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No. 4 of 2024

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THE KIRINYAGA COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2024

AN ACT of the County Assembly of Kirinyaga to establish a framework for the licensing and regulation of the manufacturing, distribution, sale, advertising and promotion of alcoholic drinks; and for connected purposes.

ENACTED by the County Assembly of Kirinyaga, as follows—

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Kirinyaga County Alcoholic Drinks Control Act, 2024 and shall come into operation on the date of publication in the *Kenya Gazette.*

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, a traditional alcoholic drink (muratina), 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 any person designated as Authorised Officer under Section 48;

"Bar Area" in relation to 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;

"Chief Officer" means the Chief Officer of the Department for the time being responsible for alcohol drinks licensing and control;

"Child" has the meaning assigned under the Children's Act;

'County Alcoholic Drinks Control Committee" means the County Alcoholic Drinks Control Committee established under Section 8;

"Directorate" means the Directorate of Alcoholic Drinks Control established under Section 4;

"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;

"dB(A)" means decibels of noise, measured with an A-weighted filter;

"Decibe" means a dimensionless unit used in comparison to the magnitude of sound pressure or power;

"Executive Committee Member" means the County Executive Committee Member responsible for licensing and control of alcoholic drinks;

"Fund" means the Alcoholic Drinks Control Fund established under Section 10;

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

"Illicit Brew" means an alcoholic drink that—

(a) is manufactured contrary to the provisions of the relevant laws;

(b) is manufactured by unlicensed person or in unlicensed premises;

(c) is not certified under the Standards Act;

(d) is a counterfeit; and

(e) does not bear a valid Kenya Bureau of Standards; or

(f) does not bear a valid Kenya Revenue Authority excise stamp;

"Institution of Basic Education" has the same meaning assigned to it under the Basic Education Act;

"Licensee" means a holder of a Licence granted under this Act;

"Locality" means a city, municipality, town, urban area, Sub-County or ward as the case may be;

"Manager" in relation to —

(a) a casino, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the casino;

(b) a health institution includes the owner or a person in charge or control of the health institution; and

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

"National Body" means a body or department in the National Government recognized in law to deal with matters of alcoholic drinks control and management.

"Noise" means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment;

"Noise Pollution" means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment;

"Off-Licence" means the Licence granted to a person who intends to sell an alcoholic drink not for consumption at the point of sale;

"On-Licence" means a Licence granted to a person who intends to sell an alcoholic drink for consumption at the point of sale;

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

"Place of Entertainment" means premises or any other place where activities including amusement, enjoyment, playing of music, dancing, and performing of shows take place;

"Property Boundary" means the surveyed line at the ground surface which separates the facility owned, rented or leased by one or more persons from any other such facilities;

"Public Place" means any place whether indoor or outdoor, privately or publicly owned, to which the public or a substantial group of the public have access by right or invitation, expressed or implied, whether by payment or not but excludes a place used exclusively by one or more persons for a private of other personal purpose;

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

"Sell" includes—

(a) barter or exchange without the use of money;

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

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

(d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;

"Silent Zone" means a designated area that includes health facilities, educational and research institutions, courts, and any other area declared as such by the Authority;

"Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameters in a medium with internal forces that cause compression and rarefaction of that medium;

"Sound Source" means any person or thing from which sound is emitted;

"Sub-County Alcoholic Drinks Committee" means the Sub-County Alcoholic Drinks Control Committee established under Section 7.

Purpose of the Act

3. The purpose of this Act is toestablish a framework for the licensing and regulation of the manufacturing, distribution, sale, advertising and promotion of alcoholic drinks, the promotion of research, and treatment and rehabilitation for persons dependent on alcoholic drinks in order to —

(a) reduce and mitigate the negative health, social and economic impact and other costs on individuals and communities resulting from or associated with the manufacturing, distribution, sale, consumption, advertising and promotion of alcoholic drinks;

(b) protect the health of the individual in light of the dangers of consumption of alcoholic drinks;

(c) protect persons under the age of eighteen years from negative impact on social development as a result of exposure to advertisements and promotion of alcoholic drinks;

(d) provide for coordination and collaboration with other government agencies and support the implementation of national policies on alcoholic drinks control in the County;

(e) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;

(f) provide a framework for the provision of civic education;

(g) facilitate and enhance community participation in alcoholic drinks control;

(h) ensure fair and ethical business practices related to the manufacturing, distribution, sale, advertisement and promotion of alcoholic drinks; and

(i) eliminate illicit brews, counterfeit adulterated and sub-standard alcoholic drink products in the County.

PART II —ADMINISTRATION

Establishment of Directorate of Alcoholic Drinks Control.

4. (1) There is established in the County the Directorate of Alcoholic Drinks Control.

