

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**MARSABIT COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2015**

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**NAIROBI, 11th June, 2015**

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**CONTENT**

Bill for Introduction into the County Assembly of Marsabit —

PAGE

The Marsabit County Tourism Bill, 2015 .....57

**THE MARSABIT COUNTY TOURISM BILL, 2015**  
**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objects of the Bill.

**PART II—ESTABLISHMENT OF TOURISM ADMINISTRATIVE  
UNITS**

- 4—Establishment of Tourism Regulatory and Licensing Unit.
- 5—Functions of the Unit.
- 6—Formulation of County Tourism Strategy.

**PART III—TOURISM AREAS**

- 7—Designating areas.
- 8—Tourist enterprises.

**PART IV—TOURISM LICENSING**

- 9—Requirement for licence.
- 10—Transfer of licence.
- 11—Suspension of licence.
- 12—Cancellation of licence.
- 13—Appeals on grant of licences.

**PART VI—GENERAL PROVISIONS**

- 14—Miss Tourism.
- 15—Public participation.
- 16—Regulations.
- 17—Application of the Tourism Act No. 28 of 2011.

**PART V – OFFENCES AND PENALTIES**

- 18—Offence on licenses.
- 19—General offences.

**SCHEDULE**

**THE MARSABIT COUNTY TOURISM BILL, 2015****A Bill for**

**AN ACT of County Assembly of Marsabit to provide for development, management, marketing and regulation of sustainable tourism and for connected purposes**

**ENACTED** by the County Assembly of Marsabit, as follows—

**PART I—PRELIMINARY****Short title and Commencement**

1. This Act may be cited as the Marsabit County Tourism Act, 2015 and shall come into operation upon expiry of fourteen days from the date of publication.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“Executive Committee Member” means the County Executive Member for the time being responsible for matters relating to tourism;

“Tourism Area” means an area designated as a Tourism Area under section 6;

“Responsible Tourism” includes tourism which—

- (a) seeks to avoid negative economic, environmental and social impacts;
- (b) generates greater economic benefits for local people and enhances the well-being of host communities;
- (c) involves local people in decisions that affect their lives;
- (d) provides enjoyable experiences for tourists through meaningful connections with local people and a greater understanding of local cultural, social and environmental issues;
- (e) provides access for physically challenged people; and
- (f) is culturally sensitive, engenders respect between tourists and hosts, and builds local pride and confidence.

**Objects of the Act**

3. The object of this Act is 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; and
- (e) Provide for the effective domestic, national and international marketing of the County as a tourist destination of choice.

## **PART II—ESTABLISHMENT OF TOURISM ADMINISTRATIVE UNITS**

### **Establishment of Tourism Regulatory and Licensing Unit**

4. (1) There is established a unit to be known as the Tourism Administrative and Licensing Unit which is an entity within the department of tourism headed by the director for the time being responsible for matters relating to tourism and shall discharge its functions under this Act.

### **Functions of the Unit**

- (2) The functions of the Unit shall be to—
  - (a) market the County as a desirable tourist destination;
  - (b) license all tourism activities in the County;
  - (c) encourage activities and programs promoting tourism awareness;
  - (d) preserve the County's diverse cultures and heritage and instill a sense of history and a culture of tourism among the populace;
  - (e) ensure tourism development protects and promotes the general well-being of the people in the County;
  - (f) enhance the practice of responsible tourism;
  - (g) ensure community participation in tourism programs, including enlisting of local communities in conserving bio-physical and cultural diversity;
  - (h) encourage and facilitate the principle of sustainable development in the tourism industry in the County;
  - (i) advise the County executive member on matters relating to tourism in the County;

- (j) develop and implement, in consultation with relevant stakeholders, a criteria for classification of tourism facilities and services in the County and
- (k) Perform any other connected purposes given by the Executive Member or any other written law.

### **Formulation of County Tourism Strategy**

5. (1) The Executive Committee Member shall, subject to subsection (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 country.

(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, take into account 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 First Schedule.

### **PART III—TOURISM AREAS**

#### **Designating Tourism Areas**

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

(2) An area contemplated for designation in section 6(1) is considered if the area has—

- (a) historical 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.

(3) The Tourism Administrative Unit shall make regulations on access and tourism activities in the designated areas.

## **Tourism Enterprises**

7. (1) The Administrative and Licensing Unit may classify tourist enterprises in accordance with specification prescribed in relation in the First Schedule to the Act.

(2) A license to carry any of the categories of tourist enterprise shall not entitle the holder thereof to carry any other category.

## **PART IV—TOURISM LICENSING**

### **Requirement for Licence**

8. Any person wishing to carry on a tourist enterprise shall apply for a licence to the Administrative and Licensing Unit in Form specified in the regulations.

(2) A person seeking a licence or any variation of a licence held by him shall apply to the Unit in such manner and form as may be prescribed under this Bill.

(3) In granting the licence, the Administrative and Licensing Unit shall be mindful of the interests of tourism industry as a whole and applicant's ability to provide and maintain service applied for.

(4) The licence shall be—

(a) granted on payment of such fee as may be prescribed by the Administrative and Licensing Unit;

(b) issued for such period as may be prescribed in the regulations; and

(c) renewed with same or adjusted terms upon payment of the prescribed fees.

(5) Where the application for renewal specified in paragraph (c) is made in good time, the enterprise may continue to operate until the license is renewed or otherwise as the case may be.

### **Application for Amendment of Licence**

9. (1) An application for amendment of a licence issued, or for its transfer from a business entity to another shall be dealt with in the same manner as application for original application for a licence.

