

**THE ALCOHOLIC DRINKS CONTROL
(AMENDMENT) BILL, 2012**

A Bill for

**AN ACT of Parliament to amend the Alcoholic
Drinks Control Act, 2010**

ENACTED by the Parliament of Kenya as follows—

1. This Act shall be cited as the Alcoholic Drinks Control (Amendment) Bill, 2012 and shall come into operation upon the expiry of thirty days from the date of publication.

Short title and
commencement.

2. The long title to the Alcoholic Drinks Control Act, 2010, (in this Act referred to as “the principal Act”) is amended by deleting the words “sale and consumption of alcoholic drinks” and substituting therefor the words “promotion, sale and consumption of alcoholic drinks and the treatment and rehabilitation of persons dependent on alcoholic drinks”.

Amendment of long
title of No 4 of 2010.

3. Section 2 of the principal Act is amended—

Amendment of
section 2 of No 4 of
2010.

(a) by deleting the definitions of—

- (i) Accounting Officer;
- (ii) District Committee;
- (iii) Fund;
- (iv) Minister;
- (v) relevant agency.

(b) by deleting the definition of “magistrate” and substituting therefor the following new definition—

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“magistrate” has the meaning assigned to it in the Magistrates Courts Act.

- (c) in the definition of “alcoholic drink” by deleting the words “traditional alcoholic drink, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic drinks, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being” appearing after immediately the word “beer” and substituting therefor the words “liquor, traditional alcoholic drink, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic drinks, modified industrial alcohol blended for human consumption and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being”;
- (d) in the definition of “manufacture” by deleting the word “processing” and substituting therefor the words “brewing, distilling, tapping or any processing or intermediate processing”;
- (e) by inserting the following new definitions in their proper alphabetical sequence—

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

“Cabinet Secretary” means Cabinet Secretary for the time responsible for matters relating to internal security;

“County Committee” means the County Alcoholic Drinks Regulation Committee established under section 8”;

“County Fund” means the County Alcoholic Drinks Control Fund established by section 6A;

“National Fund” means the National Alcoholic Drinks Control Fund established by section 5;

“promotion” includes any communication related to an alcoholic drink or its brand element through any form media or channel that is intended to encourage, persuade or influence consumers to consume or prefer an alcoholic drink and includes advertisement, publicity and personal selling or any new print or electronic media, social media or coded media languages;

4. Section 3 of the principal Act is amended by inserting the word “promotion” immediately after the word “production” appearing in the second line.

Amendment of
section 3 of No 4 of
2010.

5. Section 4 of the principal Act is amended—

Amendment of
section 4 of No 4 of
2010.

- (a) by deleting the word “relevant agency” and substituting therefor the word “ Authority”;
- (b) by deleting the word “Minister” wherever it occurs in the section and substituting therefor the word “Cabinet Secretary”;
- (c) by deleting the words “consumption and related” appearing in paragraph (a) and substituting therefor the words “production, consumption and related resultant disabilities, disorders, deaths and road traffic, domestic and occupational accidents”;
- (d) by deleting the words “Minister on the national policy to be adopted with regard to the production” appearing in paragraph (c) and substituting therefor the words “Cabinet Secretary and other relevant bodies on the national policy to be adopted with regard to the production, promotion and consumption”;
- (e) by inserting the following new paragraphs immediately after paragraph (e)—
 - (ea) provide support and assistance to county governments in—
 - (i) the development and implementation of county policies relating to the licensing of alcoholic drinks and the

mitigation of negative impact resulting from alcoholic drinks production, sale consumption and promotion;

(ii) the collection and maintenance of county statistics in regard to all matters related to alcoholic drinks in the county in accordance with sections 4(c) and 8 (a) of Part 2 of the Fourth Schedule to the Constitution;

(iii) establishment of treatment and rehabilitation programmes in the counties that shall recognize alcoholism as a disease and treatment as a right as envisaged in article 4 of the Constitution;

(eb) licence importers of alcoholic drinks and register alcoholic drinks in accordance with this Act;

(ec) vet and approve alcoholic drinks promotions and advertisements in accordance with section 48A of this Act;

(ed) formulate appropriate mechanisms and support structures to enable traditional alcoholic drinks to comply with the provisions of this Act and shall for this purpose establish a standing committee;

(ef) monitor and evaluate the implementation of this Act and coordinate with other relevant bodies including county governments, to ensure enforcement and implementation of this Act;

6. Section 5 of the principal Act is amended—

(a) in subsection (1) by inserting the word “National” immediately before the word “Alcoholic”

Amendment of
section 5 of No 4 of
2010.

- (b) in subsection (2)—
 - (i) by inserting the word “National” immediately before the word “Fund” wherever it occurs;
 - (ii) by inserting the words “to the Authority” immediately after the word “payable” appearing in paragraph (a);
 - (iii) by inserting a new paragraph new paragraph immediately after paragraph (a) as follows—
 - (aa) the treatment and rehabilitation levy payable under section 6A
- (c) in subsection (3) by deleting the words “Fund, the Accounting Officer shall deal with the property in such manner as he thinks” and substituting therefor the words “National Fund, the Authority shall deal with the property in such manner as it deems”;
- (d) in subsection (4)—
 - (i) by inserting the word “National” immediately before the word “Fund”;
 - (ii) by inserting the words “that shall recognize alcoholism as disease” immediately after the word “programs” appearing in paragraph (b);
 - (iii) by deleting paragraph (c);
 - (iv) by deleting the expression “(b) and (c)” appearing in paragraph (d) and substituting therefor the expression “and (b)”.
- (e) by deleting subsection (5);
- (f) by inserting the word “National” immediately before the word “Fund” wherever it occurs in subsection (6).

7. Section 6 of the principal Act is amended—

Amendment of
section 6 of No 4 of
2010.

- (a) by inserting the word “National” immediately before the word “Fund” wherever it occurs in the section;
- (b) by deleting the words “Accounting Officer” wherever they occur in the section and substituting therefor with the word “Authority”;
- (c) by deleting the words “Controller and Auditor-General” wherever they occur in the section and substituting therefor with the words “Auditor-General”;
- (d) by deleting the word “Minister” appearing in subsection (2) and substituting therefor the word “Cabinet Secretary”.

8. The principal Act is amended by inserting the following new sections immediately after section 6—

Insertion of new sections 6A and 6B into No 4 of 2010.

Treatment and rehabilitation levy.

6A (1) The Cabinet Secretary shall, by Order in the Gazette, require payment by a manufacturer or importer of an alcoholic drink of a treatment and rehabilitation levy of not less than two percent of the price of alcoholic drinks at the point of manufacture or importation.

(2) An Order made under this section may—

- (a) provide for the amendment of any previous Order;
- (b) make different provisions in relation to different classes of manufacturers and importers under this Act;
- (c) contain provisions as to the evidence by which a person’s liability to levy, or his discharge of that liability, may be established,

and so as to the time at which any amount payable by any person by way of the levy shall become due.

(3) All monies received in respect of the levy shall be paid into the Fund, and if not paid on or before the date prescribed in the Order, the money and any sum payable under subsection (4) shall be a civil debt recoverable summarily by the Authority.

(4) A person who fails to pay any amount payable by way of the levy on or before the date prescribed by the Order—

- (a) commits an offence, and is liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a period not exceeding twelve months or to both; and
- (b) shall, in addition to (a), be liable to pay the outstanding amount with an additional penalty of three per centum of the amount of the levy due, for each month or part thereof during which the amount due remains.

County Fund.

6B (1) Pursuant to Article 207 of the Constitution, there is established for every county government, a County Alcoholic Drinks Control Fund.

(2) The County Fund shall consist of—

- (a) such licence fees as may be payable to the county government under this Act;

(b) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any person or persons;

(c) moneys earned or arising from any investment of the County Fund;

(d) all other sums which may in any manner become payable to, or vested in, the County Fund.

(3) The monies payable to the County Fund shall not form part of the Revenue Fund for the county government.

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

(a) the operations of the County Committee;

(b) research, documentation and dissemination of information on alcoholic drinks in the county;

(c) promoting county cessation and rehabilitation programs that shall recognize alcoholism as disease; and

(d) any other matter incidental to the matters stated in paragraphs (a) (b) and (c).

