



**CONSULTATION PAPER ON CREATING A CONDUCTIVE
REGULATORY ENVIRONMENT FOR THE GROWTH OF THE KENYAN
FILM INDUSTRY THROUGH REDEFINING THE ROLE OF FILM AGENTS**

KENYA FILM CLASSIFICATION BOARD

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Table of Contents

Definition of Terms.....	ii
1.0 Introduction	1
2.0 Background.....	1
3.0 The Redefined Role of Film Agents.....	2
3.1 Accreditation Requirements for Film Agents.....	3
3.2 The Responsibility of Film Agents	3
4.0 Licensing and Responsibilities of Filmmakers	4
4.1 Issuance of Filming Licences to Filmmakers	4
4.2 Responsibilities of Filmmakers.....	4
5.0 Implementation Roadmap.....	4

VALIDATED DRAFT

Definition of Terms

“Film Agent” means a person who is duly registered by the Kenya Film Classification Board, to provide filming facilities or equipment or such other service as the Board may determine, to foreign filmmakers in Kenya.

“Foreign Filmmaker” means a person, other than a Kenyan citizen, who carries on trade as a producer, proprietor, promoter, photographer or any other person engaged in the making of a film in Kenya.

“Local Filmmaker” means a person of Kenyan citizenship who carries on trade as a producer, proprietor, promoter, photographer or any other person engaged in the making of a film in Kenya.

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1.0 Introduction

The Kenya Film Classification Board (KFCB) is a regulatory agency established under the Films and Stage Plays Act, Cap. 222. KFCB is mandated to regulate the creation, broadcasting, possession, distribution and exhibition of films and broadcast content in the country. This is done to ensure that the content conforms to the Kenyan culture, national values and aspirations, as well as to protect children from premature exposure to inappropriate content.

In execution of its mandate, KFCB, *inter alia*, grants Filming Licenses to both local and international filmmakers and registers Film Agents who are responsible for facilitating other film and TV producers.

2.0 Background

Section 4 (1) of the Act states that “*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 License*”. KFCB has been performing the function of the Film Licensing Officer in accordance with the recommendations of the Report on Parastatal Reforms. Filmmakers are required to register as Local Film Agents or seek the services of a registered film agent before obtaining licenses.

However, the Board has received requests from local filmmakers for the elimination of the above prerequisite to enable them to comply with filming requirements.

The Board acknowledges the integral role of Film Agents in providing logistical support for film and television producers wishing to film within the country and even though Film Agents are recognized as important players in the film sector globally, other jurisdictions confine their role to facilitating foreign film and television producers. This is contrary to the Kenyan scenario where the requirement is equally applicable to local filmmakers.

The current licensing regime, among other factors, inhibits market entry for aspiring creatives and the growth of the local creative sector. To spur growth of the local creative economy to its full potential, it is therefore necessary to administratively establish a better and more enabling framework. It is against this backdrop that the Board seeks to redefine the role of Film Agents in Kenya by eliminating the prerequisite for local filmmakers to register or be facilitated by Film Agents. The new role of Film Agents will be confined to facilitation of foreign filmmakers.

KFCB therefore seeks to redefine the role of film Agents in Kenya with a view to creating a conducive environment that will support the growth of the local film industry and ensure provision of international-standard film services to foreign filmmakers.

The administrative decision is also informed by regional and global best practices, and the proposed Kenya Film Policy 2022.

3.0 The Redefined Role of Film Agents

The new role of Film Agents will be limited to provision of logistical support to foreign film and television producers shooting in Kenya by:

1. facilitating permit applications;
2. arranging entry through customs and immigration;
3. location scouting;
4. talent scouting and acquisition;
5. crew sourcing;
6. equipment supply; and
7. providing linkages to accommodation and transport facilities.

3.1 Accreditation Requirements for Film Agents

To be accredited as a Film Agent, an entity shall provide the following requirements:

1. A duly completed and signed application Form as the Board shall prescribe;
2. Copy of Certificate of Incorporation or Business Registration Certificate or equivalent;
3. CR12 or CR13 or equivalent;
4. Copy of Valid Tax Compliance Certificate; and
5. Company's Profile (the company's core business, company's experience in facilitating the film sector, Staff resumes and proof of employment, staff resumes, professional certificates of the company's director(s) or staff trained in filmmaking or aspects of filmmaking, website and demonstrate an understanding of operations of the film sector)

The Agents will be issued an annual Certificate of Registration of Film Agents on such conditions as KFCB shall prescribe.

3.2 The Responsibility of Film Agents

Film Agents bear a responsibility in complying with the *Films and Stage Plays Act, Cap 222* and other applicable Laws of Kenya. Accordingly, Film Agents are required to undertake the following:

1. Duly fill applications for filming licenses for foreign filmmakers wishing to undertake filming activities in Kenya. The Agents will be required to ascertain validity of their travel documents and understand the nature of the filming activity to be undertaken;
2. Comply with filming regulations in Kenya, the Terms and Conditions of the Filming License and other provisions of *Cap 222*; and
3. File annual returns of film data for every licensed film on such conditions as KFCB shall prescribe.

The above Terms and Conditions will be considered during renewal of the annual Certificate of Registration of Film Agents.

4.0 Licensing and Responsibilities of Filmmakers

4.1 Issuance of Filming Licences to Filmmakers

KFCB shall issue filming licenses to foreign film crews through the Film Agents.

KFCB will issue local filmmakers filming licenses directly without the involvement of a Film Agent. The local filmmakers will be required to provide details of their businesses through an annual registration process that will not attract any fees. The filmmakers will be issued an annual Certificate of Registration of Filmmakers.

In order to facilitate the registration, local filmmakers will be required to furnish KFCB with a copy of the Certificate of Business Registration or any other form of incorporation of their entities.

4.2 Responsibilities of Filmmakers

Filmmakers shall be required to comply with filming requirements in accordance with the Act.

Filmmakers will be required to file annual returns on such conditions as KFCB shall prescribe.

The above Terms and Conditions will be considered during renewal of the annual Certificate of Registration of Filmmakers.

5.0 Implementation Roadmap

The implementation of this administrative decision shall commence from 1st December 2022 and shall be reviewed periodically.

Dated 2022

Signature.....

**Board Chairperson
Kenya Film Classification Board**