



**REPUBLIC OF KENYA**

**MINISTRY OF PUBLIC SERVICE**

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# **REGULATORY IMPACT STATEMENT**

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## **FOR THE GAMBLING CONTROL REGULATIONS, 2026**

**(Comprising the following Statutory Instruments)**

- Gambling Control (Licensing) Regulations, 2026
- Gambling Control (Conduct of Gambling Operations) Regulations, 2026
- Gambling Control (Advertising) Regulations, 2026
- Gambling Control (National Lottery) Regulations, 2026.
- Gambling Control (Foreign-Based Operators) Regulations, 2026
- Gambling Control (Gambling Appeals Tribunal) Regulations, 2026

Prepared pursuant to Sections 6 and 7 of the Statutory Instruments Act (Cap. 2A)

**April 2026**

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## EXECUTIVE SUMMARY

This Regulatory Impact Statement (RIS) has been prepared pursuant to sections 6 and 7 of the Statutory Instruments Act (Cap. 2A) to assess the necessity, scope, and anticipated impacts of a set of statutory instruments collectively referred to as the Gambling Control Regulations, 2026, made under the Gambling Control Act, 2025.

The Draft Regulations comprise six interrelated instruments, namely the Gambling Control (Licensing) Regulations, 2026; the Gambling Control (Conduct of Gambling Operations) Regulations, 2026; the Gambling Control (Advertising) Regulations, 2026; the Gambling Control (National Lottery) Regulations, 2026; the Gambling Control (Foreign-Based Operators) Regulations, 2026; and the Gambling Control (Gambling Appeals Tribunal) Regulations, 2026. These instruments are designed to operate as an integrated regulatory framework governing market entry, operational conduct, advertising, cross-border participation, and dispute resolution within the gambling sector.

The RIS identifies the central regulatory problem as a structural misalignment between a rapidly evolving, technology-driven gambling market and an incompletely specified regulatory framework. While the Gambling Control Act, 2025 establishes a legislative architecture, key aspects of licensing, operational standards, advertising controls, and regulation of foreign-based operators require subsidiary legislation to become fully effective.

The analysis demonstrates that the current framework gives rise to several interrelated risks, including weak calibration of market entry controls, insufficiently specified operational standards, inadequate regulation of demand stimulation through advertising, exposure to regulatory arbitrage by foreign-based operators, consumer protection gaps, and fiscal leakage. These risks are amplified by the digitalisation of gambling, the integration of mobile payment systems, and the increasing cross-border nature of service provision. The proposed Regulations address these challenges through a coordinated and system-based approach.

The impact assessment indicates that the Regulations will impose short-term compliance and adjustment costs on operators, particularly in relation to licensing, system upgrades, reporting, and advertising practices. These costs are expected to be proportionate and are likely to be distributed unevenly, with smaller operators bearing relatively higher burdens. However, in the longer term, the Regulations are expected to enhance market integrity, reduce regulatory arbitrage, improve consumer protection, strengthen regulatory oversight, and increase the transparency and reliability of public revenue from the sector.

The cost–benefit analysis supports the conclusion that the long-term benefits of the proposed regulatory framework outweigh the associated costs. In particular, the Regulations are expected to produce significant positive outcomes in terms of consumer protection, market stability, investment quality, and regulatory effectiveness. Alternative policy options were considered, including maintaining the status quo and relying solely on primary legislation. These options were found to be inadequate in addressing the identified regulatory gaps. The adoption of the proposed Regulations is therefore the preferred option to give full operational effect to the Gambling Control Act, 2025 and to ensure effective regulation of the contemporary gambling sector in Kenya.

## CHAPTER 1: INTRODUCTION

### 1.1 Purpose of the Regulatory Impact Statement

This Regulatory Impact Assessment (RIA) has been prepared pursuant to sections 6 and 7 of the Statutory Instruments Act (Cap. 2A) to assess the necessity, scope, and anticipated impacts of the proposed Gambling Control Regulations made under the Gambling Control Act, 2025.

The purpose of this RIS is to provide an evidence-based assessment of whether the proposed regulatory interventions are justified, proportionate, and capable of achieving their intended policy objectives. In particular, the RIS—

- (a) identifies the nature and extent of regulatory and market failures within the gambling sector;
- (b) evaluates alternative regulatory and non-regulatory approaches; AND
- (c) assesses the likely economic, social, institutional, and legal impacts of the proposed Regulations.

The RIS is therefore intended to ensure that the proposed Regulations are grounded in sound regulatory principles, including necessity, effectiveness, proportionality, and administrative feasibility.

### 1.2 Regulation-Making Authority and Legal Mandate

The Gambling Control Regulations, 2026 are made pursuant to the powers conferred by the Gambling Control Act, 2025, which establishes the legal and institutional framework for the regulation, licensing, supervision, and control of gambling activities in Kenya.

The Act establishes the Gambling Regulatory Authority of Kenya as the principal body responsible for regulating gambling activities, enforcing compliance, and promoting integrity, transparency, and accountability within the sector. It further empowers the Cabinet Secretary to make regulations for the effective implementation of its provisions, including in relation to licensing, operational conduct, advertising, and the regulation of foreign-based operators.

The Regulations proposed and covered under this statement comprise the following statutory instruments—

- The Gambling Control (Licensing) Regulations, 2026;
- The Gambling Control (Conduct of Gambling Operations) Regulations, 2026;

- The Gambling Control (Advertising) Regulations, 2026;
- The Gambling Control (National Lottery) Regulations, 2026.
- The Gambling Control (Foreign-Based Operators) Regulations, 2026; and
- The Gambling Control (Gambling Appeals Tribunal) Regulations, 2026.

These instruments collectively give operational effect to the regulatory framework established under the Act.

The proposed Gambling Control (Gambling Appeals Tribunal) Regulations are procedural in nature and primarily establish the framework for dispute resolution. While they form part of the overall regulatory system, they do not impose significant direct economic or compliance obligations and are therefore not subject to detailed impact analysis in this RIS.

### 1.3 Scope and Structure of this Statement

The proposed regulations are designed to operate as an integrated regulatory framework governing the gambling sector. Although each instrument addresses a distinct regulatory function, they are interdependent and are intended to be implemented as a coherent system regulating market entry, operational conduct, advertising, cross-border participation, and dispute resolution, as summarised below—

<b>Regulatory Function</b>	<b>Regulatory Instrument</b>	<b>Regulatory Focus</b>
Market Entry Regulation	Gambling Control (Licensing) Regulations, 2026	Licensing categories, eligibility criteria, capital requirements, and approval processes
Market conduct	Gambling Control (Conduct of Operations) Regulations, 2026	Operational standards, internal controls, system integrity, transparency, and player protection
Demand-Side Regulation	Gambling Control (Advertising) Regulations, 2026	Advertising content controls, approval requirements, and protection of minors and vulnerable persons
National Lottery Regulation	Gambling Control (National Lottery) Regulations, 2026	Licensing, operation, technical systems, online lottery control, and prize competition regulation

<b>Regulatory Function</b>	<b>Regulatory Instrument</b>	<b>Regulatory Focus</b>
Cross-Border Regulation	Gambling Control (Foreign-Licensing Based Operators) Regulations, 2026	and oversight of offshore operators, geo-fencing, and regulatory visibility of cross-border operations
Dispute Resolution	Gambling Control (Gambling Appeals Tribunal) Regulations, 2026	procedures, adjudication of disputes, and review of regulatory decisions

Accordingly, this Statement assesses the regulatory framework as a whole, while also identifying the specific role and impact of each individual instrument within that framework.

For analytical clarity, the Statement proceeds in a structured sequence. It begins by setting out the background and contextual evolution of the gambling sector, before defining the regulatory problem and identifying gaps in the existing framework. It then presents the proposed regulatory architecture and assesses its anticipated impacts and cost–benefit implications. The Statement further considers alternative policy options and outlines the stakeholder consultation process, before concluding with recommendations.

## CHAPTER 2: BACKGROUND AND CONTEXT

### 2.1 Introduction

This Chapter provides the analytical and contextual foundation for the proposed Gambling Control Regulations. It examines the evolution and current structure of the gambling sector in Kenya, situates the proposed regulatory interventions within the applicable constitutional, legal, and policy framework, and presents a detailed diagnostic of the sector as it presently operates.

### 2.2 Evolution of the Gambling Sector in Kenya

The gambling sector in Kenya has undergone a profound structural transformation over the past decade, transitioning from a predominantly land-based, venue-controlled activity into a digitally mediated, continuously accessible, and behaviourally optimised service ecosystem.

Historically, gambling activities were largely confined to casinos, betting shops, and licensed lottery operations, characterised by physical presence, defined operating hours, and relatively limited participation. Regulatory oversight in this environment was correspondingly territorial and premises-based.

This model has been fundamentally altered by the convergence of three technological developments: widespread mobile phone penetration, the integration of mobile money systems, and the expansion of internet-based platforms. As noted in the Kenya Gambling Policy, 2023, these developments have enabled the migration of gambling services to digital platforms, allowing real-time betting, remote participation, and continuous market access.

