SPECIAL ISSUE

Kenya Gazette Supplement No. 1 (Meru County Acts No. 1)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MERU COUNTY ACTS, 2024

NAIROBI, 5th April, 2024

CONTENT

Act—

PAGE

The Meru County Alcoholic Drinks Control Act, 2024 1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE MERU COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2024

No. 1 of 2024

Date of Assent: 20th March, 2024

Date of Commencement: 15th April, 2024

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1—Short title.

2—Interpretation.

3—Purpose of the Act.

PART II—ADMINISTRATION

4—Establishment of the County Alcoholic Drinks Regulation Committee.

5—Establishment of Sub-County Alcoholic Drinks Regulation Committee.

PART III—THE COUNTY ALCOHOLIC DRINKS CONTROL FUND

6—Establishment of the Fund.

7—Purpose of the Fund.

8—Sources of funds of the Fund.

9—Administration of the Fund.

PART IV—LICENSING

10—Control of alcoholic drinks.

11—Application for a licence.

12—Notice by Sub-County Committee.

13—Report by Sub-County officers on application.

14—Objection to application.

15—Applicant and objector to appear in person or through advocate at hearing.

16—Residents may be represented at hearing.

17—Evidence may be taken on oath at hearing.

18—Penal Code to apply to proceedings at hearing.
19—Records of Sub-County Committee proceedings.
20—Record of recommendation of Sub-County Committee.
21—Grant of a licence.
22—License of premises where alcoholic drinks are sold.
23—Licences to bodies corporate.
24—Persons not eligible to be granted a licence.
25—Types of licences.
26—Grant and renewal of licences.
27—Transfer of licences.
28—Review of applications.
29—Refusal to renew licence.
30—Cancellation of licences.
31—Reports by Public Health Officers and police officers.
32—Display of licences.
33—Appeals.
34—List of suppliers to be maintained by licensee.
PART V—GENERAL REQUIREMENTS
35—Conformity with requirements.
36—Supply to young persons.
37—Display of signs.
38—Vending machines.
39—Packaging.
40—Transportation of alcoholic drinks.
41—Production, sale and distribution of traditional liquors.
PART VI—SALE AND CONSUMPTION
42—Access to persons under eighteen years.
43—Sale to intoxicated persons.
44—Disorderly conduct.

45—Sale to driver of motor vehicle.
46—Breach of licence.
47—Sale to authorised officers.
48—Non-disclosure of conviction.
49—Sale without a licence.
50—Manufacture and sale of adulterated alcoholic drinks.
51—Proof of sale.
52—Endorsement of conviction on licence.
53—Forfeiture of licence upon conviction.

PART VII—ADVERTISEMENTS AND PROMOTIONS

54—Prohibited advertisements and promotions.
55—Promotion at events where under-eighteen-year-olds are present.
56—Advertisement on digital platform or mobile media.
57—Encouraging consumption.

PART VIII—ENFORCEMENT

58—Appointment of authorised officers.
59—Places authorised officers may enter.
60—Powers of authorised officers.
61—Use of records.
62—Entry into dwelling places.
63—Court to issue warrant.
64—Use of force.
65—Certificates of analysis.
66—Assistance of officers.
67—Obstruction of authorised officers.
68—Seizures.
69—Forfeiture of seized vessels, etc.
70—Order for restoration.

71—General penalty

PART IX—MISCELLANEOUS PROVISIONS

72—Regulations.

73—Transitional provisions.

74 – Repeals.

SCHEDULES

FIRST SCHEDULE— PERMITTED AREAS OF SALE AND NUMBER OF OUTLETS.

SECOND SCHEDULE— LICENCE HOURS.

THIRD SCHEDULE— TYPES OF LICENCES.

FOURTH SCHEDULE— ALCOHOL FEES AND CHARGES.

THE MERU COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2024

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

ENACTED by the County Assembly of Meru, as follows—

PART I—PRELIMINARY

Short title

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

Interpretation

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

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

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

"alcohol free zones" means hospitals, primary and secondary schools or other learning institutions for persons below the age of eighteen years, public playgrounds, public land/property, health facilities, places of worship and any other geographical area, location or establishment as prescribed by this Act or by Regulations made in accordance with this Act where the public sale and consumption of alcoholic drinks is prohibited;

"authorised officer" means an authorised officer within the meaning of section 58;

"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;

"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;

Cap. 222

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

"County Committee" means the County Alcoholic Drinks Regulation Committee appointed under section 4;

"County Executive Member" means the County Executive Member responsible for Alcohol Control;

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

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

"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;

"Fund" means the Alcoholic Drinks Control Fund established by section 6;

"general retail" means an outlet selling different brands of alcoholic drinks to consumers;

"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;

(c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified building;

"manufacture" means the brewing, distilling, tapping or any processing or intermediate processing of an alcoholic drink and includes the packaging, labelling, distribution or importation of an alcoholic drink for sale in the County or anywhere in Kenya;

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

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

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

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

"sell" includes—

(a) barter or exchange without use of money;

(b) offer or expose for sale, barter or exchange without use of money;

(c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or indirect pecuniary benefit; 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 5.

