

**SPECIAL ISSUE**

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***KENYA GAZETTE SUPPLEMENT***

**LAIKIPIA COUNTY ACTS, 2024**

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**NAIROBI, 26th February, 2025**

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**THE LAIKIPIA COUNTY ALCOHOLIC DRINKS CONTROL  
ACT, 2024**

**No. 3 of 2024**

*Date of Assent: 18th December, 2024*

*Date of Commencement: 28th February, 2025*

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**THE LAIKIPIA COUNTY ALCOHOLIC DRINKS CONTROL  
ACT, 2024**

**AN ACT of the County Assembly of Laikipia to provide for licensing of alcoholic drinks by the County Government so as to control the production, sale, distribution, promotion and use of alcoholic beverages, and for connected purposes**

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

**PART I — PRELIMINARY**

**Short title**

1. This Act may be cited as the Laikipia County Alcoholic Drinks Control Act, 2024.

**Interpretation**

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

“alcohol” means the product known as ethyl alcohol or any product obtained by fermentation or distillation of any fermented alcoholic product, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with the prescribed formulas ;

“alcoholic drink” includes alcohol, spirit, wine, beer, liquor, traditional alcoholic drink, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic drinks, modified industrial alcohol blended for human consumption and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being;

“authorized officer” means an authorized officer within the meaning of section 57;

“Authority” means the National Authority for the Campaign Against Alcohol and Drug Abuse<sup>1</sup> established under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012;

“bar area” in relation to a hotel premises means any part of the hotel in which alcoholic drink is ordinarily sold or supplied for consumption in the hotel and does not include a dining area of the hotel;

“Bar and restaurant” means a place, premises or commercial establishment where meals are prepared, served and sold to customers with a separate place where customers may be served with alcoholic drinks together with a meal;

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“cinema” has the meaning assigned to it in the Films and Stage Plays Act;

“County Executive Member” means the County Executive member responsible for Alcohol Control;

“dining area” in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption of meals at tables;

“Enforcement Committee” means the County Alcoholic Drinks Control Enforcement Co-ordinating Committee established under section 58;

“Fund” means the Alcoholic Drinks Control Fund established by section 9;

“health institution” means a hospital, nursing home, convalescent home, maternity home, health centre, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;

“hotel” means any premises or commercial establishment classified as such under any written law or any licensed premises whose sole purpose is to sell bed occupancy as primary and core business;

“illicit trade” means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase of alcohol or its products, including any practice or conduct intended to facilitate such activity;

“licensee” means a person who holds a licence granted under this Act;

“locality” unless where context otherwise provides to the contrary, means a city, municipality, town, urban area, sub-county or ward as the case may be;

“manager” in relation to —

- (a) a cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre;
- (b) a health institution, includes the owner or a person in charge or in control of the health institution;
- (c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified building;

“manufacture” means the brewing, distilling, tapping or any processing or intermediate processing of an alcoholic drink and includes the packaging, labeling, distribution or importation of an alcoholic drink for sale in the county or anywhere in Kenya;

“manufacturer”, in respect of an alcoholic drink, includes any entity that is involved in its manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

“Nyama choma joint” means a place, premise or commercial establishment with a butchery and a sitting area where meat with other accompaniments and drinks are prepared, served and sold to customers.

“package” means the container, receptacle or wrapper in which an alcoholic drink is sold or distributed and includes the carton in which multiple packages are stored;

“retailer” means a person who is engaged in a business that includes the sale of any alcoholic drink to consumers;

“restaurant” means a place, premises or commercial establishment (however described) where meals and drinks are prepared, served and sold to customers;

“sell” includes—

- (a) barter or exchange without use of money;
- (b) offer or expose for sale, barter or exchange without use of money;
- (c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or indirect pecuniary benefit;
- (d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;

“Sub-county Committee” means the Sub-county Alcoholic Drinks Regulation Committee appointed under section 14.

### **Purpose of Act**

**3.** The purpose of this Act is to provide for licensing of alcoholic drinks by the County Government pursuant to Part II of the Fourth Schedule to the Constitution so as to control the production, sale, distribution, promotion and use of alcoholic drinks and the promotion of research, treatment and rehabilitation for persons dependent on alcoholic drinks in order to —



- (a) reduce and mitigate the negative health, social and economic impact and other costs on individuals and communities resulting from or associated with production, sale, supply and consumption of alcoholic drinks;
- (b) protect the health of the individual in the light of the dangers of consumption of alcoholic drinks;
- (c) protect persons under the age of eighteen years from negative impact on health and social development as a result of exposure to advertisements of alcoholic drinks;
- (d) protect consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of consumption of alcoholic drinks;
- (e) provide for coordination and collaboration with other government agencies and to support implementation of national policies on alcoholic drinks control in the County;
- (f) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;
- (g) inform and educate the residents in the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks;
- (h) facilitate and enhance community participation in alcoholic drinks control;
- (i) adopt and implement effective measures to eliminate illicit trade in alcohol including smuggling, illicit manufacturing and counterfeiting; and
- (j) ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks.

## **PART II —ADMINISTRATION**

### **Establishment of Directorate**

4. (1) There is established in the County Department for alcohol control, the Alcoholic Drinks Control Directorate.

**No 17 of 2012**

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- (2) The functions of the Directorate shall be to—
  - (a) support and facilitate the Committees established under this Act in carrying out their functions;

- (b) carry out public education on alcoholic drinks control in the County directly and in collaboration with other public or private bodies and institutions;
- (c) facilitate citizen participation in matters related to alcoholic drinks control in accordance to framework for citizen participation established under the County Governments Act, the Laikipia County Public Participation Act, the Urban Areas and Cities Act or any other relevant written law;
- (d) in collaboration with Kenya Bureau of Standards and Anti-Counterfeit Agency, to promote and facilitate elimination of substandard and counterfeit alcoholic drinks products in the County;
- (e) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to alcoholic drinks control;
- (f) develop in collaboration with other county national government departments strategies and plans for implementing this Act and control of alcohol abuse and any other relevant national legislation and coordinate and support their implementation;
- (g) advise the Executive Member generally on the exercise of his powers and performance of his functions under this Act, and in particular on county policy and laws to be adopted in regard to the production, manufacture, sale and consumption of alcoholic drinks;
- (h) in collaboration with other relevant county departments, prepare and submit an alcoholic drinks quarterly reports and an annual status report to the Executive Member which shall be transmitted to the County Executive Committee, County Assembly and the Authority for consideration;
- (i) recommend to the Executive Member and participate in the formulation of policies, laws and regulations related to alcoholic drinks control;
- (j) monitoring and evaluating the implementation of this Act including the operations of the Sub-county Committees and advising the executive member on the necessary measures to be adopted; and
- (k) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the County Executive member.

- (3) For avoidance of doubt, the Directorate shall—
- (a) be established as a distinct and separate unit in the department;
  - (b) not be merged with any other directorate or unit within the department; and
  - (c) not be assigned any other county functions except where appropriate the prevention and control of drug and substance abuse.

(4) The Directorate shall be headed by a Director who shall be appointed in accordance with procedures laid down under the County Governments Act.

- (5) A person shall not be appointed as a Director unless the person—
- (a) holds a masters degree in health science, social science, administration, law or any related field from a recognized university;
  - (b) has at least five years experience in management in public or private sector; and
  - (c) has no pecuniary interest or is associated in the alcohol industry.

(6) The Director may be removed from holding the position in accordance with the guidelines established under the County Governments Act, 2012.

(7) The County Executive member and the County Public Service Board shall ensure that the Directorate has adequate human, financial and any other appropriate resource to enable it carry out the functions assigned under this Act.

(8) The quarterly and annual reports referred to in sub-section (2) (h) shall contain among others—

- (a) data on status of alcoholic drinks use and impact disaggregated in terms of age, gender, geographical location such as ward, sub-county and county;
- (b) a status report indicating the level of compliance with the established standards of all the inspected alcoholic drinks that are being sold within the County;
- (c) the social and economic impact of use of alcoholic drinks in the County;
- (d) measures adopted to control and reduce the use and negative impact of alcoholic drinks in the County;

- (e) level of public participation in implementing the Act and feedback from residents of the county in relation to appropriate processes for mitigating impact of alcoholic drinks use;
- (f) data on use of treatment and rehabilitation services in each ward;
- (g) challenges faced in implementation of the Act;
- (h) level of collaboration with other county and national government agencies; and
- (i) any matter relevant to the implementation of the Act.

(9) The County Executive member shall publish and publicize the annual prepared under sub-section (2)(h) through the established County communication methods which shall include the county website and community forums.

#### **Establishment of units within the Directorate**

5. (1) The County Executive Committee shall in accordance with the requirements of the County Governments Act, establish the following units—

- (a) product safety and compliance unit which shall be responsible for ensuring the safety of alcoholic drinks products and carrying out liaison with the Kenya Bureau of Standards and the Anti-counterfeit Agency for the purposes of facilitating effective and efficient enforcement of alcoholic drinks product standards and quality;
- (b) enforcement unit which shall be responsible for enforcing and co-ordinating with relevant agencies the enforcement of this Act; and
- (c) prevention, public education and community empowerment unit which shall be responsible for carrying out and coordinating community public education and empowerment in order to mitigate the negative social and economic impact associated with use of alcoholic drinks.

(2) The County Executive Committee shall ensure each unit established under sub-section (1) is resourced with persons qualified in the fields related to the respective functions.

#### **Establishment of rehabilitation facilities and programs**

6. The County Department responsible for Health shall –

- (a) in collaboration with the other relevant county and national government departments establish treatment and rehabilitation

services, facilities and programs for persons dependent on alcoholic drinks in each county health facility;

- (b) ensure that the treatment and rehabilitation services, facilities have the necessary human resources for effective operation and service delivery system;
- (c) ensure that the treatment and rehabilitation services, facilities and programmes —
  - (i) are designed in a manner that is accessible and affordable to persons dependent on alcoholic drinks; and
  - (ii) where applicable, are integrated with other health and social services and programmes.

