

**SPECIAL ISSUE**

*Kericho County Gazette Supplement No. 28 (Acts No. 11)*



REPUBLIC OF KENYA

**KERICHO COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2014**

---

**NAIROBI, 19th December, 2014**

---

CONTENT

Act—	PAGE
The Kericho County Tourism Development Act, 2014 .....	1

# THE KERICHO COUNTY TOURISM DEVELOPMENT ACT, 2014

No. 11 of 2014

*Date of Assent: 3rd December, 2014*

*Date of Commencement: 19th December, 2014*

## ARRANGEMENT OF SECTIONS

*Section*

### PART I—PRELIMINARY

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Object of Act.

### PART II—THE COUNTY TOURISM DEVELOPMENT AUTHORITY

- 4—Establishment of the County Tourism Development Authority.
- 5—Board of the Authority.
- 6—Director of the Authority.
- 7—Functions of the Authority.
- 8—Powers of the Authority.
- 9—Meetings of the Authority.

### PART III—TOURISM DEVELOPMENT INCENTIVES

- 10—Member of the Executive Committee to promote tourism development.
- 11—Working capital for tourism oriented enterprise.
- 12—Approved tourism projects and products.
- 13—Submission of further information.
- 14—Grant of approval.
- 15—Notification of approval or refusal of application.
- 16—Exemptions as to customs duty.

### PART IV—REGISTRATION AND GRADING OF TOURIST FACILITIES AND SERVICES

- 17—Designation of tourist facilities and services.
- 18—Registration requirements.

- 19—Register of designated tourist facilities.
- 20—Applications for registration.
- 21—Certification of designated tourist facilities.
- 22—Register of designated tourist facilities.
- 23—Alteration of facilities.
- 24—Notices of proposed cancellation of registration.
- 25—Re-grading of tourist facilities.
- 26—Classification of hotels.

#### **PART V—LICENSING**

- 27—Persons required to hold licences.
- 28—Licensing officers.
- 29—Applications for licences.
- 30—Grant and renewal of licence.
- 31—Licences.
- 32—Transfer of licence.
- 33—Form of licence.
- 34—Cancellation of licence.
- 35—Operator's duties.

#### **PART VI—TRAINING, STANDARDIZATION AND TESTING OF SKILLS**

- 36—Training, standardization and testing of skills.

#### **PART VII—SUSTAINABLE TOURISM DEVELOPMENT**

- 37—Environmentally sustainable tourism.
- 38—Special management areas.
- 39—Monitoring and review.
- 40—Enforcement notices.
- 41—Powers of entry.
- 42—Confidentiality.
- 43—Non-compliance.

**PART VIII—OFFENCES AND PENALTIES**

- 44—Offences.
- 45—Notices, decisions and orders.
- 46—Remedies.

**PART IX—GENERAL**

- 47—Power to make Regulations
- 48—Regulation of levies.
- 49—Information and statistics.
- 50—Liability of a proprietor.
- 51—Proprietors' rights to sell property.
- 52—Charges.
- 53—Summary judgment.
- 54—Evidence.

**SCHEDULE****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND  
AFFAIRS OF THE BOARD OF THE AUTHORITY**

**THE KERICHO COUNTY TOURISM  
DEVELOPMENT ACT, 2014**

**AN ACT of the County Assembly of Kericho to provide  
for the regulation, development and promotion of  
tourism activities and for connected purposes**

**ENACTED** by the County Assembly of Kericho as follows—

**PART I—PRELIMINARY****1. Short title and commencement.**

This Act may be cited as the County Tourism Development Act, 2014 and shall come into operation upon publication in the Kenya Gazette.

**2. Interpretation.**

In this Act unless the context otherwise requires—

“accommodation” means any structure including a room, tent or other such temporary structure, whether furnished or not that is made available to provide living accommodation to a person;

“approved tourism product or project” means a tourism product or project that has been declared to be an approved tourism product or project under this Act;

“attraction” means a site that local and overseas visitors visit and that has an identifiable operation and management structure and can be characterized as natural, historical, cultural or manmade;

“person” means an entity, or individual or group of people.

“Authority” means Kericho County Tourism Development Authority established by section 4;

“catering establishment” means any building, premises or other establishment, including kiosk, purveying for reward, food or, beverages, including wines and spirits, for consumption;

“designated tourist facility” means any service, premises, place or thing which the Member of the Executive Committee has declared to be a designated tourist facility under this Act;

“Director” means the Director of the Authority appointed under section 6;

“graded” means graded in terms of this Act;

“Gazette” refers to the official publications as required by law for any official communication. It can be either the Kenya or County Gazette

“guest” means a person who is provided with accommodation at a hotel, guest house, hostel, holiday premises, lodging house or house used for the provision of accommodation to tourists or who has such accommodation placed at his or her or her disposal in any such place;

“guest house” means any building, not being a hotel, in which accommodation, ancillary services and amenities are provided for the public by a common management; and “guest house keeper” shall be construed accordingly;

“holiday premises” means any building, but not being a hotel, guest house, hostel or the ordinary residence of the owner or tenant thereof, as the case may be, in which accommodation, ancillary services, including self-catering services, and amenities are provided for tourists; and includes any number of such buildings which are grouped together; and “keeper of holiday premises” shall be construed accordingly;

“hostel” means any building, but not being a hotel or a guest house, in which accommodation, ancillary services and amenities of a basic standard are provided for the public by a common management; and “hostel keeper” shall be construed accordingly;

“hotel” means any building, in which accommodation, ancillary services and amenities are provided for the public by a common management and includes any number of such buildings which are grouped together; and “hotel keeper” shall be construed accordingly;

“licence” means a licence issued in terms of this Act;

“Member of the Executive Committee” means the Member of the Executive Committee responsible for Trade, Planning, Tourism and Wildlife, Industrialization and cooperative management.

“operator”, in relation to a tourist facility, means any person who conducts or operates the tourist facility or who is responsible for its management;

“registered” means registered in terms of this Act;

“registered tourist facility” means a designated tourist facility which has been registered;

“sustainable tourism” means the identification or development of tourism products without interfering with the environment while ensuring maximum impact to the host community

“tourism operation” means a hotel, guest house, hostel, holiday premises, house used for the provision of accommodation to tourists, catering establishment, travel agency, destination management company,

incoming tourist agency, organized excursion operator, tourist guide, and other tourism services, whether licensed or not;

“tourist” means a visitor who spends at least one night in a place other than his or her usual abode and whose journey is for any one or more of the following purposes—

- (a) holiday;
- (b) recreation;
- (c) health;
- (d) study;
- (e) religion;
- (f) sport;
- (g) business;
- (h) a meeting;
- (i) visiting friends or relatives;
- (j) work that is not remunerated from within Kenya;

“tourist industry” includes all businesses, enterprises and activities which provide tourist facilities, including any such businesses, enterprises and activities carried on by the State, statutory body or a local authority;

“travel package” means the pre-arranged combination of no fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation—

- (a) transport;
- (b) accommodation;
- (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package,

and shall include such prearranged combinations even when various components of the prearranged combinations are billed separately.

