

SPECIAL ISSUE

Kenya Gazette Supplement No 2 (Isiolo County Bills No 2)



REPUBLIC OF KENYA

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KENYA GAZETTE SUPPLEMENT

ISIOLO COUNTY BILLS, 2021

NAIROBI, 4th February, 2021

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THE ISIOLO COUNTY TOURISM BILL, 2021

A Bill for

AN ACT of the County Assembly of Isiolo to make provision for the development, management, marketing and regulation of sustainable local tourism and tourism related activities and services, and for connected purposes

ENACTED by the County Assembly of Isiolo, as follows—

PART I —PRELIMINARY

Short title and commencement

1 This Act may be cited as the Isiolo County Tourism Act, 2021 and shall come into operation on such date the Executive Committee Member may, by the notice in the *Gazette*, appoint and different dates may be appointed for different provisions

Interpretation

2 In this Act, unless the context otherwise requires—

“animal” means any species or the young or egg thereof, but does not include a human being or any animal which is commonly considered to be a domestic animal or the young or egg thereof,

“authorized officer” means a person appointed under the provisions of this Act,

biodiversity” means the variability among living organisms from all sources including ecosystems and the ecological complexes of which they are a part, compassing ecosystem, species and genetic diversity,

“biological resources” includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity,

“capture” includes any act immediately directed at the taking alive of wildlife or the taking of nests, eggs or young of any wildlife,

“community” means a group of individuals or families who share a common heritage, interest or stake in unidentifiable land, land-based resources or benefits that may derived therefrom,

“community wildlife association” refers to an association established under the provisions of this Act,

“conservation area” means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes,

“Conservation order” means a wildlife conservation order issued under section 65 of the Wildlife Conservation and Management Act, 2013

“corridor” means an area used by wild animals when migrating from one part of the ecosystem to another periodically,

“Chief Officer” unless otherwise stated means the Chief Officer responsible for matters relating to tourism and wildlife

“County” means the county Government of Isiolo,

“County Assembly” means the County Assembly of Isiolo,

“culling” means selective removal of wildlife based on ecological scientific principles for management purposes,

“cultivate” means the artificial reproduction of plants in any manner whatsoever

“dispersal areas” mean areas adjacent to or surrounding protected wildlife conservancies and sanctuaries into which wild animals move during some periods of the year

“ecosystem” means a dynamic complex of plant, animal, micro-organism communities and their non-living environment interacting as a functional unit,

“ecotourism” means responsible travel to natural areas to view the flora and fauna without disturbance to the economical, ecological and cultural status of the areas,

“endangered ecosystem” means an ecosystem of exceptional biodiversity value or a habitat of endangered or endemic species which has undergone severe degradation,

“endangered species” is as defined in the Wildlife Conservation Act

“environmental impact assessment” as the meaning assigned to it under the Environmental Management and Coordination Act, 1999

“executive committee member” means the Executive Committee Member for the time being responsible for matters relating to tourism and wildlife,

“hazardous substance” means any chemical, waste, gas, medicine, drug, plant, animal or micro-organism which is likely to be injurious to human health or the environment,

“licence” means a licence issued under this Act,

“meat” means the fat, flesh or tissue of any wild species whether fresh or dry, pickled or otherwise preserved or processed,

“National legislation” means the Wildlife Conservation and Management Act, 2013 including the regulations thereto

“Poaching” means illegal hunting, illegal capturing and illegal harvesting of any wildlife but does not include the control of species widely and commonly regarded as pests or vermin, as provided for in national legislation

“poison” means any poison, preparation or chemical substance used to catch, immobilize, sterilize, kill or physically harm a wild animal,

“restaurant” means any premises on which the business of supplying food or drink for reward is carried on,

“sanctuary” means an area of land and water set aside and maintained by government, community, individual or private entity for the conservation and protection of one or more species of wildlife,

“sell” includes hawk, peddle, barter or exchange or offer, advertise, expose or have in possession for the purpose of sale, hawking, peddling, bartering or exchanging,

“Service” means the Wildlife Service established pursuant to the provisions of this Act

“sustainable management” in relation to wildlife, means management of wildlife resources so as to permit only such use of it as constitutes sustainable use,

“sustainable tourism” means tourism development that meets the needs of present visitors and hosts while protecting and enhancing opportunity for the future,

