

MAKUENI COUNTY ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL, 2024

**MAKUENI COUNTY ALCOHOLIC DRINKS CONTROL
(AMENDMENT) BILL, 2024**

<p style="text-align: center;">A Bill for</p> <p>An Act of the Makueni County Assembly to amend the Makueni County Alcoholic Drinks Control Act 2014 and for connected purposes.</p>	
<p>ENACTED by the Makueni County Assembly, as follows: -</p>	
<p style="text-align: center;">PART I-PRELIMINARY</p>	
<p>1. This Act may be cited as the Makueni County Alcoholic Drinks Control (Amendment) Bill, 2024</p>	<p>Short title</p>
<p>2. The Makueni County Alcoholic Drinks Control Act 2014, (in this Act referred to as “the principal Act”) is amended in Section 2 (interpretation) by:</p> <ul style="list-style-type: none"> a) Deleting the word “Authority” in Paragraph 4 and the meaning thereof from the interpretation section; b) Inserting the words “and substance” in Paragraph 6 immediately after the word “drinks” and before the word “control” c) Deleting the entire Paragraph 9 reading as follows: “Executive Member” means the County Executive Member responsible for finance” and substituting it thereof with the following paragraph: “Executive Committee Member” means the County Executive Committee Member for the time being responsible for Alcoholic Drinks and Substance Control.” d) Inserting the following interpretation: “Director” means a person heading the Directorate established under Section 4 (1) of this Act” e) By deleting the words “Review Committee” wherever it appears in the Section and substituting them thereof with the words “County Alcoholic Drinks and Substance Control Review Committee” 	<p>Amendment of Section 2</p>

PART II-ADMINISTRATION	
<p>3. Section 4 of the Principal Act is amended:</p> <ul style="list-style-type: none"> a) In Section 4(1) by deleting the word “Board” and substituting therefor with the words “Directorate which shall be an office in the County Public Service” b) In Section 4(2) by deleting the word “Board” and substituting the same with the word “Directorate” c) In Section 4 (2) (h) by deleting the entire paragraph d) In Section 4 (2) by deleting paragraph (k) and substituting its contents thereof with the following new paragraph (k): “co-ordinate enforcement of this Act;” e) In Section 4 (2) by inserting the following Paragraphs immediately after Paragraph (k): <ul style="list-style-type: none"> (l) monitor and evaluate the enforcement process and system under this Act; (m) conducting surveillance on trends and patterns on alcoholic drinks manufacture, sale and consumption; and (n) advise the County Government on the necessary measures to be adopted in ensuring effective enforcement and compliance with the Act. f) In Section 4 (3) by deleting the entirety of the subsection thereof and substituting it with the following new subsection: <ul style="list-style-type: none"> (i) 4(3)(a) “The Directorate may be headed by a director.” 	<p>Amendment of Section 4</p>
<p>4. Section 5 (1) of the Principal Act is amended as follows:</p> <ul style="list-style-type: none"> (a) By deleting the contents of Section 5 (1) (a) and substituting it therefor with the following paragraph: “Recommend the issuance of licenses to the Director” <p>5. Section 5(6) of the Principal Act is amended by deleting the word “Authority” appearing immediately before the word “shall” and substituting it with the words “Executive Committee Member”</p> <p>6. Section 5(2) of the Principal Act is amended as follows:</p> <ul style="list-style-type: none"> (a) by deleting the word “six” appearing immediately before the word “months” and immediately after the word “than” and substituting it thereof with the word “twelve”. 	<p>Amendment of section 5</p>

<p>(b) By Inserting Paragraph 5 (3) as follows: “The Director shall not issue a new license where a physical inspection has not been conducted on the premises proposed to be the point of sale, distribution or disposal of any alcoholic drinks in the County.</p> <p>7. Section 5(5) of the Principal Act is amended as follows:</p> <p>(a) In Section 5(5)(e) by deleting the word “Board” appearing immediately after the word “the” and immediately before the word “who” and substituting therefor with the word “Directorate”.</p> <p>(b) In Section 5 (5) (h) by deleting the subsection in its entirety and substituting therefor with the following new paragraph: “One person from each ward in the Sub-county appointed by the County Executive Committee Member taking into consideration gender balance, youth and persons living with disabilities”</p> <p>(c) by inserting paragraph (i) immediately after paragraph (h) as follows:</p> <p>(i) An officer responsible for Enforcement at the sub-county level.</p>	
<p>8. Section 6 of the Principal Act is amended: -</p> <p>(a) In Section 6(1) by deleting the words “Regulations Administrative” appearing after the word “Drinks” and before the word review and substituting them therefor with the words “and Substance Control”; and deleting the words “made up of six persons appointed by the governor, with approval of the County Assembly”, one from each sub-county” after the word committee”</p> <p>(b) In Section 6(2) by inserting the words “County Alcoholic Drinks and Substance Control” immediately after the word “the” and before the word “Review”</p> <p>(c) In Section 6(3) by inserting the words “County Alcoholic Drinks and Substance Control” immediately after the word “the” and before the word “Review”</p> <p>(d) In Section 6(4)</p> <p>(i) by deleting the word “Board” and substituting the same with the word “Directorate”.</p> <p>(ii) by inserting the words “County Alcoholic Drinks and</p>	<p>Amendment of Section 6</p>

