

SPECIAL ISSUE

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MERU COUNTY BILLS, 2019

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CONTENT

Bill for Introduction into the County Assembly of Meru —

PAGE

The Meru County Statute Law (Miscellaneous Amendments) Bill, 2019.....1

**THE MERU COUNTY STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL, 2019**

A Bill for

**AN ACT of the County Assembly of Meru to make various
amendments to County Legislation**

ENACTED by the County Assembly of Meru as follows—

Short title

1. This Act may be cited as the Meru County Statute Law (Miscellaneous Amendments) Act, 2019 and shall come into operation upon publication in the gazette.

Interpretation

2. The several laws specified in the first column of the Schedule are amended, in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

SCHEDULE (S.2)

County Legislation Provision Amendment

The Meru County Water and Sanitation Services Act, No. 10 of 2014

S.2

Amended by deleting the definition of water co-operative society.

S. 5

Amended in subsection (1)—

- (a) by deleting paragraph (d);
- (b) by deleting paragraph (e); and
- (c) by deleting the expression “(f), (g) and (h)” appearing in the subsection and substituting therefor the expression “(d), (e) and (f)”.

S. 21

Amended by deleting the words “or a water co-operative society.”

S. 22 Delete.

S. 23 Delete.

S. 24 Delete.

S. 25 Delete.

S. 26 Delete.

S. 27 Delete.

S. 28 Delete.

S. 29 Delete.

S. 30 Delete.

S. 32 Amended by deleting the words “and water co-operative society.”

S. 41 Amended by deleting the words “water co-operative society.”

S.7 and 15 [provision 3(4) of the Schedule]

Delete the words “five members including the chairperson or the person presiding” and substitute therefor with the words “half of the total membership of the Board”.

Microfinance Corporation Act, No. 4 of 2014

S. 6 (1)

Insert the words “(g) persons co-opted by the executive member whose skills and expertise may be necessary for the functions of the the Board.” after section 6(1)(f)

S. 6 (2)

Delete the words “(a) holds a master’s degree in economics, business law, finance, accounting or any other related field from a recognized university” and substitute therefor with the words “(a) holds a degree in economics, business, law, finance, accounting or any other related field from a recognized university.”

S. 9(2)

Delete the words “(a) executive committee;(b) audit and finance committee;(c) risk management committee; (d) human resources management committee” and substitute therefor with the words “(a)Audit and risk committee;(b)Finance and credit committee;(c) Human resources management committee.”

S.8 [provision 3(4) of the schedule]

Delete the words “five members including the chairperson or the person presiding” and substitute therefor with the words “half of the total membership of the Board”

**Meru County Investment and Development Corporation
2014**

S.4 (3)

Amend by inserting the word “wholly” immediately after the words “The Corporation shall” and delete the words “and no more than ten percent of the total shares of the Corporation may be allocated to any person.”

S.6 (1)

Insert the words “(f) a Corporation Secretary who may be a staff of the corporation or an external person and shall be an *ex officio* member” after section 6(1)(e).

S. 6 (2)

Delete the words “(a) holds a masters degree in economics, law, finance, accounting, business or any related field from a recognized university” and substitute therefor with the words “(a) holds a degree in economics, law, finance, accounting, business or any other related field from a recognized university.”

S.6

Insert the words “(6) Subject to the approval of the county executive committee, the board shall have powers to appoint alternate directors” after section 6(5).

S.17

Insert the words “(3) (a) Subject to the approval of the county executive committee, the Corporation shall have the authority to use or spend at source the money provided under this section.

(b) Subject to the approval of the county executive committee, the board shall authorize and impose conditions on the use of any monies and may impose any restriction or other requirements concerning use of the money” after section 17 (2).

S.8 [provision 2(4) of the schedule]

Delete the words “four members including the chairperson or the person presiding” and substitute therefor with the words “half of the total membership of the Board”.

The Meru County Alcoholic Drinks Control Act, No. 7 of 2017

S. 2

Amended—

- (a) by inserting the words “and responsible to the county executive member” immediately after the words “under section 4” in the definition of the term “board”;

- (b) by inserting the following new definitions in alphabetical sequence—

“distributor” means a trader who buys alcoholic drinks from the manufacturers and sell to the retailers;

“general retail” means an outlet selling different brands of alcoholic drinks to consumers.