“threatened species” means any wildlife species specified in the Fourth Schedule to this Act or declared as such under any other written law or specified in Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),

“tourism activities and services” means any of the activities and services specified in the Second Schedule of this Act,

“tourism area” means an area designated as a Tourism Area under this Act,

“tourism product” means a good or service which contributes to the total visitor or tourist experience in a tourism destination area,

“tribunal” means the County Tourism Tribunal established by section, and

“trophy” means any wild species alive or dead and any bone, claw, egg, feather, hair, hoof, skin, tooth, tusk or other durable portion whatsoever of that animal whether processed, added to or changed by the work of man or not, which is recognizable as such,

“Visitor” means a person travelling to a place outside his or her usual abode for not more than one consecutive year for leisure, business or other purposes, not being a work-related activity remunerated from the place visited

“weapon” means a tool, implement, firearm, ammunition or any item that may be used to injure or kill a wild animal for any reason,

“wetlands” means areas of marsh, fen, peat land, or water, whether natural or artificial, permanent or temporary, with water is static or flowing, fresh, brackish, salt, including areas of marine water the depth of which does not exceed six meters at low tide,

“wildlife” means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya,

“wildlife conservancy” means land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation in accordance with the provisions of national legislation,

“wildlife conservation area” means a tract of land, lake or sea that is protected by law for purposes of wildlife and biological diversity conservation and may include a national park, national reserve, game reserve or sanctuary,

“Wildlife user rights” includes user rights exercised by an individual landowner, body corporate, group of owners or a community under the provisions of national legislation

Object and Purpose of the Act

3 (1) This Act shall be applied for the administration of local tourism related activities, products and services in Isiolo County

(2) Without prejudice to the generality of subsection 1 above, this Act shall be applied to —

- (a) ensure the national government policy on the promotion, management and marketing of tourism is implemented at the County level,
 - (b) provide for the promotion and regulation of tourism activities in the County
 - (c) promote the practice of responsible and sustainable tourism,
 - (d) Provide a platform for tapping of unexploited tourism products and services in the County,
 - (e) Provide for the effective domestic, national and international marketing of the County as a tourist destination of choice,
 - (f) scale-up and maintain investments for the growth and development of local tourism in Isiolo,
 - (g) coordination and stakeholder engagements including the private sector, neighboring counties and local communities,
 - (h) provide an equitable financing mechanism for development, management, promotion and marketing of local tourism, and
 - (i) secure public participation in decision making regarding local tourism related activities and services
- (3) The rights and duties conferred by this Act are in addition to those conferred by any other relevant law

Guiding Principles and Values

4 (1) The County Executive Committee member and any person applying this Act shall be guided by the principles and values set out in Articles 10 and 232 of the Constitution

(2) Additionally, the County Executive Committee member and any person applying this Act shall be guided by the following principles on Responsible Tourism that are aimed at ensuring that tourism—

- (a) minimizes negative economic, environmental, and social impacts,
- (b) generates greater economic benefits for local people and enhances the well-being of host communities, improves working conditions and access to the industry,
- (c) involves local people in decisions that affect their lives and life chances,
- (d) makes positive contributions to the conservation of natural and cultural heritage, to the maintenance of the world's diversity,

- (e) provides more enjoyable experiences for tourists through more meaningful connections with local people, and a greater understanding of local cultural, social and environmental issues,
- (f) provides access for physically challenged people, and
- (g) is culturally sensitive, engenders respect between tourists and hosts, and builds local pride and confidence

PART II—POLICY, COORDINATION AND OVERSIGHT OF LOCAL TOURISM

Powers and Duties of County Executive Committee member

5 (1) Subject to the provisions of this Act, the County Executive Committee member shall exercise control and provide guidance over local tourism services provision and development, and the implementation of this Act

(2) Without prejudice to the generality of the foregoing, the County Executive Committee member shall have responsibility to—

- (a) formulate and periodically review County local tourism policies,
- (b) develop strategies for implementation of this Act, and related National and County policies,
- (c) co-ordinating with the National government and its agencies on enhancement of investments in infrastructure, and service delivery in relation to the development, management and marketing of local tourism,
- (d) resource mobilization, coordination and partnerships,
- (e) co-ordinating with other County Governments on enhancement of investments in infrastructure, and service delivery in relation to developing, managing and promoting local tourism, especially in a cross-county context
- (f) ensure alignment of the tourism sector with social economic development goals of the County
- (g) make regulations as provided for under, or as necessary for the better implementation of, this Act, and
- (h) prepare a report to be submitted to the County Assembly annually, and from time to time as may be necessary, on the state of tourism in the County

