

feeling bullish

While Kenya faces turbulent times the government is looking to change a decade's old gambling law to boost gambling revenue and protect players from gambling-related harm. Over the past five years, efforts have been made to ensure regulatory compliance and increase tax contributions from operators in order to increase government revenue. However, higher taxes especially on players have forced leading players out of the market.

The Kenyan government is now seeking to put in place a new law which will radically change how gambling is regulated. If approved the new bill will herald in a major transition and could revolutionise the industry.

POPULATION

Kenya has experienced dramatic population growth since the mid-20th century as a result of its high birth rate and its declining mortality rate. The country has six times the people it did at independence in 1963. Since 1999, there have been approximately one million additional people each year. Kenya's population currently stands at about 50 million people and is projected to grow to 57.8 million by 2030, according to the Kenya National Bureau of Statistics (KNBS). The youth constitute 29 per cent of the population, with their numbers growing much faster from 3.2 million in 1989 to 13 million in 2019 with this number expected to hit 19 million by 2035. It is projected that the country will have 70.2 million people by 2045.

According to the UN World Cities Report 2022 Nairobi, Kenya's capital, experienced exponential growth from 290,000 residents in 1960 to an estimated of 5 million in 2023. Over 60 per cent of Nairobi's population resides in informal settlements, a substantial increase from 33 per cent four decades ago. By



Kenya's history of disputed elections in the past has led to violence or the whole process election being cancelled. Following the 2007 vote, at least 1,200 people were killed and 600,000 fled their homes following claims of a stolen election. William Ruto won the race to be the fifth president of Kenya in August 2022, narrowly beating his rival, Raila Odinga in what Commonwealth observers described as a largely peaceful and transparent election.

2050, more than half of Kenya's population will be urban.

Kenya's urban areas are home to a third of the country's total population. Of those in urban areas, 70 per cent live in informal settlements marked by a lack of basic infrastructure, according to the UN. This rapid growth over the past decade has seen the poor urban population increase both in absolute numbers and as a share of the total living in slums and informal settlements spread across the country.

POLITICS

Kenya's history of disputed elections in the past has led to violence or the whole process election being cancelled. Following the 2007 vote, at least 1,200 people were killed and 600,000 fled their homes following claims of a stolen election. William Ruto won the race to be the fifth president of Kenya in August 2022, narrowly beating his rival, Raila Odinga in what Commonwealth observers described as a largely peaceful and transparent election.

Ruto ran as an outsider focusing heavily on winning over the youth vote. Although one of the richest men in the country and having served as deputy president for almost a decade, Ruto cleverly portrayed himself as a man of the people, and as an underdog battling the elite. He is said to have bought his first pair of shoes at the age of 15. Before that, he sold chickens barefoot on the roadsides of the Rift Valley. Today he owns a poultry plant, a luxury hotel and a 2,500-acre farm.

Ruto made his electoral pitch to what he labelled as the "hustler nation" – hard-working and ambitious young people who deserve a better chance. He also appealed to the poor grappling with soaring food and fuel prices promising a "bottom-up approach" to the economy, and cast himself as an opponent of the dynastic "old elite" responsible for Kenya's economic problems. Crucially Ruto promised to lower the cost of living if he won the elections.

Both sides hurled accusations of corruption during a deeply personal, acrimonious campaign. In the end it was a close result. Ruto was sworn in a week after the Supreme Court rejected a challenge by his defeated opponent who had accused Ruto of cheating.

ECONOMY

Kenya reached lower-middle income status in 2014, thanks to several market-oriented reforms that, together with favourable regional and global conditions, propelled the economy forward. Indeed Kenya was one of the fastest growing economies in Africa, with an annual average growth of 5.9 per cent between 2010 and 2018.

Due to the strategic importance of its coastal city Mombasa

Kenya Market Report

Kenya serves as the gateway to the East African market and is the economic, commercial, financial, and logistics hub of the region. In addition Kenya has the strongest industrial base in the East Africa region.

