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**NYANDARUA COUNTY ACTS, 2024**

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**NAIROBI, 22nd January, 2024**

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

**No. 1 of 2024**

*Date of Assent: 19th January, 2024*

*Date of Commencement: 22nd January, 2024*

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

**AN ACT of the County Assembly of Nyandarua to provide for  
the management, control, licensing and regulation of the  
production, sale, distribution, and consumption of alcoholic  
drinks; and for connected purposes**

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

**PART I—PRELIMINARY**

**Short title**

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

**Interpretation**

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

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

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

“authorised officer” means an authorised officer within the meaning of section 52;

“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;

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

“Management Committee” means the County Alcoholic Drinks Management and Regulation Committee appointed under section 4;

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

“Executive Member” means the county executive member responsible for liquor licensing and control;

“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;

“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;

“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” mean premises as defined under the Hotels and Restaurants Act, Cap. 494;

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

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

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

“manager” in relation to—

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

“manufacture” means the brewing, distilling, tapping or any processing or intermediate processing of an alcoholic drink and includes the packaging, labelling, 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;

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

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

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

“sell” includes—

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

“sub-county committee” means the Sub-county Alcoholic Drinks Regulation Committee appointed under section 6.

### **Purpose of the Act**

**3.** (1) The purpose of this Act is to provide for licensing of alcoholic drinks so as to control the production, sale, distribution, promotion and consumption of alcoholic drinks and the promotion of research, treatment and rehabilitation for persons dependent on alcoholic drinks.

(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.

## **PART II—ADMINISTRATION**

### **Establishment of the County Management Committee**

4. (1) There is established a committee to be known as the County Alcoholic Drinks Regulation and Management Committee.

(2) The Management committee shall—

- (a) oversee the implementation of this Act and devise lawful strategies for realizing its objectives;
- (b) advise the county government on policies that would best achieve the objectives of this Act;
- (c) collaborate with any other government and non-state agencies with a view to achieving the objectives of this Act;
- (d) undertake quarterly review of all the retail licenses issued by the licensing officer;
- (e) receive, vet and approve applications for distribution and manufacturer's licenses;
- (f) be responsible for the approval of application for a licence, after verification of the retail outlets licenses, recommended by the sub-county Committees;
- (g) recommend to the licensing officer the issuance a license made pursuant to paragraph (e) and (f);
- (h) prescribe the conditions prerequisite and applicable to the various licences obtainable under this Act;
- (i) oversee the operations of the Sub-county Committees;
- (j) receive, review and analyse the quarterly reports submitted by the Sub-county Committees with a view to giving directions;
- (k) coordinate education programs, promote research, treatment and rehabilitation for persons dependent on alcoholic drinks in collaboration with relevant national government agencies;
- (l) ensure that all alcoholic drinks distributed, wholesaled in the county are from approved manufacturer, as per national manufacturers catalogue and that alcoholic drinks sold

have met the national standards set out by the relevant authority provided that a manufacturer domiciled in the county, will be subject to pay a trade license determined from time to time by the Committee.

- (m) prepare a bi-annual report on its operation to be submitted to the County Assembly through the Executive Committee Member.
- (n) receiving and hearing appeals from decisions made by the Sub-county committees; and
- (o) carrying out any other function that is incidental to the implementation of this Act.

(3) The Management Committee shall consist of—

- (a) the Chairperson, who shall be appointed by the Governor, with the approval of the County Assembly;
- (b) the County Commissioner or their designate;
- (c) the Chief Officer responsible for liquor licensing matters;
- (d) the Director in charge of Public Health;
- (e) the Director in charge of Physical Planning;
- (f) an advocate from the office of the County Attorney;
- (g) the director in charge of enforcement;
- (h) one person designated by Kenya Bureau of Standards;
- (i) two stakeholders of either gender, and one of whom shall be a youth, nominated by a registered association of stakeholders in the industry operating in the County;
- (j) two residents of the county competitively recruited and appointed by the executive member with the approval of the county assembly one of whom shall-
  - (i) represent persons living disabilities;
  - (ii) represent faith-based organisations in the County, and
- (k) the Director responsible for liquor licensing who shall be the secretary and an *ex-officio* member.

