



**REPUBLIC OF KENYA**

**OFFICE OF THE PRESIDENT**

**GUIDELINES FOR IMPLEMENTING AND  
ENFORCING THE ALCOHOLIC DRINKS CONTROL  
ACT, 2010**

**MAY 2011**

## **Foreword**

The Alcoholic Drinks Control Act, 2010 provides for comprehensive control of manufacture, sale, consumption, distribution and promotion of alcoholic drink in Kenya. The Act and the Alcoholic Drink Control (Licensing) Regulations, 2010, provide for effective licensing process as well as strengthened institutional framework for the control of alcoholic drink. The Act in addition contains measures to deal with product safety, control of access and exposure to alcoholic drink by persons under the age of 18 years, drinking patterns and control of intoxication, drinking environment and promotion of alcoholic drink. In addition, the Act puts in measures for research and data management as well as education and public awareness.

However for the benefits of the law to be realised, effective implementation and enforcement are essential. The guidelines contained herein provide guidance to District Alcoholic Drink Regulation Committee as well as other law enforcement officers. This will ensure standardization of if the implementation process across the country to achieve optimal compliance and better management of the alcoholic drink control process.

---

**Hon. Prof. George Saitoti, EGH, MP**

**Minister of State for Provincial Administration and Internal Security**

# Table of Contents

<b>Table of contents</b> .....	3
<b>Chapter 1: Introduction, Purpose and Scope</b> .....	5
1.1. Introduction.....	5
1.2. Purpose.....	5
1.3. Scope.....	5
<b>Chapter 2: Operations of District Alcoholic Drinks Regulation committee</b> ....	6
2.1. Setting up district committee.....	6
2.2. Conduct of Business.....	7
2.3. Sub-committees.....	7
<b>Chapter 3: Description of Various Types Licences</b> .....	10
3.1. General retail alcoholic drink licence.....	10
3.2. General retail alcoholic drink licence (off license).....	10
3.3. Brewers’ alcoholic brinks license.....	10
3.4. Wholesale alcoholic drink licence.....	11
3.5. Import alcoholic drink licence (import).....	11
3.6. Bottlers alcoholic drink licence.....	11
3.7. Distributors alcoholic drink licence.....	11
3.8. Hotel alcoholic drink licence.....	11
3.9. Restaurant alcoholic drink licence.....	11
3.10. Supermarket or franchised retail stores.....	12
3.11. (i) Club alcoholic drink licence (members’ club).....	12
(ii) Club alcoholic drink licence (proprietary club or night club or discotheque).....	12
3.12. Theatre alcoholic drink licence.....	12
3.13. Travellers’ alcoholic drink licence.....	13
3.14. Railway restaurant car alcoholic drink licence.....	13
3.15. Steamship alcoholic drink licence.....	13
3.16. Temporary or occasional alcoholic drink licence.....	13

<b>Chapter 4: Application and Granting Procedure for Licences</b> .....	14
4.1. Application for Retail Licence.....	14
4.1.1. General requirements.....	14
4.1.2. Application process.....	15
4.2. Application for Brewers (manufacturing) Licence.....	16
4.2.1. General requirements.....	16
4.2.2. Application process.....	18
4.3. Application for Wholesalers Licence.....	19
4.4. Assessment of license applications.....	20
4.5. Granting and issuance of license.....	25
4.6. Removal of License.....	26
<b>Chapter 5: Enforcement and Compliance</b> .....	27
5.1. Retailers.....	27
5.2. Manufacturers or producers.....	28
5.3. Wholesalers.....	30
5.4. Inspections.....	30
<b>Appendix 1: Licensing check list for retail licence</b> .....	31
<b>Appendix 2: Licensing check list for Brewers License</b> .....	32
<b>Appendix 3: Licensing check list for wholesale License</b> .....	33

# **Chapter 1**

## **Introduction, Purpose and Scope**

### **1.4. Introduction**

The Alcoholic Drinks Control Act, 2010 provides for comprehensive control of manufacture, sale, consumption, distribution and promotion of alcoholic drink in Kenya. In addition, the Alcoholic Drink Control (Licensing) Regulations, 2010 provides for a comprehensive licensing procedure to enable District Alcoholic Regulation Committee manage effectively the licensing process.

These guidelines are pronouncements, statements and recommendations to be followed by District Committee and authorised officers in implementation of the Act and Regulations therein.

### **1.5. Purpose**

The purpose of these guidelines is to provide for a common framework for use by District Alcoholic Drinks Regulation Committee and authorised officers in implementing and enforcing the Act and subsequent regulations. The guidelines are intended to provide guidance, direction and operational standards to district committee and authorised officers in decision making process for various courses of action and discharge of its functions which include licensing, inspections and enforcements of the Act in conjunction with other authorised officers as provided for in the Act.