Kenya has built strong bilateral and multilateral trade relationships and is a member of the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), and the Africa Continental Free Trade Area (AfCFTA). In July 2022, the United States and Kenya announced their intention to negotiate a Strategic Trade and Investment Partnership (STIP) and are hoping to complete negotiations by the end of 2024.

The services sector is increasingly becoming an engine of economic growth. In the decade to 2021, services activity drove about 70 per cent of the total increase in economic output and, of the 10 fastest-growing sectors from 2012 to 2021, all except construction were services. However the agricultural sector is still the backbone of the economy, contributing approximately 33 per cent of Kenya's Gross Domestic Product (GDP). The agriculture sector employs more than 40 per cent of the total population and 70 per cent of the rural population although agricultural productivity has stagnated somewhat in recent years.

Unfortunately, Kenya continues to face significant challenges which have been exacerbated by COVID-19, as well as corruption and economic inequality.

Despite these issues in 2021 the economy staged a strong recovery after COVID supported by rebounds in industry and, especially, services, growing at 7.5 per cent. Kenya's GDP is projected to grow between 5.3 and 5.5 per cent in 2024, driven by growth in the services sector and household consumption. In addition Kenya's real GDP expanded at an estimated 5.4 per cent in 2023 from 4.8 per cent in 2022 while the agricultural sector experienced a stronger than expected rebound after two years of drought.

However, according to the World Bank a number of key development challenges still include poverty, inequality and youth unemployment. Poor living conditions and the high cost of living has led to dissatisfaction with the government especially amongst younger voters. Overall inflation has remained high as well. The young have become increasingly angry with the lack of opportunities. Although the overall unemployment in Kenya is at 12.7 per cent, the youth (15-34 year olds), who form 35 per cent of the Kenyan population, have the highest unemployment rate of 67 per cent.

Capital:
Nairobi

Total Area:
580,367sq.km

Population:
58,246,378

Median age:
21.2 years

Religions:
Christian 85.5 per cent
(Protestant 33.4 per cent,
Catholic 20.6 per cent,
Evangelical 20.4 per cent, African
Instituted Churches 7 per cent,
other Christian 4.1 per cent),
Muslim 10.9 per cent, other 1.8
per cent, none 1.6 per cent, don't
know/no answer 0.2 per cent
(2019 est.)

Languages:
English (official), Kiswahili
(official), numerous indigenous
languages

Currency:
The Kenyan shilling

Government type:
Presidential Republic

Chief of State:
President William Ruto (since 13
September 2022)

Head of Government:
President William Ruto (since 13
September 2022)

Elections:
President and Deputy President
directly elected on the same
ballot by majority vote nationwide
and at least 25 per cent of the
votes cast in at least 24 of the 47
counties; failure to meet these
thresholds requires a runoff
between the top two candidates;
election last held on 9 August
2022 (next to be held on 10
August 2027)