(3) For purposes of securing broad support for tourism related activities and services, the County Executive Committee member, in performance of functions and duties under this Act—

- (a) may consult with other executive departments, public agencies and departments or agencies of Isiolo County whose functions affect or touch on tourism,
- (b) may consult with relevant non-governmental entities, including private sector and research institutions, and
- (c) shall secure public participation, including setting up, through regulations, of specific mechanism for regular engagement of stakeholders on policy matters

Formulation of County Tourism Strategy

6 (1) The Executive Committee Member shall, subject to sub-section (5), formulate and publish in the *Gazette* a county tourism strategy at least once every five years, in accordance with which the local tourism sector shall be developed, managed, marketed and regulated

(2) The county tourism strategy shall prescribe the principles, objectives, standards, indicators, procedures and incentives for the development, management and marketing of sustainable tourism and shall, in particular prescribe—

- (a) for the packaging of niche tourism products and services,
- (b) standards for tourism local area development plans,
- (c) measures to facilitate and enhance local tourism taking cognizance of the national government's strategies,
- (d) priority areas for tourism development, capacity building and training,
- (e) innovative schemes, incentives and ethics to be applied in the development and marketing of sustainable local tourism, including public private partnerships,
- (f) clear targets indicating projection in tourism growth over the next five years,
- (g) county tourism research and monitoring priorities and information systems, including—
 - (i) collection and management of tourism data and information,
 - (ii) intelligence gathering,
 - (iii) procedures for gathering tourism data and the analysis and dissemination of tourism information, and
 - (iv) tourism management information systems,

- (h) measures necessary to ensure equitable sharing of benefits in the tourism sector,
- (i) adaptation and mitigation measures to avert adverse impacts of climate change on tourism and tourism products and services,
- (j) reflect regional co-operation and common approaches in tourism development, marketing and regulation, and
- (k) any other matter that the Executive Committee Member in charge of tourism affairs considers necessary to enhance sustainable tourism in the County

(3) The Executive Committee member shall periodically review the county tourism strategy and may, by notice in the gazette, publish a revised county tourism strategy

(4) The Executive Committee Member and all relevant public bodies shall, when exercising or performing any statutory function, consider and give effect to the county tourism strategy

(5) The Executive Committee Member shall, when formulating a county tourism strategy under subsection (1), consult the public in accordance with the county law relating to Public Participation

County Local Tourism Information System

7 The County Executive Committee member shall establish a County tourism information and monitoring system for—

- (a) collecting, recording, managing, analyzing and disseminating information and data on local tourism, and
- (b) monitoring developments and trends in local tourism

PART III—TOURISM AREAS

Designating Tourism Areas

8 (1) The Executive Committee Member may by notice in the *Gazette* designate Tourism Areas

(2) An area contemplated for designation in section 8 (1) is considered if the area has—

- (a) historical, spiritual and cultural significance,
- (b) environmental beauty,
- (c) existing or potential leisure facilities within its bounds or at reasonable distance,

- (d) sufficient in size capable of being utilized for bringing in new investments in tourism establishments, and
- (e) Strategic location for the development of tourism activities

Information on local tourism businesses

9 (1) The County Executive Committee Member may for purposes of planning, and with a view to the development and growth in the local tourism sector, establish and maintain a database of information on local tourism businesses

(2) The County Executive Committee Member may for the purposes of subsection (1), by notice in the *Gazette*, determine the categories of local tourism businesses that may provide information, and may in this regard determine—

- (a) the period within which information is to be provided,
- (b) the form and manner for providing information,
- (c) the information which must be provided, which must, in relation to each local tourism business, at least include—
 - (i) the name and form of the local tourism business,
 - (ii) the geographical area of operation,
 - (iii) the nature of services, facilities or products it provides
 - (iv) particulars relating to the classification and grading of the tourism business
 - (v) statistics and information of the services, facilities or products it offers, and
 - (vi) information as to the extent it provides facilities which are accessible to people with disabilities, children and the aged,
 - (vii) Visitation database that inter alia specifies age of tourist, county or country of origin, gender, frequency of travel, areas of preferred visits,
- (d) the place and manner for the submission of information, which may include submitting the information to the County Government,
- (e) any other information which may be required for the purpose of the databases, and
- (f) the type of recognition and incentives that may accrue to local tourism businesses which may provide information in terms of this section

