

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**KIAMBU COUNTY ACTS, 2018**

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**NAIROBI, 8th March, 2022**

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CONTENT

Act—	PAGE
The Kiambu County Alcoholic Drinks Control Act, 2018 .....	1

**[Revised 2022]**

**THE KIAMBU COUNTY ALCOHOLIC DRINKS  
CONTROL ACT, 2018**

**No. 2 of 2018**

**[Amended 2021]**

**[Revised 2022]**

**ARRANGEMENT OF SECTIONS**

*Section*

**PART I— PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Purpose of the Act.

**PART I— ADMINISTRATION**

- 4—Role of the Executive Member.
- 5—Establishment of Directorate.
- 6—Appointment of the Director.
- 7—Removal of office.
- 8—Annual reports.
- 9—Establishment of rehabilitation facilities and programs.
- 10—Appointment of other members of staff.
- 11—Designation of the sub-county alcoholic drinks licensing officers.

**PART III—ALCOHOLIC DRINKS CONTROL FUND**

- 12—Establishment of the Fund.
- 13—Administration of the Fund.

**PART IV—LICENSING PROCEDURE**

- 14—Control of alcoholic drinks.
- 15—Prohibition from manufacturing, distribution or sale of illicit brew.
- 16—Sub-County Alcoholic Drinks Regulation Committee.
- 17—Establishment of alcoholic drinks regulatory committees in decentralized units.
- 18—Public participation and inter agency collaboration.
- 19—Application for a licence.

- 20—Application for renewal of licence.
- 21—Application for transfer of business.
- 22—Authority to hold a licence on probate.
- 23—Procedure for consideration of an application.
- 24—Inspection of premises.
- 25—Public hearing.
- 26—Objections.
- 27—Grant of a licence.
- 28—Validity of a licence and conditions.
- 29—Display of a licence.
- 30—Maintenance of records.
- 31—Suspension or cancellation of a licence.
- 32—Temporary closure of a premises.
- 33—Types and conditions of a licence.
- 34—Authorized hours for sale of an alcoholic drink.
- 35—Zones.

#### **PART V — GENERAL REQUIREMENTS**

- 36—Employment for sale of alcoholic drinks.
- 37—Drunken behavior.
- 38—Debt from sale of alcoholic drinks.
- 39—Access by persons under the age of eighteen years.
- 40—Reports by public health officers and County Enforcement Officers.
- 41—Conformity with requirements.
- 42—Supply to minor.
- 43—Hawking of alcoholic drinks.
- 44—Display of signs.
- 45—Vending machines.
- 46—Packaging.
- 47—Disorderly conduct.
- 48—Non-disclosure of material facts.

49—Manufacture and sale of adulterated drinks.

**PART VI—ADVERTISEMENT AND PROMOTION**

50—Prohibited advertisement and promotion.

51—Encouraging consumption.

**PART VII —ENFORCEMENT**

52—County Alcoholic Drinks Control Enforcement Coordinating Committee.

53—Authorized Officers.

54—Places authorized officers may enter.

55—Powers of officers.

56—Use of records.

57—Entry of dwelling place.

58—Certificate of analysis.

59—Assistance of officers.

60—Obstruction.

61—Seizure.

62—General Penalty.

**PART VIII — GENERAL PROVISIONS**

63—Regulations.

64—County Alcoholic Drinks Appeals Committee.

65—Conduct of Appeals.

66—Code of Ethics.

67—Transitional clause.

**FIRST SCHEDULE—License hours, Conditions and Exceptions.**

**SECOND SCHEUDLE—Forms and formats.**

**THIRD SCHEDULE—License Fees.**

No. 2 *Kiambu County Alcoholic Drinks Control* [Revised 2022]

**THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL  
ACT, 2018**

[Amended 2021]

[Revised 2022]

*Date of Assent: 3rd March, 2021*

*Date of commencement: 8th March, 2021*

**AN ACT of the County Assembly of Kiambu to establish a framework for the licensing and regulation of the production, sale, distribution, consumption and outdoor advertising of alcoholic drinks; and for connected purposes**

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

**PART I — PRELIMINARY**

**Short title**

1. This Act may be cited as the Kiambu County Alcoholic Drinks Control Act, 2018 and shall come into operation on the date of publication in the *Gazette*.

**Interpretation**

**Cap 222**

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;

“Authority” means the National Authority for the Campaign Against Alcohol and Drug Abuse established under the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012;

“Authorized officer” means any designated as authorized officer under section 55;

“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;

“Chief Officer” means the Chief Officer of the Department for the time being responsible for alcohol drinks licensing and control;

“County Appeals Committee” means the County Alcoholic Drinks Appeals Committee appointed under section 66;

“Directorate” means the Directorate of Alcoholic Drinks Control established under section 5;

“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;

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

“Enforcement Committee” means the County Alcoholics Drinks Control Enforcement Co-coordinating Committee established under section 52;

“Executive Member” means the County Executive Member responsible for licensing and control of alcohol drinks;

“Fund” means the Alcoholic Drinks Control Fund established under section 12;

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

“illicit brew” means an alcoholic drink that—

- (a) is manufactured contrary to the provisions of the relevant laws;
- (b) is manufactured by unlicensed person or in unlicensed premises;
- (c) is not certified under the standards Act;
- (d) is a counterfeit; and
- (e) does not bear a valid Kenya Bureau of Standards; or
- (f) does not bear a valid Kenya Revenue Authority excise stamp;

“institution of basic education” has the same meaning assigned to it under the Basic Education Act;

“licensee” means a holder of a license granted under this Act;

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

“licensing officer” means a sub-county alcoholic drinks licensing officer designated in accordance with section 11.

“locality” 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; and
- (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;

“on-license” means a licence granted to a person who intends to sell an alcoholic drink for consumption at the point of sale;

“off license” means the licence granted to a person who intends to sell an alcoholic drink not for consumption at the point of sale;

“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;

“public place” means any place whether indoor or outdoor, privately or publicly owned, to which the public or a substantial group of the public have access by right or invitation, expressed or implied, whether by payment or not but excludes a place used exclusively by one or more persons for a private or other personal purpose;

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

“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 Regulatory Committee established under section 16.

### **Purpose of the Act**

**3.** The purpose of this Act is to provide for a framework for the licensing and control of production, sale, distribution, promotion and use of alcoholic drinks and the promotion of research, treatment and rehabilitation for person’s 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, advertising and consumption of alcoholic drinks;
- (b) protect the health of the individual in light of the dangers of consumption of alcoholic drinks;
- (c) protect persons under the age of eighteen years from negative impact on social development as a result of exposure to advertisements of alcoholic drinks;
- (d) provide for coordination and collaboration with other government agencies and to support implementation of national policies on alcoholic drinks control in the County;
- (e) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;
- (f) provide a framework for provision of civic education;
- (g) facilitate and enhance community participation in alcoholic drinks control;
- (h) ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks; and
- (i) eliminate illicit brews, counterfeit adulterated and sub-standard alcoholic drink products in the County.



**PART II —ADMINISTRATION****The role of the Executive Member**

4. (1) The Executive Member shall be responsible for the implementation of the provisions of this Act and in particular, shall—

- (a) advice the County Government on all matters relating to alcoholic drinks control;
- (b) ensure that there is effective public participation in accordance with the framework for citizen participation established under county and national laws;
- (c) foster collaborations, linkages and partnerships within the County and recommend to the County Executive Committee external collaborations, linkages and partnerships, including the national bodies established to control alcoholic drinks;
- (d) promote the establishment and operationalization of treatment and rehabilitation centers within the County; and
- (e) prepare or cause to be prepared a bi-annual report on the status of alcoholic control within the County and submit to the Executive Committee and the relevant County Assembly Committee.