Unemployment:
5.6%

Tourism:
2.3 million

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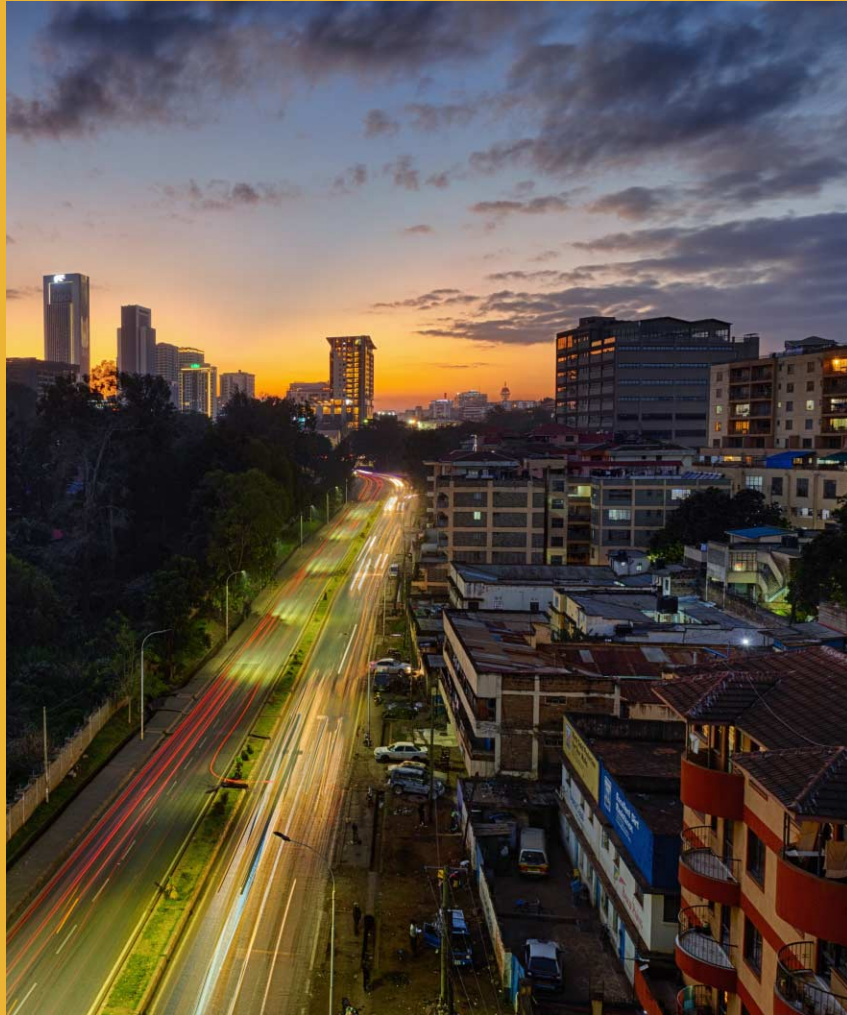
PROTESTS

Ruto came to power in 2022 promising to improve conditions and create opportunities for the young. However a finance bill designed to reduce Kenya's debt and generate tax revenue in order to eliminate the country's national debt of nearly \$80bn sparked mass protests in June when demonstrators first took to the streets to rally against proposed tax hikes. The public debt makes up about 70 per cent of Kenya's gross domestic product.

Ruto argued that the measures, would raise \$2.7bn in additional taxes, and would reduce Kenya's reliance on borrowing to fund its budget. Ruto proposed tax hikes on various goods and services including a 16 per cent VAT on bread and 25 per cent on cooking oil as well as tax hikes on mobile money transfers and a new annual 2.5 per cent tax on cars. Other taxes included 16 per cent VAT on some financial services and foreign exchange transactions. Income from the operation of digital marketplaces and digital content would have also been taxed under the bill.

The movement #RejectFinanceBill2024 on Instagram, TikTok, and X helped to mobilise a series of initially peaceful protests in Nairobi in June. A month later the youth-led protests turned violent. Thousands of people gathered in Nairobi with some storming into parliament and other offices of government institutions and setting parts of them on fire. Protests also took place in other cities and towns across the country. Kenyan police fired live rounds at hundreds of demonstrators trying to storm Parliament House, resulting in multiple fatalities and injuries.

The Kenya Human Rights Commission reported that 23 individuals lost their lives nationwide during the violence, which intensified following the passage of the disputed bill after its third and final reading. Ruto eventually withdrew the bill after the protests. Ruto said that he had worked hard "to pull Kenya out of a debt trap" and that huge consequences lie ahead.



TOURISM

Abundant wildlife and scenic landscapes make Kenya a major safari destination. Kenya boasts 60 national parks and game reserves, historical mosques and colonial-era forts. Other destinations include Mount Kenya, the Great Rift Valley; the tea plantations at Kericho; the coffee plantations at Thika; a view of Mt. Kilimanjaro across the border into Tanzania and beaches along the Swahili Coast. The sector has been growing quickly as a result of various factors such as diversification of tourist markets and continued government support, coupled with successful tourism promotion and political stability.

