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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION 2019

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

REPORT ON THE CONSIDERATION OF THE GAMING BILL, 2019

DIRECTORATE OF COMMITTEE SERVICES

CLERK'S CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI

NOVEMBER, 2019



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## **CHAIRPERSON'S FOREWORD**

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

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

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

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 The Betting, Lotteries and Gaming Act (Cap. 131) is an old piece of legislation that needed to be repealed and a new, robust legislation to be enacted to regulate gaming effectively in Kenya; thus, the Gaming Bill 2019 seeks to address these issues.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

SIGN: .....  .....

**THE HON. (DR.) VICTOR KIOKO MUNYAKA, MP**  
**CHAIRPERSON OF THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND**  
**TOURISM**

Date: .....  .....

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

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

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

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

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

## **1.0 ESTABLISHMENT AND MANDATE OF THE COMMITTEE**

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

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

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

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

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

## 1.1 COMMITTEE MEMBERSHIP

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

**Hon. (Dr.) Victor Kioko Munyaka, M.P – Chairperson**

Machakos Town Constituency

Jubilee Party

**Hon. (Dr.) Korei Ole Lemein, M.P - Vice Chairperson**

Narok South Constituency

Jubilee Party

Hon. Christopher Omulele, M.P

Luanda Constituency

Orange Democratic Movement Party

Hon. Lydia Haika Mnene Mizighi, M.P

Taita Taveta County

Jubilee Party

Hon. (Dr.) Christine Ombaka, M.P

Siaya County

Orange Democratic Movement Party

Hon. George Risa Sunkuyia, M.P

Kajiado West Constituency

Jubilee Party

Hon. Cyprian Kubai Iringo, M.P

Igembe Central Constituency

Jubilee Party

Hon. Annie Wanjiku Kibeh, M.P

Gatundu North Constituency

Jubilee Party

Hon. Jones Mlolwa, M.P

Voi Constituency

Orange Democratic Movement Party

Hon. Sylvanus Maritim, M.P

Ainamoi Constituency

Jubilee Party

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

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

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

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

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

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

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

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

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

## **1.2 COMMITTEE *SECRETARIAT***

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

## **2.0 CONSIDERATION OF THE GAMING BILL, 2019**

### **2.1 BACKGROUND INFORMATION**

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



## **2.2 SALIENT FEATURES OF THE BILL**

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

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

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

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

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

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

**Part V contains provisions on control and licensing of betting.**

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

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

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

**Part VII contains provisions for online gaming.**

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

**Part VIII of the Bill contains provisions for establishment of the National Lottery.**

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

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

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

**Part X of the Bill contains provisions on the National Lottery Distribution Trust Fund.**

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

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

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



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

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

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

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

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

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

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

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

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

excludes representation from county governments	person nominated by the council of county governors
The membership of the Board is 9	The membership of the Authority is 9 (excluding the Director-General)
Online gaming is not addressed in the Act	Part VII of the Bill provides for online gaming
The National Lottery is not provided for	Part VIII of the Bill provides for the establishment of the National Lottery (Clauses 70-78)  Also, Part IX of the Bill provides for the conduct of National Lottery
It does not establish any Fund	Part X of the Bill establishes the National Lottery Distribution Trust Fund (Clauses 89-100)  The purpose of the Fund is to retain and distribute the proceeds of the National Lottery
A person who is aggrieved by the decision of the Board can appeal to the High Court	It establishes the Gaming Appeals Tribunal to resolve disputes between parties and for persons to appeal to it
<p>The penalties are not stiff</p> <ul style="list-style-type: none"> <li>▪ Fines range- 3,000-10,000 shillings</li> <li>▪ Imprisonment- 3 months - 1 year</li> </ul> <p>The offences are not as many</p>	<p>Part XV of the Bill provides for offences and penalties (Clauses 129-155) providing for 27 different offences such as offences relating to gaming premise, false declarations, failure to display a valid licence, transfer of a licence without the approval of the Board, failure to keep proper book of accounts e.t.c</p> <p>The penalties are now stiffer:</p> <ul style="list-style-type: none"> <li>▪ Fines range- 250,000 - 2 million</li> <li>▪ Imprisonment- 1 year to 5 years</li> </ul>
The Act does not provide for Schedules on various aspects particularly on the amounts of licensing fees, securities, and renewal fees	The Bill has six schedules, notably the Second Schedule on licensing fees ( <i>providing the respective amounts of licensing fees</i> ), the Fourth Schedule on Renewal of licence ( <i>providing for the</i>

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



### 3.0 SUBMISSION BY THE STAKEHOLDERS

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

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

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

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

- (a) conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and*
- (b) facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*

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

The Committee received memoranda from the following entities:

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

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

xv) Golden Key Ltd

xvi) Shade Ltd

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

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

		<p>the definition of the term “licensed betting premises”—</p> <p>“licensed gaming premises” means the premises specifically named, described and licensed in terms of this Act to which the public may resort for purposes of gaming;</p> <p><i>Justification:</i> This definition is missing in the Bill. This definition is also an improvement of the definition in the current Act.</p>	<p>has been used in clauses 129 and 157(3) of the Bill.</p>
		<p>Amend clause 2 by deleting the definition of the term “lottery ticket”</p> <p><i>Justification:</i> This has already been captured in the definition in the word ticket.</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) The terms “ticket” and “lottery ticket” have been used in different senses in the Bill and they are not synonymous to each other:</li> <li>(ii) A lottery ticket has been used in the Bill to refer to tickets used to participate in a lottery chance whereas a ticket has been used in the sense of a lottery or a game of chance.</li> </ul>
		<p>Amend clause 2 in the definition of the term “manufacturer” in paragraph (c) by inserting the words “of gaming services” immediately after the word “provider”</p>	<p>The Committee agreed to the proposed amendment and further proposed an amendment to paragraph (a) by inserting the words “of gaming services” immediately after the words “a supplier”.</p>

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

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

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

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



		engaging in gambling whilst still pursuing education.	
Clause 3	The Betting Control and Licensing Board	<p>Amend clause 3 (d) to read as follows “To establish the National Gaming Authority, National Lottery, The National Lottery Distribution Trust Fund and The Gaming Appeals Committee”</p> <p><i>Justification:</i> For better operationalization of the Act and to provide a framework for the implementers of this Act</p>	The Committee agreed to the proposed amendment
		<p>Amend by inserting a new clause 3A The guiding principles for the implementation of the Act shall be the following:</p> <ol style="list-style-type: none"> <li>The need to prevent gambling from becoming a source of crime or disorder, being associated with crime or being used to support crime;</li> <li>To ensure gambling is conducted in a fair and open way;</li> <li>To ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;</li> <li>Ensure gambling opportunities are controlled to a level</li> </ol>	The Committee rejected the proposed amendment since clause 3 of the Bill providing for objects and purposes of the Act is sufficient.

		<p>which does not harm the public;</p> <ul style="list-style-type: none"> <li>e. That gambling operations are not owned, operated or infiltrated by persons involved in crime;</li> <li>f. Ensure gambling licenses are privileged and revocable and no holder acquires any vested right in such a license, in order to protect public interest;</li> <li>g. To ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers</li> <li>h. To prevent gambling from being associated with or used for money laundering and financing of terrorism or other unlawful activities;</li> <li>i. Maximize the economic benefits derived from gambling to fund social causes;</li> <li>j. Provide for an efficient and effective regulatory oversight framework for regulating national and county gambling.</li> </ul> <p><i>Justification:</i></p>	
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		For better operationalization of the Act and to provide a framework for the implementers of this Act	
Clause 4	The Directorate of Gaming and Betting – Nairobi City County	<p>Delete clause 4 and substitute the following—</p> <ol style="list-style-type: none"> <li>1. (a) Policy formulation, legislation, standards &amp; norms</li> <li>(b) Development of standards and norms</li> <li>(c) Regulation of the gaming industry</li> <li>(d) Capacity building and technical assistance</li> <li>2. licensing of public gaming (casino)</li> <li>3. Vetting, security checks and due diligence</li> <li>4. Licensing of prize competitions cross cutting several counties (on promotion of product and services)</li> <li>5. Licensing of national lotteries</li> <li>6. (a) Licensing of on-the course totalisators</li> <li>(b) Licensing of off-the course totalisators.</li> <li>7. Licensing of bookmakers</li> <li>8. Online gaming</li> <li>9. Handling of complaints and arbitration.</li> </ol> <p><i>Justification:</i> These are the national government functions as per the Gazette notice 8753 of 8<sup>th</sup> September 2017 on delineation of functions Betting, casinos</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ol style="list-style-type: none"> <li>(i) Clauses 4 and 5 of the Bill have delineated the functions of both the national and county governments;</li> <li>(ii) Petition No. 295 of 2014 (<i>Africa Rafiki Ltd &amp; 2 others v Nairobi City County Government &amp; 3 others [2017] eKLR</i>) sought to fill a lacuna in the law in terms of delineation of functions between the national government and county governments which the Bill seeks to address;</li> <li>(iii) The functions of the national government in relation to betting, Casinos and other forms of gambling have been provided for whereas the functions of county governments on betting, casinos and other forms of gambling have been provided for in the Bill.</li> </ol>