### **1.6. Scope**

The guidelines are in line with the Act in regard to the functions and powers of the district committee and respective authorised officers. Therefore, the guidelines do not replace the Act but complement the Act's implementation hence must be used together with the Act.

## **Chapter 2**

### **Operations of District Alcoholic Drinks Regulation Committee**

The operations of district committee are provided for under section 8 of the Act

#### **2.1. Setting up district committee**

In order to operationalize the committee, the following issues should be followed up:

- (a) The committee shall be established in each district as directed by the Minister
- (b) Information shall be circulated to each local authority in the district requesting them to appoint 1 person to the committee. The person nominated to be nominated by each local authority should be a senior technical officer qualified in matters related to physical planning, planning or licensing and enforcement. The information should be accompanied with the conditions for ineligibility of persons to be nominated as stipulated in section 1 (2) of First Schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010
- (c) The District Commissioner in charge of district where committee is to be set up shall forward 5 names of persons (3 women and 2 men) eligible to be appointed by the Minister to district committee. Persons recommended for appointment should represent diverse fields of practice to enhance capacity of district committee. Recommendation for nomination should follow conditions for ineligibility as stipulated in section 1 (2) of First Schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010. The basic qualifications to be taken into consideration are:
  - O level certificate and preferably post secondary training
  - Prior experience in community leadership or service in public or private sector

- (d) For the purposes of licensing of alcoholic drinks manufacturers and importers district committee shall co-opt representatives from Kenya Revenue Authority (KRA) and Kenya Bureau of Standards (KEBS) as ex-officials. This will enhance technical capacity of district committee to discharge its functions. In this regard, the DC shall send a letter to inform representatives from KRA and KEBS in the district of their co-option to the committee and their role. This is in line with the respective institutions and of interest to their work
- (e) District committee shall also co-opt the officer in charge of public health in the district as an ex-official to enhance regulation and enforcement of public health issues under the Act and integration of the Act with Public Health Act, Cap 242 and Food, Drugs and Chemical Substances Act, Cap 254
- (f) District committee shall co-opt officer in charge of physical planning in the district as an ex-official to provide technical expertise in regard to physical planning

## **2.2. Conduct of Business**

The conduct of business and affairs of district committee is stipulated in first schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010

## **2.3. Sub-committees**

In accordance with Alcoholic Drinks Control (Licensing) Regulations, 2010, district committee shall establish sub-committees as it deems fit to assist in discharge of committee responsibilities. District committee shall among others appoint the following sub-committees:

### **(a) Inspections and compliance sub-committee**

The sub-committee shall be assist district committee in carrying out inspections on licensed premises. The sub-committee shall also advise district committee on appropriate measures and inspections processes in the district. The membership shall consist of:

- (i) Public health officer in charge of the district who shall be the chair
- (ii) The authorised officer appointed in accordance to S. 50 of the Act
- (iii) Police officer not below the rank of an inspector appointed by the OCPD in the district
- (iv) One technical officer responsible for business inspections appointed by the local authority
- (v) Any other 2 persons that the committee deems fit to perform the functions
- (vi) Representatives of KEBS and KRA shall provide technical support to the sub-committee

**(b) Surveillance and monitoring sub-committee**

The sub-committee shall be assist district committee in carrying out surveillance and monitoring of patterns and trends in regard to alcoholic drink production, sale and consumption of alcoholic drink in the district as well as the impact to society and community. The sub-committee shall in addition monitor product safety of alcoholic drink manufactured or sold in the district. The sub-committee shall also advise district committee on appropriate measures to be taken in order to address the emerging issues identified in the district. The membership shall consist of:

- (i) One public officer in provincial administration nominated by the District Commissioner
- (ii) The authorised officer appointed in accordance to S. 50 of the Act
- (iii) 1 person who is resident in the district who is experienced in matters of public administration
- (iv) 1 person nominated by NACADA
- (v) Any other 1 person that the committee deems fit to perform the functions



- (vii) Representatives of KEBS, Weight and Measures department and KRA shall provide technical support to the sub-committee

## Chapter 3

### Descriptions of Various Types Licences

The descriptions contained in this chapter provide for the general and specific interpretation and meaning of different types of licences provided for under the Alcoholic Drinks Control (Licensing) Regulations, 2010.

#### **3.1. General retail alcoholic drink licence**

The licence is applicable to sale of an alcoholic drink for consumption in the premises such as bars and related retail outlets whose core business is sale of alcoholic drinks.

