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THE ALCOHOLIC DRINKS AND DRUGS CONTROL LAWS (AMENDMENT) BILL, 2026

A Bill for

AN ACT of Parliament to amend various statutes relating to the control of alcoholic drinks and drugs and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Alcoholic Drinks and Drugs Control Laws (Amendment) Act, 2026.

Amendment of section 2 of Cap.121.

2. Section 2 of the Alcoholic Drinks Control Act is amended by—

(a) inserting the following new definitions in the proper alphabetical sequence—

"adulteration" means the act of illicitly tampering with an alcoholic drink by adding any ingredient that changes its original approved composition at the time of manufacture;

Cap. 469.

"collector" means the Kenya Revenue Authority established under section 3 of the Kenya Revenue Authority Act;

Cap. 381.

"hotel" has the meaning assigned to it under section 2 of the Tourism Act;

"licensing committee" means the County Alcoholic Drinks Licensing Committee established under section 8;

"off-licence consumption outlet" means a retail outlet for the sale of alcoholic drinks where consumption of any alcoholic drink is not allowed in the premises;

"online market" includes any online site or portal used for the promotion or sale of alcoholic drinks;

"premises" includes any place, land, building or conveyance or any part of it;

"promotion" means any communication related to an alcoholic drink or its brand element through any form of media or channel that is intended to encourage, persuade or influence a consumer to consume or prefer the alcoholic drink and includes personal selling, advertisement or publicity in newsprint, electronic media, social media or coded media language; and

"traditional alcoholic drink" means any alcoholic drink manufactured using traditional methods for consumption during cultural ceremonies;

(b) deleting the definition of "Cabinet Secretary" and substituting therefor the following new definition—

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for the control of alcoholic drinks;

(c) deleting the definition of "District Committee"; and

(d) inserting the following new paragraph in the definition of the word 'sell" immediately after paragraph (d)—

(e) promotion or marketing for purposes of intended sale.

Amendment of section 3 of Cap.121.

3. Section 3 of the Alcoholic Drinks Control Act is amended —

(a) in paragraph (c) by deleting the word "eighteen" and substituting therefor the word "twenty-one"; and

(b) by inserting the following new paragraph immediately after paragraph (g)—

(h) promote the establishment and protection of alcohol-free environments and settings for children, the youth and other populations at risk.

Insertion of new sections into Cap.121.

4. The Alcoholic Drinks Control Act is amended by inserting the following new sections immediately after section 4—

The National Alcoholic Drinks Control Committee.

4A. (1) There is established the National Alcoholic Drinks Control Committee.

(2) The Committee shall consist of —

(a) the Principal Secretary responsible for matters relating to internal security, who shall be the Chairperson;

(b) the Attorney-General or their designated representative;

(c) the Principal Secretary responsible for Public Health or a designated representative;

(d) the Principal Secretary in the State Department responsible for youth affairs or their designated representative;

(e) the Principal Secretary in the State Department responsible for trade or their designated representative;

(f) the head of the relevant agency or a designated representative;

(g) the Managing Director of the Kenya Bureau of Standards or their designated representative;

(h) the Commissioner-General of the Kenya Revenue Authority or their designated representative;

(i) the Inspector-General of the National Police Service or their designated representative;

(j) the Director-General of the National Intelligence Service or their designated representative;

(k) the Executive Director of the Anti-Counterfeit Authority or their designated representative;

(l) the Chairperson of the Council of Governors or their designated representative;

(m) the Government Chemist or their designated representative;

(n) the Director of Public Prosecutions or their designated representative;

(o) the Director of the Directorate of Weights and Measures or their designated representative;

(p) the Director-General of the National Environmental Management Authority or their designated representative; and

(q) the Director of Occupational Safety and Health Services or their designated representative.

(3) The Committee may, where it considers appropriate, co-opt such persons with knowledge and expertise in specific matters to assist in the performance of its functions.

(4) The relevant agency shall provide secretariat services to the Committee.

Functions of the National Alcoholic Drinks Control Committee.

4B. The functions of the National Alcoholic Drinks Control Committee shall be to—

(a) facilitate and ensure effective implementation of this Act;

(b) provide a platform for inter-agency consultation, collaboration and co-ordination in regard to alcoholic drinks control;

(c) license manufacturers of alcoholic drinks;

(d) license importers and exporters of alcoholic drinks;

(e) carry out joint inspection of premises manufacturing alcoholic drinks for purposes of ensuring compliance with this Act;

(f) establish and administer a digital track and trace system that ensures that a licensed alcoholic drink can be traced from the importation, manufacturing, transport and delivery to the consumer;

(g) approve package labels for all the registered alcoholic brands;

(h) promote and facilitate the elimination of substandard and counterfeit alcoholic drinks;

(i) recommend to the Cabinet Secretary and participate in the formulation of standards, policies, laws and regulations for adoption at the national and county level;

(j) facilitate the settlement of inter-governmental disputes concerning the control of alcoholic drinks;

(k) monitor, evaluate and prepare quarterly reports on compliance for the effective implementation of this Act;

(l) approve package labels for all the registered alcoholic drinks brands; and

(m) perform any other function as may be assigned by the Cabinet Secretary in accordance with this Act.

Amendment of section 5 of Cap. 121.

5. Section 5 of the Alcoholic Drinks Control Act is amended —

(a) in subsection (2) by inserting the following new paragraphs immediately after paragraph (c)—

(ca) the solatium compensatory levy imposed on manufacturers and importers of alcoholic drinks under section 6A;

(cb) the proceeds recovered or realized from any property that is seized under section 27C;

(b) in subsection (4) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) the National Alcoholic Drinks Control Committee; and

(c) by deleting subsection (5) and substituting therefor the following new subsection—

(5) An amount of not less than fifty per cent of the annual income of the Fund shall be used to finance the operations of the National Alcoholic Drinks Control Committee and an additional amount of not less than fifteen per cent shall be used to fund civil society programmes relating to the prevention and management of alcohol and drug abuse.

Insertion of new section 6A into Cap. 121.

6. The Alcoholic Drinks Control Act is amended by inserting the following new section immediately after section 6—

Imposition of the solatium compensatory levy.

6A. (1) There is imposed a levy known as the solatium compensatory levy on every manufactured or imported alcoholic drink.

(2) The levy shall be charged at the rate of two shillings per litre of any alcoholic drink that is manufactured or imported by a licensed manufacturer or importer in that financial year.

(3) The levy shall be payable to the

collector for remittance into the Fund not later than the tenth day of the month following the month during which the levy is due.

(4) Any levy imposed under this section which remains unpaid shall be recovered by the Authority as a civil debt due to it from the person by whom it is payable.

(5) Where an amount of the levy remains unpaid after the date when it becomes due and payable by a person liable to remit the amount, a penalty equal to three per centum of the unpaid amount shall be due and payable for each month or part thereof that the amount remains unpaid.

Repeal and replacement of section 8 of Cap. 121.

7. The Alcoholic Drinks Control Act is amended by repealing section 8 and replacing therefor the following new section—

Establishment of the County Alcoholic Drinks Licensing Committee.

8. (1) Every County shall establish a committee to be known as the County Alcoholic Drinks Licensing Committee.

(2) The functions of the County Alcoholic Drinks Licensing Committee shall be to—

(a) map all outlets, premises and plants that manufacture, distribute or sell alcoholic drinks in each municipality, town market centre or area within the county;

(b) in an annual cycle, determine the number, distribution and categories of alcoholic drinks outlets to be licensed for the year in each municipality, town, market centre or area within the county;

(c) prescribe the category of alcoholic drinks that a licensed premise may manufacture, sell, store or

distribute;

(d) provide oversight to the licensing of alcoholic drink outlets in the county;

(e) oversee inspection and compliance exercises;

(f) receive reports from the Liquor Boards;

(g) identify and map out the types of drugs abused in the county;

(h) propose appropriate measures to address alcohol and drug abuse in the county;

(i) facilitate public participation during licensing;

(j) receive complaints from community members on licensing and alcohol and drug abuse;

(k) advocate for the allocation of funds for alcohol and drug abuse interventions by the county government;

(l) undertake stakeholder coordination and resource mobilization; and

(m) submit quarterly reports to the relevant agency.

(3) The County Alcoholic Drinks Licensing Committee shall consist of—

(a) the Governor of the relevant County;

(b) the County Commissioner of the relevant county;

(c) one representative of the relevant agency who shall be the secretary;

(d) Executive Committee member

responsible for liquor licensing and drug control

(e) the County Police Commander;

(f) the County National Intelligence Service Coordinator;

(g) the County Director of Public Health;

(h) the County Director of Criminal Investigations;

(i) one representative from the Kenya Revenue Authority;

(j) one representative from the Kenya Bureau of Standards;

(k) one representative of religious organizations;

(l) two people representing the local community; and

(m) one person representing the youth.

(4) The Governor and the County commissioner shall co-chair the Committee.

(5) In the discharge of its functions under subsection (2), the Licensing Committee shall consider, in respect of each municipality, town, market centre or area—

(a) a clearance certificate issued by the relevant agency recommending the issuance of a licence to any premises;

(b) the population density and demographics;

(c) sanitary capacity; and

(d) the minimum size of establishments to be prescribed.

Repeal and replacement of section 9 of Cap. 121.

8. The Alcoholic Drinks Control Act is amended by repealing section 9 and replacing therefor the following

new section—

Application for a licence to operate an establishment for the sale of alcoholic drinks.

