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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

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| THE NATIONAL ASSEMBLY | |
| DATE: 18 APR 2024 | DAY: THURS |
| TABLED BY: | HON. MARIANNE KITANY Vice-Chair, Trade, Industry & Cooperatives |
| CLERK-AT-THE-TABLE: | A. Chiburo |

THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE
BILL NO. 9 OF 2022)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2024

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TABLE OF CONTENTS

| | |
|---|----|
| CHAPTER ONE..... | 15 |
| 1.0 Preface..... | 15 |
| 1.1 Establishment and mandate of the committee..... | 15 |
| 1.2 Committee Membership..... | 17 |
| 1.3 Committee Secretariat..... | 18 |
| CHAPTER TWO..... | 19 |
| 2.0 OVERVIEW OF THE COUNTY LICENSING (UNIFORM PROCEDURES), 2022 (SENATE BILL NO. 9 OF 2022)..... | 19 |
| 2.1 Objects of the bill..... | 19 |
| 2.2 Analysis of clauses..... | 20 |
| CHAPTER THREE..... | 23 |
| 3.1 PUBLIC PARTICIPATION..... | 23 |
| 3.2 LEGAL PROVISIONS ON PUBLIC PARTICIPATION..... | 23 |
| 3.2 SUBMISSION OF MEMORANDA BY STAKEHOLDERS..... | 24 |
| 3.2.1 Kenya Private Sector Alliance (KEPSA)..... | 24 |
| 3.2.2 The Kenya Association of Manufacturers..... | 25 |
| 3.2.3 The National Treasury & Economic Planning..... | 28 |
| 3.2.4 Kenya Pharmaceuticals Association North Rift Branch -..... | 30 |
| 3.2.5 State Department for Devolution..... | 31 |
| 3.2.6 Kenya Pharmaceutical Association (Western Branch);..... | 38 |
| 3.2.7 Kenya Pharmaceutical Association (Nyanza Branch)..... | 38 |
| 3.2.8 Kenya Pharmaceutical Association (Nairobi Branch)..... | 39 |
| 3.2.9 Kenya National Chamber of Commerce and Industry (KNCCI) Nyeri..... | 39 |
| 3.2.10. The Kenya Pharmaceutical Association Upper Eastern Branch..... | 40 |
| 3.2.11. State Department of Industry..... | 41 |
| CHAPTER FOUR..... | 42 |
| CLAUSE BY CLAUSE CONSIDERATION OF STAKEHOLDER VIEWS..... | 42 |
| CHAPTER FIVE..... | 68 |
| COMMITTEE OBSERVATIONS AND RECOMMENDATIONS..... | 68 |

LIST OF ANNEXURES

- Annexure 1:** Minutes of Committee sittings
- Annexure 2:** Report Adoption Schedule
- Annexure 3:** Copy of the Newspaper Advertisement on Public Participation on the Bill
- Annexure 4:** Letters inviting Stakeholders to submit views on the Bill
- Annexure 5:** Analysis of Submissions by Stakeholders on the Bill
- Annexure 6:** Submissions by stakeholders

ABBREVIATIONS

KEPSA- Kenya Private Sector Alliance

KAM - The Kenya Association of Manufacturers

CECM - County Executive Committee Member

KPA - Kenya Pharmaceutical Association

CS - Cabinet Secretary

KEBS - Kenya Bureau of Standards

NEMA - National Environment Management Authority of Kenya

MSMEs - Micro, Small & Medium Enterprise

SMEs - Small and Medium Enterprise

KMPDC- Kenya Medical Practitioners and Dentists Council

PPB- Pharmacy and Poison Board

FOREWORD BY THE CHAIRPERSON

This report contains proceedings of the Departmental Committee on Trade, Industry and Cooperatives, on its consideration of the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022), by **Sen. Omar Mariam Sheikh, MP**, which was published in the Kenya Gazette Supplement No. 196 of 29th November, 2022. The Bill was passed by the Senate, with amendments, on Wednesday, 21st February, 2024, and thereafter conveyed to the National Assembly in accordance with provisions of Article 110(4) of the Constitution. The Bill was subsequently committed to the Departmental Committee on Trade, Industry and Cooperatives Committee, on Monday, **4th March, 2024**, for consideration and reporting to the House pursuant to the provisions of Standing Order 127.

The Bill has twenty-nine (29) clauses and seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties.

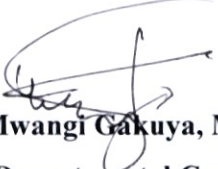
Following the placement of advertisements in the print media on Friday, **8th March, 2024**, seeking public and stakeholder views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received memoranda from several individuals and institutions as enumerated in Chapter Three of the Report.

The Committee requested memoranda from several key stakeholders, including the Ministry of Trade and Investments, Council of Governors, Office of the Attorney-General and Department of Justice, the Law Reform Commission, the National Treasury, the Law Society of Kenya, the Kenya Private Sector Alliance, the Kenya Association of Manufacturers, the Institute of Public Finance, Kenya National Chamber of Commerce and Industry and the Ministry of Devolution, vide letters REF: NA/DDC/TRADE/2024/ dated 7th March, 2024. The Committee also undertook public hearings in Nairobi, Kisumu, Nyeri, Garissa, Embu, Uasin Gishu, Kakamega and Kilifi County where it received invaluable input from members of the public.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further

wishes to thank all stakeholders who submitted their memoranda on the Bill as well as the public generally for its contribution during the public hearings held in the various counties. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Cooperatives, and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022). It is my pleasure to report that the Committee has considered the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022), and has the honour to report back to the National Assembly with the recommendation that the Bill be **approved with amendments**.


Hon. James Mwangi Gakuya, M.P.

Chairperson Departmental Committee on Trade, Industry and Co-operatives

17/4/24

CHAPTER ONE

1.0 Preface

1.1 Establishment and mandate of the committee

1. The Departmental Committee on Trade, Industry and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216, whose mandate pursuant to the Standing Order 216 (5) is as follows;

- a. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- b. *To study the programme and policy objectives of Ministries and Departments and the effectiveness of the implementation;

on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- c. *To study and review all legislation referred to it;*
- d. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- e. *To investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and may be referred to them by the House;*
- f. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- (fa) *examine treaties, agreements and conventions;*
- g. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- h. *(Deleted)*
- i. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

j. To examine any questions raised by Members on a matter within its mandate.

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion and development including Micro, small & medium enterprise (MSMEs), and small and medium enterprise (SMEs), intellectual property, industrial standards, anti-counterfeit and cooperatives development.
3. In executing its mandate, the Committee oversees the Ministry of Investment, Trade and Industry and the Ministry of Cooperatives and Micro, Medium and Small Enterprises (MSMEs).

1.2 Committee Membership

4. The Departmental Committee on Trade, Industry and Cooperatives was constituted by the House on Thursday, 27th October, 2022, and comprises the following Members;

Hon. James Mwangi Gakuya, MP **Chairperson**

Embakasi North Constituency

UDA Party

Hon. Kitany Jebet Marianne, MP **Vice-Chairperson**

Aldai Constituency

UDA Party

Hon. Dr. Oundo Wilberforce Ojiambo, MP Hon. Oluoch Anthony, MP
Funyula Constituency Mathare Constituency

ODM Party

ODM Party

Hon. Adagala Beatrice Kahai, MP
Vihiga Constituency

ANC Party

Hon. Guyo Adhe Wario, MP
North Horr Constituency

KANU Party

Hon. Githinji Robert Gichimu, MP
Gichugu Constituency

UDA Party

Hon. Korir Adams Kipsanai, MP
Keiyo North Constituency

UDA Party

Hon. Kamene Joyce, MP
Machakos Constituency

WDM Party

Hon. Maina Mwago Amos, MP
Starehe

JP Party

Hon. Mwalyo Joshua Mbithi, MP
Masinga Constituency

Independent Member

Hon. Sakimba Parashina Samwel, MP
Kajiado South Constituency

ODM Party

Hon. Wanaina Antony Njoroge, MP
Kieni Constituency

UDA Party

Hon. Waithaka John Machua
Kiambu Constituency

UDA Party

1.3 Committee Secretariat

5. The Committee secretariat is composed of the following technical staff;

Ms. Rose Mudibo, OGW

Senior Clerk Assistant / Head of Secretariat

Ms. Everlyn Klaudia Orina
Clerk Assistant III

Mr. Ellam Omuhinda
Clerk Assistant III

Ms. Nancy Chepkemoi
Legal Counsel II

Ms. Loise Olesia
Fiscal Analyst III

Ms. Priscilla Saidi
Research Officer III

Mr. Arkan Ali Mumin
Research Officer III

Mr. Daniel Psirmoi
Media Relations Officer

Mr. Cosmus Akhonya
Audio Recording Officer

Ms. Peris Kaburi
Serjeant-at-Arms

Ms. Pauline Sifuma
Hansard Reporter

CHAPTER TWO

2.0 OVERVIEW OF THE COUNTY LICENSING (UNIFORM PROCEDURES), 2022 (SENATE BILL NO. 9 OF 2022)

6. The County Licensing (Uniform Procedures) Bill, Senate Bill No.9 of 2022, is a Bill sponsored by Sen. Omar Mariam Sheikh, MP. The County Licensing (Uniform Procedures) Bill, Senate Bill No. 9 of 2022, was considered and passed by Senate with amendments on 21st February, 2024, and subsequently submitted to the National Assembly. The Bill was read a First time in National Assembly on 28th February, 2024, and subsequently was committed to the Departmental Committee on Trade, Industry and Co-operatives pursuant to Standing Order 143(2).
7. The County Licensing (Uniform Procedures) Bill, 2022, seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments.
8. The Principal object of the Bill is to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments.
9. In addition, the Bill will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties.

2.1 Objects of the bill

10. The objectives of the Bill are —
 - (a) the need to protect consumers of goods and services, ensure public safety and promote environmental protection;
 - (b) the need to maintain public confidence in the respective sectors under which the license is issued and that the imposition of licensing fees is carried out in a manner that does not hamper the respective business or industry;
 - (c) the need to ensure access to information on conditions for issuance of licenses and licensing procedures and in accordance with the provisions of Access to information Act;
 - (d) the need to ensure that licensing procedures are simple and that licensing services are accessible to a person applying for a license;
 - (e) cost effectiveness in the licensing process;

- (f) the importance of declaring and upholding proper standards of conduct by licensees;
- (g) the need to promote efficiency and effectiveness in the administration of the licensing processes; and
- (h) the licensing processes are undertaken in a fair and transparent.

2.2 Analysis of clauses

11. Clause 1 and 2 provides for preliminaries including the Short title, commencement and the interpretations giving meaning to particular words within the context of the County Licensing (Uniform Procedures) Bill, 2022.

12. Clause 3 to 6 contains the obligations including the guiding principles of the Bill, general duty of a licensing authority, principles of interpretation, application and obligations of the county governments. Clause 3(a) of the County Licensing (Uniform Procedures) Bill, 2022 provides that the implementation of the Bill shall be guided by the following principles—

- (a) the need to protect consumers of goods and services, ensure public safety and promote environmental protection;
- (b) the need to maintain public confidence in the respective sectors under which the licence is issued and that the imposition of licensing fees is carried out in a manner that does not hamper the respective business or industry;
- (c) the need to ensure access to information on conditions for issuance of licenses and licensing procedures and in accordance with the provisions of Access to information Act;
- (d) the need to ensure that licensing procedures are simple and that licensing services are accessible to a person applying for a licence;
- (e) cost effectiveness in the licensing process;
- (f) the importance of declaring and upholding proper standards of conduct by licensees;
- (g) the need to promote efficiency and effectiveness in the administration of the licensing processes; and
- (h) the licensing processes are undertaken in a fair and transparent.

13. This part further mandates County Governments, in establishing and administering a license regime to —

- (a) protect the rights of consumers;
- (b) promote the regulation of developing markets;
- (c) ensure that the quality of goods and services are of high standard;
- (d) effectively administer control over activities that are risky i.e. activities that threaten the life or health of people, property or the State, public interest or nature and cultural heritage; and
- (e) ensure that the licensing fees are not prohibitive and do not hinder the conduct of business.

14. Licensing Procedure (Clause 7 to 21) provides for a standard process of application, renewal, variation and transfer of licenses. It further mandates county licensing authorities to design and administer an electronic system for the application, renewal, variation or transfer of licenses. It also makes provision for county licensing authorities to inquire for more information on licenses from applicants.

15. This Part requires County Governments, when enacting legislation and for the effective administration of the licensing processes, to prescribe procedures for a single application process for more than one license. It further mandates county licensing authorities to conduct public participation and undertake a regulatory impact assessment before varying the conditions of a license. It also makes provision for the advertisement of applications that are required by law to be advertised. The Bill makes provision for withdrawal of applications. It imposes an obligation on county licensing authorities to process license applications within the required timelines, and in any case within 28 days. An application will be deemed to have been allowed after the expiry of the set timeline(s) if the licensing authority fails to determine the application. It further makes provision for the issuance of licenses, with or without conditions, and mandates county licensing authorities to notify applicants of their decisions within 7 days of making the decisions.

16. This Part also makes provision for the starting and expiry dates for licenses. It further makes provision for conditions for licenses and the procedure for their variation and imposes various conditions on all county licensees.

17. Clause 21 of the County Licensing (Uniform Procedures) Bill makes provision for the cancellation of licences and for the application process for the review of decisions of county licensing authorities on licence applications.

18. Clause 22 to 29 provides for the administration of licensing schemes including change of particulars, administration of register of licenses, licensing fees, service of notices recovery of unpaid fees, general penalty, regulations and county legislation.

19. It makes provision for the payment of fees for licenses. It mandates county governments, guided by the principles set out in the Bill, to formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. It also mandates county licensing authorities to be guided by the following principles in setting out fees for issuance of licenses—

- (a) setting of fees be done within the scope of the county licensing authority;
- (b) need to ensure efficiency in the delivery of goods and services;
- (c) accountability;
- (d) public participation;
- (e) avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties;
- (f) cross-subsidization where fees collected for providing a category of goods or services covers the costs incurred in providing goods and services in another category in accordance with existing legislation;
- (g) adherence to existing policy on the charging and collection of fees;
- (h) avoidance of multiple licensing in a specific sector;
- (i) fixing different fees with respect to the different types of licenses;
- (j) waiver of requirement for fees and prescribe conditions for such waivers;
- (k) the taking into account of the costs incurred in administering the licensing scheme; and
- (l) ensuring that the fees set do not adversely affect competition and investment.

20. The Bill makes detailed provision for service of notices required under the Bill, and allows county licensing authorities to recover license fees owed as a debt in court. It further empowers the Cabinet Secretary responsible for matters relating to licensing to make regulations specifically, to bring to effect the provisions of the Bill once enacted. The Bill finally empowers county assemblies to enact county specific legislation to give further effect to the provisions of the Bill once enacted.

CHAPTER THREE

3.1 PUBLIC PARTICIPATION

3.2 LEGAL PROVISIONS ON PUBLIC PARTICIPATION

21. Article 118 (1) (b) of the Constitution of Kenya provides as follows—
“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”
22. Standing Order 127(3) provides that—
“*The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including—*
(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in a sector; and
(d) consulting experts on technical subjects.”
23. Standing Order 127(3A) further provides that—
“*The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.*”
24. Pursuant to the above Constitutional provisions and the requirements in the standing orders, the Committee resolved to undertake public participation by way of requests for memoranda from specific stakeholders as well as public hearings in the different regions.
25. Accordingly, a newspaper advertisement was placed in the local dailies on Friday, **8th March, 2024**, inviting public and stakeholder views on the Bill. The Committee received memoranda from several individuals and institutions as enumerated in this Chapter of the Report.
26. The Committee also undertook public hearings across the country in Nairobi County, Kisumu County, Nyeri County, Garissa County, Embu County, Uasin Gishu County, Kakamega County and Kilifi County.

3.2 SUBMISSION OF MEMORANDA BY STAKEHOLDERS

3.2.1 Kenya Private Sector Alliance (KEPSA)

27. Kenya Private Sector Alliance (KEPSA) made the following submissions;
28. In Clause 2 (Interpretation) Re-draft to-"Cabinet Secretary" means the Cabinet Secretary responsible for the Ministry of Investments, Industry, Trade, and Enterprise Development.
29. In Clause 28 (1) (Regulations) In the context of licensing, it is imperative to specify the exact Cabinet Secretary who will be mandated to issue the specific regulations referenced in this Bill. While each CS oversees a specific Ministry, their roles intersect in various areas, including licensing. Therefore, clarity regarding the responsible CS ensures efficient coordination and avoids ambiguity. By designating a specific CS, there is enhancement of accountability, streamline processes, and foster a conducive environment for economic growth.
30. To enhance clarity and eliminate redundancy, they proposed merging two Clause 3 and 5 into a single coherent provision. The revised clause will encapsulate the principles guiding both the licensing authority and the licensee. The two clauses should be merged to state that the licensing authority shall adhere to the following principles in granting licenses and permits: fairness, transparency, efficiency, and accountability. Similarly, the licensee shall operate in accordance with these principles, ensuring compliance with all licensing requirements’
31. Clause 12 (1) Withdrawal of application to be Re-drafted to read (1)
- (a) An applicant or any other person who is aggrieved by a decision of a licensing authority with respect to the application or cancellation of a license may apply for a review of the decision.
- (b) Subject to clause (a) above, in cases of dispute arising from licensing decisions, the licensing authority shall establish an alternative dispute resolution mechanism. This mechanism shall include a review process conducted by an independent body, comprising representatives from relevant stakeholders, industry experts, and legal professionals.

(c) to the extent to which the relevant licensing legislation does not provide the applicant with such right, the applicant shall write to the County Executive Committee (CEC) Member responsible for matters relating to the subject of the license who will in consultation with the Alternative Dispute Resolution Committee review the matter.

29. This revised clause ensures that disputes are resolved fairly and that decisions undergo rigorous scrutiny.

30. Clause 24 (4) (b) Licensing fee, should be deleted, this is because the licensing fee charged by the authority shall be comprehensive, encompassing monitoring and evaluation costs. It is imperative that no separate fee be imposed for the discharge of the authority's mandate. By adopting this approach, it will not only reduce costs for businesses but also ensure predictability and transparency in fee levies at the county government level.

31. Clause 25 (2) Service of notices to be re-drafted to (2) A notice required to be served on joint applicants or joint licensees shall be served on all of the joint applicants. This will ensure robust accountability and transparency; it is imperative that all joint parties involved in an application receive equal and comprehensive service. By serving each entity individually, it will eliminate potential loopholes and uphold the principles of fairness and equity.

3.2.2 The Kenya Association of Manufacturers

32. The Kenya Association of Manufacturers proposed an amendment to clause 6 (c) of the Bill to delete the term 'quality of goods produced. The rationale is that ensuring that goods produced are of high standard is vested in the Kenya Bureau of Standards which has the capacity, resources and know how to effectively undertake the task and granting county governments the mandate will be a duplication of roles and will add on to the regulatory burden already faced by manufacturers.

33. The Association proposed an amendment to Clause 7. (1) to include electronic application. The amendment should read' An application for the grant, renewal, transfer or replacement of a license or a variation of a condition for the issuance of a license shall (a) be made in writing and in the prescribed form or through electronic application.

34. Incorporating "electronic application" into the clause reflects a forward thinking and adaptable approach to licensing procedures, considering the fact that the same is already

proposed in the bill, while ensuring that the regulatory framework remains relevant and effective in today's context.

35. The Kenya Association of Manufacturers proposed an amendment to clause 7(2) of the Bill to reduce the number of years from three to one on compliance by counties to put in place and operationalize the electronic application for licenses. The rationale is that three years is a long time for counties to comply and will go against governments' digitization policy and that storage of information in the database within one year will make it easier to retrieve for renewal and replacement instead of providing the document again.

36. The Association proposed amendment of clause 9(3) to read 'The licensing authority may reject an application without dealing with it any further if the applicant fails to comply with the notice under subsection (1).

- a) The rejection shall be based on grounds for non-compliance, such as incomplete documentation, non-payment of required fees, or failure to meet specified criteria.
- b) The licensing authority shall provide written notification to the applicant, clearly outlining the reasons for rejection.
- c) In the event of application rejection, the licensing authority shall provide information to rectify deficiencies within a specified timeframe.

37. The Association submitted that it is necessary that the Licensing authority notifies the applicant in detail of why the application has failed and provide possible solution and avenues for compliance.

38. The association proposed that the provisions of clause 15. (1) are made clear. They submitted that it is not clear where this provision applies as it seems to contradict section 9(3)

39. KAM proposed amendment of clause 16. (1) to add a clause mandating the county government to clearly state the license areas of coverage. As follows: 16. (3) (k) Specifying the service paid for.

40. The stated that, Licenses should clearly state its areas of coverage to avoid overlapping/ double licensing like for instance, counties charge food hygiene Kshs. 20,000, Health clearance Kshs.30,000 and it is not clear what they cover as they seem to be covering the same thing with different names all under the health department.

41. KAM proposed that clause 19. (1) is amended to delete.

42. The Association proposed amendment of clause 24(1) Licensing fees, to add an implementation clause on how avoidance of multiplicity will be achieved. To Read as follows(e) Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties through

- i. Mandatory synchronization of licensing requirements and fee structures.
- ii. Establishment of an integrated digital platform.

43. The rationale is to avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties. Multiple fees and levies across different counties inhibit cross-county trade and increase the cost of doing business in the country. They proposed to add to this to include a clause on how this directive will be implemented to ensure seamless operationalization.

44. KAM proposed amendment of clause 24 Licensing fees (2) to Specify clear criteria and factors for determining licensing fees. To read as follows: (2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. Taking into consideration the following:

- a) nature and scope of the licensed activity,
- b) economic considerations,
- c) administrative and regulatory costs,
- d) public interest, and resource utilization.

45. They submitted that this amendment ensures fairness and avoids arbitrary charges by the different county government. A digital platform will facilitate seamless application, processing, and oversight of licenses, thereby enhancing transparency and diminishing administrative complexities.

46. The association further proposed amendment of clause 24(5) by inserting the following: (f) " Ensure the uniformity of established fees, striving for consistency across counties, to minimize adverse impacts on competition and investment".

47. The rationale is that Fees should not be miles apart in comparison to other counties. i.e. Kajiado total permit comes to a whopping sh. 73,000 and in Nairobi unified sh. 40,000. The

uniformity of fees is necessary to foster fair competition, promote economic efficiency, avoid market distortions, attract investment, facilitate compliance, enhance public perception, and reduce administrative burdens. These factors contribute to the creation of a more stable, transparent, and equitable economic environment.

48. It also reduces administrative burden for both County government and businesses, managing and enforcing uniform fees is more straightforward than dealing with a patchwork of disparate fee structures. This reduction in administrative burden allows resources to be allocated more efficiently.