#### **3.2. General retail alcoholic drink licence (off license)**

The licence is applicable to sale of an alcoholic drink for consumption elsewhere other than the premises, for example outlets selling wines and spirits only. In this regard, there should be no consumption of alcohol in the outlets licences in this category.

#### **3.3. Brewers alcoholic drinks license**

The licence applies to any manufacture of alcoholic drink for sale irrespective of the output, capacity or manufacturing method. As stipulated in the first schedule (1), brewer's license permits the licensed person to manufacture alcoholic drink and sell by wholesale the product of his brewery. In this regard, any person manufacturing an alcoholic drink is prohibited from selling alcoholic drink at retail or to consumers.

All manufacturers of alcoholic drink in the informal sector shall be integrated into the new licensing regime so as to ensure effective control of product standard and safety. Therefore district committee shall liaise with NACADA and Kebs to train the brewers in the informal sector in order to ensure that they are licensed and adhere to the stipulated standards.

### **3.4. Wholesale alcoholic drink licence**

The licence applies to sale of an alcoholic drink by way of wholesale which implies that a holder of such a licence is not permitted to sell an alcoholic drink at retail or to consumers directly. Therefore, the regulations related to operating licensed hours do not apply to this category of licences.

### **3.5. Import alcoholic drink licence (import)**

The licence applies to importation of an alcoholic drink in wholesale into the country for commercial purposes.

### **3.6. Bottlers alcoholic drink licence**

The license applies to persons engaged in bottling alcoholic drink on behalf of a manufacturer.

### **3.7. Distributors alcoholic drink licence**

The licence applies to persons engaged in distributorship services of an alcoholic drink in the district. A distributor must acquire a licence from each district of operation.

### **3.8. Hotel alcoholic drink licence**

The licence applies to sale of alcoholic drink in hotel as classified under the law. Predominantly, hotel is identified with provision of bed occupancy as the core business together with other related hospitality services. A hotel that in addition provides outside catering services where it provides alcoholic drinks shall be required to apply for a temporary or occasional alcoholic drink licence for the specific event or occasion.

### **3.9. Restaurant alcoholic drink licence**

The licence applies to sale of an alcoholic drink in restaurant as classified under the law.

### **3.10. Supermarket or franchised retail stores**

The licence applies to sale of an alcoholic drink in supermarket or franchised retail stores.

### **3.11. (i) Club alcoholic drink licence (members' club)**

The licence applies to members' clubs. Members clubs are those owned by members and exist for the sole purpose of pursuing members' interests. The unique differentiating character of members' clubs is their exclusivity whereby they allow access to members only while non members can only gain access through members.

In circumstances where a club registered as members' club allows any member of the public to gain access to the club as temporary member upon payment of a fee (and exist for profit making), such clubs shall be treated as proprietary clubs for the purposes of the Act.

### **(ii) Club alcoholic drink licence (proprietary club or night club or discotheque)**

This licence applies to clubs that either have members or are open to the public but are owned by proprietors at the bottom line. Proprietary clubs have often assumed the status of members' clubs by registering associations as members' clubs but the real owners are individual proprietors. In addition, proprietary clubs in the name of being members' clubs allow any member of the public to gain access through temporary membership. In essence therefore, they are open to any member of the public provided they pay a temporary membership fee which implies that they are not members' clubs in the strict sense.

### **3.12. Theatre alcoholic drink licence**

This licence applies to premises that provide theatre and related shows services

### **3.13. Travellers' alcoholic drink licence**

The licence applies to sale of alcoholic drink to travellers by air or train. The license applies to premises selling alcoholic drinks within premises of airport and train station to paid up travellers. However, any premises within the area of airport or train station that sells alcoholic drinks to persons other than paid up travellers must acquire a respective licence other than travellers' licence.

### **3.14. Railway restaurant car alcoholic drink licence**

The licence applies to sale of an alcoholic drink at the railway restaurant car

### **3.15. Steamship alcoholic drink licence**

The licence applies to sale of alcoholic drink in a steamship

### **3.16. Temporary or occasional alcoholic drink licence**

The licence applies sale of an alcoholic drink during occasions, ceremonies or events

## **Chapter 4**

### **Application and Granting Procedure for Licences**

Application and issuance for licences shall be done in accordance to Sections 9-20 and First Schedule of the Alcoholic Drinks Control Act, 2010 and Sections 4- 10, Second, Third and Fourth Schedules of the Alcoholic Drinks Control (Licensing) Regulations, 2010. Application process for new retail and brewers (manufacturing) licences shall be in accordance with Section 9 of the Act. The following guidelines shall apply in regard to application and issuance of licences:

#### **4.1. Application for Retail Licence**

This licence shall be applicable to all applicants for different categories of retail licences as provided for under sections 8 – 20 of the Third Schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010. Provided that no premises shall be licensed to sell alcoholic drink for consumption on the premises which are also residential premises.