(2) The functions of the Directorate shall include —

(a) regulating alcohol manufacturing, distribution, sale, advertising and promotion of alcohol in the County to ensure the realization of the purpose of this Act;

(b) licensing and enforcing the conditions of a Licence granted under this Act;

(c) publicize the decisions of the County Alcoholic Drinks Control Committee in accordance with Section 95 of the County Governments Act;

(d) subject to Section 8 (2) (a), cancel Licence provided under this Act;

(e) coordinate the operations of the committees established under this Act;

(f) coordinate the establishment, implementation and operations of alcohol treatment and rehabilitation facilities and programmes;

(g) ensure that there is effective public participation in accordance with the framework for citizen participation established under County and national laws

(h) undertake public education, training, sensitization or in any other manner, disseminate information on matters relating to alcohol to the public in order to influence positive social development and a responsible drinking culture;

(i) recommend to the Executive Committee Member the formulation of policies, rules, guidelines and regulations for better implementation of this Act;

(j) propose to the Executive Committee Member collaboration and linkages programmes for better implementation of this Act;

(k) monitor and evaluate the impact of this Act on community development and advise the Executive Committee Member;

(l) prepare and submit to the Executive Committee Member a bi-annual status report on licensing, the impact of licensing, compliance with the licensing conditions and public awareness of alcoholic drinks control;

(m) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to alcoholic drinks control and disseminate relevant information; and

(n) carry out any other functions as may be assigned by the Executive Committee Member for better implementation of this Act.

(3) The report referred to in sub-section (2) (l) shall contain among others—

(a) data on the status of alcoholic drinks use and impact disaggregated in terms of age, gender, and geographical location;

(b) impact of alcoholic drinks in the County;

(c) measures adopted to control and reduce the negative impact of alcoholic drinks in the County;

(d) level of public participation in implementing the Act and feedback from residents of the County in relation to appropriate processes for mitigating the impact of alcoholic drinks use;

(e) data on the use of treatment and rehabilitation services in the County;

(f) challenges faced in the implementation of the Act;

(g) level of collaboration with State, Non-State agencies and other Counties; or

(h) any matter relevant to the implementation of the Act.

Appointment of the Director

No. 17 of 2012

5. (1) The Directorate shall be headed by a Director who shall be appointed by the County Public Service Board through a competitive process in accordance with the County Governments Act.

(2) A person shall only be appointed as a Director under this Act if that person—

(a) is a Kenyan Citizen;

(b) possesses an academic degree from a university recognized in Kenya;

(c) has at least five years of post-graduation work experience at a management level;

(d) has no pecuniary interest or is associated with the alcohol industry; and

(e) meets the requirements of Chapter Six of the Constitution of Kenya.

(3) The Director shall be responsible for the day-to-day operations of the Directorate, and in particular, shall ensure that the functions of the Directorate are undertaken.

(4) The Director may be removed from office in accordance with the law.

Appointment of Other Members of Staff

6. The Chief Officer shall in consultation with the County Public Service Board determine and designate the staff establishment required for the Directorate of Alcoholic Drinks Control to effectively perform its functions under this Act.

Sub-County Alcoholic Drinks Control Committee

7. (1) There is established for every Sub-County a Sub-County Alcoholic Drinks Control Committee comprising of —

(a) Sub-County Administrator who shall be the Chairperson;

(b) Deputy County Commissioner;

(c) Sub-County Police Commandant;

(d) Sub-County Director of Criminal Investigation Officer;

(e) Sub-County National Intelligence Officer;

(f) Sub-County Administrative Police Commandant;

(g) A representative from the Chamber of Commerce;

(h) Sub-County Public Health Officer;

(i) Sub-County Planner;

(j) Sub-County Enforcement Officer;

(k) Sub-County Education Officer;

(l) Ward Administrators in the Sub-County

(m) two nominees who shall be male and female appointed by the Executive Committee Member taking into consideration the interests of gender youth and Persons with Disabilities; and

(n) an Officer from the Directorate of Alcoholic Drinks Control appointed by the Director shall serve as the secretary of the Committee.

(2) The Committee shall—

(a) inspect the premises for purposes of verifying the particulars of an application for issuance of a Licence to Manufacturers, Distributors and Retailers;

(b) monitor the general compliance with the provisions of this Act and make recommendations to the County Alcoholic Drinks Control Committee on among others the cancellation of a Licence; and

(c) perform such other functions as may be assigned by the Director.

(3) The members of a Sub-County Alcoholic Drinks Committee appointed under Section 7 (1) (m) shall hold office for a term of three years renewable once upon satisfactory performance.

(4) The Executive Committee Member may remove a member of the Sub-County Alcoholic Drinks Control Committee from office for—

(a) gross misconduct or misbehavior; incompetence or neglect of duty;

(b) inability to perform his duties arising out of physical or mental incapacity;

(c) adjudication of bankruptcy;

(d) violation of the code of ethics; or

(e) conviction of a criminal offence under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months.

(5) The conduct of business and affairs of the Sub-County Alcoholic Drinks Control Committee shall be in the manner prescribed under the regulations.

County Alcoholic Drinks Control Committee

8. (1) There is established a committee to be known as County Alcoholic Drinks Control Committee.

