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**A CRITICAL STUDY OF THE PROMOTION AND REGULATION OF ONLINE  
GAMING ACT, 2025**

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**ABSTRACT**

*The Promotion and Regulation of Online Gaming Act, 2025, seeks to foster and encourage ethical innovation in India's booming online gaming sector such as e-sports, social games while prohibiting strictly on online money games whether basis in skill, chance, or both. The Act also prohibits promotion and financial facilitation of such games. The Act established a regulatory body under the Central Government to address issues such as addiction, fraud, and misuse of personal information. The Authority will formulate national wide policies, collaborate with state governments, enforce ethical guidelines, and promote safe practices. Its primary goals include crating uniform regulations across the state government, bridging jurisdictional gaps, transparency and safeguarding public health, youth welfare, economic stability, and national security.*

**KEYWORDS:** *Social games, e-sports, stake, financial, Authority.*

## 1. INTRODUCTION

Rapid escalation of India's digital development is progressed to online gaming sector has witnessed remarkable growing in past decades. Due to this, increasing engagement of youth and middle-class peoples to surge sparked major concerns over gambling addiction. Reports estimate that nearly 45 crore people of India together, they suffer an annual lose around 20,000 Crores. As a result, many families have lost their lives. Article 246 of the Indian Constitution explicitly outlines how powers are shared between the Central Parliament and State Legislatures. Based on the Seventh Schedule provides three lists for distribution of powers between Central and State. The constitution grants law making authority to the Central Government for the subject matters in List-I, and to the State Government has a power to making laws for the subject matters in List-II, and to both Central and State governments were power to make a law regarding for the subject matters in List-III. The state government holds the authority to create legislation concerning "Betting and Gambling" as per List II, Entry 34, of the Seventh Schedule. In response to these rising crimes, a certain states India have enacted laws against online gaming by exercising these power the certain states have passed the following laws; The Tamil Nadu government has passed, The Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, The state of Telangana has passed The Telangana Gaming (Amendment) Act, 2017, State of Andhra Pradesh has passed The Andhra Pradesh Gaming (Amendment) Act, 2020, and the state of Karnataka passed The Karnataka Police (Amendment) Act, 2021. However, these laws were ruled unconstitutional by High Courts for opposing government authority, as game of skills enjoy protected under Article

19(1)(g) of the constitution as a legitimate trade. The High Courts also stated that Game of skill do not include Betting and Gambling. Acknowledging the significance of addressing these increasing crimes and resolving legal contradictions, by exercising the regulatory authority granted under Entry 52 of the Union List, the Central Government has passed The Promotion and Regulation of Online Gaming Act, 2025.

## 2. SKILLS-BASED AND CHANCE-BASED GAMES

The Public Gambling Act, 1867 under Section 4 engaging in or present for gaming whether playing for money, wager, stake, or otherwise, they shall be subject liable to a fine not exceeding one hundred rupees. Section 13 grants an exemption for games that operate completely skill based. In State of Bombay Vs. R.M.D Chamarbaugwala<sup>1</sup> the court stated that Game of Chance activities are classified as 'res extra commercium', means it lies outside the beyond the boundaries of legitimate commerce. Consequently, operating a gambling business is does not qualify as a Fundamental Right under Article 19(1)(g) of the Constitution, which safeguards the right to pursue any profession, trade, or business. the court also established legal benchmark known as game of chance(gambling) vs. game of skills (competition of skill) test.

According to the test, game of chance, where success depends on wholly or largely on luck, are considered unlawful and can be completely prohibited. On the other hand, skill-based contests, which acknowledged as legitimate business and protected under Article 19(1)(g). Furthermore, the court upheld that State Legislature have the power regulate and tax gambling activities,