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

		<p>(c) Development and implementation of county legislation on betting</p> <p>2. (a) Licensing of public gaming (casino) premises;</p> <p>(b) Enforcement and compliance i.e sport checks, daily supervisions of casinos.</p> <p>3. Licensing of prize competition for promotions confined to a county.</p> <p>4. Licensing of amusement machines.</p> <p>5. Licensing and supervision of county lotteries (lotteries confined within a county).</p> <p>6. Licensing of premises for totalisators.</p> <p>7. Licensing and issuance of pool table permits within the counties.</p> <p>8. Licensing of betting premises.</p> <p>9. Handling of complaints and arbitration.</p> <p><i>Justification:</i></p> <p>These are the county government functions as per the Gazette notice 8753 of 8<sup>th</sup> September 2017 on delineation of functions Betting, casinos and other forms of gambling. Also adopted by final judgment in petition no. 295 of 2014 disposition &amp; final orders No. 34 (i) and (ii) delivered on 4<sup>th</sup> May 2017.</p>	<p>the law in terms of delineation of functions between the national government and county governments which the Bill seeks to address;</p> <p>(ii) Clause 5 of the Bill seeks to provide for the functions of county governments in terms of the Fourth Schedule of the Constitution.</p>
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Clause 7	The Betting Control and Licensing Board	Amend clause 7 (1) (a) by deleting the words “nominated by the Cabinet Secretary and”	The Committee agreed to the proposed amendment.
		Amend clause 7 (1) (e) by deleting paragraph (e) and substituting it with the following new paragraph (e) “the Director General of Communications Authority of Kenya or a representative designated in writing;”  <i>Justification:</i> To ensure the individual has knowledge in gaming thus informed decisions	The Committee agreed to the proposed amendment.
		Amend clause 7 (1) (g) by deleting paragraph (g) and substituting therefor the following new paragraph (g) “one person, who shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary”  <i>Justification:</i> To ensure the operations of the Authority are not disrupted	The Committee agreed to the proposed amendment for the reason that it proposes that the person shall be nominated by the Council of County Governors and appointed by the Cabinet Secretary.
		Amend clause 7(1) (h) by deleting the words “and secretary to the Board” to read (h) the Director General who shall be an <i>ex officio</i> member  <i>Justification:</i> In accordance with the Mwongozo code	The Committee agreed to the proposed amendment since the Mwongozo Guidelines, the Code of Governance for State Corporations, recommends the provision of a Corporation Secretary who becomes secretary to the Board.

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

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



		<p>Amend clause 8 (2) (d) by inserting the words “or any other lawful reasons” after the word “misconduct” to read (d) has previously been removed from a public office on account of misconduct or any other lawful reasons.</p> <p><i>Justification:</i> For avoidance of qualification of crime</p>	<p>The Committee agreed to the proposed amendment</p>
	The Velez Advisory	<p>Amend clause 8(2)(b) by deleting the words “and dishonest”</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) It is not possible to qualify the wording “dishonest” in this context. The wording is ambiguous;</li> <li>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;</li> <li>(iii) The repercussions of dishonesty are really high to operators including suspension and cancellation of license to operate;</li> <li>(iv) Operators may disclose information to the Board which at the time</li> </ul>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) According to the Black’s Law Dictionary, Fraud consists of some deceitful practice or wilful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury;</li> <li>(ii) According to the Oxford Learner’s Dictionary, the word dishonest is defined as “not honest, intending to trick people”;</li> <li>(iii) The use of the two words communicate different senses which is the intention of the Bill;</li> <li>(iv) The terms “dishonest” and “dishonesty” have been used in a number of clauses in the Bill;</li> <li>(v) Other legislations also use the term “dishonesty” for</li> </ul>

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

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

		<p>(2) In performance of its functions under this Act, the Authority shall-</p> <ul style="list-style-type: none"> <li>a. Establish and maintain at the national level:-</li> <li>b. A probity register</li> <li>ii. A national register of games, gaming machines and devices</li> <li>iii. The national central electronic gaming monitoring system</li> <li>iv. The national register of excluded persons, and</li> <li>v. A central registry of gaming information including data relating to betting, casinos and other forms of gaming in the country;</li> <li>c. Issue licences in accordance with this Act;</li> <li>d. Issue conditions of national gaming licenses issued in accordance with this Act and regulations made thereunder and enforce compliance therewith</li> <li>e. Conduct security checks, vetting and due diligence in respect of gaming activities</li> <li>f. Define standards, principles and procedures in respect of operations, premises, equipment, personnel, supplies of services and enforcing compliance herewith;</li> </ul>	<p>amendment are provided for in the Bill.</p>
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		<p>g. Monitor and evaluate, when necessary, the issuance of permits by the Counties to ensure compliance with the Act;</p> <p>h. Investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies and making recommendations to the Cabinet Secretary in relation to such matters.</p> <p>i. Undertake and coordinate research and surveys in the field of gaming, and monitor social economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of-</p> <p>i. The social economic impact of gaming; and</p> <p>ii. Addictive or compulsive gaming</p> <p>j. Conduct oversight evaluations of the performance of counties so as to ensure national norms, standards established by this Act are applied uniformly and consistently throughout the country;</p>	
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		<ul style="list-style-type: none"> <li>k. Assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with appropriately</li> <li>l. During the subsistence of a license or permit, cancel, suspend or vary such license after giving the licensee or a permit holder opportunity to show cause against the cancellation, suspension or variation</li> <li>m. Coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;</li> <li>n. Advise counties on matters relating to gaming operations;</li> <li>o. Prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;</li> <li>p. Improve capacity of counties in matters relating to gaming functions;</li> <li>q. Register and issue annual gaming personnel licenses in the country</li> <li>r. Collaborate with the Ministry in the formulation of policy</li> </ul>	
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		<p>direction for purposes of this Act</p> <p>s. Promote co-operation and linkage among county governments, public departments, private sector and the regional international organizations engaged in the regulation of gaming;</p> <p>t. To inquire into complaints on matters arising under this Act.</p> <p>u. To perform all other functions conferred to it by this Act or any other written law</p> <p>(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution</p> <p><i>Justification:</i> These powers are more comprehensive and touch on the day to day activities of the Board</p>	
	The Directorate of Gaming and Betting – Nairobi City County	<p>Delete paragraphs (b), (d), (h) and (i) of clause 10</p> <p><i>Justification:</i> These are county government functions as per Gazette notice</p>	The Committee agreed to the proposed amendment.



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

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

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

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

		<p>in respect of the gaming activities;</p> <p>(d) to monitor the handling and counting of money on casino premises;</p> <p>(e) to assist in any manner where necessary in the detection of offences committed under this Act on all gaming premises;</p> <p>(f) to receive and investigate complaints from gaming patrons, licensees or members of the public relating to the conduct of gaming;</p> <p>(g) to report to the Board on the conduct of gaming operations; and</p> <p>(h) to perform any other functions incidental to the foregoing.</p> <p>(2) In the performance of the functions specified under subsection (1) a gaming inspector shall have the powers to-</p> <p>(a) require any person in possession of, or having control of, any machinery, equipment, device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto;</p>	<p>betting and lottery machines.</p>
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		<p>(b) inspect any such machinery, equipment, device or records and take copies of, extracts from or notes relating to, those records;</p> <p>(c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence;</p> <p>(d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act;</p> <p>(e) require, by written notice, any licensee, any employee of the licensee or any other person associated with the operations or management;</p> <p>(f) of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the</p>	
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		<p>notice, with respect to any activity regulated by this Act;</p> <p>(g) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;</p> <p>(h) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and</p> <p>(i) do any other thing authorized to be done by the Board under this Act.</p> <p>(3) If an inspector seizes anything under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.</p> <p><i>Justification:</i> To provide powers to the Gaming Inspectors to ensure effective performance of the functions of the Authority</p>	
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		<p>Insert a new clause 16B - Seizure and forfeiture of equipment and devices”</p> <p>“Clause 16B a Gaming Inspector may seize;</p> <p>(a) anything that the Gaming Inspector reasonably suspects is a gaming equipment that is not authorized under this Act to be on the gaming premises or;</p> <p>(b) any item or thing the use or possession of which is unlawful</p> <p><i>Justification:</i> To protect the public from the use of illegal, substandard/ un-authorised gaming equipment</p>	<p>The Committee rejected the proposed amendment since clause 161 of the Bill provides that the police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.</p>
Clause 18	The Betting Control and Licensing Board	<p>Amend by deleting “subject to Section 19” appearing on Section 18 to read</p> <p>18. No matter or act done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.</p>	<p>The Committee rejected the proposed amendment.</p>