(2) The functions of the Committee shall be to—

(a) consider the recommendations of the Sub-County Alcoholic Drinks Control Committees made under Section 7 (2) (b) and instruct the Director to issue Licences to approved applicants or cancel the Licence of a licensee;

(b) facilitate public participation in matters related to alcoholic drinks control in accordance with the framework for public participation established under the relevant County and National laws;

(c) facilitate and promote in collaboration with other County and National Government Institutions in the establishment of alcohol treatment and rehabilitation facilities and programmes;

(d) collaborate with other County and National Bodies on strategies and plans for the better implementation of this Act;

(e) advise the Executive Committee Member on the necessary regulations and guidelines related to alcoholic drinks control;

(f) consider applications for review on its decisions to reject an application for licensing; and

(g) carry out such other roles necessary for the implementation of the purpose of this Act and perform such other functions as may, from time to time, be assigned by the Executive Committee Member.

(3) The County Alcoholic Drinks Control Committee shall comprise—

(a) A Chairperson appointed by the Governor and approved by the County Assembly;

(b) Executive Committee Member;

(c) Chief Officer responsible for matters of Alcoholic Drinks Control;

(d) County Commissioner;

(e) County Police Commander;

(f) County Criminal Investigation Officer;

(g) County National Intelligence Officer;

(h) County Administrative Police Commandant;

(i) Executive Committee Member at the time being in charge of matters Trade;

(j) County Attorney;

(k) County Education Officer;

(l) County Public Health Officer;

(m) Chief Officer at the time being in charge of Revenue;

(n) County Director of Enforcement;

(o) All Sub-County Administrators;

(p) One person designated by the National Anti-Counterfeit Authority;

(q) One person designated by the Kenya Bureau of Standards;

(r) One person designated by the Kenya Revenue Authority;

(s) Two nominees who shall be male and female appointed by the Executive Committee Member taking into consideration the interests of gender, youth and PWDs; and

(t) The Director responsible for Alcoholic Drinks Control who shall serve as the Secretary of the Committee.

(4) A person shall be qualified for appointment as a Chairperson of the Committee under sub-section 3 (a) if that person—

(a) is a citizen of Kenya and a resident of KirinyagaCounty;

(b) holds a bachelor's degree from a learning institution recognized in Kenya;

(c) has relevant knowledge and ten years experience either in the public or private sector; and

(d) meets the requirements of Chapter Six of the Constitution.

(5) The term of office for the Chairperson shall be three years, which may be renewed for one further term upon satisfactory performance, after which the person shall retire from the Committee.

(6) The office of the Chairperson or a Member of the Committee appointed under sub-section 8 (3) (s) shall become vacant at the expiry of the term or if the holder—

(a) dies;

(b) resigns from office by giving a 30 days' notice in writing addressed to the Executive Committee Member; or

(c) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months.

(7) The Chairperson or a Member of the Committee may be removed from office on any of the following grounds—

(a) violation of the Constitution or any other written law;

(b) gross misconduct;

(c) physical or mental incapacity that leads to the inability to perform the functions of office;

(d) incompetence;

(e) bankruptcy;

(f) absent for three consecutive meetings of the Committee without justifiable cause; or

(g) if the Chairperson or member is convicted of a criminal offence and sentenced to imprisonment for a period of more than six months.

(8) Provided that where a position becomes vacant before the expiry of the term, the appointing authority shall within 60 days ensure the position is filled using the prescribed procedure.

(9) The Chief Officer may assign or delegate relevant staff to ensure that the Committee carries out the functions assigned under this Act.

Restriction on Membership of the Committees

9. A person shall not be a member of any committee established under this Act if such person—

(a) holds a Licence under this Act;

(b) is a partner in a firm or director or shareholder of a company or other body which is the holder of a Licence under this Act;

(c) is directly or indirectly employed as an agent of a person, firm or company which is the holder of a Licence under this Act;

(d) is an un-discharged bankrupt;

(e) has been convicted of a criminal offence or an offence under this Act except for a traffic offence whose penalty is less than six months' imprisonment.

PART III —ALCOHOLIC DRINKS CONTROL FUND

Establishment of the Fund

10. (1) There is established a County Alcoholic Drinks Control Fund which shall be instituted pursuant to Section 116 of the Public Finance Management Act, 2012.

(2) The County Executive Committee Member for Finance shall publish Regulations pursuant to this Section to operationalize the Fund.

Objects of the Fund

11. The objects of the Fund shall be to—

(a) support the regulatory activities of the County and Sub-County Alcoholics Drinks Control Committees and activities related to the oversight, monitoring, and enforcement of this Act and other relevant laws and regulations governing the manufacturing, distribution, and sale of alcoholic drinks;

(b) promote responsible consumption of alcoholic drinks and mitigate the adverse effects of alcohol abuse on public health, safety, and social welfare;

(c) facilitate research, education, and public awareness programs on alcohol-related issues, including harm reduction strategies and alcohol dependency prevention; and

(d) provide financial support for initiatives aimed at addressing alcohol-related harm and promoting community-based interventions, rehabilitation services, and support networks.

Kirinyaga County Alcoholic Drinks Control Fund Committee

12. (1) There is established a committee to be known as the Kirinyaga County Alcoholic Drinks Control Fund Committee.

