

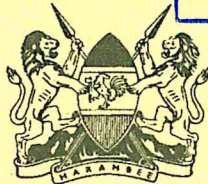
NAIROBI CITY COUNTY ASSEMBLY
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SPECIAL ISSUE

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NAIROBI CITY COUNTY BILLS, 2021

NAIROBI, 19th November, 2021

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**THE NAIROBI CITY COUNTY BETTING, LOTTERIES AND
GAMING (AMENDMENT) BILL, 2021**

A BILL for

**AN ACT of the Nairobi City County Assembly to amend the Betting,
Lotteries and Gaming Act, 2021.**

ENACTED by the Nairobi City County Assembly as follows—

Short title

**1. This Act may be cited as the Nairobi City County Betting,
Lotteries and Gaming (Amendment) Act, 2021.**

Amendment of Section 2 of No. 2 of 2021

2. Section 2 of the Nairobi City County Betting, Lotteries and
Gaming Act, 2021, hereinafter referred to as the “Principal Act” is
amended—

(a) by inserting the following new definitions in proper alphabetical
sequence—

“advertisement” means any representation by a word, or
abbreviation thereof, letter, logo, symbol, sign, figure, painting, drawing
or other pictorial representation, or light, displayed in or in view of any
public place, within the jurisdiction of Nairobi County for the purpose of
drawing the attention of the public to or promoting any betting, lotteries
and gaming event, activity, premise or establishment;

“betting premises” means premises to which the public has access
to and which is used for the purpose of betting.

“online gaming” means any form of gaming conducted on the
internet and includes virtual poker, virtual casinos and sports betting.

“watershed period” means the time between 5.00 am and 10.00
pm, or such other time as may be prescribed by the Communications
Authority of Kenya by Notice in the Kenya Gazette, within which content
intended for an adult audience is not to be aired.

Amendment of Section 17 of No. 2 of 2021

3. Section 17 of the Parent Act is amended—

(a) by deleting sub-section (2) and substituting the following new
sub sections—

2. A person who intends to operate any betting, lotteries or
gaming premise in the county shall not be licensed to operate unless

the establishment is domiciled within a five (5)-Star Hotel as rated by the Tourism Regulatory Authority.

3. A person who contravenes the provisions of sub sections (1) and (2) commits an offence and shall be liable upon conviction to a fine not exceeding KSh. Five Million Kenya shillings or to imprisonment for a term not exceeding two (2) years or both.

Insertion of new Sections into No. 2 of 2021

4. The Principal Act is amended in Section 33 by inserting the following new sections immediately after section 33—

33A. (1) All licensed Betting, Lotteries and Gaming premises and online gaming shall only operate within the hours of 8pm to 6am.

(2) No broadcasting of video or audio programming that promotes betting, gaming and gaming adverts through shall be done during the watershed period as prescribed in the Kenya Information and Communications Act, 1998 and the Kenya Communication (Broadcasting) Regulations and the programming code.

Operating hours

(3) A person who contravenes the provisions of sub sections(1) and (2) commits an offence and shall be liable upon conviction to a fine not exceeding KSh. Ten million Kenya shillings or to imprisonment for a term not exceeding four(4) years or both.

Prohibition against Advertising

33B. (1) A person shall not erect or display any advertisement, billboard or luminous signage in relation to betting, lotteries and gaming activities and premises.

(2) A person shall not erect or display a house signage on any betting, lotteries and gaming activities and premises without the approval of the County Executive Committee Member for the time being responsible for physical planning.

(3) The County Executive Committee member for the time being responsible for physical planning shall prescribe regulations within three months of the passing of this Act on the rules and guidelines relating to the display of house signages.

(2) A person who contravenes the provisions of sub section(1)and (2) commits an offence and shall be liable upon conviction to a fine not exceeding Kenya shillings Ten million to imprisonment for a term not exceeding four(4) years or both.

Insertion of a new Section into No. 2 of 2021

2. The Principal Act is amended in Section 38 by inserting the following new section immediately after section 38.

Cashless operations

38A. (1) All Betting, Lotteries and Gaming premises shall within six (6) months of enactment of this Act cause to only have cashless modes of betting within the establishment.

(2) A person who contravenes this provision commits an offence and shall be liable to a fine of Kenya shillings five Million Kenya shillings or to imprisonment for a term not exceeding two (2) years or both.

MEMORANDUM OF OBJECTS AND REASONS

Pursuant to Standing Order 124, I hereby wish to present the following Statements.

Statement of Objects and Reasons

The principle objective of this Bill is to amend the Betting, Lotteries and Gaming Act, 2021 to provide for additional regulatory areas not captured in the Act, such as operational hours of Betting, Lotteries and Gaming establishments as well as online casinos and sports betting. Currently, these outlets run 24 hours, yet their operations are just as harmful as bars which are limited for obvious reasons. It is proposed that the Hours of Operation run from 8PM- 6Am.