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

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

		Realign and provide corresponding legal framework at least for each gaming activity.	
	The Association of Gaming Operators, Kenya	<p>Delete clause 20(1) (j)</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) No local company has the capacity to maintain gaming equipment at the producers' standards better than the producers themselves;</li> <li>(ii) In Kenya there are over 50 different technologies currently in the market and there is no local company that is certified for purposes of repairing gaming equipment.</li> <li>(iii) The producers have trained staff for gaming technologies they own.</li> </ul>	The Committee rejected the proposed amendment since it is important that gaming equipment repair and servicing should be licensed. Clause 162 of the Bill provides for the power of the Cabinet Secretary to make regulations on standardization of gaming machines, among other things.
		<p>Amend clause 20(2) so as to prevent mismanagement in the manner in which licenses will be awarded.</p> <p><i>Justification:</i></p> <p>Clause 20(2) as currently provided leaves a lot of room for mismanagement in the manner in which licenses will be awarded which is not articulated and documented.</p>	The Committee rejected the proposed amendment. The Board will require the latitude to classify licences and this may be provided for in regulations.
	The Directorate of Gaming and Betting – Nairobi City County	Amend paragraphs (e) and (h) in clause 20 to specify whether the national government or	The Committee rejected the proposed amendment.

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

		<p>information as it may deem necessary in order to enable it to examine the application.</p> <p>(4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or refuse to grant a licence or renewal or variation thereof and shall, where the issuance or renewal is refused, furnish the applicant with the reasons for such refusal:</p> <p>Provided that-</p> <p>(a)no license shall be issued under this Act until the Board satisfies itself that the applicant-;</p> <ol style="list-style-type: none"> <li>i. is a fit and proper person to hold the licence,</li> <li>ii. holds a valid certificate of good conduct from the relevant authority</li> <li>iii. has paid the prescribed application fee</li> <li>iv. in case of a foreign company, fifty percent of its shares is owned by Kenyan(s)</li> <li>v. maintains an account with an authorized financial institution into which it pays all monies relating to the licensed gaming activity</li> </ol>	
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		<p>vi. has provided certified copies of bank deposit slips evidencing payment of applicable taxes as prescribed by law</p> <p>vii. has demonstrated possession of financial and technical capacity to operate a gaming activity applied for</p> <p>viii. has deposited the requisite security or cash deposit as prescribed in this Act</p> <p>ix. has submitted such declarations and information as required under the Act or the regulations to enable the Board process the application</p> <p>x. that the premises, if any, in respect of which the application is made are suitable for the purpose and</p> <p>xi. that the activity in which the license is sought is legitimate under this Act;</p> <p>(5) For purposes of this section, "fit and proper person" means a person who has not committed offences involving any of the following</p> <p>-</p> <p>(a) fraud;</p> <p>(b) money laundering;</p> <p>(c) dishonesty;</p> <p>(d) violence;</p>	
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		<p>(e) drugs and drug trafficking;  (f) any form of organized crime; or  (g) any other conduct as the board may determine.</p> <p>(6) The board in determining whether an applicant is suitable to hold a licence under this Act shall consider-</p> <p>(a) the financial status or solvency of the person;  (b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which if the application is granted, the person shall perform;  (c) the status of any other licence or approval granted to the applicant by any financial sector regulator;  (d) the ability of the applicant to carry on the regulated activity competently, honestly and fairly and  (e) the reputation, character, financial integrity and reliability-</p> <p>(f) (i) in the case of a natural person; or</p>	
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		<p>(g) (ii) in the case of a company, its chairperson, directors, chief executive, management and all other personnel, including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company.</p> <p>(7) Without prejudice to the generality of subsection (6) the Board may, in considering whether the applicant is fit and proper –</p> <p>(h) Take into account whether the applicant –</p> <p>(i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice in gaming or other business;</p> <p>(ii) was a director of a liquidated entity;</p> <p>(iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial</p>	
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		<p>to public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;</p> <p>(iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that applicant or</p> <p>(v) denied any gaming licence or permit in any country.</p> <p>(i) Take into account any information in the possession of the board whether provided by the applicant or not relating to –</p> <p>(i) Any person who is to be employed with, or shall be acting for or on behalf of, the applicant for the purposes of a regulated activity including an agent; and</p> <p>(ii) Where the applicant is a company in a group of companies, any other company in the same group of companies or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;</p>	
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		<p>(c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and</p> <p>(d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.</p> <p>(8) The Board shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.</p> <p>(9) an applicant who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit commits an offence and shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.</p> <p><i>Justification:</i> To ensure the application process of a license is clearly set in law and that there are no gaps in the licensing process.</p>	
	The Shop and Deliver Ltd (Betika)	Amend clause 21(a) by deleting the word "citizens"	The Committee rejected the proposed amendments since the

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

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

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



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

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

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

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

		<p>upon payment of the requisite fees prescribed</p> <p>(2) the Board shall, upon receipt of an application to transfer a license, carry out investigations on the suitability of the proposed licensee,</p> <p>(3) for purposes of subsection (2), the Board may require the submission of such declaration or further information as it may deem necessary including;</p> <p style="padding-left: 40px;">(a) a written authorization from the Applicant permitting the Board to procure information from third parties;</p> <p style="padding-left: 40px;">(b) a report from relevant investigative agencies; and</p> <p>any other information as the Board may deem appropriate</p> <p><i>Justification:</i> The section is dealing with transfer of licenses only. Fees shall be prescribed in the regulations.</p>	necessitate future amendment to the Bill if enacted.
Clause 30	The Betting Control and Licensing Board	Amend clause 30 (1) by deleting the words “in any gaming premise for which a license has been granted” appearing immediately after the word Act” to read “(1) The Board may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct	The Committee agreed to the proposed amendment.



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

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



		<p>business by providing minimum capital requirements of KES 200 million</p> <p>In the alternative, if all gaming companies must be required to provide a security a proposal for the following:</p> <ul style="list-style-type: none"> <li>(i) The security to be based on a percentage of each companies' average monthly gross gaming revenue. Thus both large and small players in the industry have equal footing to comply with the security requirement; or</li> <li>(ii) The security to be based on an equivalent amount of the companies' jackpot amount.</li> </ul>	<p>prescribed is appropriate unlike each companies' average monthly gross gaming revenue as proposed in the alternative.</p>
	The Association of Gaming Operators, Kenya	Amend clause 33(1) to provide for conditions or actions that will necessitate the Board to request for a security.	The Committee rejected the proposed amendment.
Clause 34	The Shop and Deliver Ltd (Betika)	<p>Amend clause 34(3) (b) by deleting the words "two hundred" and substituting therefor the words "one hundred"</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) The minimum capital requirement coupled with the gaming security will unduly restrict players taking</li> </ul>	The Committee rejected the proposed amendment since the amount as proposed in the Bill is appropriate.

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

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

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

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

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

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



		(6) A person aggrieved by the decision of the County Government under this section may appeal to the Committee within fourteen days from the date upon which such decision is conveyed to the permit holder	
	The Velez Advisory	<p>Amend clause 40(1) in the introductory statement by inserting the words “by the County Government” immediately after the words “permit issued by them under this Act”.</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) The county government should only be able to revoke Licenses or Permits issued by them in the Act;</li> <li>(ii) The clause read as it is, gives powers to the County Government to revoke any License issued under the Act including Licenses issued by the Authority</li> </ul>	The Committee agreed to the proposed amendment.
Clause 41	The Association of Gaming Operators, Kenya	<p>Amend clause 41 in order to synchronize the duration of a permit with the duration of a licence under clause 27.</p> <p><i>Justification:</i></p> <p>Clause 41 of the Bill provides for the duration of a permit as twelve months from the date of issue. Clause 27 of the Bill provides for the duration of a</p>	The Committee agreed to the proposed amendment and consequently proposes that the Fourth Schedule be amended to provide for renewal period for various types of gambling of one year together with one for a premise or a shop.

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

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

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

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

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

		<p>operates on a betting premises or a person” appearing immediately before the word “engaged” to read “(b) prohibiting the payment of remuneration to a promoter or any person engaged by way of business or employed in the promoter’s organization in connection with the lottery”</p> <p><i>Justification:</i> To amend typographical errors</p>	
		<p>Amend clause 52(2) by deleting paragraph (c)</p> <p><i>Justification:</i> Already provided for in paragraph (g)</p>	The Committee rejected the proposed amendment since paragraphs (c) and (g) address different matters.
		<p>Amend clause 52 (2) (d) by deleting the word “exceeding twenty shillings” appearing immediately after “not” and substitute therefor with the words “not below fifty shillings” to read “(d) a ticket or chance shall be sold for a price not below fifty shillings;”</p> <p><i>Justification:</i> To promote responsible gaming</p>	The Committee agreed to the proposed amendment.
		<p>Delete paragraph (i)</p> <p><i>Justification:</i> To enhance raising of funds for charitable causes</p>	The Committee agreed to the proposed amendment.
		<p>Delete paragraph “k”</p> <p><i>Justification:</i></p>	The Committee rejected the proposed amendment since it is still applicable.



