

SPECIAL ISSUE

Kenya Gazette Supplement No 7 (Nyandarua County Acts No 1)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYANDARUA COUNTY ACTS, 2014

NAIROBI, 29th August 2014

CONTENT

Act—

PAGE

The Nyandarua County Alcoholic Drinks Act 2014

1

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

THE NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2014

No 1 of 2014

Date of Assent 26th August, 2014

Date of Commencement See Section 1

ARRANGEMENT OF CLAUSES

Section

PART I—PRELIMINARY

- 1—Short title and commencement
- 2—Interpretation
- 3—Objects and Purpose of Bill

PART II—ADMINISTRATION

- 4—Establishment of a Board
- 5—Rehabilitation Facilities and Programs
- 6—Revenue collected by the Board

PART III—LICENSING

- 7—Control of alcoholic drinks
- 8—Establishment of the Sub-County Committee
- 9—Application for a licence
- 10—Requirements for a licence
- 11—Grant of a licence
- 12—Assurance of a licence
- 13—Licence for premises
- 14—Persons not eligible for a licence
- 15—Validity and renewal of licences
- 16—Review
- 17—Right of review
- 18—Licences to body corporates
- 19—Types of licences
- 20—Transfer of licences
- 21—Removal of licences

2014

Nyandarua County Alcoholic Drinks Control

22—Display of licences

23—Employment for sale of alcoholic drinks

24—Drunken behaviour

25—Debt from sale of alcoholic drinks

26—Access by persons under age of eighteen

27—Reports by public health officers and police

28—Cancellation of licence

PART IV—GENERAL REQUIREMENTS

29—Conformity with requirements

30—Supply to young persons

31—Display of signs

32—Vending machines

33—Selling in satchets

PART V—SALE AND CONSUMPTION

34—Sale to intoxicated persons

35—Breach of licence

36—Non disclosure of conviction

37—Sale without licence

38—Proof of sale

39—Endorsement of conviction

40—Forfeiture of licence upon conviction

PART VI—ADVERTISEMENT AND PROMOTION

41—Prohibited advertisement and promotion

42—Prohibited sales

PART VII—ENFORCEMENT

43—Authorized officers

44—Enforcement committee

45—Functions of enforcement committees

46—Places authorized officers may enter

47—Powers of officers

No 1*Nyandarua County Alcoholic Drinks Control*

- 48—Use of records
- 49—Entry of dwelling place
- 50—Court to issue warrants
- 51—Use of force
- 52—Certificate of analysis
- 53—Assistance of officers
- 54—Obstruction
- 55—Seizure
- 56—Orders of restoration
- 57—General penalty
- 58—Nature of offences
- 59—Nature of evidence in proceedings

PART VIII—MISCELLANEOUS

- 60—Regulation
- 61—Transitional

FIRST SCHEDULE—Types of Licence

SECOND SCHEDULE—Licence hours

2014

Nyandarua County Alcoholic Drinks Control

THE NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL BILL, 2014

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

ENACTED by the Nyandarua County Assembly as
follows—

PART I—PRELIMINARY

1 This Bill may be cited as the Nyandarua County
Alcoholic Drinks Control Act, 2014 and shall come into
operation on the date of publication in the Gazette

Short title and
commencement

2 In this Bill, unless the context otherwise
requires—

Interpretation

“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,

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

“Authorized officer” means an authorized officer
within the meaning prescribed in this Act

“Board” means County Alcohol Control Board

“Cinema” has the meaning assigned to it in the Films
and Stage Act,

“County” Means the Nyandarua County

“Committee” means the sub county committee
established under this Act,

No 1

Nyandarua County Alcoholic Drinks Control

“Entity” includes a company, corporation, firm, partnership, association, society, trust or other organization, whether incorporated or not,

“Enforcement Committee” means the County Alcoholic Drinks Control Enforcement Coordinating Committee established under this Act,

“County Enforcement Officer” means any officer within the County administration to whom the Executive Committee Member responsible for alcoholic control has assigned the duty or duties of enforcing the obligations created under this Act,

“Executive Committee Member” means the County executive Committee member responsible for alcoholic control,

“Governor” means the Governor of Nyandarua County,

“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,

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

“Licensee” means a person who holds a licence granted under this Act,

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

“Manager” in relation to—

- (a) A cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre,

- (b) A health institution, includes the owner or a person in charge or in control of the health institution,
- (c) A specified building includes the owner occupier, lessee or the person in charge or in control of the specified building

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

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

“Package” means the container, receptable 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

“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,

“Premises” means any building, structure room or rooms that have been approved by the physical planner in the county and which have all relevant licences under this Act to be used for purposes of manufacture or sale of alcohol as envisaged herein

No 1

Nyandarua County Alcoholic Drinks Control

“Sub county committee” means the Sub-County Alcoholic Drinks Regulations Committee appointed under this Act