(2) A notice on the licence amendment or transfer shall be published in the *County Gazette*.

### **Transfer of Licence**

10. (1) A licence issued under this Act may be transferred by the holder to another person only in respect of the tourism activity or service in relation to which that licence was issued.

(2) Where a licence is transferred under this section, the person to whom it is transferred and the person transferring it shall jointly notify the unit in writing of the transfer within thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with subsection (2), the licence shall be deemed not to have been transferred.

(4) A transfer of a licence under this section shall take effect on the date the Authority is notified of that transfer.

(5) A person who contravenes the provisions of this section commits an offence.

### **Suspension of Licence**

11. The Unit may, subject to section 12, suspend a licence issued under this Act where—

- (a) a licensee is being investigated in relation to an offence under this Bill;
- (b) an allegation of misconduct has been made against a licensee;
- (c) the licensee made a false declaration in the application for the licence; or
- (d) a licensee has contravened a provision of this Bill.

### **Cancellation of Licence Issued**

12. The Administrative and Licensing Unit may cancel issued under this part, where the enterprise, or the owner or person in charge thereof is convicted of an offence under this Bill and regulations made, or of any other offence involving dishonesty in connection with the operation of the tourism enterprise

### **Appeals on Grant of Licences**

13. (1) Any person aggrieved by any decision of the Administrative and Licensing Unit in matter relating to issue, renew, amendment or



cancellation of a license may make appeal to the County Executive Committee Member within 30 days of the decision appealed against.

(2) Upon receipt of an appeal under subsection (1), the County Executive Committee Member shall cause such investigation into the matter and may, during such investigation, permit the enterprise to operate or continue to operate, subject to conditions which may be imposed.

(3) After such investigation, the County Executive Committee Member may uphold, reverse, amend it or make such other decision as considered proper in the circumstances.

(4) Where subject to appeal there is decision of cancellation of a license, the County Executive Committee member may permit the enterprise a period of up to six months to wind up the enterprise.

## **PART V—OFFENCES AND PENALTIES**

### **Offence on Licenses**

**14.** (1) No person shall carry out any tourist enterprise other than in accordance with terms and conditions of a license issued.

(2) For the purpose of subsection (1), the carrying of a tourist enterprise includes negotiating, soliciting, canvassing or accepting business for the enterprise and engaging in correspondence with a person who may become a customer of the enterprise, or with an agent of such person, concerning the business of that enterprise.

(3) Any person who contravenes the provisions of this Section shall be guilty of an offence and liable to a fine of two hundred thousand shillings or to imprisonment for a term not exceeding 6 months or both on conviction.

### **General Offences and Penalty**

**15.** Any person who—

- (a) knowingly publishes, or causes to be published, any false or misleading information in connection with or in respect of any tourist enterprise;
- (b) fraudulently gives false information to the administrative and licensing unit for the purpose of obtaining a license which would otherwise not be entitled;

- (c) hinders or obstructs an officer of the administrative and licensing unit authorized, or refuses without sufficient reason to the officer in the performance of duties, under this Act;
- (d) contravenes or fails to comply with any provision of this Act or any regulations made there under, with which it is his duty to comply, and for which a penalty has not been provided for elsewhere in the Act shall be guilty of an offence and shall be liable to a fine of not exceeding two hundred thousand shillings or to imprisonment for a period of up to six months or both.

## **PART VI—MISCELLANEOUS PROVISIONS**

### **Miss Tourism**

16. (1) There may be organized an annual Miss Tourism contest in the County.

(2) The holder of Miss Tourism post would be entitled to an honoraria and other benefits as the Administrative and Licensing Unit may determine.

### **Public Participation**

17. In making decisions under the Act, there should be sustained efforts in incorporating the views of the people.

### **Regulations**

18. The County Executive Member shall make regulations within six months of commencement date to establish tourism area and other matters required by the Act.

### **Act No. 28 of 2011**

19. The provisions of national legislation Tourism Act shall be applicable in the County with necessary modifications as to conform with this Act.

**FIRST SCHEDULE**  
**TOURIST ENTERPRISE**

*(Section 7)*

**Categories of Tourism Enterprises**

1. Operations that offer facilities only on site, such as hotels, motels, guest houses and apartments.
2. Operations that offer facilities on and off site, such as tourist camps, lodges, caravans, and tented tourist camps, which also operate tours which require the services of professional guides.
3. Operations that offer facilities off site only, such as safari or tour operators and any enterprise that receives and transports travellers and guests, providing them with sleeping accommodation and food and beverages in equipment that is not geographically fixed.
4. Operations that Act as agents only, such as travel agents.

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## **MEMORANDUM OF OBJECTS AND REASONS**

The object of this Bill is to provide for the regulation of sustainable tourism and tourism-related activities.

**Part I** of the Bill contains preliminary provisions, interpretations and the objects of the Act.

**Part II** provides for the Administration of the tourism sector at the County level. It thus establishes the Directorate of Tourism to specifically deal with tourism matters.

**Part III** provides for the establishment of Tourism Areas and empowers the County Executive Member to designate such areas.

**Part IV** has provisions on grant of licenses and appeals in case on disgruntled parties.

**Part V** contains miscellaneous provisions including miss tourism holder, public participation and application of the Tourism Act.

The enactment of the Bill, Share occasion additional expenditure of public funds, which shall be provided for in the estimates.

Dated 27th May, 2015.

**SULEIMAN KHALIF,**  
*Majority Leader, County Assembly of Marsabit.*