

**SPECIAL ISSUE**

COUNTY ASSEMBLIES FORUM (CAF)  
P. O. Box 73552 - 00200,  
NAIROBI, KENYA

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REPUBLIC OF KENYA

***TANA RIVER COUNTY GAZETTE  
SUPPLEMENT***

**ACTS, 2016**

**NAIROBI, 13th October, 2016**

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**THE TANA RIVER COUNTY LIQUOR LICENCING ACT, 2016**  
**ARRANGEMENT OF CLAUSES**

COUNTY ASSEMBLIES FORUM (CAF)  
P. O. Box 73552 - 00200,  
NAIROBI, KENYA

*Clause*

**PART I—PRELIMINARY**

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### **Licence to be Displayed**

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

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

(3) No licensee shall permit any other person to manage, superintend or conduct the day-to-day business of the premises in respect of which he is licensed except with the written consent of the Board and every person in respect of whom such consent is given shall be subject and liable to the same duties, obligations and penalties under this Act as the licensee.

(4) 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.

### **Reports by Medical Officers and Police officers**

**34.** (1) A medical officer of health or any other authorized person may enter and inspect any licensed premises for the purpose of ascertaining any matter required under this Act.

(2) An officer who inspects any premises pursuant to subsection (1) shall report to the Board any deficient in sanitation or drainage conditions, or state of repair.

(3) A police officer not below the rank of Inspector may without written authority enter and inspect any licensed premises for the purpose of ascertaining whether a report under subsection (1) is required.

(4) A police officer referred to under subsection (1) shall report in writing to the Board every case of breach of any of the provisions of this Act or other law.

### **Cancellation of Licence**

**35.** (1) Upon receipt of a report made under section 35 the Board shall—

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned, informing him that at a meeting of the Board to be held on a date to be specified, but not less than thirty days there from, the report will be considered by the Board; and

- (b) inform the medical officer of health, authorised officer or the police officer, as the case may be, of the date upon which the Board will consider the report, and require him to attend on the date specified

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

(3) The Board, having duly considered the report and having heard the licensee, if he appears, may, if it deems fit, cancel the licence or make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the Board, is necessary.

(4) Any person aggrieved by the decision of the Board upon any such report may within twenty-one days appeal against the decision to the High Court, and the judgment of the High Court on such appeal shall be final.

(5) Where a licensee whose licence has been cancelled under subsection (3) appeals to the High Court under subsection (4), his licence shall not be deemed to be cancelled until the decision of the High Court is made known.

(6) The High Court, on an appeal under this section, may confirm or reverse the decision of the Board.

(7) If a licence is cancelled and no appeal is filed by the licensee against the cancellation, or if such appeal is dismissed by the High Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the Board 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 Board or of the High Court as the case may be.

## **PART IV—OFFENCES**

### **Employment of Underage Persons in the Sale of Alcoholic Drinks**

**36.** (1) A person who knowingly employs—

- (a) a person under the age or apparent age of eighteen years;
- (b) 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,

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- (c) to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks commits an offence.

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

### **Obstruction**

37. (1) A person shall not knowingly obstruct or make a false or misleading statement to an authorised officer who is carrying out duties under this Act or any other law.

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

### **General Penalty**

38. Any person who commits an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

### **Nature of Offences**

39. (1) Offences under this Act, other than the offences specified under this Act shall be cognizable offences.

(2) Where a corporation, registered society or other similar legal entity commits an offence under this Act, any chairperson 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 of such act or omission may be taken against both the employer and the employee.

## PART V—MISCELLANEOUS PROVISIONS

### Regulations

**40.** (1) The County Executive Committee Member shall within nine months from the date of enactment of this Act make regulations generally for the better carrying out of the provisions and purposes of this Act.

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

- (a) prescribe for conduct in licensed premises;
- (b) restrict access to licensed premises by persons under the age of eighteen years;
- (c) prescribe sale and consumption limits;
- (d) prescribe the hours within which the sale of alcoholic drinks shall be permitted;
- (e) prescribe the forms of applications, notices, licences and other documents for use under the Act;
- (f) prescribe the fees payable under the Act; and
- (g) prescribe or prohibit anything required by this Act to be prohibited.

