



REGULATORY IMPACT STATEMENT

FOR

THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

JUNE 2023

This Regulatory Impact Statement has been prepared by the Ministry of Youth Affairs, the Arts and Sports pursuant to Section 6 and 7 of the Statutory Instruments Act (No. 23 of 2013)

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CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1 Introduction

The Films and Stage Plays Act in Section 35 provides that the Minister may make Regulations for the effective implementation of any functions conferred to the Kenya Film Classification Board (KFCB).

In the exercise of the above powers, the Ministry of Youth Affairs, the Arts and Sports has drafted the Films and Stage Plays (Self-Classification Regulations 2023. This is a statutory instrument which seeks to prescribe the form and manner of licensing film distributors and exhibitors within the Kenyan jurisdiction.

The Ministry now therefore prepares this Regulatory Impact Statement in partial fulfilment of the Statutory Instruments Act.

1.2 Requirements of the Statutory Instruments Act

The Statutory Instruments Act, No. 23 of 2013 is the legal framework governing the conduct of Regulatory Impact Statements within the jurisdiction of Kenya. Sections 6 and 7 require that if a proposed statutory instrument is likely to impose significant costs on the community or a part of a community, the statutory-making entity shall, prior to making the instrument, prepare a regulatory impact statement about the instrument.

Additionally, the Act sets out certain key elements that should be contained in the Regulatory Impact Statement as follows:

- a) A statement of the objectives of the proposed legislation and the reasons thereof;
- b) A statement explaining the effect of the proposed legislation;
- c) A statement of other practicable means of achieving those objectives, including other regulatory and non-regulatory options;
- d) An assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
- e) The reasons why other means are not appropriate.

Further, Section 5 of the Act requires that a regulation-making entity conducts public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

1.3 What is a Regulatory Impact Statement

A Regulatory Impact Statement is a systematic policy tool used to examine and measure the likely benefits, costs and effects of new or existing statutory instruments. The Statement is an analytical report with a view to aiding decision makers. As an aid to decision making, a Regulatory Impact Statement essentially comprises an evaluation of possible alternative regulatory and non-regulatory approaches with the overall purpose of ensuring that the final selected regulatory approach achieves the intended aim of a greater public benefit.

Therefore, the structure of a Regulatory Impact Statement should contain the following components:

- a) Title of the proposal;
- b) Objective and intended effect of the regulatory policy;
- c) Evaluation of the policy problem;
- d) Consideration of alternative options;
- e) Assessment of all their impacts distribution;
- f) Results of public consultation;
- g) Compliance strategies; and
- h) Processes for monitoring and evaluation.

The Statement is conducted before a new statutory instrument is introduced to provide a detailed and systemic appraisal of the potential impact of the instrument with a view to ascertain the likelihood of achieving the desired objectives.

From a collective societal perspective, the Statement should confirm whether or not a proposed statutory instrument's benefits outweigh the costs. Therefore, the objective of the Statement is to improve the understanding of the real-world impact of legislative action, which include the cost-benefit analysis, integration of multiple policy objectives, improving transparency and consultation as well as enhancing accountability of the government.

CHAPTER 2: OBJECTS OF THE FILMS AND STAGE PLAYS (CINEMATOGRPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

The general objective of these Regulations is to give effect to Section 11B of the Films and Stage Plays Act in accordance with Section 35 of the Act. The specific objectives are to provide the procedures for the licensing of film distributors and exhibitors in Kenya.

Specifically, the Regulations intend to:

- a) Make provision for the application process of a film distribution and exhibition license;
- b) Make provision for the specific provisions of the film distribution and exhibition licenses;
and
- c) Create the form for use to meet the requirements of the Act through the Regulations.

CHAPTER 3: BACKGROUND AND CONTEXT

3.1 History of the Film Regulation in Kenya

The Films and Stage Plays Act was enacted in 1962 as the Films and Stage Plays Ordinance No. 34 of 1962. The Act came into force retrospectively in 1963 by dint of a provision in Statute Law Misc. Amendment Act No. 21 of 1966 which set the commencement date of the Ordinance, now Act, as 1st October 1963.

The Act has gone through a number of piecemeal amendments and the current version of the Act is as revised in 2012 under the Revision of Laws Cap 2 Laws of Kenya, L.N. 472/1963.

In exercise of the powers conferred on him by the Kenya Order- In -Council 1963, the then Governor Malcolm McDonald made certain regulations the effect of which was to amend various provisions of the 1962 Ordinance.

The most notable was the enactment of a new section 24 of the Ordinance which gave the Minister the powers to appoint, by notice in the gazette, the city Council of Nairobi as the licensing authority for the Nairobi area. In respect of the Regions, it was the responsibility of the Regional Assembly, by notice in the Regional Gazette, to appoint a local authority or a Regional Government Agent as the licensing authority for a specified area in the region.

This was an aspect of the decentralization of the licensing function. Section 29 of the regulations provided for a right of appeal to the Minister.

The Act has undergone numerous amendments over the years (Statute Law Misc. Amendment Act No. 21 of 1966, Statute Law Misc. Amendment Act No. 38 of 1968, Statute Law Misc. Amendment Act No. 13 of 1972, Statute Law Misc. Amendment Act No. 22 of 1987).

The famous and notable amendment was the Statute Law Misc. Amendment Act No. 10 of 1997 which repealed all provisions relating to stage plays. The same amendment further repealed section 25 which provided for licensing of cinema theatres and replaced the same with a re-worded section 25. This section was later repealed in the Statute Law Misc. Amendment Act No. 5 of 2007 together with sections 24, 26-28, 33 among other provisions of the Act.

The Statute Law Misc. Amendment Act No. 6 of 2009 created the Kenya Film Classification Board as presently constituted (Part III of the Act).

3.2 Existing Scenario

Pursuant to Section 24 of the Interpretations and General Provisions Act, Cap 2, Regulations under the Films and Stage Plays Act remain in force as long as they are not inconsistent with the repealing Act; until revoked or repealed by subsidiary legislation under provisions of the repealing Act.

3.3 Paradigm Shift

The Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023 seek to amend the Regulations to the current constitutional and statutory dispensation.

3.3.1 Statutory Dispensation

The Films and Stage Plays Act confers powers to the Cabinet Secretary to make Regulations for the better operationalization of the provisions of the Act. Section 35 (2) specifies that the Regulations may provide for licences issued into the different classes and the fees prescribed for each of the defined classes.

Part II of the Act provides for the making of films. Specifically, the Part makes it a requirement for film makers to apply for filming licenses with the Regulations operationalizing these provisions.

CHAPTER 4: EVALUATION OF THE PROBLEM

The Executive Order on the Organization of Government in the Republic of Kenya dated 12th October 2022 (superseded by Executive Number 1 of 2023 dated 6th January 2023) placed, among others, the Kenya Film Classification Board under the State Department of Youth Affairs and the Arts in the Ministry of Youth Affairs, the Arts and Sports. To this end, the Ministry identified various gaps occasioned by the Board in the execution of its mandate with respect to the regulation of film exhibition and distribution.

4.1 Identified Challenges

a) Regulatory Inconsistencies

Part II of the Act provides for the application of filming licenses. It specifically provides that all film makers are required to have a filming license prior to making any film. The Regulations as prescribed provide for fees prescribed for the classes of film which include, among others, documentaries, full length feature films and short features. The Regulations further provide for registration of film agents and the fees prescribed thereto. The Regulations, however, do not provide for the registration procedure of the film agent referenced.

The fees prescribed under the Regulations pose a challenge with respect to implementation of the same and is subject to abuse and arbitrary and subjective implementation.

CHAPTER 5: LEGAL FRAMEWORK FOR THE PROPOSED FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

An evaluation of the legal and policy frameworks related to amending the Regulations to prescribe the procedure for registration of film agents and fees made for the filming licenses and the Ministry of Youth Affairs, the Arts, and Sports on behalf of the Board is intended to answer the question whether there is a legal basis for developing the proposed Regulations. It is also intended to bring out the context and legal environment within which the proposed Regulations is being developed. Regulatory processes should be structured so that all regulatory decisions rigorously respect the principles of ‘rule of law’ that is, responsibility should be explicit for ensuring that all regulations are authorized by higher-level regulations and are consistent with the supreme law and treaty obligations. In addition, they should complement other legal requirements and ensure statutory harmony of the entire statute book.