S. 4

Amended—

- (a) in subsection (2) paragraph (a) by inserting the words “non-executive” immediately before the word “Chairperson”;
- (b) in subsection (5) paragraph (b) by deleting the words “and the Chief Officers”;
- (c) in subsection (10) by inserting a new paragraph immediately after sub-section (10) paragraph (m) as follows—

“(n) with the approval of the Executive Committee Member, engage such staff as may be necessary to assist in the management and functions of the Board”;
- (d) in subsection (10) by deleting the expression “(n) and (o)” appearing in subsection (10) and substituting therefor the expression “(o) and (p)”;
- (e) in subsection (11) by inserting the word “and” immediately after the word “agencies appearing in paragraph (h); and
- (f) in subsection (11) by deleting paragraph (j).

Insert the following new section immediately after section 4:

4A (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

4B The Board Secretary shall be responsible for the day to day management and direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Board.

S. 5

Delete and substitute as follows—

- (a) in subsection (1) by deleting the word “Committee” and substituting therefor the word “Member”; and
- (b) in subsection (2) by deleting the word “Committee” appearing immediately before the words “The County Executive” and substituting therefor the word “Member”.

S. 6

Amended—

- (a) by deleting the words “county department responsible for health” and substituting therefor the word “Board”;
- (b) in paragraph (a) by deleting the word “Board” and substituting therefor the words “county department responsible for health”;
- (c) in paragraph (b) by inserting the words “in the” immediately after the word “services” appearing in the first line; and
- (d) in paragraph (b) by inserting the words “financial and” immediately after the word “necessary” appearing in the second line.

S. 7

Amended in subsection (1) by inserting the words “who shall consist of persons appointed by the County Executive Member” immediately after the word “committee” appearing in the second line.

S. 8

Amended—

- (a) in subsection (2) by deleting paragraphs (b) and (c) immediately after section 8(2)(a);
- (b) by deleting the expression “(d), (e) and (f)” appearing in the subsection and substituting therefor the expression “(b), (c) and (d)”;
- (c) in subsection (4) by inserting the word “developmental” immediately after the word “capital”;
- (d) by deleting subsection (5) and substituting therefor with the following new subsection (5)—
 - (i) at least three months before the commencement of each financial year, the Board shall cause to be prepared annual estimates of the Board for that year;

- (ii) the annual budget shall make provision for all estimated expenditure of the Board for the financial year and in particular, the estimates shall provide for the—
- (a) debt payment schedule;
 - (b) payment of salaries, allowances and other charges in respect of the staff of the Board;
 - (c) payment of allowances and other charges in respect of members of the Board;
 - (d) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Board;
 - (e) proper maintenance of the buildings and grounds of the Board;
 - (f) maintenance, repair and replacement of the equipment and other property of the Board; and
 - (g) creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate;
- (iii) the annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval;
- (iv) no expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (5) (iii), or in pursuance of an authorization of the Board given with prior written approval of the executive member.”

S. 9

Amended—

- (a) in subsection (2) by deleting the word “on” and substituting therefor the word “in” immediately after the word “place” appearing in the second line; and
- (b) in subsection (3) paragraph (b) by deleting the word “personally” appearing in the first line and adding the words “by the Board” immediately after the word “authorized” appearing in the second line.

S. 14

Amended—

(a) in subsection (1)—

- (i) by deleting paragraph (c);
- (ii) by deleting paragraph (d); and
- (iii) by deleting paragraph (e).

(b) in subsection (3)—

- (i) at paragraph (g) by deleting the words “two persons” and substituting therefor the words “one person” appearing in the Fourth and Fifth lines;
- (ii) at paragraph (g) by deleting the words “and with the approval of the County Assembly” appearing immediately after the word “process”
- (iii) at paragraph (h) by deleting the word “Kenya” and substituting therefor the word “National” appearing immediately before the words “police service”.
- (iv) by deleting paragraph (i) and inserting the following new paragraph (i):
“(i) the Town Administrator in the relevant towns within the Sub-county”; and
- (v) by inserting the following new paragraph (j)—

“the Municipal Manager in the relevant Municipality within the Sub-county”.

S. 17

Amended—

- (a) in subsection (10) by deleting the word “Board” and substituting the words “County Committee” immediately after the word “Sub” appearing in the Third line; and
- (b) in subsection (13) by inserting the word “administrator” immediately after the word “county” appearing in the First line.

S. 27

Amended by deleting the expression “(3)” appearing in subsection (2) and substituting therefor the expression “(1)”.

S. 35

Amended by deleting the expression “(35)” appearing in subsection (1) and substituting therefor the expression “(34)”.

S. 57

Amended in subsection (3)—

- (a) in paragraph (a) by deleting the word “and” by inserting the following new paragraph immediately after paragraph (a) as follows—
- (b) “(b) enforcement officers appointed in the County”; and
- (c) by deleting the expression “(b) and (c)” appearing in the subsection and substituting therefor the expression “(c) and (d)”.