### **Interdepartmental Committee**

7. (1) There is established the county interdepartmental alcoholic drinks control committee.

- (2) The interdepartmental committee shall consist of—
  - (a) the Chief Officer responsible for Alcoholic Drinks Control who shall be the Chairperson;
  - (b) the Chief Officers responsible for the following departments —
    - (i) Health;
    - (ii) Social Services
    - (iii) Economic Planning;
    - (iv) Trade; and
    - (v) Youth Affairs
  - (c) the person in-charge of Legal Services in the County;
  - (d) the Director who shall be an *ex-officio* member and the Secretary; and
  - (e) any other Chief Officer as the County Executive Committee may designate.
- (3) The Interdepartmental Committee shall be responsible for—
  - (a) advising the County Executive Committee on such multi-disciplinary and inter-sectoral policy and legislative measures to be adopted for the control of alcoholic drinks;
  - (b) co-ordinating, monitoring and evaluating the implementation of this Act and any other policy decision from a multi-disciplinary approach as may be directed by the County Executive Committee;

- (c) facilitating interdepartmental collaboration and consultation in the implementation of this Act; and
- (d) carrying out any other function as may be assigned by the County Executive Committee.

(4) The Interdepartmental Committee shall prepare and submit quarterly reports to the County Executive Committee for consideration.

(5) The Interdepartmental Committee shall regulate its own procedure.

### **Ward committee**

**8.** (1) There shall be in each ward the Ward Alcoholic Drinks Control Committee.

(2) A Ward Committee shall consist of —

- (a) the Ward Administrator who shall be the Chairperson;
- (b) the Officer of National Government responsible for co-ordinating national government functions in the ward;
- (c) the county officer responsible for social services in the ward who shall be an *ex officio* member and the Secretary;
- (d) one health officer working at the ward;
- (e) two elders one of whom shall be of either gender;
- (f) one youth;
- (g) one person nominated by members of the registered association representing the owners of establishments dealing with alcoholic drinks in the ward; and
- (h) The members who will be appointed under S.8 (e) to (g) above shall serve for a non- renewable term of 3 years each, which term maybe reviewed by the County Executive Committee member annually.

(3) All the members of the Ward Committee who are not government officers shall be appointed by the County Executive member in consultation with the member of the County Assembly and as per the prescribed procedure:

Provided that the conditions applicable to members of the committees established under this Act shall apply to the members of the Ward Committee.

(4) The Ward Committee shall be responsible for—

- (a) facilitating the implementation of this Act in the ward;
- (b) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the ward;
- (c) advising the directorate on the appropriate alcoholic drinks control strategies and measures to be adopted in the ward;
- (d) designing and co-ordinating implementation of ward-based community outreach programmes for alcoholic drinks control in the ward;
- (e) receiving and collating public views on the implementation of the Act as well as matters related to alcoholic drinks production consumption, sale and impact in the ward; and
- (f) carrying out any other function as may be assigned under this Act.

(5) A ward plan and strategies prepared under sub-section (3) shall form part of the departmental plans for the purposes of effective implementation of this Act.

(6) The conduct of business and affairs of the Committee shall be as prescribed in the regulations formulated by the County Executive Committee member.

### **Establishment of the Fund**

**9.** (1) There is established a fund to be known as the Alcoholic Drinks Control Fund.

(2) The Fund shall consist of---

- (a) such monies as may be appropriated by the County Assembly;
- (b) such sums as may be realized from property forfeited to the county government under this Act;
- (d) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any person;
- (e) moneys earned or arising from any investment of the Fund;
- (f) all other sums which may in any manner become payable to, or vested in, the Fund.

(3) Where, in terms of sub-section (2) (b), any immovable property is assigned to the Fund, the Director shall deal with the property in such manner as he thinks fit and may sell the property and use the proceeds of sale for the purposes for which the Fund is established.

(4) The Fund shall be used for meeting the capital and recurrent expenditure relating to —

- (a) carrying out the functions of the Directorate stipulated under section 4 and the strategies, plans and programmes developed by the ward committees established under section 8;
- (b) assisting in the operations of the Committees;
- (c) to develop and provide rehabilitation services, facilities and programs and to mitigate social and economic impact alcohol use in the County as provided under section 6; and
- (d) any other matter related to the implementation of this Act.

(5) An amount of —

- (a) not less than thirty percent of the budget of the Fund shall be allocated for treatment and rehabilitation services and programmes and shall be allocated to the County department responsible for health services for that purpose; and
- (b) not more than three percent of the budget of the Fund shall be allocated for administration costs.

(6) The receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall be retained in the Fund for the purposes of the Fund.

#### **Administration of the Fund**

**10.** (1) The Fund shall be administered by the Chief Officer for the time being responsible for alcohol control who shall be the accounting officer.

(2) The accounting officer may, with the approval of the Executive Member for the time being responsible for Finance, invest or place on a deposit account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

(3) The accounting officer shall in consultation with County Executive member responsible for Finance—

- (a) supervise and control the administration of the Fund;
- (b) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning use of expenditure;
- (c) prepare quarterly reports of the operations of the Fund and submit to the County Executive member;



- (d) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;

### No 12 of 2003

- (e) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003 and in such details as the county treasury may from time to time direct;
- (f) furnish such additional information as may be required for examination and audit by the Auditor-General or under any law; and
- (g) designate such staff as may be necessary to assist in the management of the Fund provided that such staff shall work in the Directorate.

### Strategic planning

11. (1) The County Executive member responsible shall, within three months after the enactment of this Act cause to be prepared a five-year strategic plan for implementing this Act which shall be approved by the County Executive Committee and the County Assembly.

(2) The plan prepared under sub-section (1) shall form part of the sector plans prepared under the County Integrated Development Plan.

(3) There is no expenditure related to the Fund shall be incurred unless the activity related to the expenditure is provided for under the plan prepared under this section.

### Classification

11A. (1) Any entity, enterprise, outlet, premises carrying out an alcoholic drinks business shall be classified under this Act for the purposes of issuing licences.

(2) For the purposes of sub-section (1), the following shall be the classification of alcoholic drinks entities, enterprises, outlets or premises that may be licensed under this Act—

- (a) General retail (on licence) commonly known as the *bar*;
- (b) Bar and restaurant;
- (c) General retail (off licence) commonly known as *wines and spirits*;
- (d) Manufacturing;

- (e) Wholesale;
- (f) Bottling;
- (g) Distributorship;
- (h) Depot;
- (i) Supermarket or franchised retail stores;
- (j) Hotel;
- (k) Member's club;
- (l) Proprietary club commonly known as night club;
- (m) Theatre;
- (n) *Nyama choma* joint.

(4) The County Committee shall not issue a license under this Act which does not correspond to the applicable category of the license.

### PART III— LICENSING

#### Control of alcoholic drinks

12. (1) No person shall—

- (a) manufacture or otherwise produce;
- (b) sell, distribute or dispose of, or deal with, any alcoholic drink in the County except under and in accordance with a licence issued under this Act.

(2) Any person who contravenes the provisions of subsection (1) commits an offence.

(3) Sub-section (1) shall not apply to—

- (a) the importation of alcoholic drinks into the country if the alcoholic drink has been imported to the country pursuant to an import license issued under the Alcoholic Drinks Control Act, 2010;

#### Cap. 366. Cap. 244

- (b) the *bona fide* administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon registered under the Veterinary Surgeons Act or a pharmacist registered under the Pharmacy and Poisons Act, of a medicine containing alcoholic drink;

- (c) the sale of spirituous or distilled perfume, or perfumery;
- (d) the sale of industrial alcohol;
- (e) the sale by auction by an auctioneer, licensed under the Auctioneers Act, 1996, of an alcoholic drink in quantities not less than those authorized to be sold under a wholesale alcoholic drink licence belonging to a wholesale dealer, on the licensed premises of the dealer;
- (f) the sale by a deceased person's legal personal representative of an alcoholic drink forming part of the estate of the deceased person;
- (g) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;
- (h) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets;
- (i) the sale of alcoholic drink at the county assembly buildings, if sold with the permission of the Speaker of the County Assembly; and
- (j) the sale of alcoholic drink to the members only of any canteen, club, institute, mess or similar institution of the disciplined forces for reasons other than for personal profit:

#### **Establishment of County Alcoholic Drinks Regulation Committee**

**13.** (1) There is established the County Alcoholic Drinks Regulation Committee.

- (2) The County Committee shall be responsible for—
  - (a) receiving, review, approving and granting licences in accordance with applications recommended by the sub-county committees;
  - (b) receiving and hearing appeals from decisions made by the sub-county committees; and
  - (c) carrying out any other function as may be assigned by the County Executive member.
- (3) (1) The County Committee shall consist of—
  - (a) The Chief officer who shall be the Chairperson;
  - (b) the County public health officer;
  - (c) the Director who shall be an *ex-officio* member and the Secretary;

- (d) one officer designated by the county agency responsible for enforcing this Act.
- (e) the officer responsible for coordinating national government functions in the County;
- (f) the officer for the time being responsible for Physical Planning in the County;
- (g) one person designated by Kenya Bureau of Standards;
- (h) the County Police Commander or the person in-charge of the Police in the County; and
- (i) two representatives nominated by the members of the registered association representing the owners of establishments dealing with alcoholic drinks within the County, to be appointed by the County Executive Committee Member in accordance with the prescribed procedure.

(4) The members who will be appointed under s.13 (3)(i) above shall serve for a non- renewable term of three (3) years each; which term the County Executive Committee member may review annually.

