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KITUI COUNTY ACTS, 2024

NAIROBI, 7th November, 2024

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**THE KITUI COUNTY ALCOHOLIC DRINKS CONTROL
(AMENDMENT) ACT, 2024**

No. 3 of 2024

Date of Assent: 30th October, 2024

Date of Commencement: 7th November, 2024

**AN ACT of the County Assembly of Kitui to amend the Kitui County
Alcoholic Drinks Control Act, 2014**

ENACTED by the County Assembly of Kitui, as follows—

Short title

1. This Act may be cited as the Kitui County Alcoholics Drinks Control (Amendment) Act, 2024.

Amendment of Section 2

2. Section 2 of the Kitui County Alcoholic Drinks Control Act, 2014 in this Act referred to as “the Principal Act” is amended as below—

- (i) “Deleting the word “fund” and its intended meaning;
- (ii) The interpretation of the phrase “Enforcement Committee” is amended to mean the Sub-County Alcoholic Drinks Control Committee;
- (iii) “Authorised Officer” means an authorised officer within the meaning of section 51 of the Principal Act.

Amendment of Section 4

3. Section 4 of the Principal Act is amended by inserting a new section immediately after section 4—

4A. (1) The County Alcoholic Drinks Control Committee shall comprise of the following members—

- (a) a chairperson who shall not be a public officer appointed by the governor for a term of three years and shall be eligible for re-appointment for one further term;
- (b) Chief Officer responsible for Finance or his or her authorised representative;
- (c) Chief Officer responsible for Trade or his or her authorised representative;
- (d) Chief Officer responsible for Social Services or his or her authorised representative;

- (e) Chief Officer responsible for Public Health or his or her authorised representative;
 - (f) County Head of Enforcement;
 - (g) a representative of alcoholic drinks dealers nominated by a registered Bar Owners Association within the county appointed by the Executive Member for a term of three years and shall be eligible for reappointment for one further term;
 - (h) one person representing special interest groups nominated by a registered special interest group appointed by the Executive Member for a term of three years and shall be eligible for reappointment for one further term;
 - (i) the Chief Officer responsible for Decentralized Units who shall be the secretary to the committee.
- (2) A person shall be eligible for appointment as the Chairperson of the Committee if that person—
- (i) possesses a university degree in a relevant field from a university recognized in Kenya;
 - (ii) has knowledge and experience of at least five (5) years in a relevant field;
 - (iii) meets the requirements of Chapter 6 of the Constitution.
- (3) The County Alcoholic Drinks Control Committee shall meet not more than six times in every financial year and not more than four months shall lapse between the date of one meeting and the subsequent one.
- (4) A special meeting of the County Alcoholic Drinks Control Committee may be held with the approval of the Executive Member when need arises.
- (5) The quorum for the conduct of the business of the County Alcoholic Drinks Control Committee shall be half of the total members.
- (6) The County Alcoholic Drinks Control Committee shall in its first meeting elect a Vice-Chairperson from among its members.
- (7) In the absence of the chairperson and the vice-chairperson, members present shall nominate one of the members to preside over the meeting.

(8) A vacancy in the positions under Subsection (1) (a) (g) and (h) may arise where a member—

- (i) is adjudged bankrupt;
- (ii) resigns in writing to the appointing authority;
- (iii) is convicted of a crime and sentenced to imprisonment;
- (iv) is unable to perform the functions of the office by reason of infirmity or prolonged illness;
- (v) is of unsound mind;
- (vi) dies; or
- (vii) is absent from at least 5 consecutive meetings without any justifiable reason or without prior permission from the appointing authority.

(9) The County Alcoholic Drinks Control Committee may with the consent of the Executive Member co-opt any person whose skills and knowledge are necessary for the execution of its functions.

(10) The County Alcoholic Drinks Control Committee may form sub-committees to execute its functions.

(11) The County Alcoholic Drinks Control Committee shall prepare and submit to the Executive Member an annual report on its operations in June of every year.

(12) The reports under Sub Section 10 shall be submitted to the County Assembly within twenty-eight (28) days upon submission to the Executive Member.

Amendment of Section 4

4. (1) Section 4 of the Principal Act is amended under subsection 2 by deleting paragraph (c) in its entirety.

(2) Section 4 of the Principal Act is amended under subsection 2 paragraph (d) by deleting the word “all” and substituting therefor with the word “relevant”.

Amendment of Section 5

5. Section 5 of the Principal Act is amended under subsection 1 by deleting paragraph (a) in its entirety and substituting therefor with—

- (a) in collaboration with the county department responsible for social services and other relevant county and national government agencies establish treatment and rehabilitation

facilities and programs for persons dependent on alcoholic drinks.

Repeal of Section 6

6. Section 6 of the Principal Act is repealed.

Amendment of Section 8

7. (1) Section 8 of the Principal Act is amended under subsection 4 by deleting paragraph (c) in its entirety and substituting therefor with—

(c) Three members who will include—

- (i) the Sub- County Public Health Officer;
- (ii) the Sub- County Head of Enforcement; and
- (iii) the Sub- County officer responsible for physical planning.