S. 58

Amended in subsection (2)—

- (a) in paragraph (e) by deleting the words “officer in charge of police services in the county” and substituting thereof the words “County Director of Enforcement”; and
- (b) in paragraph (h) by deleting the words “Department of Weights and Measures” and substituting thereof the words “the enforcement officer from the Board”.

S. 63

Amended by deleting the expression “(65)” and substituting therefor the expression “(64)”.

Interpretation

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

“authorised officer” means an Authorised Officer appointed under section 78;

“board of corporation” means the Board of Water and Sanitation Services Corporation established under section 14;

“chief officer” means the Chief Officer for the time being responsible for water services;

“corporation” means the Meru County Urban Water and Sanitation Services Corporation established under section 12;

“directorate” means the Directorate of Water and Sanitation Services established under section 35;

“executive member” means the County Executive Member for the time being responsible for water services;

“public works” in this context means storage, intakes, transmission, distribution, pipelines, canals, dykes, water treatment works, sewer treatment works, pumping stations and pumps, drilling and distribution lines.

“sector wide forum” means the Water and Sanitation Services Sector wide forum established under section 72;

“services board” means the Meru County Water and Sanitation Services Board established under section 4;

“water co-operative society” means the Sub-county water co-operative society established under section 26;

“water works” means any construction, excavation, piping, drainage of any land, supply or transportation of water, water abstraction works, management of storm water and floods or storage, impounding of water for supply to the public or for private purposes, drainage of any swamp or other land.

Section 5 of Meru County Act No. 10 of 2014 which is proposed to amend

Composition of the Services Board

5. (1) The Services Board shall consist of—
- (a) a non executive chairperson appointed by the Governor and approved by the county assembly;
 - (b) the chief officer for the time being responsible for water services who shall be the secretary;
 - (c) the chief officer for the time being responsible for finance;
 - (d) the chief officer for the time being responsible for co-operatives;
 - (e) three chairpersons of the sub-county co-operatives nominated by the joint forum of the sub-county cooperatives in accordance with the prescribed procedure and appointed by the Executive Member;
 - (f) three officers of the Meru County Sanitation Services Board at the sub-county level appointed by the Executive Member;
 - (g) the chief executive officer of the Meru County Urban Water Services and Sanitation Corporation; and

- (h) one person appointed by the executive member through a competitive process by virtue of the persons' knowledge, expertise and experience in matters related to water and sanitation management and approved by the County Assembly.

(2) A person shall be qualified for appointment as chairperson or member appointed under subsection (1) (g) if the person —

- (a) holds a degree from a recognized university;
- (b) has knowledge and experience of at least five years in matters relating to water resources management, water and sanitation services management or any other related field;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has had a distinguished career in the respective field.

Section 21 of Meru County Acts No. 10 of 2014 which is proposed to amend

Public private partnership

21. The Corporation or a water co-operative society may enter into public private partnership in order to effectively carry out its functions.

Section 22 of Meru County Acts No. 10 of 2014 which is proposed to amend

Establishment of sub-county water co-operative societies

22. There is established in each Sub-county the Water and Sanitation Services Co-operative Society.

Section 23 of Meru County Acts No. 10 of 2014 which is proposed to amend

Members of the water co-operative

23. (1) Membership of the water co-operative society shall be open to users and providers of water services who are resident in the sub-county.

(2) A person who intends to be a member of the co-operative society shall apply for membership in the prescribed manner.

Section 24 of Meru County Acts No. 10 of 2014 which is proposed to amend

Functions of the water co-operative Society

24. The water co-operative society shall be responsible for provision of water and sanitation services in the rural areas or the prescribed urban areas situated in the sub county.

Section 25 of Meru County Acts No. 10 of 2014 which is proposed to amend

Management Committee

25. The water co-operative society shall be managed by a management committee which shall consist of—

- (a) five persons elected by members in accordance with the co-operative society's by-laws; and
- (b) the chief executive officer who shall be an ex-officio members and secretary to the Committee.

Section 26 of Meru County Acts No. 10 of 2014 which is proposed to amend

Operational guidelines

26. In carrying out its functions, the water co-operative society shall comply with the prescribed guidelines.

Section 27 of Meru County Acts No. 10 of 2014 which is proposed to amend

Service Provision Agreements

27. The water co-operative society—

- (a) shall utilize the infrastructure for water services provision developed by the Directorate on such terms and conditions and may be agreed upon; and
- (b) may enter into partnership with private water service providers operating within its jurisdiction for the purposes of carrying out its functions.

