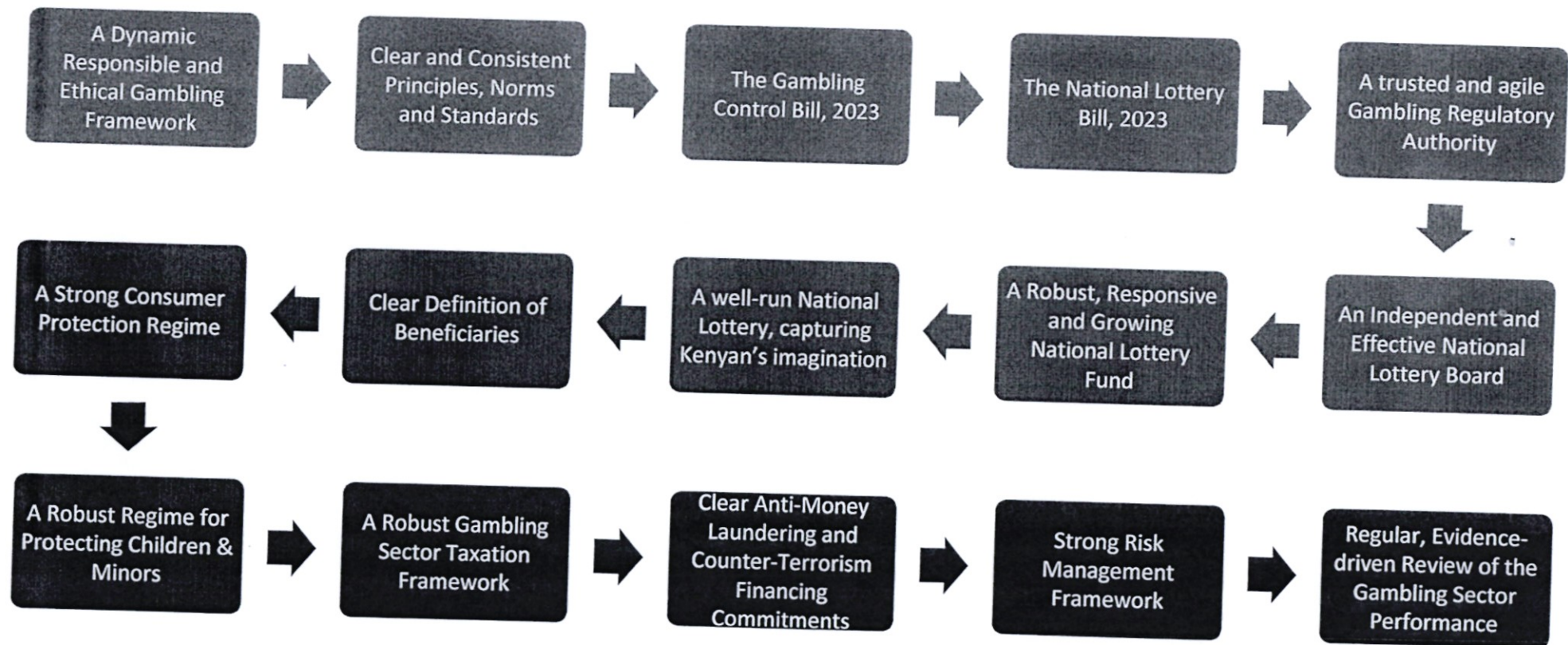
REGULATE SUPPLY OF GAMBLING OPPORTUNITIES

1. Player regulation and restrictions
2. Access & environmental controls
3. Quantitive restrictons
4. Location restrictions
5. Operating period restrictions
6. Aesthetic values
7. Compliance to industry norms and standards
8. Protect minors and vulnerable populations
9. Tightening restrictions and limiting advertising opportunities
10. Protect against fraud, abuse and excessive gambling

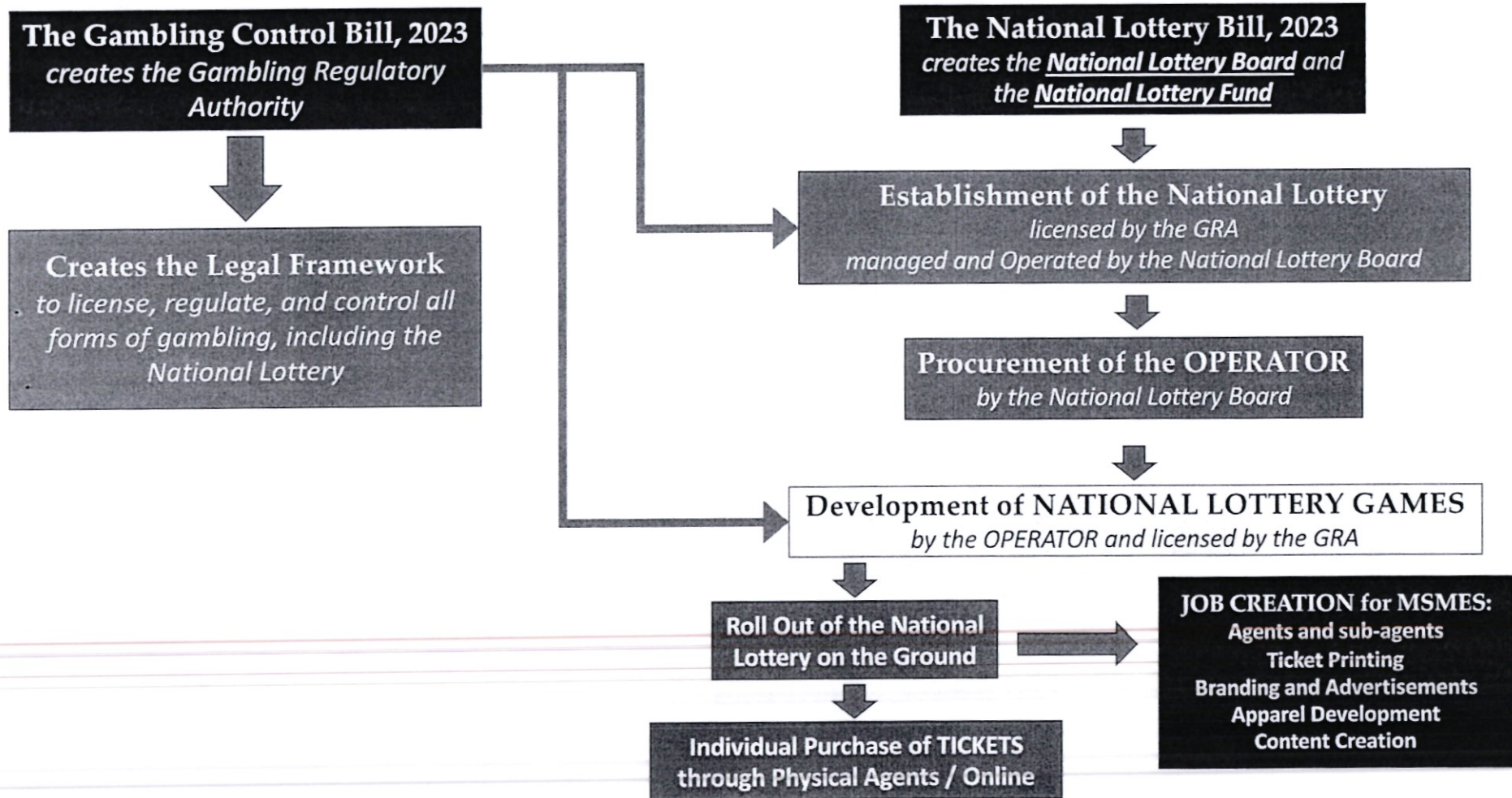
S U P P L Y A N D D E M A N D S I D E R E G U L A T I O N

2. The Policy Framework for Transforming Gambling into a Force for Social Progress

THE GAMBLING POLICY, 2023



3. The Proposed Legal and Regulatory Framework for Transforming Gambling into a Force for Social Progress



4. Projected Revenues from the National Lottery

THE ASSUMPTIONS

The Taskforce Projected Expected National Lottery Revenues by:

- i. Based on the Kenya Population and Housing Census of 2019:
 - a. Conservatively identified the National Population Size eligible to participate in gambling, this being the **population aged 20 years and above;**
 - b. Isolated the population professing the Islamic Faith, this being about **10.91% of the National Population**
- ii. Based on Market Research from TGM International Sports Betting Survey, 2022, the gambling habits of Kenyans were identified and 3 **National Lottery Participation Scenarios** developed (a) **Best Case Scenario – 60.58%**; (b) **Mid Case Scenario – 41.87%**; and (c) **Low Case Scenario – 17.64%**.
- iii. The **Average National Lottery Spend** was KShs. 35 per person, **growing at 5% p.a.**

4. Projected Revenues from the National Lottery

THE PROJECTIONS

The Taskforce Projected National Lottery Revenues to be:

i. FOR THE LOW-CASE SCENARIO

- a. Participation rates start at 8.79% in 2024 and grow to 16.04% in 2033.
- b. National Lottery Turnover grew from KShs. 9.90 billion in 2024 to KShs. 18.55 billion in 2026 and KShs. 34.43 billion 2033.

ii. FOR THE MID-CASE SCENARIO

- a. Participation rates start at 12.59% in 2024 and grow to 22.98% in 2033.
- b. National Lottery Turnover grew from KShs. 23.49 billion in 2024 to KShs. 44.03 billion in 2026 and KShs. 81.74 billion 2033.

iii. FOR THE BEST-CASE SCENARIO

- a. Participation rates start at 18.22% in 2024 and grow to 33.25% in 2033
- b. National Lottery Turnover grew from KShs. 33.99 billion in 2024 to KShs. 66.88 billion in 2026 and KShs. 124.17 billion 2033.

4. A Final Reflection

- i. Lessons from Kenya's own experience and good practice globally show that the Gambling Industry cannot be **PROSCRIBED OR BANNED**. It must be robustly and appropriately regulated.
- ii. This requires a Clear Framework for Responsible and Ethical Gambling focusing recognition of gambling harms, promotion of ethical, responsible and safe gambling, and deliberate protection of children, minors and the vulnerable in our society from addiction and addressing other negative impacts;
- iii. Countries the world over, including our neighbours, have developed and exploited National Lotteries as mechanisms for revenue mobilisation for **GOOD CAUSES** on the basis of the Principle of Additionality.
- iv. Adoption of the Gambling Policy of Kenya, 2023 and *consideration, enactment and implementation* of the Gambling Control Bill, 2023 and the National Lottery Bill, 2023 *provide the country with a robust mechanism for resolving the gambling sector challenges it is facing and will facilitate* **Transformation of Gambling in Kenya into a Force for Social Progress.**

TRANSFORMING
KENYA
OUR COUNTRY • OUR PEOPLE • OUR FUTURE





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

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

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

1. Tax Issues

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

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

2. Financial Reporting Centre

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

3. Proposed Fees

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

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

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

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

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

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

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

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

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

RISKS

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

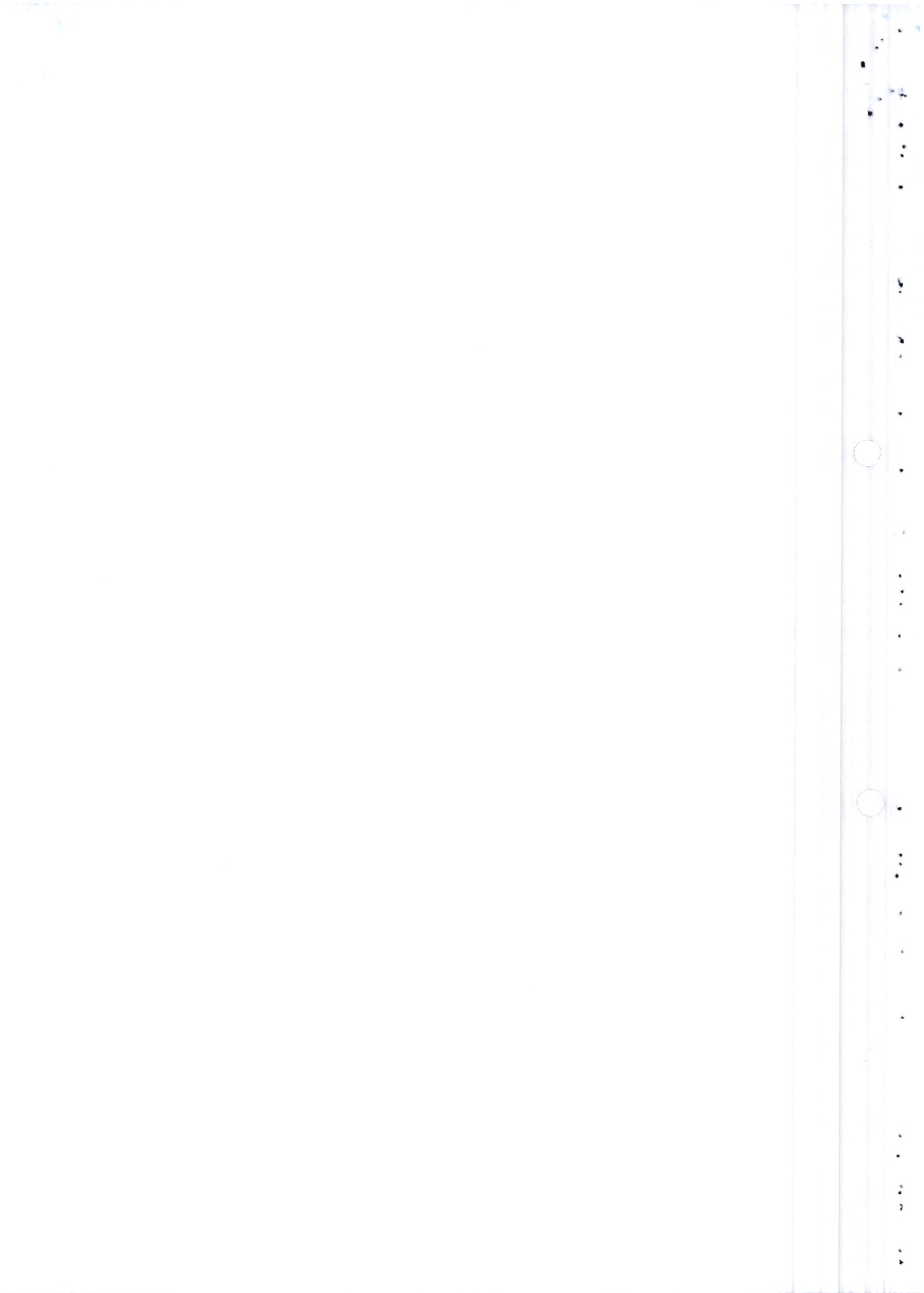
- (i) Problem gambling (addiction) with heavy social cost to communities
- (ii) Change of gambling attitude from source of livelihood, with services consequences to the participants (loss of employment, truancy indebtedness, depression e.t.c)
- (iii) If not well regulated and monitored it can be used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

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

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



Dr. Jane Makau
Chairperson





**EXECUTIVE OFFICE OF THE PRESIDENT
BETTING CONTROL AND LICENSING BOARD
ACK Garden Annex, 1stNgong Avenue, 7th floor.**

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P. O. Box 43977 – 00100,
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SUBMISSION BY CHAIRPERSON BETTING CONTROL AND LICENSING BOARD DURING THE CONSULTATIVE MEETING WITH DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE TO CONSIDER THE NATIONAL LOTTERY BILL (NATIONAL ASSEMBLY BILL NO.69 OF 2023) AND THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO. 70 OF 2023) ON 21ST/22ND NOVEMBER, 2023

Hon Chair, and Hon Members, may I at the onset thank you for inviting us to this consultative retreat with the Stakeholders on the National Lottery Bill (**National Assembly Bill No.69 Of 2023**) and the Gambling Control Bill (**National Assembly Bill No.70 Of 2023**). We are therefore here pursuant to your letter Ref.NA/DDC/S&C/2023/078 dated 15th November, 2023.

Hon Chair, and Members, on 16th February, 2023 His Excellency the President vide Gazette Notice No.2101 appointed a task force i.e. "Presidential Taskforce on the Establishment of a National Lottery ". The Task Force had the following Terms of Reference;

- (a) To undertake a comprehensive review of the best practices on the Establishment and National Lotteries in other jurisdiction
- (b) To develop the policy and implementation plan that will guide the establishment and operationalization of the National Lottery
- (c) To facilitate the necessary consultations with all key stakeholders in the country on the establishment of a National Lottery
- (d) To examine the existing administrative institutional, policy and legislative structures and system in the betting and gaming industry and to recommend comprehensive reforms that will support and facilitate a sustainable framework for the implementation and operation of the National Lottery
- (e) To develop a prioritized implementation matrix that clearly states the immediate medium and long term sectoral reforms and the attendant

budgetary requirements necessary for the efficient operation of the National Lottery.

- (f) To cause the review and fast-tracking of the Draft Gambling Bill with the requisite legislative framework establishing the National Lottery for further consideration by the Cabinet and onward transmission to parliament; and
- (g) To consider, perform or advice on any other matter or subject auxiliary to the above.

Hon Chair and Members, Betting Control and Licensing Board participated in the Task- Force which came up with the two Bills under your consideration. However, the proposal on the fees chargeable for the various licenses were not incorporated. The schedule of the proposed fees and justification is hereto attached for your consideration.

The Board therefore affirms that the two Bills carries the input of the Board and at this point we would request you to consider the two Bills positively with the above fee adjustments.

Hon Chair and Members, the Board has observed that the Financial Reporting Centre (FRC) which is a critical regulator of the Gaming industry particularly the Public Gaming arena (Casino) has not been scheduled to appear to you. We therefore request that you consider inviting Director General to make their submission in regard to the Bills.

Hon Chair, in conclusion we request that you consider inviting us at the tail end of this process once you have collected and collated the views from other stakeholders to enable us evaluate with you what amendment in our opinion if considered would portend serious challenges in regulating the industry.

Finally, we thank you Hon. Chair and Members for this opportunity.

I submit.

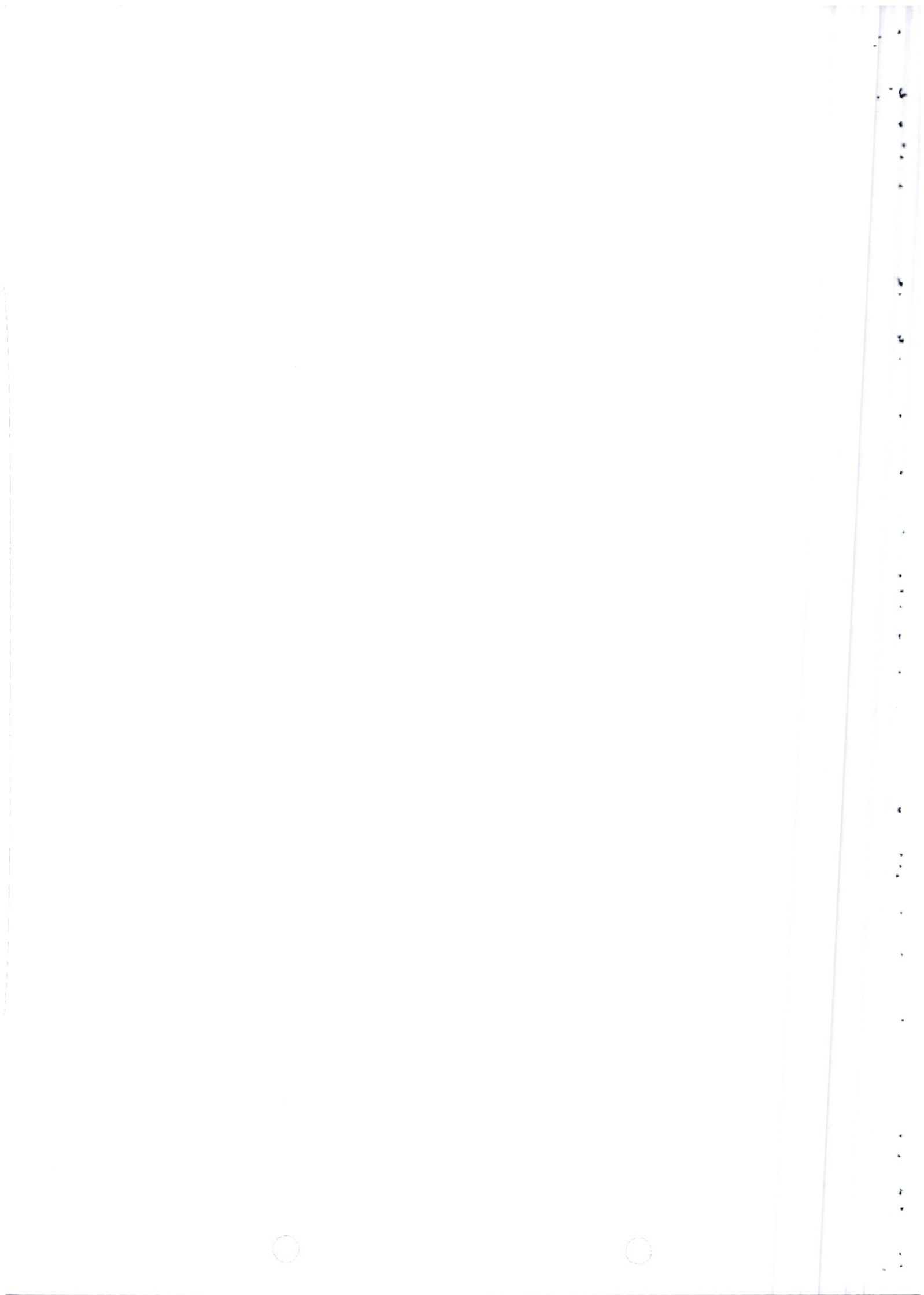


DR. JANE M. MAKAU
CHAIRPERSON

SECOND SCHEDULE

FEEES FOR LICENSES AND PERMITS

No	Type of License/Permit	Application fee (kshs)	License fee grant (kshs)	Annual License fee (kshs)	License Renewal fee (kshs)	Inspection fee (kshs)	Investigation fee (Local) (kshs)	Investigation fee (Foreign) (kshs)	Transfer fee (Location) (kshs)
1.	Public Gaming (Casino)	1,000,000	3,000,000	1,000,000	50,000	1,000,000	5,000,000	250,000	
2.	Bookmakers								
	i. On the course	100,000	500,000	250,000	50,000	1,000,000	5,000,000	250,000	
	ii. Off-the-course	200,000	4,000,000	1,000,000	50,000	1,000,000	5,000,000	250,000	
3.	Totalisator								
	i. On the course	100,000	500,000	100,000	50,000	1,000,000	5,000,000	250,000	
	ii. Off-the-course	100,000	500,000	100,000	10,000	1,000,000	5,000,000	250,000	
	iii. Premises	50,000	100,000	50,000 per machine	20,000	-	50,000	-	
4.	National lottery	5,000,000	20,000,000	5,000,000	-	5,000,000	15,000,000	250,000	
5.	Public Lottery								
	i. For a specific charitable purpose(3months)	10,000	20% of Total Ticket sales	-	-	-	-	-	
	ii. For various charitable purposes (Annual)	1,000,000	5,000,000	1,000,000	-	-	-	250,000	
6.	Pool Table (online)	10,000	200,000	100,000	50,000	50,000	1,000,000	-	



