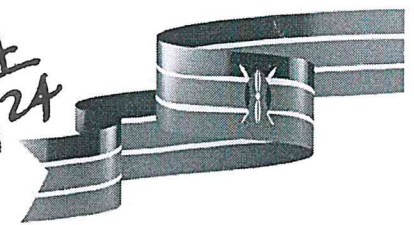



*Approved*  
*SNA*  
*3/12/24*



**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE**

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

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

**CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI**

**DECEMBER, 2024**

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## CHAIRPERSON'S FOREWORD

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

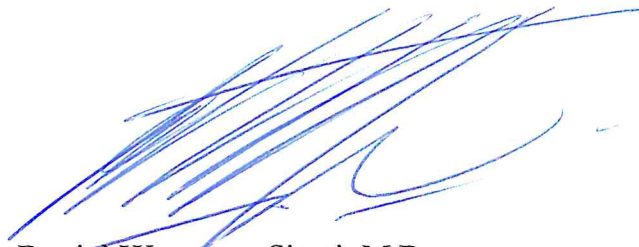
The National Assembly considered the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and passed it with amendments on 6<sup>th</sup> December 2023 and forwarded the same to the Senate for concurrence pursuant to the provisions of Standing Order 144 and Article 110 of the Constitution.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

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

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

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

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

## CHAPTER ONE

### 1.0 PREFACE

#### 1.1 Establishment of the Committee

The Departmental Committee on Sports and Culture is one of the twenty (20) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:

*To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*

*To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*

*On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*

***To study and review all the legislation referred to it;***

*To study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

*To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*

*To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);*

*To examine treaties, agreements and conventions;*

*To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

*To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

*To examine any questions raised by Members on a matter within its mandate.*

#### Mandate of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider:-

Sports;

Culture;

Language;

Creative Economy including promotion of music, arts, film promotion and development;

National Heritage;

Betting and Lotteries.

In executing its mandate, the Committee oversees the following Ministries/Departments:

Ministry of Youth Affairs, Creative Economy and Sports; and

Ministry of Gender, Culture, the Arts & Heritage.

### 1.3 Committee Membership

The Departmental Committee on Sports and Culture was constituted by the House on 27<sup>th</sup> October 2022 and comprises of the following members:

<b>Chairperson</b>		
<b>Hon. Daniel Wanyama Sitati, MP</b>		
<b>Webuye West Constituency</b>		
<b><u>UDA Party</u></b>		
<b>Vice-Chairperson</b>		
<b>Hon. James Githua Wamacukuru, MP</b>		
<b>Kabete Constituency</b>		
<b><u>UDA Party</u></b>		
<b><u>Members</u></b>		
<b>Hon. Naomi Jillo Waqo, MP</b>		<b>Hon. Samuel Gonzi Rai, MP</b>
<b>Marsabit County</b>		<b>Kinango Constituency</b>
<b><u>UDA Party</u></b>		<b><u>PAA Party</u></b>
<b>Hon. Mary Emaase Otucho, MP</b>		<b>Hon. Charles Ngusya Nguna, MP</b>
<b>Teso South Constituency</b>		<b>Mwingi West Constituency</b>
<b><u>UDA Party</u></b>		<b><u>WDM –K Party</u></b>
<b>Hon. Stephen Mutinda Mule, MP</b>		<b>Hon. Janet Jepkemboi Sitienei, MP</b>
<b>Matungulu Constituency</b>		<b>Turbo Constituency</b>
<b><u>WDM-K Party</u></b>		<b><u>UDA Party</u></b>
<b>Hon. Chege Njuguna, MP</b>		<b>Hon. Richard Kipkemoi Yegon, MP</b>
<b>Kandara Constituency</b>		<b>Bomet East Constituency</b>
<b><u>UDA Party</u></b>		<b><u>UDA Party</u></b>
<b>Hon. Catherine Nakhabi Omanyoo, MP</b>		<b>Hon. Caroli Omondi, MP</b>
<b>Busia County</b>		<b>Suba South Constituency</b>
<b><u>ODM Party</u></b>		<b><u>ODM Party</u></b>
<b>Hon. Paul Ekwom Nabuin, MP</b>		<b>Hon. Robert Ngui Basil, MP</b>
<b>Turkana North Constituency</b>		<b>Yatta Constituency</b>
<b><u>ODM Party</u></b>		<b><u>WDM-K Party</u></b>
<b>Hon. BSP. (EM) Dr. Jackson Kipkemoi Kosgei, MP</b>		
<b>Nominated</b>		
<b><u>UDA Party</u></b>		

