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LAWS OF KENYA

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**THE FILMS AND STAGE PLAYS ACT**

CHAPTER 222

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**CHAPTER 222**

**FILMS AND STAGE PLAYS ACT**

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

*Section*

1. Short title
2. Interpretation

PART II – MAKING OF FILMS

3. Licensing officer
4. No film to be made without filming licence
5. Application for filming licence
6. Filming licences
7. Alterations and additions to films
8. Films to be made in accordance with furnished particulars
9. Power of police officer or appointed person at making of a film
10. Power to exempt films

PART III – EXHIBITION OF FILMS

11. Establishment of the Kenya Film Classification Board
- 11A. Membership of the Board
- 11B. Co-optation of members
- 11C. Appointment and duties of the chief executive officer
- 11D. Other staff of the Board
12. Restriction on exhibitions
13. Restriction on display of posters
14. Application for certificate of approval
15. Functions of the Board
16. Certificate of approval
17. Films unsuitable for children
18. Effect of adding matter after approval

PART IV – LICENSING OF STAGE PLAYS

19. *[Repealed by Act No. 10 of 1997, Sch.]*
20. *[Repealed by Act No. 10 of 1997, Sch.]*
21. *[Repealed by Act No. 10 of 1997, Sch.]*
22. *[Repealed by Act No. 10 of 1997, Sch.]*
23. *[Repealed by Act No. 10 of 1997, Sch.]*

PART V – LICENSING OF THEATRES AND CINEMAS

24. *[Repealed by Act No. 5 of 2007, s. 8.]*
25. *[Repealed by Act No. 5 of 2007, s. 9.]*
26. *[Repealed by Act No. 5 of 2007, s. 10.]*
27. *[Repealed by Act No. 5 of 2007, s. 11.]*
28. *[Repealed by Act No. 5 of 2007, s. 12.]*

*Films and Stage Plays*

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## PART VI – GENERAL

29. Appeals
  30. Revocation of licence, etc., by Cabinet Secretary
  31. Powers of entry, etc.
  32. Penalties
  33. *[Repealed by Act No. 5 of 2007, s. 13.]*
  34. Offences by corporations, societies, etc.
  35. Regulations
  - 35A. *[Deleted by Act No. 21 of 1966, 1st Sch.]*
  36. Exemption relating to the Government
-

**CHAPTER 222**

**FILMS AND STAGE PLAYS ACT**

[Date of assent: 22nd November, 1962.]

[Date of commencement: 1st October, 1963.]

**An Act of Parliament to provide for controlling the making and exhibition of cinematograph films, for the licensing of stage plays, theatres and cinemas; and for purposes incidental thereto and connected therewith**

[Act No. 34 of 1962, Legal Notice 472 of 1963, Act No. 21 of 1966, Act No. 38 of 1968, Act No. 13 of 1972, Act No. 22 of 1987, Act No. 10 of 1997, Act No. 5 of 2007, Act No. 6 of 2009.]

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Films and Stage Plays Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

"admitted" means admitted whether on payment or gratuitously;

"Board" means the Kenya Film Classification Board established by section 11;

"certificate of approval" means a certificate issued by the Board under section 16;

"child" means a person who has attained the age of four years but has not attained the age of eighteen years;

"cinema" *deleted by Act No. 5 of 2007, s. 7;*

"exhibit" means give or make, or cause or permit to be given or made, or take part or assist in the giving or making of any exhibition;

"exhibition" means the projection of a film or other optical effect by means of a cinematograph or similar apparatus;

"film" means a cinematographic film, recorded video cassette film, recorded video discs, any recorded audiovisual medium, and includes any commentary (wherever spoken and whether the person speaking appears in the film or not), and any music or other sound effect, associated with the film, and any part of a film;

"licensing authority" *deleted by Act No. 5 of 2007, s. 7;*

"licensing officer" *deleted by Act No. 5 of 2007, s. 7;*

"making of a film" means the acts of photographing, performing or otherwise taking part in or arranging any scenes or episodes for the purpose of the production of a film and includes the recording of a film on a video cassette, video disc or other audiovisual medium;

"poster" means any poster or other advertisement advertising a film or exhibition;

"public exhibition" and "public performance" mean respectively an exhibition and a performance to which the public are admitted, whether on payment or gratuitously;

"stage play" includes tragedy, comedy, farce, opera, burletta, interlude, melodrama, revue, pantomime, dialogue, prologue, epilogue and every other dramatic entertainment, and any part thereof;

"stage plays licensing authority" means a licensing authority appointed under section 19.