**Establishment of Directorate**

5. (1) There is established in the County the Directorate of Alcoholic Drinks Control.

- (2) The functions of the Directorate shall include —
  - (a) regulating alcohol production, distribution, advertisement, sale and consumption of alcohol in the County to ensure the realization of the objects of this Act;
  - (b) licensing and enforcing the conditions of a licence granted under this Act;
  - (c) coordinate the operations of the committees established under this Act;
  - (d) coordinate the establishment, implementation and operations of alcohol treatment and rehabilitation facilities and programmes;
  - (e) undertake research on alcohol related matters and disseminate findings;
  - (f) undertake public education, training, sensitization or in any other manner, disseminate information on matters relating to alcohol to

the public in order to influence positive social development and responsible drinking culture;

- (g) recommend to the Executive Member the formulation of policies, rules and regulations for better implementation of this Act;
- (h) advice the Executive Member on matters relating to alcohol;
- (i) propose to the Executive Member collaboration and linkages programmes for better implementation of this Act;
- (j) monitor and evaluate the impact of this Act on the community development and advise the Executive Member;
- (k) prepare and submit to the Executive Member a bi-annual status report on licensing, impact of licensing, compliance with the licensing conditions and public awareness of alcoholic drinks control; and
- (l) carry out any other functions as may be assigned by the Executive Member for better implementation of this Act.

#### **Appointment of the Director**

**6.** (1) The Directorate shall be headed by a Director who shall be appointed by the County Public Service Board through a competitive process.

(2) A person shall only be appointed as a Director under this Act if that person—

- (a) is a Kenyan Citizen;
- (b) possesses an academic degree from a university recognized in Kenya;
- (c) has at least five years post-graduation work experience at management level;
- (d) has no pecuniary interest or is associated in the alcohol industry; and
- (e) meets the requirements of the Constitution.

(3) The Director shall be responsible for the day to day operations of the Directorate, and in particular, shall ensure that the functions of the Directorate are undertaken.

#### **Removal of office**

**7.** The County Secretary may, on the recommendation of the Executive Member, remove a Director from office —

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

- (a) for gross misconduct;
- (b) where adjudged bankrupt;
- (c) for abuse of office;
- (d) due to incompetence or neglect of duty;
- (e) due to inability to perform his or her duties arising out of physical or mental incapacity;
- (f) due to a breach of the code of ethics; or
- (g) due to a conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months.

**Annual report**

**8.** (1) The Director shall, within thirty days after the lapse of a financial year, submit to the Executive Member a report on the operations of the Directorate.

(2) The report referred to under sub section (1) shall, in addition to any other information, contain details of —

- (a) the social and economic impact of the use of alcoholic drinks in the County;
- (b) measures adopted to control and reduce the use and negative impact of alcoholic drinks in the County;
- (c) the public participation undertaken relating to the implementation of the Act and feedback given to the public;
- (d) implementation of the treatment and rehabilitation programme;
- (e) challenges faced in the implementation of the Act; and
- (f) any information as may be required by the Executive Member.

(3) The Executive Member shall publish and publicize the annual report through the established County communication channels which shall include the County website and communication forums.

**Establishment of rehabilitation facilities and programs**

**9.** The Directorate, in collaboration with the relevant government agencies shall—

- (a) establish treatment and rehabilitation services, facilities and programs for person's dependent on alcoholic drinks in the county health facilities;
- (b) ensure that the rehabilitation centers are adequately staffed;

- (c) ensure that the treatment and rehabilitation services, facilities and programs —
  - (i) are designed in a manner that is accessible and affordable to person's dependent on alcoholic drinks; and
  - (ii) where applicable, are integrated with other social services and programs.

### **Appointment of other members of staff**

**10.** The County Public Service Board may, on recommendation of the Chief Officer appoint other members of staff for better implementation of this Act.

### **Designation of the sub-county alcoholic drinks licensing officers**

**11.** (1) The Chief Officer shall designate from among the staff of the County Government an alcoholic drinks licensing officer for every sub-county who shall be responsible to the Director.

(2) The Chief Officer may from time to time re-deploy a licensing officer as shall be deemed necessary for better implementation of this Act.

- (3) The licensing officer shall—
  - (a) receive applications for an alcoholic drinks licence for tabling before the sub-county committee;
  - (b) on recommendations of the sub-county committee, issue or refuse to issue an alcoholic drink licence;
  - (c) on a regular basis inspect and monitor the licensed premises to ensure compliance with the conditions of a licence,
  - (d) prepare and submit status reports to the Director at least on a quarterly basis;
  - (e) recommend the withdrawal of licence to the Director on the basis of non-compliance with the conditions of licence; and
  - (f) exercise any other function incidental thereto or as may be assigned from time to time by the Director.

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

### **Establishment of the Fund**

- 12.** (1) There is established the Alcoholic Drinks Control Fund.
- (2) The fund shall consist of—
  - (a) monies as may be appropriated by the County Assembly;

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

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

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

- (a) carrying out any of the functions of the Directorate;
- (b) operations of the Committees;
- (c) developing and providing rehabilitation services, facilities and programs;
- (d) public awareness and advocacy on matters related to alcohol control; and
- (e) any other matter related to the implementation of this Act.

(4) Notwithstanding the provisions of sub-section (3), an amount of—

- (a) not more than thirty percent of the Fund shall be allocated for purposes of enforcement;
- (b) not less than thirty percent of the Fund shall be allocated for the implementation of treatment and rehabilitation services programs and related infrastructure; and
- (c) not more than three percent of the Fund shall be allocated for administration costs.

(5) The receipts, earnings or accruals of the Fund shall not be treated as County revenue and its balances at the close of each financial year shall not be paid into the county revenue account but shall be retained for the purposes of the Fund.

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

**13.** (1) The County Executive Member responsible for Finance shall designate an officer to administer the Fund.

(2) The officer administering the Fund may, with the approval of the County Executive Committee Member responsible for Finance, invest or

place in a deposit account any of the monies of the Fund and any interest earned on monies so invested or deposited.

- (3) The officer administering the Fund shall—
- (a) ensure compliance with the provisions of the Public Finance Management Act, 2012;
  - (b) supervise and control the administration of the Fund;
  - (c) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning the use of expenditure;
  - (d) prepare quarterly reports of the operations of the fund and submit to the County Executive Committee Member responsible for Finance;
  - (e) cause to be kept proper books of account and records in relation to the operations of the Fund;
  - (f) prepare, sign and submit to the Auditor General in respect of each financial year a statement of accounts relating to the Fund within three months after the end thereof; and
  - (g) furnish such additional information as may be required for examination and audit by the Auditor-General.

(4) The County Executive Committee Member responsible for Finance may designate to the Directorate such staff as may be necessary to assist in the management of the Fund.

#### **PART IV — LICENSING**

##### **Control of alcoholic drinks**

**14.** (1) A person shall not manufacture or otherwise produce, sell, distribute or dispose of or deal with any alcoholic drink in the County except in accordance with a license issued under this Act.

(2) A person who contravenes the provisions of sub section (1) commits an offence and, in addition to any other remedy under this Act, is liable to a fine of a sum not exceeding one million shillings or imprisonment for a term not exceeding two years or both.

##### **Cap .366**

##### **Cap. 244**

- (3) Sub section (1) shall not apply to —
- (a) the *bona fide* administration or sale for purely medical purposes, and in accordance with any written law for the time being in

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

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;

- (b) the sale of spirituous or distilled perfume, or perfumery;
- (c) the sale of industrial alcohol;
- (d) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;
- (e) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets; and
- (f) 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.