(2) The membership of the Committee shall comprise—

(a) Executive Committee Member;

(b) Chief Officer at the time being in charge of Alcoholic Drinks Control;

(c) Fund Administrator who shall also serve as the Secretary of the committee;

(d) Director Alcoholic Drinks Control;

(e) Director Social Services;

(f) Director Public Health; and

(g) three members of the public each representing the interests of gender, youth, and persons with disability appointed by the County Executive Member.

(3) The Executive Committee Member may second to the Committee additional Members who by virtue of their office, training, and experience would add value and enhance the performance of the functions of the Committee

Functions of the Committee

13. The functions of the Kirinyaga County Alcoholics Drinks Control Fund Committee shall include—

(a) advising on the formulation of policies and guidelines for the management and utilization of the Fund;

(b) formulating and submitting to the Executive Committee Member the annual budget, work plan, and financial statements of the Fund for approval;

(c) monitoring the implementation of projects and programs funded by the Fund and evaluating their effectiveness and impact; and

(d) reporting to the Executive Committee Member on the activities, financial performance, and achievements of the Fund on an annual basis or as may be require.

Funding

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

(a) such monies as may be appropriated by the County Assembly;

(b) such grants or transfers as may be received from the National and County Governments;

(c) fines accruing to the County Government in connection with the regulation of alcoholic drinks; and

(d) interest and any other monies that may lawfully accrue to the Fund in any form.

(2) There shall be paid out of the fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

PART IV — LICENSING

Manufacturer Licence

15. (1) The County Alcoholic Drinks Control Committee shall authorize the Director to issue a Manufacturer Licence with respect to any premises where the primary business is the production of alcoholic drinks.

(2) Subject to this Act, and any other relevant law, an applicant for a Manufacturer Licence shall meet the following—

(a) suitability of the premises for the business of alcoholic beverages manufacturing;

(b) possession of the necessary infrastructure and equipment to carry out the business of alcoholic beverages manufacturing;

(c) compliance with the Standards Act, Anti-Counterfeit Act, Public Health Act, and Physical and Land Use Planning Act, among other laws regulating manufacturing of alcoholic beverages; and

(d) engagement of competent staff with knowledge and expertise in the manufacturing of alcoholic beverages.

(3) A holder of a Manufacturer Licence shall establish measures to ensure that all the empty bottles and containers used in packaging their products are taken back to their possession for either disposal or recycling.

(4) A holder of a Manufacturer Licence shall not engage in any other activity other than the one stipulated in the Licence.

(5) A holder of a Manufacturer Licence issued under this Act shall not reuse other manufacturers' packaging.

Distributors Licence

16. (1) The Sub-County Alcoholic Drinks Control Committee shall inspect and recommend the issuance of a Distributors Licence under this Act.

(2) A Distributors Licence authorises 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.

(3) Every application for a Distributors Licence shall provide the details of the premises in which the depot or depots are to be situated which shall include but not be limited to the name of the building, plot number, name of the place where it is situated and the street or road along which it is situated.

(4) A holder of a Distributors Licence shall be required to keep a record of all persons to whom they distribute their products, the quantity distributed and the type of the product distributed.

(5) A holder of a Distributors Licence shall display a certified copy of the Licence on a conspicuous place of any vehicle and depot, used for purposes of transportation of the products within the County.

General Retail Licence

17. (1) The Sub-County Alcoholic Drinks Control Committee shall inspect and recommend the issuance of a Retail Licence in any of the following categories—

(a) General Retail Alcoholic Drink Licence (on Licence);

(b) General Retail Alcoholic Drink Licence (off Licence);

(c) Hotel Alcoholic Drink Licence;

(d) Club Alcoholic Drink Licence (Members' Clubs or Night Clubs and Proprietary Clubs including Casinos);

(e) Bar and Restaurant Licence; and

(f) Temporal Licences issued to vendors and bar owners.

(2) The Executive Committee Member shall issue Regulations providing the terms and conditions relating to the licences provided for under sub-section (1)

Application for a Licence

18. (1) A person who intends to manufacture, distribute, or sell any alcoholic drink in the County or to operate an establishment for the sale of alcoholic drinks shall apply to the Director for a Licence under this Act in the prescribed format.

(2) An application under sub-section (1) shall be accompanied by—

(a) details of the applicant;

(b) plot number and physical address of the location of the premises to house the manufacturer, distributor or retailer;

(c) details of the sizes and related infrastructure to support the proposed manufacturer, distributor or retail entity business;

(d) the categories of Licence applied for where applicable;

(e) signed declaration in the format prescribed in the Regulations as a commitment not to sell illicit, alcoholic drinks;

(f) evidence of payment of prescribed fees

(g) such other requirement as may be prescribed by regulations under this Act.

(3) The Executive Committee Member shall publish in the regulations the format of application forms in this Act.

Application for Transfer of Business

19. A person who holds a Licence under this Act who intends to transfer his or her business to another premises shall apply for inspection

and grant of a Licence at the proposed new business premises in the format prescribed in the Regulations and pay the prescribed transfer fees.

Procedure for Consideration of an Application

20. (1) Applications for licences shall be made to the Director under this Act.