49. KAM also proposed amendment of clause 29. (1) to include Model Legislation: To read as follows: 29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county. The county assembly shall be guided by the provisions and principles outlined in the MODEL LAW during the legislative process.

50. The rationale is that a model legislation or template will serve as a guide for counties. This model can establish a baseline for key provisions while allowing for flexibility to address local nuances. Counties can use this model as a reference, adapting it to their specific needs. It will also ensure harmony and uniformity in the counties despite the discretionary legislative powers granted to county assemblies.

3.2.3 The National Treasury & Economic Planning

51. Clause 1, is not clear what informs the six months from the date of assent. Beginning of a Financial Year may be preferred for transition purposes.

52. In Clause 2, there are many ministries that carry out licensing. The Bill needs to clarify which Ministry is intended in this place. For this purpose, the Cabinet Secretary for matters relating to trade could suffice.

53. In Clause 2, there is also need to expound on this definition of a licensing authority whether it applies to only a person or also an entity. It is also not clear whether it is only the County Government entities or even National Government entities operating within the county.

54. In Clause 3 (c) it should be amended to specify the year of the Act i.e Access to Information Act, 2016.

55. Clause 6, should be amended to include an obligation of the county government the clause should read: (g) ensure that it does not prejudices national economic policies, economic

activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution.

56. This is important in cases where businesses operate across multiple jurisdictions or the license is issued to exploit a resource shared by jurisdictions, as it minimizes the complexity of compliance, reduces barriers to entry, and manages spillover effects.

57. Clause 7 (2) is silent on the counties that are already using electronic systems in licensing. A provision be provided for those counties with existing electronic systems for license issuance

58. In Clause 7 (4) introduction of an application fee in addition to the licensing fee is an additional cost on businesses that may negate the provisions of Section 6 (e) that requires that licensing fees do not hinder the conduct of business.

59. In Clause 4 (a) and (b) clarity on these three areas as they can be misinterpreted and hence double-applied.

60. Clause 4 (a) and (b) and Clause 8 should be given more elaboration or can be combined. Clarity on these three areas is important as they can be misinterpreted and hence double-applied.

61. Clause 9 (1) does not specify the mode of notice. It is important that the person being served with the notice gets to know how the notice will be served so as to anticipate such a notice and where to look for it. Otherwise, the notice may be issued and the intended audience does not get to know of such a notice. There is need to specify the mode of notifying the entity seeking license that further information is required, preferably in writing.

62. Clause 9 (2) leaves it to the authority to decide the time frame to submit the information requested vide a notice issued on clause 9 (1). This could mean that it will be subjective. There is need to have a standardized time frame.

63. In Clause 21 (2) once the review is determined, there is need to provide for the mode of communication of the decision to the licensee and the time period for such communication to be undertaken.

64. In Clause 28 (1) It is not clear which Cabinet Secretary will make the Regulations since the definition of 'Cabinet Secretary' in the Act is not clear since licensing is performed by several

ministries in different sectors. There is need to house this function under a specific Cabinet Secretary. E.g. trade.

3.2.4 Kenya Pharmaceuticals Association North Rift Branch -

65. That a clause be included in this bill further instructing the County Governments on how to handle the licensing of regulated professional businesses such as hospitals, clinics and community pharmacies since they provide essential services.

66. That prior to them being licensed by the County Governments, they must first Produce respective licenses from their regulators e.g. (PPB or KMPDC). This help in Curbing the public health risks being meted on the unsuspecting public by licensed Quacks as this with further push the cost of healthcare up because of admissions due to adverse drug reactions and anti-microbial resistance.

67. That the law be explicit and gives the licenses a lifeline of 12 months and NOT the usual 31st of December.

68. That the law may cushion the businesspeople such that failure to renew the license should not be made punitive as businesses might undergo various challenges that are beyond control such as natural or manmade calamities.

69. That a clause supporting staggered payment for those who cannot raise the entire license amount be considered in the bill.

70. That the county leverages on the existence of the legal community pharmacies and scraps off county levies as a means of reducing the cost of medication, and instead support them to offer accessible and affordable services to Kenyans.

71. That a policy be passed to bring equity in the cost of licensure by PPB which currently is uniform irrespective of the location of the pharmacy, to the extent that a pharmacy in Eldoret CBD pays the same as a pharmacy in the most remote part of Turkana.

72. The rationale is that lack of equity in this regard is prohibitive in the sense that most qualified pharmacy practitioners would avoid remote areas where the returns would be low therefore exposing the most vulnerable and denying them their constitutional right to quality healthcare.

73. That in general terms, any levy on legal pharmacy businesses should be seriously considered to avoid any further increase in the cost of drugs and other health products and technologies.

74. Clause 24

"A licensing authority may impose an annual license fee for administering and monitoring a license. This clause to be delete completely, because it may open door to extortion and unnecessary levies being added.

75. The bill has failed to provide for a directive (a part from in case of withdrawal of application on how an applicant whose license application has been rejected by a licensing authority can seek for a refund of fees paid. This will reduce cases of members of the public losing money paid as fees as this can be used towards making a new application.

76. Proposed that Clause 29 be amended where it reads ' A County Assembly may enact legislation to give further effect to the provisions of this Act in the respective county' That may leaves room for undisciplined Counties not to enact their specific legislations that will strengthen this, Senate Bill.

77. Therefore with replacement of may with shall, it will give the public the opportunity to do a petition to the specific county assembly and be admissible in Law.

3.2.5 State Department for Devolution

78. The long title to be amended to read; An Act of Parliament to give effect to Article 209(5) of the constitution; to provide for standard procedures for licensing by County governments; and for connected purposes.

79. The rationale is that the purpose of bill provides for legislation to operationalize Article 209 (5) of the COK and provide for the standards to be adhered to by the County governments in licensing.

80. In Clause 2 the following definitions should be amended as follows;

(a) Cabinet Secretary means the Cabinet Secretary for Intergovernmental Relations.

81. The rationale is that the Secretary Cabinet responsible for matters relating to Intergovernmental Relations is in charge of coordination of intergovernmental matters and management devolution matters

(b) County Executive Committee Member (CECM) means the County Executive Member responsible for matters relating to the respective sector in the county.

82. The rationale is that the licensing issues cut across all sectors in county governments and the Executive Committee Member of the respective sector is best placed to have over oversight sectoral policy issues.

81. Provide for the definition in clause 2; of the following terms that are used in the Bill:

(a)"License" means a permit issued by the county government under this Act.

(b)"Licensing" means the procedures leading to issuance of a license

(c) licensed holder means a person to whom a permit has been granted under this Act.

(d)Permit means authorization issued for operating a business or a class of businesses.

(e) Fees means a payment to the respective County Government for services or facilities rendered

(f) public interest means promotion of public well being

(g) County of operations means the county of origin of goods and services being transported

83. This is to enhance clarity in the interpretation of the technical terms that are used in the Bill

84. Insert new clause on Object and Purposes of the Bill as follows: The Objects and Purpose of this is to provide framework for regulating licensing in county governments and in particular to;

(i) Provide ac mechanism for in uniform standards and procedures in licensing across counties

(ii) Promote free movement of goods across counties to enhance ease of doing business

- (iii) Provide a mechanism for elimination of trade barriers in intercountry trade
- (iv) Provide a mechanism for intergovernmental relations in licensing across counties
- (v) Provide a mechanism for public engagement and resolution of petitions by the public in licensing in counties

85. The rationale is that there is no provision for the object and purpose of the Bill which mandatory legislative development to bring clarity on the purpose and object of the intended law.

86. PART 11 OBLIGATIONS SECTION 3:

(1) Guiding Principles: Amend the use of the word "OBLIGATIONS" as the heading of PART 11 and replace with the word "PRINCIPLE" as the heading. The rationale is that The PART deals with the guiding principles interpretation and application.

(2) incorporate Article 209 (5) of the CoK the taxation other and revenue- raising powers of a county shall not be exercised in a way prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labor. The rationale is to provide for the application of the principles of the provisions of the Constitution, The Finance Public Management Act, the County Government Act, the Intergovernmental Relations among other enabling provisions in the enactment of a uniform legal framework to guide licensing in county governments.

(3) Add a new clause 3 to include one of the principles of the Bill is to provide for petition by the public against a license/licensing decision by the licensing authority. The rationale is to give effect to Article 37 of the Cok on the right of every person to present petitions to public authorities.

87. In clause 4(a) on general duty of licensing Authority; add a new clause 4(a) to provide for a mechanism for unified single license.

88. The rationale is to:

- (a) avoid multiple applications for business one with several business streams e.g. a supermarket with several operating business lines which should be given one license.
- (b) To simplify applications for licenses and shorten the time and cost for licenses.

89. In clause 4(b) include a new clause after clause 4(b) to prevent multiple/parallel approval authorities. The rationale is to eliminate the possibility of mischief in licensing approval.

89. in clause 6 Obligations of the County Governments;

(1) Amend the marginal notes in clause 6 by replacing the term obligation of the County Governments and replace with the term county government responsibilities in licensing in counties. This will ensure that the County Governments adhere to the Constitution in developing legislations and regulations that are compliant with the spirit of the Constitution and other enabling laws.

(2) Insert a new clause 6 (1) to read "Each county government shall in establishing a licensing regime ensure strict adherence to

(a) To principles the and the of taxation revenue raising powers of the counties set out in Article 209(5) of the Constitution

(b) The principles set out in section 132 of the Finance Public Management Act

(c) The national values set out in the Constitution and

(d) Any other requirement of this Act and any other written law

(3) Amend clause 6(c) to read as follows: in line with the standards as provided by national regulating agencies.

90. The rationale is that the licensing authority which is the county does not have mandate and competency to determine and to regulate quality and standards of goods services. The responsibility falls within the mandate of national government Agencies such as KEBS.

91. in clause 6(d) delete the word state this is because the word state would be more inclined to national interests which are broadly covered under national security.

93. amend clause 7(1)(a) to read be made in writing or electronically and in the prescribed form provided in Schedule 1.

94. the rationale is that it will allow for electronic application of licenses in counties in line with the ease of doing business. It will also provide alternative mechanisms to apply for licenses online

95. Amend clause 7(2) by replacing the three-year period by one-year period. This is because the technology capacity of counties has been developed to the level where some counties have already adopted online system of revenue management.

96. Amend clause 11(1) to read as "a licensing authority shall where the respective legislation requires an application to be advertised, publish a notice of the application in the specified platforms;

- i) at least one daily newspaper wide circulation in the county
- ii) in a local radio station
- iii) designated public notice boards at the County, ward and village levels as specified notice schedule 2.
- iv) official websites and social media platforms

97. The rationale is that it will conform to Article 35(3) which obligates the state to publish and publicize any important information affecting the citizens.

98. Delete clause 13(1) and insert

- i) Clause 13(1)(a) to read "the licensing authority shall process a license within 28 days from the date of receipt of application
- ii) Clause 13(1)(b) to read County legislation shall provide for situations of licensing and of processing outside the 28 days.
- iii) Clause 13(1)(c) to read "Continuing business shall apply for licenses at least three months before expiry without losing the validity of the existing licenses.
- iv) Clause 13(1)(d) to provide for acknowledgement of receipt of applications for a license

99. the rational of amending clause 13 is strengthen the licensing procedures and seal any loopholes

100. Delete clause 19 and insert the following: "Where the licensing authority feels that public interest has been jeopardized. the licensing authority shall immediately commence the process of cancellation as provided a for under section 20 of this Act"

101. the clause 19 should be deleted because the conditions for variations are prejudicial to the licensee as it does not provide them with the right to be heard. It gives unchecked powers to the licensing authority which is against the principal of fair administrative action.

102. Insert new clause 20(2)(a) to read "where a reason for cancellation of a license due to public interest arises, the licensing authority shall inform the licensee in writing within 14 days of the intended cancellation and the reason thereof"

103. Insert new clause 20(2)(b) to read "the licensing authority shall commence and conclude the process of cancellation within 28 days.

104. Insert new clause 20(2)(c) to read "for the avoidance of doubt the existing license remains valid until a formal notification of cancellation of licenses is affected."

105. Insert new clause 20(2)(d) to read "county legislation shall provide the procedures for cancellation licenses." of licenses.

106. Insert a new Clause 24(6)(a) to read "fees and charges for goods and services on transit from one county to another shall only be applicable at the county of origin and county of destination."

106. Insert new clause 24(6)(b) to read "county legislation shall provide documentation goods adequate for clearly identifying the county the quantity and categories of goods exempted from this provision."

Insert new clause 24(7): branded vehicles transporting good and services across county boundaries shall be exempted from multiple fees and charges related to advertisement outside their county of operation.

108. inserting Clause 24(6)(a) and 24(6)(b) 24(7) will avoid double taxation and ease the cost of doing business.

109. Amend clause 28(1) by inserting the words "the Cabinet Secretary responsible for Intergovernmental relations may make regulations for better carrying out of this Act."

110. Insert clause 28(3) to read "the Cabinet Secretary responsible for Intergovernmental relations shall table before Parliament County pricing tariffs policy and for approval in every four years."

111. Amending clause 28(1) and 28(3) will provide for development of regulations for better implementation

112. Insert clause 28(4) to read "each government county shall submit in the prescribed format under Schedule 3 their pricing and tariff proposals to the Cabinet Secretary for consolidation before submission to Parliament for approval."

113. Insert clause 28(5) to read "a government county may propose through the Cabinet Secretary midterm review of their pricing and tariff structure for consideration by Parliament.

114. Amend clause 29 (1) to read as follows: "Subject to the Constitution, the Public Finance Management Act, the County Government Act, the County Assembly may enact legislation to give further effect to the Provision of this Act in the respective County.

115. Insert new provisions in clause 29 (2) to add the following provisions on the legislations that the County Assembly may enact-

- (1). establishment of one stop shop for processing application licenses. permits of of fees. and charges applicable in a county
- (2). Categorization of goods services to be licensed
- (3). The categorization of goods and services to be licensed at the point of origin
- (4). The type licenses, permits, fees and charges applicable in the county.

116. Amend clause 29 (2)(a) to read "single business permit and or unified licensing application framework."

117. Insert the following new clause 30 in the Bill to read as follows: "The framework and guidelines for citizens engagement and public participation in licensing."

118. the rationale of inserting new clause 30 is because these provisions are missing in the Bill and are critical to ensure that the proposed law serves its intended purpose while taking on board the interests of the stakeholders.

119. Add a new Clause 31 to read as follows "The Cabinet Secretary responsible for intergovernmental relations establish institutional mechanism effective coordination national county governments licensing activities."

120. Adding new Clause 31 will ensure that the licensing regime operates under an intergovernmental approach in the spirit of Article 6 and the Intergovernmental Relations Act, in order to address the negative effects posed by trade barriers and restriction resulting from free movement goods of on increasing the cost of doing business that hurts the country's economy.

3.2.6 Kenya Pharmaceutical Association (Western Branch);

121. That the county leverages on the existence of the legal community pharmacies and scraps off county levies as a means of reducing the cost of medication, and instead support them to offer accessible and affordable services to Kenyans.

122. That a policy be formulated to bring equity in the cost of licensure by PPB which currently is uniform irrespective of the location of the pharmacy, to the extent that a pharmacy in Nairobi CBD pays the same as a pharmacy in the most remote part of Turkana.

123. That lack of equity in this regard is prohibitive in the sense that most qualified pharmacy practitioners would avoid remote areas where the returns would be low therefore exposing the most vulnerable and denying them their constitutional right to quality healthcare.

124. That in general terms, any levy on legal pharmacy businesses should be seriously considered to avoid any further increase in the cost of drugs.

3.2.7 Kenya Pharmaceutical Association (Nyanza Branch)

125. That the county leverages on the existence of the legal community pharmacies and scraps off county levies as a means of reducing the cost of medication, and instead support them to offer accessible and affordable services to Kenyans.

126. That a policy be formulated to bring equity in the cost of licensure by PPB which currently is uniform irrespective of the location of the pharmacy, to the extent that a pharmacy in Nairobi CBD pays the same as a pharmacy in the most remote part of Turkana.

127. That lack of equity in this regard is prohibitive in the sense that most qualified pharmacy practitioners would avoid remote areas where the returns would be low therefore exposing the most vulnerable and denying them their constitutional right to quality healthcare.

128. That in general terms, any levy on legal pharmacy businesses should be seriously considered to avoid any further increase in the cost of drugs.

3.2.8 Kenya Pharmaceutical Association (Nairobi Branch)

129. This bill addresses the unconstitutional, illegal and unfair multiple/double taxation in various county Finance Acts imposed on pharmacies across the country by expressly abolishing them.

130. This bill; assist by barring Counties from imposing charges/levies/fees upon pharmacies across the country and the role of collection of any charges/levies or fees on pharmacies or the practice of pharmacy be conferred solely upon the Pharmacy & Poisons Board, being the regulatory authority.

131. This bill; to be express on proper enforcement mechanisms by the counties to stop punitive/harsh and uncouth enforcement mechanisms exhibited by counties thus far.

132. The bill should restrict counties to issuing County Licenses to ONLY Pharmacies that possess the current year's practice License from the Pharmacy and Poisons Board. This will assist prevent counties from legitimizing quack owned pharmacies within the counties. (Section 18 of the Bill).

133. The duration of a county license should be 365 days from the time of issuance. (Section 17 of the Bill).

134. The penalty set out in Section 27 be reduced as it is highly punitive to small businesses. That the penalties be charged as per the following coding; small businesses-KES 20,000; Medium Businesses-KES 100,000 and Big Businesses-KES 1million. (Section 27 of the Bill)

3.2.9 Kenya National Chamber of Commerce and Industry (KNCCI) Nyeri

135. Clause 5 the word 'minimum' replaced with the word 'maximum' the rationale is that Minimum is limiting.

136. Clause 6(a) the Insertion of the aforementioned "**rights**" furtherance to the application of this legislation is necessary.

137. The rationale of inserting the aforementioned **rights** is that this bill ought to make it mandatory for each County Legislation to **enumerate** in its respective County Legislation the rights of these groups of people so that it is clear which rights a county government is under obligation to protect.

138. Clause 10 should be Re drafted to introduce time frame 2months (sixty days). the rationale is that the term adequate time is relative.

139. **Clause 12 (3)** to be amended and couch in mandatory term that each County Government ‘**shall**’ enact Legislation providing for circumstances under which fees paid by an applicant for a license may be refunded.

140. the rationale of amending clause 12(3) is that this bill is referred to as the “uniform procedures bill” If certain provisions are left at the discretion of County Governments, then this Bill will not have achieved what it set out to do: **standardize procedure**.

141. **Clause 21 (1) (b)** should be re-drafted to include the creation of a ***Judicial tribunal*** as a redress mechanism. Justification is that there is need to have an independent body and this case a tribunal under the judiciary to adjudicate on the grievances that may arise from the cancellation of licenses.

142. **Clause 24 (e) to be** re-drafted to include “a mechanism for ensuring uniform fees is levied across all counties for goods in transit”.

143. The rationale of redrafting **Clause 24 (e)** is that this is not practical to County Governments because each County sets its fees without consultation with other Counties. This can only be achieved if the National Government takes back some of its power to impose National Licenses to Applicants who will be transacting with more than two (2) counties and formulates a mechanism of sharing the revenue collected with the respective Counties.

3.2.10. The Kenya Pharmaceutical Association Upper Eastern Branch

144. That a clause be included in this bill further instructing the County Governments on how to handle the licensing of regulated professional businesses such as hospitals, clinics and community pharmacies(chemists) since they provide essential services. That prior to them being licensed by the County Governments, they must first produce the following:

(a) Professional business registration

(b) Business practicing license permit from the regulator eg. PPB.

(c) Clearance letter from the respective professional Association eg. KPA, PSK - county government to consult professional bodies before issuing permit to new professional businesses, this will help to curb the issue of quacks.

145. This will help in curbing the public health risks being meted on the unsuspecting public by licensed quacks as this will further push the cost of healthcare up because of admissions due to adverse drug reactions and anti- microbial resistance.

146. All county licenses should be automated. This will enable one to register, apply/ renew and pay for his or her business permit online at the comfort of their business. This will reduce the cost and time incurred when one has to travel to the county/sub county offices for such services.

147. That counties should introduce an option where one can vary his or her business in case need be, without new license requirement. For example; when one relocates his or her business from one point to the other within one county.

148. Where one can decide to close the business for a certain duration/period of time, the county should have a policy that can help to ensure that during this period when the business is closed the business permit can be withheld/ inactivated.

3.2.11. State Department of Industry

149. No consideration has been given to vulnerable groups in the bill. A uniform standard of waiver to be established for all vulnerable groups (PWD)

150. Section 7(2) since the law will be incepted in the analogue state before transformation into electronic platform after three years, the electronic platform should be adopted from inception to reduce turn around time. All what is required is to have schedules of the relevant documents e.g. application forms, amendment form in place.

151. some counties may have some specific priorities or unique Industrial opportunities that may require some incentives to attract investments. The inclusion of such provision(s) in the license may need consideration.

CHAPTER FOUR

CLAUSE BY CLAUSE CONSIDERATION OF STAKEHOLDER VIEWS.