9. (1) A person who intends to operate an establishment for the sale of alcoholic drinks shall make an electronic application in the prescribed form to the County Alcoholic Drinks Licensing Committee in the county where the premises is to be situated and shall pay the prescribed fee.

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

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

(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 alcoholic drinks, giving full particulars of the offence of which, he was convicted, the court by which he was convicted and the date of the conviction; and

(c) such other matters as may be prescribed.

(3) The County Alcoholic Drinks Licensing Committee shall, within twenty-one days after receiving an 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 for considering the applications, and shall forthwith cause a copy of the notice to be—

(a) published in the Kenya Gazette and at the office of the County

Commissioner for a period of not less than twenty-one consecutive days;

(b) posted in a conspicuous place at or near the applicant's premises;

(c) be delivered to the Inspector-General of Police or to such police officer as the Inspector-General of Police may, by written notice to the County Commissioner, appoint to receive it on his behalf; and

(d) delivered to the medical officer of health of the County in which the premises in respect of which the licences are applied for are situated.

(4) The Inspector-General of Police or, as the case may be, the police officer appointed by the Inspector-General for that purpose and the medical officer of health shall, before the hearing of any application under this section, report as fully as possible to the County Alcoholic Drinks Licensing Committee on all matters relating to security and public health, respectively, which may be relevant to the consideration of the application.

(5) Any person may lodge an objection to an application for a licence under this section.

(6) Every objection to an application shall be made in writing to the Secretary to the County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing Committee may on 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.

(8) Where in respect of an application a County Alcoholic Drinks Licensing 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 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 County Alcoholic Drinks Licensing Committee and shall satisfy the County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing 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) Where a County Alcoholic Drinks Licensing 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 chairperson shall be empowered to administer oaths.

(13) Every County Alcoholic Drinks Licensing Committee shall maintain records of all its proceedings including the purpose for which an application was made, notes of evidence given, the evidence given, the arguments made and the decision of the court:

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 been occasioned.

(14) The County Alcoholic Drinks Licensing 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 county, 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.

(15) A licence under this section may be issued electronically.

Repeal and replacement of section 10 of Cap.

9. The Alcoholic Drinks Control Act is amended by repealing section 10 and replacing therefor the following

new section— 121.

Grant of licence for the sale of alcoholic drinks.

10. (1) The County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing Committee may consider appropriate.

(4) Where the County Alcoholic Drinks Licensing 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) Upon receipt of any revised application under subsection (5), the County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing Committee grants a licence under this section it shall, publish the grant in the *Gazette*.

Amendment of section 11 of Cap. 121.

10. Section 11 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee";

(b) in subsection (3) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee";

(c) in subsection (4) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee"; and

(d) in subsection (5) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee".

Repeal and replacement of section 12 of Cap. 121.

11. The Alcoholic Drinks Control Act is amended by repealing section 12 and replacing therefor the following new section—

Licence for premises.

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

(a) it would be in the public interest for provision to be made for the sale of alcoholic drinks 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;

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

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

(2) The County Alcoholic Drinks Licensing Committee shall not grant a licence for the sale of alcoholic drinks—

(a) in a public beach, public park, amusement park, cinema hall, medical facility, sports facility, bus park, bus stop, petrol station, railway station, ferry station, pier or public transport including a train, bus, aeroplane, ferry or boat;

(b) in a supermarket or such other related retail store, an outlet selling products associated with children, residential premises, residential area, restaurant, basic education institution, university, college or any other institution of higher learning; or

(c) through a vending machine, online sale, courier, home delivery or hawking.

(3) A person who upon the coming into force of this section holds a valid licence for

the sale of alcoholic drinks in a place or manner specified in subsection (2) shall, for purposes of disposing of the alcoholic drinks, continue to carry on business for a period not exceeding three months from the commencement of this section or upon the expiry of the licence, whichever comes earlier.

Amendment of section 13 of Cap. 121.

12. Section 13 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by—

(i) deleting the opening statement and substituting therefor the following new opening statement—

"The County Alcoholic Drinks Licensing Committee shall not grant a new licence or transfer a licence to any person who—"

(ii) inserting the following new paragraph immediately after paragraph (b)—

"(ba) is a public officer who is involved in the enforcement of this Act in the national government or county government, whether the public officer owns and operates the outlet selling alcoholic drinks directly or through a proxy";

(iii) deleting the word "eighteen" appearing in paragraph (e) and substituting therefor the word "twenty-one" and;

(b) in subsection (2) by—

(i) deleting the opening statement and substituting therefor the following—

"The County Alcoholic Drinks Licensing Committee may refuse to renew an existing licence only if the Committee is satisfied that—"

(ii) deleting the words "District Committee"appearing in paragraph (d) and substituting therefor the words "County Alcoholic Drinks Licensing Committee".

Amendment of section 14 of Cap.121.

13. Section 14 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by deleting the words "District Committee" and substituting therefor the words "relevant Committee";

(b) in subsection (2) by deleting the words "District Committee" and substituting therefor the words "relevant Committee";

(c) by deleting subsection (4) and substituting therefor the following new subsection—

"(4) Where an application for the renewal of a licence has been made and the relevant 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 relevant Committee is made known".

(d) by deleting subsection (5) and substituting therefor the following new subsection—

"(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 relevant Committee during the period of six months from the date of such refusal or cancellation, except at the discretion of the relevant Committee".

Amendment of section 16 of Cap.121.

14. Section 16 of the Alcoholic Drinks Control Act is amended in subsection (1) by deleting the word "District" appearing in the proviso and substituting therefor the word "relevant".

Amendment of section 17 of Cap.121.

15. Section 17 of the Alcoholic Drinks Control Act is amended in subsection (3) by deleting the word "District" and substituting therefor the word "relevant".

Amendment of section 18 of Cap.121

16. Section 18 of the Alcoholic Drinks Control Act is amended—

(a) by deleting subsection (1) and substituting therefor the following new subsection—

"(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 County Alcoholic Drinks Licensing Committee for the transfer of his licence to the purchaser or lessee or otherwise of such premises, and the Committee may, if it thinks fit, grant a transfer of such licence."

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

"(3) In the event of the death, bankruptcy or unsoundness of mind of a licensee, or in any similar event to which the County Alcoholic Drinks Licensing 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 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 Committee."

Amendment of section 19 of Cap.121.

17. Section 19 of the Alcoholic Drinks Control Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

"(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 relevant 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 relevant 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 later."

Amendment of section 21 of Cap.121.

18. Section 21 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by deleting the word "eighteen" and substituting therefor the word "twenty-one";

(b) in subsection (2) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee"

Amendment of section 24 of Cap.121.

19. Section 24 of the Alcoholic Drinks Control Act is amended—

(a) in the marginal note by deleting the word "eighteen" and substituting therefor the word "twenty-one"; and

(b) in subsection (1) by deleting the word "eighteen" and substituting therefor the word "twenty-one".

Amendment of section 25 of Cap.121.

20. Section 25 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee"; and

(b) in subsection (3) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee".

Amendment of section 26 of Cap.121.

21. Section 26 of the Alcoholic Drinks Control Act is amended—

(a) in subsection (1) by—

(i) deleting the words "District Committee" appearing in the opening statement and substituting therefor the words "County Alcoholic Drinks Licensing Committee";

(ii) deleting paragraph (a) and substituting therefc the following new paragraph—

(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 County Alcoholic Drinks Licensing

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 Committee;

(iii) deleting the words "District Committee" appearing in paragraph (b) and substituting therefor the words "County Alcoholic Drinks Licensing Committee";and

(iv) deleting the words "District Committee appearing in paragraph (c) and substitutin therefor the words "County Alcoholic Drink Licensing Committee";

(b) in subsection (2) by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee";

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

(3) The County Alcoholic Drinks Licensing 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 Committee, is necessary.

(d) by inserting the following new subsections immediately after subsection 3—

(3A) The Cabinet Secretary may, upon being satisfied that a licence has been issued in contravention of any provision of the Act, cancel the licence by an order published in the Kenya Gazette.

(3B) The Cabinet Secretary may direct an authorized officer or the National Alcoholic Drinks Control Committee to take any action to curb the violation of this Act or any other law relating to the control of alcoholic drinks.

(e) in subsection (4) by deleting the words "District Committee" and substituting therefor the words

"County Alcoholic Drinks Licensing Committee";

(f) in subsection (6) by the deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee"; and

(g) by deleting subsection (7) and substituting therefor the following new subsection—

(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 County Alcoholic Drinks Licensing Committee may deem necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises, such licence shall be valid from the date of the decision of the Committee or of the High Court, as the case may be.

Insertion of new sections into Cap. 121.

22. The Alcoholic Drinks Control Act is amended by inserting the following new sections immediately after section 27—

Registration of alcoholic drinks.

27A. (1) Every manufacturer or importer of an alcoholic drink, including a traditional alcoholic drink and the respective stock keeping unit shall register the alcoholic drink with the relevant agency in the prescribed manner.

(2) A person who intends to register an alcoholic drink shall submit evidence of—

(a) in the case of a manufacturer, a manufacturing licence issued under this Act;

(b) in the case of an importer, an importation licence issued under this Act and proof of authorization of the brand owner or the franchise agent of the brand owner; and

(c) compliance with the regulatory requirements under this Act or any other written law.

(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 relevant agency in writing of the change.

(4) The relevant agency shall maintain a national database of every alcoholic drink that is registered under subsection (1).

(5) A person who contravenes the provisions of subsection (1) or (3) commits an offence and shall be liable—

(a) in case of subsection (1), to a fine not exceeding two million or to imprisonment for a term not exceeding five years, or to both for every brand that is not registered; and

(b) in case of subsection (3), to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both for every brand a manufacturer or importer fails to notify the relevant agency.