**Prohibition from manufacturing, distribution or sale of illicit brew**

**15.** (1) A person shall not manufacture, distribute, store, sell or in any other manner dispose of or handle an illicit brew.

(2) A person who contravenes the provisions of sub-section (1) commits an offence and on conviction, shall be liable to a fine of a sum not exceeding three million shillings or to imprisonment for a term not exceeding three years.

(3) For the avoidance of doubt, a licensee or owner of a premises or any person in charge or found to be in charge of a premises, or any person responsible for any activity in the manufacturing, distributing, storing, selling or in any other manner disposing or handling an illicit brew commits an offence under this Act.

(4) Any illicit brew seized by an authorized officer shall be stored or destroyed in accordance with the regulations or directions prescribed by the Executive Member or by the order from the Governor.

**Sub-County Alcoholic Drinks Regulatory Committee**

**16.** (1) There is established for every sub-county a Sub-County Alcoholic Drinks Regulatory Committee comprising of—

- (a) the sub-county administrator for the respective Sub County who shall be the Chairperson;
- (b) the sub-county public health officer;
- (c) licensing officer, who shall be the secretary;

- (d) the sub-county officer responsible for environmental matters;
- (e) the sub-county planning officer; and
- (f) the officer responsible for coordination of National Government functions in the respective Sub-County;
- (g) the officer in charge of National Police Service in the respective Sub-County;
- (h) a representative of association of alcoholic drinks traders for the respective Sub-County; and
- (i) a resident representing each ward in the respective Sub-County appointed by the Governor taking into consideration, gender parity, representation of youth and persons with disability.

(2) Notwithstanding the provision of sub-section (1), a member under subsection 1 (h) shall not participate in decision making for approval or otherwise for an application under this Act.

(3) The members of the sub-county committee may co-opt a person who has particular expertise to the committee to assist in the implementation of its mandate.

(4) A Sub-County Committee shall—

- (a) consider applications for issuance of a licence;
- (b) recommend to the licensing officer the issuance of an alcoholic drinks license;
- (c) monitor the general compliance with the provisions of this Act and make recommendations to the Director, including recommending the suspension or cancelation of a license;
- (d) hear the views or objections from the public and make recommendations to the Director; and
- (e) perform such other functions as may be assigned by the Executive Member.

(5) A member of a Sub-County Committee except the ex-officio member shall hold office for a term of three years' renewable once.

(6) The Executive Member may, with the approval of the County Executive Committee, remove a member of the Sub-County Committee from office for—

- (a) gross misconduct or misbehavior;
- (b) incompetence or neglect of duty;



**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

- (c) inability to perform his duties arising out of physical or mental incapacity;
- (d) adjudication of bankruptcy;
- (e) violation of the code of ethics; or
- (f) conviction of a criminal offence under this Act or any other written law whose penalty exceeds an imprisonment term of six months.

(7) The conduct of business and affairs of the Sub-County Committee shall be in the manner prescribed under the regulations.

**Establishment of alcoholic drinks regulatory committees in decentralized units**

**17.** (1) Where a decentralized unit of the County Government is established in accordance with any other written law, an alcoholic drink regulatory committee responsible for the decentralized unit shall be established under this Act.

(2) In determining the composition and functions of an alcoholic drinks regulatory committee established under this section, the provisions of section 16 and other applicable provisions of this Act shall apply with the necessary modifications.

**Public participation and inter agency collaboration**

**18.** In carrying out its functions, the sub-county committee shall ensure that there is effective public participation in accordance with the framework for citizen participation established under the relevant written laws

**Application for a of a license**

**19.** (1) A person who intends to produce, manufacture sell or distribute any alcoholic drink in the County or to operate an establishment for the sale of an alcoholic drinks shall apply to the licensing officer for a licence under this Act in the format prescribed in First Schedule.

- (2) An application under subsection (1) shall be accompanied by—
  - (a) information on the nature, orientation and other justification for the establishment of the manufacturing plant or the establishment for sale of an alcoholic drink;
  - (b) plot number and physical address of the location of the premises to house the proposed establishment;

- (c) details of the sizes and related infrastructure to support the proposed business;
- (d) the type and class of licence applied for;
- (e) evidence of compliance with the laws relating to physical planning and building code, public health and environmental laws;
- (f) signed declaration in the prescribed form of commitment not to sell illicit or unlicensed alcoholic drinks;
- (g) the fees as prescribed in the Third Schedule; and
- (h) such other requirement as may be prescribed by regulations under this Act.

(3) An applicant for a manufacturer's licence under this Act shall, in addition to the requirements under sub-section (2) provide—

- (a) certification Kenya Bureau of Standards;
- (b) standardization mark from Kenya Bureau of Standards, Excise licence from Kenya Revenue Authority, evidence of compliance with the National Authority for the Campaign Against Alcoholic and Drug Abuse Act, 2012;
- (c) a list of the alcoholic drink the applicant has been approved to manufacture, including the ingredients of the alcoholic drink; and
- (d) in addition to any other requirements under this Act, an applicant for a wholesale, depot or distributor's alcoholic drinks license shall provide written authority to sell alcoholic drinks from a licensed manufacturer.

(4) Where an application for a license has been refused, no subsequent application in respect of that business shall be considered by the Sub-County committee until the expiry of sixty days and subject to the applicant attending to the reasons given for the refusal.

#### **Application for renewal of licence**

**20.** (1) A person licensed under this Act who intends to continue with the business for which the licence was granted shall, during the last quarter of the year, apply for a renewal of licence under this Act.

(2) An application in sub-section (1) shall be in the format prescribed in the Second Schedule subject to payment of the prescribed fees and signing of the declaration required in section 20 (2) (f) .

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

(3) The procedure for considering an application for a license shall apply in considering an application under this section with the necessary modification.

(4) A person who submits their application for renewal of licence after the period prescribed under sub-section (1) shall, in addition to any other remedy under this Act, be charged a penalty equivalent to one percent of the licence fee for every month of delay.

(5) Where an application for renewal of a licence has been made in accordance with this Act and by the date of expiration of the licence no decision has been made thereon, such licence shall continue in force until the decision is made.

(6) Where a renewal has been refused or a license has been cancelled, an application in respect of that business may be considered by the Sub-County Committee provided that the applicant has addressed the reasons for such refusal or cancellation.

**Application for transfer of business**

**21.** A person who holds a licence under this Act who intends to transfer his or her business to another premises shall apply for inspection and grant of a licence of the proposed new business premises in format prescribed in the Second Schedule and pay the fee prescribed under this Act.

**Authority to hold a licence on probate**

**22.** Where a licensee dies, the deceased estate's administrators may apply to the Director for authority to hold the licence for the period of the validity of the licence in the format prescribed in the Second Schedule and shall during such validity comply with the conditions of this Act.

**Procedure for consideration of an application**

**23.** (1) Applications made under this Part shall be considered at least on quarterly basis or such other time as the Director may deem fit in consultation with the Executive Member.

(2) The licensing officer shall, within seven days from the last day of every quarter, publish and publicize a public notice setting forth —

- (a) the names of the all the applications received for consideration in the quarter;
- (b) the type of licence applied for;
- (c) the premises in respect of which the licence is applied for;

- (d) the period within which the public may submit written objections for the sub-county committee's consideration; and
- (e) the date, time and place when the sub-county committee shall sit to hear any public views or objections.

