CONTENT

Bill for Introduction into the National Assembly—

The Betting, Lotteries and Gaming (Amendment) Bill, 2015 ...................... 2099
THE BETTING, LOTTERIES AND GAMING  
(AMENDMENT) BILL, 2015

A Bill for

AN ACT of Parliament to amend the Betting, Lotteries and Gaming Act to provide for the payment of tax by gaming operators of lotteries, gaming and prize competition and for matters incidental thereto

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Betting, Lotteries and Gaming (Amendment) Act, 2015.

2. The Betting, Lotteries and Gaming Act is amended by inserting the following new definition in proper alphabetical sequence—

"collector" means the Commissioner-General appointed under the Kenya Revenue Authority Act.

3. The Betting, Lotteries and Gaming Act is amended by inserting the following new section immediately after section 29—

30. (1) There shall be a tax to be known as betting tax chargeable at the rate of seven point five per cent of the gross betting revenue.

(2) The tax shall be paid to the collector by the licensed bookmaker on the 20th day of the month following the month of collection.

4. The Betting, Lotteries and Gaming Act is amended by inserting the following new section immediately after section 44—

44A.(1) There shall be a tax known as the lottery tax chargeable at the rate of five percent of the lottery turnover.
(2) The tax shall be paid to the collector by persons authorized to promote the lottery on the 20th day in the month following the month of collection.

5. The Betting, Lotteries and Gaming Act is amended by inserting the following new section immediately after section 55—

55A. (1) There shall be a tax known as gaming tax chargeable at the rate of twelve percent of the gross gaming revenue.

(2) The gaming tax shall be paid to the collector by a person carrying on a gaming business on the 20th day of every month following the month of collection.

6. The Betting, Lotteries and Gaming Act is amended by inserting the following new section immediately after section 60—

60A. (1) There shall be a tax known as prize competition tax chargeable on the cost of entry to a competition which is premium rated at the rate of fifteen percent of the total gross turnover.

(2) The prize competition tax shall be paid to the collector by the licensed person on the 20th day of every month of the following month of collection.
MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Betting, Lotteries and Gaming Act (Cap. 131) to introduce tax to be paid by gaming operators of lotteries, gaming and prize competition in Kenya, who currently do not pay any tax.

The Bill formulates the proposals announced in the Budget for 2015/2016 relating to the liability to, and collection of taxes and for connected purposes.

Under Article 209 of the Constitution, the imposition of taxation is the sole responsibility of the national government.

This Bill is therefore not a Bill concerning county government.

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

ADEN DUALE,
Leader of the Majority Party.
Section 2 of Cap 131 which it is proposed to amend—

Interpretation

In this Act, unless the context otherwise requires—

"authorized race meeting" means a race meeting in respect of which a permit authorizing bookmaking to take place thereat has been issued under section 23;

"betting premises" means premises to which the public has or may have access and which are kept or used (whether on one occasion or more than one) for the purpose of—

(a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or

(b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

"betting transaction" includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

"bookmaker" means a person who, whether on his own account or as servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets, or who in any manner holds himself out, or permits himself to be held out in any manner, as a person who receives or negotiates bets, so however that a person shall not be deemed to be a bookmaker by reason only of the fact—

(a) that he carries on, or is employed in operating, a totalisator in respect of which a licence has been issued under section 18; or

(b) that he carries on, or is employed in a business that is wholly concerned with, a pool betting scheme in respect of which a licence has been issued under section 22;

"coupon", in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected with, or designed to assist in the making of, a bet by way of pool betting;
“game of chance” includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined, but does not include an athletic game or sport;

“gaming” means the playing of a game of chance for winnings in money or money’s worth;

“gaming machine” means a machine for playing a game of chance, being a game which requires no action by a player other than the actuation or manipulation of the machine;

“gaming premises” means premises which are kept or used (whether on one occasion or more than one) for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

“horse race” includes a pony race;

“instruments of gaming” means cards, dice, counters, coins, tickets, gaming tables, boards, boxes, or other things devised, or birds and animals used, for the purpose of gaming;

“licensed betting premises” means premises duly licensed in terms of this Act as premises wherein bets may be made and settled;

“licensed gaming premises” means premises licensed under this Act as premises to which the public may resort for the purpose of gaming;

“licensee” means a person issued with a licence under any of sections 16, 18, 22 and 46;

“lottery” includes a sweepstake, a raffle and any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;

“money” includes a cheque, bank note, postal order or money order;

“newspaper” includes a journal, magazine or other periodical publication;

“permit-holder” means the holder of a permit issued under any sections 23, 36, 39, 54 and 58;

“pool betting” means the making of bets (other than bets made by means of totalisator), whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;
“pool betting scheme” means a scheme involving the receiving or negotiating of bets made by way of pool betting;

“premises” includes any place, and in sections 14, 35, 45, 50, 53 and 58 also includes any vessel;

“racecourse” means a place used for the purpose of holding a race meeting;

“race day” means a day on which a race meeting is held;

“race meeting” means a gathering of the public or of the members of an association of persons to watch horse races or other races;

“tax” means any charges, fees, levies or impositions imposed under this Act;

“the Board” means the Betting Control and Licensing Board established by section 3;

“the Permanent Secretary” means the Permanent Secretary of the Ministry for the time being responsible for Betting, Lotteries and Gaming;

“ticket”, in relation to any lottery or proposed lottery, includes any document evidencing the claim of a person to participate in the chances of the lottery;

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

“totalisator” means the instrument, machine or contrivance commonly known as a totalisator, or any other instrument, machine or contrivance of a similar nature, or a scheme for enabling any number of persons to make bets on any event or contingency whatsoever with one another or principles of a similar nature;

“turf club” means a club or association or other body of persons (whether incorporated or unincorporated) established for the purpose of promoting, conducting and controlling the sport of horse racing;

“unlawful game” means a game of chance the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet;

“winnings” includes winnings of any kind and a reference to the amount or to the payment of winnings shall be construed accordingly.