The result has been the emergence of a platform-based gambling economy, characterised by:

- continuous availability of gambling products across time and location;
- high-frequency, low-value transactional models;
- algorithm-driven pricing and odds-setting mechanisms; and
- integration with digital payment systems enabling instantaneous deposits and withdrawals.

This transformation has significantly expanded the scale of the sector and altered its behavioural dynamics. Gambling is no longer an episodic activity but, for many users, a continuous engagement embedded within everyday digital interactions.

The Policy further recognises that this evolution has been accompanied by a shift in perception, with gambling increasingly viewed not only as entertainment but also as a potential income-generating activity. This perception has contributed to increased participation, particularly among younger populations and individuals facing economic constraints.

At the same time, the transition to digital platforms has facilitated the entry of operators without a physical presence in Kenya, thereby introducing cross-border dimensions that were not contemplated under earlier regulatory frameworks. The resulting sector is therefore both expanded in scale and more complex in structure, requiring a corresponding evolution in regulatory approach.

### 2.3 Diagnostic of the Current Gambling Sector

The current gambling sector in Kenya is best understood as a multi-layered ecosystem comprising regulated, partially regulated, and unregulated actors operating across interconnected digital and physical channels.

At the formal level, the sector includes **licensed domestic operators**, who operate under national authorisation and provide betting, gaming, and lottery services through a combination of digital platforms and physical outlets. These operators are typically integrated into local payment systems and maintain some degree of regulatory interface. Their business models are based on high transaction volumes, with profitability driven by margins across large numbers of small-value bets.

Parallel to this is a significant and growing segment of foreign-based operators, who provide gambling services to Kenyan consumers through online platforms without establishing a commensurate regulatory presence within the jurisdiction. These operators are often domiciled in foreign regulatory environments, utilise offshore hosting infrastructure, and may intermediate transactions through complex payment pathways. Their participation in the Kenyan market without equivalent regulatory obligations introduces asymmetries in compliance, taxation, and consumer protection.

A further layer consists of informal or unlicensed operators, including agent-based networks, small-scale intermediaries, and digitally facilitated schemes that operate outside the formal licensing framework. These actors are characterised by minimal transparency, low barriers to entry, and limited accountability, contributing to regulatory leakage and consumer risk.

The sector is also supported by a network of enabling intermediaries, including telecommunications providers, payment service providers, digital platforms, and media entities. These actors play a critical role in facilitating access, processing transactions, and amplifying market reach, thereby functioning as integral components of the gambling value chain.

From a product perspective, the market is dominated by **short-cycle betting products**, particularly sports betting, which allow for rapid repetition of wagers within short timeframes. These products are designed to maximise engagement through dynamic odds, in-play betting, and continuous event cycles. The structural design of these products encourages repeated participation and increases cumulative exposure.

From a behavioural standpoint, participation is widespread but exhibits concentration among **youth and economically vulnerable groups**, who are disproportionately represented in high-frequency betting activity. The perception of gambling as a potential

source of income, combined with ease of access and aggressive promotional strategies, has contributed to sustained engagement within these segments. The economic model of the sector is therefore fundamentally engagement-driven, with operators incentivised to increase frequency of participation rather than individual stake size. This creates a structural alignment between commercial incentives and intensified user exposure.

From a regulatory perspective, several structural fault-lines emerge.

- (a) **Compliance asymmetry**, in which licensed operators are subject to regulatory requirements that are not equally applied to foreign-based or informal actors. This undermines competitive neutrality and reduces incentives for compliance.
- (b) **Information asymmetries**, particularly in relation to odds calculation, payout structures, and the risks associated with gambling products. Consumers are often unable to assess the true probabilities or expected outcomes of their participation.
- (c) **Negative externalities**, including problem gambling, financial distress, and broader socio-economic impacts on households. These costs are not internalised within operator business models.
- (d) **Enforcement constraints**, arising from the digital and cross-border nature of gambling platforms. Traditional regulatory tools, which are premises-based, are insufficient to monitor and control online activities or offshore operators.
- (e) **Fiscal inefficiencies**, including revenue leakage associated with offshore operations and unregulated market activity, as well as challenges in capturing and taxing digital transactions.

This diagnostic indicates that the sector is characterised by structural imbalances between market evolution and regulatory capacity, necessitating a comprehensive and system-based regulatory response.

## 2.4 Constitutional and Cross-Cutting Legal Framework

The regulation of gambling in Kenya operates within the broader constitutional framework, which establishes the principles governing economic activity, consumer protection, and public interest regulation. The Constitution requires that economic activities be conducted in a manner that protects consumers, promotes social welfare, and safeguards vulnerable groups. It further obliges the State to ensure that regulatory interventions are reasonable, proportionate, and directed towards the public good.

Gambling regulation also intersects with a range of cross-cutting legal regimes, including those relating to consumer protection, digital communications, financial transactions, and advertising standards. These frameworks impose obligations relating to fairness, transparency, and accountability, which are directly relevant to the operation of gambling activities. The regulatory approach must therefore be consistent with these broader legal principles while addressing the specific risks associated with the gambling sector.

## 2.5 Analysis of the Gambling Control Act, 2025

The Gambling Control Act, 2025 is the primary statute governing the regulation and control of gambling activities in Kenya. It establishes a modern and integrated architecture for the licensing, supervision, control, and enforcement of gambling activities across both land-based and digital environments.

At the level of statutory purpose, the Act is not merely a revenue or licensing measure. Its objects are expressly framed in broader public-interest terms. The Act seeks to provide a framework for the regulation and control of gambling activities; authorise some forms of gambling while prohibiting others as unlawful; promote the development of a responsible gambling industry; minimise the social harm associated with gambling; ensure integrity and fairness in licensed gambling activities; and establish mechanisms for resolution of disputes relating to gambling. These purposes reveal the Act's dual character. It is at once an economic regulatory statute and a social protection statute. The legislative design is therefore not confined to market access; it extends to harm minimisation, fairness, dispute resolution, and sector integrity.

A notable feature of the Act is that it addresses, with relative clarity, the allocation of functions between the national and county levels of government. The national government is assigned responsibility for policy, norms and standards, industry regulation, licensing of gambling activities including online gambling, licensing of national lotteries, enforcement, due diligence, anti-money laundering inspections, and supervision of reporting institutions licensed under the Act. County governments, by contrast, are given an implementation-oriented role, including issuing trade permits for gambling premises, implementing policy standards and norms within county jurisdictions, monitoring and evaluating trade permits issued by counties, and handling complaints and facilitating arbitration. The Act therefore adopts a model in which substantive regulation and licensing authority are centralised at the national level, while counties retain a territorial and implementation function in relation to premises and local compliance. This is significant for the RIA because it means that the proposed subsidiary legislation must be framed in a manner that strengthens national regulatory coherence while remaining administratively usable within the county-level enforcement environment.

The institutional centrepiece of the Act is the establishment of the Gambling Regulatory Authority of Kenya. The Authority statutory mandate is broad and system-oriented. Beyond licensing and compliance, the Authority is required to monitor implementation of gambling policies at national and county level, maintain a register of gambling machines and devices, conduct vetting and due diligence of licensees and their controllers, establish an electronic central real-time gambling monitoring system, monitor socio-economic patterns of gambling, coordinate research and surveys, address illegal cross-border gambling activities, advise county governments, determine complaints from the public and operators, build county capacity, and collaborate with the Kenya Revenue Authority on tax compliance monitoring. This breadth is important. It confirms that the Act envisages a data-driven and supervisory regulator. It also means that the Act presupposes

an operational regulatory framework detailed enough to support real-time monitoring, compliance analytics, consumer protection, and sector-wide enforcement.

The Act also introduces a normative layer through the requirement for gambling operation guidelines. The Cabinet Secretary, in consultation with the Authority, is empowered to prescribe guidelines of practice concerning the manner in which gambling facilities are operated. Those guidelines are to address fairness, child and vulnerable-person protection, assistance for persons affected by gambling problems, data protection, online payment protection, secure online gambling environments, ethical and responsible marketing, anti-money laundering safeguards, and public awareness and education campaigns.

This shows that Parliament understood that licensing alone would be insufficient and that the sector requires behavioural and operational regulation extending into marketing, digital infrastructure, player protection, and criminal-risk controls. Yet guidelines, by themselves, are not a substitute for enforceable regulations. They are interpretive and operational tools, whereas the present regulatory package is needed to supply binding and enforceable legal standards.

With respect to market entry and licensing, the Act establishes the core licensing framework in Part IV. It identifies licensed gambling activities, prescribes baseline requirements for licensing, provides for application, renewal, refusal, revocation, suspension, duration, display, investigation, registers, security, gambling capital, books of account, and financial reporting. It also creates a permit system for certain gambling-related functions. The statutory framework is therefore broad enough to capture both principal operators and associated activities. However, the Act largely states the licensing architecture at a high level. It does not itself set out the full categorisation of licences, the detailed documentary requirements for each category, differentiated capital thresholds, procedural steps for inspection and approval, the treatment of hybrid operations, or the operational implications of category-specific licensing. Those matters require subsidiary legislation. This is precisely where the proposed Licensing Regulations perform an indispensable function by converting the Act's broad licensing skeleton into an administrable regime.