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<sup>1</sup> AIR 1957 SC 628;1957 SCR 930

as provided under State List, Entry 34 mentioned as “betting and gambling” and Entry 62 “taxes on betting and gambling” of the constitution. Later K.R. Lakshmanan Vs. State of Tamil Nadu and Another<sup>2</sup> case represents a landmark in Indian gaming law, focusing on the classification of horse-racing and the constitutional validity of a state acquisition law. The Supreme Court decision established the essential “predominance of skill” test, determining horse racing is a skill oriented activity, which therefore exempting betting and wagering on it from the penal provisions of laws such as the Madras City Police Act, 1888(Section 49A) and the Madras Gaming Act, 1930(Section 4), which apply only on ‘games of chance’. Moreover, the court also struck down the Tamil Nadu Acquisition of the Madras Race Club Act, 1986 due to an arbitrary assertion of power, leads to the law’s nullification and the reinstatement of the club’s management. In Varun Gumber vs. Union Territory of Chandigarh<sup>3</sup> the court confirmed that Online Fantasy Sports (OFS) are legal in India, classifying them as a “game of skill” rather than gambling. The Punjab and Haryana High Court’s “preponderance of skill” test and conclude that success in OFS largely depends on the player performance and statistical information. This classification allows OFS to be excluded from the penal clauses of the Public Gambling Act, 1867, acknowledging it as a valid trade or business protected under Article 19(1)(g) of the Constitution. In the case of Jungle Games India Private Limited vs. The State of Tamil Nadu’s<sup>4</sup>, the Madras High Court effectively annulled the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021, which sought to prohibit all online games played for stakes, irrespective of their designation as skill-based games like as poker and online rummy, was unconstitutional, because it breached the

fundamental right to practice trade and business under Article 19(1)(g). This landmark ruling reaffirmed the legal principle that games primarily driven by skill should not be classified as gambling and are safeguarded as valid legitimate business, urging the state to adopt regulatory approaches instead of prohibitive measures in future legislation.

### **3. OBJECT OF THE PROMOTION AND REGULATION OF ONLINE GAMING ACT, 2025**

This act seeks to promote responsible innovation within the online gaming sector while regulating harmful practices, particularly online money-based games associated with betting or gambling. The rapid expansion of online gaming in India brings opportunities such as employments, creativity and technological advancement but also create social and financial challenges, like addiction, fraud, and personal data misuse. To address these, the act aims to promote ethical gaming and prohibit harmful ones.

This Act facilitates for the establishment of an Independent Central Authority under the Central Government, thereby ensuring the regulation and comprehensively manages the online gaming sector. This authority will create national policies, coordination with the state to prevent legal ambiguities. To create guidelines for ethical gaming and fair advertising, and support innovation in lawful games such as e-sports and educational gaming. The authority will also manage licensing, enforce compliance with ethical, financial, and technical standards, and take action against illegal money-based games and manipulating content. Additionally, the authority will promote research and training for safe gaming,

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<sup>2</sup> AIR 1996 SC 1153

<sup>3</sup> CWP No. 7559 of 2017

<sup>4</sup> 2021 SCC Online Mad. 2767

support developers of skill based or educational games, and ensure data privacy and transparency in gaming algorithms. The act establishes a unified national framework to harmonize varying state laws, enhance regulatory efficiency, and address cross border gaming challenge. It will monitor platforms operating from internationally or across state borders to ensure compliance with India's data, financial, cybersecurity laws, coordinating internationally when necessary. Ultimately, the act aims to prioritize public welfare by preventing addiction, safeguard youth through safe and educational gaming, ensure economic security by curbing fraud and illegal betting, and enhance national security by monitoring online crimes and money laundering.

#### 4. IMPORTANT DEFINITION OF THIS ACT

**Section 2(1)(c) - "E-sport":** E-sports means as a form of 'Online Game'. To be recognized as an e sport, it is necessary to satisfy the following conditions:

- (i) "Played as a part of multi sports events".
- (ii) "Organized competitive events": denotes the contest should involve organized competitions among individuals or teams in multiplayer formats, regulated by established rules to guarantee fairness.
- (iii) E-sports shall be acknowledged under National Sports Governance Act,2025(NSG Act, 2025).
- (iv) "Outcome" must rely entirely based solely on the skills of the player's, including their physical coordination, mental

sharpness, strategic planning or comparable skills.