##### **4.1.1. General requirements**

The following general requirements shall be applicable (refer to check list in appendix 1):

- (a) The following documents shall be mandatory:
  - (i) Application form 1;
  - (ii) For an application for renewal of licences, the applicant must produce the original and a copy license
  - (iii) Copy of Identification documents (Identification document or passport for individuals) or certificate of registration or incorporation for corporate bodies;
  - (iv) Copy of PIN certificate for applicants (and directors for corporate bodies);
  - (v) VAT certificate from KRA;
  - (vi) Public health certificate or public health inspection approval document signed by the officer in charge of public health in the district;

- (vii) Names of persons who will be responsible for managing, superintending or conducting day to day business of the premises (in accordance with Section 21 (2) of the Act);
  - (viii) A sketch map describing the location of the premises;
  - (ix) Physical address indicating name of the area where premises are located, name of the building where premises are situated and plot number where applicable;
  - (x) Where the applicant trades in a business name, the name shall be included in the licence;
  - (xi) Members clubs to submit their constitution and details of ownership of premises where the license is applied for and copy of annual returns submitted to the registrar of societies. District committee may require the members club to provide a list of members.
  - (xii) For proprietary clubs, discotheques and night clubs, the applicant shall be required to produce a certificate from NEMA in regard to noise pollution control
- (b) The fees stipulated under Sections 8 –20 of Third Schedule Alcoholic Drinks Control (Licensing) Regulations, 2010 shall be applicable.
- (c) District committee shall require and consider 3 written reports for each premises applied for in accordance to Section 9 (4) of the Act; one from Commissioner of Police or the police officer appointed by him, medical officer of health and an officer from the local authority. District Committee shall inform the three officers (institutions to prepare reports for each applicant)

#### **4.1.2. Application process**

A new applicant for retail licence shall follow through the process herein as well as provisions of the Act:

##### **Step 1**

The applicant shall submit a written expression of interest for pre-clearance by district committee in accordance with section 9 of the Act. At this stage, the

applicant seeks clearance from district committee on whether it is appropriate to operate the premises for sale in the district and suitability of the proposed location of the premises among others. This stage should precede the applicant's acquisition of premises for sale of alcoholic drink or single business permit from the local authority as it will enable the applicant to avoid incurring costs where operation of the license applied for is not permitted.

In regard to situation where the premises for license applied for are about to be constructed, district committee shall apply Section 11 of the Act for the purposes of granting provisional licence.

## **Step 2**

In the event that district committee gives a letter of approval to the applicant, the applicant shall proceed to seek compliance with other laws and government agencies regulations such as single permit licence and public health certification.

## **Step 3**

Upon compliance with other government requirements, the applicant shall make a formal application in accordance with Section 9 of the Act.

### **4.2. Application for Brewers (manufacturing) Licence (new or renewal where applicable)**

This licence shall be applicable to all persons brewing or manufacturing (or intending to manufacture) any alcoholic drink whatever the method of production.

#### **4.2.1. General requirements**

The following general requirements shall be applicable (refer to check list in appendix 2):

- (a) The following documents shall be mandatory:
  - (i) Application form 2;
  - (ii) For an application for renewal of licences, the applicant must produce the original and a copy license;



- (iii) Identification documents (Identification document for individuals) or certificate of registration or incorporation for corporate bodies;
  - (iv) Copy of PIN certificates for applicants (and directors for corporate bodies from Kenya Revenue Authority (KRA);
  - (v) Copy of VAT certificate from KRA;
  - (vi) Public health certificate;
  - (vii) Kenya Bureau of Standards (KEBS) certificate of compliance with standards for manufacturing alcoholic drinks;
  - (viii) Architectural drawing of the premises;
  - (ix) List of products and their respective brands and KEBS certificate of compliance with standards for each product;
  - (x) Certificate of compliance from National Environment Management Authority (NEMA);
  - (xi) declaration of volumes for previous year (for already existing manufacturers);
  - (xii) Copies of annual excise returns filed with KRA and financial statements and records;
  - (xiii) A sketch map describing the location of the premises;
  - (xiv) Physical address indicating name of the area where premises are located, name of the building where premises are situated and plot number where applicable;
  - (xiii) Where the applicant trades in a business name, the name shall be included in the licence.
- (b) The fees stipulated under Section 3 of Third Schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010 shall be applicable
- (c) For the purposes of determination of quantity of production of alcoholic drinks, district committee shall liaise with KRA for information sharing. KRA maintains manufacturers data that would be helpful to district committee

- (d) District committee shall consult and work together with KEBS and KRA in processing applications

#### **4.2.2. Application process**

No person shall establish a plant to manufacture alcoholic drink in the district unless the process stipulated herein is followed as well as provisions of the Act.