7.	Prize competition	10,000	20%of Total Budget	-	-	-	-	-	-
8.	Private Lotteries	10,000	50,000 (3months)	-	-	-	-	-	-
9.	Radio stations/TV promotions (sms and/paybill	50,000	2,000,000 (3 Months)	-	-	-	-	-	-
10.	Gaming machines	20,000	50,000 per Machine (Maximum 10 machines)	50,000 per machine	10,000	50,000(per location)	200,000	6,000,000	50,000 (per machine)
11.	Gaming equipment suppliers license	200,000	3,000,000	1,000,000	200,000	50,000	1,000,000	5,000,000	-
12.	Key Gaming employees license(Senior dealer and above)	500 (Local) 5,000 (Foreign)	5,000(Loca l) 50,000(For eigner)	1,000(Local) 20,000(Foreign r)	-	-	-	-	-
13.	Online Bingo	100,000	1,000,000	500,000	50,000	50,000	1,000,000	5,000,000	250,000
14.	Land based Bingo	100,000	500,000	500,000	50,000	50,000	1,000,000	5,000,000	250,000
15.	Casino Bingo	10,000	200,000	100,000	50,000	50,000	-	-	-
16.	Gaming Equipment Manufacturer fee	500,000	1,000,000	250,000	50,000	50,000	200,000	2,000,000	250,000
17.	Software/platform provider	500,000	1,000,000	250,000	50,000	50,000	200,000	2,000,000	250,000
18.	Gambling prediction App	20,000	200,000	100,000	50,000	50,000	200,000	5,000,000	250,000
19.	Poker room permit	20,000	500,000	200,000	50,000	50,000	1,000,000	5,000,000	250,000

20.	Online Casino	3,000,000	5,000,000	1,000,000	50,000	50,000	1,000,000	5,000,000	250,000
21.	Bookmaking and casino(online)	3,000,000	7,000,000	1,500,000	100,000	100,000	1,000,000	5,000,000	250,000
22.	Gaming equipment service license	20,000	50,000	50,000	10,000				
23.	Pool betting schemes	500,000	1,000,000	500,000	50,000	50,000	1,000,000	5,000,000	250,000
24.	Fete	2,000	20,000(3m onths)	-	-	-	-	-	-
25.	Tombola/Funfairs (clubs or registered societies	5,000	50,000 (annual)	50,000 (annual)	10,000	10,000	-	-	-
26.	Transfer of permit (Bookmakers Location)	5,000	10,000	-	-	-	-	-	-
27.	Postponement of draw	5,000	20,000	-	-	-	-	-	-
28.	Gaming Service provider	20,000	50,000	50,000	-	-	-	-	-
29.	Online Virtual games/Fantasy	50,000	200,000	100,000	50,000	50,000	500,000	5,000,000	
30.	Seller/Distributor/ suppliers license of Gaming Equipment and Devices	10,000	100,000	50,000	-	-	-	-	-
31.	Gaming consultancy	5,000	100,000	50,000	-	-	-	-	-
32.	Sports betting terminals (Within Betting premises)	5,000(For each Terminal)	20,000	10,000	-	-	-	-	-
33.	Letters of no objection	500 Per Letter	5,000 per letter	-	-	-	-	-	-
34.	In – Principal License (Public Gaming, Lottery and Bookmakers	100,000	1,000,000	-	-	-	-	-	-
35.	Duplicate License		5,000						

FOURTH SCHEDULE SCHEDULE

GAMBLING SECURITY

NO.	TYPE OF GAMBLING	AMOUNT (KSHS.)
1.	Public gaming (Casino)	2,000,000
2.	Online casino	5,000,000
3.	Bookmakers and Casino	2,000,000
4.	Totalisator	200,000
5.	Prize competition	Equivalent of highest prize
6.	Bookmakers	2,000,000 (To vary according to known business of the Licensee)
7.	National lottery	200,000,000
8.	Public Lottery (Annual)	3,000,000
9.	Online Bingo	1,000,000
10.	Land based Bingo	1,000,000
11.	Pool Betting Schemes	1,000,000
12.	Public Lottery (3 months)	Equivalent of highest prize



DIP C
Please deal.
23/11/23



OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE



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

21st November, 2023

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

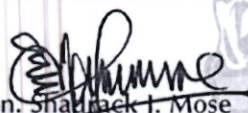
(Attn: Ms. Serah M. Kioko)

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

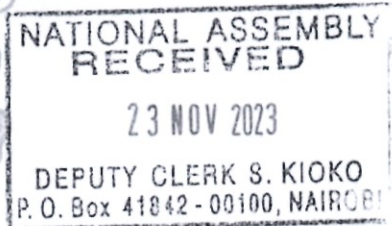
This has reference to your letter dated the 15th November, 2023, under Ref. NA/DDC/S&C/2023/078, and the request for written submissions in respect of the National Lottery Bill (National Assembly Bill No. 69 Of 2023) and the Gambling Control Bill (National Assembly Bill No. 70 Of 2023).

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

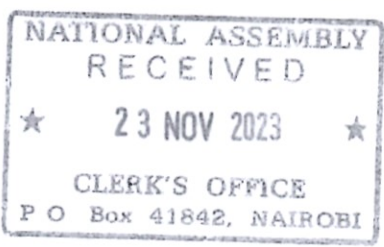
We trust that this is in order.


Hon. Shadrack J. Mose
SOLICITOR-GENERAL

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



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







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

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

A. INTRODUCTION

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

Honourable Members,

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

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

B. BACKGROUND OF THE STATE DEPARTMENT

1. Mandate

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

2. Achievements

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

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

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

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

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

3. The Bills

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

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

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

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

Honourable Members

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

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

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

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

Thank you, Honourable Members



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

22nd November, 2023





COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

Tel: (020) 2403314, 2403313
E-mail: info@coq.go.ke

Our Ref: COG/6/45 Vol.3 (15)

23rd November 2023

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Dear Mr. Njoroge

SUBMISSION OF THE COUNCIL'S POSITION ON GAMBLING CONTROL BILL 2023

The above subject matter refers.

The Council of Governors has reviewed the Gambling Control Bill, 2023. The Fourth Schedule of the Constitution assigns the Gambling function as a concurrent function between the two levels of government. National betting, casinos and other forms of gambling is assigned to national government while Cultural activities, public entertainment and public amenities, including betting, casinos and other forms of gambling is assigned to county governments.

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.

The Council posits that all revenue from gambling in the country is revenue due to county governments. The United Nations 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.

Having reviewed the Bill, we therefore wish to call on the National Assembly to withdraw the Bill entirely as it takes away the functions and revenue of county governments. This will pave way for the introduction of a new Bill that conforms with the constitutional assignment of functions and powers.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer



Copy: All Excellency Governors

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

NOVEMBER 2023

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

1.0 Introduction

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

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

2.0 KRA's Response

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

Comments on Specific Provisions

A. THE NATIONAL LOTTERY BILL, 2023

Table 1 Recommendations on the National Lottery Bill, 2023

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

B. THE GAMBLING CONTROL BILL, 2023

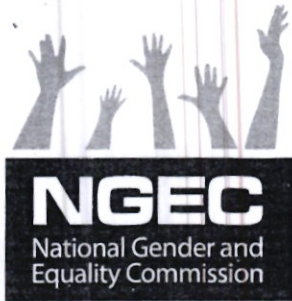
Table 2 Recommendations on the Gambling Control Bill, 2023

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

3.0 Conclusion

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





D/DC
Please deal
17/11/23

National Gender and Equality Commission

1st Floor, Solution Tech Place, 5 Longonot Road, Upper Hill, Nairobi
P.O. Box 27512-00506 Nairobi, Kenya.
Landline: +254 (020)3213100
Mobile: +254(020)375100
Toll Free: 0800720187
Email: info@ngeckkenya.org
www.ngeckkenya.org

Ref. No. NGEC/CS/NAS/005/VOL.III.(128)

16th November 2023

NATIONAL GENDER AND EQUALITY COMMISSION

Mr. Samuel Njoroge

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

cna@parliament.go.ke

Dear Mr. Njoroge,

John mogona
to facilitate
20/11/23

MEMORANDUM ON THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS NO 70 OF 2023)

Reference is made to the call for submission of memoranda on the Gambling Control Bill (National Assembly Bills No. 70 of 2023)

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

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

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

Yours sincerely,

Betty Sungura, **MBS**
COMMISSION SECRETARY/ CEO

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

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

Encl.

"Gender Equality and Non-Discrimination"

DIRECTOR
20 NOV 2023
Directorate of Departmental Committees





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

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

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

		<p>5(5) The Cabinet Secretary in making appointments shall ensure that not more than two-thirds of the members are of the same gender, shall observe the principle of regional and ethnic balance and shall have due regard to the principle of fair representation for persons with disabilities.</p>	<p>of persons with disabilities for public entities.</p>
	<p>New proposed clause on vacancy in the Board 5A</p>	<p>5A Vacancy in the Board</p> <p>(1) The office of the Chairperson or a member of the Board appointed under section 5(1)(a) and (e) shall become vacant if the holder—</p> <ul style="list-style-type: none"> (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). <p>(2) A member of the Board may be removed from office for—</p>	<p>The proposed Bill does not have an exit clause for board members.</p>

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

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

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

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

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

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

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

MINISTRY: Ministry of Youth Affairs, Creative Economy and Sports

DATE: 24th November 2023

06

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

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

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

		Section 45(4) This provision shall apply to all games of chance included games of chance operated by the National Lottery Board under the National Lottery Act or any other law.	the Income Tax Act, the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 the Gambling Control Bill, the National Lottery Bill and the
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Purpose/Object	To provide for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries; and for connected purposes	For the regulation of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the Gambling Regulatory Authority; for the imposition of tax on betting and other forms of gambling, and for connected purposes	For the establishment of the National Lottery, the National Lottery Board and the National Lottery Fund, and for connected purposes Purpose of the Fund under Sec. 21 shall be for raising resources for the nation to facilitate the conduct of good causes in Kenya and for any other purposes provided in this Act. The good causes that shall be facilitated by the National Lottery include: a). Charitable Causes b). Economic empowerment c). Sports, Recreation, Arts, Culture and National Heritage d). Signature transformation projects e). Emergencies	Regulation 7(1) to provide funding to support the development and promotion of sports and arts and the promotion of social development including universal health care.
Definition	"gaming" means the playing of a game of chance for winnings in money or money's worth "Lottery" includes a sweepstake, a raffle and any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or	"gambling" means the playing of a game of chance for prize winning and includes lottery and betting;	Defined as set out in Sec. 21:	N/A

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

(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.

DUPLICITY OF PURPOSE/MANDATE

**PFM (SASDF) REGULATIONS, 2018
Regulation 7(2)(a)-(m)**

Objects and purpose of the Fund
 (2) Without prejudice to the generality of paragraph (1), the Fund shall provide for—
 (a) promote social development including universal health care;
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 (b) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;

 (c) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;

 (d) facilitation for the acquisition and provision of equipment to sports and recreation facilities;

 (e) support for the identification, nurturing and development of talent in sports and arts;

 (f) facilitation of training and capacity building programmes for persons involved in sports and recreation, creative arts, artistic production, contemporary and cultural practitioners;

**NATIONAL LOTTERY BILL
Section 21(3)(i)-(xiii) of the National Lottery Bill**

21. (3) The good causes that shall be facilitated by the National Lottery under subsection (2) shall include—
 (a) charitable causes including—
 (ii) promote social development including universal health care;
 (c) sports, recreation, arts, culture and national heritage including—
 (i) support for national teams to participate in regional and international events;

 (ii) financing the development of sports and recreation facilities including stadia, gymnasiums, buildings, tracks;

 (iii) enhancing support and access to funding for sportspersons and sports organizations to enable their participation in sporting events and competitions;

 (iv) facilitation for the acquisition and provision of equipment to sports and recreation facilities;

 (v) support for the identification, nurturing and development of talent in sports and arts;

 (vi) facilitating training and capacity building programmes for persons involved in sports and

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

Regulation 4: The proceeds of the Fund shall be apportioned as follows—
 (a) an amount not exceeding sixty percent to social development including universal health care;
 (b) an amount not exceeding thirty five percent to the promotion and development of sports;
 (c) an amount not exceeding twenty percent to the promotion and development of arts; and
 (d) an amount not exceeding five percent to government strategic interventions whose expenditure shall be subject to approval by Cabinet.

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

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

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

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

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

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

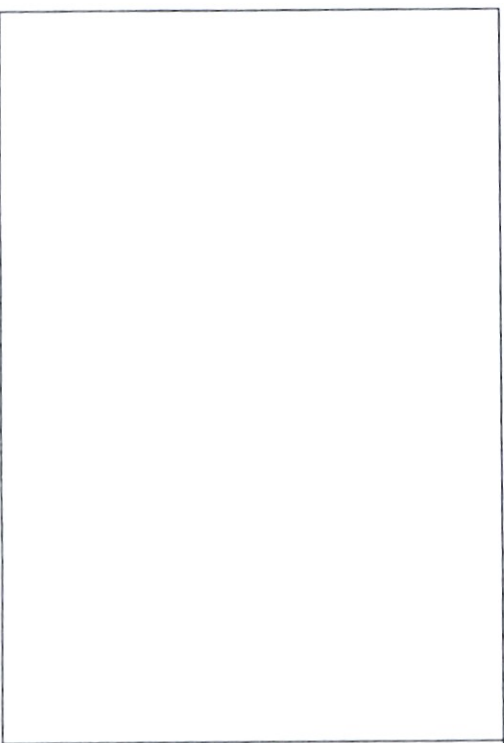
It is further noted that taxes from all winnings, under Section 35(5A) of the Income Tax Act are paid into the Sports, Arts and Social Development, Under the said Act, "Winnings" includes winnings of any kind and a reference to the amount or the payment of winnings shall be construed accordingly:

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

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

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



KENYA LAW REFORM COMMISSION



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20th November, 2023
.....20.....

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

(Attn: Ms. Serah Kioko, MBS)

Dear *Serah*,

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

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

I. BACKGROUND

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

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

II. INTRODUCTION

The National Lottery Bill, 2023

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

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

The Gambling Control Bill, 2023

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

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

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

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

III. OUR CONSIDERATION OF THE BILLS

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

A. The National Lottery Bill, 2023

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

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

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

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

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

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

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

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

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

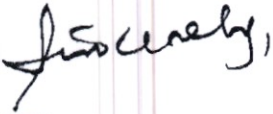
IV. CONCLUSION AND RECOMMENDATION

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

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

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

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

Yours 



Joash Dache, MBS
SECRETARY/CEO

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



OFFICE OF THE DATA PROTECTION COMMISSIONER

When replying please quote:

Ref: ODPC/ADM/4/6/4

Email: info@odpc.go.ke

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

21st November 2023

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

Dear *Madam,*

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

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

The Office has reviewed the Bills and submits as follows:

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

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

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

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

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

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

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

Yours



OSCAR OTIENO
For: DATA COMMISSIONER



REPUBLIC OF KENYA



OFFICE OF THE DATA
PROTECTION
COMMISSIONER

DONT's in Data Protection



1. Unlawful Processing

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

2. Share data with unauthorized parties

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

3. Make data processing decisions without appropriate safeguards

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



REPUBLIC OF KENYA



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7. Retention schedules

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

8. Data Protection policy

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

9. Lawful Processing

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

PROTECTION ACT, 2019

- Right to access personal data
- Right to correct personal data
- Right to delete personal data
- Right to portability
- Right to object
- Right to withdraw consent



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4. Data Sharing Agreements

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

5. Data Processor contracts

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

6. Data breaches notification

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





DO's in Data Protection



1. Register as Data Handlers

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

2. Data Protection by design or default

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

3. Conduct Data Protection Impact Assessments

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



REPUBLIC OF KENYA
OFFICE OF THE DATA PROTECTION COMMISSIONER

Rights of Data Subjects

Right to be informed

Right to access Personal Data

Right to correction

Right to deletion

Right to erasure

Right to data portability

Automated decision making

Object of processing

• Right to be informed
• Right to access
• Right to correction
• Right to deletion
• Right to erasure
• Right to data portability
• Automated decision making
• Object of processing



DATA PROTECTION COMMISSION



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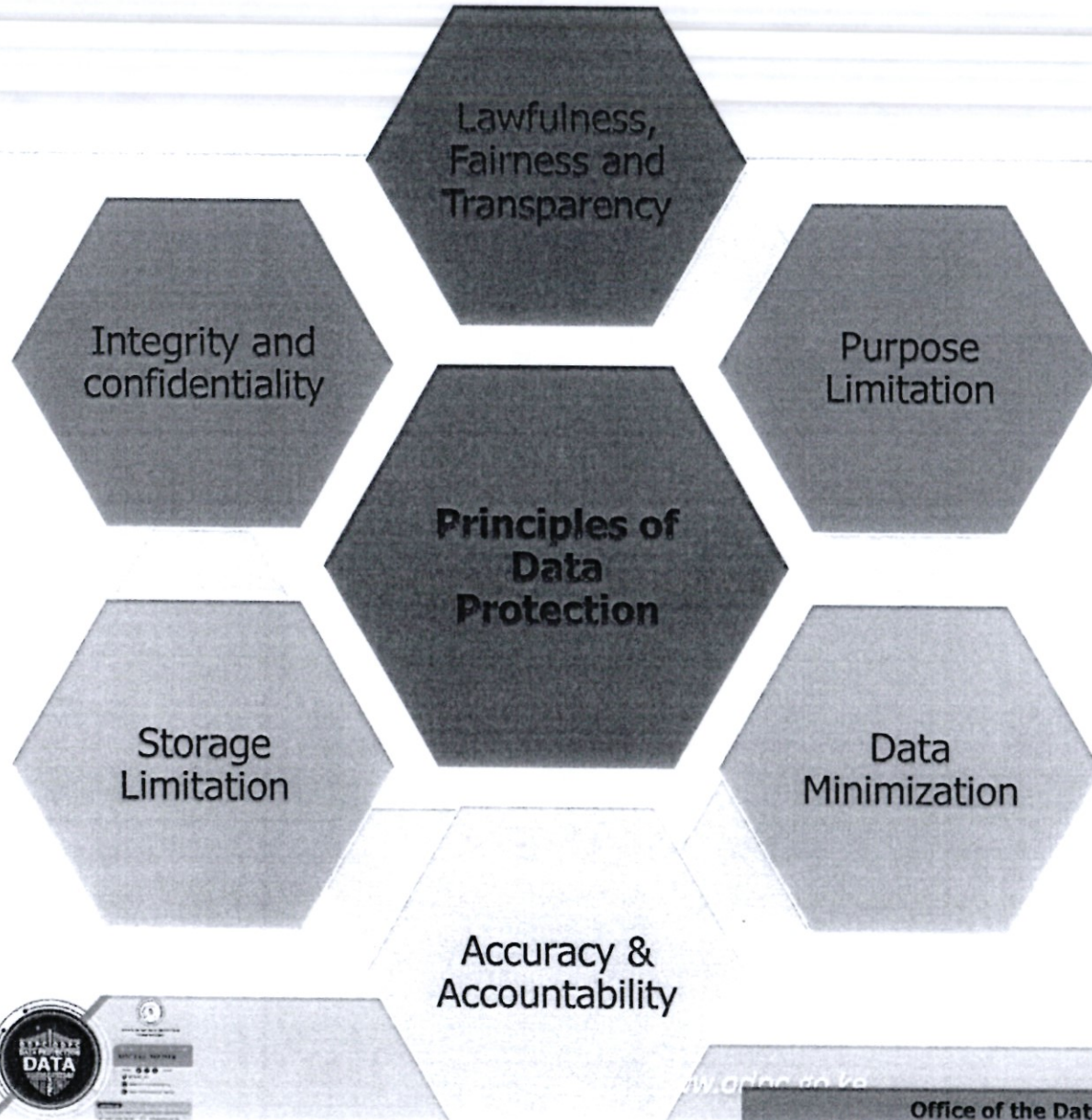
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REPUBLIC OF KENYA



OFFICE OF THE DATA PROTECTION COMMISSIONER





OFFICE OF THE DATA
PROTECTION
COMMISSIONER

The Data Protection Regulations

Data Protection (Civil Registration) Regulations, 2020

Data Protection (General) Regulations, 2021

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

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

DATA
PROTECTION ACT, 2019



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

**Presentation by: Oscar Otieno,
Deputy Data Commissioner-CIE**



21st November 2023



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COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/LEG/03/VOL.II (57)

DATE: 22nd November, 2023

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

DOC
2/1/23

Dear *Mr. Njoroge*

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

Please refer to the subject matter and your letter dated 15th November, 2023.