- (v) "Fees and Prize money": players may pay fees for entering or cover administrative cost, and prizes may be awarded based on performance.
- (vi) "Prohibition of Betting": e-sports shall not involve betting, wagering, or staking by players, organizers, or viewers, with no profits from such activities, ensuring e-sports remain fair and free of unaffected by gambling.

**Section 2(1)(f) – "Online game":** refers to any game that is played on an electronic or digital device, operate or managed as software via the internet or any technology that facilitates electronic communication.

**Section 2(1)(g) – "Online Money Game":** defined as an Online game, regardless of whether it relies on skill, chance, or a combination of both, in which a player pays entry fees, deposits funds, or places other bets with anticipation of earnings that offer financial or other rewards in return for their money or stakes. Nevertheless, this definition excludes e-sports.

**Section 2(1)(i) – "Online Social Game":** refers to a game played over the internet (online) which:

- (i) Exclude staked money or other bets, and does not include engaging with the anticipation of financial rewards in exchange for money or stakes.
- (ii) May permit access through a payment of a subscription fee or a one-time access fee, as long as such payment is not in the form of a stake or wager.

- (iii) Is offered exclusively for entertainment, recreation, or skill development purposes; and
- (iv) Is neither an online money game nor an e-sport.

### **5. RECOGNITION OF E-SPORTS (SECTION 3)**

- (1) The Central Government will implement suitable measures to acknowledge and officially register e-sports with the relevant authority or agency as a legitimate category of competitive sports in India, as well as promote and grow e-sports events.
- (2) Regardless of the limitation of Sub Section (1), these actions may consist of:
  - (a) Establishing rules and criteria for planning and executing e-sports competitions.
  - (b) Establishing training centres, research organizations, and additional entities dedicated to the advancement of e-sports.
  - (c) Implementing incentive programs, awareness campaigns, and outreach efforts to promote innovation and stimulate the establishment of new businesses in e-sports technology platforms.
  - (d) Working alongside state government and established sports federations to incorporate e-sports into wider sports policy strategies. and

- (e) Taking additional required actions to enhance the sector, as may be required.

### **6. CONSTITUTION OF AUTHORITY (SECTION 8)**

#### **(1) Establishment of Authority:**

Under these provisions the Central Government may create a new Authority or appoint an existing authority or agency can be performed the functions specified.

#### **(2) Authority's Powers:**

The Central Government may, by notified, confers upon the Authority or agency to exercise the following key powers and performed necessary:

- (a) To determine whether an online game qualifies as an online money game, either upon application or on its 'suo motu'(own initiative), following proper investigation.
- (b) To approve, classify, and register online games according to prescribed regulations.
- (c) To perform any other roles or powers specified by future rules.

#### **(3) Compliance Requirements:**

All individuals or organizations involved in providing or overseeing online games must adhere to the instructions, directives, guidelines, or codes of conduct issued by the Central Government of the Authority.

#### **(4) Issues to Be Regulated by the Government:**

The Central Government is able to create and

publish comprehensive regulations concerning.

- (a) Selection of Chairperson structure, qualification for both the Chairperson and the members.
- (b) Their wages, benefits, and duration of service.
- (c) Reasons for disqualification or dismissal.
- (d) Procedures for handling resignations and vacancies.
- (e) Conduct of meetings and proceedings.
- (f) Regarding to the authority officers and their employees.
- (g) Authority of the Chairperson.
- (h) Addressing grievances associated with online games.
- (i) Any other matters necessary to achieve the Act's objectives.

**(5) Handling complaints:** The Authority or agency may receive and address complaints which is either in written or electronic mode regarding online games that are harmful or unjust to users.

## 7. APPOINTMENT OF INVESTIGATING OFFICER (SECTION 15)

The central Government has a power to appoint an officer by official notification to investigate violations under this Act, and the officer may belong to the Central Government, the Online Gaming

Authority, or specific officers from State Governments.