Viewed as a whole, the Gambling Control Act, 2025 is comprehensive in scope but intentionally non-exhaustive in operational detail. It establishes the public-interest rationale, allocates governmental functions, creates the regulator, provides the main licensing and enforcement architecture, recognises online and foreign-based gambling, regulates advertising in principle, establishes an appeals mechanism, and empowers the making of regulations.

## CHAPTER 3: THE REGULATORY PROBLEM

### 3.1 Introduction

This Chapter identifies and analyses the regulatory problems that necessitate the proposed Gambling Control Regulations, 2026. It builds on the background, market diagnostic, policy context, and legal framework set out in Chapter Two and seeks to define the specific deficiencies that the proposed Regulations are intended to address.

The central issue is not that Kenya lacks a statutory framework for gambling. The Gambling Control Act, 2025 establishes a comprehensive legislative architecture for the regulation of gambling. The problem, rather, is that the Act is designed as a framework statute and therefore leaves key aspects of the regulatory regime to be specified through subsidiary legislation. In the absence of those detailed implementing standards, the statutory framework remains only partially operationalised.

This incompleteness has become especially consequential because the gambling market in Kenya is no longer confined to traditional premises-based activities. As recognised in the Gambling Policy, 2023, the sector has undergone rapid transformation, driven by digitalisation, mobile payments, online platforms, intensified advertising, and the increasing participation of cross-border actors. The modern gambling market is therefore more technologically mediated, more behaviourally intensive, and more difficult to supervise than the market models that historically informed gambling control.

The regulatory problem is thus best understood as one of structural misalignment between a rapidly evolving gambling market and an incompletely specified regulatory framework. That misalignment manifests in several interconnected ways: weak calibration of market-entry controls, absence of enforceable conduct standards, insufficient regulation of advertising and demand stimulation, inadequate control of foreign-based and online operators, consumer protection gaps, fiscal leakage, and practical constraints on enforcement.

### 3.2 The Overarching Regulatory Failure

At the highest level, the regulatory failure is one of under-specification in a high-risk sector.

The Gambling Control Act, 2025 sets out the principal architecture of gambling regulation. It establishes the Gambling Regulatory Authority of Kenya, allocates functions between the national and county governments, creates the licensing framework, provides for online gambling, recognises the need to regulate foreign operators, controls gambling advertisements in principle, establishes a tribunal, and creates offences and enforcement mechanisms. However, many of these provisions are necessarily expressed in broad or enabling terms. For example, the Act contemplates licensing criteria, operational safeguards, advertising control, and restrictions on foreign operators, but does not itself prescribe the

detailed standards, processes, and compliance mechanisms required to make those provisions fully effective in practice.

In regulatory theory terms, this creates a gap between **formal legality** and **operational governability**. The State may have legal authority to regulate, but unless that authority is translated into concrete, monitorable, and enforceable obligations, the regulator cannot effectively shape market behaviour. In a sector such as gambling, where risks arise not only from unlawful operation but also from the design, marketing, accessibility, and behavioural effects of lawful products, this distinction is critical.

The consequence is that the present system does not suffer from legislative absence so much as from regulatory incompleteness. The result is a market that is partially licensed, partially supervised, and insufficiently disciplined at the level of conduct, incentives, and technological access.

### 3.3 Deficiencies in Market Entry Control and Licensing Design

One of the principal regulatory problems concerns the design and operationalisation of market-entry controls. The Act does not itself provide a fully differentiated licensing regime that corresponds to the diversity of products, delivery channels, risk profiles, and ownership structures present in the current market. This gap is significant for several reasons.

First, gambling is not a single activity. The sector comprises casinos, sports betting, totalisators, lotteries, prize competitions, online platforms, gambling software and equipment, betting shops, and related personnel and services. These categories involve materially different consumer risks, transaction patterns, technical requirements, and enforcement challenges. A licensing regime that is insufficiently differentiated risks treating unlike activities as though they were alike, thereby weakening the precision and effectiveness of regulation. The proposed Licensing Regulations attempt to respond to this diversity by identifying specific categories of licences, application requirements, and supporting documentation across multiple gambling activities.

Secondly, insufficiently detailed licensing design weakens the gatekeeping function of regulation. Licensing in a high-risk sector is not merely administrative permission; it is the primary means by which the State screens for financial soundness, beneficial ownership integrity, technical competence, operational readiness, AML/CFT capacity, and regulatory fitness. Where the legal framework does not sufficiently specify these criteria and the processes by which they are assessed, market entry becomes vulnerable to under-vetting and uneven decision-making.

Thirdly, there is an important competitive asymmetry between operators who are prepared to submit to licensing scrutiny and actors who exploit under-specified or weakly enforced rules. A licensing framework that is not sufficiently detailed may burden compliant operators without effectively excluding non-compliant or higher-risk actors. This is especially problematic in an environment where foreign-based and digital operators may be able to access the market without equivalent obligations.

### 3.4 Inadequate Specification of Operational Conduct Standards

A second major regulatory problem lies in the underdevelopment of legally enforceable standards governing the conduct of gambling operations once licensed. The Gambling Control Act, 2025 clearly contemplates substantive oversight of gambling operations. It addresses online gambling control systems, player registration, player accounts, restrictions on credit and inducements, financial reporting, self-exclusion, and the development of gambling operation guidelines dealing with fairness, vulnerable persons, online payment protection, secure online gambling, responsible marketing, and other safeguards. Nevertheless, the Act remains at a framework level and does not prescribe the detailed conduct rules necessary to translate these principles into day-to-day compliance obligations.

This creates a number of practical and normative deficiencies. First, there is insufficient standardisation of operational expectations across different operators. Matters such as internal controls, surveillance, settlement of bets, transparency of odds, customer care, handling of lottery proceeds, operation of bingo, technical standards for online gambling systems, data integrity, interoperability, payment protection, and responsible gambling tools require concrete rules if they are to be consistently applied. The draft Conduct of Gambling Operations Regulations attempt to supply such detail, covering matters ranging from commencement of operations and internal controls to online platform standards, player identity verification, exclusion systems, betting shops, jackpots, and reporting obligations.

Secondly, the absence of detailed conduct standards limits the Authority's ability to supervise proactively. A regulator can inspect and sanction only by reference to ascertainable obligations. If those obligations remain abstract, enforcement risks becoming inconsistent, reactive, or overly discretionary.

Thirdly, the lack of precise conduct standards entrenches information asymmetry between operators and consumers. Gambling products are probabilistic and often technologically mediated. Consumers generally do not possess the information, expertise, or bargaining power necessary to assess odds structures, platform fairness, payout timing, or the adequacy of internal controls. In such a context, detailed conduct regulation is necessary to rebalance the relationship between providers and consumers.

Fourthly, the absence of enforceable conduct norms impedes the effective implementation of responsible gambling principles. The statutory recognition of self-exclusion and protection of vulnerable persons is important, but without detailed procedures, system integration, registry obligations, operator duties, venue responsibilities, and enforcement consequences, these protections remain incomplete in practice. The detailed exclusion provisions in the draft Conduct Regulations demonstrate the extent of operational elaboration required to make this aspect of the Act real rather than aspirational.

The regulatory problem in this area is one of insufficiently translated statutory principle, where the law recognises the need for conduct regulation but has not yet fully supplied the rule structure required for effective implementation.

### **3.5 Demand-Side Harm and the Insufficiency of Current Advertising Controls**

A third regulatory problem concerns the control of gambling advertising and other forms of promotional demand stimulation. In the contemporary gambling economy, advertising is a central mechanism for customer acquisition, retention, re-engagement, and normalisation of participation. It shapes who enters the market, how gambling is perceived, how often products are used, and which social groups are targeted. The Gambling Policy, 2023 recognises the need for a responsible and ethical gambling sector and specifically situates advertising control within the wider project of reducing harm and protecting the public. The Act provides a legal foundation for controlling gambling advertisements, but it does not prescribe the operational details necessary for an effective advertising-control regime. In the absence of detailed rules, there are several distinct risks.

First, commercial messaging may portray gambling as a pathway to personal advancement, financial recovery, or social success, thereby obscuring its inherent risk profile. Secondly, advertising may normalise frequent betting behaviour by embedding gambling into ordinary sporting, digital, or entertainment consumption. Thirdly, absent clear targeting and placement restrictions, advertising may reach minors and other vulnerable groups, including persons whose socio-economic circumstances make them especially susceptible to harm. Fourthly, digital advertising allows for persistent, personalised, and behaviourally optimised promotional techniques that are not adequately addressed by generic statutory prohibitions.

The draft Advertising Regulations reveal the nature of the regulatory gap. They propose an approval regime, classification of advertisements, conditions on publication, content prohibitions, restrictions on signs and outdoor advertising, and sector-specific compliance obligations. This is the type of granular control required in a market where advertising materially affects consumer exposure and behavioural intensity.

