

SPECIAL ISSUE

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EMBU COUNTY ACTS, 2024

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THE EMBU COUNTY ALCOHOLIC DRINKS CONTROL (AMENDMENT) ACT, 2024

No. 6 of 2024

Date of Assent: 7th August, 2024

Date of Commencement: 16th September, 2024

AN ACT of the County Assembly of Embu to amend the Embu County Alcoholic Drinks Control Act, 2021 and for connected purposes

ENACTED by the County Assembly of Embu as follows—

PART I—PRELIMINARIES

Short title

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

Amendment of section 2

2. The Embu County Alcoholic Drinks Control Act, 2021, in this Act referred to as the “Principal Act” is amended by inserting the following new definition in proper alphabetical sequence—

“bar and restaurant” means any premises on which the business of serving food or alcoholic drinks for reward is carried on but does not include an eatery.

Amendment to section 3

3. The principal Act is amended in section 3 by inserting a new subsection as follows—

(c) to facilitate the application and enforcement of the National Government Standards on the regulation of manufacture, advertisement, sale and consumption of alcoholic drinks.

Amendment to section 4(2)

4. The principal Act is amended in section 4(2) by inserting a new sub-paragraph as follows—

(k) consider appeals from the decisions of the Sub-county Committee under this act;

Amendment to section 4(3)

5. The principal Act is amended in section 4 (3) by—

(a) deleting sub-paragraphs (e) and (f) and substituting thereof the following new sub-paragraphs;

(i) (fa) a representative of Non-Governmental Organizations dealing with drug rehabilitation in the County nominated by the

National Council for Non-Governmental Organizations appointed by the Executive Committee Member.

- (b) deleting the words “with the approval of the County Assembly” appearing in sub-paragraphs (a), (d), (g) and (h);
- (c) inserting a new sub-section immediately after sub-section (3) as follows—

4. (a) the members appointed under sub-section (3) paragraphs (a), (d), (g) and (h) shall only be appointed with the approval of the County Assembly.

Amendment of Section 7(5)

6. Section 7 (5) of the principal Act is amended by—

- (a) adding new sub-paragraphs as follows—
 - (i) (ca) the County public health officer; and
 - (ii) (db) the County Director enforcement.
- (b) deleting sub-paragraphs (c) and (d) and substituting thereof the following new sub-paragraph;
- (ea) a representative of Non-Governmental organizations dealing with drug rehabilitation in the County nominated by the National Council for Non-Governmental Organizations appointed by the Executive Committee Member.
- (c) deleting sub-paragraph (l) and substituting thereof;
- (la) the sub-county revenue officer;
- (d) deleting sub-paragraph (m) in its entirety; and
- (e) adding a new sub-paragraph as follows—
- (ma) the sub-county Committee may, co-opt ward administrators whose skills, knowledge or experience may be useful to the committee on need basis.

Amendment of section 10

7. Section 10 of the principal Act, is amended by inserting a new sub-section immediately after sub-section (2).

(3a) Notwithstanding the provisions of sub-section (2), any person who makes an application for a new business for a period not exceeding six (6) months shall pay half of the license fee set out in the Third Schedule.

Insertion of a new section

8. The principal Act is amended by inserting a new section immediately after section 27.

Revocation

28. (1) The authorized officer may on recommendation of the Sub-county Committee suspend or revoke a license where satisfied that—

- (a) the licensee has contravened the provisions of this Act or other relevant written laws including noise pollution and general nuisance;
- (b) the licensee has contravened the conditions of declaration made in accordance with this Act;
- (c) the business to which the license relates is being conducted in a manner that is contrary to the provisions of this Act; and
- (d) the license has failed to comply with the conditions of a license granted under this Act; or any other requirement for the grant of a license under this Act has been violated.

(2) Notwithstanding sub-section (1), the authorized officer shall not suspend or revoke a license unless the licensee—

- (a) has been served with a notice of not less than seven days of the intention to suspend or revoke the license and the reasons for such intention;
- (b) has within fourteen (14) days from the date of such service, been given the opportunity to be heard by the sub-county committee convened for that purpose; and
- (c) has been notified of the decision of the sub-county Committee.

(3) upon revocation or suspension of a license, the licensee shall with immediate effect cease to manufacture, distribute or sell an alcoholic drink.

Amendment to section 29

9. The principal Act is amended in section 29 by adding a new subsection immediately after sub-section (4);

(5a) It shall constitute an offense for any person to sell, supply or serve alcoholic beverages to any individual who is identifiable as a pupil or student by virtue of their uniform or dress whether or not such individual is of legal age to consume that alcohol.

Insertion of a new section

10. The Principal Act is amended by inserting a new Clause immediately after Clause 30 as follows—

Transportation of Alcoholic Drinks

30. A (1) No person engaged in the business of distribution shall transport alcoholic drinks for the purposes of sale or distribution between the hours of 6.00 O'clock in the afternoon and 6, O'clock in the morning.

(2) The County Executive Committee member shall, by regulations, prescribed the manner that vehicles used for the transportation of liquor for the purposes of sale or distribution shall be branded including—

- (a) the proportion of the surface area of the vehicle that may be covered by branding; and
- (b) the proportion of the branded area of the vehicle that shall be reserved for health warnings.