Manufacturing licence.

27B. (1) A person who intends to manufacture any alcoholic drink shall make an application for a licence in the prescribed form to the National Alcoholic Drinks Control Committee.

(2) The application under subsection (1) shall contain or be accompanied by—

(a) a comprehensive proposal on the physical location, nature,

orientation and other justification for the establishment of the alcoholic drinks plant;

(b) details of the alcoholic drinks to be manufactured;

(c) a disclosure as to whether the applicant has been previously convicted of an offence under this Act or any other written law 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, the court by which he was convicted and the date of the conviction;

(d) clearance certificates from the following regulatory agencies—

(i) the Kenya Bureau of Standards;

(ii) the Kenya Revenue Authority;

(iii) the Anti-counterfeit Authority;

(iv) the National Environmental Management Authority;

(v) the relevant agency;

(vi) the Directorate of Occupational Safety and Health Services;

(vii) the Directorate of Weights and Measures;

(viii) the Directorate of Public Health; and

(ix) the relevant County Government; and

(e) such other requirements as may be prescribed.

(3) The National Alcoholic Drinks Control Committee shall, within seven days

of receipt of the application for a licence under subsection (1) publish a notice of the application for a manufacturing licence in a daily newspaper of nationwide circulation in the prescribed form.

(4) The National Alcoholic Drinks Control Committee shall consult the departments in charge of public health and physical planning in the relevant county.

(5) Any person may lodge an objection to an application for a licence within twenty-one days of the publication of the notice in subsection (3).

(6) Any objection to an application for a licence shall be made in writing to the National Alcohol Control Committee.

(7) The National Alcoholic Drinks Control Committee may on its own motion take notice of any matter of public interest which in the opinion of the Committee constitutes an objection to an application.

(8) The National Alcoholic Drinks Control Committee may require the personal appearance of the applicant, his representative or any person it considers necessary to answer or clarify any issues relating to the application for the licence.

(9) The National Alcoholic Drinks Control Committee shall, upon the expiry of thirty days of receipt of the application, assess the application on the basis of the objections received, if any, and grant a manufacturing licence to the applicant or reject the application.

(10) This section shall not apply to the importation of alcoholic drinks for personal use as determined under the East Africa Community Customs Management Act, 2004.

(11) Any person who manufactures any alcoholic drink in contravention of this

section commits an offence and shall upon conviction, be liable in respect of any alcoholic drink to a fine of ten million shillings or three times the market value of the manufactured alcoholic drinks, whichever is greater or to imprisonment for a term of twenty years or to both.

Licensing of Importers and Exporters of Alcoholic Drinks.

27C. (1) A person who intends to import any alcoholic drink shall apply for an import licence to the National Alcoholic Drinks Control Committee.

(2) An applicant under sub section (1) shall prove that—

(a) the product being imported is permitted in the country of origin as an alcoholic drink;

(b) the alcoholic drink meets the applicable regulatory requirements under any written law; and

(c) he has an authorized depot.

(3) The National Alcoholic Drinks Control Committee shall consider the application and either grant or reject the application.

(4) Any person who imports an alcoholic drink in contravention of this section commits an offence and shall be liable in respect of any alcoholic drink to a fine not exceeding one million shillings or three times the market value of the imports, whichever is higher or to an imprisonment for a term not exceeding five years.

Obligations of landlords.

27D. (1) A person shall not lease out or licence any premises for purposes of manufacturing, selling, storing, distributing, transiting, warehousing or in any way handling alcoholic drinks unless at the point of entering into or renewing the lease the leasee has the requisite licences for the

relevant activity relating to alcoholic drinks and the holding of such licence shall be a warranty in any such lease.

(2) A landlord shall not lease out or maintain a lease or licence for any premises used for manufacturing, storing, selling or distributing alcoholic drinks if the premises is located —

(a) in a residential area; or

(b) within a prohibited distance from any learning institution for persons under the age of twenty-one years, religious institution or hospital.

(3) A person who contravenes subsection (1) or (2) commits an offence.

(4) Any movable or immovable property that is used for the manufacture, sale, warehousing, storage, transportation or in any manner dealing with an alcoholic drink without a licence or in contravention of the terms of a licence or of any law shall be seized.

(5) The access to, control or use of the movable or immovable property seized under subsection (4) shall be vested in the Cabinet Secretary for a period of seven days or until the conclusion of the criminal prosecution, whichever is later.

(6) The proceeds recovered or realized from any property that is seized under this section shall be paid into the Fund".

Obligations of ethanol suppliers.

27E. (1) A supplier of ethanol that is used as a raw material in the manufacture of an alcoholic drink shall—

(a) maintain a list of all manufacturers who purchase or import ethanol from the supplier;

(b) maintain a list of the quantity of ethanol purchased by a

manufacturer or importer;

(c) on every purchase of ethanol, demand from the manufacturer a copy of the manufacturing licence to establish that a manufacturer is permitted to manufacture alcoholic drinks; and

(d) submit the list in paragraphs (a) and (b) to the relevant agency annually.

(2) A manufacturer, importer, exporter, distributor, retailer or supplier of ethanol shall comply with the requirements of the track and trace system as prescribed in the regulations.

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

Depots for alcoholic drinks.

27F. (1) A manufacturer, importer or exporter of any alcoholic drink shall establish a depot or appoint a distribution agent in the county where he intends to distribute his products.

(2) A manufacturer, importer or exporter, distributor, retailer or supplier of any alcoholic drink shall comply with the requirements of the track and trace system as prescribed in the regulations.

(3) Subsection (2) shall not apply to traditional drinks for consumption during cultural ceremonies.

(4) A person shall only distribute an alcoholic drink from a depot established in accordance with this Act.

(5) A retailer shall purchase alcoholic drinks from a depot established in accordance with this Act.

(6) Every licence holder shall maintain all trading records in relation to purchases

and sales including invoices, delivery notes, tax invoices and stock records.

(7) A person who contravenes any provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Amendment of section 28 of Cap. 121.

23. Section 28 of the Alcoholic Drinks Control Act is amended —

(a) by deleting subsection (1) and substituting therefor the following new subsection—

(1) A person shall not, knowingly, sell, suppl or provide an alcoholic drink to a person who is —

(a) under the age of twenty-one years; or

(b) accompanied by a person under the age of twenty-one years; and

(b) by deleting the word "eighteen" appearing in subsection (3) and substituting therefor the word "twenty-one".

Amendment of section 29 of Cap. 121

24. Section 29 of the Alcoholic Drinks Control Act is amended by deleting the word "eighteen" and substituting therefor the word "twenty-one".

Amendment of section 31 of Cap. 121.

25. Section 31 of the Alcoholic Drinks Control Act is amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (c)—

(d) be a glass bottle that is sealed with a non-refillable bottle cap; and

(e) have labelling on the glass bottle that bears a unique security feature of the manufacturer to determine the authenticity of the alcoholic drink.

Insertion of new section 33A into Cap. 121.

26. The Alcoholic Drinks Control Act is amended by inserting the following new sections immediately after section 33 —

Consumption of alcoholic drinks in public places.

33A. (1) A person shall not consume any alcoholic drink in a public place

including a restaurant, basic education institution, university, college or any other institution of higher learning, public beach, public park, amusement park, cinema hall, medical facility, sports facility, bus park, bus stop, petrol station, railway station, ferry station, pier or public transport including a train, bus, aeroplane, ferry or boat.

(2) A person who contravenes subsection (1) commits an offence.

Insertion of new sections into Cap. 121.

27. The Alcoholic Drinks Control Act is amended by inserting the following new sections immediately after section 35—

Sale of alcohol to armed persons.

35A. (1) A person shall not sell any alcoholic drink to any person who is armed with an offensive weapon.

(2) A person who contravenes subsection (1) commits an offence.

Underage access to premises prohibited

35B. (1) A person who is licensed to sell alcoholic drinks under this Act shall not allow a person who is under the age of twenty-one years, whether alone or accompanied, to access or enter the premises where the licensee sells alcoholic drinks.

(2) A person who contravenes subsection (1) commits an offence."

Amendment of section 42 of Cap. 121.

28. Section 42 of the Alcoholic Drinks Control Act is amended by deleting the words "District Committee" and substituting therefor the words "County Alcoholic Drinks Licensing Committee".

Insertion of new section 42A into Cap. 121.

29. The Alcoholic Drinks Control Act is amended by inserting the following new section immediately after section 42—

Alcoholic Drinks Promotions Regulation Committee.

42A. (1) There is established the Alcoholic Drinks Promotions Regulation Committee.

(2) The Regulation Committee shall

consist of —

(a) five officers nominated and appointed by the relevant agency from five of its key Directorates;

(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 nominated by the Inspector General of Police; and

(f) one person qualified and experienced in matters relating to media, and communications who shall be appointed by the Cabinet Secretary.

(3) The Cabinet Secretary shall by a notice published in the *Gazette* appoint the chairperson and members of the Regulation Committee nominated under subsection (1).

(4) The Regulation Committee shall be responsible for vetting and approving any advertisement or promotion in the print, electronic, online and any other media relating to alcoholic drinks.

(5) A person who intends to advertise or promote any alcoholic drink shall seek the approval of the Regulation Committee and apply for an occasional licence before undertaking such advertisement or promotion.

(6) A person who contravenes subsection (5) commits an offence.

(7) The Cabinet Secretary may make regulations for the better carrying out of the provisions of this section, and to provide for

the requirements for on-line marketing of alcoholic drinks.

