



LAWS OF KENYA

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# **THE HOTELS AND RESTAURANTS ACT**

CHAPTER 494

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## CHAPTER 494

### THE HOTELS AND RESTAURANTS ACT

*Commencement : 1<sup>st</sup> February, 1972*

**An Act of Parliament to make provision for the licensing of hotels, hotel managers, and restaurants; for the regulation of hotels and restaurants; for the imposition of a levy for training persons to be employed in hotels and restaurants; and for matters incidental to and connected with the foregoing**

#### PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Hotels and Restaurants Act.

Interpretation.  
12 of 1984, Sch.,  
6 of 2005, s. 45,  
17 of 2006, s. 108.

2. In this Act, unless the context otherwise requires—

“the Authority” means the Hotels and Restaurants Authority established by section 3;

“Catering Training and Tourism Development Levy” means the levy imposed under section 16.

“charge” means a charge made for accommodation, food or drink, or any combination thereof, in a hotel or restaurant, and a service charge imposed in respect of the supply of the accommodation, food or drink;

“hotel” means premises, other than those specified in the Third Schedule, on which accommodation is supplied or available for supply, with or without food or services, in exchange for money or money’s worth, and includes premises known as—

- (a) service flats;
- (b) service apartments;
- (c) beach cottages;
- (d) holiday cottages;
- (e) game lodges;
- (f) safari camps;

(g) bandas;

(h) holiday villas,

and any other premises or establishments used for similar purposes, but does not include—

(i) premises on which the accommodation is under a lease or licence of not less than one month, unless by prior arrangement, the occupier may, without penalty, terminate that lease or licence on less than one month's notice;

(ii) premises operated by a charitable or religious organization registered under the Societies Act for charitable or religious purposes;

Cap. 106.

(iii) premises operated by an educational or training institution approved by the Minister for the use of the staff and students of that institution; or

(iv) premises operated by a medical institution approved by the Minister for the time being responsible for health for the use of the staff and students of that institution;

“hotel licence” means a licence to keep or use any premises as a hotel;

“licence” means a licence granted under the provisions of section 5, and “licensed” shall be construed accordingly;

“licensee” means the holder of a hotel licence, restaurant licence or hotel manager's licence as the context may require;

“Minister” means the Minister for the time being responsible for matters connected with tourism, and “Ministry” shall be construed accordingly;

“restaurant” means any premises on which is carried on the business of supplying for reward any food or drink but does not include—

(a) a bona fide works or staff canteen maintained, for the use of persons employed in any particular undertaking by that undertaking; or

(b) any premises where food or drink is supplied only to persons who reside or board at, or work at, such premises; or

(c) any portion of a licensed hotel;

“restaurant licence” means a licence to keep or use any premises as a restaurant;

“tariff order” means an order fixing maximum charges made under section 14;

“the Tribunal” means the Hotels and Restaurants Appeal Tribunal established by section 10.

#### PART II—THE HOTELS AND RESTAURANTS AUTHORITY

Establishment of Authority.

3. (1) There is hereby established an authority, to be known as the Hotels and Restaurants Authority, which shall consist of the following members—

(a) a chairman appointed by the Minister;

(b) not less than seven and not more than nine persons appointed by the Minister, of whom—

(i) at least one shall be appointed by reason of his knowledge of the hotel industry and international tourism;

(ii) at least one shall be appointed to represent the interests of hotel keepers;

(iii) at least one shall be appointed to represent the interests of restaurant keepers;

(iv) at least one shall be appointed to represent the interests of hotel and restaurant employees; and

(c) the Permanent Secretary of the Ministry, or a person deputed by him in writing to take his place as a member of the Authority.

(2) Before the Minister makes an appointment under this section, he shall require the person to be appointed to declare whether he has any, and if so what, financial interest in any hotel or restaurant.

(3) It shall be the duty of the Authority to keep under review the standards of hotels and restaurants and to advise the Minister on the improvement and development of hotels and restaurants and on any other matters which may be referred to it by the Minister.

(4) The Authority shall have power—

- (a) to issue licences in accordance with section 5;
- (b) to investigate and determine complaints in accordance with section 7;
- (c) to vary, suspend and cancel licences in accordance with section 8;

(5) In the exercise of its functions under this Act, the Authority shall be guided by the consideration of promoting the well-being and development of the hotel and restaurant industries as a whole, as well as the interests of persons using hotels and restaurants.

(6) The First Schedule shall have effect with respect to the Authority.

#### PART III—LICENSING

4. (1) After the appointed day—

- (a) Deleted by 17 of 2006, s.109;
- (b) Deleted by 17 of 2006, s.109;
- (c) no premises shall be used or kept as a restaurant unless there is in force a valid restaurant licence in respect of such premises.
- (d) no person shall exercise overall control over the day-to-day operation of the restaurant, whether is the owner or the manager of the restaurant, unless he is the holder of a restaurant manager's licence.

Licences required.  
22 of 1987, Sch.,  
17 of 2006, s.109,

(2) In this section, “the appointed day” means such date as the Minister may, by notice in the Gazette, appoint for the purposes of this section, and different dates may be so appointed in respect of different licences or in respect of different areas or of different classes of premises.

(3) In the event of any contravention of paragraph (a) or (c) of subsection (1), the owner, and the manager (if any) of the premises concerned shall be guilty of an offence and be liable to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

5. (1) Any person desirous of obtaining a licence, or of obtaining Application for, and

grant of, licences.  
12 of 1984, Sch.,  
17 of 2006, s.110,

any variation of a licence held by him, shall make application to the Authority in such form, accompanied by such information, as may be prescribed.

(2) An application for the grant of a licence which is in continuation of an existing licence shall be made at least two months before the expiry date of the existing licence.

(3) On receipt of an application under this section, the Authority may make such investigation or require the submission of such declaration or further information as it may deem necessary in order to enable it to consider the application.

Cap. 242.

(4) The Authority shall not consider an application under this section for the grant of a hotel licence or a restaurant licence unless the application is accompanied by a certificate, signed by a medical officer of health (as defined in the Public Health Act) and dated not more than three months before the receipt by the Authority of the application, to the effect that—

- (a) where food will be supplied proper provision has been made of the sanitation of the premises in respect of which the application is made, for the storage, preparation, cooking and serving of food and drink on the premises, and for the health and comfort of persons using the premises; and
- (b) that the premises conform in all respects with the provisions of any written law relating to sanitation and public health which apply thereto.

(5) After considering an application under this section and all matters appearing relevant thereto the Authority may, subject to the succeeding provisions of this section, grant to the applicant the licence or variation applied for or may refuse such grant, and may attach to any licence so granted such conditions as the authority may deem expedient.

(6) The Authority shall not grant a hotel licence or a restaurant licence unless it is satisfied that—

- (a) the premises in respect of which the application is made are structurally suitable for the use proposed; and
- (b) either—
  - (i) where no tariff order has been made which is applicable to the hotel or restaurant concerned the charges are rea-

sonable having regard to the standards of accommodation, food and service, and to such other matters as the Authority considers relevant; or

- (ii) where such a tariff order has been made, the charges are not in excess of those authorized by such order.

(7) Deleted by of 17 of 2006, s.110.

(8) Any person who makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five thousand shillings or to both.

6. (1) Every licence shall expire on 31st December of the year in respect of which it is issued.

Provisions concerning licences. 14 of 1974, Sch., 14 of 1991, Sch., 17 of 2006, s. 111.

(2) A hotel licence or restaurant licence shall state the precise name, location and extent of the premises to which it relates, shall be endorsed with every condition imposed by the Authority, and shall be displayed prominently on such premises in a part thereof to which the public have access, and where a licence is not so displayed the holder thereof shall be guilty of an offence.

(3) Deleted by 17 of 2006, s.111.

(4) A licence shall not be capable of being transferred from the licensee to any other person, and any person who attempts or purports to transfer a licence shall be guilty of an offence.

(5) On the cancellation of a licence, the Authority shall forthwith notify the licensee thereof and the licensee shall, within fourteen days of the receipt by him of the notification, surrender his licence to the Authority, and if without reasonable cause he fails to do so he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (2), (4) or (5) shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both.

7. (1) Any person who is dissatisfied with the manner in which a hotel or a restaurant is conducted may make a written complaint in that behalf to the Authority:

Complaints.

Provided that no such complaint shall be accepted by the Authority

unless it is made within twenty-eight days after the matter complained of first came to the notice of the complainant.

(2) Upon receipt of a complaint under this section, the Authority—

- (a) if it is satisfied that the complaint is frivolous, vexatious or merely trivial, shall reject the complaint summarily; or
- (b) otherwise shall investigate and determine the same.

(3) In any investigation under this section—

- (a) the Authority shall inform the licensee concerned of the nature of the complaint and afford him the opportunity of being heard in person;
- (b) the Authority may act on general evidence or information relating to the manner in which the business of the licensee is conducted, and shall not be confined to receiving and considering only evidence admissible in a court of law;
- (c) the chairman or other person presiding shall have power to administer oaths;
- (d) the chairman may, by notice under his hand, summon any person to attend and give evidence and to produce any relevant document.

(4) Any person who, after payment or tender to him of his reasonable expenses, without reasonable excuse fails, when summoned by the Authority, to attend and give evidence or to attend and produce any document which he is required to produce shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(5) Where, as a result of a complaint made against a licensee the Authority finds after investigation that the complaint is frivolous or vexatious, the Authority may order the person making the complaint to pay to the Authority or the licensee such sum as the Authority considers equitable in relation to expenses incurred and attributable to the complaint, and any sum so ordered shall be recoverable as a civil debt.

Authority may  
require licensee to  
remedy matters and

**8.** (1) Where it appears to the Authority that—

- (a) the holder of a hotel manager's licence has ceased to be a

fit and proper person to manage a hotel; or

may suspend or  
cancel license for  
default.

- (b) a hotel or restaurant is being conducted in an unclean or insanitary manner; or
- (c) a hotel or restaurant is not being conducted in an efficient manner; or
- (d) a hotel or restaurant is being so conducted as to constitute a nuisance or annoyance to persons in the neighbourhood or in an improper manner; or
- (e) the food served in a hotel or restaurant is not properly prepared, cooked or served; or
- (f) any condition specified in subsection (6), or attached to a licence under subsection (5), of section 5 is not being, or has ceased to be complied with; or
- (g) any notice given under section 23 is not being complied with,

the Authority, after giving the licensee the opportunity of being heard, may give notice in writing to the licensee concerned specifying the matters which it considers require to be remedied, and requiring him to remedy them to its satisfaction before a specified date.

(2) If a licensee fails to comply with the requirements of a notice given to him under subsection (1), the Authority may without prejudice to any liability on the part of the licensee to be prosecuted for an offence under this Act, call upon the licensee to show cause why his licence should not be suspended, varied or cancelled, and thereafter, if the licensee fails to show good cause, the Authority may suspend, vary or cancel the licence.

(3) Where an employee of a licensee has his employment prematurely terminated by reason of a requirement made under this section, no action shall lie in any court against the Authority in respect of the termination.

**9.** (1) Any person who is aggrieved by—

Appeals.

- (a) the refusal of the Authority to grant or vary a licence; or
- (b) the attaching of any condition to a licence; or
- (c) the variation, suspension or cancellation of a licence,

may, within fourteen days of the notification of the act complained of being received by him, appeal in writing to the Tribunal, whose decision shall be final.

(2) Where the Authority has suspended, varied or cancelled a licence, the suspension, variation or cancellation shall not have effect until the end of the time within which an appeal may be made to the Tribunal or, if an appeal has been made, until the appeal has been heard and determined.

(3) Where a person's application for a licence or for the variation of a licence is refused, or where a person's licence is suspended, varied or cancelled, or a person is aggrieved by the decision of the Authority, that person may in writing require the Authority to give the reasons for its decision, and the Authority shall give its reasons in writing accordingly.