Amendment to section 32

11. Section 32 of the principal Act is amended by;

(1) Inserting the following new sub-sections;

2 (c) Labelling on containers should have the health warnings as prescribed under national standards and legislation; and

(d) each bottle in which an alcoholic beverage is packaged shall be inscribed with the name of the manufacturer in such a manner as the inscription may not be altered or defaced.

(2) Deleting sub-section 3 in its entirety and substituting thereof the following new sub-section.

(3) A person who is guilty of an offence under this section shall be liable—

- (a) in the case of a first offence, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two (2) years, or to both such fine and imprisonment; and
- (b) in the case of a subsequent offence, to a fine not exceeding seven hundred thousand shillings or to imprisonment for a term not exceeding five (5) years, or to both such fine and imprisonment.

Amendment to Section 33

12. Section 33 of the principal Act is amended by deleting the words “and shall be liable to a fine not exceeding fifty thousand shillings or to

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imprisonment for a term not exceeding six (6) months, or both." In their entirety.

Introduction of a new section

13. That the principal Act be amended by inserting a new clause immediately after Clause 39 as follows—

Seizure of Vehicles and Buildings involved in illegal activities

39 A (1) Any vehicles or buildings discovered to be involved in the storage, manufacturing, or trafficking of, illicit brews, or unauthorized alcohol shall be liable to immediate seizure by law enforcement authorities.

(2) This action does not preclude any additional legal measures that may be pursued.

Introduction of a new section 43

14. That the principal Act be amended by inserting a new clause 43 as follows—

Sale in prohibited areas

43 A. Subject to this Act, any person who being the owner, occupier or concerned in the management of any premises, within prohibited areas permits the premises to be used for the purpose of sale of alcoholic drinks commits an offence and shall on conviction, be liable to a fine of not less than One hundred thousand shillings or a term of imprisonment of not less than two (2) years or to both such fine and imprisonment.

Amendment of section 47

15. The Alcoholic Drinks Control Act is amended in section 47 by adding a new sub-section immediately after sub-section (4)—

(a) authorised officers under this section must bear proper identification.

Amendment of the first schedule

16. That the first schedule of the principal Act be amended—

(1) in Item 5 by adding the word "bar" immediately before the word restaurant; and

(2) by deleting the time 4.00 p.m wherever it appears and substituting thereof with 5.00 p.m.

Amendment of the third schedule

17. The third schedule be amended by deleting it in its entirety as substituting with a new schedule as follows:

THIRD SCHEDULE

ALCOHOLIC DRINKS RELATED ANNUAL CHARGES (Section 10(2))				
FOLIO	DESCRIPTION	A	B	C, D
1.	General retail Alcoholic Drinks (on-license)	40,000	30,000	20,000
	General retail Alcoholic Drinks (off-license)	30,000	20,000	10,000
2.	Brewers Alcoholic Drinks license	All categories		
	1,000,000 or more litres per annum	800,000		
	500,000 to 999,999 litres per annum	400,000		
	From 12,001 to 499,999 litres per annum	150,000		
	12,000 litres per annum and below	100,000		
	Wholesale local alcoholic drinks license (per premises)	100,000		
3.	Wholesale, (cross County and across-Country) alcoholic drinks license (NB: alcoholic drinks so imported must have a licensed depot within Embu County)			
	1,000,000 and above litres per annum	800,000		
	500,000 to 999,999	400,000		
	Below 500,000 litres	150,000		
4.	BOTTLERS LICENSE			
	Bottler's Alcoholic Drinks license	250,000		
	Depot License (Additional to Bottlers)	20,000		

5.	DISTRIBUTORS ALCOHOLIC DRINKS LICENSE			
6.	DESCRIPTION	A	B	C, D
	Distributors license	50,000		
	Depot License (Additional to distributors licenses above)	20,000		
	Hotels Alcoholic Drinks	80,000	60,000	60,000
	Bar and Restaurant alcoholic drinks license (Large)	60,000	40,000	30,000
	Bar and Restaurant alcoholic drinks license (medium/small)	50,000	30,000	20,000
	Members Club	100,000	80,000	80,000
	Proprietary Clubs and Discotheques alcohol License	100,000	80,000	80,000
	Franchise retail store / Supermarkets alcoholic drinks license	80,000	50,000	50,000
	Theatre alcoholic drinks license	15,000	15,000	15,000
	Traveller lounge alcoholic drinks licence	If license has class "A" no charge	If license has no class "A" 30,000	
	Railway and Airport alcoholic drinks License per pub	30,000	30,000	30,000
	Cross county distribution of alcoholic drinks license (all types) Class "P"	500,000	500,000	500,000
	Temporary/Occasional alcoholic drinks License per day	1,000	1,000	1,000
	Temporary/Promotional alcoholic drinks license per week	20,000	20,000	20,000
	Removal of an alcoholic drink	1,000	1,000	1,000

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	license			
	Issue of an assurance for an alcoholic drink License	1,000	1,000	1,000
	Issue of a duplicate license of any kind	1,500	1,500	1,500
	Application fee	1,000	1,000	1,000
	Penalty for late application/operating without a license	50% of the annual license fees (All Categories)		