## **Committee Secretariat**

The Committee is facilitated by the following secretariat:

Mr. Adan Gindicha  
**Principal Clerk Assistant II/Head of Secretariat**

Ms Mary Kinyunye  
**Clerk Assistant III**

Mr. Vitus Owino  
**Research Officer II**

Ms. Christine Odhiambo  
**Senior Legal Counsel**

Mr. Wilson Mwangi  
**Fiscal Analyst III**

Mr. Moses Omoit  
**Audio Officer III**

Mr. Peter Atsiaya  
**Media Relations Officer III**

Mr. Said Babo Wako  
**Assistant Serjeant-At-Arms**

## PART II

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

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

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

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



### PART III

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

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

##### Clause 5

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

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

##### Clause 7

Clause 7 amended by–

- (a) deleting paragraph (d) and substituting therefor the following new paragraph–
  - (d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that–
    - (i) one shall represent persons with disabilities;
    - (ii) one shall represent the youth; and
    - (iii) one shall represent faith-based organisations;
- (b) deleting paragraph (e) and substituting therefor the following new paragraph–  
three persons nominated by the Council of Governors and appointed by the Cabinet Secretary;  
and
- (c) deleting paragraph (f).

##### Clause 10

Clause 10 amended–

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

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

#### **Clause 11**

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

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

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

#### **Clause 28**

Clause 28 amended–

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

(b) by deleting subclause (4).

#### **Clause 31**

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

#### **New Clause 57A**

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

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

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

#### **New Clause 63A**

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

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

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

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

#### **Clause 64**



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

#### **New Clause 82A**

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

Prize competition tax.           82A. (1) There shall be a tax to be known as prize competition tax chargeable on the cost of entry to a competition which is premium rated at the rate of fifteen per cent of the total gross turnover.

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

#### **Clause 87**

Clause 87 amended–

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

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

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

#### **New Clause 117A**

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

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

#### **Clause 119**

Clause 119 amended in subclause (2) by–

(a) deleting paragraph (d); and

(b) deleting paragraph (g).

#### **Clause 123**

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

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

paragraph—  
7. The Gambling Control Act.

- Cap. 470. (3) The Income Tax Act is amended—  
(a) by deleting section 10(1)(g); and  
(b) in the Third Schedule, Head B, by deleting—  
(i) paragraph 3(i); and  
(ii) paragraph 5(i).
- Cap. 472. (4) The Excise Duty Act is amended in Part II of the First Schedule by deleting paragraphs 4A, 4B, 4C and 4D.
- No. 20 of 2023. (5) The National Lottery Act is amended by inserting the following new clause immediately after clause 52—  
Regulations. 53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.  
  
(2) Without prejudice to the foregoing, regulations made under this section may provide for—  
(a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;  
(b) the conduct of a national lottery;  
(c) apportionment of the proceeds of the national lottery;  
(d) procedure for the sale of tickets, prizes of tickets and payment of prizes;  
(e) announcement and protection of winners of the national lottery;  
(f) the circumstances under which the national lottery may be advertised; and  
(g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

### Third Schedule

The Third Schedule amended in—

- (a) paragraph (b) by deleting the amount “200,000,000” and substituting therefor the amount “20,000,000”; and  
(b) paragraph (c) by deleting the amount “200,000,000” and substituting therefor the amount “20,000,000”.

## PART IV

### 4.0 COMMITTEE OBSERVATIONS

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

#### Senate Amendment to Clause 5

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

#### Analysis:

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

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

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

#### Committee Observation

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

#### Senate Amendment to Clause 7

The amendment seeks to—

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

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

Analysis:

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

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

**Committee Observation**

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

Senate Amendment to Clause 10

The amendment seeks to–

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

Analysis:

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

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

**Committee Observation**

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

Senate Amendment to Clause 11

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

Analysis:

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

**Committee Observation**

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

Senate Amendment to Clause 28

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

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

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

Analysis:

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

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

**Committee Observation**

**The Senate amendment therefore goes against best practice.**

Senate Amendment to Clause 31

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

Analysis:



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

#### New Clause 57A

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

#### Analysis:

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

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

#### **Committee Observation**

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

#### New Clause 63A

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

#### Analysis:

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

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

#### **Committee Observation**

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

#### Senate Amendment to Clause 64

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

#### Analysis:

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

### Committee Observation

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

#### Senate Amendment to Clause 66

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

#### Analysis:

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

#### New Clause 66A

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

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

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

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

#### Senate Amendment to Clause 69

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

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

#### Analysis:

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

### Committee Observation

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

#### Senate Amendment to Clause 71

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

### Committee Observation

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

#### Senate Amendment to Clause 79

The amendment seeks to—

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

#### Analysis:

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

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

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

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

#### New Clause 82A

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

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

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

### **Committee Observation**

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

#### Senate Amendment to Clause 87

The amendment seeks to—

- (a) remove the restriction that a gambling advertisement shall not be broadcasted on television between 6am and 10pm unless it is done in a live sporting event; and
- (b) reduce the penalty for the offence of contravening the provisions on advertisement of gambling, from 20 million shillings to 1 million shillings, and imprisonment from 20 years to 1 year.

#### Analysis:

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

### **Committee Observation**

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

#### New Clause 117A

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

#### Analysis:

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

Further, the Committee may consider amending clause 11(2) to provide operating hours as one of the matters in respect of which the Cabinet Secretary shall issue gambling operating guidelines.

#### Senate Amendment to Clause 119

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

### Analysis:

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

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

### Committee Observation

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

#### Senate Amendment to Clause 123

The amendment seeks to—

- (a) amend the Kenya Revenue Authority Act, Cap. 469 to include the Gambling Control Act (once enacted) as one of the written laws relating to revenue;
- (b) amend the Income Tax Act, Cap. 470—
  - (i) to exclude winnings from the definition of an income;
  - (ii) to remove the non-resident tax rate in respect of winnings (20%);
  - (iii) to remove the resident withholding tax rate in respect of winnings (20%);
- (c) amend the Excise Duty Act, Cap. 472 to remove the excise duty in respect of betting, gaming, prize competition and lottery (12.5%); and
- (d) amend the National Lottery Act, No. 20 of 2023 to introduce a provision on regulations.

### Analysis:

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

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

The National Lottery Act, No. 20 of 2023 is an Act of Parliament providing for the establishment of a national lottery at the national government level.

Article 109(3) of the Constitution provides that a Bill not concerning county governments is considered only in the National Assembly. This therefore means that amendments to an Act concerning the national government may only be introduced in the National Assembly.

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

### Senate Amendment to the Third Schedule

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

#### Analysis:

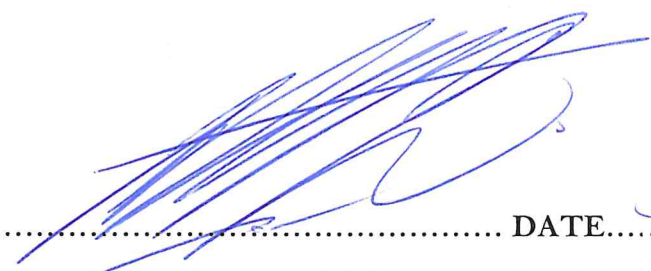
The Committee noted that both online gambling and the national lottery would cover a wider scope of players as compared to physical gambling premises, therefore there is need to ensure that the security for online gambling and the national lottery is higher than that required for other forms of gambling.

PART V


COMMITTEE RECOMMENDATIONS

Having considered the Senate amendments to the Gambling Control Bill 2023 (National Assembly Bill No. 70 of 2023), the Committee recommends that the House **REJECTS** the Senate amendments to-

- (a) Clause 5;
- (b) Clause 7;
- (c) Clause 10;
- (d) Clause 11;
- (e) Clause 28;
- (f) Clause 31;
- (g) New Clause 57A;
- (h) New Clause 63A;
- (i) Clause 64;
- (j) Clause 66;
- (k) New Clause 66A;
- (l) Clause 69;
- (m) Clause 71;
- (n) Clause 79;
- (o) New Clause 82A;
- (p) Clause 87;
- (q) New Clause 117A;
- (r) Clause 119;
- (s) Clause 123; and
- (t) Third Schedule.

SIGNED.......... DATE 3/12/2024

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

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







THE NATIONAL ASSEMBLY  
13<sup>TH</sup> PARLIAMENT - THIRD SESSION - 2024  
DEPARTMENTAL COMMITTEE ON SPORTS AND CULTURE  
REPORT ADOPTION SCHEDULE

DATE: 30/11/2024 VENUE: HILTON GARDEN INN.

REPORT ON COMMITTEE CONSIDERATION  
TO THE SENATE AMENDMENTS TO THE GAMBLING  
ACT, 2022

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