From a regulatory economics perspective, gambling advertising gives rise to negative externalities. The commercial benefits of increased participation accrue to operators and advertising intermediaries, while the social costs of addiction, financial harm, and exposure of vulnerable populations are diffused across households, communities, and public institutions. This divergence between private gain and social cost justifies a more structured demand-side regulatory response. The regulatory problem, therefore, is that current legal control of gambling promotion is too general to respond effectively to the modern realities of media-driven and digitally amplified gambling demand.

### **3.6 Regulatory Arbitrage and the Challenge of Foreign-Based Operators**

A fourth and particularly significant problem concerns the regulation of foreign-based operators. The Gambling Control Act, 2025 expressly recognises the issue of foreign operators, including through section 79 and the power to make regulations relating to foreign-based gambling operations. This reflects legislative awareness that the digital environment allows operators situated outside Kenya to offer gambling services with real effects within the

domestic market. However, statutory recognition alone does not eliminate the regulatory problem.

The underlying challenge is one of *jurisdictional asymmetry*. Foreign-based operators may target or affect Kenyan consumers without establishing equivalent local presence, compliance systems, or reporting relationships. They may also be located in host jurisdictions with different regulatory priorities, different supervision capacities, or different harm-control standards. This creates an environment in which regulatory obligations borne by domestic licensees may not be equally borne by cross-border competitors.

The consequences are significant. First, domestic consumer protection becomes weaker where the State cannot readily compel compliance, inspect systems, or obtain timely information from offshore actors. Secondly, the domestic tax base may be eroded through revenue leakage. Thirdly, competition within the sector becomes distorted, as locally compliant operators bear costs that foreign actors may evade. Fourthly, enforcement becomes reactive and technically difficult, especially where services are delivered through internet platforms, cloud infrastructure, and indirect payment pathways.

The draft Foreign-Based Operators Regulations seek to address these challenges through licensing requirements, minimum capital conditions, host-jurisdiction compliance expectations, geo-fencing obligations to prevent domestic access where appropriate, real-time data access, AML compliance, and administrative penalties. The need for this instrument illustrates the depth of the problem: a cross-border market cannot be effectively governed by domestic licensing rules alone unless those rules are adapted to questions of territorial reach, digital perimeter control, and data visibility. The regulatory problem in this area is thus one of regulatory arbitrage enabled by digital cross-border market access. Unless specifically addressed, it will continue to undermine both market integrity and sovereign regulatory effectiveness.

### **3.7 Inadequacy of Traditional Enforcement Tools in a Digital Gambling Ecosystem**

A further regulatory problem lies in the mismatch between traditional regulatory tools and the technological character of the present gambling market.

Much of classical gambling regulation assumes the inspectability of premises, devices, records, and personnel within a defined territorial setting. The current market, by contrast, is increasingly mediated through mobile applications, remote servers, real-time data streams, online registration systems, and electronic payment pathways. This transformation has profound implications for supervision and enforcement.

The Act provides important enforcement powers, including inspection, seizure, offences, financial reporting obligations, and control of online gambling systems. Yet these powers require operational content if they are to function effectively in a digital environment. A regulator cannot meaningfully monitor real-time transactions, verify geo-location controls, assess platform changes, or scrutinise digital payment protection without clear rules requiring operators to provide system access, maintain specified safeguards, and comply with defined technical standards. This is evident from the Conduct Regulations, which address online

technical standards, data security, resilience, interoperability, system changes, online payment protection, secure online gambling environments, and platform authorisations. It is equally evident from the Foreign-Based Operators Regulations, which require real-time data access and geo-fencing measures.

The regulatory problem here is therefore institutional as well as legal. The Authority possesses broad statutory powers, but without granular operational obligations on operators, those powers cannot be exercised with sufficient precision, consistency, or technological relevance

### **3.8 Consumer Protection Deficits and Behavioral Vulnerability**

The gambling sector raises acute consumer protection concerns because the ordinary assumptions of informed and rational market choice are weakened in this context.

Gambling products are characterised by probability, uncertainty, rapid reward cycles, and in many cases behavioural design features that encourage repeated participation. Consumers do not usually possess the information or technical capacity to evaluate the fairness of systems, the implications of dynamic odds, the risks of repeated short-cycle betting, or the cumulative effect of continuous exposure. These features are amplified where gambling is available through mobile devices, integrated with frictionless payment systems, and reinforced by intensive advertising.

The Act recognises some of these risks through provisions relating to children, self-exclusion, online player accounts, restrictions on inducements, and dispute resolution. However, without detailed rules on age assurance, identity verification, responsible gambling tools, transaction security, exclusion procedures, system integration, confidentiality, and vulnerable-person protections, consumer protection remains underdeveloped in practice.

The draft Conduct Regulations directly engage these issues through provisions on identity verification, prohibition of anonymous gambling and virtual-asset use in gambling contexts, responsible gambling tools, exclusion registries, venue-initiated exclusions, family-initiated exclusion procedures, protection of children and vulnerable persons, and ethical and responsible gambling. Their breadth reflects the reality that consumer protection in gambling cannot be confined to a single statutory prohibition; it must be built through layered operational controls.

The regulatory problem in this area is thus not merely that some consumers may make poor choices. It is that the market contains structural features that generate behavioural vulnerability, and the current framework does not yet specify sufficient obligations on operators to mitigate that vulnerability.

### **3.9 Fiscal Leakage, Uneven Compliance Costs, and Market Integrity**

Another dimension of the regulatory problem concerns the integrity of the market as an economic and fiscal system.

A gambling market in which some actors are comprehensively regulated while others are only weakly regulated or evade domestic obligations will produce uneven compliance costs. Licensed domestic operators may bear expenses relating to capital, reporting, controls, approvals, and taxes, while unlicensed or foreign actors may avoid some or all of these burdens. The result is not simply unfair competition; it is a deterioration of regulatory legitimacy, as compliance begins to appear commercially disadvantageous.

In addition, the inability to effectively monitor all relevant gambling activity impairs revenue collection and weakens the State's capacity to ensure that the sector contributes to public purposes in the manner contemplated by policy. The Gambling Policy, 2023 specifically links gambling reform to responsible sector growth, public revenue, and support for good causes. These objectives are undermined where offshore operations, unregulated activity, or incomplete reporting reduce the visibility of the sector's true economic footprint.

Market integrity in this context therefore has two dimensions. The first is regulatory integrity, meaning equal application of rules and effective supervision. The second is economic integrity, meaning that the legal market is not systematically undercut by actors operating outside its core obligations. The present framework does not yet sufficiently secure either dimension.

### **3.10 Why Primary Legislation Alone Is Insufficient**

The foregoing problems are not cured by the existence of the Act alone. This is because the Act, by design, does not attempt to legislate every licensing requirement. Instead, Parliament chose a framework model and expressly empowered the making of regulations to give full effect to the Act.

Kenya now has a modern statutory framework for gambling, but the gambling market has evolved into a technologically sophisticated, behaviourally intensive, and increasingly cross-border ecosystem that requires more detailed regulation than primary legislation alone can provide. In the absence of such detailed regulation, there are persistent deficiencies in market-entry control, operational conduct, advertising oversight, foreign-operator regulation, consumer protection, enforcement capability, and market integrity.

The proposed Gambling Control Regulations, 2026 are therefore necessary to convert the framework established by the Act into a fully operational regulatory system capable of addressing the contemporary realities and risks of the gambling sector.

## **CHAPTER 4: THE PROPOSED REGULATORY FRAMEWORK**

### **4.1 Introduction**

This Chapter sets out the proposed regulatory framework established through the Gambling Control Regulations, 2026.

### **4.2 Overview of the Regulatory Architecture**

The proposed framework adopts a layered regulatory model structured around the lifecycle of gambling activity. At the point of entry, the system establishes who may lawfully participate in the market and under what conditions.

Once licensed, operators are subject to detailed operational rules governing the manner in which gambling activities are conducted, including technical systems, player management, and responsible gambling safeguards. The framework further regulates the manner in which gambling is presented and promoted to the public, recognising that demand-side drivers are central to the structure of the market. In addition, the framework extends beyond territorial boundaries by addressing the participation of foreign-based operators in the domestic market.

Finally, it provides mechanisms for the review of regulatory decisions through a structured dispute resolution process. This architecture reflects the recognition that effective gambling regulation cannot be achieved through a single instrument. It requires coordinated control of market entry, operational behaviour, demand formation, and cross-border access, supported by institutional mechanisms for accountability and review.

### **4.3 The Gambling Control (Licensing) Regulations, 2026**

The Licensing Regulations are intended to operationalise the licensing framework established under the Act by providing a structured and risk-sensitive system for market entry and continued authorisation. Their primary purpose is to ensure that gambling activities are conducted only by persons who meet defined standards of integrity, financial capacity, technical competence, and organisational governance.

The Regulations establish a licensing regime that reflects the diversity and complexity of gambling activities in the modern market. Rather than adopting a single, undifferentiated licensing model, the framework classifies licences according to the nature of the activity being undertaken, including casinos, betting operations, lotteries, totalisators, public gaming, gambling premises, equipment and software, and key operational personnel. This classification enables the regulator to tailor requirements to the risk profile and operational characteristics of each category.