[Act No. 13 of 1972, Sch., Act No. 22 of 1987,  
Sch., Act No. 5 of 2007, s. 7, Act No. 6 of 2009, Sch.]

## PART II – MAKING OF FILMS

### 3. Licensing officer

The Cabinet Secretary shall, by notice in the *Gazette*, appoint a person to be the licensing officer for the purposes of this Part.

### 4. No film to be made without filming licence

(1) Subject to the provisions of section 10 of this Act, no film shall be made within Kenya for public exhibition or sale either within or outside Kenya except under and in accordance with the terms and conditions of a filming licence issued by the licensing officer under this Part.

(2) Where any film is made in contravention of the provisions of subsection (1) of this section, the producer, proprietor, promoter and photographer thereof, and every other person engaged in the making of the film, shall each be guilty of an offence.

### 5. Application for filming licence

(1) Every application for a filming licence shall be made to the licensing officer in writing and shall be accompanied by a full description of the scenes in, and the full text of the spoken parts (if any) of, the entire film which is to be made, notwithstanding that part of the film is made or to be made outside Kenya:

Provided that the licensing officer may in his discretion in any particular case accept an application notwithstanding that it is not accompanied by such description and text if he has been given such other information as he requires for the determination of the application.

(2) If any title, sub-title, text, description, synopsis or other part of the film is in a language other than English, the licensing officer may require a translation thereof into English, certified to his satisfaction, or may submit then same for the examination and report of such persons as he may appoint for the purpose.

### 6. Filming licences

(1) The licensing officer may, in his discretion, issue or refuse to issue a filming licence for which application has been made to him under this Act, or may issue it subject to the condition that a police officer of or above the rank of Inspector, or other person appointed for the purpose by the licensing officer, shall be present at the making of the film, and to such other conditions as he may think fit.

(2) Before granting a filming licence, the licensing officer may require the applicant to enter into a bond, with or without sureties in such sum (not exceeding such amount as is prescribed) as the licensing officer may require, to secure that the film, so far as it is made, is made in accordance with—

- (a) the conditions (if any) contained in the licence; and

- (b) the description, text and other information supplied to the licensing officer, with any alterations and additions for which permission has been granted under section 7 of this Act.

#### **7. Alterations and additions to films**

(1) Where it is desired to make any material alteration or addition to the text, synopsis or scenes of a film which is to be made and in respect of which a filming licence has been issued, the holder of the licence shall apply in writing to the licensing officer for permission to make the alteration or addition, and the application shall be accompanied by the filming licence and by particulars of the proposed alterations and additions and, if the alterations or additions are in a language other than English, and the licensing officer so requires, a translation thereof into English, certified to the satisfaction of the licensing officer.

(2) The decision of the licensing officer on the application shall be endorsed on the filming licence, and if permission is granted there shall also be endorsed any condition which is attached to the permission.

#### **8. Films to be made in accordance with furnished particulars**

(1) No film shall be made otherwise than in accordance with the particulars furnished to the licensing officer, except in so far as permission to make alterations or additions has been granted under section 7.

(2) Where any film in respect of which a filming licence has been issued is made in contravention of the provisions of subsection (1) of this section, the producer, the proprietor, the promoter and the photographer thereof, and every other person engaged in the making of the film, and, where the holder of the filming licence is not one of the aforesaid persons, the holder also, shall each be guilty of an offence.

#### **9. Power of police officer or appointed person at making of a film**

(1) Where a filming licence is issued subject to the condition that a police officer or other person appointed for the purpose shall be present at the making of the film, such police officer or other person may in his discretion, having regard to any special or general directions given to him by the licensing officer, intervene, if need be by force, to stop the making of any scene which in his opinion endangers the safety of any person or property (other than property in the possession or disposition of the producer, the promoter or any other person engaged in the making of that film) or which is cruel or causes unnecessary suffering to an animal, or which he has reason to believe is being made in contravention of any of the provisions of this Act or of any regulations made thereunder, or of any of the conditions contained in the licence or attached to any permission granted under section 7 of this Act.

(2) Where a police officer or other person intervenes as aforesaid, he shall forthwith notify the licensing officer of such intervention and of the reasons therefor, and the licensing officer may either permit the making of the film to be resumed or, having first given the holder of the filming licence an opportunity of being heard, permit the making of the film to be resumed on such conditions as he may think fit or refuse to permit the making of the film to be resumed.

(3) Any person who obstructs or hinders any police officer or other person in the exercise of his duties under this section shall be guilty of an offence.