(3) A notice under subsection (1) —

- (a) shall be placed at the office of the Sub-County Administrator ;
- (b) shall be posted in a conspicuous place at or near the applicant's premises; and
- (c) may, in addition to requirements under (a) and (b) be published in any other place as the Executive Member may deem necessary.

(4) Within twenty one days from the date of the notice issued in accordance with Sub-section (3), the licensing officer, the sub-county public health officer, the sub-county physical planning officer and the enforcement officer in charge of a sub-county shall prepare and submit a report of their findings to the sub-county committee on all matters within their jurisdiction relevant to the application before the Sub-County Committee without any cost to the applicant.

(5) Within thirty days from the date of the notice issued in accordance with sub-section (3), the licensing officer shall table before the sub-county committee the following for consideration —

- (a) a list of all applications received for consideration during the quarter;
- (b) the reports prepared in accordance with sub-section (4); and
- (c) any written report or objection received from the public relating to any application under consideration.

(6) A sub-county committee shall consider all the application made during the quarter and any other matter referred to it and may recommend an application for grant of licence if the —

- (a) applicant has met the requirements for the licence applied for as prescribed in the First Schedule to this Act and any other written law, and in particular, the occupational health standards, environmental law and regulations, safety regulations;
- (b) premises in respect of which the application is made is in good repair, clean and wholesome condition with adequate and proper sanitary arrangements;
- (c) applicant, in respect of an off-licence, is licensed and operates a supermarket and has taken measures to ensure that the area in

**No. 2** *Kiambu County Alcoholic Drinks Control* **[Revised 2022]**

which the sale of an alcoholic drink is to take place is not accessible to persons under the age of eighteen years;

- (d) applicant, in respect to a manufacture's licence to brew, distill, bottle or manufacture an alcoholic drink, possesses the necessary qualifications and has complied with all requirements stipulated under any relevant written law;
- (e) the premises is not located in a building used for residential purposes except a building used for the exclusive use of a hotel which has complied with sub-sections (6) (f) and (g);
- (f) the premises is located at least three hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years and or in the alternative, a wall or barrier of such quality and standard has constructed to demarcate the nursery, primary, secondary or other learning institution from the premises in order to ensure that the person below the age of eighteen years is protected from accessing an alcoholic drink; and

(7) Notwithstanding the provisions of this Act, the Sub-county Committee shall only recommend the renewal of a license to a person who—

- (a) has satisfied the requirements of this Act;
- (b) has not been convicted of an offence under this Act or an offence of which the penalty is an imprisonment term of more than six months without the option of a fine in Kenya or elsewhere;
- (c) is above eighteen years of age; or
- (d) is not adjudged bankrupt.

(8) Notwithstanding the provisions of this Act, the Sub –County Committee may refuse to recommend the grant of a license in the public interest on such grounds but not limited to—

- (a) public nuisance;
- (b) noise pollution; and
- (c) the need to protect persons below the age of eighteen years.

(9) Notwithstanding the denial of grant of license under this Act, a person may soon as may be practical reapply for a license and such application shall be treated as new application.

**Inspection of premises**

24. (1) The Sub-county committee may inspect the premises for purposes of verifying the particulars of an application, or for determining the compliance with the provisions of this Act or for the purposes of determining an objection or petition made by the public.

(2) The 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 any other person whose attendance is considered by the Sub-County Committee to be necessary during such inspections.

**Public hearing**

25. (1) The Sub-county committee may, as shall be deemed necessary and by notice in the public issued in accordance with the relevant written laws, hold public hearing to receive the public views or objections to any application made under this Act.

(2) The public hearing in a particular areas specified in the notice shall only be deemed to have a quorum if ninety per cent of the members present comprise of the resident of the particular area.

(3) Where a quorum is not realized, the Chairman shall adjourn the meeting to a later date and if no quorum is realized in the subsequent meeting, the sub-county committee shall determine the procedure for receiving the public views and determining any objections received.

**Objections**

26. (1) Any person may lodge objection to an application for a licence.

(2) Every objection to an application shall be in writing addressed to the licensing officer, and the objector shall server the objections and the grounds for the objection on the applicant personally or by registered mail at least seven days before the date notified for public hearing, and the onus of proof of such service shall be on the objector.

(3) The 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

(4) An objector and the applicant may either appear in person or by representation of an advocate during the public hearings of an objection.

(5) A licensing officer may in writing authorize any person to appear before the Sub-county Committee for purposes of representing the inhabitants of that part in respect of which any objection has been lodged to an application.

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

(6) Every Sub-county Committee shall maintain records of all its proceedings, and in particular, the records of the purpose for which an application was made, the evidence given, any arguments adduced, the decision and recommendations made thereon.

**Grant of a licence**

**27.** (1) On recommendation of the sub-county committee, the licensing officer may either—

- (a) issue a licence in the format prescribed in the Second Schedule; or
- (b) refuse to issue a licence and within fourteen days notify the applicant of the decision for the refusal in writing, give reasons for the refusal to the applicant and the Director.

(2) A licence granted under sub-section (1) shall be issued upon payment of the fee prescribed in the Third Schedule to this Act.

(3) The licensing officer shall cause to be published, at the sub-county and ward administrator's offices and in any other manner as the Executive Member may determine, a list of the premises licensed under this Act and the type of licence granted.

**Validity of a license and conditions**

**28.** (1) A license issued under this Act shall expire on the thirty first day of December of each year.

- (2) A licence granted under this Act —
  - (a) shall only apply to the premises specified in the licence. For the avoidance of doubt, a licence shall not apply to more than one premises;
  - (b) shall specify the hours authorized for sale of an alcoholic drink as stipulated under the First Schedule;
  - (c) shall not be transferable to another person; and
  - (d) may prescribe any other condition as the Director may specify.

**Display of a licence and alcoholic drinks list**

**29.** (1) A person issued with a licence under this Act shall display the licence in a conspicuous place easily accessible for inspection by any person.

- (2) A license shall be displayed on the premises to which it relates.

**Maintenance of records**

**30.** (1) A person licensed under this Act shall only manufacture, distribute, store or offer for sale an alcoholic drink licensed or authorized by the Authority in accordance with the relevant written laws.

(2) A person who holds a manufacturer's licence under this Act shall maintain a list of all alcoholic drinks which the person has manufactured, distributed, disposed or in any other manner handled in the prescribed form and shall ensure that the authority to distribute the alcoholic drink within the County is only granted to a person licensed under this Act.

(3) A person who holds depot, distributors, wholesale or supermarket alcoholic drinks licence under this Act, shall maintain records of the person who supplied of any alcoholic drinks held in their premises sufficient to identify the source of an alcoholic drink, including the written authority to sell the alcoholic drink and delivery notes, which records may be inspected by any officer authorized under this Act.

(4) A person who holds a depot, distributors or wholesale alcoholic drinks off-licence shall only distribute or sell an alcoholic drink to a person licensed under this Act.

(5) A person who holds a general retail, private members club, night club or a temporary alcoholic drinks on- licence under this Act shall maintain records of the person who supplied the alcoholic drink held or being sold at that premises, including the delivery notes and other document sufficient to identify the source of an alcoholic drink.

(6) A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand Kenya shillings or to an imprisonment term not exceeding one month or to both.

(7) In addition to any other remedy under this Act or any other written law, an alcoholic drink held by any person without the requisite documents prescribed under this section or where such documents are proved to be false documents shall be deemed to be illicit brew within the definition of this Act.