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|--|--|--|
| Clause 1 | The National Treasury & Economic Planning | Clause 1, is not clear what informs the six months from the date of assent. Beginning of a Financial Year may be preferred for transition purposes. | The Committee rejected the proposal as the proposed commencement date of six months from the date of Assent was sufficient. Further Article 116 of the Constitution permits the specification of a commencement date in legislation. |
| Clause 2 | The National Treasury & Economic Planning | <p>There are many ministries that carry out licensing. The Bill needs to clarify which Ministry is intended in this place. For this purpose, the Cabinet Secretary for matters relating to trade could suffice.</p> <p>In Clause 2, there is also need to expound on this definition of a licensing authority whether it applies to only a person or also an entity. It is also not clear whether it is only the County Government entities or even National</p> | The committee agreed to the proposed amendment to the definition to clarify that the Cabinet Secretary is the one responsible for matters relating to trade. |

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|---|--|---|
| | | Government entities operating within the county | |
| Clause 2 | Kenya Private Sector Alliance (KPSA) | (Interpretation) Re-draft to-"Cabinet Secretary (CS) " means the Cabinet Secretary responsible for the Ministry of Investments, Industry, Trade, and Enterprise Development. | The committee agreed with the proposed amendment that the Cabinet Secretary means the cabinet secretary responsible for matters related to Trade |
| | Director Kilifi County | He proposed that the definition of county executive member be deleted because it has not been used in the body of the Bill. | The committee agreed with the proposed amendment of this clause. |
| Clause 3 | Mohamed Abdulfattah - Kilifi town, Kilifi | Clause 3(a) of the Bill should be relooked at as same is not clear as to who should ensure the same is achieved. | The committee rejected the proposed amendments for the reason that the Bill is clear that the guiding principles apply to persons implementing the Act. |
| Clause 3 | Gaston Owino Oketch – Migosi, Kisumu | Amend clause 3(a) of the Bill to provide for two categories of licensing. This should be done taking into consideration the risk management assessment period. | The Committee observed that clause 6(f) obligates county governments to categorise licences and designate unique codes to the same. |
| Clause 3 | George Njoroge - Business man in Nyeri town, Nyeri | Part II clause 3(b) the need to protect public confidence in the licensing processes i.e. establishment of bars in specific areas. | The committee rejected the proposed amendment to this clause as the issue of establishment of bars in specific areas is a devolved |

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|---|---|---|
| | | | function that ought to be contained in the county specific legislation. |
| Clause 3 | Agnes Akinyi - National Government Administration Office, Kisumu | Clause 3 (e) of the Bill should be amended to read " <i>Cost friendly to the people...</i> " | The committee observed that the term "cost effective" is sufficient and comprehensive and takes into consideration affordability. |
| Clause 4 | The National Treasury & Economic Planning | 4 (a) and (b) clarity on these three areas as they can be misinterpreted and hence double-applied. Clause 4 (a) and (b) and Clause 8 should be given more elaboration or can be combined. | The committee observed that the two provisions under 4(a) and 4(b) are distinct. |
| Clause 4 | Agnes Akinyi - National Government Administration Office, Kisumu | Clause 4(d) of the Bill should be amended to provide for adequate time lines for processing of licenses. It was her submission that the provision is not clear on timelines and as such the same is likely to be misused. | The committee rejected the proposed amendments as the timelines have already been provided for. |
| Clause 4 | Mohammed Khalif - Civil Society within Garissa town, Garissa | There is need to further look at the provisions of clause 4(a) and 4(b) in order to achieve clarity. | The committee rejected the proposed amendments as the clause is clear. |
| Clause 4 | Mutonya Metrine - Kenya Pharmacy Association, Kisumu | She supported the Bill and especially the provisions of clause 4 (b) that provide for preventing multiple licensing procedures. | The committee agreed with the proposed amendments that the licensing authority should seek the approval of the regulatory body in licensing a business of professional. |

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|--|---|--|
| Clause 5 | Kenya National Chamber of Commerce and Industry (KNCCI) Nyeri | The word 'minimum' replaced with the word 'maximum' the rationale is that Minimum is limiting | The committee rejected the proposed amendment as the clause seeks to ease the licensing process by requiring minimal applications. |
| Clause 5 | Mary Anyango - We Care organization, Kisumu | Clause 5 (d) should be amended to read as " <i>simplicity of the process of application</i> " which is simpler and easily accessible to persons living with disability. | The committee agreed with the proposed amendments to this clause to ease the application process for people living with disability. |
| Clause 6 | Kenya National Chamber of Commerce and Industry (KNCCI) Nyeri | Clause 6 (a) the Insertion of the aforementioned " <i>rights</i> " furtherance to the application of this legislation is necessary. | The committee rejected this proposal to amend this clause for the reason that the same is catered for within the same clause. |
| Clause 6 | Evans Ajuoga – Manyatta, Kisumu | Sought for clarity on how clause 6 (c) is going to be implemented as this is the mandate of Kenya Bureau of Standards | The committee observed that the provision does not empower Counties to perform the function of KEBS. It proposed an amendment for the county governments to consult the relevant government entity (KEBS). |
| Clause 6 | The National Treasury & Economic Planning | Clause 6 should be amended to include an obligation of the county government the clause should read: (g) ensure that it does not prejudices national | The committee agreed with the proposed amendment. |

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|--|---|--|
| | | economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution. | |
| Clause 6 | The Kenya Association of Manufacturers | Clause 6 (c) of the Bill to delete the term 'quality of goods produced. The rationale is that ensuring that goods produced are of high standard is vested in the Kenya Bureau of Standards which has the capacity, resources and know how to effectively undertake the task and granting county governments the mandate will be a duplication of roles and will add on to the regulatory burden already faced by manufacturers. | The committee observed that the provision does not empower Counties to perform the function KEBS. in establishing a licensing regime county governments may consult the relevant government entity (KEBS). |
| Clause 7 | The National Treasury & Economic Planning | Clause 7(2) is silent on the counties that are already using electronic systems in licensing. A provision be provided for those counties with existing electronic | The committee observed that the proposal relates to norms and standards for all counties and those counties that had already had the electronic systems would already have |

| Clause | Organization/Region | Comments | Committee Resolution |
|----------|---|---|---|
| | | <p>systems for license issuance</p> <p>Clause 7(4) The introduction of an application fee in addition to the licensing fee is an additional cost on businesses that may negate the provisions of Section 6 (e) that requires that licensing fees do not hinder the conduct of business.</p> | <p>complied once the law comes into force.</p> <p>The application fee is a service fee that is ordinarily charged at a nominal rate.</p> <p>The committee agreed with the proposed amendment to ensure that people living with disability should be considered in the electronic process.</p> |
| Clause 7 | The Kenya Association of Manufacturers | <p>Clause 7. (1) to include electronic application. The amendment should read' An application for the grant, renewal, transfer or replacement of a license or a variation of a condition for the issuance of a license shall (a) be made in writing and in the prescribed form or through electronic application.</p> <p>34. Incorporating "electronic application" into the clause reflects a forward thinking and adaptable approach to licensing procedures,</p> | <p>The committee rejected the proposed amendments to this clause as the proposals are already contained in the clause.</p> <p>The committee rejected the proposed amendment to this clause for the reason that the three years is sufficient.</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>considering the fact that the same is already proposed in the bill, while ensuring that the regulatory framework remains relevant and effective in today's context</p> <p>clause 7(2) of the Bill to reduce the number of years from three to one on compliance by counties to put in place and operationalize the electronic application for licenses. The rationale is that three years is a long time for counties to comply and will go against governments' digitization policy and that storage of information in the database within one year will make it easier to retrieve for renewal and replacement instead of providing the document again.</p> | |
| Clause 7 | Mohammed Khalif - Civil Society within Garissa town, Garissa | Suggested that clause 7(2) should be amended by deleting "three years" | The committee rejected this proposed amendment for the reason that the three year period is sufficient. |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | and replacing it with “four or five years”. | |
| Clause 7 | Nelly Chepkemoi – Youth Representative, Nairobi | Clause 7 to be amended to introduce incentives for marginalized groups under Article 100 such as waiver of fees. | The committee rejected the proposed amendments to this clause as it would be misplaced in this Bill which only seeks to set out uniform norms and standards for licensing by county governments. The issue of waiver of fees would be contained in specific county legislation. |
| Clause 7 | Garia Mwangi – Starehe, Nairobi | Part 7(4) on unified business regime they should vet the business first before licence application. | The committee rejected the proposed amendment to this clause for the reason that this should be taken care of by the county legislation. |
| Clause 10 | | | The Committee observed that the information provided to members if the public shall be given in a timely manner |
| Clause 11 | State Department on Devolution | A licensing authority to put public information/ advertisement at- (a) one daily newspaper of wide circulation within the county; | The committee agreed to the proposal and further that the licensing authority shall ensure advertisement in at least three of the proposed platforms. |

| Clause | Organization/Region | Comments | Committee Resolution |
|-----------|---|--|--|
| | | <p>(b) in one local radio station;</p> <p>(c) a designated public notice board at the county, ward and village levels;</p> <p>This is to widen the availability of information on advertisement on application for a licence.</p> | |
| Clause 15 | The Kenya Association of Manufacturers | <p>The association proposed that the provisions of clause 15. (1) are made clear. They submitted that it is not clear where this provision applies as it seems to contradict section 9(3)</p> | <p>The committee rejected the proposed amendment to this clause for the reason that the two clauses are not contradictory as one deals with rejection for non-compliance while the other deals with feedback to an applicant on the decision of the licensing authority.</p> |
| Clause 16 | The Kenya Association of Manufacturers | <p>KAM proposed amendment of clause 16. (1) to add a clause mandating the county government to clearly state the license areas of coverage. As follows: 16. (3) (k) Specifying the service paid for. It was stated that, Licenses should clearly state its</p> | <p>The committee rejected the proposed amendment to this clause because it is misplaced.</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
|-----------|---|--|--|
| | | areas of coverage to avoid overlapping/ double licensing like for instance, counties charge food hygiene Kshs. 20,000, Health clearance Kshs.30,000 and it is not clear what they cover as they seem to be covering the same thing with different names all under the health department. | |
| Clause 17 | Elvis Khasava – Kamukunji, Nairobi | He indicated that clause 17(2) caters for the issue of annual renewal of license. | The committee agreed that the license should be valid for one year from the date of issue. |
| Clause 19 | The Kenya Association of Manufacturers | KAM proposed that clause 19. (1) is deleted. | The committee agreed with the proposed amendment to delete clause 19 |
| Clause 19 | State Department for Devolution | Delete clause 19 and insert the following: "Where the licensing authority feels that public interest has been jeopardized. the licensing authority shall immediately commence the process of cancellation as provided a for under section 20 of this Act". The clause 19 should be deleted because the conditions for variations are | The committee amended to delete clause 19 |

| Clause | Organization/Region | Comments | Committee Resolution |
|-----------|--|---|---|
| | | prejudicial to the licensee as it does not provide them with the right to be heard. It gives unchecked powers to the licensing authority which is against the principal of fair administrative action. | |
| Clause 19 | Mary Wangui – Intern at County Government of Nyeri, Nyeri | Part III Clause 19 needs to regulate the procedures for variation of a license. | The committee rejected the proposed amendment to this clause for the reason that they have already recommended for the deletion of clause 19. |
| Clause 20 | State Department for Devolution | <p>Insert new clause 20(2)(a) to read "where a reason for cancellation of a license due to public interest arises, the licensing authority shall inform the licensee in writing within 14 days of the intended cancellation and the reason thereof".</p> <p>Insert new clause 20(2)(b) to read "the licensing authority shall commence and conclude the process of cancellation within 28 days.</p> | The committee agreed with the proposed amendment. |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>Insert new clause 20(2)(c) to read "for the avoidance of doubt the existing license remains valid until a formal notification of cancellation of licenses is affected."</p> <p>Insert new clause 20(2)(d) to read "county legislation shall provide the procedures for cancellation licenses." of licenses.</p> | |
| Clause 20 | Philip Cherop – Uasin Gishu | <p>Clause 20 of the bill should be amended to provide a section where a licensing authority can cancel a license which has been obtained fraudulently.</p> <p>Proposed for review of clause 20 to provide for cancellation of a license which was issued based on false information given by the applicant.</p> | The committee agreed with the proposed amendment. |
| Clause 21 | The National Treasury & Economic Planning | In Clause 21 (2) once the review is determined, there is need to provide for the mode of communication of the decision to the | The committee agreed with the proposed amendment. |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | licensee and the time period for such communication to be undertaken | |
| Clause 21 | Kenya National Chamber of Commerce and Industry (KNCCI) Nyeri | Clause 21 (1) (b) should be re-drafted to include the creation of a *Judicial tribunal* as a redress mechanism. Justification is that there is need to have an independent body and this case a tribunal under the judiciary to adjudicate on the grievances that may arise from the cancellation of licenses. | The Committee agreed with the proposed amendment that a committee be established to review decisions for cancellation of licences |
| Clause 21 | Hudheifa Siyad Mohamed - Revenue Department from the County government of Garissa, Garissa. | He proposes that under clause 21(1) (b) an independent body should conduct review for an aggrieved party. | The committee agreed that a committee be established to review decisions for cancellation of the licences. |
| Clause 24 | Kenya Private Sector Alliance (KPSA) | Clause 24 (4) (b) Licensing fee, should be deleted, this is because the licensing fee charged by the authority shall be comprehensive, encompassing monitoring and evaluation costs. It is imperative that no | The committee agreed to the proposed amendment to delete 24(4) (b) |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>separate fee be imposed for the discharge of the authority's mandate. By adopting this approach, it will not only reduce costs for businesses but also ensure predictability and transparency in fee levies at the county government level.</p> | |
| | <p>Kenya Association of Manufacturers</p> | <p>The Association proposed amendment of clause 24(1) Licensing fees, to add an implementation clause on how avoidance of multiplicity will be achieved. To Read as follows(e) Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties through</p> <ul style="list-style-type: none"> iii. Mandatory synchronization of licensing requirements and fee structures. iv. Establishment of an integrated digital platform. | <p>The committee approved the proposal to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through-</p> <ul style="list-style-type: none"> (i) Synchronising of licensing requirements and fee structures for such goods; (ii) establishment of an integrated digital platform |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>KAM proposed amendment of clause 24 Licensing fees (2) to Specify clear criteria and factors for determining licensing fees. To read as follows: (2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. Taking into consideration the following:</p> <ul style="list-style-type: none"> a) nature and scope of the licensed activity, b) economic considerations, c) administrative and regulatory costs, d) public interest, and resource utilization. <p>The association further proposed amendment of clause 24(5) by inserting the following: (f) "Ensure the uniformity of established fees, striving for consistency across counties, to minimize adverse impacts on competition and investment".</p> | |
| 24 | State Department for Devolution | Clause 24 (4) (b) "A licensing authority may impose an annual license | The committee agreed this proposed amendment. |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>fee for administering and monitoring a license.</p> <p>This clause to be deleted completely, because it may open door to extortion and unnecessary levies being added.</p> | |
| 24 | <p>Kenya National Chamber of Commerce and Industry (KNCCI)</p> | <p>Clause 24 (e) to be re-drafted to include “a mechanism for ensuring uniform fees is levied across all counties for goods in transit”.</p> <p>143. The rationale of redrafting <i>Clause 24 (e)</i> is that this is not practical to County Governments because each County sets its fees without consultation with other Counties. This can only be achieved if the National Government takes back some of its power to impose National Licenses to Applicants who will be transacting with more than two (2) counties and formulates a mechanism of sharing the revenue collected with the respective Counties</p> | <p>The committee approved the proposal to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through-</p> <ul style="list-style-type: none"> (a) Synchronising of licensing requirements and fee structures for such goods; (ii) establishment of an integrated digital platform |

| Clause | Organization/Region | Comments | Committee Resolution |
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| 24 | <p>Kenya National Chamber of Commerce and Industry (KNCCI)</p> <p>Kenya National Chamber of Commerce and Industry (KNCCI)</p> | <p>Insert a new Clause 24(6)(a) to read "fees and charges for goods and services on transit from one county to another shall only be applicable at the county of origin and county of destination."</p> <p>Insert new clause 24(6)(b) to read "county legislation shall provide documentation goods adequate for clearly identifying the county the quantity and categories of goods exempted from this provision."</p> <p>Insert new clause 24(7): branded vehicles transporting good and services across county boundaries shall be exempted from multiple fees and charges related to advertisement outside their county of operation.</p> <p>inserting Clause 24(6)(a) and 24(6)(b) 24(7) will avoid double taxation and ease the cost of doing business.</p> | <p>The committee approved the proposal to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through-</p> <p>(a) Synchronising of licensing requirements and fee structures for such goods;</p> <p>(ii) establishment of an integrated digital platform</p> |
| 24 | William Smith Pumwani Nairobi | <p>That he has an issue with clause 24 and he proposes that the Bill should be amended to provide a criterion that will be used by the informal sector for payment of a licence.</p> <p>works in the informal sector and money is collected daily this becomes an issue and there is preference to pay a monthly licence.</p> | <p>The committee rejected the proposed amendments to this clause for the reason that the counties will pass legislation to cater for this.</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | Raised an issue with clause 24 as it has not provided for a procedure for a licenses of small scale traders i.e. fish traders, egg sellers. | |
| 24 | Peter Wahundu, Nyeri | Section 24(1)(e) – to bill to give guidance on how a person can pay for one licence for transportation of goods and services through different counties this is in order to avoid multiplicity in the issuance of licence and multiples | The committee approved the proposal to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through- <ul style="list-style-type: none"> (a) Synchronising of licensing requirements and fee structures for such goods; (ii) establishment of an integrated digital platform |
| 24 | Kevin Kioko Musimi Uasin Gishu | Proposed that Clause 24(4) (b) be deleted as the same may lead to misuse of levies/charges. | The committee agreed with the proposed amendment to delete 24(4) (b) |
| 24 | Benard Lamuria Kenya Pharmaceutical Association. | Proposed that clause 24 (4) (b) should be deleted as the same may lead to misuse by the relevant licensing authority. | The committee agreed with the proposed amendment to delete 24(4) (b) |
| 25 | Kenya Private Sector Alliance (KPSA) | Clause 25 (2) Service of notices to be re-drafted to (2) A notice required to be served on joint applicants or joint licensees shall be served | The committee rejected this proposed amendment for the reason that the clause has captured all that is being proposed. |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | on all of the joint applicants. This will ensure robust accountability and transparency; it is imperative that all joint parties involved in an application receive equal and comprehensive service. By serving each entity individually, it will eliminate potential loopholes and uphold the principles of fairness and equity. | |
| 25 | Senior Njoka CBD Nairobi | Raised a concern on issue of service of notices and proposed that the Committee should add a clause 25(5) to require for “chief to be served notices” | The committee rejected the proposed amendment as it is prudent to serve notice to the person that the notices relates to. |
| 26 | Hassan Ndung’u | Clause 26 on recovery of unpaid fee – the Bill to establish an Assessment Committee before the process of recovery of fees | The committee rejected this proposed amendment as the Bill has already provided for the procedure on the assessment of fees. |
| 27 | Kenya Pharmaceutical Association (Nairobi Branch) | The penalty set out in Section 27 be reduced as it is highly punitive to small businesses. That the penalties be charged as per the following coding; small businesses-KES 20,000; | The committee rejected this proposed amendment for the reason that the proposed fine is the maximum amount one may be penalized and further, the Judiciary has prescribed |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | Medium Businesses-KES 100,000 and Big Businesses-KES 1million. (Section 27 of the Bill) | guidelines on the factors to consider in imposing fines. |
| 27 | Mary, Kamukunji Nairobi | Addition of a clause 27(2) to provide for offences by government officials. Clause (27) should also address penalties for licensing authority in case of abuse the law. | The committee rejected this proposed amendment for the reason that the proposed fine is the maximum and the judiciary has its own guidelines on the factors to consider in awarding fines. |
| 27 | Hassan Ndung'u | Clause 27- categories of different traders e.g. small scale, large scale | The committee rejected this proposed amendment for the reason that the proposed fine is the maximum and the judiciary has its own guidelines on the factors to consider in awarding fines. |
| 28 | Kenya Private Sector Alliance (KPSA) | In Clause 28 (1) (Regulations) In the context of licensing, it is imperative to specify the exact Cabinet Secretary who will be mandated to issue the specific regulations referenced in this Bill. While each CS oversees a specific Ministry, their roles intersect in various areas, including licensing. | The Committee rejected the proposal and observed that this clause concerns delegation of legislative powers for making of regulations to enable the better carrying out of the provisions of the Act. This shall be enacted by the Cabinet Secretary responsible for matters relating to Trade. |
| 28 | The National Treasury & Economic Planning | In Clause 28 (1) It is not clear which Cabinet Secretary will make the | The Committee observed that it has proposed an amendment to the definition of the term |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>Regulations since the definition of ‘Cabinet Secretary’ in the Act is not clear since licensing is performed by several ministries in different sectors. There is need to house this function under a specific Cabinet Secretary. E.g. trade.</p> | <p>“Cabinet Secretary” to address this issue.</p> |
| 28 | <p>State Department for Devolution</p> | <p>In Clause 28 (1) (Regulations) In the context of licensing, it is imperative to specify the exact Cabinet Secretary who will be mandated to issue the specific regulations referenced in this Bill. While each CS oversees a specific Ministry, their roles intersect in various areas, including licensing.</p> <p>In Clause 28 (1) It is not clear which Cabinet Secretary will make the Regulations since the definition of ‘Cabinet Secretary’ in the Act is not clear since licensing is performed by several ministries in different</p> | <p>The Committee observed that it has proposed an amendment to the definition of the term “Cabinet Secretary” to address this issue.</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>sectors. There is need to house this function under a specific Cabinet Secretary. E.g. trade.</p> <p>Amend clause 28(1) by inserting the words "the Cabinet responsible Secretary for Intergovernmental relations may make regulations for better carrying out of this Act."</p> <p>Insert clause 28(3) to read "the Cabinet Secretary responsible for Intergovernmental relations shall table before Parliament County pricing tariffs policy and for approval in every four years."</p> <p>Amending clause 28(1) and 28(3) will provide for development of regulations for better implementation</p> <p>Insert clause 28(4) to read "each government county shall submit in the prescribed format under Schedule 3 their pricing and tariff proposals to the Cabinet</p> | |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>Secretary for consolidation before submission to Parliament for approval."</p> <p>Insert clause 28(5) to read "a government county may propose through the Cabinet Secretary midterm review of their pricing and tariff structure for consideration by Parliament."</p> | |
| 29 | KAM | <p>KAM also proposed amendment of clause 29. (1) to include Model Legislation: To read as follows: 29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county. The county assembly shall be guided by the provisions and principles outlined in the MODEL LAW during the legislative process.</p> | <p>The committee agreed with the proposed amendment to replace the word "may" with the word "shall".</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
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| 29 | Kenya Pharmaceuticals Association North Rift Branch | Proposed that Clause 29 be amended where it reads ' A County Assembly may enact legislation to give further effect to the provisions of this Act in the respective county' That may leaves room for undisciplined Counties not to enact their specific legislations that will strengthen this, Senate Bill. | The committee agreed with the proposed amendment to replace the word "may" with the word "shall". |
| 29 | Kenneth Nduati Nairobi | Clause 29 delete the word "may" and replace the word shall. | The committee agreed with the proposed amendment to replace the word "may" with the word "shall". |
| 29 | Kioko Uasini Gishu | Clause 29 be amended to read as "county assemblies shall" instead of "County Assemblies may" (4) Proposed that members should consider providing for refund of application fees on the part of the applicant whose application has been rejected | The committee agreed with the proposed amendment to replace the word "may" with the word "shall". |
| Additional Clauses | State department of Devolution | Insert the following new clause 30 in the Bill to read as follows: "The framework and | The committee rejected the proposed amendment for the reason that these provisions have been provided for in other |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | <p>guidelines for citizens engagement and public participation in licensing."</p> <p>the rationale of inserting new clause 30 is because these provisions are missing in the Bill and are critical to ensure that the proposed law serves its intended purpose while taking on board the interests of the stakeholders.</p> <p>Add a new Clause 31 to read as follows "The Cabinet Secretary responsible for intergovernmental relations establish institutional mechanism effective coordination national county governments licensing activities."</p> <p>Adding new Clause 31 will ensure that the licensing regime operates under an intergovernmental approach in the spirit of Article 6 and the Intergovernmental Relations Act, in order to</p> | <p>statutes including the County Governments Act.</p> |

| Clause | Organization/Region | Comments | Committee Resolution |
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| | | address the negative effects posed by trade barriers and restriction resulting from free movement goods of on increasing the cost of doing business that hurts the country's economy. | |

CHAPTER FIVE

4.1 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

152. The Committee, having considered the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022) made the following observations and resolutions-

- a) In Clause 2, the Committee proposed an amendment to enhance clarity in the definition of the term “ Cabinet Secretary” by clarifying that it is the Cabinet Secretary for the time being responsible for matters relating to trade. This was proposed by the National Treasury as well as the Kenya Private Sector Alliance (KEPSA).
- b) The Committee proposed that the definition of a licensing authority under Clause 2 be amended to refer to the proposed licensing boards to be established by counties to undertake the function of licensing.
- c) The Committee proposed an amendment to delete the definition of County Executive Member under Clause 2, since the definition is not consistent with the content of the Clauses in this Act. The bill does not address this definition.
- d) The National Treasury proposed an amendment to Clause 3(c), to specify the year of the Act which is *Access to Information Act, 2016*. The Committee however recommended that, the Clause remains as is as the citation of the Act is provided for in the marginal note.
- e) The Committee proposed an amendment to Clause 4 to include consultations between professional bodies and county governments before the licensing of businesses and professionals operating under umbrella professional bodies. This is to prevent the issuance of licenses to impostors.
- f) The committee proposed an amendment to clause 5 to make the application process more accessible for persons with disabilities. and to promote inclusivity and equality for all.
- g) Taking into consideration the views of the public, an amendment was proposed to include in Clause 6(a), that the County Governments shall also protect the rights of distributors. The Clause had only included; consumers, producers, suppliers and service providers.
- h) Clause 6(c) provides that County Governments should ensure that the quality of goods produced and services delivered are of high standard. The Committee observed that this is likely to infringe on the mandate of KEBS. The Committee proposed that, to address this an amendment to add the phrase “in consultation with relevant government agencies” at the end of the clause should suffice. It was noted that, the matter was raised

during public hearing meetings, in Kisumu as well as by the Kenya Association of Manufacturers (KAM).