		Not applicable in the modern world	
Clause 53		<p>Amend clause 53 by deleting the word “Board” and substituting therefor with the word “Authority” to read “(1) The Authority may, issue a licence for a lottery promoted and conducted as an incident of entertainment”</p> <p><i>Justification:</i> To ensure consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
		<p>Amend clause 53 by deleting subclause (2) and substitute therefor with the following new sub-section</p> <p>“(2) The Authority may, upon issuance of a licence under this section, impose such conditions in the manner in which a person issued with a licence under this Section may conduct the lottery including- “</p> <p><i>Justification:</i> To ensure consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(iv) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(v) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> </ul>

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

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

		<p>Amend paragraph (c) of subsection (2) by deleting the word “and” appearing after the word “chance”</p> <p><i>Justification:</i> To amend typographical errors</p>	
Clause 55	The Betting Control and Licensing Board	<p>Amend clause 55 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
Clause 56	The Betting Control and Licensing Board	<p>Anywhere the word “Board” appears, replace it with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> </ul>

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

		<p>“(2) in granting a licence under this Section, the Authority shall require an applicant to deposit such security and provide proof of adequate gaming capital as prescribed under Sections 33 and 34 of this Act.”</p> <p><i>Justification:</i> To align with the requirements of section 33 &amp; 34 for deposit of security &amp; provision of gaming capital</p>	<p>been vested with the management function of the Authority.</p>
Clause 57	The Betting Control and Licensing Board	<p>Anywhere the word “Board” appears, replace it with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
		<p>Clause 57(2)</p> <p>Amend Subsection (2) by inserting the words “and any other relevant government</p>	<p>The Committee agreed to the proposed amendment.</p>

		<p>agencies” immediately after the word “Kenya”</p> <p><i>Justification:</i></p> <p>To enable other relevant Government agencies such as KRA have access to the systems to ensure compliance with the Act</p>	
	The White Rhino Ventures Ltd	<p>Amend clause 57(4)</p> <p>The provision contradicts the provisions on mobile operator payments and should be reconsidered.</p>	The Committee rejected the proposed amendment since it proposes to delete clause 68 of the Bill.
Clause 59	The Betting Control and Licensing Board	<p>Anywhere the word “Board” appears, replace it with the word “Authority”</p> <p><i>Justification:</i></p> <p>For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
		Clause 59(3)	The Committee rejected the proposed amendment for the following reasons—



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

		To promote responsible gaming and to prevent addictive gaming	
		<p>Delete sub-clause (2) and substitute therefor with the following new sub-section</p> <p>“(2) A licensee who allows any person to wager an amount other than that prescribed under sub-section (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years”</p> <p><i>Justification:</i> To deter a licensee from allowing illegal gaming</p>	The Committee agreed to the proposed amendment.
	The Shop and Deliver Ltd (Betika)	<p>Delete clause 60</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) Imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities thus not only hindering the industry but leading to a lower amount of taxes collected from the earnings of companies involved in gaming activities;</li> <li>(ii) The penalty proposed by clause 60 (2) is excessive especially where it would be easier to enforce the</li> </ul>	<p>The Committee rejected the amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and redrafted the provision to remove ambiguities;</li> <li>(ii) The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:</li> </ul> <p>“(2) A licensee who allows any person to wager an amount other than that prescribed under sub-</p>

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

		<p>(i) Imposing a minimum betting amount unduly restricts a large number of players taking part in gaming activities thus not only hindering the industry but leading to a lower amount of taxes collected from the earnings of companies involved in gaming activities;</p> <p>(ii) The penalty proposed by clause 60 (2) is excessive especially where it would be easier to enforce the minimum online betting amount by requiring online gaming companies to all set a minimum stake; thus, it would be impossible for any person to bet at a lower amount than a prescribed minimum;</p> <p>(iii) Clause 60 (2) is drafted in a manner that is ambiguous as it makes engaging in betting for an 'amount than' fifty shillings is an offence; It may be misconstrued as to mean any amount other than fifty shillings which would essentially mean that betting in general is an offence.</p>	<p>(iii)The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and redrafted the provision to remove ambiguities;</p> <p>(iv)The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:</p> <p>“(2) A licensee who allows any person to wager an amount other than that 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 six years”</p>
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		<p>In the alternative, if this is not possible, clause 60(1) should be amended by deleting the words “fifty shillings” and substituting therefor the words “ten shillings”.</p> <p><i>Justification for the alternative proposal:</i></p> <p>In order to allow any consenting adult to participate in betting.</p>	
	The White Rhino Ventures Ltd	<p>Delete clause 60(1)</p> <p><i>Justification:</i></p> <p>There should not be such a limit. Ample research suggests that putting a price up does not deter gambling, it actually encourages higher spending. It is not clear that this is per transaction or per deposit.</p>	<p>The Committee rejected the amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) The Committee has proposed to increase the minimum amount to one hundred shillings to promote responsible gambling and restrict the larger population from gambling and redrafted the provision to remove ambiguities;</li> <li>(ii) The Committee therefore proposed to delete clause 60(2) and substitute therefor the following:</li> </ul> <p>“(2) A licensee who allows any person to wager an amount other than that 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</p>

			imprisonment for a term not exceeding six years”
Clause 61	The Betting Control and Licensing Board	<p>Clause 61(4) Amend by deleting the word “a” appearing before the word ‘licensee’ and substitute with the word “the”</p> <p><i>Justification:</i> To amend typographical errors</p>	The Committee rejected the proposed amendment.
		<p>Clause 61(5) Subsection (5) delete the word “a” appearing before the word ‘licensee’ and substitute with the word “the”</p> <p><i>Justification:</i> To amend typographical errors</p>	The Committee rejected the proposed amendment.
	The Vexx Advisory	<p>Amend clause 61(2) by—</p> <ul style="list-style-type: none"> <li>(i) deleting the word “child” and substituting therefor “vulnerable person”;</li> <li>(ii) inserting the words “casino, game of chance” immediately after the word “lottery”.</li> </ul> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) Protection of persons identified and published by the Board as problem gamblers from participating in any gambling activities;</li> <li>(ii) To ensure that vulnerable persons are not able to access any forms of gambling</li> </ul>	<p>The Committee agreed to proposed insertion of the words “casino, game of chance” immediately after the word “lottery” in subclause 2.</p> <p>However, it rejected the proposed deletion of the term “child” and substituting therefor the words “vulnerable person” since a vulnerable person may have different interpretations unlike a child.</p>

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



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

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

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

		companies from accessing Kenyan market	
	The Shop and Deliver Ltd (Betika)	Amend sub-section (4) by deleting the word “Board” and substituting therefor with the word “Authority”	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
	The Gamecode Ltd and Anjarwalla & Khanna	<p>Clause 67 should be deleted</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) The physical location of the servers has little bearing on the ability of the proposed National Gaming Authority to regulate the activities of licensed online gaming service providers;</li> <li>(ii) Restricting the location of physical servers to Kenya also limits the ability of online gaming service providers to</li> </ul>	The Committee noted the concerns of the stakeholders on this clause and proposes that the clause be redrafted to provide for the licensing of foreign operators.

		select locations where the data they have collected may be more effectively protected.	
	The White Rhino Ventures Ltd	<p>Delete clause 67(1)</p> <p><i>Justification:</i> This is a very unrealistic requirement in the modern world. Half of the companies in the world now use Cloud based systems which by definition could sit anywhere.</p>	The Committee noted the concerns of the stakeholders on this clause and proposes that the clause be redrafted to provide for the licensing of foreign operators.
Clause 68	The Betting Control and Licensing Board	<p>Delete clause 68</p> <p><i>Justification:</i> Telecommunication is the essence online gaming and banning its use will render online gaming obsolete</p>	The Committee agreed to the proposed deletion.
	The Shop and Deliver Ltd (Betika)	<p>Clause 68 should be deleted</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>(i) The clause does not define what a telecommunication platform is and is totally unclear given that it is referring to online gaming which in its nature is conducted on telecommunication devices;</li> <li>(ii) Imposing such a restriction is akin to imposing a ban on online gaming which does not appear to be the intention of the Bill.</li> </ul>	The Committee agreed to the proposed deletion.

