

SUBSIDIARY LEGISLATION

Orders under section 16

THE CATERING TRAINING AND TOURISM DEVELOPMENT LEVY ORDER

1. This order may be cited as the Catering Training and Tourism Development Levy Order.
2. There shall be paid by the owner of every hotel and restaurant subject to the Act a levy at the rate of two per centum of the gross receipts derived from the sale of food, drink, all other services and, in the case of an hotel, the provision of accommodation during each month.
3. (1) Every owner shall maintain or cause to be maintained a monthly records in the form set out in the schedule in duplicate.

(2) The original form of the record maintained under this paragraph shall be sent to the Catering Training and Tourism Development Levy Trustees within ten days after the last day of each month together with the levy payable for that month.

SCHEDULE

CATERING TRAINING AND TOURISM DEVELOPMENT LEVY TRUSTEES

THE HOTELS AND RESTAURANTS ACT

(CAP 494)

Monthly record required under paragraph 3(1) of the Catering Training and Tourism Development Levy Order.

Name and Address of Hotel/Restaurant.....

Gross receipts during the Month of.....,20.....

Date	Accommodation		Food		Drinks		Other Services		Gross Receipts		Levy Payable (2% of gross receipts)	
	Shs.	Cts	Shs.	Cts	Shs	Cts	Shs	Cts	Shs	Cts	Shs.	Cts
1 st												
2 nd												
3 rd												
4 th												
5 th												
6 th												
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27 th												
28 th												
29 th												
30 th												
31 st												

I certify that the levy payable to Catering Training and Tourism Development Levy Trustees is Kshs.for which a bankers Cheque No.....dated.....is enclosed.

Date.....

.....

Manager/Owner

The levy payable together with the original of this form must reach Catering Training and Tourism Development Levy Trustee, P.O. Box 46987, Nairobi on or before the tenth day of the month following the month to which the record relates.

Regulations under section 29.**THE HOTELS AND RESTAURANTS REGULATIONS**

1. These Regulations may be cited as the Hotels and Restaurants Regulations.
2. An application for a hotel or a restaurant licence for the variation of the licence shall be in form HR 1 in the First Schedule.
3. An application for a hotel manger's license or for the variation of the license shall be in Form HR 2 in the First Schedule.
4. A hotel license a restaurant licence and a hotel manger's licence shall be in Forms HR 2, HR 34 and HR 5, respectively, in the First Schedule.
5. The fees specified in the Second Schedule shall be payable for the licences specified in relation thereto in that Schedule.
6. The following minimum standards are required in respect of all hotels and restaurants.
 - (a) adequate and natural lighting and permanent through ventilation or air conditioning, to the satisfaction of the Authority, shall be provided in every room;
 - (b) stairways, halls and exits shall be kept lighted and unobstructed at all times;
 - (c) all rooms shall be of adequate size for their use;
 - (d) a mirror and shelf, each of adequate size for their use;
 - (e) a wash-hand basin shall be provided in each bedroom to which a private bathroom is not attached;
 - (f) all mattresses shall be inner sprung, foam rubber,, or a satisfactory equivalent;
 - (g) one dressing-table shall be provided in every bedroom with at least one chair to each bed;
 - (h) mosquito nets shall be made available on demand;
 - (i) fresh bed linen shall be supplied at least twice a week and for every new guest;
 - (j) a key of the bedroom or suite shall be made available to the

- occupant of each bedroom or suite;
 - (k) clothes-hooks, clothes-hangers and wardrobe or hanging space for clothes shall be provided in each bedroom;
 - (l) drinking water shall be provided in bedrooms and bathrooms at all times and shall be made available in public rooms;
 - (m) the ratio of bathrooms and separate water-closets to residents shall be at least one to ten;
 - (n) an efficient hot and cold water system, to the satisfaction of the Authority shall be installed to serve every bathroom;
 - (o) every bathroom including appropriately appointed shower room shall be equipped with-
 - (i) a secure door fastening;
 - (ii) a towel rail, clothes-hooks and a chair or stool.
 - (p) soiled towels and bath mats, shall be replaced with freshly laundered towels and bath mats each day the guest occupies a room;
 - (q) soap shall be provided each day or as required;
 - (r) one extra roll or package of toilet tissue in addition to that in use shall be provided in each toilet room or bathroom;
 - (s) furniture and shelving shall be of impermeable material or finish.
7. The Manager shall keep a supply of candles and approved candleholders, flashlights or other auxiliary lighting devices and supply them to guest in case of power failure.
8. An adequate lounge space to the satisfaction of the Authority shall be provided for the use of residents and shall be appointed with easy chairs, tables and other appropriate furnishings.