<p style="text-align: center;">Substance Control” immediately after the word “the” and before the word “Review”.</p> <p>9. Section 6 of the principal Act is further amended by inserting a new subsection after subsection 1 as follows;</p> <p style="padding-left: 40px;">1A. The County Alcoholic Drinks and Substance Control review committee shall be composed of;</p> <ul style="list-style-type: none"> (a) The County Attorney who shall be the Chairperson; (b) Director Alcoholic drinks and substance control who shall be the secretary to the committee; (c) Director in charge of Trade; (d) Director in charge of Revenue; (e) Director in charge of Public health; (f) Director in charge of Enforcement; (g) Director in charge of county administration; and (h) Director in charge of Gender and Social Services; 	
PART III-LICENSING	
<p>10. Section 8 of the Principal Act is amended by deleting Section 8 (3) in its entirety and substituting it therefor with the following new paragraph :</p> <p>“8 (3) Following the application under section 8(1), the Sub-county committee shall;</p> <ul style="list-style-type: none"> (a) within twenty-one days after the submission of an application for a license, the sub – county Committee shall share the list of all such applications with the office of the county commissioner, the sub-county public health officer, the Sub-county physical planning officer and post it in a conspicuous place at the office of the Sub-County Administrator for any comments or objections; (b) Keep an up to date register of all applications. (c) Keep an up to date register of all successful applicants.” <p>11. Section 8 (14) of the Principal Act is amended by deleting the entire paragraph and substituting thereof with the following new paragraph “the sub-county Committee shall keep minutes for all its sittings”</p> <p>12. Section 8 (15) of the Principal Act is amended by deleting the</p>	<p>Amendment of section 8</p>

<p>entire paragraph.</p> <p>13. Section 8 (16) of the Principal Act is amended by deleting the entire paragraph.</p>	
<p>14. Section 9 of the Principal Act is amended:-</p> <p>(a) In Section 9 (1) by deleting the referenced Section 11 and substituting it with the correct reference Section 8.</p> <p>(b) In Section 9 (2):</p> <p>(i) by deleting the referenced Section 11 and substituting it with the correct reference Section 8.</p> <p>(ii) by inserting these words immediately after the word “shall” and the word “grant”; “recommend such application to the Director who may”.</p> <p>(c) In Section 9 (3) by deleting the words “Sub-county committee” and substituting them therefor with the words “Director in consultation with the County Executive Committee Member and the County Executive Committee Member in Charge of Finance.”</p> <p>(d) In section 9(6) by deleting the words “issue a licence” appearing immediately after the word “satisfied” and substituting thereof with the words “recommend to the director who may issue a licence”</p> <p>(e) In Section 9 (7) by deleting it in entirety.</p> <p>15. Section 9 of the Principal Act is further amended by inserting a new Section immediately after Section 9 (7) as follows:</p> <p>9A. (1) The Director may issue a license to a successful applicant upon recommendation by a Sub-county committee.</p> <p>(2) the Director shall keep an up to date register and a repository of all license issued alongside the conditions attached thereto.</p>	<p>Amendment of section 9</p>
<p>16. Section 10 of the Principal Act is amended:-</p> <p>(a) In section 10 (1) by deleting the entire paragraph.</p>	<p>Amendment of section 10</p>
<p>17. Section 11 of the Principal Act is amended:-</p> <p>(a) In Section 11 (1) and 11(2) by deleting the word “grant” and substituting it therefor with the word “recommend issuance of ”.</p> <p>(b) In Section 11 (2) (b) by inserting the following words immediately after the word restaurant; 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</p>	<p>Amendment of section 11</p>

under the age of eighteen years.	
18. Section 12 of the Principal Act is amended by deleting the word “grant” and substituting it therefor with the word “recommend issuance of”.	Amendment of section 12
19. Section 13 of the Principal Act is amended by deleting the words “a Sub-County Committee” and substituting thereof with the words “The director” immediately before the word “may.”	
20. Section 14 of the Principal Act is amended:- (a) In the entire section by substituting the words “review committee” wherever they appear with the words “County Alcoholic Drinks and Substance Control Review Committee.” (b) In Section 14 (2) by deleting the words “Sub-County Committee” and substituting it thereof with the words “Director” immediately before the word “to.”	Amendment of section 14
21. Section 15 of the Principal Act is amended:- (a) by deleting the referenced section 17 and substituting it with the correct reference Section 14.	Amendment of section 15
22. section 16(1) of the principal Act is amended by deleting the entire paragraph 23. Section 16 (2) of the Principal Act is amended by inserting the words “County Alcoholic Drinks and Substance Control” immediately after the word “the” and before the word “Review”.	Amendment of section 16
24. Section 17 (1) of the Principal Act is amended by deleting the word “grant” and substituting it thereof with the word “recommend”.	
25. Section 18 (1) of the Principal Act is amended by deleting the word “Second” appearing immediately after the word “the” and before the word “Schedule” and substituting thereof with the word “First”. 26. Section 18 (3) of the Principal Act is amended by deleting the words “Sub-County Committee” and substituting it thereof with the words “Director” immediately before the word “shall.”	Amendment of section 18
27. Section 19 (1) of the Principal Act is amended by deleting the	Amendment of