(3) The County Executive Committee Member may make different determinations under subsection (2) in respect of different categories of local tourism services, facilities and products

(4) For purposes of a comprehensive database of information, nothing in this section prevents the County Executive Committee Member from collecting information about local tourism businesses from any other source

Code of conduct for local tourism

10 The County Executive Committee Member may, by notice in the *Gazette*, issue codes of good practice to—

- (a) guide conduct relating to local tourism services, facilities and products,
- (b) guide conduct of stakeholders responsible for developing and managing Local tourism, and
- (c) promote the achievement of the objects of this Act

PART IV—ESTABLISHMENT OF THE DEPARTMENT OF TOURISM

Department of Tourism

11 (1) There is established the Department of Tourism

(2) The Department shall be the primary planning, programming, coordinating, implementing and regulatory agency of the County with respect to the development and promotion of the local tourism sector

(3) The Department shall operate under the direction of the County Executive Committee Member, and provide advice on matters of legislation, policy, coordination, and the performance of the tourism sector

(4) The Department shall, in collaboration with the national government and the operators in hotel industry, ensure that there is a proper system for standardization and classification of hotels in accordance with the standards established by the national government

(5) Without prejudice to the generality of the foregoing subsection, the Department shall perform the following duties and functions—

- (a) co-ordination, linkages and oversight over the tourism and wildlife sector between public and private entities and agencies
- (b) market Isiolo at national, regional and international levels as a premier tourism destination,

- (c) identify market needs and advise tourism stakeholders on the tourism market trends,
- (d) organize and host meetings and provide incentives for conferences and exhibitions at Tourism Conventions and Exhibition Centers as the case may be,
- (e) develop and implement, incentives for conferences and exhibitions strategy, upon consultation with the relevant stakeholders,
- (f) develop and implement County Integrated Tourism and Wildlife Management Plans,
- (g) development of tourism services master plan, investment and strategic plans for resource mobilization and financing
- (h) collection and dissemination to the public, from time to time, of information on tourism related activities and services, including challenges and opportunities for improvement
- (i) monitoring, evaluation and assessment of the tourism and wildlife sector performance
- (j) perform any other functions that are ancillary to the object and purpose for which the Tourism and Wildlife Department is established

(5) The County Executive Committee member shall, in consultation with the County Public Service Board, determine the staff establishment required for the Department to effectively perform its functions under this Act

Financial Sustainability of the Department

12 (1) All funds of the Department, accrued from the annual appropriations of the County Assembly including any other monies that may accrue to the department in the performance of its functions, shall be used solely for the purposes of development, marketing and management of tourism and wildlife

(2) In order to ensure commercial viability and financial sustainability of the Department, the County Executive Committee member shall annually define the performance indicators for fulfillment by the Department in execution of its mandate, including but not limited to—

- (a) investment planning on infrastructure and asset development,
- (b) options for Public-Private Partnerships where necessary,
- (c) strategies for full Operations and Maintenance Cost Coverage,

- (d) Human Resource Management Plan, including grievance mechanisms

3 Notwithstanding anything to the foregoing, the County Assembly shall in each Financial year appropriate such monies as are necessary for the implementation of this Act

Tourism Development

13 (1) The Department shall annually make proposals to the County Executive Committee Member on areas of tourism development as may be required

(2) The County Executive Committee member shall consider the proposals, in line with County development needs, priorities, and planning, and may recommend utilization of County funds for agreed tourism development activities and services, to the County Assembly

(3) The department shall in the performance of its responsibilities under this section consult with the Department responsible for finance for the greater achievement of its role and responsibilities including adequate financing of its operations and related projects

Public Private Partnerships

14 The Department in consultation with the Department responsible for Finance may pursue public private partnership options for development, management and marketing of tourism, subject to the provisions of national law

Monitoring and Evaluation

15 The County Executive Committee Member shall undertake Monitoring and Evaluation of the Department in the performance of its mandate