“visitor” means any person who visits any part of the County for a period not exceeding one year for any reason other than emigration or employment remunerated from within Kenya.

### 3. Object of Act.

(1) The object of this Act is to provide a comprehensive and harmonized legislative framework that promotes the sustainable

development of tourism as an important social and economic activity in Kericho County.

(2) For the purposes of this Act and in order to realize the object of this Act the Member of the Executive Committee shall take all necessary steps to ensure that the County Department of Tourism—

- (a) formulate and develop, in consultation with relevant stakeholders, sound policies for a sustainable tourism sector;
- (b) supervise all players in the tourism sector and ensure compliance with best industry practices by all persons involved in the tourism industry;
- (c) liaise with national and international organizations involved in the development of tourism to promote investment in the tourism sector; and
- (d) Initiate, develop and promote domestic, regional and international cooperation in the field of tourism.

## **PART II—KERICHO COUNTY TOURISM DEVELOPMENT AUTHORITY**

### **4. Establishment of Kericho Tourism Authority.**

There is to be established an authority, to be known as Kericho County Tourism Development Authority, which shall be a body corporate and shall be capable of suing and being sued in its corporate name.

### **5. Board of the Kericho Tourism Authority.**

(1) There is to be established the Board of the Authority which shall consist of—

- (a) a chairperson to be appointed by the Executive Committee Member in charge of Tourism subject to the approval of the County Assembly;
- (b) the Chief Officer of the County Department responsible for Finance and economic planning or his or her representative;
- (c) the Chief Officer of the County Department responsible for Trade, Planning & Wildlife, Industrialization and cooperative management or his or her representative;
- (d) the Director appointed under section 6 who shall be the secretary and executive officer of the Board;
- (e) Chief Officer in charge of Land and Housing; and
- (f) Six other members, appointed by the Member of the Executive Committee after approval of the County Assembly, who possess



qualities or professional experience in tourism likely to be beneficial to the Board.

The chairperson and members of the board shall serve a three year term and shall be eligible for reappointment for only one more term.

(2) The Director of the Authority shall be an ex-officio member of the Board without the right to vote in any matter before the Board.

#### **6. Director of the Authority.**

Subject to this Act, the Board shall appoint through competitive recruitment, on such terms and conditions as the Board may fix, the Director who shall, subject to the direction of the Board, supervise and manage the Authority's staff, activities, funds and property and be responsible for the day-to-day management of the programs and activities of the Authority.

#### **7. Functions of the Authority.**

Subject to this Act, the functions of the Authority shall be to—

- (a) register, licence, grade and classify designated tourist facilities and services in the County;
- (b) regulate activities in the tourism sector in the County;
- (c) promote high standards in the tourism industry through appropriate mechanisms in the County; and
- (d) undertake and organize such activities and projects as it may consider appropriate in connection with the performance of its functions.
- (e) Mapping, packaging, marketing and promotion of County Tourism products
- (f) Liaison role between Kericho County and National Tourism institutions to ensure Kericho County benefit from services such Kenya Tourism Board.
- (g) Arbitration and conflict resolution
- (h) Recording maintaining and reporting of tourism statistics

#### **8. Powers of the Authority.**

The Authority shall have power, subject to this Act, to—

- (a) register , licence, grade and classify designated tourist facilities and services in the County;

- (b) implement national and international tourism sector standards, make regulations and issue guidelines for the operationalization of this Act;
- (c) monitor and enforce compliance with the requirements of this Act, regulations and guidelines made by the Member of the Executive Committee;
- (d) recommend to county public service board for employment such persons as are necessary for conducting of the Authority's affairs;
- (e) establish such committees, departments or agencies for the better carrying out of its functions under this Act in consultation with the County public service board with the approval of the county assembly; and
- (f) do or cause to be done, either by itself or through its departments, and agents, all or any of the things necessary to bring into full effect the provisions of this Act.

#### **9. Meetings of the Authority.**

The Schedule to this Act shall apply in relation to meetings of the Board of the Authority and other matters specified in that Schedule.

### **PART III—TOURISM DEVELOPMENT INCENTIVES**

#### **10. Member of the Executive Committee to promote tourism development.**

With Approval of the Executive Committee, the Member of the Executive Committee shall promote the sustainable development of the tourism industry by providing incentives in the form of general concessions, tax concessions, exemptions from duties and levies under this Act, technical assistance, financial grants and other forms of development assistance for approved tourism products and projects in the County.

#### **11. Working Capital for tourism oriented enterprises**

The Member of the Executive Committee in consultation with the Member of the Executive Committee responsible for matters relating to finance shall by appropriate legislative and administrative measures provide incentives to banks and financial institutions that advance working capital for tourism oriented enterprises.

#### **12. Approved tourism projects and products.**

(1) A person who wishes to own or operate a tourism product shall apply to Kericho County Tourism Development Authority to have the

tourism project necessary and to develop such a product approval is needed.

- (2) For the purposes of this Act, a tourism project includes —
- (a) the construction of a new hotel;
  - (b) the alteration or renovation of an existing hotel;
  - (c) the conversion of an existing building or buildings into an hotel by reconstruction, extension, alteration, renovation or remodeling;
  - (d) the furnishing and equipping of a building to be utilized as an hotel;
  - (e) the provision of tourist recreational facilities and tourism related services;
  - (f) the construction and equipping of a new restaurant;
  - (g) the alteration or renovation of an existing restaurant;
  - (h) the construction of a new attraction or the alteration or renovation of an existing attraction;
  - (i) the restoration, preservation and conservation of natural sites;
  - (j) the establishment, restoration, preservation and conservation of monuments, museums and other historical structures;
  - (k) the construction and furnishing of cultural campsites;
  - (l) the construction and furnishing of timeshare properties; and
  - (m) the addition to a tourism product of any facilities or services intended to increase or improve the amenities that the tourism product provides.

(3) The Member of the Executive Committee may, by order declare any service or facility to be an approved tourism project for the purposes of this Act.