(3) Without prejudice to subsection (1) the nature and scope of the Regulations shall—

- (a) be for the objects and purpose and set out under section 3 of this Act;
- (b) be limited only to the matters set out in this Act; and
- (c) comply to the drafting standards set out under this Act.

### Savings

**41.** Without prejudice to the provisions of this Act, the Alcoholic Drinks Control Act, 2010 shall continue to apply in the county, save for the matter provided in this Act.

**SCHEDULES**

**FIRST SCHEDULE**

**(s. 8)**

**OATH OR SOLEMN AFFIRMATION OF  
CHAIRPERSON/MEMBER OF THE BOARD**

I.....having been appointed  
as (Chairperson/Member) of the Board of Liquor Control, do  
swear/solemnly affirm that I will without fear or favour, affection or ill-  
will, discharge the functions of the office of (Chairperson/Member) of the  
Board, and that I will not, directly or indirectly, reveal any matter relating  
to such functions to unauthorized persons or otherwise in the course of  
duty.

So help me God.

Signed.....

Sworn/Declared before me this.....day of.....20.....

Before me.....

Signed.....

**Magistrate**

**SECOND SCHEDULE****(s.17)****MEETINGS AND PROCEDURE FOR THE BOARD**

1. The Chairperson shall convene the first meeting of the Board.
2. The Board shall decide when and where it meets and the meetings shall be convened by the Chairperson.
3. The Board shall have at least three meetings in every financial year and not more than five months shall elapse between one meeting and the next meeting.
4. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.
5. A meeting shall be presided over by the Chairperson or in his or her absence, by a member elected by the members from among themselves.
6. If any person has a personal or fiduciary interest in any matter before the Board, and is present at a meeting of the Board or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.
7. A disclosure of interest made under paragraph 6 shall be recorded in the minutes of the meeting at which it is made.
8. A person who contravenes paragraph 6 commits an offence and is liable, upon conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding seven years, or to both.
9. No member or staff of the Board shall transact any business or trade with the Board.
10. Subject to paragraph 11, the quorum of the meeting shall not be less than half of the appointed members.
11. Where there is a vacancy in the Board, the quorum of the meeting shall not be less than three appointed members.
12. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.
13. The Board shall keep minutes of proceedings of its meetings and decisions taken.

**THIRD SCHEDULE—TYPES OF LICENSES****FORM 1****TANA RIVER COUNTY LIQUOR LICENCING ACT****APPLICATION FOR THE GRANT OR RENEWAL OF A RETAIL LIQUOR 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

# TANA RIVER COUNTY LIQUOR LICENCING ACT

**APPLICATION FOR THE GRANT OR RENEWAL OF A  
LICENCE TO MANUFACTURE OR PRODUCE AN ALCOHOLIC  
DRINK**

1. Name of applicant .....
2. Type of business .....
- (a) Sole proprietorship (the business is owned by one person).....

Personal Identification Number .....

- (b) Partnership .....

Names, Postal Addresses and Phone Contacts of the Partners,.....

.....

.....

.....

.....

.....

Contact Person .....

.....

- (c) **Limited Liability Company**

Name, Postal Address and Phone Contacts of the Chairpersons.....

.....

.....

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Contact person.....

3. Postal Address .....

4. Physical Address (exact place of manufacture).....

.....

5. Tel .....

6. Fax .....

7. E-mail .....

8. City, Town or Village .....

9. Business Registration No\* or Certificate of Incorporation  
No\*.....

10. Is this a New/Renewal application?.....

If Renewal, provide details of No .....

.....

.....

11. Do you have manufacturer's certification? Yes\* .....  
No .....

12. List type and brands of alcoholic drinks to be manufactured

*Alcoholic Drink Standards Certification Number*

.....

.....

.....

.....

.....

.....

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13. 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 etc) .....

.....

.....