In line with your request, the Commission has reviewed both Bills and appeared before the Committee yesterday regarding the National Lottery Bill (National Assembly Bill No. 69 of 2023).

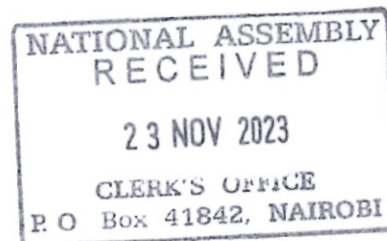
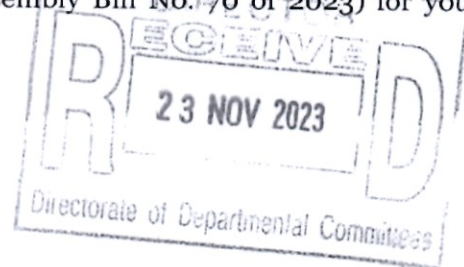
Find attached the final memorandum on the National Lottery Bill, 2023 as well as our comments on the Gambling Control Bill (National Assembly Bill No. 70 of 2023) for your consideration.

We thank you for your continued support.

Yours *Sincerely,*

James Katule
CPA James Katule
COMMISSION SECRETARY/CEO

Mr. John Magoma
Pls TNA. Done
24/11/23







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.	Clause 2 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> Recommendation: Redraft such ambiguous definitions	For clarity
2.	Clause 5 Functions of County Governments	Under paragraph 5(b), a county government shall-issue single business permits for gambling premises; Recommendation: Substitute the phrase ‘ single business permits ’ with ‘ trade licenses ’ as follows- <i>(b) issue trade licenses for gambling premises;</i>	To align with constitutional language as per section 7(b) Part 2 of the Fourth Schedule of the CoK
3.	Clause 7	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	<p>(e) three persons, not being public officers appointed by the Cabinet Secretary with knowledge and experience in matters connected with the objects of the board and shall include persons with background in finance, law, betting and lotteries, business management, or any other relevant field; (f) one person nominated by the Council of Governors and appointed by Cabinet Secretary;</p> <p>Recommendation: 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>	concurrent function under the Fourth Schedule of the Constitution
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		<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>Recommendation: Add the phrase “based on performance” after the word “years” at the end of the statement.</p>	<p>To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1.5)</p>
		<p>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>Clause 15</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 <u>relevant government agencies</u>.</i></p> <p>Recommendation: Substitute the phrase “the relevant government</p>	<p>To align with Article 230(4) of the CoK</p>

		agencies” with “the Salaries and Remuneration Commission”	
5.	Clause 16 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 Recommendation: Add the phrase “based on performance” after the word “years” 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.	Clause 21 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; (c) <u>the moneys paid by the operator of the National Lottery under section 42 (1) (c) of the National Lottery Act, 2023;</u> (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>Recommendations: 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 <u>42 (1) (c) of the National Lottery Bill, 2023.</u></p> <p>Further, set a percentage of the gambling levy going towards financing the Authority under clause 21(b).</p>	
7.	Clauses 23 & 24	<p>Both provisions reference a “<i>Public Finance Act, 2012</i>”</p> <p>Recommendation: Substitute with “<i>Public Finance Management Act, 2012</i>”</p>	To correct the citation of the Act

8.	Clause 28 Requirements for Licensing	The clause reads- 28. A person shall not be licensed to offer any gambling or betting activity under this Act unless that person— <u>(a) is a body corporate in which a minimum of thirty per cent of shares are held by Kenyan citizens; and</u> (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 <i>Recommendation: 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>	For clarity
9.	General recommendations	Provide for an appeal framework for county level decisions as the Bill only caters for the national level under part XI Clauses 4 & 5 are generally consistent with Gazette Notice No. 8753 by the Intergovernmental Relations Technical Committee of 8 th September, 2017	To provide for a standardized appeal framework for county governments

		delineating the functions between the two levels of government which is a positive aspect to note.
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COMMENTARY ON THE NATIONAL LOTTERY BILL, 2023

A. Constitutional Basis of this Memorandum

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

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

AND

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

B. Clause by Clause Analysis

Upon review of the Bill, the following issues arise-

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

		interest groups in the Board and in all other appointments under the proposed law	
	Clause 9 Committees of The Board	Reads- <i>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.</i> Recommendation: Redraft to include the fact that these committees should be limited to four.	To align with <i>Mwongozo</i> The Code of Governance for State Corporations
2.	Clause 11 Chief Executive Officer	Under sub-clause 4- (4) <i>The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of three years.</i> Recommendation: Add the phrase “based on performance” after the word “years” at the end of the statement.	To align with <i>Mwongozo</i> The Code of Governance for State Corporations (pg. 6 part 1.5)
3.	Clause 20	Under sub-clause 2-	For clarity and ease of implementing the law once passed

	Reports of the Board	<p>2) <i>The Board shall continuously and on a regular basis monitor and report on its performance and on the performance of all of its licensees on a quarterly basis, with a summary of performance reported through Board's annual report on the basis of a clear outcome-based performance framework based on developed by <u>the National Government.</u></i></p> <p>Recommendation: Specify which organ of the "<u>national government</u>" e.g. the relevant Ministry etc.</p>	
4.	Clause 21 Establishment of the National Lottery	This clause under sub clause 3 lists various good causes that shall be facilitated by the National Lottery including charitable causes, economic empowerment including support for the development of small businesses or other economic development initiatives, signature transformation projects including affordable housing,	To align with Part 2 of the Fourth Schedule of the CoK and for clarity

		<p>sustainable agriculture initiatives and emergencies</p> <p>Recommendations: some of the good causes listed are devolved functions e.g. agriculture and affordable housing under Part 2 of the Fourth Schedule of the Constitution. There is need to have a clear funds flow framework to facilitate flow of such funds. Additionally, the areas of facilitation are very broad and touch on existing Funds e.g. Emergency Fund, Sports Fund etc. Rationalize this provision against these existing frameworks for harmony.</p>	
5.	<p>Clause 22 Exemptions</p>	<p>The clause reads-</p> <p><i>Despite any other provision of this Act, the provisions of any written law relating to the regulation of public lotteries for charitable purposes, lotteries for charitable, sporting and other purposes and lotteries incidental to entertainment shall not apply to the National Lottery</i></p>	<p>To clear inconsistency and for ease of implementation.</p>

		<p>Recommendation: rationalize this provision with Clause 24(4) which provides that the provisions of any written law relating to the requirements, standards, norms, and conditions relating to licensing of gambling activity shall apply to National Lottery. These two provisions appear contradictory as regulation covers the aspects in 24(4)</p>	
6.	<p>Clause 23 Procurement of an Operator</p>	<p>Under sub-clause 2- (2) A person shall be eligible to be the National Lottery operator if that person— (a) has appropriate knowledge or experience to conduct a national lottery in accordance with this Act and any condition imposed on the license; (b) has the necessary financial and other resources to conduct the lottery (c) does not have direct or indirect financial interest exists on any applicant</p>	For comprehensiveness

		<p><i>by a person who is the holder of a political office; and</i></p> <p><i>(d) is a fit and proper person to conduct the lottery</i></p> <p>Recommendation: Recast provision to include a legal person scenario. The current provision infers that the procured operator as a natural person.</p>	
7.	<p>Clause 43</p> <p>Establishment of the National Lottery Fund</p>	<p>Under sub clause 3(b)-</p> <p>The Fund shall consist of interest from the investment of money standing to the credit of the Fund</p> <p>Recommendations: Fund account if opened with the Central Bank will not accrue interest</p>	For information
8.	<p>Clause 44</p> <p>Oversight of the Fund</p>	<p>Under sub clause (2) (c) and (g) the Board shall-</p> <p>(c) determine, in accordance <u>with relevant legislation and guidelines,</u> the amount of money that will be allocated to various programmes and projects to</p>	For accountability and ease of implementation

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

	<p>Clause 46 Administrator of the Fund</p>	<p>Under sub clause 4- <i>The Administrator shall maintain an account for every person who purchases a National Lottery ticket for the purposes of the saving component</i></p> <p>Recommendation: <i>this provision needs to be redrafted to expound as to whether its an account or record and as to how practical this is if the purchasers are many.</i></p>	<p>For clarity and practicability of implementation</p>
9.	<p>Clause 47 Beneficiaries of the Fund</p>	<p>47.(1) The funds from the Fund shall be accessible to <u>both state and non-state actors</u> for the purposes of undertaking projects and programmes for good causes.</p> <p>(2) A person or institution shall not be eligible for funding from the Fund if the person or institution is <u>not tax compliant</u></p> <p>(4) An <u>institution whose officials have not met any applicable prior clearance requirements shall not be eligible to receive funding from the Fund.</u></p>	<p>For openness and accountability</p>

		Recommendations: stipulate within this provision the inferred clearance requirements for officials and institutions to access the Fund. The application process should also be clearly articulated.	
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MEMORANDUM TO
PARLIAMENT

ON

THE GAMBLING CONTROL BILL ,2023.

NOVEMBER, 2023

Eric Theuri, President Law Society of Kenya
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Introduction

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

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

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

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

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

The Law Society of Kenya has studied the Bill and makes the following recommendations.

General Comments

This specific legislation is founded on specific functions related to gambling and lottery as provided for under Schedule 4th Part 1 Schedule section 34 and Part 2 schedule 4 (a) of the Constitution and it our general comment that it should strictly confine itself to distinct roles assigned to the National Government, to avoid ambiguity and precipitating conflict between the two levels of the government in regard to their province over matters gambling and lottery.

Specific Comment

Section	Content	Rationale	Recommendation
Long Title	The title should speak to 4 th Part 1 Schedule section 34 and Part 2 schedule 4 (a).	The schedule is clear and distinct about the fact that National Government shall be in charge of National Betting and such kind of gambling. Meaning any gambling that transcends the border of a county, remains in the domain of the	We recommend that the nomenclature of the Authority speaks to its mandate so that it should be reviewed to read National Gambling Regulatory Authority. This will rid the legislation of any form of ambiguity and distinguish the fact that the

		National Government. While at the same time it grants the county government mandate over betting, casinos and other forms gambling within the County.	Counties may also respectively have County Gambling Authorities.
Clause 3. Object and purpose of the Act.	It outlines the object and the purpose of the Bill.	The object and purpose of the Bill is always captured in the long title. Introducing a clause with similar provisions bulks the legislation. There is need to debulk the law and rid the legislation of superfluous provisions.	We recommend that this clause or the content therein should be merged to form the long title of the Bill.
PART II	Functions of national and county government.	These functions are already provided for under schedule four of the	We recommend deletion of this part. Having it does not add any value to the piece of legislation.

		Constitution, it is unnecessary.	
PART II- Clause 5 (a)	Enforcement of compliance of this Law and other applicable laws.	This is an affront to article 243 of the Constitution that grants the mandate of law enforcement to the National Police Service Commission.	We recommend the deletion of this section and the entire PART II of the Bill.
Clause (11)(11) (d)	Revision of code under the authority, consulting members of the public as the authority considers appropriate.	Public participation is a constitutional imperative and it is our submission that in addition to the word as the authority considers appropriate, the word in accordance with chapter six of the constitution.	The appropriateness must accord with constitutional imperative of public participation.

We humbly submit.

Yours faithfully,



Eric Theuri

President Law Society of Kenya



COUNTY ASSEMBLIES FORUM (CAF)

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

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

FROM: The County Assemblies Forum.

DATE: 20th October 2023.

SUBJECT: CAF Memorandum on the Gambling Control Bill, 2023



1.0 INTRODUCTION

1. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.
2. As one of the pillars of the devolved government system, CAF is committed to engage in processes that lead 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; for the imposition of tax on betting and other forms of gambling.

2.0. BACKGROUND

- 2.1. The principal object of this Bill is to repeal and replace the Betting, Lotteries and Gaming Act (Cap. 131) provide for a legislative framework for the regulation of gambling in Kenya and also incorporate safe gambling principles in the gambling sector. The Bill seeks to regulate betting, casinos and other forms of gambling including the authorization of prize competitions, public lotteries, media promotions. The following are the salient features of the Bill.
- 2.2. This Bill is a Bill concerning county governments within the meaning of Article 110 of the constitution and the Fourth schedule to the Constitution.



3.0. GENERAL COMMENTS.

- 3.1. We commend the sponsor of the Gaming Control Bill 2023, Hon. Kimani Inchung'wah, the Leader of Majority, for the initiative in addressing the regulatory gaps within the gaming sector. The dedication to establishing a comprehensive legal framework is essential for the well-being of the public and the industry facilities.
- 3.2. The Forum endorses the bill's objectives of promoting responsible gaming practices and protecting the public from potential harms associated with gambling. The focus on self-exclusion mechanisms and inspector oversight aligns with the need for a balanced and regulated gaming environment.
- 3.3. The focus on supporting various sectors such as charitable causes, sports, heritage, arts, and culture reflects a comprehensive approach to addressing societal needs. The bill's emphasis on these key areas demonstrates a commitment to holistic development.
- 3.4. While supporting the bill's objectives, there are concerns about the potential negative consequences associated with increased gambling activities. The bill should incorporate robust measures to mitigate the risk of addiction and other social problems that may arise from the operation of a National Lottery.
- 3.5. The bill, if passed in its current form, may have a profound impact on the betting industry. Stakeholders in the sector might face challenges in adapting to the new regulatory requirements, and there is a need to assess the potential economic implications for both large and small-scale operators.
- 3.6. Recognizing the devolved nature of governance, it is imperative to delineate and emphasize the role of counties in implementing and enforcing the provisions of the bill. Counties should be empowered with the necessary resources and authority to oversee and regulate gambling activities within their jurisdictions effectively.
- 3.7. CAF appreciates the opportunity to contribute to this Bill and on the basis of the foregoing proposes the following amendments:

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

	CLAUSE	AMENDMENT	JUSTIFICATION/COMMENTS
	<p>Clause 2 "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to gambling;</p>	<p>No Amendment</p>	<ol style="list-style-type: none"> 1. Clause 2 of the Gambling Control Bill 2023, specifically in the definition of "Cabinet Secretary." The current wording stipulates that the term "Cabinet Secretary" refers to the individual "for the time being responsible for matters relating to gambling." 2. While the intent of the clause is clear – to designate the Cabinet Secretary overseeing gambling affairs – there exists a degree of ambiguity regarding the identification of the current Cabinet Secretary responsible for gambling matters. To ensure transparency, effective implementation, and ease of reference, it is imperative to specify the office or role explicitly. Clarity and Precision: The absence of a specific designation creates uncertainty about who holds the position of Cabinet Secretary in charge of gambling. By explicitly stating the role or office, the legislation becomes clearer and more precise, facilitating a better understanding among stakeholders.

the public, and relevant authorities.

Operational Efficiency:

Clearly identifying the Cabinet Secretary responsible for gambling matters enhances operational efficiency. Government agencies, regulatory bodies, and the public will benefit from a streamlined process for communication, collaboration, and the implementation of policies related to gambling control.

Avoidance of Misinterpretation:

Ambiguous language in legislative texts can lead to misinterpretation and potential legal disputes. Explicitly naming the Cabinet Secretary responsible for gambling matters helps prevent misunderstandings, ensuring that the intent of the legislation is accurately and consistently applied.

Facilitation of Accountability:

Designating a specific Cabinet Secretary promotes accountability. This ensures that the individual holding the position is clearly accountable for decisions and actions related to gambling control. It also facilitates oversight and evaluation of the effectiveness of the regulatory framework.

<p>Clause 17 Appointment of Corporation Secretary 17. (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— provide guidance to the Board on the Board's duties, responsibilities and powers; ensure that Board follows its procedures and complies with the respective laws and regulations; prepare the Board's work plans and assist the Chairperson to organize 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; take and keep the minutes of the meetings of the Board, and circulating the minutes to the members of the Board; keep a record of the usage of the seal of the Authority; keeping a record of the appointment letters, notices of appointment and the written acceptance (a) (b) (c) (d) (e) (f) 19 2 2 The Gambling Control Bill, 2023 of appointment by members of the Board; (g) keeping a record of conflicts of interest declared by each member of the Board; and (h) perform such other duties as the Board may direct .</p> <p>19 2 2 The Gambling Control Bill, 2023</p>	<p>No Amendment</p>	<p>The provision for the competitive recruitment of a Secretary to the Board, also referred to as a Corporation Secretary, and outlining the responsibilities and duties in the Gaming Control Bill 2023, doesn't explicitly specify the tenure of office or the length of the term for the Secretary. However, the need for a corporate secretary to have a defined tenure or term is often grounded in several key principles and considerations:</p> <ol style="list-style-type: none"> Stability and Continuity: <ul style="list-style-type: none"> Having a defined tenure for the Secretary provides stability and continuity to the administrative functions of the Board. A consistent leadership presence contributes to the effective and smooth functioning of the regulatory body. Expertise and Institutional Memory: <ul style="list-style-type: none"> Over time, a secretary accumulates expertise and institutional memory regarding the functioning of the Board. A reasonable tenure allows the Secretary to develop a deep understanding of the regulatory landscape and the specific challenges and
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	<p>of appointment by members of the Board;</p> <p>(g) keeping a record of conflicts of interest declared</p> <p>by each member of the Board; and</p> <p>(h) perform such other duties as the Board may direct.</p>		<p>nuances of the industry.</p> <p>3. Independence and Impartiality:</p> <ul style="list-style-type: none"> • A fixed tenure can enhance the independence and impartiality of the Secretary. Knowing that their term is not subject to frequent changes with shifts in leadership can contribute to the Secretary's ability to provide objective and impartial advice to the Board. <p>4. Consistency in Governance:</p> <ul style="list-style-type: none"> • The Secretary plays a crucial role in ensuring that the Board follows its procedures, complies with laws and regulations, and maintains proper records. A consistent leadership presence helps in maintaining consistency in governance practices. <p>5. Effective Succession Planning:</p> <ul style="list-style-type: none"> • Establishing a defined tenure allows for effective succession planning. Knowing when a change in leadership is anticipated enables the Board to plan for a smooth transition and identify suitable candidates well in advance. <p>6. Accountability and Performance:</p>
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			<ul style="list-style-type: none"> A defined term holds the Secretary accountable for their performance during that period. This can encourage efficiency and effectiveness in fulfilling the responsibilities outlined in the legislation.
<p>Clause 18 Staff of the Authority 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, in consultation with the relevant Government agencies.</p>	<p>Kindly amend to state: "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, in consultation with the relevant Government agencies and as advised by the Salaries and Remuneration Commission"</p>	<p>The inclusion of the Salaries and Remuneration Commission (SRC) in the determination of terms and conditions for the staff of the Authority aligns with the constitutional mandate bestowed upon the SRC by Article 230(4) of the Kenyan Constitution, 2010</p>	
<p>Clause 40 Deposits 40. (1) The Authority shall require a licensee to deposit an insurance security bond or bank guarantee equivalent to cover the amounts provided in the Fourth Schedule. Security for 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</p>	<p>No amendment</p>		<ul style="list-style-type: none"> The Forum is concerned that requiring substantial deposits for casinos, online sports betting, and lotteries may disproportionately impact smaller businesses, limiting competition in the market. We recommend tailor deposit requirements to the scale of the operation, ensuring that the financial obligations are feasible for diverse entities.

<p>applicable insurance security bond or bank guarantee for a gambling activity not provided for under this Act. (4) 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.</p> <p>Clause 45 and 46</p> <p>Clause 45 45. (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. (2) The tax under subsection (1) shall be paid to the Collector on or before the 20th day of the following month. (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 Act, 2012.</p> <p>Clause 46 46. (1) There shall be a monthly levy to be known as gambling levy which shall be paid by a licensee to the Authority. (2) The Cabinet Secretary shall in consultation with the Authority, prescribe the amount of the gambling</p>	<p><i>No Amendment</i></p>	<ul style="list-style-type: none"> • The introduction of a dual taxation approach to generate revenue for the state is notable. However, the specific rates and mechanisms should be transparent and fair to both the industry and the government. • While taxes are necessary for revenue generation and social causes, a 15% tax may be viewed as burdensome, especially given existing taxes on turnover and corporate profits. Kindly consider a graduated tax system based on revenue tiers to minimize the impact on smaller operators and encourage industry growth • The proposal for a gambling levy and tax dedicated to rehabilitation purposes and creating awareness about
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	<p>levy payable under subsection (1): Provided that the amount prescribed shall not exceed one per cent of the monthly gross gambling revenue of a licensee.</p>		<p>gambling addiction is a positive step. However, the allocation and utilization of these funds should be transparent and effective.</p>
	<p>Clause 74 74. (1) A player in an online gambling activity shall not bet an amount of less than twenty shillings in a competition. (2) The minimum amount set under subsection (1) shall be inclusive of such saving component for the player 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</p>	<p>Amend to state: - <i>"A player in an online gambling activity shall not bet an amount of less than ten shillings in a competition."</i></p>	<ul style="list-style-type: none"> • The Forum is concerned that Prohibiting bets below KES20 might restrict access to low-stakes gambling, affecting those who engage in casual, recreational betting. • We recommend maintaining flexibility in bet amounts while incorporating responsible gambling measures, such as mandatory information on the risks associated with gambling.