9. (1) An area of adequate size to the satisfaction of the Authority shall be set aside for use as a dining room.
 - (2) Cutlery, condiments sets and table linen shall be of good standard, clean, unbroken, untorn and sufficient for the full number of tables in use.
 - (2) A kitchen or kitchens shall be provided for the preparation of foods and shall be maintained in a clean and wholesome manner.
 - (4) No person shall sleep in any room used for the preparation, cooking, storage or consumption of food.
 - (5) There shall be for residents and visitors a reasonable supply of ice cubes or cool drink.
 - (2) No article whatsoever which is not directly connected with the processes involved in the preparations of food shall be kept in the kitchen.
 - (3) Every hotel or restaurant shall be provided with facilities adequate, to the satisfaction of the Authority, for effective washing-up when the hotel is full, and sinks for this purpose.
 - (4) Adequate food stores shall be provided for dry stores and perishable goods.
 - (5) Refrigeration or adequate cooling facilities shall be maintained for the preservation of food supplies.
10. Adequate toilet facilities for each restaurant shall be provided for each sex.
11. (1) All water provided for guests from tap, faucet, fountain or other source shall be of a quality suitable for drinking purposes and taken from a public water supply or from a private supply approved by the Medical Officer of Health.
 - (2) Where drinking is not obtainable from a public system, the manager shall cause it to be tested by the Medical Officer of Health at least three times during the season in the case of seasonal operation and at least four times in the case of year round operations and the cost of such testing shall be borne by the management.
 - (3) Where a hotel operates only part of the year, one of the tests shall be made within thirty days prior to the date of opening in that year.

- (4) When a test disclosed that water is unfit for human consumption, the manager shall carry out immediately any instructions issued by the Medical Officer of Health.
 - (5) Until such time as further tests reveal that the water is fit for human consumption, the manager shall post notices at each tap, faucet or source of water supply indicating that the water is not fit for human consumption.
12.
 - (1) Adequate fire-fighting appliances to the satisfaction of the authority shall be provided and maintained in good order.
 - (2) Adequate means of escape to the satisfaction of the Authority shall be provided.
 - (3) A first-aid outfit containing disinfectants, handbags, adhesive tapes and dressing, eye bath, tannic acide ointment, scissors and tweezers shall be provided and maintained in good order and kept in a place accessible at all times.
13. Any person carrying on any hotel business or restaurant business shall submit a financial report relating to his business transaction to the Authority as and when such information is required.
14. Every register kept under section 11 of the Act shall, in addition to the name and address of every guest, contain the following further particulars of every guest-
 - a) nationality;
 - b) room number; and
 - c) in the case of a non-resident of Kenya, passport number.
15. Every holder of a hotel manager's licence shall keep or cause to be kept a record of all advance bookings and cancellations and shall make this information available as and when required to do so by the Authority.
16. Every holder of a hotel licence or a hotel manager's licence shall comply with any directions in respect of hotels and the tourist industry in general issued under the Exchange Control Act.
17. The holder of a manager's licence shall ensure that a foreign bookings account in respect of the hotel for which he is licensed is opened in accordance with Exchange Control Notice No. 35.
18. Without prejudice to the generality of regulation 16 -
 - (a) no services to non-residents of Kenya shall be rendered at any

hotel unless those services are paid for in foreign currency or in Kenya shillings drawn from an external account or a shipping or airline account;

- (b) where a tour operator, a booking agent or another hotel is settling a bill on behalf of a non-resident client at any hotel, the tour operator, booking agent or other hotel shall furnish the hotel with a written declaration that payment has been or will be received in foreign currency or from an external, shipping or airline account and passed over the foreign bookings account of the tour operator, booking agent or other hotel:

Provided that where a foreign bookings accounts has not yet been opened the tour operator, booking agent or hotel may apply to the central Bank of Kenya for approval, to settle the bills in Kenya shillings; and