(4) The Management Committee may co-opt, any person whose expertise is necessary for effective discharge of its mandate.

(5) The Executive Member shall ensure as much as practicable the constitutional gender rule is adhered to while observing regional balance.

(6) A person is qualified for appointment as a member of the Management Committee under sub-section 3 (a), (i) and (j), if that person—

- (a) is a citizen of Kenya;
- (b) holds a bachelor's degree or its equivalent from a university recognized in Kenya;
- (c) has knowledge and relevant experience in community service or social work; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(7) The conduct of business and affairs of the Management Committee shall be as prescribed in Schedule 1 of the Act.

(8) The members appointed under sub-section 3(a), (i) and (j) shall serve for a non-renewable term of three years.

#### **Vacation and filling of vacancy of office**

5. (1) The Chairperson or member of the Management Committee may—

- (a) at any time resign from office by notice in writing to the appointing authority; or
- (b) be removed from office by the appointing authority on the following grounds—
  - (i) absent for five consecutive meetings of the Management committee without the permission of the Chairperson;
  - (ii) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
  - (iii) adjudged bankrupt;
  - (iv) Gross misconduct; or
  - (v) convicted of a crime under the leadership and Integrity Act or Public Officers Ethics Act.

(2) Where a vacancy occurs in the Management Committee, the appointed replacement shall hold office for the remainder of the term

of office of that member, and shall be deemed to have served a full term as a member if, at the date on which the person assumed office, more than one year remain before the date of the end of the term of the Committee.

**Establishment of Sub-county Alcoholic Drinks Regulation Committee**

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

- (a) receive and vet applications for retail and wholesale license under this Act and with respect to the sub-county of their jurisdiction;
- (b) recommend to the Management Committee, the issuance of a retail and wholesale license;
- (c) co-ordinate, under the direction of the Management Committee the enforcement of this Act in their various sub counties;
- (d) make quarterly reports on applications received, vetted and recommended for approval to the Management Committee; and
- (e) perform such other functions as may from time to time be assigned to it by the Management Committee.

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

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

- (a) the Deputy County Commissioner(s) and the Sub-county Administrator who shall be the co-chairpersons;
- (b) the Sub-county Police Commander(s);
- (c) the Sub-county Public Health Officer;
- (d) the Sub-county Physical Planning Officer;
- (e) three residents in the sub-county appointed by the executive member through a competitive process and approved by the County Assembly as follows—
  - (i) a youth;
  - (ii) a person living with disability; and

- (iii) a representative of the community;
- (f) one stakeholder resident in the sub-county who shall be nominated by a registered association of stakeholders in the industry operating in the Sub-county; and
- (g) an officer from the department responsible for liquor licensing who shall be the Secretary and an *ex-officio* member.

(4) The Executive member shall ensure as much as practicable the constitutional gender rule is adhered to while observing regional balance.

(5) A person is qualified for appointment as a member of the Sub-county Committee under sub-section (3) (e) and (f) if that person—

- (a) is citizen of Kenya;
- (b) holds a diploma certificate or its equivalent from a recognized institution in Kenya;
- (c) has knowledge and relevant experience in community service or social work; and
- d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

#### **Vacation and filling of vacancy for the Sub-County Committees**

7. (1) A member of the Sub-County Committee may—

- (a) at any time resign from office by notice in writing to the appointing authority; or
- (b) be removed from office by the appointing authority on the following grounds—
  - (i) absent for five consecutive meetings of the County;
  - (ii) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
  - (iii) adjudged bankrupt;
  - (iv) Gross misconduct; or
  - (v) convicted of a crime under the leadership and Integrity Act or the Public Officers Ethics Act.

(2) Where a vacancy occurs in the Sub-county Committee, the appointed replacement shall hold office for the remainder of the term

of office of that member, and shall be deemed to have served a full term as a member if, at the date on which the person assumed office, more than one year remain before the date of the end of the term of the Committee.