“Traditional liquor” means—

- (a) an intoxicating liquor manufactured by traditional Africa methods, other than distillation, which is offered, or intended to be offered, for sale in a state of continuing fermentation without further processing, or
- (b) Such other intoxicating liquor manufactured in Kenya, otherwise than by distillation, as the County Executive Committee Member may, by notice in the Gazette, declare to be traditional liquor for the purposes of this Act

“Chang’aa” means any spirits which are distilled otherwise than in accordance with a license issued under this Act, by whatever name called

“Spirits” means any intoxicating liquor in the nature of an essence of or abstract from any substance, obtained by distillation, and includes any liquor mixed with spirits

Any reference to any gender automatically is assumed to incorporate and include the other gender

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

Object and
Purpose of the Act

- (a) Protect the health of the individual in the light of the dangers of excessive consumption of alcoholic drinks,
- (b) Protect persons under the age of eighteen years from negative impact on health and social development from exposure to advertisement of alcoholic drinks,
- (c) Protect consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of excessive consumption of

alcoholic drinks,

- (d) Protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks,
- (e) Inform and educate the residents in the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks,
- (f) Adopt and implement effective measures to eliminate illicit trade in alcohol including smuggling, illicit manufacturing and counterfeiting,
- (g) Ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks,
- (h) Reduce and mitigate the negative health, social and economic impact on communities resulting from production, sale and consumption of alcoholic drinks

PART II—ADMINISTRATION

4 (1) There is established in the County the Alcoholic Drinks Control Board which shall be under the direction and control in the county department of Culture and Social Services

Establishment of
the Board

- (2) The functions of the Board shall be to—
 - (a) Supervise and coordinate the functions of the sub county alcoholic control committee including licensing
 - (b) Support and facilitate Sub-county Committees in carrying out their functions,
 - (c) Carry out public education on alcoholic drinks control in the county directly and in collaboration with other public or private bodies and institutions,
 - (d) Facilitate citizen participation in matters related to alcoholic drinks control in accordance to framework for citizen participation established under the County Governments Act, the Urban Areas and Cities Act or any other relevant written law,
 - (e) Facilitate and promote in collaboration with other

county and national government institutions the establishment of treatment and rehabilitation facilities and programmes,

- (f) Carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to alcoholic drinks control,
- (g) Develop in collaboration with other county and national government departments strategies and plans for implementing this Act and control of alcohol abuse and any other relevant national legislation and coordinate and support their implementation,
- (h) Advise the Executive Committee Member responsible for culture and social services, generally on the exercise of his powers and performance of his functions under this Act, and in particular on county policy and laws to be adopted in regard to the production, manufacture, sale and consumption of alcoholic drinks,
- (i) In collaboration with other relevant county departments, prepare and submit an alcoholic drinks status report quarterly in the prescribed manner which shall be transmitted to the County Executive Committee Member responsible for culture and social services and the County Assembly,
- (j) Recommend to the respective Executive Committee Member and participate in the formulation of laws and regulations related to alcoholic drinks,
- (k) Monitoring and evaluating the implementation of this Act including the operations of the Sub-County Committees and advising the Executive Member responsible for culture and social services on the necessary measures to be adopted,
- (l) Carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the Executive Committee Member responsible for culture and social services
- (m) Reviewing on appeal decisions made by sub county

committees

(3) The Board shall consist of ten members seven of whom shall be competitively appointed by the County executive committee member responsible for culture and social services, consisting of a youth who is a stakeholder in alcohol business, marginalized persons minding gender balance There shall be an advocate of the High Court of Kenya and a qualified physical planner or surveyor each with at least three years post qualification experience, appointed by the County Executive Committee Member for Legal and Public Services with the approval of the County Assembly

(4) The Board shall be headed by a chairman who shall be competitively appointed by the County Public Service Board a secretary also competitively appointed by the County Public Service Board

(5) The chairman and the secretary shall have a minimum of bachelor's degree from a recognized University while the other members shall have a minimum of post-secondary education from institutions accredited by the Ministry of Education

(6) The Board shall sit twice a month to deliberate on issues and or any other time with the approval of the County Executive Committee member responsible

(7) The respective Committee Executive Member shall ensure that the board has adequate human, financial and any other appropriate resource to enable it carry out the functions assigned under this Act

(8) The members of the Board will serve for three year renewable term subject to a maximum of two terms

5 (1) The Board shall —

- (a) In collaboration with other relevant county and national Government agencies establish treatment and rehabilitation facilities and programs for persons dependent on alcoholic drinks in each sub-county and one facility (referral) in the County headquarters,
- (b) Ensure that the treatment and rehabilitation facilities have the necessary human resources for effective operation and service delivery,
- (c) Ensure that the treatment and rehabilitation services

Establishment of
Rehabilitation
Facilities and
Programs

No 1

Nyandarua County Alcoholic Drinks Control

are designed in a manner that is accessible and affordable to person's dependent on alcoholic drinks

6 (1) Any monies or funds collected by the Board shall be deposited in the County Revenue Fund and shall include—

Revenue Collected
by the board

- (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,
- (d) All sums which may in any manner become payable to, or vested in the Board

(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 proceed to the County Revenue Fund