Purpose of the Act

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

(2) For the avoidance of doubt, this Act shall not apply to any matter in respect of the functions of the National Government regarding the prescribing and enforcement of standards of production, manufacture, importation and exportation of alcoholic drinks and similar matters.

PART II—ADMINISTRATION

Establishment of the County Alcoholic Drinks Regulation Committee

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

(2) The County Committee shall be responsible for—

(a) receiving, review, approving and granting licences in accordance with applications recommended by the Sub-County Committees;

(b) receiving and hearing appeals from decisions made by the Sub-County Committees; and

(c) carrying out any other function as may be assigned by the County Executive Member.

(3) The County Committee shall consist of—

(a) the Chairperson, who shall be competitively recruited by the County Public Service Board and appointed, with the approval of the County Assembly, by the Governor;

(b) the County public health officer;

(c) the officer responsible for co-ordinating national government functions in the County;

(d) the officer for the time being responsible for physical and land use planning in the County;

(e) one person designated by Kenya Bureau of Standards; and

(f) subject to the two-thirds gender rule prescribed by Article 27(8) of the Constitution, three residents of the County appointed by the Executive Member through a competitive process—

(i) one of whom shall be a youth;

(ii) one of whom shall be nominated by an association of businesspersons operating in the County; and

(iii) one of whom shall represent faith-based organisations in the County.

(4) The conduct of business and affairs of the County Committee shall be as prescribed.

(5) The members appointed under sub-section (3)(f) shall be eligible for appointment if they possess at least an academic certificate from a tertiary institution recognised in Kenya.

Establishment of Sub-County Alcoholic Drinks Regulation Committee

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

(a) receive, review and recommend for approval, applications for licence in accordance with this Act; and

(b) 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, conduct inspections or other visits to licensed premises at such times as it may deem appropriate.

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

(a) the Sub-County administrator appointed under the County Governments Act, 2012, who shall be the Chairperson;

(b) the Sub-County public health officer;

(c) the officer responsible for co-ordination of national government functions in the Sub-County;

(d) the officer for the time being responsible for physical planning in the Sub-County;

(e) one person nominated by religious organizations in the Sub-County in accordance with the prescribed procedure;

(f) 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;

(g) one person to nominated by an association of businesspersons operating in the Sub-County;

(h) the officer in charge of the Kenya Police Service in the Sub-County; and

(i) the officer in charge of the Directorate of Criminal Investigations in the Sub-County.

(4) The members appointed under sub-section (3)(e), (f) and (g) shall be eligible for appointment if they possess at least an academic certificate from a tertiary institution recognized in kenya.

PART III—THE COUNTY ALCOHOLIC DRINKS CONTROL FUND

Establishment of the Fund

6. There is established a County fund to be known as the County Alcoholic Drinks Control Fund.

Purpose of the Fund

7. The Fund shall be used for—

(a) the establishment of rehabilitation and treatment centers in the County;

(b) facilitating public education and awareness creation campaign in the County regarding the harms of excessive alcohol consumption;

(c) facilitating the carrying out of research and similar studies regarding the better regulation of the alcoholic drinks sector in the County; and

(d) facilitating the participation of the residents of the County in the regulation of the alcoholic drinks sector in the County.

Sources of funds of the Fund

8. (1) There shall be paid into the Fund—

(a) fees paid or collected under this Act;

(b) fines imposed or collected by the County Government under this Act;

(c) such sums as may be realized from property forfeited to the County Government under this Act;

(d) monies appropriated by the County Assembly for the purposes of the Fund; and

(e) gifts, grants and bequests from sources authorized by the County Executive Committee member responsible for matters relating to Finance.

(2) Where in terms of sub-section (2) (c) any immovable property is assigned to the Fund, the County Executive Member may deal with the property in such manner as he/she thinks fit and may sell the property and use the proceeds of sale for the purposes for which the Fund is established.

(3) All receipts, earnings, revenues or accruals of the Fund shall be paid into the County Revenue Fund.

Administration of the Fund

9. Subject to the provisions of the Public Finance Management Act, 2012, and Public Finance Management (County Governments) Regulations, 2015, the County Executive Committee member responsible for matters relating to finance shall prescribe Regulations for the administration of the Fund.

PART IV—LICENSING

Control of alcoholic drinks

10. (1) No person shall—

(a) manufacture or otherwise produce; or

(b) sell, distribute or dispose of, or deal with, any alcoholic drink in the County except under and in accordance with a licence issued under this Act.