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

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



		<p>would ensure expeditious disposal of disputes</p> <p>Further, the committee will bring in all gaming players who handle day to day issues touching on gaming</p>	
Clause 71	The Betting Control and Licensing Board	<p>Amend Section 71 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
		<p>Clause 71(3)</p> <p>Amend by deleting subsection (3) and substituting therefor with the following new subsection</p> <p>“(3) The Authority shall, before granting a license under this Section, satisfy itself that-</p>	<p>The Committee rejected the proposed amendment save for condition in paragraph (c) which enriches the existing paragraph (c) in the Bill.</p>

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

		<p>Clause 72(2)</p> <p>Amend sub-section (2) by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p>Justification:</p> <p>For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
Clause 73	The Betting Control and Licensing Board	<p>Amend Section 73 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p>Justification:</p> <p>For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of</li> </ul>

			bodies established in a Board in order to carry out the mandate of the Authority.
Clause 74	The Betting Control and Licensing Board	<p>Amend section 74 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
Clause 75	The Betting Control and Licensing Board	<p>Amend Section 75 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous</li> </ul>

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

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



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



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

Clause 81	The Betting Control and Licensing Board	<p>Amend Section 81 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> To amend a typographical error</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
Clause 84	The Betting Control and Licensing Board	<p>Amend Section 84 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a</li> </ul>

			Board in order to carry out the mandate of the Authority.
	The White Rhino Ventures Ltd	Amend sub-section (2) by deleting the word “Board” and substituting therefor with the word “Authority”	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> <li>(iii) It is proper in legislation to vest management of bodies established in a Board in order to carry out the mandate of the Authority.</li> </ul>
Clause 86	The Betting Control and Licensing Board	<p>Amend Section 86 by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	<p>The Committee rejected the proposed amendment for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Although it is the Authority that is the corporate entity, clause 7 of the Bill provides that the management of the Authority shall vest in the Board;</li> <li>(ii) Substitution of the term “Board” with “Authority” will necessitate numerous unnecessary amendments to the Bill;</li> </ul>

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

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

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

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



		<p>provisions of this Act, the following sections of this Act shall not apply to the National Lottery and the National Lottery Distribution Trust fund-</p> <ul style="list-style-type: none"> <li>(a) Section 27 Duration of licenses and permits;</li> <li>(b) section 49 Authorization of public Lotteries for charitable purposes</li> <li>(c) Section 52 Lottery conducted for charitable, sporting or other purposes;</li> <li>(d) Section 53 Lottery incidental to entertainment; and</li> <li>(e) Section 54 Private Lottery</li> </ul> <p><i>Justification:</i> National Lottery is a different type of lottery established for raising funds for public good causes and is therefore exempted from other general provisions of the Act such as duration of the term of the license and general provisions as related to operation of other lotteries</p>	
Clause 101	The Betting Control and Licensing Board	Amend clause 101 (1) by deleting the word “related” appearing immediately before the word “gaming” and substituting therefor with the word “forms of”	The Committee agreed to the proposed amendment.

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

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

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

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

		<p>(b) contravenes or allows the contravention of any condition provided for or imposed by the Authority under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.</p> <p>(4) In this section, “amusement machine” means a machine, other than a gaming machine –</p> <p>(a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and</p> <p>(b) whereby a successful player neither receives nor is offered any benefit other than –</p> <p>(c) the opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or</p> <p>(d) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.</p>	
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		<p><i>Justification:</i></p> <p>It is the mandate of the Authority to regulate and control all forms of gaming including the use of Amusement machines</p> <p>The current legal framework does not provide mechanism to regulate to use of Amusement machines thereby enabling abuse</p>	
	The Association of Gaming Operators, Kenya	<p>Amend clause 107(1) to the effect that importation and certification of amusement machine shall be under national government.</p> <p><i>Justification:</i></p> <p>(i) Importation and certification equipment should be strictly under national government. Clear guidelines should be issued to the Kenya Bureau of Standards (KEBS) for a pre shipment inspection of amusement machines. None of the amusement machines should be imported without producer certificate clearly stating that equipment is for amusement only. KEBS should have clear guidelines regarding importation and pre-shipment</p>	



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

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

		<p><b>Gaming advertisement</b></p> <p><b>110A.</b> (1) No person shall promote the advertisement of a gaming activity, without the approval of the Authority, on any medium of electronic or any other form of communication by: -</p> <ul style="list-style-type: none"> <li>(a) holding himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;</li> <li>(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;</li> <li>(c) printing or publishing, or causes to be printed or published, any advertisement or notice;</li> <li>(d) using a prominent personality or celebrity, public vehicle or use of lifestyle advertising to promote gaming;</li> <li>(e) using false, misleading or deceptive message likely to create an erroneous positive impression of gaming;</li> <li>(f) using a testimonial or endorsement displayed or</li> </ul>	has been incorporated in the amendments.
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		<p>communicated, that is misleading or incapable of informing the public of the hazards of gaming;</p> <p>(g) advertising gaming by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.</p> <p>(2) All gaming advertisements shall-</p> <p>(a) indicate the addictive nature of gaming;</p> <p>(b) notify players to play reasonably;</p> <p>(c) prohibit a child from playing;</p> <p>(d) not feature a former winner with a view to encourage the general public to participate in gaming;</p> <p>(e) not be erected on an advertisement billboard</p> <p>(f) dedicate ten per centum of aired advertisements for responsible gaming.</p> <p>(3) All media companies holding licenses on gaming shall not use any of their broadcast channel to advertise or promote their gaming products or activities.</p>	
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		<p>(4) The Authority shall determine where, when and how gaming is to be advertised.</p> <p>(5) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both</p> <p><i>Justification:</i> To provide comprehensive legal framework in relation to gaming advertisements</p>	
	The Betting Control and Licensing Board	<p>Insertion of new section 110B</p> <p>Gaming advertisement fee</p> <p>110B. (1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement.</p> <p>(2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.</p> <p><i>Justification:</i> Advertisement charges should not be categorized as taxes.</p>	The Committee agreed to the proposed amendment

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

		<p><i>Justification:</i> To provide a clear legal framework for the protection of children against gambling</p>	
	The Vexlex Advisory	<p>Amend clause 110— (a) in subclause (1) —</p> <p style="padding-left: 40px;">(i) by deleting paragraph (a) and substituting therefor the following new paragraph—</p> <p style="padding-left: 80px;">(a) be in a licensed casino;</p> <p style="padding-left: 40px;">(ii) in paragraph (d) by deleting the words “after three months” and substituting therefor the words “once every year”</p> <p style="padding-left: 40px;">(b) by deleting subclause (2) and substituting therefor the following new subclause—</p> <p style="padding-left: 80px;">(2) A betting machine shall only be operated.</p> <p><i>Justification:</i> (i) The amendment to subclause (1) paragraph (a) is a cleanup; (ii) The amendment to subclause 2 is</p>	The Committee agreed to the proposed amendment save for the proposed amendment to subclause (2).



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

		<p>(ii) A representative of the Attorney-General</p> <p>(iii) A representative of the Inspector General of Police</p> <p>(iv) A representative of the Consumer Protection Advisory Committee</p> <p>(v) A representative from Association of Gaming Operators</p> <p>(vi) Three other persons with knowledge and experience in gaming matters</p> <p>(3) The quorum for a meeting of the appeals committee shall be five members</p> <p>(4) the functions of the appeals committee shall be to hear and determine appeals;</p> <p>(a) against the decision of the Authority including;</p> <p>(b) against a gaming inspector or authorized officer;</p> <p>(c) Regarding complaints arising out of the outcome of a gaming transaction;</p> <p>(d) Regarding Complaints arising out of the functionality of gaming machines and equipment; and</p> <p>(e) Regarding any other matter as may be prescribed by this Act or referred to it by the Authority.</p>	
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		<p>(5) An appeal to the Committee shall not automatically operate as a stay of the decision appealed against.</p> <p>(6) The Committee shall convene as and when an appeal has been filled save as expressly provided in this Act the Committee shall regulate its own procedure;</p> <p>(7) The Ministry shall provide secretariat services for the Committee.</p> <p>112. Members of the Committee shall be paid such remuneration and allowances as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.</p> <p>113. The Authority may refer a matter or complaint to the Committee for hearing and determination.</p> <p>114. A person aggrieved by the decision of the Committee, may appeal to the High Court within fourteen days from the date of the decision of the Committee.</p> <p><i>Justification:</i> The nature of the disputes to be handled are more administrative in nature than</p>	
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		<p>legal and therefore a committee would ensure expeditious disposal of disputes</p> <p>Further, the committee will bring in all gaming players who handle day to day issues touching on gaming</p> <p>The dispute resolution framework provided has been borrowed from best practices. Examples being;</p> <p>(i) the Committees that resolve disputes between KEPHIS and traders in plant material,</p> <p>(ii) the Committee dealing with dispute resolution involving the status of refugees.</p>	
Clause 113	The Vexel Advisory	<p>Amend clause 113(2) (d) by deleting the word “dishonesty”</p> <p><i>Justification:</i></p> <p>(i) It is not possible to qualify the wording “dishonest” in this context. The wording is ambiguous;</p> <p>(ii) What would be the test for determining dishonesty? This will result in wide discretionary powers of the Authority which may be subject to abuse by office holders from time to time;</p> <p>(iii) The repercussions of dishonesty are really</p>	The Committee rejected the proposed amendment