14. Declaration by Applicant:

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

Date: .....

Signature: .....

Official Stamp .....

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**FORM 3**

**TANA RIVER COUNTY LIQUOR LICENCING 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 4**

**TANA RIVER COUNTY LIQUOR LICENCING 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.....

.....

6. Extension times applied for .....

.....

Date .....

Signature of Applicant .....

Delete where not applicable

**FORM 5**

**TANA RIVER COUNTY LIQUOR LICENCING ACT  
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.....

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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.....

.....

.....

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 6****TANA RIVER COUNTY LIQUOR LICENCING ACT****ALCOHOLIC DRINK LICENCE**

TYPE OF LICENCE .....

LICENCE No. ....

This alcoholic drink licence is granted under the provisions of the.....

.....(name of county)

.....COUNTY  
 ALCOHOLIC DRINKS CONTROL ACT, 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 .....

..... (name of county)  
 ....COUNTY  
 ALCOHOLIC DRINKS CONTROL ACT, and to the following  
 conditions.....

This licence shall expire on .....

Fees paid: KSh. ....

Date of issue .....

Board Chairperson, .....

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**FORM 7**

**TANA RIVER LIQUOR LICENCING ACT  
TEMPORARY ALCOHOLIC DRINK LICENCE**

No. ....

This temporary alcoholic drink licence is granted under the provisions of the .....County Alcoholic Drinks Control Act, 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 .....(name of county) ..... COUNTY ALCOHOLIC DRINKS CONTROL ACT and to the following conditions

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

Fee paid: KSh. ....

Date of issue .....

Board Chairperson, .....

**FORM 8**

**TANA RIVER COUNTY LIQUOR LICENCING 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 .....County  
 Alcoholic Drinks Control Act, and to the following conditions.....

.....

.....

.....

Fee paid: KSh. ....

Date of issue .....

Chairperson of the Board.....

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## FORM 9

### TANA RIVER COUNTY LIQUOR LICENCING ACT ASSURANCE THAT AN ALCOHOLIC DRINK LICENCE WILL BE ISSUED

The Board of .....County  
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 drinks 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  
.....(name of county)  
..... COUNTY  
ALCOHOLIC DRINKS CONTROL ACT, he will be granted a  
.....alcoholic  
drink licence.

Fee paid: KSh. ....

Date of issue .....

Board Chairperson, .....

**FOURTH SCHEDULE****LICENCE FEES**

|                                                                                                                                                 | <b>Fees</b>   |                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------|
| 1. General retail alcoholic drink licence —                                                                                                     | For 12 months | For 6 months         |
| (a) In respect of premises situate within a City or a Municipality.....                                                                         | 50,000        | 30,000               |
| (b) In respect of premises situate within urban areas other than city or municipality.....                                                      | 30,000        | 18,000               |
| (c) In respect of premises situate elsewhere than a city, municipality and urban areas.....                                                     | 15,000        | 9,000                |
| 2. General retail alcoholic drink licence (off Licence)                                                                                         | For 12 months | For 6 months or less |
| (a) In respect of premises situate within a City or a municipality.....                                                                         | 24,000        | 14,000               |
| (b) In respect of premises situate within urban areas other than city or municipality.....                                                      | 18,000        | 10,000               |
| (c) In respect of premises situate elsewhere than a city, municipality and urban areas.....                                                     | 12,000        | 7,000                |
| 3. Brewer's alcoholic drink licence                                                                                                             |               |                      |
| <b>For each alcoholic drink or product manufactured:</b>                                                                                        |               |                      |
| (a) One million litres and above per annum.....                                                                                                 | 1,000,000     |                      |
| (b) Between five hundred thousand (500,000) and nine hundred ninety nine thousand, nine hundred and ninety nine (999,999) litres per annum..... | 500,000       |                      |
| (c) Above twelve thousand (12,000) but below four hundred and ninety thousand, nine hundred and ninety nine litres (499,000) per annum.....     | 250,000       |                      |
| (d) Twelve thousand litres (12,000) and below per annum...                                                                                      | 50,000        |                      |
| 4. Wholesale alcoholic drink licence for each premise .....                                                                                     | 50,000        | 30,000               |
| 5. (1) Bottler's alcoholic drink licence.....                                                                                                   | 250,000       | 150,000              |
| (2) Depot licence, in addition to subparagraph (1), per depot..                                                                                 | 50,000        | 30,000               |
| 6. (1) Distributor alcoholic drink licence.....                                                                                                 | 50,000        | 30,000               |
| (2) Depot licence, in addition to subparagraph (1) per depot...                                                                                 | 20,000        | 15,000               |