(2) The Director shall not later than the 31st day of October issue an invitation with a set deadline for applications of various types and categories of Licences under this Part.

(3) Notwithstanding the provisions of sub-section 2 an applicant for Licences under this Part may apply to the Director at any time of the year.

(4) The Director shall in accordance with Section 95 of the County Governments Act publicize a public notice setting forth—

(a) the names of all the applications received for consideration;

(b) the type and category of Licence applied for;

(c) the location of the premises in respect of which the Licence is applied for;

(d) the period within which the public may submit written objections for the Sub-County Alcoholic Drinks Control Committee for consideration; and

(e) the date, time and place when the Sub-County Alcoholic Drinks Control Committee shall conduct public participation with a view of citizen engagement, collecting public views or objections.

(5) Within twenty-one days from the date of public participation in the notice issued in accordance with sub-section (4) (e), the Director shall prepare and submit a report on all matters relevant to the applications and submit it to the Sub-County Alcoholic Drinks Control Committee for inspection and recommendations.

(6) Within seven days from the date of issuance of the report in sub-section (5), the Sub-County Alcoholic Drinks Control Committee shall—

(a) consider the list of all applications received and the public participation report; and

(b) conduct an inspection of the premises of the applicant for purposes of verifying the particulars of an application, for determining compliance with the provisions of this Act or for the purposes of determining an objection made by the public.

(7) After the consideration of the report and conducting the inspection of the premises, the Sub-County Alcoholic Drinks Control

Committee shall within 7 days submit a report to the County Alcoholic Drinks Control Committee with recommendations for approval, rejection or conditional approval for applicants.

(8) The Sub-County Alcoholic Drinks Control Committee shall upon inspection of premises not recommend the grant of any licence under this Part where—

(a) the premises are located in a building used for residential purposes except a building used for the exclusive use of a hotel;

(b) the premises in respect of which the application is made are located within three hundred meters from pre-existing nursery, primary, secondary or other learning institutions for persons under the age of eighteen years; or

(c) the premises in respect of which the application is made are poorly repaired, dirty and not in whole some condition and are not provided with adequate and proper sanitary arrangements.

(9) Notwithstanding the provisions of this Act, the Sub-County Alcoholic Drinks Control Committee shall only recommend the grant of a Licence to a person who—

(a) has satisfied the requirements of this Act;

(b) has not been convicted of an offence under this Act or an offence of which the penalty is imprisonment of a term of more than six months;

(c) is above eighteen years of age;

(d) is not adjudged bankrupt; and

(e) is not a public officer working for the County Government of Kirinyaga or under the National Government Administration Officers.

(10) Notwithstanding the provisions of this Act, the Sub-County Alcoholic Drinks Control Committee may refuse to recommend the grant of a Licence in the public interest on such grounds but not limited to—

(a) public nuisance;

(b) noise pollution; and

(c) the need to protect persons below the age of eighteen years.

(11) Despite Sub-section (8), the Sub-County Alcoholic Drinks Control Committee may recommend the grant of licence if —

(a) the premises do not share a wall with the institution and are sealed off by a physical and non-transparent barrier that ensures zero visibility of the premise from the locality of the institution;

(b) the premises display on its outside any of the prescribed health messages in a clear and visible manner;

(c) the premises do not bear any outdoor alcoholic drinks advertisement or promotion.

(12) The County Alcoholic Drinks Control Committee shall within seven days upon receiving a report of the Sub-County Alcoholic Drinks Control Committee, consider the report and authorize the grant of licences by the Director to successful applicants upon payment of the prescribed fees.

(13) The Director shall in accordance with Section 95 of the County Governments Act, 2012 publicize the resolutions of the County Alcoholic Drinks Control Committee regarding each applicant for licences under this part.

Objections

21. (1) Any person may object to an application for a Licence.

(2) An objection to an application shall be in writing detailing the grounds for objection and addressed to the Director.

(3) The Sub-County Alcoholic Drinks Control Committee may of its motion take notice of any matter or thing which, in the opinion of the committee, constitutes an objection to an application.

(4) The Director may in writing authorize any person to appear before the Sub-County Alcoholic Drinks Control Committee for purposes of representing the residents of a particular area in respect of which any objection has been lodged to an application.

(5) The Sub-County Alcoholic Drinks Control Committee shall maintain records of all its proceedings, and in particular, the records of the purpose for which an objection was made, the evidence given, any arguments adduced, and the decision and recommendations made thereon.

Outstanding Licence Arrears

No. 18 of 2012

No. 3 of 2003

22. (1) A Licence will not be granted if there are outstanding arrears for previous years unless the same has been legally waived under the Public Finance Management Act.

(2) In accordance with Section 45 of the Anti-Corruption and Economic Crimes Act a person is guilty of an offence if the person fraudulently or otherwise unlawfully fails to pay any taxes or any fees, levies or charges payable under this Act or illegally obtains any exemption, remission, reduction or abatement from payment of any such taxes, fees, levies or charges.