5.1 The Constitution of Kenya, 2010

5.1.1 Application of National Values and Principles of Governance

Article 10 binds State and Public organs and persons to apply the national values and principles of governance in the enactment, application and interpretation of any law. These, inter alia, include good governance, integrity, participation of the people, transparency and accountability.

5.1.2 Right to information

Article 35 provides that the State is obligated to publish and publicize any important information affecting the nation.

Article 46 further provides that consumers have the right to the information necessary for them to gain full benefits from goods and services.

Article 47 provides that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

Article 94(6) provides that an Act Parliament or legislation made by a state or public entity shall specify the purpose, objectives and limits for which authority has been granted, the nature and scope of the law and the principles and standards applicable the law made.

5.2 Films and Stage Plays Act

Section 35 of the Act confers powers to the Cabinet Secretary to make Regulations for the implementation of the provisions and purposes of the Act. Part II of the Act provides for the requirements with respect to film making in the country.

5.3 Statutory Instruments Act

The Statutory instruments Act provides for the overarching framework for development of statutory instruments in Kenya. Specifically, Section 3 of the Act provides that every statutory instrument made directly or indirectly under any Act of parliament or written legislation should

conform to the Act. Further the Act, provides a comprehensive regime for the making, scrutiny, publication and operation of the statutory instruments.

CHAPTER 6: PUBLIC CONSULTATIONS

An evaluation of the public consultation process is necessary to ascertain whether all interested parties had the opportunity to present their views. Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties such as affected businesses, interest groups and government ministries, departments, and agencies.

6.1 Legal Requirements relating to Public Participation and Consultation

It is a constitutional requirement to carry out public participation whenever a state or public officer enacts any law or makes or implements a public policy. This requirement is based on Article 1 of the Constitution on the sovereignty principle which vests all sovereign power to the people of Kenya. This power entitles the people access to the process of making public decisions through their involvement. Public participation ought to be inclusive, transparent and accountable.

Article 174 gives powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them and recognize the rights of communities to manage their own affairs and to further their development.

The values and principles of public service require the involvement of the people in the process of policy making through provision of timely and accurate information to the public.

The Statutory Instruments Act obligates a regulation making authority to carry out appropriate consultations before making statutory instruments (Regulations) where the proposed regulations are likely to have a direct, or a substantial indirect effect on business or restrict competition. It further provides that in determining whether any consultation that was undertaken, the regulation making authority shall have regard to all relevant matters, including the extent to which the consultation:

- a) drew on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and
- b) ensured that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content.

The Act also states that the persons to be consulted should be notified either directly or indirectly or by advertisement through representative organizations. They shall also be invited to make submissions by a specified date, which should not be less than fourteen (14) days or be invited to participate in public hearings concerning the proposed instrument.

6.2 Approach and Methodology

The Ministry and the Board undertook various public consultations exercises between 28th March and 31st May 2023. The approach used included:

- 1) A Public Notice on the KFCB website;
- 2) Public Notice on the Standard Newspaper, 28th March 2023; and
- 3) Public Fora in different regions of the country.

The Notices specified a period of 21 days within which stakeholders and members of the public were invited to make their submissions. This period was extended for a further seven (7) days to ensure comprehensive public participation. There were a total of thirty-four (34) submissions made with respect to the Regulations. Such submissions were made by the following entities:

1. Creative Economy Working Group
2. Netflix
3. Multichoice Limited
4. Royal Media Services
5. Centre for Law in Information Technology
6. American Chamber of Commerce
7. Safaricom PLC
8. Kenya Broadcasting Corporation
9. Crimson Multimedia Ltd
10. Red Earth Fixers Ltd
11. Take Nine
12. Silas B. Owiti
13. Yakwetu Foundation
14. Coulson Harney
15. Lakeside Thespians
16. Finix Filming Company
17. Mara Moja Productions

Further, stakeholders were invited, through letter and email, to submit their written submissions within the specified time. Lastly, stakeholders were invited to attend stakeholder consultation meetings between 2nd and 31st May 2023 in different regions. The table below indicates the stakeholders who attended the various stakeholder consultation fora.

Table 1: List of Stakeholders

NO.	STAKEHOLDER	NO. OF PARTICIPANTS	DATE AND VENUE	TIME
Cluster 1	Film Producers, Film Makers, Distributors/ Theatre owners and Broadcasters (Guilds and Associations) Religious	25	2 nd May 2023 at the Kenya School of Government in Mombasa	9.00am-4.00pm

	groups from Mombasa Kwale, Taita Taveta, Kilifi			
Cluster 2	Film Producers, Film Makers, Distributors/ Theatre owners and Broadcasters (Guilds and Associations) Religious groups from Kisumu, Siaya, Homa Bay and Migori	33	5 th May at the Kisumu Hotel, Kisumu	9.00am-4.00pm
Cluster 3	Film Producers, Film Makers, Distributors/ Theatre owners and Broadcasters (Guilds and Associations) Religious groups	31	9 th May 2023 at the Kenya School of Government, Embu	9.00am-4.00pm
Cluster 4	Film Producers, Film Makers, Distributors/ Theatre owners and Broadcasters (Guilds and Associations) Religious groups	30	30 th and 31 st May 2023 at the College of Insurance	9.00am-4.00pm

The consultative forums were engaging with stakeholders making submissions with regard to the Self- Classification Regulations, whose comments have been incorporated into the same.

CHAPTER 7: OVERVIEW OF THE PROPOSED FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

The general objective of these Regulations is to amend the Films and Stage Plays (Cinematographic Films) (Forms and Fees) Regulations to harmonize the same with the provisions of Part II of the Films and Stage Plays Act in accordance with Section 35 of the Act. The specific objectives are to provide the procedures for the certification of applicable film entities in Kenya.

Specifically, the Regulations intend to:

1. Prescribe the procedure for the registration of film agents and the certificate issued thereto;
2. Amend the first schedule with respect to the filming license; and
3. Amend the fee schedule to provide for the different classes of films prescribed under the Regulations. The Fees prescribed further make a distinction between local and foreign content with a view to encouraging local productions while aiding the local film industry.

CHAPTER 8: COST- BENEFIT ANALYSIS

This section seeks to assess the changes proposed by the Regulations in terms of their costs and benefits to justify the proposals pursuant to Section 7(d) of the Statutory Instruments Act.

8.1 Benefits of the Regulations

The approval of the Regulations is deemed to have the following accruing benefits:

1. Encouraging creativity and innovation: these proposed regulations envision a 15% reduction on current filming fees. This reduction will avail resources to filmmakers, provide them with incentives for experimentation and creativity to embark on more projects which will enhance the creative industry's growth.
2. Supporting the film industry: These film regulations will enable the Board to provide a stable regulatory environment and meet its administrative costs, which will in turn enable it to execute its mandate effectively. This will also ensure timely, fair, and efficient processing of filming license applications.
3. Protecting public safety and health: These regulations will ensure that films are produced in a safe manner, without posing a risk to the public.
4. Contributing towards improvement of the local infrastructure: With variation in filming fees between local and foreign filmmakers, these regulations will ensure that the foreign filmmakers contribute towards enhancement of that infrastructure which the local filmmakers have built via taxes.
5. Job creation: The proposed regulations will encourage more productions which will require more crew and cast hence positive economic impact to communities including job creation and increased revenue.
6. These regulations will ensure that the local film industry align with the current market trends and reflect the costs associated with filming in specific jurisdiction.

8.2 Financial Costs

Implementation of the proposed set of Regulations is estimated at 27,230,842.00 annually. This cost will be borne by the Board to, among other things, enhance the capacity of the current staff and configuration of the Technical Regulatory Management System registration module. Further, the cost shall also cater for the incorporation of the self-classification module into the Board's Technical Regulatory Management System, extensive and continuous monitoring services as well as stakeholder and public awareness in a bid to operationalize the Act through the Regulations

CHAPTER 9: CONSIDERATION OF ALTERNATIVES TO THE REGULATIONS

The Statutory Instruments Act requires a regulator to carry out an informal evaluation of a variety of regulatory and non-regulatory policy measures by considering relevant issues such as costs, benefits, distributional effects and administrative requirements. Regulations should be the last resort in realizing policy objectives. The options considered under this part are; maintenance of the status quo, administrative measures and developing the proposed Films and Stage Plays (Film Distribution and Exhibition) Regulations, 2023.