Amendment of section 43 of Cap. 121.

30. Section 43 of the Alcoholic Drinks Control Act is amended by inserting the following new subsection immediately after subsection (1)—

(1A) A person shall not promote or advertise an alcoholic drink or any alcohol related brand element online.

Amendment of section 46 of Cap. 121.

31. Section 46 of the Alcoholic Drinks Control Act is amended —

(a) by deleting the word "eighteen" appearing in subsection (1)(a) and substituting therefor the word "twenty-one"; and

(b) by deleting the word "eighteen" appearing in subsection (1)(b) and substituting therefor the word "twenty-one";

Amendment of section 49 of Cap. 121.

32. Section 49 of the Alcoholic Drinks Control Act is amended in subsection (1) by deleting the word "eighteen "and substituting therefor the word "twenty-one".

Insertion of new section 49A into Cap. 121.

33. The Alcoholic Drinks Control Act is amended by inserting the following new section immediately after section 49—

Transportation of Alcoholic Drinks.

49A (1) Alcoholic drinks shall be transported for distribution between the hours of 6.00 am and 6.00 pm.

(2) Any motor vehicle distributing alcoholic drinks for commercial purposes shall be branded in such a manner and colours as may be prescribed in regulations.

(3) A person who intends to engage in the business of transporting alcoholic drinks shall apply for a transporters licence to the relevant Authority in the prescribed manner.

(4) A person who contravenes this section commits an offence.

Amendment of section 50 of Cap.121.

34. Section 50 of the Alcoholic Drinks Control Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

(1) The Cabinet Secretary shall, upon

recommendation by the relevant agency, appoint any person or class of persons to be authorised officers for purposes of this Act.

Repeal and replacement of section 62 of Cap.121.

35. The Alcoholic Drinks Control Act is amended by repealing section 62 and replacing therefor the following new section—

General penalty.

62. Any person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding five years, or to both.

Amendment of the First Schedule to Cap.121.

36. The First Schedule to the Alcoholic Drinks Control Act is amended by deleting paragraph 3.

Amendment of section 2 of Cap. 244.

37. Section 2 of the Pharmacy and Poisons Act, is amended by deleting the definition of "health product" and substituting therefor the following new definition—

"health product" "includes any human medicine, medical product, medicinal substance, vaccine, diagnostics, medical device, blood product, traditional and alternative medicine, herbal preparation, therapeutic feed and nutritional formulation, cosmetics and related products."

Amendment of section 26 of Cap. 244.

38. Section 26(2) of the Pharmacy and Poisons Act is amended by deleting the words "one hundred thousand" and substituting therefor the words "five hundred thousand".

Amendment of section 29 of Cap. 244.

39. Section 29(5) of the Pharmacy and Poisons Act is amended by deleting the words "one hundred thousand "and substituting therefor the words "one million".

Insertion of new section 29A into Cap. 244.

40. The Pharmacy and Poisons Act is amended by inserting the following new section immediately after section 29—

Distribution List for Part 1 Poisons.

29A. (1) A manufacturer, wholesaler, importer or exporter of Part 1 poisons shall retain for a period not less than two years, copies of the distribution list and supply including the delivery notes and invoices for all Part 1 poisons manufactured, sold or distributed and shall on demand by an

authorized officer, produce for inspection all documents and inventory systems.

(2) An authorized seller of poisons (a pharmacist or a pharmaceutical technologist) who purchases health products for retail purposes shall—

(a) maintain delivery documents for the health products that are purchased;

(b) only purchase health products from a licensed wholesaler or manufacturer; and

(c) produce for inspection, on demand by an authorized officer, all delivery and sale documents including the electronic inventory system.

(3) Any person who contravenes any provision 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 two years or to both.

Amendment of section 31 of Cap. 244.

41. Section 31(3) of the Pharmacy and Poisons Act is amended by deleting the words "five thousand" and substituting therefor the words "one hundred thousand".

Amendment of section 34 of Cap. 244.

42. Section 34 of the Pharmacy and Poisons Act is amended —

(a) by inserting the following new subsection immediately after subsection (1)—

(1A) An authorized seller of poisons shall not dispense any narcotic drug or psychotropic substance unless the seller has entered the following particulars in the dispensing envelope or container in which the product is supplied—

(a) the name and age of the patient;

(b) the dosage form in which it is given;

(c) the name of premises from which it is supplied;

(d) the name and registration or enrollment

number of the dispenser;

(e) the quantity dispensed; and

(f) the words "prescription only health product" or "controlled product" as the case may be.

(b) in subsection (3) by deleting the words "twenty thousand" and substituting therefor the words "five hundred thousand".

Amendment of section 40 of Cap. 244.

43. Section 40(1) of the Pharmacy and Poisons Act is amended —

(a) in paragraph (a) by deleting the words "twenty thousand "and substituting therefor the words "five hundred thousand"; and

(b) in paragraph (b) by deleting the words "thirty thousand "and substituting therefor the words "one million".

Amendment of section 44 of Cap. 244.

44. Section 44(1) of the Pharmacy and Poisons Act is amended by inserting the following new paragraph immediately after paragraph (k)—

(ka) the establishment and administration of a digital track and trace system for health products from the point of importation, manufacturing, transport until delivery to the customer.

Amendment of section 46 of Cap. 244.

45. Section 46 of the Pharmacy and Poisons Act is amended by inserting the following new subsection immediately after subsection (3)—

(3A) Where a person is convicted of an offence under subsection (3) the court may direct that any drug or article used as an exhibit in the case be forfeited to the Board for safe disposal.

Insertion of new section 46A into Cap. 244.

46. The Pharmacy and Poisons Act is amended by inserting the following new section immediately after section 46—

Disposal of unwanted, substandard or expired health products.

46A. (1) Any person who is licensed under this Act who has in his possession any expired, unwanted or substandard health products shall apply to the Board for

authorization to dispose of such products.

(2) The disposal of the products described in subsection (1) shall be carried out under the supervision of the Board upon payment of the prescribed fee.

(3) A person who contravenes subsection (1) commits an offence and shall be liable to a fine of one million shillings or to imprisonment for a term not exceeding three years or to both."

Amendment of section 51 of Cap. 244.

47. Section 51 of the Pharmacy and Poisons Act is amended by deleting the words "one million" and substituting therefor the words "two million".

Amendment of section 1 of Cap.245A

48. Section 1 of the Tobacco Control Act is amended by adding the words "and Nicotine" immediately after the word "Tobacco".

Amendment of section 2 of Cap.245A

49. Section 2 of the Tobacco Control Act is amended by—

(a) deleting the definition of "tobacco product" and substituting therefor the following new definition—

"tobacco product" means any product made or derived from tobacco, or containing nicotine from any source, that is intended for use by smoking, inhalation, chewing, sniffing or sucking and includes electronically heated tobacco products, cigarette papers, tubes and filters;

(b) inserting the following new definitions in their proper alphabetical sequence—

"electronic cigarette" means a product that is used for the consumption of nicotine or non-nicotine containing aerosol through a mouthpiece or a component of that product including a cartridge, a tank (regardless of whether the product is for one-time use or refillable by means of a refill container and a tank or rechargeable with single use cartridges), and is not a medical product or medical device;

"nicotine pouch" means a pouch that contains

nicotine, flavourings, sweeteners and plant-based fibres derived from tobacco plant or synthetic nicotine;

"nicotine product" means a product containing nicotine but does not include a product containing nicotine that has been approved as a tobacco cessation product or other medicinal substance: Provided that the product is marketed and sold or prescribed exclusively for that approved purpose;

"shisha" means any tobacco product that may be flavoured or non-flavoured and may contain molasses, honey, vegetable glycerol or any other natural or artificial flavour;

"shisha smoking" means the consumption of shisha using a single or multi-stemmed smoking instrument where the smoke is designed to pass through water or other liquid before reaching the smoker; and

"smokeless tobacco product" means a product that is entirely or partly made of the leaf tobacco as raw material and is consumed through chewing, sucking, sniffing or any other means of oral consumption.

Amendment of section 5 of Cap.245A

50. Section 5 of the Tobacco Control Act is amended—

(a) in subsection (1) by adding the following new paragraph immediately after paragraph (p)—

(q) the Chief Executive Officer of the National Authority for the Campaign Against Alcohol and Drug Abuse.

(b) by deleting subsection (4) and substituting therefor the following new subsection—

(4) A member of the Board who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and shall be liable, on conviction, to a fine not exceeding five million shillings or imprisonment for a period not exceeding ten years or both.

Insertion of new section 14A in

51. The Tobacco Control Act is amended by inserting

the following new section immediately after section 14— Cap.245A.

Prohibition of shisha and nicotine pouches.

14A. (1) A person shall not manufacture, sell, offer for sale, use, advertise, promote or distribute shisha or nicotine pouches.

(2) A person shall not allow, promote, facilitate or encourage, or do anything to allow, promote, facilitate or encourage the smoking of shisha smoking or the use of nicotine pouches in Kenya.

(3)A person who contravenes subsection (1) or (2) commits an offence and shall upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding ten years, or to both.

Amendment of section 15 of Cap.245A

52. Section 15 of the Tobacco Control Act is amended—

(a) in the marginal note by deleting the words "young persons" and substituting therefor the word "children"

(b) in subsection (1) by inserting the word "or supply" immediately after the word "sell"

(c) by inserting the following new subsection immediately after subsection (1)—

(1A) A person shall not purchase any tobacco product from a child.

