

LEGAL NOTICE.....

THE FILMS AND STAGE PLAYS ACT
(Cap. 222)

THE FILMS AND STAGE PLAYS (SELF-CLASSIFICATION) REGULATIONS,
2023

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THE FILMS AND STAGE PLAYS ACT
(Cap. 222)

**THE FILMS AND STAGE PLAYS (SELF-CLASSIFICATION) REGULATIONS,
2023**

IN EXERCISE of the powers conferred by section 35 (1) of the Films and Stage Plays Act, the Cabinet Secretary makes the following Regulations—

THE FILMS AND STAGE PLAYS (SELF-CLASSIFICATION) REGULATIONS, 2023

Citation. **1.** These Regulations may be cited as the Films and Stage Plays (Self-Classification) Regulations, 2023.

Interpretation. **2.** In these Regulations, unless the context otherwise requires—

“advertisement film” means a film that is made, distributed or exhibited for the purpose of the promotion of a good or service or any other similar or related matter;

“applicable entity” means a broadcaster, distributor or exhibitor of films to which these Regulations apply;

“Consumer Advisory Index” means an index of film classification ratings prescribed by the Board under the Act including abbreviations and related age classifications that are applicable to films;

“music video” means a film of variable length, that integrates a music song or music album with imagery that is produced for promotional or musical artistic purposes;

“local content” shall have the meaning assigned to it under the Kenya Information and Communications (Broadcasting) Regulations;

“over-the-top service” means a distribution or exhibition service used to offer films directly to viewers through the Internet which bypasses broadcast platforms; and

“video-on-demand service” means a distribution or exhibition service

that allows a person to access a film library through the use of technology without the use of a traditional video playback device or through a broadcasting schedule.

Objective of the Regulations.

3. The objective of these Regulations is to prescribe the procedure for the identification and co-option of distributors and exhibitors of films to examine and classify films on behalf of the Board in accordance with the Act and the film classification guidelines prescribed thereunder.

Scope of the Regulations.

4. (1) These Regulations shall apply to broadcasters and providers of video-on-demand and over-the-top services that are accessible in Kenya.

(2) The Board shall be responsible for the classification and rating of advertisement films, music videos and any other classes of film that are distributed or exhibited in Kenya.

Board to issue self-classification certificates.

5. The Board may issue a certificate to an applicable entity to examine and classify films on behalf of the Board on the application of a qualified applicable entity and in the prescribed form.

Application for self-classification certificate.

6. (1) An applicable entity may apply to the Board for a self-classification certificate if that applicable entity broadcasts or offers video-on-demand services or over-the-top services through which films may be distributed, viewed or exhibited in Kenya.

(2) An application under sub-regulation (1) shall be accompanied by the prescribed fee and—

- (a) A description of the classification rating mechanism used by the applicable entity;
- (b) in the case of a provider of a video-on-demand service or an over-the-top service, a description of the process or mechanism for the removal of a film from the film library offered through that service when directed to do so by the Board; and
- (c) a catalogue of the films in the library in the case of video on demand and over the top services and a program schedule in the case of broadcasters.

Self-classification certificate.

7. (1) The Board shall issue an applicable entity with a self-classification certificate if the applicable entity has complied with the requirements of regulation 6.

(2) A self-classification certificate shall be valid for a period of one year from the date that it is issued by the Board.

(3) A self-classification certificate shall specify—

(a) the particulars of the registered entity including their name and address in Kenya;

(b) the date the certificate was issued;

(c) validity period of the certificate;

(d) the nature of the business of, or the service provided by, the applicable entity; and

(e) the conditions, if any, imposed by the Board on the applicable entity.

Applicable entity to grant Board access to film library.

8. (1) An applicable entity that has been granted a self-classification certificate under these Regulations shall, in the case of a distributor or exhibitor of films through video-on-demand or over-the-top services, grant the Board access to the film library of the applicable entity.

(2) The access granted under sub-regulation (1) shall be for purposes of monitoring compliance.

Validity of Rating and Re-classification

9. (1) The rating assigned to a particular title by an applicable entity shall be valid for the same duration as that of the self-classification certificate.

(2) Upon expiry of the validity period, the applicable entity shall, where a film that was classified during the validity period is still in the catalogue,

re-classify the film and assign to it the appropriate classification rating.

Withdrawal or re-classification of a film.

