

The Promotion and Regulation of Online Gaming Act, 2025-An Insight

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The digital landscape of India's gaming industry has undergone a monumental shift with the enactment of The Promotion and Regulation of Online Gaming Act, 2025 ("PROGA"). The new enactment was passed by Parliament on August 21, 2025, and received Presidential assent on August 22, 2025. This Act marks a significant step towards a comprehensive legal framework for online gaming in India. While aiming to foster a safe and responsible digital environment, the legislation has introduced a blanket ban on online money games, triggering widespread debate and concern within the thriving e-gaming industry.

Key Provisions and Features:

The PROGA is a progressive attempt to promote and regulate specific segments of online gaming while outright prohibiting others, addressing various societal, economic, and security concerns.

1. Categorisation of Online Games: The Act sets out clear categories for different types of online games, making clear distinctions between them –

- **Online Game [Sec. 2 (1)(f)]:** Any game played on an electronic or digital device, managed and operated as software via the internet or other electronic communication technology.
- **e-Sports [Sec. 2 (1)(c)]:** Defined as online games that are part of multi-sport events, involve organised competitive events based on participants' skills (physical dexterity, mental agility, strategic thinking), and importantly, do not involve placing monetary bets, wagers, or any other stakes. These are recognised under the National Sports Governance Act, 2025.
- **Online Social Games [Sec. 2 (1)(i)]:** These are games that do not involve staking money or other valuable equivalents with the expectation of monetary gain. They may require subscription or one-time access fees, but these are not considered stakes. Their primary purpose is entertainment, recreation, or skill development.
- **Online Money Games [Sec. 2 (1)(g)]:** This category includes any online game, irrespective of whether it is based on skill, chance, or both, where a user pays fees, deposits money, or places other stakes with the expectation of winning a monetary return or other enrichment. E-sports are explicitly excluded from this definition. This provision is a significant shift, as previously, courts and local laws often permitted games of skill while forbidding games of chance.

2. Blanket Ban on Online Money Games [Sections 5, 6 and 14]: A cornerstone of the Act is its outright prohibition of online money games. No person is permitted to offer, aid, abet, induce, or facilitate the provision of online money gaming services. This ban extends to any form of advertisement that directly or indirectly promotes or induces participation in online money games.

Any information related to such services found in contravention will be blocked for public access under the Information Technology Act, 2000.

3. Promotion of e-Sports and Online Social Games [Sections 3 and 4]: In stark contrast to the ban on money games, the Act creates an enabling framework for the promotion and development of e-Sports and online social games. The Central Government is mandated to take steps such as framing guidelines, establishing academies and research centres, implementing incentive schemes for innovation, and coordinating with State governments and sporting federations to position e-Sports as an organised and regulated sector. Similarly, efforts will be made to facilitate the development and availability of online social games for recreational and educational purposes, including creating registration mechanisms and awareness programs.

4. Prohibition on Transfer of Funds [Section 7]: The Act extends its reach to financial intermediaries, explicitly prohibiting banks, financial institutions, and any other person involved in facilitating transactions or authorising funds from engaging in, permitting, aiding, or abetting payments for online money gaming services. This directly brings financial entities within the scope of regulatory and penal provisions.

5. Establishment of a Central Authority [Section 8]: The Act provides for the establishment of a central authority, which may be a newly constituted body or a designated pre-existing one, to supervise the online gaming industry. This Authority will be empowered to register and classify online games, issue operating and compliance guidelines, determine whether a game qualifies as an online money game, manage complaints, and ensure industry-wide compliance, aiming to bring much-needed consistency to the sector.

6. Offences and Penalties: Violations of the PROGA attract strict criminal liability and substantial monetary penalties:

- Sec. 9 (1): Offering online money gaming services can lead to imprisonment for up to three years and/or a fine of up to Rs. 1 crore.
- Sec. 9 (2): Unlawful advertising of online money games carries imprisonment of up to two years and/or a fine of up to Rs. 50 lakh.
- Sec. 9 (3): Financial institutions enabling prohibited transactions face imprisonment of up to three years and/or a fine of up to Rs. 1 crore.
- Sec. 9 (4): Repeat offenders under Sections 5 and 7 face harsher penalties, with imprisonment term extending up to five years, not less than three years and fines up to Rs. 2 crore, not less than Rs. 1 crore.
- Sec. 9 (5): Repeat offenders under Section 6 face harsher penalties, with imprisonment extending up to three years, not less than two years and fines up to Rs. 1 crore, not less than Rs. 50 lakh.
- Sec. 10: Offences related to offering online money gaming services and facilitating financial transactions are classified as cognizable and non-bailable under the Bharatiya Nagarik Suraksha Sanhita, 2023, granting police powers of arrest without a warrant.

- Sec. 11: Companies are also held liable, with individuals in charge and responsible for the company's conduct at the time of the offence being subject to punishment.