9.1 Option 1: Maintenance of the Status-Quo

The Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023 are responsive to the current legislative requirements., By maintaining the status quo, the legal requirements under Part II as read with Section 35 of the Films and Stage Plays Act will not be fulfilled.

Further, in the absence of these Regulations, the fees as prescribed will remain ambiguous and subject to prejudice in the implementation of the same.

9.2 Option 2: Administrative Measures

Administrative measures involve issuance of directives and circulars. This is a non-regulatory measure which if applied, will depend on the goodwill of public officers to implement the provisions of the Films and Stage Plays Act regarding certification of film agents, licensing the various classes of film and the prescribed thereto. Administrative measures are subjective, non-binding and may be challenged in a court of competent jurisdiction. In addition, some administrative measures issued in the past have not achieved the desired objectives.

9.3 Option 3: Formulation of the Regulations

The Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023 will yield the following benefits: integration of the registration of film agents occasioning standardization in the implementation of the aforesaid provision; enhanced compliance by industry players; increased support for the industry players in a burgeoning sector; harmonization with international best practices; and improved ease of doing business.

The assessment of the cost and benefits in Chapter 8, indicates that the benefits of formulating the regulations far outweigh the costs, therefore, option three (3) was selected as the preferred option.

9.4 Impact Analysis of the Options

An impact analysis of the options justifies the purpose of formulating the regulations and the challenges that the regulations will address. It further justifies the selection of option three on formulating the proposed Films and Stage Plays (Cinematographic Films) (Forms and Fees)

(Amendment) Regulations, 2023 by evaluating the socio-economic, environmental and legal impact of the regulations as shown in the table below:

Table 2: Impact Analysis of the three options

Impact on Sectors	Option One: Maintaining the Status Quo	Option Two: Administrative Measures	Option Three: Formulating the proposed Films and Stage Plays (Self-Classification) Regulations, 20233
	This entails doing nothing and retaining the current state of affairs	This entails putting in place administrative measures to ensure implementation of the provisions of licensing film distributors and exhibitors under the Films and Stage Plays Act	This entails providing the procedure for the registration of film agents; and fees prescribed for filming licenses with respect to the various classes of film.
Impact on public sector	The public sector will be accused of inaction for not providing for the procedure for the standards and procedures for registration of film agents. within the country. The public sector will be alleged to have not aligned its	It is unlikely that administrative processes without the force of the law will effectively address emerging realities in the licensing of film distributors and exhibitors.	<ul style="list-style-type: none"> • The regulations ensure expeditious, efficient, lawful, reasonable and procedurally fair administration of actions by the government with respect to registration of film agents and issuing filming licenses to film makers.
Impact on the private sector	The actions of the private sector will not be guided thereby resulting in conflicts.	Administrative measures offer short term relief to addressing the issues raised with respect to licensing film distributors and exhibitors in the private sector	<ul style="list-style-type: none"> • The regulations will provide guidelines and standards for issuing certificates to film agents providing clarity and will result in ease of doing business. • Development of controls in the standardization will result in reduced conflicts in the private sector.
Socio-economic impact	There will be no framework to ensure that socio-economic rights as provided for under Chapter 4 of the Constitution are upheld.	Administrative measures do not provide for a structure that ensures accountability hence socio-economic rights under Chapter 4 of the Constitution may not be met.	<ul style="list-style-type: none"> • The Regulations support socio-economic rights provided for under Chapter 4 of the Constitution including the consumer rights and right to information.

			<ul style="list-style-type: none"> • The proposed regulatory instruments will facilitate the full enjoyment of consumer rights, the right to information as well as rights to fair administrative action. • The proposed regulatory instruments neither impose, waive nor vary any tax or fees imposed under any law in Kenya. Indeed, the instrument seeks to review the fees prescribed within the various categories proposed, but it not seek to overcharge.
Impact on existing legal frameworks	The legal requirement under Part II as read with Section 35 of the Films and Stage Plays Act will not be met.	Administrative measures without the force of the law may be challenged, leading to slow/ halted service delivery.	<ul style="list-style-type: none"> • Fulfills the legal requirement under Part II as read with Section 35 of the Films and Stage Plays Act. • The proposed Regulations do not impose any new legal requirement under the existing framework, they only seek to align the existing framework for homogeny. Therefore, the Regulations do not conflict or have any negative effect on any such existing legislation.
Impact on environment	The proposed Regulations have no effect on the environment.	The proposed Regulations have no effect on the environment.	The proposed Regulations have no effect on the environment.

CHAPTER 10: COMPLIANCE AND IMPLEMENTATION

It is the duty of the regulator to assess the adequacy of the institutional framework and other incentives through which the regulation will take effect and design responsive implementation strategies that make the best use of them. The implementation and enforcement of these regulations will be undertaken through the existing institutional framework at national level by the Board as conferred to it under the Films and Stage Plays Act and the Ministry of Youth Affairs, the Arts and Sports whose role is to provide policy guidance and coordination of the film sector with respect to licensing of film makers and registration of film agents.

CHAPTER 11: CONCLUSION

Based on the analysis in this report, the Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023 are extremely necessary. The regulations offer socio-economic and legal benefits which include ease of doing business and improved service delivery, which far outweigh the costs of the Regulations. The regulations also provide a framework for the ensuring that the people of Kenya enjoy the socio-economic rights enshrined in the Constitution.

11.1 Recommendation

In light of the above conclusion, it is recommended that the Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023 be adopted.

ANNEXURES

1. Regulations

LEGAL NOTICE.....

THE FILMS AND STAGE PLAYS ACT
(Cap. 222)

THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

IN EXERCISE of the powers conferred by section 35 (1) of the Films and Stage Plays Act, the Cabinet Secretary makes the following Regulations—

THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

Citation.

1. These Regulations may be cited as the Films and Stage Plays (Cinematographic Films) (Forms and Fees) (Amendment) Regulations, 2023

Aemdnment of
L.N. No. 241 of
1967.

2. The Films and Stage Plays (Cinematographic Films) (Forms and Fees) Regulations, 1967, hereinafter referred to as the principal Regulations, are amended by inserting the following new regulation immediately after regulation 1—

Application of these Regulations. **1A.** These Regulations shall apply to fees payable in respect of applications for filming licences and registration of film agents.

3. Regulation 5 of the principal Regulations is amended by inserting the following new sub-regulation after sub-regulation (2)--

(3) For purposes of applications under this Regulation, a film agent is a person who is duly registered by the Board to provide filming facilities, equipment or any other service to foreign film-makers in Kenya.

4. The principal Regulations are amended by inserting the following new Regulation after Regulation 5--

Registration of Film Agents. **5A.(1)** There shall be a requirement for the registration of film agents and a certificate issued in accordance with the Third Schedule, for the facilitation of a foreign film maker, who for the purpose of these Regulations, is a film maker who is not a Kenyan citizen.

(2) The application for the registration of film agents shall be in accordance with the prescribed form and at a prescribed fee.

(3) The certificate of registration of film agents shall be valid for a period of one year from the date of issue.

(4) Upon renewal of the certificate, the film agent shall be required to file returns as prescribed.

5. The principal Regulations are amended by deleting the First Schedule and substituting therefor the following new Schedule —

**FIRST SCHEDULE
[R.5 (1)]**

FILMING LICENCE

Date of Issue..... Licence Number

This filming licence is granted toon
behalf of
to film in Kenya a
(Title)
at the following location
.....
For the following number of days

DRONE Filming (Night and Day)

.....
.....

in accordance with the Films and Stage Plays Act, Cap 222 and the terms and conditions of this licence.

Licensing Officer

.....
.....