The Kenya Tourism Board (KTB) is a state corporation established

and regulated under the Tourism Act 2011. Its mandate is to develop, implement and co-ordinate a National Tourism marketing strategy. Kenya's tourism sector is overseen by the Ministry of Tourism and Wildlife. The KTB is pursuing initiatives to increase the number of international tourist arrivals into the country from 1.9 to 3 million by the end of the year.

Tourism is a crucial component of Kenya's economy, contributing significantly to GDP and employment. Prior to COVID, the sector contributed nearly 10 per cent of the country's GDP. In 2015 Kenya welcomed 1,459,500 international visitors, generating tourism receipts of Ksh 84.6 billion. By 2019, these figures had risen significantly, with international visitor arrivals reaching

2,048,834 and receipts increasing to Ksh 163.6 billion. It was anticipated that 2020 would build on this growth, with a projected 7.5 per cent increase in international visitor arrivals. However, the onset of COVID led to the closure of tourism establishments in Kenya and the subsequent layoff of workers.

The New Tourism Strategy for Kenya 2021–2025 is Kenya's response in reimagining the future of the tourism sector after COVID. The strategy is founded on four strategic shifts:

- ◆ Kenya becoming an all-year-round tourism destination
- ◆ Creating new and more diverse customer experiences and products
- ◆ Building a refreshed brand image repositioning Kenya as an upmarket, sustainable destination
- ◆ Developing enablers including unlocking alternative and innovative sources of funding and optimising the adoption of digital innovations and new technologies by the sector.

Kenya recorded 1.96 million tourist arrivals in 2023 compared to 1.48 million visitors in 2022, an increase of 31.5 per cent according to figures contained in Kenya Tourism Research Institute's 6th Annual Tourism Sector Performance Report. According to the report, Kenya earned KSh 353 billion compared to KSh 268.2 billion earned in 2022.

Kenya is forecast to receive 2,381,371 tourists in 2024, exceeding the pre-COVID levels. The report showed that Kenya's top tourism source markets in 2023 were the USA with 265,310 tourist arrivals, Uganda (201,623), Tanzania (157,818), the UK (156,700) and India (94,273).

MOBILE MONEY

Kenya has been a leading pioneer in mobile-money transactions largely due to government efforts to promote financial inclusion. Safaricom's M-Pesa launched in 2007 and was booming by 2012, with rapid adoption and growth. Today it is Africa's most successful mobile money service and the region's largest fintech platform. Kenya is the world's second-leading mobile money economy after China. Kenya also boasts other major providers like Airtel Money and Telekom Cash. However Safaricom controls around 96 per cent of mobile money transactions.

The National Economic Survey 2024 published in January 2024 showed that 600,000 Kenyans were abandoning the use of mobile money platforms due to extra charges imposed on transactions with the number of subscribers on such platforms declining from 38.6 million to 38 million. Users also faced increases in taxes. The tax on mobile airtime and data rates would have increased to 20 per cent from 15 per cent under the Finance bill but these were scrapped.

Since then there is evidence to suggest that the number of mobile money subscribers is growing. This surge is attributed to a policy change that removed the withdrawal codes previously required for Airtel Money customers. Before this change, Airtel

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Sports betting has become an increasingly significant revenue stream for the government. During the 2022/23 financial year, which concluded on June 30th, the betting and gaming sector in Kenya contributed KSh 6.64 billion in excise duty to the Kenya Revenue Authority (KRA), reflecting a 30 per cent increase compared to the previous financial year of 2021/22.

Money users had to withdraw cash within seven days of receiving it from M-Pesa, or the money would be returned to the senders.

According to a report released by the Communications Authority of Kenya the third-quarter sector statistics report for the financial year 2023/2024 showed that the number of subscribers on mobile money platforms had grown to 38.7 million, achieving a penetration rate of 75 per cent.