Appeal Tribunal.

**10.** (1) There is hereby established an appeal tribunal, to be known as the Hotels and Restaurants Appeal Tribunal, which shall consider and determine appeals under section 9.

(2) The Tribunal shall consist of—

- (a) a chairman appointed by the Minister; and
- (b) not less than two and not more than four other members appointed by the Minister.

(3) A person shall not be qualified to be appointed a member of the Tribunal if he is a member of the Authority.

(4) There shall be an assessor to the Tribunal, who shall be an advocate of not less than five years' standing, appointed by the Tribunal with the approval of the Minister, and the assessor, when the Tribunal so requires, shall attend the proceedings of the Tribunal and advise it on questions of law.

(5) For the purposes of the hearing and determination of appeals by the Tribunal—

- (a) the chairman or other person presiding may administer oaths;
- (b) the chairman may, by notice under his hand, summon any person to attend and give evidence and to produce any relevant document.

(6) The costs of an appeal shall be in the discretion of the Tribunal, which may make such order as to costs as appear to it just; and any such

costs shall be recoverable as a civil debt.

(7) Any person who, after payment or tender to him of his reasonable expenses, without reasonable excuse fails, when summoned by the Tribunal, to attend and give evidence or to attend and produce any document which he is required to produce shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(8) The Second Schedule shall have effect with respect to the Tribunal.

#### PART IV—DUTIES, LIABILITIES AND PRIVILEGES OF HOTEL KEEPERS

**11.** (1) Every holder of a hotel licence shall keep a register in his hotel and shall enter or cause to be entered in the register the name and address of every guest who stays at the hotel and such other particulars as may be prescribed.

Register and book to be kept by licensee.

(2) Every holder of a hotel licence shall enter or cause to be entered regularly in a book kept for the purpose all such particulars (other than particulars prescribed in respect of the register required by subsection (1) to be kept) as may be prescribed.

(3) Any person who fails to comply with this section, or who makes or causes or permits to be made in any register or book required by this section to be kept any entry which he knows or has reason to believe to be false, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

**12.** (1) The liability of an innkeeper at common law shall be subject to the modifications hereinafter contained in this section.

Liability to guests.

(2) Without prejudice to any other liability incurred by him with respect thereto, the holder of a hotel licence shall not be liable to make good to a guest any loss of or damage to property brought to the hotel except where—

- (a) at the time the loss or damage occurred, sleeping accommodation at the hotel had been engaged for the guest; and
- (b) the loss or damage occurred between the midnight immediately preceding and the midnight immediately following a period during which the guest was entitled to use the accommodation so engaged.

(3) Without prejudice to any other liability or right of his with respect thereto, the holder of a hotel licence shall not be liable to make good to a guest any loss of or damage, to nor shall he have any lien upon, any vehicle, or any property left in a vehicle, or any live animal or its harness or other equipment.

(4) Where the holder of a hotel licence is liable in the circumstances described in paragraphs (a) and (b) of sub-section (2) to make good any loss of or damage to property brought to the hotel, then, subject to section 13, his liability to any one guest shall not exceed five hundred shillings in respect of any one article or one thousand shillings in the aggregate, except where—

- (a) the property was stolen, lost or damaged through the default, neglect or wilful act of the licensee or a person in his employ; or
- (b) the property was deposited by or on behalf of the guest expressly for safe custody with the licensee or a person in his employ authorized, or appearing to be authorized, for the purpose and, if so required by the licensee or the person in his employ, in a container fastened or sealed by the depositor; or
- (c) at the time after the guest had arrived at the hotel, after the property in question was offered for deposit as aforesaid and the licensee or a person in his employ refused to receive it, or the guest or some other guest acting on his behalf wished so to offer the property in question but, through the default of the licensee or a person in his employ, was unable to do so.

(5) Every holder of a hotel licence shall cause a notice in the form in the Third Schedule, printed in plain type in Kiswahili, English, French, German, Italian and any other language which may be prescribed, to be displayed prominently at a place where it can conveniently be read by the guests at or near the hotel reception office or desk, or where there is no reception office or desk, at or near the main entrance of the hotel; and he shall be entitled to the benefit of this section in respect of property brought to his hotel only while such notice is so displayed.

Right of sale.

**13.** (1) The holder of a hotel licence shall, in addition to the ordinary lien of an innkeeper at common law, have the right absolutely to sell by public auction any property deposited or left with him or in his hotel or in any premises appurtenant or belonging to the hotel, where the person depositing or leaving the property is or becomes indebted to him for accommodation, food or drink at the hotel:

Provided that—

- (i) no such sale shall be made until after the property has been for a period of six weeks in his charge or custody or in or upon his premises, without the debt having been paid or satisfied;
- (ii) the debt for the payment of which a sale is made under this section shall not be any other or greater debt than the debt for which the property could have been retained by the holder of a hotel licence under his lien at common law as an innkeeper; and
- (iii) at least one month before the sale is effected, the holder of a hotel licence shall cause to be inserted in a national newspaper an advertisement giving notice of the intended sale and a short description of the property intended to be sold, together with the name (if known) of the owner or person who deposited or left it, and if the address of such owner or person is known to him he shall send a copy of the notice to such owner or person.

(2) The holder of a hotel licence shall, out of the proceeds of the sale of any property sold pursuant to subsection (1), after retaining the amount of his debt and the costs and expenses of the sale, pay on demand to the person who deposited or left the property any surplus money remaining thereafter.

#### PART V—REGULATION OF PRICES

**14.** (1) The Minister may at any time carry out a review of the charges made by hotels or restaurants in any area, and as a result of such a review he may, after giving not less than one month's notice in the Gazette of his intention to do so, by order, fix minimum or maximum charges which may be made by any hotel or restaurant, in that area.

Minister may impose tariff.  
12 of 1984, Sch.

(2) An order under subsection (1) may—

- (a) either specify the charges themselves or prescribe the method by which they are to be calculated;
- (b) be made applicable to specified hotels or restaurants or to hotels or restaurants of a specified class.

(3) Where any charge is made in a hotel or restaurant which exceeds the maximum charge or which is below the minimum charge

fixed by a tariff order relevant to that hotel or restaurant, the holder of the restaurant licence or, as the case may be, the manager of the hotel shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month or to both, or in the case of a second or subsequent offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

8 of 1997, s. 60.

PART VI—CATERING TRAINING AND TOURISM DEVELOPMENT LEVY

Interpretation.  
8 of 1997, s. 61.

**15.** In this Part—

“the Fund” means the training and tourism development levy fund established by section 17;

“levy” means a catering training and tourism development levy imposed by an order under section 16, and “levy order” means that order;

“the Trustees” means the Catering and Tourism Development Levy Trustees established by section 18.

Training levy.  
8 of 1997, s. 62,  
4 of 1999, s. 102,  
15 of 2003, s. 55,  
6 of 2005, s. 46.

**16.** (1) The Minister may, by order, require payment by the owners of hotels and restaurants of a catering training and tourism development levy.

(2) A levy order may provide for the amendment of any previous levy order and may make different provisions in relation to hotels and restaurants and in relation to different classes of hotels or restaurants.

(3) A levy order may contain provisions as to the evidence by which a person’s liability to the levy, or his discharge of that liability, may be established, and as to the time at which any amount payable by any person by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid into the Fund and, if not paid on or before the date prescribed by the levy order, the money and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Trustees.

(5) If any person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the levy order, a sum equal to three per centum of the amount shall be added to the amount payable for each month or part of a month after such date during which the amount due remains unpaid.

(6) Any person who fails to comply with any provision of a levy

order shall be guilty of an offence, and liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a period not exceeding twelve months or to both.

**17.** (1) There is hereby established a training and tourism development levy fund which shall be vested in the Trustees and into which shall be paid—

Training levy fund.  
8 of 1997, s. 63.

- (a) all proceeds of the levy;
- (b) any moneys derived from the sale of surplus assets of the Trustees;
- (c) all moneys, from any other source, provided for or donated or lent to the Trustees.

(2) Any moneys in the Fund not immediately required for the purposes of the Trustees may be placed on deposit at a bank or invested by the Trustees in any securities in which trustees may, for the time being, by law invest or in any other securities approved for the purpose by the Treasury.

**18.** (1) There is hereby established a body of trustees, to be known as the Catering and Tourism Development Levy Trustees, which shall consist of six persons appointed by the Minister who shall nominate one of such persons as the chairman of the Trustees.

Establishment of  
Trustees.  
8 of 1997, s. 64.

(2) The Catering and Tourism Development Levy Trustees shall, by that name, be a body corporate having perpetual succession and a common seal, and may, in its corporate name sue and be sued, and, for the purposes of its functions, may purchase or otherwise acquire, hold, manage and dispose of property, movable or immovable, and may enter into such contracts as the Trustees may deem necessary or expedient.

(3) Subject to subsection (4), a trustee shall hold office for such period, not exceeding five years, as the Minister may specify in his appointment and at the expiration of such period shall be eligible for reappointment.

(4) The office of a trustee shall become vacant—

- (a) if he resigns his office by notice in writing addressed to the Minister;
- (b) if he dies;
- (c) if he is adjudicated bankrupt;

Cap. 248.

- (d) if he is made the subject of a reception order under Part VI of the Mental Treatment Act;
- (e) if he is sentenced to a term of imprisonment by any court; or
- (f) if the Minister is satisfied that the trustee is physically incapable of fulfilling, or by reason of misconduct is unsuitable to exercise, the functions of his office and terminates the appointment of the trustee.

Functions of Trustees.  
8 of 1997, s. 65.

**19.** (1) The functions of the Trustees shall be—

- (a) to control and administer the Fund;
- (b) to establish, equip and control such establishments for the training of persons for employment in hotels and restaurants as the Minister may approve;
- (c) establish and develop national standards for testing the skills required by the tourism industry;
- (d) Make such payments out of the Fund as may be necessary to enable the Kenya Tourist Board promote Kenya as a tourist destination both locally and internationally;

L.N. 14/1997.

(1A) “Kenya Tourist Board” means the Board established by the Kenya Tourist Board Order, 1997.

(2) The Trustee may employ such officers and staff as may be necessary to enable the functions of the Trustees and the purposes of this Part to be carried out, and shall pay out of the Fund to such officers and staff such salaries and allowances as the Minister may approve.

(3) For the purposes of their functions the Trustees may borrow such moneys, from such sources and in such amounts as may be approved by the Treasury.

Procedures of Trustees.

**20.** (1) The Trustees may meet together for the dispatch of their business and otherwise regulate their meetings as they may think fit.

(2) The quorum necessary for the transaction of the business of the Trustees shall be four.

(3) If the chairman of the Trustees is absent from any meeting the trustees present at the meeting shall elect one of their number to preside thereat, and the chairman or person so presiding shall have a casting in addition to his deliberative vote.

(4) Any document, other than one required by law to be under seal, may be signified under the hand of the Trustees.

**20A.** (1) The Trustees may, by written notice addressed to any person—

Appointment of  
agents.  
15 of 2003, s. 56.

(a) appoint such person to be the agent of a licensee for the purposes of the collection and recovery of the levy due from such licensee; and

(b) specify the amount of levy to be collected and recovered by such agent.

(2) An agent shall pay the levy specified in his appointment notice out of any moneys which may, at any time during the twelve months following the date of the notice, be held by him for, or due from him to the licensee.

(3) Where a person appointed under subsection (2) claims to be, or to have become unable to comply with subsection (2) by reason of the lack of moneys held by or due from him, he shall, as soon as may be practicable, notify the trustees accordingly in writing setting out fully the reasons for his inability so to comply and the Trustees may—

(a) accept the notification and cancel or amend the appointment notice accordingly; or

(b) if they are not satisfied with the reasons, reject the notification in writing.