6. The principal Regulations are amended by deleting the Second Schedule and substituting therefor the following new Schedule —

**SECOND SCHEDULE
[R.5 (1)]**

FILMING FEES

<i>Band</i>	<i>No. of filming days</i>	<i>Fees (Kshs)</i>	
		<i>Local Film maker</i>	<i>Foreign Film maker</i>
1.	Documentary (below 40 Minutes Per title)		
A.	1-3 days	6,800	8,000
B.	4-7 days	10,200	12,000
C.	8-15 days	17,000	20,000
D.	16-30 days	29,750	35,000
E.	31-45 Days	42,500	50,000
F.	46-60 days	55,250	65,000
G.	61-90 days	80,750	95,000
H.	91-120 days	106,250	125,000
I.	121-150 days	131,750	155,000
J.	151-180 days	157,250	185,000
K.	181-210 days	182,750	215,000
L.	211-240 days	208,250	245,000
M.	241-270 days	233,750	275,000
N.	271-300 days	259,250	305,000
O.	301-330 days	284,750	335,000
P.	331-360 days	310,250	365,000
2.	Documentary (above 40 Minutes -Per title)		
A.	1-3 days	15,300	18,000
B.	4-7 days	18,700	22,000
C.	8-15 days	25,500	30,000
D.	16-30 days	38,250	45,000
E.	31-45 Days	42,500	50,000
F.	46-60 days	63,750	75,000
G.	61-90 days	89,250	105,000
H.	91-120 days	114,750	135,000
I.	121-150 days	140,250	165,000
J.	151-180 days	165,750	195,000
K.	181-210 days	191,250	225,000
L.	211-240 days	216,750	255,000
M.	241-270 days	242,250	285,000

N.	271-300 days	267,750	315,000
O.	301-330 days	293,250	345,000
P.	331-360 days	318,750	375,000
3.	Series (Per Season)		
A.	1-3 days	15,300	18,000
B.	4-7 days	18,700	22,000
C.	8-15 days	25,500	30,000
D.	16-30 days	38,250	45,000
E.	31-45 Days	42,500	50,000
F.	46-60 days	63,750	75,000
G.	61-90 days	89,250	105,000
H.	91-120 days	114,750	135,000
I.	121-150 days	140,250	165,000
J.	151-180 days	165,750	195,000
K.	181-210 days	191,250	225,000
L.	211-240 days	216,750	255,000
M.	241-270 days	242,250	285,000
N.	271-300 days	267,750	315,000
O.	301-330 days	293,250	345,000
P.	331-360 days	318,750	375,000
4.	Feature Length Film (per title)		
A.	1-3 days	15,300	18,000
B.	4-7 days	18,700	22,000
C.	8-15 days	25,500	30,000
D.	16-30 days	38,250	45,000
E.	31-45 Days	42,500	50,000
F.	46-60 days	63,750	75,000
G.	61-90 days	89,250	105,000
H.	91-120 days	114,750	135,000
I.	121-150 days	140,250	165,000
J.	151-180 days	165,750	195,000
K.	181-210 days	191,250	225,000
L.	211-240 days	216,750	255,000
M.	241-270 days	242,250	285,000
N.	271-300 days	267,750	315,000
O.	301-330 days	293,250	345,000
P.	331-360 days	318,750	375,000
5.	Short films (Per title)		
A.	1-3 days	6,800	8,000

B.	4-7 days	10,200	12,000
C.	8-15 days	17,000	20,000
D.	16-30 days	29,750	35,000
E.	31-45 Days	42,500	50,000
F.	46-60 days	55,250	65,000
G.	61-90 days	80,750	95,000
H.	91-120 days	106,250	125,000
I.	121-150 days	131,750	155,000
J.	151-180 days	157,250	185,000
K.	181-210 days	182,750	215,000
L.	211-240 days	208,250	245,000
M.	241-270 days	233,750	275,000
N.	271-300 days	259,250	305,000
O.	301-330 days	284,750	335,000
P.	331-360 days	310,250	365,000
6.	Commercial	20,000	
7.	Annual Film Agent Registration	12,000	
8.	Daily Filming fees*	2,500 per day	

* Only applicable on extension of a filming license.

7. The principal Regulations are amended by inserting the following new Schedule immediately after the Second Schedule—

THIRD SCHEDULE

**FILM AGENT/LOCAL FILM MAKER REGISTRATION CERTIFICATE
[R.5A(3)]**

Date of Issue..... Certificate Number.....

This is to certify thatof
Post Office Box.....has been registered as
a

in the Republic of Kenya, in accordance with the Films and Stage
Plays Act, Cap 222 and the Terms and Conditions of this Certificate.

This Certificate is valid for one (1) year effective from the date of issue.

Licensing Officer

.....
.....

Made on theday of,2023.

ABABU NAMWAMBA, EGH
*Cabinet Secretary for Youth Affairs,
the Arts and Sports.*

2. Stakeholder Report



**REPORT ON THE
COLLATION OF
STAKEHOLDERS
SUBMISSIONS ON
REGULATIONS AND
GUIDELINES**

JUNE 2023

STATE DEPARTMENT OF YOUTH AFFAIRS AND THE ARTS

MINISTRY OF YOUTH AFFAIRS, THE ARTS AND SPORTS

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PART 1: INTRODUCTION

Kenya Film Classification Board (KFCB) is a State Corporation established under the Films and Stage Plays Act Cap 222 Laws of Kenya (the Act). The functions of the Board are to regulate the creation, broadcasting, possession, distribution and exhibition of films and to license and issue certificate to distributors and exhibitors of films.

VISION

To be a world class film and broadcast film regulator

MISSION

To safeguard National values and norms through efficient and effective film regulatory services

CORE VALUES

- i. Professionalism
- ii. Integrity
- iii. Teamwork
- iv. Accountability
- v. Innovation

PART 2: FILMS AND STAGE PLAYS REGULATIONS AND GUIDELINES

The Ministry of Youth Affairs, the Arts and Sports is vested with the responsibility of developing the film industry through policy and legislative interventions. To this end, the Ministry is conferred with the responsibility of developing Regulations under Section 35 of the Films and Stage Plays Act, Cap 222, Laws of Kenya. The Kenya Film Classification Board is established under the Act to regulate the local film sector with a view to creating an enabling regulatory environment and to protect children from exposure to inappropriate content.

To cope with the rapid evolution of technology and the emergence of new services, the Ministry of Youth Affairs, the Arts and Sports is reviewing the Regulations listed in **Table 1** below with a view to aligning the legal and regulatory framework with developments in the industry as well as international best practices.

Table 1: Regulations and Guidelines

No.	Proposed regulations	Summary
1.	Film and Stage Plays (Film Classification) Guidelines, 2023	These Guidelines have been developed in accordance with Section 15(2) (b) of the Films and Stage Plays Act that makes provision for prescribing procedure to be used in the classification of all classes of films. These Guidelines prescribed the guiding principles, thematic areas, as well as corresponding age ratings and advisories.
2.	Films and Stage Plays (Self-Classification) Regulations, 2023	These Regulations prescribe the procedure for the identification and co-option of film distributors and exhibitors to classify films on behalf of the Board. The proposed fees in the Regulations have been made in consideration of the volumes of audio-visual content made accessible due to technological advancements and the introduction of new forms of content distribution and exhibition such as the over-the-top service platforms. The proposed fees are accommodating to film exhibitors and distributors as evidenced in the banding as opposed to the current levying of fees.
3.	Films and Stage Plays (Film Distribution and Exhibition) Regulations, 2023	These Regulations have been developed in accordance with Section 35 to prescribe the procedure in which the Board licenses film distributors and exhibitors. The proposed fees to these Regulations are developed in recognition of the diverse forms of film distribution and exhibition across the country.
4.	Films and Stage Plays (Film	The core mandate of the Board is the classification of film. The Board took cognizance of the clamor by the public to

	Censorship) Regulations, 2023	reduce the cost of film classification. As a result, the proposed fees have been distinguished between local and foreign audio-visual content with the Board proposing a reduction of rate of fifteen (15) percent for local audio-visual content.
5.	Films and Stage Plays (Cinematograph Films) (Forms and Fees), Regulations, 2023	The Regulations prescribe the procedure for the application for filming licenses, registration of film agents, and the fees thereto. The fee schedule proposed have distinguished between foreign and local fees so as to spur growth for the local film industry. To this end, local film maker fees have been proposed to reduce the same by fifteen (15) percent of the current fees. Accordingly, foreign fees have been retained as per the current schedule. The fee schedules have been banded with a view to ensuring reasonability with respect to filming.

2.1 RATIONALE FOR REVIEW FOR REVIEW AND DEVELOPMENT

1. Film and Stage Plays (Film Classification) Guidelines, 2023

According to Section 15(2) b of the Films and Stage Plays Act, The Board may from time to time prescribe guidelines to be applied in the classification of films. Technological advancements have led to changes in lifestyle, public expectations and concerns thus necessitating the Board to consider reviewing the classification guidelines to include emerging trends in the society.

2. Films and Stage Plays (Self-Classification) Regulations, 2023

The current classification fee is based on the running time of a film. However, due to the volumes of content on VOD, OTTs and Broadcast services, charging classification fees based on running time may be exorbitant. Consequently, the Board proposes to levy classification fees per title. These levies are banded to accommodate the different volumes of content on different platforms.

