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THE KIRINYAGA COUNTY PUBLIC ENTERTAINMENT ACT, 2014

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THE KIRINYAGA COUNTY PUBLIC ENTERTAINMENT ACT, 2014

AN ACT of the County Assembly of Kirinyaga, to provide for the regulation and control of public entertainment and for connected purposes.

Enacted by the County Assembly of Kirinyaga, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as Kirinyaga County Public Entertainment Act, 2014.

Interpretation

2. In this Act—

"assuming machines; includes a device, whether electrical or mechanical, designed and constricted for the amusement of its user through his or her manipulation of the machine or a device associated with the machine, and such other devices as are prescribed.

"approved place" means—

(a) in the case of any place required to be licenced under any regulation for the control and supervision of places that may be used for public entertainment made under the provision of any written law, a place licenced;

(b) in any other case, a building, tent, street or places whether open or enclosed that is approved for the purposes of this Act by the licensing officer;

(c) does not include a building or other places in respect of which a liquor licence is required under the relevant legislation;

"authorized officer "means the officer gazetted under section 21 to inspect a place of public entertainment licence and the provisions of this and any other relevant Act;

"Department "means within the Department within the County responsible for matters relating to public entertainment;

"games of chance" include casinos, bookmaking, horseracing, prize competitions, bingo, sports betting, dog racing, race betting, game rooms and electronic and mechanical based amusements;

"Chiefs Executive Officer" means the person responsible for the day to day management of the Department;

"proprietor" include the person, company, corporate body or association owning, leasing or occupying, or for the time being having the superintendence or management of, a place of public entertainment and also include the agent, trustee, manager, or committee of any such a person, company, corporate body or association;

"public entertainment" include any—

(a) concert, recital, animal or circus performance, waxworks, puppet performance;

(b) dancing exhibition, picture or art exhibition;

(c) games of skill or chance;

(d) acrobatics or other exhibition of skill;

(e) the provision of at least three (3) amusement machine; and

(f) place in which liquor is sold which is open to, or available for use or public whether the admission or use procured by the payment of money or otherwise, but shall not include athletic games or sports.

"place of public entertainment" means any building, tent or other erection of whatever nature, or any premises or land, open to public gratuitously or otherwise, where any public entertainment is performed or presented.

Objects of the Act

3. The Department's objectives for the operations and management of public entertainment shall be—

(a) regulate the establishment of places of public entertainment within the County;

(b) ensure the protection of the public, and in particular minors and vulnerable person, close to and within place of public entertainment;

(c) keep register of licenced public entertainment places;

(d) issuance and cancellation of licences under this Act;

(e) carry out regular inspection of public entertainment places;

(f) set fees for licensing of public entertainment

PART II—ADMINISTATIVE AND LICENSING PROVISION

Administration of this Act

4. This Act shall be administered by the County Culture Department responsible for matters relating to Public Entertainment (in this Act referred as Department).

Function of the Department

5. The Department is responsible for the management of public entertainment, and to this end shall—

(a) enforce national and county policies and legislation on public entertainment;

(b) undertake sensitization of the public within a particular vicinity on the effect of setting up a place of public entertainment within that vicinity; and

(c) ensure the protection of the public, and in particular minors and vulnerable person, close to and within place of public entertainment.

Powers of the Department

6. The Department has powers to—

(a) liaise with the National and County Governments and formulate County Policy on Public Entertainment;

(b) advice the County Government on initiative, program and services geared towards the regulation and promotion of public entertainment in which the County is involved;

(c) indentify and, with the approval of County Assembly, purchase or acquire, posses or hire movable and immovable property for purposes of public entertainment;

(d) consider all matters brought to its attention by the National Government and to report its findings thereof;

(e) licence and set conditions for the licensing of a place of public entertainment;

(f) determine the class or classes of place of public entertainment;

(g) determine the age of patrons of any place of public entertainment and the hours it may operate;

(h) publish and disseminate information on its activities at least four times a year;

(i) implement national policy and legislation on matters relating to public entertainment;

(j) perform any other function that may be assigned by any National or County legislation; and

(k) any person dissatisfied with any act or decision of the Licensing Department done or made or omitted to be done or made by the

Department under this Act may apply to the County Executive Committee Member for a review and the County Executive Committee Member may confirm, disallow or vary any act or decision of the licensing department or may direct the department to act in such manner as the County Executive Committee Member shall deem fit.