- i) The committee approved the proposal by the National Treasury which proposed the following new paragraph in Clause 6 on the obligations of County Governments,:
 - g) Ensure that it does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution. The Committee considered and approved the proposed amendment.
 - j) The Committee recommended an amendment to Clause 7 to incorporate the consideration of the needs of PWDs in the electronic application of a grant, renewal, transfer or replacement of a license.
 - k) The committee observed that members of the public had proposed that issuance of licences be the mandate of a body or committee and not left to the whims of an individual such as a director in the county government. It recommended amendment of clause 7 to empower county governments to establish licensing boards for purposes of undertaking functions of grant, renewal, transfer, or replacement of a licence. Additionally, the committee proposed the following persons to form the membership of the proposed body –
 - i. the Director for the time responsible for matters relating to revenue in the county government;
 - ii. the Director for the time being responsible for matters relating to trade in the county government in charge of the specific subcounty where the licence is to be issued
 - iii. the Deputy County Commissioner for the county ;
 - iv. a representative of persons with disabilities who shall be nominated by the National Council for Persons with Disabilities to represent persons with disabilities trading within the county; and
 - v. subcounty administrators the specific county where the licence is to be issued.
 - l) The Committee upheld the three-year period proposed amendment for the consideration under Clause 7(2), proposing that the mechanisms to enable electronic application for grant renewal, transfer or replacement of a license shall be put in place within four or five years as opposed to three years, which is in the bill. The committee however proposed an amendment that the said mechanisms should be user friendly for persons with disabilities.
 - m) The committee recommended that Clause 9(1) of the bill be amended to prescribe a timeline of seven days where an applicant is notified to provide any additional information requested by the licensing authority.
 - n) The Committee proposed an amendment to Clause 10 to ensure that the licensing authority may only vary fees payable for a license by way of legislation. Further, an amendment be inserted in subclause (1) to add the word "timely" to ensure the public receives sufficient and timely information for purposes of decision making.
 - o) The Committee proposed that clause 11 to the effect that the licensing authority shall for purposes of public participation, place advertisements in the following in at least three of the specified platforms;

- i) At least at one daily newspaper wide circulation in the county;
 - ii) In a local radio station;
 - iii) Designated public notice boards at the County, ward and village levels as;
 - iv) Official websites and social media platforms.
- p) The Committee proposed an amendment to Clause 14(c), to provide that a licensing authority may reject an application with reasons. The Bill had only stated that the licensing authority may reject an application without giving reasons.
- q) The Committee proposed that clause 14(a), be amended to ensure that a licensing authority does not issue a licence unconditionally.
- r) The Committee observed that clause 15 ought to be amended to provide for communication of a decision to be in writing.
- s) The committee proposed that clause 17 be amended to make provision concerning the duration of a licence. In this regard, a licence may contain a specific validity period but for purposes of licences for business which is to be carried out long term (more than one year) the licence granted shall be valid for a period of one year from the date of issuance and not calendar year. This proposal stemmed from public hearings all over the country.
- Dissenting Opinion** -The Hon. Amos Mwago, MP registered a dissent with respect to the decision on this clause. His view was that licences should be valid for a calendar year. Where an applicant makes an application for a licence in the middle of a calendar year, his opinion was that the licence fee chargeable should be prorated for the duration of the remainder of the calendar year of the licence for the first year. His opinion was that monitoring of compliance would be more cost-effective where licences are valid for a calendar year as opposed to various dates.
- t) The committee proposed that clause 19 on variation of licence conditions be deleted in entirety
- u) With respect to clause 20 on cancellation of a licence, the committee proposed additional grounds for cancellation of a licence and also observed that there is need to protect traders from abuse of powers of the licensing authorities. In this regard it proposes the establishment by the county governments of review committees to review cancelled licences to comprise the following members-
- i) the County Executive Committee Member for the time being responsible for matters finance;
 - ii) the County Executive Committee Member for the time being responsible for trade;
 - iii) two representatives from the Chamber of Commerce;
 - iv) the County Commissioner; and
 - v) the County Attorney.
- v) The Committee proposed an amendment to Clause 24(4)(a) which provides that before a licensing authority imposes a licensing fee, it shall be subject to the approval of the County Assemblies. The same is proposed under clause 10 which requires imposition of fees to be by way of legislation.

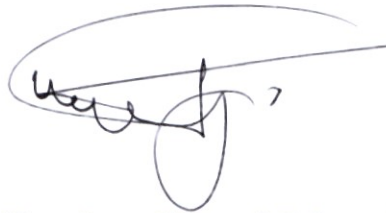
- w) The Committee further proposed deletion of Clause 24(4) which empowers licensing authority to impose an annual licensing fee for administering and monitoring a license as this is created unjustifiable financial burden to traders.

- x) The Committee considered and approved the proposal by Kenya Association of Manufacturers, to include the matters that shall be taken into consideration in the formulation of a licensing fees policy for the imposition of fees and issuance of licenses by respective counties. In this regard Clause 24(2) is to be amended by inserting the following:
 - Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. Taking into consideration the following:
 - a) nature and scope of the licensed activity,
 - b) economic considerations,
 - c) administrative and regulatory costs,
 - d) public interest, and resource utilization

- y) The Committee also received a proposal from Kenya Association of Manufacturers proposing to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through-
 - (b) Synchronising of licensing requirements and fee structures for such goods;
 - (c) establishment of an integrated digital platform

- z) The Committee proposed an amendment to Clause 29 to replace the word “may” with “shall”, such that it obligates counties to enact legislation to give further effect to the provisions of the Act in the respective county.

152. The Committee, having considered the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022) recommends that the Bill be **agreed to; subject to the amendments contained in the Schedule.**



18/4/24

Hon. James Mwangi Gakuya, M.P.

Chairperson Departmental Committee on Trade, Industry and Co-operatives

| | |
|-------------------------|---|
| THE NATIONAL ASSEMBLY | |
| DATE: 18 APR 2024 THURS | |
| TABLED BY: | HON. MARYANNE KIGAMU VICE-CHAIR, TRADE, INDUSTRY & COOPERATIVES |
| CLERK OF THE PARLIAMENT | A. SHIBUKO |

4.2 SCHEDULE OF PROPOSED AMENDMENTS

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “licensing” and substituting therefor the word “trade”;
- (b) by deleting the definition of the term “County Executive Committee Member”; and
- (c) in the definition of the term “licensing authority” by deleting the words “a person authorised by legislation to issue a licence” and substituting therefor the words “the County Licensing Boards established by county governments under section 7”

CLAUSE 4

THAT, clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (1) —

“(2) A licensing authority shall, in considering an application for a licence to carry out business which is ordinarily regulated by a professional body, undertake due diligence to ascertain whether the applicant is duly qualified and licensed to undertake such business.”

CLAUSE 5

THAT, clause 5 of the Bill be amended by inserting the words “including making specific provisions to ease the application process for persons with disabilities” immediately after the word “licence” appearing in paragraph (a)

CLAUSE 6

THAT, clause 6 of the Bill be amended—

- (a) in paragraph (a) by inserting the word “distributors” immediately after the word “suppliers”;
- (b) by deleting paragraph “(c)” and substituting therefor the following new paragraph “c) consult the relevant government entity responsible for standards in order to ensure that quality of goods produced and services delivered are of high standard”;
- (c) by inserting the following new paragraph immediately after paragraph (f)—
 - (g) ensure that it does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

(a) by inserting following new sub clauses immediately after sub clause 1—

“(1A) Each county government shall establish a Board to be known as the County Licensing Board to perform the function of granting, amending, renewing, restoring and replacing of licences under subsection(1).

(2A) A County Licensing Board established under subsection (1A) shall comprise—

- (a) the Director for the time being responsible for matters relating to revenue in the county government who shall be the Chairperson;
- (b) the Director for the time being responsible for matters relating to trade in the county government;
- (c) the Deputy County Commissioner in charge of the specific subcounty where the licence is to be issued;
- (d) a representative of persons with disabilities who shall be nominated by the National Council for Persons with Disabilities to represent persons with disabilities trading within the county; and
- (e) a subcounty administrator to represent the specific county where the licence is to be issued.

(2B) The Cabinet Secretary shall make regulations to give effect to the provisions of this section including—

- (a) the conduct and regulation of the business and affairs of the County Licensing Board;
- (b) the appointment of persons under subsection 2A (c) and (e) on a rotational and need basis depending on the subcounty where a licence is to be issued;
- (c) the appointment of the persons appointed under subsection 2A(d);
- (d) remuneration of Board Members;
- (e) staff of the Board.

(b)by inserting following new sub clauses immediately after subclause 2—

“(2A) The mechanisms referred to under subsection 2 and the platforms to facilitate electronic application of a licence shall be designed while taking into account the needs of persons with disabilities.”

CLAUSE 9

THAT, clause 9 of the Bill be amended —

(a) by deleting sub clause (2) and substituting therefor the following new sub clause—

“(2)A notice under subsection (1) shall be made within three days of receipt of the application and shall specify to whom such information shall be submitted.”;

- (b) by inserting the following new sub clause immediately after subclause (2)—
“(2A) An applicant shall be granted a period of seven days to furnish the information requested in the notice specified under subsection (1).

CLAUSE 10

THAT, clause 10 of the Bill be amended —

- (a) in sub clause (1) by inserting the words “and timely” immediately after the words “provide sufficient” appearing in paragraph(c);
(b) by inserting the following new sub clause immediately after sub clause 2—

“(2A) Pursuant to Article 210 of the Constitution, the imposition, waiver or variation of a licensing fee by a licensing authority shall be by way of legislation.”

CLAUSE 11

THAT, clause 11 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A licensing authority shall, where the respective legislation requires an application to be advertised, publish a notice of the application in at least three of the following platforms—

- (a) one daily newspaper of wide circulation within the county;
(b) in one local radio station;
(c) a designated public notice board at the county, ward and village levels;
(d) official website or social media platform.

CLAUSE 14

THAT, clause 14 of the Bill be amended in paragraph (a) by deleting the word “unconditionally”

CLAUSE 15

THAT, clause 15 of the Bill be amended in sub clause (1) by inserting the words “in writing” immediately after the words “inform the applicant”

CLAUSE 17

THAT clause 17 of the Bill be amended —

- (a) In sub clause 2 by deleting the words “and for the period it stipulated in the licence” appearing immediately after the words “date of licence it renews”

(b) by inserting the following new sub clause immediately after subclause (2)

“(2A) A licence shall be valid for the period stipulated in the licence:

Provided that a licence issued to a business intending to operate for one year or more shall be valid for one year from the date of issue”

CLAUSE 19

THAT the Bill be amended by deleting clause 19.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

(a) in sub clause (1) by inserting the following new paragraphs immediately after paragraph (c) —

“(d) obtains a licence fraudulently;

(e) operates a different business from that which it is licenced to operate”.

(b) by inserting the following new sub clauses immediately after sub clause (1)—

“(2) Each county government shall establish a committee to undertake the review of a decision to cancel a licence.

“(3) The committee established under subsection (2) shall comprise—

(a) the County Executive Committee Member for the time being responsible for matters finance;

(b) the County Executive Committee Member for the time being responsible for trade;

(c) two representatives from the Chamber of Commerce;

(d) the County Commissioner; and

(e) the County Attorney.

CLAUSE 24

THAT, clause 24 of the Bill be amended —

(a) in subclause 2 immediately after the words “respective county” by inserting the following words “taking into consideration the following—

i.nature and scope of the licensed activity,

ii.economic considerations,

iii.administrative and regulatory costs,

iv.public interest, and resource utilization

v. any synchronised licensing requirements or fee structures for specified categories of goods and services.

(b) by inserting the following new subclause 2 immediately after subclause (2) —
(2A) Pursuant to Subsection (2) the Council of Governors establish strategies and guidelines for —

1. synchronisation of licensing requirements and fee structures to facilitate free mobility of goods and provision of services across various counties;
2. a inter-county integrated digital platform for licencing of specified categories of goods and services.

(c) in subclause (4) by deleting paragraph (b)

CLAUSE 29

THAT, clause 29(1) of the Bill be amended—

- (a) in sub clause (1) by deleting the word “may” and substituting therefor the word “shall”;
- (b) in sub clause (1) by deleting the word “may” and substituting therefor the word “shall”

ANNEX ONE:
REPORT
ADOPTION
SCHEDULE



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION – 2024
DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ADOPTION SCHEDULE

Report on the Consideration and Adoption of Committee Report on;
The County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022)

| No | MEMBER NAME | SIGNATURE |
|-----|--|-----------|
| 1. | Hon. Gakuya James Mwangi, MP – <i>Chairperson</i> | |
| 2. | Hon. Kitany Marianne Jebet, MP – <i>Vice Chairperson</i> | |
| 3. | Hon. Dr. Oundo Wilberforce Ojiambo, MP | |
| 4. | Hon. Adagala Beatrice Kahai, MP | |
| 5. | Hon. Githinji Robert Gichimu, MP | |
| 6. | Hon. Kamene Joyce, MP | |
| 7. | Hon. Mwalyo Joshua Mbithi Mutua, MP | |
| 8. | Hon. Oluoch Anthony Tom, MP | |
| 9. | Hon. Guyo Adhe Wario, MP | |
| 10. | Hon. Korir Adams Kipsanai, MP | |
| 11. | Hon. Maina Mwago Amos, MP | |
| 12. | Hon. Sakimba Parashina Samuel, MP | |
| 13. | Hon. Wainaina Antony Njoroge, MP | |
| 14. | Hon. Waithaka John Machua, MP | |



ANNEX TWO:
COMMITTEE
MINUTES

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES, FOR THE CONSIDERATION AND ADOPTION OF THE REPORT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILL NO. 9 OF 2022) HELD AT THE HILTON GARDEN INN HOTEL ON WEDNESDAY, 17TH APRIL 2024, AT 10.00 AM

PRESENT

1. Hon. Gakuya James Mwangi, MP - **Chairperson**
2. Hon. Kitany Marianne Jebet, MP - **Vice-Chairperson**
3. Hon. Adagala Beatrice Kahai, MP
4. Hon. Githinji Robert Gichimu, MP
5. Hon. Kamene Joyce, M.P
6. Hon. Mwalyo Joshua Mbithi Mutua, MP
7. Hon. Oluoch Anthony Tom, MP
8. Hon. Korir Adams Kipsanai, MP
9. Hon. Sakimba Parashina Samuel, MP
10. Hon. Waithaka John Machua, MP

APOLOGIES.

1. Hon. Maina Mwago Amos, MP
2. Hon. Dr. Oundo Wilberforce Ojiambo M.P
3. Hon. Guyo Adhe Wario, M.P
4. Hon Maina Mwago Amos
5. Hon. Wainaina Antony Njoroge, M.P.

SECRETARIAT

1. Mr. Ellam Omuhinda - Clerk Assistant III
2. Ms. Doreen Karami - Senior Legal Counsel
3. Ms. Nancy Chepkemoi - Legal Counsel II
4. Ms. Elzy Cherop - Legal Counsel II
5. Ms. Loise Olesia - Fiscal Analyst
6. Ms. Priscilla Saidi - Research Officer III
7. Mr. Arkan Mumin - Research Officer III
8. Ms. Floren Wanja - Protocol Officer
9. Mr. Daniel Psrimoi - Media Relations officer
10. Ms. Peris Kaburi - Serjeant at Arms
11. Mr. Shekhuna Abubakar - Legal Intern

AGENDA

1. Preliminaries
2. Confirmation of Minutes
3. **Consideration and Adoption of the Report on the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022),**
4. **Any Other Business**
5. Adjournment

MIN. NO. NA/TRADE/2024/021: PRELIMINARIES

The meeting was called to order at 10:00 am with a word of prayer from the Chairperson. This was later followed by an introduction from the Members. Thereafter, the agenda was adopted having been proposed by Hon. Korir Adams Kipsanai, M.P and seconded by Hon. Sakimba Parashina Samuel, MP.

MIN. NO. NA/TRADE/2024/022:

CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO. NA/TRADE/2024/023:

**CONSIDERATION AND ADOPTION OF THE
DRAFT REPORT OF
THE COUNTY LICENSING (UNIFORM
PROCEDURES) BILL (SENATE BILL NO. 9
OF 2022)**

COMMITTEE OBSERVATIONS

The Committee, having considered the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022) made the following observations and resolutions-

1. In Clause 2, the Committee proposed an amendment to enhance clarity in the definition of the term “ Cabinet Secretary” by clarifying that it is the Cabinet Secretary for the time being responsible for matters relating to trade. This was proposed by the National Treasury as well as the Kenya Private Sector Alliance (KEPSA).
2. The Committee proposed that the definition of a licensing authority under Clause 2 be amended to refer to the proposed licensing boards to be established by counties to undertake the function of licensing.
3. The Committee proposed an amendment to delete the definition of County Executive Member under Clause 2, since the definition is not consistent with the content of the Clauses in this Act. The bill does not address this definition.
4. The National Treasury proposed an amendment to Clause 3(c), to specify the year of the Act which is *Access to Information Act, 2016*. The Committee however recommended that, the Clause remains as is as the citation of the Act is provided for in the marginal note.
5. The Committee proposed an amendment to Clause 4 to include consultations between professional bodies and county governments before the licensing of businesses and professionals operating under umbrella professional bodies. This is to prevent the issuance of licenses to impostors.
6. The committee proposed an amendment to clause 5 to make the application process more accessible for persons with disabilities. and to promote inclusivity and equality for all.
7. Taking into consideration the views of the public, an amendment was proposed to include in Clause 6(a), that the County Governments shall also protect the rights of distributors. The Clause had only included; consumers, producers, suppliers and service providers.

8. Clause 6(c) provides that County Governments should ensure that the quality of goods produced and services delivered are of high standard. The Committee observed that this is likely to infringe on the mandate of KEBS. The Committee proposed that, to address this an amendment to add the phrase “in consultation with relevant government agencies” at the end of the clause should suffice. It was noted that, the matter was raised during public hearing meetings, in Kisumu as well as by the Kenya Association of Manufacturers (KAM).
9. The committee approved the proposal by the National Treasury which proposed the following new paragraph in Clause 6 on the obligations of County Governments,:
 - g) Ensure that it does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution. The Committee considered and approved the proposed amendment.
10. The Committee recommended an amendment to Clause 7 to incorporate the consideration of the needs of PWDs in the electronic application of a grant, renewal, transfer or replacement of a license.
11. The committee observed that members of the public had proposed that issuance of licences be the mandate of a body or committee and not left to the whims of an individual such as a director in the county government. It recommended amendment of clause 7 to empower county governments to establish licensing boards for purposes of undertaking functions of grant, renewal, transfer, or replacement of a licence. Additionally, the committee proposed the following persons to form the membership of the proposed body –
 - i. the Director for the time responsible for matters relating to revenue in the county government;
 - ii. the Director for the time being responsible for matters relating to trade in the county government;
 - iii. the Deputy County Commissioner;
 - iv. a representative of persons with disabilities who shall be nominated by the National Council for Persons with Disabilities to represent persons with disabilities trading within the county; and
 - v. subcounty administrators.
12. The Committee upheld the three-year period proposed amendment for the consideration under Clause 7(2), proposing that the mechanisms to enable electronic application for grant renewal, transfer or replacement of a license shall be put in place within four or five years as opposed to three years, which is in the bill. The committee however proposed an amendment that the said mechanisms should be user friendly for persons with disabilities.
13. The committee recommended that Clause 9(1) of the bill be amended to prescribe a timeline of seven days where an applicant is notified to provide any additional information requested by the licensing authority.
14. The Committee proposed an amendment to Clause 10 to ensure that the licensing authority may only vary fees payable for a license by way of legislation. Further, an amendment be

inserted in subclause (1) to add the word "timely" to ensure the public receives sufficient and timely information for purposes of decision making.

15. The Committee proposed that clause 11 to the effect that the licensing authority shall for purposes of public participation, place advertisements in the following in at least three of the specified platforms;
 - i) At least at one daily newspaper wide circulation in the county;
 - ii) In a local radio station;
 - iii) Designated public notice boards at the County, ward and village levels as;
 - iv) Official websites and social media platforms.
16. The Committee proposed an amendment to Clause 14(c), to provide that a licensing authority may reject an application with reasons. The Bill had only stated that the licensing authority may reject an application without giving reasons.
17. The Committee proposed that clause 14(a), be amended to ensure that a licensing authority does not issue a licence unconditionally.
18. The Committee observed that clause 15 ought to be amended to provide for communication of a decision to be in writing.
19. The committee proposed that clause 17 be amended to make provision concerning the duration of a licence. In this regard, a licence may contain a specific validity period but for purposes of licences for business which is to be carried out long term (more than one year) the licence granted shall be valid for a period of one year from the date of issuance.
20. The committee proposed that clause 19 on variation of licence conditions be deleted in entirety
21. With respect to clause 20 on cancellation of a licence, the committee proposed additional grounds for cancellation of a licence and also observed that there is need to protect traders from abuse of powers of the licensing authorities. In this regard it proposes the establishment by the county governments of review committees to review cancelled licences to comprise the following members-
 - i) the County Executive Committee Member for the time being responsible for matters finance;
 - ii) the County Executive Committee Member for the time being responsible for trade;
 - iii) two representatives from the Chamber of Commerce;
 - iv) the County Commissioner; and
 - v) the County Attorney.
22. The Committee proposed an amendment to Clause 24(4)(a) which provides that before a licensing authority imposes a licensing fee, it shall be subject to the approval of the County Assemblies. The same is proposed under clause 10 which requires imposition of fees to be by way of legislation.