##### **Step 1**

The applicant shall submit a written expression of interest for pre-clearance by district committee in accordance with section 9 of the Act. At this stage, the applicant seeks clearance from district committee on whether it is appropriate to establish a plant in the district and suitability of the proposed location of the plant among others. No license should be granted for the manufacture of an alcoholic drink within residential area or in residential premises.

In considering whether to grant a go ahead to the applicant, the committee shall issue the notice in accordance with Section 9 (3) of the Act, consider the preliminary reports of the Medical Officer of Health, Police officer and local authority on the proposed licence application as well as consider any objection lodged concerning the application.

In the event that district committee approves that the applicant can establish the plant in the locality, the committee shall issue a letter of provisional assurance to the applicant that subject to meeting all requirements under the Act and other laws and governmental agencies regulations (such as NEMA certification, Local authority approval, KEBS standards certification, public health requirements among others), the committee shall grant the applicant a licence.

##### **Step 2**

The applicant shall seek approval from other relevant government agencies such as NEMA, public health department and local authority among others in accordance to set laws.

### **Step 3**

Upon completion of construction of the plant, the applicant shall submit an application for provisional license for carrying out test run for the purposes of seeking certification from KEBS, KRA and public health department. Provisional licence shall only be used for the purposes of conducting test run and manufacture of such quantity for the purposes of testing for standardization.

### **Step 4**

The applicant shall seek KEBS product certification and compliance approvals from KRA and the ministry in charge of public health.

### **Step 5**

Upon successful completion of the abovementioned steps, the applicant shall submit an application for licence from district committee which may upon consideration in accordance with the Act, grant the license with such conditions as it deems fit.

## **4.3. Application for Wholesalers Licence**

This licence shall be applicable to all wholesalers, importers, distributors and bottlers. The following general requirements shall be applicable (refer to check list in appendix 3):

- (a) The following documents shall be mandatory:
  - (i) Application form 2;
  - (ii) For an application for renewal of licences, the applicant must produce the original and a copy license
  - (iii) Single business permit;
  - (iv) KRA registration document
  - (v) Identification document (Identification document or passport for individuals) or certificate of registration or incorporation for corporate bodies;
  - (vi) Copy of PIN certificates for applicants (and directors for corporate bodies);
  - (vii) Public health certificate;

- (viii) Importers to provide list of products and respective brands and KEBS certificate of conformity with standards or letter of approval as well as Import Health Certificate
  - (ix) Certificate of compliance by NEMA save for importers;
  - (x) Importers to provide declaration of volumes for previous year;
  - (xi) Importers to provide information on quantities and importation schedule
  - (xii) The fees stipulated under Sections 4-7 of Third Schedule of the Alcoholic Drinks Control (Licensing) Regulations, 2010 shall be applicable for each category of applicants
  - (xiii) For the purposes of determination of quantity of distribution of alcoholic drinks, district committee shall liaise with KRA for information sharing and technical advice.
- (b) Importers shall be required to be registered with NACADA

#### **4.4. Assessment of license applications**

District committee shall follow assessment criteria for license applications as stipulated in the Act. Specifically, district committee shall assess applications for brewing or manufacture and sale of alcoholic drinks based on the following guidelines:

- (a) For each license applied for (brewers, retail and wholesale) save for importers license, district committee shall require and consider 3 **written reports** for each premises applied for in accordance to Section 9 (4) of the Act:

- (i) **Police Report**

The report shall cover matters such as:

- Security issues related to location of the premises
- Information on the character of the applicant and if they have had previous convictions in regard to offence related to alcoholic drink

- Peace and public order and safety in the locality- is the premises likely to interfere with peace and public order of the neighbourhood
- Proximity to institutions of basic education (300m rule)
- Public interest of residents in the locality
- The number of similar premises in the same locality offering the same service
- The appropriateness of the premises in relation to proximity to religious institutions, health facilities and other community facilities and amenities

**(ii) Medical Officer of Health Report**

The report shall cover matters such as:

- Report of the officer in charge of public health in the district
- Impact on public health in the neighbourhood by the premises
- Conformity with section 9 (16) of the Act
- Structural soundness of building including condition of infrastructure within the premises
- Sanitation, cleanliness and hygiene
- Safety of the premises/ occupational health and safety
- Capacity approved
- Public interest of residents in the locality
- Public health certificate
- Suitability of the premises for establishment of the business for which licence is applied for

**(iii) Local Authority Report**

The report shall cover matters such as:

- Report of zoning and classification of areas within the local authority or district in terms of residential, commercial and industrial and whether the premises is located within a residential area
- Public interest of residents in the locality
- The appropriateness of the premises in relation to proximity to religious institutions, health facilities and other community facilities and amenities
- The number of similar premises in the same locality offering the same service
- The structural plan of the premises and its suitability for the licence applied for

(b) Objections to applications for licences by residents or any person made in accordance to Sections 9 (5) & (6) of the Act should be taken into consideration to ensure community/residents' interests are safeguarded. District committee should uphold legitimate objections based on evidence on balance of probability in such matters as community/societal social disorder, insecurity, high increase in alcoholism, evident negative social-economic impact in the community/society

(c) In accordance to Section 9 (7), district committee should proactively take note of district/society matters that amount to objections to new applications

(d) According to Section 9 (9), an applicant must satisfy district committee that there is **need** for granting the type of license applied for in that particular locality. an applicant must satisfy district committee that:

- (i) the number of such licences is insufficient for that particular locality

- (ii) the particular locality is in need of additional licensee of that specific type
  - (iii) that the particular locality is inadequately served by existing licensees
  - (iv) that it is of great necessity to have additional for sale or manufacture of alcoholic drinks in the particular locality
- (e) In assessing license applications for manufacture and sale of alcoholic drinks in a particular locality, district committee shall consider:
- (i) interests of the district in accordance to Section 9 (16) of the Act
  - (ii) public interest in accordance to Section 12 (1) (a) of the Act
  - (iii) the necessity of particular locality as described in (d) above

In this regard, district committee should ensure that the residents in a particular locality are well engaged and informed of the applications therein. District committee while assessing an application should consider comprehensively public interest matters such as public common good, overriding public interests such as public order and public morality especially in regard to level of alcoholism in the locality or potential for rise in alcoholism level, social impact on matters such as public health and education, impact on children in the locality among others.

- (d) District committee shall assess the premises in accordance to the conditions stipulated under Section 9 (16) of the Act
- (e) All new applications for retail licences for consumption of alcoholic drinks on the premises should not be processed pending determination of maximum number of such premises permitted in accordance with Section 12 (1) (a) of the Act.
- (f) District committee shall assess any application for new licences or renewal of licences to ensure that any application for licenses in premises within any institution of basic education including primary and secondary schools is rejected in accordance with Section 12 (1) (a) of the Act
- (g) District committee shall assess any application for new licences or renewal of licences to ensure that applications for licenses in premises

within any residential area is rejected in accordance with Section 12 (1) (a) of the Act. In this regard, district committee shall liaise with respective local authorities and physical planning in the district to identify demarcation of areas in the respective localities.

- (h) In assessing applications (new or renewal), district committee shall consider the distance between their premises and nursery schools, secondary schools and learning institutions for persons below age of 18 years in accordance with Section 12 (1) (c) of the Act
- (i) In regard to assessment of application for supermarket and franchised retail stores licences, district committee shall address the following in accordance to Section 12 (2):
  - (i) Supermarkets or related retail chain stores have a complete separate area where sale of alcoholic drink will take place from the rest of the products to ensure that the area where sale is to take place is not accessible to persons under the age of 18 years. In this regard, they should ensure that sale of alcoholic drink will take place in the area where alcoholic drink is displayed which area should not be accessible to persons below age of 18 years;
  - (ii) Ensure that supermarkets have not just separated the display shelves for alcoholic drink for customers to pick while sale takes place at the counter where all other products are purchased;
  - (iii) The area where alcoholic drink is sold is a complete shop with sealed off area from the rest of area where other products are sold;
  - (iv) District committee shall inspect the premises (supermarkets and franchised retail stores) prior to granting of licences.
- (j) In regard to granting of licences to body corporate, district committee may require prior disclosure of directorship of the body corporate in accordance to Section 16 of the Act. If any of the directors does not qualify to be granted a license individually, district committee shall refuse



to grant a licence to the body corporate. The eligibility criteria should stipulate in the Act be applied in this case.

#### **4.5. Granting and issuance of license**

The procedure stipulated under Section 10 of the Act shall apply in granting a licence while referring to related sections in the Part of the Act.