(5) An amount of not less than fifteen per cent of the Fund's annual income shall be used to fund relevant civil society programmes in the county.

(6) The County Fund shall be administered by the member of the county executive committee responsible for matters relating to alcohol control who shall—

- (a) supervise and control the administration of the County Fund;
- (b) impose conditions on the use of any expenditure personally authorized and may impose any reasonable restriction or other requirement concerning use of expenditure;
- (c) cause to be kept proper books of account and other books and records in relation to the County Fund as well as to all the various activities and undertakings of the County Fund;
- (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003 and in such details as the Treasury may from time to time direct;
- (e) furnish such additional information as may be required for examination and audit by the Auditor-General or under any law; and
- (f) engage such staff as may be necessary to assist in the management of the County Fund.

9. The principal Act is amended by inserting the following new section immediately after PART III-LICENSING—

Insertion of new section 6C into No 4 of 2010.

6C. (1) The provisions of this Part shall apply to the licensing of alcoholic drinks in a county unless otherwise provided for in that county's legislation.

(2) For the avoidance of doubt, any law made by a county government in relation to the licensing alcoholic drinks shall prevail over the provisions of this Part.

10. Section 7 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)–

Amendment of section 7 of No 4 of 2010.

(3) Any person who contravenes the provisions of subsection (1) commits an offence.

11. The principal Act is amended by inserting the following new section immediately after section 7—

Insertion of new sections 7A into No 4 of 2010.

Registration of alcoholic drinks.

7A (1) A manufacturer or importer of an alcoholic drink licensed under this Act shall, within thirty days after the grant of a licence by the appropriate body, apply to the Authority for registration of the alcoholic drink.

(2) The Authority shall, within thirty days of the coming into operation of this section, prescribe the procedure for application and registration of the alcoholic drink and the fee payable to the Authority.

(3) A manufacturer or importer of an alcoholic drink who ceases to manufacture or import an alcoholic drink in respect of which registration has been granted under this section shall, within thirty days of ceasing to manufacture or import the alcoholic drink, notify the Authority in writing of the change.

(4) Any person who contravenes the provisions of subsection (1) commits an offence.

12. Section 8 of the principal Act is amended—

Amendment of
section 8 of No 4 of
2010.

(a) in subsection (1)—

(i) by deleting the words “district, a committee to be known as the District” and substituting therefor the words “county, a committee to be known as the County”;

(ii) by deleting the word “Minister appearing in paragraph (b) and substituting therefor the words “Cabinet Secretary”

(b) by deleting the word “District” appearing in subsection (2) and substituting therefor the word “County”;

(c) by deleting subsection (3) and substituting therefor the following new subsection—

(3) The County Committee shall consist of—

(a) the member of the county executive committee responsible for matters relating to alcohol control who shall be the chairperson;

(b) the county officer for the time being responsible for public health;

(c) the officer commanding police services in the county;

(d) one officer representing the national government in matters related to administration in the county;

(e) the officer for the time being responsible for physical planning in the county;

(f) three residents of the county appointed through a competitive process in accordance with the prescribed rules, one of whom shall be a youth;

- (g) one person designated by the Authority;
- (h) one person representing the city or municipality in the county;
- (i) one officer appointed by the Kenya Bureau of Standards.
- (d) by deleting the word “District” wherever it occurs in subsections (4) and (5) and substituting therefor the word “County”;
- (e) by deleting subsection (6) and substituting therefor a new subsection as follows—

(6) A person shall not be a member of the County Committee if such person is—

- (a) the holder of or a licence in the county under this Act;
- (b) a partner in a firm or director or shareholder of a company or other body which is the holder of a licence in that county under this Act;
- (c) directly or indirectly employed as an agent of a person, firm or company which is the holder of a licence in the county under this Act;
- (d) an undischarged bankrupt;
- (e) a person who has been convicted of a felony.

13. Section 9 of the principal Act is amended—

- (a) by deleting the words “District Committee” wherever they occur in the section and substituting therefor the words “County Committee”;
- (b) by deleting the words “district commissioner” wherever they occur in the section and substituting therefor the word “member of the county executive committee responsible for matters relating to alcohol control”;

Amendment of
section 9 of No 4 of
2010.

- (c) by deleting the word “district” wherever it occurs and substituting therefor the word “county”;
- (d) by deleting the words “Commissioner of Police” wherever they occur and substituting therefor the words “Inspector General of Police”;
- (e) by deleting the words “Kenya Gazette” appearing in paragraph (a) of subsection (3) and substituting therefor the words “the website or other electronic or print media in the county”;
- (f) by deleting the words “local authority” appearing in paragraph (e) of subsection (3) and substituting therefor the words “county officer responsible for physical planning”;
- (g) by deleting the words “an officer representing the local authority” appearing in subsection (4) and substituting therefor the words “the county officer responsible for physical planning”;
- (h) by deleting the words “local authority” wherever they occur in subsection (12) and substituting therefor the word “county”.

14. Section 10 of the principal Act is amended—

Amendment of
section 10 of No 4
of 2010.

- (a) by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”;
- (b) by deleting the word “thirty” appearing in paragraph (b) of subsection (4) and substituting therefor the word “fourteen”;
- (c) in subsection (7) by deleting the word “Gazettee” and substitute therefor the words “website of the county or other electronic or print media in the county”.

15. Section 11 of the principal Act is amended by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”.

Amendment of
section 11 of No 4
of 2010.

16. Section 12 of the principal Act is amended—

Amendment of
section 12 of No 4
of 2010.

- (a) by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”;
- (b) by inserting a new subsection immediately after subsection (2) as follows—

(3) Despite subsection (1), the County Committee may issue a licence to a premise located within three hundred meters of any nursery, primary, secondary or other learning institution for persons under the age of eighteen years only 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 displays 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 promotion or advertisement;
- (d) the applicant does not engage in activities that interfere with learning in the institution or activities that calculated to attract persons under the age of eighteen to the premises;

17. Section 13 of the principal Act is amended—

Amendment of
section 13 of No 4
of 2010.

- (a) by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”.
- (b) by inserting the following new paragraphs immediately after paragraph (f)—
 - (g) is an employee of the Kenya Police Service or is an authorized officer under this Act;

(h) wishes to operate an alcoholic drinks outlet in a fuel station or a fast food restaurant;

(c) by inserting the words “located in a fuel station or” immediately after the words “licence relates are” appearing in paragraph (f) of subsection (2).

18. Section 14 of the principal Act is amended—

Amendment of
section 14 of No 4
of 2010.

(a) by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”;

(b) by deleting the words “at the end of twelve months from the date of issue” appearing in paragraph (b) of subsection (3) and substituting therefor the words “on thirty first of December each year”;

(c) by inserting the words “which shall be as set out in the Third Schedule” at the end of paragraph (c) of subsection (3).

19. Section 16 of the principal Act is amended by deleting the word “District Committee” appearing in subsection (1) and substituting therefor the word “County Committee”.

Amendment of
section 16 of No 4
of 2010.

20. Section 17 of the principal Act is amended—

Amendment of
section 17 of No 4
of 2010.

(a) by deleting the word “District Committee” appearing in subsection (3) and substituting therefor the word “County Committee”;

(b) by inserting a new subsection immediately after subsection (4) as follows—

(5) A retail licence for consumption of alcohol shall specify the sitting capacity of the licensed premises.

21. Section 18 of the principal Act is amended by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”.

Amendment of
section 18 of No 4
of 2010.

22. Section 19 of the principal Act is amended by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”.

Amendment of section 19 of No 4 of 2010.

23. Section 21 of the principal Act is amended by deleting the word “District Committee” appearing in subsection (2) and substituting therefor the word “County Committee”.

Amendment of section 21 of No 4 of 2010.

24. Section 24 of the principal Act is amended—

Amendment of section 24 of No 4 of 2010.

(a) in subsection (1) by deleting the word “consume” and substituting therefor the word “sell”;

(b) by inserting a new subsection immediately after subsection (1) as follows—

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

25. The principal Act is amended by inserting the following new section immediately after section 24—

Insertion of new sections 24A into No 4 of 2010.