(3) The members appointed under section 6(3)(e), and (f) shall serve for a non-renewable term of three years.

### **Meetings and Remuneration of the Management Committee and Sub-county Committee**

8. (1) The meetings of the Management Committee and Sub-county Committee shall be as set out in the First Schedule to the Act.

(2) Despite sub-section (1), the Management Committee and sub-county Committee, may regulate their own procedure.

(3) Remuneration of the committees shall be as recommended by the Salaries and Remuneration Commission

4) The Committee members shall be facilitated at the rates to be determined by the executive member.

## **PART IV—LICENSING**

### **Control of alcoholic drinks**

9. (1) No person shall—

(a) manufacture or otherwise produce; or

(b) sell, distribute or dispose of, or deal with,

any alcoholic drink in the county except under and in accordance with a licence issued under this Act.

(2) Any person who contravenes the provisions of sub-section (1) commits an offence and shall, upon conviction, be liable to fine not exceeding Kenya shillings thirty thousand or a sentence not exceeding four months.

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

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

(b) the *bona fide* administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon

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

### **Application for a licence**

**10.** (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 management committee, or the sub-county committee in the sub-county where the premise is to be situated, where applicable, and shall pay a prescribed fee.

(2) The application under sub-section (1) shall contain, where applicable—

- (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**

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

- (a) published at the offices of the Deputy County Commissioner and the Sub-county Administrator for a period of not less than twenty-one consecutive days; and
- (b) posted in some conspicuous place at or near the applicant's premises.

#### **Objection to application**

**12.** (1) Any person may lodge objection to an application.

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

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

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

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

**13.** (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**

14. 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**

15. 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 co-chairpersons shall be empowered to administer oaths.

#### **Rules of natural justice to apply**

16. All proceedings before a Sub-county Committee shall observe the rules of natural justice.

#### **Records of sub-county committee proceedings**

17. (1) 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 committee 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.

(2) The Secretary to the Sub-county Committee shall be the sole custodian of the sub-county committee's records and proceedings and shall, within three days of approval of the final report, forward it in writing to the secretary of the Management Committee.

#### **Record of recommendation of Sub-county Committee**

18. The Sub-county Committee shall, within twenty-one days of receipt of the application under section 10, record the application and

assess the same on the basis of the objections received if any and the interests of the sub-county, and shall ensure that—

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

#### **Grant of a licence**

**19.** (1) The Sub-county Committee shall, after considering the application under section 10, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the sub-county committee has no objection to the application under section 10, it shall submit the application to the county committee for review, approval and grant of licence.

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

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

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

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

(6) The applicant to whom the application is returned under subsection (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 Management Committee grants a licence under this section it shall, publish the grant in the Sub-County Administrator's office in the respective sub-county.

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

**20.** (1) The Management 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 Management 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 Fourth 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 Fourth Schedule.

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

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

(3) For avoidance of doubt—

- (a) no licence shall be granted for sale of alcoholic drinks in the premises or for sale of an alcoholic drink in an off-licence retail outlet commonly referred to as wines and spirits in any area except the urban areas stipulated under the Fourth Schedule.

(4) The Management Committee shall not grant licence for sale of alcohol in a general retail (off-licence) outlet whose floor area measures less than twenty square metres.

(5) The Executive member shall, subject to the approval by the County Assembly, designate other towns and centers where premises may be licensed for the sale and consumption of alcoholic drinks.

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

### **Licences to bodies corporate**

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

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

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

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

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

- (a) has failed to satisfy the Management 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 Management Committee may refuse to renew an existing licence only when it 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
- (f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the County public health officer and the owner of the premises or the licensee refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by the Management Committee.

**Types of licences**

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

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

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

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

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

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

(b) sell an alcoholic drink in the area designated as dining area.

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

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

(8) A person who contravenes sub-section (5) and (6) commits an offence and shall, upon conviction be liable to a fine not exceeding one hundred thousand Kenya shillings or to imprisonment for a term not exceeding six months.