The Board has distinguished the classification fees for VOD, OTTs from the broadcasters due to the nature of former that render them to: contain large volumes of content; be accessible via the internet and the consumer's convenience to watch content of their choice at their preferred time and place.

3. Films and Stage Plays (Film Distribution and Exhibition) Regulations, 2023

The Act imposes fees for three categories of film distributors and exhibitors. These include video show & video vendors, video libraries and cinema theatres. The fees were created specifically for the traditional chain distribution and exhibition of film.

Technological advancement has changed and expanded the modes of film distribution and exhibition occasioning the need to review the current regulatory model to incorporate new technologies.

The review of the fees is informed by the following:

- i. The recognition of the diverse forms of the distribution and exhibition of audio-visual content.
- ii. The need to adjust the fees to the current market rates.
- iii. The need to apportion the requisite fees to the different forms of film /content exhibition and distribution based on their potential to expose users to harm and the negative impact they have on content consumers.

4. Films and Stage Plays (Film Censorship) Regulations, 2023

a) Film

The Board proposes retention of the current classification fees for the foreign content and a 15% reduction on classification fees for the local content to incentivize the industry players, grow the industry and encourage local content creation, distribution and consumption.

b) Posters, Trailers and Commercials

The Board proposes retention of the classification fees levied on posters and trailers as per the current fees schedule and an increase on the classification fees from Kshs 1000 to Kshs 5,000 and Kshs. 10,000 for local and foreign commercials respectively. The increase is based on the principle that commercials are made to persuade and influence behavior through the use of targeted visual consistency within a considerably short period. The frequency of airing such commercials has a higher potential for harm.

5. Films and Stage Plays (Cinematograph Films) (Forms and Fees), Regulations, 2023

a) Fees for Foreign Filmmakers

Based on benchmark studies conducted in other jurisdictions (Annex 1), the current filming fees were found to be favorable across Africa and therefore shall be retained as they are.

b) Fees for Local Filmmakers

Local film industry stakeholders have indicated that the current filming fees are prohibitive thus discouraging many from pursuing filmmaking careers while compelling others to engage in illegal filming activities. To address this concern, the Board recommends a reduction of the current fees by 15% for the local filmmakers.

c) Banding of Fees

Banding of fees was done to ensure filmmakers with projects requiring few filming days are charged reasonable fees while those with projects taking long periods of time enjoy benefits of the economies of scale.

d) Daily Filming Fees

All filming fees are covered in the bands. However, in case filming is not completed within the licensed period in the band, the daily filming fees are an option for extension. The fees shall only be applicable to extension of valid filming Licence.

e) Filming Fees Increase for Commercials/Advertisements

The increase of the fees is necessitated by the high economic value of the advertisements and the frequency with which they are aired/exhibited thus increasing their potential to cause harm.

2.2 PUBLIC PARTICIPATION

2.2.1 PUBLIC NOTICE(Annex 1)

In accordance with the Constitution, 2010, the Board published the draft Regulations and Guidelines and invited members of the public to provide written comments, recommendations or justification (s) thereof from the **28th March 2023** to **28th April 2023**.

All written submissions were forwarded through regulations@kfcg.go.ke or the Boards postal address.

At the end of the Notice period, the Board had received a total number of ____ submissions. The submissions and the responses thereto, are attached herein as Annex I.

2.2.2 STAKEHOLDER ENGAGEMENT FORUMS

In a bid to enhance public participation, the Board five stakeholder engagement forums across the country. (*Pictorials Annex 3*) The forums took place as follows:

- i. Mombasa: 2nd May 2023 at the Kenya School of Government;
- ii. Kisumu on 5th May 2023 at the Kisumu Hotel;
- iii. Embu on 9th May 2023 at the Kenya School of Government; and
- iv. Nairobi on 30th and 31st May at the College of Insurance.

The submissions and the responses thereto, are attached herein as Annex I.

ANNEX I: PUBLIC NOTICE



INVITATION FOR PUBLIC PARTICIPATION ON THE FILMS AND STAGE PLAYS REGULATIONS AND GUIDELINES

The Ministry of Youth Affairs, the Arts and Sports is vested with the responsibility of developing the film industry through policy and legislative interventions. To this end, the Ministry is conferred with the responsibility of developing Regulations under Section 35 of the *Films and Stage Plays Act, Cap 222, Laws of Kenya*.

The Kenya Film Classification Board is established under the Act to regulate the local film sector with a view to creating an enabling regulatory environment and to protect children from exposure to inappropriate content.

To cope with the rapid evolution of technology and the emergence of new services, the Ministry of Youth Affairs, the Arts and Sports is reviewing the Regulations below with a view to aligning the legal and regulatory framework with developments in the industry as well as international best practices.

Accordingly, foreign fees have been retained as per the current schedule. The fee schedules have been banded with a view to ensuring reasonability with respect to filming.

No.	Proposed regulations	Summary
1.	Film and Stage Plays (Film Classification) Guidelines, 2023	These Guidelines have been developed in accordance with Section 15(2) (b) of the Films and Stage Plays Act that makes provision for prescribing procedure to be used in the classification of all classes of films. These Guidelines prescribed the guiding principles, thematic areas, as well as corresponding age ratings and advisories.
2.	Films and Stage Plays (Self-Classification) Regulations, 2023	These Regulations prescribe the procedure for the identification and co-option of film distributors and exhibitors to classify films on behalf of the

		Board. The proposed fees in the Regulations have been made in consideration of the volumes of audio-visual content made accessible due to technological advancements and the introduction of new forms of content distribution and exhibition such as the over-the-top service platforms. The proposed fees are accommodating to film exhibitors and distributors as evidenced in the banding as opposed to the current levying of fees.
3.	Films and Stage Plays (Film Distribution and Exhibition) Regulations, 2023	These Regulations have been developed in accordance with Section 35 to prescribe the procedure in which the Board licenses film distributors and exhibitors. The proposed fees to these Regulations are developed in recognition of the diverse forms of film distribution and exhibition across the country.
4.	Films and Stage Plays (Film Censorship) Regulations, 2023	The core mandate of the Board is the classification of film. The Board took cognizance of the clamor by the public to reduce the cost of film classification. As a result, the proposed fees have been distinguished between local and foreign audio-visual content with the Board proposing a reduction of rate of fifteen (15) percent for local audio-visual content.
5.	Films and Stage Plays (Cinematograph Films) (Forms and Fees), Regulations, 2023	The Regulations prescribe the procedure for the application for filming licenses, registration of film agents, and the fees thereto. The fee schedule proposed have distinguished between foreign and local fees so as to spur growth for the local film industry. To this end, local film maker fees have been proposed to reduce the same by fifteen (15) percent of the current fees. Accordingly, foreign fees have been retained as per the current schedule. The fee schedules have been banded with a view to ensuring reasonability with respect to filming.

The aforesated regulatory and legal instruments can be accessed at <https://kfcg.go.ke/~kfcgok/policies>

In accordance with the Constitution, 2010, this is to hereby invite members of the public to provide written comments, recommendations or justification (s) thereof on the draft Regulations and Guidelines.

All written submissions should be forwarded through regulations@kfcg.go.ke or the address provided below, not later than **Friday, 21st April 2023**.