Capacity as specified in licence.

48A. (1) No person licensed to sell an alcoholic drink under this Act shall allow into the premises or at any one time sell alcoholic drinks to more persons than those specified as in the license.

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

26. Section 25 of the principal Act is amended by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”.

Amendment of section 25 of No 4 of 2010.

27. Section 26 of the principal Act is amended—

Amendment of section 26 of No 4 of 2010.

(a) by deleting the word “District Committee” wherever it occurs in the section and substituting therefor the word “County Committee”;

- (b) by deleting the word “Division” appearing in paragraph (b) of subsection (1) and substituting therefor the words “services in the county”

28. Section 27 of the principal Act is amended—

Amendment of
section 27 of No 4
of 2010.

- (a) in subsection (1) by inserting the word “sell” immediately after the word “import”;
- (b) by deleting subsection (2).

29. Section 31 of the Act is amended—

Amendment of
section 31 of No 4
of 2010.

- (a) by deleting the word “manufacture” wherever it occurs in the section;
- (b) by inserting the words “or a fortified wine” immediately after the words “distilled alcoholic drink” appearing in subsection (2) (b).

30. Section 32 of the principal Act is amended—

Amendment of
section 32 of No 4
of 2010.

- (a) by deleting the word “package” appearing in subsection (3) and substituting therefor the word “label”;
- (b) by inserting a new subsection immediately after subsection (3) as follows—

(3A) The statement and health warning referred to in subsection (2) shall consist of not less than the character and font size stipulated under paragraph 2 of the Second Schedule which shall appear on the area of the principle display panel.

- (c) in subsection (5) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

31. Section 33 of the principal Act is amended—

Amendment of
section 33 of No 4
of 2010.

- (a) in subsection (1) by inserting the words “or driving a motor vehicle while drunk” immediately after the words “public place”;

(b) in subsection (2) by deleting the words “shall be liable to a fine not exceeding five hundred” and substituting therefor the words “or driving a motor vehicle while drunk, shall be liable to a fine not exceeding ten thousand”;

(c) in subsection (3)

(i) by deleting the word “district” wherever it appears in the section and substituting therefor the word “county”;

(ii) by inserting a new paragraph immediately after paragraph (b) as follows-

(c) be ordered by the convicting Magistrate to surrender his driving licence for cancellation if the person has been previously convicted for the offence of drunken driving.

(d) by inserting the following new subsections immediately after subsection (4)—

(6) For purposes of this section, the upper limit of blood alcohol for drunken driving shall be 0.005% of alcohol in the blood and the upper limit of for being drunk and disorderly shall be 0.01% of alcohol in the blood.

(7) The laboratories of the institutions specified in the Fifth Schedule shall be used for purposes of ascertaining the levels of alcohol specified under subsection (6),

32. Section 34 of the principal Act is amended by renumbering the existing provision as subsection (1) and inserting new subsections (2) and (3) as follows—

Amendment of
section 34 of No 4
of 2010.

(2) Unless if the licence issued under this Act permits, no person shall—

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

- (b) sell an alcoholic drink during the period of two days prior to the date of any general election or in an areas subject to a by-election as provided for under the Constitution;
- (c) sell, purchase or consume an alcoholic drink in an alcoholic drink selling outlet after the expiry of the hours for which the outlet is licensed to sell the alcoholic drink.

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

33. Section 38 of the principal Act is amended—

Amendment of
section 38 of No 4
of 2010.

(a) in subsection (1)—

- (i) by inserting the word “manufacture” immediately after the word “shall” ;
- (ii) by deleting the words “by the Minister” appearing in paragraph (b) and substituting therefor the words “in the Fourth Schedule or by the Cabinet Secretary”;

(b) by inserting a new subsection immediately after subsection (3) as follows-

(3A) This section shall not apply to the process in which licensed alcoholic drinks are diluted with water or soft drinks in a licensed alcoholic drink selling outlet for purposes of consumption by a customer.

34. Section 45 of the principal Act is amended by inserting a new subsection immediately after subsection (1) as follows—

Amendment of
section 45 of No 4
of 2010.

(1A) A person shall not promote an alcoholic drink or brand related element by—

- (a) way of outdoor advertisement or bill board in places demarcated as residential areas or within a distance of three hundred meters from 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 or any other public land or property or public service vehicle;

- (b) way of broadcasting in any electronic media between the hours of 6:00 a.m. and 10:00 p.m.;
- (c) including anything in the promotion which might appeal to persons under the age of eighteen years by implying that the consumption of an alcoholic drink is fashionable or the accepted course of behavior;
- (d) portraying or using a sports or entertainment personality to endorse an alcoholic drink or including any statement, picture or illustration implying that the consumption of an alcoholic drink enhances the prowess or success of that personality, or any statement, picture or illustration referring to any known , if such statement, picture or illustration implies, or if the reader may reasonably infer, that the use of alcoholic drink contributed to such known personality's achievements;
- (e) is misleading by exaggerating the capability or performance of an alcoholic drink;
- (f) painting or decorating a residential building with the name of the alcoholic drink or manufacturer, colour and brand images or logos associated with a manufacturer or an alcoholic drink or any other related form.

35. Section 47 of the principal Act is amended by inserting the words “by awarding or giving a free alcoholic drink to another person or “immediately after the words “promote any alcoholic drink” appearing in subsection (1).

Amendment of
section 47 of No 4
of 2010.

36. The principal Act is amended by inserting the following new section immediately after section 48-

Insertion of new
sections 48A into
No 4 of 2010.

Alcoholic Drinks
Promotions Regulation
Committee

48A. (1) The Authority shall establish an Alcoholic Drinks Promotions Regulation Committee (in this section referred to as “the Committee”) which shall be a committee of the Authority.

(2) The Committee shall consist of—

- (a) five persons nominated by the Authority one of whom shall be the chairperson;
- (b) one person nominated by the Kenya Film Classification Board;
- (c) one person nominated by the Media Council of Kenya;
- (d) one person nominated by the Betting Control and Licensing Board;
- (e) one person qualified and experienced in matters related to media and communications who shall be appointed by the Cabinet Secretary.

(3) The Committee shall be responsible for vetting and approving all advertisements and promotions in the print, electronic and other media relating to alcoholic drinks.

(4) The procedure for application and approval of a promotion or advertisement by the Committee under this section shall be as prescribed by the Authority.

(8) Any person who carries out any promotion or makes any advertisement without the approval of the Committee under this section commits an offence and shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

37. Section 50 of the principal Act is amended—

Amendment of
section 50 of No 4
of 2010.

- (a) by deleting the words “the respective District committee, appoint for each district” appearing in subsection (1) and substituting therefor the words “the Authority appoint for each county”;
- (b) by deleting the word “Minister” wherever it occurs and substituting therefor the words “Cabinet Secretary”.

38. Section 65 of the principal Act is amended—

Amendment of
section 65 of No 4
of 2010.

- (a) by deleting the words “Government” wherever it occurs in subsections (1), (2) and (3) and substituting therefor the words “national government”;
- (b) by deleting the word “relevant agency” wherever it occurs in subsections (3),(4) and (5) and substituting therefor the word “Authority”;
- (c) by deleting the word “local authority” appearing in subsection (5) and substituting therefor the words “county government”.
- (d) by inserting a new section immediately after subsection (5) as follows—

(6) In conducting the education and awareness campaign under this section, the Authority and the Government shall recognize alcoholism as a disease and the alcohol use disorders as defined and classified by World Health Organization shall be recognized as disorders in Kenya.

39. Section 66 of the principal Act is amended by deleting the words “relevant agency shall liaise with the Minister” and substituting therefor the words “Authority shall liaise with the Cabinet Secretary”.

Amendment of
section 66 of No 4
of 2010.

40. Section 67 of the principal Act is amended—

Amendment of
section 67 of No 4
of 2010.

- (a) in subsection (1) by deleting the words “relevant agency” and substituting therefor the word “Authority”;

- (b) in subsection (2) by deleting the words “relevant agency and the Government” and substituting therefor the words “Authority and the national government”.

41. Section 68 of the principal Act is amended—

Amendment of
section 68 of No 4
of 2010.