(5) The conduct of business and affairs of the County Committee shall be as prescribed in the regulations.

#### **Establishment of the Sub-county Committee**

**14.** (1) There shall be, for every Sub-county, a committee to be known as the Sub-county Alcoholic Drinks Regulation Committee which shall—

- (a) receive, review and recommend for approval, applications for licence in accordance with this Act;
- (b) perform such other functions as may, from time to time be assigned to it by the Executive Member.

(2) The Sub-county Committee may, in the discharge of its functions under this Act, make inspection or other visits to premises at such times as it may deem appropriate.

(3) The Sub-county Committee shall consist of —

- (a) the sub-county administrator appointed under the County Governments Act who shall be the chairperson;
- (b) the Sub-county Public Health Officer;
- (c) one officer designated by the Directorate who shall be the Secretary who shall be an *ex-officio* member;

- (d) the officer responsible for co-ordination of national government functions in the sub-county;
- (e) the officer for the time being responsible for Physical Planning in the sub-county;
- (f) The municipal manager of any municipality in the sub-county;
- (g) two representatives nominated by the members of the registered association representing owners of establishments dealing with alcoholic drinks within the Sub-county to be appointed by the County Executive Committee Member in accordance with the prescribed procedure;
- (h) the officer in-charge of the Kenya Police Service in the sub-county.

(4) The members who will be appointed under s.14 (3)(1) (g) above shall serve for a non-renewable term of three (3) years each, which term the County Executive Committee member may review annually.

#### **Public participation and interagency collaboration**

**15.** (1) In carrying out its functions, the county sub-county and ward committees shall —

#### **No 17 of 2012**

#### **No. 13 of 2011**

- (a) ensure that there is effective public participation in accordance with the framework for citizen participation established under the County Governments Act, the Urban Areas and Cities Act or any other relevant written law;
- (b) collaborate with ward administrators and village administrators and councils appointed under the County Governments Act, 2012 and the officers in charge of coordination of national government functions in the wards and villages;
- (c) collaborate with similar committees in other counties for effective implementation of the Act.

(2) The authorized officers specified under section 57 or any person designated by the Authority shall attend the meetings of the County or Sub-county Committee in an *ex-officio* capacity.

(3) An officer who is a member of the County or Sub-county Committee under sub-section (1) may be represented to the committee meetings by another officer who shall not be below the rank of the deputy to the officer being represented.

(4) A person shall not be a member of a Committee established under this Act if such person is—

- (a) the holder of or a licence in the County under this Act;
- (b) a partner in a firm or Director or shareholder of a company or other body which is the holder of a licence in that county under this Act;
- (c) directly or indirectly employed as an agent of a person, firm or company which is the holder of a licence in the County under this Act;
- (d) undischarged bankrupt;
- (e) a person who has been convicted of an offence under this Act or of a felony.

(5) The conduct of business and affairs of the Sub-county Committee shall be in such manner as may be prescribed.

(6) The Directorate shall provide secretariat services for the County, Sub-county and Ward committees.

#### **Code of ethics**

16. (1) The County Executive member for cause to be prepared a code of ethics for the committees established under this Act.

(2) A person shall not transact any business of the respective committee unless the person has signed the code of ethics.

(3) The county executive member shall, within three months after coming into force of this Act, prepare the code of ethics described under subsection (1) which the members shall sign.

(4) A person who breaches the code of ethics prepared under this section shall cease being a member of the respective committee.

#### **Application for licence**

17. (1) A person intending to produce, manufacture, distribute any alcoholic drink in the county or to operate an establishment for the sale of an alcoholic drink shall make an application in a prescribed form to the sub-county Committee in the sub-county where the premise is to be situated and shall pay a prescribed fee.

- (2) The application under sub-section (1) shall contain —
  - (a) a comprehensive information on the nature, orientation and other justification for the establishment of the manufacturing plant or establishment for sale;

- (b) an indication as to whether the manufacture or sale of the alcoholic drink is licensed in another county and if so the evidence of such licensing;
- (c) for a manufacturer's licence, certification from Kenya Bureau of Standards; and
- (d) such other matters as may be prescribed.

(3) The Sub-county Committee shall, within twenty- one days after the submission of application for a licence, prepare a notice setting forth the names of all applicants, the types of licences applied for, the premises in respect of which the licences are applied for and the time, date and place of the meeting, and shall forthwith cause a copy of the notice to be—

- (a) published at the office of the Sub-county Administrator for a period of not less than twenty-one consecutive days;
- (b) posted in some conspicuous place at or near the applicant's premises;
- (c) sent to the Inspector-General of Police, or to such police officer as the Inspector-General may have notified the Governor that he has appointed to receive it on his behalf;
- (d) sent to the sub-county public health officer in the sub-county in which the premises in respect of which the licences are applied for are situated; and
- (e) sent to the Sub-county Physical Planning Officer

(4) The Sub-county Public Health Officer; and the Sub-county Physical Planning Officer shall, before the hearing of any application under this section, report as fully as possible to the sub-county committee on all matters which may be relevant to the consideration of the application.

(5) The Inspector-General of Police or, as the case may be, of the police officer appointed by him for that purpose shall submit a report to the sub-county committee on any matter relevant to the application if in his opinion the applicant does not qualify to be granted a license.

(6) Any person may lodge objection to an application.

(7) Every objection to an application shall be made in writing to the Secretary to the Sub-county Committee, and the Sub-county Committee shall serve notice of the grounds of the objection on the applicant, personally or by post, at least seven days before the hearing of the application and the onus of proof of such service shall be on the objector.

(8) A Sub-county Committee may of its own motion take notice of any matter or thing which, in the opinion of the committee, constitutes an objection to an application, whether or not any objection has been otherwise lodged.

(9) Where in respect of an application a Sub-county Committee acts in pursuance of sub-section (7), the Committee shall inform the applicant of the nature of the objection, and shall, if the applicant so requests, adjourn the hearing for such period, not being less than seven days, as the Sub-county Committee considers necessary to enable the applicant to reply thereto.

(10) Every person making an application shall, save as otherwise provided, appear in person or by an advocate before the Sub-county Committee, and shall satisfy the Sub-county committee that there is need for the grant of a licence of the type applied for in the particular locality in respect of which the application is made.

(11) A Sub-county Committee may require the personal appearance before it of the applicant, or of the manager of the premises to which the application relates, or of both of them and of any other person whose attendance is considered by the Committee to be necessary.

(12) Any objector may appear personally or by an advocate at the hearing of the application.

(13) A Sub-county may authorize, in writing, any person to appear before any Sub-county Committee having jurisdiction in any part of the area within the Sub-county for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

(14) Where a Sub-county Committee considers it necessary to take evidence respecting any question to be determined by the court, such evidence shall be given on oath, and the Chairperson shall be empowered to administer oaths.

### **Cap. 63**

(15) For the purposes of Chapter XI of the Penal Code (which concerns offences relating to the administration of justice), all proceedings before a Sub-county Committee shall be deemed to be judicial proceedings.

(16) Every sub-county committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon:



Provided that no decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned.

**Cap. 496.**

(17) The Sub-county Committee shall, within twenty- one days of receipt of the application under sub-section (1), record the application and assess the same on the basis of the objections received if any and the interests of the Sub-county, and shall ensure that—

- (a) the available premises are suitable with regard to the nature of the licence being sought;
- (b) the premises conform to the prescribed requirements of the occupational health and safety regulations;
- (c) the applicant possesses the infrastructure and equipment necessary to carry out the business applied for;
- (d) the applicant for a licence to brew, distill, bottle or manufacture an alcoholic drink possesses necessary qualifications and relevant requirements stipulated under Standards Act or any other relevant written law; and
- (e) the premises has sufficient number of competent staff in line with such norms as may be prescribed.

**Grant of a licence**

**18.** (1) The Sub-county Committee shall, after considering the application under section 17, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the Sub-county Committee has no objection to the application under section 17, it shall submit the application to the County Committee for review, approval and grant of licence.

(3) The county committee shall review the application and if it has no objection to the application, it shall grant a licence to the applicant upon payment of the prescribed fee.

(4) The licence issued shall be in such form as may be prescribed and subject to such conditions as the county committee may consider fit.

(5) Where the County Committee is not satisfied with the application under sub-section (1), it may—

- (a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within fourteen days.

(6) The applicant to whom the application is returned under sub-section (5) (b) may re-submit a revised application within thirty days of the date of notification to the Sub-county Committee.

(6) On receipt of any revised application under sub-section (6), the Sub-county Committee shall, within thirty days review the application in accordance with this Act and upon such review, if satisfied, it shall submit the application to the county committee for consideration.

(7) Where the County Committee grants a licence under this section it shall, publish the grant in the ward administrator's office in the respective Ward.

### **Provisional licence**

**19.** (1) Despite the provisions of sections 17 and 18, the County Committee may on recommendation of the Sub-county Committee, issue a provisional license for the manufacture or sale of an alcoholic drink for such period not exceeding six months as may be appropriate where the county committee is satisfied that the applicant for the license has demonstrated to the satisfaction of the County Committee that the manufacture or sale of the alcoholic drink is licensed in another county but the issuance of the provisional license shall be subject to the applicant complying with the provisions of sections 17 and 18 within the period of the provisional licence.

(2) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used for the sale of alcoholic drinks for consumption on such premises, any person having an interest in the premises may apply in the prescribed form to the county committee for an assurance that, on the completion of the construction or reconstruction, a licence of the type to be specified in the application will be granted in respect of such premises.

(3) The provisions of section 17 and 18 shall apply to such applications, which shall be accompanied by a signed copy of the plans of such premises.

(4) The county committee may, subject to such reasonable conditions as it may therein include, give to the applicant an assurance in the prescribed form that, on the completion of the premises, a licence of the type specified therein will be granted or it may refuse to give such an assurance.