Sustainable Tourism

16 The County Executive Committee Member shall promote sustainable and responsible local tourism development and wildlife conservation and the Department shall, in that respect, do the following—

- (a) encourage quality local tourism experiences that include meaningful interactions between tourists and host communities with a greater understanding and appreciation of cultural tourism,
- (b) develop plans for local tourism management and promotion that address environmental sustainability and nature tourism and ensure that all sector strategies include tangible concern for the environment, nature tourism and eco-tourism ethics,

- (c) promote local tourism development and management where it can offer a competitive form of land use for local communities and be integrated into land use plans,
- (d) facilitate the increased use of sustainable waste disposal and bio-degradable packaging,
- (e) facilitate incentives to local tourism projects that utilize green designs or technologies which contribute to creating sustainable livelihoods and poverty reduction,
- (f) engage local communities in planning and decision making, empower women, children and youth, and embrace the wisdom, knowledge and values of local communities in the development of local tourism,
- (g) design and implement broad public awareness campaigns, focusing on the linkages of local tourism, environment, sustainable development and broader society issues,
- (h) approve projects that adhere to globally recognized sustainable tourism certification standards, and
- (i) Research and monitoring of emerging trends related to tourism

PART V – THE ESTABLISHMENT OF COUNTY TOURISM TRIBUNAL

Establishment of Tribunal

17 (1) There is established a tribunal to be known as the County Tourism Tribunal which shall consist of—

- (a) a chairperson appointed by the Governor as approved by the county assembly
- (b) an advocate of the High Court of Kenya nominated by the Law Society of Kenya and appointed by the Executive Committee Member,
- (c) three other persons who have demonstrated competence and a high level of integrity in the tourism or hospitality sector appointed by the Executive Committee Member

Provided that the representative of the Law Society of Kenya appointed herein shall be from the Local Chapter and resident of the County

(2) The members of the Tribunal shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times

(3) The nomination or appointment of members of the Tribunal under subsection (1) shall be through a competitive process taking into account regional balance and gender parity, and with the prior approval of the County Assembly

Tenure and vacation of office

18 (1) A member of the Tribunal shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years

(2) The office of a member of the Tribunal shall become vacant—

- (a) at the expiry of three years from the date of appointment,
- (b) if the member accepts any office the holding of which, if the person were not a member of the Tribunal, would make the person not eligible for appointment to the office of a member of the Tribunal, or
- (c) if the member is removed from membership of the Tribunal by the Executive Committee Member for reasons of physical or mental infirmity, and this unable to exercise the functions of his or her office,
- (d) if the member resigns from office by writing under his or her hand addressed to the Executive Committee Member,
- (e) upon the death of the member

(3) Members of the Tribunal shall be paid such allowances as may be approved by the Salaries and Remuneration Commission

Secretary to the Tribunal

19 (1) The Tribunal shall have a secretary who shall be nominated from within the department by the County Executive Committee Member

(2) The secretary shall hold office on the terms and conditions specified in the letter of appointment and shall serve on a part time basis

(3) The secretary shall be responsible for the day to day affairs of the Tribunal and shall be answerable to the Tribunal in performance of its functions

(4) The secretary shall perform any other functions determined by the Tribunal

(5) The Department of Tourism shall provide the Tribunal with secretariat services as may periodically be required

Jurisdiction of the Tribunal

20 The Tribunal shall have the jurisdiction to hear and determine—

- (a) appeals arising from any decision made under this Act,
- (b) questions relating to the grant or refusal to grant a licence under this Act or any other Act relating tourism or wildlife, or unreasonable delay in the making of that grant, and
- (c) any complaints by any person aggrieved by any act done by any person under this Act or any other relevant county legislation relating to tourism and wildlife

Proceedings of the Tribunal

21 (1) A person may make a complaint or appeal, in writing, within sixty days of the act or omission or decision complained of

(2) On the hearing of a complaint or an appeal, the Tribunal shall have all the powers of a subordinate court to—

- (a) summon witnesses, take evidence on oath or affirmation and order the production of documents, or
- (b) summon expert evidence as may be necessary

(3) Where the Tribunal considers it desirable for the purposes of minimising expenses, to avoid delay or for any special reason, it may receive evidence by affidavit and Executive Committee Member interrogatories and require the person to whom the interrogatories have been made to respond