- (a) by deleting the word “Minister” appearing in subsection (1) and substituting therefor the words “Cabinet secretary;
- (b) by inserting the words “which shall be in addition to the substances specified in the Fourth Schedule” immediately after the word “drink” appearing in paragraph (c);
- (c) by deleting paragraph (d) of subsection (2).

42. The First Schedule to the principal Act is amended by—

Amendment of First
Schedule of No 4 of
2010.

- (a) in paragraph 1 deleting the words “Brewers licence” and substituting therefor the words “Manufacturer’s licence”;
- (b) in paragraph 2 by inserting the words “at wholesale” immediately after the words “alcoholic drink”;
- (c) by inserting a new paragraph immediately after paragraph 3 as follows—

4. Import Licence

An import license authorizes the licensee to import an alcoholic drink and to sell the imported alcoholic drink at wholesale in accordance to the conditions that are for the time being, applicable to a holder of a wholesale licence.

43. The Second Schedule to the principal Act is amended—

Amendment of
Second Schedule of
No 4 of 2010.

- (a) by inserting the following new subparagraphs immediately after subparagraph (d) appearing in paragraph 1—

- (e) Alcohol consumption when pregnant harms your baby;
- (f) Excessive consumption of alcohol leads to heart disease;
- (g) Alcohol consumption is addictive;

(b) by inserting a new paragraph 2 as follows—

2._The following character sizes and font sizes shall apply to the text of statement and health warning stipulated under paragraph 1—

<i>Size Of Package</i>	<i>Height Of Character (Mm)</i>	<i>Font Size/ Points</i>
250mililtres to 475 milliliters	2mm	9 points
Over 475mililitresl to 1litre	3mm	12 points
Over 1 litre to 5 litres	4mm	17.6 points
over 5 litres	6mm	26 points

44. The principal Act is amended by inserting the following new Schedules immediately after the Second Schedule as follows—

Insertion of Third, Fourth and Fifth Schedules into No 4 of 2010.

THIRD SCHEDULE

(s.14)

Licenses

Licence Hours, Conditions and Exceptions

1. General Retail Alcoholic Drink Licence (on licence)

Authorized to sell alcoholic drink:

- (a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m.

- (b) During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.
2. General Retail Alcoholic Drink Licence (Off Licence) Wines and Spirits Retailers (Rural and Sub-Urban) Authorised to sell alcoholic drink on any day of the week during the hours of 5:00 p.m. to 8:30 p.m.
 3. Supermarket or Franchised Retail Chain Stores (Urban) Alcoholic Drink Licence (Off-Licence) Authorised to sell alcoholic drink on any day of the week during the hours of 10:00 a.m. to 8:30 p.m.
 4. Hotel Alcoholic Drink Licence Authorized to sell alcoholic drink on any day of the week to a lodger - for his own consumption and his guest's consumption on the premises, at any hour.
 5. 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. Authorized to sell alcoholic drink to members
 - (a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m.
 - (b) During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.

(b) Proprietary Club (Including Night Club)	Authorized to sell alcoholic drink any day of the week during the hours of 7.00 p.m. to 3.00 a.m.
6. Theatre Alcoholic Drink Licence	Authorized to sell alcoholic drink during the hours of 5.00 p.m. to 11.00 p.m.
7. Travellers' Alcoholic Drink Licence	Authorized to sell alcoholic drink on any day of the week at any hour to persons bona fide travelers on board a train or air.
8. Railway Restaurant Car Alcoholic Drink Licence	Authorized to sell alcoholic drink at any hour.
9. Steamship Alcoholic Drink Licence.	Authorized to sell alcoholic drink on any day of the week at any hour while the steamship, whether stationary or in motion, is on a voyage
10. Temporary or Occasional license	Authorised to sell alcoholic drink on the day and during the hours stipulated in the license by the County Committee for the purposes of specific occasions, ceremonies or events as indicated in the application

FOURTH SCHEDULE (S. 38 (1))

PROHIBITED SUBSTANCES

1. All the substances classified as poisons under section 25 of the Pharmacy and Poisons Act.

2. Formaldehyde.
3. Formalin.
4. Methanol.
5. Jet fuel or paraffin and its derivatives;
6. Car battery acid or alkaline battery content.
7. Fertiliser including Dichlorodiphenyltrichloroethane
8. Sisal juice and its extracts.
9. Used garments and sanitary towels.
10. Dead rodents, animals, flesh or body parts.
11. Such other organic or inorganic toxic materials as may be prescribed

FIFTH SCHEDULE (S. 33(6))

APPROVED LABORATORIES

1. Government Chemist
2. Kenya Bureau of Standards Laboratories
3. Kenyatta National Hospital
4. University of Nairobi
5. Kenyatta University
6. The Aga Khan Teaching Hospital
7. Kenya Plants Health Inspection Services
8. National Veterinary Laboratories
9. Moi Teaching and Referral Hospital

MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill aims to amend the Alcoholic Drinks Control Act, 2010 so as to make it conform to the practical challenges in implementation arising out of its enactment and implementation.

Secondly, the Bill seeks to harmonize the Alcoholic Drinks Control Act, 2010 with the provisions of the new Constitution.

Clause 1 provides for the short title and commencement of the proposed Act. It is proposed that the proposed Act comes into operation after the expiry of thirty days from the date of publication in the Gazette so as to give room for any administrative action that may need to be undertaken prior to the commencement of the Act.

Clause 2 seeks to amend the long title of the Act so as to reflect its increased scope of application.

Clause 3 seeks to make various amendments to section 2 of the Act which is the Interpretation section of the Act.

Clause 4 seeks to make a consequential amendment to section 3 of the Act

Clause 5 seeks to amend section 4 of the Act so as to provide for additional functions of the Authority including the registration of alcoholic drinks, the licensing of importation of alcoholic drinks and the approval and vetting of promotions and advertisements in respect of alcoholic drinks.

Clauses 6, 7 and 8 seek to amend sections 5 and 6 of the Act so as to restructure the Alcoholic Drinks Control Fund as a result of the new Constitution. It is proposed that a fund be created at two levels; National and County Level.

The National Alcoholic Drinks Control Fund to be shall be administered by NACADAA and not the Accounting Officer of the Ministry whereas the County Funds to be established for County Governments along the lines of the National Fund so as to meet the operational costs of County Committees.

It is also proposed to create a Rehabilitation and Treatment Levy to be imposed on manufacturers and importers of alcoholic drinks. The levy shall form part of the proceeds of the National Fund.

Treatment and rehabilitation programs funded from both Funds will be geared towards recognizing alcoholism as a disease.

Clause 9 seeks to introduce a new section 6C into the Act to specify that the provisions of the Act relating to licensing of alcoholic drinks shall apply to the licensing of alcoholic drinks in a county unless otherwise provided for in that county's legislation. This is in recognition of the fact that liquor licensing is a function of the county government under the Fourth Schedule to the Constitution.

Clause 10 seeks to amend section 7 of the Act so as to criminalize conduct that contravenes the section and also remove the exemption granted to Parliament and the Discipline Forces from complying with the provisions of the Act.

Clause 11 seeks to insert a new section 7A into the Act so as to provide for the registration by the Authority of all alcoholic drinks manufactured or imported into the Country. The clause also imposes an obligation to the person who ceases to manufacture or imports such drink to inform the authority of the change in circumstances.

Clause 12 seeks to amend section 8 of the Act so as to re-establish the Districts Committees as County Committees and restructure their composition and qualifications for appointment of the members.

Clause 13, 14 and 15 seeks to amend sections 9, 10 and 11 of the Act so as to restructure and re-establish the Districts Committees as County Committees.

Clause 16 seeks to amend section 12 of the Act so as to address the difficulties arising out of the implementation of the three hundred meters rule. It is proposed the County Committee may issue a licence to a premise located within three hundred meters of any nursery, primary, secondary or other learning institution for persons under the age of eighteen years only if the premise is secured by a physical and non transparent barrier that ensures zero visibility of the premise from the locality of the institution and the premise displays on its outside any of the prescribed health messages.

