

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 5 (Meru County Bills No. 3)*



REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**MERU COUNTY BILLS, 2023**

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**NAIROBI, 6th October, 2023**

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**THE MERU COUNTY ALCOHOLIC DRINKS CONTROL  
BILL, 2023**

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“County Committee” means the County Alcoholic Drinks Regulation Committee appointed under section 13;

“County Executive Member” means the County Executive Member responsible for alcohol control;

“distributor” means a trader who buys alcoholic drinks from the manufacturers and sell to the retailers;

“entity” includes a company, corporation, firm, partnership, association, society, trust or other organisation, whether incorporated or not;

“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;

“Fund” means the Alcoholic Drinks Control Fund established by section 6;

“general retail” means an outlet selling different brands of alcoholic drinks to consumers;

“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;

(2) For the avoidance of doubt, this Act shall not apply to any matter in respect of the functions of the National Government regarding the prescribing and enforcement of standards of production, manufacture, importation and exportation of alcoholic drinks and similar matters.

## **PART II—ADMINISTRATION**

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

4. (1) There is established a committee to be known as 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) The County Committee shall consist of—

- (a) the chairperson, who shall be competitively recruited by the County Public Service Board and appointed, with the approval of the County Assembly, by the Governor;
- (b) the county public health officer;
- (c) the officer responsible for coordinating National Government functions in the County;
- (d) the officer for the time being responsible for physical and land use planning in the County;
- (e) one person designated by Kenya Bureau of Standards; and
- (f) subject to the two-thirds gender rule prescribed by Article 27(8) of the Constitution, three residents of the county appointed by the Executive Member through a competitive process—
  - (i) one of whom shall be a youth;
  - (ii) one of whom shall be nominated by an association of businesspersons operating in the County; and
  - (iii) one of whom shall represent faith-based organisations in the County.

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

(4) The members appointed under sub-section (3)(e), (f) and (g) shall be eligible for appointment if they possess at least an academic certificate from a tertiary institution recognized in Kenya.

### **PART III—THE COUNTY ALCOHOLIC DRINKS CONTROL FUND**

#### **Establishment of the Fund**

6. There is established a county fund to be known as the County Alcoholic Drinks Control Fund.

#### **Purpose of the Fund**

7. The Fund shall be used for—
- (a) the establishment of rehabilitation and treatment centers in the County;
  - (b) facilitating public education and awareness creation campaign in the County regarding the harms of excessive alcohol consumption;
  - (c) facilitating the carrying out of research and similar studies regarding the better regulation of the alcoholic drinks sector in the County; and
  - (d) facilitating the participation of the residents of the County in the regulation of the alcoholic drinks sector in the County.

#### **Sources of funds of the Fund**

8. (1) There shall be paid into the Fund—
- (a) fees paid or collected under this Act;
  - (b) fines imposed or collected by the county government under this Act;
  - (c) such sums as may be realized from property forfeited to the county government under this Act;
  - (d) monies appropriated by the County Assembly for the purposes of the Fund; and
  - (e) gifts, grants and bequests from sources authorized by the County Executive Committee member responsible for matters relating to Finance.
- (2) Where in terms of sub-section (2) (c) any immovable property is assigned to the Fund, the County Executive Member may deal with the

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.

#### **Application for a licence**

**11.** (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 writing in the 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 subsection (1) shall contain—
  - (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.

#### **Notice by Sub-county Committee**

**12.** 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—

**Applicant and objector to appear in person or through advocate at hearing**

15. (1) 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.

(2) 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.

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

**Residents may be represented at hearing**

16. 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 residents of that part in respect of any objection lodged to an application.

**Evidence may be taken on oath at hearing**

17. 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 chairman shall be empowered to administer oaths.

**Penal Code to apply to proceedings at hearing**

18. 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.

**Records of Sub-County Committee proceedings**

19. 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.



(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.

(7) 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.

(8) 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.

**License of premises where alcoholic drinks are sold**

22. (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:

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;
- (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 three hundred metres from the school, 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 First Schedule.

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.

**Persons not eligible to be granted a licence**

24. (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;
- (b) has been convicted of an offence under this Act 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;
- (c) in the case of a retail licence, is not resident in Kenya;
- (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;
- (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;
- (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;
- (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;
- (e) the conditions of the licence have not been satisfactorily fulfilled; or

hundred thousand Kenya shillings or to imprisonment for a term not exceeding six months.

### **Grant and renewal of licences**

26. (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 the thirty first day of December in 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; and
- (d) specify the address of the person to whom the licence has been granted including the physical address and relevant geo-locational information of the premises from where the licenced activities shall be undertaken.

(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.

### **Transfer of licences**

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, if it thinks fit, recommend to the County Committee to grant the transfer of such licence.

**Refusal to renew licence**

29. 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.

**Cancellation of licences**

30. (1) Upon receipt of a report made under section 13 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, if he appears, may, if it thinks fit, cancel the licence of the licensee reported upon, or it 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.

### **Appeals**

33. Subject to section 12, 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.

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

34. (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 in the prescribed form; and
- (c) submit in the list described under paragraphs (a) and (b) in each month to the county executive member.

(2) The County Executive member shall facilitate the establishment of an online system for submitting the lists described under subsection (1).

(3) 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 V—GENERAL REQUIREMENTS**

### **Conformity with requirements**

35. (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**

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

(4) The County Executive Member shall, in collaboration with the relevant county department install within the distance of three hundred metres from all nursery, primary and secondary schools, signs bearing the words "WARNING: THIS IS AN ALCOHOL-FREE AREA".