Section 28 of Meru County Acts No. 10 of 2014 which is proposed to amend

Members' investments

28. Members of the water co-operative society may, invest in shares issued by the co-operative society.

Section 29 of Meru County Acts No. 10 of 2014 which is proposed to amend

Investment by the water co-operative society

29. (1) The water co-operative society may, invest in such areas as the Executive Member may permit, for the purposes developing the water Co-operative Society for benefits of members.

(2) For the purposes of this section, an investment related to carrying out of the functions of water Co-operative Society shall be deemed to be investment for the benefits of the members.

Section 30 of Meru County Acts No. 10 of 2014 which is proposed to amend

Bonuses

30. The water co-operative society may, issue bonuses to members arising from surpluses realized from investments undertaken.

Section 32 of Meru County Acts No. 10 of 2014 which is proposed to amend

Functions of the Directorate

32. The Directorate shall be responsible for—

- (a) developing water and sanitation services infrastructure, including water works and public works that may be used by the Corporation and water co-operative society;
- (b) in collaboration with other national or county government (s) departments, initiating, developing, coordinating and managing policies, strategies and plans for water resources management and sanitation services;
- (c) developing and managing works for water conservation facilitating public awareness and participation on sustainable water resources, sanitation and storm water management;
- (d) promoting and facilitating adoption and use of water conservation systems and methods, including water harvesting;
- (e) in collaboration with other agencies, develop and manage public infrastructure for storm water management;
- (f) developing and coordinating implementation of water and sanitation services management information system;
- (g) developing and promote policies, strategies and mechanisms for climate change mitigation and adaptation in the water sector;
- (h) Mobilizing resources for water resources management and development and sanitation services;

- (i) developing performance management system and overseeing its implementation by the agencies established under this Act;
- (j) monitoring and evaluating the implementation of this Act and the water sector;
- (k) conducting and facilitating research and appropriate surveys for water resources management and facilitating dissemination and implementation of research findings;
- (l) acting as the repository of information and data on water sector; and
- (m) advising the executive member on the necessary policy to be adopted for sustainable water resources management.

Section 41 of Meru County Acts No. 10 of 2014 which is proposed to amend

Water tariffs

41. (1) The Corporation, water co-operative society or Directorate may levy tariffs and other user charges for the purposes of carrying out their functions.

(2) The tariffs and user charges levied under this section shall be established in accordance with the principles set out under the County Governments Act, 2012 and any other written law and shall be approved by the county executive committee.

(3) The tariffs and user charges collected under this section shall not form part of the County Revenue Fund but shall be utilized for defraying expenditures of the Corporation or the Directorate in order to carry out their functions efficiently and effectively.

Section 6 of Meru County Acts No.4 of 2014 which is proposed to amend

Board of the Corporation

6. (1) The management of the Corporation shall vest in the Board of Directors which shall consist of—

- (a) a non executive chairperson appointed by the governor and approved by the county assembly;
- (b) chief officer for the time being responsible finance;
- (c) chief officer for the time being responsible for trade;

(d) two professionals appointed by the executive member through a competitive process and the Managing Director who shall be an ex officio member; and

(e) corporation Secretary who may be a staff of the corporation or an external person and shall be ex Officio member.

(2) A person shall not be qualified for appointment as a member under sub section (1) (d) unless the person—

(a) holds a degree in economics, business, law, finance, accounting or any other related field from a recognized university;

(b) has experience of at least ten years in senior management in public or private sector; and

(c) meets the requirement of Chapter Six of the Constitution.

Section 9 of Meru County Acts No.4 of 2014 which is proposed to amend

Committees of the Board

9. (2) Notwithstanding subsection (1), the Board shall establish the following committees in accordance with the prescribed procedures—

(a) executive committee;

(b) audit and finance committee;

(c) risk management committee; and

(d) human resources management committee.

Provision 3(4) of the schedule of Meru County Acts No.4 of 2014 which is proposed to amend

Meetings

3. (4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

Section 4 of Meru County Acts No.5 of 2014 which is proposed to amend

Establishment of the Corporation

4. (3) The Corporation shall be owned by the County Government and no more than ten percent of the total shares of the Corporation may be allocated to any person.

Section 6 of Meru County Acts No.5 of 2014 which is proposed to amend

Board of the Corporation

5. (1) The management of the Corporation shall vest in the Board of

Directors which shall consist of—

- (a) a non executive chairperson appointed by the governor and approved by the county assembly;
- (b) chief officer for the time being responsible finance;
- (c) chief officer for the time being responsible for trade;
- (d) two professionals appointed by the executive member through a competitive process and approved by the County Assembly; and
- (e) the Managing Director who shall be an ex officio member.

