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**TAITA TAVETA COUNTY GAZETTE
SUPPLEMENT**

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CONTENT

Act—

PAGE

The Taita Taveta County Alcoholic Drinks Control and Licensing Act, 2016 .1

**THE TAITA TAVETA COUNTY ALCOHOLIC DRINKS
CONTROL AND LICENSING BILL, 2015****No. 1 of 2016***Date of Assent: 4th March, 2016**Date of Commencement: See Section 1***PART—PRELIMINARY**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Establishment of the Board.
- 5—Functions of the Board.
- 6—Sub-county Alcoholic Drinks Control and Licensing Committees
- 7—Control of alcoholic drinks.
- 8—Application for licence.
- 9—Processing of application and grant of licence.
- 10—Provisional licence
- 11—Licence for premises
- 12—Persons not eligible for a licence
- 13—Validity and renewal of licences
- 14—Appeals.
- 15—Licences to body corporates.
- 16—Types of licences
- 17—Application forms for licences.
- 18—Licence terms and conditions.
- 19—Notification of change of particulars.
- 20—Transfer or assignment of a licence.
- 21—Revocation of licences.
- 22—Obligations of a licensee to provide quality of service.
- 23—Inspections and investigations.
- 24—Approvals from other authorities.
- 25—Fees.
- 26—Hours.
- 27—Transfer of licence.
- 28—Temporary licences on renewal of licences.
- 29—Licence to be displayed.

- 30—Employment for sale of alcoholic drinks.
- 31—Drunken behaviour.
- 32—Debt from sale of alcoholic drinks.
- 33—Access by persons under age of eighteen years.
- 34—Reports by medical officers and county inspectorate or police officers.
- 35—Cancellation of licence
- 36—Conformity with requirements.
- 37—Supply to young persons.
- 38—Display of signs.
- 39—Vending machines.
- 40—Selling in sachets or plastics.
- 41—Information required on packages.
- 42—Disorderly conduct
- 43—Establishment of the Fund and management of the Fund.
- 44—Authorised officers.
- 45—Places authorized officers may enter.
- 46—Application of the provisions of Part VII of the national legislation.
- 47—Prohibition of promotion.
- 48—False promotion.
- 49—Promotion by advertisement.
- 50—Promotion at underage events.
- 51—Encouraging consumption.
- 52—Communication media.
- 53—Display of notices.
- 54—General penalty.
- 55—Regulations.
- 56—Transitional provisions.

THE TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL AND LICENSING ACT, 2016

AN ACT of the County Assembly of Taita Taveta to provide for the implementation of the national government policy on alcoholic drinks and for the control, licensing, regulation and general administration of the manufacture, advertisement, sale and consumption of alcoholic drinks in the county and for connected purposes

ENACTED by the County Assembly of Taita Taveta, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Taita Taveta County Alcoholic Drinks Control and Licensing Act, 2016 and shall come into operation upon publication in the Kenya Gazette.

Short title and
commencement.

2. (1) In this Act, except where the context otherwise requires—

Interpretation.

“executive committee member” means the executive committee member responsible for trade;

National Act No. 4
of 2010.

“national legislation” means the national Alcoholic Drinks Control Act (Act No. 4 of 2010);

“off-licence” means a licence for the sale of alcoholic drink to be consumed elsewhere than on the premises

“relevant agency” means the National Authority for Campaign Against Alcohol and Drug Abuse or its successor in law as the national public body or department responsible for matters relating to alcoholic drinks; “sub-county” means the Constituency.

(2) Meanings ascribed to words, phrases or expressions in the national legislation shall apply to those words, phrases or expressions respectively where the words, phrases or expressions are used in this Act and the words, phrases or expressions used in this Act shall have corresponding meaning as set out in the national legislation unless the context requires otherwise.

3. The objects of this Act are to—

Objects of the Act.

- (a) give further effect to paragraph 4(c) of the Fourth Schedule to the Constitution which assigns the county government the function of liquor licensing;

National Act No. 4
of 2010

- (b) to ensure that the national government policy on the control of alcoholic drinks as set out in the national Alcoholic Drinks Act is implemented at the county level in accordance with the requirements of Article 189 of the Constitution to the effect that government at either level shall, among other things, as appropriate, implement the legislation of the other level of government;
- (c) to facilitate the application and enforcement of the national government standards on the regulation of manufacture, advertisement, sale and consumption of alcoholic drinks;
- (d) to provide for the county institutions and for procedures applicable to the control and licensing of alcoholic drinks within the county;
- (e) control, reduce and mitigate the negative health, social and economic impact on individuals and communities resulting from production, sale and consumptions of alcoholic drinks;
- (f) to prohibit consumption of alcohol by persons under the age of eighteen and control the exposure of such persons to advertisements of alcoholic drinks;
- (g) provide for effective measures to eliminate illicit trade in alcohol including smuggling, illicit manufacture and counterfeiting; ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks;
- (h) to provide for fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks;
- (i) protect consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of excessive consumption of alcoholic drinks;
- (j) to provide a framework for public awareness on the negative effects of excessive consumption of alcoholic drinks, the rehabilitation and treatment of those affected by consumption of alcoholic drinks.