The application process is structured and documentation-intensive. Applicants are required to demonstrate legal status, disclose ownership and control structures, provide evidence of financial capacity, and submit detailed operational and technical information. The Authority is empowered to undertake due diligence, assess fitness and propriety, and evaluate the adequacy of proposed systems and controls before granting approval.

Licences are not granted on a static basis. The Regulations establish a continuing compliance framework requiring licensees to maintain minimum capital levels, submit periodic reports, keep proper records, and notify the Authority of material changes in their operations or ownership. They further provide for renewal, suspension, and revocation, thereby ensuring that licensing functions as an ongoing regulatory relationship rather than a one-time administrative act.

The Licensing Regulations address the deficiencies identified in Chapter Three by introducing granularity into the licensing framework, strengthening due diligence processes, and aligning market entry requirements with the varying risk profiles of gambling activities. They enhance the gatekeeping function of regulation and reduce asymmetries between different categories of operators, thereby supporting market integrity and regulatory credibility.

#### **4.4 The Gambling Control (Conduct of Gambling Operations) Regulations, 2026**

The Conduct Regulations are designed to establish a comprehensive and enforceable framework governing the operation of gambling activities. Their primary objective is to ensure that gambling is conducted in a manner that is fair, transparent, secure, and consistent with principles of responsible gambling and consumer protection.

The Regulations provide an extensive operational framework covering both physical and digital gambling environments. They require operators to establish internal control systems capable of ensuring accountability, traceability of transactions, and prevention of fraud. These systems must be supported by appropriate governance arrangements, including clear allocation of responsibilities and oversight mechanisms.

In relation to technical systems, the Regulations prescribe standards relating to system integrity, security, resilience, and approval. Operators are required to obtain authorisation for gambling systems, maintain audit trails, control system changes, and ensure that their platforms meet specified technical and cybersecurity requirements. Particular attention is given to online gambling environments, where the Regulations require secure payment systems, protection of player data, and the ability to support regulatory monitoring.

The framework also introduces detailed requirements for player management. Operators must implement robust identity verification procedures, maintain verified player accounts, and prohibit anonymous participation. These requirements are complemented by obligations relating to transaction monitoring and record-keeping.

Responsible gambling is addressed through a structured set of obligations, including the establishment of self-exclusion mechanisms, maintenance of exclusion registers, and implementation of safeguards for children and vulnerable persons. The Regulations also prescribe operational rules for specific forms of gambling, including betting, lotteries, gaming machines, jackpots, and betting shops, ensuring consistency across different segments of the market.

The Regulations further impose reporting and monitoring obligations, requiring operators to submit periodic data and, where applicable, enable real-time access to operational information by the Authority.

The Conduct Regulations translate the general principles set out in the Act into detailed and enforceable operational standards. They reduce information asymmetry between operators and consumers, enable proactive supervision by the regulator, and embed responsible gambling mechanisms within the design and operation of gambling systems.

#### **4.5 The Gambling Control (Advertising) Regulations, 2026**

The Advertising Regulations are intended to regulate the promotion of gambling activities in order to mitigate risks associated with excessive or irresponsible demand stimulation. Their objective is to ensure that gambling advertising is conducted in a manner that is responsible, accurate, and consistent with public interest considerations.

The Regulations establish a structured system for the control of gambling advertisements across all media. They introduce a requirement for prior approval of advertisements by the Authority, ensuring that promotional content is subject to regulatory scrutiny before dissemination. Advertisements are classified according to their nature and medium, enabling differentiated regulatory treatment where necessary.

Content standards are prescribed to prevent misleading or harmful messaging. Advertisements are required to present gambling activities in a manner that does not exaggerate potential gains, obscure risks, or portray gambling as a solution to financial or personal challenges. Specific restrictions are imposed to prevent targeting of minors and other vulnerable groups.

The Regulations also address the placement and dissemination of advertisements. They impose controls on timing, location, and audience targeting, including restrictions on advertising in environments where exposure to minors is likely. In the digital context, the Regulations extend to online and social media platforms, recognising the importance of targeted and algorithm-driven advertising.

Obligations are also imposed on intermediaries, including media houses and advertising agencies, requiring them to ensure that only compliant advertisements are published or broadcast. Additional provisions govern outdoor advertising, signage, and sponsorship arrangements.

The Advertising Regulations respond to demand-side risks by establishing a controlled environment for the promotion of gambling. They internalise the social costs associated with advertising, reduce exposure of vulnerable populations, and ensure that promotional practices are aligned with responsible gambling objectives.

## 4.6 The Gambling Control (National Lottery) Regulations, 2026

The National Lottery Regulations are intended to establish a framework governing the licensing, operation, and supervision of the National Lottery, including both physical and online lottery systems. The Regulations provide for licensing requirements, operational conduct, technical systems, and oversight mechanisms applicable to the National Lottery.

At the licensing level, the Regulations prescribe eligibility criteria for operators, including minimum capital requirements, local ownership thresholds, tax compliance, and anti-money laundering obligations. They further establish detailed application procedures, documentation requirements, and licensing conditions. Operationally, the Regulations introduce extensive requirements relating to system integration, inspection of premises and systems, customer care infrastructure, and maintenance of operational records. They also provide for the licensing of key employees and regulation of lottery equipment, devices, and software.

A significant component of the Regulations relates to the control of online lottery systems. These provisions include technical standards for system integrity, data security requirements, business continuity obligations, interoperability with regulatory systems, and mandatory player identity verification and age assurance. The Regulations also govern prize competitions, jackpot authorization, advertising of lottery products, and general compliance obligations, including reporting, audit, and suspicious transaction monitoring.

The National Lottery Regulations introduce a highly structured and technology-integrated regulatory model. A central feature of the Regulations is the requirement for real-time regulatory visibility. Operators are required to integrate their systems with the Authority's monitoring infrastructure through application programming interfaces or equivalent mechanisms. This enables continuous supervisory access to operational, transactional, and financial data.

The Regulations also demonstrate a strong alignment with financial integrity and risk management frameworks. Requirements relating to anti-money laundering compliance, transaction monitoring, and reporting of suspicious activities indicate recognition of the financial risks associated with large-scale lottery operations. From a technical perspective, the Regulations establish detailed standards governing system security, data protection, and operational resilience. Requirements relating to encryption, data localisation, system auditability, and business continuity reflect a shift towards system-level regulation.

Consumer protection is similarly embedded within the regulatory design. The Regulations include provisions on identity verification, age assurance, responsible participation tools, and restrictions on anonymous participation, thereby addressing risks associated with accessibility and behavioural exposure.

The National Lottery Regulations respond to several of the regulatory deficiencies identified in Chapter 3, particularly those relating to inadequate operational standards, limited regulatory visibility, and gaps in the regulation of digital gambling environments. By embedding regulatory oversight within system architecture and establishing detailed operational and technical standards, the Regulations strengthen the enforceability of the

regulatory framework and enhance the Authority's capacity to supervise complex, technology-driven gambling activities.

#### **4.6 The Gambling Control (Foreign-Based Operators) Regulations, 2026**

The Foreign-Based Operators Regulations are intended to address the regulatory challenges posed by cross-border gambling and to ensure that all operators accessing the Kenyan market are subject to appropriate oversight.

The Regulations establish a framework under which foreign-based operators may lawfully provide gambling services within Kenya. They require such operators to obtain authorisation from the Authority and to demonstrate compliance with specified legal, financial, and technical requirements.

To ensure regulatory visibility and accountability, the Regulations provide for the establishment of a regulatory nexus within Kenya, which may include the appointment of a local representative or the establishment of a compliance presence. Operators are required to comply with domestic reporting obligations and to provide access to operational data.

Technical measures form a central component of the framework. Operators must implement systems capable of controlling access to their platforms, including geo-fencing mechanisms where necessary, and must ensure that their systems support regulatory monitoring and enforcement.

The Regulations also impose financial and compliance obligations, including minimum capital requirements and adherence to anti-money laundering and counter-terrorism financing standards. Enforcement provisions enable the Authority to take administrative action in cases of non-compliance.

These Regulations address regulatory arbitrage by ensuring that foreign-based operators are subject to equivalent obligations as domestic licensees. They enhance regulatory visibility, protect the domestic fiscal base, and strengthen enforcement in a digital and cross-border environment.

#### **4.7 The Gambling Control (Gambling Appeals Tribunal) Regulations, 2026**

The Tribunal Regulations establish the procedural framework for the operation of the Gambling Appeals Tribunal, which is mandated to hear and determine disputes arising from decisions of the Authority. Their objective is to ensure fairness, transparency, and accountability in the exercise of regulatory powers.

The Regulations define the jurisdiction of the Tribunal and the scope of matters that may be brought before it, including appeals against licensing decisions, enforcement actions, and other determinations of the Authority. They prescribe procedures for the filing and management of appeals, including timelines, documentation requirements, and the conduct of hearings.

The framework provides for participation of parties, representation by counsel, and the submission of evidence. It also establishes the powers of the Tribunal to affirm, vary, or set aside decisions of the Authority and to issue binding determinations. Procedural safeguards are embedded to ensure that proceedings are conducted fairly and efficiently, including provisions relating to case management, issuance of written decisions, and enforcement of Tribunal orders.

