



THE CREATIVE INDUSTRIES BILL, 2023

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THE CREATIVE INDUSTRIES BILL, 2023

A Bill

AN ACT of Parliament to nurture and support the development of creative industries; to facilitate innovation, talent, research and entrepreneurship for the Creative industries; to provide for the registration of Creative industries Association; and for connected purposes.

ENACTED by the Parliament of Kenya as, follows—

PART I—PRELIMINARY PROVISIONS

Short title.

1. This Act may be cited as the Creative Industries Act, 2023.

Interpretation.

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

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to creative industries;

“Creative economy” means the knowledge based economic activities upon which the creative industries are based;

“creative industries” means those sectors that rely on the creation, production, distribution, and exploitation of intellectual property and includes audiovisual arts, Performing arts Visual arts, design and Literary arts;

“Creative clusters” means pooling together resources into networks and partnerships of creative enterprises to cross stimulate activities, boost creativity and realize economies of scale; and

“State Department” means the State Department responsible for matters relating to the creative industries.

Objects of the Act.

3. The objects of this Act is to—

- (a) promote the development of creative industry in the country;
- (b) recognize and elevate the creative industries as a key contributor to Kenya's cultural, social, and economic fabric;
- (c) facilitate investment, partnerships, and market access for creating a conducive environment for the growth and global positioning of Kenya’s creative industries; and

- (d) integrate and leverage the creative industries in national development strategies.

Guiding principles

4. The guiding principles for the implementation of this Act include—

- (a) recognition that creativity flourishes within an open, democratic and caring environment;
- (b) the need to uphold, respect, and promote the diverse cultural heritage and traditions of the country.
- (c) embracing technological innovations to elevate the standards in production, distribution and consumption of creative content

Scope of the Act.

5. (1) This Act applies to the development and promotion of the creative industries in the nature of—

- (a) Visual Arts and crafts, including drawing, painting, sculpture, printmaking, photography, and indigenous crafts;
- (b) Performing Arts, including music, dance, theatre, and live performances;
- (c) Literary Arts, including film, publishing, and digital content; and
- (d) Design and Creative Services, involving fashion, graphic, interior, and architectural design.

(2) This Act shall not apply to aspects relating to intellectual property rights.

PART II—ADMINISTRATIVE PROVISIONS

Creative Industries
Development Plan.

6. (1) The Cabinet Secretary shall formulate and implement a Creative Industries Development Plan.

(2) The Plan may—

- (a) set forth the objectives, targets, strategies, and activities on the development and promotion of the creative industries;
- (b) define goals for the creative industries including value creation, job creation, market creation and expansion;
- (c) outline financial assistance programs, investments schemes and guarantees in the creative industries; and

- (d) set out technical and technological programs for the development and commercialization services generated by the creative industries.

(3) The Cabinet Secretary may classify the creative industries into subsectors based on strategic considerations, and create such technical panels or working groups that may compliment the State Department in the efficient implementation of this Act.

Implementing role of the state department.

7. The State Department shall—

- (a) strengthen the local, regional, and international cooperation frameworks on creative industries;
- (b) establish an appropriate infrastructure for creative works development;
- (c) collaborate with public and private funding partners for creative industry related activities;
- (d) promote development of creative industries in all areas in the country;
- (e) develop quality assurance standards for the creative industry; and
- (f) design and implement suitable marketing strategies for the effective promotion of the creative and cultural industries.

Assignment of a state agency as responsible authority.

8. (1) The Cabinet Secretary may assign a function of a State Department set out under this Act to a state agency with the Ministry to be a responsible authority to implement that function.

(2) The Cabinet Secretary shall notify the assigned agency of their designation and responsibilities, outlining the specific objectives, tasks, and parameters under which they are to operate.

(3) An assigned responsible authority shall be accountable to the Cabinet Secretary for the execution, performance, and adherence to the mandates in this Act.

(4) The Cabinet Secretary may revoke the assignment of responsible authority.

