
THE PROMOTION AND REGULATION OF ONLINE GAMING ACT, 2025: BALANCING INNOVATION, PUBLIC HEALTH AND FEDERAL COMPETENCE

***Shalini Chorasiya**

Law Department, Haveli Institute of Legal Studies C Research, Mumbai University City /
Region: Silvassa, Dadra C Nagar Haveli.

Article Received: 07 August 2026

***Corresponding Author: Shalini Chorasiya**

Article Revised: 27 August 2026

Law Department, Haveli Institute of Legal Studies C Research, Mumbai University City

Published on: 17 September 2026

/ Region: Silvassa, Dadra C Nagar Haveli.

DOI: <https://doi-doi.org/101555/ijrpa.9095>

ABSTRACT

The Promotion and Regulation of Online Gaming Act, 2025 (“PROG ACT” or “PROGA”) marks a watershed moment in India’s approach to digital entertainment regulation.

Enacted by parliament in August 2025 and enforced from October 1, 2025, the act imposes a blanket prohibition on all “online money games” irrespective of whether they involve skill, chance, or a mixture of both while simultaneously seeking to promote e-sports and online social gaming as legitimate industries. This article examines the legislative architecture of the PROG Act, its constitutional underpinnings under Entry 52 of the Union List, and the ongoing challenge to its validity before the supreme court of India. It critically analyses the tension between the Act’s public-health rationale and the pre-existing jurisprudence recognising “games of skill” as a protected trade under Article 19(1)(g), alongside the federalism question of whether parliament has trespassed upon the States’ domain over “betting and gambling” under Entry 34 of the State List. The article concludes with an assessment of the Act’s likely trajectory and suggestions for a more calibrated regulatory framework.

KEYWORDS: Online Gaming, PROG Act 2025, Games of Skill, Entry 34 State List, E-Sports Regulation, Online Money Games

1. INTRODUCTION

India's online gaming industry grew into a over the past decade, multi-billion-dollar sector encompassing fantasy sports, rummy, poker, and a vast array of e-sports and casual games. This

growth was accompanied by mounting concerns over gambling addiction, financial fraud, suicides linked to gaming debt, and aggressive celebrity endorsements of real-money platforms. Regulation, until 2025, was fragmented states such as Tamil Nadu, Karnataka, and Andhra Pradesh attempted outright bans on online games involving stakes, many of which were struck down or stayed by respective High Courts on the ground that games predominantly involving skill could not be equated with gambling.

Against this backdrop of regulatory patchwork, Parliament enacted the Promotion and Regulation of Online Gaming Act, 2025. Introduced by Union Minister Ashwini

Vaishnaw, the Bill was passed by the Lok Sabha on August 20, 2025 and by the Rajya Sabha on August 21, 2025, receiving Presidential assent on August 22, 2025 as Act No. 32 of 2025. The Act's stated objective is to promote e-sports and online social gaming as a legitimate part of the digital economy, while completely prohibiting

"online money games," on the reasoning that such games cause user harm, financial distress, and public health risks regardless of the skill-chance distinction that had previously shielded platforms like rummy and fantasy sports from prohibition.

This article proceeds in several parts: first, an overview of the Act's classification scheme and institutional architecture; second, an analysis of the offences and penalties it creates; third, an examination of the constitutional challenge currently pending before the Supreme Court; and finally, a critical assessment of the gaps and the way forward.

2. Legislative Background and Objectives

The PROG Act was enacted citing several considerations in its preamble: the rising incidence of financial harm and addiction linked to online money gaming, the proliferation of pervasive advertising and celebrity endorsement of such platforms,

the existence of inconsistent and often ineffective state-level laws, and the difficulty of regulating offshore operators who circumvent domestic restrictions by operating from outside India's territorial jurisdiction. Parliament located its legislative

competence in Entry 52 of the Union List, which permits the Union to regulate

industries whose control by the Centre is declared by law to be expedient in the public interest an entry earlier associated with mines and other Central-declared industries, and now extended to the still-nascent gaming sector.

The Act simultaneously carries a promotional mandate. It provides for recognition of e-sports as a legitimate competitive activity, registration and support for online

social and educational games, and the constitution of a dedicated regulator the Online Gaming

Authority of India tasked with recognising, registering, and categorising online games, and adjudicating grievances. Rules operationalising the Act, the Promotion and Regulation of Online Gaming Rules, were subsequently notified and came into force on May 1, 2026, laying down the procedural test for determining whether a given game qualifies as an "online money game."