Conduct of Review

23. (1) Pursuant to Section 8 (2) (f) of this Act, a person who is aggrieved by a decision made under this Act may apply for review to the County Alcoholic Drinks Control Committee.

(2) An application for review under this Section shall be in writing and addressed to the Director setting out the grounds for review.

(3) The applicant may appear in person or by representation of an advocate for the hearing and determination of the review.

(4) The County Alcoholic Drinks Control Committee may in writing require any person to appear before it for purposes of giving evidence or providing expert opinion in respect of any matter under consideration, provided that any person adversely mentioned in a review shall be given an opportunity to be heard by the County Alcoholic Drinks Control Committee.

(5) Where the County Alcoholic Drinks Control Committee considers it necessary to take evidence in respect of any matter before it, such evidence shall be given on oath and the County Attorney or his or her designate shall be empowered to administer the oath.

(6) In making its determination, the County Alcoholic Drinks Control Committee may—

(a) uphold the decision against which a review is applied for;

(b) overturn the decision of a decision earlier made in respect of the review; or

(c) give further directions on any action to be taken.

(7) The Executive Committee Member shall publish guidelines to cover the form and procedure of the conduct of the reviews.

(8) For purposes of Chapter XI of the Penal Code, all proceedings before the County Alcoholic Drinks Control Committee shall be deemed to be judicial proceedings.

Court Proceedings

No. 4 of 2015

24. An applicant who is aggrieved by the outcome of the review under Section 23, may institute judicial proceedings at the High Court to

challenge the review decision, after the exhaustion of internal dispute resolution mechanisms as required under the Fair Administrative Actions Act.

Validity and Conditions of a Licence

25. (1) A Licence issued under this Act shall expire on the thirty-first day of December of each calendar year.

(2) Where an application for a licence of the following year is made, and the County Alcoholic Drinks Control Committee has not by the date of expiration of the existing licence, reached a decision such licence shall continue in force until the decision of the County Alcoholic Drinks Control Committee is made known.

(3) A Licence granted under this Act —

(a) shall only apply to the premises specified in the Licence and shall not apply to more than one premises;

(b) shall specify the hours authorised for the sale of an alcoholic drink as stipulated under the First Schedule;

(c) shall not be transferable to another person; and

(d) may prescribe any other condition as may be specified in the Regulations.

Maintenance of Records

26. (1) A person who holds a Manufacturer Licence under this Act shall maintain a list of all alcoholic drinks which the person has manufactured, distributed, disposed or in any other manner handled in the prescribed form and shall ensure that the authority to distribute the alcoholic drink within the County is only granted to a person licensed under this Act.

(2) A person who holds a Distributors Licence under this Act shall maintain records of the person who supplied any alcoholic drinks held in their premises sufficient to identify the source of an alcoholic drink, including the written authority to distribute the alcoholic drink and delivery notes, which records may be inspected by any officer authorised under this Act.

(3) A person who holds a Distributors Licence shall only distribute or sell an alcoholic drink to a retailer licensed under this Act.

(4) A person who holds a General Retail Licence under this Act shall maintain records of the distributor who supplied the alcoholic drink held or being sold at that premises, including the delivery notes and other documents sufficient to identify the source of an alcoholic drink.

(5) A person who contravenes this Section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand Kenya shillings or to imprisonment of a term not exceeding one month or both.

Breach of Licence

27. (1) No person shall—

(a) manufacture or otherwise produce;

(b) sell, distribute, or deal with any alcoholic drink except under and in accordance with a Licence issued under this Act.

(2) A person who contravenes the provisions of sub-section (1) commits an offence and, in addition to any other remedy under this Act, is liable to a fine of a sum not less than five hundred thousand shillings, or imprisonment for a term not less than six months, or both.

Suspension or Cancellation of a Licence

28. (1) The Director may on the direction of the County Alcoholic Drinks Control Committee, suspend or cancel a Licence where satisfied that—

(a) the licensee has contravened the provisions of this Act or other relevant written laws including noise pollution and general nuisance;

(b) the licensee has contravened the conditions of the declaration made in accordance with Section 18 (2) (e);

(c) the business to which the Licence relates is being conducted in a manner that is contrary to the provisions of this Act;

(d) the Licence has failed to comply with the conditions of a Licence granted under this Act, or any requirement for the grant of a Licence under this Act has been violated.

(2) Notwithstanding sub-section (1), the Director shall not suspend or cancel a Licence unless the licensee—

(a) has been served with a notice of at not less than seven days giving notice of the intention to suspend or cancel the Licence and the reasons for such intention; and

(b) has, within fourteen days from the date of such service, been given the opportunity to be heard by the County Alcoholic Drinks Control Committee;

(c) has been notified of the decision of the County Alcoholic Drinks Control Committee.

(3) Upon cancellation or suspension of the Licence, the Licensee shall with immediate effect cease to manufacture, distribute or sell an alcoholic drink except in accordance with the written direction for sale or disposal of an alcoholic drink as may be given by the Director.

(4) Where an application for a license has been suspended or cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the Sub-County Alcoholic Drinks Control Committee during the period of six months from the date of such suspension or cancellation.