- a) receipts issued by a hotel in acknowledgement of settlement of bills by or on behalf of non-resident clients shall be marked "FOREIGN CURRENCY/APPROVED KENYA SHILLINGS" as appropriate.
19. The manager of a hotel shall, before the fifteenth of every month, submit to the Authority a return, in such form and manner as the Authority may approve, of the resident and non-resident clients received at the hotel and of the payments made in respect of those clients.
20. The manager of a hotel shall keep posted in each room a notice specifying the rates charged per person for guests accommodated in the room.
21. All menus displayed in hotels and restaurants shall be printed in at least two languages one which shall be Kiswahili.
22. A licensee of a hotel licensed under this Act shall-
- a) have at all times during its operation at least one competent employee in attendance at the reception desk;
- b) maintain the grounds of the hotel or restaurant in a tidy condition;
- (c) keep the buildings in a state of cleanliness and good repair.
23. No person who is not a citizen of Kenya shall be employed to work in

or for a hotel or restaurant unless his employment therein has been approved by the Authority and the Authority may require to be satisfied that there are no Kenyan citizens qualified to fill the vacancy sought to be filled by the non-citizen

24. (1) Every appeal under section 9 of the Act shall be by a written memorandum setting out the grounds of appeal and shall be accompanied by such other written representations as the appellant may wish to make in support of the appeal.
- (2) A copy of the memorandum and representations, if any, shall be served on the Authority.
- (3) The Authority shall, within fourteen days after receiving the copy of the memorandum delivered to it under paragraph (2) deliver
- a) to the Tribunal, a written answer to the memorandum;
 - b) to the appellant or his agent, a copy of the answer.
- (4) The appellant may, within ten days after receiving the copy of the answer, deliver to the Tribunal a reply to the answer (delivering a copy to the Authority), and where he does so the Authority may, within ten days after receiving the copy, deliver to the Tribunal a rejoinder to the reply (delivering a copy to the appellant or his agent).
25. (1) The Tribunal shall proceed with the hearing of an appeal as soon as possible after the delivery of documents provided for by regulation 24 has been completed.
- (2) At any hearing before the Tribunal the parties may appear in person or by agent.
- (3) The Tribunal shall notify the appellant and the Authority of the decision of the Tribunal within fourteen days after the date of the decision.
26. The Tribunal shall not be obliged to apply strictly all the legal rules of evidence under the Evidence Act, provided its practice and procedure are conformable with justice, equity and good conscience.

FIRST SCHEDULE

(rr.2,2, and 4)

FORM HR 1

REPUBLIC OF KENYA

APPLICATION FOR LICENCE OR FOR VARIATION OF A LICENCE UNDER THE HOTELS AND RESTAURANTS ACT

- 1. Application for alicence.
- 2. Applicant's name.....
- 3. Name under which business is carried on.....
- 4. (a) Postal address at which business is carried on.....
.....
(b) L.R. No.....Plot NO.....
SectionStreet/Road.....
Town/City/District.....
- 5. (a) If a sole proprietor, state full name and address.....
.....
(b) If in partnership, give full names and addresses of all partners
.....
(c) If a limited liability company give names and addresses of directions and of the ten largest shareholders.....
.....
.....
- 6. State age, country of birth and present nationality of the persons mentioned in paragraph above.....
.....
- 7. State whether applicant is the:
(a) Owner.....
(b) Lessee.....
- 8. (a) Attach your current tariff.
(b) If tariff is full board, what would you charge if you included bed and breakfast only.....
- 9. Service charge (in percentage).....
- 10. Low season rate.....
- 11. Total number of beds.....
- 12. Name and address of the applicant's banker(s).....
- 13. In the case of restaurant, total sales for the past financial year.....
.....
- 14. Attached Photostat copy of your current Restaurant or Eating-house licence.....
- 15. A copy of current menu should be sent to the Authority when returning this

application form.

16. If this application is for the variation of an existing licence, the details of the variation required and the reasons.....

17. If a licence has been held previously, the reasons for any material difference between the particulars given in this application and the previous one.....

18. Does or will your hotel receive any tourists direct from outside Kenya?.....If yes, please state the approximate number of tourists expected to be so received during the 12 months, following the date of this application.....

19. Have you been refused a licence under the above Act before?.....

I hereby apply for a licence/variation of a licence to carry on the hotel/restaurant business particulars of which are set out in paragraphs 3 and 4 above. I declare that the information given in this application is true and complete in all respects. I have read and understood section 5(8) of the Act, which is printed below:-

Section 5(8) of the Hotels and Restaurants Act

Any person who makes or cause to be made, either orally or in writing, any declaration or representation which he knows or has reasons to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

.....
Signature of applicant

Date.....