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

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

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



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

Clause 142	The Betting Control and Licensing Board	<p>Amend by deleting clause 142 and substituting therefor with the following new section;</p> <p>142 (1) A person who willfully acts, facilitates or carries on business as a bookmaker without a license or otherwise contrary to the terms of a license issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both;</p> <p>(2) A person who accepts or receives bets or settles or pays money or monies worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker;</p> <p>(3) A person who settles or pays money or money's worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.</p>	
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		<p><i>Justification:</i> To increase the scope of illegal bookmaking activities as well as increase fines and sentence of persons engaged in illegal bookmaking activities which are not punitive enough in the Bill</p>	
Clause 144	The Betting Control and Licensing Board	<p>Amend Section 144 (2) by deleting the word “Board” and substituting therefor with the word “Authority”</p> <p><i>Justification:</i> For consistency</p>	
		<p>Amend subsection (2) by inserting the word “sub” immediately before the word “section” and therefor the number 1 in bracket as (1)</p> <p><i>Justification:</i> For typographical correction</p>	
Clause 146	The Betting Control and Licensing Board	<p>Amend paragraph (b) by inserting the word “of” immediately after the word “promoter”</p> <p><i>Justification:</i> For typographical correctness</p>	
Clause 150	The Betting Control and Licensing Board	<p>Amend the marginal notes to read as follows: “Prohibition against touting and Soliciting”</p> <p><i>Justification:</i> For clarity purposes</p>	
Clause 151	The Betting Control and Licensing Board	Amend by moving Section 151 to the new PART XIIA and merge under section 110A	

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

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

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

		<p>be subject to abuse by stakeholders of authority;</p> <p>(ii) Leaving the text to schools is sufficient in this case</p>	
	The White Rhinos Ventures Ltd	<p>Amend clause 158 to provide that a cross section of operators, Media owners, government and other stakeholders to form a culture committee on responsible gaming and advertising and submit to the voluntary guidelines dictated by the committee. The guidelines would cover areas such as:</p> <ul style="list-style-type: none"> <li>i. Content of advertising</li> <li>ii. Area or amount of time of advertising given over to responsible gaming messages.</li> <li>iii. Removal of any advertising during programming targeting children.</li> </ul> <p><i>Justification:</i>  <b>Clause 158</b> introduces new advertising restrictions heavily targeting TV and Radio</p>	



		<p>advertising, while giving concessions to TV advertising during sporting events and on DSTV, and not targeting social media and newspapers. This heavily favours the major sports betting operators to the detriment of the rest of the industry.</p> <p>This would have a significant impact on the Ventures revenues due to the fact that Radio and TV advertising are the most important media in White Rhino Venture's advertising strategy. These changes to advertising would decimate the local media industry to the benefit of foreign owned and controls companies, namely DSTV, Google and Facebook.</p> <p>Lastly, outdoor advertising was not mentioned and is the most prevalent form of Gambling advertising in Kenya. Proximity to schools is an irrelevance in this case as it is assumed that children only go to school.</p> <p>Furthermore, these companies do not have guidelines on who has access to their content and social media is very much geared to the youth audience while Television and Radio are in decline with same demographic.</p>	
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		<p>Clause 158 on advertising does not address the fact that the biggest issue with Gambling is Sports Betting and the advertising ban expressly allows it. It also does not deal with the issue of DSTV TV where most people consume their sports content. There is also no express requirement for responsible gaming on billboards.</p>	
		<p>Amend clause 158(3)</p> <p>It is not clear if this provision holds for prize promotions. It is also against competition rules. Basically, the act punishes Local TV and Radio media owners and their advertisers. Most of the big Sports Betting companies place their advertising on:</p> <ul style="list-style-type: none"> <li>i) Sport Events (so exempt)</li> <li>ii) DSTV</li> <li>iii) Social Media</li> <li>iv) Newspapers</li> </ul> <p>1. It can easily be argued that Social Media advertising is much harder to regulate than spot advertising on TV and Radio. Permitting the advertising of betting on online and offshore satellite media at the expense of local electronic media will</p>	

		<p>have the following consequences:</p> <ol style="list-style-type: none"> <li>a. Social and satellite media is hard to regulate vs domestic electronic media where all content and standards of responsible gaming can be subject to vetting before flight.</li> <li>b. The audience of social media skews younger than linear broadcasting and combined with the difficulty of controlling it gives rise to much higher risks of attracting vulnerable players.</li> <li>c. It does not seem in the national interest to restrict the revenues from the electronic advertising of gaming to offshore</li> </ol>	
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		<p>unregulated broadcast and internet companies to the severe detriment of the local media industry which is already facing economic challenges</p> <p>d. This ruling would also be anti-competitive significantly favouring brands established before the local advertising restrictions came into effect.</p> <p>2. This basically allows the big companies to cement their position and would make it impossible for any new operators to compete (including local companies and THE NATIONAL LOTTERY).</p>	
	The Betting Control and Licensing	<p>Moved to the new PART XIIA and merged under section 110A</p> <p><i>Justification:</i></p>	

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

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

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



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

		Statutory Instruments Act, 2013.”									
		Amend clause 163 (7) (1) by deleting the words “stand revoked within six months from the enactment of this Act” and replace therefor with the words “remain valid for the period of the license”  <i>Justification:</i>  To avoid disruption of business within the license period									
		Delete subsections 163 (2) (3) and (4)  <i>Justification:</i> For align with sub-section (7)									
Second Schedule	The Betting Control and Licensing Board	Amend the Bill by deleting the Second Schedule and substituting therefor the following new Schedule— <table><tr><th>TYPE OF GAMING</th><th>LICENSE FEE</th></tr><tr><td>Online</td><td>50,000,000</td></tr><tr><td>Non-online Bookmaker</td><td>20,000,000</td></tr><tr><td>Totalisator</td><td>5,000,000</td></tr></table>	TYPE OF GAMING	LICENSE FEE	Online	50,000,000	Non-online Bookmaker	20,000,000	Totalisator	5,000,000	
TYPE OF GAMING	LICENSE FEE										
Online	50,000,000										
Non-online Bookmaker	20,000,000										
Totalisator	5,000,000										

		License authorizing Bookmaking at Race meeting	100,000		-
		Pool Betting Scheme	5,000,000		2,000,000
		Casino	10,000,000		5,000,000
		Non- online Lottery <i>Annual</i>	2,000,000		1,000,000
		<i>Lottery Short term</i>	20,000		-
		Prize Competition	10% of total promotion budget		-
		Transfer (location) Casino Bookmaker	100,000 100,000		
		Pool Tables	10,000 per table		5,000 per table
		Gaming Premises	500,000		250,000
		Amusement with prizes	10,000 per machine		5,000 per machine
Second Schedule	The Association of Gaming Operators, Kenya	Amend the Second Schedule by— (i) rationalizing the amounts of licensing fees to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective			

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

		<p>pool betting scheme- fifteen million</p> <p>(g) Amusement with prizes- five hundred thousand</p> <p>Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery-two hundred and fifty thousand</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>- The proposed license fees are high and will lock out investors from accessing the market.</li> <li>- Will lead to set up of monopolies in the industry and subject the consumers to unfair consumer practices.</li> <li>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.</li> <li>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition of technological platforms to conduct this business.</li> </ul>	
	The White Rhinos Ventures	<p>Amend the Second Schedule</p> <p><i>Introduce a Tier model to Licensing fees based on a</i></p>	

		<p><i>mature market like the UK. This allows smaller local operators access to the Kenyan market and increases the fees for operators that are likely to generate more in sales. Projections should be used for new operators and the difference in fees applicable during the year if they exceed projections. In the case of existing operators, the previous year's revenue figures should be used as the basis of the licence fee.</i></p> <p><i>Justification:</i></p> <ol style="list-style-type: none"> <li>3. The new licence fees are simply unsustainable and will most likely lead to a duopoly or oligopoly in the market. There is no differentiation between different online operators. Once again, this is closing the market to local players and making it a duopoly.</li> <li>4. Internationally, application fees and subsequent operating fees are based on projected turnover of the licensee.</li> <li>5. The proposed fees on prize competitions will distort the market and only allow for the</li> </ol>	
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		<p>biggest brands (and international ones) to be able to run basic prize promotions, even free ones.</p> <p>6. The small fees on premises would allow online operators to flood the market with shops and casinos.</p>	
Fourth Schedule	The Association of Gaming Operators, Kenya	<p>Amend the Fourth Schedule by—</p> <p>(i) rationalizing the renewal fees to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land-based brick and mortar and online gaming which should be minimum 30 times less in a favour of land-based establishments;</p> <p>(ii) deleting the renewal fees prescribed for casinos (thirty million) and substituting therefor three million.</p>	
	The Velez Advisory	<p><b><u>Proposal to review</u></b> the renewal fees in the Fourth Schedule (a)</p> <p><b><u>Proposal to review</u></b> the renewal fees in the Fourth Schedule for Kenyan citizens to;</p>	