10. (1) Where the Board determines that a film whose classification rating was applied under these Regulations should not have been granted a classification rating at all or should have been granted a different classification rating, the Board may—

- (a) in the case of a broadcaster, direct the applicable entity not to broadcast or distribute the film in Kenya if the film should not be broadcast or distributed in Kenya;
- (b) in the case of a provider of a video-on-demand service or an over-the-top service, direct the applicable entity to remove the film from the video library if the film should not be viewed or exhibited in Kenya; or
- (c) in case the film was granted a wrong classification rating, direct the applicable entity to display the correct classification rating in respect of that film.

(2) A direction by the Board under sub-regulation (1) shall be in writing and shall specify the reason(s) for withdrawal or re-classification of the film and the period within which and the manner that the applicable entity shall comply with that direction.

Applicable entity to display film rating.

11. (1) An applicable entity shall, during the exhibition of a film, display in a clearly visible and legible manner, the appropriate rating information on each film examined and classified by the entity.

(2) The rating information displayed under sub-regulation (1) shall specify the classifiable elements found in that film in the manner set out in the Consumer Advisory Index.

Complaints handling mechanism.

12. (1) Complaints arising from self-classification processes or decisions by an applicable entity shall be resolved in accordance with the provisions of this Regulation and the Third Schedule.

(2) The applicable entity may resolve a complaint by a viewer or subscriber by—

- (a) reclassifying the film with a new classification rating;
- (b) preventing the broadcasting of the film;
- (c) withdrawing the film from distribution; or
- (d) removing the film from the video-on-demand or over-the-top service.

(3) The applicable entity shall resolve a complaint within seven days after receiving the complaint.

(4) A complainant who is dissatisfied with the manner in which a complaint has been resolved by the applicable entity, may, within seven days after the expiry of the period specified under sub-regulation (3), notify the Board, in writing, of the complaint and the unsatisfactory way that the complaint was resolved.

(5) The Board shall, within seven days after receiving a notification under sub-regulation (4), consider the information provided in the application and—

- (a) re-classify the film and direct, in writing, the applicable entity to apply the new classification rating to the film; or
- (b) direct the applicable entity to prevent any further broadcast, distribution or exhibition of the film, as the case may be.

(6) The applicable entity shall, within three days of being directed by the Board under sub-regulation (5)(b)—

- (a) re-classify the film as directed by the Board;
- (b) prevent any further broadcast, distribution or exhibition of the film, as the case may be, as directed by the Board; or

(c) appeal, in writing, against the directive of the Board to the Cabinet Secretary.

(7) An appeal made under Section 29 of the Act by any applicable entity aggrieved by the direction of the Board shall be made to the Cabinet Secretary within twenty-one days or as soon as is practicable.

(8) The Cabinet Secretary shall hear and determine the appeal by the applicable entity after receiving the appeal and in this respect—

(a) require the Board or the applicable entity to provide such information as may be necessary to determine the appeal;

(b) appoint such persons with the necessary expertise or technical knowhow to conduct such enquiries and make such recommendations as may assist the Cabinet Secretary in the determination of the appeal; and

(c) afford the Board or the applicable entity audience to make such representations as they think fit.

(9) The Cabinet Secretary may, in the determination of the appeal—

(a) uphold the directions of the Board;

(b) revoke the directions of the Board and substitute them with new directions that are appropriate in the circumstances; or

(c) revise the directions of the Board as may be appropriate in the circumstances.

(10) The decision of the Cabinet Secretary under sub-regulation (9) shall be in writing and shall set out the reasons for the decision.

(11) A person who is dissatisfied with the determination of the Cabinet Secretary may appeal to the High Court within thirty days after being notified

of that determination.

Board to
conduct
reviews.

13. (1) Notwithstanding anything contained in these Regulations, the Board may subject a film distributed or exhibited by an applicable entity to a review to determine whether or not the classification rating applied to that film by the applicable entity is the correct one.

(2) Where the Board determines that the applicable entity applied the wrong classification rating to the film, the Board shall re-classify the film and—

(a) direct the applicable entity in writing to apply the new classification rating; or

(b) direct the applicable entity to prevent any further broadcast, distribution or exhibition of the film, as the case may be

(3) The provisions of regulation 12 (3), (4), (5), and (6) shall apply, with necessary modification, to a direction by the Board under sub-regulation (2).

Non-
transferability
of classification
rating.

14. A classification rating that has been assigned to a film by an applicable entity shall not be transferable to another applicable entity.

Annual report
by applicable
entities.