3. The Three-Fold Classification

A central feature of the PROG Act is its tripartite classification of online games:

- Online Social Games casual, largely skill-based games that do not involve any monetary stake or wager. These are recognised and actively promoted under the Act; the government envisages dedicated platforms and awareness campaigns to encourage such games as tools of digital literacy and healthy recreation.
- E-Sports organised competitive gaming recognised as a legitimate sporting activity, eligible for institutional support and recognition akin to conventional sports.
- Online Money Games defined broadly as any online game, whether it involves skill, chance, or a combination thereof, in which a user stakes money or money's worth in the expectation of winning money or money's worth. This category is, without exception, prohibited.

The definition deliberately erases the skill-versus-chance distinction that Indian courts had long used to distinguish permissible "games of skill" from gambling, meaning that platforms offering real-money rummy, poker, and fantasy sports fall squarely within the prohibition regardless of their previously recognised skill-predominance. This classification is the crux of the legal controversy surrounding the Act, discussed in Part 5 below.

4. Offences, Penalties, and Enforcement

The PROG Act creates stringent criminal liability for violations. Offering online money gaming services attracts imprisonment of up to three years and/or a fine of up to Rs. 1 crore, while unlawful advertising or promotion of such games including through celebrity or influencer endorsement attracts imprisonment of up to two years and/or a fine of up to Rs. 50 lakh. The Act also empowers authorised officers to conduct search and seizure operations and effect warrantless arrests in appropriate cases, with procedural safeguards governed by the Bharatiya Nagarik Suraksha Sanhita, 2023 (which itself replaced the Code of Criminal Procedure, 1973, as part of India's 2023 criminal law overhaul). The Act's territorial reach is expressly extended to cover offshore operators offering online money games to Indian users, addressing a long-standing enforcement gap whereby platforms hosted

outside India evaded domestic regulation. Following the Act's enforcement, several major real-money gaming platforms including well-known fantasy sports and card-gaming applications were compelled to suspend deposit-based contests altogether, and banking and payment intermediaries withdrew settlement support for such platforms.

5. The Constitutional Challenge

The PROG Act's sweeping prohibition has triggered a significant constitutional challenge before the Supreme Court of India. Multiple petitions filed by gaming operators including Head Digital Works Private Limited (operator of the platform A23), industry associations, and a public interest litigant have been consolidated from the Delhi, Karnataka, and Madhya Pradesh High Courts for a unified hearing.

Two principal constitutional questions arise:

(a) Legislative Competence and Federalism

Petitioners argue that by treating all stake-based games including those predominantly involving skill as equivalent to "betting and gambling," Parliament has legislated in a field constitutionally reserved for the States under Entry 34 of the State List (List II, Seventh Schedule). Since the Constitution has historically treated "betting and gambling" as a state subject, and since Indian courts have for decades distinguished games of skill from gambling for this very purpose, the petitioners contend that PROGA's Entry 52 justification cannot override this settled distribution of legislative power. The Union government, represented by the Solicitor General, defends the Act as a public welfare measure necessitated by the pan-India, borderless nature of online gaming, which state legislation is institutionally incapable of regulating effectively.

(b) Article 19(1)(g) Freedom of Trade

A related argument concerns whether an outright ban on games long recognised by courts as "games of skill" and therefore a legitimate trade or profession constitutes a disproportionate restriction on the fundamental right to carry on trade and business, particularly since the Act forecloses any possibility of a regulated, harm-mitigated model in favour of a complete prohibition.

Given the complexity of these questions, the Supreme Court indicated in December 2025 that the matter required examination by a larger three-judge bench, deferring detailed hearing to January 2026. The Court has, notably, declined to grant an interim stay on the Act's operation, meaning the ban has remained in force throughout the pendency of litigation, with attendant disruption to the industry, including reported job losses and

withdrawal of banking services to affected platform. The outcome is also understood to be closely linked to a separate, already-argued batch of appeals (concerning state-level gaming bans) in which judgment has been reserved. A ruling on legislative competence in one matter is expected to substantially influence the other.

6. Critical Analysis: Gaps and Concerns

First, the PROG Act's decision to abandon the skill-versus-chance test represents a significant doctrinal departure. Courts had for decades used this test traceable to earlier gambling jurisprudence to carve out constitutional protection for games such as rummy, chess, and fantasy sports. By legislating this distinction out of existence for money-based play, Parliament has effectively pre-empted a live constitutional debate rather than resolving it, which is precisely why the matter has returned to the courts in a new form.