(5) Where such an assurance has been given under sub-section (4), the County Committee may, on any date, on being satisfied that the premises have been completed in accordance with the signed plans

submitted under sub-section (3) and that any conditions which may have been imposed in the assurance have been complied with, issue to the applicant a licence of the type specified in the assurance in respect of the premises.

(6) Any assurance given under sub-section (4) shall become ineffective and the county committee shall not issue a licence if, between the date of the giving thereof and the date of completion of the premises, the applicant becomes a person to whom in accordance with section 21, a licence may not be granted.

### **Licence of premises for sale of alcoholic drinks**

**20.** (1) The county committee shall not grant a new licence for the sale of an alcoholic drink to be consumed on the premises or sale of an alcoholic drink in an off licence retail outlet commonly referred to as *wines and spirits* unless the County Committee is satisfied that—

- (a) it would be in the public interest for provision to be made for the sale of alcoholic drink for consumption on the premises or in the off licence retail outlet in the particular locality in respect of which the application is made, and that the number of such premises in respect of which such licences have already been granted is insufficient for the requirement of the locality as provided under the First Schedule or as per the zoning regulations:

Provided that no licence shall be granted to sell alcoholic drinks in any institution of basic education including primary and secondary schools or any residential area as have been demarcated by or under the relevant written laws;

- (b) the premises in respect of which the application is made are in good repair and are in a clean and wholesome condition, and are provided with adequate and proper sanitary arrangements; and
- (c) the premises, other than hotel premises, in respect of which the application is made are located at least three hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years: Provided that where a hotel is located within the zoning restrictions on distance as per the zoning regulations, it shall not bear any outdoor promotion or advertisement related to alcoholic drinks;
- (d) the premises in respect of which the application is made is located within the areas prescribed under the Regulations on zoning.

(2) The County Committee shall not grant a licence for the sale of an alcoholic drink in —

- (a) a supermarket or such other related retail chain store unless it is satisfied that the applicant has taken measures to ensure that the area in which the sale is to take place is not accessible to persons under the age of eighteen years;
- (b) a restaurant unless it's a bar and restaurant.

(3) For avoidance of doubt—

- (a) no licence shall be granted for sale of alcoholic drinks in the premises or for sale of an alcoholic drink in an off licence retail outlet commonly referred to as *wines and spirits* in any area except as per the regulations on zoning; and
- (b) the maximum number of premises licenced under paragraph (1) shall not exceed the number provided under the Regulations for zoning in respect of each urban area.

(4) The County Committee shall not grant licence for sale of alcohol in a general retail (off licence) outlet whose floor area measures less than prescribed under the Zoning regulations.

(5) The County Executive member shall, subject to the approval by the County Assembly classify and zone specific areas or streets within the urban areas to be alcohol sale free zones.

(6) Where an area has been classified as an alcohol sale free zone, no alcoholic drink licence shall be issued for sale of alcoholic drinks within that area.

(7) The County Executive member shall, while classifying the areas under sub-section (5) take into consideration be the public order, social order, public health, public safety and public security interests and factors in relation to the specific urban area.

#### **Persons not eligible for a licence**

**21.** (1) The County Committee shall not grant a new licence or transfer a licence to any person who —

- (a) has failed to satisfy the County Committee, if called upon to do so, of his good character and standing in relation to the expectations in this Act; or
- (b) has been convicted of an offence under this Act whose penalty is a fine of more than Kenya Shillings One Hundred Thousand or of any offence of which the sentence is imprisonment without the option of a fine in Kenya or elsewhere for a period in excess

of six months; or

- (c) in the case of a retail licence, is not resident in Kenya; or
- (d) is under eighteen years of age; or
- (e) is an undischarged bankrupt.

(2) The Sub-county Committee may refuse to renew an existing licence only when the county committee is satisfied that—

- (a) the licensee is not a fit and proper person to hold the licence; or
- (b) the licensee has been convicted of an offence under this Act or any Act at any time in force regulating the manufacture, distillation, distribution sale of an alcoholic drink for more than three times within one year; or
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) the business to which the licence relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by the County Committee ; or
- (e) the conditions of the licence have not been satisfactorily fulfilled; or
- (f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the County public health officer and the owner of the premises or the licensee refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by the county committee.

### **Validity and renewal of licences**

**22.** (1) Except as otherwise provided in this Act, the County Committee may, subject to this Part, grant, renew, transfer or remove a licence, and may embody therein such conditions as it may deem appropriate, or it may refuse to grant, renew, transfer, withdraw or cancel a licence.

(2) Every licence and every renewal, transfer, withdrawal or cancellation thereof shall be sufficiently authenticated by the County Committee.

- (3) Every grant of a licence or its every renewal or transfer shall—
  - (a) be subject to the payment of such fee or fees as may be prescribed;
  - (b) expire on thirty first day of December each year;
  - (c) specify in the licence the hours stipulated under the Second Schedule within which the sale of alcohol is permitted and any other relevant condition.

(4) Where an application for the renewal of a licence has been made and the county committee has not by the date of expiration of the licence reached a decision thereon, such licence shall continue in force until the decision of the County Committee is made known.

(5) Where an application for a licence has been refused, or a licence has been cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the County Committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the County Committee.

### **Review**

**23.** (1) An applicant whose application for a new licence, to renew or transfer a licence has been refused may within fourteen days of such refusal, request in writing the review of such refusal to the County Committee.

(2) A person aggrieved by the decision of the sub-county committee to approve grant of a new licence or to renew a licence may request in writing, the appeal of such decision by the County Committee.

(3) Upon receipt of a request under this section, the County Committee shall notify the sub-county committee of the pending appeal.

(4) The county committee shall within twenty-one days consider and make a final determination on the request for appeal.

- (5) The County Committee may—
  - (a) dismiss the request for appeal if in its opinion, the request is frivolous or vexatious;
  - (b) uphold the decision of the sub-county Committee;
  - (c) annul the decision of the Sub-county Committee;
  - (d) give directions to the Sub-county Committee with respect to any action to be taken; or
  - (e) make any other declaration as it may deem fit.

**Appeals to Court**

24. Subject to section 23, an applicant whose application for a new licence, to renew or transfer a licence has been refused or a person aggrieved by decision of the county committee may appeal against such refusal or decision to the High Court.

**Licences to body corporate**

25. (1) A licence issued to a body corporate shall be issued in the name of the body corporate:

Provided that the county committee may require prior disclosure of the directorship of the body corporate or refuse to grant a licence to the body corporate if any of the directors does not qualify to be granted the licence individually.

(2) No transfer of a licence issued to a body corporate shall be necessary on any change in the office of secretary, but any person for the time being holding such office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, such licence.

**Types and conditions of licences**

26. (1) The several licences which may be granted under this Act shall be those specified in the Third Schedule, and the provisions of that Schedule and of any rules made under this Act shall have effect in relation to the respective licences therein specified.

(2) The county committee shall, when a licence is granted, renewed, withdrawn or cancelled, include in the licence a sufficient description of the licensed premises.

(3) A licence shall not be granted to apply to more than one premises.

(4) A person intending to sell alcoholic drink in premises classified as lodging shall apply for general retail alcoholic drink licence.

(5) A holder of a hotel alcoholic drink licence shall—

(a) not sell alcoholic drink to a person other than a lodger unless in area situate in premises within the hotel where the holder possesses a general alcoholic drink retail licence where sale of alcoholic drink occurs under conditions for a general alcoholic drink licence;

(b) designate an area as a bar area where sale and consumption of alcoholic drink shall only take place and which shall be a restricted area for access to persons under the age of eighteen years; and

(c) not sell an alcoholic drink in the area designated as dining area.

(6) A holder of a general retail licence (off licence) shall not sell alcoholic drink for consumption in the premises.

(7) The county executive member shall issue a list of all premises in the county that are classified as hotel in accordance with the relevant written law.

(8) A person who contravenes sub-section (5) and (6),

commits an offence and shall, upon conviction be liable to a fine not exceeding one hundred thousand Kenya shillings or to imprisonment for a term not exceeding six months.

### **Transfer of licence**

**27.** (1) Where a licensee sells or leases or otherwise disposes of the premises or business specified in his licence, he may apply in writing to the Sub-county committee for the transfer of his licence to the purchaser or lessee or otherwise of such premises, and the Sub-county Committee may grant a transfer of such licence.

(2) No further fee shall be payable in respect of a licence granted under subsection (3) if, at the date of the grant, the licence which was temporarily transferred was valid for a period of more than six months.

(3) In the event of the death, bankruptcy or unsoundness of mind of a licensee, or in any similar event to which the Sub-county committee declares in writing that this section should be applied, it shall be lawful, for the purposes of this Act for the executor, administrator, trustee or manager, as the case may be or any other person approved by the Sub-county committee, to carry on the business of the licensee without any transfer or grant of a licence either personally or by an agent approved by the Sub-county Committee.

(4) Every person to whom a licence may have been transferred under subsection (1), and every person permitted to carry on a business without a transfer or grant of a licence in pursuance of sub-section (3), shall possess all the rights and be liable to all the duties and obligations of the original licensee.

### **Removal of licence**

**28.** If the renewal of a licence is refused, the licensee shall, on payment of the proportionate part of the fee for the appropriate licence, be entitled to a licence of such description and for such period, not exceeding three months, as the County Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises,



such period to commence on the day after the last sitting of the County Committee at which the renewal of his licence has been refused, or on the day after the termination of his existing licence, whichever day is the later.

### **Display of licence**

**29.** (1) Every licence shall be prominently and conspicuously displayed on the premises to which it relates, and any licensee who fails or neglects so to display his licence commits an offence.

(2) Where a wholesale alcoholic drink licence is granted so as to be applicable to more premises than one, it shall be displayed in the premises first named therein and copies thereof displayed in the other outlets.