(4) Unless and until a notification is given by an agent under subsection (3)—

(a) sufficient money for the payment of the levy specified in his appointment notice shall be presumed to be held by him for, or due from him to, the licensee; and

(b) in any proceedings for the collection or recovery of that levy, he shall be estopped from asserting the lack of those moneys.

(5) For the purposes of this section, the Trustees may, by notice in writing, at any time require any person to furnish them within a reasonable time, not being less than thirty days from the date of service of the notice, with a return showing any moneys which may be held by that person for, or due from him to, a licensee from whom a levy

is due.

(6) A person who has paid the levy under this section shall, for all purposes, be deemed to have acted with the authority of the licensee, and shall be indemnified in respect of that payment against all proceedings, civil or criminal, and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(7) Any person who, without lawful cause or excuse—

(a) fails to comply within thirty days, with a notice given by the Trustees under this section; or

(b) discharges any liability to a licensee in disregard of such notice;

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both, and shall, in addition, be liable to pay to the Trustees the amount of any liability discharged.

**20B.** (1) Notwithstanding the provisions of this Act, in any case where the Trustees are of the opinion that they should refrain from recovering levy from any licensee by reason of impossibility, or undue difficulty or expense of the recovery of the levy, the Trustees may refrain from recovering the levy in question and thereupon liability to the levy shall be deemed to be extinguished or abandoned.

(2) Where the Trustees have decided to refrain from recovery of levy under subsection (1), they shall report that decision in writing to the Minister within three months next following the decision.

(3) Where a case has been referred to the Minister, and where he considers it appropriate, he may, in writing, direct the Trustees to—

(a) take such action under this section as the Minister may deem fit; or

(b) obtain the direction of the court upon the case.

**21.** (1) The Trustees shall cause to be kept all proper books of account and other books and records in relation to the Fund and to all their undertakings, activities and property, and shall, within a period of four months after the end of the financial year, cause to be prepared—

Trustees may refrain from recovering levy in certain cases. 15 of 2003, s. 56.

Accounts. 13 of 1988, Sch.

(a) a balance sheet showing in detail the assets and liabilities of the Fund as at the end of that financial year;

(b) such other statements of account as may be necessary to indicate the financial status of the Trustees as at the end of that year.

(2) The accounts of the Trustees shall be examined, audited and reported upon annually by the Auditor-General (Corporations).

**22.** Notwithstanding anything contained in the Industrial Training Act no training committee shall be set up in relation to training in, and no training levy order shall be made in respect of, hotels and restaurants under that Act.

Cap. 237 not to apply.

#### PART VII—SUPPLEMENTARY

**23.** (1) The Minister may, by notice in the Gazette, direct that the manager of any hotel shall not receive any guest therein except with the written authority of the Minister or such person, officer or bureau, as the Minister may designate for the purpose.

Centralized booking.

(2) A notice under subsection (1) may be given with regard to a particular hotel, or to a particular class of hotel or to hotels within a specified area.

**24.** Where the holder of a hotel licence or restaurant licence has such licence cancelled, or has his application for a renewal of such licence (to take effect upon the expiration of such licence) refused, he shall be entitled, on payment of a proportionate part of the prescribed fee, to be granted a licence of the kind cancelled or refused for such period, not exceeding six months, as the Authority considers adequate to enable the business to be wound up or disposed of.

Temporary licence where licence refused or cancelled.

**25.** (1) Any person authorized in writing by the Authority for the purpose, may, at all reasonable times—

Power to enter and inspect premises.

(a) enter without warrant any premises on which he has reasonable ground for believing that a hotel business or restaurant business is being carried on, to see whether this Act and any other written law is being complied with, and—

(i) examine and take copies of any register, book, account or document found on the premises relating to or appearing to relate to any hotel or restaurant;

(ii) take possession of any register, book, account or document found on those premises which he has reasonable

grounds for suspecting to be or to contain evidence of an offence under this Act or any other written law;

- (b) require any person who appears to be carrying on or employed in any hotel business or restaurant business on those premises to render such explanation and give such information relating to that business as he may reasonably require in the performance of his duties;
- (c) require any person who appears to be carrying on any hotel business or restaurant business on those premises by notice in writing to that person, to produce to him, at a particular time and place, all or any of the registers, books, accounts and documents relating or appearing to relate to that business:

Provided that nothing in this subsection shall authorize entry into any bedroom in a hotel without the prior permission of its current occupier.

(2) Any person who—

- (a) resists, hinders or obstructs any person acting in pursuance of subsection (1); or
- (b) fails to comply fully and truthfully with a requirement made of him under the said subsection,

shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

Liability of licensee for acts of agents and servants.

**26.** Any licensee who employs any agent, clerk, servant or other person shall be answerable for the acts and omissions of the agent, clerk, servant or other person in so far as such acts or omissions concern the business of the licensee; and if the agent, clerk, servant or other person commits any act or makes any omission which is an offence under this Act, or which would be an offence if committed or made by such licensee, the licensee and his agent, clerk, servant or other person shall be jointly and severally guilty of the offence and liable to the penalties provided by this Act:

Provided that it shall be a defence for the licensee to prove that he did not know and could not reasonably be expected to know that the act or omission was taking or was to take place and that he took all reasonable steps to ensure that the relevant provisions of this Act were being complied with.

27. (1) The Minister may, out of moneys provided by Parliament, Finance.  
and with the consent of the Treasury—

- (a) pay to the Authority and the Tribunal such sums of money as may be necessary to enable those bodies to discharge their functions under this Act;
- (b) pay to the members of the Authority and the Tribunal (other than a member who is a public officer in receipt of a salary) remuneration and traveling and other allowances;
- (c) make such other payments as may be necessary to give effect to this Act.

(2) All moneys received or recovered under this Act by or on behalf of the Authority or the Tribunal shall be paid into the Consolidated Fund.

28. (1) This Act shall not apply to any premises of a class specified in the Fourth Schedule or any person managing those premises. Premises to be excluded.  
13 of 1978, Sch

(2) The Minister may, from time to time, review the operation of this Act in relation to its operation to hotels and restaurants and, for the purpose of including or excluding any class of hotel or restaurant from the provisions of this Act, may, by notice in the Gazette, amend the Fourth Schedule.

29. (1) The Minister may make regulations generally for the Regulations.  
better carrying out of the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

- (a) make provision for the classification of hotels and restaurants and the standards appropriate to each class;
- (b) prescribe the minimum size of rooms in hotels or in particular classes of hotels either absolutely or in relation to the number of persons permitted to be accommodated in those rooms;
- (c) prescribe the duties and obligations of licensees in relation to the carrying on or management of hotel businesses or restaurant businesses, whether generally or in respect of any class of hotel or restaurant;
- (d) provide for the display of tariffs in hotels or restaurants

showing particulars of the maximum charges to be made therein, and for the languages in which the tariffs are to be expressed;

- (e) provide for returns to be submitted to the Authority by hotels and restaurants including returns relating to business accepted by hotels from or in respect of persons resident outside Kenya;
- (f) prescribe the procedure to be followed by the Authority in the performance of its functions under this Act;
- (g) prescribe the procedure to be followed on appeals under this Act;
- (h) make provision for requiring persons to supply information relevant to the provisions of this Act or the regulations;
- (i) prescribe the forms to be used under this Act and the fees to be paid for things to be done under this Act or the regulations;
- (j) prescribe anything which under this Act is to be prescribed.

Application of written laws.

**30.** The following written laws and all subsidiary legislation made thereunder shall not apply to any premises governed by this Act, that is to say—

- (a) the Innkeepers Liability Act, 1863, of the United Kingdom;
- (b) the Innkeepers Act, 1878, of the United Kingdom;
- (c) the Hotels (Nairobi Area) Act (both in relation to the Nairobi Area and in relation to all other areas);
- (d) the Nyanza Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;
- (e) the Coast Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;
- (f) the Hotels Enactment of the Central Province;

Cap. 495.

L.N. 11/1964 (Kenya Gazette Supp. 88 of 1964).

L.N. 8/1964 (Kenya Gazette Supp. 97 of 1964).

No. 10 of 1964 (Kenya Gazette Supp. 132 of 1964).

(g) the Rift Valley Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

L.N. 19/1964 (Kenya Gazette Supp. 126 of 1964).

(h) the Eastern Province (Amendment of Laws) (Hotels Act and Regulations) Order, 1964;

L.N. 9/1964 (Kenya Gazette Supp. 129 of 1964).

## FIRST SCHEDULE

(s. 3 (6))

### THE HOTELS AND CATERING AUTHORITY

1. (1) The chairman and other members of the Authority who are appointed by the Minister shall hold office for such period not exceeding three years as may be specified in their instruments of appointment, and shall be eligible for reappointment. Tenure of office.

(2) The chairman and any other member appointed by the Minister may at any time resign his office by notice in writing addressed to the Minister.

(3) The Minister may cancel the appointment of the chairman or any other member appointed by the Minister on the ground of his infirmity, incapacity or misbehaviour, or if he is absent from two consecutive meetings of the Authority without the leave of the authority.

2. (1) Meetings of the Authority shall be convened by the chairman at such times and places as the chairman determines, but not less than four times in a year. Meetings.

(2) The chairman may at any time, and shall at the request in writing of not less than three members, convene a special meeting of the Authority.

(3) A notice convening a special meeting of the Authority shall state the purposes for which the special meeting is convened.

3. (1) If the chairman is absent from a meeting of the Authority, the members present shall choose one of their number to preside at that meeting. Procedure.

(2) At every meeting of the Authority, the chairman or other member presiding shall have a casting as well as a deliberative vote.

(3) The quorum for a meeting of the Authority shall be six members.

(4) Save as otherwise expressly provided, all orders, directions and decisions of the Authority shall be made, given and notified under the hand of the chairman or other person presiding, or, if thereto authorized by the Authority, under the hand of a member or the secretary.

(5) The Authority may authorize the chairman to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time specify:

Provided that the exercise of such powers shall, to the extent required by the Authority, be reported by the chairman without unreasonable delay to a meeting of the authority.

(6) Minutes of the proceedings of every meeting of the Authority shall be regularly entered by the secretary in a minute book, and the book shall be kept so as to show proper tabulated details of the business conducted or transacted at each meeting.

(7) Subject to this Act and to any general or special directions of the Minister, the Authority shall regulate its procedure as it considers proper.

Matters on which  
a member may not  
vote.

4. A member shall not at a meeting of the Authority take part in the discussion of or vote upon—

- (a) an application by a person who is related to that member within the third degree of affinity or consanguinity;
- (b) an application by a person who is a debtor or creditor of that member or in whose business that member has a financial interest.

Secretary.

5. The Minister shall appoint a public officer to act as secretary of the Authority, and may appoint such other public officers to act as staff of the Authority as he may consider necessary.

## SECOND SCHEDULE

(s. 10 (8))

### THE HOTELS AND RESTAURANTS APPEAL TRIBUNAL

Tenure of office.

1. (1) Each member of the Tribunal shall hold office for such period not exceeding three years as may be specified in his instrument of appointment, and shall be eligible for reappointment.

(2) A member of the Tribunal may at any time resign his office by notice in writing addressed to the Minister.

(3) The Minister may cancel the appointment of a member of the Tribunal on the ground of his infirmity, incapacity or misbehaviour, or if he is absent from three consecutive meetings of the Tribunal without the leave of the Tribunal.

2. Meetings of the Tribunal shall be convened by the chairman as occasion requires. Meetings.

3. (1) If the chairman is absent from a meeting of the tribunal, the members present shall choose one of their number to preside at that meeting. Procedure.

(2) At every meeting of the Tribunal, the chairman or other member presiding shall have a casting as well as a deliberative vote.

(3) The quorum for a meeting of the tribunal shall be three.