	<p>Clause 90</p> <p>90. (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—</p> <p>(a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling;</p> <p>(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;</p> <p>(c) printing or publishing, or causing to be printed or published, any advertisement or notice; using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling;</p> <p>(d) using false, misleading or deceptive message likely to create an erroneous positive impression of gambling;</p> <p>(e) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gambling</p> <p>(f) advertising gambling by</p>	<p>No Amendment</p>	<p>The Forum appreciates parliament for including this clause because of the following.</p> <p>1. Social Responsibility:</p> <ul style="list-style-type: none"> Banning gambling during specific hours demonstrates a commitment to social responsibility. By restricting such promotions during times when a significant portion of the audience, including minors and vulnerable individuals, is likely to be tuned in, the government is taking a proactive step to mitigate the potential negative impact of these advertisements. <p>2. Protection of Vulnerable Groups:</p> <ul style="list-style-type: none"> One of the primary reasons for restricting gambling advertisements is to shield vulnerable groups, such as children and individuals susceptible to gambling addiction. During certain hours, children are more likely to be exposed to television and radio content. By limiting gambling ads during these times, the government aims to protect
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	<p>organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.</p> <p>(3) A gambling advertisement shall—</p> <p>(a) indicate the addictive nature of gambling;</p> <p>(b) notify players to play responsibly;</p> <p>(c) prohibit children from playing;</p> <p>(d) not feature a former winner with a view to encouraging the general public to bet, play or participate;</p> <p>(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;</p> <p>(f) not be erected on an advertisement billboard of close proximity to a school or a place frequented by children; and</p> <p>(g) dedicate ten per cent of aired advertisement towards promotion of responsible gambling.</p> <p>(4) All media companies holding licenses on gambling shall not use any of their</p>	<p>the youth from early exposure to potentially harmful content.</p> <p>3. Mitigation of Gambling Addiction:</p> <ul style="list-style-type: none"> • Gambling addiction is a public health concern, and exposure to constant advertisements can contribute to the normalization of gambling behavior. Restricting these ads during specific hours can help reduce the overall exposure, contributing to efforts aimed at preventing and mitigating gambling addiction. <p>4. Promotion of Responsible Gambling:</p> <ul style="list-style-type: none"> • Responsible gambling involves ensuring that individuals make informed and conscious choices about their gambling activities. Limiting the timing of gambling advertisements aligns with the broader goal of promoting responsible gambling behavior. It encourages individuals to consider their actions more thoughtfully, fostering a healthier approach to gambling. • However, there is a need to
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<p>licenses on gambling and shall not any of their broadcast frequencies to advertise or promote their gambling product or activities.</p> <p>(5) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for—</p> <p>(a) the circumstances under which the national lottery, and licensed gambling activities may be advertised;</p> <p>(b) information that is to appear in an advertisement;</p> <p>(c) the places where, circumstances or manner in which signs relating to a national lottery, lottery or sports pool may be played;</p> <p>(d) conditions requiring advertisements about the gambling service authorized by the license including—</p> <p>(i) publication only to certain classes of persons;</p> <p>(ii) the content which may require specified words to be included in the advertisement;</p> <p>(iii) content not to be included in advertisement;</p>	<p>balance the interests of public welfare and economic considerations. Media companies heavily reliant on gambling advertisements might experience economic impacts. Striking a balance between the protection of vulnerable groups and supporting the economic viability of media companies is a complex but necessary endeavor.</p> <ul style="list-style-type: none"> • There might be a need to mitigate immediate economic impacts, a gradual implementation of the advertising restrictions could be considered. This allows media companies to adapt their business models and seek alternative revenue streams over time.
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	<p>(iv) content not to be published in certain types of publications or media; and</p> <p>(v) requirement for content to be approved by the Authority.</p> <p>(6) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty years or to both</p>		
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Thank you.
Yours sincerely,



HON. PHILEMON SABULEI
CHAIRPERSON, CAF

ASSOCIATION OF GAMING OPERATORS - KENYA

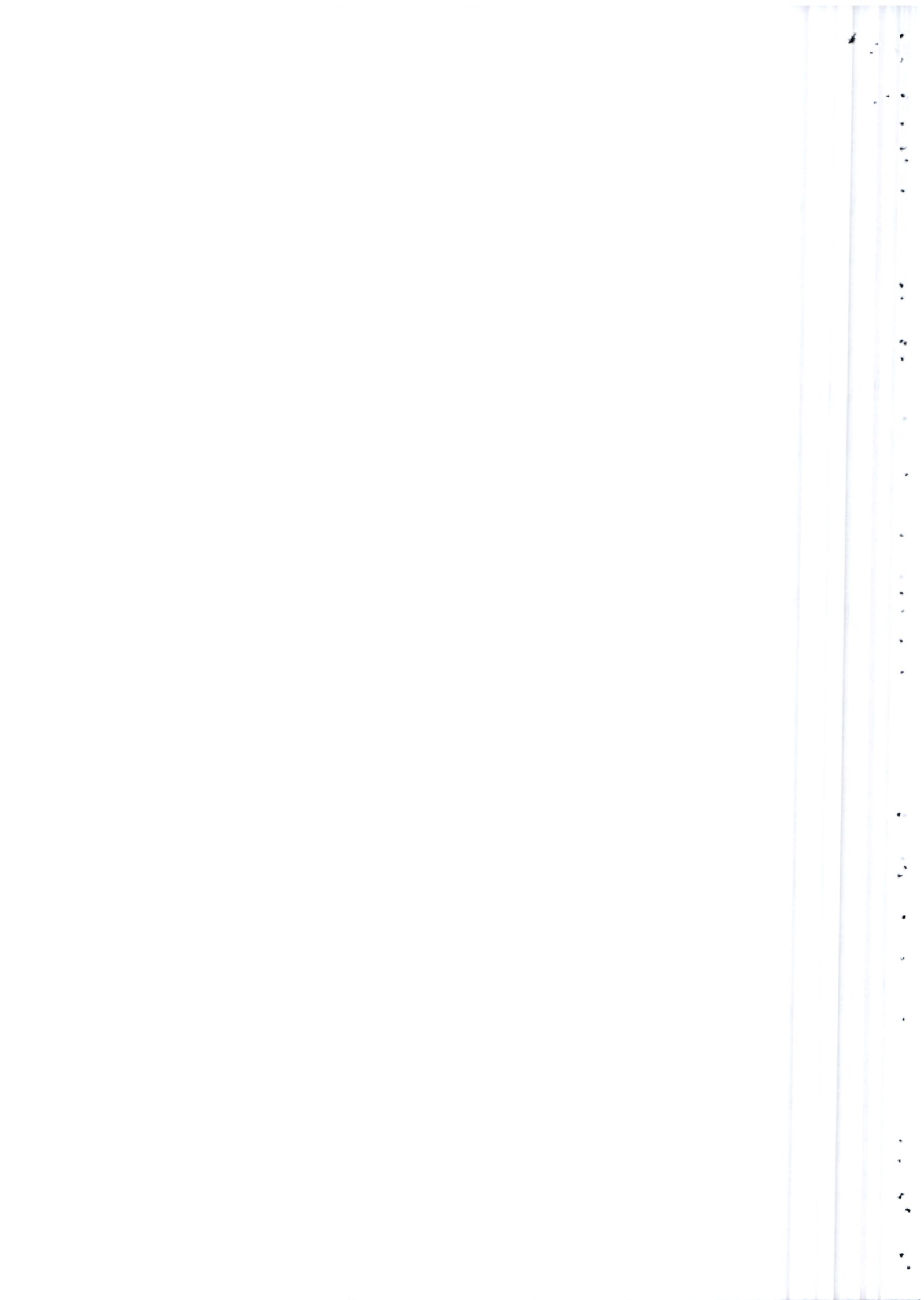


**SUBMISSIONS TO THE DEPARTMENTAL COMMITTEE
ON SPORTS AND CULTURE TO CONSIDER NATIONAL
LOTTERY BILL
(NATIONAL ASSEMBLY BILL NO. 69 OF 2023)**

AND

**THE GAMBLING CONTROL BILL
(NATIONAL ASSEMBLY BILL NO. 70 OF 2023)**

NOVEMBER 2023



DATE: 20TH NOVEMBER 2023

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
Part I Preliminary, 2- Interpretation	"betting premises" means premises used for the purposes of betting to which the public has access and which is;	"betting premises" means premises used for the purposes of betting to which the public has access;	Definition is unfinished most likely due to clerical mistake. The words " <u>and which is</u> " are misplaced.
Part I Preliminary, 2- Interpretation	"gross gambling revenue" means total revenue received from a gambling activity before any deductions are made;	"gross gambling revenue" means the overall difference between total actual payments of players and the amount paid out to players before any deductions are made;	Financial Reporting Interpretations Committee in London. <u>To eliminate ambiguity</u>
Part I Preliminary, 2- Interpretation	"lottery" includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any	"lottery" includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any	Definition was revised so as not to allow the notion to overlap other types of games of chances by the unlimited generality of the definition. The words " <u>or otherwise</u>

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
	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, or otherwise howsoever;	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;	<u>howsoever</u> will cause unlimited generality.
Part I Preliminary, 2- Interpretation	<p>“manufacture” means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and, may include-</p> <p>(a) to supplier;</p> <p>(b) to performs maintenance of gambling equipment; or</p>	<p>“manufacture” means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and, may include-</p> <p>(a) to supply;</p> <p>(b) to perform maintenance of gambling equipment; or</p>	Definition was grammatically revised.

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
	(c) provider of gambling services;	(c) to provide gambling services;	
Part I Preliminary, 2- Interpretation	Additional missing clause	"net gambling revenue" means the gross gambling revenue after the applicable taxes and have been deducted;	The Bill should take into account globally accepted definition of "net gambling revenue" which takes into account the applicable taxes in order to calculate after-tax sum.
Part I Preliminary, 2- Interpretation	"player" means a person who is in possession of a valid ticket for a lottery or a promotional competition;	"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;	The Bill gave a too narrow definition of a player, narrowing it only to lottery and promotional competition, whereas other forms of gambling should be included as well for the purposes of this Act. Word "player" has to be accordingly replaced with the word the "punter" throughout the text of the Draft Bill.
Part I Preliminary, 2- Interpretation	"pool betting" means the making of a bet where the bet is	"pool betting" means the making of bets (other than bets made by	The Bill should revert to more precise definition of "pool betting" from the previous Draft

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	made through a fixed odd by a person on agreed terms in reference to stake paid or agreed to be paid by the parties;	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;	Gambling Bill (April 2019) in order to avoid using too broad terms and overlap with other games of chance.
Part I Preliminary, 2- Interpretation	"winning" the difference between the bet or stake placed by a punter and the pay-out received on receipt of a prize.	"winning" means the difference between the pay-out received on valid receipt issued by a licensee relating to gambling and the bet or stake placed by a punter.	Definition was adapted to the language used in Draft Gambling Control Bill as well as proposed Submission herein.

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Part II -FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS, Section 4 (1) (h)	(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;	(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 applying to all licensees;	Grammatical precision is made in order to avoid confusion about the law maker of the mentioned regulations.
Part II - FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS, Section 4 (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 concurrent functions relating to betting, lotteries, casinos	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 the functions relating to betting, lotteries, casinos	Using the term concurrent in the Draft Bill is not desirable as it may cause confusion and conflict of powers between national and county offices.

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	and other forms of gambling.	and other forms of gambling <u>given under this Act.</u>	
Part II Section 10(1) (a) - FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS,	standards and norms for betting, lotteries, casinos and other forms of gambling;	<u>establish</u> standards and norms for betting, lotteries, casinos and other forms of gambling;	Verb was missing from the text of the provision.
Part II Section 10 (1)(d) - FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS,	(d) develop policies for placing of bet for betting, lotteries and gambling to include a <u>savings component for social health insurance or social retirement benefit;</u>	(d) develop policies for betting, lotteries and gambling and other forms of gambling;	The provision is misleading as to imply that social security fee is going to be due on each bet made. Rather, these policies should describe how the competent bodies distribute all the incoming proceeds from licensees (from gambling tax and licence and other fees) to social causes.
Part II - FUNCTIONS OF THE NATIONAL GOVERNMENT AND	The members of the Board shall be paid such allowances and	The members of the Board shall be paid such allowances and	Subject was missing for the provision and the verb "may" was twice repeated.

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COUNTY GOVERNMENTS, Section 15	disbursements, for expenses, as <u>may may</u> , in consultation with relevant government organs, approve.	disbursements, for expenses, as Cabinet Secretary , in consultation with relevant government organs, may approve.	
Part II - FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS, Section 21 (b)	(b) the gambling levy paid under section 46	To be deleted.	The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury. Detailed argumentation against overtaxing in the gambling industry shall be submitted in a separate study presented by

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			AGOK
PART IV – LICENCES AND PERMITS, Section 29 (1) (b)	(b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gambling capital;	(b) sufficient evidence to show that the applicant is in possession of, or commands <u>the adequate</u> gambling capital;	Since the amount of prescribed Gambling capital is not provided in the Draft Bill, wording of the clause is accordingly revised.
PART IV – LICENCES AND PERMITS, Sections 29 (1) (c) (d)	(c) security by way of such insurance bond or bank guarantee as security in the Authority's account 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	All are hereby deleted.	According to the Subsection (1) of the Section 40 of the Draft Bill security requirement is set as optional (" <i>The Authority may require a licensee to deposit an insurance security bond or bank guarantee[...]</i> ") and consequently, the requirement of submitting such a security proof in the application for a licence cannot be imposed as mandatory without changing the terms of Subsection (1) of the Section 40 of the Draft Gaming

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			<p>Bill.</p> <p>Moreover, since information from the applicant regarding the proximity of the intended premise to a learning institution is not precisely defined in the Act, there is no justifiable reason to include it in the Act as a license requirement, as it would imply broad interpretation from the Board and open the door to various abuses, manipulations and subjectivity when deciding on applications for a licence.</p>
PART IV – LICENCES AND PERMITS, Section 29 (1) (g)	(g) a declaration of the good causes the applicant intends to undertake and <u>the proposed budget devoted to the good causes</u>	g) a declaration of the good causes the applicant intends to undertake	It is not economically possible to propose the budget on good causes in advance; rather can licensees undertake their corporate social responsibility actions upon the ignition of the business, depending on the success of their business year.

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PART IV – LICENCES AND PERMITS, Section 29 (3)	(3) The Cabinet Secretary may in consultation with the Authority prescribe the percentages of the gross gambling revenue that a licensee may be required to devote to good causes as a condition for a licence.	To be deleted.	The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury. Detailed argumentation against overtaxing in the gambling industry shall be submitted in a separate study presented by AGOK
PART IV – LICENCES AND PERMITS, Section 30 (3)	The Authority may renew a gambling licence after expiry of the <u>period specified in the licence</u> and upon payment of the	Every licence or permit issued under this Act shall be valid for a period of <u>ten years from the date of its issuance.</u>	The Draft Bill does not prescribe any period for licence validity, as it only stipulates that the period of validity shall be specified in the licence itself.

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	prescribed renewal fee.	The Authority may renew a gambling licence after expiry of ten years period and upon payment of the renewal fee prescribed in Schedule 4 of this Act.	Not only is there legal cavity in the Draft Gambling Control Bill, but also there is theoretical possibility for discretionary decisions on case-to-case basis, meaning that each individual licence could have different validity term. This may lead to the same types of licences having different validity. Proposed clause presents legal uncertainty which directly introduces possibilities of various abuses, manipulations and subjectivity in interpretation of the acquired rights. On the other hand, the proposed legal provision guarantees revenues for the State treasury that will be realized through the activities of licensees for a <u>period of ten years.</u>

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PART IV – LICENCES AND PERMITS, Section 31 (1) (c)	the application is not in conformity with the obtaining policy regarding use of any software system as may be determined by the Communications Authority of Kenya from time to time.	To be deleted.	The operators should in advance know all the requirements regarding the conditions for issuance and renewal of any licence and not be left to uncertain conditions which could be discretionarily prescribed and amended in a policy document issued by Communications Authority of Kenya. Such legal uncertainty directly introduces possibilities of various abuses, manipulations and subjectivity in interpretation of the acquired rights.
PART IV – LICENCES AND PERMITS, Section 32 (1) (d)	if the licensee is in breach of any condition attached to the licence.	if the licensee is in breach of any condition attached to the licence as prescribed in provisions of this Act.	Wording of the provision in which conditions attached to licence are not defined neither in the Draft Gambling Control Bill, nor in its Schedules leads to the possibility of a broad interpretation and opens the

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			door to various abuses, manipulations and subjectivity when deciding on revocation of the licence. Accordingly, it can be argued that the terms of draft clause, otherwise unknown in comparative practice, will directly permit numerous unlawfulness.
PART IV—LICENCES AND PERMITS, Section 32 (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 of five years with effect from the effective date of the revocation.	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 of one year with effect from the effective date of the revocation.	Period of five years of prohibition to apply for gambling licence is unjustifiably long given that the grounds for revocation of licence provided in Subsection (1) of the Section 32 of the Draft Bill are given on general terms, whereas precise stipulations of legal offences were not provided. Hence, a five-year prohibition to apply for a licence is unproportionally long period given the provisions regulating the acts of breach by

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			the licensee.
PART IV—LICENCES AND PERMITS, Section 33 (2)	The procedure under section 32 shall apply mutatis mutandis when the Authority considering the suspension of a licence.	The procedure under section 32 shall apply mutatis mutandis when the Authority <u>is</u> considering the suspension of a licence.	Verb was added to the text of the provision.
PART IV—LICENCES AND PERMITS, Section 33 (4)	Where a licence <u>for the licence</u> ceases to be valid under subsection (1), the Authority shall inform the licensee in writing the date upon which the licence was suspended.	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.	Clause is misinformed most likely due to clerical mistake.
PART IV—LICENCES AND PERMITS, Section 36 (1)	The holder of a licence issued under this Act may apply after a period of <u>five</u> years to transfer a licence or a permit to any person who is eligible for a licence under this Act upon payment of the	The holder of a licence issued under this Act may apply after a period of <u>three</u> years to transfer a licence to any person who is eligible for a licence under this Act upon payment of the	To accommodate the business reality, the period after which the transfer could be possible is shortened. Moreover, and due to similar grounds, conditions for transfer of locational permits should be alleviated.

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	prescribed fees to the Authority.	prescribed fees to the Authority.	
PART IV – LICENCES AND PERMITS, Section 36 (5)	A report under subsection (3) may include the particulars of any conviction recorded against a person to the extent that those particulars are relevant for the purposes of determining whether the proposed licensee is qualified to hold any interest in <u>a licensed premises or</u> the business to which a licence relates.	A report under subsection (3) may include the particulars of any conviction recorded against a person to the extent that those particulars are relevant for the purposes of determining whether the proposed licensee is qualified to hold any interest in the business to which a licence relates.	Clause was shortened and revised as to accommodate the previous proposed revision from this submission.
PART IV – LICENCES AND PERMITS, Section 39 (c)	the county or counties to which a <u>licence</u> relates;	the county or counties to which a <u>permit</u> relates;	In accordance with Section 5 (b) of the Draft Bill, county government can only issue single business permits for gambling premises;

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PART IV – LICENCES AND PERMITS, Section 40 (3)	The Authority shall prescribe applicable insurance security bond or bank guarantee for a gambling activity <u>not provided for under this Act.</u>	To be deleted.	Requiring security bonds or even bank guarantees for activities not prescribed in the Act and not requiring a licence under the Act opens the door to various abuses, manipulations and subjectivity when deciding on gambling activities by the Authority. Accordingly, it can be argued that the terms of draft clause, otherwise unknown in comparative practice, will directly permit numerous unlawfulness.
PART IV – LICENCES AND PERMITS, Section 40 (4)	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.	To be deleted.	Repetition of <u>Section 40 (2).</u>

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PART IV – LICENCES AND PERMITS, Section 41 (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.	To be revised and amended in conjunction with Section 41(1) to note and take into account provisions under this Act that gives prescription of how gambling capital is determined.	If gambling capital is to be one of the conditions for the issuance of the licence, its precise amounts should be determined in a legislative procedure in force for the Act itself.
PART IV – LICENCES AND PERMITS, Section 43 (1)	A licensee shall submit to the Authority audited statement of accounts within three months after the end of a financial year.	The financial year for audited statement of accounts should be 31st December for the Companies in line with their tax filing requirements.	The financial year end for audited statement of accounts is not defined in this Bill and therefore could have multiple interpretations.
PART IV – LICENCES AND PERMITS, Section 43 (2)	The accounts of a licensee submitted under this section shall be audited an auditor approved by the Authority.	The accounts of a licensee submitted under this section shall be audited by an auditor approved by the Authority.	Clause is misinformed most likely due to clerical mistake.