PART III—SUPPORT MEASURES FOR THE CREATIVE INDUSTRIES

Infrastructure Support.

9. (1) The State Department shall provide necessary infrastructure support for the creative economy and may—

- (a) avail subsidized rental schemes for studios, venues, and other spaces tailored to the operations of the creative industries;
- (b) provide co-working spaces, equipped with amenities vital for promoting collaboration and growth within the creative sector;
- (c) set up dedicated centers for training aimed at enhancing the skills and productivity of creatives;
- (d) offer digital infrastructure, including internet connectivity, cloud services, and content distribution platforms;
- (e) support the development of exhibition, performance, and showcase venues, inclusive of logistical support for events and festivals;
- (f) initiate facilities that support research, development, and innovation, allowing for the creation and refinement of creative projects;
- (g) establish production facilities, including recording studios or spaces suitable for visual art, design, and fashion;
- (h) avail shared service facilities for collective use, such as machinery, equipment, tools, systems, and other requisite tools ;and
- (i) facilitate access to incubation and accelerator programs, providing resources, mentorship, and guidance for budding ventures within the creative industries.

Research and
Innovation Funding for
Creative Industries

10. (1) An innovator within the creative industries shall be entitled to access financial assistance from the fund established under the Science, Technology and Innovation Act, 2013.

(2) An eligibility for financial assistance under subsection (1) shall be accorded to a person—

- (a) advancing projects aimed at resolving specific challenges within the creative industries through appropriate scientific and technological interventions; and

- (b) seeking to expedite the adoption and commercialization of innovations developed within the creative industries.

Creative System.

Voucher

11. (1) The State Department shall establish a Creative Voucher System to provide targeted support, aid, and incentives to the creative industries, emphasizing Micro, Small, and Medium Enterprises.

(2) The Creative Voucher System shall—

- (a) provide vouchers addressing the industry’s diverse needs, including training, equipment, and marketing;
- (b) review and adapt the vouchers to the creative industry's changing needs; and
- (c) Partner with private entities, international bodies, and other stakeholders to enhance its reach and effectiveness.

(3) A recipient of a creative vouchers shall be entitled to avail the specified support, aid, and incentives from relevant government agencies.

(4) The Cabinet Secretary shall formulate administrative guidelines governing the issuance, utilization, and management of the Creative Voucher System.

Provision of Credit

12. (1) The Government shall establish measures to enhance access to credit for entities within the Creatives industry.

(2) In pursuance of subsection (1), the Government shall—

- (a) collaborate with affiliated financial institutions to formulate credit facilities tailored to the unique needs of the Creatives industry;
- (b) institute frameworks recognizing non-traditional collateral and business models characteristic of the creative sector;
- (c) promote financial literacy programs specific to the Creatives industry to bolster financial management and creditworthiness;
- (d) advocate for the establishment of guarantee funds aimed at incentivizing financial institutions to extend credit to the creative sector; and

- (e) engage with international financial partners to harness best practices and financial support for the Creatives industry.

(3) The prioritization of the creative industries under this Section shall be effectuated in adherence to the extant rules of the respective financial institutions.

Designation of Creative Clusters.

13. (1) The Cabinet Secretary may, by notice in the Gazette, designate certain areas as Creative Clusters, considering—

- (a) the density of creative entities;
- (b) potential for sectoral growth; and
- (c) their strategic value to the national and regional economy.

(2) A designated Creative Cluster shall—

- (a) be eligible for targeted fiscal incentives, including tax reliefs and grants to foster innovation and collaboration; and
- (b) receive prioritised infrastructural support to ensure its sustainable development and operational efficiency.

Creatives Development Hubs

14. (1) The State Department Creatives Development Hubs in strategic locations across the country.

(2) The Creative Hubs shall be established to—

- (a) provide access to essential resources, tools, and equipment for the creatives;
- (b) offer training, mentorship, and capacity-building programs specifically designed for creatives;
- (c) facilitate interaction, collaboration, and partnerships within the sector; and
- (d) Showcase and promote local creatives to a wider audience, both domestically and internationally.