(3) The Fund Collected shall be deposited in the County Revenue Fund, established under PFM Act, 2012 section 109

(4) The Board shall keep or cause to be kept proper books of accounts and other books and records in relation to all the revenue collected

(5) The Executive Committee Member for Finance shall cause an audit on all revenue transactions carried out by the Board

(6) The Board shall furnish such information as may be required for examination and audit by the County Executive Member for Finance or as required by law

(7) An amount of not less than twenty percent (20%) of the total revenue collected by the Board shall be utilized for the purposes set out under Section 4 (2)

PART III—LICENSING

7 (1) No person shall—

Control of
alcoholic drink

- (a) manufacture or otherwise produce,
- (b) sell, distribute or dispose of, or deal with,

any alcoholic drink in the county except under and in

accordance with a licence issued under this Act

(1A) The manufacturer or the county except under and in accordance with a licence issued under this Act

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

(3) Any person guilty of an offence under subsection (2) is liable upon conviction to a fine of not less than KSh 500,000 and a jail term not exceeding 5 years or both

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

Establishment of
the Sub County
Committee

(a) Issue licenses in accordance with this Act, and

(b) Perform such other functions as may from time to time be assigned to it by the Governor

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

(3) In carrying out its functions, the Sub- county Committee shall—

(a) Ensure that there is effective public participation in accordance with the framework for citizen participation established under the County Governments Act, the Urban Areas and Cities Act or any other relevant written law,

(b) Collaborate with ward administrators and village administrators and councils appointed under the County Governments Act, 2012 and the officers in charge of coordination of National Government functions in the wards and villages,

(c) Collaborate with similar committees in other counties for effective implementation of the Act

(4) The Sub-county committee shall consist of—

(a) Sub-county administrator appointed under the County Governments Act who shall be the chairperson,

(b) The sub-county public health officer,

- (c) One officer designated by the County Executive Member for Culture and Social Services who shall be the secretary,
 - (d) The officer designated by Executive Member Legal and Public Service responsible for coordination of County Government functions in the sub-county,
 - (e) The officer for the time being responsible for physical planning in the sub-county,
 - (f) Two (2) residents of the sub-county appointed by the Executive Member for Culture and Social Services one of whom must be a youth
- (5) A person shall not be a member of the Sub-county Committee if such person is—
- (a) A holder of a licence in the county under this Act,
 - (b) A partner in a firm or director or shareholder of a company or other body which is the holder of a licence in that county under this Act,
 - (c) Directly or indirectly employed as an agent of a person, firm or company which is the holder of a licence in the county under this Act,
 - (d) Undischarged bankrupt,
 - (e) A person who has been convicted of an offence under this Act or of a felony
- (6) The conduct of business and affairs of the Sub-county committee shall be in such manner as may be prescribed
- 9** (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 an prescribed form to the sub-county committee in the sub-county where the premises is to be situated and shall pay a prescribed fee
- (2) The application under sub-section (1) shall contain—
- (a) A comprehensive information on the nature, orientation and other justification for the establishment of the manufacturing plant or establishment for sale,

Application for a
Licence

- (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 license, certification from Kenya Bureau of Standards,
 - (d) Such other matters as may be prescribed
- (3) The Sub-county Committee shall within Fourteen (14) days after the submission of application for a licence, prepare a notice setting forth the names of all applicants, the types of licences applied for, the premises in respect of which the licences are applied for and the time, date and place of the meeting, and shall forthwith cause a copy of the notice to be—
- (a) Published at the office of the Sub-county administrator for a period of not less than twenty-one consecutive days,
 - (b) Posted in some conspicuous place at or near the applicant's premises,
- 4 (a) Any person may lodge objection to an application
- (b) Every objection to an application shall be made in writing to the Secretary to the Sub-county Committee and the objector shall serve notice of the grounds of the objection on the applicant, personally or by post, at least seven (7) days before the hearing of the application and the onus of proof of such service shall be on the objector
 - (c) A sub-county Committee may on its own motion take notice of any matter or a thing which, in the opinion of the Committee, constitutes and an objection to an application, whether or not any objection has been otherwise lodged
 - (d) Where in respect of an application a Sub-county Committee acts in pursuance of an objection in this section, 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 (7) days as the Sub-county Committee considers necessary to enable the

applicant to reply

- (e) 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
- (f) 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
- (g) Any objector may appear personally or by an advocate at the hearing of the application
- (h) A sub-county committee may authorize, in writing any person to appear before any Sub-county Committee having jurisdiction in any part of the area within the jurisdiction of the local authority for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application
- (k) 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

10 The Sub-county Committee shall, within fourteen days of receipt of the application for licence under subsection (1), record the application and assess the same on the basis of the objections received if any and the interests of the sub-county, and shall ensure that—

Requirements for
Licence

- (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, distil, bottle or manufacture an alcoholic drink possesses necessary qualifications and relevant requirements stipulated under the Standards Act or any other relevant written law, and
- (e) The premise has sufficient number of competent staff in line with such norms as may be prescribed