HOW GAMBLING IS REGULATED IN KENYA

The Betting Control and Licensing Board (BCLB) was established by the Betting Lotteries and Gaming Act Cap 131 Laws of Kenya in 1966. The Act provides for the control and licensing of betting and gaming premises and for the imposition and recovery of taxes, for the authorisation of lotteries and prize competition as well as the eradication of illegal gambling. The document outlines the legal framework governing the licensing, regulation, and control of gaming and betting activities in Kenya. It provides detailed guidelines on the responsibilities and requirements for gaming operators, ensuring compliance with ethical standards and promoting fair play.

Through the BCLB, the National Government issues a 12-month licence that holds from July 1st to June 30th of the following year, unless explicitly changed by the BCLB. This licence places specific terms and obligations upon the licensee or applicant, which must be followed throughout its validity period. Failing to meet these specified conditions or other regulatory requirements can lead to a review, suspension or complete revocation of the gaming licence.

CASINOS

In 2018 the government began a crackdown on illegal street slots and the government banned the importation of lotto machines (as they are known locally). These are cheap coin-slot machines which are mainly imported from China. The Minister of the Interior Fred Matiang'i directed regional and

county security teams to seize unlicensed gambling machines and ordered county and regional commissioners to raid premises and confiscate these machines in areas under their command. He also warned that foreigners involved in illegal betting would be arrested, charged and deported.

There are around 30 casinos nationwide (with around 1,800 slots) mostly as part of hotels with as many as many as 23 casinos in Nairobi. Only seven counties are licensed to house casinos and other gambling operations and of the 30 casinos around 24 are foreign owned. Seven are run by an Italian family who own the Babylon casino in Nairobi and casino Malindi located in the coastal resort of Malindi as well as bars and restaurants. Korean, Chinese, Ukrainian and other nationals operate the rest.

In February 2022, the government of Nairobi, considered new legislative proposals that would have limited gambling to five-star hotels with casinos. The Nairobi City County Betting Lotteries, Gaming Amendment Bill (2021) aimed to restrict access to gambling to mitigate youth involvement by confining activities to upscale venues catering to wealthier patrons. Gaming companies would also have had to use cashless betting in the county to prevent minors from engaging in gambling activities. The bill would have also prohibited broadcasting audio or video programming that promoted gambling, lotteries, and gaming ads before watershed hours.

However the BCLB threatened to sue Nairobi County if the new bill was passed as the BCLB argued that gaming is a national issue and that other counties might follow suit and the bill was withdrawn in 2023.

SPORTS BETTING AND ONLINE GAMBLING

Sports betting has been allowed in Kenya since 1966 when parliament passed the Betting Lotteries and Gaming Act. The sports betting sector is the most prominent within the gambling industry. Sanctioned online sports betting was first offered in



Kenya in 2013. The gambling board provides licenses to online casinos and sports betting sites. More than 80 per cent of gambling activity in Kenya is online according to Peter Mbugi Director of the BCLB.

BCLB data shows that Kenyan gamblers spend an average of KSh 2,500 (\$19.38) per month on betting, with 80 per cent of these players earning less than KSh 30,000 (\$232.56) monthly.

Sports betting has become an increasingly significant revenue stream for the government. During the 2022/23 financial year, which concluded on June 30th, the betting and gaming sector in Kenya contributed KSh 6.64 billion in excise duty to the Kenya Revenue Authority (KRA), reflecting a 30 per cent increase compared to the previous financial year of 2021/22. Peter Mbugi when appearing before a National Assembly Committee in August 2024 revealed that the BCLB raised revenue through the issuance of licenses and permits totalling over KSh.894 million in the last five years. It further facilitated the recovery and

collection of taxes in the industry totalling to KSh.88.4 billion over the same period he said.

Additionally, the KRA has initiated a tax integration program, requiring licensed betting platforms to connect to a real-time collection system that enforces both excise taxes and other applicable taxes within the industry. Currently, only 97 of the 180 licensed operators have integrated their systems with the KRA for real-time oversight.