		<p>(a) Casinos including public gaming for conducting tables and slot machines renewal period- three years renewal fee- fifteen million</p> <p>(b) Online gaming three years renewal fee fifteen million</p> <p>(c) Non online bookmakers- three years – one million</p> <p>(d) Totalisator- ten million- five hundred thousand</p> <p>(e) Prize Competition- three years- two hundred thousand</p> <p>(f) Non-online gaming including book makers, online casinos, online lotteries- three years- two hundred thousand</p> <p>(g) Amusement with prizes- three years- two hundred thousand</p> <p>(h) A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery- one year- one million</p> <p><i>Justification:</i></p> <ul style="list-style-type: none"> <li>- The proposed license fees are high and will lock out locals from venturing into the business.</li> <li>- out investors from accessing the market.</li> <li>- Will lead to set up of monopolies in the industry</li> </ul>	
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		<p>and subject the consumers to unfair consumer practices.</p> <ul style="list-style-type: none"> <li>- Local investors will not be able to access the industry as it will be locked out to Foreigners and members of the rich class of society.</li> <li>- Propose to have a lower fee for companies with over 70% local ownership. This is because locals may need to partner with foreigners for purpose of acquisition of technological platforms to conduct this business.</li> </ul>	
Fifth Schedule	The Betting Control and Licensing Board	Under Fifth Schedule, amend by deleting twenty million appearing in paragraph (f) and replacing therefor with “an amount equivalent to the total cost of the prizes”. The rationale being that they are seasonal and their budgets are mostly lower than ten million. The amount proposed in the Bill will disadvantage promoters of goods and services with less capital.	
	The Association of Gaming Operators, Kenya	Amend the Fifth Schedule by— <ul style="list-style-type: none"> <li>(i) rationalizing the gaming security to consider (a) the scale of turnovers and (b) online gaming access to nationwide market, the respective rates and deposits proportions between land-based</li> </ul>	

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

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

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

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

#### **4.0 SUBMISSIONS BY THE MINISTRIES/STATE AGENCIES**

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

#### **4.1 THE NATIONAL TREASURY AND PLANNING**

The National Treasury submitted the following proposals:

##### **4.1.1 Clause 7**

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

##### **4.1.2 Clause 8 (1)**

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

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

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

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

##### **4.1.4 Clause 37 (2)**

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

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

##### **4.1.5 Third Schedule**

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



## 4.2 THE KENYA REVENUE AUTHORITY

The Kenya Revenue Authority submitted the following proposals:

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

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

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

#### 4.3 COMMUNICATION AUTHORITY OF KENYA

The Communication Authority of Kenya Submitted the following proposals:

##### THAT:

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

N/B:



- i. there needs to be further consultations on this as the Communication Authority legal framework might need to be revised.
  - ii. This proposal, if implemented, might have privacy concerns and Data Protection implications.
3. Section 57 – (e) to be expanded to include that an appropriate telecommunications licence is silent as a condition precedent as a requirement for Remote Gaming licence. It is proposed that a valid telecommunication licence be included as part of the qualifications.
  4. Section 68 restricts use of a telecommunication platform for online gaming. As much as the proposal sounds directory, the rationale is not clear and the spirit thereof seems inconsistent with Section 57(4) which provides for the role of an operator in case of Mobile online gaming to provide particulars of network connectivity to the Board.

#### 4.4 COMMISSION ON REVENUE ALLOCATION

The Commission on Revenue Allocation submitted the following proposals:

S/No.	Clause	Recommendation	Justification for Change
	<b>Clause 4 Functions of the National Government</b>	Align with IGRTC Gazette Notice No. 8753 on functions of both levels of government on matters betting. More specifically, some functions of the national government are omitted e.g. licensing of prize competitions cross cutting several counties and handling of complaints and arbitration	To align with IGRTC Gazette Notice No. 8753 and the court finding in <i>Africa Rafiki Ltd &amp; 2 others v Nairobi City County Government &amp; 3 others [2017] eKLR (Petition No.295 OF 2014)</i>
	<b>Clause 5 Functions of the county governments</b>	<ol style="list-style-type: none"> <li>a) Under para 5(e) as read with clause 4(f), enforcement is concurrent on the two levels of government. There is need to vest this enforcement mandate to one level of government as per the Gazette Notice</li> <li>b) Paragraph 5(b)-add the phrase '<i>within the county</i>'</li> </ol>	<ol style="list-style-type: none"> <li>a) To avoid fragmentation of one function and to align with the Gazette notice</li> <li>b) To specify jurisdiction</li> </ol>
	<b>Clause 10 Functions of the Authority</b>	<ol style="list-style-type: none"> <li>a) Clause 10(1)(d)- the term '<i>supervise</i>' vis-a-vis counties should be substituted</li> <li>b) Clause 10(1)(b) and (d) appear similar and should be harmonized</li> </ol>	<ol style="list-style-type: none"> <li>a) To avoid conflict of mandate given gaming is a concurrent function and the Authority is a national government entity</li> <li>b) To avoid repetition</li> <li>c) To curtail conflict of mandates</li> </ol>

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

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

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

### **5.1 MOMBASA COUNTY**

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

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

## **5.2 KWALE COUNTY**

The following issues were raised in Kwale County:

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

## **5.3 KISUMU COUNTY**

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

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



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

#### **5.4 KAKAMEGA COUNTY**

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

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

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

## **5.5 UASIN GISHU COUNTY**

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

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

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

## **5.6 NAKURU COUNTY**

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

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

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

### **5.7 NYERI COUNTY**

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

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

### **5.8 MERU COUNTY**

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

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

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

## 6.0 COMMITTEE OBSERVATIONS

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

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



## **7.0 COMMITTEE STAGE AMENDMENTS**

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

### **LONG TITLE**

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

### **CLAUSE 2**

THAT the Bill be amended in clause 2—

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

#### **Justification:**

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

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

#### **Justification:**

To correct a typographical error

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

#### **Justification:**

To correct a typographical error

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

#### **Justification:**

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

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



**Justification:**

For clarity of paragraphs (a) and (c).

- (f) by deleting the definition of the term “net gaming revenue”;

**Justification:**

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

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

**Justification:**

To correct a typographical error

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

**Justification:**

To correct a typographical error

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

**Justification:**

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

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

**Justification:**

To correct a typographical error

- (k) deleting the definition of the term “Tribunal”

**Justification:**

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

- (l) by deleting the definition of ‘winning’ and substituting therefor the following new definition—  
“winnings” means the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under this Act;
- (m) by inserting the following new definition of the term “collector” in the proper alphabetical order—  
“Collector” means the Commissioner General of the Kenya Revenue Authority”

**Justification:**

The term “collector” has been used severally in the Bill.

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

“Committee” means the Gaming Appeals Committee established under clause 111;

**Justification:**

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

**CLAUSE 3**

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

**Justification:**

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

**CLAUSE 5**

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

**Justification:**

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

**CLAUSE 7**

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

- (a) in subclause (1)—
- (i) in paragraph (a) by deleting the words “nominated by the Cabinet Secretary and”;

**Justification:**

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

- (ii) by deleting paragraph (e) and substituting it with the following new paragraph—  
“(e) the Director General of Communications Authority of Kenya or a representative designated in writing;”

**Justification:**

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

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

**Justification:**

In order to include representation of the gaming industry operators.

- (v) by deleting paragraph (g) and substituting therefor the following new paragraph—  
“(g) one person nominated by the Council of County Governors and appointed by the Cabinet Secretary;”

**Justification:**

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

- (vi) by amending paragraph (h) by deleting the words “and secretary to the Board”;

**Justification:**

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

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

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

**Justification:**

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

**CLAUSE 8**

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

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

**Justification:**

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

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

**CLAUSE 9**

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

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

**Justification:**

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

**CLAUSE 10**

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

**Justification:**

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

**CLAUSE 11**

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

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

**Justification:**

To correct a typographical error.

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

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

**Justification:**

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

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

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

**Justification:**

To provide for more comprehensive powers of the Authority.

**CLAUSE 12**

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

**Justification:**

To correct typographical errors.

**NEW CLAUSE**

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

Committees of the Board.