23. The Committee further proposed deletion of Clause 24(4) which empowers licensing authority to impose an annual licensing fee for administering and monitoring a license as this is created unjustifiable financial burden to traders.
24. The Committee considered and approved the proposal by Kenya Association of Manufacturers, to include the matters that shall be taken into consideration in the formulation of a licensing fees policy for the imposition of fees and issuance of licenses by respective counties. In this regard Clause 24(2) is to be amended by inserting the following;
- Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. Taking into consideration the following:
- a) nature and scope of the licensed activity,
 - b) economic considerations,
 - c) administrative and regulatory costs,
 - d) public interest, and resource utilization
25. The Committee also received a proposal from Kenya Association of Manufacturers proposing to avoid multiplicity of issuance of licences as well as imposition of multiple fees for goods in transit across various counties. The implementation of the proposal may be coordinated and implemented upon approval by the Council of Governors and done through-
- (a) Synchronising of licensing requirements and fee structures for such goods;
 - (c) establishment of an integrated digital platform
26. The Committee proposed an amendment to Clause 29 to replace the word “may” with “shall”, such that it obligates counties to enact legislation to give further effect to the provisions of the Act in the respective county.
152. The Committee, having considered the County Licencing (Uniform Procedure) Bill, 2022 (Senate Bill No. 9 of 2022) recommends that the Bill be **agreed to; subject to the amendments contained in the Schedule.**

COMMITTEE'S PROPOSED AMENDMENTS

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “Cabinet Secretary” by deleting the word “licensing” and substituting therefor the word “trade”;
- (b) by deleting the definition of the term “County Executive Committee Member”; and
- (c) in the definition of the term “licensing authority” by deleting the words “a person authorised by legislation to issue a licence” and substituting therefor the words “the County Licensing Boards established by county governments under section 7”

CLAUSE 4

THAT, clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (1) —

“(2) A licensing authority shall, in considering an application for a licence to carry out business which is ordinarily regulated by a professional body, undertake due diligence to ascertain whether the applicant is duly qualified and licensed to undertake such business.”

CLAUSE 5

THAT, clause 5 of the Bill be amended by inserting the words “including making specific provisions to ease the application process for persons with disabilities” immediately after the word “licence” appearing in paragraph (a)

CLAUSE 6

THAT, clause 6 of the Bill be amended—

- (a) in paragraph (a) by inserting the word “distributors” immediately after the word “suppliers”;
- (b) by deleting paragraph “(c)” and substituting therefor the following new paragraph “c) consult the relevant government entity responsible for standards in order to ensure that quality of goods produced and services delivered are of high standard”;
- (c) by inserting the following new paragraph immediately after paragraph (f)—
 - (g) ensure that it does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

- (a) by inserting following new sub clauses immediately after sub clause 1—

“(1A) Each county government shall establish a Board to be known as the County Licensing Board to perform the function of granting, amending, renewing, restoring and replacing of licences under subsection(1).

- (2A) A County Licensing Board established under subsection (1A) shall comprise—
 - (a) the Director for the time being responsible for matters relating to revenue in the county government who shall be the Chairperson;
 - (b) the Director for the time being responsible for matters relating to trade in the county government;
 - (c) the Deputy County Commissioner in charge of the specific subcounty where the licence is to be issued;
 - (d) a representative of persons with disabilities who shall be nominated by the National Council for Persons with Disabilities to represent persons with disabilities trading within the county; and
 - (e) a subcounty administrator to represent the specific county where the licence is to be issued.

(2B) The Cabinet Secretary shall make regulations to give effect to the provisions of this section including—

- (a) the conduct and regulation of the business and affairs of the County Licensing Board;
- (b) the appointment of persons under subsection 2A (c) and (e) on a rotational and need basis depending on the subcounty where a licence is to be issued;
- (c) the appointment of the persons appointed under subsection 2A(d);
- (d) remuneration of Board Members;
- (e) staff of the Board.

(b) by inserting following new sub clauses immediately after subclause 2—

“(2A) The mechanisms referred to under subsection 2 and the platforms to facilitate electronic application of a licence shall be designed while taking into account the needs of persons with disabilities.”

CLAUSE 9

THAT, clause 9 of the Bill be amended —

(a) by deleting sub clause (2) and substituting therefor the following new sub clause—

“(2)A notice under subsection (1) shall be made within three days of receipt of the application and shall specify to whom such information shall be submitted.”;

(b) by inserting the following new sub clause immediately after subclause (2)—

“(2A) An applicant shall be granted a period of seven days to furnish the information requested in the notice specified under subsection (1).

CLAUSE 10

THAT, clause 10 of the Bill be amended —

(a) in sub clause (1) by inserting the words “and timely” immediately after the words “provide sufficient” appearing in paragraph(c);

(b) by inserting the following new sub clause immediately after sub clause 2—

“(2A) Pursuant to Article 210 of the Constitution, the imposition, waiver or variation of a licensing fee by a licensing authority shall be by way of legislation.”

CLAUSE 11

THAT, clause 11 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A licensing authority shall, where the respective legislation requires an application to be advertised, publish a notice of the application in at least three of the following platforms—

- (a) one daily newspaper of wide circulation within the county;
- (b) in one local radio station;
- (c) a designated public notice board at the county, ward and village levels;
- (d) official website or social media platform.

CLAUSE 14

THAT, clause 14 of the Bill be amended in paragraph (a) by deleting the word “unconditionally”

CLAUSE 15

THAT, clause 15 of the Bill be amended in sub clause (1) by inserting the words “in writing” immediately after the words “inform the applicant”

CLAUSE 17

THAT clause 17 of the Bill be amended —

- (a) In sub clause 2 by deleting the words “and for the period it stipulated in the licence “appearing immediately after the words “date of licence it renews”
- (b) by inserting the following new sub clause immediately after subclause (2)
 - “(2A) A licence shall be valid for the period stipulated in the licence:

Provided that a licence issued to a business intending to operate for one year or more shall be valid for one year from the date of issue”

CLAUSE 19

THAT the Bill be amended by deleting clause 19.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

- (a) in sub clause (1) by inserting the following new paragraphs immediately after paragraph (c) —
 - “(d) obtains a licence fraudulently;
 - (e) operates a different business from that which it is licenced to operate”.
- (b) by inserting the following new sub clauses immediately after sub clause (1)—
 - “(2) Each county government shall establish a committee to undertake the review of a decision to cancel a licence.
 - “(3) The committee established under subsection (2) shall comprise—

- (a) the County Executive Committee Member for the time being responsible for matters finance;
- (b) the County Executive Committee Member for the time being responsible for trade;
- (c) two representatives from the Chamber of Commerce;
- (d) the County Commissioner; and
- (e) the County Attorney.

CLAUSE 24

THAT, clause 24 of the Bill be amended —

- (a) in subclause 2 immediately after the words “respective county” by inserting the following words “taking into consideration the following—
 - i. nature and scope of the licensed activity,
 - ii. economic considerations,
 - iii. administrative and regulatory costs,
 - iv. public interest, and resource utilization
 - v. any synchronised licensing requirements or fee structures for specified categories of goods and services.
- (b) by inserting the following new subclause 2 immediately after subclause (2) —
 - (2A) Pursuant to Subsection (2) the Council of Governors establish strategies and guidelines for —
 - 1. synchronisation of licensing requirements and fee structures to facilitate free mobility of goods and provision of services across various counties;
 - 2. an inter-county integrated digital platform for licencing of specified categories of goods and services.
- (c) in subclause (4) by deleting paragraph (b)

CLAUSE 29

THAT, clause 29(1) of the Bill be amended—

- (a) in sub clause (1) by deleting the word “may” and substituting therefor the word “shall”;
- in sub clause (1) by deleting the word “may” and substituting therefor the word “shall”

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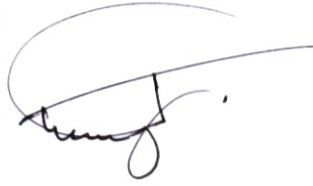
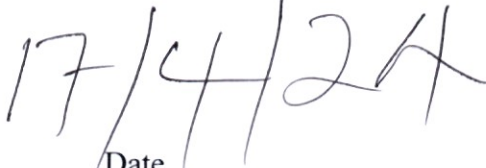
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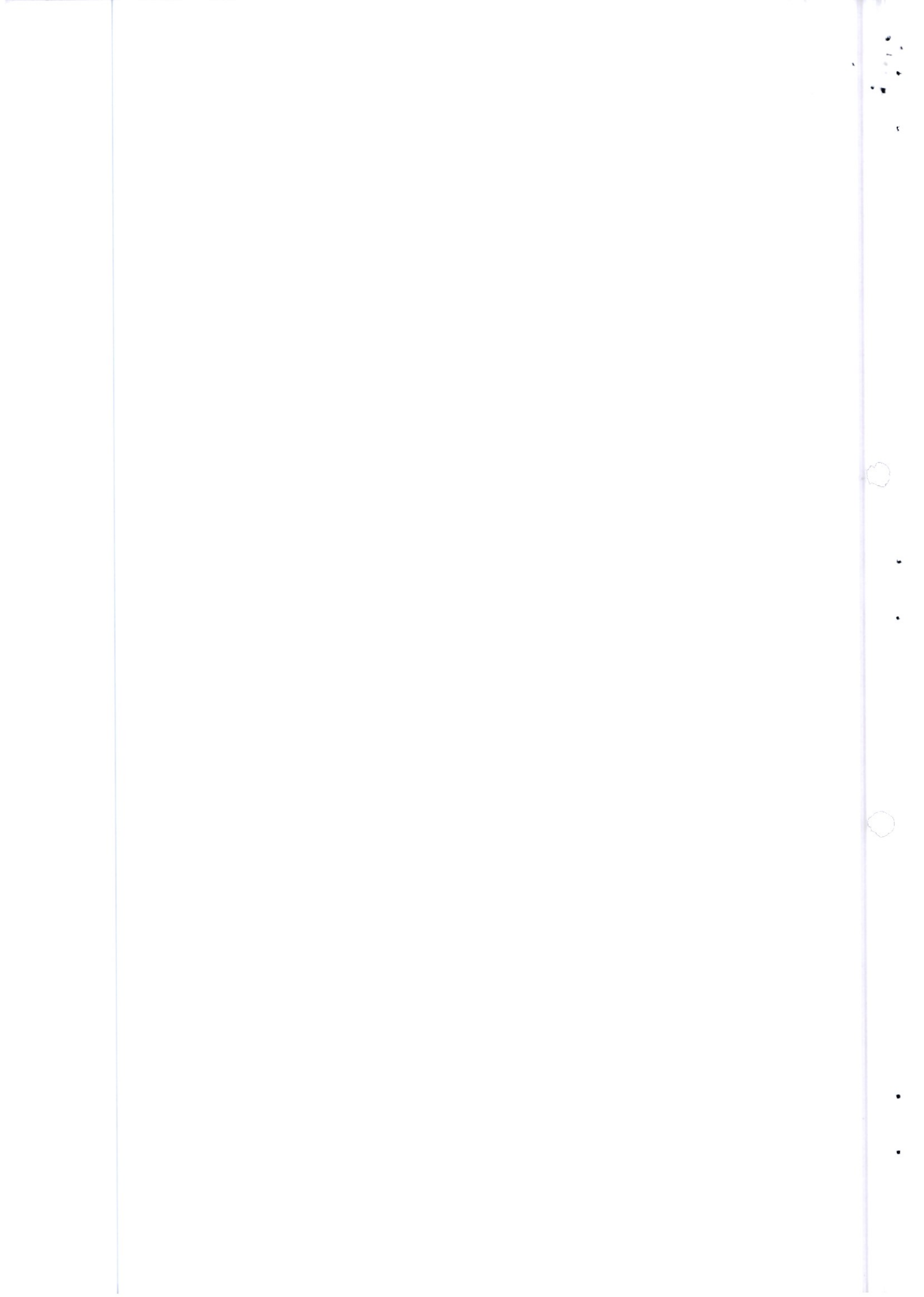
MIN. NO. NA/ TRADE /2024/024: ADOPTION OF THE REPORT

The Committee adopted the Report after having been proposed by Hon. Adagala Beatrice Kahai, M.P and seconded by Hon. Oluoch Anthony Tom, M.P

Sign..... Date.....

**HON. GAKUYA JAMES MWANGI, MP
CHAIRPERSON**



ANNEX THREE:
NEWSPAPER
ADVERTISEMENT
ON PUBLIC
PARTICIPATION



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT- THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL
ASSEMBLY OF THE COUNTY LICENSING (UNIFORM
PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022)

INVITATION TO PUBLIC HEARINGS

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022) was Read a First Time on **Wednesday, 28th February 2024** and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting to the House;

IT IS NOTIFIED that the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) which is now **co-sponsored by the Leader of the Majority Party** seeks to provide for a national legislative framework of uniform procedures for the licensing of various activities by counties. The uniform procedures under the Bill seek to ensure certainty in the licensing process and encourage private-sector players to engage in business activities in the counties.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Departmental Committee on Trade, Industry and Co-operatives shall undertake **public hearings on the Bill in eight (8) counties from 2nd to 6th April 2024** as per the schedule below—

| S/NO. | COUNTY | VENUE | DATE | TIME |
|-------|-------------|---------------------------|-----------------------------|----------|
| 1. | Kisumu | Grace Onyango Social Hall | 2 nd April, 2024 | 10.00 am |
| 2. | Nairobi | KICC | 2 nd April, 2024 | 10.00 am |
| 3. | Kakamega | Kakamega Social Hall | 3 rd April, 2024 | 10.00 am |
| 4. | Nyeri | Nyeri Town CDF Hall | 3 rd April, 2024 | 10.00 am |
| 5. | Uasin Gishu | Eldoret Town Hall | 4 th April, 2024 | 10.00 am |
| 6. | Embu | Talent Academy | 4 th April, 2024 | 10.00 am |
| 7. | Kilifi | Mama Asha Juwaba Hall | 6 th April, 2024 | 10.00 am |
| 8. | Garissa | Garissa Library Hall | 6 th April, 2024 | 10.00 am |

The Committee shall discuss the contents of the Bill and its implications during the hearings. Members of the public are invited to attend and share their views on the Bill during the sessions.

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

11th DAY
OF THE THIRD SESSION (2024)
OF THE NATIONAL ASSEMBLY

IN THE MATTER OF THE CONSTITUTION

OF THE NATIONAL ASSEMBLY
CONSTITUTIONAL AMENDMENT BILL, 2023
(SENATE BILL NO. 74)

ORANDA

to facilitate public participation
in the legislative and other business of Parliament and its
Committees and the National Assembly Standing Order 127(3) requires
House Committees considering Bills to facilitate public participation;

National Assembly Bill No. 74
relating to the relevant Committee for

2023 (National Assembly Bill
on National Cohesion and Equal

Act, 2008 to align its provisions
with the Constitution of Kenya and to give effect
to the provisions of the Constitution of national unity and non-

division comprising a Chairperson
appointed and approved by the
National Assembly, renewable once;

formulating and implementing
policies relating to national unity; collaborating
with other stakeholders in the reform of practices, policies,
and procedures; identifying factors
affecting national unity; promoting
national, peaceful coexistence,
solidarity in all aspects of life;
national values and principles
of conflict management; and
peaceful resolution of conflict;

enacted by a resolution made by

enacted through victimisation;
discrimination in the
exercise of their attendant penalties

complaints, including through
committees and mediation

; and the Commissioners

and the Standing
Committee invites the public and
the National Assembly

O. Box 41842-00100,
Parliament Buildings, Nairobi; or
on 28th April 2024 at 5.00 p.m.

Parliament Buildings and
the National Assembly



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT- THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL
ASSEMBLY OF THE COUNTY LICENSING (UNIFORM
PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022)

INVITATION TO PUBLIC HEARINGS

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022) was Read a First Time on **Wednesday, 28th February 2024** and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting to the House;

IT IS NOTIFIED that the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) which is now **co-sponsored by the Leader of the Majority Party** seeks to provide for a national legislative framework of uniform procedures for the licensing of various activities by counties. The uniform procedures under the Bill seek to ensure certainty in the licensing process and encourage private-sector players to engage in business activities in the counties.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Departmental Committee on Trade, Industry and Co-operatives shall undertake **public hearings on the Bill in eight (8) counties** from **2nd to 6th April 2024** as per the schedule below—

| S/NO. | COUNTY | VENUE | DATE | TIME |
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| 1. | Kisumu | Grace Onyango Social Hall | 2 nd April, 2024 | 10.00 am |
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| 7. | Kilifi | Mama Asha Juwaba Hall | 6 th April, 2024 | 10.00 am |
| 8. | Garissa | Garissa Library Hall | 6 th April, 2024 | 10.00 am |

The Committee shall discuss the contents of the Bill and its implications during the hearings. Members of the public are invited to attend and share their views on the Bill during the sessions.

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.

S. NJOROGE, CBS
NATIONAL ASSEMBLY



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT—THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE COUNTY
LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) sponsored by **Sen. Omar Mariam Sheikh, MP** was passed by the Senate and referred to the National Assembly where it was read a First Time on **Wednesday 28th February, 2023**, and committed to the Departmental Committee on Trade, Industry and Co-operatives for consideration and reporting to the House;

IT IS NOTIFIED that the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) which is now **co-sponsored by the Leader of the Majority Party** seeks to provide for a national legislative framework of uniform procedures for the licensing of various activities by counties. The uniform procedures under the Bill seek to ensure certainty in the licensing process and encourage private-sector players to engage in business activities in the counties.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bill to the **Departmental Committee on Trade, Industry and Co-operatives**.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842- 00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to **cna@parliament.go.ke** to be received on or before **Wednesday, 13th March, 2024, at 5.00 p.m.**

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings, and on **www.parliament.go.ke/the-national-assembly/house-business/bills**.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

7th March, 2024

"For the Welfare of Society and the Just Government of the People"



ANNEX FOUR:
LETTERS SEEKING
STAKEHOLDERS'
SUBMISSIONS



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote

REF: NA/DDC/ TRADE/2024/066

28th March, 2024

Ms. Maureen Njeri
The County Executive Committee Member- Trade
Nairobi County
City Hall Way
NAIROBI

Ms. Tarichia Diana Kendi
The County Executive Committee Member- Trade
P.O. Box 1112- 10100
NYERI

Mr. Francis Ndwiga
The County Executive Committee Member- Trade
P.O Box 2871- 60100
EMBU

Hon. Mohammed Suleiman
The County Executive Committee Member- Trade
Garissa County Headquarters
GARISSA

Ms. Farida Salim
The County Executive Committee Member- Trade
10th Floor, Prosperity House (Former Nyanza Provincial Headquarters Building)
P.O. Box 2738- 40100
KISUMU

Ms. Rachel Atamba
The County Executive Committee Member- Trade
P.O Box 36- 50100
KAKAMEGA

Eng. Martha Cheruto
The County Executive Committee Member- Trade
P.O. Box 40-30100
ELDORET

The County Executive Committee Member- Trade
P.O. Box 519-80108
KILIFI

Dear Hon. Subeimen

RE: PUBLIC HEARINGS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILL NO. 9) of 2022

The National Assembly Departmental Committee on Trade, Industry and Cooperatives is mandated under Standing Order 216 (5) (c) to, among others, "*study and review all legislation referred to it*".

Pursuant to provisions of Standing Order 127 (1), the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022), underwent the First Reading and was committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration.

The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties.

Pursuant to Article 118(1)(b) of the Constitution, and Standing Order 127(3) which provides for public participation, the Committee will hold public hearings in **Nairobi, Kisumu, Kakamega, Embu, Garissa, Nyeri, Uasin-Gishu and Kilifi Counties**, to gather views and submissions of the public regarding the Bill.

The purpose of this letter, therefore, is to inform you of the above public hearings to be held in your County on the dates indicated in the attached schedule, and invite you to make submissions on behalf of your County.

Our liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on Tel No. **0717 442 440**, email: rose.mudibo@parliament.go.ke, **Mr. Ellam Omuhinda**, Tel No. **0755 883 451**, email; ellam.omuhinda@parliament.go.ke, and **Ms. Everlyn K. Orina** Tel No. **0711 201 833** or email: everlyn.orina@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to;

H.E. Sakaja Arthur Johnson, CBS
The Governor, Nairobi County
City Hall Way
NAIROBI

H.E. Mutahi Kahiga
The Governor, Nyeri County
P.O Box 1112- 10100
NYERI

H.E. Hon. Cecily Mbarire, MGH
The Governor, Embu County
P.O Box 2871- 60100
EMBU

H.E. Nathif J Adam, EGH
The Governor, Garissa County
Garissa County Headquarters
GARISSA

H.E. Prof. Peter Anyang' Nyong'o, EGH
The Governor, Kisumu County
Prosperity House (Former Nyanza Provincial Headquarters Building)
P.O Box 2738- 40100
KISUMU

H.E. Hon. FCPA Fernandes Barasa, OGW
The Governor, Kakamega County
P.O Box 36- 50100
KAKAMEGA

H.E. Dr. Jonathan Bii Chelilim, E.G.H
The Governor, Uasin Gishu County
P.O Box 40- 30100
ELDORET

H.E. Gideon Maitha Mung'aro, OGW
The Governor, Kilifi County
P.O Box 519- 80108
KILIFI





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NA/DDC/TRADE/2024/055

7th March, 2024

James Muraguri
Chief Executive Officer
Institute of Public Finance (IPF)
Muringa Rd.
NAIROBI

Dear *Mr. Muraguri*,

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

The Departmental Committee on Trade, Industry, and Cooperative, is established pursuant to Standing Order 216(5)(c) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it'.

The Committee is in the process of considering the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) (copy attached). The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties, and encourage private sector players to do business in the counties.

In compliance with the provisions of Article 118 (1) (b) of the Constitution, and Standing Order 127(1), the Committee invites you for a meeting to deliberate and give your submissions on the Bill. The meeting will be held on **Thursday, 14th March, 2024, at 10.00 a.m.**, in the **Mini Chamber, County Hall, Parliament Buildings**.

You are requested to submit electronic copies of your comments to the Committee, through the email address can@parliament.go.ke not later than **Wednesday 13th March, 2024**. You are further requested to appear before the Committee with twenty (20) hard copies of your submissions.

The liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on **Tel No. 0717 442 440**, email; rose.mudibo@parliament.go.ke, **Mr. Ellam Umuhinda**, **Tel No. 0755 883 451**, email; ellam.umuhinda@parliament.go.ke, and **Ms. Evelyn K. Orina** **Tel No. 0711 201 833** or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



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NA/DDC/TRADE/2024/048

7th March, 2024

Mr. Antony Mwangi
Chief Executive Officer
Kenya Association of Manufacturers (KAM)
15 Mwanzi Road Westlands

NAIROBI

Dear *M. Mwangi*:

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

The Departmental Committee on Trade, Industry, and Cooperative, is established pursuant to Standing Order 216(5)(c) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it'.

The Committee is in the process of considering the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) (copy attached). The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties, and encourage private sector players to do business in the counties.

In compliance with the provisions of Article 118 (1) (b) of the Constitution, and Standing Order 127(1), the Committee invites you for a meeting to deliberate and give your submissions on the Bill. The meeting will be held on **Thursday, 14th March, 2024, at 10.00 a.m.**, in the **Mini Chamber, County Hall, Parliament Buildings**.

You are requested to submit electronic copies of your comments to the Committee, through the email address can@parliament.go.ke not later than **Wednesday 13th March, 2024**. You are further requested to appear before the Committee with twenty (20) hard copies of your submissions.

The liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on Tel No. 0717 442 440, email; rose.mudibo@parliament.go.ke, **Mr. Ellam Umuhinda**, Tel No. 0755 883 451, email; ellam.umuhinda@parliament.go.ke, and **Ms. Everlyn K. Orina** Tel No. 0711 201 833 or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY





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NA/DDC/TRADE/2023/058

25th January, 2024

Ms. Esther Ngari
Managing Director
Kenya Bureau of Standards
Popo Road, Off Mombasa Road
P.O Box 54974-00200
NAIROBI

Dear *Madam,*

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES, REGARDING THE DUTY-FREE IMPORTATION OF EDIBLE OIL BY THE KENYA NATIONAL TRADING CORPORATION (KNTC)

The Departmental Committee on Trade, Industry, and Cooperatives is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to *inter alia*, 'investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments; and study the programme and policy objectives of Ministries and Departments and the effectiveness of the implementation'.

The Committee is currently inquiring into the duty-free importation policy implemented by the Kenya National Trading Corporation (KNTC) concerning the acquisition of edible oil.

The Committee in its sitting held on 19th January, 2024 resolved to invite the management of the Kenya Bureau of Standards (KEBS) to a meeting to deliberate further on-

- i. The report by KEBS dated 5th September, 2023, which stated that the edible oil consignment should be shipped back to the country of origin for compliance as regards Vitamin A, and that the oil contained insoluble impurities; and
- ii. whether the edible oil consignment is fit for human consumption.

In this regard, the Departmental Committee on Trade, Industry, and Cooperatives proposes to hold a meeting with you on **Wednesday 31st January, 2024**, in the **Committee Room** on the **2nd Floor, Continental House, Parliament Buildings** at 12 noon. You may be accompanied

by technical officers who will assist in responding to issues that may arise in the course of the Committee proceedings.

Kindly provide twenty (20) copies of your submissions which may be delivered to the Committee through, the **Office of the Clerk of the National Assembly, Parliament Buildings, Parliament Road, Nairobi**, while soft copies may be emailed to the Office of the Clerk via email: ena@parliament.go.ke to be received not later than **30th January, 2024**.

The liaison officers for this meeting are **Ms. Rose Mudiibo, OGW**, who may be contacted on Tel No. 0717 442 440 or email: rmudiibo@gmail.com, **Mr. Ellam Omuhinda** on Tel. No. 0755 883 451, email: ellam.omuhinda@parliament.go.ke and **Ms. Evelyn Klaudia Orina**, on Tel. No. 0711 201 833 or email: evelyn.orina@parliament.go.ke.

Yours


SERAH M. KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



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When replying, please quote

NA/DDC/TRADE/2024/049

7th March, 2024

Mr. Joash Dache, MBS
Commission Secretary/ Chief Executive Officer (CEO)
Kenya Law Reform Commission
Taifa Road
NAIROBI

Dear *Joash*

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

The Departmental Committee on Trade, Industry, and Cooperative, is established pursuant to Standing Order 216(5)(c) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it'.

The Committee is in the process of considering the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) (copy attached). The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties, and encourage private sector players to do business in the counties.

In compliance with the provisions of Article 118 (1) (b) of the Constitution, and Standing Order 127(1), the Committee invites you for a meeting to deliberate and give your submissions on the Bill. The meeting will be held on **Thursday, 14th March, 2024, at 10.00 a.m.**, in the **Mini Chamber, County Hall, Parliament Buildings**.

You are requested to submit electronic copies of your comments to the Committee, through the email address can@parliament.go.ke not later than **Wednesday 13th March, 2024**. You are further requested to appear before the Committee with twenty (20) hard copies of your submissions.

The liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on Tel No. 0717 442 440, email; rose.mudibo@parliament.go.ke, **Mr. Ellam Umuhinda**, Tel No. 0755 883 451, email; ellam.umuhinda@parliament.go.ke, and **Ms. Everlyn K. Orina** Tel No. 0711 201 833 or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



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When replying, please quote

NA/DDC/TRADE/2024/051

7th March, 2024

Mr. Patrick Nyangweso
Chief Executive Officer
Kenya National Chamber of Commerce & Industry
Heritan House (Ground Floor), Woodlands Road
P.O. Box 00200-47024

NAIROBI

Dear *Mr. Nyangweso*

**RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING
(UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY
THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND
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Yours

JEREMIAH NDOMBI, MBS

For: CLERK OF THE NATIONAL ASSEMBLY



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When replying, please quote

NA/DDC/TRADE/2024/050

7th March, 2024

Ms. Carole Kariuki
The CEO
Kenya Private Sector Alliance (KEPSA)
7th Floor, South Tower
Two Rivers, Limuru Rd.
P.O. Box 3556-00100

NAIROBI

Dear *Ms Kariuki*:

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

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No. 0755 883 451. email: ellam.umuhinda@parliament.go.ke. and Ms. Everlyn K. Orina Tel
No. 0711 201 833 or email: everlyn.orina@parliament.go.ke

Yours



JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY



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NA/DDC/TRADE/2024/047

7th March, 2024

H.E. Ann Waiguru, EGH
Chairperson Council of Governors
Off Waiyaki Way
P.O. Box 40401-00100
NAIROBI

Dear *H. E. Waiguru*

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

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Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy: Ms. Mary Mwiti,
Chief Executive Officer (CEO),
Council of Governors,
Off Waiyaki Way,
P.O. Box 4040 00100,
NAIROBI.



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NA/DDC/TRADE/2024/052

7th March, 2024

Ms. Faith Odhiambo
Chairperson, Law Society of Kenya
Gitanga Road
P.O. Box 72219-00200

NAIROBI

Dear *Ms Odhiambo*

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

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Yours


JEREMIAH NDOMBI, MBS
For: **CLERK OF THE NATIONAL ASSEMBLY**





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NA/DDC/TRADE/2024/053

7th March, 2024

Dr. Eusebius Juma Mukhwana, PhD
Principal Secretary
State Department for Industry
Ministry of Investments, Trade and Industry
NAIROBI

Dear *Dr. Mukhwana*

**RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING
(UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY
THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND
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Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy:

Ms. Rebecca Miano, EGII,

Cabinet Secretary,

Ministry of Investments, Trade and Industry,

17th Floor, NSSF Building Block A,

NAIROBI.



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When replying, please quote

NA/DDC/TRADE/2024/054

7th March, 2024

Dr. Chris K. Kiptoo, CBS
Principal Secretary
The National Treasury
The National Treasury & Economic Planning
Treasury Buildings, Harambee Avenue
NAIROBI

Dear *Dr. Kiptoo*

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

The Departmental Committee on Trade, Industry, and Cooperative, is established pursuant to Standing Order 216(5)(c) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it'.

The Committee is in the process of considering the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) (copy attached). The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties, and encourage private sector players to do business in the counties.

In compliance with the provisions of Article 118 (1) (b) of the Constitution, and Standing Order 127(1), the Committee invites you for a meeting to deliberate and give your submissions on the Bill. The meeting will be held on **Thursday, 14th March, 2024, at 10.00 a.m.**, in the **Mini Chamber, County Hall, Parliament Buildings**.

You are requested to submit electronic copies of your comments to the Committee, through the email address can@parliament.go.ke not later than **Wednesday 13th March, 2024**. You are further requested to appear before the Committee with twenty (20) hard copies of your submissions.

The liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on Tel No. 0717 442 440, email; rose.mudibo@parliament.go.ke, **Mr. Ellam Umuhinda**, Tel No. 0755 883 451, email; ellam.umuhinda@parliament.go.ke, and **Ms. Everlyn K. Orina** Tel No. 0711 201 833 or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy:

Prof. Njuguna Ndung'u, CBS

Cabinet Secretary

The National Treasury & Economic Planning

Treasury Buildings, Harambee Avenue

NAIROBI

ANNEX FIVE:
SUBMISSIONS BY
STAKEHOLDERS





Kenya Pharmaceutical Association

CENTRAL BRANCH

P.O. BOX 20771 - 00202, KNH, NAIROBI.

PHONE: 0724 106 753 EMAIL: info@kpcentral.or.ke, admin@kpcentral.or.ke, WEBSITE: kpcentral.or.ke

OFFICE LOCATION: PRIME BUSINESS CENTRE, First Floor, ROOM 1 Commercial Street, THIKA.

SUBMISSION BY THE KENYA PHARMACEUTICAL ASSOCIATION CENTRAL BRANCH

On the Harmonization of County Licensing Bill, 2022

Date: April 1, 2024

To: National Assembly Clerk

Subject: Submission on the Harmonization of County Licensing Bill, 2022

Introduction

The Kenya Pharmaceutical Association (KPA) CENTRAL Branch is an organization representing pharmaceutical technologist professionals across the Central region of Kenya. With a commitment to advancing pharmaceutical practice and ensuring access to quality healthcare for all Kenyans, the KPA CENTRAL Branch plays a pivotal role in advocating for policies that enhance the pharmaceutical sector's efficiency, effectiveness, and safety.

The County Licensing Bill, 2022, proposes significant changes to the regulatory landscape governing business operations within the various counties of Kenya. As stakeholders deeply invested in healthcare provision and the pharmaceutical industry, we appreciate the opportunity to provide our insights and recommendations on how the Bill can be improved to better serve the interests of both the public and the pharmaceutical sector.

Key Observations and Recommendations

- Streamlining Licensing Procedures:** We acknowledge the need for counties to regulate business operations within their jurisdictions; however, there's a pressing need for harmonization and standardization of licensing procedures across counties. the following is the cumulative breakdown of licenses fee in the attached counties;

KPA CENTRAL BRANCH OFFICIALS' CONTACTS:

CHAIRMAN

Peter Nyoike
Mob: 0721 844492

SECRETARY

Paul Kimani
Mob: 0722 363698

TREASURER

David Mwenja
Mob: 0735 189249

ORGANIZING SEC.

Ken Nduati
Mob: 0724 629092

DEPUTY CHAIRMAN

James Karanja
Mob: 0725 608927

DEPUTY SECRETARY

Monicah Gitau
Mob: 0712 324074



- i. Nyeri: 14,300 Kenyan Shillings
- ii. Nyandarua: 7,230 Kenyan Shillings
- iii. Kirinyaga: 21,600 Kenyan Shillings
- iv. Kiambu: 21,000 Kenyan Shillings
- v. Murang'a: 21,300 Kenyan Shillings
- vi. Laikipia: 11,300 Kenyan Shillings

Pharmacy and poison board charges 15,000 Kenyan shillings annually to retail pharmacy outlets.

2. While we recognize the importance of regulatory oversight, **we advocate for the abolition of public health licenses imposed on pharmacies.** These licenses often duplicate requirements already mandated by pharmaceutical regulatory bodies and place unnecessary burdens on pharmacy establishments. By eliminating redundant licenses, we can streamline licensing procedures, reduce administrative costs, and improve the ease of doing business for pharmacies.
3. **We recommend the complete abolition of advertisement licenses imposed on businesses, including pharmacies.** Advertisement licenses impose unnecessary bureaucratic hurdles and financial burdens on businesses, without significant benefits to public health or consumer protection. By scrapping advertisement licenses on business names, we can simplify the licensing process, reduce administrative costs, and encourage entrepreneurship and innovation in the pharmaceutical sector.

4. Proposal for the Abolishment of Pharmacy Inspection Fees

The Kenya Pharmaceutical Association (KPA) CENTRAL Branch is dedicated to advocating for policies that promote the highest standards of pharmaceutical practice while ensuring equitable access to healthcare services for all Kenyans. **One area of concern for our members is the pharmacy inspection fee, which serves as a reserve for the Pharmacy and Poisons Board (PPB) as stipulated in Cap 244 laws of Kenya.** In this submission, we propose the abolishment of pharmacy inspection fees to alleviate financial burdens on pharmacies and streamline regulatory processes.

Rationale for Abolishment

Financial Burden: Pharmacy inspection fees impose significant financial burdens on pharmacy establishments, particularly small and medium-sized enterprises (SMEs). These fees represent an additional operational cost for pharmacies, contributing to the overall cost of doing business and potentially affecting profitability.

Administrative Complexity: The collection and administration of pharmacy inspection fees add to the administrative burden for both pharmacies and regulatory authorities. Managing fee payments,

records, and compliance with fee-related regulations require resources that could be redirected towards core pharmacy activities and regulatory functions.

Barrier to Entry: For aspiring pharmaceutical technologist and entrepreneurs seeking to establish new pharmacy businesses, the requirement to pay inspection fees represents a barrier to entry into the pharmaceutical sector. Abolishing these fees would lower the financial barrier and encourage innovation and entrepreneurship in the pharmacy industry.

The current fragmented approach to licensing not only poses administrative burdens for businesses but also increases compliance costs. We recommend the incorporation of provisions in the Bill that mandate counties to adhere to a unified licensing framework, thereby promoting consistency and efficiency.

- i. **Regulation of Pharmaceutical Waste Disposal:** The proper disposal of pharmaceutical waste is essential for preventing environmental pollution and protecting public health. We recommend that the County Licensing Bill, 2022, explicitly mandates the PPB to regulate the disposal of pharmaceutical waste generated by pharmacies and other pharmaceutical establishments hence removal of public health licenses. The PPB have established guidelines and standards for the safe handling, storage, transportation, and disposal of pharmaceutical waste, taking into account environmental sustainability and public safety considerations. The PPB should be empowered to monitor compliance with waste disposal regulations through regular inspections, audits, and enforcement actions. Inspections should assess pharmacies' adherence to waste management protocols, including proper segregation of pharmaceutical waste, maintenance of designated storage areas, and documentation of waste disposal activities. Non-compliance should result in appropriate enforcement measures, such as fines, penalties, or license suspensions, to deter violations and promote accountability.
- iii. **Specialized Pharmaceutical Licensing:** Given the unique nature of pharmaceutical businesses and the critical role they play in public health, we propose the introduction of specialized licensing categories for pharmaceutical establishments. These categories should be tailored to encompass various aspects of pharmaceutical practice, including retail pharmacies, wholesale distributors, manufacturing facilities, and compounding pharmacies. Specialized licensing will ensure that pharmaceutical businesses adhere to sector-specific regulations and standards, thereby enhancing product quality and patient safety.
- iv. **Enhancing Regulatory Oversight:** Effective regulatory oversight is essential for safeguarding public health and maintaining the integrity of the pharmaceutical supply chain. We recommend the establishment of dedicated regulatory bodies or committees within each county tasked with overseeing pharmaceutical licensing and compliance. These bodies should comprise qualified professionals with expertise in pharmacy practice, public health, and



regulatory affairs, ensuring that licensing decisions are informed by expert knowledge and best practices.

- v. **Capacity Building and Training:** Recognizing the dynamic nature of the pharmaceutical sector and the evolving regulatory landscape, there's a need for continuous capacity building and training for county officials responsible for licensing and regulatory enforcement. We propose the inclusion of provisions in the Bill that mandate counties to allocate resources for training programs aimed at enhancing the competencies of licensing officers in pharmaceutical regulation, pharmacovigilance, and quality assurance.
- vi. **Public Consultation and Stakeholder Engagement:** Meaningful stakeholder engagement is essential for the development of robust regulatory frameworks that address the needs and concerns of all parties involved. We recommend that the Bill incorporate provisions requiring counties to conduct regular consultations with relevant stakeholders, including the pharmaceutical industry, professional associations, consumer groups, and healthcare providers. Transparent and inclusive decision-making processes will foster trust, collaboration, and consensus-building, ultimately leading to the adoption of regulations that promote public health and economic development.
- vii. The Kenya Pharmaceutical Association (KPA) CENTRAL Branch recognizes the importance of regulatory oversight in the pharmaceutical sector to ensure public health and safety. However, we are concerned about **the issue of double licensing and taxation imposed on pharmacies by both county governments and the Pharmacy and Poisons Board (PPB)**. This duplication of licensing requirements creates unnecessary burdens for pharmacies and undermines their ability to operate efficiently. In this submission, we aim to expound on the challenges posed by double licensing and taxation and propose recommendations for addressing this issue within the framework of the County Licensing Bill, 2022.

Challenges Posed by Double Licensing and Taxation

1. **Administrative Burden:** Pharmacies are required to obtain licenses from both county governments and the PPB, leading to redundant administrative processes and increased paperwork. This duplication of efforts consumes valuable time and resources for pharmacy owners, detracting from their primary focus on providing quality pharmaceutical services to the public.
2. **Financial Implications:** Double licensing and taxation impose additional financial burdens on pharmacies, as they are required to pay fees to both county governments and the PPB. These extra costs contribute to the overall operational expenses of pharmacies, reducing their profitability and

potentially leading to increased prices for pharmaceutical products and services, thereby impacting consumer affordability and access.

3. **Regulatory Confusion:** The existence of multiple regulatory authorities with overlapping mandates can lead to confusion and inconsistency in regulatory compliance requirements for pharmacies. Pharmacies may struggle to navigate the complex regulatory landscape, resulting in compliance gaps and potential legal liabilities.

Recommendations for Addressing Double Licensing and Taxation

- a. **Harmonization of Licensing Requirements:** The County Licensing Bill, 2022, should prioritize the harmonization of licensing requirements for pharmacies across county governments and the PPB. This harmonization effort should involve the alignment of licensing procedures, fees, and regulatory standards to minimize duplication and streamline administrative processes for pharmacies.
- b. **Integration of Licensing Processes:** The Bill should facilitate the integration of licensing processes between county governments and the PPB, allowing pharmacies to obtain a single comprehensive license that encompasses all necessary regulatory approvals. This integrated licensing approach would simplify the licensing process for pharmacies and reduce the administrative burden associated with obtaining multiple licenses.
- c. **Standardization of Taxation:** To address the issue of double taxation, the Bill should establish clear guidelines for taxation of pharmacies, ensuring that they are not subject to duplicate taxes from county governments and other regulatory authorities. Taxation policies should be standardized and transparent, with mechanisms in place to prevent double taxation and promote fairness in tax assessment.
- d. **Enhanced Collaboration:** County governments and the PPB should collaborate closely to coordinate regulatory efforts and avoid duplication of licensing and taxation requirements. This collaboration should involve regular communication, information sharing, and joint initiatives to streamline regulatory processes and improve the business environment for pharmacies.

Conclusion

In conclusion, the Kenya Pharmaceutical Association CENTRAL Branch recognizes the importance of the County Licensing Bill, 2022, in promoting local economic development and regulatory compliance. However, we urge policymakers to consider our recommendations for enhancing the Bill's effectiveness in regulating pharmaceutical businesses and protecting public health. By adopting a collaborative and

evidence-based approach, we can ensure that the regulatory framework adequately addresses the complexities of the pharmaceutical sector while fostering innovation, investment, and equitable access to quality healthcare services for all Kenyans.

The Kenya Pharmaceutical Association CENTRAL Branch urges policymakers to address the issue of double licensing and taxation imposed on pharmacies by county governments and the PPB. By prioritizing harmonization, integration, standardization, and collaboration, we can create a regulatory framework that supports the sustainability and growth of pharmacies while ensuring compliance with regulatory requirements and safeguarding public health interests.

Thank you for considering our submission. We remain committed to supporting the development and implementation of policies that promote the highest standards of pharmaceutical practice and contribute to the well-being of our communities.

Sincerely,



Paul Kimani

Secretary

Kenya Pharmaceutical Association CENTRAL Branch

Enclosed: Receipts from different counties

SBP No: SBP-13906

SBP RECEIPT #4870

**MURANGA COUNTY
GOVERNMENT**

POBox 52-10200 Murang'a
Tel: 060-2030271
info@murangagoka
www.murangagoka

FRANKCARE CHEMIST

POBox 235
Frankard24@gmail.com
0729072275

| Description | Cost(Ksh) | |
|-----------------|-----------|---------------|
| License Fee | 12,500.00 | |
| Application fee | 300.00 | |
| fire | 500.00 | |
| conservancy | 600.00 | |
| public health | 1,000.00 | |
| advertising | 500.00 | |
| Total | | Ksh 15,400.00 |

Note!