(4) Where, after such intervention as aforesaid, the making of a film is resumed without the permission of the licensing officer or in contravention of any condition imposed under subsection (2) of this section, the producer, the proprietor, the

promoter and the photographer of the film and every other person engaged in the making of the film, and, where the holder of the filming licence is not one of the aforesaid persons, such holder also, shall each be guilty of an offence.

#### **10. Power to exempt films**

The licensing officer may in writing or by notice in the *Gazette* exempt from the provisions of this Part any film, or any class of films, generally or by reference to the person or class of persons making the film or films.

### **PART III – EXHIBITION OF FILMS**

#### **11. Establishment of the Kenya Film Classification Board**

(1) There is established a board to be known as the Kenya Film Classification Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal, and capable, in its corporate name, of—

- (a) suing and being sued;
- (b) holding and alienating movable and immovable property; and
- (c) doing or performing all such other things or acts for the proper performance of its functions as may be lawfully done by a body corporate.

[Act No. 6 of 2009, Sch.]

#### **11A. Membership of the Board**

The Board shall consist of—

- (a) a Chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to information and communications;
- (c) the Principal Secretary to the National Treasury;
- (d) the chief executive officer appointed under section 11C; and
- (e) eight other members appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to—
  - (i) psychology;
  - (ii) women's and children's rights;
  - (iii) religion;
  - (iv) cinematography;
  - (v) such other field as the Cabinet Secretary may deem appropriate.

[Act No. 6 of 2009, Sch.]

#### **11B. Co-option of members**

The Board may, from time to time, co-opt such number of persons as it may determine, having regard to the number of films requiring examination, to examine and classify films.

[Act No. 6 of 2009, Sch.]



**11C. Appointment and duties of the chief executive officer**

(1) There shall be a chief executive officer of the Board who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may approve.

(2) The chief executive officer shall be the accounting officer of the Board and responsible for the day-to-day management of the affairs of the Board, and any other function prescribed under this Act or assigned by the Board.

[Act No. 6 of 2009, Sch.]

**11D. Other staff of the Board**

The Board may employ such number of other staff on such terms and conditions of service as the Cabinet Secretary may approve.

[Act No. 6 of 2009, Sch.]

**12. Restriction on exhibitions**

(1) No person shall exhibit any film at an exhibition to which the public are admitted or distribute such film unless he is registered as an exhibitor or distributor by the Board and issued with a certificate.

(2) No film or class of film shall be distributed, exhibited or broadcast, either publicly or privately, unless the Board has examined it and issued a certificate of approval in respect thereof:

Provided that this subsection shall not apply in respect of—

- (a) educational documentaries which are approved by the Kenya Institute of Education; or
- (b) films restricted for use in the medical profession.

(3) Any person who exhibits any film in contravention of the provisions of subsection (1) or subsection (2) shall be guilty of an offence.

[Act No. 6 of 2009, Sch.]

**13. Restriction on display of posters**

(1) No person shall display, or cause or permit to be displayed, in a public place, or so as to be visible from a public place, any poster, unless the Board has first approved the poster for public display.

(2) Where, under paragraph (b) of subsection (1) of section 14 of this Act, the Board has directed that a description only of a poster need be furnished, and a poster advertising the film or exhibition is displayed in a public place or so as to be visible in a public place, an authorized person may, if he considers that the poster is objectionable or does not conform to the description furnished under that paragraph (and on production of his authority if so requested), require any person displaying the poster, or causing or permitting it to be displayed, to remove it or to obliterate a specified part thereof.

(3) Any person who contravenes the provisions of subsection (1) of this section, or who fails to comply with any requirement of an authorized person under subsection (2) of this section, shall be guilty of an offence.

(4) In this section, "an authorized person" means a person who is in writing authorised by the Board for the purposes of this Part.

**14. Application for certificate of approval**

(1) Every application for a certificate of approval shall be made to the Board and shall be accompanied by—

- (a) the entire film to which the application relates;
- (b) a copy of every poster intended to be publicly displayed in connexion with the film or its exhibition, or else, where the Board in any particular case so directs, a full description thereof and of the visual and verbal contents thereof.

(2) If application is made for a certificate of approval in respect of a film, or for the approval of a poster, containing writing or speech in a language other than English, the Board may require a translation thereof into English, certified to the satisfaction of the Board, or may submit the film or poster for the examination and report of such persons as the Board may appoint for the purpose.