(d) by deleting subsection (2) and substituting therefor the following new subsection—

(2) Subject to subsection (3), a person who contravenes the provisions of subsection (1) or (1A) 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 one year, or to both.

(e) in subsection (3) by inserting the expression "and (1A)immediately after the expression "1".

Amendment of

53. Section 16 of the Tobacco Control Act is amended

by deleting subsection (3) and substituting therefor the following new subsection— section 16 of Cap.245A.

(3) A retailer who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year, or to both.

54. Section 18 of the Tobacco Control Act is amended by deleting subsection (3) and substituting therefor the following new subsection— Amendment of section 18 of Cap.245A.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

55. Section 19 of the Tobacco Control Act is amended by deleting subsection (2) and substituting therefor the following new subsection— Amendment of section 19 of Cap.245A.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

56. Section 20 of the Tobacco Control Act is amended by deleting subsection (3) and substituting therefor the following new subsection— Amendment of section 20 of Cap.245A.

(3) A person who contravenes subsection (1) or (2) commits an offence and and is liable, upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

57. Section 23 of the Tobacco Control Act is amended by deleting subsection (2) and substituting therefor the following new subsection— Amendment of section 23 of Cap.245A.

(2) A person who contravenes subsection (1) commits an offence and and is liable, upon conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

58. Section 24 of the Tobacco Control Act is amended Amendment of section 24 of

by deleting subsection (3) and substituting therefor the following new subsection— Cap.245A.

(3) A person who contravenes subsection (1) commits an offence and and is liable, upon conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

59. Section 26 of the Tobacco Control Act is amended by deleting subsection (2) and substituting therefor the following new subsection— Amendment of section 26 of Cap.245A.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable is to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

60. Section 28 of the Tobacco Control Act is amended by deleting subsection (2) and substituting therefor the following new subsection— Amendment of section 28 of Cap.245A.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

61. Section 29 of the Tobacco Control Act is amended by deleting subsection (3) and substituting therefor the following new subsection— Amendment of section 29 of Cap.245A.

(3) A person who contravenes subsection (1) or (2) 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 twelve months, or to both.

62. Section 30 of the Tobacco Control Act is amended by deleting subsection (2) and substituting therefor the following new subsection— Amendment of section 30 of Cap.245A.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding twelve months, or to both.

63. Section 31 of the Tobacco Control Act is amended Amendment of section 31 of

by deleting subsection (3) and substituting therefor the following new subsection— Cap.245A.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding five years, or to both.

Amendment of section 33 of Cap.245A.

64. Section 33 of the Tobacco Control Act is amended by deleting subsection (3) and substituting therefor the following new subsection—

(3) A person who smokes in a prohibited smoking area commits an offence and shall on conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both.

Repeal and replacement of section 54 of Cap.245A.

65. The Tobacco Control Act is amended by repealing section 54 and replacing therefor the following new section—

General penalty.

54. Any person who is convicted of an offence under this Act for which no penalty is provided is liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend various Acts of Parliament relating to the control of alcoholic drinks and drugs.

The Bill seeks to amend the following laws—

The Alcoholic Drinks Control Act (Cap. 121)

The Bill seeks to amend the Alcoholic Drinks Control Act in order to increase the minimum age for consumption of alcohol to twenty-one years.

The Bill proposes to amend the Alcoholic Drinks Control Act to establish the National Alcohol Control Committee which shall facilitate and ensure effective implementation of the Act and license manufacturers, importers and exporters of alcoholic drinks.

The Bill seeks to amend the Alcoholic Drinks Control Act to provide for the imposition of a solatium compensatory levy on manufacturers and importers of alcoholic drinks which shall be used to finance the operations of the National Alcohol Control Committee and fund civil society programmes relating to the prevention and management of alcohol and drug abuse.

The Bill proposes to amend the Alcoholic Drinks Control Act to provide for the establishment of the County Alcoholic Drinks Licensing Committee which shall provide oversight to the licensing of alcoholic drink outlets in the county.

The Bill seeks to amend the the Alcoholic Drinks Control Act to provide for the prohibhition of a public officer who is involved in the enforcement of the Act from owning and operating an outlet that sells alcoholic drinks.

The Bill seeks to amend the the Alcoholic Drinks Control Act to provide for the registration of every alcoholic drink that is manufactured or imported with the National Authority for the Campaign Against Alcohol and Drug Abuse.

The Bill seeks to amend the Alcoholic Drinks Control Act to prohibhit the consumption of alcohol in public places and prohibhit the sale of alcohol to persons who are armed.

The Bill seeks to amend the Alcoholic Drinks Control Act to provide for the establishment of the Alcoholic Drinks Promotions Regulation Committee, which shall be responsible for vetting and approving any advertisement or promotion in the media relating to alcoholic drinks.

Further, the Bill seeks to amend the Alcoholic Drinks Control Act to provide that Alcoholic drinks shall be transported for distribution during the period between the hours of 6.00 am and 6.00 pm.

The Pharmacy and Poisons Act (Cap.244)

The object of the Bill is to strengthen the regulation and control of pharmaceuticals and poisons by enhancing penalties for offences, improving record-keeping and traceability of health products, and ensuring proper oversight in the disposal of expired or substandard products.

The Bill seeks to amend the Pharmacy and Poisons Act to enhance the penalties for the offences stipulated in the Pharmacy and Poisons Act.

The Bill also seeks to amend the Pharmacy and Poisons Act to require manufacturers, wholesalers, importers, and exporters of Part 1 poisons to maintain and keep distribution lists and supply records for at least two years.

The Bill further seeks to amend the Pharmacy and Poisons Act to provide for the establishment and administration of a digital track and trace system for health products from the point of importation, manufacturing, transport until delivery to the customer.

Finally, the Bill seeks to amend the Pharmacy and Poisons Act to provide for the supervision of the disposal of any expired, unwanted or substandard health products by the Pharmacy and Poisons Board.

The Tobacco Control Act (Cap. 245A)

The Bill seeks to amend the Tobacco Control Act by changing the title of the Act to Tobacco and Nicotine Control Act.

The Bill also seeks to amend the Tobacco Control Act to provide for the prohibition of the manufacture, sale, use, advertisement, promotion or distribution of nicotine pouches and shisha.

Further, the Bill seeks to amend the Tobacco Control Act to enhance the penalties for the offences stipulated in the Act.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers but does not contain any provisions limiting any fundamental rights or freedoms.

Indication of whether the Bill concerns County Governments

Paragraph 13 of Part 2 of the Fourth Schedule to the Constitution provides that drug control is a function of the county governments. In

view of this, the Bill concerns county governments in terms of Article 110 (1)(a) of the Constitution as it affects the functions and powers of county governments.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 3rd September, 2026.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

Section 2 of Cap.121 which it is proposed to amend—

"Accounting Officer" means the accounting officer of the relevant agency; "alcohol" means the product known as ethyl alcohol or any product obtained by fermentation or distillation of any fermented alcoholic product, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with the prescribed formulas;

"alcoholic drink" includes alcohol, spirit, wine, beer, traditional alcoholic drink, and any one or more of such varieties containing one-half of one per cent 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;

"authorised officer" means an authorised officer within the meaning of section 50;

"adulteration" in relation to the time of manufacture means the act of illicitly tampering with an alcoholic drink by adding ingredients that change its original approved composition

"cinema" has the meaning assigned to it in the Films and Stage Plays Act (Cap. 222); "District Committee" means the District Alcoholic Drinks Regulation Committee established under section 8; "entity" includes a company, corporation, firm, partnership, association, society, trust or other organisation, whether incorporated or not;

"Fund" means the Alcoholic Drinks Control Fund established by section 5; "harmful constituent" means any constituent of an alcoholic drink which the Cabinet Secretary may, under section 68 prescribe;

"health institution" means a hospital, nursing home, convalescent home, maternity home, health centre, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;

"hotel" has the meaning assigned to it under section 2 of the Tourism Act (Cap 381);

"illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase of alcohol or its products, including any practice or conduct intended to facilitate such

activity;

"ingredients" means substances used during the alcohol manufacturing process;

"licensee" means a person who holds a licence granted under this Act;

"licensing committee" means the County Alcoholic Drinks Licensing Committee established under section 8;

"magistrate" has the meaning assigned to it in the Magistrates' Court Act (Cap.10);

"manager" in relation to—

(a) a cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre;

(b) a health institution, includes the owner or a person in charge or in control of the health institution;

(c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified building;

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

"manufacturer", in respect of an alcoholic drink, includes any entity that is involved in its manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

"Cabinet Secretary" means the Cabinet Secretary responsible for the control of alcoholic drinks;

"licensing committee" means the County Alcoholic Drinks Licensing Committee established under section 8;

"off-licence consumption outlet" means a retail outlet for the sale of alcoholic drinks where consumption of an alcoholic drink is not allowed in the premises;

"online market" includes any online site or portal used for the promotion or sale of alcoholic drinks;

"package" means the container, receptacle or wrapper in which an alcoholic drink is sold or distributed and includes the carton in which multiple packages are stored;

"premises" includes any place, land, building or conveyance, or any part of it;

"promotion" means any communication related to an alcoholic drink or its brand element through any form of media or channel that is intended to encourage, persuade or influence a consumer 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 language;

"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;

"retailer" means a person who is engaged in a business that includes the sale of any alcoholic drink to consumers;

"sell" includes—

(a) barter or exchange without use of money;

(b) offer or expose for sale, barter or exchange without use of money;

(c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or indirect pecuniary benefit;

(d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;

(e) promotion or marketing for purposes of intended sale.