(1) Further the Aims of the Constitution

The Fourth Schedule to the Constitution of Kenya, 2010 provides for part of the functions and powers of the County as Cultural activities, public entertainment and public amenities, including- betting, casinos and other forms of gambling. This Bill seeks to further the aims of the Constitution by providing for operational hours of Casinos and gambling and gaming outlets to safeguard the public from emerging challenges of gambling and betting.

(2) Statement of delegation of legislative powers

It is my considered opinion that the delegated powers should go to the respective entity or entities that have been charged with overseeing the enforcement of the Parent Act.

(3) Statement of financial implication

This enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 10th November, 2021.

WAITHERA CHEGE,
Member of County Assembly.

Section 2 of No. 2 of 2021 which it is proposed to amend

1. In this Act—

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

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

“betting premise” means premise to which the public has or may have access to and to which is kept or used for the purpose of betting;

“billiard” means a game played on a large table in which one uses a long stick called cue to hit the ball against each other or into pockets around the sides of the table

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

“board” means the Board established under section 5 of the Act;

“bookmaker” means a person who, whether on his own account or as a servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving and negotiating bets and shall not include—

(a) a person who carries on, or is employed to operate a totalisator in respect of which a licence has been issued under this Act; or

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

“casino” means any designated premise, a public room or building where games of chance/gambling takes place; the

designated place is accessible to any member of the public and a person may participate in a game approved under this Act;

“child” means a person under the age of eighteen;

“County” means the Nairobi City County

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters related to Betting, Lotteries and Gaming in the County;

“County Lottery” means a lottery established pursuant to Section 40 of this Act;

“director” means the person appointed as such under Section 11 of this Act

“draw” means an act of selecting names/tickets randomly to decide the winners in a lottery from opponents in a sporting activity or for promotion of a Company/legal entity;

“Entertainment tax” means tax levied on betting, lotteries and gaming activities pursuant to Article 209 (3) (b) of the constitution;

“funfair” means an event held in a park, field or indoors at which a person pays to ride a machine or to participate in a game for a pre-determined prize;

“gaming inspector” means an authorised officer of the County government charged with the responsibility of regulating casino games, betting and lotteries, enforce standards and norms, oversee gaming activities in and out of gaming premises;

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

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

“permit” is a short term warrant or authority granting the holder opportunity to carry out specified activities varied for a period not exceeding three months as per this Act.

“pool table” means a billiard table on which a pool game is played;

“pool betting scheme” is a form of gambling, specifically a variant pari-mutuel betting where gamblers pay a fixed price into a pool from which taxes and a house “stake” are removed and a selection is made on the outcome where the winner takes it all;

“public gaming premise” means a premise which is kept or used for gaming and to which the public has access for the playing a licensed gaming;

“public place” has the meaning assigned to it under the Interpretation and General Provisions Act;

“totalisator” means an instrument, a machine, a contrivance, or a scheme for enabling any number of persons to make bets on any event or contingency and includes a device showing the number and amount of bets staked in a race to facilitate the division of the total among those backing the winner, the machine registers bets and divides the total amounted bet among the winners;

“totalisator premise” means a public place where the totalisator is placed or operated;

“tombola” means a game where a player pays for a ticket whose prize is pre-assigned and involves drawing the ticket from a hat or tombola drum to find the winning ticket;

Section 17 of No. 2 of 2021 which it is proposed to amend

17. (1) A person who intends to operate any betting, lotteries or gaming activities within the County shall obtain a license.

(2) A person who operates any business under sub section (1) without a license commits an offence and shall be liable on conviction as per part X of this Act.

Section 33 of No. 2 of 2021 which it is proposed to amend-

33. (1) No person shall conduct the business of a totalisator in any premise within the County without a totalisator licence.

(2) A totalisator licence shall, subject to any condition imposed under this Act, authorise the conducting of the categories of totalisators specified in the licence.

(3) The holder of a totalisator licence shall conduct totalisators in accordance with rules made by such licence which shall be approved by the Director.

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

Section 38 of No. 2 of 2021 which it is proposed to amend-

38. (1) The Director may, issue a license for a private lottery.

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

(a) requiring the net proceeds of lottery to be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of the society shall be devoted to the purposes of the society;

(b) requiring a notice or advertisement of a lottery, to be exhibited on a premise or the club of the members whom the lottery is promoted;

(c) requiring the price of each ticket or a chance and to be the same on all the tickets;

(d) requiring each ticket to bear the name and address of a promoter of the lottery and a statement of a person to whom the sale of the tickets or chances is restricted;

(e) requiring a ticket or a chance to be issued or allotted by a promoter by way of sale upon receipt of a full price;

(f) prohibiting the return of money or any valuable thing received by a promoter; and

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

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