#### **Vending machines**

38. (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**

39. (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 of less than two hundred and fifty millilitres;
- (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) Each bottle in which an alcoholic beverage is packaged shall be inscribed with the name of the manufacturer in such a manner as the inscription may not be altered or defaced.

(4) 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.

#### **Transportation of alcoholic drinks**

40. (1) No person shall transport alcoholic drinks for the purposes of sale or distribution between the hours of 6:00 o'clock in the afternoon and 6:00 o'clock in the forenoon.

(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.

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

#### **Sale to intoxicated persons**

43. 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**

44. (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 subsection (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.

(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

**Sale to authorised officers**

47. 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**

48. 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 a licence**

49. (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 and sale of adulterated alcoholic drinks**

50. (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



**Endorsement of conviction on licence**

52. 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**

53. 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;
- (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 VII—ADVERTISEMENTS AND PROMOTIONS**

**Prohibited advertisements and promotions**

54. (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 of three hundred metres from nursery, primary, secondary school, or other institution of learning for

**Encouraging consumption**

57. (1) A licensee shall not—

- (a) award, grant or give to a person an alcoholic drink for consumption in or outside the licensed 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 VIII—ENFORCEMENT**

**Appointment of authorised officers**

58. (1) The County Executive Member shall appoint for each sub-county authorised officers for purposes of this Act.

(2) The county executive member shall issue a certificate of appointment to every person appointed as an authorized officer under this section.

(3) In addition to the authorized officer appointed under this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act;
- (b) enforcement officers appointed under the National Police Service Act, 2011, Standards Act, Weights and Measures Act and Anti-Counterfeit Act; and
- (c) any other person upon whom any written law vests functions of the maintenance of law and order.

**Entry into dwelling places**

62. An authorised 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**

63. Upon an *ex parte* application, a magistrate or judge of the High Court, may issue a warrant authorising the authorised 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 authorised 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 authorised in the warrant.

**Certificates of analysis**

65. An authorised 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 authorised 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 authorised officer to carry out his duties under this Act; and
- (b) furnish the authorised officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

provisions of this Act, the premises, vessels, vehicles, tools or implements used in the commission of the offence may be forfeited to the County Government.

#### **Order for restoration**

70. (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**

71. 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.

### **PART IX—MISCELLANEOUS PROVISIONS**

#### **Regulations**

72. (1) The County Executive Member may, make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (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, licences and other documents for use under this Act; and
- (c) prescribe the fees payable under this Act.

**FIRST SCHEDULE**

(s.22)

**PERMITTED AREAS OF SALE AND NUMBER OF OUTLETS**

<i>Permitted Areas of Sale</i>	<i>Maximum number of permitted on licence retail alcoholic drinks premises (Bars)</i>	<i>Maximum number of permitted off-licence retail alcoholic drinks premises (Wines and Spirits)</i>
Urban Area		
Area A		
Area B		
Area C		

**SECOND SCHEDULE**

(s.26)

**LICENCE HOURS**

<i>S/No.</i>	<i>Licences</i>	<i>Licence hours, conditions and exceptions</i>
1.	Alcoholic Drink Licence (on licence) for retail outlets commonly known as Bar	(a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m.  (b) During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.
2.	General retail outlet (off-licence) Alcoholic Drinks Licence for outlets or liquor shops commonly referred to as wines and spirits	Authorised to sell alcoholic drinks on any day of the week during the hours of 5:00 pm to 9:00 p.m.
3.	Supermarket or Franchised Retail Chain Stores Alcoholic Drink Licence (Off-Licence)	Authorised to sell alcoholic drink on any day of the week during the hours of 5.00 p.m. to 9:00 p.m.
4.	Hotel Alcoholic Drink Licence	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

**THIRD SCHEDULE**

(s.26)

**TYPES OF LICENCES**

**1. Manufacturer's licence**

Subject to the conditions specified in the licence, a Manufacturer's licence authorizes the holder to—

- (a) manufacture and store the manufactured alcoholic drink in his depot;
- (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:

Provided that the manufacturer shall be required to possess a licence to distribute the product of his manufacturing plant within the county; and

- (c) bottle the alcoholic drink subject to such conditions as may be prescribed.

For the purposes of this paragraph, "depot" means premises of whatever description which are occupied by a Manufacturer for of his trade.

**2. Wholesaler's licence**

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:

Provided that a licensee shall not sell any alcoholic drink for consumption in the premises.

**3. Retailer's licence**

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.

**4. Distributor's licence**

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.

18	Transfer of licence/change of details		2,000	2,000		2,000	2,000
19	All New Applicants	10,000		10,000	10,000		10,000

The Bill also provides for license hours under the Second Schedule and imposes levies for licences under the Fourth Schedule.

**Statement on Delegated Powers to Legislate**

The County Executive Committee Member responsible for alcohol regulation is empowered to make the necessary regulations for the better functioning of various provisions of the Act.

**Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution and section 21 of the County Governments Act, 2012**

This Bill is a Money Bill within the meaning of Article 114 of the Constitution of Kenya, 2010 and Section 21 (4) of the County Governments Act, 2012.

Dated the 4th October, 2023

**JENNIFER MAKENA MUROGOCHO,**  
*Chairperson, Sectoral Committee on Youth, Gender and Community Services.*