- (a) District committee shall before granting a new licence apply eligibility criteria stipulated in Section 13 (1) of the Act;
- (b) District committee shall before renewing licence apply eligibility criteria stipulated in Section 13 (2) of the Act;
- (c) Before renewing a licence district committee shall ensure that inspections are carried out on the premises to ensure conformity with the law;
- (d) Every license shall bear sufficient description of the licensed premises. Such description should include plot number or certificate number, adequate physical address and name of the building if applicable, name of the area where premises are located. The description should be in a way that the premises can easily be located or identified;
- (e) District committee shall review, scrutinize, vet and approve all persons who will manage, superintend or conduct day to day business of the premises on behalf of licensees in accordance with Section 21 (2) of the Act. The criteria for approval to be used by district committee shall be the same as the one used for licensees
- (f) For an application for renewal of licences, the applicant must produce the original and a copy license
- (g) In regard to brewer's licence, the committee shall grant a licence per product or alcoholic drink

#### **4.6. Removal of License**

For licenses that will not be renewed for reasons stipulated in the Act which include proximity of premises to nursery, primary and secondary schools or operation of licences in residential areas, district committee shall grant a 3 month licence under the conditions and process stipulated under Section 19 of the Act.

## **Chapter 5**

### **Enforcement and Compliance**

District committee and law enforcement agencies and authorised officers shall enforce the Act and all regulations made under the Act to ensure effective compliance. The following aspects of the law shall be enforced among others:

#### **5.1. Retailers**

- (a) License hours and other conditions stipulated by district committee in the respective licences
- (b) Requirements for maintaining premises in good sanitary conditions, good repair, conformity to occupational health and safety regulations as stipulated under Section 9 (16), Section 12 (1) (b), Section 13 (2) (f) and Section 25 of the Act
- (c) Requirements for supermarkets and related retail chain stores to ensure that area where sale of alcoholic drinks takes place is not accessible to persons below age of 18 years as stipulated under Section 12 (2) of the Act
- (d) Requirement for licensees to display on the premises the licence as stipulated under Section 20 (1) of the Act
- (e) Prohibition on employment of persons below the age of 18 years by licensees as stipulated under Section 21 of the Act
- (f) Prohibition of permitting persons to manage, superintend or conduct day-to-day business of the premises on behalf of licensee without the written consent of the district committee as stipulated under Section 21(2) of the Act
- (g) Prohibition on access by persons under age of 18 years to the area where alcoholic drink is manufactured, stored or consumed as stipulated under Section 24 of the Act
- (h) Prohibition of sale, supply or provision of alcoholic drinks to persons below age of 18 years as stipulated under Section 28 (1) of the Act

- (i) Prohibition of sale of objects including sweets, snacks and toys that resemble or imitate alcoholic drinks as stipulated under Section 28 (5) of the Act
- (j) Requirement for retailers to post display sign informing the public that sale or availing of alcohol to persons below age of 18 years is prohibited by law as stipulated under Section 29 of the Act
- (k) Prohibition of sale of alcoholic drink by way of vending machine as stipulated under Section 30 (1) of the Act
- (l) Prohibition of sale of alcoholic drink in sachets as stipulated under Section 31 (1) of the Act
- (m) Prohibition of sale of alcoholic drink in containers of less than 250 millilitres as stipulated under Section 31 (2) (a) of the Act
- (n) Requirement for sale of Chang'aa or other distilled alcoholic drink in glass bottles only as stipulated under Section 31 (2) (b) of the Act
- (o) Prohibition of sale of alcoholic drink which does not bear statement of its constituents and health warnings as stipulated under Section 32 of the Act
- (p) Prohibition of sale of an alcoholic drink to a person already in a state of intoxication as stipulated under section 33 (4)
- (q) Prohibition of sale of alcoholic drink without a licence as stipulated under Section 37 of the Act
- (r) Prohibition of sale of adulterated of alcoholic drink as stipulated under Section 38 (1) & (2)
- (s) Conformity with First Schedule section 3

## **5.2. Manufacturers or Brewers**

- (a) Prohibition on employment of persons below the age of 18 years by licensees as stipulated under Section 21 of the Act
- (b) Prohibition of permitting persons to manage, superintend or conduct day-to-day business of the premises on behalf of

- licensee without the written consent of the district committee as stipulated under Section 21(2) of the Act
- (c) Prohibition on access by persons under age of 18 years to the area where alcoholic drink is manufactured, stored or consumed as stipulated under Section 24 of the Act
  - (d) The requirement that manufacture or distillation of Chang'aa conform to the prescribed standards or the requirements of the Act as stipulated under section 27 (3) of the Act
  - (e) Prohibition of sale, supply or provision of alcoholic drinks to persons below age of 18 years as stipulated under Section 28 (1) of the Act
  - (f) Prohibition of manufacture or sale of objects including sweets, snacks and toys that resemble or imitate alcoholic drinks as stipulated under section 28 (5) of the Act
  - (g) Prohibition of manufacture, packing or distributing of alcoholic drink in sachets as stipulated under Section 31 (1) of the Act
  - (h) Prohibition of manufacture, packing or distribution of alcoholic drink in containers of less than 250 millilitres as stipulated under section 31 (2) (a) of the Act
  - (i) Requirement for manufacture, packing or distribution of Chang'aa or other distilled alcoholic drink in glass bottles only as stipulated under Section 31 (2) (b) of the Act
  - (j) Prohibition of manufacture or packing of alcoholic drink which does not bear statement of its constituents and health warnings as stipulated under Section 32 and the Second Schedule of the Act
  - (k) Prohibition of sale of adulterated of alcoholic drink as stipulated under Section 38 (1) & (2)
  - (l) Conformity with First Schedule section 1