(2) Any person who contravenes the provisions of sub-section (1) commits an offence.

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

(a) the importation of alcoholic drinks into the country if the alcoholic drink has been imported to the country pursuant to an

import license issued under the Alcoholic Drinks Control Act, 2010;

(b) the *bona fide* administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon registered under the Veterinary Surgeons Act or a pharmacist registered under the Pharmacy and Poisons Act, of a medicine containing alcoholic drink;

(c) the sale of spirituous or distilled perfume, or perfumery;

(d) the sale of industrial alcohol;

(e) the sale by auction by an auctioneer, licensed under the Auctioneers Act, 1996, of an alcoholic drink in quantities not less than those authorized to be sold under a wholesale alcoholic drink licence belonging to a wholesale dealer, on the licensed premises of the dealer;

(f) the sale by a deceased person's legal personal representative of an alcoholic drink forming part of the estate of the deceased person;

(g) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;

(h) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets;

(i) the sale of alcoholic drink at the County Assembly buildings, if sold with the permission of the Speaker of the County Assembly; and

(j) the sale of alcoholic drink to the members only of any canteen, club, institute, mess or similar institution of the disciplined forces for reasons other than for personal profit.

Application for a licence

11. (1) A person intending to produce, manufacture, distribute any alcoholic drink in the County or to operate an establishment for the sale of an alcoholic drink shall make an application in writing in the prescribed form to the Sub-County Committee in the Sub-County where the premise is to be situated and shall pay a prescribed fee.

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

(a) comprehensive information on the nature, orientation and other justification for the establishment of the manufacturing plant or establishment for sale;

(b) an indication as to whether the manufacture or sale of the alcoholic drink is licensed in another County and if so the evidence of such licensing;

(c) for a manufacturer's licence, certification from Kenya Bureau of Standards; and

(d) such other matters as may be prescribed.

Notice by Sub-County Committee

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

(a) published at the office of the Sub-County Administrator for a period of not less than twenty-one consecutive days;

(b) posted in some conspicuous place at or near the applicant's premises;

(c) sent to the Inspector-General of Police, or to such police officer as the Inspector-General may have notified the Governor that he has appointed to receive it on his behalf;

(d) sent to the Sub-County public health officer in the Sub-County in which the premises in respect of which the licences are applied for are situated; and

(e) sent to the Sub-County Physical Planning Officer.

Report by Sub-County officers on application

13. (1) The Sub-County Public Health Officer and the sub- County Physical Planning Officer 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.

(2) The Inspector-General of Police or, as the case may be, of the police officer appointed by him for that purpose shall submit a report to

the Sub-County Committee on any matter relevant to the application if in his opinion the applicant does not qualify to be granted a license.

Objection to application

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

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

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

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

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

15. (1) Every person making an application shall, save as otherwise provided, appear in person or by an advocate before the Sub-County Committee, and shall satisfy the Sub-County Committee that there is need for the grant of a licence of the type applied for in the particular locality in respect of which the application is made.

(2) A Sub-County Committee may require the personal appearance before it of the applicant, or of the manager of the premises to which the application relates, or of both of them and of any other person whose attendance is considered by the Committee to be necessary.

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

Residents may be represented at hearing

16. A Sub-County may authorize, in writing, any person to appear before any Sub-County Committee having jurisdiction in any part of the area within the Sub-County for the purpose of representing the residents of that part in respect of any objection lodged to an application.

Evidence may be taken on oath at hearing

17. Where a Sub-County Committee considers it necessary to take evidence respecting any question to be determined by the court, such evidence shall be given on oath, and the chairman shall be empowered to administer oaths.

Penal Code to apply to proceedings at hearing

18. 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.

Records of Sub-County Committee proceedings

19. Every Sub-County Committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon:

Provided that no decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned.

Record of recommendation of Sub-County Committee

20. The Sub-County Committee shall, within twenty- one days of receipt of the application under section 11, record the application and assess the same on the basis of the objections received if any and the interests of the sub- County, and shall ensure that—

(a) the available premises are suitable with regard to the nature of the licence being sought;

(b) the premises conform to the prescribed requirements of the occupational health and safety regulations;

(c) the applicant possesses the infrastructure and equipment necessary to carry out the business applied for;

(d) the applicant for a licence to brew, distill , bottle or manufacture an alcoholic drink possesses necessary qualifications and relevant requirements stipulated under Standards Act or any other relevant written law; and

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

Grant of a licence

21. (1) The Sub-County Committee shall, after considering the application under section 11, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the Sub-County Committee has no objection to the application under section 11, it shall submit the application to the County Committee for review, approval and grant of licence.

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

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

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

(a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or

(b) make comments and recommendations thereon and return it to the applicant within fourteen days.