The Chief Executive Officer

Kenya Film Classification Board

P.O. Box 44226- 00100 Nairobi Tel:

020 225 0600

Mobile: 0711 222 204/0773 753 355

Website: www.kfcg.go.ke

28th March 2023

Hon. Ababu Namwamba, EGH

Cabinet Secretary

No.	PROVISION/ CLAUSE	PROPOSAL	KFCB RECOMMENDATION	REGION
1	Second Schedule	Proposed a one off Agent Registration fee instead of Annual renewal.	The registration is done after review of the agent's compliance status, thereby necessitating the need for annual registration.	ONLINE
2	Prescribe the fees for applications for filming licences	Not relevant to OTT/VOD service providers	Not adopted – This is contravention of Part II of the Films And Stage Plays Act.	ONLINE
	Sections 32 & 34 of the Films & Stage Plays Act , Cap 222	Not relevant to OTT/VOD service providers	Not adopted - This is contrary to section 32 & 34 of the substantive Act	
	Clause 2:	Concerned with with the phrase "films that are not accessible in Kenya" in the Regulations	Regulations are only applicable to content accessible within the Kenyan jurisdiction,	
3	First Schedule	The proposed fees were expensive for the industry, calls for engagement towards revision of the same.	Noted. The proposed fees are lower than the current fees	ONLINE
4	(CINEMATOGRAPH FILMS) (FORMS AND FEES) (AMENDMENT)	THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023	Adopted	ONLINE
	Preamble	IN EXERCISE of the powers conferred by section 35 (1) of the Films and Stage Plays Act, the Cabinet Secretary for Youth Affairs, Sports and Arts ICT, Innovation, and the Digital Economy makes the following Regulations—	Adopted	

	Regulation 1 and 2	Amend to read as "Cinematographic"	Adopted	
5	Second Schedule	Clarification on the implementation of filming fees for local and foreign film makers.	The government is encouraged to promote local content. The current fees levied for foreign filmmakers has been Further, the current fee is higher than the proposed fee for both local and foreign content.	ONLINE
	Second Schedule	The proposed filming fees are high, and the license fees based on category/genre is unfair.	The proposal distinguishes the nature of the different productions, thus occasioning the cost variations.	
6	Citation	Change to the Cabinet Secretary of Youth Affairs, Sports and the Arts to align with Executive Order No. 1 of 2023	Align with the Act.	ONLINE
	Definitions	Include definitions for better understanding of the scope of the Regulations.	The proposal to define "film agent" is adopted.	
	Second Schedule	Do away with the requirement for annual licences for local filmmakers.. Filmmaking should have few barriers of entry as possible.	This proposal is adopted. Registration of film makers will be at no cost.	
	Second Schedule	Clarify the formula to be used when calculating fees due. Consideration must be given to the spirit of lowering the cost of filmmaking.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily	

			<p>filming fees will only apply for filming license extensions.</p> <p>The proposed fees have been revised downwards.</p>	
	<p>Fee Schedule Band 4 – short films, corporate videos, testimonials, travelogue, infomercials and music videos</p>	<p>Provide rationale for differentiating with Band 5 which is a sub-set of commercials.</p>	<p>The proposal distinguishes the nature of the different productions, thus occasioning the cost variations.</p>	
	<p>Fee Schedule Band 5 - Commercial</p>	<p>Substitute "commercial" with "advertisement"</p>	<p>The word “commercial” is adopted.</p>	
7	<p>Title</p>	<p>Film and Stage Plays: The overall title should be amended to factor ONLY Film i.e. Film Regulations and Guidelines. Stage Plays are not apart of Film as this is a different medium of Art /Creative Expression and thus should be removed from the overall title. Further to this, having gone through all the documents, not a single one mentions anything to do with stage plays.</p>	<p>The proposed amendments are made within the framework of the existing Act which is not part of the current review process.</p>	<p>ONLINE</p>
	<p>Second Schedule</p>	<p>Clarify how the fees were computed.</p>	<p>To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for</p>	

			filming license extensions.	
	Second Schedule	The fees are expensive	The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter.	
8	Second Schedule	The proposed filming fees are costly, review them in order to make filming feasible.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter	ONLINE
	Second Schedule	The proposed filming fees are punitive.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a	

			15% reduction of the current fees for the latter	
9	Second Schedule	The proposed fees are steep, retain the current Ksh.1000 filming fees per day.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter	ONLINE
10	Second Schedule	The proposed fees are high compared to the current. The increase will curtail growth of creative industry	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. The daily filming fees will only apply for filming license extensions.	ONLINE
11	Second Schedule	Give filmmakers an option of annual subscription instead of paying per film or per shoot.	This proposal is not adopted. This would be in contravention of the provisions of Part II of the Films and Stage Plays Act	ONLINE
12	Forms and fees	Retain standard fees for a license of the different genres, for example: documentary -5000 and then add a daily filming fee as it was previously	The proposed fees have been reviewed downwards by 15% .	ONLINE

	Clause 9	The Board should revise downwards the proposed filming fees of @ 2,500/-. It is prohibitive for local filmmakers. It is not necessary if you adopt or revert to the current formula as it is.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. The daily filming fees will only apply for filming license extensions.	
	Clause 6 and 7	Remove requirement for film makers to acquire registration certificate.	This is adopted.	
13		Reduce daily filming fees	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	KISUMU
		Clarification on whether one requires a filming license to film a documentary.	The requirement for a filming license is stipulated under Part II of the Act	
14		The Board's plans on giving waivers for film makers.	The Films and Stage Plays Act, provides for exemptions to classification. Educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and films produced by the Government for purposes of education or awareness on its development agenda and projects are exempted.	KISUMU

15		Extend validity of filming license to 5 years from the current one year.	A filming license is issued for the period of filming a specific title.	KISUMU
16		Request to the Board to provide guidance to students of the soon to be established filming school based on the partnership between Maseno university and Mama Grace centre on the requirements of filming.	In accordance with the Films and Stage Plays Act, only educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and content produced by the Government are exempted	KISUMU
17		The proposed fees are very costly, making it difficult to produce films in the country. The requirements are too expensive that is why people produce films using the back door	These regulations have proposed a reduction of the fees by 15% in most categories.	KISUMU
18		Clarification on whether filmmakers should pay any fees to local chiefs.	There are no fees to be paid to local chiefs. The filming license is only made	KISUMU
19		The Gov't puts more focus on revenue collection, the Board to explain how the proposed fees will benefit upcoming film makers/ content creators	The revenue collected is brought back through different programs to spur the growth of the industry	EMBU
20		KFCB to clarify whether the ksh.1000 daily filming fee will be retained in the proposal.	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	EMBU

		KFCB to provide an explanation whether students are charged while filming for educational purposes.	The Films and Stage Plays Act, prescribes that only educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and content produced by the Government for purposes of education or awareness on its development agenda and projects are exempted	
21		Government's mechanism in handling small and big boys in the film industry on fee payment.	The Films and Stage Plays Act, prescribes that, all the players in the film industry are treated equally.	EMBU
22	Cinematographic Films Regulations	Training for filmmakers	The Board will continue to sensitize Film makers on the provisions of the Act with regard to film making	MOMBASA
23	Cinematographic Films Regulations	clarification on what the Board doing to harmonize licenses with county government.	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA

24	Cinematographic Films Regulations	Multiple license-proposal to pay county permits and scrap the KFCB daily Filming License	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA
	Cinematographic Films Regulations	the rationale for increasing daily filming fees from 1,000 to 2,500	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	
	Cinematographic Films Regulations	Proposal to remove the local film maker registration fee of ksh. 1,000. KFCB has a filmmakers database for free	This is adopted	
	Cinematographic Films Regulations	Create a new fee schedule for newcomer/ amateur film makers to give them opportunity to grow. This can include filming fees, classification fees,	It will be difficult for the Board to ascertain the financial capabilities of a producer or even distinguish an experienced producer to an amateur.	
25	General	Clarification on how one will be able to declare the shooting days, for example, the shooting days for a weekly show that depends on the availability of guests that at times leads to reschedule of the shooting schedule	The filming days must not be necessarily consecutive however the Board should be notified of any changes in the shooting schedule	NAIROBI

	Films and Stage Plays Act, Part 11	The Board to consider broadcasters the possibility of acquiring a blanket license to cater for an entire production because the fees are too high leading to non-compliance.	This will be considered in future amendments of the substantive Act.	
	Clause 2(1A)	Explanation on whether broadcasters need to pay filming fees for in-house shootings done in studios.	This requirement is prescribed under Part II of the Act	
26	General	Provide a distinction between TV Series and other productions.	This submission is not clear	
	Clause 5A	Provide a clarification on whether filming agents have to be registered companies.	Yes, either a registered limited company/entity or Business name.	NAIROBI
		The regulator to explain if filming dates should be back-to-back, or they can be spread.	It's not mandatory that filming dates should be back-to-back. They can be spread	
30	Clause 8(6)	1,000 for a local film maker is welcome as it will spur compliance.	Noted. This proposal has been expunged	NAIROBI
		KFCB to enlighten filmmakers on measures in place to cushion low budget productions or producers who cannot afford the prescribed fees.	It will be difficult for the Board to ascertain the financial capabilities of a producer or even distinguish an experienced producer to an amateur.	
31	General	The Board's mechanism of determining number of episodes required in a series.	The Board does not dictate the number of episodes in a series	NAIROBI
	General	Explanation on the necessity of county filming permits after acquiring KFCB filming license.	These are distinct requirements as provided for in Schedule four of the Constitution.	