PART II—ADMINISTRATION

The County Alcoholic Drinks Control and Licensing Board and The Sub-County Alcoholic Drinks Control and Licensing Committees

4. (1) There is established the Taita Taveta County Alcoholic Drinks Control and Licensing Board.

Establishment of the Board.

(2) The Board shall comprise—

- (a) a chairperson, appointed by the Governor; who shall be conversant with matters relating to trade or public health or environment
- (b) the county director of health;
- (c) the county police commander;
- (d) the county commissioner;
- (e) one representative of the relevant agency;
- (f) four persons appointed by the Governor who shall be persons conversant with trade and health matters.

(3) The County Chief Officer responsible for trade or the Chief Licensing Officer shall be the secretary to the Board and responsible for administrative services to the board.

(4) The Quorum of the Board shall be five and a successful vote shall be by a simple majority.

5. The functions of the Board shall be to—

Functions of the Board.

- (a) to ensure the implementation of the national government policy on the control and regulation of alcoholic drinks within the county;
- (b) entertain appeals from the decisions of the sub-county committees under this Act;
- (c) on its own motion, or on, application by any person review any action or decision of the sub-county committee under this Act;
- (d) advise the county government generally on the control and licensing policy on alcoholic drinks within the county;
- (e) regulate the conduct of the sub-county licensing committees and ensure the full implementation of both the national and county governments policies on alcohol control and licensing;

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

- (f) liaise with the National Police Service and the directorate of the county inspectorate to ensure the enforcement of the law as contained in this Act and the national Alcoholic Drinks Control Act, 2010;
- (g) in collaboration with other relevant county and national government agencies establish a county treatment and rehabilitation facility and Ward programs for persons dependent on alcoholic drinks;
- (h) generally administer this Act and, as appropriate, any relevant provision of the national Alcoholic Drinks Control Act 2010;
- (i) Perform any other function as may be assigned by the Governor or the County Executive Committee Member.

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

Sub-county
Alcoholic Drinks
Control and
Licensing
Committees

- (a) issue licences in accordance with this Act; and
- (b) perform such other functions as may, from time to time be allocated to it by the Governor or the committee member.

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

(3) The sub-county committee shall consist of—

- (a) a chairperson appointed by the Governor;
- (b) the sub-county medical officer of health;
- (c) officer commanding police division in the sub-county;
- (d) three residents of the sub-county, appointed by the Governor at least two of whom shall be of such gender as to ensure gender balance in the committee;
- (e) an officer in the county public service designated by the county executive committee member who shall be the secretary to the sub-county committee.

(4) The authorized officers in charge of the sub-county

may attend the meetings of the sub-county committee in *ex officio* capacity.

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

(6) The Quorum for the sub-county committee shall be five and a successful vote shall be by a simple majority.

PART III—CONTROL AND LICENSING OF ALCOHOLIC DRINKS

7. (1) No person shall, within the county—

Control of alcoholic drinks.

- (a) manufacture or otherwise produce;
- (b) advertise or market; or
- (c) sell, dispose of, or otherwise deal in, any alcoholic drink except under and in accordance with this Act.

(2) No person shall—

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

8. (1) A person intending to manufacture or otherwise produce any alcoholic drink in the county or to operate an establishment for the sale of an alcoholic drink shall make an application in Form 1 in the Second Schedule to the sub-county committee in the sub-county where the premises is to be situated and shall pay a prescribed fee.

Application for licence.

(2) The application under subsection (1) shall include or be accompanied by—

- (a) a comprehensive proposal on the nature, orientation and other justification for the establishment of the alcoholic plant;
- (b) a disclosure as to whether the applicant has been previously convicted of an offence under this Act or any Act at any time in force relating to the manufacture, sale or consumption of an alcoholic drink, giving full particulars of the offence of which he was convicted, of the court by which he was convicted, of the date of the conviction;
- (c) such registration or identification documents as may be required by the sub-county Committee;

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

- (d) a detailed physical address, telephone number, facsimile number and email address of the applicant;
- (e) detailed information relating the proposed services to be provided;
- (f) where applicable, information relating to the previous experience in the provision of the services for which a licence is sought; and
- (g) any other information that the sub-county Committee may require.