(6) The applicant to whom the application is returned under sub-section (5)(b) may re-submit a revised application within thirty days of the date of notification to the Sub-County Committee.

(7) On receipt of any revised application under sub-section (6), the Sub-County Committee shall, within thirty days review the application in accordance with this Act and upon such review, if satisfied, it shall submit the application to the County Committee for consideration.

(8) Where the County Committee grants a licence under this section it shall, publish the grant in the Ward Administrator's office in the respective Ward.

License of premises where alcoholic drinks are sold

22. (1) The County Committee shall not grant a new licence for the sale of an alcoholic drink to be consumed on the premises or sale of an alcoholic drink in an off-licence retail outlet commonly referred to as wines and spirits unless the County Committee is satisfied that—

(a) it would be in the public interest for provision to be made for the sale of alcoholic drink for consumption on the premises or in the off-licence retail outlet in the particular locality in respect of

which the application is made, and that the number of such premises in respect of which such licences have already been granted is insufficient for the requirement of the locality as provided under the First Schedule:

Provided that no licence shall be granted to sell alcoholic drinks in any institution of basic education including primary and secondary schools or any residential area as have been demarcated by or under the relevant written laws;

(b) the premises in respect of which the application is made are in good repair and are in a clean and wholesome condition, and are provided with adequate and proper sanitary arrangements;

(c) the premises, other than hotel premises, in respect of which the application is made are located within a reasonable distance from any nursery, primary, secondary or any other learning institutions for persons under the age of eighteen years;

Provided that where a hotel is located within three hundred metres from the school, it shall not bear any outdoor promotion or advertisement related to alcoholic drinks;

(d) the premises in respect of which the application is made is located within the areas prescribed under the First Schedule.

(2) The 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) For avoidance of doubt—

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

(b) the maximum number of premises licenced under paragraph (1) shall not exceed the number provided under the First Schedule in respect of each urban area.

(4) The County Executive Member shall, subject to the approval by the County Assembly, classify and zone-specific areas or streets within the urban areas to be alcohol sale free zones.

(5) Where an area has been classified as an alcohol sale free zone, no alcoholic drink licence shall be issued for sale of alcoholic drinks within that area.

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

Licences to Bodies Corporate

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

Provided that the 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 secretary, but any person for the time being holding such office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, such licence.

Persons not eligible to be granted a licence

24. (1) The County Committee shall not grant a new licence or transfer a licence to any person who—

(a) has failed to satisfy the County Committee, if called upon to do so, of his good character and standing in relation to the expectations in this Act;

(b) has been convicted of an offence under this Act or of any offence of which the sentence is imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months;

(c) in the case of a retail licence, is not resident in Kenya;

(d) is under eighteen years of age; or

(e) is an undischarged bankrupt.

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

(a) the licensee is not a fit and proper person to hold the licence;

(b) the licensee has been convicted of an offence under this Act or any Act at any time in force regulating the manufacture, distillation, distribution sale of an alcoholic drink for more than three times within one year;

(c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months;

(d) the business to which the licence relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by the County Committee;

(e) the conditions of the licence have not been satisfactorily fulfilled; or

(f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the County Public Health Officer and the owner of the premises or the licensee refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by the County Committee.

Types of licences

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

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

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

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

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

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

alcoholic drink occurs under conditions for a general alcoholic drink licence;

(b) designate an area as a bar area where sale and consumption of alcoholic drink shall only take place and which shall be a restricted area for access to persons under the age of eighteen years; and

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

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

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

Grant and renewal of licences

26. (1) Except as otherwise provided in this Act, the County Committee may, subject to this Part, grant, renew, transfer or remove a licence, and may embody therein such conditions as it may deem appropriate, or it may refuse to grant, renew, transfer, withdraw or cancel a licence.

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

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

(a) be subject to the payment of such fee or fees as may be prescribed;

(b) expire on the thirty first day of December in each year;

(c) specify in the licence the hours stipulated under the Second Schedule within which the sale of alcohol is permitted and any other relevant condition; and

(d) specify the address of the person to whom the licence has been granted including the physical address and relevant geo-locational information of the premises from where the licenced activities shall be undertaken.

(4) Where an application for the renewal of a licence has been made and the 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 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 County Committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the County Committee.

Transfer of licences

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, recommend to the County Committee to grant the transfer of such licence.

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

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

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

Review of applications

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

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

(3) Upon receipt of a request under this section, the County Committee shall notify the Sub-County Committee of the pending review.

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

(5) The County Committee may—

(a) dismiss the request for review if in its opinion, the request is frivolous or vexatious;

(b) uphold the decision of the Sub-County Committee;

(c) annul the decision of the Sub-County Committee;

(d) give directions to the Sub-County Committee with respect to any action to be taken; or

(e) make any other declaration as it may deem fit.