15. (1) Each applicable entity that has been granted a self-classification certificate under these Regulations shall, on the date of the expiry of the certificate, submit a list of the films classified by the applicable entity and exhibited or distributed in Kenya during the duration of the certificate.

(2) The list submitted under sub-regulation (1) shall specify the name of each film, classification rating assigned to that film, the classifiable elements in respect of each classified film and such other additional information as the Board may, in writing, require.

Offences and
penalties.

16. Any person who contravenes the provisions of these Regulations commits an offence and shall be liable, if convicted, to the penalties specified in section 32 or 34 of the Act, as the case may be.

FIRST SCHEDULE
[Regulation 6 (2)]

1. Fee Schedule for Video on Demand and Over the Top Services

BAND	Title*	Fee Per Title	
		Local	Foreign
A.	Below 1,000 titles	1,020	1,457
B.	1,001 to 5,000 titles	784	1,120
C.	5,001 to 10,000 titles	603	862
D.	10,001 to 20,000	464	663
E.	20,001 to 30,000	357	510
F.	For every 1,000 above 30,000		100

* *Title Includes: A Season of a Series, Feature Film, Documentary, Short Film*

2. Fee Schedule for Broadcasters

Band	No. of Programmes*	Fee per programme	
		Local	Foreign
A.	1-500	277	395
B.	501- 2,500	213	304
C.	2,501- 5,000	164	234
D.	5,001 - 10,000	126	180
E.	Above 10,000	85	100

SECOND SCHEDULE
[Regulation 7]

SELF-CLASSIFICATION CERTIFICATE

Certificate Number.....

This is to certify thatof P.O. Box

(Applicable Entity's Name)

.....,

Postal Code)

(County/ Country)

who is

(Broadcaster/ Video on Demand Service / Over the Top Service)

has been certified as a self-classification entity in the Republic of Kenya in accordance with the Films and Stage Plays Act and the Terms and Conditions of the referenced Certificate.

N/B: This Certificate is valid for a period of one (1) year from the date of issue.

THIRD SCHEDULE [Regulation 7]

KFCB GUIDE FOR HANDLING SELF CLASSIFICATION COMPLAINTS

1.0 INTRODUCTION

Kenya Film Classification Board (KFCB) is a state corporation established under the Films and Stage Plays Act Cap 222 of the laws of Kenya to regulate the creation, broadcast, possession, distribution and exhibition of film content. Regulation is geared towards ensuring that content conforms to national aspirations and cultural values.

1.1 DEFINITIONS:

Unless otherwise specified, all words used in this document will have the same meaning attributed to them in the Act and the Regulations.

“**Complaint**” means any grievance made by a complainant with respect to the provisions of the Films and Stage Plays Act and its Regulations;

“**Complainant**” means any person who has lodged a complaint with the Board;

2.0 COMPLAINTS HANDLING MECHANISM

The Board shall establish internal mechanisms to handle all complaints concerning all broadcasters and providers of video-on-demand and over-the-top who opt for self-classification.

Moreover, the Board shall work closely with the relevant authorities to ensure that any complaints are resolved promptly.

This complaints handling mechanism shall apply to the applicable entities that are accessible in Kenya.

Any person may lodge a complaint if aggrieved by film content or who alleges that an applicable entity is in contravention of provisions of the Films and Stage Plays Act. The Complaints shall be made in writing and shall set out the grounds upon which they are based, the nature of the damage as a result of the content or the violation complained of and the remedy sought.

2.3 PROCEDURE FOR HANDLING COMPLAINTS

2.3.2 APPLICABLE ENTITY COMPLAINTS HANDLING PROCEDURE

Applicable entities are required to develop their procedures for handling complaints from aggrieved consumers of films.

In the interest of timely resolution, complainants are encouraged to follow the complaints procedure prescribed by the applicable entity before making a complaint to the Board.