**Suspension or cancellation of a license**

**31.** (1) The Director may on recommendation of the Sub-County Committee, the Sub-County alcoholic drinks licensing officer or by the petition of at least twenty per cent of the residents suspend or cancel a license where satisfied that—



**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

- (a) the licensee has contravened the provisions of this Act or other relevant written laws including noise pollution and general nuisance;
  - (b) the licensee has contravened the conditions of the declaration made in accordance with section 20;
  - (c) the business to which the license relates is being conducted in a manner that is contrary to the provisions of this Act;
  - (d) the license has failed to comply with the conditions of a license granted under this Act; or
  - (e) any requirement for the grant of a license under this Act has been violated.
- (2) Notwithstanding Sub-section (1), the Director shall not suspend or cancel a licence unless the licensee—
- (a) has been served with a notice of at not less than seven days giving notice of the intention to suspend or cancel the licence and the reasons for such intention; and
  - (b) has, within fourteen days from the date of such service, been given the opportunity to be heard by the sub-county committee convened for that purpose;
  - (c) has been notified of the decision of the sub-county committee.
- (3) Upon cancellation or suspension of the licence, the licensee shall with immediate effect cease to manufacture, distribute or sell an alcoholic drink except in accordance with the written direction for sale or disposal of an alcoholic drink as may be given by the Director.

**Temporary closure of a premises**

**32.** (1) Notwithstanding the provisions of this Act, the Director may on his or her motion or on recommendation of the Sub-County Committee or any other authorized officer for purposes of protection of the public interest, suspend the licence or order the closure of a premises manufacturing, distributing, storing, selling or in any other manner handling an alcoholic drink without first according the licensee or the owner or occupier of the premises a hearing.

(2) Where an order is issued in accordance with the provisions of sub-section (1), the Director shall within seven days direct the Sub-County Committee to inspect the premises and investigate and file a report, giving details of the breach of public interest and any other findings.

(3) The Sub-County Committee shall within fourteen days submit a report of its findings and its recommendation to the Director, who on consideration of the report may—

- (a) revoke the order to temporary closure;
- (b) suspend the licence for a further period until the licensee complies with the directions given; or
- (c) cancel the licence.

### **Types and conditions of licenses**

**33.** (1) Licenses which may be granted under this Act shall be those specified in the First Schedule, and the provisions of that Schedule and of any rules made under this Act shall have effect in relation to the respective licenses therein specified.

- (2) A license shall not be granted to apply to more than one premises

### **Authorized hours for sale of an alcoholic drink**

**34.** (1) For purposes of general retail of alcoholic drinks within the County, the hours authorized for sale of an alcoholic drink shall be those specified in the First Schedule for each type of licence.

(2) The provisions of sub-section (1) shall apply to a person holding an alcoholic drinks licence under this Act except a person holding manufacturer, depot, distributor and wholesale alcoholic drink licence.

(3) A person found in a licensed premises or in a public place drinking an alcoholic drink during the hour not authorized for sale of an alcoholic drink commits an offence and shall be liable upon conviction to a fine not exceeding one thousand or to imprisonment for a term not exceeding one month or to both.

(4) A person, other than a holder of a manufacturers, depot or distributor or wholesale alcoholic drinks licence, who sells or in any other way disposes an alcoholic drink during the hours not authorized for sale of an alcoholic drink commits an offence and on conviction, is liable to a fine of a sum not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

### **Zones**

**35.** (1) The Executive Member may, subject to public participation and the approval of the County Assembly, by an order published in the County Gazette classify and zone specific areas or streets within the County to be alcohol sale free zones.

(2) Where an area has been classified as an alcohol sale free zone, no alcoholic drink license shall be issued in respect of any premises within that area.

## **PART V — GENERAL REQUIREMENTS**

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

**36.** (1) A licensee shall not employ a person under the age of eighteen, 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 a licensed premises, the licensee shall not be relieved of the obligations under this Act.

(3) In addition to any other requirements under any other written laws, a person shall only be employed to handle an alcoholic drinks if that person—

- (a) has met the requirements under the public health laws and regulations; and
- (b) is a Kenyan or has obtained the necessary permit to work in Kenya.

### **Drunken behavior**

**37.** (1) A licensee, an agent or an employee of a licensee may refuse to admit to, and may expel from, the licensed premises any person who is drunk and disorderly, violent, or quarrelsome.

(2) Any person referred to in subsection (1) who, on being requested by the licensee, the licensee agent or employee, or by an enforcement officer, to quit the licensed premises, refuses to do so, commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or an imprisonment term not exceeding one year or to both.

(3) A licensee who permits any drunkenness leading to violent, quarrelsome or riotous conduct to take place on the premises to which the license relates commits an offence and on conviction is liable to a fine of a sum not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

### **Debt from sale of an alcoholic drink**

**38.** (1) No person shall hold a lien over any person's property for a debt incurred from consumption of an alcoholic drink unless that person possess the authority of a valid court order.

**Access by persons under age of eighteen**

39. A licensee under this Act shall not 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) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or an imprisonment term not exceeding one year or to both.

**Reports by public health officers and County Enforcement Officers**

40. (1) A Sub-county public health officer or any person authorized by him or her in writing in that behalf may enter and inspect any licensed premises for the purpose of ascertaining compliance with any public health requirements.

(2) An enforcement officer not below the rank of Inspector may without written authority enter and inspect any licensed premises to confirm compliance with the provisions of this Act.

**Conformity with requirements**

41. (1) A person shall not manufacture, 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 and distribution of an alcoholic drink commits an offence and shall be liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding three years, or to both.

**Supply to minor**

42. (1) A person shall not sell, supply or provide an alcoholic drink to a person under the age of eighteen years.

(2) A person shall not in any manner assist a person under the age of eighteen year to access an alcoholic drink.

(3) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

(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; or
- (b) a passport issued by the Republic of Kenya or any other country.

**Hawking of alcoholic drinks**

**43.** (1) A person shall not hawk or sell an alcoholic drink in any other place other than the place or premises licensed in accordance with this Act.

(2) A person who contravenes the provisions of this Act commits an offence and on conviction is liable to a fine of a sum not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

**Display of signs**

**44.** (1) Any person manufacturing, distributing, storing, selling or in any other manner disposing of an alcoholic drink shall display in a conspicuous place 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) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

**Vending machines**

**45.** (1) A person shall not sell or permit an alcoholic drink to be sold by way of a vending machine.

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

**Packaging**

**46.** (1) A person shall not 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 subsection (1) —

- (a) a person shall not manufacture, pack, distribute or sell in the County an Alcoholic drink in a container less than 250 milliliters;

- (b) any other distilled or fortified alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles, cans, keg or jar of the kind specified authorized by the Authority; and
- (c) labeling 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 upon conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

### **Disorderly conduct**

**47.** (1) A person found by an enforcement officer of the County or the 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 shall be arrested without warrant and brought without unreasonable delay before a Magistrate.

(2) A person convicted of being drunk and incapable or drunk and disorderly in or near a place referred to in subsection (1) shall be liable upon conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding one month or to both.

### **Cap 10**

(3) Upon conviction under sub-section (2), the convicting Magistrate may issue an order for community service to a 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) Notwithstanding the provisions of sub section (3), a person convicted under subsection (2) on more than three occasions in any period of twelve months shall undergo at his own cost, such rehabilitation program as may be appropriate in a public health institution.

### **Non-disclosure of material facts**

**48.** (1) A person who is required by any provision of this Act to disclose any information fails to do so when making any application under this Act or tenders false information commits an offence under this Act and on conviction is liable to a fine of a sum not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months.

(2) In addition to any other remedy under this Act, the Director may cancel a licence obtained by reason of the false information or the non-disclosure of information.