**15. Functions of the Board**

(1) The functions of the Board shall be to—

- (a) regulate the creation, broadcasting, possession, distribution and exhibition of films by—
  - (i) examining every film and every poster submitted under this Act for purposes of classification;
  - (ii) imposing age restriction on viewership;
  - (iii) giving consumer advice, having due regard to the protection of women and children against sexual exploitation or degradation in cinematograph films and on the internet;
- (b) license and issue certificate to distributors and exhibitors of films.

(2) The Board may from time to time prescribe—

- (a) the procedure for application for licensing as a distributor or exhibitor of films; and
- (b) guidelines to be applied in the classification of films.

[Act No. 6 of 2009, Sch.]

**16. Certificate of approval**

(1) Subject to the provisions of section 17 of this Act, on completion of the examination of a film, the Board may—

- (a) approve it for exhibition to the public; or
- (b) approve it for exhibition to the public subject to such excisions as it thinks proper; or
- (c) refuse to approve it for exhibition to the public; or
- (d) *deleted by Act No. 6 of 2009, Sch.*

(2) On completion of the examination of a poster, the Board may—

- (a) approve it for public display; or
- (b) approve it for public display subject to such deletions or alterations as it thinks proper; or
- (c) refuse to approve it for public display.

(3) If the Board approves a film subject to excisions therefrom, the Board may itself make the excisions and retain in its possession the excised parts.

(4) The Board shall not approve any film or poster which in its opinion tends to prejudice the maintenance of public order or offend decency, or the public exhibition or display of which would in its opinion for any other reason be undesirable in the public interest.

(5) Where the Board approves a film or poster it shall give to the applicant a certificate of approval thereof in the prescribed form.

(6) Where the Board approves a film or poster as approved subject to excisions, deletions or alterations, any person who—

- (a) exhibits the film, from which the parts which the Board directed to be excised, deleted or altered have not been excised, deleted or altered in accordance with the Board's direction; or
- (b) displays or causes or permits to be displayed in a public place, or so as to be visible from a public place, the poster, from or on which the parts which the Board directed to be excised, deleted or altered have not been excised, deleted or altered in accordance with the Board's direction, shall be guilty of an offence.

[Act No. 38 of 1968, Sch., Act No. 6 of 2009, Sch.]

### **17. Films unsuitable for children**

(1) If it considers that any cinematograph film is unsuitable for general exhibition, the Board shall record its ruling in one of the following forms—

- (a) for adults only;
- (b) unsuitable for children under the age of sixteen years;
- (c) unsuitable for children under the age of ten years.

(2) Where the Board records its ruling in the form "for adults only" it shall issue a certificate of approval subject to the condition that no child shall be admitted to the exhibition thereof.

(3) The ruling of the Board under subsection (1) of this section shall be mentioned in all advertisements and on all posters of the film concerned, and announced on the cinema screen immediately before the film is exhibited.

(4) Any person who exhibits any film, at an exhibition to which the public are admitted, in contravention of any condition imposed under subsection (2), or who displays or permits to be displayed in a public place or so as to be visible from a public place, any poster, or who publishes any advertisement or causes or permits to be published any advertisement, which contravenes, or who otherwise fails to comply with, the provisions of subsection (3), shall be guilty of an offence.

### **18. Effect of adding matter after approval**

If any matter other than the certificate of approval and the prohibition or ruling of the Board is added to a film after it has been approved by the Board, the film shall be deemed, for the purposes of this Act, to be a film in respect of which a certificate of approval has not been given.

## PART IV – LICENSING OF STAGE PLAYS

19.

[Repealed by Act No. 10 of 1997, Sch.]

20.

[Repealed by Act No. 10 of 1997, Sch.]

21.

[Repealed by Act No. 10 of 1997, Sch.]

22.

[Repealed by Act No. 10 of 1997, Sch.]

23.

[Repealed by Act No. 10 of 1997, Sch.]

## PART V – LICENSING OF THEATRES AND CINEMAS

24.

[Repealed by Act No. 5 of 2007, s. 8.]

25.

[Repealed by Act No. 5 of 2007, s. 9.]

26.

[Repealed by Act No. 5 of 2007, s. 10.]

27.

[Repealed by Act No. 5 of 2007, s. 11.]

28.

[Repealed by Act No. 5 of 2007, s. 12.]

## PART VI – GENERAL

**29. Appeals**

Any person who is aggrieved by a decision of a licensing officer, licensing authority, or the Board may appeal to the Cabinet Secretary, and the Cabinet Secretary may, subject to this Act, confirm, vary or reverse that decision, and in so doing the Cabinet Secretary may give such directions in the matter as may be necessary to give effect to his decision and any decision of the Cabinet Secretary under this section shall be final.