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PART IV – LICENCES AND PERMITS, Section 44 (c) and (d)	(c) have an import certificate issued by the Authority indicating the model and the functions of the machine; and (d) undergo standards verification after every three months .	(c) have a certificate issued by the Supplier indicating the model and the functions of the machine; and (d) undergo standards verification after every calendar year from the day it was put into operation .	The Section in its entirety should be moved to PART VII – CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING of the Draft Bill which regulates gambling machines. Here it is underlined that the issuance of import certificates for gambling machines and their certification every third month would burden and over formalize the process and eventually dissuade licensees from installing gambling machines, leading to the growth of unlicensed gambling market.
PART IV – LICENCES AND PERMITS, Section 45	Additional	New Subsection (4) is hereby added to the Section 45 as follows: “(4) The tax under subsection (1) shall be	The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes

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		<p>the only tax, i.e., levy to be charged on licensees directly or indirectly in connection with their gambling operations. No other tax can be imposed on the licensees by the virtue of other bills or acts or any legal acts of any kind except in this Act and its Schedules.”</p>	<p>and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury. Detailed argumentation against overtaxing in the gambling industry shall be submitted in a separate study presented by AGOK to the Task Force mandated to facilitate Gambling Sector Taxation Framework under Strategy 28 in the Gambling Policy 2023.</p>
PART IV – LICENCES AND PERMITS, Section 46	(1) There shall be a monthly levy to be known as gambling levy which shall be paid by a licensee to the Authority.	To be deleted in its entirety.	The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the

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	<p>(2) The Cabinet Secretary shall in consultation with the Authority, prescribe the amount of the gambling levy payable under subsection (1):</p> <p>Provided that the amount prescribed shall not exceed one per cent of the monthly gross gambling revenue of a licensee.</p> <p>(3) The monies paid under subsection (1) shall be used by the Authority for the purposes of—</p> <p>(a) research on social determinants of mental health and population</p>		<p>shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury. Detailed argumentation against overtaxing in the gambling industry shall be submitted in a separate study presented by AGOK</p>

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	<p>impact of gambling;</p> <p>(b) awareness creation to the general public and during advertising on the addictive potential of gambling and association with high rates of mental ill health in the population;</p> <p>(c) establishment of treatment and rehabilitation programs to support management of addictive disorders in public health facilities; and</p> <p>(d) eradication of illegal gambling.</p>		

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	(4) The levy collected under this section shall be paid into an account operated by the Authority on or before the 20th day of the following month.		
PART IV—LICENCES AND PERMITS, Section 47 <u>(2) to be renamed (3)</u>	A county government <u>may grant</u> a permit upon <u>determining the suitability of the</u> intended premises for which the application is made and considering the requirements set out in subsection (1).	A county government <u>shall grant</u> a permit for the intended premises for which the application is made and considering the requirements set out in subsection (1).	The requirements which determine the grant of a permit given by county government should be precisely set in the Act, so that the licensees are not subject to <u>discretionary</u> and uncertain requirements.
PART IV—LICENCES AND PERMITS, Section 48	<u>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</u>	A permit issued under this Act shall state the location of the premise to which it relates.	No further conditions should be imposed on the licensees except those clearly stipulated under the present Act. Since the Act does not elaborate on such conditions, the licensees cannot

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	<u>by the Authority and respective county government.</u>		be exposed to legal uncertainty regarded their given rights nor to the possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.
PART IV – LICENCES AND PERMITS, Section 49 (1)	(1) A county government may revoke a permit issued under this Act where – (a) the holder is in breach of any condition attached to the permit; or (b) the Authority has revoked a licence of a permit holder,	(1) A county government may revoke a permit issued under this Act where – (a) the holder is in breach of any condition attached to the permit; or (b) the Authority has revoked a licence of a permit holder.	No further conditions should be imposed on the licensees except those clearly stipulated under the present Act. Since the Act does not elaborate on such conditions, the licensees cannot be exposed to legal uncertainty regarded their given rights nor to possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.

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PART IV – LICENCES AND PERMITS, Section 49 (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.	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.	Clause was made more precise in accordance with the proposed terms of Section 49(1).
PART IV – LICENCES AND PERMITS, Section 49 (8)	The revocation of a permit shall take effect after twenty-one days upon expiry of a notice issued under this section (3).	The revocation of a permit shall take effect after twenty-one days upon expiry of a notice issued under this section (7).	Correction of a clerical mistake.
PART IV – LICENCES AND PERMITS, Section 49 (9)	The holder of 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 of <u>five years</u> with effect from the effective date of	The holder of 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 of <u>one year</u> with effect from the effective date of	Period of five years of prohibition to apply for a permit is unjustifiably long period given that no precise grounds for revocation of the permit or conditions attached to the license are presented in the Draft Bill. Five-year long prohibition period has a

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	the revocation.	the revocation.	punishment character and as such should be prescribed for specified and named offences and acts.
PART IV – LICENCES AND PERMITS, Section 50	Every permit issued by the county government shall be valid for a period of <u>twelve months from the date of issue</u> unless a different duration has been prescribed under this Act.	Every permit issued by the county government shall be valid for a period of <u>ten years</u> from the date of issue.	See explanation above. The duration of the permit should correspond to the duration of the licences relating to the respective permit.
PART IV – LICENCES AND PERMITS, Section 51	(1) A holder of a permit issued under this Act may transfer such permit to any person <u>who may qualify to be a permit holder under this Act</u> upon approval by the county government and upon payment of requisite fee.	(1) A holder of a permit issued under this Act may transfer such permit to any person upon approval by the county government and upon payment of requisite fee. (2) A county government shall upon receipt of an	Section is rephrased to reflect the draft Bill, the business reality of gambling business at physical premises and the constitutional principles of free trade and market.

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	<p>(2) A county government shall upon receipt of an application, to transfer a permit undertake carry out an investigation with the assistance of the Authority on the suitability of a proposed permit holder.</p> <p>(3) The county government shall notify the Authority in writing of any transfer of permit.</p> <p>(4) A county government shall not approve the transfer of a permit where it has reason to believe that the transfer is likely to result in the</p>	<p>application to transfer a permit carry out an investigation on the suitability of the application.</p>	

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	grant of a permit to a person who is not eligible to hold a licence under this Act.		
PART V – CONTROL AND LICENSING OF LOTTERIES, Section 58 (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.	To be deleted.	The gambling and betting industry in Kenya is already burdened with excessive tax obligations, thus the introduction of additional taxes and/or levies will lead to the shutting down of business activities by legal gambling and betting operators, encourage the boom of the illegal market and consequently result in a reduction in revenues of State treasury. Detailed argumentation against overtaxing in the gambling industry shall be submitted in a separate study presented by

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PART VI–CONTROL AND LICENSING OF BETTING, Section 61 (d)	(d) an online bookmakers licence.	“(d) online bookmakers licence that includes any form of betting by means of remote communications (betting, virtual games, virtual sports, as well as other forms of gambling and betting).	In order to eliminate potential legal gaps and doubts, avoid different interpretations and to provide legal certainty and rule of law, it is necessary to specify in the Act precise meaning of online bookmakers license.
PART VI–CONTROL AND LICENSING OF BETTING, Section 61 (d)		New Subsections (2) and (3) are added to the Section 61 as follows: (2) Licensee is entitled to install betting terminals, electronic table gaming machines and terminals for electronic games of chance in an authorised betting premise. The Authority may approve to the licensee to place aforementioned terminals and gaming	For the purpose of more rational use of business premises, it is proposed that an operator who owns a license to carry on the business of a bookmaker at authorised betting premises has the right to place betting terminals, electronic table gaming machines, terminals for electronic games of chance, as well as slot machines in the same premises.

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		<p>machines in public premises.</p> <p>(3) Licensee is entitled to install up to ten slot machines in each of the authorised betting premises.</p>	
PART VI-CONTROL AND LICENSING OF BETTING, Section 66	<p>66.(1) A licensee shall ensure that their betting machines—</p> <p>(e) are located in a casino only;</p> <p>(f) are sourced from a certified source with international certification standards;</p> <p>(g) have an import certificate issued by the Authority indicating the model and the functions</p>	<p>66.(1) A licensee shall ensure that their betting machines—</p> <p>(a) are located in a casino, an authorised betting premise or at any other location for which the Authority issued a licence in accordance with this Act;</p> <p>(b) are sourced from a certified source with international certification standards;</p>	<p>Betting machines should be allowed in all locations for which licensee already has a licence and / or permit, not only in casinos. For example, there is no compelling argument as to why a betting machine should not be allowed in at an authorised betting premise.</p> <p>Furthermore, both issuance of import certificates for both betting and the gambling machines and their certification every third month would burden and over formalize</p>

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	<p>of the machine; and</p> <p>(h) undergo standards verification after every three months.</p> <p>(2) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker's licence.</p> <p>(3) A single bet in a gambling machine shall be a minimum of twenty shillings only.</p>	<p>(c) have a certificate indicating the model and the functions of the machine; and</p> <p>(d) undergo standards verification after every calendar year from the day it was put into operation.</p> <p>(2) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker's licence.</p> <p>(3) A single bet in a betting machine shall be a minimum of ten shillings only.</p>	<p>licensing process and eventually dissuade licensees from installing betting and gambling machines, leading to the growth of unlicensed gambling market.</p> <p>Amount in the Subsection 3 was adapted to reflect the economic reality in the gambling industry.</p>

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
PART VII—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING, Section 67 (4)	A gambling operator shall place gambling machines including slot machines in a permitted premise which shall not be <u>near</u> — (a) learning institutions; (b) religious establishment; and (c) residential areas.	To be deleted.	Given that the term " <u>near</u> " is not defined in the Act nor in its Schedules, wording of the provision of the Subsection (4) in which the conditions regarding the location of gambling machines including slot machines in relation to other objects are not defined, leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.
PART VII—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING, Section 67 (5)	A single bet in a casino machine shall be played for a minimum of <u>twenty</u> shillings.	A single bet in a casino machine shall be played for a minimum of <u>ten</u> shillings.	Amount in the Subsection 5 was adapted to reflect the economic reality in the gambling industry.
PART VII—CASINO, SLOT MACHINE <u>AND OTHER FORMS OF GAMBLING</u> , Section 69	The Authority shall ensure that its officers are present in all casinos for purposes of ensuring	To be deleted.	Continued presence of the officers of the Authority in all casinos is contrary to the nature of casino as private businesses

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	compliance with the Act and the conditions imposed by the Authority under the relevant licence.		not controlled nor founded by any government. Given the legal nature of casinos and the fact that the Authority has powers of inspection provided in the Section 68, continuous presence of the officers of the Authority is contrary to constitutional rights and freedoms of licensees, and does not exist as such in the comparative practice.
PART VIII – ONLINE GAMBLING, Section 70	Additional clause	A new Subsection (2) is added to the Section 70 as follows: “(2) In this Act online gambling means any form of betting and gambling (betting, slots and other casino games, virtual games, as well as other forms of gambling) in which persons participate by the use of	In order to eliminate potential legal gaps and doubts, avoid different interpretations and to provide legal certainty and rule of law, it is necessary to specify in the Act precise meaning of online gambling.

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PART VIII – ONLINE GAMBLING, <u>Section 70 (2)</u> To be renamed <u>Section 70 (3)</u>	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.	remote communication.” A person making an application for an online gambling licence under subsection (1) shall submit to the Authority a proposed gambling control system.	Modification to the clause was made due to its better understanding.
PART VIII – ONLINE GAMBLING, Section 70 (2) <u>Section 70 (4)</u>	2) In granting a licence under this section, the Authority shall require an applicant to deposit with the Authority such security as prescribed under Act.	<u>To be revised and amended to take into account the requirements of the gambling security discussed in this document..</u>	Required security amounts (bonds or bank guarantees) are prescribed in such high amounts leaving doubts as to whether business banks in Kenya will be willing to provide such instruments to the potential licensees. Hence, either such a requirement is to be deleted from the Draft Bill or the amounts from the Fourth Schedule of the Draft Bill are to

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			be significantly lowered. Otherwise, legal conduct of gambling will practicably become impossible and would lead to decline of the regulated market and rise of unregulated ("black") one.
PART VIII – ONLINE GAMBLING, Section 71 (3)	The Authority shall impose the requirement of an <u>approved gambling control system</u> as a condition of the licence granted under subsection (1) which the licensee shall be required <u>to strictly comply with.</u>	Requirement of an approved gambling control system as a condition of the licence granted under subsection (1) which the licensee shall be required to strictly comply with is outlined in <u>Fifth Schedule to this Act.</u>	Since the grant and validity of the licence are preconditioned upon requirement of an approved gambling control system, the licensees, due to reasons of legislative and constitutional fairness, should have such requirements outlined beforehand in a schedule to this act or its accompanying regulations. Licensees should not be left to discretionary imposition of such conditions by the Authority at any given time, but should rather cooperate

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			<p>with it as to find the reasonable and applicable solution for the industry.</p> <p>Furthermore, as not complying with the requirements of this system leads to offence in accordance with the next subsection of the Draft Bill, and due to the fundamental and worldwide legal principle - Nullumcrimen sine lege - Latin for "no crime without law", such legal provisions, existence thereof conditioning an offence, have to be provided in advance to the licensees and the protentional licensees.</p>
PART VIII – ONLINE GAMBLING, Section 71 (8)	An operator shall maintain a customer care centre within Kenya to monitor and respond to issues raised by	An operator shall maintain a customer care centre to monitor and respond to issues raised by consumers.	Given the global tendencies, maintaining a customer care centre within the territory of the respective country is not necessary if respective customer

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	consumers.		care centre performs all its designated duties within the prescribed work hours, in which it is fully available to provide customer care.
PART VIII – ONLINE GAMBLING, Section 73 (3)	If a non-monetary prize is not collected within a period of twelve 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.	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 as if it were its own property.	Given the fact that a player did not show interest in claiming its prize thereby making its claim elapsed, there is no reason not to transfer the prize back to licensee's property, since it was in its property before the initiation of the transaction as well. Any other legal solution would be contrary to the legal principles of restitutio ad integrum, i.e., return to the original state and would be contrary to the intended purpose of the gambling transaction.

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PART VIII – ONLINE GAMBLING, Section 73 (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.	To be deleted.(<u>Not necessary</u>)	The same as for Section 73 (4) above.
PART VIII – ONLINE GAMBLING, Section 73 (5)	Any claim against a licensee for uncollected prize shall lapse <u>after one year.</u>	Any claim against a licensee for uncollected prize shall lapse <u>after six months.</u>	More reasonable time period to collect the prize is proposed in accordance with the postulates of modern market economy.
PART VIII – ONLINE GAMBLING, Section 74 (1)	A player in an online gambling activity shall not bet an amount of less than <u>twenty</u> shillings in a competition.	A player in an online gambling activity shall not bet an amount of less than <u>ten</u> shillings in a competition.	Amount in the Subsection 1 was adapted to reflect the economic reality in the gambling industry.
PART VIII – ONLINE GAMBLING, Section 74 (2)	The minimum amount set under subsection (1) shall be inclusive of such <u>saving component</u> for the player as shall be determined by the Authority in consultation with the Cabinet	To be deleted.	The provision is misleading as to imply that social security fee is going to be due on each bet made. Rather, these policies should describe how the competent bodies distribute all the incoming proceeds from licensees (from gambling tax

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	Secretary.		and licence and other fees) to social causes.
PART VIII – ONLINE GAMBLING, Section 75 (7)	A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits, <u>the use of credit cards</u> or meeting third party costs incurred by a player.	A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits or meeting third party costs incurred by a player and <u>does not include free bets, bonus bets, done in the ordinary course of business.</u>	Credit cards are worldwide accepted means of payment across all the industries, hence it is contrary to the postulates of modern market economy to omit them as a mean of payment. <u>Free bets and bonus bets are promotions activities and not financing.</u>
PART VIII – ONLINE GAMBLING, Section 76 (4)	(4) A licensee may receive funds from a player through— (a) a debit card; (b) an electronic funds transfer;	(4) A licensee may receive funds from a player through— (a) <u>a credit card;</u> (b) a debit card;	As stated above, credit cards are worldwide accepted means of payment across all the industries. There is no compelling reason to exclude this payment mean from Kenyan gambling legislature.

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	<p>(c) mobile money transfer; or</p> <p>(d) any other method as may be approved by the Authority from time to time.</p>	<p>(c) an electronic funds transfer;</p> <p>(d) mobile money transfer;</p> <p>(e) <u>cash deposits to the player's account made at the locations with permits given under this Act; or</u></p> <p>(f) any other method as may be approved by the Authority from time to time.</p>	<p>Moreover, there is no reason not to accept cash deposits made by players at the locations with permits, since this is accepted mean of depositing funds on player's account balance worldwide and is in accordance with industry accepted standards and norms.</p>
PART VIII – ONLINE GAMBLING, Section 77 (1)	<p>77.(1) A licensee shall not–</p> <p>(a) provide credit to a player or on a player's account or act as an agent for a credit</p>	<p>77.(1) A licensee shall not 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</p>	<p>Subsection b) and c) of the section use general terms which may lead to the interpretation of the Act as to prohibit bonuses to players, which are worldwide accepted in the industry and in all developed gambling</p>

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	<p>provider to facilitate the provision of credit to a player;</p> <p>(b) make an offer designed to induce persons to participate or increase their participation in licensed activities;</p> <p>(c) participate in arrangements for inducing, permitting or assisting persons to gamble.</p>	<p>player.</p> <p><u>does not include free bets, bonus bets, done in the ordinary course of business.</u></p>	<p>jurisdictions departing thereby from restrictive and retrograde approach to bonuses.</p> <p><u>Free bets and bonus bets are promotions activities and not financing.</u></p>
PART VIII – ONLINE GAMBLING, Section 79 (1)	Where a transaction has not been recorded on a player’s account for <u>three months</u> , a licensee shall remit the balance in the account to a player.	Where a transaction has not been recorded on a player’s account <u>for eighteen months</u> , a licensee shall remit the balance in the account to a player.	More reasonable time period to record player’s activity is proposed in accordance with the postulates of modern market economy and industry accepted standards.

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PART VIII – ONLINE GAMBLING, Section 79 (2)	Where a player may not be satisfactorily located, the money may be remitted <u>to the Fund</u> : Provided that, no claim shall lie against a licensee who has remitted money in a player's account under this section to the Fund.	Where a player may not be satisfactorily located, the money may be remitted to the <u>Unclaimed Financial Assets Authority</u> .	Potential set-off could only be done in relation to the player, but since he was inactive for eighteen months and has no claims against licensee, no set-off is possible in accordance with this Subsection.
PART VIII – ONLINE GAMBLING, Section 80 (1)	A licensee shall deposit all the player's money in a player's account to be held and operated in a bank approved by the Authority.	A licensee shall deposit all the player's money in a bank account or, upon player's request, directly pay the player out with cash at the locations with permits given under this Act.	Requirement for approval of the Board with regard to licensees' banks and their accounts on which the players' money is received would lead to over formalization of the gambling payment procedure, both regarding receiving deposits and paying out the players. The reason to omit this requirement should be also taken into account with the fact that, in the

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			current climate, many banks, due to legally unfounded reasons, are reluctant to open accounts for operators of games of chance and gambling. Moreover, if direct cash deposit from the player is accepted as a mean of receiving players' deposits, direct cash out to the player on the location with permit should be accepted as well.
PART VIII – ONLINE GAMBLING, Section 80 (3)	(3) A licensee's bank account holding a player's money shall— (a) not enforce or execute, any charge, write-off, set-off or other claim against a client's account; (b) not combine the	(3) A licensee's bank account holding a player's money shall— (a) not enforce or execute, any charge, write-off, set-off or other claim against a licensee's account; (b) not combine the	It should be clarified that set-off prohibition relates to licensee's account since the term client could be misleading given the lack of its definition and interpretation in the Act.

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	<p>account with any other account in respect of any debt owed to it by a <u>licensee</u>; or</p> <p>(c) credit any interest payable on <u>a client's</u> account, only to the account.</p>	<p>account with any other account in respect of any debt owed to it by a <u>licensee</u>; or</p> <p>(c) credit any interest payable on <u>a licensee's</u> account, only to the account.</p>	
PART VIII – ONLINE GAMBLING, Section 81 (d)	(d) the good causes they implemented <u>as part of the license conditions.</u>	(d) the good causes they implemented.	Conditions which could be attached to the license in general are not defined neither in the Draft Gambling Control Bill nor in its Schedules. However, licensees could provide good causes report at the end of each financial year.
PART VIII – ONLINE GAMBLING, Section 82 (1) (d)	meets any other requirements as may be prescribed.	To be deleted.	The operators should in advance know all the requirements regarding the conditions for issuance of license to foreign operators and not be left to uncertain

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			conditions which would later be discretionarily prescribed. Such legal uncertainty would open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.
PART IX — AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMBLING MACHINES, Section 86 (2) (b)(ii)	A person who – (b) contravenes or allows the contravention of any condition provided for or <u>imposed by the county government,</u> commits an offence and shall be liable on conviction – (ii) in the case of an offence under paragraph (b), to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two	To be deleted.	Wording of the provisions of the cited subsections relates to the conditions attached to the licence which are not defined neither in the Act nor in its Schedules thereby leading to the possibility of a broad interpretation and open door to various abuses, manipulations and subjectivity in interpretation of the acquired rights, at the same time prescribing severe monetary and personal sanctions.