11 (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

Grant of Licence

(2) Where the Sub-county Committee has no objection to the application under section 10, it shall grant a licence to the applicant upon payment of the prescribed fee

(3) The licence issued shall be in such form as may be prescribed in this act and subject to such conditions as the Sub-county Committee may consider fit

(4) Where the Sub-county Committee is not satisfied with the application under subsection (1), it may—

- (a) Reject the application giving reasons and notify the applicant accordingly within seven (7) days of the decision to reject, or
- (b) Make comments and recommendations thereon and return it to the applicant within seven (7) days

(5) The applicant to whom the application is returned under subsection (4) (b) may re-submit a revised application within fourteen (14) days of the date of notification

(6) On receipt of any revised application under subsection (5), the Sub-county Committee shall within fourteen (14) days determine the application in accordance with this Act and upon such determination, if satisfied, issue a licence

(7) Where the Sub-county Committee grants a licence under this section it shall publish the names of successful applicants and display them at the respective ward and sub county offices

12 (1) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used for the

Assurance of
Licence

manufacture or sale of alcoholic drinks for consumption on such premises, any person having an interest in the premises may apply in the prescribed form to the board for an assurance that, on the completion of the construction or reconstruction, a licence of the type to be specified in the application will be granted in respect of such premises

(2) The Board may subject to such reasonable conditions provided in this act including and not limited to submission of approved plans of such premises, a certificate of clearance from The National Environmental Management Authority (NEMA) and other relevant licences and clearances, give to the applicant an assurance in the prescribed form that, on the completion of the premises, a licence of the type specified therein will be granted or it may refuse to give such an assurance

13 (1) The Sub-county Committee shall not grant a new licence for the sale of an alcoholic drink to be consumed on the premises unless the Sub-county Committee is satisfied—

Licence for
Premises

- (a) That it would be in the public interest for provision to be made for the sale of alcoholic drink for consumption on the premises 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 given the population density per square kilometer, and the permitted maximum number of such premises as shall be prescribed by law

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 properties as have been demarcated by or under the relevant written laws,

- (b) That 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) That the premises in respect of which the application is made are located at least three hundred meters from any nursery, primary, secondary school and or any other learning

institution for persons under the age of eighteen years,

- (d) In respect to (c) above, licensing will take into consideration circumstances where the premises existed prior to establishment of a learning institution envisaged in this act,

(2) The Sub-county Committee shall not grant a licence of the sale of an alcoholic drink in—

- (a) A supermarket or such other related retail chain store unless it is satisfied that the applicant has taken measures to ensure that the area in which the sale is to take place is not accessible to persons under the age of eighteen years,
- (b) In an outlet or premises located within a fast food restaurant

(3) Despite subsection (1), the sub-county Committee may issue a licence to a premise located within three hundred (300) meters of any nursery, primary, secondary, or other learning institution for persons under the age of eighteen years only if—

- (a) The premises do not share a wall with the institution and are sealed off by a physical and non-transparent barrier that ensures zero visibility of the premise from the locality of the institution,
- (b) The premises displays on its outside any of the prescribed health messages in a clear and visible manner,
- (c) The premises do not bear any outdoor alcoholic drinks promotion or advertisement,
- (d) The applicant does not engage in activities that interfere with learning in the institution or activities that are calculated to attract persons under the age of eighteen to the premises

14 (1) The Sub-county Committee shall not grant a new licence or transfer a licence to any person who—

- (a) Is under eighteen years of age, or
- (b) Is an undischarged bankrupt
- (c) A person who has been convicted of an offence under this Act and or a felony

Persons not
eligible for a
Licence

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

- (a) 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, under this Act or,
- (b) The conditions of the licence have not been satisfactorily fulfilled, or
- (c) The premises to which the licence relates are not in a proper state of repair, or are not provided with proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the Sub-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 Sub-county Committee
- (d) If the applicant is a known criminal or perpetual law breaker

15 Except as otherwise provided in this Act, a sub-county Committee may, subject to this part, grant, renew, transfer or remove a licence, and may embody therein such conditions as it may deem appropriate, or it may refuse to grant, renew, transfer, withdraw or cancel a licence

Validity and
Renewal of
Licences

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

(3) Every grant of a licence or its every renewal or transfer shall—

- (a) Be subject to the payment of such fee or fees as may be prescribed,
- (b) Expire on the thirty first day of December each year,
- (c) Specify in the licence the hours stipulated under the Schedule and as the national legislation may provide within which the sale of alcohol is

permitted and any other relevant condition

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

(5) Where an application for a licence has been refused, or a licence has been cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the Sub-county Committee during the period thirty (30) days from the date of such refusal or cancellation, except at the discretion of the Sub-county Committee

16 (1) An applicant whose application for a new licence, to renew or transfer a licence has been refused or cancelled may within fourteen days of such refusal, request in Writing the review of such refusal to the Board

Review

(2) Upon receipt of a request under this section, the Board shall notify the Sub-county Committee of the pending review

(3) The Board shall within fourteen days consider and make a final determination on the request for review