ANNEX II: STAKEHOLDER SUBMISSIONS MATRIX

No.	PROVISION/ CLAUSE	PROPOSAL	KFCB RECOMMENDATION	REGION
1	Second Schedule	Proposed a one off Agent Registration fee instead of Annual renewal.	The registration is done after review of the agent's compliance status, thereby necessitating the need for annual registration.	ONLINE
2	Prescribe the fees for applications for filming licences	Not relevant to OTT/VOD service providers	Not adopted – This is contravention of Part II of the Films And Stage Plays Act.	ONLINE
	Sections 32 & 34 of the Films & Stage Plays Act , Cap 222	Not relevant to OTT/VOD service providers	Not adopted - This is contrary to section 32 & 34 of the substantive Act	
	Clause 2:	Concerned with with the phrase "films that are not accessible in Kenya" in the Regulations	Regulations are only applicable to content accessible within the Kenyan jurisdiction,	
3	First Schedule	The proposed fees were expensive for the industry, calls for engagement towards revision of the same.	Noted. The proposed fees are lower than the current fees	ONLINE
4	(CINEMATOGRAPH FILMS) (FORMS AND FEES) (AMENDMENT)	THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023	Adopted	ONLINE

	Preamble	IN EXERCISE of the powers conferred by section 35 (1) of the Films and Stage Plays Act, the Cabinet Secretary for Youth Affairs, Sports and Arts ICT, Innovation, and the Digital Economy makes the following Regulations—	Adopted	
	Regulation 1 and 2	Amend to read as "Cinematographic"	Adopted	
5	Second Schedule	Clarification on the implementation of filming fees for local and foreign film makers.	The government is encouraged to promote local content. The current fees hav levied for foreign filmmakers has been Further, the current fee is higher than the proposed fee for both local and foreign content.	ONLINE
	Second Schedule	The proposed filming fees are high, and the license fees based on category/genre is unfair.	The proposal distinguishes the nature of the different productions, thus ocassioning the cost variations.	
6	Citation	Change to the Cabinet Secretary of Youth Affairs, Sports and the Arts to align with Executive Order No. 1 of 2023	Align with the Act.	ONLINE
	Definitions	Include definitions for better understanding of the scope of the Regulations.	The proposal to define “film agent” is adopted.	
	Second Schedule	Do away with the requirement for annual licences for local	This proposal is adopted. Registration of film makers will be at no cost.	

		filmmakers.. Filmmaking should have few barriers of entry as possible.		
	Second Schedule	Clarify the formula to be used when calculating fees due. Consideration must be given to the spirit of lowering the cost of filmmaking.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have been revised downwards.	
	Fee Schedule Band 4 – short films, corporate videos, testimonials, travelogue, infomercials and music videos	Provide rationale for differentiating with Band 5 which is a sub-set of commercials.	The proposal distinguishes the nature of the different productions, thus occasioning the cost variations.	
	Fee Schedule Band 5 - Commercial	Substitute "commercial" with "advertisement"	The word “commercial” is adopted.	
7	Title	Film and Stage Plays: The overall title should be amended to factor ONLY Film i.e. Film Regulations and Guidelines. Stage Plays are not apart of Film as this is a different medium of Art /Creative Expression and thus should be removed from the overall title. Further to this, having gone through all the	The proposed amendments are made within the framework of the existing Act which is not part of the current review process.	ONLINE

		documents, not a single one mentions anything to do with stage plays.		
	Second Schedule	Clarify how the fees were computed.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions.	
	Second Schedule	The fees are expensive	The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter.	
8	Second Schedule	The proposed filming fees are costly, review them in order to make filming feasible.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter	ONLINE

	Second Schedule	The proposed filming fees are punitive.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter	
9	Second Schedule	The proposed fees are steep, retain the current Ksh.1000 filming fees per day.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter	ONLINE
10	Second Schedule	The proposed fees are high compared to the current. The increase will curtail growth of creative industry	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. The daily filming fees will only apply for filming license extensions.	ONLINE
11	Second Schedule	Give filmmakers an option of annual subscription instead of paying per film or per shoot.	This proposal is not adopted. This would be in contravention of the provisions of Part II of the Films and Stage Plays Act	ONLINE

12	Forms and fees	Retain standard fees for a license of the different genres, for example: documentary - 5000 and then add a daily filming fee as it was previously	The proposed fees have been reviewed downwards by 15% .	ONLINE
	Clause 9	The Board should revise downwards the proposed filming fees of @ 2,500/-. It is prohibitive for local filmmakers. It is not necessary if you adopt or revert to the current formula as it is.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. The daily filming fees will only apply for filming license extensions.	
	Clause 6 and 7	Remove requirement for film makers to acquire registration certificate.	This is adopted.	
13		Reduce daily filming fees	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	KISUMU
		Clarification on whether one requires a filming license to film a documentary.	The requirement for a filming license is stipulated under Part II of the Act	
14		The Board's plans on giving waivers for film makers.	The Films and Stage Plays Act, provides for exemptions to classification. Educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and films produced by the Government for purposes of education or awareness on its	KISUMU

			development agenda and projects are exempted.	
15		Extend validity of filming license to 5 years from the current one year.	A filming license is issued for the period of filming a specific title.	KISUMU
16		Request to the Board to provide guidance to students of the soon to be established filming school based on the partnership between Maseno university and Mama Grace centre on the requirements of filming.	In accordance with the Films and Stage Plays Act, only educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and content produced by the Government are exempted	KISUMU
17		The proposed fees are very costly, making it difficult to produce films in the country. The requirements are too expensive that is why people produce films using the back door	These regulations have proposed a reduction of the fees by 15% in most categories.	KISUMU
18		Clarification on whether filmmakers should pay any fees to local chiefs.	There are no fees to be paid to local chiefs. The filming license is only made	KISUMU
19		The Gov't puts more focus on revenue collection, the Board to explain how the	The revenue collected is brought back through different programs	EMBU

		proposed fees will benefit upcoming film makers/ content creators	to spur the growth of the industry	
20		KFCB to clarify whether the ksh.1000 daily filming fee will be retained in the proposal.	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	EMBU
		KFCB to provide an explanation whether students are charged while filming for educational purposes.	The Films and Stage Plays Act, prescribes that only educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and content produced by the Government for purposes of education or awareness on its development agenda and projects are exempted	
21		Government's mechanism in handling small and big boys in the film industry on fee payment.	The Films and Stage Plays Act, prescribes that, all the players in the film industry are treated equally.	EMBU
22	Cinematographic Films Regulations	Training for filmmakers	The Board will continue to sensitize Film makers on the provisions of the Act with regard to film making	MOMBASA
23	Cinematographic Films Regulations	clarification on what the Board doing to harmonize licenses with county government.	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA

24	Cinematographic Films Regulations	Multiple license- proposal to pay county permits and scrap the KFCB daily Filming License	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA
	Cinematographic Films Regulations	the rationale for increasing daily filming fees from 1,000 to 2,500	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	
	Cinematographic Films Regulations	Proposal to remove the local film maker registration fee of ksh. 1,000. KFCB has a filmmakers database for free	This is adopted	
	Cinematographic Films Regulations	Create a new fee schedule for newcomer/ amateur film makers to give them opportunity to grow. This can include filming fees, classification fees,	It will be difficult for the Board to ascertain the financial capabilities of a producer or even distinguish an experienced producer to an amateur.	
25	General	Clarification on how one will be able to declare the shooting days, for example, the shooting days for a weekly show that depends on the availability of guests that at times leads to reschedule of the shooting schedule	The filming days must not be necessarily consecutive however the Board should be notified of any changes in the shooting schedule	NAIROBI

	Films and Stage Plays Act, Part 11	The Board to consider broadcasters the possibility of acquiring a blanket license to cater for an entire production because the fees are too high leading to non-compliance.	This will be considered in future amendments of the substantive Act.	
	Clause 2(1A)	Explanation on whether broadcasters need to pay filming fees for in-house shootings done in studios.	This requirement is prescribed under Part II of the Act	
26	General	Provide a distinction between TV Series and other productions.	This submission is not clear	
	Clause 5A	Provide a clarification on whether filming agents have to be registered companies.	Yes, either a registered limited company/entity or Business name.	NAIROBI
		The regulator to explain if filming dates should be back-to-back, or they can be spread.	It's not mandatory that filming dates should be back-to-back. They can be spread	
30	Clause 8(6)	1,000 for a local film maker is welcome as it will spur compliance.	Noted. This proposal has been expunged	NAIROBI
		KFCB to enlighten filmmakers on measures in place to cushion low budget productions or producers who cannot afford the prescribed fees.	It will be difficult for the Board to ascertain the financial capabilities of a producer or even distinguish an experienced producer to an amateur.	
31	General	The Board's mechanism of determining number of episodes required in a series.	The Board does not dictate the number of episodes in a series	NAIROBI