TAXATION

Gambling amongst Kenyan youth is particularly high. According to reports in local media Kenya has one of the highest rates of youthful gamblers in Africa, with 76 per cent of the country's gamblers being under the age of 35.

While the online sports betting sector has boomed the Kenyan government, through the Treasury, has been increasing efforts to regulate the betting industry more stringently. These efforts

The government is looking at making major changes to the way the industry is regulated with a new bill now under consideration. The initiative to draft a new law began in 2019. The Kenya Gambling Control Bill was published on 31 October 2023. The primary focus of the proposed legislation is safeguarding gamblers, implementing strict measures to combat illegal gambling and underage gambling. Other key elements contained in the bill include license issuance from one year to 36 months.



include higher taxation which the government argues is a way of discouraging younger players from taking part. The tax burden extends to the gamblers themselves, who pay an excise tax of 12.5 per cent on every betting stake and a 20 per cent withholding tax on any winnings. These tax rates are among the highest in the region. Betting companies in Kenya are also required to remit 15 per cent of their gross gaming revenue to the Kenya Revenue Authority in addition to other corporation taxes.

The tax rate has been a contentious topic. In 2019, Kenya attempted to raise the excise tax from 10 per cent to 20 per cent. However, this decision was reversed by the Parliamentary Finance Committee in 2020, which found that the increase had led to a decrease in tax revenue from the industry. The committee subsequently recommended completely eliminating the excise tax, a proposal that was approved and enacted into law by President Uhuru Kenyatta.

In 2021, the government suggested implementing a 20 per cent tax on betting stakes, but ultimately decided on a 7.5 per cent tax. This rate remained in effect until July 2023, when it was increased to the current rate of 12.5 per cent. The recent Finance Bill of 2024 had proposed to increase the charges to 20 per cent again. However, this proposal was ultimately rejected, leaving the tax rate at the current 12.5 per cent.

THE TAX RATE AND OPERATORS

Due to the high tax rate the government has been embroiled in a number of disputes with online sports betting operators over the years most notably with leading Kenyan sports betting firm SportPesa. In September 2019 SportPesa said it would halt all operations in Kenya after the country's parliament agreed to a 20 per cent tax on betting stakes for the 2019–20 fiscal year.

However the company has returned to the market after striking a deal with regulators. SportPesa has continued to sign sponsorship deals with clubs and leagues. In September 2024

SportPesa unveiled a Ksh 75 million sponsorship agreement with Football Kenya Federation Premier League side Shabana FC. In addition in July 2024 it announced its partnership with the Kenya Rugby Union for the 2024 National Sevens Circuit.

However, several betting companies have pointed to “punitive taxation” as a significant factor in their decision to cease operations. For instance, Betsafe shut down in May 2024, citing the heavy tax burden that has made it increasingly challenging to remain profitable. Other operators including Betin and Betway which have also left the market.

THE NEW GAMBLING BILL

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The bill also proposes the creation of the Gambling Regulatory Authority to take over the functions of the BCLB, with the goal of improving the oversight of gambling activities. The functions of the new authority have been significantly broadened as well. The new authority would be responsible for establishing guidelines and regulations for gambling operations, as well as developing and overseeing policies at both the national and county levels. The bill assigns the national government the responsibilities of regulation, policy formulation, and enforcement. In contrast, the county governments are designated with localised administrative duties, including the issuance of business permits for gambling establishments, monitoring and evaluation, as well as managing complaints and arbitration processes.

The new authority will advise county governments on regulating

gambling activities. Furthermore, it will carry out studies to evaluate the socio-economic effects of gambling. It is also tasked with maintaining a registry of gambling machines and devices, performing security assessments, and implementing a comprehensive electronic monitoring system for regulatory compliance.