### **13. Submission of further information.**

Upon receipt of an application under section 12 Kericho County Tourism Authority may require that further information be submitted with respect to any matter relevant to the application including —

- (a) the ownership of the tourism project, and of the completed tourism product;
- (b) the location and the area of land to be used in the development of the tourism project;

- (c) the estimated expenditure on the tourism project and the source of funds to be used;
- (d) a project feasibility study, forecasting the economic, social and environmental impact of the tourism product on the County;
- (e) an environmental impact assessment study approved by the National Environmental Management Authority;
- (f) the proposed marketing plan relevant to the completed tourism product; or
- (g) any other information including comments from the public that may be required by the Kericho County Tourism Authority at the time.

#### **14. Grant of approval**

(1) Where Kericho County Tourism Authority is satisfied that a tourism project is practical and that it would assist the development of tourism, the County Tourism Authority may grant to the applicant an interim approval of the tourism project as the first stage in a three stage authorization procedure which shall include—

- (a) an interim approval of the tourism project based on the information submitted in section 13;
- (b) a final approval based on the completed product that incorporates any changes that may have taken place during the construction of the project; and
- (c) a licence issued to the applicant when the Authority is satisfied that all relevant procedures, requisitions and statutes have been complied with, and that the tourism product is in a suitable form and is of a standard to commence operation.

(2) Where the Kericho County Tourism Authority grants an interim approval in accordance with subsection (1) a notice to that effect shall be published in the Gazette within 14 working days.

- (3) The interim approval granted under sub-section (1) shall—
  - (a) be in such form and contain such particulars as may be prescribed; and renewable within 3 months with a possibility of a further three months
  - (b) specify the benefits that may be granted to either the operator or owner of the tourism project, subject to such conditions or terms as The County Tourism Authority may attach.

(4) Where any tourism project developed in accordance with the conditions of an interim approval has been completed, the Member of the Executive Committee shall by Order, declare the resulting tourism product to be an approved tourism product for the purpose of this Act.

(5) An Order made under subsection (4)—

(a) shall be in such form and contain such particulars as may be prescribed by the Member of the Executive Committee;

(b) shall specify the benefits to be granted to the owner or operator of the tourism product; and

(c) may impose conditions or terms to be observed by the owner or the operator of the tourism product.

(6) Where an order is made pursuant to subsection (4) and the owner or operator of the tourism product fails to comply with the conditions or terms imposed in the order, the Member of the Executive Committee shall, by notice in the Gazette, revoke the order.

#### **15. Notification of approval or refusal of application.**

Where Kericho County Tourism Authority receives an application under section 12 the County Tourism Authority shall within ninety days of the date of the receipt of the application—

(a) notify the applicant in writing of the approval or refusal of the application; or

(b) request that additional information be submitted in accordance with section.

#### **16. Exemption from customs duty.**

(1) Where an owner or operator of an approved tourism project has been granted an interim approval, the Member of the Executive Committee may recommend to the Member of the Executive Committee responsible for matters relating to finance and the Cabinet Secretary responsible for the National Treasury to grant to that owner or operator a permit for the importation of building materials and supplies without payment of customs duty as specified in the permit.

(2) A permit is subject to the condition that the building materials and supplies shall be used exclusively for the construction and development of the tourism project for which the interim approval is given.

(3) Where the owner or operator of the approved tourism project referred to in subsection (1) wishes to obtain goods under customs

concessions, those goods shall be imported, purchased out of a bonded warehouse, or locally manufactured or produced.

(4) A permit granted by the Member of the Executive Committee shall be in such form and subject to such terms and conditions as the Member of the Executive Committee may prescribe.

(5) Where the Member of the Executive Committee is satisfied that the holder of a permit has—

- (a) obtained the permit by any false statement;
- (b) abused or misused the permit; or
- (c) broken or failed to comply with any conditions stipulated in the permit,

the Member of the Executive Committee may by written notice to the holder of the permit, either suspend the operation of the permit or revoke the permit.

(6) The owner or operator of a tourism project for which an interim approval has been granted MAY be exempt from the payment of customs duty on such supplies as the Member of the Executive Committee for finance may declare by order in the County Gazette.

#### **PART IV—REGISTRATION AND GRADING OF TOURIST FACILITIES AND SERVICES**

##### **17. Designation of tourist facilities.**

The Authority may, by notice in the Gazette declare that—

- (a) any service provided for tourists; or
- (b) any premises or place in or on which a service referred to in paragraph (a) is provided; or
- (c) any premises, place or thing which, affords an amenity to tourists; is a designated tourist facility or service.

##### **18. Registration requirements**

Where, in terms of regulations made under this Act, any designated tourist facility is required to be registered or graded, no person shall conduct or operate that designated tourist facility unless it is so registered or graded, as the case may be.

##### **19. Register of designated tourist facilities**

Before or as soon as possible after the publication of any regulations under this Act requiring the registration or grading of any class of

designated tourist facilities, the Authority shall establish and keep a register for the registration of that class of designated tourist facilities.

#### **20. Applications for registration.**

(1) Any person who intends to conduct or operate a designated tourist facility or service which is required to be registered or graded shall apply to the Authority in the form and manner prescribed for the registration or grading, as the case may be, of that designated tourist facility.

(2) An application in terms of subsection (1) shall be accompanied by such fees; plans, documents and other information or particulars relating to the designated tourist facility as may be prescribed.

(3) The Authority shall, within thirty days of receipt of an application for registration of a designated tourist facility or service notify the applicant of its decision to either register the facility or service or its rejection of the application and in the latter case shall provide reasons for such rejection of the application.

#### **21. Certification of designated tourist facilities.**

(1) On the registration or grading of a designated tourist facility, the Director or a licensing officer shall issue to the operator of the designated tourist facility a certificate in the prescribed form which shall specify that the designated tourist facility is registered or the grade into which it has been graded, as the case may be:

Provided that a single certificate may, where appropriate, specify both that a designated tourist facility has been registered and its grade.

(2) If any designated tourist facility ceases to be registered or graded or if its registration or grade is altered, the person who was the operator of the designated tourist facility immediately before it ceased to be registered or graded or its registration or grade was altered, as the case may be, shall forthwith return to the Authority the appropriate certificate referred to in subsection (1).

#### **22. Register of designated tourist facilities.**

(1) Subject to subsection (2), the Authority shall publish in the Gazette, once a year or at such other intervals as it considers fit, a list of designated tourist facilities that have been registered, together with such information as is proper in relation to the grades and standards of such facilities, the charges made therein and any other matter of interest to tourists.