Refusal to renew licence

29. 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 County Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such period to commence on the day after the last sitting of the 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.

Cancellation of licences

30. (1) Upon receipt of a report made under section 13 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 County Committee in respect of such licence or the licensed premises specified therein as, in the opinion of the Sub-County Committee, is necessary.

(4) The County Committee upon receiving and reviewing the recommendations under sub-section (3), may make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the County Committee, is necessary.

(5) Any person aggrieved by the decision of the County Committee 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 County Committee.

(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-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 County Committee or of the Court as the case may be.

Reports by public health officers and police officers

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

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

(3) A police officer not below the rank of Inspector 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 licence.

(4) 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 sub-section (1) is required.

Display of licences

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

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

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

Appeals

33. Subject to section 12, an applicant whose application for a new licence, to renew or transfer a licence has been refused or a person aggrieved by decision of the County Committee may appeal against such refusal or decision to the High Court.

List of suppliers to be maintained by licensee

34. (1) A licencee under this Act shall—

(a) maintain a list of all alcoholic drinks manufactured, distributed or sold in the prescribed form;

(b) maintain a list of persons who supply to the licenced persons inputs for manufacturing alcoholic drinks in the case of a manufacturer and the persons who supply alcoholic drinks to a licenced person in the prescribed form; and

(c) submit in the list described under paragraphs (a) and (b) every half yearly to the County Executive Member.

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

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

PART V—GENERAL REQUIREMENTS

Conformity with requirements

35. (1) No person shall manufacture, or distribute or sell an alcoholic drink in the County that does not conform to the requirements of this Act or any other written law regulating alcoholic drinks.

(2) A person who contravenes the provisions of this section in relation to manufacture, distribution of an alcoholic drink commits an offence and shall be liable to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding five years, or to both.

(3) A person who contravenes the provisions of this section in relation to sale of an alcoholic drink commits an offence and shall be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

Supply to young persons

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

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

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

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

(a) a national identity card;

(b) a valid passport; or

(c) any other documentation as the Executive Member may prescribe.

Display of signs

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.

(2) Every sign required to be posted under sub-section (1) shall—

(a) be displayed on a surface measuring not less than twelve inches by eight inches in size;

(b) bear the word "WARNING" in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement;

(c) be in English or in Kiswahili.

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

(4) All nursery, primary and secondary schools shall cause to be installed signs bearing the words "WARNING: THIS IS AN ALCOHOL-FREE AREA" in conspicuous areas within their precincts.

Vending machines

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

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

Packaging

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

(2) Notwithstanding the provisions of sub-section (1)—

(a) no person shall manufacture, pack, distribute or sell in the County an alcoholic drink in a container of less than two hundred and fifty millilitres;

(b) any other distilled or fortified alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a); and

(c) labelling on containers should have the health warnings as prescribed under national standards and legislation.

(3) Each bottle in which an alcoholic beverage is packaged shall be inscribed with the name of the manufacturer in such a manner as the inscription may not be altered or defaced.

(4) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Transportation of alcoholic drinks

40. The County Executive Committee member shall, by Regulations, prescribe the manner that vehicles used for the transportation of liquor for the purposes of sale or distribution shall be branded including—

(a) the proportion of the surface area of the vehicle that may be covered by branding; and

(b) the proportion of the branded area of the vehicle that shall be reserved for health warnings.

Production, sale and distribution of traditional liquors

41. (1) No person shall produce, distribute, sell or offer for sale traditional liquor without a license issued by the County Alcoholic Drinks Control Committee.

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

(a) that person has been vetted by the Sub-County Committee and a recommendation has been made to the County Committee to issue the person with a licence;

(b) the premises for the production or manufacture of the traditional liquor has been approved by the County Public Health Officer; and

(c) the process for the production or manufacture of the traditional liquor conforms to the standards prescribed by the Kenya Bureau of Standards.

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

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

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

PART VI—SALE AND CONSUMPTION

Access to persons under eighteen years

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

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

(3) Any person found by a police officer to be drunk and 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 (3) Any person who contravenes the provisions of sub-section (1) and (2) commits an offence.

Sale to intoxicated persons

43. Any licensee who sells an alcoholic drink to a person already in a state of intoxication or by any means encourages or incites him to consume an alcoholic drink commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings.

Disorderly conduct

44. (1) Any person found by a police 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.

(2) Any person convicted of being drunk and incapable or drunk and disorderly in or near a place referred to in sub-section (1) shall be liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding three months or to both.

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

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

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

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

Sale to driver of motor vehicle

45. (1) A person shall not knowingly sell, offer for sale or supply an alcoholic drink to a person who being in charge of driving a vehicle or being likely to be driving a vehicle immediately after the consumption of the alcoholic drink.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding twenty thousand or to imprisonment for a term not exceeding one month.