Clause 17 seeks to amend section 13 of the Act so as prohibit the issuance of licenses to officers of the Kenya Police Service and any other authorized officers. It is also proposed to prohibit the issuance of alcoholic drinks licenses to fuel stations and fast food restaurants.

Clause 18 proposes to amend section 14 of the Act so as to provide for the expiry of the licenses at the end of every calendar year and to insert a new Third Schedule in the Act providing for the hours for selling alcoholic drinks.

Clauses 19, 20, 21, 22, 23, 24, 26 and 27 seek to amend sections 16, 17, 18, 19, 21, 24, 25 and 26 of the Act so as to make consequential amendments arising out of the restructuring and re-establishment of the Districts Committees as County Committees

Clause 25 seeks to insert a new section 24 into the Act so as to provide for the offence of allowing more people into an establishment than the capacity provided for in the licence.

Clause 28 seeks to amend section 27 of the Act so as to remove the implication in subsection (2) that a manufacturer, distributor, importer or anyone may be in possession of an alcoholic drink that does not meet the requirements of the Act. This can lead to counterfeiting and possession of illicit drinks by licensed persons.

Clause 29 seeks to amend section 31 of the Act so as to clarify that fortified wine cannot be packaged in sachets or containers of less than 250 milliliters.

Clause 30 seeks to amend section 32 of the Act so as to require that the health warning should be at least thirty percent of the label as opposed to the package-a requirement which the courts have upheld that it is impossible to implement. It is proposed in turn that the label should not be less than fifty percent of the total area of the package.

Clause 31 seeks to amend section 33 of the Act so as to increase the penalty of being drunk and incapable from five hundred shillings to ten thousand shillings, to require cancellation of driving licenses for those convicted of drunken driving three times within a year and to specify the upper limit of blood alcohol for drunken driving to be 0.005% of alcohol

in the blood and the upper limit of for being drunk and disorderly to be 0.01% of alcohol in the blood.

Clause 32 seeks to amend section 34 of the Act so as to criminalize the selling and consumption of alcoholic drinks outside the licensed hours and the selling of alcoholic drinks in public and work places. It is also proposed to outlaw the selling of alcoholic drinks during the period of two days prior to the date of any general election or by-election as provided for under the Constitution.

Clause 33 seeks to amend section 34 of the Act so as to exclude from the offence of adulteration, the dilution that is necessary for the consumption for the alcoholic drink.

Clause 34 seeks to amend section 45 of the Act so as to impose standards on promotions and advertisements of alcoholic drinks. It is proposed to outlaw advertisements of alcoholic drinks in the broadcasting media between the hours of 6.00am and 10.00pm

Clause 35 of the Bill seeks to amend section 47 of the Act so as to outlaw the giving away of free alcoholic drinks in promotions.

Clause 36 seeks to amend the Act so as to establish the Alcoholic Drinks Promotions Regulation Committee as a committee of the Authority which shall be responsible for vetting and approving all advertisements and promotions in the print, electronic and other media relating to alcoholic drinks.

Clause 37 seeks to amend section 60 of the Act so as to empower the Authority to recommend to the Cabinet Secretary the list of officers to be appointed as authorized persons for the purposes of this Act. Under this arrangement, the Authority can ensure that it has control over the authorized officers as it can recommend appointment of its own officers.

Clauses 38, 39, 40 and 41 seeks to amend sections 65, 66, 67 and 68 of the act so as to make consequential amendments in terminologies so as to align the terminologies used in the Act to those used in the new Constitution.

Clause 42 seeks to amend the First Schedule to the Act so as to rename the brewers licence as the manufactures licence and also provide for the import licence as a new type of licence.

Clause 43 seeks to amend the Second Schedule to the Act so as to provide for more health messages.

Clause 44 seeks to insert a new Third Schedule into the Act so as to provide for the licence hours in the Act, a new Fourth Schedule so as to specify the prohibited substances under the Act and a new Fifth Schedule in the Act so as to provide for the laboratories recognized for the purposes of ascertaining alcoholic levels for drunken behavior and driving.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 27th July, 2012.

JOHN MUTUTHO,
Member of Parliament.

The long title to No 4 of 2004 which it is proposed to amend—

AN ACT of Parliament to provide for the regulation of the production, sale and consumption of alcoholic drinks, to repeal the Chang'aa Prohibition Act, the Liquor Licensing Act and for connected purposes

Definitions in section 2 of No 4 of 2004 which it is proposed to amend—

"alcoholic drink" includes alcohol, spirit, wine, beer tradition alcoholic drink, and any one or more of such varieties containing one-half one percent or more of alcohol by volume, including mixed alcoholic drink and every liquid or solid, patented or not, containing alcohol, spirits, win or beer and capable of being consumed by a human being;

"Accounting Officer" means the accounting officer of the relevant agency;

"District Committee" means the District Alcoholic Drinks Regulation Committee established under section 8;

"Fund" means the Alcoholic Drinks Control Fund established by section 5;

"magistrate" means a magistrate above the rank of resident magistrate;

"manufacture" means the processing of an alcoholic drink and includes the packaging, labeling, distribution or importation of an alcoholic drink for sale in Kenya;

"Minister" means the Minister for the time being responsible for matters relating to provincial administration;"relevant agency" means the National Campaign Against Drug Abuse Authority or its successor in law as the public body or department responsible for matters relating to alcoholic drinks;

Section 3 of No 4 of 2004 which it is proposed to amend—

Object and purpose of Act.

3. The object and purpose of this Act is to provide for the control of the production, sale, and use of alcoholic drinks, in order to—

(a) protect the health of the individual in the light of

the dangers of excessive consumption of alcoholic drinks;

- (b) protect the consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of excessive consumption of alcoholic drinks;
- (c) protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks;
- (d) inform and educate the public on the harmful health, economic and social consequences of the consumption of alcoholic drinks;
- (e) adopt and implement effective measures to eliminate illicit trade in alcohol including smuggling, illicit manufacturing and counterfeiting;
- (f) promote and provide for treatment and rehabilitation programmes for those addicted or dependent on alcoholic drinks; and
- (g) promote research and dissemination of information on the effects of alcoholic drink consumption, in particular the health risks that may arise therefrom.

Section 4 of No 4 of 2004 which it is proposed to amend—

Functions of the relevant
agency

4. The relevant agency shall—

- (a) keep statistics on the level of alcoholic drinks consumption and related deaths and carry out research, documentation and dissemination of all relevant information on alcoholic drinks;
- (b) promote national treatment and rehabilitation programmes;

-
- (c) advise the Minister on the national policy to be adopted with regard to the production, manufacture, sale, and consumption of alcoholic drinks;
 - (d) advise the Minister generally on the exercise of his powers and the performance of his functions under this Act, and in particular to—
 - (i) recommend to the Minister the permissible levels of the constituents of alcoholic drinks required to be prescribed under section 68 (2) (a);
 - (ii) advise the Minister on the harmful constituents and ingredients of alcoholic drinks required to be prohibited under section 68(2) (b);
 - (iii) advise the Minister on the test methods to be used in determining alcoholic drinks in order to test conformity with the requirements of this Act and any regulations made thereunder;
 - (iv) advise the Minister on the information that manufacturers shall provide, including information on product composition, ingredients, hazardous properties and brand elements required to be provided under section 68 (2) (c);
 - (v) advise the Minister on the packaging, sale and distribution of alcoholic drinks;
 - (e) recommend to the Minister and to participate in the formulation of the regulations to be made under section 68;
 - (f) carry out such other roles necessary for the implementation of the objects and purpose of this

Act and perform such other functions as may, from time to time, be assigned by the Minister.

Section 5 of No 4 of 2004 which it is proposed to amend—

Establishment of the Fund.

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

(2) The Fund shall consist of—

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

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

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

- (a) research, documentation and dissemination of information on alcoholic drinks;
- (b) promoting national cessation and rehabilitation programs; and

- (c) assisting in the operations of the District Committees and civil society programmes in accordance with subsection (5);
- (d) any other matter incidental to the matters stated in paragraphs (a) (b) and (c).

(5) An amount of not less than fifty per cent of the Fund's annual income shall be used to equitably finance the District Committees in their operations and an additional amount of not less than fifteen per cent shall be used to fund relevant civil society programmes.