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

#### **CLAUSE 14**

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

#### **Justification:**

To correct a typographical error.

#### **CLAUSE 15**

**THAT** the Bill be amended—

(a) in subclause (2) by—

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

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

#### **Justification:**

To avoid restricting the qualifications to specific disciplines

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

“(c) has at least ten years’ experience in senior management of a public or a private institution;”

#### **Justification:**

This is the generally acceptable practice in management

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

#### **Justification:**

This is in accordance with the Mwongozo Code.

#### **CLAUSE 20**

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

(i) by numbering the existing subclause as “(1)”;

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

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

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

(jb) gaming equipment and devices selling or distribution;

(jc) gaming equipment testing;

**Justification:**

To correct an omission.

**CLAUSE 23**

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

**Justification:**

Renewal of licences should be discretionary and not mandatory.

**CLAUSE 24**

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

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

**Justification:**

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

**CLAUSE 25**

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

**Justification:**

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

**CLAUSE 26**

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

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

**Justification:**

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



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

**CLAUSE 28**

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

**Justification:**

For consistency with the functions of the Board to issue licenses

**CLAUSE 29**

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

**Justification:**

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

**CLAUSE 30**

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

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

**Justification:**

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

**CLAUSE 31**

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

**Justification:**

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

**CLAUSE 36**

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

**Justification:**

To correct the grammatical error and for clarity.

**CLAUSE 37**

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

- Gaming tax.                    37. (1) There shall be a tax to be known as Gaming Tax chargeable at the rate of fifteen percent of the gross gaming revenue
- (2) The tax under subsection (1) shall be paid to the Collector on or before the 20<sup>th</sup> day of the following month.

**NEW CLAUSE**

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

- Gaming levy.                    37A. (1) There shall be a monthly levy to be known as gaming levy which shall be paid to the Authority by a license holder.
- (2) The Board shall in consultation with the Cabinet Secretary determine and gazette the amount of the gaming levy referred to in subsection (1) provided that such amount shall not exceed 1% of the monthly gross gaming revenue.
- (3) The levy collected under this section shall be paid into an account operated by the Authority on or before the 20<sup>th</sup> day of the following month.
- (4) A person who fails to pay levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the Authority all outstanding amounts of levy together with a penalty of two hundred thousand shillings for each such payment.

**Justification:**

To facilitate operations of the Authority

**CLAUSE 38**

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

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

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

**Justification:**

To properly define the nature of the permit issued under the Act

**CLAUSE 40**

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

**Justification:**

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

**CLAUSE 42**

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

**Justification:**

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

**CLAUSE 46**

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

**Justification:**

To correct typographical errors.

**CLAUSE 48**

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

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

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

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

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

**Justification:**

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

**CLAUSE 49**

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

**Justification:**

To put a distinct percentage so as to ensure equity.

**CLAUSE 50**

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

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

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

**Justification:**

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

**CLAUSE 52**

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

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

**Justification:**

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

**CLAUSE 53**

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

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

**Justification:**

To correct a typographical error and maintain consistency.

**CLAUSE 54**

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

**Justification:**

To correct typographical errors.

**CLAUSE 57**

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

- (a) in subclause (2) by inserting the words “and any other relevant government agencies” at the end of the subclause;
- (b) in subclause (3) by inserting the following new paragraph immediately after paragraph (c)—  
  
“(ca) a valid telecommunications licence;”

**Justification:**

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

**CLAUSE 60**

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

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

**Justification:**

To deter a licensee from allowing illegal gaming.

**CLAUSE 61**

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

**Justification:**

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

**CLAUSE 62**

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

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by deleting the letter “a”;
- (c) by inserting the following new paragraph immediately after paragraph (c)—  
  
“(d) mobile money transfer;”

**Justifications:**

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

**CLAUSE 68**

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

**Justification:**

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

**CLAUSE 69**

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

**Justification:**

The amendment is aligned to the Committee’s proposed amendment to establish a Gaming Appeals Committee.

**CLAUSE 71**

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

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

**Justification:**

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

**CLAUSE 72**

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

**Justification:**

To correct a typographical error.

**CLAUSE 79**

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

**Justification:**

To correct a typographical error and differentiate ‘prize’ from ‘price’

**CLAUSE 80**

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

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

**Justification:**



To correct typographical errors.

#### **CLAUSE 88**

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

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

- (a) forty per centum to the holders of winning tickets;
- (b) twenty per centum to licensee to meet its administrative costs;
- (c) thirty per centum to the Fund established under section 89 for distribution to different good causes related to sports; and
- (d) ten per centum to agents and retailers of the Lottery.”

#### **Justification:**

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

#### **CLAUSE 89**

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

- (i) by renumbering the existing subclauses (3) and (2) as (2) and (3);
- (ii) in subclause (2) in paragraph (d) by deleting the word “Board” appearing at the end of the paragraph.

#### **Justification:**

To correct typographical errors.

#### **CLAUSE 91**

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

- (i) in paragraph (a) by deleting the words “nominated by the Cabinet Secretary and”;
- (ii) by deleting paragraph (d) and substituting therefor the following new paragraph—

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

#### **Justification:**

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

#### **CLAUSE 94**

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

#### **Justification:**

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

#### **CLAUSE 101**

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

#### **Justification:**

In order to bring clarity to the provision.

#### **CLAUSE 103**

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

#### **Justification:**

To correct typographical error

#### **CLAUSE 110**

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

- (a) by deleting the words “Betting and” appearing at the beginning of the subclause;
- (b) by deleting paragraph (a) and substituting therefor the following new paragraph—

“ (a) be located in a licensed casino only;”

#### **Justification:**

- (i) Betting machines are covered under subclause (2).
- (ii) To correct typographical errors.

#### **CLAUSE 124**

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

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

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

- (b) in paragraph (c) by inserting the words “fees” immediately after the words “such” appearing at the beginning of the paragraph;
- (c) in paragraph (e) by deleting the word “lend” appearing immediately after the words “donated or” and substituting therefor the word “lent”.

**Justification:**

To include other sources of funds applicable to the Authority.

**CLAUSE 134**

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

**Justification:**

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

**CLAUSE 140**

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

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

**Justification:**

In order to cover all gaming activities.

**CLAUSE 144**

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

**Justification:**

To correct a typographical error.

**CLAUSE 146**

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

**Justification:**

To correct a clerical error.

**CLAUSE 154**

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

**Justification:**

In order to discourage malpractice in gaming activities.

**CLAUSE 155**

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

**Justification:**

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

**CLAUSE 157**

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

**Justification:**

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

**NEW CLAUSE**

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

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

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

#### **CLAUSE 158**

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

- (a) numbering the existing subclause (1) by inserting the expression “(1)”;
- (b) renumbering the existing subclause “(3)” as “(2)”
- (c) inserting the following new subclause immediately after subclause (3)—
  - (3) A person shall not—
    - (a) hold himself out by advertisement, promotion, notice or public placard as willing or with the aim of enticing members of the public to participate in gaming;
    - (b) display any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place.

#### **CLAUSE 159**

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

- |                          |                                                                                                                                                                                            |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Gaming advertisement fee | 159. (1) There shall be a fee to be known as the gaming advertisement fee chargeable at the rate of thirty five per centum of the total advertisement cost for every gaming advertisement. |
|                          | (2) The fee prescribed under subsection (1) shall be paid to the Authority immediately upon approval of any advertisement.                                                                 |

#### **CLAUSE 160**

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

#### **Justification:**

To correct a clerical error.

#### **CLAUSE 162**

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

- (a) in subclause (2) by inserting the following new paragraph immediately after the paragraph (g)—
  - “(ga) fees or levies;”
- (b) in subclause (3) in paragraph (c) inserting the words “Interpretation and” immediately after the words “set out in the”.

#### **Justification:**

- (i) It has been proposed that one of the sources of funds for the Authority is fees and levies. The amendment further provides for this;
- (ii) To correct a clerical error.

### **PART XIII**

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

### **PART XIII—DISPUTE RESOLUTION MECHANISM**

Gaming Appeals Committee.

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

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

- (a) a representative of the Principal Secretary for the time being responsible for matters relating to gaming;
- (b) a representative of the Attorney-General;
- (c) a representative of the Inspector General of Police;
- (d) a representative of the Consumer Protection Advisory Committee;
- (e) a representative from Association of Gaming Operators;
- (f) three other persons with knowledge and experience in gaming matters

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

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

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

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

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

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

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

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

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

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

**Justification:**

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

**SECOND SCHEDULE**

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

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

**Licensing fees**

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



**Justification:**

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

**THIRD SCHEDULE**

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

“(f) Tax compliance certificate;”

**FOURTH SCHEDULE**

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

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

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

gaming including  
online bookmaker,  
online casino and  
online lottery

**Justification:**

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

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

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

**THE CHAIRPERSON**

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