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

**49.** (1) A person shall not 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 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, upon conviction be liable to a fine not exceeding two million 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) For the avoidance of doubt, a licensee or owner of a premises or any person in charge or found to be in charge of a premises, or any person responsible for any activity in the manufacturing, distributing, storing, selling or in any other manner disposing or handling an adulterated alcoholic drink commits an offence under this Act.

**PART VI — ADVERTISEMENT AND PROMOTION****Prohibited advertisement and promotion**

**50.** (1) A person shall not 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 an alcoholic drink or encourage person below the age of eighteen years to drink alcoholic drink;

- (b) in places demarcated under any written law as residential areas or within a distance of three hundred meters 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; or
- (c) where a premises is demarcated by a wall or a barrier in accordance with the provisions of this Act.

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

### **Encouraging consumption**

**51.** (1) A person shall not promote an 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 upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

## **PART VII — ENFORCEMENT**

### **County Alcoholic Drinks Control Enforcement Coordinating Committee**

**52.** (1) There is established the County Alcoholic Drinks Control Enforcement Coordinating Committee.

- (2) The Enforcement Committee shall consist of —
  - (a) the Chief Officer who shall be the chairperson of the Committee;
  - (b) one authorized officer nominated by the Executive Member;
  - (c) the County Director of Enforcement
  - (d) the County Director of Public Health Sanitation;
  - (e) one officer appointed by Kenya Bureau of Standards;
  - (f) one officer appointed by the Authority; and
  - (g) any other officer as the Governor may designate.
  - (h) the officer responsible for coordination of National Government functions in County; and



**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

(i) the officer in charge of National Police Service in the County;

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

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

(5) The functions of the Enforcement Committee shall be to —

(a) coordinate enforcement under this Act;

(b) monitor and evaluate the enforcement process and system under the Act;

(c) advise the Executive Member on the necessary measures to be adopted in ensuring effective enforcement and compliance under this Act; and

(d) carry out any other function as may from time to time be assigned by the Executive Member.

**Authorized officers**

**53.** (1) The Executive Member shall in writing appoint any person or class of person to be authorized officers for purposes of this Act.

(2) Notwithstanding the provisions of sub-section (1), the following officers shall be deemed to be authorized officer for the purposes of this Act—

(a) the sub-county licensing officers;

(b) Public health officers appointed under the relevant public health laws;

(c) officers appointed as enforcement officers under the Kenya Revenue Authority Act, Kenya Bureau of Standards Act, Standards Act, National Government Coordination Act, Weights and Measures Act and Anti-Counterfeit Act; and

(d) any other person upon whom any written law vests functions of the maintenance of law and order.

(3) An authorized officer may be called upon from time to time to work together with the Enforcement Committee for purposes of enforcing this Act.

**Places authorized officers may enter**

**54.** (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 his identification.

### **Powers of officers**

**55.** In carrying out an inspection in any place pursuant to section 57, 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; or
- (e) require a 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.

### **Use of records**

**56.** In carrying out an inspection, an authorized officer may-

- (a) reproduce the data in the form of a print- out or other intelligible output and take it for examination or copying;
- (b) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and
- (c) scrutinize any other record system in use in that place.

### **Entry of dwelling place**

**57.** (1) An authorized officer shall not enter a dwelling place except with the consent of the occupant or under the authority of a warrant.

(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.

### **Certificate of analysis**

**58.** 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**

**59.** (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) Upon inspection, an authorized officer shall issue the respective certification certificate once satisfied with the inspection.

**Obstruction**

**60.** A person, who obstructs, hinders or knowingly makes a false or misleading statement to an authorized officer under this Act commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand or an imprisonment term of three months or to both.

**Seizure**

**61.** (1) An authorized officer may seize any alcoholic drink or thing in relation to which the officer believes 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.

**General penalty**

**62.** A 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 VIII —GENERAL PROVISIONS****Regulations**

**63.** (1) The Executive Member with the approval of the County Executive Committee may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to subsection (1), regulations may be made for the following purposes of prescribing—

- (a) forms and formats of application, licence and notices;
- (b) fees payable;
- (c) types and conditions of licenses;
- (d) seizure and restoration of alcoholic drinks or things.
- (e) the conduct of stakeholders forum and stakeholders associations.
- (f) the conduct of the business of a committees established under this Act;
- (g) the code of conduct of members of a committee established under this Act;
- (h) storing and destruction of illicit brews; and
- (i) any other requirement for better implementation of this Act.

#### **County Appeals Committee**

**64.** (1) There is established the County Alcoholic Drinks Appeals Committee comprising—

- (a) the Chief Officer who shall be the chairperson;
- (b) the Director who shall be the Secretary and ex-officio member;
- (c) the County Director of public health;
- (d) an advocate of the high Court of Kenya from the County public service;
- (e) the County Director for physical planning;
- (f) not more than three residents of the County appointed by the Governor taking into consideration, gender parity, representation of youth and persons with disability;
- (g) the officer responsible for coordination of National Government functions in County or his or her nominee;
- (h) the officer in charge of National Police Service in the County or his or her nominee;
- (i) a representative of association of alcoholic drinks traders at the County who shall be an *ex-officio* member.

(2) The County Appeals Committee shall be responsible for—

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

- (a) receiving and hearing appeals from the decisions made by any person or committee under this Act; and
- (b) carrying out any other function as may be assigned by the Governor.

(3) A member of the County Appeals Committee appointed under subsections 3(f) shall hold office for a term of three years' renewable once.

(4) A member of the County Appeals Committee under sub section (1) may be removed from office for—

- (a) gross misconduct or misbehavior;
- (b) incompetence or neglect of duty;
- (c) inability to perform the duties under this Act arising out of physical or mental incapacity;
- (d) adjudication of bankruptcy;
- (e) breach of the code of ethics; or
- (f) conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months.

**Conduct of Appeals**

**65.** (1) A person who is aggrieved by a decision made under this Act may appeal to the County Appeals Committee within thirty days of such decision.

(2) An appeal under this Section shall be in writing addressed to the Chief Officer setting out the grounds of the appeal.

(3) The County Appeals Committee shall within thirty days consider and make a final determination on the appeal.

(4) The appellant may appear in person or by representation of the advocate for the hearing and determination of the appeal.

(5) The County Appeals Committee may in writing require any person to appear before it for purposes of giving evidence or providing expert opinion in respect of any matter under consideration, provided that any person adversely mentioned in an appeal shall be given an opportunity to be heard by the County Appeals Committee.

(6) Where the County Appeals Committee considers it necessary to take evidence in respect of any matter before it, such evidence shall be

given on oath and the Chairman shall be empowered to administer the oath.

(7) For purposes of Chapter XI of the Penal Code, all proceedings before a County Appeals committee shall be deemed to be judicial proceedings.

(8) The County Appeals Committee shall maintain records of all its proceedings and in particular, records of the purposes for which an appeal was made, the evidence given, the arguments adduced and its determination.

(9) In making its determination, the County Appeals Committee may—

- (a) uphold the decision appealed against;
- (b) reverse the decision appealed; or
- (c) give direction on the action to be taken.

#### **Appeal to the High Court**

**66.** (1) Notwithstanding section 65, an applicant whose application for a new license, to renew or transfer a license has been refused may within twenty-one days of such refusal appeal against such refusal to Court.

(2) An applicant under section 65 who is not satisfied with the decision of the Review Committee may within twenty-one days appeal to the High Court.

#### **Code of ethics**

**67.** Every member of a Committee under this Act shall abide by the code of ethics prescribed.

(2) A member of a committee under this Act shall not transact any business unless the person has signed the code of ethics.

(3) A member of a committee who violates the code of ethics shall cease being a member of the respective committee.