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	months or to both		
PART IX — AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMBLING MACHINES, Section 87 (3)	A person who promotes or advertises any prize licence issued under this section shall be subject to such conditions as <u>may be imposed by the Authority and county governments,</u> and in every case, to the condition that no person under the age of eighteen years shall play an amusement machine <u>unless in the presence of, and with the permission of the parent or guardian.</u>	Any person who promotes or advertises any prize licence issued under this section shall in every case procure that no person under the age of eighteen years shall play an amusement machine <u>unless in the presence of, and with the permission of the parent or guardian.</u>	Wording of the provisions of the Subsection (3) in which conditions attached to the licence are not defined neither in the Act nor in its Schedules but are to be later defined either by the Authority or county governments leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in interpretation of the acquired rights.
PART IX — AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND	Any person who promotes or advertises any prize license issued under this section shall be subject to such	To be deleted.	Repetition of the previous subsection. <u>Section 87 (3)</u>

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GAMBLING MACHINES, Section 87 (4)	conditions as the Authority may impose and in every case to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of, and with the permission of the parent or guardian.		
PART X – ADVERTISEMENT OF GAMBLING ACTIVITIES, Section 89 (3) (d) (e) (f) (g)	(d) not feature a former winner with a view to encouraging the general public to bet, play or participate; (e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening	All are hereby deleted.	Proposed amendments (deletion of clauses) are in line with current regulations for advertising in gambling and in accordance with Advertising Guidelines issued by Betting Control and Licensing Board of Kenya. Provisions from the Draft Gambling Control Bill impose overburdening and economically unviable conditions for licensees, thereby

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	<p>unless during a live sporting event;</p> <p>(f) not be erected on an advertisement billboard of close proximity to a school or a place frequented by children; and</p> <p>(g) <u>dedicate ten per cent of aired advertisement towards promotion of responsible gambling.</u></p>		<p>effectively distorting principles of market economy and free trade.</p> <p><u>Refer to our comment of Gambling tax as the only form of tax presently acceptable prior to the strategies 26, 27 and 28 of the Gambling Policy 2023.</u></p>
PART X – ADVERTISEMENT OF GAMBLING ACTIVITIES, Section 89 (4)	All media companies holding licenses on gambling shall not use any of their licenses on gambling and shall not use any of their broadcast frequencies to advertise or promote	To be deleted.	This clause is contrary to the economic reality and worldwide standards relating to games of chance industry, thereby overburdening and imposing economically unviable conditions for licensees, effectively distorting principles

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	their gambling product or activities.		of market economy and free trade.
PART XI – THE GAMBLING APPEALS COMMITTEE, Section 90 (2)	<u>Additional provisions</u>	<p>New Subsections (c), (d) and (e) are added to the Section 90 (2) as follows:</p> <p>(c) one person nominated by the Association of Gambling Operators;</p> <p>(d) a representative of the Principal Secretary for matters relating to gambling or a representative designated in writing; and</p> <p>(e) remaining members with knowledge and experience in matters of gambling.</p>	It is crucial that some members of the Committee possess industry specific knowledge and are able to convey the practical aspects of the position of the regulator and the licensees to other members who are professional lawyers and do not come from the industry/business background. Moreover, the remainder of members should possess industry specific knowledge so that the gambling matters could be correctly apprehended.

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PART XI – THE GAMBLING APPEALS COMMITTEE, Section 90		A new Subsection (13) is added to the Section 90 as follows: The Chairperson may appoint a person with knowledge in specified areas to assist the Committee in determining a matter before it.	It is crucial that the Committee has support in apprehending technical and industry-specific matters regarding gambling, since the majority of its members are professional lawyers.
PART XI – THE GAMBLING APPEALS COMMITTEE, Section 90 (12)	The Committee shall operate as quasi-judicial body.	To be deleted.	Provision stipulating that the Committee shall operate as quasi-judicial body without any further clarification as to which functions or characteristics of its decisions render it a “quasi-judicial body” leads to the possibility of a broad interpretation and opens the door to various abuses, manipulations and subjectivity in interpretation of the acquired

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PART XII – OFFENCES AND PENALTIES, Section 99	A person who fails to <u>pay a levy</u> or any fees prescribed under this Act commits an offence and shall be liable to pay to the Authority all outstanding amounts of levies or fees together with interest that will accrue at the rate prescribed by the Cabinet Secretary in Regulations.	A person who fails to pay any <u>fees prescribed under this Act</u> commits an offence and shall be liable to pay to the Authority all outstanding amounts of fees together with interest that will accrue at the rate prescribed by the Cabinet Secretary in Regulations.	rights. Correction of the clause was made in accordance with other proposed changes in this Submission.
PART XIII – MISCELLANEOUS PROVISIONS, Section 116 (1)	A gambling inspector on production of an authority document, may in the performance of duties under this Act, at all reasonable times <u>enter without warrant</u> and inspect a gambling premise or any other	A gambling inspector on production of an authority document, may in the performance of duties under this Act, at all reasonable times <u>enter with a warrant</u> and inspect a gambling premise or any other	Entering any premise in twenty first century without a <u>search warrant</u> when such situation does not refer to most serious crimes against humanity is unacceptable and contradictory to the globally accepted principles of constitutional and human rights and would render

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	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	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	Kenya as defendant in international tribunals which protect basic human rights and freedoms.
PART XIII – MISCELLANEOUS PROVISIONS, Section 117	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	To be deleted.	Presumption of innocence is worldwide accepted rule in the criminal law and anything to the contrary is unacceptable and contradictory to the constitutional and human rights and would render Kenya as defendant in international tribunals which protect basic human rights and freedoms. Also, it is worldwide accepted legal rule that in case of body corporate, legally responsible person is director or CEO, hence, not every employee or manager conducting or

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	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.		managing the activities of a legal entity. For legal culpability of these other employees, presumption of innocence is in force and guilt must be proven at court and not presumed.
PART XIII— MISCELLANEOUS PROVISIONS, Section 118 (3)	An operator who fails to implement a self-exclusion request within seven days of receipt of a written notification shall be liable to <u>pay an administrative fine</u> as may be prescribed by the Authority.	To be deleted.	Cited subsection should stipulate precise amount of the administrative fine, given that, according to the worldwide accepted principles of penalty and criminal law, both the offence and its penalty should be clearly prescribed in the law. Hence, such an imprecise provision would lead to the possibility of a broad interpretation and open the door to various abuses, manipulations and subjectivity in interpretation.

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PART XIII— MISCELLANEOUS PROVISIONS, Section 119 (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 two hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.	A bookmaker, promoter of a pool betting scheme or 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) <u>during the period stipulated in subsection (2)</u> commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.	Clause was made more precise as it prescribes severe monetary and imprisonment consequences.
PART XIII— MISCELLANEOUS PROVISIONS, Section 120	The police shall, in coordination with the Authority have power to	The police shall, in coordination with the Authority, have power	Clause was made more precise in order to conform to the fundamental and constitutional

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	seize any illegal gambling, betting and lottery machines.	to seize any illegal gambling, betting and lottery machines: <u>Provided it has warrant from court and police assistance is needed to gambling inspectors in accordance Section 116 of this Act.</u>	norms of civil rights, as well as to the purpose of the role of gambling inspectors under the Act.
PART XIII— MISCELLANEOUS PROVISIONS, Section 121	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.	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 <u>Provided such an officer of the Authority fulfils all the requirements of the Kenyan law to be appointed a public</u>	Clause was made more precise in order to conform to the fundamental and constitutional norms of civil rights.

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
PART XIII— MISCELLANEOUS PROVISIONS, Section 122 (2) (f) (h) (j)	(f) the location and distribution of lotteries and gambling; (h) fees and levies charged under this Act; (j) proximity of gambling premises and advertisements to learning institutions.	<u>prosecutor.</u> To be deleted.	Passing of such provisions should be done through legislative procedure for passing or amending the Act in the Parliament, given the fact they regulate and refer to completely new statutory obligations for licensees and as such could only be prescribed by the Parliament as the only body in Kenya empowered to pass such legislative acts. Anything to the contrary would lead to unconstitutionality of the cited clauses and is in fact contrary to the terms of Section 122 (2) (b) of the Draft which itself sets limit to the authority of the Cabinet Secretary to pass such regulations: <i>the authority of the Cabinet</i>

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
			<i>Secretary to make regulations under this Act will be limited to <u>bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.</u></i>
PART XIII— MISCELLANEOUS PROVISIONS, Section 125 (2)	A person licensed under the repealed Act shall, upon expiry of the licence issued under the repealed Act, apply to the Authority for a new licence.	<u>Licensees are obliged to harmonize their business and status with the provisions of this Act within twelve months from the date of entry into force of this Act.</u> A person licensed under the repealed Act shall, upon expiry of the licence issued under the repealed Act, apply to the Authority for a new licence on such terms as may be prescribed by the Authority.	Transitional obligations of the licensees are further clarified and provisions made more precise.

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
THIRD SCHEDULE (s. 29(1)(e), 36(3))DECLARATIONS (d)	A valid contract with an odds feed provider where applicable	To be deleted.	Terms of these agreements are confidential and the licensees cannot submit them to the Authority without being in breach of law and risking court lawsuits.
FOURTH SCHEDULE (s. 40(1)) Gambling Security		Fourth Schedule to the Draft Gambling Control Bill is deleted in its entirety.	Since according to the Subsection (1) of the Section 40 security requirement is set as optional (<i>"The Authority may require a licensee to deposit an insurance security bond or bank guarantee [...]"</i>) then the requirement of submitting such a security proof in the application for a licence cannot be imposed as mandatory without changing the terms of Subsection (1) of the Section 40 of the Draft Gambling Control Bill. Moreover, the amounts given in Fourth Schedule to the Act are obnoxiously high and

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
			would certainly lead to the demise of regulated gambling industry since it would be impossible to licensees to procure securities in these amounts, and obtain licences under this Act, which would in turn lead to consequences like unemployment, severe decline of public budget income and expansion of unlicensed game of chance market.

GENERAL COMMENTS IF ANY

Arrangement of sections and subsections shall be accordingly changed when the final version of The Gambling Control Bill is finalized.

In the PART XII – OFFENCES AND PENALTIES, and in all other provisions throughout the Draft Gambling Control Bill prescribing offences as well, denominations of intent like “knowingly” and “willingly” should be added to each offence prescribing clause so not to impose the terms of objective culpability being contrary to the fundamentals of criminal and punishment law.

Second Schedule to the Draft Gambling Control Bill lists numerous number of licences/permits. Currently the industry

Section/ Clause	Copy and Paste here the Specific Provisions in the draft Gambling Control Bill, 2023 you wish to Comment about.	Proposed Amendment (Provide the exact wording of how your proposed amendment should read.)	Explain the Reason for the Proposed Amendment
	<p>operates <u>only four categories of licences; namely Betting, Casinos, Lottery and Prize Competition</u>, which are renewed annually. All proposed changes were made in order to reflect other changes in this Submission of Comments to the Draft Gambling Control Bill, like the introduced <u>proposal of the ten-year licence term</u>, which in turn renders the <u>annual licence fee and licence renewal fee obsolete</u>. Also, fees for licences not regulated in the Act were omitted, as the procedure for their issuance and other legal aspects are not regulated under the present Act (Draft Bill) either. All <u>investigation fees should be deleted</u> since they should be borne by the respective state and county budget. Authority is not a private entity incorporated for service provision for lucrative purposes, nor an organ for private investigations, but a supervisory body and as such it should not shift the costs of investigations to the subjects of its investigations.</p> <p>If Fourth Schedule to the Draft Gambling Control Bill <u>is to remain</u> in the Draft Gambling Control Bill, then we propose two options; i) <u>significantly lower amounts</u> of the insurance bond or bank guarantee as a gambling security have to be proposed, in order for the intended licensees actually to be able to procure them from the banks. The proposed solution is casting serious doubts as to whether business banks in Kenya will be willing to provide such instruments to the potential licensees at all. Otherwise, legal conduct of gambling will practicably become impossible and would lead to decline of the regulated market and rise of unregulated (“black”) games of chance.ii) Otherwise, Fourth schedule should substitute insurance bond or bank guarantee with a <u>performance bond</u> which will be computed based on business risk assessment and take care of individual capacities without generalizing.</p>		



GAMBLING INDUSTRY TAX MODEL AMENDMENTS

STATE BUDGET BENEFITS UNDER PROPOSED TAXATION MODEL

KEY RECOMMENDATIONS

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

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

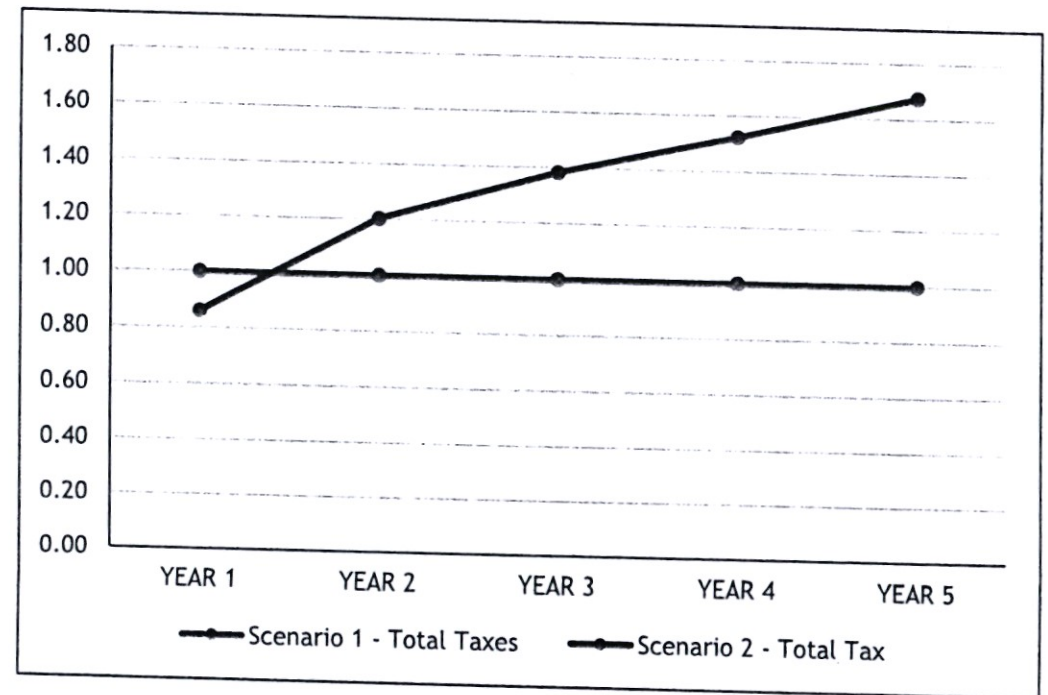
RATIONALE FOR AMENDMENTS OF TAX POLICY

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

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

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



GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

SCENARIO 1: TAX REVENUES IN PRESENT TAX POLICY, INDEX					
	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
GGR	0.95	0.90	0.86	0.81	0.77
Estimated growth rate	-5%	-5%	-5%	-5%	-5%
GGR Tax	0.95	0.90	0.86	0.81	0.77
Excise Duty	0.95	0.90	0.86	0.81	0.77
Withholding Tax	0.95	0.90	0.86	0.81	0.77
TOTAL TAXES	0.95	0.90	0.86	0.81	0.77

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

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

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

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

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

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
GGR	513,000,000	718,200,000	825,930,000	908,523,000	999,375,300	
Estimated GGR growth from change in tax policy	100%					
Estimated organic GGR growth	70%	40%	15%	10%	10%	
GGR Tax	23%					
TOTAL TAX	117,990,000	165,186,000	189,963,900	208,960,290	229,856,319	911,956,509
	117,990,000	165,186,000	189,963,900	208,960,290	229,856,319	911,956,509
DIFFERENCE IN TOTAL TAX	- 12,417,684	41,298,700	72,270,965	97,152,001	123,638,445	321,942,426

KENYA GAMBLING INDUSTRY TAXATION STUDY • MAY 2023

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

CASE STUDY: UNIFORM GGR TAX INTRODUCTION

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

GAMBLING INDUSTRY TAX MODEL AMENDMENTS

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

ADVERSE IMPACT OF GAMBLING INDUSTRY TAXES ON KENYA'S ECONOMY

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

KENYA GAMBLING INDUSTRY TAXATION STUDY • MAY 2023

GAMBLING INDUSTRY TAX MODEL CASE STUDY

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

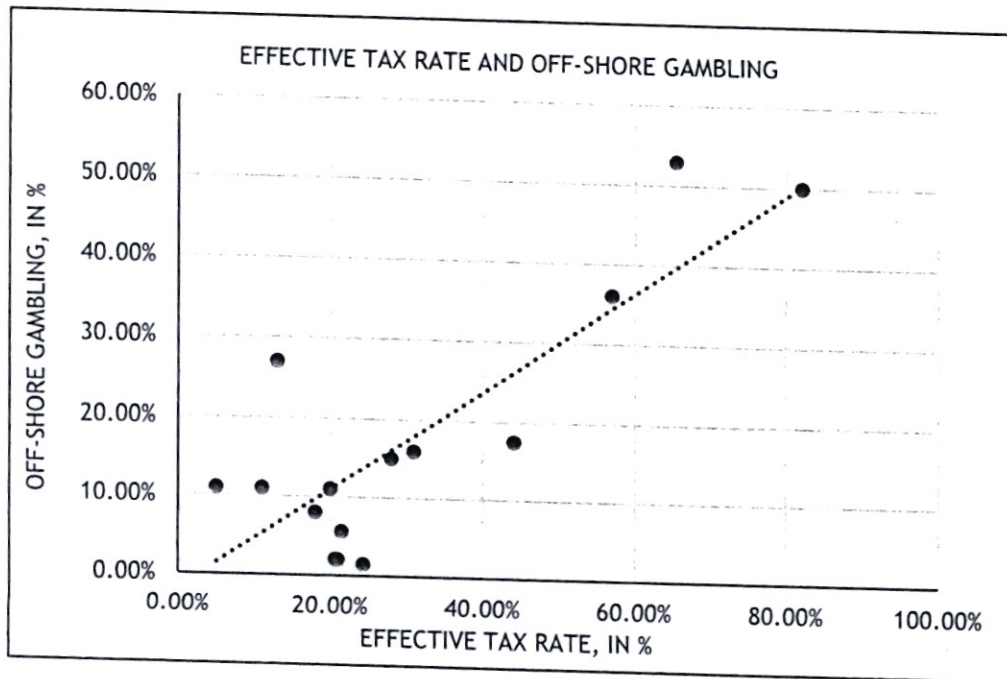
UK SINGLE GAMBLING
INDUSTRY TAX RATE

HIGH PERCENTAGE OF ON-
SHORE/LEGAL GAMBLING

- ▶ United Kingdom boasts one of the most developed Gambling markets worldwide serving as a role model in general.
- ▶ The online Gambling Industry in the UK is subject to a uniform Remote Gaming Duty (RGD), the tax on the gross gaming yield (GGR) of online gambling companies set at 21.0%.
- ▶ RGD has been set as part of the Gambling Industry tax reform executed in 2019, when RGD has been increased from 15.0% to 21.0%.
- ▶ Neither Excise Tax nor Withholding Tax are levied within the UK Gambling Industry.
- ▶ In UK, there is an extremely high percentage of on-shore/legal Gambling, which is close to 100%.
- ▶ In effect, players' bets are almost entirely realized on the UK online platforms leading to massive state budget revenues from the local Gambling operators.

GAMBLING INDUSTRY TAX RATES

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



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

GAMBLING INDUSTRY TAX RATES

COMPARATIVE EFFECTIVE TAX RATE ANALYSIS

COUNTRY/FEDERAL STATE	ETR ON GGR, IN %	OFF-SHORE GAMBLING, IN %
Kenya	55.00-65.00%	N/A
Malta	3.00%	N/A
Belgium	11.00%	11.00%
Serbia	12.50%	N/A
Sweden	18.00%	8.00%
Bulgaria	20.00%	11.00%
UK	21.00%	N/A
Denmark	28.00%	15.00%
France	54.90%	N/A
Croatia	57.01%	36.00%
Germany	65.47%	53.00%
Poland	82.09%	50.00%

COUNTRY/FEDERAL STATE	ETR ON GGR, IN %	OFF-SHORE GAMBLING, IN %
South Africa	6.00-15.00%	N/A
Nigeria	7.50%	N/A
Ghana	20.00%	N/A
Panama	10.00%	N/A
Peru	12.00%	N/A
Colombia	15.00%	N/A

COUNTRY/FEDERAL STATE	ETR ON GGR, IN %	OFF-SHORE GAMBLING, IN %
New Jersey	20.65%	2.02%
Virginia	21.51%	5.62%
Michigan	24.35%	1.44%
Nevada	44.12%	17.44%
Pennsylvania	48.03%	N/A

- ▶ Most tax-friendly EU, South America countries, and US federal states maintain uniform GGR Tax rates of 3.00-28.00%.
- ▶ These jurisdictions apply 0% Excise Tax and 0% Withholding Tax.
- ▶ Countries with extremely high tax burden show correspondingly high level of off-shore/illegal gambling (Poland more than 50% illegal gambling, Germany cc 55% illegal gambling, Croatia more than 35% illegal gambling).