Temporary Closure of a Premises

29. (1) Notwithstanding the provisions of this Act, the Director may on the recommendation of the Sub-County Alcoholic Drinks Control Committee for purposes of protection of the public interest, suspend the Licence or order the closure of a premise manufacturing, distributing, storing, selling or in any other manner handling an alcoholic drink without first according the Licensee or the owner or occupier of the premises a hearing.

(2) Where an order is issued in accordance with the provisions of sub-section (1), the Director shall within seven days direct the Sub-County Alcoholic Drinks Control Committee to inspect the premises, investigate and file a report, giving details of the breach of public interest and conditions of the licence and any other findings for consideration by the County Alcoholic Drinks Control Committee.

Authorised Hours for Sale of an Alcoholic Drink

30. (1) For purposes of distribution, and sale of alcoholic drinks within the County, the hours authorised drink shall be those specified in the First Schedule for each type of Licence.

(2) The provisions of sub-section (1) shall apply to a person holding an alcoholic drinks Licence under this Act except a person holding a Manufacturer Licence.

(3) A person found in a Licensed premises or a public place drinking an alcoholic drink during hours not authorised for sale of an alcoholic drink commits an offence and shall be liable upon conviction to a fine not exceeding five thousand or to imprisonment for a term not exceeding one month or to both.

(4) A person, other than a holder of a Manufacturer or who distributes or sells or in any other way disposes of an alcoholic drink during the hours not authorised for distribution or sale of an alcoholic drink commits an offence and on conviction, is liable to a fine of a sum not exceeding one

hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Alcohol Permitted Areas

31. A Licence under this Part shall not be granted unless the premises in respect of which the application is made are located within a permitted area prescribed under Regulations.

PART V — ADVERTISEMENT AND PROMOTION

Prohibited Advertisement and Promotion

32. (1) A person shall not promote an alcoholic drink by way of outdoor advertisement—

(a) in a manner that is false, misleading or deceptive or that is likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of an alcoholic drink or encourage a person below the age of eighteen years to drink alcoholic drink;

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

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

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

PART VI — SALE

Operating without Licence

33. Any person who manufactures, distributes or sells alcoholic drinks without a licence under this Act, commits an offence and is liable upon conviction of a fine not less than fifty thousand or imprisonment of a term not less than six months or both.

Access by a Child

34. (1) A Licensee under this Act shall not allow a child as defined in the Children's Act to enter or gain access to the area in which the alcoholic drink is manufactured, stored, sold or consumed.

(2) A Licensee who contravenes the provisions of this Section commits an offence and shall be liable upon conviction to a fine of not less than fifty thousand shillings or an imprisonment term of not more than six months, or to both.

Supply to a Child

35. (1) A person shall not sell, supply or provide an alcoholic drink to a child.

(2) A person shall not in any manner assist a person under the age of eighteen years to access an alcoholic drink.

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

Hawking of Alcoholic Drinks

36. (1) A person shall not hawk or sell an alcoholic drink in any other place other than the place or premises licensed in accordance with this Act.

(2) A person who contravenes the provisions of this Act commits an offence and on conviction is liable to a fine of a sum not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Vending Machines

37. (1) A person shall not sell or permit an alcoholic drink to be sold by way of a vending machine.

(2) A person who contravenes this Section commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Selling in Sachets

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

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

(a) no person shall manufacture, pack, distribute or sell an alcoholic drink in a container of less than 250 millilitres;

(b) the alcoholic drink previously known as chang'aa or any other distilled alcoholic drink shall only be manufactured, packed, sold or distributed in glass bottles of the kind specified in paragraph (a).

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

PART VII — ENFORCEMENT

Appointment and Delegation of Duty to Inspect to Authorised Officers

39. (1) The Chief Officer shall in writing designate any person or class of persons to be Authorised Officers for purposes of implementing and enforcement of this Act.

(2) Notwithstanding the provisions of sub-section (1), 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;

Cap. 242, Cap. 469; Cap. 496; No. 1 of 2013; Cap. 513; No. 13 of 2008

(b) Officers appointed as enforcement officers under the Kenya Revenue Authority Act, Kenya Bureau of Standards Act, National Government Coordination Act, Weights and Measures Act and Anti-Counterfeit Act and officers under theKirinyaga Inspection and Enforcement Services Act; and

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

Powers of Authorised Officers

40. In carrying out an inspection in any place, an Authorised Officer may—

(a) inspect a premises and examine an alcoholic drink;

(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 a 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

41. In carrying out an inspection, an Authorised Officer may —

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

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

(c) scrutinize any other record system in use on that premises.

Certificate of Analysis

42. 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.

Reasonable Assistance and Cooperation with Authorised Officers

43. The owner of a premise inspected by an Authorised Officer under this Act or the person in charge of the premises and every person found in the premises shall —

(a) provide all reasonable assistance to enable the Authorised Officer to carry out his or her 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 premises has been made.

Obstruction

44. A person, who obstructs, hinders or knowingly makes a false or misleading statement to an Authorised Officer under this Act commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand or an imprisonment term of three months or to both.