(9) for the purposes of this section the licensing officer shall be the director responsible for liquor licensing.

(10) Licenses shall be issued within 14 days of the Management Committee's approval.

**Grant and renewal of licences**

**24.** (1) Except as otherwise provided in this Act, the Management 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 Management 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) 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
- (c) 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 Management 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 Management 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 Management Committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the Management Committee.

### **Transfer of licences**

**25.** (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 Management Committee to grant the transfer of such licence.

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

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

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

### **Review of applications**

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

(2) A person aggrieved by the decision of the Sub-county Committee to approve grant of a new licence or to renew a licence may request in writing, the apply for a review of such decision by the Management Committee.

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

(4) The Management Committee shall within twenty-one days consider and make a final determination on the request for review.

(5) The Management Committee may—

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



**Refusal to renew licence**

27. 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 Management 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 Management 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**

28. (1) Any person or authority may send submissions to the Sub-county Committee stating why a license should be cancelled —

(2) The Sub-county Committee, having duly considered the submissions 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 Management committee in respect of such licence or the licensed premises specified therein as, in the opinion of the sub- county committee, is necessary.

(3) The Management 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 Management committee, is necessary.

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

(5) The Court, on an appeal under this section, may confirm or reverse the decision of the Management Committee.

(6) If a licence is cancelled or if on appeal under sub-section (3), the appeal is dismissed by the Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the Sub-county committee may deem necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such licence to run from the date of the decision of the Management Committee or of the Court as the case may be.

**Display of licences**

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

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

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

**Appeals**

**30.** Subject to section 28 (4), 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 Management Committee may appeal against such refusal or decision to the Courts.

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

**31.** (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 sub-sections (a) and (b) in each quarter to the licensing officer.

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

(3) A person who contravenes this section commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand or to imprisonment for a term not exceeding thirty days.

**PART IV—GENERAL REQUIREMENTS****Conformity with requirements**

**32.** (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**

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

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

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

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

- (a) a national identity card;
- (b) a valid passport; or
- (c) any other documentation as the Executive Member may prescribe.

### **Display of signs**

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

(2) Every sign required to be posted under subsection (1) shall—

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

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

(4) The executive member shall, in collaboration with the management committee 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**

**35.** (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**

**36.** (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**

**37.** (1) No person shall transport alcoholic drinks for the purposes of sale or distribution between the hours of 6:00 p.m. and 8:00 a.m.

(2) The Executive member shall, by Regulations, prescribe the manner that vehicles used for the transportation of liquor for the purposes of sale or distribution shall be branded including—

- (a) the proportion of the surface area of the vehicle that may be covered by branding; and
- (b) the proportion of the branded area of the vehicle that shall be reserved for health warnings.

### **Production, sale and distribution of traditional liquors**

**38.** (1) No person shall produce, distribute, sell or offer for sale traditional liquor without a license issued by the Management Committee.

(2) A person shall be eligible to be granted with a licence under subsection (1) if—

- (a) that person has been vetted by the Sub-county Committee and a recommendation has been made to the Management Committee to issue the person with a licence;
- (b) the premises for the production or manufacture of the traditional liquor has been approved by the County Public Health Department; and
- (c) the process for the production or manufacture of the traditional liquor conforms to the standards prescribed by the Kenya Bureau of Standards.

(3) No person shall produce or manufacture traditional liquor in excess of the limits that shall be prescribed by the management committee.

(4) No person shall produce or manufacture traditional liquor in a residential area or a dwelling house:

Provided that where the residential area or dwelling house is being used for a ceremony for which the traditional liquor is required, the residential area or dwelling house may be used for the production or manufacture of traditional liquor for a period not exceeding seven days.

## **PART V—SALE AND CONSUMPTION**

### **Access to persons under eighteen years**

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

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

(3) Any person found by a police officer to be 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.