While these Regulations do not impose significant direct economic costs, they play a critical role in strengthening the regulatory system by providing a structured mechanism for review of administrative action and enhancing confidence in the integrity of the regulatory framework.

## **4.8 Conclusion**

The proposed Regulations operate as an integrated system in which each instrument reinforces the others. The proposed Gambling Control Regulations, 2026 give full operational effect to the Act by establishing a detailed and coherent regulatory framework. They address the gaps identified in Chapter Three and provide the necessary structure for effective oversight, consumer protection, and market integrity.

# **CHAPTER 5: IMPACT ANALYSIS**

## **5.1 Introduction**

This Chapter assesses the likely impacts of the proposed Regulations on the structure, behaviour, and outcomes of the gambling sector. It evaluates economic, social, institutional, and legal effects across key stakeholder groups. A distinction is drawn between short-term transitional impacts, arising from adjustments to new regulatory requirements, and long-term structural impacts, reflecting changes in incentives, market composition, and regulatory effectiveness.

## **5.2 Analytical Framework**

The analysis adopts a qualitative–comparative approach, supported by identification of key cost drivers, impact pathways, and distributional effects across stakeholders. This approach recognises existing data constraints while ensuring analytical rigor.

Impacts are assessed along three dimensions—

- (a) direct impacts, arising from compliance obligations imposed by the Regulations;
- (b) indirect impacts, arising from behavioural adjustments by operators and consumers;  
and
- (c) systemic impacts, arising from changes in market structure and regulatory incentives.

The analysis further incorporates elements of regulatory economics, including **compliance cost incidence**, **information asymmetry**, **market entry barriers**, and **externalities**, in order to explain how and why impacts arise.

## 5.3 Impact on Gambling Operators

### 5.3.1 Licensed Domestic Operators

The proposed Regulations will alter the cost structure, operational incentives, and competitive environment of licensed operators.

In the short term, operators will incur increased compliance costs arising from multiple regulatory obligations. These costs are transmitted through several channels. First, capital expenditure will be required for upgrading or acquiring compliant technical systems, including identity verification tools, secure payment infrastructure, and monitoring systems. Secondly, operational expenditure will increase due to the need for dedicated compliance personnel, reporting systems, audit functions, and regulatory engagement. Thirdly, constraints on advertising and promotional practices will affect customer acquisition strategies and may reduce marketing efficiency.

The principal cost drivers may be summarised as—

- licensing and renewal processes, including documentation and due diligence;
- system upgrades and cybersecurity investments;
- implementation of player verification and responsible gambling tools;
- ongoing reporting, audit, and compliance management; and
- adjustment of advertising and promotional strategies.

These costs are not evenly distributed. Large, vertically integrated operators with existing technological infrastructure are likely to internalise compliance requirements more efficiently, benefiting from economies of scale. Smaller operators, particularly those operating in physical or semi-formal segments of the market, are likely to face proportionately higher compliance burdens. This may result in *asymmetric adjustment*, with smaller operators either consolidating, restructuring, or exiting the market.

In the longer term, however, the Regulations are expected to improve operating conditions for compliant firms. By reducing the presence of unregulated or under-regulated competitors, the framework enhances *competitive neutrality*. This is likely to increase investor confidence, stabilise revenue streams, and support the transition toward more formalised and professionally managed business models.

### 5.3.2 Impact of Licensing and Regulatory Fees

The introduction and structuring of licensing and regulatory fees constitute a direct and quantifiable cost to operators. These fees function both as a cost-recovery mechanism and as an economic signal influencing market participation.

In the short term, fees increase the cost of entry and continued participation, thereby raising the effective regulatory barrier to entry. The impact is likely to be more pronounced for smaller operators and new entrants with limited capital reserves, potentially resulting in reduced market entry or consolidation.

From an incidence perspective, while fees are imposed on operators, a portion of these costs may be passed through to consumers in the form of adjusted pricing structures, reduced promotional incentives, or altered payout ratios. However, the extent of such pass-through will depend on competitive dynamics within the market.

In the longer term, a transparent and predictable fee regime contributes to regulatory certainty and supports the sustainability of the regulatory authority. Where fees are aligned with the cost of oversight and proportionate to the risk profile of regulated activities, they enhance the credibility and functionality of the regulatory system.

### **5.3.3 New Market Entrants**

The strengthened licensing framework introduces higher thresholds for entry, particularly in relation to capital adequacy, technical capacity, and governance structures.

This has two primary effects. First, it screens out high-risk or under-prepared entrants, thereby improving the overall quality of market participants. Secondly, it increases the fixed costs associated with entry, which may reduce the number of new entrants, particularly in lower-margin segments.

While this may reduce competitive pressure in the short term, it is expected to improve market stability and reduce the incidence of operator failure, fraud, and non-compliance in the longer term.

### **5.3.4 Foreign-Based Operators**

The Regulations significantly alter the operating environment for foreign-based operators by requiring compliance with domestic licensing, reporting, and technical standards.

This reduces opportunities for *regulatory arbitrage*, where operators exploit jurisdictional gaps to avoid regulatory obligations. The impact is likely to manifest in two ways. Operators willing to comply will formalise their presence within the domestic regulatory framework, while non-compliant operators may exit or be excluded from the market.

The requirement for geo-fencing, data access, and regulatory visibility further shifts the balance from a largely unregulated cross-border environment to one in which domestic authorities have greater oversight and enforcement capability.

## **5.4 Impact on Consumers and the Public**

### **5.4.1 Consumer Protection**

The Regulations address structural imbalances between operators and consumers, particularly in relation to information asymmetry and behavioural vulnerability.

Enhanced disclosure, identity verification, and operational transparency reduce the ability of operators to exploit informational advantages. At the same time, structured responsible gambling measures provide consumers with tools to manage participation and mitigate harm.

The net effect is a shift toward a more *informed and protected consumer environment*, in which risks are more visible and safeguards are embedded within the system.

### **5.4.2 Vulnerable Groups**

The combination of advertising restrictions, access controls, and exclusion mechanisms is expected to reduce exposure of minors and vulnerable persons to gambling activities.

Given the role of digital platforms and targeted advertising in expanding access to gambling, these measures are likely to have a significant impact in reducing harm among high-risk groups.

### **5.4.3 Behavioural Effects**

The Regulations are expected to influence consumer behaviour through both supply-side and demand-side channels.

On the supply side, restrictions on inducements, improved transparency, and operational safeguards reduce the intensity and frequency of gambling opportunities. On the demand side, advertising controls reduce exposure and limit behavioural triggers associated with impulsive participation.

These combined effects are likely to result in a moderation of high-frequency and high-risk gambling behaviours, even where overall participation remains stable.

## **5.5 Impact on Government and Regulatory Institutions**

### **5.5.1 Gambling Regulatory Authority**

The Regulations expand the functional scope of the Authority, requiring enhanced capacity in licensing, monitoring, enforcement, and data analysis. This creates both a resource requirement and an institutional strengthening opportunity. Investment in systems, skills, and processes will be necessary to support effective implementation. Over time, this is expected to result in a more capable and technologically equipped regulator.

### **5.5.2 Public Revenue**

Improved licensing compliance, enhanced reporting, and reduced leakage from unregulated operators are expected to increase the transparency and reliability of revenue flows from the sector. The formalisation of foreign-based operators and strengthening of monitoring systems are particularly important in this regard. In addition, regulatory fees contribute to cost recovery and support the sustainability of oversight functions.

### **5.5.3 Inter-Agency Coordination**

The implementation of the Regulations necessitates closer coordination between regulatory, fiscal, and enforcement institutions. This is likely to strengthen overall governance of the sector and improve the State's capacity to address cross-cutting risks, including financial crime.

## **5.6 Impact on Investment and Market Attractiveness**

The Regulations are expected to reshape the investment profile of the gambling sector.

In the short term, increased compliance requirements and higher entry thresholds may deter speculative or under-capitalised investment. This reflects a deliberate regulatory choice to prioritise market integrity over ease of entry.

In the longer term, the establishment of a clear, predictable, and enforceable regulatory framework is expected to enhance investment quality. Reduced regulatory uncertainty lowers the risk premium associated with the sector, making it more attractive to serious and well-capitalised investors.

The net effect is a transition from a low-barrier, high-risk environment to a more structured and credible investment landscape, characterised by fewer but more stable and compliant market participants.

## **5.7 Impact on the Media and Advertising Sector**

The Advertising Regulations introduce constraints on the content, placement, and volume of gambling advertisements. This is likely to result in a reduction in advertising revenue derived from gambling operators, particularly in the short term. However, the Regulations also promote higher standards of advertising practice and reduce reputational risks associated with dissemination of harmful or misleading content.

Over time, the sector may adjust through diversification of revenue sources and alignment with regulatory standards.

## **5.8 Impact on Financial and Payment Systems**

The Regulations strengthen requirements relating to transaction monitoring, payment integrity, and financial reporting. These measures are expected to enhance transparency

and reduce the risk of misuse of gambling platforms for illicit financial activities. Financial institutions and payment service providers may incur moderate adjustment costs in aligning systems with regulatory requirements, but these are offset by improvements in compliance and risk management.