"traditional alcoholic drink" means any alcoholic drink manufactured using traditional methods for consumption during cultural ceremonies;

"vending machine" means a machine or device that is constructed to contain alcoholic drinks and which can automatically retail any alcoholic drink upon the insertion of a coin, token or similar object into the machine or device.

Section 3 of Cap.121 which it is proposed to amend—

3. Object and purpose of Act

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 5 of Cap.121 in which it is proposed to amend—

5. Establishment of the Fund

(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

(c) Government under this Act;

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

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

(f) 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) the National Alcohol Control Committee;

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

(5) An amount of not less than fifty per cent of the annual income of the Fund shall be used to equitably finance the National Alcohol Control Committee in its operations and an additional amount of not less than fifteen per cent shall be used to fund relevant civil society programmes

(6) Unless the National 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 8 of Cap.121 which it is proposed to amend—

Establishment of the County Alcoholic Drinks Licensing 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 Cabinet Secretary.

(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 Cabinet Secretary 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 Cap.121 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 premises 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 Inspector-General of Police, or to such police officer as the Inspector-General 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 Inspector-General 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.

(8) 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.

(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.

(17) A licence under this section shall be applied for and issued electronically.

Section 10 of Cap.121 in which it is proposed to amend

Grant of licence for the sale of alcoholic drinks.

10. (1) The County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing Committee may consider fit.

(4) Where the County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing 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 County Alcoholic Drinks Licensing Committee grants a licence under this section it shall, publish the grant in the Gazette.

Section 11 of Cap.121 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 sections 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 Cap.121 which it is proposed to amend—

Grant of a new licence

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 Cap.121 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 Cap.121 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 Cap.121 which it is proposed to amend—

Licences to body corporates

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 Cap.121 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 Cap.121 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 Cap.121 in 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 Cabinet Secretary 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 Cap.121 in 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 Cap.121 which it is proposed to amend–

Access by persons under age of eighteen years

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 Cap.121 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) 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) 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 Cap.121 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 28 of Cap.121 which it is proposed to amend–

Supply to young persons

28. (1) No person shall sell, supply or provide knowingly an alcoholic drink to a person under the age of eighteen years.

(2) Subject to subsection (3), a person who contravenes the provisions of subsection (1) commits an offence and shall be liable to a

fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

(3) Notwithstanding the provisions of subsection (1), it shall be a defence to an offence under this section if it is established that the accused person attempted to verify that the young person was at least eighteen years of age by asking for and being shown any of the documents specified in subsection

(4) for the purpose of verifying the age of the young person and believed, on reasonable grounds, that the documentation was authentic.

(4) For the purposes of this section, the following documentation may be used to verify a person's age—(a)a national identity card issued by the Republic of Kenya;(b) a passport issued by the Republic of Kenya or any other country; or(c)such other documentation as the Cabinet Secretary may prescribe.

(5) No person shall manufacture or sell objects including sweets, snacks and toys that resemble or imitate alcoholic drinks.

(6) A person who contravenes the provisions of subsection (5) commits an offence and shall 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 29 of Cap.121 which it is proposed to amend—

Display of signs

(1) Every retailer shall post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of an alcoholic drink to a person under the age of eighteen years is prohibited by law.

(2) Every sign required to be posted under subsection (1) shall—

(a) be displayed on a surface measuring not less than 12 inches by 8 inches in size;

(b) bear the word "WARNING" in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement;

(c) be in English or in Kiswahili.

(3) A retailer who contravenes any of the provisions of 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 31 of Cap.121 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 millilitre;

(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 or PET (*polyethylene terephthalate*) bottles or metallic containers 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 42 of Cap.121 which it is proposed to amend—

Forfeiture of licence upon conviction

42. If in any proceedings before a court it appears that a licensee—

(a) whether he was present in the licensed premises or not, has permitted an unlicensed person to be the owner or part owner of the business of the licensed premises or to have a substantial interest in that business, except with the consent of the District Committee; or

(b) is convicted of an offence under this Act and a previous conviction within the preceding twelve months of the same or any other offence under this Act or three such previous convictions within the preceding five years is or are proved; or

(c) is twice convicted within twelve months of selling, offering or keeping for sale any adulterated alcoholic drink, then the court may, in addition to any other penalty which it may lawfully impose, order that his licence be forfeited, and that no licence shall be issued or transferred to him for such period as the court may order.

Section 43 of Cap.121 which it is proposed to amend—

Prohibition of promotion

43. (1) No person shall promote an alcoholic drink or an alcohol-related brand element except in accordance with the provisions of this Act.

(2)A person who contravenes the provisions of this section commits an offence and shall 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 46 of Cap.121 which it is proposed to amend—

Promotion at underage events

46. (1) No person shall promote an alcoholic drink—

(a) at any event or activity associated with persons under the age of eighteen years;

(b) using such things or materials that are associated with persons under the age of eighteen years.

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

Section 49 of Cap.121 which it is proposed to amend—

Display of notices

49. (1) The manager or owner of a place where an alcoholic drink is sold shall cause to be displayed therein, clear and prominent notices in English or Kiswahili stating that drinking of alcoholic drinks is prohibited for persons under the age of eighteen years and the prescribed penalty thereof.

(2) Every notice under subsection (1) shall be in such form and of such size, and shall be posted in such place, as may be prescribed.

(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 50 of Cap.121 in which it is proposed to amend—

Authorised officers

50. (1) The Cabinet Secretary 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 Cabinet Secretary 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 (Cap. 242); and

(b) any other person upon whom any written law vests functions of the maintenance of law and order.

Section 62 of Cap.121 in which it is proposed to amend—

General penalty

62. Any person convicted of an offence under this Act for which no other penalty is provided shall 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 2 of Cap.244 which it is proposed to amend—

"Health product" includes any human medicine, medical product, medicinal substance, vaccine, diagnostics, medical device, blood product, traditional and alternative medicine, herbal preparation, therapeutic feed and nutritional formulation, cosmetics and related products;

poisons.

Section 26 of Cap.244 which it is proposed to amend—

Possession of Part I poisons

26. (1) It shall be lawful for the following persons may be in possession of Part I poisons, but to the extent only and subject to the limitations prescribed by this subsection that is to say—

(a) a wholesale dealer licensed under section 27 of this Act, for the purposes of the licence and on the premises so licensed;

(b) an authorized seller of poisons, on premises registered under section 23 of this Act;

(c) a person licensed under section 28 of this Act to sell poisons for mining, agricultural or horticultural purposes, for the purposes of the licence and on premises so licensed;

(d) any person, institution or department, to whom a Part I poison has been lawfully sold in accordance with section 29 of this Act, for the purpose for which such sale was made;

(e) any person for whom the poison has been lawfully supplied or dispensed by a duly qualified medical practitioner, dentist, or

veterinary surgeon, or by a hospital, dispensary or similar institution under the provisions of section 31 of this Act;

(f) subject to any conditions which may be prescribed, a representative of a person engaged in the business of selling and supplying pharmaceutical goods, for the purpose of giving free samples of such goods, in the course of such business, to persons who may lawfully be in possession of Part I poisons;

(g) the personal representative of any deceased person, or the liquidator, receiver or other person appointed to deal with the property of a bankrupt or of a company which is being wound up compulsorily, or the manager of the estate of a person of unsound mind, in respect of poisons in the possession of the deceased person, bankrupt person, company or person of unsound mind at the time of the death or bankruptcy or the beginning of the winding up or the order appointing the manager, for the purpose of disposing of those poisons, with the written permission of the Board and in accordance with its directions, to a wholesale dealer in poisons licensed under this Act or to an authorized seller of poisons.

(2) Any person who is in possession of a Part I poison otherwise than in accordance with the provisions of this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Section 29 of Cap.244 which it is proposed to amend—

Power to sell Part I poisons

29. (1) Subject to the provisions of this Act, a person licensed under section 27 to deal as a wholesale dealer in poisons may sell Part I poisons to—

(a) a person lawfully carrying on the business of a wholesale dealer in poisons in Kenya;

(b) a person lawfully carrying on the business of a pharmacist in Kenya;

(c) a person lawfully carrying on the business of a dealer in poisons for mining, agricultural or horticultural purposes in Kenya;

(d) a duly qualified medical practitioner, dentist or veterinary surgeon for purposes of medical, dental or veterinary treatment respectively;

(e) the Government or a local authority or its institutions for public purposes;

(f) a hospital, dispensary or similar institution or a person or institution concerned with scientific education or research, whether within or outside Kenya, where such hospital, dispensary, institution or person has been approved in that behalf by an order, whether general or special, of the Cabinet Secretary:

Provided but it shall be an offence to sell Part I poisons to any of the persons or institutions specified in paragraphs (d) and (f) of this subsection unless a registered pharmacist is in direct control of the poisons at the premises from which they are so sold.

(2) Subject to the provisions of this Act, an authorized seller of poisons may sell Part I poisons to any of the persons, institutions and others referred to in subsection (1) of this section, and in addition may sell such poisons to any person who is—

(a) in possession of the prescription of a duly qualified medical practitioner, dentist or veterinary surgeon, in accordance with such prescription; or

(b) in possession of a written certificate to the effect that he may properly be supplied with the poison, such certificate having been issued by a person authorized by the Board in that behalf, a list of which persons shall be published by the Board in the Gazette from time to time; or

(c) a person known by the seller to be a person to whom the poison may properly be sold.

(3) Subject to the provisions of this Act, a person licensed under section 28 to sell poisons for mining, agricultural or horticultural purposes may sell Part I poisons in accordance with such licence.