(2) Section 8 of the Principal Act is amended under subsection 4 by deleting paragraph (d) in its entirety and substituting therefor with—

- (iv) Two residents of the Sub-County who hold atleast a diploma certificate appointed by the Executive Member through a competitive process. At least one of the two residents shall either be a woman, youth or a person with disability.
- (v) A vacancy in the positions under Sub-Clause (2) (D) may arise where a member—
 - (a) is adjudged bankrupt;
 - (b) resigns in writing to the appointing authority;
 - (c) is convicted of a crime and sentenced to imprisonment
 - (d) is unable to perform the functions of the office by reason of infirmity or prolonged illness;
 - (e) is of unsound mind;
 - (f) dies; or
 - (g) is absent from at least four (4) consecutive meetings without any justifiable reason or without prior permission from the appointing authority.

(2) Section 8 of the Principal Act is amended under subsection 5 by deleting the word “two” and substituting it therefore with the word “three” and further deleting the word “legible” and substituting therefor with the word “eligible”.

(3) Section 8 of the Principal Act is amended by inserting a new section immediately after section 8—

8A (1) The Sub-County Alcoholic Drinks Control Committee shall be the enforcement committee for the purposes of enforcing this Act.

(2) The Sub-County Alcoholic Drinks Control Committee may with the consent of the Executive Member co-opt any person whose skills and knowledge are necessary for the execution of its functions.

(3) The sub-county Alcoholic Drinks Control Committee may collaborate with the National Police Service in the performance of its enforcement roles.

Amendment of Section 10

8. (1) Section 10 of the Principal Act is amended at paragraph (a) by deleting the words “in each administrative units of the Sub-County”

(2) Section 10 of the Principal Act is amended by deleting paragraph (f) in its entirety and replacing therefor with—

(f) in the absence of the chairperson and the vice-chairperson, members present shall nominate one of the members to preside over the meeting.

Amendment of Section 11

9. (1) Section 11 of the Principal Act is amended by deleting subsection 5 in its entirety.

Amendment of Section 12

10. (1) Section 12 of the Principal Act is amended under subsection 2 by deleting paragraph (e) in its entirety.

(2) Section 12 of the Principal Act is amended under subsection 3 by deleting paragraph (e) in its entirety.

(3) Section 12 of the Principal Act is amended at subsection (4) by deleting the words “The officer Commanding Police Division or, as the case may be, the police officer appointed by him for that purpose:”

(3) Section 12 of the Principal Act is amended by deleting subsections 8 and 9 in their entirety and substituting therefore with—

12. (7) (a) Where in respect of an application a Sub-County 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 Sub-County Committee considers necessary to enable the applicant to reply thereto.

Amendment of Section 14

11. Section 14 of the Principal Act is amended under subsection 1 by deleting the phrase “in another county” and substituting therefor with the word “elsewhere”.

Amendment of Section 15

12. Section 15 of the Principal Act is amended under subsection 3 paragraph (d) by deleting the words “twenty-one” and substituting therefor with: “eighteen years”.

Amendment of Section 16

13. Section 16 of the Principal Act is amended under subsection 1 by deleting paragraph (c) in its entirety.

Amendment of Section 17

14. Section 17 of the Principal Act is amended by inserting a new section immediately after section 17 —

17A. (1) where a person is not satisfied with the decision of the Sub-County Alcoholic Drinks Control Committee may within twenty one days appeal to the County Alcoholic Drinks Control Committee.

Repeal of Section 18

15. Section 18 of the Principal Act is repealed.

Repeal of Section 19

16. Section 19 of the Principal Act is repealed.

Repeal of Section 20

17. Section 20 of the Principal Act is repealed.

Amendment of Section 31

18. (1) Section 31 of the Principal Act is amended by deleting subsections 4, 5 and 6 in its entirety.

(2) Section 31 of the Principal Act is amended under subsection 7 by deleting the phrase “under sub section (6)”.

Amendment of Section 51

19. Section 51 of the Principal Act is amended under subsection 3 paragraph (a) by adding the words “Health Act” immediately after the word Public to read as “Public Health Act” .

Amendment of Section 52

20. Section 52 of the Principal Act is amended under subsection 1 by inserting “Sub-” between “The” and “County Alcoholic Drinks Control Committee” to read “The Sub-County Alcoholic Drinks Control Committee”.

Amendment of Section 53

21. (1) Section 53 of the Principal Act is amended by deleting paragraph (c) in its entirety.

(2) Section 53 of the Principal Act is amended by deleting the phrase “Executive Member” and replacing therefor with “County Alcoholic Drinks Control Committee”.

Amendment of Section 68

22. (1) Section 68 of the Principal Act is amended by inserting a new section immediately after section 68—

68A. The Executive Member may by a notice in the *Gazette* prescribe the fees payable under this Act.

(2) Section 68 of the Principal Act is amended under subsection 2 by deleting paragraph (c) in its entirety.

Repeal of the fifth Schedule

23. The Fifth Schedule to the Act is repealed.