### 5.9 Impact on Competition and Market Structure

The combined effect of the Regulations is likely to alter market structure.

In the short term, increased compliance costs and stricter entry requirements may lead to consolidation and exit of weaker or non-compliant operators. This may result in a temporary reduction in the number of market participants. In the longer term, the establishment of consistent and enforceable rules is expected to promote fair competition, reduce distortions arising from regulatory arbitrage, and support a more stable and credible market environment.

### 5.10 Impact on Fundamental Rights and Freedoms

The Regulations engage constitutional rights, including freedom of expression, economic rights, and consumer protection. The limitations introduced, particularly in relation to advertising and business activity, are proportionate to the legitimate objectives of preventing harm, protecting consumers, and ensuring market integrity. Procedural safeguards, including access to the Tribunal, ensure compliance with principles of fair administrative action.

### 5.11 Potential Risks and Unintended Consequences

Potential risks include migration of users or operators to unregulated or offshore platforms, increased compliance burden on smaller operators, and potential market concentration. These risks are mitigated by the comprehensive nature of the regulatory framework, including provisions addressing foreign-based operators and strengthening enforcement capabilities.

### 5.12 Summary of Impacts

The proposed Regulations generate identifiable short-term adjustment costs alongside significant long-term benefits.

**Table 2: Summary of Key Impacts of the Proposed Regulations**

Stakeholder Group	Type of Impact	Direction	Magnitude
Large Operators	Compliance costs and system upgrades	Negative	Moderate
Small and Medium Operators (SMEs)	Compliance burden and licensing costs	Negative	High
New Market Entrants	Increased entry thresholds	Negative	Moderate

<b>Stakeholder Group</b>	<b>Type of Impact</b>	<b>Direction</b>	<b>Magnitude</b>
Foreign-Based Operators	Compliance obligations and regulatory oversight	Negative	Moderate
Consumers (General)	Enhanced protection and transparency	Positive	High
Vulnerable Groups	Reduced exposure and harm	Positive	High
Government (Revenue)	Improved compliance and reduced leakage	Positive	High
Government (Regulatory Capacity)	Increased oversight capability (with resource needs)	Positive	Moderate
Media and Advertising Sector	Reduced gambling advertising revenue	Negative	Moderate
Financial Sector	Compliance alignment and monitoring obligations	Mixed	Low–Moderate
Market Structure	Increased consolidation and formalisation	Mixed	Moderate
Investment Environment	Improved certainty; reduced speculative entry	Positive (long-term)	High

### **5.13 Conclusion**

The analysis demonstrates that the proposed Regulations impose costs that are proportionate and justified in light of the risks inherent in the gambling sector. The long-term benefits, particularly in terms of consumer protection, market integrity, regulatory effectiveness, and investment quality, outweigh the associated costs. Accordingly, the proposed Gambling Control Regulations, 2026 represent a necessary and appropriate regulatory intervention.

## CHAPTER 6: COST-BENEFIT ANALYSIS

### 6.1 Introduction

This Chapter evaluates the costs and benefits associated with the proposed Regulations. It builds on the impact analysis set out in Chapter Five and provides a structured assessment of whether the expected benefits of the proposed regulatory framework outweigh the associated costs.

### 6.2 Analytical Approach

The cost–benefit analysis is structured around the nature and magnitude of costs, including compliance, administrative, and transitional costs; the nature and magnitude of benefits, including economic, social, and institutional gains; the distribution and incidence of costs and benefits across stakeholders; and the time dimension, distinguishing between short-term adjustment effects and long-term structural outcomes. The analysis also incorporates a counterfactual scenario in which the proposed Regulations are not enacted.

### 6.3 Costs of the Proposed Regulations

#### 6.3.1 Compliance Costs for Operators

The principal costs of the proposed Regulations arise from compliance obligations imposed on gambling operators. These costs are multi-dimensional, encompassing both capital and operational expenditures. For analytical purposes, the compliance cost structure may be conceptualised as—

$$C = CL + CT + CO + CA$$

Where—

- **CL** represents licensing and regulatory fees;
- **CT** represents technical and system compliance costs, including identity verification and cybersecurity infrastructure;
- **CO** represents ongoing operational compliance costs, including reporting, audit, and staffing; and
- **CA** represents adjustment costs, including changes to business models and marketing practices.

This formulation illustrates that compliance costs extend beyond direct financial charges and include structural adjustments to operations and strategy.

From an incidence perspective, these costs are borne primarily by operators, but may be partially passed through to consumers depending on market conditions. The burden is expected to be asymmetrical, with smaller operators facing proportionately higher costs

relative to turnover, while larger operators benefit from scale efficiencies and existing infrastructure.

In the short term, compliance costs are expected to be moderate to high, reflecting transitional adjustments. Over time, these costs are likely to stabilise as compliance systems become embedded.

### **6.3.2 Regulatory Fees**

Licensing and regulatory fees constitute a direct and visible component of compliance costs. These fees serve both as a cost-recovery mechanism and as an economic instrument influencing market participation. In the short term, fees increase the cost of entry and continued participation, thereby raising barriers to entry for marginal or under-capitalised operators. This may lead to reduced entry and potential consolidation.

However, from a regulatory economics perspective, such fees contribute to internalising the cost of regulation within the sector, ensuring that the burden of oversight is not shifted to the public. Where fees are proportionate and predictable, they enhance regulatory certainty and support institutional sustainability.

### **6.3.3 Administrative and Institutional Costs**

The implementation of the Regulations requires investment by the Gambling Regulatory Authority and other public institutions. These costs include development and maintenance of regulatory and data systems, recruitment and training of personnel; and establishment of monitoring and enforcement capabilities. These costs are largely **front-loaded**, reflecting the need to establish effective regulatory infrastructure. Over time, improved compliance and increased revenue are expected to offset these initial investments.

### **6.3.4 Adjustment Costs and Market Exit**

The introduction of stricter regulatory requirements may lead to exit or consolidation among operators unable to meet compliance standards. While this represents a short-term economic cost, it reflects the removal of non-compliant or high-risk actors. This contributes to improved market discipline and reduces systemic risk within the sector.

### **6.3.5 Impact on Related Sectors**

Restrictions on gambling advertising are expected to reduce revenue for media and advertising sectors in the short term. This impact is expected to be moderate and may be mitigated through diversification and adjustment over time.

## **6.4 Benefits of the Proposed Regulations**

### **6.4.1 Enhanced Consumer Protection**

The Regulations address market failures arising from information asymmetry and behavioural vulnerabilities. Enhanced disclosure, identity verification, and responsible gambling mechanisms improve consumer welfare and reduce exposure to harmful practices.

#### **6.4.2 Reduction of Gambling-Related Harm**

The combined effect of advertising restrictions, access controls, and behavioural safeguards reduces the incidence and severity of harmful gambling behaviour. Conceptually, the welfare effect may be understood as a reduction in negative externalities associated with gambling, including financial distress and social harm.

#### **6.4.3 Improved Market Integrity**

The Regulations reduce opportunities for regulatory arbitrage, non-compliance, and unfair competition. This enhances transparency, predictability, and credibility of the market.

#### **6.4.4 Increased Public Revenue**

Improved compliance, enhanced reporting, and reduced leakage from unregulated operators are expected to increase public revenue. Regulatory fees further support cost recovery and institutional sustainability.

#### **6.4.5 Strengthened Regulatory Capacity**

The Regulations provide the Authority with effective tools for licensing, monitoring, and enforcement, enabling more responsive and data-driven regulation.

#### **6.4.6 Improved Investment Quality**

The establishment of a clear and predictable regulatory framework reduces uncertainty and lowers the risk premium associated with the sector. While increased compliance costs may deter speculative or under-capitalised entrants, the framework is expected to attract more stable and compliant investors. This reflects a shift from volume-driven participation to quality-driven investment.

### **6.5 Distribution of Costs and Benefits**

The distribution of costs and benefits reflects the regulatory objective of addressing market failures and protecting public welfare.

- Costs are borne primarily by operators, with a higher relative burden on smaller entities;
- Benefits accrue primarily to consumers, vulnerable groups, and the public;
- Government benefits through improved revenue and regulatory effectiveness, while incurring moderate administrative costs.

This distribution is consistent with the principle that regulatory costs should be internalised within the sector generating the risk.

## 6.6 Cost of Inaction

In the absence of the proposed Regulations, existing regulatory gaps would persist, resulting in continued consumer harm, regulatory arbitrage by foreign-based operators, and revenue leakage. The cost of inaction is therefore significant and includes both economic and social dimensions, particularly in relation to unregulated cross-border activity and exposure of vulnerable populations.

## 6.7 Net Assessment

The overall effect of the proposed Regulations may be understood in terms of their net contribution to welfare, where aggregate benefits are weighed against aggregate costs. Conceptually, this may be expressed as:

$$W = B - C$$

Where—

- **W** represents net welfare;
- **B** represents the aggregate benefits arising from enhanced consumer protection, improved market integrity, increased public revenue, strengthened regulatory capacity, and improved investment quality; and
- **C** represents the aggregate costs, including compliance, administrative, and adjustment costs.