GAMBLING INDUSTRY TAX RATES

NON-COMPETITIVE TAXATION MODEL

GGR TAX 15.0%

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

WITHHOLDING TAX 20.0%

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

EXCISE DUTY 7.5%

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

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

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

GENERAL OVERVIEW

KENYA: GAMBLING INDUSTRY GROSS GAMING REVENUES

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

SOURCE: DRAFT GAMBLING POLICY FOR KENYA 2023; BDO ANALYSIS

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

*2018 - 2018/2019

*2019 - 2019/2020

*2020 - 2020/2021

*2021 - 2021/2022

INTRODUCTION

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



KENYA GAMBLING INDUSTRY TAXATION STUDY

PREPARED FOR THE ASSOCIATION OF GAMING OPERATORS OF KENYA BY BDO

MAY 2023

BDO

Memorandum

Rcf: NA/DDC IS&C12023/079

DATE: 20/11/2023

To: The Departmental Committee on Sports and Culture
From: Gaming Awareness Society of Kenya
Subject: Gambling Control Bill, 2023

As the Gaming Awareness Society of Kenya, we commend the efforts in formulating the Gambling Control Bill, 2023, aiming to regulate gambling activities in Kenya. However, our examination reveals a critical concern: the oversight of online gambling, which presently constitutes the largest share of gambling activities and subsequent harm. Online gambling remains hidden, easily accessible, and available 24/7, significantly amplifying the risks of gambling-related harm, especially among vulnerable populations. Therefore, our memorandum focuses on enhancing the regulatory framework specifically concerning online gambling.


Real-Life Examples:

Albin, Kimanil, and Kelvin's cases are symbolic of the pervasive and devastating impact of online gambling on individuals and families, where financial ruin, disintegration of relationships, and severe mental health challenges have become commonplace.

Albin is a 40-year-old family man with an engineering degree and a stable job since 2011. His journey with online betting began in June 2017, initially seen as a means to earn extra income. Unfortunately, it evolved into a destructive addiction that has drained him financially. Despite being in formal employment, Albin is unable to pay school fees for his children or even cover basic necessities. He took multiple bank loans, amounting to over 5 million Kenya shillings, all lost to gambling. The pain of losing his children's savings and not being able to afford their basic needs has left Albin feeling utterly helpless. (Attached is his email reaching out for help)

Kimani's gambling addiction has had far-reaching consequences, affecting not only his own life but also his young family's well-being. Plunged into debt and disowned by family members, Ezekiel's properties have been attached, and his daughter is now facing health challenges. He finds himself contemplating suicide as he struggles to see a way out of this despairing situation.

At just 22 years old, Kelvin finds himself in the throes of a gambling addiction that has devastated his life both financially and mentally. His losses are countless, yet the urge to gamble persists. He recognizes that gambling is affecting his relationships and driving him into deeper despair.


Nelson Buire
Project lead



Online Gambling: The Epicenter of Gambling-Related Harm.

Clause 7 Part VII

The bill, while acknowledging various aspects of gambling, notably underestimates the scale of harm caused by online gambling, which now constitutes the most substantial portion of gambling-related issues in Kenya. This is due to its hidden nature, constant availability, and ease of access, posing a severe threat to public health and socioeconomic well-being.

Recommendations:

Establish Strict Deposit Limits: Introduce a maximum betting amount in online gambling accounts to prevent individuals from impulsively gambling away substantial amounts. Drawing from successful practices in Sweden and the Netherlands, strict deposit limits have proven effective in curbing excessive gambling expenditures and limiting harm.

Prohibit Credit Facilities for Gambling Payments: Ban credit facilities like Fuliza from being used for gambling payments. Such a prohibition would significantly reduce the likelihood of individuals using borrowed money for gambling activities, thus mitigating the accumulation of gambling-related debt.

Public Awareness Campaigns: Allocate resources for widespread public awareness campaigns specifically targeting the risks and consequences of online gambling. Education and outreach programs play a crucial role in informing the public about responsible gambling practices and the potential harms associated with excessive gambling.

Objection to licensing of Gambling Prediction Apps: Object to licensing gambling prediction apps, as these misleading platforms promote a false sense of assured winnings. Predicting gambling outcomes is not a legitimate practice and could exacerbate gambling addiction, especially among young people.

Conclusion:

We strongly urge the Committee's attention to the online gambling landscape, which serves as the epicentre of gambling-related harm in Kenya. Implementing stringent regulations and proactive measures within the Gambling Control Bill to address the unique challenges posed by online gambling is critical to safeguarding the public from the escalating risks associated with this form of gambling.

Sincerely,

Nelson Bwire

Project Lead
Gaming Awareness Society of Kenya



On Tue, Jul 4, 2023 at 3:53 PM Albin Musyimi <ammusy.m@gma.l.com> wrote:

Hello there,

I am writing to inquire whether you do assist people with gambling addiction problems.

I am a 40-year old family man with a wife and three children, educated with an undergraduate degree in Mechanical engineering and I have been in formal employment since 2011.

I started online betting back in June 2017. When I started this, I thought it was a way of earning an extra dash but it slowly grew to an addiction problem that has led me to lose a lot of money and at the moment it has become worse because being in formal employment where I earn salary every month, I am unable to pay school fees for my children and even unable to pay house rent.

I have taken three Bank loans amounting to over 5 million Kenya shillings but all that money I did nothing with it. I have lost all of it to betting/gambling.

I withdrew all the savings I had for my children and I put it in betting with the hope of gambling my lost money back but I have lost it all as well.

Today I look at myself being unable to buy milk or even biscuits for my children and look at my payslip. I always break into tears. Life has really lost meaning to me and I feel being the most useless person God created.

But even in that state of affairs I still deposit the little money I get to online betting companies and continue betting until sometimes I bet my bus fare from work to the house that on several occasions I am forced to call friends to lend me money for bus fare.

If you have a way you can help people like me I will be very thankful if I can see myself out of this life one day.

I have defaulted on all the Bank loans I took because when I receive my monthly pay the first thing I think of is betting all with the hope that one day I will win my lost money back. But instead of winning my money back I have continued losing more money every month just immediately after being paid.

I start borrowing by the 2nd or 3rd day of every month to get money to pay house rent because by that time all my salary has been lost to gambling.

Please let me know if you have a way you can assist me get out of this.

I got your contacts online as I was trying to search how I can get help and I thought I could try contacting you.

Thank you.

Best Regards,

Albin M. Musyimi

N.B:
Nelson Buire
Project Lead.





MEDIA OWNERS ASSOCIATION OF KENYA

Empowering The Fourth Estate

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

Contentious Clauses Analysis:

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

Proposals:

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

Draws and Licensing:

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

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

Safeguards and Responsible Gambling:

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

Concerns on Levies and Advertising Restrictions:

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

Media Engagement Framework:

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

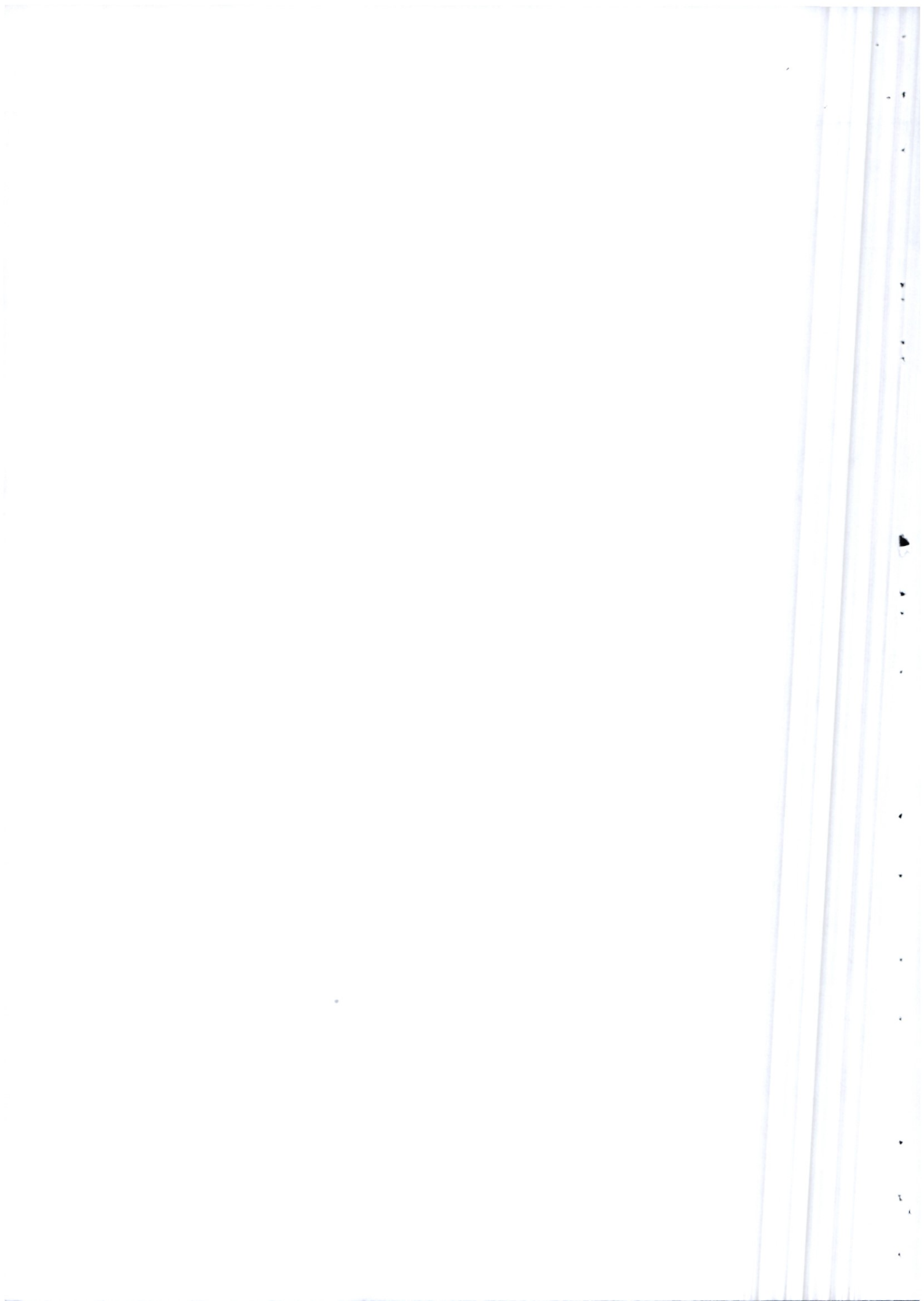
I trust that these proposals and observations will be given due consideration in the revision and refinement of the National Lottery Bill and Gambling Control Bill. Should you require further elucidation or discussion on these matters, please do not hesitate to contact .

Thank you for your attention to this matter.

Sincerely,

Agnes Kalekye

Chairperson, Media Owners Association of Kenya





MEDIA OWNERS ASSOCIATION OF KENYA
Empowering The Fourth Estate

	National Lottery Bill	Gambling Control Bill
Contentious clauses	<p>Clause 21, “The National Lottery shall be conducted for the purpose of raising resources for the nation towards <u>good causes</u> in Kenya and for any other purposes provided in this Act.”</p> <p>The definition of “good causes” is problematic because it gives the Board wide powers to determine what constitutes a good cause.</p> <p>What parameters will be used to determine how much money will be dedicated to these causes given that Clause 22 provides that the National Lottery is exempted from provisions of any law regulating public lotteries for charitable purposes? Will the amount be a particular percentage of the proceeds in the Fund or how will it be calculated?</p> <p><u>Impact</u></p>	<p>Under Sections 30 /34 - On Licensing</p> <p><u>Our Proposal</u></p> <p>No durations of the license period for the various categories of licenses are spelt out. Also, no such information in the addendums/ schedules attached.</p> <p>B. Ensure gambling is undertaken fairly, safely, and is not harmful to society, providing robust safeguards for vulnerable segments of society, including minors, the elderly, problematic individuals, and their families.</p> <p>C. Establish comprehensive and inclusive consumer awareness, rehabilitation, and other support programs to mitigate against problem gambling, including, developing and deploying gambling</p>

	<p>There may be an arbitrary use of the resources in the National Lottery Fund given that there is no indication of the amount that may be dedicated to the good causes, and the number of these good causes that the Fund may be dedicated to in a given financial year.</p> <p><u>Our Proposal</u> The Bill should specifically indicate the definition of good causes, i.e. breakdown the good causes, number of good causes that the Fund is to cater to in a given financial year, and the percentage of the Fund that may be dedicated to these good causes in a financial year.</p> <p>The Bill should further indicate the frequency of the payment. Is it a one-off prorated amount or is the same payable quarterly?</p> <p>Draws. 38.(1) All draws and prize draws shall be open to members of the public. (2) Draws for all games comprising of a lottery shall be conducted at such times and at such places as may be determined by the licensee with the approval of the Authority. (3) The number or alphabet letter and permutation of numbers or alphabet letters drawn that constitute winnings of National Lottery shall be determined by the Authority and published in the Gazette, a newspaper or other medium of information of national coverage. (4) An officer of the Authority shall supervise the selection of winning entries in all draws. (5) Any equipment used in a public</p>	<p>products and services that are fair, transparent, well-regulated and cause no harm to society.</p> <p><u>Our Proposal</u> As part of this clause, the Policy should mandate,- Public awareness through use of various media, regular publication of licensed companies, audit, and publication of charitable causes - The advertising requirements should also cover online advertising and not just the traditional Advertising platforms of TV, radio, and print. - There is a need for the guidelines on advertising to be issued in a sustained manner and subject to review annually</p> <p><u>Reason for proposal</u> To safeguard public interest and transparency, this information is necessary and not in an ad-hoc manner. Stability in the regulations/ guidelines. To allow for cross checking of valid licenses as well as ensure the charitable causes are done.</p> <p>Clause 46, “There shall be a monthly levy to be known as gambling levy which shall be paid by a licensee to the Authority.” This is yet another financial obligation to be met by each licensee to the government, despite the Bill providing under sub-clause (2) that this levy shall not exceed one per cent of the monthly gross gambling revenue of a licensee. Is this in addition to the license fee that is payable to the BCLB?</p> <p><u>Impact</u></p>
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	<p>draw to select a winning number, alphabet letter or entry for a prize shall be examined and tested by the Authority together with an internal auditor of a licensee or a designated representative prior to and after each public draw. (6) A licensee shall adopt rules, policies, and procedures to conduct fair and equitable draws and establish a system for verifying validity of tickets presented for the awarding of prizes.</p> <p><u>Our Proposal</u> Clause on LIVE Draws - To support trust, draws should be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw. - Results in at least 2 nationally circulated news papers - To support trust, draws should be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw.</p>	<ul style="list-style-type: none"> • Increase operational costs for affected companies • Multiple levels of taxation given that there is already a Betting tax of 15% under the current Betting, Lotteries and Gaming Tax, which is to be referred to as Gambling Tax in this Bill (Clause 45). • Reduction of advertisement revenue • Loss of employment or retrenchments <p><u>Our Proposal</u> Delete this proposal</p> <p>Clause 88 (1) and (2), “The Authority shall issue a license authorizing media promotions with prizes. A person who undertakes media promotion, in either electronic or print media with prizes licensed under this section shall be subject to such conditions as may be imposed by the Authority.” This clause leaves media houses exposed to the whims of the Authority which may decide to impose conditions that the media houses may deem impossible to meet. Moreover, the amount payable to acquire the license to air the promotions is also not indicated in the Bill. This will lead to over regulation and licensing of media houses which are already bleeding and unable to sustain the high costs being imposed across Board</p> <p>The Gambling Appeals Committee Strategy 22. Create a Gambling Appeals Committee that will work on an as-needed basis to guarantee that complaints are resolved quickly. The gambling appeals committee's duties include hearing and ruling on appeals: - Strategy 25 On Code of Practice</p>
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		<p><u>Our Proposal</u> Require a clear complaints transmission and handling process for each licensee. Complaints are managing to be well-publicized for continuous education and safeguarding of the public.</p> <p><u>Reason for Proposal</u> This is for transparency and accountability on the licensee's part</p> <p>Strategy 23..... (d). incorporating Gambler Exclusion Orders, including through selfexclusion requests, venue-initiated requests, court ordered exclusions or requests by families or interested parties. These shall be published in an Exclusion List containing the name of the person, their date of birth, date of exclusion and their photo ID. The Exclusion List shall be capable of being queried and shall be available on the website of the Gambling Regulatory Authority. Appropriate procedures for removal from this Exclusion List shall be provided for.</p> <p><u>Our Proposal</u> Doesn't this go against Privacy and Data protection regulation?</p> <p><u>Reason for Proposal</u> This should be anchored on existing laws and regulations</p> <p>Strategy 23.... (e). provide for Gambling Advertising Restrictions with strict guidelines around times,</p>
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		<p>places, types, and content of messages for broadcast and the attendant responsible gambling messaging requirements.</p> <p><u>Our Proposal</u> Guidelines on advertising should be issued comprehensively on an annual basis - subject to yearly rather than ad hoc/ reactive reviews that bring confusion into the control and management of gambling. Need stability in the regulations/ guidelines.</p> <p><u>Reason for Proposal</u> Proper process for better planning by all stakeholders.</p> <p>Clause 90(1)(c) and (g) should be deleted from the Bill because they affect advertising revenue earned by those activities. It states, “A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by (c) printing or publishing, or causing to be printed or published, any advertisement or notice; and (g) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.</p> <p>Clause 90(4) should also be deleted because it further seeks to deny media houses revenue that they earn from advertising their own gambling services. It would be improper to deny media houses to earn revenue from their gambling services despite paying the necessary taxes and</p>
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		<p>after they have sought and received licenses from the Betting Control and Licensing Board. It says, "All media companies holding licenses on gambling shall not use any of their licenses on gambling and shall not use any of their broadcast frequencies to advertise or promote their gambling product or activities.</p> <p>PART X — ADVERTISING OF GAMBLING ACTIVITIES Advertisement of gambling. 89.(1) (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling; (e) using false, misleading or deceptive message likely to create an erroneous positive impression of gambling; (f) using a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing the public of the hazards of gambling; or (g) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event. (3)A gambling advertisement shall— (a) indicate the addictive nature of gambling; (b) notify players to play responsibly; (c) prohibit children from playing; (d) not feature a former winner with a view to encouraging the public to bet, play or participate; (e) not be featured or broadcasted on television or radio between</p> <p><u>Our Proposal</u> Should allow CSR related advertising within Watershed period</p>
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		<ul style="list-style-type: none"> - LIVE Draws should be excluded for the National Lottery should be excluded - Restrictions should apply on advertisements airing online as well where there even more direct connection??? - Comprehensive guidelines needed from the get -go and avoidance of frequent, ad hoc, or erratic changes to advertising guidelines. - To support trust, drawing to be conducted LIVE and broadcast on leading National Television stations. Winning must be published the following day after the draw. <p>(4) All media companies holding licenses on gambling shall not use any of their licenses on gambling and shall not use any of their broadcast frequencies to advertise or promote their gambling product or activities.</p> <p><u>Our Proposal</u> All media companies holding licenses on gambling shall only use their licenses on gambling as prescribed in the Bill and shall only advertise or promote their gambling product or activities as prescribed in 3(e) above</p> <p><u>Reason for proposal</u> The Bill on PART 4- LICENSES & PERMITS provides for requirements onto which a person shall be licensed. According to these provisions then it goes to say that a Media company that fulfils all the conditions on licensing should then be able to apply for a licence and use it in accordance with the Bill</p> <p>The Schedule of fees - Sports betting fees are not</p>
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		clearly indicated in the license fee schedule. This should be reconsidered
ADDITIONAL COMMENTS		
	<p>NOTABLE OMISSION For a public benefit initiative, a notable omission is failure to provide for a framework for media engagement.</p> <p>Proposal Introduce a clause on media engagement with the national lottery operator or the board. This may include provisions on how advertisements will be carried out by the national lottery operator for the purpose of widest public participation.</p>	

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

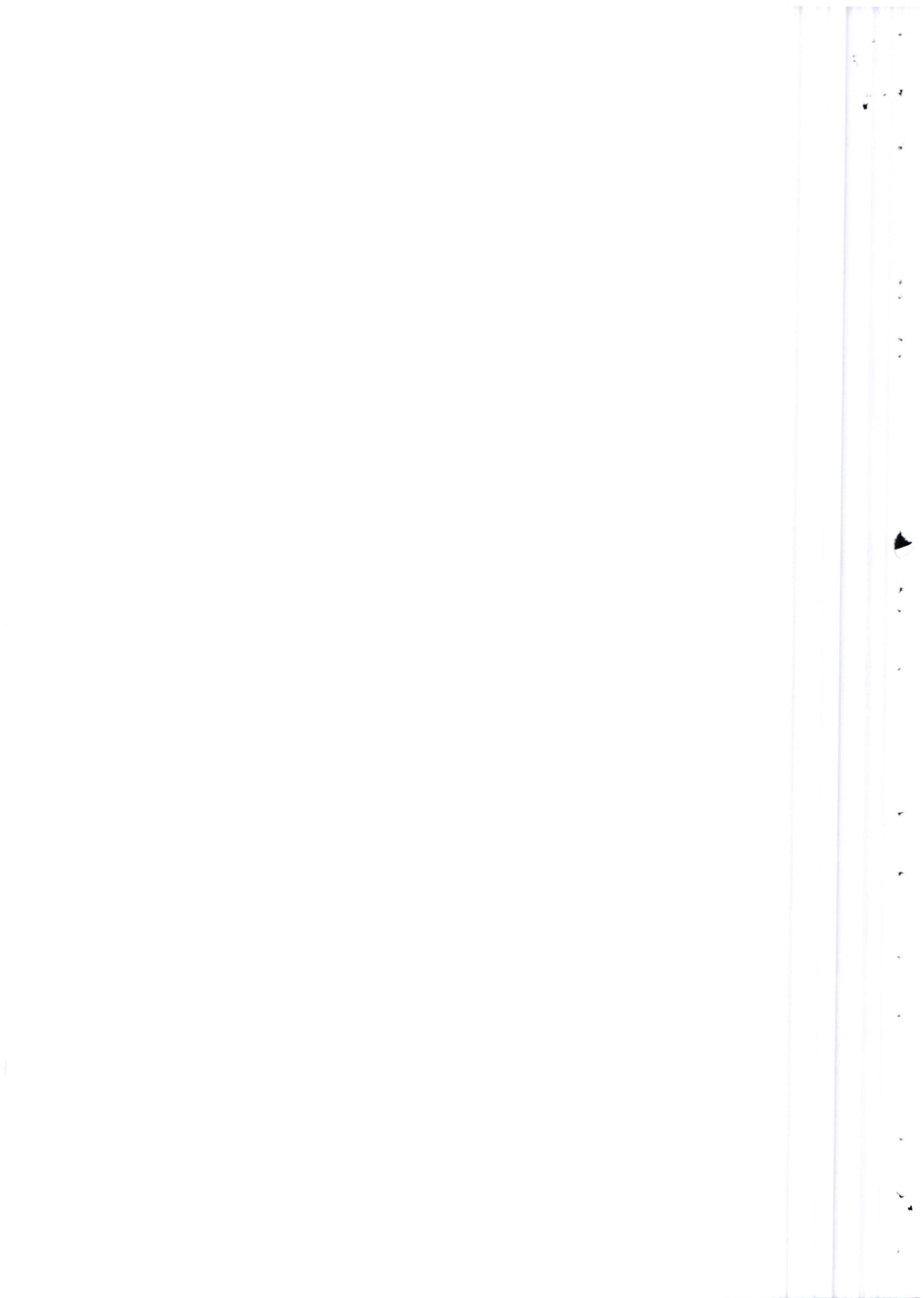
1. The Financial Reporting Centre (FRC) is a body established pursuant to Section 21 of the Proceeds of Crime Anti-Money Laundering Act, 2009 (POCAMLA). The principal objective of the FRC is to assist in the identification of the proceeds of crime and the combatting of money laundering, terrorism financing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

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

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

November 21, 2023

FINANCIAL REPORTING CENTRE





REPUBLIC OF KENYA
FINANCIAL REPORTING CENTRE
PRIVATE BAG 00200, NAIROBI TEL: 0709858000

COMMENTS SUBMITTED TO THE DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE ON THE GAMBLING
CONTROL BILL, 2023

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		“Beneficial owner” has the meaning assigned to it under the Companies Act, 2015;	To provide the definition of a beneficial owner in line with the Financial Action Task Force (FATF) Recommendations and to mirror the definition under the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA).
		“Reporting Institution” means a Reporting Institution as defined under Section 2 of the Proceeds of Crime and Anti-Money Laundering Act.	To provide definition of a Reporting Institution as provided for under Section 2 of the Proceeds of Crime and Anti-Money Laundering Act and limit the application of the anti-money laundering provisions to casinos only. Section 2 of POCAMLA identifies casinos, including internet casinos as being subject to regulation under POCAMLA.