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

- (a) published in the County Gazette, Kenya Gazette and conspicuous place at the offices of the sub-county for a period of not less than twenty-one consecutive days;
- (b) posted in some conspicuous place at or near the applicant's premises;
- (c) sent to the National Police Service, or to such police officer as the Police Service may have notified the sub-county that it has appointed to receive it on his behalf; and
- (d) sent to the medical officer of health of the sub-county in which the premises in respect of which the licences are applied for are situated.

Cap. 63 of the Laws
of Kenya

(4) The county inspectorate, the National Police Service or the medical officer of health shall before the hearing of any application under this section, report as fully as possible to the sub-county committee on all matters which may be relevant to the consideration of the application.

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

(6) 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 days before the hearing of the application and the onus of proof of such service shall be on the objector.

(7) 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.

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

(9) Every person making an application shall 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.

Provided that 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.

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

(11) A village or neighbourhood association may, in writing, appoint any person to appear before any sub-county committee having jurisdiction in any part of the area for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

(12) Where a sub-county committee considers it necessary to take evidence respecting any question to be determined by the committee, such evidence shall be given on oath administered by the chairperson.

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

(14) Every sub-county committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and keep a

record of the evidence given and of the arguments adduced and the decision of the committee thereon.

(15) The sub-county committee shall, within twenty-one days of receipt of the application 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—

- (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; and
- (d) the premises has sufficient number of competent staff in line with such norms as may be prescribed.

9. (1) The sub-county committee shall, after considering the application under section 8, indicate in writing whether it objects to the grant of the licence applied for.

Processing of
application and grant
of licence.

(2) Where the sub-county committee has no objection to the application under section 8, 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 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 thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within thirty days.

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

(6) On receipt of any revised application under subsection (5), the sub-county committee shall, within one

month 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 grant in the Kenya Gazette and the County Gazette.

(8) Where an applicant fails to submit all documents or information required under this Act, the sub-county committee may reject the application and inform the applicant, in writing, of the rejection on that ground.

(9) Where the sub-county committee rejects an application due to incomplete or insufficient information, the rejection shall not, bar the applicant from resubmitting the application.

(10) A licence issued under this Act shall be in a Form set out in the Second Schedule

10. (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 kilometre and the permitted maximum number of such premises as shall be prescribed by law;
- (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 metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years.

(2) The sub-county committee shall not grant a licence for the sale of an alcoholic drink in 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.

(3) Notwithstanding sub-section 1 (c), the sub-county committee may new license for the sale of an alcoholic drink to be consumed on the premises if the sub-county committee is satisfied that-

- (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 manger;
- (c) the premises do not bear any outdoor alcoholic drinks promotion or advertisement; and
- (d) the applicant does not engage in activities that interfere with learning, in institution or activities that are calculated to attract persons under the age of eighteen to the premises;

11. (1) The sub-county committee shall not grant a new licence or transfer a licence to any person who—

Persons not eligible
for a licence

- (a) has failed to satisfy the sub-county committee, if called upon to do so, of his or her good character and standing in relation to the expectations in this Act; or
- (b) has been convicted of selling an alcoholic drink without a licence or offering or exposing it for sale, or of any offence against any law for the time being in force relating to the distillation, manufacture, sale or use of industrial alcohol; or
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) in the case of a retail licence, is not resident in Kenya; or
- (e) is under eighteen years of age; or
- (f) is an undischarged bankrupt.

(2) The sub-county committee may refuse to renew an existing licence if the sub-county committee is satisfied that—

- (a) the licensee is not a fit and proper person to hold the licence; or
- (b) the licensee has been convicted of an offence under this Act or any Act at any time in force regulating the sale of an alcoholic drink; or
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) the business to which the licence relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by the sub-county committee; or
- (e) the conditions of the licence have not been satisfactorily fulfilled; or
- (f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the medical officer of health, 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.

(3) When considering an application for renewal of a licence, the sub-county committee shall consider the extent of compliance, by the licensee, with the terms and conditions contained in the licence in the previous licence period.

12. (1) Except as otherwise provided in this Act, a sub-county committee may grant, renew, transfer or remove a licence, and may include 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 at the end of twelve months from the date of issue;
- (c) specify in the licence the hours within which the sale of alcohol is permitted.

(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 of six months from the date of such refusal or cancellation, except at the discretion of the sub-county committee.