#### **23. Alteration of facilities**

(1) Any operator of a registered tourist facility who intends to make any addition or alteration to the facility which is likely to affect—

- (a) the accommodation or any service provided to tourists; or
- (b) the registration or grading of the facility;
- (c) Shall notify the Authority in writing before commencing any such addition or alteration, and shall provide the Authority with such fee, plans, documents and other information or particulars relating to the addition or alteration as it may be prescribed in the regulation.

(2) Within thirty days after the completion of any addition or alteration notified in terms of subsection (1), or within such longer period as the chief executive officer of the Authority may allow, the operator of the registered tourist facility concerned shall notify the Authority of such completion.

#### **24. Notices of proposed cancellation of registration.**

(1) Where the Authority considers that there has been a failure in respect of a registered tourist facility to comply with any of the prescribed requirements for registration, the Director may give notice to the operator of the tourist facility that unless the requirement concerned is complied with within such reasonable period as the Board shall specify, he or she proposes to cancel the tourist facility's registration.

(2) The operator of a registered tourist facility in respect of which a notice has been given in terms of subsection (1) may, before the expiry of the period specified by the Authority, make written representations to the Authority in regard to the proposed cancellation of the tourist facility's registration.

(3) If, upon the expiry of the period specified in a notice given in terms of subsection (1), the Board of the Authority considers that the requirement concerned has not been complied with and that no good reason has been shown as to why the tourist facility concerned should remain registered, the Board will advise the Director to cancel the registration of the tourist facility

(4) The Authority shall give notice in the Gazette of the cancellation of a tourist facility's registration in terms of this section.

#### **26. Re-grading of tourist facilities.**

(1) The Authority may at any time, after giving the operator of a designated tourist facility a reasonable opportunity of making written representations in the matter, re-grade a designated tourist facility if, in the Board's opinion, reasonable and sufficient grounds exist for doing so.

(2) The operator of a designated tourist facility which has been graded may, subject to such conditions and accompanied by such fee as



may be prescribed, apply to the Authority in the prescribed form and manner for the re-grading of the designated tourist facility.

(3) The Authority shall consider any application made under subsection (2) and shall give such decision and take such action thereon as it considers appropriate.

#### **26. Classification of hotels.**

(1) The Authority shall classify hotels that have been designated as tourist facilities into classes in accordance with the set standards and principles which the Authority may determine in consultation with such organization as appears to the Authority to represent the trade and consumer interests likely to be affected.

(2) The Authority shall advise the Executive to publish in the Gazette details of the classes, standards and principles referred to in subsection (1).

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

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

- (a) for the hotel to be classified;
- (b) for a change in the classification of the hotel,
- (c) and every application shall be made in the prescribed form accompanied by the prescribed fee

### **PART V—LICENSING.**

#### **27. Persons required to hold licences.**

Where, in terms of Regulations made under this Act any person who owns, conducts or operates a designated tourist facility, or who provides or assists in providing any service which is a designated tourist service is required to hold a licence, no person shall own or operate such a designated tourist facility, or provide or assist in providing such a service, as the case may be, unless he or she holds such a licence issued by the Authority in accordance with this Act.

#### **28. Licensing officers.**

(1) There shall be such number of licensing officers as may be necessary for the purposes of this Act, whose offices shall be public offices and form part of the Public Service. The licensing officer shall be appointed and gazette as required by law.

(2) Subject to this Act and any general directions that the Authority may give, a licensing officer shall—

- (a) license persons required to be licensed under this Act; and
- (b) do such other things as the licensing officer may be required to do by or under this Act and any other enactment.

### **29. Applications for licences.**

(1) An applications for a licence shall be made to a licensing officer in the prescribed form and manner and shall be accompanied by the prescribed fee, if any.

(2) The Authority shall within thirty days of receipt of an application for the licensing of a designated tourist facility or service notify the applicant of its decision to either license the facility or service or its rejection of the application and in the latter case shall provide reasons for such rejection of the application.

### **30. Grant and renewal of licences.**

(1) A licence shall not be granted or renewed under this Act unless—

- (a) the person or Entity applying thereof is of good character and is fit and proper to be granted a licence in relation to a designated tourist service or facility or to provide such service to tourists, as the case may be;

Provided that if the applicant is a body corporate or a person other than the person who will operate or in fact operates the tourist facility or offers the service, the attributes in this paragraph shall at all times have to be satisfied by the person who will be responsible for such operation or provision of service or who in fact effects such operation or provides such service, and in addition the person who will in fact operate, will be qualified or experienced to so operate to the satisfaction of the Authority;

- (b) the premises in respect of which the application is made are suitable and adequate for use as an hotel, guest house, hostel, holiday premises, catering establishment or house for the provision of accommodation to tourists, as the case may be;
- (c) the use of the premises as a designated tourist policy for the provision of service to tourists is desirable in accordance with government policy at the time of the consideration of the application for the grant of the licence;
- (d) the applicant has satisfied all conditions as may be prescribed by regulations made under this Act.

- (e) The renewal of an expired licence shall be done within seven working days.
- (2) A designated facility shall not use a name which in the opinion of the Authority is undesirable, unsuitable or misleading.
- (3) On completion of an evaluation and verification process, the Authority shall issue a licence if satisfied that the applicant has complied with the conditions under this Act and any regulations made by the Authority.

### **31. Licences.**

Subject to such conditions as may be prescribed in the schedule, the Authority may issue—

- (a) a single tourist operator licence to a person offering more than one designated tourist service or operating more than one tourist facility
- (b) a tourist service vehicle licence;
- (c) such other licence as may be prescribed by regulations.

### **32. Transfer of licence.**

A licence to keep or operate a designated tourist facility or offer services to tourists may, with the consent in writing of the Authority previously obtained, be transferred to any person who in the opinion of the Authority has the attributes required under this Act.

### **33. Form of licence.**

Licences shall be in the prescribed form shall be valid for such period as may be prescribed.

“The Authority shall within thirty days of receipt of an application for the licensing of a designated tourist facility or services notify the applicant of its decision to either license the facility or service or its rejection of the application and in the latter case shall provide reasons for such rejection of the application.”

### **34. Cancellation of licence.**

- (1) If at any time a licensing officer or the Authority is satisfied that the holder of a licence—
- (a) is no longer qualified to hold the licence; or
- (b) has been guilty of a contravention of this Act or conduct which renders him or her unsuitable to hold the licence; or

- (c) has failed to comply with any term or condition of the licence, the licensing officer may, by notice in writing to the holder, cancel the licence:

Provided that, before cancelling a licence, the licensing officer shall give the holder a reasonable opportunity to make representations in the matter.