#### **Transitional clause**

**68.** Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act held an alcoholic drinks license which would have otherwise been valid under the Kiambu County Alcoholic Drinks Control Act, 2013, shall be required to

**No. 2**                      *Kiambu County Alcoholic Drinks Control*                      **[Revised 2022]**

immediately and not later than thirty days from the date of commencement of this Act to apply for a license under this Act.

(2) An application under sub-section (1) shall act as a stay against any proceedings or enforcement actions that would have otherwise been undertaken under this law.

(3) An application under this section shall be made in accordance with the procedure set out under Part IV of this Act.

**FIRST SCHEDULE**

(s.33)

**LICENCE HOURS****License Hours, Conditions and Exceptions****Licenses**

1.	General Retail Alcoholic Drink License (on license)	Authorized to sell alcoholic drink:  (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.	Supermarket or Franchised Retail Chain Stores (Urban) Alcoholic Drink License (Off-License)	Authorized to sell alcoholic drink on any day of the week during the hours of 10.00 a.m. to 8:30 p.m.
3.	Bar and Restaurant Alcoholic Drink License	Authorized to sell alcoholic drink on any day of the week to a person taking meals at any hour, for consumption with such meals.
4.	Hotel Alcoholic Drink License	Authorized to sell alcoholic drink on any day of the week to a lodger - for his/her own consumption and his guest's consumption on the premises, at any hour.
5.	Club Alcoholic Drink License  (a) Members Club (A members club license may only be held by a club that is a non-profit association)	Authorized to sell alcoholic drink to members on any day of the week at any hour.



	incorporated under the Society's Act).  (b) Proprietary Club (Including Night Club)	Authorized to sell alcoholic drink any day of the week during the hours of 7.00 p.m. to 3.00 a.m.
6.	Wholesale alcoholic drink license for each premises.	Authorized to sell an alcoholic drink at the premises specified in the license in bulk.
7.	Theatre Alcoholic Drink License.	Authorized to sell alcoholic drink during the hours of 5.00 p.m. to 1100. p.m.
8.	Travellers' Alcoholic Drink License.	Authorized to sell alcoholic drink on any day of the week at any hour to persons bona fide travelers on board a train or air.
9.	Railway Restaurant Car Alcoholic Drink License.	Authorized to sell alcoholic drink at any hour
10.	Temporary or Occasional license	Authorized to sell alcoholic drink on the day and during the hours stipulated in the license by the Sub-county Committee for the purposes of specific occasions, ceremonies or events as indicated in the application.

**SECOND SCHEDULE**

**FORMS**



FORM A

**THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT**  
**APPLICATION FOR TEMPORARY ALCOHOLIC DRINK**  
**LICENCE**

- 1. Name of Applicant.....
  - 2. Applicant Postal Address.....
  - 3. Physical Address to which temporary licence should be made applicable..... (include road, plot number)
  - 4. Period for which temporary licence is required from the ..... day of ..... 20..... to day ..... of ..... 2018.
- Date.....
- Signature.....

**FORMS**



FORM B

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT

**DECLARATION OF COMMITMENT NOT TO SELL ILLICIT OR UNLICENSED ALCOHOLIC DRINK**

- 1. Name of Applicant.....
- 2. Applicant Postal Address.....
- 5. Location or proposed location of the licensed place  
..... (include plot number, road and ward)

I/We..... holders of identity card number/incorporation number..... do hereby undertake to only manufacturer, sell, store, distribute or in any other manner handle alcoholic drinks authorized by the Authority and licensed under this Act and further, I undertake that during the validity of this licence, I shall sell the following types and brands of alcoholic drinks.

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

I agree and authorize the Director to cancel my licence without further notice to me in the event that I do not comply with the provisions of this undertaking.

Date.....

Signature.....

Witnessed by  
 Commissioner for oaths



FORM C

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT

**APPLICATION FOR TRANSFER/REMOVAL OF ALCOHOLIC DRINK/ TRANSFER OF BUSINESS PREMISES/ AUTHORITY TO HOLD ON PROBATE LICENCE**

- 1.Name of Applicant.....
- 2.Applicant Postal Address.....
- 3.Type and Number of license held .....
- 4. Address of Premises specified therein .....
- 5.Name of transferee/address of premises to which it is desired to remove license / Transfer business (include plot number)

.....

Date.....

Signature of Applicant .....



FORM D

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT)  
**APPLICATION FOR THE GRANT OR RENEWAL OF AN  
ALCOHOLIC DRINK LICENCE**

(To be completed in Triplicate)

- 1.Name of Applicant.....
- 2.Applicant Postal Address.....
- 3.Address and Plot Number of Premises.....  
(Give sufficient details to adequately identify the premises)  
Street, Phone Number.....
- 4. Name by which premises known.....
- 5. If for renewal, give expiring Licence Number.....
- 6. Licence to run from.....to.....
- 7. Type of Licence applied for .....  
Date.....
- Signature of Applicant.....



FORM E

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT  
**APPLICATION FOR THE GRANT OR RENEWAL OF A  
LICENCE - MANUFACTURER AN ALCOHOLIC DRINK**

- 1. Name of Applicant.....
- 2. Type of Business.....
  - (a) Sole proprietorship (the business is owned by one person).....
    - Personal Identification Number.....
  - (b) Partnership.....
    - Names, Postal Address and Phone Contacts of the Partners.....
    - .....
  - (c) Limited Liability Company
    - Name, Postal Address and Phone Contacts of the Directors
    - .....
    - .....
- Contact person.....
- 3. Postal Address.....
- 4. Physical Address (exact place of manufacture).....
- 5. Tel.....
- 7. Email.....
- 8. Town, Sub-county, Ward, Village.....
- 9. Business Registration No\* or Certificate of Incorporation No\*.....
- 10. Is this a New/Renewal application?.....If renewal, provide details of No.....
- 11. Do you have manufacturer's certificate? Yes\*.....  
No.....
- 12. List type of brands of alcoholic drinks to be manufactured

*Alcoholic Drink  
Number*

*Standards Certification*

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

13. Brief description of alcoholic drink(s).....

(a) Unit Capacity in Milliliters and cost in shillings of the alcoholic drink(s).

.....  
.....

(b) Alcoholic content.....

(c) Mode of Transport and storage conditions.....

(d) Describe the purpose for which the alcoholic drink(s) will be used e.g. retail, wholesale or Export etc.)

14. Declaration by Applicant:

I ..... hereby declare and certify that the information given in this application including attachments thereto is true and correct to the best of my knowledge and belief.

Date.....

Signature.....

Official Stamp.....

\* Delete where applicable



FORM F

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT  
APPLICATION FOR THE GRANT OR RENEWAL OF AN  
ALCOHOLIC DRINK LICENCE- WHOLESALERS OR  
DISTRIBUTORS

*(To be completed in Triplicate)*

1.Name of Applicant.....

2. Applicant Postal Address.....

3.Address and Plot Number of Premises (depot in case of distributor)

.....

*(Give sufficient details to adequately identify the premises)*

Street, Phone Number.....

4.Name by which premises known.....

5. If for renewal, give expiring license Number.....

6. License to run from.....to.....

7. Type of license applied for.....

Date.....

Signature of Applicant.....





FORM G

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT

ALCOHOLIC DRINK LICENCE – ON LICENCE

TYPE OF LICENCE.....

LICENCE No. ....

This alcoholic drink licence is granted under the provisions of the Kiambu County

Alcoholic Drinks Control Act, 2013 to ..... of ..... in respect of premises situate at ..... [Full details of premises to be inserted by issuing officer]

This licence is granted subject to the provisions of the Kiambu County Alcoholic Drinks

Control Act, 2013 and to the following conditions

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

This licence shall expire on .....