(4) A record of the proceedings and of every decision of the Tribunal shall be kept by the chairman or other person presiding and shall be authenticated by his signature.

(5) Subject to this Act and to any general or special directions of the Minister, the Tribunal shall regulate its procedure as it considers proper.

4. A member shall not at a meeting of the Tribunal take part in the discussion of or vote upon— Matters on which member may not vote.

(a) an application by a person who is related to that member within the third degree of affinity or consanguinity;

(b) an application by a person who is a debtor or creditor of that member or in whose business that member has a financial interest.

5. The Minister shall appoint a public officer to act as secretary of the Tribunal, and may appoint such other public officers to act as staff of the Tribunal as he may consider necessary. Secretary.

## THIRD SCHEDULE

(s. 12 (5))

## NOTICE

## THE HOTELS AND RESTAURANTS ACT

(Cap. 494)

## LOSS OF OR DAMAGE TO GUESTS' PROPERTY

Under the Hotels and Restaurants Act, the owner of a hotel may in certain circumstances be liable to make good any loss of or damage to a guest's property, even though it is not due to any fault of his or of his staff.

This liability however—

- (a) extends only to the property of guests who have engaged sleeping accommodation at the hotel;
- (b) is limited to five hundred shillings for any article and a total of one thousand shillings in the case of any one guest, except in the case of property which has been deposited or offered for deposit, for safe custody;
- (c) does not cover motor cars or other vehicles of any kind or any property left in them, or live animals.

This notice does not constitute an admission that liability under the Act attaches to the proprietor of this hotel in any particular case.

L.N. 77/1976,  
L.N. 200/1977,  
L.N. 301/1979,  
L.N. 238/1989,  
L.N. 15/2005.

## FOURTH SCHEDULE

(s. 28)

*Premises Included*

1. Any premises where accommodation is offered with or without a charge, including second homes used for holiday making by owners, owners' household and friends; renting or leasing services involving own residential property as well as permanent rental of second homes.

2. Any premises referred to as "cottage/villa, home stay, host farm/farm stay, private game ranch, tented camp, game lodge, time share, holiday/service apartment or flat, boarding and lodging, resort or health spa, retreat lodge, guest house, motel" and all other similar establishments.

3. For the purposes of the catering training and tourism

development levy—

- (a) any hotel at which the minimum total charge for accommodation per night, including the provision of breakfast or any other meal or service, is KSh. 250 per person; and
- (b) any restaurant at which the minimum gross receipts derived from all sales amount to KSh. 3,000,000 per annum, or, in the case of a restaurant which has not previously traded, minimum average of KSh. 250,000 per month for the first three months of trading.

4. For the purposes of paragraph 3, the amount of gross receipts shall be determined by reference to the accounts kept by the restaurant for the period of twelve months, or three months, as the case may be, ending at the end of the month immediately before a lawful request under section 25 (1) for their production, and by reference to such other information lawfully required under that section as the Authority may deem fit:

Provided that nothing in this paragraph shall prevent the Authority from disputing those accounts or other information, or calling evidence, in the course of proceedings for an offence under this Act; tending to disprove such accounts or information.

*Premises Excluded:*

1. Any premises run by the Government or a charitable organisation registered for charitable purposes.

2. Any premises operated by an educational or training institution approved by the Minister for the use of staff and students of that institution.

3. Any premises operated by a medical institution or training institution approved by the Minister for the use of staff and students of that institution:

Provided that the provisions of paragraphs 1, 2 and 3 above, shall not preclude the Authority from issuing certificates of approval to operate within specified minimum standards under the Act.

[Subsidiary]

**SUBSIDIARY LEGISLATION**

**Orders under section 16**

**CATERING TRAINING AND TOURISM DEVELOPMENT  
LEVY ORDER, 2000**

L.N. 57/1972,  
L.N. 64/1984,  
L.N. 78/1999,  
L.N. 12/2000.

1. This Order may be cited as the Catering Training and Tourism Development Levy Order, 2000.

2. There shall be paid by the owner of every Hotel and Restaurant subject to the Act, a levy at the rate 2 per cent of the gross receipts derived from the sale of food and drinks and in the case of a hotel, the provision of accommodation and other services supplied during each month.

3. Every owner shall maintain or cause to be maintained a monthly record in the form set out in the Schedule and shall submit to Catering Training and Tourism Development Levy Trustees a bankers cheque in respect of the levy payable for that month.

4. The original form of the record maintained under this paragraph shall be submitted to the Catering Training and Tourism Development Levy Trustee within ten (10) days after the last day of each month together with the levy payable for that month.

**SCHEDULE**

**THE HOTELS AND RESTAURANTS ACT**

*(Cap. 494)*

**CATERING TRAINING AND TOURISM DEVELOPMENT LEVY  
ORDER, 2000**

Monthly record required under Paragraph 3 (1) of the Catering Training and Tourism Development Levy Order.

Name and Address of Hotel/Restaurant .....

Gross receipts during the month of.....

[Subsidiary]

Date	Accommodation	Food	Drinks	Other Service	Gross Receipts	Levy Payable of 2% Gross Receipts
1st						
2nd						
3rd						
4th						
5th						
6th						
7th						
8th						
9th						
10th						
11th						
12th						
13th						
14th						
15th						
16th						
17th						
18th						
19th						
20th						
21st						
22nd						
23rd						
24th						
25th						
26th						
27th						
28th						
29th						
30th						
31st						
32nd						

I certify that the levy payable to Catering Training and Tourism Development Levy Trustees is KSh. .... for which a Bankers Cheque No. .... dated.....is enclosed.

Date.....

.....

Manager/Owner

**Regulations under section 29**

**THE HOTELS AND RESTAURANTS REGULATIONS**

1. These Regulations may be cited as the Hotels and Restaurants Regulations.

2. An application for a hotel or a restaurant licence or for the variation of the licence shall be in Form HR 1 in the First Schedule.

3. An application for a hotel manager’s licence or for the variation of the

L.N. 205/1972,  
 L.N. 61/1973,  
 L.N. 77/1976,  
 L.N. 211/1983,  
 L.N. 47/1984,  
 L.N. 84/1984,  
 L.N. 116/1984,  
 L.N. 239/1989,  
 L.N. 254/1991.  
 L.N. 16/2005.

[Subsidiary]

licence shall be in Form HR 2 in the First Schedule.

4. A hotel licence, a restaurant licence and a hotel manager's licence shall be in Forms HR 3, HR 4 and HR 5, respectively, in the First Schedule.

5. The fees specified in the Second Schedule shall be payable for the licences specified in relation thereto in that Schedule.

6. The following minimum standards are required in respect of all hotels and restaurants—

- (a) adequate and natural lighting and permanent through ventilation or air conditioning, to the satisfaction of the Authority, shall be provided in every room;
- (b) stairways, halls and exits shall be kept lighted and unobstructed at all times;
- (c) all rooms shall be of adequate size for their use;
- (d) a mirror and shelf, each of adequate size to the satisfaction of the Authority, shall be provided in every bedroom;
- (e) a wash-hand basin shall be provided in each bedroom to which a private bathroom is not attached;
- (f) all mattresses shall be inner sprung, form rubber or a satisfactory equivalent;
- (g) one dressing-table shall be provided in every bedroom with at least one chair to each bed;
- (h) mosquito nets shall be made available on demand;
- (i) fresh bed linen shall be supplied at least twice a week and for every new guest;
- (j) a key of the bedroom or suite shall be made available to the occupant of each bedroom or suite;
- (k) clothes-hooks, clothes-hangers and wardrobe or hanging space for clothes shall be provided in each bedroom;
- (l) drinking water shall be provided in bedrooms and bathrooms at all times at all times and shall be made available in public rooms;
- (m) the ratio of bathrooms and separate water-closets to residents shall be at least one to ten;
- (n) an efficient hot and cold water system, to the satisfaction of the Authority, shall be installed to serve every bathroom;

[Subsidiary]

- (o) every bathroom including appropriately appointed shower room shall be equipped with—
  - (i) a secure door fastening;
  - (ii) a towel rail, clothes-hooks and a chair or stool.
- (p) soiled towels and bath mats, shall be replaced with freshly laundered towels and bath mats each day the guest occupies a room;
- (q) soap shall be provided each day or as required;
- (r) one extra roll or package of toilet tissue in addition to that in use shall be provided in each toilet room or bathroom;
- (s) furniture and shelving shall be of impermeable material or finish.

7. The Manager shall keep a supply of candles and approved candleholders, flashlights or other auxiliary lighting devices and supply them to guests in case of power failure.

8. An adequate lounge space to the satisfaction of the Authority shall be provided for the use of residents and shall be appointed with easy chairs, tables and other appropriate furnishings.

9. (1) An area of adequate size to the satisfaction of the Authority shall be set aside for use as a dining room.

(2) Cutlery, condiment sets and table linen shall be of good standard, clean, unbroken, untorn and sufficient for the full number of tables in use.

(3) A kitchen or kitchens shall be provided for the preparation of foods and shall be maintained in a clean and wholesome manner.

(4) No person shall sleep in any room used for the preparation, cooking, storage or consumption of food.

(5) There shall be for residents and visitors a reasonable supply of ice cubes or cool drink.

(6) No article whatsoever which is not directly connected with the processes involved in the preparations of food shall be kept in the kitchen.

(7) Every hotel or restaurant shall be provided with facilities adequate, to the satisfaction of the Authority, for effective washing up when the hotel is full, and sinks for this purpose shall be supplied with hot and cold water.

(8) Adequate food stores shall be provided for dry stores and perishable goods.

[Subsidiary]

(9) Refrigeration or adequate cooling facilities shall be maintained for the preservation of food supplies.

10. Adequate toilet facilities for each restaurant shall be provided for each sex.

11. (1) All water provided for guests from tap, faucet, fountain or other source shall be of a quality suitable for drinking purposes and taken from a public water supply or from a private supply approved by the Medical Officer of Health.

(2) Where drinking is not obtainable from a public system, the manager shall cause it to be tested by the Medical Officer of Health at least three times during the season in the case of seasonal operation and at least four times in the case of year round operations and the cost of such testing shall be borne by the management.

(3) Where a hotel operates only part of the year, one of the tests shall be made within thirty days prior to the date of opening in that year.

(4) When a test discloses that water is unfit for human consumption, the manager shall carry out immediately any instructions issued by the Medical Officer of Health.

(5) Until such time as further tests reveal that the water is fit for human consumption, the manager shall post notices at each tap, faucet or source of water supply indicating that the water is not fit for human consumption.

12. (1) Adequate fire-fighting appliances to the satisfaction of the Authority shall be provided and maintained in good order.

(2) Adequate means of escape to the satisfaction of the Authority shall be provided.

(3) A first-aid outfit containing disinfectants, handbags, adhesive tapes and dressing, eye bath, tannic acide ointment, scissors and tweezers shall be provided and maintained in good order and kept in a place accessible at all times.

13. Any person carrying on any hotel business or restaurant business shall submit a financial report relating to his business transactions to the Authority as and when such information is required.

14. Every register kept under section 11 of the Act shall, in addition to the name and address of every guest, contain the following further particulars of every guest—

(a) nationality;

(b) room numbers; and

(c) in the case of a non-resident of Kenya, passport number.

15. Every holder of a hotel manager's licence shall keep or cause to be kept a record of all advance bookings and cancellations and shall make this information available as and when required to do so by the Authority.

16. Every holder of a hotel licence or a hotel manager's licence shall comply with any directions in respect of hotels and the tourist industry in general issued under the Exchange Control Act

Cap. 113.

17. The holder of a manager's licence shall ensure that a foreign bookings account in respect of the hotel for which he is licensed is opened in accordance with Exchange Control Notice No. 35.