13. An applicant, whose application for a new licence, to renew or transfer a licence has been refused or cancelled, may, within twenty-one days of such refusal appeal against such refusal in accordance with the national legislation.

Appeals.

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

Licences to body corporates.

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.

(2) No transfer of a licence issued to a body corporate shall be necessary on any change in the office of the body corporate and the body corporate shall continue to enjoy the rights and conditions of its licence.

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

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.

16. (1) An application for a grant or renewal of an alcoholic retail drinks licence shall be made in Form 1 specified in the Second Schedule.

Application forms
for licences.

(2) An application for a grant or renewal of a licence to manufacture or otherwise produce; sell, dispose of, or deal with an alcoholic drink shall be in Form 2 specified in the Second Schedule.

(3) An application for a grant or renewal of a licence to import or cause to be imported; or export or cause to be exported any alcoholic drink shall be made to the sub-county committee in the sub-county where the business premises is situated and shall be in Form 3 specified in the Second Schedule.

(4) An application for the transfer or removal of a licence shall be made in triplicate in Form 4 set out in the Second Schedule.

(5) An application for a temporary alcoholic drink licence or a temporary extension alcoholic drink licence shall be made in Form 5 set out in the Second Schedule.

(6) An application for an assurance under section 10 of the Act shall be made in triplicate in Form 10 in the Second Schedule.

17. (1) The sub-county committee may specify the terms and conditions of a licence consistent with the provisions of this Act and any regulations made under this Act.

Licence terms and
conditions.

(2) A licensee shall comply with all terms and conditions of his or her licence.

18. A licensee shall—

- (a) notify the sub-county committee of his intention to change the name or contact address he filed with the sub-county committee at least thirty days before effecting such change; and
- (b) notify the sub-county committee and the public of any trade or brand name he intends to use at

Notification of
change of
particulars.

least thirty days prior to using the trade or brand name.

19. (1) A licensee shall not transfer or assign a licence granted under the Act without the written consent of the sub-county committee.

Transfer or
assignment of a
licence.

(2) The sub-county committee may, when considering an application for the transfer or assignment, consider the same requirements and terms as if considering an application for the grant of a new licence.

(3) The sub-county committee shall communicate its decision on an application for the transfer or assignment of a licence to an applicant within thirty days of receipt of the application and state the reasons for the decision.

20. (1) The sub-county committee may revoke a licence in accordance with the Act.

Revocation of
licences.

(2) Any person who is aggrieved by the decision of the sub-county committee made under this section may appeal in accordance with the Act.

21. A licensee shall, in addition to the terms and conditions of the licence—

Obligations of a
licensee to provide
quality of service

- (a) improve service quality, by identifying service deficiencies and making appropriate changes;
- (b) maintain service quality and hygiene while considering environmental and operating conditions;
- (c) ensure that practices increasing consumer satisfaction and safety and decreasing user complaints are encouraged;
- (d) avoid discrimination, relating to the quality of the service offered, between consumers;
- (e) ensure special needs of disabled consumers are also considered when developing quality of service parameters.

22. The sub-county committee may inspect or investigate matters relating to the quality of service, of a licensee from time to time to ensure compliance or carry out any other visits or inspections pursuant to the Act.

Inspections and
investigations

23. Notwithstanding that a licence has been issued by the sub-county committee, a licensee shall bear the responsibility of obtaining the approvals of other national

Approvals from
other authorities.

or county government agencies, or other relevant authorities that may be required for the provision of the licensed services or premises, or maintenance thereof of any premises on, through, under or across any land.

24. The executive committee member shall, with the approval of the Governor, prescribe the licence and other fees payable in accordance with this Act. Fees.

25. The alcoholic drink licence hours shall be as specified in the Third Schedule. Hours.

26. (1) Where a licensee sells or leases or otherwise disposes of the premises or business specified in his licence, he or she 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 (3) if, at the date of the grant, the licence which was temporarily transferred was valid for a period of more than six months.

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

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

27. (1) 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 sub-county committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such period to Temporary licences on renewal of licences.

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

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 later.

(2) If the renewal of a licence is refused and the licensee appeals against the refusal, the licensee shall, on payment of the fee for the appropriate licence, be entitled, unless the Governor directs otherwise, to a renewal of the licence which is the subject of the appeal to be valid only until the appeal has been determined, such licence to commence on the day after the determination of his existing licence.

28. (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.

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.

29. (1) Notwithstanding the provisions of any other written law, no licensee shall employ a person under the age or apparent age of eighteen years, or knowingly employ a person who has been convicted of an offence under this Act or any other Act at any time in force regulating the sale of alcoholic drinks, 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) The provisions of subsection (2) shall not relieve the licensee of his duties and obligations under this Act.