Breach of licence

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

(a) for a first offence, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding nine months, or to both;

(b) for a second or subsequent offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both, and in addition to any penalty imposed under paragraph (a) or (b), the court may order, the forfeiture

of all alcoholic drinks found in the possession, custody or control of the person convicted, together with the vessels containing the alcoholic drink.

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

(a) sell, supply or offer for sale an alcoholic drink in any workplace, office, factory, public park or any public recreational facility, public transport vehicle, public beach, sports stadium or public street; or

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

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

Sale to authorised officers

47. Any person who knowingly sells, supplies or offers an alcoholic drink to an authorized officer or to a police officer in uniform or who harbours or suffers to remain on licensed premises any such police officer except for the purpose of keeping or restoring order or otherwise in the execution of his duty, commits an offence and is liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

Non-disclosure of conviction

48. Any person who is required by any provision of this Act to disclose any conviction and fails to do so when making any application commits an offence.

Sale without a licence

49. (1) If any person purchases any alcoholic drink from a licensee whose licence does not cover the sale of that alcoholic drink for consumption on the premises, and drinks the alcoholic drink on the premises where it is sold, or in any premises adjoining or near to those premises, if belonging to the seller of the alcoholic drink or under his control or used by his permission, or on any highway adjoining or near any such premises, and it is proved to the court that the drinking of the alcoholic drink was with the privity or consent of the licensee who sold the alcoholic drink, the licensee commits an offence.

(2) If a licensee whose licence does not cover the sale of alcoholic drink to be consumed on his premises himself takes or carries, or employs or suffers any other person to take or carry, any alcoholic drinks out of or from his premises for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any place (whether enclosed or not, and whether or not a public thoroughfare) other than the licensed premises, with intent to evade the conditions of the licence, the licensee commits an offence, and, if the place is any house, tent, shed or other building belonging to the licensee or hired, used or occupied by him, the licensee shall be deemed, unless the contrary is proved, to have intended to evade the conditions of the licence.

Manufacture and sale of adulterated alcoholic drinks

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

(a) any alcoholic drink which has been in any way adulterated, or diluted by any person; and

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

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

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

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

(5) On the conviction of a licensee of an offence under sub-section (2), (3) and (4) the court may, in addition to any other penalty it may lawfully impose, if it finds that the drink in respect of which the offence was committed was adulterated by a substance or substances which rendered the drink unfit for human consumption, and unless the licensee proves to the satisfaction of the court that he took all reasonable

precautions against such adulteration and that such adulteration took place without his knowledge or consent, order that his licence be forfeited, and no licence shall thereafter be granted or transferred to him.

Proof of sale

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

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

Endorsement of conviction on licence

52. Every licensee who is convicted of an offence under this Act shall produce his licence to the court convicting him, and the court shall endorse every such conviction on the licence and the relevant administrative officer of the court shall inform the relevant County Committee.

Forfeiture of licence upon conviction

53. If in any proceedings before a court it appears that a licensee—

(a) whether he was present in the licensed premises or not, has permitted an unlicensed person to be the owner or part owner of the business of the licensed premises or to have a substantial interest in that business, except with the consent of the County Committee;

(b) is convicted of an offence under this Act and a previous conviction within the preceding twelve months of the same or any other offence under this Act or three such previous convictions within the preceding five years is or are proved; or

(c) is twice convicted within twelve months of selling, offering or keeping for sale any adulterated alcoholic drink, then the court may, in addition to any other penalty which it may lawfully impose, order that his licence be forfeited, and that no licence shall be issued or transferred to him for a period of two years.

PART VII—ADVERTISEMENTS AND PROMOTIONS

Prohibited advertisements and promotions

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

(a) in a manner that is false, misleading or deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the alcoholic drink; and

(b) in places demarcated under any written law as residential areas or a nursery, primary, secondary school, or other institutions of learning for persons under the age of eighteen years, or a place of worship, health facility or a public playground, or in public service vehicles.

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

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

(a) protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks; and

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

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

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

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

(b) using such things or materials that are associated with persons under the age of eighteen years.

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

(3) Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

Advertisement on digital platform or mobile media

56. No person shall offer for sale or otherwise advertise alcoholic beverages on a digital platform or through the use of any form of mobile medium.

Encouraging consumption

57. (1) A licensee shall not—

(a) award, grant or give to a person an alcoholic drink for consumption in or outside the licensed the premises without any consideration equivalent to the market price of the alcoholic drink; or

(b) promote any alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.

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

(3) Pursuant to Article 24(2) of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution is limited to the extent specified in this section for the purpose of protecting consumers of alcoholic drinks from misleading or deceptive inducements to use alcoholic drinks and also for the purpose of protecting persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks.

PART VIII—ENFORCEMENT

Appointment of authorised officers

58. (1) Enforcement officers appointed under the Meru County Enforcement Act, 2019 shall be authorised officers for purposes of this Act.