	General	Explanation on the necessity of county filming permits after acquiring KFCB filming license.	These are distinct requirements as provided for in Schedule four of the Constitution.	
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No.	PROVISION/ CLAUSE	PROPOSAL	KFCB RECOMMENDATION	REGION
1	Second Schedule	Proposed a one off Agent Registration fee instead of Annual renewal.	The registration is done after review of the agent's compliance status, thereby necessitating the need for annual registration.	ONLINE
2	Prescribe the fees for applications for filming licences	Not relevant to OTT/VOD service providers	Not adopted – This is contravention of Part II of the Films And Stage Plays Act.	ONLINE
	Sections 32 & 34 of the Films & Stage Plays Act , Cap 222	Not relevant to OTT/VOD service providers	Not adopted - This is contrary to section 32 & 34 of the substantive Act	
	Clause 2:	Concerned with with the phrase "films that are not accessible in Kenya" in the Regulations	Regulations are only applicable to content accessible within the Kenyan jurisdiction,	
3	First Schedule	The proposed fees were expensive for the industry, calls for engagement towards revision of the same.	Noted. The proposed fees are lower than the current fees	ONLINE
4	(CINEMATOGRAPH FILMS) (FORMS AND FEES) (AMENDMENT)	THE FILMS AND STAGE PLAYS (CINEMATOGRAPHIC FILMS) (FORMS AND FEES)	Adopted	ONLINE

		(AMENDMENT) REGULATIONS, 2023		
	Preamble	IN EXERCISE of the powers conferred by section 35 (1) of the Films and Stage Plays Act, the Cabinet Secretary for Youth Affairs, Sports and Arts ICT, Innovation, and the Digital Economy makes the following Regulations—	Adopted	
	Regulation 1 and 2	Amend to read as "Cinematographic"	Adopted	
5	Second Schedule	Clarification on the implementation of filming fees for local and foreign film makers.	The government is encouraged to promote local content. The current fees hav levied for foreign filmmakers has been Further, the current fee is higher than the proposed fee for both local and foreign content.	ONLINE
	Second Schedule	The proposed filming fees are high, and the license fees based on category/genre is unfair.	The proposal distinguishes the nature of the different productions, thus ocassioning the cost variations.	
6	Citation	Change to the Cabinet Secretary of Youth Affairs, Sports and the Arts to align with Executive Order No. 1 of 2023	Align with the Act.	ONLINE
	Definitions	Include definitions for better understanding of the scope of the Regulations.	The proposal to define “film agent” is adopted.	

	Second Schedule	Do away with the requirement for annual licences for local filmmakers.. Filmmaking should have few barriers of entry as possible.	This proposal is adopted. Registration of film makers will be at no cost.	
	Second Schedule	Clarify the formula to be used when calculating fees due. Consideration must be given to the spirit of lowering the cost of filmmaking.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions. The proposed fees have been revised downwards.	
	Fee Schedule Band 4 – short films, corporate videos, testimonials, travelogue, infomercials and music videos	Provide rationale for differentiating with Band 5 which is a sub-set of commercials.	The proposal distinguishes the nature of the different productions, thus occasioning the cost variations.	
	Fee Schedule Band 5 - Commercial	Substitute "commercial" with "advertisement"	The word “commercial” is adopted.	
7	Title	Film and Stage Plays: The overall title should be amended to factor ONLY Film i.e. Film Regulations and Guidelines. Stage Plays are not apart of Film as this is a different medium of Art /Creative Expression and thus should be removed from the overall title. Further to this, having gone through all the documents, not a single one	The proposed amendments are made within the framework of the existing Act which is not part of the current review process.	ONLINE

		mentions anything to do with stage plays.		
	Second Schedule	Clarify how the fees were computed.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. Further, the daily filming fees will only apply for filming license extensions.	
	Second Schedule	The fees are expensive	The proposed fees have distinguished foreign and local filmmakers with a 15% reduction of the current fees for the latter.	
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12	Forms and fees	Retain standard fees for a license of the different genres, for example: documentary -5000 and then add a daily filming fee as it was previously	The proposed fees have been reviewed downwards by 15% .	ONLINE
	Clause 9	The Board should revise downwards the proposed filming fees of @ 2,500/-. It is prohibitive for local filmmakers. It is not necessary if you adopt or revert to the current formula as it is.	To calculate the fees due, the filmmaker will select the appropriate band as informed by their shooting schedule. The daily filming fees will only apply for filming license extensions.	
	Clause 6 and 7	Remove requirement for film makers to acquire registration certificate.	This is adopted.	
13		Reduce daily filming fees	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	KISUMU
		Clarification on whether one requires a filming license to film a documentary.	The requirement for a filming license is stipulated under Part II of the Act	

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15		Extend validity of filming license to 5 years from the current one year.	A filming license is issued for the period of filming a specific title.	KISUMU
16		Request to the Board to provide guidance to students of the soon to be established filming school based on the partnership between Maseno university and Mama Grace centre on the requirements of filming.	In accordance with the Films and Stage Plays Act, only educational documentaries approved by the Kenya Institute of Curriculum Development, films restricted for use in the medical profession and content produced by the Government are exempted	KISUMU
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19		The Gov't puts more focus on revenue collection, the Board to explain how the proposed fees will benefit upcoming film makers/ content creators	The revenue collected is brought back through different programs to spur the growth of the industry	EMBU
20		KFCB to clarify whether the ksh.1000 daily filming fee will be retained in the proposal.	The proposed fees do not contain daily filming fees. The Daily filming fees shall only apply for filming license extensions	EMBU
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22	Cinematographic Films Regulations	Training for filmmakers	The Board will continue to sensitize Film makers on the provisions of the Act with regard to film making	MOMBASA
23	Cinematographic Films Regulations	clarification on what the Board doing to harmonize licenses with county government.	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA
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25	General	Clarification on how one will be able to declare the shooting days, for example, the shooting days for a weekly show that depends on the availability of guests that at times leads to reschedule of the shooting schedule	The filming days must not be necessarily consecutive however the Board should be notified of any changes in the shooting schedule	NAIROBI
	Films and Stage Plays Act, Part 11	The Board to consider broadcasters the possibility of acquiring a blanket license to cater for an entire production because the fees are too high leading to non-compliance.	This will be considered in future amendments of the substantive Act.	
	Clause 2(1A)	Explanation on whether broadcasters need to pay filming fees for in-house shootings done in studios.	This requirement is prescribed under Part II of the Act	
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24	Cinematographic Films Regulations	Multiple license-proposal to pay county permits and scrap the KFCB daily Filming License	The discussion is ongoing with Intergovernmental Relations Technical Committee and the Council of Governors to resolve issues around multiple licensing.	MOMBASA
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		filming fees, classification fees,	distinguish an experienced producer to an amateur.	
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ANNEX III: PICTORIALS

1. Mombasa



2. Kisumu



REGULATORY IMPACT STATEMENT ON THE FILMS AND STAGE PLAYS
(CINEMATOGRAPHIC FILMS) (FORMS AND FEES) (AMENDMENT) REGULATIONS, 2023

3. Embu



4. Nairobi



3. Comprehensive financial implications of the Regulations.
4. Implementation of the proposed set of Regulations is estimated to cost Kshs. 27,230,842.00 annually. This cost will be borne by the Board to among other things, enhance the capacity of the current staff and configuration of the Technical Regulatory Management System registration module. Further, the costs will cater for stakeholder and public awareness coupled with continuous Monitoring and inspection in order to enhance Compliance with these regulations .

Cinematographic		
No.	Item	Amount
1	Staff Awareness Programme	2,156,000
2	System Configuration	2,500,000
3	Monitoring & Inspections	8,020,152
4	Public Sens. Programmes	2,046,151
5	Daily Subsistence Allowances	12,008,539
6	Internet Services	500,000
Total		27,230,842