(6) Unless the Treasury otherwise directs, the receipts, earnings or accruals of the Fund and its balances at the close of each financial year shall not be paid into the Consolidated Fund, but shall be retained for the purposes of the Fund.

Section 6 of No 4 of 2004 which it is proposed to amend—

Administration of the
Fund.

6. (1) The Fund shall be administered by the Accounting Officer.

(2) The Accounting Officer may, with the approval of the Minister for the time being responsible for finance, invest or place on a deposit account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

(3) The Accounting Officer shall—

- (a) supervise and control the administration of the Fund;
- (b) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning use of expenditure;
- (c) cause to be kept proper books of account and

other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;

No 12 of 2003.

(d) prepare, sign and transmit to the Controller and Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003 and in such details as the Treasury may from time to time direct;

(e) furnish such additional information as may be required for examination and audit by the Controller and Auditor-General or under any law; and

(f) designate such staff as may be necessary to assist in the management of the Fund.

Section 7 of No 4 of 2004 which it is proposed to amend-

Control of alcoholic drinks.

7. (1) No person shall—

(a) manufacture or otherwise produce;

(b) sell, dispose of, or deal with;

(c) import or cause to be imported; or

(d) export or cause to be exported,

any alcoholic drink except under and in accordance with a licence issued under this Act.

(2) For the purposes of subsection (1), an alcoholic drink shall be deemed to have been exported when it is placed on a ship, aircraft, train or any other vehicle within Kenya for the purposes of export.

(3) Subsection (1) shall not apply to—

Cap .366
Cap.244.

No.5 of 1996

- (a) the bona fide administration or sale for purely medical purposes, and in accordance with any written law for the time being in force governing the administration and sale of medicine, by a medical practitioner, a veterinary surgeon registered under the Veterinary Surgeons Act or a pharmacist registered under the Pharmacy and Poisons Act, of a medicine containing alcoholic drink;
- (b) the sale of spirituous or distilled perfume, or perfumery;
- (c) the sale of industrial alcohol;
- (d) the sale by auction by an auctioneer, licensed under the Auctioneers Act, 1996, of an alcoholic drink in quantities not less than those authorized to be sold under a wholesale alcoholic drink licence belonging to a wholesale dealer, on the licensed premises of the dealer;
- (e) the sale by a deceased person's legal personal representative of an alcoholic drink forming part of the estate of the deceased person;
- (f) the sale by a trustee in bankruptcy of an alcoholic drink forming part of the bankrupt's estate;
- (g) the sale by the liquidator of a company of an alcoholic drink forming part of the company's assets;
- (h) the sale of alcoholic drink at Parliament Buildings, if sold with the permission of the Speaker of the National Assembly;
- (i) the sale of alcoholic drink to the members only of any canteen, club, institute, mess or similar institution of the disciplined forces:

Provided that this paragraph shall not apply to any such canteen, club, institute, mess or similar institution operated by any person for personal profit.

Section 8 of No 4 of 2004 which it is proposed to amend—

Establishment of the District Committee.

8. (1) There shall be, for every district, a committee to be known as the District Alcoholic Drinks Regulation Committee which shall—

- (a) issue licenses in accordance with this Act; and
- (b) perform such other functions as may, from time to time be allocated to it by the Minister.

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

(3) The District Committee shall consist of—

- (a) the District Commissioner of the district who shall be the chairperson;
- (b) the District Medical Officer of Health;
- (c) Officer Commanding Police Division;
- (d) one person nominated by every local authority in the district;
- (e) three residents of the district, appointed by the Minister at least two of whom shall be women;
- (f) one person designated by the relevant agency who shall be the secretary to the District Committee

(4) The authorized officers in charge of the district appointed pursuant to section 50 shall attend the meetings of the District Committee in an ex-officio capacity.

(5) The conduct of business and affairs of the District Committee shall be in such manner as may be prescribed.

(6) The relevant agency shall provide secretariat services for the District Committee.

Section 9 of No 4 of 2004 which it is proposed to amend—

Application for licence.

9. (1) A person intending to manufacture or otherwise produce any alcoholic drink in Kenya or to operate an establishment for the sale of an alcoholic drink shall make an application in a prescribed form to the District Committee in the district where the premise is to be situated and shall pay a prescribed fee.

(2) The application under subsection (1) shall contain—

(a) a comprehensive proposal on the nature, orientation and other justification for the establishment of the alcoholic plant;

(b) a disclosure as to whether the applicant has been previously convicted of an offence under this Act or any Act at any time in force relating to the manufacture, sale or consumption of an alcoholic drink, giving full particulars of the offence of which he was convicted, of the court by which he was convicted, of the date of the conviction;

(c) such other matters as may be prescribed.

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

(a) published in the Kenya Gazette and at the office of the District Commissioner for a period of not less than twenty-one consecutive days;

- (b) posted in some conspicuous place at or near the applicant's premises;
- (c) sent to the Commissioner of Police, or to such police officer as the Commissioner of Police may have notified the District Commissioner that he has appointed to receive it on his behalf;
- (d) sent to the medical officer of health of the district in which the premises in respect of which the licences are applied for are situated; and
- (e) sent to the local authority of the area in which the premises in respect of which the licences are applied for are situated.

(4) The Commissioner of Police or, as the case may be, of the police officer appointed by him for that purpose; the medical officer of health; and an officer from the local authority shall, before the hearing of any application under this section, report as fully as possible to the District Committee on all matters which may be relevant to the consideration of the application.

(5) Any person may lodge objection to an application.

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

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

(9) Where in respect of an application a District Committee acts in pursuance of subsection (7), the Committee shall inform the applicant of the nature of the

objection, and shall, if the applicant so requests, adjourn the hearing for such period, not being less than seven days, as the District Committee considers necessary to enable the applicant to reply thereto.

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

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

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

(12) A local authority may authorize, in writing, any person to appear before any District Committee having jurisdiction in any part of the area within the jurisdiction of the local authority for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

(13) Where a District Committee considers it necessary to take evidence respecting any question to be determined by the court, such evidence shall be given on oath, and the chairman shall be empowered to administer oaths.

Cap.63

(14) For the purposes of Chapter XI of the Penal Code (which concerns offences relating to the administration of justice), all proceedings before a District Committee shall be deemed to be judicial proceedings.

(15) Every District Committee shall maintain records of all its proceedings, and, in particular, of the purpose for

which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon:

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

(16) The District Committee shall, within twenty-one days of receipt of the application under subsection (1), record the application and assess the same on the basis of the objections received if any and the interests of the district, and shall ensure that—

- (a) the available premises are suitable with regard to the nature of the licence being sought;
- (b) the premises conform to the prescribed requirements of the occupational health and safety regulations;
- (c) the applicant possesses the infrastructure and equipment necessary to carry out the business applied for; and
- (d) the premises has sufficient number of competent staff in line with such norms as may be prescribed.

Section 10 of No 4 of 2004 which it is proposed to amend—

Grant of a licence.

10. (1) The District Committee shall, after considering the application under section 9, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the District Committee has no objection to the application under section 9, it shall grant a licence to the applicant upon payment of the prescribed fee.

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

(4) Where the District Committee is not satisfied with the application under subsection (1), it may—

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

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

(5) The applicant to whom the application is returned under subsection (4) (b) may re-submit a revised application within six months of the date of notification.

(6) On receipt of any revised application under subsection (5), the District Committee shall, within three months determine the application in accordance with this Act and upon such determination, if satisfied, issue a licence.

(7) Where the District Committee grants a licence under this section it shall, publish the grant in the Gazette.

Section 11 of No 4 of 2004 which it is proposed to amend—

Provisional licence

11. (1) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used for the sale of alcoholic drinks for consumption on such premises, any person having an interest in the premises may apply in the prescribed form to the District Committee for an assurance that, on the completion of the construction or reconstruction, a licence of the type to be specified in the application will be granted in respect of such premises.

(2) The provisions of section 9 and 10 shall apply to such applications, which shall be accompanied by a signed copy of the plans of such premises.

(3) The District Committee may, subject to such reasonable conditions as it may therein include, give to the

applicant an assurance in the prescribed form that, on the completion of the premises, a licence of the type specified therein will be granted or it may refuse to give such an assurance.