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

30. (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) 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).

(3) 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.

31. 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

32. (1) No person holding a licence to manufacture, store or consume 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 or consumed.

Access by persons
under age of
eighteen years

(2) No adult may allow a person under the age of eighteen years to accompany him or her or gain access to an area in which alcoholic drink is manufactured, stored, distributed or consumed.

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

33. (1) A medical officer of health within whose jurisdiction the premises falls, 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 medical
officers and county
inspectorate or
police officers

(2) A medical officer of health or any person authorized by him or her in writing in that behalf may enter and inspect any licensed premises for the purpose of ascertaining whether a report under subsection (1) is required.

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

34. (1) Upon receipt of a report made under section 34 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

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

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

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

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

(3) The sub-county committee, having duly considered the report and having heard the licensee, if he appears, may, if it thinks fit, cancel the licence of the licensee reported upon, or it may make such an order in respect of such licence or 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 as to the Board.

(5) If a licence is cancelled and no appeal is filed by the licensee against the cancellation, or if such appeal is dismissed, 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 decision on appeal as the case may be provided that this provision shall not apply if cancellation is based on matters relating to public health.

**PART IV—REQUIREMENTS ON
ADVERTISEMENT, MARKETING, SALE AND
CONSUMPTION OF ALCOHOLIC DRINKS**

35. (1) No person shall—

- (a) manufacture, import or distribute into and within

Conformity with
requirements

the county, as the case may be; or

- (b) possess, an alcoholic drink that does not conform to the requirements of this Act.

(2) Subsection (1) shall not apply to a person who—

- (a) is authorized under this Act or the national legislation to be in possession of the alcoholic drink; or
- (b) has possession of the alcoholic drink in a premises licensed under this Act.

(3) A person who contravenes the provisions of this section 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.

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

Supply to young persons and the mentally handicapped

(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) any other documentation as may be prescribed.

(5) No person shall manufacture or sell objects including sweets, snacks and toys that resemble or imitate alcoholic drinks.

(6) A person who contravenes the provisions of subsection (5) commits an offence and shall be liable to a

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

37. (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 to both.

38. (1) No person shall 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 to both.

39. (1) No person shall sell, manufacture, pack or distribute an alcoholic drink in sachets or in plastic packaging or such other form as may be prescribed.

Selling in sachets or plastics.

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

- (a) no person shall manufacture, pack, distribute or sell an alcoholic drink in a container of less than 200 millilitre;
- (b) the alcoholic drink previously known as chang'aa or any other distilled alcoholic drink shall only be manufactured, packed, sold or distributed in glass

bottles of the kind specified in paragraph (a).

(3) A person who contravenes 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.

40. (1) No person shall sell or distribute within the county an alcoholic drink unless the package containing the alcoholic drink conforms to the requirements of the national Alcoholic Drinks Act, 2010.

Information required
on packages.
National Act No. 4
of 2010

(2) A person who contravenes any of the provisions of this section commits an offence punishable as provided for in that Act.

41. Any person found by a police officer or a county inspectorate officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place may be arrested without warrant and brought without unreasonable delay before a magistrate.

Disorderly conduct

PART V—THE ALCOHOLIC DRINKS CONTROL FUND

42. (1) There is established a fund to be known as the Taita Taveta County Alcoholic Drinks Control Fund which shall be managed by the County Executive Committee member responsible for trade and administered by an officer appointed by the County Executive Member responsible for matters relating to County Finance.

Establishment of the
Fund and
management of the
Fund.

(2) The Fund shall consist of—

- (a) such monies as may be appropriated by the County Assembly and such license and other fees as may be payable under this Act
- (b) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any person; and
- (c) moneys earned or arising from any investment of the Fund;
- (d) all other sums which may in any manner become payable to, or vested in, the Fund provided that at least 25% of the fund is used in other societal development within the County.

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

- (a) research, documentation and dissemination of information on alcoholic drinks in the county;
- (b) promoting cessation and rehabilitation programs in the county;
- (c) financing the operations of the sub-county committees and voluntary programmes in the county in accordance with such guidelines as may be prescribed; and
- (d) any other matter incidental to the matters set out in paragraphs (a), (b), (c) and (d).
- (e) carrying out the functions of the Taita Taveta County Alcoholic Drinks Control and Licensing Board established under clause 4 (1) and the objects of the Act in Clause 3.

PART VI — ENFORCEMENT

43. (1) The Governor may, upon recommendation by the respective sub-county committee, appoint for each sub-county, any person or class of persons to be authorised officers for purposes of this Act.