(4) All summons, notices or other documents issued under the hand of the Chairperson of the Tribunal shall be deemed to have been issued by the Tribunal

(5) An aggrieved person may be represented before the Tribunal by an Advocate

(6) Subject to this Act, the Tribunal may regulate its own procedure

Awards of the Tribunal

22 (1) The Tribunal may—

- (a) award damages,
- (b) confirm, vary or set aside the decision appealed against, or

- (c) make an order for the maintenance of the status quo of any matter or activity which is the subject of a complaint or appeal before it until the complaint or appeal is determined
- (2) The Tribunal shall have power to award the costs of any proceedings before it and to direct that the costs shall be taxed in accordance within such scale as it may prescribe
- (3) The Tribunal may, on its own motion or upon application by an aggrieved party, review its decisions, awards or orders
- (4) Judgments of the Tribunal shall be executed and enforced in the same manner as judgments of a subordinate court

Contempt of the Tribunal

23 A person who—

- (a) fails to attend the Tribunal after being summoned by the Tribunal,
- (b) refuses to take an oath or affirmation before the Tribunal, or being a public officer, refuses to produce any article or document when lawfully required to do so by the Tribunal,
- (c) knowingly gives evidence or information before the Tribunal which the persons knows to be misleading, or
- (d) at any sitting of the Tribunal—
 - (i) wilfully insults any member or officer of the Tribunal, or
 - (ii) wilfully interrupts the proceedings or commits any other act of contempt of the Tribunal,
- (e) fails or neglects to comply with a decision, order, direction or notice confirmed by the Tribunal, commits an offence and shall be liable to such penalty as is applicable to contempt of court offences under the Civil Procedure Act, 2010 and Rules made thereunder, subject to the Tribunal's discretion

Quorum for the Tribunal

- 24** (1) The quorum for the hearing and determination of a cause or matter referred to the Tribunal shall be the Chairperson and two other members
- (2) Where, for any reason, the quorum under subsection (1) is not met for part of the hearing, the jurisdiction of the Tribunal may be exercised by the Chairperson, sitting with less members

(3) The Chairperson shall preside at the meetings of the Tribunal and in the absence of the Chairperson, a member elected by members present and voting

Disclosure of interest

25 (1) A member of the Tribunal who has an interest in the matter for consideration by the Tribunal shall disclose, in writing, the nature of that interest and shall not participate in the deliberations of the Tribunal in respect of that matter

(2) A member who fails to disclose interest in matter in accordance with subsection (1) shall cease to be a member of the Tribunal

Appeals to the High court

26 (1) A person aggrieved by a decision or order of the Tribunal may, within thirty days of that decision or order, appeal against the decision or the order to the High Court

(2) Upon the hearing of an appeal under this section, the High Court may —

- (a) confirm, set aside or vary the decision,
- (b) remit the proceedings to the Tribunal with instructions for further consideration, report, proceedings or evidence as the court may consider fit to give,
- (c) exercise any of the powers which could have been exercised by the Tribunal in the proceedings in connection with which the appeal is brought, or
- (d) exercise any of the powers which could have been exercised by the Tribunal in the proceedings in connection with which the appeal is brought

PART VI—TOURISM LICENSING

Licensing Standards

27 (1) A person shall not undertake any of the tourism activities and services specified in the Schedule, unless that person has a licence issued by the relevant County Department

(2) The department shall have the responsibility for setting standards and requirements for licensing of tourism and tourism related activities within the County

Registers

28 (1) The Department shall keep and maintain registers of—

- (a) all standards for the tourism area development plans formulated by the Executive Committee Member under the provisions of this Act,
 - (b) all licences and permits issued under this Act,
 - (c) tourism facilities, activities and services licensed under this Act,
 - (d) all public and private sector institutions or associations involved in tourism or tourism-related activities and services,
 - (e) all authorized expatriates, in consultation with the ministry for the time being responsible for matters relating to Immigration, working in the tourism and hospitality sector within the country, and
 - (f) all institutions offering tourism and hospitality training
- (2) All registers kept and maintained under this section shall be open for inspection by members of the public during official working hours, at the Department's offices or an office designated by the Department, on the payment of a prescribed fee