(4) Where such an assurance has been given under subsection (3), the District Committee may, on any date, on being satisfied that the premises have been completed in accordance with the signed plans submitted under subsection (2) and that any conditions which may have been imposed in the assurance have been complied with, issue to the applicant a licence of the type specified in the assurance in respect of the premises.

(5) Any assurance given under subsection (3) shall become ineffective and the District Committee shall not issue a licence if, between the date of the giving thereof and the date of completion of the premises, the applicant becomes a person to whom in accordance with section 13, a licence may not be granted.

Section 12 of No 4 of 2004 which it is proposed to amend—

Licence for premises.

12. (1) The District Committee shall not grant a new licence for the sale of an alcoholic drink to be consumed on the premises unless the District Committee is satisfied—

- (a) that it would be in the public interest for provision to be made for the sale of alcoholic drink for consumption on the premises in the particular locality in respect of which the application is made, and that the number of such premises in respect of which such licences have already been granted is insufficient for the requirement of the locality given the population density per square kilometre and the permitted maximum number of such premises as shall be prescribed by law:

Provided that no licence shall be granted to sell alcoholic drinks in any institution of basic education including primary and secondary

schools or any residential area as have been demarcated by or under the relevant written laws;

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

(c) that the premises in respect of which the application is made are located at least three hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years.

(2) The District Committee shall not grant a licence for the sale of an alcoholic drink in a supermarket or such other related retail chain store unless it is satisfied that the applicant has taken measures to ensure that the area in which the sale is to take place is not accessible to persons under the age of eighteen years.

Section 13 of No 4 of 2004 which it is proposed to amend—

Persons not eligible for a licence.

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

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

(b) has been convicted of selling an alcoholic drink without a licence or offering or exposing it for sale, or of any offence against any law for the time being in force relating to the distillation, manufacture, sale or use of industrial alcohol; or

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

- (d) in the case of a retail licence, is not resident in Kenya; or
- (e) is under eighteen years of age; or
- (f) is an undischarged bankrupt.

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

- (a) the licensee is not a fit and proper person to hold the licence; or
- (b) the licensee has been convicted of an offence under this Act or any Act at any time in force regulating the sale of an alcoholic drink; or
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) the business to which the licence relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by the District Committee ; or
- (e) the conditions of the licence have not been satisfactorily fulfilled; or
- (f) the premises to which the licence relates are not in a proper state of repair, or are not provided with proper sanitary arrangements, or do not comply with the reasonable requirements of the medical officer of health, and the owner of the premises or the licensee refuses or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by the District Committee.

Section 14 of No 4 of 2004 which it is proposed to amend—

Validity and renewal of licences.

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

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

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

- (a) be subject to the payment of such fee or fees as may be prescribed;
- (b) expire at the end of twelve months from the date of issue;
- (c) specify in the licence the hours within which the sale of alcohol is permitted.

(4) Where an application for the renewal of a licence has been made and the District Committee has not by the date of expiration of the licence reached a decision thereon, such licence shall continue in force until the decision of the District Committee is made known.

(5) Where an application for a licence has been refused, or a licence has been cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the District Committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the District Committee.

Section 16 of No 4 of 2004 which it is proposed to amend—

Licences to body corporate.

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

Provided that the District Committee may require prior disclosure of the directorship of the body corporate or refuse to grant a licence to the body corporate if any of the directors does not qualify to be granted the licence individually.

(2) No transfer of a licence issued to a body corporate shall be necessary on any change in the office of secretary, but any person for the time being holding such office shall be entitled to the privileges granted by, and shall be subject to the duties and liabilities imposed upon the holder of, such licence.

Section 17 of No 4 of 2004 which it is proposed to amend—

Types of licences.

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

(2) Save as otherwise provided in this Act, no licence may be granted so as to be applicable to more premises than one.

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

(4) A licence may be granted to apply to more than one premise, subject to such conditions as may be specified in the licence and to specification of the addresses of all such premises in the licence.

Section 18 of No 4 of 2004 which it is proposed to amend—

Transfer of licence.

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

(2) No further fee shall be payable in respect of a licence granted under subsection (3) if, at the date of the grant, the licence which was temporarily transferred was valid for a period of more than six months.

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

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

Section 19 of No 4 of 2004 which it is proposed to amend—

Removal of licence.

19. (1) If the renewal of a licence is refused, the licensee shall, on payment of the proportionate part of the fee for the appropriate licence, be entitled to a licence of such description and for such period, not exceeding three months, as the District Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such period to commence on the day after the last sitting of the District Committee at which the renewal of his licence has been refused, or on the day after the termination of his existing licence, whichever day is the later.

(2) If the renewal of a licence is refused and the licensee appeals against the refusal, the licensee shall, on payment of the fee for the appropriate licence, be entitled, unless the Minister directs otherwise, to a renewal of the

licence which is the subject of the appeal to be valid only until the appeal has been determined, such licence to commence on the day after the determination of his existing licence.

Section 21 of No 4 of 2004 which it is proposed to amend—

Employment for sale of
alcoholic drinks.

21. (1) Notwithstanding the provisions of any other written law, no licensee shall employ a person under the age or apparent age of eighteen years, or knowingly employ a person who has been convicted of an offence under this Act or any other Act at any time in force regulating the sale of alcoholic drinks, to sell, control or supervise the sale of alcoholic drinks or to have the custody or control of alcoholic drinks on licensed premises.

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

(3) The provisions of subsection (2) shall not relieve the licensee of his duties and obligations under this Act.

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

Section 24 of No 4 of 2004 which it is proposed to amend—

Access by persons under
age of eighteen.

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

(2) Any person who contravenes the provisions of subsection (1) commits an offence.

Section 25 of No 4 of 2004 which it is proposed to amend—

Reports by medical
officers and police
officers.

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

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

(3) A police officer not below the rank of Inspector shall report in writing to the chairperson of the appropriate District Committee every case in which a licensee is of drunken habits or keeps a disorderly house, or commits any breach of any of the provisions of this Act or of his licence.

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

Section 26 of No 4 of 2004 which it is proposed to amend—

Cancellation of licence.

26. (1) Upon receipt of a report made under section 25 the District Committee shall—

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing him that at a meeting of the District Committee to be held on a date to be specified, but not less than thirty days there from, the report will be considered by the District Committee;
- (b) send a copy of the report to every member of the District Committee and to the Officer Commanding Police Division;

(c) inform the medical officer of health or the police officer, as the case may be, of the date upon which the District Committee will consider the report, and require him to attend on the date specified.

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

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

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

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

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

(7) If a licence is cancelled and no appeal is filed by the licensee against the cancellation, or if such appeal is dismissed by the High Court, the licensee shall be entitled, on payment of the proportionate part of the fee for the appropriate licence, to a licence of such description and for such period, not exceeding three months, as the District Committee may deem necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such licence to run from the date of the decision of the District Committee or of the High Court as the case may be.

Section 27 of No 4 of 2004 which it is proposed to amend—

Conformity with requirements.

27. (1) No person shall—

- (a) manufacture, import or distribute; or
- (b) possess,

an alcoholic drink that does not conform to the requirements of this Act.

(2) Subsection (1) shall not apply to a person who—

- (a) is authorized under this Act to be in possession of the alcoholic drink; or
- (b) has possession of the alcoholic drink in a premise licensed under this Act.

(3) The manufacture or distillation of all spirituous liquor prior to this Act referred to as *Chang'aa* shall conform to the prescribed standards or the requirements of this Act.

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

Section 31 of No 4 of 2004 which it is proposed to amend—

Selling in sachets.

31. (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 subsection (1)—

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

Section 32 of No 4 of 2004 which it is proposed to amend—

Information required on packages.

32. (1) Subject to this section, no person shall—

- (a) manufacture;
- (b) import;
- (c) sell or distribute,

an alcoholic drink unless the package containing the alcoholic drink conforms to the requirements of subsection (2).

(2) Every package containing an alcoholic drink shall—

- (a) bear a statement as to its constituents; and
- (b) have at least two of the health warning messages prescribed in the Second Schedule, in English or Kiswahili.