Authorised officers

(2) The Governor 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 to be authorised officers for the purposes of this Act—

- (a) public health officers appointed by the county; and
- (b) any other person upon whom any written law vests functions of the maintenance of law and order within the county.

44. 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.

Places authorized officers may enter

45. Subject to the provisions of this Act, Part VII of the national Alcoholic Drinks Control Act shall apply as if the same were set out in this Act.

Application of the provisions of Part VII of the national legislation.

PART VI — PROMOTION

46. (1) No person shall promote an alcoholic drink or an alcohol-related brand element except in accordance with the provisions of this Act.

Prohibition of promotion.

(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.

47. (1) No person shall promote an alcoholic drink by any means, including by means of the packaging, that are 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.

False promotion.

(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.

48. (1) Subject to this Part, no person shall promote an alcoholic drink so as to create a false impression that—

Promotion by advertisement.

- (a) a link exists between consumption of that drink and social or sexual success;
- (b) consumption of that drink is acceptable before or while engaging in driving, operating machinery, sports or other activities that require concentration in order to be carried out safely;
- (c) that the alcoholic drink has a therapeutic value or that it has the ability to prevent, treat or cure any human disease;
- (d) that it is wrong or foolish to refuse that drink.

(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.

49. (1) No person shall promote, sell or consume an alcoholic drink —

Promotion at underage events.

- (a) at any event or activity associated with persons under the age of eighteen years;
- (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

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

and imprisonment.

50. (1) No person shall 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.

Encouraging
consumption.

(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.

51. (1) No person shall, on behalf of another person, with or without consideration, publish broadcast or otherwise disseminate any promotion that is prohibited by this Part.

Communication
media.

(2) No person shall, by means of a publication that is published outside Kenya, or a broadcast that originates outside Kenya, or any other communication that originates outside Kenya, promote any product the promotion of which is regulated under this Part, or disseminate promotional material that contains an alcohol-related brand element in a manner that is contrary to the requirements of this Part.

(3) Any person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding three million Kenya shillings or to imprisonment for a term not exceeding three years, or to both.

52. (1) The manager or owner of a place where an alcoholic drink is sold shall cause to be displayed therein, clear and prominent notices in English or Kiswahili stating that drinking of alcoholic drinks is prohibited for persons under the age of eighteen years and the prescribed penalty thereof.

Display of notices.

(2) Every notice under subsection (1) shall be in such form and of such size, and shall be posted in such place, as may be prescribed.

(3) A person who contravenes 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.

PART VII—MISCELLANEOUS

53. (1) Any person convicted of an offence under this

General penalty.

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.

(2) The Sub-County committee shall cancel a licence in respect of which a trader or its employees has been convicted of an offence under this law

(3) The public health officer in charge of a sub county shall destroy any products prohibited under this law under the direction of the sub county committee.

54. The executive committee member may, with the written approval of the Governor, make regulations or the better carrying out of the provisions of this Act.

Regulations.

55. Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act—

Transitional provisions.

- (a) was, in accordance with any law, a manufacturer, importer, exporter, distributor or retailer of any alcoholic drink shall be deemed to be a manufacturer, importer, exporter, distributor or retailer of any alcoholic drink under this Act;
- (b) was a manufacturer, importer, exporter, distributor or retailer of any alcoholic drink or the owner or manager of any premises contemplated under this Act, shall, within nine months of such commencement, comply with the requirements of this Act.

THE FIRST SCHEDULE — TYPES OF LICENCES

The following licences may be granted under this Act—

1. Brewer's Licence

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

- (a) brew and store the brewed alcoholic drink in his depot;
- (b) sell the product of his brewery 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; 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 brewer for of his trade.

2. Wholesale Licence

A wholesale licence authorizes the licensee to sell alcoholic drink at the premises specified in the licence, subject to such conditions as may be prescribed.

3. Retail 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.

SECOND SCHEDULE

FORM 1 (s. 16(2))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT
APPLICATION FOR THE GRANT OR RENEWAL OF AN ALCOHOLIC
RETAIL DRINKS LICENCE
[To be completed in triplicate]

1. Name of applicant -----
2. Applicant's postal address -----
3. Address and plot number of premises -----
[Give sufficient details adequately to identify the premises]
Street, phone number -----
4. Name by which premises known -----
5. If for renewal, give expiring licence number-----
6. Licence to run from----- to-----
7. Type of licence applied for -----
- Date -----Signature of Applicant -----

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

FORM 2 (s. 16(3))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT
APPLICATION FOR THE GRANT OR RENEWAL OF A LICENCE TO
MANUFACTURE OR PRODUCE AN ALCOHOLIC DRINK