- (2) If any licence is cancelled, the holder of such licence shall forthwith return the licence to a licensing officer.

### **35. Operator's duties.**

Every operator of such designated tourist facilities as may be prescribed shall—

- (a) keep a register in the prescribed form in which shall be recorded such particulars as may be prescribed of every person who uses the services of the designated tourist facility; and
- (b) preserve the register referred to in paragraph (a) for such period as may be prescribed; and
- (c) on demand, produce the register referred to in paragraph (a) to any designated officer or other officer authorized by law or a court to inspect such register.

## **PART VI—TRAINING , STANDARDIZATION AND TESTING OF SKILLS**

### **36. Training, standardization and testing of skills.**

(1) Training, standardization and testing of skills of persons engaged in tourism shall be governed and managed in accordance with the provisions, national guidelines, regulations and policies formulated implemented under this Act.

(2) The Authority shall implement national and international Regulations with respect to—

- (a) licensing and registration of institutions offering training and courses in tourism;
- (b) offering of examinations and testing of skills;
- (c) standards of skills and certification; and
- (d) payment of training levies by designated tourist facilities.

## **PART VII—SUSTAINABLE TOURISM DEVELOPMENT**

### **37. Sustainable tourism.**

In the Development of Sustainable Tourism, the Authority in consultation with the Member of the Executive Committee shall—

- (a) develop the tourism sector as a county priority in an environmentally sustainable and culturally acceptable manner;
- (b) coordinate and facilitate the implementation of environmental laws and policies in tourism and in particular the implementation of the national and county environmental laws;
- (c) develop and publish environmental guidelines for tourism activities in the country.
- (d) Develop and publish guidelines for Community-Based and Home-Stay tourism.

### **38. Special management areas.**

The Authority in consultation with the Member of the Executive Committee and the National Environmental Management Authority shall—

- (a) create by order published in the Gazette, tourism special management areas which shall be areas that are considered significant in terms of their archeology, cultural or social values, or their ecology;
- (b) prescribe by regulations, the manner of development and conduct of tourism activities in the special management areas by limiting, restricting or otherwise prohibiting further development of tourism activities in the area in order to balance environmentally friendly tourism activities with respect for the natural and cultural values of the land.

## **PART VIII—ENFORCEMENT OF COMPLIANCE**

### **39. Monitoring and review.**

The Authority shall monitor and review all tourism operations to ensure that tourism operations are carried out only in accordance with the provisions of this Act and in compliance with the decisions lawfully taken under this Act; and for the purposes of such monitoring and review the Director or any person authorized by the Director to that effect shall have the right at all reasonable times to enter and inspect any tourism operation, other than a tourist guide.

### **40. Enforcement notices.**

(1) in the event it appears to the Authority that any tourism operation is in contravention of the provision of this Act, the Authority shall, without prejudice to any other action that may taken under this Act, serve a notice on the owner of the tourism operation or, in the case of a tourist guide, on the tourist guide, requiring the tourism operation to be stopped

forthwith or, in cases not involving an unlicensed tourism operation, that the tourism operation be stopped forthwith or that the irregularity be rectified.

(2) A copy of the notice given under sub-section(1) shall also be served on any operator of the tourism operation and on any employees in the tourism operation and a copy shall be fixed at a point of entry into each of the premises used for or in connection with the tourism operation.

(3) Except as otherwise provided in this section, a notice given under sub-section(1) (in this Act referred to as an "enforcement notice") shall—

- (a) in respect of any requirement stopping or prohibiting the further carrying on of a tourism operation, take effect immediately upon service of the notice;
- (b) in respect of any other requirement, take effect immediately upon service of the notice or at the expiration of such period as shall be specified.

(4) Any person who is aggrieved by any enforcement notice served on him or her may, within fifteen days from the service of the notice, appeal against it to the tribunal.

(a) if satisfied that a licence was in force under this Act for the tourism operation to which the enforcement notice relates or that no such licence was required in respect thereof, as the case may be, or that the conditions subject to which such licence was granted were complied with and that the tourism operation to which the enforcement notice relates was being run in accordance with the provisions of this Act and of any regulations made hereunder, shall quash the enforcement notice to which the appeal relates or such part thereof in respect of which the Board is satisfied; and

(b) in any other case, shall dismiss the appeal.

(5) An appeal shall suspend the effects of the notice against which the appeal is entered, except those that stop the carrying on of a tourism operation, until such time as the appeal is determined, and the appeal, if upheld, shall cancel this notice.

(6) When an appeal is dismissed, the Tribunal; may direct that, in respect of any requirement, other than a requirement stopping or prohibiting the further carrying on of a tourism operation, the enforcement notice shall not come into force until such date as the Tribunal thinks fit.

**41. Powers of entry.**

(1) The Director, a licensing officer, a designated officer or an authorized officer or agent of the Authority may whenever it is reasonably necessary for the maintenance of standards in or at any designated tourist facility or otherwise for the enforcement of this Act at all reasonable times—

- (a) enter the premises of any designated tourist facility in respect of which an application for registration has been made; or in or on which any person who has applied for a licence carries on business or is employed; and
- (b) after having informed the person who is for the time being in charge or control of such premises of the purpose of his or her visit, make such examination and inquiry as he or she may consider necessary:

Provided that the Director, a licensing officer, designated officer or an authorized officer or agent of the Authority may not enter any room that is occupied by any person without that person's permission—

- (c) while he or she is in or on any premises referred to in paragraph (a) or at any other reasonable time, question any person who conducts or operates or intends to conduct or operate a designated tourist facility or any agent or employee of such person and require any such person, agent or employee to produce any book, notice, record, list or other document which is or has been upon or in the premises or in the possession or custody or under the control of such person, agent or employee if, in his or her opinion, it is necessary to examine that book, notice, record list or document for the purpose of any investigation which he or she is carrying out;
- (d) require any person who has the possession, custody or control of any book, notice, record, list or other document relating to a designated tourist facility or to any business conducted therein, to produce that book, notice, record, list or document if, in his or her opinion, it is necessary to examine that book, notice, record, list or document for the purpose of any investigation which he or she is carrying out;
- (e) examine and make extracts from and copies of any book, notice, record, list or document referred to in paragraph (b) or (c) and require an explanation of any entry therein and seize any such book, record, list or document if he or she has reasonable grounds for believing that it may afford evidence of an offence under this Act.