(3) The statement and health warning referred to in subsection (2) shall comprise not less than 30% of the total surface area of the package.

(4) All the warning labels specified in the Second Schedule shall be randomly displayed in each twelve-month period on a rotational basis and in as equal a number of times as is possible, on every successive fifty packages of each brand of the alcoholic drink and shall be randomly distributed in all areas within the Republic of Kenya in which the alcoholic drink is marketed.

(5) The Minister may, by notice in the Gazette, prescribe that the warning, required under this section, be in the form of pictures or pictograms:

Provided that such notice shall come into operation upon expiration of six months from the date of its publication.

(6) The importer of an alcoholic drink which does not conform to the requirements of subsection (2) shall, at the point of importation, ensure that the imported alcoholic drink bears such sticker containing the warning messages specified under subsection (2) as may be prescribed.

(7) The requirements of this section shall not apply to an alcoholic drink which is manufactured in Kenya for export.

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

(9) This section shall come into operation upon expiration of six months from the date of commencement of this Act.

Section 33 of No 4 of 2004 which it is proposed to amend—

Disorderly conduct.

33. (1) Any person found by a police officer to be drunk and incapable or drunk and disorderly in or near a street, road, licensed premises, shop, hotel or other public place may be arrested without warrant and brought without unreasonable delay before a Magistrate.

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

(3) Any person convicted under subsection (2) on more than three occasions in any period of twelve months shall—

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

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

(4) Any licensee who sells an alcoholic drink to a person already in a state of intoxication or by any means encourages or incites him to consume an alcoholic drink commits an offence.

Section 34 of No 4 of 2004 which it is proposed to amend—

Breach of licence.

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

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

(b) for a second or subsequent offence, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both,

and in addition to any penalty imposed under paragraph (a) or (b), the court may order, the forfeiture of all alcoholic

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

Section 38 of No 4 of 2004 which it is proposed to amend—

Sale of adulterated
drinks.

38 (1) No person shall keep for sale, offer for sale or sell—

- (a) any alcoholic drink which has been in any way adulterated, or diluted by any person;
- (b) any non alcoholic drink which has been in any way adulterated with alcohol, or which contains any of the substances prohibited by the Minister under section 68.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding ten million Kenya shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) On the conviction of a licensee of an offence under subsection (2), the court may, in addition to any other penalty it may lawfully impose, if it finds that the drink in respect of which the offence was committed was adulterated by a substance or substances which rendered the drink unfit for human consumption, and unless the licensee proves to the satisfaction of the court that he took all reasonable precautions against such adulteration and that such adulteration took place without his knowledge or consent, order that his licence be forfeited, and no licence shall thereafter be granted or transferred to him.

Section 45 of No 4 of 2004 which it is proposed to amend—

Promotion by
advertisement.

45. (1) Subject to this Part, no person shall promote an alcoholic drink so as to create a false impression that—

- (a) a link exists between consumption of that drink and social or sexual success;

- (b) consumption of that drink is acceptable before or while engaging in driving, operating machinery, sports or other activities that require concentration in order to be carried out safely;
- (c) that the alcoholic drink has a therapeutic value or that it has the ability to prevent, treat or cure any human disease;
- (d) it is wrong or foolish to refuse that drink.

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

Section 47 of No 4 of 2004 which it is proposed to amend—

Encouraging
consumption.

47. (1) No person shall promote any alcoholic drink in such a manner as to encourage more consumption of an alcoholic drink in order to win an award or prize.

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

Section 50 of No 4 of 2004 which it is proposed to amend—

Authorised officers.

50. (1) The Minister shall, upon recommendation by the respective District Committee, appoint for each district, any person or class of persons to be authorised officers for purposes of this Act.

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

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

- (a) public health officers appointed under the Public Health Act ; and
- (b) any other person upon whom any written law vests functions of the maintenance of law and order.

Section 65 of No 4 of 2004 which it is proposed to amend—

Government to
undertake information,
education and
communication.

65. (1) The Government shall promote public awareness about the health consequences, addictive nature and mortal threat posed by excessive alcoholic drink consumption through a comprehensive nation-wide education and information campaign conducted by the Government through the relevant Ministries, departments, authorities and other agencies including the relevant non governmental organizations and civil society.

(2) The education and information campaign referred to in subsection (1) shall focus on the family as the basic social unit and shall be carried out in all schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities in Kenya.

(3) The relevant agency in collaboration with the Government and the relevant civil society groups shall provide training, sensitization and awareness programmes on alcoholic drink control for community workers, social workers, media professionals, educators, decision makers, administrators and other concerned persons for proper information, dissemination and education on alcoholic drinks.

(4) In conducting the education and information campaign referred to in this section, the relevant agency and Government shall ensure the involvement and participation of individuals and groups affected by misuse of alcoholic drinks.

(5) Every local authority in collaboration with the civil society and the relevant agency, shall conduct education and information campaigns on alcoholic drink within its area of jurisdiction.

Section 66 of No 4 of 2004 which it is proposed to amend—

Integration of alcohol
matters into syllabuses.

66. The relevant agency shall liaise with the Minister responsible for education, to integrate instruction on the health consequences, addictive nature and mortal threat posed by alcoholic drink consumption in subjects taught in public and private schools at all levels of education, including informal and non formal and indigenous learning systems.

Section 67 of No 4 of 2004 which it is proposed to amend—

Integration of alcohol
matters into health care.

67. (1) The relevant agency shall liaise with the Ministry for the time being responsible for health to ensure that alcoholic drink use education and information dissemination shall form part of health care services by healthcare providers.

(2) For the purposes of subsection (1), the relevant agency and the Government shall provide training for the healthcare providers to acquire skills for proper information dissemination and education on alcohol consumption.

Section 68 of No 4 of 2004 which it is proposed to amend—

Regulations.

68. (1) The Minister may, on recommendation of the relevant agency, make Regulations generally for the better carrying out of the objects of this Act.

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

- (a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;
- (b) prescribe the recommended levels of alcohol in alcoholic drinks which levels shall not exceed the levels set by the World Health Organisation;
- (c) prescribe substances as harmful constituents of an alcoholic drink;

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- (d) prescribe the hours within which the sale of alcoholic drinks shall be permitted;
 - (e) prohibit the addition or use of any harmful constituent or ingredient in the production of alcoholic drinks;
 - (f) prescribe the methods to be used in testing alcoholic drinks;
 - (g) prescribe the information that manufacturers shall provide to the relevant agency including information on alcoholic drinks, sales and advertising data, and information on product composition, ingredients, hazardous properties and brand elements;
 - (h) subject to this Act, control the labelling, packaging, sale or distribution of alcoholic drinks, so as to—
 - (i) ensure that the purchaser or consumer of an alcoholic drink is not misled as to its quality, quantity, character, value, composition, effect, merit or safety;
 - (ii) prevent injury or harm to the health of the consumer;
 - (f) prescribe the forms of applications, notices, licences and other documents for use under this Act;
 - (g) prescribe the fees payable under this Act.

The First Schedule to No 4 of 2004 which it is proposed to amend—

FIRST SCHEDULE (s.17)

TYPES OF LICENCES

The following licences may be granted under this Act

1. Brewer's Licence

Subject to the conditions specified in the licence, a brewer's licence authorizes the holder to-

- (a) brew and store the brewed alcoholic drink in his depot;
- (b) sell the product of his brewery by wholesale in accordance with the conditions that are for the time being, applicable to a holder of a wholesale licence or by delivery from depot throughout Kenya; and
- (c) bottle the alcoholic drink subject to such conditions as may be prescribed.

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

2. Wholesale Licence.

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

3. Retail Licence

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

The Second Schedule to No 4 of 2004 which it is proposed to amend—

SECOND SCHEDULE (s.32)

WARNING MESSAGES

1. The following health messages shall be displayed on every package containing an alcoholic drink, sign or advertisement stipulated under the provisions of this Act—

- (a) Excessive alcohol consumption is harmful to your health;
- (b) Excessive alcohol consumption can cause liver cirrhosis;
- (c) Excessive alcohol consumption impairs your judgment; do not drive or operate machinery;
- (d) Not for sale to persons under the age of 18 years.