(4) The Board 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 direction to the Sub-county Committee with respect to any action to be taken,
- (e) Make any other declaration as it may deem fit

(5) The decision of the Board shall not be subject to any further review within this Act

17 The right or request for review under Section 16 does not prohibit a person from seeking any other legal remedy a person may have under other relevant national laws

Right of Review

18 (1) Licence issued to a body corporate shall be

Licences to Body
Corporates

issued in the name of the body corporate,

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

19 (1) The several licences which may be granted under this Act shall be those specified in the Second Schedule and the provisions of that schedule and of any rules made under respective licences therein specified

Types of Licences

(2) Save as otherwise provided in this Act, no licence may be granted so as to be applicable to more premises than one

(3) The Sub-county Committee shall, when a licence is granted, renewed, withdrawn or cancelled, include in the licence a sufficient description of the licensed premises

20 (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, grant a transfer of such licence

Transfer of Licence

(2) No further fee shall be payable in respect of a licence granted under subsection (1) 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

21 (1) If the renewal of a licence is refused, the licensee shall, on payment of a 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 Sub-county Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such period to commence on the day after the last sitting of the Sub-county Committee at which the renewal of his licence has been refused, or on the day after the termination of his existing licence whichever day is the latter

Removal of Licence

22 Every license shall be prominently and conspicuously displayed on the premises to which it relates, and any licensee who fails or neglects so to display his license commits an offence

Licence to be
Displayed

(2) 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

23 Notwithstanding the provisions of any other written law, no licensee shall 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

Employment for
Sale of alcoholic
Drinks

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

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

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

Drunken
Behaviour

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

do so, commits an offence

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

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

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

Debt from sale of
alcoholic drinks

26 (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, sorted, sold or consumed

Access by persons
under age of
eighteen

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

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

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

Reports by Public
health Officers and
Police Officers

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

(3) A county enforcement officer shall report in writing to the chairperson of appropriate Sub-county Committee every case in which a licensee is of drunken habits or keeps a disorderly house, or commits any breach of any of the

provisions of this Act or of his licence

(4) A county enforcement officer may without written authority enter and inspect any licensed premises for the purpose of ascertaining whether a report under subsection (1) is required

28 (1) Upon receipt of a report made herein, the Sub-county Committee shall—

Cancellation of
Licence

- (a) Send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing him that at a meeting of the Sub-county Committee to be held on a date to be specified, but not more than thirty days there from, the report will be considered by the Sub-county Committee,
- (b) Send a copy of the report to every member of the Sub-county Committee and to the County chief enforcement officer
- (c) Inform the Sub-county public health officer or the county enforcement officer as the case may be, of the date upon which the Sub-county committee will consider the report, and required him to attend on the date specified

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

(3) The Sub-county Committee, having duly considered the report and having heard the licensee, if he appears, may if it thinks fit, cancel the licence of the licensee reported upon, or it may make such an order in respect of such licence of the licensed premises specified therein as, in the opinion of the Sub-county Committee is necessary

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

(5) The Board, on an appeal or review under this section, may confirm or reverse the decision of the Sub-count Committee

(6) If a licence is cancelled or if on appeal under Sub-section (5) the appeal is dismissed by the Board, 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 Sub-county Committee or of the Board as the case may be

PART IV—GENERAL REQUIREMENTS

29 (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

Conformity with
Requirements

(2) A person who contravenes the provisions of this section in relation to manufacture, distribution and importation 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 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 five hundred thousand, or to imprisonment for a term not exceeding one year or both

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

Supply to young
persons

(2) Subject to subsection (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 subsection (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 subsection (4) for the purpose of verifying the age of the young person and believed, on reasonable grounds, that the documentation was authentic

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

(a) A national identity card issued by the Republic of

Kenya,

- (b) A passport issued by the Republic of Kenya or any other country, or
- (c) A birth certificate

31 (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

Display of Signs

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

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

(c) Be in English or in Kiswahili

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

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

Vending
Machines

(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 both

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

Selling in Sachets

(2) Notwithstanding the provisions of subsection (1)—

- (a) No person shall manufacture, pack, distribute or sell in the county an alcoholic drink in container of less

than 500 milliliters,

- (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) or as may be prescribed in the national legislation related to control of alcohol drinks
- (c) A person who contravenes 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 twenty four months, or to both

PART V—SALE AND CONSUMPTION

34 (1) Any person found by a county enforcement officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place or driving a motor vehicle while drunk may be arrested without warrant and brought without unreasonable delay before a Magistrate

Sale to an
intoxicated person

(2) Any person convicted of being drunk and incapable and disorderly in or near a place referred to in subsection (1) shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, or both or driving a motor vehicle while drunk, shall be liable to a fine not exceeding ten thousand

(2A) any person found guilty of drunk driving shall be ordered by the convicting Magistrate to surrender his driving licence for cancellation if the person has been previously convicted for the offence of drunken driving

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

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

- (a) Be ordered by the convicting Magistrate to undergo at his own cost, such rehabilitation programme as may be appropriate in a public health institution,