PART VII—RESEARCH PERMIT, DATA RECORDS AND MONITORING

Research permit

29 (1) A person shall not undertake research on the county tourism sector unless that person has a research permit granted by the Product Development and Financing Department to carry out the research

(2) The CEC shall develop Regulations for the conduct of Research

Access to public records etc

30 (1) The Department shall, on request, have access to the public records or documents of a lead agency in custody of a person or an establishment where, in his opinion, the information sought is for the purposes of obtaining the required county tourism data or completion or correction of the information already obtained

(2) A person who does not grant the Department access to the records or documents in accordance with subsection (1) commits an offence and shall be liable upon conviction to a fine of one hundred thousand or to imprisonment for a term not exceeding six months or to both

Access to data by person

31 (1) Subject to subsection (3), a person may, upon application, access any county tourism data or information upon payment of the prescribed fee

(2) The Department shall avail the data or information under subsection (1) in the format requested unless—

- (a) it is reasonable for it to make the information available in another format, or
- (b) the information is already publicly available and easily accessible to the applicant in another format

(3) The Department may refuse to grant an application under subsection (1) where the data or information requested is classified and restricted

(4) The Department shall communicate to the applicant, in writing, the reasons for refusal within twenty-one days from the date of the making the decision

(5) The Executive Committee Member may, on his own motion or on recommendation of the Department, prescribe regulations to effectively carry out of the provisions of this section

Monitoring mechanisms

32 (1) The Executive Committee Member may, on his own motion or on recommendation of the Department, develop monitoring mechanisms and set indicators to determine—

- (a) sound management of county tourism products and services, and
- (b) trends affecting county's tourism sector,

(2) The Executive Committee Member shall require any person collecting data or information that is relevant to the county tourism sector to regularly report to the Executive Committee Member on the results of the monitoring mechanisms against the predetermined indicators

(3) The Executive Committee Member shall, at least once every five years submit to the County Assembly a monitoring report and avail the monitoring report to the public

PART VIII — OFFENCES, PENALTIES AND ENFORCEMENT

Prohibition and offences relating to integrated tourism development area plan

33 (1) A person shall not fraudulently alter—

- (a) an approved integrated county tourism development area plan required to be developed, or
- (b) an approved integrated county tourism development area plan under this Act

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding twenty-four months, or to both

General prohibition and offences

34 (1) A person shall not—

- (a) breach or fail to comply with the provisions of this Act,
- (b) breach or fail to comply with any of, the terms or conditions of a licence issued to him or her under this Act,
- (c) fail to comply with a lawful requirement or demand made or given by an authorized officer,
- (d) obstruct a person in the execution of his powers or duties under this Act,
- (e) knowingly or recklessly make a statement or representation which is false,
- (f) knowingly or recklessly furnish a document or information required under this Act which is false, or
- (g) knowingly or recklessly use or furnish a fake or forged or invalid licence or a licence that has been altered without authorization,
- (h) be found in possession of a specially protected species or carcass or derivative thereof by a nature conservator or a police officer and is unable to give a satisfactory account of such possession,
- (i) permit or allows any other person to do anything which is an offence in terms of this Act

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings (KSh 200,000) or to imprisonment for a term not exceeding eighteen months, or to both

Offences relating to corporate body

35 Where an offence under this Act is committed by a body corporate or any other association of individuals, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—

- (a) the act or omission constituting the offence took place without his knowledge, or

- (b) he or she took reasonable steps to prevent the commission of the offence

General penalty

36 A person who commits an offence under this Act for which no specific penalty is provided is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both

Authorized officer

37 (1) The Executive Committee Member may, in writing, appoint any person to be an authorized officer for the purposes of the carrying out of the provisions of this Act

(2) Despite subsection (1), any other person upon whom any written law vests functions of maintenance of law and order shall be an authorized officer

Prosecutorial powers

(Cap 75)

38 An authorized officer may, with the leave of the Director of Public Prosecutions given under the Criminal Procedure Code conduct prosecution for an offence committed under this Act

Restraint of breaches of this Act

39 Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for—

- (a) a declaration that the provisions of this Act are being, have been, are about to be contravened,
- (b) an injunction restraining any specified person from carrying out the contravention,
- (c) the writ of *mandamus* against an officer or a person who has failed to perform a duty imposed by or under this Act, or
- (d) any remedy at law or equity for preventing or enforcing the provisions of this Act