Seizure

45. (1) An Authorised Officer may seize any alcoholic drink or thing in relation to which the officer believes 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 moved to another place.

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

PART VIII — MISCELLANEOUS

Employment for the Sale of Alcoholic Drinks

46. (1) A Licensee shall not employ a person under the age of eighteen, to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks on Licensed premises.

(2) Where a Licensee permits another person to manage, superintend or conduct the day-to-day business of licensed premises, the Licensee shall not be relieved of the obligations under this Act.

(3) In addition to any other requirements under any other written laws, a person shall only be employed to handle alcoholic drinks if that person—

(a) has met the requirements under the public health laws and regulations; and

(b) is a Kenyan or has obtained the necessary permit to work in Kenya.

Permissible Noise Levels

L/N No. 61 of 2009

47. (1) No person shall make or cause to be made any loud, unreasonable, unnecessary or unusual noise from any premises property boundary, which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment.

(2) Notwithstanding the provisions of sub-section (1), no person shall make, continue or cause to be made or continued any noise from any source in excess of the noise levels set in the First Schedule to the Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations.

(3) Measurements in sub-section (4) shall be taken in accordance with the Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations.

(4) In determining whether noise is loud, unreasonable, unnecessary or unusual, the following factors shall be considered—

(a) time of the day;

(b) proximity to residential areas;

(c) whether the noise is recurrent, intermittent or constant;

(d) the level and intensity of the noise;

(e) whether the noise has been enhanced in level or range by any type of electronic or mechanical means; and

(f) whether the noise can be controlled provided —

(i) the owner of the premises shall be required to make sound-proof installations to control such noise within the permissible noise levels;

(ii) a Soundproofing Certificate may be issued by the relevant authority when so required.

(5) Any person who contravenes the provisions of this Section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand or imprisonment to a sentence not exceeding one year, or to both.

(6) In addition to the penalty under sub-section 5, the conviction may be a ground for rejection of an application for a licence under this Act.

General Power to Make Regulations

48. Subject to the provisions of this Act, the Executive Committee Member may make regulations—

(a) to prescribe anything that may be prescribed under this Act; or

(b) generally, for the better carrying out of the provisions of this Act.

Repeals

49. The Kirinyaga County Alcoholic Drinks Control Act, 2014 is repealed.

Transitional Clause

50. (1) Notwithstanding any other provision of this Act to the contrary, a licence issued immediately before the commencement of this Act which would have otherwise been valid under the Kirinyaga County Alcoholic Drinks Control Act, 2014, shall remain valid until the expiry of such licence.

(2) In the provisions relating to the types, categories, and Licence Fees established under this Act, the Kirinyaga County Finance Act, 2023 stands amended upon the enactment of this Act.

SCHEDULES

FIRST SCHEDULE

TYPES, AND CATEGORIES OF LICENCES AND OPERATING HOURS

	General retail alcoholic drink Licence (on Licence)—	Authorised to sell alcohol: (a) From Monday to Friday from 5.00 p.m. to 11.00 p.m. (b) During weekends and public holidays from 2.00 p.m. to 11.00 p.m.
	General Retail (off Licence)	Authorised to sell alcohol on any day of the week from 10.30 am to 8.30 p.m.
	Manufacturer Alcoholic Drink Licence	N/A
	DistributorsLicence	Authorised to sell/distribute alcohol on any day of the week from 6:00 a.m. to 6:00 p.m.
	Hotel alcoholic drink Licence.	Authorised to sell alcohol any day of the week: (a) to a non-lodger from 11am to 11pm; and (b) to a lodger for his consumption and the lodger's guest' consumption on the premises, at any hour.
	Club alcoholic drink Licence: a. Members' club A members' club Licence may only be held by a club that is a non-profit association incorporated under the Society's Act.	Authorised to sell alcohol to members (a) From Monday to Friday from 5.00 p.m. to 11.00 p.m. (b) During weekends and public holidays from 2.00 p.m. to 11.00 p.m.

	b. Proprietary Club (including Night Club and Casinos)	Authorised to operate from 7.00 p.m. to 3.00 a.m., any day of the week.

SECOND SCHEDULE

Alcoholic Drinks Licences shall be categorized and payable as follows—

	Category	**MAJOR URBAN TOWNS KSh. per annum**	**MEDIUM URBAN CENTRES KSh. per annum**	**SHOPPING CENTRES KSh. per annum**
	General Retail Licence (On Bars)	22,500	20,000	18,000
	Bar & Restaurant Licence	41,250	40,000	39,000
	Hotel Alcoholic Drink Licence	60,000	60,000	60,000
	General Retail (Off Licence)	50,000	50,000	50,000
	Distributors/Stockists/Depots/ Wholesalers	50,000	50,000	50,000
	Proprietary Clubs / Night Clubs	75,000	75.000	75,000
	Members' Club	41,250	40,000	39,000
	Other licenses			
		1,000,000 litres and aboveKSh. per annum	**Between 500,000 and 999,999 litres KSh. per annum**	**499,999 litres and below KSh. per annum**
	Manufacturer Alcoholic Drinks Licence	1,000,000	500,000	250,000