(2) A person shall not be qualified for appointment as a chairperson or a member appointed under subsection (1) (d) unless the person—

- (a) holds a masters degree in economics, law, finance, accounting, business or any related field from a recognized university;
- (b) has experience of at least ten years in senior level management in public or private sector; and
- (c) meets the requirement of Chapter Six of the Constitution.

Section 17 of Meru County Acts No.5 of 2014 which is proposed to amend

Funds of the Corporation

17. (1) The funds and assets of the Corporation shall consist of—

- (a) such moneys as may be appropriated by county assembly for the purposes of the Corporation;
- (b) revenues realized from investments undertaken by the Corporation;
- (c) such gifts, grants or monies received from any lawful source the Corporation;
- (d) all monies borrowed from securities market or received as loans to the Corporation.

(2) The Corporation shall apply the money provided in this section for the furtherance of the objects and performance of the functions of the Corporation and as prescribed under this Act.

Section 2 of No. 7 of 2017 which it is proposed to amend —

Interpretation

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

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

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

“authorised officer” means an authorised officer within the meaning of section 57;

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

“board” means the Alcoholic Drinks Control Board established under section 4;

Cap.222

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

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

“enforcement committee” means the County Alcoholic Drinks Control Enforcement Coordinating Committee established under section 59;

“county executive member” means the County Executive Member responsible for alcohol control;

“bar area” in relation to a hotel premises means any part of the hotel in which alcoholic drink is ordinarily sold or supplied for consumption in the hotel and does not include a dining area of the hotel;

“dining area” in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption of meals at tables;

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

“hotel” means any premises or commercial establishment classified as such under any written law or any licensed premises whose sole purpose is to sell bed occupancy as primary and core business;

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

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

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

“manager” in relation to—

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

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

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

controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

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

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

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

“sell” includes—

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

“sub county committee” means the Sub-county Alcoholic Drinks Regulation Committee appointed under section 15;

“ward committee” means the Sub-county Alcoholic Drinks Control Committee appointed under section 8.

Section 4 of No. 7 of 2017 which it is proposed to amend—

Establishment of the Board

4. (1) There is established in the County the Alcoholic Drinks Control Board which shall be—

- (a) a body corporate with perpetual succession and a seal; and
- (b) capable of suing and being sued in its corporate name.

(2) The Alcoholic Drinks Control Board shall comprise of the following members—

- (a) a Chairperson appointed by the Governor through a competitive process and approved by the County Assembly;

- (b) the Chief Officer responsible for alcoholic drinks control;
 - (c) the Chief Officer responsible for health in the County;
 - (d) five other members, one member a woman, one member a person drawn from the County's hospitality industry, one member a youth, one member from the Clergy, and one member from persons with disability appointed by the County Executive Committee Member in charge of the Department responsible for alcohol licensing and approved by the County Assembly; and
 - (e) The Secretary of the board who shall be a person with a minimum of five years' experience in an administrative position and a relevant degree from a university recognized in Kenya.
- (3) The members shall elect a Vice-Chairperson from among themselves.
- (4) Upon appointment and approval by the County Assembly, the names of the members of the Board shall be published in the County Gazette and/or the *Kenya Gazette*.
- (5) A person shall be qualified to be appointed as a member of the Board under subsection (2) if that person —
- (a) satisfies the provisions of Chapter Six of the Constitution;
 - (b) in the case of the Chairperson and the Chief Officers, possesses a minimum qualification of a bachelor's degree from a university recognized in Kenya and working experience of not less than five years in management level; and
 - (c) in the case of any other members —
 - (i) a minimum of Kenya Certificate of Secondary Education; and
 - (ii) is a professional and demonstrates absence of breach of the relevant professional code of conduct.
- (6) The members of the Board shall serve on a part-time basis and shall meet at least quarterly every year.
- (7) The remuneration of the members of the Board shall be by way of sitting allowances determined by the County Public Service Board upon the advice of the Salaries and Remuneration Commission.
- (8) A member of the Board shall hold office for a term of three years.
- (9) In the absence of the Chairperson and the Vice-Chairperson, the Board shall appoint a temporary chair.