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
Clause 4	<p>4.(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>(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>Amend Clause 4(1) by deleting and inserting therefor:</p> <p><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></p>	<p>To insert Clause 4 (1) to indicate that the National Government shall undertake its functions through the Gambling Regulatory Authority.</p>
		<p>Amend Clause 4(1) by deleting subparagraph (h) and inserting therefor to read as follows:</p> <p><i>(h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, regulate and supervise, for anti-money laundering and combating the financing of terrorism and countering proliferation financing purposes by Reporting Institutions licensed under this Act.</i></p>	<p>To amend Clause 4(1)(h) to include monitoring compliance with the Prevention of Terrorism Act and limit the application of this Act to Reporting Institutions as defined under Section 2 of POCAMLA who are licensed under the Act. These are casinos, including internet casinos, as is the requirement in the FATF Standards.</p>
Clause 29	<p>29.(1) An application for a licence shall be made in the prescribed form and, be accompanied by—</p> <p>(a) ...</p> <p>(g) a declaration of the good causes the applicant intends to undertake and the proposed budget devoted to the good causes</p>	<p>Insert a new sub-clause (h) to read as follows:</p> <p>29.(1) An application for a licence shall be made in the prescribed form and, be accompanied by—</p> <p>(a) ...</p> <p><i>(h) A sworn declaration of the ownership structure of the applicant, including a declaration of the beneficial owner or the</i></p>	<p>To empower the Authority to access basic ownership information and beneficial ownership information for purposes of determining who the real owners are.</p>

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		<i>proposed beneficial owners, whichever is applicable, in the form prescribed by the Authority.</i>	
Clause 126	<p>126. The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended—</p> <p>(a) in section 2 in the definition of “designated non-financial businesses or professions” by deleting paragraph (a) and substituting therefor the following new paragraph—</p> <p>(a) persons licensed under the Gambling Control Act, 2023;</p> <p>(b) in the First Schedule by deleting paragraph (c) and substituting therefor the following paragraph—</p> <p>(c) Gambling Regulatory Authority;</p>	<p>Amend by deleting Clause 126 (a) to read as follows:</p> <p>126. The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended—</p> <p>(a) in the First Schedule by deleting paragraph (c) and substituting therefor the following paragraph—</p> <p>(c) Gambling Regulatory Authority;</p>	<p>The proposed section would broaden the application of the Proceeds of Crime and Anti-Money Laundering Act beyond the scope of the FATF Standards. These standards only require the regulation of casinos and does not extend to other regulated entities under the proposed bill.</p> <p>There is no objection to the amend the First Schedule of POCAMLA by deleting paragraph (c) to include the Gambling Regulatory Authority in place of the Betting Control and Licensing Board.</p>
N/A	N/A	<p>Insert a new section 10A to read as follows:</p> <p>Powers on anti-money laundering, combating the financing of terrorism and Countering proliferation financing</p>	<p>Insert a new section to give the Authority powers to supervise for AML/CFT/CPF in accordance with the FATF Standards.</p>

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		<p>matters.</p> <p>(1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Gambling Regulatory 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 Gambling Regulatory Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.</p> <p>(2) In undertaking its mandate under subsection (1), the Gambling Regulatory Authority may—</p> <ul style="list-style-type: none"> a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution; a) conduct onsite inspection; b) conduct offsite surveillance; c) undertake consolidated supervision of a reporting institution and its group; d) compel the production of any document or information the 	

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		<p>Gambling Regulatory Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;</p> <p>e) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>f) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;</p> <p>g) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and</p> <p>h) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.</p>	

SECTION/CLAUSE	SPECIFIC SENTENCE/SECTION	PROPOSED AMENDMENT	REASON FOR PROPOSED AMENDMENT
		(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.	

SAITOTI MAIKA, MBS
DIRECTOR GENERAL, FINANCIAL REPORTING CENTER



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE


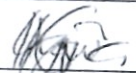
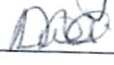





WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

DATE: 20th Nov 2023 VENUE: Pinda Inn Hotel

MINISTRY/DEPARTMENT/AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

AGENDA: Consultative meetings with Presidential taskforce

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	Josephth Tompa		EOP	072611855	Kiptergem@gmail.com	
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3.	Alex Mwaniki		EOP	0726103597	mwaniki.adv@gmail.com	
4.	Christopher Ayieko		EOP	0717820144	chris.ayieko@gmail.com	
5.	Duncan Kichamu		EOP	0710152041	d.kicham@gmail.com	
6.	Ivan Chelul		EOP	0724085672	iondelul@gmail.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	MARGARET GITTAIGA	UNISCR SECRETARY	HOPS	0707720564	marggign2012	
8.	IGNATIUS MWIMBI	B-GUARD		07		
9.	Glenda Citoro	Secretariat	EOP	0722469413	gglesch20@gmail.com	
10.	Lydia Mamba	Secretariat	EOP	0128406286	Nambalydia@gmail.com	
11.	Janet Kove	Secretariat	EOP	0727985673	Kovejanet2002@yahoo.co.uk	
12.	Mercy Musangi	News Correspondent	MBAITU FM	0705841762	MMusangi005@gmail.com	
13.	Sally Ngugi	Legal Counsel	N/A	0720315321	nsally@gmail.com	
14.	JUST KABILLAH	Senior Research Officer	National Assembly	0725351324	misskabillah@gmail.com	
15.	Clinton Ntwala	Leader of Minority Office	EOP	0726373255	clintonntwala@gmail.com	
16.						
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE









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

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultative Meeting with Stakeholders on the two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	HADIJA JUMA	Commissioner	CRA	0723467353	hadijajuma@ca.go.ke	
2.	Kaitamet Obekua	Vice Chair	CRA	0722820131	Ko Hanetdekua.cra.go.ke	
3.	Jonas M. Kuko	Commissioner	C.R.A	0723404539	jonas.kuko@ca.go.ke	
4.	Dr. Isabel Wanjari	Commissioner	CRA	0721481112	isabel.wanjari@ca.go.ke	
5.	JAMES KATUTE	CEO	CRA	0722363273	James.katute@ca.go.ke	
6.	CAROLINE MUNGU	CHIEF STATE COUNSEL	SPORTS	0774223489	carolanadi@ gmane.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	Candlyne Chikango	Director, Parliamentary Affairs	State Dept Parliamentary Affairs	0711500117	candlynechikango @primec.go.ke	
8.	Fidel Salach	Principal Officer, Parliamentary Affairs	State Dept of Parliamentary Affairs	072276074	fsalach@primec. go.ke	
9.	Ernest Kamau	Director BCLB	Beeting Centre	0722521099	ekamau@reeloptalawaii.co.ke	
10.	EDWIN IRUNGU	Director BCLB	BCLB	0922931384	edduirungulo@gmail.com	
11.	Fredrick Mwasiri	Deputy Director	BCLB	0722631569	fredmwasiri@ghol.com	
12.	Judy Kiricho	Principal State Counsel	BCLB	0101952288	jkiricho@gmail.com	
13.	Dr. Jane Mwangi	Chairperson	BCLB	0724875544	janemwangi7@gmail.com	
14.	Judy Kabilla	Senior Research Officer Leader of Minority Office	N/A	0725351324	missjcabilla@gmail.com	
15.	Wilson Mwangi					
16.	Sheila Jepkemoi	Manager Legal Department	CRA	0723082694	sheilajepkemoi@gmail.com	
17.	Emily W. Kimani	Manager, Legal	CRA	0725505535	emily.kimani@cra.go.ke	
18.	Nelly A. Muse	Communications	CRA	076422298	nelly.muse@cra.go.ke	
19.	Anthony Otieno	P.L.F-C	KHRC	0720343238	anthony.otieno@ klrc.go.ke	
20.	M. waanyonyi Chabuka	CHAPEL	CRA	0722410597	mwanyonyi@ gmail.com	
21.	Nelson Bwire	Co-Founder	CHAMINGI AWARIMA	07114411290	bwire@gamaara .co.ig	
22.	Alex Mwaniki	Advocate	LSK	0704719159	mwaniki.alex@gmail.com	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
23.	Mary Muthoni	COMMUNICATIONS OFFICER	CRA	0702830354	mary.muthoni@cra.go.ke	
24.	Director Anne T.O.O	BETTING CONTROL (Board)	BCLB (Board)	0727-883245	toooame@gmail.com	
25.	MERCY MUSAANGI	REPORTER	MBAITU FM	0705641762	MMUSAANGI@mbaitu.co.ke	
26.	Engene Odhumbi	Legal officer	ODPC	0795890568	engene.odhumbi@odpc.go.ke	
27.	Robert Walekha	OPERATOR	AGOK	0722720920	rs.walekha@outlook.com	
28.	SASA KENETHA	COUNTRY MANAGER	AGOK	0742144322	sasa.kenetha@kocorapki.com	
29.	Maureen Ndumbi	AGOK SECRETARY	AGOK	0715874781	maureenndumbi@gmail.com	
30.	Boniface Okendo	Photojournalist	Standard Newspaper	0722592753	otbokendo@gmail.com	





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

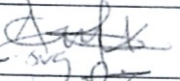
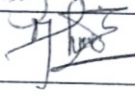
WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

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

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultative meeting with stakeholders on top two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	Sally Ngugi	Legal Counsel N/A	1 Majority Leaders Office	0720315321	sallyngugi@gmail.com	
2.	Oscar Otieno	ADC	ODPC	0723535006	Oscar.Otieno@odpc.go.ke	
3.	Kiito Wangalwa	Director	COG	0722358690	kiito.wangalwa@cocog.go.ke	
4.	Eric Atigula	Secretary	EOP	0721868216	eratigula@eop.go.ke	
5.	Duncans Kichamu	Assistant Secretary	EOP	0710152041	duncans.kichamu@eop.go.ke	
6.	Collins Othman	Deputy CEO KSK	KSK	0722865265	collins.othman@ksh.go.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	AUSTINE MUTETEKE	Legal Officer	CAF	0729214003	austine@ countyassociation	
8.	Lantano Nabwala	EC-Member Legal Comm. Speaker		0722105446	lantanonab@gmail.com	
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

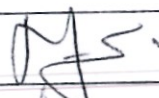


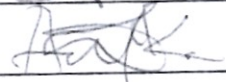
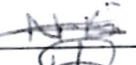
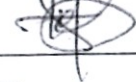


DATE: 22/11/2023 VENUE: HILTON GARDEN INN

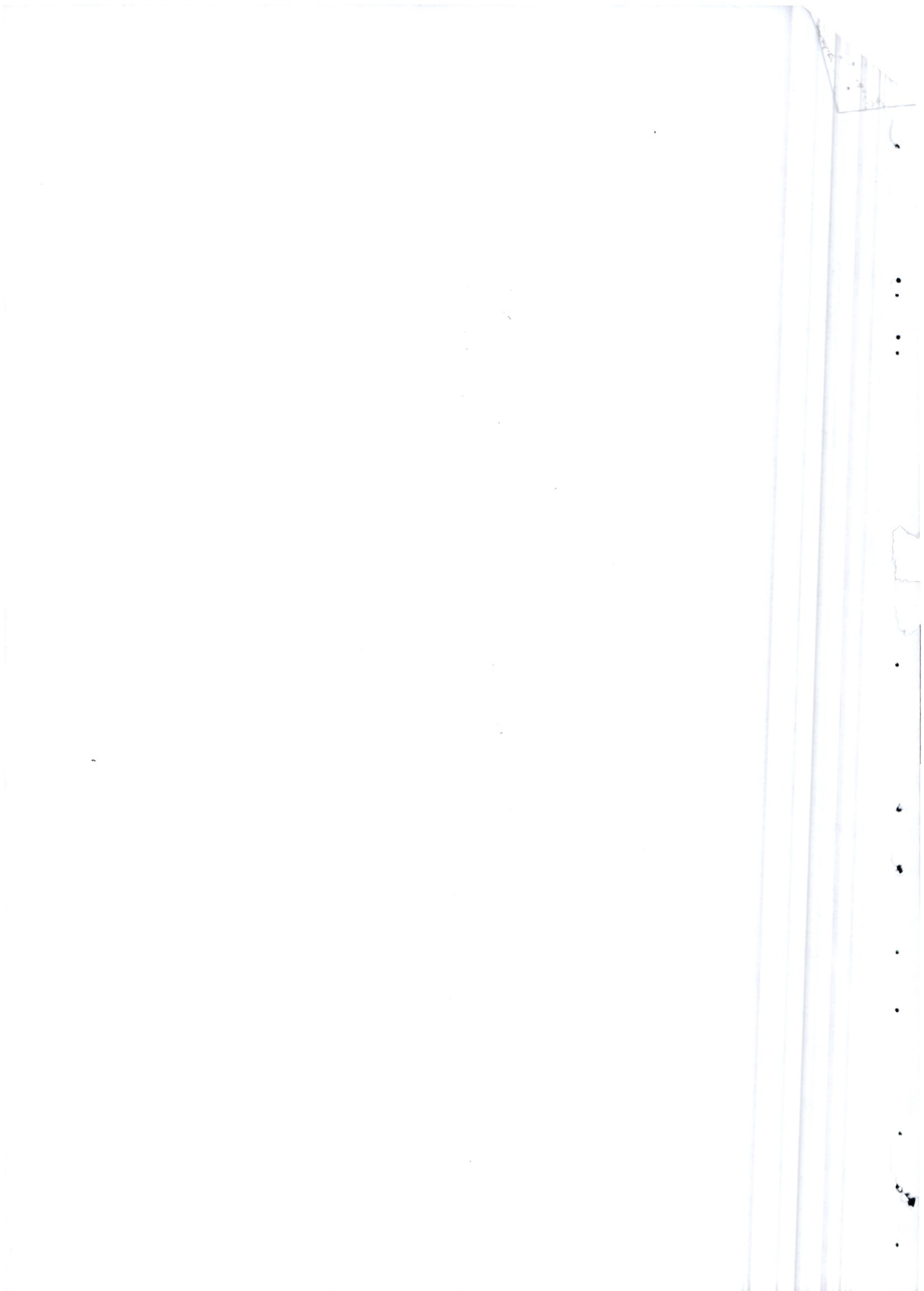
MINISTRY/DEPARTMENT/AGENCY:

AGENDA: CONSULTATIVE RETREAT WITH STAKEHOLDERS ON THE NATIONAL ASSEMBLY BILL NO 69 & 70 OF 2023

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.						
2.						
3.	Cynthia Chilango	Director Parliamentary Affairs	State Dept for Parliamentary Affairs -	0711500117	cynthia.chilango@prmeas.go.ke	
4.	Fidel Sakach	Parliamentary Affairs officer	State Department for Parliamentary Affairs	0722478074	fidel.sakach@prmeas.go.ke	
5.	Eugene Odhiambo	Legal Department	ODPC	0795890568	eugene.odhiambo@odpc.go.ke	
6.	Maurice Banyan	compliance officer	FR C	-	m.banyan@frc.go.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
7.	JAMES MAMUWA	Director, Legal Comms & Ext. Rel.	FRC	0709858000	jmamuyaga@frc.gov.ke	
8.	Vincent Robi	Senior Legal Officer	FRC	0712395189	vrobi@frc.gov.ke	
9.	EDWIN IRONGY	Board Member	BCLB	0922931384	eddieirongy@egmat.com	
10.	Fredrick Mbesi	Deputy Director	BCLB	0922631569	fredmbesi@egmat.com	
11.	Peter U. Mbugu	Director	BCLB	0713465104	Petermbugu@egmat.com	
12.	Dr. Jane Makeni	Chairperson	BCLB	0724875544	drjanemakeni	
13.	Alex Mwariki	Legal Council	EOP	0704719159	mwariki-advocates.com	
14.	Damons Mwakio	Senior Legal Officer	KLRC	0721144714	damons.mwakio@krc.sc.ke	
15.	Daniel Mogeni	Treasurer AGOK	AGOK	0722676578	mogeni590@egmat.com	
16.	Mawson Adhiambo	Secretary AGOK	AGOK	0715874781	Mohadhiambo@egmat.com	
17.	Lekem Chege	Consultant	AGOK	0725609915	lekem@latchey.com	
18.	SASA KNETA	COUNTRY MANAGER	AGOK	0742144322	SASA.KNETA@NORADNET.COM	
19.	Patrick Githumbi	Director, Mwanza	AGOK	0722706411	patrickgithumbi@egmat.com	
20.	Robert Walekumbi	Operator	AGOK	0922720920	rob.walekumbi@egmat.com	
21.	Moses Nyang'ya	Ag. Comm. STD	KRA	0721417705	Moses.Nyang'ya@kra.go.ke	
22.	L. A. Plum	CM STD	ILRA	0709012673	lena.plum@kra.go.ke	

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
23.	Oscar Othens	DDC	DDPC	0723535006		
24.	Judy Kabilla	Researcher Leader of Minority	Office N/A	0725351324	misskabilla@gmail.com	
25.	Sally Njugi	Legal Counsel Leader of Majority	Office N/A	0720315381		
26.	Austin Muregesa	Legal	CAF	0729214773	amustinmurese 90@gmail.com	
27.	Nelson Bwire	Project lead	Granting Awards Society of Kenya	0714411290	bwires40@gmail.com	
28.	Collins Odhiambo	TSK	Deputy CEO	0722865265	collins.o@tsk.or.ke	
29.	Fredrick Kiamba	Parliament liaison	KRA	0703324063	fredrick.kiamba@kra.go.ke	
30.	Evet Milka	Parliament liaison	KRA	0113800141	evet.atieno@kra.go.ke	





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE

WITNESSES/STAKEHOLDERS ATTENDANCE SCHEDULE

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

MINISTRY/DEPARTMENT/AGENCY:

AGENDA: Consultative Meeting with Stakeholders on the two Bills

S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
1.	Hassan A. BON	Pro-CEO SASDEF	SASDEF	0722423495	hassanbonv@gmail.com	
2.	CARDAMANDI MUYARDI	CSC	MOYACES	0774223189	cardamandi@gmail.com	
3.	Alex Mwaniki	Legal Counsel	EOP	0704719159	mwaniki.alex@gmail.com	
4.	Clinton Mwiria	DIL	EOP			
5.	Judy Kabirika	Researcher Office of Leader of Minority	National Assembly	0725351324	missjkabirika@gmail.com	
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S/NO.	NAME	DESIGNATION IN FULL	ORGANIZATION/ DEPARTMENT	TELEPHONE NUMBER	EMAIL ADDRESS	SIGNATURE
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