Licensing of place of public entertainment and safety of clients

7. (1) No person shall use, or cause, suffer or permit to be used any place of public entertainment for the performance or presentation of public entertainment without a licence (hereafter referred to as "a place of public entertainment licence") in writing of the Department previously obtained.

(2) the Department may grant a place of public entertainment licence either generally or in respect of any single performance or such period not exceeding twelve months as it may deem fit.

(3) the licences issued under sub-section (3) shall be in such form as the Department may from time to time determine.

(4) a licenced issued under sub-section (3) may be revoked or suspended if, in the opinion of the Department, the safety, health or convenience of persons attending the performance is not adequately provided for, or if the structure, equipment or lighting has ceased to confirm with the rules made under this Act.

(5) the Department, on the application of any other interested person, may grant or endorse a licence under this Act. Authorizing the use of the place of public entertainment for the presentation of cinematography, exhibition in addition of the performance of the stage place and public entertainments, if the Department is certified that the place of public entertainment also confirms with all the requirement prescribed for a place of public entertainments by the films and stage place Act and any rules made under the Act or by any enactment amending or replacing it.

Cancellation of licence

8. (1) The Department may cancel a licence if—

(a) the application contains any material misrepresentation or false statement;

(b) any information given in the application for the business licence was materially incorrect so as to create a false impression of the ownership of the business or the nature of its business activity;

(c) the licencee carries on a prohibited activity; and

(d) a condition imposed is breached.

(2) Any holder of a cancelled licence is entitled to appeal the decision as is provided for in sub-section (1) above, to the County Executive Committee Member for the time being responsible for Public Entertainment Licences.

(3) Subject to section 6, the Department may, in its discretion, cancel a licence if, in its opinion, the licence has contravened or failed to comply with a condition of his licence or the continued use of the place of public entertainment in respect of which the licence is in force would constitute a danger to the public, be prejudicial to public health or convenience or constitute a nuisance to persons who normally reside in the vicinity of the place of public entertainment, or vary a condition of a licence.

Conditions for issuance of licence

9. The Department shall not issue a licence unless satisfied that there has been made in or about the building or place in respect of which the application is made—

(a) proper sanitary arrangements;

(b) proper provision against risk from fire;

(c) proper provision for extinguishing fire;

(d) proper provision for safe exit, and sufficient means to exit, in the case of fire;

(e) proper provision for the safety and convenience of the public generally; and

(f) other conditions as may from time to time be issued by the County Executive Committee.

Supervision of a place of public entertainment

10. (1) The Department may grant a place of public entertainment licence upon the condition that the place of public entertainment shall not be used for the purposes specified in the licence except under the superintendence of some officer or person designated in the licence, and in that case, at any time, the officer or person so designated may order a stage play or cinematograph exhibition to cease or give any other direction which he or she may think necessary for ensuring the safety of the place of public entertainment and of the audience

(2) Any owner, licencee, manager or other person in charge of the place of public entertainment who fails to comply with any order given

Consideration of applications for entertainment licence

11. For the purpose of considering any application for an entertainment licence, the Department may permit the applicant to cause the stage play or public entertainment to be performed or presented for its inspection.

Rejection of application

12. (1) If the Department refuses to issue a licence, it shall, as soon as practicable after doing so, give notice of the refusal to the applicant.

(2) Refusal under sub-section (1) shall be in writing and shall include the department's reasons for refusing to issue the licence.

(3) If the reasons the Department refuses to issue a licence relates only to the construction of the place of public entertainment or the matters specified in section 6, the proprietor of the place of public entertainment may, re-apply for a licence in respect of the place of public entertainment.