(4) Nothing in this section shall make it illegal for a person to sell or resell to a wholesale dealer licensed under section 27, or to an authorized seller of poisons, stocks of Part I poisons which are found to be surplus to requirements, or for a person whose licence has been revoked or has expired to sell the poisons in his possession at the time of revocation or expiry, if the sale takes place within one year after the time of revocation or expiry or such longer time as the Board may allow.

(5) A person who sells a Part I poison except in accordance with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding ten years or to both.

Section 31 of Cap.244 which it is proposed to amend—

Supply and dispensing of Part I poisons by doctors, hospitals, etc.

31. (1) A duly qualified medical practitioner, dentist or veterinary surgeon, or a member of the staff of a hospital, dispensary or similar institution who has been authorized so to do by general or special order of the Cabinet Secretary, may supply or dispense a Part I poison for the purpose of medical, dental or veterinary treatment, as the case may be, subject to the following provisions—

(a) the poison shall be distinctly labelled with the name and address of the person by whom it is supplied or dispensed;

(b) the following particulars shall within twenty-four hours after the poison has been supplied or dispensed be entered in a book used regularly for the purpose (but which need not be used exclusively for that purpose), and which shall be called the Prescription Book—

(i) the date on which the poison was supplied or dispensed;

(ii) the ingredients and the quantity supplied;

(iii) the name and address of the person to whom the poison was supplied;

(iv) the name and address of the person by whom the prescription was given, and a registered midwife practising domiciliary midwifery may supply or dispense a Part I poison in accordance with the regulations made under the Nurses and Midwives Act (Cap. 257), if he complies with paragraph (b) of this subsection in relation to the supplying or dispensing of the poison.

(2) An authorized seller of poisons may supply a Part I poison prescribed and dispensed by himself, and in every case in which he supplies a Part I poison on prescription (whether the prescription has been drawn up by himself or not) shall enter the particulars in his Prescription Book in accordance with this section, but shall not in respect of such supply be required to make any entry in the Poisons Book in accordance with section 30 of this Act.

(3) Any person to whom subsection (1) of this section apply who supplies or dispenses any Part I poison otherwise than in compliance with these provisions shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Section 34 of Cap.244 which it is proposed to amend—

Labelling of containers

34. (1) It shall be an offence for any person to supply any poison unless the container of the poison is labelled in the prescribed manner—

(a) with the name of the poison; and

(b) in the case of a preparation which contains a poison as one of the ingredients thereof, with the prescribed particulars as to the proportion which the poison contained in the preparation bears to the total ingredients; and

(c) with the word "Poison" or other prescribed indication of the character of the article; and

(d) if supplied on sale (other than wholesale), with the name of the seller and the address of the premises on which it is sold; and

(e) if supplied otherwise than on sale, with the name and address of the supplier:

Section 1 of Cap.245A in which it is proposed to amend—

Short title

1. This Act may be cited as the Tobacco Control Act.

Section 2 of Cap.245A in which it is proposed to amend—

Interpretation

2. In this Act, unless the context otherwise requires—

"accessory" means a product that may be used in the consumption of a tobacco product and includes a pipe, cigarette holder, cigar clip, lighter or matches;

"advertisement" includes—

(a) any statement, communication, representation or reference aimed at the public and designed to promote or publicise a tobacco product or encourage its use, or draw attention to the nature, properties, advantages or uses of the product;

(b) the use, in any advertisement or promotion aimed at the public, of a tobacco product manufacturer's company name where the name or any part of the name is used as, or is included in a tobacco product trade mark;

(c) product stacking and product displays of any kind or size;

"authorised officer" means an authorised officer within the meaning of section 36;

"Board" means the Tobacco Control Board established by section 5;

"brand element" includes a brand name, manufacturer's name, trade mark, trade name, logo, graphic arrangement, design, colour, motto or slogan that is reasonably associated with, or that evokes a product, a service or a brand of product or service;

"brand preference advertising" means advertising that promotes a tobacco product by means of its brand characteristics;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Public Health;

"cigarette" means any product which consists wholly or partly of cut, shredded or manufactured tobacco, or of any tobacco derivative or substitute, rolled up in paper or any other material and capable of being used immediately for smoking;

"cinema" has the meaning assigned to it in the Films and Stage Plays Act (Cap. 222);

"electronic communication" includes communication through the radio, television, telephone or the internet;

"emission" means any substance produced when tobacco or a tobacco product is produced, processed or used;

"entity" includes a company, corporation, firm, partnership, association, society, trust or other organisation, whether incorporated or not;

"Fund" means the Tobacco Control Fund established under section 7;

"harmful constituent" means nicotine, tar or any other constituent of a tobacco product or of tobacco smoke which the Cabinet Secretary may, under section 4(a), prescribe;

"health institution" means a hospital, nursing home, convalescent home, maternity home, health centre, dispensary or other institution where health or other medical services are rendered free of charge or upon payment of a fee;

"illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase of tobacco or its products, including any practice or conduct intended to facilitate such activity;

"information advertising" means advertising that provides factual information to the consumer about a product and its characteristics, availability, price or brands; "ingredients" means the substances added to tobacco during the manufacturing process or from agricultural practices;

"legal entity" includes a non-governmental organisation and any other body recognised in law as having a separate entity from that of its members;

"lifestyle advertising" means advertising that associates a product with, or evokes a positive or negative emotion about or image of, a way of life such as one that includes glamour, sensuality, recreation, excitement, vitality, risk or daring;

"magistrate" has the meaning assigned to it in the Magistrates' Courts Act (Cap. 10) and for the purposes of this Act, means a magistrate above the rank of resident magistrate;

"manager" in relation to—

(a) a cinema or theatre, includes an assistant manager, a person holding an office analogous to that of a manager or assistant manager of the cinema or theatre or any person in charge or in control of the cinema or theatre;

(b) a health institution, includes the owner or a person in charge or in control of the health institution;

(c) a specified building, includes the owner, occupier, lessee or the person in charge or in control of the specified institution;

"manufacture" means the processing of a tobacco product and includes the packaging, labelling, distribution or importation of a tobacco product for sale in Kenya;

"manufacturer", in respect of tobacco products, includes any entity that is involved in the manufactu distribution or importation of a tobacco product for sale in Kenya;

"manufacturer", in respect of tobacco products, includes any entity that is involved in the manufacture, including an entity that controls or is controlled by the manufacturer, or that is controlled by the same entity that controls the manufacturer;

"package" means the container, receptacle or wrapper in which tobacco products are sold or distributed, including the carton in which multiple packages are stored;

"prohibited smoking area" means a place in which smoking is prohibited under section 33;

"promotion" means a representation, including an advertisement, whether direct or indirect, including any communication of information about a product or service and its price and distribution, that is likely to influence and shape attitudes, beliefs and behaviour about the product or service, or that is intended to or has the effect of inducing consumers to use tobacco products, underestimate the dangers of tobacco consumption, or create recognition of or goodwill for the tobacco manufacturer;

"public place" means any indoor, enclosed, or partially enclosed area which is open to the public or any part of the public, or to which members of the public ordinarily have access, and includes a workplace and a public conveyance;

"public service vehicle" has the meaning assigned to it in the Traffic Act (Cap. 403);

"retailer" means a person who is engaged in a business that includes the sale of any tobacco product to consumers;

"sell" includes—

(a) barter or exchange;

(b) offer or expose for sale, barter or exchange;

(c) supply, or offer to supply, in circumstances in which the supplier derives or would derive, a direct or indirect pecuniary benefit;

(d) supply or offer to supply, gratuitously but with a view of gaining or maintaining custom, or otherwise with a view for commercial gain;

"smoking" means inhaling or exhaling the smoke of any tobacco product and includes the holding of, or control over, any ignited tobacco product or device containing an ignited tobacco product;

"specially designated smoking area" means an area provided under section 35;

"tobacco" means the tobacco plant, including its seeds and leaves;

"tobacco product" means a product composed, in whole or in part, of tobacco, including tobacco leaves and any extract of tobacco leaves intended for use by smoking, inhalation, chewing, sniffing or sucking and includes cigarette papers, tubes and filters;

"vending machine" means a machine or device that is constructed to contain tobacco products and which can automatically retail any tobacco product upon the insertion of a coin, token or similar object into the machine or device.

Section 5 of Cap.245A in which it is proposed to amend—

Establishment of the Board

5. (1)There is established a board to be known as the Tobacco Control Board which shall consist of—

(a) a chairperson appointed by the Cabinet Secretary;

(b) the Director of Medical Services;

(c) the Chief Public Health Officer;

(d) the Director of Children's Services;

(e) the Attorney-General;

(f) the Director of Kenya Medical Research Institute;

(g) the Director of Agriculture;

(h) the Director-General of the National Environmental Management Authority;

(i) the Planning Secretary for the time being responsible for matters relating to planning;

(j) the Director of Local Authorities;

(k) one person nominated by the Kenya Medical Association;

(l) one representative of the business community in Kenya, to be nominated by the Kenya National Chamber of Commerce and Industry;

(m) one representative of non-governmental organisations engaged in matters relating to tobacco control, to be nominated by the Non-Governmental Organisations Council;

(n) one representative of religious organisations appointed by the Cabinet Secretary;

(o) one representative of women's organisations to be nominated by the National Council of Women of Kenya;

(p) one person nominated by the Law Society of Kenya.

(1) The members under paragraphs (b) to (i) may attend in person or designate a representative to attend on their behalf.

(2) No member of the Board shall directly or indirectly be affiliated to the tobacco industry or its subsidiaries.

