

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**KWALE COUNTY ACTS, 2020**

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**NAIROBI, 14th August, 2020**

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# THE KWALE COUNTY ENTERTAINMENT TAX ACT, 2020

No. 10 of 2020

*Date of Assent: 7th August, 2020*

*Date of Commencement: See Section 1*

## ARRANGEMENT OF SECTIONS

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## THE KWALE COUNTY ENTERTAINMENT TAX ACT, 2020

**AN ACT of the County Assembly of Kwale to make provision for the imposition and recovery of a tax in respect of entertainments, and for matters incidental thereto and connected therewith**

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

### PART I—PRELIMINARIES

#### Short title

1. This Act may be cited as the Kwale County Entertainment Tax Act, 2020 and shall come into operation upon enactment by the County Assembly of Kwale and publication in the *Kenya Gazette*.

#### Interpretation

2. In this Act, except where the context otherwise requires—

“admission” means admission as a spectator or one of an audience and includes an admission to a ball or dance;

“admission to an entertainment” includes admission to a place in which the entertainment is held;

“sports” includes all forms of physical or mental activity which, through casual or organized participation, or through training activities, aims at expressing or improving physical and mental well-being, forming social relationships or obtaining results in competition at all levels, and includes any other activity as the Executive Committee Member may determine;

“collector” means Receiver of Revenue or any person appointed in writing by Receiver of Revenue to be a collector for the purposes of this Act;

“County Executive Member” means the County Executive member of Finance;

“County Parks” means any piece of land registered by the County government and maintained by it for use of recreational and leisure;

“entertainment” includes any betting, casinos, other forms of gambling, racing, cinemas, audio visual recording, video shows and hiring, entertainment, county parks, beaches, recreational facilities, exhibition, performance, paid accommodation, competitive sports, recreational sports, water related entertainment, amusement and facilities that provide the stated here to which persons are admitted for payment, but does not include the following—



- (a) stage plays and performances which are conducted by educational institutions approved by the Cabinet Secretary for the time being responsible for Education as part of learning; or
- (b) sports, games or cultural performances conducted under the auspices of the Ministry of Sports, Culture and the Arts;

“payment for admission” includes any payment by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving tax or more tax is required;

“Paid Accommodation” includes villas and guest-houses, camping sites, holiday-homes, on-line sourced bed and breakfast facilities, hotels, home-stays

“Proprietor” in relation to an entertainment includes a person responsible for the management thereof and a person on whose behalf payments for admission to an entertainment are received.

“Recreational facilities” a public facility used for recreation. To include, parks, sports fields, swimming pools, theater, halls, beach, water fronts, playgrounds, cinema halls, designated streets/roads/avenues.

## **PART II—TAXES AND METHODS OF PAYMENT**

### **Tax on admission to entertainments**

3. (1) Except as otherwise provided in this Act, there shall be charged, levied and paid to an entertainment, a tax (in this Act referred to as entertainments tax) at the rate of ten *percent* on gross sales.

(2) Notwithstanding subsection (1) above, entertainment tax with respect to paid accommodation shall be a fixed rate of fifty Kenya shillings per person per day for their period of stay.

### **Method of payment of tax**

4. (1) The proprietor of the entertainment shall make arrangements as approved by the collector to furnishing returns of the payments for admission to the entertainment in a manner approved by the collector for the payment of entertainments tax.

(2) All payment shall be made by the 10<sup>th</sup> day following the end of every month.

(3) All payment on one-day entertainment shall be made within twenty-four hours after the event.

### PART III—PENALITIES

#### Penalty for admission of person without payment of tax

5. If a person is admitted for payment to a place of entertainment and section 4 is not complied with, the proprietor of the entertainment to which he is admitted shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or both, and shall, in addition, be liable to pay any entertainments tax which should have been paid.

#### Power of entry and inspection

6. (1) An enforcement officer, a collector and police officer in writing for the purpose by a collector may enter any place of entertainment while an entertainment is proceeding, and may enter a place ordinarily used as a place of entertainment at any reasonable time, for the purpose of ascertaining whether or not the provisions of this Act and of any regulations made under this Act are being complied with.