Fees paid: Sh. ....

Date of issue .....

Sub-county Committee alcoholic drinks licensing officer  
.....



FORM H

**THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT  
ALCOHOLIC DRINK ASSURANCE LICENCE**

LICENCE No. ....

This alcoholic drink license is granted under the provisions of the Kiambu County Alcoholic Drinks Control Act, 2013 to ..... of ..... having satisfied that he/she has an interest in premises to be built/being built\* at.....for the purpose of being used for sale of alcoholic drink for consumption therein, and having supplied a signed copy of the plans, and subject to the provisions of the Kiambu County Alcoholic Drinks Control Act, 2013 he/she will be granted a .....alcoholic drink license.

Fees paid: Sh. ....

Date of issue .....

Chairman, .....

Sub-county Committee.....



FORM I

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT  
SEIZURE FORM

To.....  
.....  
.....  
.....

Whereas I have reason to believe that the stock of goods detailed below which is/are at the premises of ..... do not meet the requirements of Kiambu County Alcoholic Drinks Control, 2013.

**DETAILS OF THE GOODS**

Name of the manufacturer/distributor/retailer/wholesaler .....  
Address.....  
Physical location.....  
Goods are marked/branded as follows.....  
Physical seal.....  
Description of goods.....  
Quantity.....

Now therefore I.....  
an authorized officer under section 50 of the Kiambu County Alcoholic Drinks Control Act, 2013 hereby seize and detain the said goods under section 62 of Kiambu County Alcoholic Drinks Control Act, 2013.  
Name of authorized officer.....  
Designation.....

Signature.....

Date.....

**Manufacturer/distributor/retailer/wholesaler**

Name.....

Designation.....

Signature.....

Date.....

**WITNESS OFFICIAL RUBBER STAMP**

Name.....

Designation.....

Signature.....

*(To be filled in duplicate)*



**FORM J**

**THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT**

**SEIZURE FORM**

(To be used incase of seizure of alcoholic drink of thing where they are to be kept or stored in the premises where they seized)

To (Name and address of the vendor/manufacturer)

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

Whereas I have reason to believe that the stock of goods detailed below which is/are at the premises of

.....  
..... do not meet the provisions of the

**No. 2** *Kiambu County Alcoholic Drinks Control* **[Revised 2022]**  
Kiambu County Alcoholic Drinks Control Act, 2013

**DETAILS OF THE GOODS**

Name of the  
manufacturer/distributor/retailer/wholesaler.....

Address.....

Physical location.....

Goods are marked/branded as follows.....

.....

Physical seal.....

Description of goods.....

Quantity.....

Now therefore I.....  
an authorized officer under section 50 of the Kiambu County Alcoholic  
Drinks Control Act, 2013 hereby seize and detain the said goods under  
section 62 of the Kiambu County Alcoholic Drinks Control Act, 2013 And  
direct you to keep the sealed stock in safe custody subject to such orders  
as may be issued subsequently in relation thereto.

Be it known to you that removal or alteration or interference in any way  
with the said article(s) without any authority is an offence under section 62  
(3) of the said Act.

Name of authorized officer.....

Designation.....

Signature.....

Date.....

Manufacturer/distributor/retailer/wholesaler

Name.....

Designation.....

Signature.....

Date.....

**WITNESS OFFICIAL RUBBER STAMP**

Name.....

Designation.....

Signature.....

*To be filled in duplicate*



FORM K

THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL  
ACT

**CERTIFICATE BY THE COUNTY PUBLIC HEALTH OFFICE**

This certificate has been issued to.....

*(State full names in Block Letters).*

by the.....County Public Health  
Office in.....Sub-county certifying that the above  
named premises has met the laid out public health and  
sanitation standards on.....day of .....20.....

**Authorized Signature**.....



## FORM L

## THE KIAMBU COUNTY ALCOHOLIC DRINKS CONTROL ACT

**RESIDENTS CONSENT FORM**

We, the undersigned, holders of the Identity card Number attached to this consent and being resident as owners/ occupiers of the properties described herein do hereby confirm that we are aware of the application for .....type of licence and we consent to the grant of the licence applied for.

s/n	Name and identification card/ passport number	Plot /house number	Telephone number	Signature

*Attach copies of the national identity card numbers of the signatories.*

**THIRD SCHEDULE  
LICENCE FEES**

No.	Type of License	Fees	
		For 12 months	For 6 months or less
1.	General retail alcoholic drink license (on License)—		
	(a) in respect of premises situate within a town ...	60,000	35,000
	(b) in respect of premises situate within urban areas other than a town...	40,000	25,000
	(c) in respect of premises situate elsewhere than in a town or urban areas...	24,000	15,000
2.	Bar and Restaurant Alcoholic Drink License		
	(a) in respect of premises situate within a town ...	100,000	60,000
	(b) in respect of premises situate within urban areas other than a town.. ... ..	80,000	50,000
	(c) in respect of premises situate elsewhere than in a town or urban areas..	60,000	40,000
3.	Manufacturer's alcoholic drink license (For each alcoholic drink or product manufactured...		
	(a) one million litres and above per annum	1,100,000	
	(b) 500,000-999,999 liters per annum ...	551,000	
	(c) Between 12,000-499,999...	305,000	
	(d) 12,000 and below.....	92,000	



**No. 2** *Kiambu County Alcoholic Drinks Control* **[Revised 2022]**

4.	Wholesale alcoholic drink license for each premises.	100,000	60,000
5.	1) Bottler's alcoholic drink license	250,000,	150,000
	2) Depot license, in addition to (1), per depot.....	50,000	30,000
6.	1) Distributor alcoholic drink license	80,000	50,000
	2) Depot license, in addition to (1) per depot	20,000	15,000
7.	Hotel alcoholic drink license – (on license)		
	(a) in respect of premises situate within a town .. ..	152,000	80,000
	(b) in respect of premises situate within urban areas other than a town..	122,000	70,000
	(c) in respect of premises situate elsewhere than in a town or urban areas.. ..	81,000	45,000
8.	1) Club alcoholic drink license (members' club) –		
	(a) in respect of premises situate within a town .. . . .	128,000	-
	(b) in respect of premises situate within urban areas other than a town.. ..	104,000	-
	(c) in respect of premises situate elsewhere than in a town or urban areas..	76,000	-

	2) Club alcoholic drink license (proprietary club or night club or discotheque)-  (a) in respect of premises situate within a town ... ..  (b) in respect of premises situate within urban areas other than a town.. ..  (c) In respect of premises situate elsewhere than in a town or urban areas..	128,000   104,000  76,000	70,000   55,000  40,000
9.	Supermarket or retail chain stores alcoholic drink license-  (a) in respect of supermarkets or retail chain stores for each premises situate within a town  (b) ) in respect of supermarkets or retail chain stores for each premises situate within urban areas other than towns....  (c) in respect in respect of supermarkets or retail chain stores for each premises situate elsewhere than in a town and urban areas . . .	156,000   125,000  92,000	
10.	Theatre alcoholic drink license.	15,000	7,000
11.	Traveller's alcoholic drink license	30,000	15,000

	(a) where the licensee does not hold a general retail alcoholic drink license in respect of the same premises .. ..  (b) where the licensee holds a general retail alcoholic drink license in respect of the same premises ..	12,000	7,000
12.	Temporary or occasional alcoholic drink license, per day.		1,000
13.	For transferring an alcoholic drink license		1,000
14.	For removing an alcoholic drink license		500
15.	For the issue of an assurance under the Act.		1,000
16.	For the issue of a duplicate license		500