## 8. INVESTIGATING OFFICERS POWERS (SECTION 16)

- (1) Anyone suspected of committing, having committed or about to commit an offense, Section 15 of this act empowers that authorised officers to enter, search, and arrest without a warrant anyone suspected of an offence. These powers apply not only to physical premises and also to digital domains where such offences may occur. Even if the Bharatiya Nagarik Suraksha Sanhit, 2023 is general procedures for search and arrest, this special provision takes precedence for offences specifically covered under this Act.
- (2) If an officer who is other than police officer conducts an arrest, the person shall be immediately produce before to the magistrate or the police officer having control over the station.
- (3) The Bharatiya Nagarik Suraksha Sanhita, 2023 prescribed will, to the greatest extent feasible, apply to any entrance, search, or arrest carried out in accordance with this section, subject to its provisions.

## 9. OFFENCE AND PENALTIES

Penalties for Violating Section 5,6,7 of this Act (Section 9)

- (1) Offering online money gaming service (Section 5):** Anyone who violates the Section 5 of this Act, by providing an online money gambling service faces a maximum

sentence of three years in prison, a fine of one crore, or both.

- (2) **Advertising online money games (Section 6):** Advertising an online money game in violation of Section 6 of this act, carries a maximum sentence of two years in prison, a maximum up to 50 lakhs, or both.
- (3) **Transferring funds for online money gaming (Section 7):** Anyone who conducts business or authorizes funds in contravention of Section 7 faces a maximum fine sentence of three years in jail, a maximum fine of one core, or both.
- (4) **Repeat offences (Section 5 and 7):** Any found guilty of breaking Section 5 and Section 7 repeatedly faces a minimum sentence of three year's imprisonment, which can be increased to five years, and a minimum fine of one crore, which can be extended to two crores.
- (5) **Repeated offence (Section 6):** Which carries a minimum sentence of two year's imprisonment and maximum sentence of three years, as well as a minimum fine of fifty lakhs and a maximum fine of one core.

#### **10. COGNIZABLE AND NON-BAILABLE OFFENCES (SECTION 10)**

Anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, offences committed under Section 5 and Section 7 are deemed cognizable and non-bailable offence.

#### **11. OFFENCES BY COMPANIES (SECTION 11)**

- (1) When a company breaks the law under this Act, both the company and any person who was in charge of running or managing it business at that time will be held accountable and punished under the law.
- (2) No individual will not be held accountable if they are able to demonstrate that the offence occurred without their awareness or that they took due diligence to avert the commission of the offense.
- (3) When investigation proves shows that a company's violation arose due to endorsement, collusion, or dereliction of any person or due to insufficient supervision of operations, the responsible directors, managers, secretaries, or officers will be liable and penalized under the law.

#### **12. PENALTY FOR NON-COMPLIANCE WITH DIRECTIONS OR ORDERS (SECTION 12)**

- (1) A person may be subject to fine up to ten lakhs rupees, registration suspension or cancellation, and prohibition from offering, facilitating, or promoting online games for a time decided by the central government or authority if they disregard a directive or order issued by the central government, the authority, or any authorizing agency under Section 8(3).
- (2) Nevertheless, neither punishment or action under Section 12(1) may be

implemented without first giving individuals a chance to be heard.

### 13. BLOCKING MONEY GAME SERVICES (SECTION 14)

Regardless of other provisions in this Act or Section 69A of the IT Act, 2000 (Information Technology Act) failure to comply with Section 5, 6, and 7, if any information connected to that service, whether generated, transmitted, received, or hosted on any digital or computer platform, shall be blocked from public access. In order to adherence to the Act's requirements, such restriction will be implemented in accordance specified in Section 49A of the IT Act 2000.

### 14. CONCLUSION

The Promotion and Regulation of Online Gaming Act, 2025 is a transformative step digital framework in India, balancing innovation with responsibility. It creates a comprehensive framework to encourage ethical online gaming while prohibiting illegal money-based gaming activities. To enhance its effectiveness should clarify, distinctions between games of skill based and chance-based games, and strengthening digital data protection measures in accordance with the DPDP Act, 2023 (Digital Personal Data Protection Act).

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