FORM HR 2

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

APPLICATION FOR A LICENCE OR VARIATION OF A LICENCE UNDER THE HOTELS AND RESTUARNTS ACT

(Applications for Hotel Managers)

- 1 (a) Applicant's full names.....
(b) Normal place of residence.....
2. Nationality and age.....
3. If non-citizen, how long have you been in Kenya.....
4. What language do you speak.....
5. Give details of training, if any, in the hotels and restaurants industries.....
6. Give full names and addresses of the establishments you have previously worked in, the length of service at each such establishment and in what capacity.....
7. Has any complaint been made to the Hotels and Restaurants Authority regarding any of the hotels in which you received your training or of which you have been in charge? If so, state particulars in full

.....

8. (a) State the name of the hotel for which application is made

.....

L.R.....Plot.....

Section.....Town/City/District.....

Attach supporting letter from prospective employer.....

.....

9. If applying for variation of licence produce the current licence and given reasons for variation.....

.....

.....

10. Have you been granted or refused a licence under the Act? If granted give details and number of licence.....

.....

.....

I hereby apply for a licence/variation of a licence to carry on the hotel business particulars of which are set out in paragraph 8 above. I declare that the information given in this application is true and complete in all respects. I have read and understood section 5 (8) of the Act, which is printed below:-

Section 5 (8) of the Hotels and Restaurants Act

Any person who makes or causes to be made, either orally or in writing, any declaration or representation which he knows or has reason to believe to be false for the purpose of obtaining a licence or the variation of a licence shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

.....

Signature of applicant

Date.....

FORM HR 4

No

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

RESTAURANT LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels and Restaurants Act, to carry on the business of the restaurant

Known as the.....Restaurant.

Situated on L.R. No.....Plot No.....

Street/Road.....in.....

Town/City/District subject to the provisions of the Act and the following conditions:-

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

Given under my hand this.....

Day of.....19.....

To:
.....
.....

Fee Paid:

Sh.

.....
Chairman, Hotels and Restaurants Authority.

Unless suspended or cancelled under the provisions of section 6 of the Act, this licence will remain in force until19.....

FORM HR 3

NO.....

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

HOTEL LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels and Restaurants Act, to carry on the business of the hotel known as theHotel.

Situated on L.R. NO.....Plot No.....

Street/Road.....in.....
Town/City/District subject to the provisions of the Act and the following conditions.

.....
.....
.....
Given under my hand this.....
Day of19.....

To:
.....
.....

Fee Paid:

Sh.

.....
Chairman, Hotels and Restaurants Authority

Unless suspended or cancelled under the provisions of section 6 of the Act, this licence will remain in force until
.....19.....

FORM HR 5

NO.....

REPUBLIC OF KENYA

HOTELS AND RESTAURANTS AUTHORITY

HOTELS MANAGER'S LICENCE

You are hereby licensed under the provisions of section 5 of the Hotels and Restaurants Act, to manager the hotel known as the

.....

L.N. NO.....Plot NO.....Section.....

City/Town/District.....subject

To the provisions of the Act and the following conditions: -

.....

.....

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Given under my hand this.....

Day of....., 19.....

To:

.....

.....

Fees Paid

Sh.

.....
Chairman, Hotels and Restaurants
Authority.

Under suspended or cancelled under the provisions of section 6 of the Act, this licence will remain in force until

....., 19.....

SECOND SCHEDULE

1. For the purposes of licensing, hotels shall be divided into categories and according to their size, bed capacity and extent of the services they provide.
1. On the grant of a hotel manager's licence, the licensee shall pay a fee equivalent to 10 per cent of the annual licence fee payable by the hotel the licensee intends to manage.

CATEGORIES	HOTEL	
	Hotel Fees Kshs.	Managers (10% of Hotel fees) Kshs.
A Conventional vacation, town and countryside hotels in which services provided include Provision of breakfast and other meals		
(i) with bed capacity of one to ten bed and/or maximum total charge for accommodation per night is less than Kshs. 1,500	5,000	500
(ii) with bed capacity of one to ten beds and/or minimum total charge for accommodation per night is over Kshs. 1,500	7,500	750
(iii) with or without at least one restaurant and/or bed capacity of between 11 to 40 beds and maximum total charge for accommodation per night is less than Kshs. 1,500	10,000	1,000
(iv) with or without at least one restaurant and/or bed capacity of between 11 to 40 beds and minimum total charge for accommodation per night is over Kshs. 1,500.	15,000	1,500
(v) with more than one restaurant and bar outlets and/or bed capacity of between 41 to 80 beds in addition to function room facility	20,000	2,000
(vi) with at least three restaurants, bar outlets a swimming pool and/or bed capacity of between 18 to 120 beds in addition to function room facility with more than one syndicate rooms	25,000	2,500
(vii) with at least three restaurants, bar outlets a swimming pool and/or bed capacity of between		