Details of the applicable entities' complaints handling procedure

The applicable entity complaints handling procedure, shall among other things, cover the following areas:

- a) The registered name of the applicable entity;
- b) The contacts and designation of persons authorized to receive and handle customer complaints;
- c) The manner in which the complaint may be lodged including the applicable languages;
- d) The details to be submitted when lodging a complaint including any forms that may require to be completed;
- e) The need for the complainant to retain a copy of every correspondence exchanged between the complainant and the applicable entity;
- f) The option for the complainant to forward a copy of the complaint to the Board for information purposes if he/she so wishes;
- g) The manner in which the complaint will be investigated and the process of investigation;
- h) The timeframe for responding to the complainant, and resolving the complaint;
- i) The option of the complainant to escalate the complaint to the Board if not satisfied with the response of the applicable entity;
- j) The manner in which complaints from Persons with Disabilities shall be addressed;
- k) Methods of recording and tracking complaints and responses;
- l) Duration of storage of records of complaints received and actions taken;
- m) Retention and production of any film which is the subject matter of a complaint;
- n) Categories of complaints to which the applicable entity is under no obligation to respond (complaints considered frivolous or an abuse of the complaint process or from complainants who choose to remain anonymous); and
- o) The incorporation of a mechanism for real time lodging of complaint regarding a film that is on air and a mechanism for immediate response or action.

Approval of applicable entity's Complaints Procedure

The applicable entity must ensure that: -

- a) Its complaints handling procedure is documented and submitted to the Board for approval before implementation;
- b) It notifies the Board with the details of persons designated to handle complaints from the public;
- c) If the Board is of the opinion that the applicable entity's complaint handling procedure does not meet the set guidelines, the same shall be rejected;
- d) The Board shall notify the concerned entity of its decision and the applicable entity will be required to make the necessary changes as proposed by the Board within 30 days from the date of notification; and
- e) In the interim period, the applicable entity shall be required to handle any complaints received in accordance with the procedure determined by the Board.

Publicizing of complaints procedure once approved

Upon approval of the complaints handling procedure, the applicable entity shall: -

- a) Regularly inform their consumers of the existence of the complaints procedure and how an aggrieved person can lodge a complaint regarding the applicable entity;
- b) Inform consumers that the first opportunity to provide resolution for the complaint should be given to the applicable entity and if dissatisfied they can escalate the complaint to the Board or any other relevant authority; and

- c) In the event that the complainant is not satisfied with the resolution of the complaint provided by the applicable entity, including but not limited to instances where the entity fails to respond to the complaint within a maximum period of 15 days from the date of lodging the complaint, the complainant shall refer the complaint to the Board or any other relevant authority.

Disposing of film

The applicable entity shall not dispose film related to a complaint so long as it has not been resolved either by the entity, the Board, or any other relevant authority.

Applicable entity's accountability to the Board

At the end of every financial year, the applicable entity shall submit to the Board a written report of all complaints received during the period and the manner in which they were addressed.

2.3.2 THE BOARD'S COMPLAINT HANDLING PROCEDURE

Complaints shall be lodged with the Board in reference to the violation of the Act or the self-classification regulations by any applicable entity and may be escalated to the relevant authorities if the complainant is not satisfied with the Board's action or decision.

Complainants who are familiar with the Act and its Regulations are encouraged to quote sections of the Act or its Regulations which in their view the applicable entity has breached.

Submission of complaints

Complaints will be made by filling the complaints form and will be handled by the Board as follows:

- a) All complaints shall be made in writing (by letter, e-mail or via various social media assets) and shall be made either: -
 - By completing the prescribed Form annexed hereto or;
 - Where a complaint is not made on the Form, all the required details as prescribed in the Form must be included in the written complaint.
- b) The Notice of Complaint shall include sufficient detail about the complainant and the matter complained of. Specifically, complaints should include the following details:
 - The complainant's name and full contact details (including physical, postal and e-mail addresses);
 - The nature of the complaint and (where possible) the particular parts of the film complained about;
 - The name of the broadcaster/OTT/VOD, the film name/title, date and time of the programme/content aired;
 - The sections of the Act or its Regulations breached;
- c) The basis of the complaint;
- d) Nature of damage or injury suffered or violation complained or the relief or remedy sought;
- e) An indication of whether (and, if so, when) the complainant has submitted a complaint to the relevant applicable entity.

Handling Anonymous Complaints

The Board will act on anonymous complaints after assessing the following: -

- a) The seriousness of the complaint reported;
- b) The extent to which allegations are specific (e.g. it is clear what is being alleged, dates, times, locations, consequences of wrongdoing, names of witnesses);
- c) The extent to which allegations are based on reliable information, not simply on hearsay;
- d) Reasons to believe that there is justification for the matter being reported anonymously and not through channels that allow for easier scrutiny; and
- e) Whether the language used is abusive or otherwise suggests a poison-pen letter.

Where the Board has no way of contacting the person making the anonymous complaint, all of the necessary information for a decision to take further must be available.

