

SPECIAL ISSUE

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LEGAL NOTICE NO. 147

THE STATE CORPORATIONS ACT

(Cap. 446)

IN EXERCISE of the powers conferred by section 3 (1) of the State Corporations Act, I, Uhuru Kenyatta, President and Commander-in-Chief of the Kenya Defence Forces, make the following Order:—

THE KENYA FILM COMMISSION ORDER, 2015

1. This Order may be cited as the Kenya Film Commission Order, 2015.

Citation.

2. In this Order unless the context otherwise requires—

Interpretation.

“Board” means the Board of the Kenya Film Commission constituted in accordance with paragraph 6;

“Commission” means the Kenya Film Commission established by paragraph 3;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to film;

“film” means any sequence of visual images recorded in such a manner that by using such recording, such images will be capable of being seen as moving pictures, series of images, with or without associated sounds, which is intended for distribution and exhibition.

3. (1) There is established a state corporation to be known as the Kenya Film Commission.

Establishment of the Commission.

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

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) doing or performing such other things or acts necessary for the proper performance of the functions of the Commission under the Order and which may lawfully be done or performed by a body corporate.

(3) The Commission shall be the successor of the Kenya Film Commission established by the Kenya Film Commission Order, 2005.

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(4) Subject to this Order, all the rights, duties, obligations, assets and liabilities of the Kenya Film Commission existing immediately before the commencement of this Order shall be automatically and fully transferred to the Commission.

4. The Commission shall—

Functions of the
Commission.

- (a) develop, promote and market the film industry locally and internationally;
- (b) identify and facilitate growth of the film industry;
- (c) generate, manage and disseminate film industry research, information and market data, and act as a repository and archive of Kenya's film records;
- (d) promote and facilitate the development of local content;
- (e) establish incubation centres for the film industry in Kenya;
- (f) coordinate and certify persons, associations and organizations participating in the production of film, photography, video, stills, animation, new media and related media;
- (g) establish and administer a film promotion fund;
- (h) provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry;
- (i) promote and market Kenya, locally and internationally, as a filming destination;
- (j) develop fiscal and other incentives to promote investment in the film industry; and
- (k) partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

5. The Commission shall have its headquarters in Nairobi but the Commission may, in furtherance of its objectives, establish regional offices in such other places as the Board may determine.

Headquarters.

6. (1) The management of the Commission shall vest in a Board which shall consist of—

Board of the
Commission.

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for the film industry;
- (c) the Principal Secretary to the National Treasury;
- (d) a Chief Executive Officer of the Commission;
- (e) five other persons, who in the opinion of the Cabinet Secretary, possess skills and experience that will benefit the work of the Commission appointed by the Cabinet Secretary.

(3) A person is qualified for appointment as the Chairperson or a member of the Board if such person—

- (a) holds a Bachelor's degree from a university recognized in Kenya;

- (b) has in the case of the Chairperson, at least eight years, or in the case of a member, at least six years professional experience in the film industry;
- (c) has, within the preceding five years, been a member of a Board in another public or private body;
- (d) meets the requirements of Chapter Six of the Constitution; and
- (e) has not, at any time within the preceding five years, served as an employee of the Commission.

(4) The Chairman and members of the Board, other than the Chief Executive, shall be paid out of expenses of the funds of the Commission such sitting allowances or other remuneration as the Board members may, within the scales of remuneration specified from time to time by the Committee, approve.

7. The Board—

- (a) shall have all the powers necessary to manage and administer the Commission in a manner that enables the Commission to realize the objects and purposes for which the Commission is established;
- (b) may enter into association with such other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes of the Commission; and
- (c) may, by resolution either generally or in any particular case, delegate to any committee of the Board of Directors or to any member, officer, employee or agent of the Film Commission, the exercise of any of the powers or, the performance of any of the functions or duties of the Board under this Order.

Powers of the Board.

8. The Board may establish the committees to deal with matters relating to—

- (a) audit and risk;
- (b) governance and human resource
- (c) technical development;
- (d) finance and investments; and
- (e) such other matters as the Board may specify.

Committees.

9. (1) The Chairperson and members of the Board other than the chief executive officer shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

Tenure.

(2) The terms of the members of the Board shall be staggered to ensure a smooth transition.

(3) The chairperson and the member of the Board may —

- (a) at any time resign from office by a notice in writing addressed to the President or Cabinet Secretary;
- (b) be removed from office if the chairperson or a member of the Board—

- (i) has been absent, from three consecutive meetings of the Board without the permission of the chairperson;
- (ii) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two hundred thousand shillings;
- (iii) is incapacitated by prolonged physical or mental illness; or
- (iv) conducts himself or herself in a manner considered by the Cabinet Secretary to be inconsistent with membership of the Board.

10. The conduct of the meetings of the Board of Directors shall be in accordance with the section 8 of the State Corporations Act.

Meetings and
Procedure of Board.
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Chief Executive.

11. (1) There shall be a chief executive officer of the Commission who shall be appointed by the Board, through a competitive process, and on such terms and conditions of service as the Cabinet Secretary may, in consultation with the Committee, approve.

(2) A person is qualified for appointment as the chief executive officer if such person—

- (a) holds a Bachelor's degree from a university recognized in Kenya;
- (b) has at least eight years professional experience in the film industry; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be responsible for the day to day administration of the affairs of the Commission and the performance of its functions under this Order.

(4) The chief executive officer shall serve for a term of four years and shall be eligible for re-appointment for a further term of four years.

12. (1) The Board shall competitively recruit a suitably qualified person, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Commission.

Corporation
Secretary.

(2) The Corporation Secretary shall be the Secretary to the Board shall be responsible for arranging the business of the Board, Board meetings, the keeping of records of the Board meetings, keeping records of the proceedings of the Board, and shall perform such other duties as the Board may direct.

13. The Board shall employ such other staff of the Commission as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Cabinet Secretary, determine.

Staff of the
Commission.

14. (1) The funds of the Commission shall consist of—

- (a) such moneys as may from time to time be provided by Parliament for the purposes of the Commission;
- (b) moneys donated, granted or lent to the Commission with the approval of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the National Treasury;

Funds of the
Commission.

- (c) such monies as may accrue or vest in the Commission in the course of the exercise of its functions under this order; and
- (d) any moneys accruing to the Commission from any other source.

15. The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

Financial year.

16. (1) The Board may invest any of the funds of the Commission which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

Investment of funds.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Commission.

17. (1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Commission.

Accounts and audit.

(2) The accounts of the Commission shall be audited in accordance with the Public Audit Act, 2003.

No. 12 of 2003.

18. (1) The Board shall within a period of six months after the end of the financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Commission for the immediately preceding year.

Annual Report.

(2) The annual reports for the Commission shall include the financial statements of the Commission.

(3) The Commission shall publish the reports submitted to the Cabinet Secretary.

19. (1) The members of the Kenya Film Commission existing immediately before the commencement of this Order shall continue in office for the unexpired period of the term of the member.

Transition.

(2) A person who immediately before the commencement of this Order was an officer or member of staff of the Kenya Film Commission existing immediately before the commencement of this Order shall be an officer of the Commission.

20. All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Order and vested in the Commission existing immediately before the commencement of this Order, shall upon the commencement of this Order be vested in the Commission.

Transfer of assets, etc.

21. (1) The Kenya Film Commission Order, 2005, is revoked.

Revocation.
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Made on the 25th March, 2015.

UHURU KENYATTA,
President.