[L.N. 472/1963, Act No. 21 of 1966, 1st Sch., Act No. 10 of 1997, Sch.]

**30. Revocation of licence, etc., by Cabinet Secretary**

Any licence, certificate of approval, approval or permission issued or given under this Act may be revoked by the Cabinet Secretary at any time by notice in writing served personally or by post on the person to whom it was issued or given.

[L.N. 472/1963, Act No. 21 of 1966, 1st Sch.]

**31. Powers of entry, etc.**

(1) A police officer of or above the rank of Inspector, or any person authorized by the Cabinet Secretary in writing in that behalf, may, if he has reasonable cause to believe that an exhibition of a film is being or is about to be made or given on any premises, demand that the person in charge of those premises shall allow him free ingress thereto and afford him all reasonable facilities to ascertain whether such

an exhibition is being or is about to be made or given and whether the provisions of this Act and of the regulations thereunder, and the terms and conditions of any certificate of approval, approval or permission issued or given thereunder, are being, or will be, observed.

(2) If the officer or person, after production of his authority to any person reasonably requiring it, is unable to obtain ingress without unreasonable delay, he may without warrant enter the premises and inspect them to ascertain the matters referred to in subsection (1).

(3) Where the officer or person as aforesaid is satisfied that an exhibition is being made or given in contravention of any of the provisions of this Act or of any regulations thereunder, or the terms and conditions of any certificate of approval, approval or permission issued or given thereunder, he may order that the exhibition shall stop and shall not be further made or given until all the provisions, terms and conditions are complied with.

(4) Where an exhibition to which the public are admitted is being made or given, any such officer or person as aforesaid may, after production of his authority to any person reasonably requiring the same, demand to see the certificate of approval of the film, and unless and until the certificate or licence is produced for inspection he may, for the purposes of subsection (3), act as though no certificate or licence had been issued.

(5) Any person who prevents or obstructs a police officer or other person acting under this section in the discharge of his duties thereunder, or who fails to comply with an order given by him under subsection (3), shall be guilty of an offence.

[Act No. 10 of 1997, Sch.]

### **32. Penalties**

(1) Any person who is guilty of an offence under this Act shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) Where any person is convicted of an offence against this Act or any regulations made thereunder, then, in addition to or in lieu of any other penalty, the court by which such person is convicted may—

- (a) where the offence relates to the making of a film, order the confiscation and destruction of the film, and revoke the filming licence (if any) relating to the making of the film, whether the person convicted is the holder thereof or not;
- (b) where the offence relates to exhibition, order the confiscation and destruction of the film, and in addition, or instead, revoke any certificate of approval, approval or permission granted under this Act.

[Act No. 6 of 2009, Sch.]

### **33.**

[Repealed by Act No. 5 of 2007, s. 13.]

### **34. Offences by corporations, societies, etc.**

Where any offence under this Act or any regulations made thereunder is committed by a company or other body corporate, or by a society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of the company, body corporate, society, association or body of persons shall be guilty of that offence and liable

to be punished accordingly, unless it is proved by that person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

### **35. Regulations**

(1) The Cabinet Secretary may make regulations prescribing anything which under this Act may be prescribed, and generally for the better carrying into effect of the provisions and purposes of this Act.

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

- (a) prescribing fees for anything to be done under this Act, generally or in respect of specified areas, and, for the purpose of prescribing fees, licences may be divided into different classes and a different fee prescribed for each such class;
- (b) prescribing charges for, or for matters incidental to, the attendance of police officers and other persons at the making of films under section 7;
- (c) prescribing the procedure for appeals to the Cabinet Secretary under this Act;
- (d) *deleted by Act No. 5 of 2007, s. 14;*
- (e) prescribing the conditions to be observed in regard to the erection, alteration and equipment of any theatre or cinema in the Nairobi Area;
- (f) prescribing the conditions to be observed in regard to securing the safety of theatres and cinemas from fire or other danger, or the safety and control of persons attending at theatres and cinemas in the Nairobi Area;
- (g) *deleted by Act No. 6 of 2009, Sch.*

[L.N. 472/1963, Act No. 5 of 2007, s. 14, Act No. 6 of 2009, Sch.]

### **35A.**

[Deleted by Act No. 21 of 1966, 1st Sch.]

### **36. Exemption relating to the Government**

Nothing contained in this Act shall apply to the exhibition or making of any film by the Government.

[Act No. 21 of 1966, 1st Sch.]

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