(10) The functions of the Board shall be to—

- (a) receive, review, approve and grant licences in accordance with applications recommended by the sub-county committees;
- (b) receive and hear appeals from decisions made by the sub-county committees;
- (c) support and facilitate the Interdepartmental Committee, the Sub-county Committees and the Ward Committees in carrying out their functions;
- (d) carry out public education on alcoholic drinks control in the county directly and in collaboration with other public or private bodies and institutions;
- (e) facilitate citizen participation in matters related to alcoholic drinks control in accordance to the framework for citizen participation established under the County Governments Act, the Urban Areas and Cities Act or any other relevant written law;
- (f) facilitate and promote in collaboration with other county and national government institutions and agencies the establishment of treatment and rehabilitation facilities and programmes;
- (g) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to alcoholic drinks control;
- (h) develop in collaboration with other county and national government departments strategies and plans for implementing this Act and any other relevant national legislation, controlling alcohol abuse and coordinate and support their implementation;
- (i) advise the Executive Committee Member generally on the exercise of his powers and performance of his functions under this Act, and in particular on county policy and laws to be adopted in regard to the production, manufacture, sale and consumption of alcoholic drinks;
- (j) in collaboration with other relevant county departments, prepare and submit an alcoholic drinks status report bi-annually by the 30th June and 31st December each year in the prescribed manner to the Executive Committee Member which shall be transmitted to the County Executive Committee and the County Assembly;
- (k) in collaboration with the Kenya Bureau of Standards and Anti-Counterfeit Agency to promote and facilitate elimination of substandard and counterfeit alcoholic drinks in the County;

- (l) recommend to the Executive Committee Member and participate in the formulation of laws and regulations related to alcoholic drinks;
 - (m) monitoring and evaluating the implementation of this Act including overseeing the operations of the Sub-county Committees and the Ward Committees, and advising the Executive Committee Member on the necessary measures to be adopted to facilitate such implementation;
 - (n) carry out such other roles necessary for the implementation of the object and purpose of this Act and perform such other functions as may from time to time be assigned by the Executive Committee Member.
 - (o) prepare and submit an annual budget to the Executive Committee Member and the County Assembly for approval by 30th April each year.
- (11) The report referred to in sub-section (10) (j) shall contain among others:
- (a) data on status of alcoholic drinks registered for sale, production and consumption in the County;
 - (b) data on status of alcoholic drinks use and impact disaggregated in terms of age, gender, geographical location such as ward, sub-county and county;
 - (c) impact of alcoholic drinks in the County;
 - (d) measures adopted to control and reduce negative impact of alcoholic drinks in the County;
 - (e) level of public participation in implementing the Act and feedback from residents of the County in relation to appropriate processes for mitigating impact of alcoholic drinks use;
 - (f) data on use of treatment and rehabilitation services in the County;
 - (g) challenges faced in the implementation of the Act;
 - (h) level of collaboration with other county and national government agencies;
 - (i) any matter relevant to the implementation of the Act; and

(j) any other matter relevant to the implementation of the Act

(12) The county executive member and the County Public Service Board, in consultation with the County Treasury and upon advice of the Salaries and Remuneration Commission, shall ensure that the Board has adequate human, financial and any other appropriate resource to enable it carry out the functions assigned under this Act.

(13) The county executive member shall publish and publicize the annual report prepared under sub-section (10) (j) through the established county communication methods which shall include the county website and community forums.

Section 5 of No. 7 of 2017 which it is proposed to amend —

Establishment of Committees and units within the Board

5. (1) The county executive committee shall in accordance with the requirements of the County Governments Act and any other law, establish the following committees —

- (a) product safety and compliance committee which shall be responsible for ensuring the safety of alcoholic drinks products and carrying out liaison with the Kenya Bureau of Standards and the Anti-counterfeit Agency for the purposes of facilitating effective and efficient enforcement of alcoholic drinks product standards and quality;
- (b) enforcement unit which shall be responsible for enforcing and coordinating with relevant agencies the enforcement of this Act; and
- (c) prevention, public education and community empowerment committee which shall be responsible for carrying out and coordinating community public education and empowerment in order to mitigate the negative social and economic impact associated with the use of alcoholic drinks.

(2) The county executive committee shall ensure each Committee established under subsection (1) is resourced with persons qualified in the fields related to the respective functions.

Section 6 of No. 7 of 2017 which it is proposed to amend —

Establishment of rehabilitation facilities and programs

6. The county department responsible for health shall —

- (a) in collaboration with the Board and other relevant county and national government departments establish treatment and

rehabilitation services, facilities and programs for persons dependent on alcoholic drinks in each county health facility;

- (b) ensure that the treatment and rehabilitation services, facilities have the necessary human resources for effective operation and service delivery system;
- (c) ensure that the treatment and rehabilitation services, facilities and programmes—
 - (i) are designed in a manner that is accessible and affordable to persons dependent on alcoholic drinks; and
 - (ii) where applicable, are integrated with other health and social services and programmes.