18. Without prejudice to the generality of regulation 16—

- (a) no services to non-residents of Kenya shall be rendered at any hotel unless those services are paid for in foreign currency or in Kenya shillings drawn from an external account or a shipping or airline account;
- (b) where a tour operator, a booking agent or another hotel is settling a bill on behalf of a non-resident client at any hotel, the tour operator, booking agent or other hotel shall furnish the hotel with a written declaration that payment has been or will be received in foreign currency or from an external, shipping or airline account and passed over the foreign bookings account of the tour operator, booking agent or other hotel:

Provided that where a foreign bookings accounts has not yet been opened the tour operator, booking agent or hotel may apply to the Central Bank of Kenya for approval, to settle the bills in Kenya shillings; and

- (c) receipts issued by a hotel in acknowledgment of settlement of bills by or on behalf of non-resident clients shall be marked "FOREIGN CURRENCY/APPROVED KENYA SHILLINGS" as appropriate.

19. The manager of a hotel shall, before the fifteenth of every month, submit to the Authority a return, in such form and manner as the Authority may approve, of the resident and non-resident clients received at the hotel and of the payments made in respect of those clients.

20. The manager of a hotel shall keep posted in each room a notice specifying the rates charged per person for guests accommodated in the room.

21. All menus displayed in hotels and restaurants shall be printed in at least two languages one of which shall be Kiswahili.

22. A licensee of a hotel licensed under this Act shall—

[Subsidiary]

- (a) have at all times during its operation at least one competent employee in attendance at the reception desk;
- (b) maintain the grounds of the hotel or restaurant in a tidy condition;
- (c) keep the buildings in a state of cleanliness and good repair.

23. No person who is not a citizen of Kenya shall be employed to work in or for a hotel or restaurant unless his employment therein has been approved by the Authority and the Authority may require to be satisfied that there are no Kenya citizens qualified to fill the vacancy sought to be filled by the non-citizen.

24. (1) Every appeal under section 9 of the Act shall be by a written memorandum setting out the grounds of appeal and shall be accompanied by such other written representations as the appellant may wish to make in support of the appeal.

(2) A copy of the memorandum and representations, if any, shall be served on the Authority.

(3) The Authority shall, within fourteen days after receiving the copy of the memorandum delivered to it under paragraph (2) deliver—

- (a) to the Tribunal, a written answer to the memorandum;
- (b) to the appellant or his agent, a copy of the answer.

(4) The appellant may, within ten days after receiving the copy of the answer, deliver to the Tribunal a reply to the answer (delivering a copy to the Authority), and where he does so the Authority may, within ten days after receiving the copy, deliver to the Tribunal a rejoinder to the reply (delivering a copy to the appellant or his agent).

25. (1) The Tribunal shall proceed with the hearing of an appeal as soon as possible after the delivery of documents provided for by regulation 24 has been completed.

(2) At any hearing before the Tribunal the parties may appear in person or by agent.

(3) The Tribunal shall notify the appellant and the Authority of the decision of the Tribunal within fourteen days after the date of the decision.

26. The Tribunal shall not be obliged to apply strictly all the legal rules of evidence under the Evidence Act, provided its practice and procedure are conformable with justice, equity and good conscience.

FIRST SCHEDULE

(rr. 2,2 and 4)

FORM HR 1

REPUBLIC OF KENYA

APPLICATION FOR LICENCE OR FOR VARIATION OF A LICENCE FOR HOTELS AND RESTAURANTS UNDER THE HOTELS AND RESTAURANTS ACT

1. Application for a .....licence.

2. Applicant's name .....

3. Name under which business is carried on .....

4. (a) Postal address at which business is carried on .....

(b) L.R. No. .... Plot No. ....

Section.....Street/Road .....

Town/City/District .....

5.(a) If a sole proprietor, state full name and address. ....

(b) If in partnership, give full names and addresses of all partners .....

(c) If a limited liability company give names and addresses of directors and of the ten largest shareholders .....

6. State age, country of birth and present nationality of the persons mentioned in paragraph 5 above .....

7. State whether applicant is the:

(a) owner .....

(b) lessee .....

8. (a) Attach your current tariff.

(b) If tariff is full board, what would you charge if you included bed and breakfast only .....

9. Service charge (in percentage) .....

10. Low season rates .....

[Subsidiary]

- 11. Total number of beds .....
- 12. Name and address of the applicant’s banker(s) .....
- 13. In the case of restaurants, total sales for the past financial year.....  
.....
- 14. Attach photostat copy of your current Restaurant or Eating-house licence ..  
.....
- 15. A copy of current menu should be sent to the Authority when returning this application form.
- 16. If this application is for the variation of an existing licence, the details of the variation required and the reasons .....
- 17. If a licence has been held previously, the reasons for any material difference between the particulars given in this application and the previous one .....
- 18. Does or will your hotel receive any tourists direct from outside Kenya?  
.....If yes, please state the approximate number of tourists expected to be so received during the 12 months, following the date of this application .....
- 19. Have you been refused a licence under the above Act before? .....

I hereby apply for a licence / variation of a licence to carry on the hotel/ restaurant business particulars of which are set out in paragraphs 3 and 4 above. I declare that the information given in this application is true and complete in all respects. I have read and understood section 5 (8) of the Act, which is printed below:—

*Section 5 (8) of the Hotels and Restaurants Act*

Any person who makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reasons to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

.....  
*Signature of applicant*

Date.....

FORM HR 2

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

APPLICATION FOR A LICENCE OR VARIATION OF A LICENCE UNDER THE HOTELS AND RESTAURANTS ACT

(Application for Hotel Managers)

- 1. (a) Applicant's full names .....  
.....
- (b) Normal place of residence .....  
.....
- 2. Nationality and age .....
- 3. If non-citizen, how long have you been in Kenya .....
- 4. What languages do you speak .....  
.....
- 5. Give details of training, if any, in the hotels and restaurants industries  
.....  
.....
- 6. Give full names and addresses of the establishments you have previously worked in, the length of service at each such establishment and in what capacity .....  
.....
- 7. Has any complaint been made to the Hotel and Restaurant Authority regarding any of the hotels in which you received your training or of which you have been in charge? If so, state particulars in full .....  
.....
- 8. (a) State the name of the hotel for which application is made  
.....  
L.R. .... Plot .....  
Section ..... Town/City/District .....
- (b) Attach supporting letter from prospective employer.....  
.....
- 9. If applying for variation of licence produce the current licence and given

[Subsidiary]

reasons for variation .....  
.....

10. Have you been granted or refused a licence under this Act? If granted

give details and number of licence .....  
.....

I hereby apply for a licence/variation of a licence to carry on the hotel business particulars of which are set out in paragraph 8 above. I declare that the information given in this application is true and complete in all respects. I have read and understood section 5 (8) of the Act, which is printed below:—

*Section 5 (8) of the Hotels and Restaurants Act*

Any person who makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

.....  
*Signature of applicant*

Date.....

FORM HR 4

No. ....

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

RESTAURANT LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels and Restaurants Act, to carry on the business of the restaurant known as the ..... Restaurant, situated on L.R. No. .... Plot No. ....

Street/Road ..... in.....  
Town/City/District subject to the provisions of the Act and the following conditions:—

.....  
.....  
.....

[Subsidiary]

Given under my hand this .....  
day of ....., 19.....

To: .....  
.....  
.....

Fee Paid:

Sh.

.....  
*Chairman, Hotels and Restaurants  
Authority.*

Unless suspended or cancelled under the provisions of section 6  
of the Act, this licence will remain in force until....., 19.....

FORM HR 3

No. ....

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

HOTEL LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels  
and Restaurants Act, to carry on the business of the hotel known as the  
..... Hotel,

situated on L.R. No. .... Plot No. ....

Street/Road ..... in .....  
Town/City/District subject to the provisions of the Act and the following  
conditions:—

.....  
.....  
.....

Given under my hand this .....  
day of ....., 19.....

To: .....  
.....  
.....

[Subsidiary]

Fee Paid:

Sh. [ ]

.....  
Chairman, Hotels and Restaurants  
Authority.

Unless suspended or cancelled under the provisions of section 6  
of the Act, this licence will remain in force until....., 19.....

FORM HR 5

No. ....

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

HOTEL MANAGER'S LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels  
and Restaurants Act, to manage the hotel known as the.....  
L.N. No. .... Plot No. .... Section .....  
City/Town/District .....subject  
to the provisions of the Act and the following conditions:—

.....  
.....  
.....

Given under my hand this .....  
day of ....., 19.....

To: .....  
.....  
.....

Fee Paid:

Sh. [ ]

.....  
Chairman, Hotels and Restaurants  
Authority.

Unless suspended or cancelled under the provisions of section 6  
of the Act, this licence will remain in force until....., 19.....

[Subsidiary]

## SECOND SCHEDULE

1. For the purposes of licensing, hotels shall be divided into categories and according to their size, bed capacity and extent of the services they provide.

L.N. 239/1989,  
L.N. 254/1991,  
L.N. 372/1991,  
L.N. 147/2002,  
L.N. 16/2005.

2. On the grant of a hotel manager's licence, the licensee shall pay a fee equivalent to 10 percent of the annual licence fee payable by the hotel the licensee intends to manage.

CATEGORIES	HOTEL	
	<i>Hotel Fees KSh.</i>	<i>Managers (10% of Hotels Fees) KSh.</i>
A Conventional vacation, town and countryside hotels in which services provided include provision of breakfast and other meals —		
(i) with bed capacity of one to ten beds and/or maximum total charge for accommodation per night is less than KSh. 1,500	5,000	500
(ii) with bed capacity of one to ten beds and/or minimum total charge for accommodation per night is over KSh. 1,500	7,500	750
(iii) with or without at least one restaurant and/or bed capacity of between 11 to 40 beds and maximum total charge for accommodation per night is less than KSh. 1,500	10,000	1,000
(iv) with or without at least one restaurant and/or bed capacity of between 11 to 40 beds and minimum total charge for accommodation per night is over KSh. 1,500	15,000	1,500
(v) with more than one restaurant and bar outlets and/or bed capacity of between 41 to 80 beds in addition to function room facility	20,000	2,000
(vi) with at least three restaurants, bar outlets, a swimming pool and/or bed capacity of between 18 to 120 beds in addition to function room facility with more than one syndicate rooms	25,000	2,500
(vii) with at least three restaurants, bar outlets, a swimming pool and/or bed capacity of between 121 to 160 beds in addition to banqueting department and sport facilities	30,000	3,000
(viii) with at least three restaurants, bar outlets, a swimming pool, banqueting department, sporting facilities and/or bed capacity of between 161 to 200 beds in addition to health club	35,000	3,500

## [Subsidiary]

(ix) with at least three restaurants, bar outlets, a swimming pool, banqueting department, sporting facilities, health club and/or bed capacity of between 201 to 300 beds in addition to casino	40,000	4,000
(x) with at least three restaurants, bar outlets, swimming pool, banqueting department, sporting facility, health club, a casino and/or bed capacity of above 301 beds in addition to golf or racecourse	45,000	4,500
 B Conventional hotel premises located within or near natural habitat rich in fauna and flora—		
(i) conventional game lodge with at least one restaurant, bar /or bed capacity of between one to twenty beds	20,000	2,000
(ii) conventional game lodge with at least one restaurant, bar and/or bed capacity of between 21 to 60 beds in addition to swimming pool	25,000	2,500
(iii) conventional game lodge with at least two restaurants, bar, swimming pool and/or bed capacity of between 61 to 100 beds in addition to function room facilities	30,000	3,000
(iv) conventional game lodge with at least two restaurants, bar, swimming pool, function rooms and/or bed capacity of above 101 beds in addition to health clubs and any other sporting facilities	35,000	3,500
 C Similar/equivalent hotel establishments owned home based accommodation arranged in rooms and providing limited hotel services—		
(i) boarding and lodging	10,000	1,000
(ii) guest house	10,000	1,000
(iii) host farm/farm stays	25,000	2,500
(iv) home stays	25,000	2,500
(v) holiday/service apartment/flat	45,000	4,500
 D Eco-friendly resort accommodation facilities or specialized eco-tourism services offered to guests—		
(i) ecolodge	20,000	2,000
(ii) retreat lodge	25,000	2,500
(iii) mobile tented camps	50,000	5,000
(iv) semi-permanent camp site	50,000	5,000
(v) resort and health spas	60,000	6,000
(vi) private game ranches	75,000	7,500