Second, the absence of a phased implementation mechanism unlike, for instance, the graduated rollout contemplated for the Digital Personal Data Protection Act, 2023 and its Rules has resulted in abrupt commercial disruption, including sudden withdrawal of banking and payment services to compliant intermediaries, before the constitutional questions were authoritatively settled.

Third, the Act's public-health rationale, while legitimate, sits uneasily with its blanket character. A more calibrated framework combining deposit limits, mandatory cooling-off periods, KYC-linked responsible-gaming safeguards, and restrictions on advertising may have addressed the harms Parliament sought to prevent without a complete prohibition that also affects the substantial e-sports and skill-gaming ecosystem operating with real money.

Fourth, the extraterritorial enforcement provisions, though a welcome attempt to close the offshore loophole, will face practical difficulties given the limits of India's enforcement jurisdiction over foreign-hosted platforms and payment rails.

7. Suggestions

1. A clearer, judicially tested definitional framework distinguishing genuine addictive real-money gambling from regulated skill-based contests, rather than a blanket monetary-stake test, would better withstand constitutional scrutiny.
2. A transitional/phased compliance window, similar to that used for the DPDP Rules, would reduce sudden economic disruption pending the resolution of the pending litigation.
3. Strengthening the Online Gaming Authority of India's capacity for real-time monitoring and coordination with the Reserve Bank of India and the National Payments Corporation of India

would improve enforcement against offshore and unregistered platforms without necessitating a complete prohibition on the domestic industry.

4. Consumer-protection safeguards (deposit caps, self-exclusion registries, mandatory risk disclosures) could be layered onto a regulated rather than prohibited real-money gaming model, addressing the underlying public-health concern more proportionately.

8. CONCLUSION

The Promotion and Regulation of Online Gaming Act, 2025 represents an ambitious but constitutionally contested attempt to bring national uniformity to a previously fragmented regulatory landscape. Its promotional provisions for e-sports and social gaming are largely uncontroversial, but its blanket prohibition of online money games irrespective of skill or chance has reopened long-settled questions of legislative competence and fundamental rights before the Supreme Court. With the constitutional challenge pending before a three-judge bench and closely tied to related litigation on state-level gaming bans, the ultimate fate of the Act's most consequential provisions remains, as of the time of writing, undetermined. Whatever the outcome, PROGA will likely stand as a defining case study in the tension between the state's public-health mandate and the constitutionally protected freedom to trade in the digital economy.

9. REFERENCES

1. Ministry of Electronics and Information Technology, Government of India, Gazette Notification on the Promotion and Regulation of Online Gaming Act, 2025 (dated 22.08.2025) and Corrigenda (dated 28.08.2025), available at meity.gov.in.
2. Press Information Bureau, "A New Era of Online Gaming Governance: Enabling Safe and Responsible Gaming under the Online Gaming Rules, 2026."
3. Drishti IAS, "Promotion and Regulation of Online Gaming Rules, 2026" (Daily News Analysis).
4. Drishti IAS, "PROG Act 2025 and Online Gaming Dilemma" (Daily News Editorial).
5. Wikipedia, "Promotion and Regulation of Online Gaming Act, 2025," Act No. 32 of 2025, Parliament of India.
6. Aryaman Singh, "The Promotion and Regulation of Online Gaming Act, 2025 An Insight," Seth Associates (2025).
7. Lexology, "Fast-Tracking PROGA: Building a Future-Ready Digital Gaming Ecosystem."
8. Lexology, "The Promotion and Regulation of Online Gaming Act, 2025 A Constitutional and

Economic Crossroad."

9. CTC Online, Jigyasa Journal, "Promotion and Regulation of Online Gaming Act, 2025: Ban on Real-Money Games C Rise of E-Sport" (September. 2025).
10. Storyboard18, "Breaking: SC Flags Need for Three-Judge Bench, Pushes Online Gaming Law Challenge to January."
11. Soloazar, "India's Online Gaming Law Hearing Pushed by Supreme Court to 2026."
12. Yogonet, "India's Complete Ban on Real-Money Skill Gaming is Unlikely to Withstand Constitutional Scrutiny."
13. BestMediaInfo, "Supreme Court to Hear Challenge to Online Money-Gaming Ban in January."
14. Sigma World, "India SC to Hear Challenge to RMG Ban, Industry in Flux."
15. Head Digital Works Private Limited C Anr. v. Union of India (pending, Supreme Court of India, constitutional challenge to PROGA, 2025-26).