- Name of applicant-----
- Type of business-----
- (a) Sole proprietorship (the business is owned by one person) -----
Personal Identification Number -----
- (b) Partnership -----
- Names, Postal Addresses and Phone Contacts of the Partners -----
- Contact Person-----
- Limited Liability Company-----

2016 Taita Taveta County Alcoholic Drinks Control and Licensing

No. 1

Name, Postal Address and Phone Contacts of the Directors -----

Contact person-----

Postal Address -----

Physical Address (exact place of manufacture) -----

Tel -----Fax ----- E-mail - -----

Road/Estate/Ward -----

Business Registration No* or Certificate of Incorporation No* -----

Is this a New/Renewal application? -----

If Renewal, provide details of No of Certificate -----

Do you have manufacturer's certification? Yes* ----- No -----

List type and brands of alcoholic drinks to be manufactured -----

Alcoholic Drink Standards	Certification Number

Brief description of alcoholic drink(s) -----

(a) Unit Capacity in millilitres and Cost in Shillings of the alcoholic drink(s) -----

(b) Alcoholic content -----

(c) Mode of transportation and storage conditions -----

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

Declaration by Applicant: I-----

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

Date:----- Signature: -----

Official Stamp -----

FORM 4 (s. 16(5))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

APPLICATION FOR *TRANSFER/ REMOVAL OF ALCOHOLIC DRINK LICENCE

[To be completed in triplicate]

1. Name of applicant -----

2. Applicant's postal address -----

3. Type and number of licence held -----

4. Address of premises specified therein -----

5. Name of transferee/address of premises to which it is desired to remove licence- -----

Date -----Signature of Applicant -----

FORM 5 (s. 16(6))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

APPLICATION FOR A *TEMPORARY ALCOHOLIC DRINK

LICENCE/TEMPORARY EXTENSION ALCOHOLIC DRINK LICENCE

1. Name of Applicant -----
2. Applicant's postal address -----
3. Type and number of licence held -----
4. Type of licence required -----
- *5. Address to which temporary licence should be made applicable -----
- *6. Period for which temporary licence required -----
- *7. Extension times applied for -----
- Date-----Signature of Applicant -----

* Delete where not applicable.

FORM 6

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT 2013

PARTICULARS CONCERNING CLUBS

[To be completed in block capitals]

THESE PARTICULARS relate to an application which has been made for the grant of a.
[Particulars of type of licence -----]

[Full names of applicant] who intends to hold such licence on behalf of a club]

PARTICULARS

1. Name of club concerned -----
2. Address and situation of club premises -----
3. State whether the club is registered or exempted from registration under the provisions of the law for the time being relating to companies or societies -----
4. Registration No. -----
5. Particulars of types or categories of membership existing -----
6. Total membership of club -----
7. State whether entrance fees or subscriptions are payable -----
8. Give details of the objects or purposes for which the club is established -----
9. State whether any persons, other than members', may pay for or be charged for food, drink or accommodation offered by the club -----
10. State whether the club is a members' club or a proprietary club; that is, who owns the club property, the freehold title or leasehold title to the land upon which the club is situate, and who retains any profits earned or made by the club.

2016

Taita Taveta County Alcoholic Drinks Control and Licensing

No. 1

11. State whether any limit is imposed on temporary membership, and whether temporary members are required to pay both entrance fees and subscriptions - -----

12. Particulars of the applicant's office or position in the club

I, ----- the applicant, hereby declare
that the foregoing particulars are correct in every detail.

Date -----Signature of Applicant -----

FORM 7 (s.16(6))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

ALCOHOLIC DRINKS LICENCE

TYPE OF LICENCE -----

LICENCE No. -----

This alcoholic drink licence is granted under the provisions of the TaitaTavetaCounty Alcoholic Drinks Control Act, 2013 to 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 TaitaTavetaCounty Alcoholic Drinks Control Act, 2013 and to the following conditions -- -----

This licence shall expire on -----Fees paid: KSh. -----

Date of issue-----Chairman, -----

Sub-county Committee -----

FORM 8 (s.16(6))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

TEMPORARY ALCOHOLIC DRINK LICENCE

No. -----

This temporary alcoholic drink licence is granted under the provisions of the TaitaTavetaCounty Alcoholic Drinks Control Act, 2013 to-----

-----or ----- being the holder
of a ----- alcoholic drink licence No.