This original invoice is required for record-keeping and official purposes. Any discrepancies or issues with the billed amount should be reported within 7 days of receiving this invoice. Please retain this document for future reference. For inquiries or concerns, contact the County Government Customer Service at info@murangagoka



19 - COUNTY GOVERNMENT OF NYERI



Website: www.nyeri.go.ke
 P.O Box: 1112-10100 Nyeri Kenya
 Email: info@nyeri.co.ke
 Phone: +254 714 952 473



INVOICE

BPA24-0011330

NT - Nyeri Town

27-Mar-2024 16:20

| Description | Amount |
|--|----------|
| 1 Single Business Permit for the Year 2024 | 6,000.00 |
| 2 Penalties for the Year 2024 | 0.00 |
| 3 Fire inspection fee -annual pe@700.00 per 12 Month | 700.00 |
| 4 Refuse collection charges@1800.00 per 12 Month | 1,800.00 |
| 5 Application for Business Permit Renewal | 1,000.00 |



Total 9,500.00

#Error

PAYMENT OPTIONS-TESTING

1. BANK DEPOSIT

2. MPESA

Bank Name: COOP

Bank Name: KCB

Bank Name: EQUITY

Paybill: 191900

Branch Name: Nyeri

Branch Name: Nyeri

Branch Name: Nyeri

A/c Number:

A/c Number:

01141666594400

A/c Number:

1140760319

A/c Number:

0110280843674

BPA24-0011330

A/c Name County Government of Nyeri Revenue Collection

No Cash Payment. Failure to present the deposit slip for receipting IMMEDIATELY after deposit will not relieve the obligation to pay penalties where applicable

Printed by: NDERI LUCY WANJIKU.27-Mar-2024 16:20

COUNTY GOVERNMENT OF KIAMBU

P.O. BOX 2344-00900, KIAMBU



ASSESSMENT INVOICE

B^{NO} 41352

Name of the Business JULIUS BONGERS KARIUKU
Date 4/3/20

Size of Business (M²) _____

| Qty. | Particular | @ | Shs. | Cts. |
|--------|------------------|---|-------|------|
| | (110) | | | |
| | CHEMIST. | | | |
| | DIRECTIONAL SIGN | | 6,500 | ksh |
| | Multidirectional | | 8,000 | ksh |
| | SIGN BOARD. 3m. | | 5,070 | ksh |
| | Application | | 1,000 | ksh |
| | Inspection | | 300 | ksh |
| E.&O.E | TOTAL | | | |

Name of the Officer: MBUUA

Designation: _____

Contact: MBUUA



Written Laws / Act

parate business

19 - COUNTY GOVERNMENT OF NYERI



Website: www.nyeri.go.ke
 P.O Box: 1112-10100 Nyeri Kenya
 Email: info@nyeri.co.ke
 Phone: +254 714 952 473



OFFICIAL RECEIPT

Receipt No. 019100A202402/0001217 28-Feb-2024 09:25



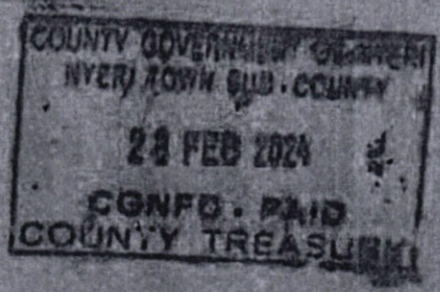
BPA24-0004710 (28-Feb-2024 09:01) SIMCHEM PHARMACY Single Business Permit for Year 2024 [Tetu]

| | |
|---|------------------|
| 1 Business Permits - Current Year | 10,000.00 |
| 2 Business Permits - Penalties | 0.00 |
| 3 Fire inspection fee -annual per small business premises | 1,500.00 |
| 4 Refuse collection charges | 1,800.00 |
| 5 Renewal fee for Single Business Permit | 1,000.00 |
| Total | 14,300.00 |

Served By: MURIGU JOSEPH KIBIRU

Payments Summary for Receipt No. 019100A202402/0001217 Invoice(s): BPA24-0004710

| | |
|---|------------------|
| 1 Direct Credit 28 Feb 2024_1140760319 KCB - Revenue Account_Ref:001346880573 | 14,300.00 |
| Total | 14,300.00 |



22 - County Government Of Kiambu



Website: www.kiambu.go.ke
Kiambu County P.O Box 2344-00900 Kiambu
Email: info@kiambu.go.ke
Phone: (051) 2214142



OFFICIAL RECEIPT

146748

Receipt No. 0220175C2403R014615 14-Mar-2024 08:43



BPC24N0026790 (14-Mar-2024 08:37) BENJAMIN NTHUMO Solid Waste Management Fee / Refuse collection [Ruiru]

| | |
|--|-----------------|
| 1 Business Permits - Current Year | 6,600.00 |
| 2 Business Permits - Penalties | 0.00 |
| 3 Solid Waste Management Fee / Refuse collection | 1,320.00 |
| 4 Fire Inspection Fee - Annual per Business | 1,200.00 |
| 5 Application / Renewal fee for Single Business Permit | 500.00 |
| Total | 9,620.00 |

Served By: *KiambuPay Download_Sync_Usr / DORCAS.NJANE*

Payments Summary for Receipt No. 0220175C2403R014615, Invoice(s): BPC24N0026790

| | |
|--|-----------------|
| 1 M-Pesa/Mobile Money_14 Mar 2024_Ref:SCE6YMA481 | 9,620.00 |
| Total | 9,620.00 |

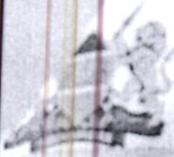
**RUIRU SUB - COUNTY
FIRE SERVICE**
P.O. Box 170 - 00232, RUIRU
Call: 0705 587 3
Date: 20/3/24
Sign: *[Signature]*



[Handwritten mark]



22 - County Government Of Kiambu



Website: www.kiambu.go.ke
Kiambu County P O Box 2344-00900 Kiambu
Email: info@kiambu.go.ke
Phone: (051) 2214142



OFFICIAL RECEIPT

Receipt No. 02201265C2403R000335 15-Mar-2024 09:54



PHC240310823 (15-Mar-2024 09:30) BENJAMIN NTHUMO INSPECTION (Ruru)

1. Inspection of Chemist (Per instance)

3,500.00

Total

3,500.00

Served By: Juma Winny N. / WINNY JUMA

Payments Summary for Receipt No. 02201265C2403R000335, Invoice(s) PHC240310823

1 M-Pesa/Mobile Money_15 Mar 2024_Ref:SCF03CB9TG

3,500.00

Total

3,500.00



22 - County Government Of Kiambu



Website: www.kiambu.go.ke
Kiambu County P.O. Box 2344-00900 Kiambu
Email: info@kiambu.go.ke
Phone: (051) 2214142



OFFICIAL RECEIPT

Receipt No. 0220175C2403R016510 15-Mar-2024 09:52



PHC240310819 (15-Mar-2024 09:28) BENPENY CHEMIST Certificate of Business Premises Inspection Applicant 12 Month(s) | 01 Jan 2024 to 31 Dec 2024 (Ruiru)

1 Health Clinic/Doctors Surgery Doctor-Dentist-physiotherapist-psychologist etc. Consult office with no overnight accommodation available. 3,500.00

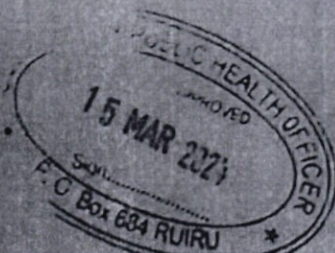
Total 3,500.00

Served By: KiambuPay Download_Sync_Usr / WINNY JUMA

Payments Summary for Receipt No. 0220175C2403R016510 Invoice(s) PHC240310819

M-Pesa/Mobile Money_15 Mar 2024_Ref:SCF23C5R10 3,500.00

Total 3,500.00



Kiambu County has subcontracted inspection of fire cylinders to a private company that attracts a 500 Kshs fee and still County Government officials still do another parallel inspection.



UNIVERSE FIRE PROTECTION COMPANY LTD

P.O. Box 20170-00100 Nairobi
 Tel: 0724-645169, 0722-172462
 Email: universefire.co@gmail.com

822

Specialist Fire Safety Equipment, CCTV Camera, Fencing, Pabxs, Servicing & Sales

Our Ref Benpeny Chemist
 Your Ref _____

Date 17/1/2024

FIRE INSTALLATION SERVICES & INSPECTION CERTIFICATE

The fire risk reduction rule (L.N. 2007 & occupational safety and healthy Act 2007 section 81 (21)
 Fire fighting equipment in every situation and work places shall be provided, maintained and conspicuously displayed for fire and easier accessible means for extinguishing fire according to fire and safety regulations, we have audited, accessed and recommended the following fire equipment appliances. i.e

| TYPES | Number of item (s) | Kshs (Amount) |
|---------------------------|-----------------------|---------------|
| 1. Portable Extinguisher | 1 pc of fire fighting | 500 |
| 2. Fire blankets | equipment serviced | |
| 2. Fixed extinguisher | 1 pc bag of fire | |
| 4. Automatic extinguisher | extinguisher serviced | |
| 5. Fire detectors | _____ | |
| Total | | 500 |

Maintenance, inspection & testing of cylinder (s) (section 30)
 We are mandate to test, inspect & servicing after every 6 months at cost of
 Kshs. 500

Condition checked and safe use great working order

DATE OF THE NEXT INSPECTION JULY 2024 PER ITEM PER VISIT

We agree to the above

Contact for and on behalf of:-

Name of the Company

Benpeny Chemist
 Address P.O Box

Road/street

Ruiru rd

UNIVERSAL FIRE PROTECTION

Technician on site KYEL



KENYA PHARMACEUTICAL ASSOCIATION

NAIROBI BRANCH

COMMUNITY PHARMACY BUSINESS GROUP PUBLIC PARTICIPATION ON COUNTY LICENSING (UNIFORM PROCEDURES) BILL 2022.

Introduction.

The Kenya Pharmaceutical Association Nairobi branch brings together community pharmacy practitioners who own and operate pharmacy businesses with a membership of more than 600 members in both Kajiado and Nairobi counties.

It is with great concern therefore that, KPA Nairobi on behalf of the members would like to contribute to the County Licensing bill in parliament since the members have been directly affected to a point of closing down businesses owing to the **punitive and exorbitant license fees** charged by the county governments of Nairobi and Kajiado.

The practice of pharmacy business is categorized under essential services. The pharmacies are located at the community level where every Kenyan can ably reach and receive their medicines conveniently. This therefore means that with the clarion call to embrace universal healthcare, the community pharmacies play a greater role in provision of affordable medical services.

The population of the City County of Nairobi has increased tremendously and so the need to increase access and availability of healthcare services. The county governments have not been able to fully provide healthcare services and therefore the private medical service providers have come to bridge the gap.

The licensing of the businesses has been **unpredictably high** every financial year without the considerations of stakeholders whose businesses are adversely affected. For instance the City County of Nairobi recently passed its finance bill where a pharmacy regardless of the size, business volume (income generated) or location should pay **Kes. 50,000.00 for a single business permit** apart from fire, advertising, and public health inspection charges etc.

Every legally operating pharmacy is compulsorily inspected and licensed by the Pharmacy and Poisons Board (PPB) to carry out the business of a pharmacy as per Cap 244 Laws of Kenya, by paying the prescribed fees for the premise and practice license for the practitioner.

In addition, the County governments require the operators to pay for a single business permit, advertising, public health inspection fees and fire certificate charges. This results to overburdening the operators translating to increased operational costs. As a result, the cost of medicines increases where not many city dwellers especially in the low income settings or rural areas can manage to buy their medications. This makes the business operators unable to manage their businesses leading to loss of income and also revenue to the county and a threat to actualization of UHC.

Double taxation therefore results since the national government and the county governments charge for the same service provision or benefits from the same source.

Addressing double taxation would promote fairness, efficiency, and better outcomes for the residents and communities. The County Licensing (uniform procedures) Bill 2022 would help address the disparities and discrimination in administration of licenses across the counties.

Recommendations

1. That the National and County governments should recognize the problem and work out an agreement for both county and national government tax payers.
2. Establish county taxing categories in different sub counties e.g. urban, peri urban, rural areas and charge affordable rates.
3. Establish different rates according to the size of businesses e.g. small, medium, and large
4. Consolidate the licenses to avoid duplication.
5. Enforcement department should protect the legally operating businesses by closing down the unincorporated ones.
6. Implement Revenue sharing mechanisms between the National government and the County governments to distribute revenue more equitably.

Prepared by:

Anthony Mbitu
Chairman
KPA Nairobi Branch
0725361109


02/4/2024



**OFFICE OF THE DEPUTY PRESIDENT
STATE DEPARTMENT FOR DEVOLUTION**

The County Licensing (Uniform Procedures) Bill, 2022

Introduction

Licensing is a means for regulating and controlling certain activities within the powers and functions of a licensing authority. There is excessive focus on the revenue aspect of licensing. A licensing regime should ensure public interest while conforming to the relevant laws.

The following table highlights specific comments to specific sections of the Bill.

| Section | Provision | Proposal | Justification |
|----------------|--|---|--|
| Citation | ...establish standard uniform procedures... | Establish either standard or uniform procedures | Repetition |
| 2 | CS responsible for matters relating to licensing | CS responsible for matter intergovernmental relations | <ul style="list-style-type: none">i. The office is in charge of coordinating the implementation of the devolved system of governmentii. The bill covers licensing in all sectors therefore, there is no one CS who is best placed to perform this function other than the CS responsible for matter intergovernmental relations |
| | CECM means CECM Finance | CECM means the CECM respective sector | <ul style="list-style-type: none">i. Issues being regulated and controlled can best be handled by the respective CECM of the respective sector.ii. This emphasizes control and regulatory function as opposed to revenue generation. |

| | | | |
|------|---|---|--|
| 3 | | Incorporate CoK Article 206(5) The taxation and other revenue-raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour. | To adhere to the principles of the CoK and principles of PFM. |
| 3 | Obligations | i. Petition by the public against a license/licensing decision by the licensing authority | Not provided for in the bill |
| 4(a) | Providing a mechanism for a person to make a simultaneous application for more than one licence | To provide for a mechanism for unified (single) license | i. To avoid multiple applications for one business ii. To provide alternative mechanisms to apply for licenses e.g. online |
| 4(b) | Preventing multiple licensing procedures | Include a new provision; To prevent multiple approval authorities | To eliminate the possibility of mischief in the licensing approval |
| 6(c) | Ensure quality of goods produced and services delivered are of high standard | This obligation requires the Counties to undertake it in collaboration with the national institutions with the legal mandate for quality control of goods and services | The licensing authority does not have the mandate and competency to determine and regulate quality and standards of goods and services |
| 6(d) | Effectively administer control over persons engaged | i. To delete the word State | State (interests) would be more inclined to national interests which are broadly covered under national |

| | | | |
|------|---|---|--|
| | in activities that are potentially risky as threatening to the life or health of individuals, property and State, public interest or nature and cultural heritage | | security. |
| 7(1) | An application for grant, renewal, transfer... | To allow for electronic application of licences in counties in line with the ease of doing business policy | No provision for electronic application |
| 7(2) | The licensing authority shall, within three years of the commencement of this Act, put in place mechanisms... | The licensing authority shall one year... | |
| 11 | Advertising of applications | Licensing authority to put public information at <ul style="list-style-type: none"> • With adequate details of the nature of the activity being licensed • designated public notice boards at the county and sub-county headquarters (specify the size of notice) • to place similar notice at their official websites and social media platforms. | this is to widen the scope of the availability of information on advertisement on application for licences |
| 13 | Period of determination of application | Qualification for applications that are allowed by effect of | |

| | | | |
|-------|--------------------------------------|--|---|
| | | lapse of stated time | |
| 13(2) | | Acknowledgement of receipt of application for a licence including through electronic means | |
| 19 | Variation of conditions of a license | Provide for matters of variation that may require a fresh application Clarify public interest to avoid mischief | This is to clarify public interest to avoid mischief |
| 22 | Change in particulars | Provide for an online register of public access to information | |
| 24 | Licensing fees | Licenses issued in one county to apply across all counties. | To avoid ' <i>double taxation</i> ' to ease the cost of doing business. |



KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

1.0 INTRODUCTIONS

KEPSA is the umbrella apex body of the private sector in Kenya. It brings together local and foreign business associations, federations, chambers of commerce, professional bodies, corporates including multinationals, large and medium-sized corporates, SMEs, and start-ups from all sectors of the economy, representing over 1 million businesses to enable them to speak with one voice when engaging Government, development partners and other stakeholders on cross-cutting policy issues affecting private sector development and implements programs that ensure social economic development of the country.

KEPSA also supports businesses with opportunities for training, networking, financial linkages, mentorships & coaching, access to markets, value chains, and investment opportunities with many partners around the world. KEPSA serves as a federation of over 80 Associations and professional bodies including the Kenya Chapter of the ICC. In the EAC region, KEPSA serves as the national focal point of the East African Business Council and engages closely with peer apex bodies to resolve any emerging business issues as well as promote trade and investment.



KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

2.0 PROPOSED AMENDMENTS TO THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

| No. | The Clause Number | Provision of the Bill | Proposed amendment to the Bill | Rational for Amendment and recommendations |
|-----|--------------------------------|--|---|---|
| 1. | Clause 2. (Interpretation) | 2- In this Act- "Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to licensing; | Re-draft to- "Cabinet Secretary (CS) " means the Cabinet Secretary responsible for the Ministry of Investments, Industry, Trade, and Enterprise Development | <ul style="list-style-type: none"> • In the context of licensing, it is imperative to specify the exact Cabinet Secretary who will be mandated to issue the specific regulations referenced in this Bill. • While each CS oversees a specific ministry, their roles intersect in various areas, including licensing. Therefore, clarity regarding the responsible CS ensures efficient coordination and avoids ambiguity. • By designating a specific CS, we enhance accountability, streamline processes, and foster a conducive environment for economic growth. |
| 2. | Clause 28 (1) (Regulations) | 28 - (1) The Cabinet Secretary may make Regulations for the better carrying out the provisions of this Act | | |
| 3. | Clause 3 (Guiding principles) | 3 – A person shall, in the implementation of this Act or enactment of the respective county legislation, take into account- | <ul style="list-style-type: none"> • Clause 3 and 5 should be merged to cater for the general guidelines to implement the Act to consolidated version below: | <ul style="list-style-type: none"> • To enhance clarity and eliminate redundancy, I propose merging the two clauses into a single coherent provision. The revised clause will encapsulate the principles guiding both the licensing authority and the licensee. |



KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

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| | <ul style="list-style-type: none">a) The need to protect consumers of goods and services, ensure public safety and promote environmental protection;b) the need to maintain public confidence in the respective sectors under which the license is issued and that the imposition of licensing fees is carried out in a manner that does not hamper the respective business or industry;c) the need to ensure access to information relating to the conditions for issuance of licenses and licensing procedures and in accordance with the provisions of the Access to Information Act;d) the need to ensure that the licensing procedures are simple and that licensing services are accessible to | <p>'The licensing authority shall adhere to the following principles in granting licenses and permits: fairness, transparency, efficiency, and accountability. Similarly, the licensee shall operate in accordance with these principles, ensuring compliance with all licensing requirements'</p> | |
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KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

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| | | <p>a person applying for a license;</p> <p>e) cost effectiveness of the licensing process;</p> <p>f) the importance of declaring and upholding proper standards of conduct by licensees;</p> <p>g) the need to promote efficiency and effectiveness in the administration of the licensing processes; and</p> <p>h) the licensing processes are undertaken in a fair and transparent manner</p> | | |
| 4. | Clause 5 (Principles of interpretation and application) | <p>The following principles shall apply to the interpretation and application of this Act and licensing legislation enacted by a county government</p> <p>a) simplicity of the process of application for a license;</p> <p>b) equity, transparency and accountability in the</p> | | |



KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

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| | | <p>administration of licensing procedures</p> <ul style="list-style-type: none">c) ensuring that the licensing framework is consolidated and requires persons to hold a minimum number of licenses and be subject to a minimum number of different licensing processes;d) access to information relating to the licensing requirements and procedures;e) enabling license holders to respond to changes in the market quickly with minimum regulatory friction; andf) certainty by having in place clear and consistent licensing conditions. | | |
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KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

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| 5. | <p>Clause 12 (1)</p> <p>Withdrawal of application</p> | <p>12.</p> <p>(1) An applicant may withdraw an application at any time before a license is issued under section 15.</p> | <p>Re-draft the clause to read</p> <p>12.</p> <p>(1) An applicant may withdraw an application at any time before a license is issued under section 16.</p> | <ul style="list-style-type: none"> The drafting as is referring to clause 15 which speaks to Withdrawal of application yet the section that speaks to issuance of a license is Clause 16. |
| 6. | <p>Clause 21 (1) (b)</p> <p>Review of decisions</p> | <p>(1) An applicant or any other person who is aggrieved by a decision of a licensing authority with respect to the application or cancellation of a license may apply for a review of the decision.</p> <p>b) to the extent to which the relevant licensing legislation does not provide the applicant with such right, to the county executive committee member responsible for matters relating to the subject of the license.</p> | <p>Re-draft the clause to read</p> <p>(1)</p> <p>a) An applicant or any other person who is aggrieved by a decision of a licensing authority with respect to the application or cancellation of a license may apply for a review of the decision.</p> <p>b) Subject to clause (a) above In cases of dispute arising from licensing decisions, the licensing authority shall establish an alternative dispute resolution mechanism. This mechanism shall include a review process conducted by an independent body, comprising representatives from relevant stakeholders, industry experts, and legal professionals.</p> <p>c) to the extent to which the relevant licensing legislation does not provide the applicant with such</p> | <ul style="list-style-type: none"> There is need to introduce alternative dispute mechanisms in cases of dispute. By widening the scope of decision review beyond the County Executive Committee Member (CECs) responsible for specific licenses, we ensure impartiality, accountability, and transparency.” This revised clause ensures that disputes are resolved fairly and that decisions undergo rigorous scrutiny. |



KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

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| | | | right, the applicant shall write to the County Executive Committee (CEC) Member responsible for matters relating to the subject of the license who will in consultation with the Alternative Dispute Resolution Committee review the matter. | |
| 7. | 24 (4) (b) Licensing fee | A licensing authority may impose – (b) an annual license fee for administering and monitoring a license. | Delete the Clause | <ul style="list-style-type: none"> The licensing fee charged by the authority shall be comprehensive, encompassing monitoring and evaluation costs. It is imperative that no separate fee be imposed for the discharge of the authority’s mandate. By adopting this approach, we not only reduce costs for businesses but also ensure predictability and transparency in fee levies at the county government level. |
| 8. | 25 (2) Service of notices. | (2) A notice required to be served on joint applicants or joint licensees shall be deemed to have been served on all of them when it is served on any of them | Re-drafted to – (2) A notice required to be served on joint applicants or joint licensees shall be served on all of the joint applicants. | <ul style="list-style-type: none"> To ensure robust accountability and transparency, it is imperative that all joint parties involved in an application receive equal and comprehensive service. By serving each entity individually, we eliminate potential loopholes and uphold the principles of fairness and equity. |





Pharmaceutical Excellence

NATIONAL ASSEMBLY
RECEIVED
08 APR 2024
DEPUTY CLERK
J.W.N
P.O. Box 41842 - 00100, NAIROBI

📍 Upper Hill Box 422nd Floor 5, Burlington
🏠 P.O. Box 39103, Nairobi, Kenya
☎ Tel: 020 5281 305 (Ext. + 254 10) 237 499 745
✉ info@kpanairobi.com
🌐 www.kpanairobi.com

REF: KPA/NRB/2024/024

DATE: 08.04.2024

(Pursuant to Invitation to the Public Hearings vide newspaper notice of 23rd March 2023 and our request to submit written submission On 2nd April 2024 at KICC-Nairobi).

The Clerk of the National Assembly,
Departmental Committee on Trade, Industry and Co-operatives,
Parliament Buildings,
P.O. Box 41842 - 00100,
NAIROBI.

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RE: SUBMISSION OF MEMORANDUM ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO.9 OF 2022) BY THE KENYA PHARMACEUTICAL ASSOCIATION-NAIROBI BRANCH.

The Kenya Pharmaceutical Association (KPA), is duly registered under the relevant provisions of the Societies Act, Chapter 108 of the Laws of Kenya as a professional body for all Pharmaceutical Technologists duly enrolled by the Pharmacy and Poisons Board (the Board) pursuant to the provisions of Pharmacy and Poisons Act, Chapter 244 of the Laws of Kenya. KPA has 11 branches across all the 47 counties within the republic of Kenya. KPA boasts of over thirteen thousand (13,000) members spread across the forty-seven (47) counties within the Republic of Kenya.