(2) The County Executive Member shall issue a certificate of appointment to every person appointed as an authorized officer under sub-section (3).

(3) In addition to the authorized officers appointed under this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

(a) public health officers appointed under the Public Health Act;

(b) enforcement officers appointed under the National Police Service Act, 2011, Standards Act, Weights and Measures Act and Anti-Counterfeit Act; and

(c) any other person upon whom any written law vests functions of the maintenance of law and order.

Places authorised officers may enter

59. (1) For the purposes of ensuring compliance with this Act, an authorised officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

(2) An authorised officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 58 (2) or under any other Law.

Powers of authorised officers

60. In carrying out an inspection in any place pursuant to section 59, an authorised officer may—

(a) examine an alcoholic drink or anything referred to in that section;

(b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the alcoholic drink or thing;

(c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains the alcoholic drink or thing;

(d) conduct any test or analysis or take any measurements; or

(e) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

Use of records

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

(a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;

(b) reproduce the data in the form of a print- out or other intelligible output and take it for examination or copying;

(c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; and

(d) scrutinize any other record system in use in that place.

Enter into dwelling places

62. 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 63.

Court to issue warrant

63. Upon an *ex parte* application, a magistrate or judge of the High Court, may issue a warrant authorising the authorised officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that—

(a) the dwelling place is a place referred to in section 63;

(b) entry to the dwelling place is necessary for the administration or enforcement of this Act; and

(c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

Use of force

64. An authorised officer executing the warrant issued under section 63 shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorised in the warrant.

Certificates of analysis

65. An authorised officer who has analyzed or examined an alcoholic drink or thing under this Act, or a sample of it, shall issue a certificate or report setting out the results of the analysis or examination.

Assistance of officers

66. (1) The owner of a place inspected by an authorised officer under this Act or the person in charge of the place and every person found in the place shall—

(a) provide all reasonable assistance to enable the authorised officer to carry out his duties under this Act; and

(b) furnish the authorised officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

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

Obstruction of authorised officers

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

Seizures

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

(2) The authorised officer may direct that any alcoholic drink or thing seized be kept or stored in the place where it was seized or that it be removed to another place.

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

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

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

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

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

Forfeiture of seized vessels, etc

69. Where a person is convicted of an offence of producing, manufacturing and transporting alcoholic beverages contrary to the provisions of this Act, the premises, vessels, vehicles, tools or implements used in the commission of the offence may be forfeited to the County Government.

Order for restoration

70. (1) The High Court may order that the alcoholic drink or thing be restored immediately to the applicant if, on hearing the application, the court is satisfied that—

(a) the applicant is entitled to possession of the alcoholic drink or thing seized; and

(b) the alcoholic drink or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under sub-section (1) the court is satisfied that the applicant is entitled to possession of the alcoholic drink or thing seized but is not satisfied with respect to the matters mentioned in paragraph (b) of sub-section (1), the court may order that the alcoholic drink or thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

General penalty

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

PART IX—MISCELLANEOUS PROVISIONS

Regulations

72. (1) The County Executive Member may, make Regulations generally for the better carrying out of the objects of this Act.

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

(a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;

(b) prescribe the forms of applications, notices, licences and other documents for use under this Act; and

(c) prescribe the fees payable under this Act.

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

Transitional matters

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

Provided that the validity of a licence granted before the commencement of this Act shall expire on the 31st December, 2023.

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

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

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

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

(5) Any person who prior to the commencement of this Act, was recruited under the Meru County Alcoholic Drinks Control Act, 2016, shall be deemed to have been so appointed or recruited in accordance with this Act.

Provided that nothing in this sub-section shall be construed to include the recruitment of persons serving in the board established under the Meru County Alcoholic Drinks Control Act, 2016.

Repeals

74. The Meru County Alcoholic Drinks Control Act, 2016 is hereby repealed.

FIRST SCHEDULE (S.22 (1))

Permitted Areas of Sale and Number of Outlets

Permitted Areas of Sale	*Maximum number of permitted on licence retail alcoholic drinks premises (Bars)*	*Maximum number of permitted off-licence retail alcoholic drinks premises (Wines and Spirits)*
Urban Area		
Area A		
Area B		
Area C		

SECOND SCHEDULE (S.26)

LICENCE HOURS

S/No.	*Licences*	*Licence hours, conditions and exceptions*
1.	Alcoholic Drink Licence (on licence) for retail outlets commonly known as Bar	(a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m.
		(b) During weekends and public holidays during the hours of 2:00 p.m. to11:00 p.m.
2.	General retail outlet (off-licence) Alcoholic Drinks Licence for outlets or liquor shops commonly referred to as wines and spirits	Authorised to sell alcoholic drinks on any day of the week during the hours of 12.00 p.m. to 9.00 p.m.
3.	Supermarket or Franchised Retail Chain Stores Alcoholic Drink Licence (Off-Licence)	Authorised to sell alcoholic drink on any day of the week during the hours of 12.00 p.m. to 9.00 p.m.
4.	Hotel Alcoholic Drink Licence	Authorized to sell alcoholic drink on any day of the week to a lodger - for his own consumption and his guest's consumption on the premises, at any hour.