In the present case, while the proposed Regulations introduce identifiable and, in some instances, significant short-term costs, particularly for smaller operators, the benefits are broader in scope, more widely distributed across society, and more durable over time.

In particular reductions in consumer harm generate sustained social benefits, improved regulatory oversight enhances long-term market stability and formalisation of the sector strengthens revenue and investment conditions.

Moreover, the screening effect introduced by the regulatory framework improves the quality of market participation and reduces systemic risk. Accordingly, when assessed on a net basis, the proposed Regulations yield a **positive welfare outcome**, with the magnitude and durability of benefits outweighing the associated costs.

### **Table 3: Summary Evaluation of Costs and Benefits**

Category	Nature of Impact	Direction	Magnitude	Net Effect
Compliance Costs (Operators)	Licensing, reporting, changes, systems, operational	Negative	Moderate–High	Short-term burden, stabilises over time
Regulatory Fees	Direct financial cost to operators	Negative	Moderate	Supports regulatory sustainability
Administrative Costs	Institutional capacity and system development	Negative	Moderate	Enables effective oversight
Consumer Protection	Transparency, safeguards, reduced exploitation	Positive	High	Strong welfare gain
Reduction in Harm	Lower exposure to addictive and harmful behaviour	Positive	High	Significant social benefit
Market Integrity	Reduced arbitrage and unfair competition	Positive	High	Improved credibility and stability
Public Revenue	Improved compliance and reduced leakage	Positive	High	Sustained fiscal benefit
Market Structure	Consolidation and formalisation	Mixed	Moderate	Improved stability, reduced marginal entry

## 6.8 Conclusion

The cost–benefit analysis demonstrates that the proposed Gambling Control Regulations, 2026 represent a proportionate and justified regulatory intervention. The Regulations address identifiable market failures, internalise the costs of regulation within the sector, and generate significant and sustained public benefits.

## CHAPTER 7: REGULATORY AND NON-REGULATORY ALTERNATIVES

### 7.1 Introduction

This Chapter evaluates alternative approaches to addressing the regulatory challenges identified in the gambling sector. It considers both regulatory and non-regulatory options, and assesses their effectiveness in achieving the objectives set out in this Regulatory Impact Assessment.

### 7.2 Option 1: Maintain the Status Quo

Under this option, no new regulations would be introduced, and the existing regulatory framework would remain in place.

While this option avoids immediate compliance and administrative costs, it does not address the regulatory deficiencies identified in earlier Chapters. In particular, it would—

- allow continued regulatory arbitrage by foreign-based operators;
- perpetuate gaps in licensing, operational conduct, and advertising control;
- maintain inadequate consumer protection mechanisms; and
- result in continued revenue leakage and weak enforcement capacity.

From a policy perspective, this option fails to respond to the evolution of the gambling sector, particularly in relation to digital and cross-border operations. It is therefore ineffective in addressing the identified problem.

### 7.3 Option 2: Non-Regulatory Measures

This option involves reliance on non-binding or indirect interventions, including—

- industry self-regulation;
- voluntary codes of conduct;
- public awareness and education campaigns; and
- administrative guidance issued by the regulatory authority.

While such measures may complement formal regulation, they are insufficient as a primary response. Self-regulation is inherently limited by conflicts of interest, particularly in a sector where commercial incentives may not align with consumer protection objectives. Voluntary compliance mechanisms lack enforceability and are unlikely to achieve uniform standards across the market.

Public awareness initiatives, while valuable, do not address structural issues such as licensing gaps, regulatory arbitrage, or systemic weaknesses in oversight. Accordingly, non-regulatory measures alone are unlikely to achieve the objectives of effective regulation, consumer protection, and market integrity.

#### **7.4 Option 3: Partial or Incremental Regulation**

Under this option, targeted amendments or limited regulations would be introduced to address specific issues, such as licensing or advertising, without establishing a comprehensive regulatory framework. While this approach may reduce immediate compliance costs, it presents several limitations—

- it risks creating fragmented regulation, with gaps and inconsistencies across different aspects of the sector;
- it does not adequately address the interdependent nature of gambling activities, particularly the relationship between licensing, conduct, and advertising; and
- it limits the ability of the regulatory authority to exercise effective and coordinated oversight.

Given the systemic nature of the regulatory challenges identified, incremental regulation is unlikely to achieve a coherent and effective outcome.

#### **7.5 Option 4: Comprehensive Regulatory Framework (Proposed Option)**

This option involves the enactment of the full suite of Gambling Control Regulations, 2026, including Licensing Regulations; Conduct of Gambling Operations Regulations; Advertising Regulations; and Foreign-Based Operators Regulations.

This approach establishes an integrated regulatory framework addressing the full lifecycle of gambling activity, including market entry, operational conduct, demand formation, and cross-border participation. The principal advantages of this option include comprehensiveness, ensuring that all key regulatory gaps are addressed; coherence, with consistent standards applied across the sector; enforceability, supported by clear rules and institutional mandates; and adaptability, enabling the framework to respond to technological developments and evolving market dynamics.

While this option entails higher short-term compliance and administrative costs, these are proportionate to the scale and nature of the risks involved. The long-term benefits, including improved consumer protection, enhanced market integrity, and increased regulatory effectiveness, are substantial.

#### **7.6 Conclusion**

Based on the foregoing analysis, the comprehensive regulatory framework represented by the proposed Gambling Control Regulations, 2026 is the preferred option. This option provides the most effective and sustainable response to the identified regulatory challenges, while ensuring that the costs of regulation are proportionate and justified. The assessment of alternatives demonstrates that non-intervention and partial regulatory approaches are insufficient to address the systemic and evolving risks within the gambling sector. The proposed Regulations represent a coherent, enforceable, and proportionate framework that aligns with the statutory mandate and policy objectives.

## CHAPTER 8: PUBLIC PARTICIPATION AND CONSULTATION

Public participation in the development of statutory instruments is grounded in the Constitution and statutory law. Article 10 of the Constitution establishes public participation as a national value and principle of governance binding all State organs and public officers. In addition, sections 5, 6, and 7 of the Statutory Instruments Act require that, where a statutory instrument is likely to have a significant impact on the public, the regulation-making authority must undertake appropriate consultation and consider stakeholder views in the development of the instrument. The consultation process for the proposed Regulations has been undertaken in compliance with these requirements.

Stakeholders were identified based on their role in, or exposure to, the gambling sector. These include licensed gambling operators across different segments, including betting, casinos, lotteries, and gaming; foreign-based and online operators; media houses and advertising agencies; financial institutions and payment service providers; consumer protection organisations and civil society groups; public health stakeholders; relevant government agencies, including tax authorities, communications regulators, and enforcement agencies; and members of the public. This approach ensures representation of both regulated entities and affected communities.

The consultation process has adopted a combination of methods to ensure broad participation and inclusivity. These include publication of draft Regulations and supporting materials for public comment; stakeholder meetings and consultative forums with sector participants; receipt of written submissions from stakeholders; and targeted engagements with institutional stakeholders and regulatory bodies. The process has been structured to allow stakeholders sufficient opportunity to review and provide input on the proposed framework.

Stakeholders have raised a range of issues relating to the proposed Regulations. The principal themes include the level and structure of licensing and regulatory fees; the scope and intensity of compliance requirements, particularly for smaller operators; the impact of advertising restrictions on business operations and media revenue; the regulation of foreign-based operators and cross-border enforcement; the practicality of technical and reporting requirements; and the need for clarity, predictability, and phased implementation. Concerns have also been raised regarding the potential impact on market entry and competition.

Stakeholder input has informed the ongoing refinement of the proposed Regulations. Where stakeholder proposals are not adopted, this is on the basis that such proposals would undermine the effectiveness of the regulatory framework or fail to adequately address identified risks.

## **CHAPTER 9. CONCLUSION AND RECOMMENDATIONS**

### **9.1 Conclusion**

This Regulatory Impact Assessment has examined the proposed Gambling Control Regulations, 2026 in light of the existing regulatory framework, the nature and extent of challenges within the gambling sector, and the need for an effective and modernised regulatory response.

The impact analysis indicates that, while the Regulations introduce compliance and adjustment costs, particularly in the short term, these costs are proportionate to the risks inherent in the sector. The cost–benefit analysis further demonstrates that the long-term benefits, including enhanced consumer protection, improved market integrity, increased public revenue, strengthened regulatory capacity, and improved investment quality, outweigh the associated costs.

The assessment of alternative options confirms that non-regulatory measures and incremental approaches are insufficient to address the systemic challenges identified. The proposed comprehensive regulatory framework therefore represents the most effective and sustainable response.

The consultation process undertaken has been consistent with constitutional and statutory requirements, and has ensured that stakeholder perspectives have informed the development of the Regulations.

The analysis further indicates that the proposed regulatory framework is capable of practical implementation within the existing institutional arrangements.

### **9.2 Recommendation**

In light of the foregoing analysis, it is recommended that the proposed Gambling Control Regulations, 2026 be adopted.