(3) The State Department shall advocate for the private sector investments, sponsorships, and grants for the creative hubs.

Creatives industries in educational establishments.

15. TThe Cabinet Secretary responsible for Education shall formulate and implement policy measures to—

- (a) ensure the inclusion and promotion of talent and skills training in creative fields within the curricula of educational establishments;
- (b) foster collaborations with industry practitioners and stakeholders in the development and delivery of relevant training programs; and
- (c) equip educational establishments with the necessary resources and facilities to enhance the quality and scope of creative education.

Integration of Creative Industries into Capital Markets

16. The National Treasury may—

- (a) issue bonds to raise capital specifically for the development of the creative sector in Kenya;
- (b) sanction dedicated crowdfunding platforms for creative entities to allow such entities to present projects and secure public funding based on project feasibility.

Creative Industry Development Fund.

17. The Cabinet Secretary for the National Treasury shall establish the Creative Industries Development Fund whose purpose shall be to support the promotion, development, and growth of the Creative industry.

Promotion of Public-Private Partnerships in Creative Industries

18. The State Department shall collaborate with the Public Private Partnership Directorate to promote the formation of Public-Private Partnerships for the purpose of developing the creative industries sector.

Creative Economy Information System and Portal Act

19. (1) The State Department shall establish the Creative Economy Information System and Portal.

(2) The functions of the Portal shall include—

- (a) compiling and maintaining a directory of creative enterprises and organizations in Kenya;
- (b) providing details of government policies and initiatives in support of the creative sector;
- (c) offering online resources for training and development for those engaged in creative pursuits;
- (d) provide verified information, thereby promoting transparency, increased awareness, and informed decision-making within Kenya's Creative Industries;

- (e) disseminating information on available funding and platforms for investors in the creative sector;
- (f) providing a platform for creative enterprises to display their products and services; and
- (g) highlighting a calendar of events relevant to the creative sector.

One-Stop Service
Centres for the Creative
Sector.

20. (1) The State Department shall establish one-stop creative service Centres which shall serve as a focal point for essential regulatory services pertinent to creative entities..

(2) The Creative Service Centres may facilitate—

- (a) intellectual property registration;
- (b) Product and Business Registration for creative entities;
- (c) Assistance with regulatory compliance;
- (d) access to loans, grants, and benefit programs specifically designed for the creative industries; and
- (e) provision of any other government services required by entities within the creative sector.

Green incentives for the
creative industries

21. (1) Persons in the Creatives industry are encouraged to—

- (a) use their platforms and creations to enhance public awareness on environmental concerns;
- (b) pursue carbon-neutral operations, with a focus on reducing greenhouse gas emissions;
- (c) adopt best practices to minimize adverse environmental impacts arising from their activities;
- (d) integrate and prioritize climate change adaptation and mitigation measures in their initiatives; and
- (e) actively reduce waste generation, placing emphasis on recycling, up cycling, and the utilization of sustainable materials.

(2) A person in the Creatives industry who demonstrates commitment to environmental sustainability in their operations shall be

eligible for incentives which may include fiscal or technical support awards, public recognition awards and commendations.

Celebration of Kenya
Creative Industries
Month.

22. (1) In recognition of the significant contributions of the creative industries to the socioeconomic fabric of Kenya, the month of September each year is hereby designated as the Kenya Creative Industries Month.

(2) The month-long celebration aims to—

- (a) promote the goods, products, and services emanating from the creative industries in Kenya;
- (b) elevate public awareness about the role of the creative industries in national development; and
- (c) foster collaborations among stakeholders, both public and private, to advance the interests of the creative sector.

(3) The State Department shall—

- (a) oversee and ensure the successful observance of the Kenya Creative Industries Month;
- (b) collaborate with private entities and academic institutions to curate events, activities, and programs in line with the celebration; and
- (c) in accordance with this Act, detailing the specific modalities and mechanisms for the commemoration.

Rebate incentives.