word “grant” and substituting it therefor with the words “recommend to the Director”.	section 19
28. Section 26 of the Principal Act is amended:- (a) In Section 26 (3) by deleting the subsection in its entirety. (b) In Section 26 (4) by deleting the subsection in its entirety.	Amendment of section 26
29. Section 27 of the Principal Act is amended by deleting the Section in its entirety and substituting its contents thereof with the following contents: 27. (1) A license issued by the Director in accordance with this Act may be cancelled by the Director on any of the following grounds: (a) Upon the receipt of any form of complaint from the citizens of Makueni County against the licensee regarding the conduct of the licensed undertaking. (b) On recommendation of the Sub-county committee. (c) On the County Government’s own motion. (d) Following the breach of any of the conditions attached to the license. (e) The licensee has obtained a license by false or fraudulent misrepresentation. (f) The licensee is convicted under this Act or any other written law. (2) the Director shall issue a licensee with a Thirty-day written notice of the intention to cancel a license with reasons thereof, upon which the licensee shall remedy the cited grounds for cancellation failure to which the Director shall proceed to cancel such license; Provided that pending the lapse of the thirty days period, the director may suspend the licence (3) A licensee aggrieved by the Decision of the Director to cancel or suspend a license may lodge an appeal with the County Alcoholic Drinks and Substance Control Review Committee.	Amendment of section 27
PART IV GENERAL PROVISIONS	
30. Section 28 of the Principal Act is amended by:	Amendment of

<p>(a) Deleting the word “shall” appearing immediately after the word “Directorate” and substituting it with the word “may”.</p> <p>(b) deleting the words “in each Ward and one referral facility in the county”.</p> <p>31. Section 29 of the Principal Act is amended by deleting the entire paragraph and substituting it with the following contents thereof:</p> <p>The funds of the directorate shall comprise of -:</p> <p>(a) such monies as may be appropriated by the County Assembly for the purposes of this Act;</p> <p>(b) any grants, gifts, donations, loans or other endowments for carrying out the functions under this Act; and</p> <p>(c) any monies from any lawful source permitted in the law.</p> <p>32. Section 30 of the Principal Act is amended by deleting the entire paragraph.</p>	<p>sections 28, 29 and 30</p>
<p>33. Section 34 of the Principal Act is amended to read, “no person shall sell or permit alcoholic drinks to be sold by way of an automatic vending machine without necessary licenses”</p>	<p>Amendment of section 34</p>
<p>34. Section 37 of the Principal Act is amended is by deleting Subsection (5) thereof in its entirety.</p>	<p>Amendment of section 33</p>
<p>35. Section 48 (1) (a) of the Principal Act is amended by inserting the word “age” immediately after the word “of” and before the word “eighteen”.</p>	<p>Amendment of section 48</p>
<p>36. Section 50 of the Principal Act is amended by</p> <p>(a) deleting Subsections (1) and (2) in their entirety and substituting sub-section (1) with the following new paragraph</p> <p>“Any officer working under the Directorate or a County Public Officer designated by the County Executive Committee Member in writing.”</p>	<p>Amendment of section 50</p>
<p>37. Section 51 of the Principal Act is amended by deleting the entire Section.</p> <p>38. Section 52 of the Principal Act is amended by deleting the entire Section.</p>	<p>Amendment of sections 51 & 52</p>
<p>39. Section 53(2) of the Principal Act is amended by deleting the</p>	<p>Amendment of</p>

Paragraph in its entirety.	section 53
<p>40. Section 56 of the Principal Act is amended by deleting the entire paragraph and substituting it with the following content:</p> <p>“It shall be an offense under this Act for a person to sell alcohol for financial gain in a dwelling house”</p>	Amendment of section 56
41. Section 57 of the Principal Act is amended by deleting the section in its entirety.	
42. Section 58 of the Principal Act is amended by deleting the section in its entirety.	
<p>43. Section 62 is amended by inserting a new section immediately after Section 62 (5) as follows:</p> <p>62A. All alcohol, goods and equipment seized shall;</p> <ul style="list-style-type: none"> (a) Only be impounded by authorized officers. (b) Be stored under safe custody of the county government. (c) After compliance be released to the licensee upon payment of the prescribed fee. <p>Deemed to be forfeited for failure to comply with the provisions of this Act or any other written law within 14 days of the seizure.</p>	Insertion of New Section; 62A on Seizure and impounding
44. The heading of the first schedule is amended to refer to Section 18 instead of Section 21.	Amendment of the first schedule.
45. The Principal Act is amended in Sections 4, 5, 32, 62 & 67 by substituting the words “Executive Member” anywhere they appear in those Sections with the words “Executive Committee Member”	Amendment of Sections 4, 5, 32, 62 & 67.