(3) Any person causing or permitting to be on his premises or on premises under his control any words, letters or sign falsely importing that he is a licensee commits an offence.

### **Employment for sale of alcoholic drinks**

**30.** (1) Notwithstanding the provisions of any other written law, no licensee shall employ a person under the age of eighteen years, to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks on licensed premises.

(2) Where a licensee permits another person to manage, superintend or conduct the day-to-day business of the premises in respect of which he is licensed, the licensee shall not be relieved of his duties and obligations under this Act.

(3) Any person who contravenes the provisions of this section commits an offence.

### **Drunken behaviour**

**31.** (1) A licensee or an agent or employee of a licensee may refuse to admit to, and shall expel from, the premises to which his licence relates any person who is drunk and disorderly, violent, or quarrelsome, or whose presence would subject the licensee to a fine or penalty under this Act.

(2) Any person referred to in subsection (1) who, on being requested by the licensee or his agent or employee, or by a police officer, to quit the licensed premises, refuses to do so, commits an offence.

(3) On the demand of a licensee or his agent or employee, a police officer shall expel or assist in expelling from the licensed premises the person referred to in sub-section (1).

(4) A licensee who permits any drunkenness leading to violent, quarrelsome or riotous conduct to take place on the premises to which the licence relates commits an offence.

**Debt from sale of alcoholic drinks**

**32.** No suit shall be maintainable to recover any debt alleged to be due in respect of the sale of any alcoholic drink which was delivered for consumption on the premises where it was sold unless it was sold for consumption with a meal supplied at the time of sale or unless the person to whom it was sold or supplied was at the time of the sale a lodger on such premises.

**Access by persons under age of eighteen**

**33.** (1) No person holding a licence to manufacture, store or sell alcoholic drinks under this Act shall allow a person under the age of eighteen years to enter or gain access to the area in which the alcoholic drink is manufactured, stored, sold or consumed.

(2) A person shall not enter or gain access to an area referred to under subsection (1) if such a person is in custody or accompanied by a person under the age of eighteen years.

(3) Any person who contravenes the provisions of sub-section (1) and (2) commits an offence.

**Reports by public health officers and police officers**

**34.** (1) A Sub-county public health officer within whose jurisdiction the premises fall shall report to the Sub-county Committee any licensed premises which are deficient in their state of sanitary or drainage conditions, or which are in bad repair.

(2) A Sub-county public health officer or any person authorized by him in writing in that behalf may enter and inspect any licensed premises for the purpose of ascertaining whether a report under sub-section (1) is required.

(3) A police officer not below the rank of Inspector shall report in writing to the chairperson of the appropriate Sub-county Committee every case in which a licensee is of drunken habits or keeps a disorderly house, or commits any breach of any of the provisions of this Act or of his licence.

(4) A police officer not below the rank of Inspector may without written authority enter and inspect any licensed premises for the purpose of ascertaining whether a report under sub-section (1) is required.

**Cancellation of licence**

**35.** (1) Upon receipt of a report made under section 34 the Sub-county Committee shall—

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing

him that at a meeting of the Sub-county Committee to be held on a date to be specified, but not less than thirty days there from, the report will be considered by the Sub-county Committee;

- (b) send a copy of the report to every member of the Sub-county committee and to the Officer Commanding Police Services in the Sub-county; and
- (c) inform the Sub-county public health officer or the police officer, as the case may be, of the date upon which the Sub-county committee will consider the report, and require him to attend on the date specified.

(2) Any licensee concerning whom a report is to be considered may appear in person or by advocate before the Sub-county Committee.

(3) The Sub-county Committee, having duly considered the report and having heard the licensee, shall prepare a report and may make such recommendations to the county committee in respect of such licence or the licensed premises specified therein as, in the opinion of the Sub-county Committee, is necessary.

(4) The county committee upon receiving and reviewing the recommendations under subsection (3), may make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the county committee, is necessary

(5) Any person aggrieved by the decision of the county committee upon any such report may within twenty-one days appeal against the decision to Court.

(6) The Court, on an appeal under this section, may confirm or reverse the decision of the county committee.

(7) If a licence is cancelled or if on appeal under sub-section (6), the appeal is dismissed by the Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the Sub-county committee may deem necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such licence to run from the date of the decision of the county Committee or of the Court as the case may be.

### **List of suppliers to be maintained**

**36.** (1) A licensee under this Act shall—

- (a) maintain a list of all alcoholic drinks manufactured, distributed or sold in the prescribed form;

- (b) maintain a list of persons who supply to the licenced persons inputs for manufacturing alcoholic drinks in the case of a manufacturer and the persons who supply alcoholic drinks to a licenced person together with the batch numbers in the prescribed form; and
- (c) submit in the list described under paragraphs (a) and (b) in each month to the County Executive member.
- (d) A licensee may also undertake the scanning of the supplied alcoholic drinks to confirm that they are authentic.

(2) The county executive member shall facilitate the development of the prescribed form to be used in recording the list of suppliers and the types of drinks supplied together with their batch numbers and the dates when they were delivered.

(3) The County executive member shall facilitate the establishment of an online system for submitting the lists described under sub-section (1).

(4) A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty thousand or to imprisonment for a term not exceeding one month.

#### **PART IV—GENERAL REQUIREMENTS**

##### **Conformity with requirements**

**37.** (1) No person shall manufacture, or distribute or sell an alcoholic drink in the county that does not conform to the requirements of this Act or any other written law regulating alcoholic drinks.

(2) A person who contravenes the provisions of this section in relation to manufacture, distribution of an alcoholic drink commits an offence and shall be liable to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding five years, or to both.

(3) A person who contravenes the provisions of this section in relation to sale of an alcoholic drink commits an offence and shall be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

##### **Supply to young persons**

**38.** (1) No person shall sell, supply or provide an alcoholic drink to a person under the age of eighteen years.

(2) Subject to sub-section (3), a person who contravenes the provisions of sub-section (1) commits an offence and shall be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

(3) Notwithstanding the provisions of sub-section (1), it shall be a defence to an offence under this section if it is established that the accused person attempted to verify that the young person was at least eighteen years of age by asking for and being shown any of the documents specified in sub-section (4) for the purpose of verifying the age of the young person and believed, on reasonable grounds, that the documentation was authentic.

(4) For the purposes of this section, the following documentation may be used to verify a person's age—

- (a) a national identity card issued by the Republic of Kenya;
- (b) a passport issued by the Republic of Kenya or any other country;  
or
- (c) any other documentation as the Executive Member may prescribe.

### **Display of signs**

**39.** (1) Every retailer shall post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of an alcoholic drink to a person under the age of eighteen years is prohibited by law.

(2) Every sign required to be posted under sub-section (1) shall —

- (a) be displayed on a surface measuring not less than 12 inches by 8 inches in size;
- (b) bear the word “WARNING” in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement;
- (c) be in English or in Kiswahili.

(3) A retailer who contravenes any of the provisions of this section commits an offence and shall be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

(4) The County Executive member shall, in collaboration with the relevant county department install within the distance prescribed by the zoning regulations, signs bearing the words “WARNING: THIS IS AN ALCOHOL FREE AREA”.

**Vending machines**

**40.** (1) No person shall sell or permit an alcoholic drink to be sold by way of an automatic vending machine.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

**Packaging**

**41.** (1) No person shall sell, manufacture, pack or distribute an alcoholic drink in sachets or such other form as may be prescribed under this Act or any other relevant written law.

(2) Notwithstanding the provisions of sub-section (1), —

- (a) no person shall manufacture, pack, distribute or sell in the county an alcoholic drink in a container that does not comply with the National requirements on size as may be prescribed from time to time;
- (b) any other distilled or fortified alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a); and
- (c) labelling on containers should have the health warnings as prescribed under national standards and legislation.

(3) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

**PART V— SALE AND CONSUMPTION****Sale to intoxicated person**

**42.** Any licensee who sells an alcoholic drink to a person already in a state of intoxication or by any means encourages or incites him to consume an alcoholic drink commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings.

**Disorderly conduct**

**43.** (1) Any person found by a police officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place may be arrested without warrant and brought without unreasonable delay before a Magistrate

(2) Any person convicted of being drunk and incapable or drunk and disorderly in or near a place referred to in sub-section (1) shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

**Cap. 10.**

(3) Upon conviction under sub-section (2), the convicting Magistrate may issue an order for community service to any person convicted of the offence under this section for more than one time in accordance with provisions of the Community Service Orders Act, 1998.

(4) Despite sub-section (3), any person convicted under subsection (2) on more than three occasions in any period of twelve months shall —

- (a) be ordered by the convicting Magistrate to undergo at his own cost, such rehabilitation programme as may be appropriate in a public health institution;
- (b) be forthwith reported by the convicting Magistrate to the Sub-county Committee, which shall inform such licensees as he deems desirable of such convictions, and thereupon, and until a period of twelve months has passed without any further such conviction in respect of that person, any licensee so informed who knowingly sells or supplies alcoholic drinks to or for delivery to that person commits an offence, and it shall furthermore be an offence for that person to be in possession of any alcoholic drink

**Breach of licence**

**44.** (1) Any person who sells an alcoholic drink or offers or exposes it for sale or who bottles an alcoholic drink except under and in accordance with, and on such premises as may be specified in a licence issued in that behalf under this Act commits an offence and is liable—

- (a) for a first offence, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding nine months, or to both;
- (b) for a second or subsequent offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both, and in addition to any penalty imposed under paragraph (a) or (b), the court may order, the forfeiture of all alcoholic drinks found in the possession, custody or control of the person convicted, together with the vessels containing the alcoholic drink.