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

### **Disorderly conduct**

**40.** (1) Any person found by a police officer to be 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 disorderly in or near a place referred to in sub-section (1) shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

(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 sub-section (2) on more than three occasions in any period of twelve months shall—

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

#### **Breach of licence**

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

- (a) for a first offence, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding nine months, or to both;
- (b) for a second or subsequent offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both,

and in addition to any penalty imposed under paragraph (a) or (b), the court may order, the forfeiture of all alcoholic drinks found in the possession, custody or control of the person convicted, together with the vessels containing the alcoholic drink.

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

- (a) sell, supply or offer for sale an alcoholic drink in any workplace, office, factory, public park or any public

recreational facility, public transport vehicle, public beach, sports stadium or public street; or

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

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

#### **Sale to authorised officers**

**42.** Any person who knowingly sells, supplies or offers an alcoholic drink to an authorized officer in uniform 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**

**43.** 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 and shall be liable to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three months or to both.

#### **Sale without a licence**

**44.** (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**

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

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

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

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

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

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

**Proof of sale**

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

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

**Endorsement of conviction on licence**

**47.** 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 licensing officer.

**Forfeiture of licence upon conviction**

**48.** 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 Management 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**

**49.** (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; and
- (b) 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 persons under the age of eighteen years.

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

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

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

**Promotion at events where under-eighteen-year-olds are present**

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

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

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

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

protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

### **Encouraging consumption**

**51.** (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 VII—ENFORCEMENT**

### **Appointment of authorised officers**

**52.** (1) The Executive member shall appoint for each Sub-county authorised officers for purposes of this Act.

(2) The 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.

#### **Places authorised officers may enter**

**53.** (1) For the purposes of ensuring compliance with this Act, an authorised 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 authorised officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 57 (2).

#### **Powers of authorised officers**

**54.** In carrying out an inspection in any place pursuant to section 60, an authorised 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 any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

#### **Use of records**

**55.** In carrying out an inspection in a place, an authorised officer may—

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer

system that is relevant to the administration or enforcement of this Act;

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

#### **Enter into dwelling places**

**56.** 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**

**57.** 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 59;
- (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**

**58.** 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**

**59.** 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 within fourteen days of such analysis or examination.

**Assistance of officers**

**60.** (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.

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

**Obstruction of authorised officers**

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

**Seizures**

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

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

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

(5) Pursuant to Article 24(2) of the Constitution, the rights to privacy and property set out in Articles 31 and 40 of the Constitution are limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks by ensuring fair and ethical

business practices related to production, distribution, promotion and sale of alcoholic drinks as specified in this Act.

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

#### **Forfeiture of seized vessels, etc.**

**63.** Where a person is convicted of an offence of producing, manufacturing and transporting alcoholic beverages contrary to the 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**

**64.** (1) The 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**

**65.** 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 VIII—FINANCIAL PROVISIONS**

#### **Source of money**

**66.** (1) The source of money for the implementation of this Act shall consist of—



- (a) such sum of money as may be appropriated by the County Assembly; and
- (b) any gifts, grants or donations for furtherance of the objects of this Act.

### **Operation costs**

**67.** The committees' operation costs shall be a recurrent charge in the Department where the function is domiciled as approved by the Assembly.

### **Revenue Collected by the Management Committee**

**68.** (1) Any such other monies or funds collected by the Management Committee, pursuant to this Act, shall be paid to the County Revenue Fund and shall include—

- (a) such licence and other fees as may be payable under this Act;
- (b) such sums as may be realized from property forfeited to the County Government under this Act;
- (c) sums received, including contributions, gifts or grant from or by way of testamentary bequest by any person; and
- (d) all sums which may in any manner become payable to, or vested in the Management Committee.

(2) Where, in terms of subsections (1)(b), any immovable property is forfeited, the County Executive Committee Member for Finance shall deal with the property in such manner as he thinks fit and may sell the property and deposit the proceeds to the County Revenue Fund.

## **PART VIII—MISCELLANEOUS PROVISIONS**

### **Regulations**

**69.** (1) The Executive member may, make Regulations generally for the better carrying out of the objects of this Act.

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

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

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

### **Transitional matters**

70. (1) A person who held a valid licence on the commencement of this Act, shall be deemed to have been granted a licence under this Act.