(2) Any person who conducts or operates or intends to conduct or operate a designated tourist facility the premises of which have been entered by the Director, a licensing officer or a designated officer, and any agent or employee of such a person, shall furnish such reasonable facilities as the Director, the licensing officer or the designated officer, as the case may be, may require for the purpose of exercising his or her powers under this section.

(3) If any person, without just cause—

- (a) refuses to permit the Director or his or her agents, a licensing officer or a designated officer to enter any premises in terms of subsection (1) or to conduct any examination or inquiry in terms of that subsection; or
- (b) fails or refuses to produce any book, notice, record, list or oilier document which the Director, a licensing officer or a designated officer has required him or her to produce;
- (c) fails or refuses to explain any entry in a book, notice, record, list or other document which the Director, a licensing officer or a designated officer has required him or her to explain in terms of subsection (1); or
- (d) fails or refuses to furnish the Director, a licensing officer or a designated officer with reasonable facilities for the exercise of his or her powers as required by subsection (2); or
- (e) hinders or obstructs the Authorised officer or designated officer in the exercise of his or her powers in terms of subsection (1);
- (f) commits an offence in addition to such refusal, failure, hindering or obstruction, as the case may be, being a ground for refusing to register the designated tourist facility concerned or cancelling its registration, or refusing to issue a licence to that person or cancelling his or her licence, as the case may be.

(4) A designated officer shall, on demand by any person affected by the exercise or performance of any function in terms of this Act, exhibit the certificate issued to him or her in terms of this Act.

#### **42. Confidentiality.**

(1) The Authorized officer, designated officer and other person appointed or employed under this Act shall not disclose to any person, except in the performance of his or her functions under this Act or when required to do so by any law or by an order of court, any information which he or she may have acquired in the course of his or her duties in



relation to the financial or business affairs of any person, establishment or business.

(2) Any person who obtains any information referred to in subsection (1) from an Authorized officer, a licensing officer, a designated officer or any other person appointed or employed under this Act shall not disclose that information to any other person, unless required to do so by any law or by an order of court.

#### **43. Non-Compliance.**

(1) If any steps or other action, including any discontinuance, stoppage or similar requirement to be taken by an enforcement notice have not been taken within the time specified therein, or forthwith if so specified, the Authority may enter the tourism operation, other than a tourist guide, to which the enforcement notice relates and take such steps, including the closure of the tourism operation or other action as required by circumstances and may for such purpose request the assistance of the police which shall for such purpose exercise such powers as are vested in them for the prevention of offences and the enforcement of law and order.

(2) All expenses reasonably incurred by the Authority to carry out an enforcement notice under this section shall be recoverable as a civil debt by the Authority from the person who is then the owner of the tourism operation or, in the case of a tourist guide, from the tourist guide, to which the enforcement notice relates, without prejudice to any right of recovery that any such person may have against any other person.

### **PART IX—OFFENCES AND PENALTIES**

#### **44. Offences.**

(1) Any person who—

- (a) not being in possession of a licence, carries on any tourism operation or allows any tourism operation to be carried on from or in property of which he or she is the owner or a co-owner or from or in which he or she could have carried on such operation if he or she were in possession of a licence; or
- (b) being in possession of a licence fails to comply with any applicable provision of this Act or with any condition, restriction or other limitation to which the licence is subject; or
- (c) having been served with an enforcement notice or other order under section 43 fails to comply with any of the requirements of such notice within the time therein specified or forthwith as the case may be; or

- (d) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest, or interfere with, any officer, employee or agent of the Authority, or any police officer, in the execution of his or her duties under the law, or fails to comply with any reasonable requirement demanded of him or her by any such officer, employee, agent or police officer or otherwise to assist him or her in the carrying out of the duties, or knowingly furnishes such officer or employee or agent or police officer with false information required for the purpose stated in this paragraph; or
- (e) knowingly makes a declaration for any of the purposes of this Act which is false, misleading or incorrect in any material respect; or
- (f) commits an offence and is liable to a minimum fine of ten thousand shillings or to imprisonment for a term of not less than three months and not more than three years or to both.

(2) The court, besides awarding the punishment referred to in subsection(1), may order the offender to remove the causes of the offence and to undo anything which was done without a licence or to comply with the conditions imposed in the licence, as the case may be, within a time sufficient for the purpose, but in any case not exceeding three months from the date of the judgment, to be fixed by the court; and if the offender fails to comply with any order within the time so fixed, he or she may be liable to a fine of five thousand shillings for every day the default continues.

(3) In any prosecution against a person charged with running or operating accommodation facilities in premises without a licence as is provided for in subsection 2, or charged with providing accommodation to tourists, other than bona fide friends or relatives who are provided with such accommodation without any payment, without a licence as provided for in section 29, it shall be sufficient for the prosecution to prove that the accused had control of the premises to which the charge relates; that, upon inspection of the premises, a tourist or tourists were found thereon; that such premises had sleeping facilities; that personal effects of such tourist or tourists were found on such premises; and that the premises were not duly licensed, and it shall not be required to produce such tourist or tourists as witnesses or such personal effects as evidence, and the court shall consider such charge to be proved unless the accused proves that such tourist or tourists had been duly accommodated in licensed premises or that such tourist or tourists were bona fide friends or relatives.

(4) In any prosecution against a person charged with being an accomplice in any one or more of the offences listed in this section, it

shall be sufficient for the prosecution to prove that the premises to which the charge relates were not duly licensed as is provided for in this Act as the case may be; that, upon inspection of the premises, a tourist was found thereon; that such premises had sleeping facilities; that personal effects of such person were found on the premises; and that the accommodation in the premises was procured by or for such person through the intervention, however effected, of the accused, and the prosecution shall not be required to produce such tourist as a witness or such personal effects as evidence, and the court shall consider such charge to be proved unless the accused proves that prior to intervening in the procurement of the accommodation he or she made diligent enquiries as to the licensing of the premises or that, in the circumstances, he or she could not reasonably have been expected to know that the premises were not duly licensed.

#### **45. Notices, decisions and orders.**

In any proceeding or prosecution under this Act, a copy of any order, notice, decision or other document purporting to have been made under this Act and purporting to have been signed by the chairperson of the Authority or by the Director of the Authority, shall be accepted as evidence of the order, notice, decision or other document and of the facts appearing therein, without further proof.

#### **46. Remedies.**

(1) Notwithstanding any other law providing for the trial and punishment of offences, where the Authority believes that a person has committed an offence against this Act, other than an offence under section 50(3), the Authority may give notice in writing to such person describing the offence of which the person is accused, indicating the steps to be taken to remedy the offence and the fine which he or she is required to pay in respect of that offence:

Provided that the Authority may not require the payment of a fine higher than five hundred thousand shillings.