	121 to 160 beds in addition to banqueting departments and sport facilities	30,000	3,000
(viii)	With at least three restaurants, bar outlets, swimming pool, banqueting department sporting facilities and/or bed capacity of between 161 to 200 beds in addition to health club	35,000	3,500
(ix)	with at least three restaurants, bar outlets swimming pool, banqueting department, sporting facilities, health club, and/or bed capacity of between 201 to 300 beds in addition to casino	40,000	4,000
(x)	with at least three restaurants, bar outlets swimming pool, banqueting, sporting facilities health club, a casino and/or bed capacity of above 301 beds in addition to golf or racecourse	45,000	4,500
B	Conventional hotel premises located within or near natural habitat rich in faun and flora –		
(i)	Conventional game lodge with at least one restaurant, bar/or bed capacity of between one to twenty beds	20,000	2,000
(ii)	Conventional game lodge with at least one restaurant, bar/or bed capacity of between 21 to 60 beds in addition to swimming pool	25,000	2,500
(iii)	Conventional game lodge with at least two restaurants, bar, swimming pool and/or bed capacity of between 61 to 100 beds in addition to function room facilities	30,000	3,000
(iv)	Conventional game lodge with at least two restaurant, bar, swimming pool, function rooms and/or bed capacity of above 101 beds in addition to health clubs and any other sporting facilities	35,000	3,500
C	Similar/equivalent hotel establishment owned home based accommodation arranged in rooms and providing limited hotel service		
(i)	Boarding and lodging	10,000	1,000

	(ii) guest house	10,000	1,000
	(iii) host farm/farm stays	25,000	2,500
	(iv) home stays	25,000	2,500
	(v) holiday/service apartment/flat	45,000	4,500
D	Eco- friendly resort accommodation facilities or specialized eco-tourism services offered to guest		
	(i) eco lodge	20,000	2,000
	(ii) retreat lodge	25,000	2,500
	(iii) mobile tented camps	50,000	5,000
	(v) semi-permanent camp site	50,000	5,000
	(vi) resort and health spas	60,000	6,000
	(v) private game ranches	75,000	7,500
E	Private tourism accommodation, self catering owned second homes or shared ownership typified by limited number of space independent units (room, dwelling) occupied by tourists/friends/relatives for or without charge, usually for a weekend, week, fortnight or month, or by its owners as a second home or holiday home-		
	(i) holiday cottage/villa(per unit)	25,000	2,500
	(ii) time share establishment(per unit)	25,000	2,500

2. On the grand of a restaurant licence, the licensee shall pay fees based on the previous year's gross receipts, or, in the case of a restaurant which has not previously traded, a minimum licence fee of Kshs. 7,500 as follows:

Gross Receipts :	Fees
(a) Annual gross receipts less than Kshs. 3,000,000	7,500
(b) Over Kshs. 3,000,00 but not more than Kshs. 4,000,00	10,000
© Over Kshs. 4,000,00 but not more than Kshs. 4,500,000	15,000

- | | |
|--|--------|
| (d) Over Kshs. 4,500,000 but not more than Kshs. 5,000,00 | 20,000 |
| (e) Over Kshs. 5,000,000 but not more than Kshs. 5,500.000 | 25,000 |
| (f) Over Kshs. 5,500,000 but not more than 6,000,000 | 30,000 |
| (g) Over Kshs, 6,000,000 | 45,000 |
4. Upon obtaining the variation of a hotel licence or restaurant licence, the hotel or the restaurant shall pay a fee of twenty per cent of the fee paid on the grant of the licence.
 5. Upon obtaining the variation of a hotel manager's licence, the manger shall pay a fee of Kshs. 500.
 6. Application for renewal shall be made two months prior to the expiry date of the licence.
 7. Any application submitted after the 31st January of every calendar year, shall attract a late payment fee equivalent to 10% of the licence fee for every month's delay.