(3) A member who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a period not exceeding five years or both.

(4) No person shall be qualified for appointment as the Chairperson of the Board under subsection (1)(a) unless such person—

(a) holds a degree from a university recognised in Kenya; and

(b) has at least fifteen years' experience in public health, five of which shall be at a senior management level.

(5) The Chairperson shall hold office for four years, but shall be eligible for re-appointment, for one further term.

(6) The Chief Public Health Officer or the representative shall be the secretary to the Board.

(7) The secretary to the Board shall, within thirty days of the commencement of this Act, convene the first meeting of the Board at which the members of the Board shall, from amongst their number, elect a vice-Chairperson.

(8) A member of the Board, other than an ex officio member or chairperson, shall, subject to this section, hold office for a period of three years, but shall be eligible for reappointment for one further term.

(9) A member of the Board, other than an ex officio member may—

(a) at any time resign from office by notice in writing to the Cabinet Secretary; or

(b) be removed from office by the Cabinet Secretary if the member—

(i) is absent from three consecutive meetings of the Board without the permission of the Chairperson, or in the case of the Chairperson, without the permission of the Cabinet Secretary; or

(ii) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine; or

(iii) is incapacitated by reason of prolonged physical or mental illness from performing his/her duties as a member of the Board; or

(iv) is adjudged bankrupt or has entered into a scheme or arrangement with his creditors.

(10) The quorum at a meeting of the Board shall be six members.

(11) The Chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the vice-Chairperson shall preside:

Provided that in the absence of both the Chairperson and the vice-Chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(12) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(13) Subject to subsection (11), no proceedings of the Board shall be invalid by reason only of a vacancy among the members.

(14) The Board may invite any person to attend a meeting of the Board for the purpose of assisting or advising the Board on any particular matter but such person shall have no right to vote at the meeting.

(15) The Board shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(16) Subject to this Act and to any general or special directions in writing by the Cabinet Secretary, the Board shall regulate its own proceedings.

(17) The expenses of the Board shall be defrayed out of monies provided by Parliament for that purpose.

Section 15 of Cap.245A in which it is proposed to amend—

Supply to and by young persons

15. (1) No person shall sell a tobacco product to a person under the age of eighteen years.

(2) Subject to subsection (3), a person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

(3) Notwithstanding the provisions of subsection (1), it shall be a defence to an offence under this section if it is established that the accused person attempted to verify that the young person was at least eighteen years of age by asking for and being shown any of the documents specified in subsection (4) for the purpose of verifying the age of the young person and believed, on reasonable grounds, that the documentation was authentic.

(4) For the purposes of this section, the following documentation may be used to verify a person's age—

(a) a national identity card issued by the Republic of Kenya;

(b) a driving licence issued by the Republic of Kenya or any other country;

(c) a passport issued by the Republic of Kenya or any other country; or

(d) any other documentation as the Cabinet Secretary may prescribe.

(5) No person shall manufacture or sell objects including sweets, snacks and toys that resemble tobacco products or would reasonably appeal to persons under the age of eighteen years.

(6) A person who contravenes the provisions of subsection (5) 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 16 of Cap.245A which it is proposed to amend—

Display of signs

16. (1)Every retailer shall post, in the prescribed place and manner, signs in the prescribed form and with the prescribed content, that inform the public that the sale or the availing of a tobacco product to a person under the age of eighteen years is prohibited by law, and that contain any of the prescribed health messages.

(2) Every sign required to be posted under subsection (1) shall—

(a) be displayed on a surface measuring not less than 12" by 8" in size;

(b) bear the word "WARNING" in capital letters followed by the prescribed health warning which shall appear in conspicuous and legible type and shall be black on a white background or white on a black background and shall be enclosed by a rectangular border that is the same colour as the letters of the statement;

(c) be in English and Kiswahili or in the predominant language of the area within which the sign is posted.

(3) A retailer who contravenes any of the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Section 18 of Cap.245A in which it is proposed to amend—

Number of cigarettes in a package

18. (1) No person shall sell cigarettes except in a package containing at least ten cigarettes, or such other minimum number of cigarettes, not being less than ten, as may be prescribed.

(2) No person shall sell a tobacco product other than cigarettes, that is prescribed for the purposes of this subsection, except in a package that contains at least ten units of the product, or such other minimum number of units of the product, not being less than ten, as may be prescribed.

(3) 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 fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Section 19 of Cap.245A in which it is proposed to amend

Self-service display

19. (1) No person shall sell a tobacco product by means of a display that permits a person to handle the tobacco product before paying for it.

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

Section 20 of Cap.245A in which it is proposed to amend

Delivery of tobacco products

20. (1) No person shall, for consideration, cause a tobacco product to be delivered or sent by mail unless the delivery is between manufacturers or retailers.

(2) No person shall advertise an offer to deliver or mail a tobacco product anywhere within the Republic of Kenya.

(3) 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 one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

Section 23 of Cap.245A which it is proposed to amend—

False promotion

23. (1) No person shall promote tobacco or a tobacco product by any means, including by means of the packaging, that are false, misleading or

deceptive or that are likely to create an erroneous impression about the characteristics, health effects, health hazards or social effects of the tobacco product or its emissions and as may be prescribed by the Cabinet Secretary.

(2) A person who contravenes 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 24 of Cap.245A which it is proposed to amend—

Testimonials or endorsements

24. (1) No person shall promote a tobacco product by means of a testimonial or an endorsement, however displayed or communicated, that is misleading or incapable of fully informing consumers of the hazards of tobacco, without evoking a conflicting message or impression.

(2) For the purposes of this section, the depiction of a person, character or animal, whether real or fictional, including literary, dramatic, musical, cinematographic, educational or artistic works, productions or performances that use or depict a tobacco product or a tobacco product-related brand element, whatever the mode or form of its expression, shall be considered to be a testimonial for, or an endorsement of the product.

(3) A person who contravenes 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 26 of Cap.245A which it is proposed to amend—

Promotion by sponsorship

25. (1) No person shall—

(a) advertise tobacco or a tobacco product by means of organising, promoting or sponsoring a sporting, cultural, artistic, recreational, educational or entertainment programme, event or activity; or

(b) promote a tobacco product at any sporting, cultural, artistic, recreational, educational or entertainment event or activity; or

(c) advertise tobacco or a tobacco product by means of organising, promoting or sponsoring trade fairs, exhibitions, shows or any other events.

(1) 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 28 of Cap.245A which it is proposed to amend—

Accessories

28. (1) No manufacturer, distributor or retailer shall manufacture, distribute or sell an accessory that displays a tobacco product-related brand name or the name of the manufacturer.

(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 29 of Cap.245A which it is proposed to amend—

Displays on non-tobacco products

29. (1) No person shall display a tobacco brand element on a non-tobacco product.

(2) No person shall furnish or promote non-tobacco products bearing tobacco-related brand names.

(3) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Section 30 of Cap.245A which it is proposed to amend—

Sales promotions

30. (1) No manufacturer, distributor or retailer shall—

(a) offer or provide any consideration, whether directly or indirectly, for the purchase of a tobacco product, including a gift to a purchaser or a third party, bonus, premium, cash rebate or right to participate in a game, lottery or contest;

(b) furnish a tobacco product without monetary consideration or in consideration of the purchase of a product or service or the performance of a service; or

(c) furnish an accessory that bears a tobacco product-related brand element without monetary consideration or in consideration of a product or service or the performance of a service.

(2) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one

million shillings, or to imprisonment for a term not exceeding six months, or to both.

Section 31 of Cap.245A which it is proposed to amend—

Communication media

31. (1) No person shall, on behalf of another person, with or without consideration, publish, broadcast or otherwise disseminate any promotion that is prohibited by this Part.

(2) No person shall, by means of a publication that is published outside Kenya, or a broadcast that originates outside Kenya, or any other communication that originates outside Kenya, promote any product the promotion of which is regulated under this Part, or disseminate promotional material that contains a tobacco-related brand element in a manner that is contrary to the requirements of this Part.

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

Section 33 of Cap.245A which it is proposed to amend—

Prohibited smoking areas

33. (1) No person shall smoke in any public place.

(2) Without prejudice to the generality of subsection (1), no person shall smoke in—

(a) offices and workplaces, including corridors, lounges, eating areas, reception areas, lifts, escalators, foyers, stairwells, toilets, laundries, amenity areas of such places;

(b) court buildings;

(c) factories;

(d) cinema halls, theatres, video houses, such other halls or places of performance, disco halls or any other entertainment facilities at any time during which it is open to the public;

(e) hospitals, clinics and other health institutions;

(f) restaurants, hotels, bars or other eating place;

(g) children's homes;

(h) residential houses and such other premises where children are cared for;

(i) places of worship;

(j) prisons; police stations and cells;

(k) public service vehicles;

(l) aircrafts, passenger ships, commuter boats, trains, passenger vehicles, ferries or any other public conveyance;

(m) education facilities;

(n) railway stations, airports, air fields, ports, and other public transport terminals;

(o) markets, shopping malls and retail and wholesale establishments;

(p) stadia, sports and recreational facilities;

(q) public buildings,

except in designated smoking areas.

(3) Any person who smokes in a prohibited smoking area commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(4) The Cabinet Secretary may by notice in the Gazette and subject to such conditions as the Board may recommend, specify any other building or vessel or part thereof, or class of buildings or vessels or part thereof to which members of the public have access, as being a place or places in which smoking is prohibited either permanently or during such period or periods as he may specify.

Section 54 of Cap.245A which it is proposed to amend—

General penalty

54. Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.