(2) Where a notice under this section has been given, the person named in the notice may, within twenty-one days of the service of the notice, accept responsibility for the offence specified in the notice and within the same period, or such further period as the Act may allow, remedy the offence and pay, or undertake in writing to pay, the fine indicated in the notice or such fine as the Act may allow in lieu, and in any such case—

(a) the person named in the notice shall be deemed to have committed the offence and to have admitted his or her guilt in

respect thereof, and the fine paid, or agreed to be paid, shall be the fine to which he or she became liable to pay;

(b) if the offence is remedied and the fine is paid within the period, or further period provided for, no further proceedings may be taken against the person in respect of the same facts;

(c) if the fine is not paid within the period, or further period provided for, it shall be treated as if it were a fine ordered to be paid by the court which would have had jurisdiction to take cognizance of the offence, and proceedings may be taken accordingly as if it were an order of that court.

(3) Where the person to whom notice is given under sub-section (1) does not accept responsibility for the offence or, having accepted such responsibility, fails to remedy the offence within the time provided for, ordinary proceedings may be taken against him or her in accordance with the provisions of the Penal Code, of this Act and of any other law applicable to the offence.

(4) The Attorney-General may, on the request of the Authority, appoint any officer of the Authority or advocate of the High Court to be a public prosecutor for the purposes of offences under the provisions of this Act and a person so appointed shall have the same powers as a person appointed under section 85 (2) of the Criminal Procedure Code.

(5) Notwithstanding the provisions of the Penal Code, the Attorney-General shall have a right of appeal to the High Court or the Court of Appeal from any judgment given in proceedings arising out of this Act or of any regulations, rules or orders made hereunder.

## **PART X—GENERAL**

### **47. Power to make regulations.**

(1) The Member of the Executive Committee in consultation with the Authority may make regulations to regulate or otherwise provide for any matter relating to tourism operations in order to give fuller effect to the provisions of this Act, and, in particular, may by such regulations—

(a) regulate standards, levels of service and amenities in tourism operations, as well as any other matter relating thereto, taking account of all relevant considerations, including tourism policy from time to time, classification, health, sanitation, insecurity, disaster response and management;

(b) require the registration of any designated tourist facility:

Provided that regulations shall not require any class of designated tourist facilities to be registered for the first time sooner than six months after the date of commencement of the regulations;

- (c) prescribe the requirements to be complied with before any designated tourist facility may be registered;
- (d) prescribe the grades of designated tourist facilities and the requirements to be complied with before a designated tourist facility can qualify for any particular grade;
- (e) the licensing of any person, who owns, conducts or operates a designated tourist facility, or who provides or assists in providing any service which is a designated tourist facility:

Provided that regulations shall not require the licensing of any class of such persons for the first time sooner than six months after the date of commencement of the regulations;

- (f) require that any category or class of employees in any tourism operation shall be in possession of such licences or shall be in possession of such certificates of competence as may be prescribed;
- (g) regulate time-share contracts and the promotion of and services provided in time-sharing facilities, including without prejudice to the generality of the foregoing the information that is to be given to prospective purchasers and the language in which such information is to be given, the form which such contract must be drawn up in, the establishment of such cooling-off periods during which and other circumstances in which the purchaser may withdraw from the contract, as well as the prohibition of any or such payments as may be determined before the premises to which the contract refers or the contracts are completed, as well as imposing an obligation for the repayment of such deposits as may be prescribed if the contract is rescinded or the purchaser withdraws there from:

Provided that such regulations may provide—

- (i) provide that the timesharing contract shall take such form as may be prescribed notwithstanding any provision of any other law to the contrary and that it shall be drawn up in such language or languages or be accompanied by a certified translation in such language or languages as may be prescribed;

- (ii) provide that in case of failure to abide by any of the provisions thereof as may be prescribed the contract may be null;
- (iii) regulate credit facilities that may be granted with such contracts and the effect that a rescission or withdrawal from the contract may have on such credit agreements, and
- (iv) any other matter relating to the sale of time-share and time-share agreements;
- (h) regulate the provisions of travel package services;
- (i) prescribe the form of any notice, order or other document authorized or required by this Act to be made, served or given;
- (j) prescribe the manner in which a licence fee or other charge made under this Act is to be established, made, reviewed, collected, utilized or otherwise dealt with;
- (k) to the extent not otherwise provided, prescribe the procedure to be followed by anybody established by this Act, and to amend, add or otherwise alter anything contained in the schedules to this Act;
- (l) prescribe the fees payable to the Authority for any service provided by it, or in respect of any matter for which it is considered that a fee should be payable;
- (m) establish codes of ethics and conduct for tourism operations- provided that, the Authority shall consult and, so far as is advisable and possible, adopt such recommendations as it shall receive from the associations recognized by the Member of the Executive Committee as representative of the various sectors interested in tourism;
- (n) prescribe such insurance cover that must be held by licensees under this Act;
- (o) prescribe the duties of licensed persons and operators of designated tourist facilities in relation to the provision of services;
- (p) require the publication and display of particulars relating to the nature, grade, name or style of designated tourist facilities and licensed persons;
- (q) provide for the declaration of tourist development zones for the orderly development of the tourist industry in such zones and, for that purpose, providing for the- rights, or operate or propose to establish or operate tourist facilities in such zones;

- (r) prescribe the procedures of making, hearing and determination of complaints of complaints by the Authority and the Tribunals Court;; and
- (s) any other matter that is necessary for the full implementation of the provisions of this Act.

(2) Any regulation made under this Act may provide for any matter relating to liability for the observance of such regulations, and the persons who may be liable, and for any matter relating to the enforcement of the regulations, including, but not limited to, the imposition of a fine not exceeding one million shillings in respect of any contravention of, or failure to comply with, the provisions of such regulations.

#### **48. Regulation of levies.**

(1) The Member of the Executive Committee in consultation with the Authority may make regulations prescribing levies to be paid by any class of registered tourist facilities or licensed persons.

(2) In prescribing any levy in terms of subsection (1), the Member of the Executive Committee—

- (a) shall prescribe—
  - (i) the persons responsible for the payment, collection and remittal of the levy; and
  - (ii) the manner in which and times at which the levy shall be paid, collected and remitted; and
- (b) may—
  - (i) require any person conducting or operating a registered tourist facility to include in the price of any services rendered by him or her a surcharge at such rate as may be prescribed, and may require him or her to collect such surcharge;
  - (ii) fix any other basis on which the levy shall be calculated.