(2) Except as may be provided for in this Act, no person shall—

- (a) sell, supply or offer for sale an alcoholic drink in any workplace, office, factory, public park or any public recreational facility, public transport vehicle, public beach, sports stadium or public street; or

- (b) sell, purchase or consume an alcoholic drink in an alcoholic drink selling outlet after the expiry of the hours for which the outlet is licensed to sell the alcoholic drink.

(3) Any person who contravenes the provisions of sub-section (2) commits an offence and shall be liable to the penalties specified under sub-section (1)

#### **Sale to authorized officer**

45. Any person who knowingly sells, supplies or offers an alcoholic drink to an authorized officer or to a police officer in uniform or who harbours or suffers to remain on licensed premises any such police officer except for the purpose of keeping or restoring order or otherwise in the execution of his duty, commits an offence and is liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

#### **Non-disclosure of conviction**

46. Any person who is required by any provision of this Act to disclose any conviction and fails to do so when making any application commits an offence.

#### **Sale without licence**

47. (1) If any person purchases any alcoholic drink from a licensee whose licence does not cover the sale of that alcoholic drink for consumption on the premises, and drinks the alcoholic drink on the premises where it is sold, or in any premises adjoining or near to those premises, if belonging to the seller of the alcoholic drink or under his control or used by his permission, or on any highway adjoining or near any such premises, and it is proved to the court that the drinking of the alcoholic drink was with the privity or consent of the licensee who sold the alcoholic drink, the licensee commits an offence.

(2) If a licensee whose licence does not cover the sale of alcoholic drink to be consumed on his premises himself takes or carries, or employs or suffers any other person to take or carry, any alcoholic drinks out of or from his premises for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any place (whether enclosed or not, and whether or not a public thoroughfare) other than the licensed premises, with intent to evade the conditions of the licence, the licensee commits an offence, and, if the place is any house, tent, shed or other building belonging to the licensee or hired, used or occupied by him, the licensee shall be deemed, unless the contrary is proved, to have intended to evade the conditions of the licence.



**Manufacture, distribution and sale of adulterated drinks****No. 4 of 2010**

**48.** (1) No person shall manufacture, distribute, keep for sale, offer for sale or sell—

- (a) any alcoholic drink which has been in any way adulterated, or diluted by any person; and
- (b) any non alcoholic drink which has been in any way adulterated with alcohol, or which contains any of the substances prohibited under any written law.

(2) A person who, while manufacturing an alcoholic drink adulterates the alcoholic drinks by way of adding impurities, prohibited substances or additives to the alcoholic drink commits an offence and shall, upon conviction be liable to a fine not exceeding ten million Kenya shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) A person who knowingly distributes an alcoholic drink that is adulterated commits an offence and shall be liable to a fine not exceeding two million Kenya shillings or to imprisonment for a term not exceeding two years, or to both.

(4) A person who knowingly sells an alcoholic drink that is adulterated commits an offence and shall, upon conviction be liable to a fine not exceeding five hundred thousand Kenya shillings or to imprisonment for a term not exceeding two years, or to both.

(5) On the conviction of a licensee of an offence under subsection (2), (3) and (4) the court may, in addition to any other penalty it may lawfully impose, if it finds that the drink in respect of which the offence was committed was adulterated by a substance or substances which rendered the drink unfit for human consumption, and unless the licensee proves to the satisfaction of the court that he took all reasonable precautions against such adulteration and that such adulteration took place without his knowledge or consent, order that his licence be forfeited, and no licence shall thereafter be granted or transferred to him.

**Proof of sale**

**49.** (1) In any proceedings under this Act relating to the sale or consumption of an alcoholic drink, such sale or consumption shall be deemed to be proved if the court is satisfied that a transaction in the nature of a sale took place, whether or not any money has been shown to have passed, or as the case may be, if the court is satisfied that any consumption was about to take place.

(2) Evidence of consumption or intended consumption of an alcoholic drink, on licensed premises by some person other than the licensee or a member of his family or his employee or agent shall be *prima facie* evidence that the alcoholic drink was sold by or on behalf of the licensee to the person consuming or about to consume the alcoholic drink.

### **Burden of proof**

**50.** (1) The onus of proving that a person is licensed under this Act shall lie on that person.

(2) The fact that a person not licensed under this Act to sell alcoholic drinks has a signboard or notice upon or near his premises fitted with a bar or other place containing bottles, casks or vessels so displayed as to induce a reasonable belief that alcoholic drink is sold or served therein, or having alcoholic drink concealed, or more alcoholic drink than is reasonably required for the person residing therein, shall be deemed to be *prima facie* evidence of the unlawful sale of alcoholic drink by that person.

(3) In any proceedings under this Act, where a person is charged with selling alcoholic drink without a licence or without an appropriate licence, such alcoholic drink being in a bottle and appearing to be unopened and labelled by its bottler, the contents of such bottle shall be deemed, unless the contrary is proved, to be alcoholic drink of the description specified on the label thereof.

### **Endorsement of conviction on licence**

**51.** Every licensee who is convicted of an offence under this Act shall produce his licence to the court convicting him, and the court shall endorse every such conviction on the licence and the relevant administrative officer of the court shall inform the relevant county committee.

### **Forfeiture of licence upon conviction**

**52.** If in any proceedings before a court it appears that a licensee—

- (a) whether he was present in the licensed premises or not, has permitted an unlicensed person to be the owner or part owner of the business of the licensed premises or to have a substantial interest in that business, except with the consent of the county committee; or
- (b) is convicted of an offence under this Act and a previous conviction within the preceding twelve months of the same or any other offence under this Act or three such previous convictions within the preceding five years is or are proved; or

- (c) is twice convicted within twelve months of selling, offering or keeping for sale any adulterated alcoholic drink, then the court may, in addition to any other penalty which it may lawfully impose, order that his licence be forfeited, and that no licence shall be issued or transferred to him for a period of two years.

## **PART VI —ADVERTISEMENT AND PROMOTION**

### **Prohibited advertisement and promotion**

**53.** (1) No person shall promote an alcoholic drink by way of outdoor advertisement —

- (a) in a manner that is false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the alcoholic drink;
- (b) through painting or decorating any building or premises, except the interior part of licensed premises, with the name of the alcoholic drink or manufacturer, colour and brand images or logos associated with a manufacturer or an alcoholic drink or any other related form; and
- (c) in places demarcated under any written law as residential areas or within a distance prescribed in the zoning regulations from nursery, primary, secondary school, or other institution of learning for persons under the age of eighteen years or a place of worship, health facility or a public playground, public road reserve or any other public land or property or in public service vehicle.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

(3) Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of —

- (a) protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks; and
- (b) protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

**Promotion at underage events**

**54.** (1) No person shall promote an alcoholic drink —

- (a) at any event or activity associated with persons under the of eighteen years; or
- (b) using such things or materials that are associated with persons under the age of eighteen years.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five hundred thousand shilling or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

**Encouraging consumption**

**55.** (1) A licensee shall not—

- (a) award, grant or give to a person an alcoholic drink for consumption in or outside the licensed the premises without any consideration equivalent to the market price of the alcoholic drink; or
- (b) promote any alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.

(2) A person who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

(3) Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks and also for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

## PART VII—ENFORCEMENT

### Authorized officers

**56.** (1) The county executive member shall, appoint for each Sub-county, any person or class of persons to be authorized officers for purposes of this Act.

(2) The County Executive member shall issue a certificate of appointment to every person appointed under this section.

### Cap. 242.

### No. 11A of 2011. Cap. 496.

### Cap. 513.

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorized officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act ; and
- (b) officers appointed as enforcement officers under the National Police Service Act of the, Standards Act, Weights and Measures Act and Anti-counterfeit Act; or
- (c) any other person upon whom any written law vests functions of the maintenance of law and order.

### Enforcement Committee

**57.** (1) There is established the County Alcoholic Drinks Control Enforcement Coordinating Committee for the purposes of enforcing this Act.

(2) The Enforcement Committee shall consist of —

- (a) the Chief Officer responsible for alcoholic drinks control who shall be the Chairperson of the Committee;
- (b) one authorized officer appointed under section 57;
- (c) the officer in-charge of the County Government Enforcement Unit;
- (d) the officer responsible for Co-ordination of National Government functions in the County;
- (e) the County Public Health Officer;

- (f) the officer in-charge of Police Services in the County;
- (g) one officer appointed by Kenya Bureau of Standards;
- (h) one officer appointed by Anti- Counterfeit Agency;
- (i) one officer appointed by Department of Weights and Measures; and
- (j) any other officer as the County Executive member may designate.

(3) The Directorate shall provide secretariat services to the Enforcement Committee.

(4) The County Executive member may establish an enforcement committee at sub county level similar to the county committee established under this Act with necessary modifications.

(5) The County Executive Committee member shall submit a quarterly report to the County Assembly containing the activities carried out by the enforcement committee within that period.

#### **Functions of Enforcement Committee**

**58.** The functions of the Enforcement Committee shall be to —

- (a) Co-ordinate enforcement of the Act;
- (b) monitor and evaluate the enforcement process and system under the Act;
- (c) advise the county executive member on the necessary measures to be adopted in ensuring effective enforcement and compliance with the Act; and
- (d) carry out any other function as may from time to time be assigned by the County Executive member.

#### **Places authorized officers may enter**

**59.** (1) For the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

(2) An authorized officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 57 (2).

(3) Pursuant to Article 24(2) of the Constitution, the right to privacy

set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

### **Powers of officers**

**60.** (1) In carrying out an inspection in any place pursuant to section 60, an authorized officer may—

- (a) examine an alcoholic drink or anything referred to in that section;
- (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the alcoholic drink or thing;
- (c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains the alcoholic drink or thing;
- (d) conduct any test or analysis or take any measurements;
- (e) scan the alcoholic drinks and confirm they comply with the set standards; or
- (f) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

(2) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of enforcement of this Act and for protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

### **Use of records**

**61.** In carrying out an inspection in a place, an authorized officer may—

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and
- (d) scrutinize any other record system in use in that place.