Section 7 of No. 7 of 2017 which it is proposed to amend—

Interdepartmental Committee

7. (1) There is established the county interdepartmental alcoholic drinks control committee.

- (2) The interdepartmental committee shall consist of—
 - (a) the chief officer responsible for alcoholic drinks control who shall be the chairperson;
 - (b) the chief officers responsible for the following departments—
 - (i) health;
 - (ii) social services;
 - (iii) economic planning;
 - (iv) trade; and
 - (v) youth affairs
 - (c) the person in charge of legal services in the county;
 - (d) the director in the department in charge of alcohol licensing who shall be an ex officio member and the secretary; and
 - (e) any other chief officer as the county executive committee may designate.
- (3) The interdepartmental committee shall be responsible for—
 - (a) advising the Board on such multi-disciplinary and inter-sectoral policy and legislative measures to be adopted for the control of alcoholic drinks;

- (b) coordinating, monitoring and evaluating the implementation of this Act and any other policy decision from a multi-disciplinary approach as may be directed by the Board;
 - (c) facilitating interdepartmental collaboration and consultation in the implementation of this Act; and
 - (d) carrying out any other function as may be assigned by the Board
- (4) The interdepartmental committee shall prepare and submit quarterly reports to the Board for consideration
- (5) The interdepartmental committee shall regulate its own procedure

Section 8 of No. 7 of 2017 which it is proposed to amend—

Establishment of the Fund

8. (1) There is established a fund to be known as the Alcoholic Drinks Control Fund.

(2) The Fund shall consist of—

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

(3) Where, in terms of subsection (2) (b), any immovable property is assigned to the Fund, the Board shall deal with the property in such manner as it thinks fit and may sell the property and use the proceeds of sale for the purposes for which the Fund is established.

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

- (a) carrying out the functions of the Board stipulated under section 4 and the strategies, plans and programmes developed by the Committees established by the Act;
- (b) assisting in the operations of the Committees;

- (c) to develop and provide rehabilitation services, facilities and programmes and to mitigate social and economic impact alcohol use in the County as provided under section 6; and
 - (d) any other matter related to the implementation of this Act.
- (5) An amount of—
- (a) not less than thirty percent of the budget of the Fund shall be allocated for treatment and rehabilitation services and programmes and shall be allocated to the county department responsible for health services for that purpose; and
 - (b) not more than three percent of the budget of the Fund shall be allocated for administration costs.
- (6) The receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall be retained in the Fund for the purposes of the Fund.

Section 9 of No. 7 of 2017 which it is proposed to amend—

Administration of the Fund

9. (1) The Fund shall be administered by the Board.
- (2) The Board may, with the approval of the Executive Member for the time being responsible for finance, invest or place on a deposit account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

No 12 of 2003.

- (3) The Board shall in consultation with county executive member—
- (a) supervise and control the administration of the Fund;
 - (b) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning use of expenditure;
 - (c) prepare quarterly reports of the operations of the fund and submit to the county executive member;
 - (d) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;
 - (e) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in

accordance with the Public Audit Act, 2003 and in such manner as the county treasury may from time to time direct;

- (f) furnish such additional information as may be required for examination and audit by the Auditor-General or under any law; and;
- (g) designate such staff as may be necessary to assist in the management of the Fund provided that such staff shall work in the Board.

Section 14 of No. 7 of 2017 which it is proposed to amend—

Establishment of the Sub-county committee

14. (1) There shall be, for every Sub-county, an Alcoholic Drinks Regulation Committee which shall—

- (a) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the Sub County;
- (b) receive, review and recommend for approval, applications for licence in accordance with this Act;
- (c) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the Sub County;
- (d) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the Sub County;
- (e) preparing plans and strategies for alcohol control and mitigation of negative social and economic impact associated with alcoholic drinks consumption in the Sub County;
- (f) perform such other functions as may, from time to time be assigned to it by the Executive Member.

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

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

No. 17 of 2012

- (a) the sub-county administrator appointed under the County Governments Act who shall be the chairperson;
- (b) the sub-county public health officer;

- (c) one officer designated by the Board who shall be the Secretary who shall be an ex officio member;
- (d) the officer responsible for coordination of national government functions in the sub-county;
- (e) the officer for the time being responsible for physical planning in the sub-county;
- (f) one person nominated by religious organizations in the sub-county in accordance with the prescribed procedure;
- (g) two residents of the sub-county appointed by the Executive Member through a competitive process and with the approval of the County Assembly in accordance with the prescribed rules, one of whom shall be a youth provided that not more than two persons shall be of the same gender.
- (h) the officer in charge of the Kenya police service in the sub-county; and
- (i) the officer in charge of the administrative police in the sub-county.