- (b) Be forthwith reported by the convicting Magistrate to the Sub-county Committee which shall inform such licensees as he deems desirable of such convictions, and thereupon and until a period of twelve months has passed without any further such conviction in respect of that person, any licensee so informed who knowingly sells or supplies alcoholic drinks to or for delivery to that person,
- (c) Commits an offence, and it shall furthermore be an offence for that person to be in possession of any alcoholic drink

(5) Any licensee who sells an alcoholic drink to a person already in a state of Intoxication or by any means encourages or incites him to consume an alcoholic drink commits an offence and upon conviction shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or both

(6) For purposes of this section, the upper limit of blood alcohol for drunken driving shall be 0.005% of alcohol in the blood and the upper limit of for being drunk and disorderly shall be 0.01% of alcohol in the blood

(7) The laboratories of the institutions specified by the CEC Member shall be used for purposes of ascertaining the levels of alcohol specified

35 (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—

Breach of Licence

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

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

- (a) Sell 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,

- (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 subsection (2) commits an offence and shall be liable to the penalties specified under subsection (1)

36 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

Non Disclosure of
Conviction

37 (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 Board that the drinking of the alcoholic drink was with the leave or consent of the licensee who sold the alcoholic drink, the licensee commits an offence

Sale without
Licence

(2) If a licensee whose license 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 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

38 In any proceedings under this Act relating to the sale of consumption of an alcoholic drink, such sale of 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

Proof of Sale

(2) Evidence of consumption or intended consumption of an alcoholic drink, on licensed premises by any person other than the licensee or his employee or agent shall be construed as 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

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

39 Every licensee who is convicted of an offence under this Act shall produce his licence to Court convicting him, and the Court shall endorse every such conviction on the licence and the relevant administrative officer of the Court shall inform the relevant Sub-county Committee

Endorsement of
Conviction on
Licence

40 If any proceedings before a Court it appears that a licensee—

Forfeiture of
Licence upon
conviction

- (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 Sub-county Committee, or
- (b) Is convicted of an offence under this Act and a previous conviction within the preceding twelve months of the same or any other offence under this Act or three such previous convictions within the preceding five years is or are proved, or
- (c) Is twice convicted within twelve months of selling, offering or keeping for sale any adulterated alcoholic drink

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 such period as the Court may order

PART VI—ADVERTISEMENT AND PROMOTION

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

Prohibited
advertisement
Promotion

- (a) In a manner that is false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the alcoholic drink,
- (b) Through painting or decorating the name of the

alcoholic drink or manufacturer, colour and brand images or logos associated with a manufacturer or an alcoholic drink or any other related form except the inner part,

- (c) In places demarcated under any written law as residential areas or within a distance of three hundred metres radius from nursery, primary, secondary school or other institution of learning for persons under the age of eighteen years or a , health facility or a public playground or any other public land or property or in public service vehicle

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

42 (1) A licensee shall not—

Prohibited sales

- (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 both

PART IV—ENFORCEMENT

43 (1) The Executive Committee Member in charge of Legal and Public Service shall, upon recommendation by the sub-county Committee, appoint for each Sub-county, any person or class of persons to be authorized officers for purposes of this Act

Authorized
Officers

(2) The Executive Committee Member shall issue a certificate of appointment to every person appointed under this section

(3) Notwithstanding the provisions of this section the following officers shall be deemed Cap 242 to be authorized officers for the purposes of this Act—

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

44 (1) The County Executive Committee member for Legal and Public Service shall establish a county Alcoholic Drinks Control Enforcement Committee for the purposes of enforcing this Act

Enforcement
Committee

- (2) The Enforcement Committee shall consist of—
 - (a) The Chief Officer responsible in the docket of Legal and Public Service,
 - (b) The officer responsible for co-ordination of national government functions in the county,
 - (c) The County Public Health Officer,
 - (d) The officer in charge of County Police Service in the County,
 - (e) Chairperson of the County Alcoholic Drinks Control Board,
 - (f) Enforcement officers in charge of each sub county to be nominated by the County Executive member in charge of Legal and Public Service
- (3) The County Executive Committee Member in

charge of Legal and Public Service shall ensure that the committee is provided with the necessary secretariat services

45 The functions of the Enforcement Committee shall be to—

Functions of the
Enforcement
Committee

- (a) Coordinate enforcement of the Act,
- (b) Monitor and evaluate the enforcement process and system under the Act,
- (c) Advise the County Executive Committee member in charge of Legal and Public Service on the necessary measures to be adopted in ensuring effective enforcement and compliance with the Act,
- (d) Create civic awareness on compliance with the provisions of this Act

46 (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 ground that any person or persons is in any way contravening the provisions of this Act

Places authorized
Officers may
enter

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

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

47 (1) In carrying out an inspection in any place pursuant to section 46, an authorized officer may—

Powers of
Officers

- (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

2014

Nyandarua County Alcoholic Drinks Control

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 measures,
- (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
- (f) Demand the production of evidence that a county alcohol certification has been done on the alcoholic products being offered for sale