5.	Members Club Alcoholic Drink Licence A members club licence shall only be held to a members club that is a non-profit association incorporated under the Society's Act and existing solely for the benefit of members and where no profits are drawn by any member of the club or any person managing or associated with the operations and governance of the club.	Authorized to sell alcoholic drink to members on any day of the week at any hour.
6.	Night Club Alcoholic Drinks Licence	Authorized to sell alcoholic drink any day of the week during the hours of 7.00 p.m. to 3.00 a.m.
7.	Temporary/occasional alcoholic drinks licence	Authorised to sell alcoholic drink on the day and during the hours stipulated in the license by the County Committee for the purposes of specific occasions, ceremonies or events as indicated in the application provided that the licence shall not be granted for a period exceeding six hours.

THIRD SCHEDULE (S.26)

TYPES OF LICENCES

1. Manufacturer's licence

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

(a) manufacture and store the manufactured alcoholic drink in his depot;

(b) sell the product of his manufacturing plant by wholesale in accordance with the conditions that are for the time being, applicable to a holder of a wholesale licence or by delivery from depot throughout Kenya in accordance with the Alcoholic Drinks Control Act, 2010:

Provided that the manufacturer shall be required to possess a licence to distribute the product of his manufacturing plant within the County; and

(c) bottle the alcoholic drink subject to such conditions as may be prescribed.

For the purposes of this paragraph, "depot" means premises of whatever description which are occupied by a Manufacturer for of his trade.

2. Wholesaler's licence

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

Provided that a licencee shall not sell any alcoholic drink for consumption in the premises.

3. Retailer's licence

A retail licence authorizes the licensee to sell an alcoholic drink on the premises, at the hours and subject to such other conditions as are specified in the licence.

4. Distributor's licence

A distributor's licence authorizes the licensee to distribute or supply an alcoholic drink within the County subject to such other conditions as are specified in the licence—

Provided that a distributor of an alcoholic product in the County shall establish a depot in the County and possess a licence for the depot and for distributing the product.

FOURTH SCHEDULE (S.21(3))

ALCOHOL FEES AND CHARGES

A person shall not carry out any alcohol business or provide the services specified in this Schedule without a valid licence issued by the County Government of Meru and upon payment of the fees prescribed below—

		Meru and Maua Towns (Formerly Municipalities)			**Other Markets**		
S/No	*Type*	*Application Fee*	*Licences Fee*	*Total*	*Application Fee*	*Licences Fee*	***Total***
1.	General Retail	5,000	30,000	**35,000**	5,000	15,000	**20,000**
2.	Wines and Spirits (Wholesale)	5,000	50,000	**55,000**	5,000	50,000	**55,000**
3.	Wines and Spirits Retail)	5,000	24,000	**29,000**	5,000	24,000	**29,000**
4.	Bar, Restaurant and Nyama Choma	5,000	40,000	**45,000**	5,000	30,000	**35,000**
5.	Temporary Licence	5,000	6,000	**11,000**	5,000	6,000	**11,000**
6.	Night Club	5,000	100,000	**105,000**	5,000	50,000	**55,000**
7.	Depot	5,000	30,000	**35,000**	5,000	30,000	**35,000**
8.	Distributor	5,000	50,000	**55,000**	5,000	50,000	**55,000**
9.	Members Club	5,000	100,000	**105,000**	5,000	100,000	**105,000**
10.	Hotel Alcoholic Drinks Licence	5,000	50,000	**55,000**	5,000	30,000	**35,000**
11.	Supermarkets (Small)	5,000	50,000	**55,000**	5,000	50,000	**55,000**
12.	Supermarkets (Big)	5,000	70,000	**75,000**	5,000	70,000	**75,000**
13.	Manufacturer	5,000	250,000	**255,000**	5,000	250,000	**255,000**
14.	Promotion/Advertisement (Per Day)	5,000	7,500	**12,500**	5,000	7,500	**12,500**
15.	Vehicle Branding	5,000	10,000	**15,000**	5,000	10,000	**15,000**
16.	Impounding Fee		1,000	**1,000**		1,000	**1,000**
17.	Bond Withdrawal		2,000	**2,000**		2,000	**2,000**
18.	Transfer of licence/change of details		2,000	**2,000**		2,000	**2,000**
19.	All New Applicants	10,000		**10,000**	10,000		**10,000**