----- and authorizes the licensee to sell -----

----- alcoholic drink at -----

This licence is valid from ----- to -----

This licence is issued subject to the provisions of the TaitaTavetaCounty Alcoholic Drinks Control Act, 2013 and to the

following conditions -----

Fee paid: Sh. -----

Date of issue -----

Chairman, -----

Sub-county Committee -----

No. 1 Taita Taveta County Alcoholic Drinks Control and Licensing

FORM 9 (s.16(6))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

TEMPORARY EXTENSION ALCOHOLIC DRINK LICENCE

LICENCE No. ----- This temporary
extension alcoholic drink licence is issued to -----
being the holder of a ----- alcoholic drink
licence, No. -----, and
authorizes the licensee to sell ----- alcoholic drink at -----
----- from -----

----- o'clock in the afternoon until -----
----- o'clock in the ----- noon on -----

This temporary extension alcoholic drink licence is granted subject to the provisions of
the TaitaTavetaCounty Alcoholic Drinks Control Act, 2013 and to the following
conditions -----

Fee paid: KSh. -----

Date of issue -----

Chairman -----

Sub-county Committee -----

FORM 10 (s.16(6))

TAITA TAVETA COUNTY ALCOHOLIC DRINKS CONTROL ACT

ASSURANCE THAT A ALCOHOLIC DRINK LICENCE WILL BE ISSUED

Sub-county Committee ----- of -----
----- having satisfied me that he has an
interest in premises to be built/being built* at -----
----- for the purpose of being used for the sale of alcoholic drink for
consumption therein, and having supplied me with a signed copy of the plans of the
premises, he is hereby assured that, on completion of the premises in accordance with the
signed plans, and subject to the provisions of, the TaitaTavetaCounty Alcoholic Drinks
Control Act, 2013 he/she will be granted a -----
----- alcoholic drink licence.

Fee paid: KSh. -----

Date of issue -----

Chairman, -----

Sub-county committee -----

THIRD SCHEDULE

(Section 25)

LICENCES	LICENCE HOURS, CONDITIONS AND EXCEPTIONS
1. General Retail Alcoholic Drink Licence	Authorized to sell alcoholic drink: (a) From Monday to Friday during the hours of 5.00p.m. to 11.00 p.m. (b) During weekends and Public Holidays during the hours of 2.00 pm to 11 p.m (c) During weekends and Public holidays during the hours of 2.00 pm to 11.00pm Provided that closure shall not be more than one hour from the authorized selling time.
2. General Retail Alcoholic Drink Licence (off Licence) wines and spirits retailers	Authorised to sell alcoholic drink on any day of the week during the hours do of 5.00pm to 8.30 pm, weekends and public holidays from 2 p.m. to 8:30 p.m. provided that closure shall not be more than one hour from the authorized selling time.
3. Supermarket or franchised retail stores alcoholic drink licence (off licence)	Authorised to sell alcoholic drink on any day of the week during the hours of 10.00 a.m.to 8.30 pm provided that closure shall not be more than one hour from the authorized selling time.
4. Hotel Alcoholic drink licence	Authorised to sell alcoholic drink on any day of the week to a lodger for his or her own and his or her guest's consumption on the premises, at any hour.
5. Restaurant Alcoholic drink licence	(a) Authorised to sell alcoholic drink on any day of the week to persons taking a meals in the restaurant, for consumption with such meals (b) Authorised to sell alcoholic drink from Monday to Friday during the hours of 5.00pm to 11.00 p.m (c) Authorised to sell alcoholic drink during weekends and public holidays during the hours of 2.00pm to 11.00 pm Provided that closure shall not be more than one hour from the authorized selling time.
6. Club alcoholic drink licence (members club)	Authorized to sell alcoholic drink to members on any day of the week at any hour.
7. Proprietary club (including night club)	Authorized to sell alcoholic drink: (a) From Monday to Friday during the hours of 7.00 p.m to 3.00 am. (b) During weekends and Public Holidays during hours of 7.00 p.m to 3.00 am provided that closure shall not be more than one hour from the authorized selling time.
7. Theatre alcoholic drink	Authorized to sell alcoholic drink during the hours of 5.00 p.m to 11.00 pm

No. 1 *Taita Taveta County Alcoholic Drinks Control and Licensing*

licence	provided that closure shall not be more than one hour from the authorized selling time.
8. Travellers' alcoholic drink licence	Authorized to sell alcoholic drink on any day of the week at any hour to persons bona fide travelling by train or air.
9. Railway restaurant car alcoholic drink licence	Authorized to sell alcoholic drink at any hour
11. Temporary or occasional licence	Authorized to sell alcoholic drink on the day and during the hours stipulated in the Licence by the sub-county committee for the purposes of specific occasions, ceremonies or events as indicated in the application