Section 27 of No. 7 of 2017 which it is proposed to amend—

Transfer of licence

27. (1) Where a licensee sells or leases or otherwise disposes of the premises or business specified in his licence, he may apply in writing to the Sub-county committee for the transfer of his licence to the purchaser or lessee or otherwise of such premises, and the Sub-county Committee may, if it thinks fit, grant a transfer of such licence.

(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 licensee

Section 35 of No. 7 of 2017, which it is proposed to amend—

Cancellation of licence

35. (1) Upon receipt of a report made under section 35 the Sub-county Committee shall—

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing him that at a meeting of the Sub-county Committee to be held on a date to be specified, but not 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 Services in the Sub-county; and
- (c) inform the Sub-county public health officer 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 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 recommendations to the Board in respect of such licence or the licensed premises specified therein as, in the opinion of the Sub-county Committee, is necessary.

(4) The Board upon receiving and reviewing the recommendations under subsection (3), may make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the Board, is necessary

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

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

(7) If a licence is cancelled or if on appeal under sub section (6), the appeal is dismissed by the Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the

Sub- 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 Court as the case may be.

Section 57 of No. 7 of 2017, which it is proposed to amend —

Authorised officers

57. (1) The county executive member shall, appoint for each Sub-county, any person or class of persons to be authorised officers for purposes of this Act.

(2) The county executive member shall issue a certificate of appointment to every person appointed under this section.

Cap. 242.

No 11A of 2011.

Cap 496.

Cap 513.

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

Section 58 of No. 7 of 2017, which it is proposed to amend —

Enforcement Committee

58. (1) There is established the County Alcoholic Drinks Control Enforcement Coordinating Committee for the purposes of enforcing this Act.

(2) The Enforcement Committee shall consist of —

- (a) the chief officer responsible for alcoholic drinks control who shall be the chairperson of the Committee;
- (b) one authorized officer appointed under section 57;
- (c) the officer responsible for coordination of national government functions in the county;

- (d) the County Public Health Officer;
- (e) the officer in charge of police services in the county;
- (f) one officer appointed by Kenya Bureau of Standards;
- (g) one officer appointed by Anti-Counterfeit Agency;
- (h) one officer appointed by Department of Weights and Measures;
and
- (i) any other officer as the county executive member may designate.

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

(4) The county executive member may establish an enforcement committee at the sub county level with necessary modifications.

Section 63 of No. 7 of 2017 which it is proposed to amend—

Entry of dwelling place

7. An authorised officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under section 65.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons of the Bill

The Meru County Statute Law (Miscellaneous Amendments) Bill, 2019 seeks to make crucial amendments to the following statutes; in order to cure the practical challenges arising out of their enactment and implementation—

Meru County Water and Sanitation Services, Act No. 10 of 2014

This Bill proposes to amend the Meru County Water and Sanitation Services Act, by withdrawing all references to 'water services cooperatives', which has proved to be impractical as far as implementation of the same is concerned.

Meru County Microfinance Corporation, Act No. 4 of 2014

This Bill proposes to amend the Meru County Microfinance Corporation Act by: (i) empowering the county executive member for the time being responsible for finance to co-opt members to the Board; (ii) reducing the number of committees under the Board; and (iii) reducing the number of members required to constitute quorum during Board meetings.

Meru County Investment and Development Corporation, Act No. 5 of 2014

This Bill proposes to amend the Meru County Investment and Development Corporation Act by—

(i) vesting ownership of the Corporation in the County Government of Meru by preventing its shares from being sold off; (ii) making provision for a Corporation Secretary; and (iii) empowering the Corporation, a semi-autonomous agency of the County Government of Meru, to manage its own funds subject to the approval of the county executive committee.

The Meru County Alcoholic Drinks Control Act, No. 7 of 2017

This Bill proposes to amend the Meru County Alcoholic Drinks Control Act by—

- (i) having the Board responsible to the County Executive Member responsible for alcohol control;
- (ii) enhancing the functions of the Board;
- (iii) setting out the functions of the Board Secretary;
- (iv) requiring preparation and submission of an annual budget and procurement plan by the Board, to the county executive member for approval;

(v) amending the membership of the Sub-county Committee to reflect the changes in the National Police Service structure, as well as making provision for the town and municipality administration in the county; among other amendments relating to enforcement.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns the county government

The Bill concerns county governments in terms of Part II of the Fourth schedule of the Constitution which specifies functions that are devolved functions.

Dated the 21st, June, 2019.

MOSES KINYUA TORIBU,
Chairperson, Sectoral Committee on Justice and Legal Affairs.