Supercession

40 Where any conflict arises between the provisions of this Act and any other county legislation with respect to the development, management, marketing or regulation of tourism in the county, the provisions of this Act shall prevail

Regulations

41 (1) The Executive Committee Member may, on his or her own motion or on the recommendation of the respective tourism Departments or that of the Service, make regulations prescribing all matters which by this Act are required to be prescribed or which are necessary for the better carrying out of, or giving effect to, the provisions of this Act

(2) Without prejudice to the generality of subsection (1), Regulations under subsection (1) may provide for—

- (a) the conditions which a licence or permit may be granted or issued under this Act,
- (b) the procedures to be followed when applying for a licence or permit,
- (c) the criteria for standardization and classification of county tourism facilities and services,
- (d) the classification of tourism activities and services,
- (e) fees and other charges required to be paid under the Act,
- (f) the restriction, regulation or other control of county tourism activities and services,
- (g) the training of personnel for the tourism agencies and the county tourism and hospitality sector in general, and
- (h) the Code of Practice for the local tourism and hospitality sector

(3) Regulations made under this section may require acts or things to be performed or done to the satisfaction of the Executive Committee Member, and may empower the respective tourism Department established under this Act to issue orders imposing conditions and dates upon, within or before which the acts or things shall be performed or done

FIRST SCHEDULE
PROVISIONS RELATING TO REGULATED TOURISM
ACTIVITIES AND SERVICES

(a) Class “A” Enterprises —

- (i) Hotels,
- (ii) Members clubs,
- (iii) Motels,
- (iv) Inns,
- (v) Hostels,
- (vi) Health and spa resorts,
- (vii) Retreat lodges,
- (viii) Ecolodges,
- (ix) Service apartments,
- (x) Beach cottages,
- (xi) Holiday cottages,
- (xii) Game lodges,
- (xiii) Tented camps,
- (xiv) Safari or mobile camps,
- (xv) Bandas,
- (xvi) Cultural homes and centres,
- (xvii) Villas,
- (xviii) Homestays,
- (xix) Guest houses, and
- (xx) Time shares

(b) Class “B” Enterprises —

- (i) Restaurants, and
- (ii) Other food and beverage services

(c) Class “C” Enterprises —

- (i) Tour or safari operators,
 - (ii) Tourist service vehicle hire,
 - (iii) Local air charter,
 - (iv) Travel agency,
 - (v) Balloon operators, and
 - (vi) Boat excursions,
- (d) Class “D” Enterprises—
- (i) Game fishing outfitters,
 - (ii) Enterprises offering camps and camping equipment for hire,
 - (iii) Nature parks,
 - (iv) Nature reserves,
 - (v) Nature trails,
 - (vi) Game ranches,
 - (vii) Amusement parks,
- (e) Class “E” Enterprises—
- (i) Local traditional boat operators,
 - (ii) Professional safari photographers,
 - (iii) Curio vendors,
 - (iv) Private zoos,
 - (v) Citizen tour leaders or guides, and
 - (vi) General vendors

MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill seeks to implement section 7 (d) of Part 2 of the Fourth Schedule to the Constitution on promotion of local tourism

Secondly, this Bill seeks to provide for a legal framework for promoting development of tourism in the local development and it specifically details the role of the county in promoting development and growth of tourism development in the sector, facilitating and promoting local and external investment in tourism sector, promoting local tourism and promoting community and private sector participation in tourism development

Thirdly, this Bill seeks to emphasize sustainable tourism as both the goal of Isiolo County tourism development and the guidance by which we develop tourism products. It obligates the Department responsible for tourism to provide technical support and advisory services to tourism service providers, carrying out regular investment climate in tourism sector and providing sectoral linkages among private sector players within and outside the county

Fourthly, it also calls for the development of tourism master plan, which would provide for investment strategy in for promoting development of tourism sector and specific strategies for facilitating investment in the tourism sector

The Bill also provides for registration of tourism service providers, establishment of tourism information dissemination mechanisms, tourism mapping and branding, establishment of tourism circuits and linking them with the regional tourism circuit and promotion of standardization and classification of hotels operating within the county

Lastly, the Bill provides for the powers of the Executive Member to make Regulations for better implementation of the Act

ISSACK ABDUBA FAYO,
Leader of Majority