7. Enforcement Powers [Sec. 16]: The Act grants the Central Government and authorised officers significant enforcement powers. This includes the ability to block access to online money gaming services, investigate offences, and enter any place (physical or digital), search, and arrest without a warrant any person reasonably suspected of committing an offence under the Act. “*Any place*” is broadly defined to include computer resources, virtual digital spaces, and electronic storage devices, with officers allowed to override access controls if necessary.

Rationale Behind the Act

The government's primary motivation for introducing the PROGA stems from concerns over the ‘*high risk of financial harm*’ and ‘*online gaming addiction*’ associated with online money games. The Act's preamble highlights several key reasons for its enactment:

- **Protection of Individuals:** The legislation aims to protect individuals, especially youth and vulnerable populations, from adverse social, economic, psychological, and privacy-related impacts, including addiction, mental health issues, financial losses, and even suicides.
- **Public Order and Health:** The widespread proliferation of online money games was linked to compulsive and addictive behavior, financial ruin, and mental health disorders, necessitating action to maintain public order and health.
- **Safeguarding Financial Systems and National Security:** Concerns were raised about online money gaming platforms being used for illegal activities such as money laundering, financial fraud, tax evasion, and even terrorism financing, posing threats to the integrity of financial systems and the security and sovereignty of the State.
- **Addressing Regulatory Gaps:** India lacked a uniform regulatory environment, leading to inconsistencies across states regarding policy, legal frameworks, and consumer protection. The Act seeks to establish a consistent, national-level legal framework.
- **Manipulative Practices:** The use of addictive algorithms, manipulative design features, bots, and undisclosed agents in online money games was seen as undermining fairness, transparency, and user protection.
- **Offshore Operations:** Many services operate from offshore jurisdictions, bypassing domestic laws and creating enforcement challenges due to extra-territorial jurisdiction and inter-state inconsistencies.

Limitations and Challenges

Despite its laudable objectives, the PROGA has faced significant criticism and is expected to encounter several limitations and challenges.

- 1. Economic Impact and Industry Concerns:** The sudden blanket ban has shocked an industry that was projected to grow from USD 3.7 billion to USD 9.1 billion by 2029. Industry stakeholders, including the All-India Gaming Federation, have warned that the law could cause considerable damage to what they claim is a legitimate, job-creating industry. Major players like Dream11 and Mobile Premier League, valued at billions, are poised for drastic operational and structural changes. The ban is expected to influence employment opportunities in software development, content creation, marketing, and customer support. The advertising ban is likely to disrupt allied industries, including media houses, digital advertising platforms, and event organisers, potentially impacting large-scale sporting events and celebrity endorsements.
- 2. Constitutional Challenges and Fundamental Rights:** Critics contend that the sweeping ban infringes upon a person's fundamental right to free speech and expression, arguing that playing online games of skill with money should be a protected activity. A comparison is drawn to stock and options trading, which, despite high financial risks (with 9 out of 10 Indians losing money in futures and options), are regulated rather than banned. Furthermore, a significant constitutional debate revolves around the Centre's authority to legislate on online gaming. "Betting and gambling" is a State subject under the Indian Constitution. Some argue that the central legislation encroaches upon State authority, creating conflicts with existing State laws that permitted skill-based gaming. However, in my view where public interest at large is concerned, Central legislation becomes necessary as in the present case.
- 3. 'Axe vs. Scalpel' Approach:** Many argue that the Act misses the point by imposing a blanket ban on all online money games, including those based purely on skill or involving trivial stakes, rather than implementing stringent regulations. This approach has been likened to "*wielding an axe when a scalpel could have sufficed*," or "*promoting root beer while banning alcoholic beer altogether*". Instead of an absolute ban, in my view a regulatory framework, similar to that for stock trading, could have included minimum age requirements, compulsory registration, reporting obligations, advertisement bans, explicit risk warnings, and limits on deposits and losses, making games safer without an outright ban.
- 4. Lack of Consultation and Due Process Concerns:** The Bill was passed by the Lok Sabha without debate. This sends a negative signal to global investors about India as an investment destination. Some critics also raise concerns about due process, particularly regarding the Authority's power to enter any premise (digital or physical), block websites and apps, or conduct searches without a warrant. However, where enforcement of law is concerned, privacy consideration has to give way for overriding considerations of protecting larger public interest.

The Promotion and Regulation of Online Gaming Act, 2025, represents a pivotal moment for India's digital economy. It endeavours to establish a safe, innovative, and robust online gaming environment by promoting e-Sports and online social games while strictly prohibiting online money games due to perceived social, economic, and security threats, particularly as regards children. In my personal view, this law is also a positive step to honoring India's commitment in Convention on the Rights of the Child. However, the Act's dual approach of promotion and blanket prohibition, especially its departure from established jurisprudence on games of skill versus chance, has ignited a constitutional showdown and raised serious questions about its economic impact and adherence to fundamental rights. The regulatory uncertainty may also deter foreign investments, which have previously exceeded Rs. 25,000 crores in the sector. The coming years will be crucial in determining how effectively the industry adapts to these regulations and whether the Act ultimately achieves its stated objectives without stifling innovation, employment, or investor confidence.