[Subsidiary]

E Private tourism accommodation, self catering, owned second homes or shared ownership typified by limited number of space independent units (room, dwelling) occupied by tourists/ friends/relatives for or without charge, usually for a weekend, week, fortnight or month, or by its owners as a second home or holiday home —

(i) holiday cottage/villa (per unit)	25,000	2,500
(ii) time shares establishments (per unit)	25,000	2,500

3. On the grant of a restaurant licence, the licensee shall pay fees based on the previous year's gross receipts, or, in the case of a restaurant which has not previously traded, a minimum licence fee of KSh. 7,500 as follows: —

<i>Gross Receipts:</i>	<i>Fees</i>
(a) Annual gross receipts less than KSh. 3,000,000	7,500
(b) Over KSh. 3,000,000 but not more than KSh. 4,000,000	10,000
(c) Over KSh. 4,000,000 but not more than KSh. 4,500,000	15,000
(d) Over KSh. 4,500,000 but not more than KSh. 5,000,000	20,000
(e) Over KSh. 5,000,000 but not more than KSh. 5,500,000	25,000
(f) Over KSh. 5,500,000 but not more than KSh. 6,000,000	30,000
(g) Over KSh. 6,000,000	45,000

4. Upon obtaining the variation of a hotel licence or a restaurant licence, the hotel or the restaurant shall pay a fee of twenty per cent of the fee paid on the grant of the licence.

5. Upon obtaining the variation of a hotel manager's licence, the manager shall pay a fee of KSh. 500.

6. Application for renewal shall be made two months prior to the expiry date of the licence.

7. Any application submitted after the 31st January of every calendar year, shall attract a late payment fee equivalent to 10 per cent of the licence fee for every month's delay.

## [Subsidiary]

L.N. 21/1984,  
L.N. 240/1989,  
L.N. 10/1990,  
L.N. 372/1991.

THE HOTELS AND RESTAURANTS (CLASSIFICATION OF  
HOTELS) REGULATIONS

## Citation.

1. These Regulations may be cited as the Hotels and Restaurants (Classification of Hotels) Regulations.

## Classification of hotels.

2. (1) Subject to these Regulations, the Hotels and Restaurants Authority shall classify hotels into classes in accordance with standards and principles which the Authority may determine in consultation with such organisation as appears to the Authority to represent the trade and consumer interests likely to be affected.

(2) The Authority shall publish details of the classes, standards and principles in the Gazette.

(3) The Authority may at any time inspect a hotel and may, by written questionnaire or otherwise, interview the holder of a hotel licence to ascertain a hotel's classification.

(4) The holder of a hotel licence shall, in respect of a hotel for which he is the licensee, apply in writing to the Authority—

(a) for the hotel to be classified;

(b) for a change in the classification of the hotel, and every application shall be accompanied by a fee of three thousand shillings in respect of each establishment.

## Categories of hotels for classification.

3. (1) For the purposes of classification there shall be the following categories of hotels—

(a) *town hotels*, being hotels located within the City of Nairobi and any other municipality or township;

(b) *vacation hotels*, being hotels located outside the City of Nairobi and other municipalities or townships and used mainly for vacation purposes;

(c) *lodges*, being hotels, including game lodges, situated in national parks, national reserves or other game viewing areas; and

(d) *tented camps*, being establishments offering services similar to lodges but with tented accommodation facilities.

(2) The Authority may, with the approval of the Minister, by notice in the Gazette, establish other categories of hotels for the purposes of classification.

## Factors governing classification.

4. In determining the classification of a hotel, the Authority shall take into consideration all the factors affecting the overall standard of the hotel and

in particular the following—

- (a) the structure of the hotel buildings and the amenities provided in public rooms, recreational facilities and grounds;
- (b) the standard of cleanliness throughout the hotel and the sanitary facilities provided;
- (c) the manner in which food is stored, prepared, cooked and served and the quality of the food;
- (d) the degree of comfort afforded, the quality of the equipment and furnishings, the proportion of bathrooms to the number of guest rooms and the number of private bathrooms in proportion to the hotel.

5. (1) The Authority shall keep and maintain a hotel classification register in a form suitable for the purpose.

Classification register.

(2) All changes in the classification of a hotel shall be entered in the register by the Authority.

(3) The register shall be available for inspection on the payment to the Authority of a fee of ten shillings.

6. (1) The Authority shall, as soon as practicable after classifying or changing the classification of a hotel or restaurant, issue to the holder of the hotel or restaurant licence, as the case may be, a classification plaque in the form described in paragraph (2).

Classification plaques.  
L.N. 240/1989,  
L.N. 10/1990.

(2) A classification plaque shall be of a map of Kenya in brass with a black border-line, centrally mounted on a rectangular solid natural stained hard wood measuring 39 cm. long, 30 cm. wide and 2.5 cm. thick; the map shall have the following wording and presentation in a north to south order—

MINISTRY OF TOURISM AND WILDLIFE

(Mid-North)

(along the line of the Equator)

THE HOTELS AND RESTAURANTS AUTHORITY

LOGO TYPE

(on the West)

(3) The manager of a hotel or restaurant which is classified under these regulations shall ensure that the classification plaque is prominently and conspicuously exhibited at the main entrance of the hotel or restaurant to which it relates.

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**[Subsidiary]**

(4) The Authority may from time to time determine the charges to be paid to meet the cost of issuing the classification plaque under paragraph (1).

Publication of classification.

7. The Authority shall cause to be published in the Gazette, as soon as may be practicable after classification, the name, location and address and class of each classified hotel and may also publish any changes made to the classification register.

Publication prima facie evidence of classification.

8. Publication under regulation 7 shall be prima facie evidence that the hotels specified therein are classified under these Regulations, and of any changes in a classification, and the absence of the name of a hotel from the publication shall be prima facie evidence that the hotel is not classified.

Offence and penalty.  
L.N. 240/1989.

9. (1) A person who in any publication, leaflet, brochure, broadcast or otherwise advertises or describes or holds out a hotel as being of a class other than the class published by the Authority under regulation 7 shall be guilty of an offence and liable to a fine not exceeding six thousand shillings or to a term of imprisonment not exceeding six months or to both.

(2) A manager of a hotel or restaurant who fails to exhibit a classification plaque as required by regulation 6 (3) shall be guilty of an offence and liable to a fine not exceeding six thousand shillings or to a term of imprisonment not exceeding six months or to both.

[Subsidiary]

THE HOTELS AND RESTAURANTS (KENYA UTALII COLLEGE) REGULATIONS, 1987

L.N. 317/1987,  
L.N. 147/2002.

## PART I—PRELIMINARY

1. These Regulation may be cited ad the Hotels and Restaurants (Kenya Utalii College) Regulations, 1987, and shall come into operation on such date as the minister shall by notice in the Gazette appoint. Citation and commencement

2. These Regulations shall apply in respect of the Kenya Utalii College established under section 19 (b) of the Act. Application.

3. in these Regulations, unless the context otherwise requires— Interpretation.

“Board” means the Board of Governors of the Kenya Utalii College established under regulations 4;

“college” means the Kenya Utalii college;

“member” means a member of the Board;

“ministry” means the Ministry for the time being responsible for matters relating to tourism;

“principal” means the principal or head of the college;

“student” means a person who is undergoing training at the college.

## PART II—THE BOARD OF GOVERNORS

4. There shall be a board to be known as the Board of Governors of Kenya Utalii College which shall in that name be a body corporate with perpetual succession and a common seal and capable of suing and being sued and which, for the avoidance of doubt, shall be a state corporation within the meaning of the Ddate Corporations Act, 1986. Establishment of the Board.  
No. 11 of 1986

5. (1) The Board shall consist of the following members—

Membership of the Board.

(a) a chairman appointed by the Minister;

(b) the permanent secretary of the Ministry;

(c) the chief executive of the Catering Levy Trustees;

(d) the principal who shall be the chief executive of the Board;

(e) one person nominated by each of the following bodies and appointed by the Minister—

(i) the Association of Kenya Hotel Keepers and Cateresses;

## [Subsidiary]

(ii) the Kenya Association for Travel Agents,

(f) two persons appointed by the Minister.

(2) The principal shall be the secretary to the Board.

Tenure of office of members.

5. The members nominated or appointed under paragraphs (a), (c), (e) and (f) of subsection (1) shall hold office for a period of three years and shall be eligible for re-nominating or re-appointment as the case may be.

Vacancies on the Board.

7. (1) Every vacancy on the Board shall be notified at once to the appointing authority as the case requires.

(2) The office of a member appointed under regulation 5 shall become vacant-

(a) if he resigns his office by notice in writing addressed to the Minister;

(b) if he dies:

(c) if he is absent without the permission of the Minister notified to the Board, from three consecutive meetings of the Board;

(d) if he is adjudicated bankrupt;

(e) if he is made the subject of a reception order under part VI of the Mental Treatment Act;

Cap. 248.

(f) if he is sentenced to a term of imprisonment by any court; or

(g) if the Minister is satisfied that the member is physically incapable of fulfilling, or by reason of misconduct is unsuitable to exercise the functions of his office and terminates the appointment of the member.

Interest in property.

8. Except in special circumstances, and the written approval of the Minister no member shall acquire or hold any interest in any property belonging to the Board, or receive any remuneration, or be interested in any contract in which the Board is concerned.

Members not personally liable.

9. No member shall be subject to any personal liability in respect of anything done or omitted or any contract entered into by or on behalf of the Board.

Meetings and procedure.

10. (1) Subject to paragraph (2), the meetings and procedures of the Board shall be governed by section 8 of the State Corporations Act, 1986.

(2) Except for any document which may be required by law to be sealed, any document made or to be used by the Board shall be executed and all decisions of the Board may be signified under the hand of the principal or of an officer of the college authorised in the behalf.

[Subsidiary]

## PART III—FINANCE AND GENERAL PURPOSES COMMITTEE

11. (1) There shall be a body to be known as the finance and general purposes committee which shall consist of not less than three and not more than five members appointed by the Board from among the members. Finance and general purposes committee.

(2) the functions of the committee shall be-

- (a) to give close guidance to the principal of the College in the implementation of the decisions made by the Board;
- (b) to take such decisions or actions as would accelerate the execution of the policy decisions of the Board;
- (c) to consider and authorize any financial transactions or development proposals on behalf of the Board.
- (d) to do anything which the Board shall require to be done by the committee.

(3) The proceedings of any meeting of the committee shall be reported to the Board at the next meeting of the Board.

(4) The principal shall be one of the members of the committee appointed under subparagraph (1) and shall also be the secretary to the committee.

(5) The chairman of the Board shall be the chairman of the committee.

(6) The committee shall establish its own rules and procedures.

## PART IV—FUNCTIONS OF THE BOARD OF GOVERNORS

12. The Board shall govern the college in accordance with the provisions of the Hotels and Restaurants Act and of any regulations made there under read together with the state Corporations Act, 1986, and any regulations made there under. Board to govern according to certain laws.

13. (1) The Board may employ such officers and staff as may be necessary to enable the functions of the Board to be carried out and shall pay to such officers and staff such salaries and allowances as the Minister may approve. Employment of staff

(2) The Board shall exercise disciplinary control over officers and staff employed under this regulation.