(3) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

#### **Entry of dwelling place.**

**62.** An authorized officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under section 64.

#### **Court to issue warrant**

**62. (1)** Upon an ex-parte application, a magistrate or judge of the High Court, may issue a warrant authorizing the authorized officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that —

- (a) the dwelling place is a place referred to in section 63;
- (b) entry to the dwelling place is necessary for the administration or enforcement of this Act; and
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

#### **Use of force**

**64.** An authorized officer executing the warrant issued under section 64 shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

#### **Certificate of analysis**

**65.** An authorized officer who has analyzed or examined an alcoholic drink or thing under this Act, or a sample of it, shall issue a certificate or report setting out the results of the analysis or examination.

#### **Assistance of officers**

**66. (1)** The owner of a place inspected by an authorized officer under this Act or the person in charge of the place and every person found in the place shall —

- (a) provide all reasonable assistance to enable the authorized officer to carry out his duties under this Act; and



- (b) furnish the authorized officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

(2) The inspecting agent in sub-section (1) shall issue the respective inspection completion and certification certificate once satisfied with the inspection.

### **Obstruction**

**67.** No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorized officer who is carrying out duties under this Act.

### **Seizure**

**68.** (1) During an inspection under this Act, an authorized officer may seize any alcoholic drink or thing by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.

(2) The authorized officer may direct that any alcoholic drink or thing seized be kept or stored in the place where it was seized or that it be removed to another place.

(3) Unless authorized by an officer, no person shall remove, alter or interfere in any manner with any alcohol, alcoholic drink or other thing seized.

(4) Any person from whom an alcoholic drink or thing was seized may, within thirty days after the date of seizure, apply to the High Court for an order of restoration, and shall send notice containing the prescribed information to the Executive Member within the prescribed time and in the prescribed manner.

(5) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

(6) The court may, upon production of the alcoholic drink seized as evidence for the purposes of proceedings before the court in relation of contravention of this Act, order for public destruction of the alcoholic drinks save for what is necessary as sample for use as the necessary evidence during the proceedings.

**Order for restoration**

**69.** (1) The High Court may order that the alcoholic drink or thing be restored immediately to the applicant if, on hearing the application, the court is satisfied that—

- (a) the applicant is entitled to possession of the alcoholic drink or thing seized; and
- (b) the alcoholic drink or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under sub-section (1) the court is satisfied that the applicant is entitled to possession of the alcoholic drink or thing seized but is not satisfied with respect to the matters mentioned in paragraph (b) of sub-section (1), the court may order that the alcoholic drink or thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

**General penalty**

**70.** Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

**Nature of offences**

**71.** (1) Offences under this Act, other than the offences specified under Part VI, shall be cognizable offences.

(2) Where a corporation, registered society or other similar legal entity commits an offence under this Act, any director or officer of the corporation, society or legal entity who acquiesced in the offence commits an offence and shall, on conviction, be liable to the penalty provided for by this Act in respect of the offence committed by the corporation, society or legal entity, whether or not such corporation, society or legal entity has been prosecuted.

(3) In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused.

(4) Any act done or omitted to be done by an employee in contravention of any of the provisions of this Act shall be deemed also to be the act or omission of the employer, and any proceedings for an offence

arising out of such act or omission may be taken against both the employer and the employee.

### **Nature of evidence in proceedings**

72. (1) In any prosecution for an offence under this Act, a copy of any written or electronic information obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents.

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

(3) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced notice of not less than seven days of that intention together with a copy of the certificate or report.

(4) The party against whom the certificate or report provided for under subsection (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination.

(5) In a prosecution for a contravention of this Act—

- (a) information on a package indicating that it contains an alcoholic drink is, in the absence of evidence to the contrary, proof that the package contains an alcoholic drink; and
- (b) a name or address on a package purporting to be the name or address of the person by whom the alcoholic drink was manufactured is, in the absence of evidence to the contrary, proof that it was manufactured by that person.

## **PART—VIII –GENERAL PROVISIONS**

### **Regulations**

73. (1) The county executive member may, make Regulations generally for the better carrying out of the objects of this Act including Regulations on the number of permitted sale outlets per town, the zoning of the areas and the classification of premises for purposes of issuance of licenses.

(2) Without prejudice to the generality of sub-section (1), the Regulations may—

- (a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;
- (b) prescribe the forms of applications, notices, licenses and other documents for use under this Act; and
- (c) prescribe the fees payable under this Act.

(3) Pursuant to Article 94(6) of the Constitution, the legislative authority delegated to the Executive Member in this section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory instrument Act, 2013.

### **Transitional**

#### **No. 4 of 2010**

**74.** (1) Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act was a manufacturer, distributor or retailer of any alcoholic drink under the Laikipia County Alcoholic Drinks Control Act, 2014, and the Laikipia County Alcoholic Drinks Control (Amendment) Act, 2017 shall be deemed to be a manufacturer, distributor or retailer of any alcoholic drink under this Act.

(2) The manufacturer, distributor or retailer of any alcoholic drink as referred to in sub-section (1), shall, within one year upon commencement of this Act, comply with the requirements of this Act.

### **Repeals**

**75.** The Laikipia County Alcoholic Drinks Control Act, 2014, and the Laikipia County Alcoholic Drinks Control (Amendment) Act, 2017 are hereby repealed.

**FIRST SCHEDULE (s.22)**  
**LICENCE HOURS**

<i>Licenses</i>	<i>Licence Hours, Conditions and Exceptions</i>
<b>1. General Retail Alcoholic Drink Licence (on licence) for retail outlets commonly known as <i>Bar</i></b>	Authorized to sell alcoholic drink: From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m; and During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.
<b>2. General retail outlet (off licence) Alcoholic Drinks Licence for outlets or liquor shops commonly referred to as <i>wines and spirits</i></b>	Authorized to sell alcoholic drink: From Monday to Friday during the hours of <b>5.00 p.m. to 11.00 p.m</b> ; and During weekends and public holidays during the hours of <b>2:00 pm to 11:00 p.m.</b>
<b>3. Supermarket or Franchised Retail Chain Stores Alcoholic Drink Licence (Off-Licence)</b>	Authorised to sell alcoholic drink on any day of the week during the hours of <b>10.00 a.m. to 9:00 p.m.</b>
<b>4. Hotel Alcoholic Drink Licence</b>	Authorized to sell alcoholic drink on any day of the week to a lodger - for his own consumption and his guest's consumption on the premises, at any hour.
<b>5. Bar and Restaurant</b>	Authorized to sell alcoholic drinks with meals on any day during the hours of 8.00 am. to 11.00 p.m
<b>6. Nyama choma joint</b>	Authorized to sell alcoholic drink with meals/ meat: From Monday to Friday during the hours of 12.00 p.m. to 11.00 p.m; and During weekends and public holidays during the hours of 10:00 am to 11:00 p.m.
<b>7. Wines and spirits wholesale/ Distributor</b>	Authorized to sell alcoholic drinks between the hours of 10.00 am to 8.00 pm on any day.
<b>8. Members Club Alcoholic Drink Licence</b> A members club licence shall only be held to a	Authorized to sell alcoholic drink to members on any day of the week at any hour.

<p>members club that is a non-profit association incorporated under the Society's Act and existing solely for the benefit of members and where no profits are drawn by any member of the club or any person managing or associated with the operations and governance of the club.</p>	
<p><b>9. Night Club Alcoholic Drinks Licence</b></p>	<p>Authorized to sell alcoholic drink any day of the week during the hours of 7.00 p.m. to 3.00 a.m.</p>
<p><b>10. Temporary or Occasional Alcoholic Drinks license.</b></p>	<p>Authorized to sell alcoholic drink on the day and during the hours stipulated in the license by the County Committee for the purposes of specific occasions, ceremonies or events as indicated in the application provided that the licence shall not be granted for a period exceeding six hours.</p>

**SECOND SCHEDULE (s.26)**  
**TYPES OF LICENCES**

	The following licences may be granted under this Act
No 4 of 2010.	<p><b>1. Manufacturer’s Licence</b></p> <p>Subject to the conditions specified in the licence, a Manufacturer’s licence authorizes the holder to—</p> <ul style="list-style-type: none"> <li>(a) manufacture and store the manufactured alcoholic drink in his depot;</li> <li>(b) sell the product of his manufacturing plant by wholesale in accordance with the conditions that are for the time being, applicable to a holder of a wholesale licence or by delivery from depot throughout Kenya in accordance with the Alcoholic Drinks Control Act, 2010:</li> </ul> <p style="padding-left: 40px;">Provided that the manufacturer shall be required to possess a licence to distribute the product of his manufacturing plant within the county; and</p> <ul style="list-style-type: none"> <li>(c) bottle the alcoholic drink subject to such conditions as may be prescribed.</li> </ul> <p style="padding-left: 40px;">For the purposes of this paragraph, “depot” means premises of whatever description which are occupied by a Manufacturer for of his trade.</p>
	<b>2. Wholesale Licence.</b>
	<p>A wholesale licence authorizes the licensee to sell an alcoholic drink at the premises at wholesale specified in the licence, subject to such conditions as may be:</p> <p>Provided that a licensee shall not sell any alcoholic drink for consumption in the premises.</p>
	<p><b>3. Retail Licence</b></p> <p>A retail licence authorizes the licensee to sell an alcoholic drink on the premises, at the hours and subject to such other conditions as are specified in the licence.</p>
	<b>4. Distributor’s Licence</b>
	A distributor’s licence authorizes the licensee to distribute or supply an alcoholic drink within the county subject to such other conditions as are specified in the licence:

	Provided that a distributor of an alcoholic product in the county shall establish a depot in the county and possess a licence for the depot and for distributing the product.
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### THIRD SCHEDULE- ALCOHOLIC DRINKS RELATED CHARGES

#### A. TOWNS ZONES

SIZE OF PREMISE			
	LARGE	MEDIUM	SMALL
Application fee			1,000
General retail on bar license	20,000	15,000	10,000
Hotels with accommodations	50,000	40,000	30,000
Bar and restaurant license	30,000	25,000	20,000
Nyama choma joints	25,000	20,000	15,000
Wines & Spirits (Off Bar)	35,000	30,000	30,000
Wines and spirit wholesale	50,000	50,000	50,000
Members club	50,000	50,000	50,000
Night Clubs & Discotheques	65,000	65,000	65,000
Brewer's alcoholic drink license For each alcoholic drink or Product manufactured	1,000,000	1,000,000	1,000,000
<b>Description</b>			
a) One million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres per annum	500,000	500,000	500,000
c) Above twelve thousand (12,000) but below four hundred and ninety-nine thousand, nine hundred and ninety-nine litres (499,999) per annum	250,000	250,000	250,000
(d) Twelve thousand litres (12,000) and below per annum	50,000	50,000	50,000
<b>1. Manufacture's alcoholic drink license for each alcoholic drink or product manufactured</b>	1,000,000	1,000,000	1,000,000
a) Wholesale one million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres	500,000	500,000	500,000
(c) between 12,000 – 499,999	250,000	250,000	250,000
d) 12,000 and below	50,000	50,000	50,000

<b>SIZE OF PREMISE</b>	<b>LARGE</b>	<b>MEDIUM</b>	<b>SMALL</b>
<b>2.</b> Wholesale alcoholic drink license for each premises	50,000	50,000	50,000
<b>3. (1)</b> Bottler's alcoholic drink license	250,000	250,000	250,000
<b>(2)</b> Depot license, in addition to (1), per depot	50,000	50,000	50,000
<b>4. (1)</b> Distributor alcoholic drink license	50,000	50,000	50,000
<b>(2).</b> Depot license, in addition to per depot	20,000	20,000	20,000
<b>5. Hotel alcoholic drink license - (on license)</b>	50,000	50,000	50,000
(a) In respect of premises situated within a town			
(b) In respect of premises situated within urban areas other than a town	20,000	20,000	20,000
(c) In respect of premises situated elsewhere than in town or urban areas (ranches, lodges, conservancies, tented camps, holiday homes/cottages)	50,000	50,000	50,000
<b>6. Club alcoholic drink license (members' club)</b>	100,000	100,000	100,000
a) In respect of premises situated within a town			
b) In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
c) In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000
<b>7. (1) Club alcoholic drink license (proprietary club or night club or discotheque)</b>			
a) In respect of premises situated within a town	100,000	100,000	100,000
b) In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
c) In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000

**B. MEDIUM URBAN ZONES**

SIZE OF PREMISE			
	LARGE	MEDIUM	SMALL
General retail on bar license	15,000	10,000	8,000
Hotels with accommodations	25,000	22,000	20,000
Bar and restaurant license	20,000	17,000	15,000
Nyama choma joints	15,000	12,000	10,000
Wines & Spirits (Off Bar)	15,000	14,000	12,000
Wines and spirit wholesale/distributors	30,000	30,000	30,000
Members club	50,000	50,000	50,000
Night Clubs & Discotheques	30,000	30,000	30,000
Brewer's alcoholic drink license For each alcoholic drink or Product manufactured	1,000,000	1,000,000	1,000,000
<b>Description</b>			
a) One million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres per annum	500,000	500,000	500,000
c) Above twelve thousand (12,000) but below four hundred and ninety-nine thousand, nine hundred and ninety-nine litres (499,999) per annum	250,000	250,000	250,000
d) Twelve thousand litres (12,000) and below per annum	50,000	50,000	50,000
1. Manufacture's alcoholic drink license for each alcoholic drink or product manufactured	1,000,000	1,000,000	1,000,000
a) Wholesale) one million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres	500,000	500,000	500,000
c) between 12,000 – 499,999	250,000	250,000	250,000
d) 12,000 and below	50,000	50,000	50,000
2. Wholesale alcoholic drink license for each premises	50,000	50,000	50,000
3.(1) Bottler's alcoholic drink license	250,000	250,000	250,000
(2) Depot license, in addition to (1), per depot	50,000	50,000	50,000
4.(1) Distributor alcoholic drink license	50,000	50,000	50,000
(2). Depot license, in addition to (1), per	20,000	20,000	20,000

depot			
5. Hotel alcoholic drink license - (on license)	50,000	50,000	50,000
a) In respect of premises situated within a town			
b) In respect of premises situated within urban areas other than a town	20,000	20,000	20,000
c) In respect of premises situated elsewhere than in town or urban areas	15,000	15,000	15,000
6. (2) Club alcoholic drink license (members' club)	100,000	100,000	100,000
a) In respect of premises situated within a town			
b) In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
c) In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000
7. (1) Club alcoholic drink license (proprietary club or night club or discotheque)	100,000	100,000	100,000
a) In respect of premises situated within a town			
b) In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
c) In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000
8. Supermarket or retail chains stores alcoholic drink license-			
a) in respect of supermarket or retail chain stores for each premises situated within town	80,000	80,000	80,000
b) in respect of supermarkets or retail chain stores for each premises situated within urban areas other than towns	50,000	50,000	50,000
c) in respect of supermarkets or franchised retail chain stores for each premises Situated elsewhere than in a town or urban areas	30,000	30,000	30,000
9. Theatre alcoholic drink license	15,000	15,000	15,000
10. Traveler alcoholic drink license			

a) Where the licensee does not hold a general retail alcoholic drink license in respect of the same premises	30,000	30,000	30,000
b) Where the licensee holds a general retail alcoholic drink license in respect of the same premises	12,000	12,000	12,000
11. Temporary or occasional alcoholic drink license, per day	1,000	1,000	1,000
12. For transferring an alcoholic drink license	1,000	1,000	1,000
1. For removing an alcoholic drink license	500	500	500
2. For the issue of an assurance under the Bill	1,000	1,000	1,000
3. For the issue of a duplicate license.	500	500	500

### C. SMALL URBAN ZONES

SIZE OF PREMISE			
	LARGE	MEDIUM	SMALL
General retail on bar license	10,000	8,000	6,000
Hotels with accommodations	20,000	15,000	15,000
Bar and restaurant license	15,000	10,000	10,000
Nyama choma joints	10,000	8,000	8,000
Wines & Spirits (Off Bar)	10,000	8,000	7,000
Wines and spirit wholesale	20,000	20,000	20,000
Members club	50,000	50,000	50,000
Night Clubs & Discotheques	20,000	20,000	20,000
Brewer's alcoholic drink license For each alcoholic drink or Product manufactured	1,000,000	1,000,000	1,000,000
<b>Description</b>			
a) One million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres per annum	500,000	500,000	500,000
1. Manufacture's alcoholic drink license for each alcoholic drink or product manufactured	1,000,000	1,000,000	1,000,000
a) (wholesale) one million litres and above per annum			
b) Between five hundred thousand (500,000) and nine hundred ninety-nine thousand, nine hundred and ninety-nine (999,999) litres	500,000	500,000	500,000

SIZE OF PREMISE			
	LARGE	MEDIUM	SMALL
c) between 12,000 – 499,999	250,000	250,000	250,000
d) 12,000 and below	50,000	50,000	50,000
2. Wholesale alcoholic drink license for each premises	50,000	50,000	50,000
3.(1) Bottler's alcoholic drink license	250,000	250,000	250,000
(2) Depot license, in addition to (1), per depot	50,000	50,000	50,000
4.(1) Distributor alcoholic drink license	50,000	50,000	50,000
Depot license, in addition to (1), per depot	20,000	20,000	20,000
<b>5. Hotel alcoholic drink license - (on license)</b>			
In respect of premises situated within a Small Urban Zone	50,000	50,000	50,000
In respect of premises situated within urban areas other than a town	20,000	20,000	20,000
In respect of premises situated elsewhere than in town or urban areas	5,000	5,000	5,000
<b>6. Club alcoholic drink license (members' club)</b>			
In respect of premises situated within a town	100,000	100,000	100,000
In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000
<b>7.(1) Club alcoholic drink license (proprietary club or night club or discotheque)</b>			
In respect of premises situated within a town	100,000	100,000	100,000
In respect of premises situated within urban areas other than a town	80,000	80,000	80,000
In respect of premises situated elsewhere than in a town or urban areas	50,000	50,000	50,000
8. Supermarket or retail chains stores alcoholic drink license-			
a) in respect of supermarket or retail chain stores for each premises situated within town	80,000	80,000	80,000
b) in respect of supermarkets or retail chain stores for each premises situated within urban areas other than towns	50,000	50,000	50,000
c) in respect of supermarkets or	30,000	30,000	30,000

<b>SIZE OF PREMISE</b>			
	<b>LARGE</b>	<b>MEDIUM</b>	<b>SMALL</b>
franchised retail chain stores for each premises Situated elsewhere than in a town or urban areas			
Theatre alcoholic drink license	15,000	15,000	15,000
9. Traveler alcoholic drink license a) Where the licensee does not hold a general retail alcoholic drink license in respect of the same premises	30,000	30,000	30,000
b) Where the licensee holds a general retail alcoholic drink license in respect of the same premises	12,000	12,000	12,000
10. Temporary or occasional alcoholic drink license, per day	1,000	1,000	1,000
For transferring an alcoholic drink license	1,000	1,000	1,000
For removing an alcoholic drink license	500	500	500
For the issue of an assurance under the Bill	1,000	1,000	1,000
For the issue of a duplicate license.	500	500	500