(3) The Authority may, by proceedings in a competent court, recover the amount of any levy which is due in terms of this Act from any person required to pay the levy or to collect or remit the levy.

(4) All amounts remitted or collected by way of levy shall be paid into the Fund.

#### **49. Information and statistics.**

The Authority shall require every operator of a designated tourist facility, whether or not the facility is registered or the person is licensed, to furnish the Authority with such information and statistics in regard to—

- (a) tourists, excursionists and other visitors; and
  - (b) domestic excursionists or tourists; and
  - (c) designated tourist facilities,
- as the Authority considers necessary.

#### **50. Liability of a proprietor.**

(1) The liability of a proprietor at common law shall be subject to the modifications contained in this section.

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

(a) at the time the loss or damage occurred, sleeping accommodation at the hotel had been engaged for the guest; and

(b) the loss or damage occurred between the midnight immediately preceding and the midnight immediately following a period during which the guest was entitled to use the accommodation so engaged.

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

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

(a) the property was stolen, lost or damaged through the default, neglect or willful act of the licensee or a person in the licensee's employ; or

(b) the property was deposited by or on behalf of the guest expressly for safe custody with the licensee or a person in the licensee's employ authorized, or appearing to be authorized, for the purpose and, if so required by the licensee or the person in the licensee's employ, in a container fastened or sealed by the depositor; or



at the time after the guest had arrived at the hotel, after the property in question was offered for deposit as and the licensee or a person in the licensee's employ refused to receive it, or the guest or some other guest acting on the guest's behalf wished so to offer the property in question but, through the default of the licensee or a person in his or her employ, was unable to do so.

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

#### **51. Proprietors' rights to sell property.**

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

Provided that—

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

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

### **52. Charges.**

(1) The Authority may on the recommendation of any relevant industry associations and groups at any time carry out a review of the charges made by designated tourism facilities or such services in any area, and as a result of such a review may, after giving not less than one month's notice in the Gazette of its intention to do so, by order, fix minimum or maximum charges which may be made by any such facility or provider of such designated service in that area.

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

(a) either specify the charges themselves or prescribe the method by which they are to be calculated;

(b) be made applicable to specified services or facilities or to facilities of a specified class.

(3) Where any charge is made in a designated facility which exceeds the maximum charge or which is below the minimum charge fixed by a tariff order relevant to that facility, the provider of such service or, as the case may be, the manager of the facility commits an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one month or to both, or in the case of a second or subsequent offence to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

### **53. Summary judgment.**

(1) On the conviction of a person for an offence involving a failure to pay any levy, the court may, on the application of the prosecutor and in addition to any other penalty which it may impose, give summary judgment in favour of the Authority, for the benefit of the County Treasury, for the amount of the levy to which the conviction relates.

(2) Summary judgment given by a court in terms of subsection (1) shall have the same effect and may be executed in the same manner as if it had been given in civil proceedings instituted in the court by the Member of the Executive Committee.

### **54. Evidence.**

(1) Any register kept in terms of this Act shall be prima facie proof of all matters prescribed or authorized by this Act to be entered therein

(2) A document purporting to be an extract from a register kept in terms of this Act and purporting to be signed by the Director shall be admissible in evidence in any proceedings in any court on its production by any person as prima facie proof of the matters stated therein.

(3) A certificate purporting to be signed by the Director and stating that any premises, place, service or thing is or is not a registered tourist facility shall be admissible in evidence in any proceedings in any court on its production by any person as prima facie proof of the matters stated therein.

(4) A certificate purporting to be signed by a licensing officer and stating that any person is or is not licensed shall be admissible in evidence in any proceedings in any court on its production by any person as prima facie proof of the matters stated therein.

## SCHEDULE

### Meetings of The Board of the Authority

#### 1. Convening meetings.

(1) The Member of the Executive Committee shall convene the first meeting of the Board as soon as is practicable after the appointment of the Board of the Authority for the election of the Vice-Chairperson and thereafter the Board of the Authority shall meet for the transaction of business at times and places that may be decided upon by the Board of the Authority but the Board of the Authority shall meet at least once in every two months.

(2) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson may, at any time, call a special meeting of the Board of the Authority, or shall call a special meeting upon a written request by a majority of the members of the Board of the Authority.

(3) The Chairperson shall preside at all meetings of the Board of the Authority and in his or her absence, the members present may appoint a member from among themselves to preside at that meeting.

#### 2. Quorum

The quorum at a meeting of the Board of the Authority shall be five members.

#### 3. Taking decisions

Questions proposed at a meeting of the Board of the Authority shall be decided by a majority of the votes, of the members present and if there is an equality of votes, the person presiding shall have a casting vote in addition to his or her deliberative vote.

#### 4. Disclosure of interest

(1) A member of the Board of the Authority who has any pecuniary interest in a matter being considered or about to be considered by the Board of the Authority shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest to the Board of the Authority.

(2) A disclosure of interest under subparagraph (1) shall be recorded in the minutes of the meeting of the Board of the Authority and the member making the disclosure shall not, unless the Board of the Authority otherwise determines in respect of that matter—

(a) be present during any deliberation on the matter by the Board of the Authority;

(b) take part in the decision-making of the Board of the Authority on the matter.

(3) For the purpose of the making of a decision by the Board of the Authority under sub-paragraph (2) the member who has made the disclosure shall not—

- (a) be present during the deliberations of the Board of the Authority for the making of that determination;
- (b) Influence any other member or take part in the making of the determination by the Board of the Authority.

### **5. Co-option of persons to meetings of Board of the Authority**

(1) The Board of the Authority may co-opt any person to any meeting of the Board of the Authority to assist it on any matter if the Board of the Authority is satisfied that that person's qualifications and experience are likely to benefit the Board of the Authority.

(2) A person co-opted to assist the Board of the Authority under subparagraph (1) is entitled to take part in the proceedings of the Board of the Authority at the meeting concerning the matter in connection with which he or she is co-opted, but is not entitled to vote or take part in any other proceedings of the Board of the Authority.

### **6. Minutes of meetings**

The Board of the Authority shall cause the minutes of its meetings to be recorded and kept and the minutes of each meeting shall be confirmed by the Board of the Authority at the next meeting and signed by the Chairperson of the meeting. (2) The Chairperson of the Board of the Authority shall submit to the Member of the Executive Committee a copy of the minutes of each meeting as soon as the minutes have been confirmed.

### **7. Board of the Authority to regulate its own procedure**

Subject to the provisions of this schedule, the Board of the Authority may regulate its own proceedings.