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

48 In carrying out an inspection in a place, an authorized officer may—

Use of Records

- (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,
- (d) Scrutinize any other record system in use in that place

49 An authorized officer may enter a dwelling place or premises except with the consent of the occupant upon notice or under the authority of a warrant issued under section 50

Entry of dwelling,
Place

50 (1) Upon an ex-parte application, a Magistrate or Judge, may issue a warrant authorizing the authorized officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the Magistrate or a Judge is satisfied by information on oath that—

Court to issue
warrant

- (a) The dwelling place is a place referred to in section 46,
- (b) Entry to the dwelling place is necessary for the administration or enforcement of this Act,
- (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 or during the licensed hours under the license issued in the Act

51 An authorized officer executing the warrant issued under section 50 shall use reasonable force and or as specified in the warrant

Use of Force

52 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 of report setting out the results of the analysis or examination

Certificate of
Analysis

53 (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 —

Forfeiture of
licence upon
conviction

- (a) Provide all reasonable assistance to enable the authorized officer to carry out his duties under this Act,
- (b) Furnish the authorized officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made

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

54 No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorized officer

Obstruction

who is carrying out duties under this Act Any person doing so commits an offence under this Act

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

Seizure

(2) The authorized officer may direct that any alcoholic drink or thing 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 alcoholic drink or other thing seized

(4) Any person from whom an alcoholic drink or thing was seized may, within fourteen (14) days after the date of seizure, apply to the Court for an order of restoration, and shall send notice containing the prescribed information to the Executive Member in charge of Legal and Public Service within the prescribed time and in the prescribed manner

56 (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—

Orders for
Restoration

(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 subsection (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 subsection (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

57 Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings, or to

General Penalty

imprisonment for a term not exceeding two years, or to both

58 (1) Offences under this Act, shall be cognizable offences other than offenses under Part VI

Nature of
Offences

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

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

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

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

Nature of
Evidence in
Proceedings

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

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

(4) The party against whom the certificate or report provided for under subsection (3) is produced may, with

leave of the Court, require the attendance of the officer for purposes of cross-examination

- (5) In a prosecution for a contravention of this Act—
- (a) Information on a package indicating that it contains an alcoholic drink is, in the absence of evidence to the contrary, proof that the package contains an alcoholic drink, and
 - (b) A name or address on a package of the person by whom the alcoholic drink was manufactured is in the absence of evidence to the contrary, proof that it was manufactured by that person

PART VIII—MISCELLANEOUS

60 (1) The Executive Member in charge of Legal and Public Service may, on recommendation of the Directorate make Regulations generally for the better carrying out of the objects of this Act

Regulations

(2) Without prejudice to the generality of subsection (1), the Regulations may—

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

61 (1) Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act was in accordance with Alcoholic Drinks Control Act, 2010 a manufacturer, importer, distributor or retailer of any alcoholic drink in the under that Act shall be deemed to be a manufacturer, importer, distributor or retailer of any alcoholic drink under

Transitional No. 4
of 2010

this Act

(2) The manufacturer, importer, exporter, distributor or retailer of any alcoholic drink in the contemplated referred to in subsection (1), shall, within four months of upon commencement of this Act, comply with the requirements of this Act

FIRST SCHEDULE

LICENCE HOURS

<i>Licenses</i>	<i>License Hours, Conditions and Exceptions</i>
1 General Retail Alcoholic Drink Licence (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 General Retail Alcoholic Drink License (Off License) Wines and Spirits Retailers (Rural and Sub-Urban)	Authorised to sell alcoholic drink on any day of the week during the hours of 5 00 p m to 8 30 p m
3 Supermarket or Franchised Retail Chain Stores (Urban) Alcoholic Drink License (Off-License)	Authorised to sell alcoholic drink on any day of the week during the hours of 10 00 a m to 8 30 p m
4 Hotel Alcoholic Drink License	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
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 incorporated under the Society's Act (b) Proprietary Club (Including Night Club)	Authorized to sell alcoholic drink to members (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 Authorized to sell alcoholic drink any day of the week during the

	hours of 7 00 p m to 3 00 a m
6 Theatre Alcoholic Drink License	Authorized to sell alcoholic drink during the hours of 5 00 p m to 11 00 p m
7 Travellers' Alcoholic Drink License	Authorized to sell alcoholic drink on any day of the week at any hour to persons bona fide travellers on board a train or air
8 Railway Restaurant Car Alcoholic Drink License	Authorized to sell alcoholic drink at any hour
9 Steamship Alcoholic Drink License	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
10 Temporary or Occasional license	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

SECOND SCHEDULE (s 21)

TYPES OF LICENCES

The following licenses may be granted under this Act

1 Manufacturer's License	Subject to the conditions specified in the license, a Manufacturer's license 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 license or by delivery from depot throughout Kenya in accordance with the Alcoholic
--------------------------	--