14 (1) The Board may, with the approval of the Minister, make rules prescribing the manner of the exercise of the functions of the Board under regulation 13 and for any matters incidental or supplementary to the exercise of those functions. Rules for employment, secondment and discipline of staff.

(2) Rules made by the Board under paragraph (1) shall not be published

## [Subsidiary]

in the Gazette but shall be brought to the notice and attention of every person affected or likely to be affected by them.

General directions of the college.  
L.N. 147/2002.

15. (1) Subject to the provisions of these Regulations and to the Minister's powers to determine the general education character of the college in its place in the educational system of Kenya, the Board shall have the general direction of the conduct and curriculum at the college:

Provided that nothing shall be done or resolved which contravenes the terms of any agreement entered into by the Government with respect to the college which is still in force.

(2) All proposals and reports affecting the policy and curriculum of the college shall be submitted formally to the Board and the Minister shall be furnished with a copy thereof at least fourteen days before such proposals and reports are implemented by the Board.

(3) Subject to the provisions of these Regulations, the principal shall control the internal organization, management, and discipline at the college, shall supervise the staff, and shall be personally responsible to the Board for fostering and maintaining proper and suitable standards of conduct and behaviour among the staff and students of the college.

(4) The principal shall make such arrangements as may be adequate and suitable for consultation with staff and students.

Cap. 210B.

(5) The Board may, subject to accreditation by the Commission for Higher Education established under the Universities Act, conduct courses or programmes of instruction leading to the grant of certificates, diplomas and degrees.

(6) Subject to paragraph (5), the Board may enter into association, collaboration or co-operation with other universities, colleges or other institutions of higher learning within or outside Kenya and may award degrees and diplomas in association or collaboration with such universities, colleges or institutions as the Board may deem fit.

Admission and exclusion of students.

16. The admission and exclusion of students to or from the college shall be regulated by the Board.

## PART V—FINANCE

Control of the finances, etc.

17. The control of the finances of the Board and the exercise of its borrowing powers shall be in accordance with Part IV of the State Corporations Act, 1986, and section 5 (2) of that Act.

Accounts.

18. The principal shall control the day-to-day expenditure connected with the running of the college and shall present accounts of such expenditure to the Board as and when and in such form as the Board may direct.

Income.

19. The Board shall receive any fees payable by, or in respect of students,

[Subsidiary]

all grants made out of the public funds, whether for capital or revenue purposes, and subscriptions, donations or bequests made to the college.

20. The Board shall, with the approval of the Minister, determine the scales of fees payable by or in respect of students at the college and shall prescribe the conditions under which fees may be remitted in part or in whole. Scale of students fees.

PART VI—GENERAL

21. All such movable and immovable property, shares, funds and securities as may from time to time become the property of the Board, shall be in the name of the Board of Governors of Kenya Utalii College and shall be dealt with in such manner as the Board may from time to time be dealt with in such manner as the Board may from time to time determine, subject to the conditions upon which any grants are made from public funds for capital or recurrent purposes and the conditions upon which any endowment, bequest, or donation is made for any purpose connected with the college: Vesting of property in Board.

Provided that the Board shall not dispose of any property without the consent of the Minister.

22. The common seal of the Board shall be the custody of the principal of the college and shall be signified by the chairman of the Board or such other member as the Board may by resolution appoint and by one other member. Custody of common seal.

23.(1) All immovable and movable property and assets which immediately before the coming into operation of these Regulations were vested in or possessed by the Catering Levy Trustees in respect of the college shall by virtue of this regulation vest in the Board without further conveyance, transfer or assignment. Transfer of assets.

(2) All rights, obligations and liabilities which immediately before the coming into operation of these Regulations were vested in or imposed on the Catering Levy Trustees and deemed to be the rights. Obligations and liabilities of the Board.

(3) All references to the Catering Levy Trustees or the Kenya Utalii College in respect of the college in any agreement or instrument relating to any property, assets, rights, obligations to liabilities transferred under paragraphs (1) and (2) and subsisting immediately before the coming into operation of these Regulations shall, unless the context otherwise requires, be read as references to the Board.

(4) Except as the Board otherwise directs, all persons who were members of the staff of the college immediately before the coming into operation of these Regulations shall be members of the staff of the college and shall be deemed to have been appointed under these Regulations on the terms and conditions of service applicable to them immediately before the date of coming into operation.

(5) The admission and exclusion of students to or from the college

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[Subsidiary]

immediately before the date of coming into operation of these Regulations shall be deemed to have been an admission or exclusion under regulation 17.

THE TRUSTEES (TRAINING, TESTING OF SKILLS, STANDARDIZATION AND REGISTRATION) REGULATIONS, 2002

L.N. 68/2002.

PART I—PRELIMINARY

1. These Regulations may be cited as the Trustees (Training, Testing of Skills, Standardization and Registration) Regulations, 2002. Citation.

2. In these Regulations except where the context otherwise requires— Interpretation.  
“the Trustees” means the Catering and Tourism Development Levy Trustees established under section 18 of the Act.

“institution” means an institution offering training in the tourism and hospitality industry in the areas or courses specified in the Second Schedule to these Regulations and any other related courses;

“certificate” means a document issued by the Trustees, upon payment of fees, to enable an institution to operate as a tourism and hospitality training institution;

PART II—FUNCTIONS OF THE TRUSTEES

3. Notwithstanding the functions of the Trustees specified in section 19 of the Act, the functions of the Trustees in respect of establishing, developing standards and testing of skills required by the tourism industry shall be— Functions of the Trustees.

(a) to conduct research and prepare syllabuses for teaching in institutions offering courses in the tourism and hospitality industry in Kenya;

(b) to promote the progress and development of standards in all institutions offering courses of training in tourism and hospitality industry and shall secure the co-operation and control of such institutions;

(c) to formulate and develop curriculum from time to time for courses and syllabuses used in training in the tourism and hospitality industry, consistent with the national plan for economic and tourism development in Kenya; and

(d) to co-ordinate its activities with any institution from within or outside Kenya, as it may think fit, and in particular with the Kenya National Examinations Council established under the Kenya National Examinations Council Act in order to ensure smooth and proper administration of examinations to institutions registered under these Regulations. Cap. 225A.

4. In the discharge of the Trustees functions under these Regulations, the Minister may establish such committees or panels to advise the Trustees from Committee and panels.

[Subsidiary]

time to time on any matter concerning training in the tourism and hospitality industry in Kenya.

PART III—REGISTRATION OF TRAINING INSTITUTIONS

Registration of institutions.

5. (1) No institution shall upon coming into effect of these Regulations, undertake the business of training of personnel to be employed in the tourism and hospitality industry in Kenya without a valid certificate of registration issued by the Trustees in the prescribed Form 1 in the First Schedule to these Regulations.

(2) There shall be a transitional registration period not exceeding six (6) months from the date of commencement of these Regulations:

Provided that the Minister may extend the period upon application by any interested party.

(3) Any institution that is presently registered under any other written law in Kenya, shall within the period specified in subregulation (2), apply for and obtain a certificate of registration granted under these Regulations.

Application for a certificate.

6. (1) Any institution desirous of obtaining a certificate of registration under these Regulations shall make an application to the Trustees in Form 2 in the First Schedule accompanied with the prescribed fees together with the following information—

- (a) the proposed name of the institution;
- (b) the address of the principal place of business;
- (c) the address of any other place of business;
- (d) particulars of proprietors of the institution;
- (e) a copy of previous certificate of registration where applicable;
- (f) particulars of nationalities of the applicants; and
- (g) such other information as the Trustees may deem fit.

(2) An application for the grant of a certificate which is in continuation of an existing certificate shall be made at least two months before the expiry of the existing certificate.

(3) On receipt of an application under this regulation, the Trustees may make such investigation or require the submission of such declaration or further information as the Trustees shall deem fit in order to enable the Trustees to consider the application.

(4) The Trustees shall not consider an application under this regulation for the grant of a certificate of registration unless the application is accompanied

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by a certificate, signed by a Medical Officer of Health (as defined in the Public Health Act) and dated not more than three months before the receipt by the Trustees of the application, to the effect that—

- (a) proper provisions has been made for the sanitation of the premises in respect of which the application is made for the health and comfort of persons using the premises; and
- (b) the premises conform in all respects with the provisions of any written law relating to sanitation and public health which apply thereto.

(5) After considering an application under this regulation and all matters appearing relevant thereto, the Trustees may, subject to the succeeding provisions of this regulation, grant the applicant the certificate of registration or variation applied for or may refuse to grant such a certificate, and may attach to any such certificate so granted such conditions as the Trustees may deem expedient.

(6) A certificate granted by the Trustees under these Regulations shall be conclusive evidence of authority to operate and shall be valid for a period of one year from the date of issue.

(7) The fees payable in respect of an application for the grant of a certificate under this Part shall be as set out in the Third Schedule to these Regulations.

(8) The Trustees shall not grant a certificate under this Part unless they are satisfied that—

- (a) the premises in respect of which the application is made are structurally suitable for the use proposed;
- (b) the charges levied by the institution are reasonable having regard to the standards of accommodation, teaching materials and such other matters as the Trustees consider relevant; and
- (c) where the Trustees have set guidelines of fees payable in institutions, the fees levied by such institutions are not in excess of the set guidelines.

(9) Any person who makes or causes to be made whether orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining a certificate or variation of the certificate shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding six thousand shillings or to both.

(10) A certificate granted to an institution shall state the precise name, location and extent of the premises to which it relates, shall be endorsed with every condition imposed by the Trustees, and shall be displayed prominently

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on such premises in a part thereof to which the public have access, and where a certificate is not displayed the holder thereof shall be guilty of an offence.

(11) A certificate issued under these Regulations shall not be capable of being transferred to any other person or institution, and any person who attempts or purports to transfer a certificate shall be guilty of an offence.

(12) A person guilty of an offence under subregulation (10) and (11) shall be liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

Trustees may require a certificate holder to remedy matters and may cancel a certificate for default.

7. (1) Where it appears to the Trustees that an institution—

- (a) is not complying with the conditions of registration attached to the certificate of registration;
- (b) is in a place where efficient and suitable education is not being provided;
- (c) is being conducted or managed in a manner which is in the opinion of the Trustees prejudicial to the physical, mental or moral welfare of the trainees of the institution or to the peace and good order of the Government of Kenya; or
- (d) fails to provide for or prescribe such other matters as the Trustees consider necessary or desirable to provide,

the Trustees may serve on the manager of the institution notice in writing requiring the manager to remedy such matters within a period not exceeding three (3) months.

(2) If the manager of an institution fails to remedy the matters specified in a notice served on him under sub-regulation (1) (d), within the prescribed period, the Trustees shall order the manager to close the institution.

(3) A training institution that has been ordered closed under sub-regulation (2), and has remained so closed for a period of six months because of failure to remedy a certain fault demanded by the Trustees shall be removed from the register of registered institutions forthwith and its certificate of registration delivered up for cancellation.

(4) Notwithstanding the provisions of sub-regulation (3), if in the opinion of the Trustees there are urgent reasons to warrant the immediate closure of an institution, the Trustees may cancel a certificate of registration of any registered institution and order the institution to be closed forthwith without giving any notice.

(5) Upon cancellation of a certificate, the Trustees shall forthwith notify the certificate holder and the certificate holder shall, within fifteen days of receipt of the notification, surrender the certificate to the Trustees, and if without reasonable cause such a person fails to surrender the certificate he shall be

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guilty of an offence and liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

(6) Where the trustees have cancelled or refused to vary or grant a certificate of registration to an institution, the aggrieved institution may in writing require the trustees to give the reasons for the decision and the Trustees shall give its reasons in writing accordingly.

8. The Trustees shall cause a register of institutions offering courses of training under these Regulations to be established and maintained and the register shall be open to public inspection at reasonable times on payment of the prescribed fees. Maintenance of register.

9. (1) Any institution which is aggrieved by— Appeal to the Minister.