(2) A person who prevents or obstructs the entry of a enforcement officer or other person duly authorized shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

### PART IV—EXEMPTIONS

#### Exemption of certain entertainments

7. (1) Entertainments tax shall not be charged on entertainment in respect of which the County Executive member of finance is satisfied, on application made to him in writing before the date of the entertainment—

- (a) that the net proceeds thereof will be applied to public purposes of a charitable, philanthropic, educational, medical, scientific or cultural nature; or
- (b) that the entertainment is organized by a society which is not established or conducted for profit, and that the objects of the society are of a charitable, philanthropic, educational, medical, scientific or cultural nature, and that the entertainment is in furtherance of those objects.

(2) For the purposes of subsection (1)(a), “net proceeds” means either the gross proceeds less the expenses of promoting the entertainment, or one-half of the gross proceeds, whichever is the greater.

(3) Every exemption under this section shall be certified in writing by the County Executive Member.



(4) In granting a certificate under this section, the County Executive member may impose such conditions, to be specified in the certificate, as he may think proper, and a breach of any such condition shall render the certificate void.

#### **Power to waive tax**

8. The County Executive member may waive the payment of entertainments tax to which section 9 is not applicable.

### **PART V— FINANCIAL PROVISIONS**

#### **Tax chargeable in respect of each person**

9. Entertainment tax shall be charged in respect of each person admitted and shall be calculated and paid on the number of admissions or per the first schedule.

#### **Recovery of tax**

10. Where the payment for admission is made by means of a lump sum paid as a subscription or contribution to a club, association or society, or is for a season ticket or for the right of admission to a series of entertainments or to an entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum:

Provided that, where a collector is satisfied that the payment of a lump sum or a payment for a ticket represents payment for privileges, rights or purposes other than the admission to the entertainment, entertainments tax shall be charged on such an amount as appears to a collector to represent the right of admission to entertainments in respect of which entertainments tax is payable.

#### **Tax to be revenue of Kwale County Government**

11. All entertainments tax collected or levied under this Act shall be revenue of Kwale County Government.

### **PART VI— MISCELLANEOUS PROVISIONS**

#### **Application of the Act**

12. This act will apply in respect to all forms of entertainment in Kwale County and in case of a conflict between this law and other law as related to matters of entertainment this Act shall prevail.

#### **Regulations**

13. (1) The County Executive member may make regulations generally for carrying into effect the provisions of this Act.

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(2) Regulations made under subsection (1) may, without prejudice to the generality of the powers thereby conferred, provide for—

- (a) securing the payment of entertainments tax;
- (b) the calculation of the entertainments tax thereon;
- (c) the payment of entertainments tax on the transfer from one part of a place of entertainment to another.

**FIRST SCHEDULE**  
**ENTERTAINMENT TAXES SCHEDULE**

| S/No. | Description   | Unit of measure      | Rate        |
|-------|---|----------------------|-------------|
| 1.    | Live bands/performance/show without entry fee for admission                           |                      |             |
|       | Local   | Per occasion         | Ksh. 2,000  |
|       | Foreign (International)   | Per occasion         | Ksh. 25,000 |
| 2.    | Disco without entry fee for admission   | Per occasion         | Ksh. 1,500  |
| 3.    | Live bands/performance/show with entry fee at open areas                              | Gross sales/returns  | 5%          |
| 4.    | Live bands/discos/performance/shows/parks with entry fees at designated entertainment | Gross sales/returns  | 10%         |
| 5.    | Entertainment tax on admission to a paid accommodation                                | Per person per night | Ksh. 50     |
| 6.    | Recreational facilities with entry fee  | Gross sales/returns  | 8%          |
| 7.    | Filming/ Audio visual shooting:   |                      |             |
|       | Commercial (from within county)   | Per shooting         | Ksh. 10,000 |
|       | Commercial(from other areas)  | Per shooting         | Ksh 100,000 |
|       | Religious   | Per shooting         | Ksh. 10,000 |
|       | Private   | Per Shooting         | Ksh. 10,000 |