23. (1) The Government shall introduce a rebate system for the creatives with a aim to—

- (a) stimulate investment in the creative industries;
- (b) encourage entities to foster new talent through apprenticeship programs and sector-specific training;
- (c) alleviate the financial burdens associated with industry development.

(2) Registered entities within the creative industries shall be eligible for—

- (a) Cash back rebates on qualifying expenditures made within the sector;
- (b) Special incentives for innovation and pioneering initiatives that align with the nation's creative vision.

(3) An entity offering verified apprenticeship programs or training tailored for the creative sector may—

(a) receive a designated rebate on associated operational costs; and

(b) qualify for additional financial incentives based on the scale, quality, and impact of their programs.

PART IV— REGISTRATION OF CREATIVE INDUSTRY ORGANIZATIONS

Office of the Creative Industries Registrar.

24. (1) There shall be established within the Public Service Commission the Office of the Creative industries Registrar.

(2) The Creative industries Registrar shall be responsible for—

(a) registration of creative industries organizations;

(b) providing administration of the registered organizations; and

(c) carrying out any other function pertaining to registration of creative industries organizations.

Registration of Creative Industries Organizations

25. (1) The Registrar shall register creative industries Organizations which may include Creative industries umbrella Bodies; creatives clubs or any other creatives associations;

(2) An application for registration and the operations of a creative industries organization shall be in the manner as may be prescribed.

PART V – GENERAL PROVISIONS

Regulations.

26. The Cabinet Secretary shall make regulations for better carrying into effect the provisions of this Act.

(2) Despite the generality of subsection (1), the Cabinet Secretary may prescribe—

(a) the criteria for determination of a classifiable Creative industry product;

(b) guidelines on collaborations with educational establishments and relevant bodies for the promotion of training and capacity building within the Creatives industry; and

- (c) the establishment of mechanisms and procedures for resolving disputes arising from matters provided for under this Act.

DRAFT FOR STAKEHOLDER SENSITIZATION

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Bill is to foster the growth and development of the creative industries in Kenya. It aims to establish a legal and institutional framework that supports, nurtures, and sustains creative endeavors across various sectors.

PART I (Preliminaries) sets the foundation for the Act, setting out the short title for easy reference, and Interpretation, clarifies key terms used throughout the Act. The 'Objects of the Act' outlines the primary goals, primarily focusing on the promotion and protection of the creative industries. The Guiding Principles align the Act with broader national policies and core values, while the Scope of the Act delineates its applicability, establishing clear legal boundaries.

PART II (Administrative Provisions) mandates the creation of a 'Creative Industries Development Plan,' a strategic framework to foster industry growth. This part also clarifies the role of the state department in implementing the Act and allows the Cabinet Secretary to assign specific authorities for effective administration.

Part III (Support Measures for the Creative Industries) introduces a series of measures to bolster the creative industries. These include infrastructure support, funding for research and innovation, and the establishment of creative clusters and hubs. The integration of creative industries into educational establishments and capital markets is a forward-thinking move, acknowledging the sector's growing economic significance. The establishment of a 'Creative Industry Development Fund' and the promotion of public-private partnerships reflect a comprehensive approach to industry support.

Part IV (Registration of Creative Industry Associations) establishes a regulatory framework for the sector. It introduces the Office of Creative Industries Registrar and sets forth procedures for the registration of creative industries organizations, ensuring proper governance and representation.

Part V (General Provisions) empowers the relevant authorities to make regulations for the Act's implementation. This flexibility is crucial for adapting to the evolving needs of the creative industries..

Statement on how the Bill concerns county governments.

The Bill does not concern county governments in terms of Article 110(1)(a) of the Constitution in that it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution.

The enactment of this Bill will not occasion additional expenditure of public funds which shall be provided for in the annual estimates.

Dated the November 2023

ABABU NAMWAMBA, EGH
CABINET SECRETARY,
MINISTRY OF YOUTH AFFAIRS, CREATIVE ECONOMY AND SPORTS

DRAFT FOR STAKEHOLDER SENSITIZATION