(a) the refusal of the Trustees to grant or vary a certificate of registration; or

(b) the attaching of unreasonable terms or conditions to a certificate;

may, within twenty-one (21) days or such extended period as the Minister may in any particular case allow, of the notification of the act complained of by the institution, appeal in writing to the Minister.

(2) The Minister shall, upon receipt of the complaint under sub-regulation (1), deliver his decision within a period of thirty (30) days and the decision shall be final.

(3) The cost of an appeal shall be in the discretion of the Minister, who may make such order as to costs as appear to him to be just and any such costs shall be recoverable as a civil debt.

PART IV—ESTABLISHMENT OF COMMITTEE AND PANELS

10. (1) Pursuant to regulation 4 of these Regulations, the Minister shall in consultation with the Trustees establish a committee to be known as the Academic Committee which shall consist of not less than five and not more than ten members appointed both from among the Trustees and from persons who are not Trustees. Establishment of academic committee.

(2) The functions of the Academic Committee shall be to keep under constant review the existing curriculum for institutions offering training in the tourism and hospitality industry and to co-ordinate and guide the activities of the subject, course, research and evaluation panels.

(3) The Chief Executive of the Catering and Tourism Development Levy Trustees shall be the Chairperson or Chairman of the Academic Committee, while the Trustees shall designate an officer of the Catering Training and Tourism Development Levy Trustees as the Secretary of the Academic Committee.

(4) The members of the Academic Committee shall hold office for

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a period of three (3) years and shall then retire but shall be eligible for re-appointment.

(5) The Academic Committee shall establish its own rules of procedure.

(6) The proceedings of any meeting of the Academic Committee shall be reported to the Trustees at the next meeting of the Trustees for approval.

## PANELS

Appointment of course and subject panels.

11. The Minister may, in consultation with the Trustees, appoint such course panels, subject panels, research and evaluation panels as it may consider necessary for the better discharge of its functions under these Regulations.

Functions of course panels.

12. The functions of a course panel shall be to examine a broad education area as a whole unit, and not withstanding the generality of the foregoing, a course panel shall—

- (a) keep under constant review the existing curriculum of a relevant course of training and make recommendations to the Trustees;
- (b) co-ordinate and guide the activities of the subject panels; and
- (c) co-operate, where applicable with other institutions and agencies engaged in the tourism training outside the Ministry for the time being responsible for matters relating to Tourism.

Functions of a subject panel.

13. The functions of a subject panel shall be—

- (a) to initiate and guide appropriate curriculum development in relevant subjects offered in the training courses;
- (b) to keep under constant review the existing syllabuses in a subject or curriculum area and make recommendations to the Trustees;
- (c) to review and recommend books and other teaching materials for use in training; and
- (d) to keep under constant review all examinations conducted in the country in the tourism and hospitality industry and make recommendations to the Trustees.

Functions of research and evaluation panel.

14. The functions of the research and evaluation panel shall be—

- (a) to keep under constant review the need for research and evaluation of the training being offered in the tourism and hospitality industry and to make recommendations to the Trustees; and
- (b) to initiate and guide appropriate basic research and evaluation projects geared towards testing skills of graduands from the

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registered institutions.

15. The Chairman of the course, subjects, research and evaluation panels shall be the Chief Executive of the Catering Training and Tourism Development Levy Trustees while the Secretary shall be an officer of the Catering Training and Tourism Development Levy Trustees designated as such by the Trustees. Appointment of a Chairman and Secretary.

16. (1) The members of the panels shall be appointed by the Trustees from among persons with relevant knowledge and experience in education, tourism, industry and commerce. Appointment of members.

(2) The members of panels shall be appointed for a period of three (3) years provided that the Trustees may make provisions for rotational retirement for a number of panel members at the end of each year.

(3) Members shall be eligible for re-appointment for a further term of three (3) years on retirement.

(4) A panel member may, by notice in writing addressed to the Trustees, resign his office.

(5) If a member of a panel becomes unfit or unqualified to continue office, or incapable of performing his duties, then the Trustees may revoke his appointment.

17. The Trustees shall determine the composition, specific terms of reference and general rules of procedure of panels. Procedure.

#### PART V—INSPECTION

18. (1) The Trustees shall, for the purposes of enforcing the provisions of these Regulations, appoint such number of inspectors as the Trustees may consider appropriate and shall issue to them, in writing, certificates of authority to act as such inspectors. Inspection.

(2) A person appointed as an inspector shall hold office subject to such conditions as the Trustees may approve.

19. Subject to the provisions of this regulation, an inspector may, at any reasonable time and on production of his certificate of authority, enter any institution for the purpose of ascertaining whether there is or has been in connection with such premises any contravention of these Regulations. Entry into premises.

20. (1) For the purpose of ascertaining whether there is or has been contravention of these Regulations, an inspector may inspect— Mode of inspection.

(a) the validity of the certificate of registration of the institution;

(b) the qualification of the teaching staff of the institution;

(c) the suitability of the premises within the institution for conducting

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training;

- (d) the general cleanliness and sanitation of the institution being inspected;
- (e) the books of accounts and any other relevant teaching and non-teaching materials; and
- (f) whether the institution is generally in compliance with the requirements set out in these Regulations.

(2) An inspector may seize and detain any literature, substance or article which he has reasonable cause to believe is contrary to the provisions of these Regulations or in relation to which or by means of which he has reasonable cause to believe that an offence has been or is being committed, and any document which he has reasonable cause to believe to be a document which may be required in proceedings under these Regulations.

(3) Where an inspector seizes any document, he shall in writing, notify the manager in-charge of the institution from where the materials have been seized the fact of the seizure and shall in that notification specify any items seized.

(4) Any person who—

- (a) wilfully obstructs an inspector in the discharge of the inspector's duties; or
- (b) wilfully fails to comply with any requirement properly made to him by an inspector; or
- (c) without reasonable cause fails to give to the inspector any assistance or information which the inspector may reasonably require of that person for the purpose of the performance of his duties under these Regulations; or
- (d) in giving any such information as is mentioned in sub-regulation (c), makes any statement which he knows to be false or does not believe to be true, shall be guilty of an offence and shall be liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

Conduct of  
Prosecution.  
Cap. 75.

21. (1) An inspector or any person authorised thereto in writing by the Trustee, may subject to the approval of the Attorney-General, prosecute, in subordinate courts, any offence under these Regulations and shall for that purpose, have all the powers conferred on a public prosecutor by the Criminal Procedure Code.

(2) For the purpose of section 171 (4) of the Criminal Procedure Code, the Board of Trustees shall be deemed to be a public authority.

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22. An inspector or any other officer of the Catering Training and Tourism Development Levy Trustees shall not be liable in respect of any act done in good faith by him in the course of his employment and in the execution of any duty under these Regulations.

Inspectors and officers not personally liable.

PART VI—OFFENCES AND PENALTIES

23. Any person who—

Offences and penalties.

- (a) establishes, manages or conducts a training institution for the tourism and hospitality industry in Kenya without a valid certificate of registration issued under these Regulations, or operates an institution which has been deregistered; or
- (b) issues a certificate or diploma certificate contrary to the provisions of these Regulations; or
- (c) submits falsified records or makes any statement knowing it to be false or incomplete in any material particular or not having reason to believe that it is true or complete in all material respect; or
- (d) hinders or distracts any officer of the Catering Training and Development Levy Trustees acting in the course of his duty as such,

or any person exercising the powers or performing any duties under these Regulations commits an offence and is liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART VII—GENERAL

24. Any questions arising as to the construction of these Regulations or as to the regularity or validity of any act done or about to be done under these Regulations shall be determined by the Minister upon an application made to him in writing for that purpose.

Validity of regulations.

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FIRST SCHEDULE

FORM 1

reg. 5

Certificate No. ....

THE HOTELS AND RESTAURANTS ACT

(Cap. 494.)

CATERING TRAINING AND TOURISM DEVELOPMENT LEVY TRUSTEES

CERTIFICATE OF REGISTRATION

This is certify that .....

*Name of Institution*

Training at .....

Has duly been registered on.....as a training institution pursuant to the Trustees (Training, Testing of Skills, Standardization and Registration) Regulations, 2002.

Signed .....

*Chief Executive,*

*Catering Training and Tourism Development Levy Trustees.*

FORM 2

reg. 6

Certificate No. ....

THE HOTELS AND RESTAURANTS ACT

(Cap. 494.)

CATERING TRAINING AND TOURISM DEVELOPMENT LEVY TRUSTEES

P.O. BOX 46987, NAIROBI

**APPLICATION FOR THE REGISTRATION/RENEWAL OF CERTIFICATE OF INSTITUTIONS TRAINING FOR THE TOURISM AND HOSPITALITY INDUSTRY**

Name and Address of the institution .....

.....

.....

Tel. Nos. .... Fax .....

E-mail ..... Web site .....

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Name, Address and Nationality of Proprietors .....  
 .....  
 .....

Name and Address of Principal/Manager and Nationality .....  
 .....  
 .....

Location of institution: .....  
 .....

Province ..... District .....

City/Town ..... Street .....

Plot No..... House building .....

Location/address of any other training premises .....

Province ..... District ..... City/Town .....

Street ..... Plot No. ....

House/building .....

Classification (*delete one*) Private/Public

COURSES OFFERED FOR TRAINING FOR THE TOURISM INDUSTRY

<i>Course</i>	<i>Level of training</i>	<i>No. of Classes</i>	<i>No. of Students</i>	<i>Mode of Training</i>	<i>Curriculum Offered</i>	<i>Examining Body</i>

Remarks .....  
 .....

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## TRAINING FACILITIES

<i>Facility</i>	<i>Total No.</i>	<i>Area in m<sup>2</sup></i>	<i>Remarks</i>
Classrooms			
Hotels			
Training restaurant			
Training kitchen			
Workshops			
Offices			
Others (specify)			
1.			
2.			
3.			
4.			

## CHANGES IN REGISTRATION

This applies to institutions that have relocated their premises, and those that are re-opening after a period exceeding two years of non-operation:

Address .....

.....

.....

## TEACHING STAFF DETAILS (AT THE TIME OF REGISTRATION)

<i>Name</i>	<i>Professional Qualifications</i>	<i>Teaching Experience</i>	<i>Teaching Subjects</i>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			

DECLARATION BY THE MANAGER

I hereby declare that the information given herein is true to the best of my knowledge.

Name .....

Signature .....

Date .....

INSTITUTION STAMP

FOR CTTDLT OFFICIAL USE ONLY

The institution is recommended/not recommended for training and testing of skills required by the Tourism and Hospitality Industry.

Comments .....

.....

.....

Name .....

Designation .....

Signature .....

Date .....

Certificate of Registration No. ....

Date of Issue .....

SECOND SCHEDULE

reg. 2

COURSES OFFERED BY TOURISM AND HOSPITALITY TRAINING INSTITUTIONS

1. Food and Beverage Production.
2. Food and Beverage Sales and Service.
3. Housekeeping and Laundry.
4. Tours and Travel Operations.
5. Front Office and Tourism Operations.

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6. Hotel Management.
7. Tourism Management.
8. Catering and Accommodation Management.
9. Tours and Travel Management.
10. Tour Guide and Administration.
11. Tour Guiding.
12. Hotel and Institutional Management.
13. Catering and Hotel Management.
14. Tourism and Environmental Studies.
15. Any other related course or any other course conducted for the purposes of training for the tourism and hospitality industry.

### THIRD SCHEDULE

reg. 6 (7)

#### REGISTRATION FEES PAYABLE BY TRAINING INSTITUTIONS

*KSh.*

1. An application for the grant of registration certificate	1,500
2. An application for variation of a certificate	1,000
3. Inspection of register of registered institutions	1,000
4. Any other application seeking the approval of the Trustees	1,000