(2) An application for a license that had been lodged with the County Government before the commencement of this Act shall be deemed to have been validly lodged under this Act:

Provided that the relevant Committee shall have the right to request additional information or documentation from an applicant who had applied for a licence before the commencement of this Act.

(3) Any proceedings in respect of a contravention of a provision of a law in respect of the matters contemplated under this Act shall proceed in accordance with the provisions of that other law.

(4) Any appeal or application for review against a decision in respect of an application for a licence under a written law in existence immediately before the commencement of this Act shall be heard and determined in accordance with the provisions of that written law.

### **Repeal**

71. The Nyandarua County Alcoholic Drinks Control Act, 2019 shall stand repealed upon the commencement of this Act.

**SCHEDULES****FIRST SCHEDULE**

(Sections 4 and 8)

**Meetings of Management Committee and Sub-County Committees****Meetings of the Management Committee**

1. (1) The committees shall elect the deputy-chairperson during its first sitting.

(2) The Management Committee shall meet for a maximum of six (6) times per year, the meetings of the Management Committee shall be held on such date and time as the Management committee shall decide or, in the absence of such decision, on any other time as the Chairperson, may, in consultation with the Secretary decide.

(3) The Chairperson shall, on the application of at least five members of the Management Committee, write to the Executive member requesting for approval to convene a special meeting of the Management Committee. The application shall contain the reasons for such an application.

(4) Notwithstanding the provisions of paragraph of 2 of this schedules, in situations of an emergency, a special meeting may be convened by the Chairperson and any resolution passed at the meeting shall be ratified and adopted in the subsequent ordinary meeting of the Management Committee.

(5) A written notice of every meeting shall be given seven days prior to the date of the meeting, indicating the venue, date, time and agenda.

(6) The provisions of clause (3) and (4) shall not apply to a special meeting convened in situations of emergency.

(7) The Chairperson shall preside at every meeting of the management committee at which he or she is present and in the absence of the Chairperson, the deputy chairperson shall preside. In their absence, members at the meeting shall elect one of the members who shall with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(8) All the decisions of the Management Committee shall be by simple majority of all members present and voting.

(9) The Chairperson shall not have an original vote but shall have a casting vote in case of a tie on any decision before the Management Committee.

(10) The Management Committee shall cause minutes of all proceedings of the meetings of the Management committee to be entered in minute book for that purpose.

(11) The quorum of the meetings of the Management Committee shall be half of its members.

### **Meetings of the Sub-County Committee**

2. (1) Each Sub-county Committee shall meet for a maximum of four (4) times per year, the meetings of the Management Committee shall be held on such date and time as the Management committee shall decide in consultation with the respective Sub-county Administrator.

(2) The co-chairpersons shall, on the application of at least five members of the Sub-County Committee, write to the Executive Member requesting for approval to convene a special meeting of the Sub-county Committee. The application shall contain the reasons for such an application.

(3) Save for the provisions of paragraph (1) in relation to the meetings of the Management Committee shall with necessary modifications apply to the meetings of the sub-county committees.

**SECOND SCHEDULE**

(Section 23)

**Classification of Licences and Operation Hours**

<b>Licenses</b>	<b>Operation Hours</b>
General Alcoholic Drinks Retail Licence) ( <i>on licence</i> )	1. Authorized to sell alcoholic drink— from Monday to Friday during the hours of 4.00 p.m. to 11.00 p.m. during weekends and public holidays during the hours of 2:00 p.m. to 11:00 p.m
General Alcoholic Drinks wholesale Licence ( <i>Off Licence applicable to Zone A only</i> )	2. Authorised to sell alcoholic drink on any day of the week during the hours of 2:00 p.m. to 8:00 p.m.
Distributor Licence	3. Authorized to sell alcoholic drinks between 8.00 a.m. to 6.00 p.m.
Supermarket or Franchised Chain Stores retail licence ( <i>off licence</i> )	4. Authorized to sell alcoholic drink on any day of the week during the hours of 5:00 p.m. to 10:00 p.m.;
Hotel Alcoholic Drink Licence	5. Authorized to sell alcoholic drink on any day of the week to a lodger – for his own consumption and his guest’s consumption on the premises, at any hour.
Members Club	6. Authorized to sell alcoholic drink to members on any day of the week at any hour.
Proprietary Club (Including Night Club)	7. Authorized to sell alcoholic drink any day of the week during the hours of 7.00 p.m. to 3.00 a.m.
Theatre Alcoholic Drink Licence	8. Authorized to sell alcoholic drink during the hours of 5.00 p.m. to 11:00p.m.