The proposed legislation also emphasises the importance of local ownership and financial accountability in the gambling sector, establishing clear guidelines to promote economic benefits for Kenya while combating illegal financial activities. A corporate body cannot obtain a license unless at least 30 per cent of its shares are held by Kenyan citizens. The corporate body is also required to maintain an account with an authorised financial institution registered in Kenya into which all monies relating to the proposed betting and gaming activities are paid.

ONLINE GAMBLING UNDER THE NEW BILL

The new bill covers online casinos and online gambling in some detail. Crucially foreign gambling operators may only receive a license if they are registered in Kenya and have a physical address in the country, among other requirements.

Individuals wishing to operate, sell, or promote online gambling in Kenya can apply for an online bookmaker's license, an online lottery license and an online casino license. Licensees must conduct online gambling activities under an approved gambling control system, which includes measures to protect against underage gambling and measures to address gambling vulnerability.

Under new proposals the authority is also tasked with establishing a framework for the real-time monitoring of casinos and online gambling activities, accessible to the Communications Authority of Kenya and relevant government agencies.



CASINOS, SLOT MACHINES, AND OTHER FORMS OF GAMBLING UNDER THE NEW BILL

The Cabinet Secretary, in consultation with the authority and the Council of Governors, may create regulations defining the number of casinos, amusement machines, slot machines, and other forms of gambling permitted within the counties. In formulating these regulations the Cabinet Secretary will need to take a number of factors into account.

These include:

- ◆ The current number and geographic distribution of existing licensed casinos, slot machines, and other forms of gambling
- ◆ The presence of tourists in a county
- ◆ The cultural and religious makeup of the residents in each county
- ◆ The incidence and social effects of compulsive and addictive gambling.

CONTROL AND LICENSING OF BETTING

The Authority is responsible for regulating and issuing licenses for bookmaking activities. It can grant various types of licenses, including:

- ◆ On-the-Course License - Authorises bookmakers to operate at authorised race meetings
- ◆ Off-the-Course License - Allows bookmakers to conduct business at designated betting premises
- ◆ Combined License - Permits both on-course and off-course bookmaking
- ◆ Online Bookmaker's License - For conducting bookmaking activities online
- ◆ Licenses for totalisators.

In May 2024 the bill was blocked by the senate. Key contested amendments in the Bill include the minimum capital deposit by gambling operators at Ksh.200 million up from Ksh.20 million. Nairobi Senator Edwin Sifuna expressed concern that a requirement of Ksh. 200 million would alienate local investors from entering the gambling market, allowing only a select few to dominate it.

THE BILL'S PROGRESS

The bill went through the first reading in the National Assembly on 8 November 2023, and was then referred to the Departmental Committee on Sports and Culture for consideration. The Committee released its report later that month and it was sent back to the National Assembly where it was passed in December. The Bill was then forwarded to the Senate for further consideration.

The bill initially sought to introduce a monthly levy which would not exceed 1 per cent of the monthly gross gambling revenue. On the taxation side the bill stipulated a gambling tax of fifteen per cent on gross gambling revenue. However in December 2023 the National Committee on Sports recommended reducing the rate to 13 per cent and scrapping the gambling levy as well.

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Another clause in the bill that has caused controversy is the reduction of betting stakes from the minimum Ksh.20 placement to Ksh.1. This is targeted to limit betting amongst certain age groups like children and those with low incomes.

LOTTERIES

The National Lottery Act, 2023 effective from 29 December 2023 provides for the framework for the establishment and regulation of a first-of-its-kind national lottery in Kenya that will be directed towards social good causes to promote benefits to Kenyan citizens.

The national lottery is to be run by the National Lottery Board which was also established under the National Lottery Act. The Lottery Board may however decide to appoint an operator with experience and sufficient knowledge to run the national lottery on its behalf.

In addition The Kenya Gambling Control Bill if approved would also allow for the issuance of licenses for public lotteries intended to raise funds for charitable purposes, with a requirement that at least 30 per cent of the proceeds be devoted to the specified charitable objectives.