### **5.3. Wholesalers**

- (a) Prohibition of permitting persons to manage, superintend or conduct day-to-day business of the premises on behalf of licensee without the written consent of the district committee as stipulated under Section 21(2) of the Act
- (b) Prohibition on access by persons under age of 18 years to the area where alcoholic drink is stored as stipulated under Section 24 of the Act
- (c) Prohibition of packing or distributing of alcoholic drink in sachets as stipulated under Section 31 (1) of the Act
- (d) Prohibition of packing or distribution of alcoholic drink in containers of less than 250 millilitres as stipulated under Section 31 (2) (a) of the Act
- (e) Requirement for packing or distribution of Chang'aa or other distilled alcoholic drink in glass bottles only as stipulated under S. 31 (2) (b) of the Act
- (f) Prohibition of sale of alcoholic drink which does not bear statement of its constituents and health warnings as stipulated under S. 32 of the Act for importers
- (g) Conformity with First Schedule section 2

### **5.4. Inspections**

Inspections for licensed premises shall be conducted either as:

- (a) Inspections before granting renewal licences
- (b) Inspections for new premises for new applications or
  - (i) Scheduled inspections- (i) Continuous or regular inspections and (ii) Annual inspections

The sub-committee on inspections and compliance will assist district committee in carrying out inspections services. Where appropriate, inspections shall be conducted in joint teams of government agencies responsible for enforcing the Act such as district committee, KEBS, KRA, public health ministry, police and local authority among others.

## **Appendix 1**

### **Licensing check list for retail licence**

1. Application form 1;
2. For an application for renewal of licences, the applicant must produce the original and a copy license
3. Identification documents (ID or passport for individuals) or certificate of registration or incorporation for corporate bodies;
4. Copy of PIN certificate for applicants (and directors for corporate bodies);
5. VAT certificate from KRA;
6. Public health certificate;
7. Names of persons to manage, superintend or conduct day to day business of the premises (in accordance with S.21 (2) of the Act);
8. A sketch map describing the location of the premises;
9. Physical address indicating name of the area where premises are located, name of the building where premises are situated and plot number where applicable;
10. Where the applicant trades in a business name, the name shall be included in the licence;
11. Members clubs to submit their constitution and details of ownership of premises where the license is applied for and copy of annual returns submitted to the registrar of societies. District committee may require the members club to provide a list of members.
12. For proprietary clubs, discotheques and night clubs, the applicant shall be required to produce a certificate from NEMA in regard to noise pollution control

## **Appendix 2**

### **Licensing check list for Brewers Licence**

1. Application form 2;
2. For an application for renewal of licences, the applicant must produce the original and a copy license;
3. Identification documents (ID for individuals) or certificate of registration or incorporation for corporate bodies;
4. Copy of PIN certificates for applicants (and directors for corporate bodies from Kenya Revenue Authority (KRA));
5. Copy of VAT certificate from KRA;
6. Public health certificate;
7. Kenya Bureau of Standards (KEBS) certificate of compliance with standards for manufacturing alcoholic drinks;
8. Architectural drawing of the premises;
9. List of products and their respective brands and KEBS certificate of compliance with standards for each product;
10. Certificate of compliance from National Environment Management Authority (NEMA);
11. declaration of volumes for previous year (for already existing manufacturers);
12. Copies of annual excise returns filed with KRA and financial statements and records;
13. A sketch map describing the location of the premises;
14. Physical address indicating name of the area where premises are located, name of the building where premises are situated and plot number where applicable;
15. Where the applicant trades in a business name, the name shall be included in the licence.



## **Appendix 3**

### **Licensing check list for wholesale License**

1. Application form 2;
2. For an application for renewal of licences, the applicant must produce the original and a copy license;
3. Single business permit;
4. KRA registration document;
5. Identification document (ID for individuals) or certificate of registration or incorporation for corporate bodies;
6. Copy of PIN certificates for applicants (and directors for corporate bodies);
7. Public health certificate;
8. Importers to provide list of products and respective brands and KEBS certificate of conformity with standards or letter of approval as well as Import Health Certificate
9. Certificate of compliance by NEMA save for importers;
10. Importers to provide declaration of volumes for previous year;
11. Importers to provide information on quantities and importation schedule