Licenses	Operation Hours
Travellers' Alcoholic Drink Licence	9. Authorized to sell alcoholic drink on any day of the week at any hour to persons bona fide travelers on Management committee a train or air.
Railway Restaurant Car Alcoholic Drink Licence	10. Authorized to sell alcoholic drink at any hour.
Steamship Alcoholic Drink Licence	11. Authorized to sell alcoholic drink on any day of the week at any hour while the steamship, whether stationary or in motion, is on a voyage.
Temporary or Occasional license.	12. Authorised 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
Bar and Restaurant Licence.	13. (a) Authorized to sell alcoholic drinks from Monday to Friday during the hours of 4:00 p.m. to 11.00 p.m. (b) during weekends and public holidays during the hours of 2.00 p.m. to 11:00 p.m.
Wholesale license	14. Authorized to sell Alcoholic Drinks between 8:00 a.m. and 5:00 p.m.

**THIRD SCHEDULE**  
**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.

**FOURTH SCHEDULE**  
**Permitted Areas of Sale of alcoholic drinks**

<b>Zone</b>	<b>Urban Area</b>
Area A  <i>(all licenses are permitted including off-licence wholesale and franchize premises)</i>	Ol Kalou town, Mairo-Inya town, Engineer town, Miharati town, Ol Joro Orok town, Ndaragwa town, and Njabini town (Njabini upper and Njabini lower)
Area B  <i>(off-licenses are not permitted)</i>	Boiman, Kwangara, Kahuruko, Kasuku, Kangui, Canaan, Gwa-Kahii, Museveni, Karandi “kagwathi, Kirimangai “Mung’etho”) Kawakawa, Charagita shopping center, Ngano , Kwa-lord , Riverside, Kianjata, Kanguo, Nyakarianga, Muhindi, Manyatta, Ngomongo, Ndogino, Gwa Kung’u, Ndaragwa town, Subuku, Mwangaza, Uruku, Nyonjoro, Pesi, Shamata, Ol’bolosat, Leshau, Weru, Thindi, Soweto, Munyaka, Mwenda-Andu, Gwa Kanyua, Junction, Fly-over, Soko Mjinga, Matches, Kahuruko center, Bekenya center, Most Center, Kambi Mbao center, Kimwaki Center, Kwa-Haraka, Cheese shopping center, Karangatha, Rwanyambo, Kinamba, Karuru, Koinanage, Miti-iri, Githabai township, Heni, Mwenda Andu, Kwa-Njoma, Kwa-Naiya, Kinja, Gathaara, Kwa-Ngothi, Munyaka South centre, Murungaru Town, Memo, Ndinda, Matopeni, Kahuho/Mekaro, Mkungi, Mchaka, Passenga, Rurii, Matura, Bosnia, Gwa-kiongo, Makara Headquarter, Mawingu, Karugutu, Captain, Inooro, Kandeto, Jawakwe, Ngorika, Tumaini, Kanjuiri, Rutara, Wiyumiririe, Thaba, Captain, Kaimbaga, Kariamui, Kandutura, Nyandee, Rumathi, Geta market, Kagongo, Mikeu, Kiambogo, Wanjohi town, Junction, Rironi, Ndemi, Mubao, Sophia, Ndiara, Jiret, Gatukaini, Kamahia, Kahiga, Machinery, Miharati, Kahuruko, Mawingu center, Turasha, Bosnia, Gathiriga, Mumui, Riricua, Bara Ithano and Tigoni