Conditions of licence

13. (1) Subject to this Act and the Regulations, a licence issued under section 6 is subject to such conditions, if any, as the Department thinks fit and specifies in the licence including, without limiting the department's discretion, conditions relating to—

(a) the term of the licence;

(b) the days and hours of operation;

(c) the number and ages of persons who may be admitted; and

(d) the number and ages of the play actors.

(2) A licencee shall cause his licence to be displayed in a prominent place of public entertainment to which it relates.

(3) A licencee who contravenes or fails to comply with a condition of his licence or causes or permits another person to contravene or fail to comply with such a condition, is guilty of offence.

Additions and alterations to place of public entertainment

14. The proprietor of any place of public entertainment shall not permit cause or suffer any addition to or alteration of, such place of public entertainment without the approval of the Department.

Period and renewal of licence

15. (1) A licence shall be in force for the period specified in the licence but not exceeding twelve months from the date of its issue or of

(2) A licence may on the application of the proprietor of a place of public entertainment and on payment of the prescribed fee be renewed from time to time.

(3) The Department may, in its discretion, refuse to renew a licence.

Waiver for licences

16. The Department may direct that a licence be issued free in cases where—

(a) the actors are all people living with disability;

(b) the public entertainment is to be given for any charitable purpose; and

(c) the County Executive Committee Member shall publish regulation for waiver of licence.

Exhibition of posters

17. It shall be unlawful for any person publicly to exhibit any poster or advertisement containing any illustration or scenic description of any public entertainment without having complied with condition as shall be set out in regulation published by the County Executive Committee Member.

PART III—GENERAL PROVISIONS

Duty of owner of place of public entertainment

18. (1) Where the owner of any place of public entertainment has leased the premises to any other person, he or she shall give notice to the officer in charge of the nearest police station and the authorized officer if, and as soon as, he or she has reason to believe that there is an intention to proceed with any stage play or public entertainment in the place of public entertainment without the requisite licences or permits.

(2) In this section, "owner" includes any sub-lessor.

Power of entry

19. (1) An Authorized Officer appointed for the purpose by the department, may at all reasonable times enter upon any premises or places in which he or she has reason to believe that any public entertainment is being or is about to be presented with a view to seeing whether the provisions of this Act or any rules made under this Act and the conditions of any licences or permits granted under this Act have been complied with.

(2) Any person preventing or obstructing the entry of any officer or authorized officer mentioned in sub-section (1) commits an offence.

Register of licences

20. (1) The Minister shall cause to be kept a register of applications made and licences issued in pursuance of this Act and of renewals of licences.

(2) The minister may notify in the Gazette the particulars contained in the register and any alterations therein.

Exits to be free from obstructions

21. The proprietor of a place of public entertainment and the person holding a public entertainment shall ensure that the means of exit, staircases, landings, passage ways and gangways are at all times while members of the public are in the place of public entertainment, free from obstruction of any kind.

Licence for private performances in place of public entertainments

22. No person shall use a place of public entertainment licenced under this Act for the private performance or presentation of any stage play or public entertainment without a licence in writing from the Department.

Department declare any entertainment to be public

23. The Department may by statutory instrument declare any entertainment to which the public are admitted, to be a public entertainment for the purposes of this Act.

Public participation

24. The Department shall ensure that all decisions made in the course of administering public entertainment which may affect the community of any particular area, shall be subjected to the widest possible consultation and members of the public are invited to participate.

Holding public entertainment in unlicenced place

25. Any person who holds a public entertainment in any place of public entertainment not being a place of public entertainment in respect of which a licence is in force, shall be guilty of an offence.

Entertainment in a place licenced for a different purpose

26. Any proprietor of any place not being a place of public entertainment in respect of which a licence is for the time being in force, who lets the place, whether for a rent or otherwise, for the purpose of

public entertainment, or knowingly permits the place to be used for a public entertainment, shall be guilty of an offence.

Licences and Permits to remain valid

27. Any licence or permit or restriction issued or made under any relevant law shall remain valid until the lapse of such law or the enactment of this law whichever comes first.

Regulations

28. The County Executive Committee Member may make regulations for proper functioning and realisation of the objects of the Act.