|                                                                                                                                              |         |        |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------|--------|
| 7. Hotel alcoholic drink licence—                                                                                                            |         |        |
| (a) In respect of premises situate within a city or a municipality.....                                                                      | 50,000  | 30,000 |
| (b) In respect of premises situate within urban areas other city or municipality.....                                                        | 30,000  | 20,000 |
| (c) In respect of premises situate elsewhere than in a city, municipality and urban areas .....                                              | 20,000  | 12,000 |
| (d) Where the licensee holds a general retail alcoholic drink licence in respect of the same premises.....                                   | 5,000   |        |
| 8. Restaurant alcoholic drink licence —                                                                                                      |         |        |
| (a) In respect of premises situate within a city or a municipality.....                                                                      | 30,000  | 20,000 |
| (b) In respect of premises situate within urban areas other city or municipality.....                                                        | 20,000  | 12,000 |
| (c) In respect of premises situate elsewhere than in a city, municipality and urban areas.....                                               | 10,000  | 6,000  |
| 9. (1) Club alcoholic drink licence (members' club)—                                                                                         |         |        |
| (a) In respect of premises situate within a city or a municipality.....                                                                      | 100,000 |        |
| (b) In respect of premises situate within urban areas other city or municipality.....                                                        | 80,000  |        |
| (c) In respect of premises situate elsewhere than in a city, municipality and urban areas.....                                               | 50,000  |        |
| (2) Club alcoholic drink licence (proprietary club or night club or discotheque)—                                                            |         |        |
| (a) In respect of premises situate within a city or a municipality.....                                                                      | 100,000 |        |
| (b) In respect of premises situate within urban areas other city or municipality.....                                                        | 80,000  |        |
| (c) In respect of premises situate elsewhere than in a city, municipality and urban areas.....                                               | 50,000  |        |
| 10. Supermarket and franchised retail stores alcoholic drink licence —                                                                       |         |        |
| (a) In respect of supermarkets or franchised retail stores for each premises situate within city or municipality.....                        | 80,000  |        |
| (b) In respect of supermarkets or franchised retail stores for each premises situate within urban areas other than city or municipality..... | 50,000  |        |

|                                                                                                                                             |        |        |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------|--------|
| (c) In respect of supermarkets or retail chain stores for each premises situate elsewhere than in a city, municipality and urban areas..... | 30,000 |        |
| 11. Theatre alcoholic drink licence.                                                                                                        | 15,000 | 7,000  |
| 12. Traveller's alcoholic drink licence                                                                                                     |        |        |
| (a) Where the licensee does not hold a general retail alcoholic drink licence in respect of the same premises.....                          | 30,000 | 15,000 |
| (b) Where the licensee holds a general retail alcoholic drink licence in respect of the same premises.....                                  |        |        |
| 13. Railway restaurant car alcoholic drink licence, per car                                                                                 | 5,000  |        |
| 14. Steamship alcoholic drink licence, per steamship                                                                                        | 30,000 |        |
| 15. Temporary or occasional alcoholic drink licence, per day..                                                                              | 30,000 |        |
| 16. For transferring an alcoholic drink licence .....                                                                                       |        | 1,000  |
| 17. For removing an alcoholic drink licence .....                                                                                           |        | 500    |
| 18. For the issue of an assurance under the Act .....                                                                                       |        | 1,000  |
| 19 For the issue of a duplicate licence .....                                                                                               |        | 300    |

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