Anyone making an anonymous complaint should be aware that the Board: -

- a) May hand the complaint(s) over to the police or other authorities for their views or with a request to investigate the allegations further if deemed appropriate;
- b) Will provide the entity(s) accused or implicated in the alleged wrongdoing with copies of the allegation(s);
- c) Will view very seriously any false, carelessly prepared or malicious allegations. Inaccurate, malicious or negligent accusations by an employee are considered a matter of gross misconduct;
- d) Will dismiss as malicious any complaint that is found to have used a misleading sender name or address.

Complaints submitted by Persons with Disabilities

In cases where the complainant is disadvantaged due to language barrier and/or writing or has some form of disability which may render him/her unable to clearly present the complaint, the complainant may seek assistance from authorized officers of the Board.

Complaints Contact information:

All complaints shall be addressed to:

The Chief Executive Officer

Kenya Film Classification Board,

Uchumi House, 15th Floor

P.O. Box 44226-00100 Nairobi, Kenya

Email: complaints@kfcg.go.ke or info@kfcg.go.ke

Website: www.kfcg.go.ke

Acknowledgement of Complaints

The complaints handling process will only commence once the Board receives a duly completed form or a written complaint containing all the required details.

The Board shall acknowledge receipt of all complaints promptly.

After receipt of the complaint, the Board will carry out a process of initial assessment and investigations on the substance of the complaint.

Resolving Complaints

The Board shall resolve all complaints within 10 working days.

Threshold for Resolving Complaints

The Board may decline to resolve any complaint that: -

- a) Does not raise any issue under the Act or Regulations;
- b) Does not conform to the provisions of the Act or directions given by the Board;
- c) It's not presented in accordance with the Regulations or directions of the Board;
- d) Has been filed with any other authority or body that has jurisdiction to hear and resolve the complaint.

The Board shall notify the complainant in writing of the reasons for declining a complaint.

**KENYA FILM CLASSIFICATION BOARD
CUSTOMER COMPLAINT FORM
SELF-CLASSIFICATION**

Particulars of Complainant	
Name:	
ID No./Passport No./Company Registration No:	Telephone No:..... Email:.....
Address:	
Particulars of offending applicable entity	
Name of company:	
Business Address:	
Have you referred the complaint to any entity? (please tick): <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> If yes, specify	

Complaint Details

Film/Programme title	
Date aired/exhibited	
Time aired/exhibited	

Provide brief description of the complaint

.....
.....
.....
.....
.....

Attach evidence if any

Sections of Regulations breached:

Remedy sought:

Complainant Declaration

I declare that the information I have given is true, complete and correct to the best of my knowledge and belief.

Date

Signature/

For Office use only

Complaint No.....

Date Received.....

History of Resolution (tick)

- Dissatisfied with the applicable entity’s remedy.....
- No response from the applicable entity
- Has not first contacted applicable entity.....

Recommended way forward:

- To be attended to by KFCB.....
- Not complete. Request complainant to submit missing Information

.....

- Rejected (To be first referred to the applicable entity)
- Others

Date: 	Name & Signature of Authorised officer
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Guide to filling in Form KFCB/SC/COMP-01 – Instructions to Complainant

1. Particulars of Complainant

The complainant shall fill in his/her name in full, details of identity documents (ID/Passport Number) telephone number and mailing address.

If the complainant is a corporate body, the claimant shall provide the registered company name, company registration number, registered address and business address.

2. Particulars of the applicable entity

The complainant shall fill in the particulars of the applicable entity namely: Name of the applicable entity, film title, and address in the column provided.

3. Complaint Details

The complainant should provide a general explanation of the complaint.

4. Supporting evidence

The complainant may enclose relevant evidence which relates to the complaint;
The supporting evidence may include any correspondence or document as proof of prior attempts to resolve the matter with the applicable entity.

The complainant must indicate the film/programme title, date and time. Where possible clauses of the Regulations, or recordings of the film may be included.

5. Remedy

The complainant shall fill in the remedy sought from the applicable entity. The complainant is reminded that the remedy sought should be reasonable and realistic.

6. General

If the space provided is insufficient, please continue on a separate sheet of paper and write “see overleaf”. Any separate sheet of paper used should be attached to this Form and duly signed. The complainant shall duly fill and sign the complaint form. In the case of a corporate body, the form shall be duly signed and stamped by the authorized person. The form shall be delivered to the Board either by hand delivery, post or email.

Made on the, 2023

ABABU NAMWAMBA, EGH
*Cabinet Secretary for Information,
Sports, Culture and the Arts*