	Drinks Control Act, 2010, 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 Wholesale License	A wholesale license authorizes the licensee to sell an alcoholic drink at the premises specified in the license, subject to such conditions as may be prescribed
3 Retail License	A retail license 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 license
4 Distributor's License	A distributor license authorizes the licensee to sell/distribute an alcoholic drink to licensed wholesalers or retailers within Nyandarua County subject to such conditions as are specified in the licence and such licence shall apply to alcoholic drinks manufacturers within and without the county or a manufacturer's appointed distributors intending to supply alcoholic drinks within the County

2014

Nyandarua County Alcoholic Drinks Control

FORM NO 1

**NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL
APPLICATION FOR THE GRANT/RENEWAL OF AN ALCOHOLIC
RETAIL WHOLESALER DRINKS LICENCE**

APPLICATION No

To be completed in triplicate

- 1 Name of Applicant
- 2 Applicant's Postal Address
- 3 Address and Plot number of Premise
(Give sufficient details to adequately identify the premise, eg street,
phone etc
- 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

Note If the application is for wholesale alcoholic drinks licence to be applicable to more premises than one, paragraphs 3 and 4 must give particulars of all such premises

Nyandarua County Alcoholic Drinks Control Board

No 1

Nyandarua County Alcoholic Drinks Control

FORM NO 2

NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL MANUFACTURER'S LICENCE

LICENCE No

This manufacturer's licence is *granted/renewed under the provisions of
the Nyandarua County Alcoholic Control Act 2014 to
Mr /Mrs /Ms 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 Nyandarua County Alcoholic
Drinks Control Act 2014, and to the following conditions

(This licence is issued subject to the applicant having, and retaining valid
accredited bodies' approvals as shall be directed from time to time)

This licence shall expire on

Fees paid KSh

Date of issue

For the Nyandarua County Alcoholic Drinks Control Board

*Delete whichever is inapplicable

2014

Nyandarua County Alcoholic Drinks Control

FORM NO 3

NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL BOARD

INVESTOR ASSURANCE BOND

ASSURANCE NOTE SERIAL NO

This manufacturer's assurance note is *granted/renewed under the provisions of the Nyandarua County Alcoholic Control Act 2014 to Mr /Mrs /Ms _____ of _____

in respect of premises being prepared for investment on the premises known _____

as _____ [Full details of premises to be inserted by issuing officer] This assurance note is granted subject to the provisions of the Nyandarua County Alcoholic Drinks Control Act 2014, and to the following conditions

(The assurance herein is given for the purposes of protecting a prospective investor's investment Subject to their complying with all requirements necessary for obtaining a retailer/manufacturer's licence they shall be licensed on completion of necessary approved works)

This licence shall expire on _____

Fees paid KSh _____

Date of issue _____

For the Nyandarua County Alcoholic Drinks Control Board

*Delete whichever is inapplicable

No 1

Nyandarua County Alcoholic Drinks Control

FORM NO 4

NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL RETAILER'S LICENCE

LICENCE No

This liquor licence is *granted/renewed under the provisions of the
Nyandarua County Alcoholic Control Act 2014 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 Nyandarua County Alcoholic
Drinks Control Act 2014, and to the following
conditions

This licence shall expire on
Fees paid

KSh

Date of issue

For the Nyandarua County Alcoholic Drinks Control Board

*Delete whichever is inapplicable

2014

Nyandarua County Alcoholic Drinks Control

FORM 5

NYANDARUA COUNTY ALCOHOLIC DRINK BUSINESS LICENSE
CLASS

This Alcoholic Drinks wholesale license is *granted or renewed under the provisions of the Nyandarua County Alcoholic Control Act 2014 to Mr, Mrs MS in respect of Premises known as and entity known as full details including address company incorporation certificate to be filled by issuing office

this license is granted subject to the provisions of Nyandarua Alcoholic Drinks control Act 2014 and the following conditions

I

II

III

(This license is given with a view to ensure compliance with all terms of N C A D C B and is revocable in event of breach of provisions of the Act) The license shall commence on

and expires on
upon

payment of KSh

Date of Issuance

For Nyandarua County Alcoholic Drinks Control Board

*Delete whichever is not applicable

No 1

Nyandarua County Alcoholic Drinks Control

FORM NO 6

NYANDARUA COUNTY ALCOHOLIC DRINKS DISTRIBUTOR LICENCE

Liquor Licence No

This Alcoholics Drinks Distributors License is granted or received under the provisions of the Nyandarua County Alcoholic Drinks control Act 2014

To Mr , Mrs , Ms and an entity known as full details including address, company, enterprise and incorporation certificate details to be captured by the issuing office

This license is granted subject to the provisions of Nyandarua County Alcoholic Drinks Control Act 2014 and the following conditions,

- I
- II
- III
- IV

(This licence is granted with a view to ensure compliance with all terms of National County Alcoholic Drinks Control Board (NCADCB) and is revocable in event of breach of provisions of the Act) The licence shall commence on and expires on upon payment of KSh Date of issuance

For Nyandarua County Alcoholic Drinks Control Board

Delete whichever not applicable

NB This license apply to class of business under first Schedule

This regulations will be effective upon gazetteement