Pharmaceutical Technologists practice in diverse areas and capacities including but not limited to the community pharmacies where they own approximately 6,000 pharmacies across the country. **KPA Nairobi Branch** is one of the branches with a membership of over 4200 members; whose jurisdiction spans both at **Nairobi County** and **Kajiado County**. **Over 423 members of KPA Nairobi Branch; own and run Community Pharmacy Businesses within Nairobi and Kajiado counties.** Members of KPA Nairobi Branch practice their trade, business and/or profession throughout the two counties including informal settlements within the two counties. Their work has impacted positively towards achievement of the objectives envisaged under Article 43 (1) (a) of the Constitution of Kenya 2010, including but not limited to the implementation of the government's UHC vision of accessible and affordable healthcare.

NATIONAL ASSEMBLY
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★ 08 APR 2024 ★
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

KENYA PHARMACEUTICAL ASSOCIATION
NAIROBI BRANCH
08 APR 2024
P.O. Box 13743 - 00100 NAIROBI
www.kpanairobi.com

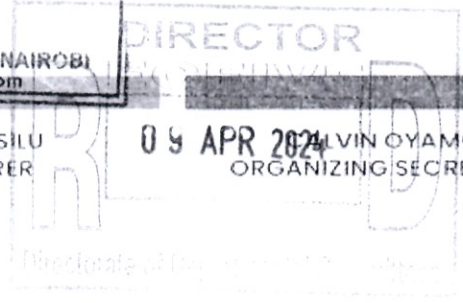
DIRECTOR

ANTHONY MBITU
CHAIRMAN

CLETUS OTIENO
SECRETARY

SERAH KISILU
TREASURER

09 APR 2024
ALVIN OYAMO
ORGANIZING SECRETARY



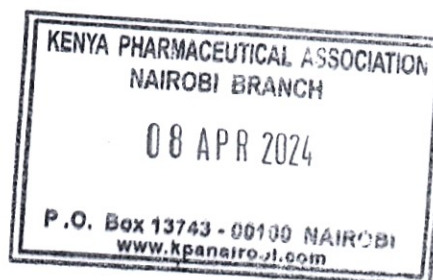
We, the Citizens of the Republic of Kenya, and members of the Kenya Pharmaceutical Association (KPA) Nairobi Branch: -

SHARE our submissions to the Departmental Committee on Trade, Industry and Co-operatives of the National Assembly; on the following thematic areas:

- A. **Double Taxation on Community Pharmacies.**
- B. **County License to be issued to pharmacies only licensed by the regulator.**
- C. **Duration of Licenses.**

A) DOUBLE TAXATION ON PHARMACIES (Section 24, e,h).

- a) **WE SUBMIT THAT;** there is established the Pharmacy and Poisons Board (hereinafter as the Board) under Cap 244 of the Laws of Kenya charged with the main mandate of regulating the practice, trade, profession and business of pharmacy in the Republic of Kenya.
- b) **WE SUBMIT THAT;** each member of the KPA Nairobi Branch currently pays **KES 10,000/= annually** to the Pharmacy and Poisons Board being mandatory annual standard prescribed fee for **PREMISES REGISTRATION CERTIFICATE FOR PHARMACEUTICAL TECHNOLOGIST'S PRACTICE**. This fee is meant for premises registration, inspection and regulation of pharmacy practice.
- c) **WE SUBMIT THAT;** another mandatory standard prescribed fee of **KES 5,000/=** for **ANNUAL PRACTICE LICENCE FOR PHARMACEUTICAL TECHNOLOGIST** is levied by the Pharmacy and Poisons Board being fees for professional practicing license.
- d) **WE SUBMIT THAT;** we are aware that the Nairobi and Kajiado County Governments have enacted Finance Acts which mandate them to levy further levies/fees/charges that vary from county to county. However, these charges/fees/levies are unfair, discriminatory and burdensome to the pharmacies based on charges from the Board as indicated above.
- e) **WE SUBMIT THAT;** the Nairobi and Kajiado County Governments charge the pharmacy professionals the fees/levies listed hereunder:
 - i. Single Business Permits.
 - ii. Public Health Inspection Fees.
 - iii. Signage/advertisement
 - iv. Fire Services
 - v. Garbage Collection
 - vi. Registration fees
 - vii. Pest Control Fees etc.



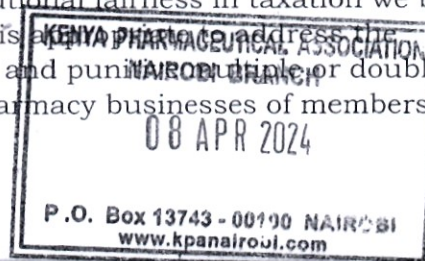
ANTHONY MBITU
CHAIRMAN

CLETUS OTIENO
SECRETARY

SERAH KISILU
TREASURER

CALVIN OYAMO
ORGANIZING SECRETARY

- f) **WE SUBMIT THAT;** all the above are cumulatively charged to an amount of the least KES 50,000 upto a maximum of KES 250, 000 on the pharmacies in Nairobi County.
- g) **WE SUBMIT THAT;** these levies by the Nairobi and Kajiado Counties are tantamount to **multiple taxation** in light of the levies/fees/charges imposed by the Pharmacy and Poisons Board thereby frustrating the business/trade of members of the KPA Nairobi Branch thereby impacting negatively on provision of healthcare services contrary to Article 43(1)(a) of the Constitution, and on implementation of Universal Health Coverage.
- h) **WE SUBMIT THAT;** the impugned charges/fees/levies increase cost of drugs, healthcare, as well as cost of doing business in both Nairobi and Kajiado Counties.
- i) **WE SUBMIT THAT;** there is no legislation that controls the charges/fees/levies imposed by the Counties with the end result that different counties impose varying amounts, have different enforcement mechanisms and impose different penalties. Members of the KPA Nairobi Branch therefore believe that the imposition of those levies are discriminatory contrary to Article 27(1) (2) of the Constitution in so far as they provide for differential treatment against members who run similar businesses across the country.
- j) **WE SUBMIT THAT; members of the KPA Nairobi Branch are also deprived of equal protection of the law by having to pay the counties for similar services falling within the scope of the Board which they pay for annually. Notably, the levies/fees collected by the counties are submitted to the national government thus members of the KPA Nairobi Branch end up paying the same government twice for similar services.**
- k) **WE SUBMIT THAT;** the enforcement of these county Finance Acts have exposed members of the KPA Nairobi Branch to harassment, intimidation and wanton destruction of their premises by people purporting to be County agents and/or servants. In addition, the penalties for non-compliance in most of these county Finance Acts are meant to eliminate the licensed trade and/or businesses of members of the KPA Nairobi Branch.
- l) **WE SUBMIT THAT;** in consideration of the principles of administration of justice, non-discrimination and constitutional fairness in taxation we believe that the intervention of this Committee is an attempt to address the discriminatory, unconstitutional, illegal and punitive or double taxation currently being imposed on pharmacy businesses of members of the KPA Nairobi Branch.



ANTHONY MBITU
CHAIRMAN

CLETUS OTIENO
SECRETARY

SERAH KISILU
TREASURER

CALVIN OYAMO
ORGANIZING SECRETARY



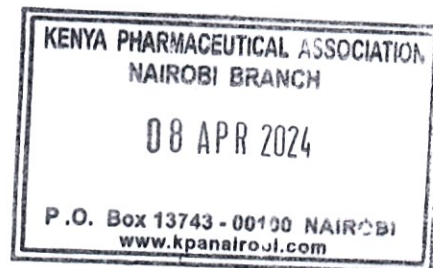
Our Recommendation: —

1. **THAT THIS BILL;** addresses the unconstitutional, illegal and unfair multiple/double taxation in various county Finance Acts imposed on pharmacies across the country by **expressly abolishing** them.
2. **THAT THIS BILL;** assist by barring Counties from imposing charges/levies/fees upon pharmacies across the country and the role of collection of any charges/levies or fees on pharmacies or the practice of pharmacy be conferred solely upon the Pharmacy & Poisons Board, being the regulatory authority.
3. **THAT THIS BILL;** to be express on proper enforcement mechanisms by the counties to stop punitive/harsh and uncouth enforcement mechanisms exhibited by counties thus far.

B. COUNTY LICENSE TO BE ISSUED TO PHARMACIES ONLY LICENSED BY THE REGULATOR.

In case this Committee does not see it worth abolishing the levies charged on the pharmacies by the counties on the basis of double taxation; we therefore make the following recommendations:

- a) **WE RECOMMEND THAT;** the bill should restrict counties to issuing County Licenses to **ONLY Pharmacies that possess the current year's practice License from the Pharmacy and Poisons Board.** This will assist prevent counties from legitimizing quack owned pharmacies within the counties. (Section 18 of the Bill).
- b) **WE RECOMMEND THAT;** The duration of a county license should be 365 days from the time of issuance. (Section 17 of the Bill).
- c) **WE RECOMMEND THAT;** The penalty set out in Section 27 be reduced as it is highly punitive to small businesses. That the penalties be charged as per the following coding; small businesses-KES 20,000; Medium Businesses-KES 100,000 and Big Businesses-KES 1million. (Section 27 of the Bill).



ANTHONY MBITU
CHAIRMAN

CLETUS OTIENO
SECRETARY

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CALVIN OYAMO
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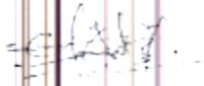


We humbly pray that you consider our kind SUBMISSIONS.

Dated this.....8th.....day of.....April 2024

Signed by the Officials of the Branch Executive Committee of KPA NAIROBI BRANCH.

Yours Sincerely,



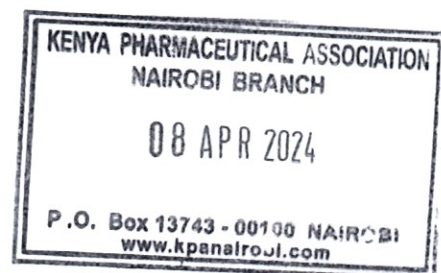
CLETUS OTIENO

Branch Secretary General
Kenya Pharmaceutical Association
Nairobi Branch
0721 769 555.



ANTHONY MBITU

Chairman
Kenya Pharmaceutical Association
Nairobi Branch
0725 361 109.



ANTHONY MBITU
CHAIRMAN

CLETUS OTIENO
SECRETARY

SERAH KISILU
TREASURER

CALVIN OYAMO
ORGANIZING SECRETARY



MEMORANDUM ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

Submitted to

**SAMUEL NJOROGE
THE CLERK,
NATIONAL ASSEMBLY, PARLIAMENT BUILDINGS, NAIROBI**

Presented By

**ANTHONY MWANGI, CHIEF EXECUTIVE,
KENYA ASSOCIATION OF MANUFACTURERS**

MARCH 2024 – NAIROBI, KENYA

1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and in the region through her strong linkages with all sectors of the economy. KAM has over 950 members and represents over 40% of Kenya's manufacturing value add industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector enhancing intra-EAC trade in value added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Service ranging from **Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood, and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.**

2.0 PROPOSED AMENDMENTS TO THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

In response to the call for public participation on the afore-referenced Bill, we propose the following amendments to be considered before the draft Bill is enacted:

| | CLAUSE | PROPOSAL | JUSTIFICATION |
|----|---|---|---|
| 1. | <p>Clause 6</p> <p>Obligations of County Governments</p> <p>c) Ensure that the quality of goods produced, and services delivered are of high standards</p> | <p>We propose to amend this clause by deleting the phrase “quality of goods produced” in paragraph (c) to read as follows:</p> <p>c) Ensure that the services delivered are of high standards.</p> | <p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • The phrasing of paragraph (c) may be interpreted to mean that county governments have the power to set the standards for the production of goods. • The mandate to ensure that goods produced are of a high standard is vested in the Kenya Bureau of Standards (KEBS). • KEBS has the capacity, resources and know how to effectively undertake this task. • Granting county governments this mandate will be a duplication of roles and will add on to the regulatory burden already faced by manufacturers. |
| 2. | <p>7.(1) An application for the grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence shall —</p> <p>(a) be made in writing and in the prescribed form</p> | <p>We propose to amend this clause to include electronic application.</p> <p>To read as follows:</p> <p>7.(1) An application for the grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence shall —</p> | <p>This proposal is based on the following:</p> <ul style="list-style-type: none"> • Incorporating "electronic application" into the clause reflects a forward-thinking and adaptable approach to licensing procedures, considering the fact that the same is already proposed in the bill, while ensuring that the regulatory framework remains relevant and effective in today's context. • |

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| | | <p>(a) be made in writing and in the prescribed form or through electronic application.</p> | <ul style="list-style-type: none"> • Accessibility and Inclusivity: Electronic applications provide an accessible means for individuals who may face challenges with traditional written forms. This inclusion promotes inclusivity by accommodating a broader range of applicants, including those who prefer electronic communication. • Time Efficiency: Electronic applications can streamline the application process, leading to faster processing times. This benefits both the applicants and the licensing authorities, contributing to increased overall efficiency in the licensing system. |
| 3. | <p>Clause 7 (2) Application for a licence</p> <p>A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable the electronic application for grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.</p> | <p>We propose to amend this clause to reduce the time for compliance from three years to one year.</p> | <p>This proposal is made based on the following justifications:</p> <ul style="list-style-type: none"> • Three years is a long time for counties to comply with this requirement. • With the government's push for digitizing all its services, the provision for three years will go against the government policy. • Further, storage of information in the database within one year will make it easier to retrieve for renewal and replacement instead of providing the documentation again. |

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| 4. | <p>9(3) The licensing authority may reject an application without dealing with it any further if the applicant fails to comply with the notice under subsection (1).</p> | <p>We propose that this clause is amended to read as follows:</p> <p>9(3) The licensing authority may reject an application without dealing with it any further if the applicant fails to comply with the notice under subsection (1).</p> <p>a) The rejection shall be based on grounds for non-compliance, such as incomplete documentation, non-payment of required fees, or failure to meet specified criteria.</p> <p>b) The licensing authority shall provide written notification to the applicant, clearly outlining the reasons for rejection.</p> <p>c) In the event of application rejection, the licensing authority shall provide information to rectify deficiencies within a specified timeframe.</p> | <p>It is necessary that the Licensing authority notifies the applicant in detail of why the application has failed and provide possible solution and avenues for compliance.</p> |
| 5. | <p>15. (1) A licensing authority shall inform the applicant of its decision under section 14 within seven days of the decision.</p> | <p>We propose that the provisions in this clause are made clear.</p> | <p>It is not clear where this provision applies as it seems to contradict section 9(3).</p> |
| 6. | <p>16. (1) A licensing authority that grants an application shall</p> | <p>We propose that the clause is amended to add a clause mandating the county</p> | <p>This is based on the following:</p> |

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| | <p>issue to the applicant an original or replacement licence, as the case requires.</p> | <p>government to clearly state the licence areas of coverage.</p> <p>As follows:</p> <p>16. (3) (k) Specifying the service paid for</p> | <ul style="list-style-type: none"> Licenses should clearly state its areas of coverage to avoid overlapping/ double licensing like for instance, counties charge food hygiene Kshs. 20,000, Health clearance Kshs.30,000 and it is not clear what they cover as they seem to be covering the same thing with different names all under the health department. Legal Compliance and Accountability: Explicitly stating the service covered by a license promotes legal compliance and accountability. It helps establish a clear framework for regulatory oversight and holds license holders accountable for adhering to the specified terms and conditions. |
| 7. | <p>19. (1) Subject to the provisions of this Act and licensing legislation enacted by the relevant county government, a licensing authority may vary a condition attached to a licence.</p> | <p>We propose that this clause is amended to delete</p> | |
| 8. | <p>Clause 24(1) Licensing fees</p> <p>e) Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees</p> | <p>We propose to amend this clause to add an implementation clause on how avoidance of multiplicity will be achieved.</p> <p>To Read as follows:</p> | <p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> The guiding principles as enumerated in clause 24 are welcome and overdue. |

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| | <p>where goods are transported across different counties.</p> | <p>(e) Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties through-</p> <ul style="list-style-type: none"> i. Mandatory synchronization of licensing requirements and fee structures. ii. Establishment of an integrated digital platform. | <ul style="list-style-type: none"> • Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties is particularly welcome. • Multiple fees and levies across different counties inhibit cross-county trade and increase the cost of doing business in the country. • We propose to add to this to include a clause on how this directive will be implemented to ensure seamless operationalization. • We propose guidelines that will guide counties on how to issue licences for businesses that operate across two or more counties that share a border. • This will avoid any confusion or ambiguity in the counties on how the proposed principle will be implemented. |
| 9. | <p>Clause 24 Licensing fees</p> <p>(2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licences by the respective county.</p> | <p>We propose to amend this clause to Specify clear criteria and factors for determining licensing fees.</p> <p>To read as follows:</p> <p>(2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licences</p> | <ul style="list-style-type: none"> • This ensures fairness and avoids arbitrary charges by the different county government. • A digital platform will facilitate seamless application, processing, and oversight of licenses, thereby enhancing transparency and diminishing administrative complexities. |

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| | | <p>by the respective county. Taking into consideration the following:</p> <ul style="list-style-type: none"> a) nature and scope of the licensed activity, b) economic considerations, c) administrative and regulatory costs, d) public interest, and resource utilization. | |
| 10. | <p>24(5) In determining the fee payable with respect to a licence, a licensing authority-</p> | <p>We propose to amend this clause by inserting the following: (f) " Ensure the uniformity of established fees, striving for consistency across counties, to minimize adverse impacts on competition and investment"</p> | <ul style="list-style-type: none"> • Fees should not be miles apart in comparison to other counties. i.e. Kajiado total permit comes to a whopping 73k and in Nairobi unified 40k • The uniformity of fees is necessary to foster fair competition, promote economic efficiency, avoid market distortions, attract investment, facilitate compliance, enhance public perception, and reduce administrative burdens. These factors contribute to the creation of a more stable, transparent, and equitable economic environment. • It Reduces Administrative Burden: For both County government and businesses, managing and enforcing uniform fees is more straightforward than dealing with a patchwork of disparate fee structures. This reduction |

| | | | |
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| | | | in administrative burden allows resources to be allocated more efficiently. |
| | | | • |
| 11. | 29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county. | <p>We propose to amend this clause to include Model Legislation: To read as follows:</p> <p>29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county. The county assembly shall be guided by the provisions and principles outlined in the MODEL LAW during the legislative process.</p> | <ul style="list-style-type: none"> • A model legislation or template will serve as a guide for counties. This model can establish a baseline for key provisions while allowing for flexibility to address local nuances. Counties can use this model as a reference, adapting it to their specific needs. • It will also ensure harmony and uniformity in the counties despite the discretionary legislative powers granted to county assemblies. |



THE NATIONAL ASSEMBLY
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When replying, please quote

NA/DDC/TRADE/2024/054

7th March, 2024

Dr. Chris K. Kiptoo, CBS
Principal Secretary
The National Treasury
The National Treasury & Economic Planning
Treasury Buildings, Harambee Avenue
NAIROBI

Dear *D. Kiptoo*

RE: STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022), BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY, AND COOPERATIVES

The Departmental Committee on Trade, Industry, and Cooperative, is established pursuant to Standing Order 216(5)(c) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'study and review all legislation referred to it'.

The Committee is in the process of considering the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022) (copy attached). The Bill seeks to provide for a national legislative framework for uniform procedures for the licensing of various activities by County Governments. Further, the Bill will ensure certainty in the licensing processes in all counties, and encourage private sector players to do business in the counties.

In compliance with the provisions of Article 118 (1) (b) of the Constitution, and Standing Order 127(1), the Committee invites you for a meeting to deliberate and give your submissions on the Bill. The meeting will be held on **Thursday, 14th March, 2024, at 10.00 a.m.**, in the **Mini Chamber, County Hall, Parliament Buildings**.

You are requested to submit electronic copies of your comments to the Committee, through the email address can@parliament.go.ke not later than **Wednesday 13th March, 2024**. You are further requested to appear before the Committee with twenty (20) hard copies of your submissions.

The liaison officers for this activity are **Ms. Rose Mudibo, OGW** who may be contacted on Tel No. 0717 442 440, email; rose.mudibo@parliament.go.ke, **Mr. Ellam Umuhinda**, Tel No. 0755 883 451, email; ellam.umuhinda@parliament.go.ke, and **Ms. Everlyn K. Orina** Tel No. 0711 201 833 or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy:

Prof. Njuguna Ndung'u, CBS
Cabinet Secretary
The National Treasury & Economic Planning
Treasury Buildings, Harambee Avenue
NAIROBI



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 9 of 2022)

**THE COUNTY LICENSING
(UNIFORM PROCEDURES) BILL, 2022**

(A Bill published in the Kenya Gazette Supplement No. 196 of 29th November, 2022
and passed by the Senate, with amendments on 21st February, 2024)



**THE COUNTY LICENSING (UNIFORM
PROCEDURES) BILL, 2022**

Clause

PART I - PRELIMINARY

- 1 - Short title and commencement.
- 2 - Interpretation.

PART II – OBLIGATIONS

- 3 – Guiding principles.
- 4 – General duty of a licensing authority.
- 5 – Principles of interpretation and application.
- 6 – Obligations of county governments.

PART III – LICENSING PROCEDURE

- 7 – Application for granting, amendment, renewal restoration and replacement of licence.
- 8 – Single application process.
- 9 – Notice for further information.
- 10 - Consultation.
- 11 - Advertising of applications.
- 12 - Withdrawal of application.
- 13 – Period of determination of application.
- 14 – Determination of application.
- 15 – Notice of decision on application.
- 16 - Issuance of licence.
- 17 – Duration of licence.
- 18 – Conditions for issuance of licence.
- 19 - Variation of conditions of a licence.
- 20 - Cancellation of licence.
- 21 - Review of decisions.

PART IV – ADMINISTRATION OF LICENSING SCHEMES

- 22 – Change in particulars.
- 23 – Administration of register of licences.
- 24 – Licensing fees.
- 25 – Service of notices.
- 26 – Recovery of unpaid fees.
- 27 – General penalty.
- 28 - Regulations.
- 29 – County legislation.

THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

A Bill for

AN ACT of Parliament to establish standard uniform procedures for licensing by county governments; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the County Licensing (Uniform Procedures) Act, 2022, and shall come into operation upon the expiry of six months from the date of assent of this Act.

Short title and commencement.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to licensing;

“county executive committee member” means the county executive committee member responsible for matters relating to finance in the respective county;

“electronic communication” means any information transmitted, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device; and

“licensing authority” means a person authorised by legislation to issue a licence.

PART II – OBLIGATIONS

3. A person shall, in the implementation of this Act or enactment of the respective county legislation, take into account —

Guiding principles.

- (a) the need to protect consumers of goods and services, ensure public safety and promote environmental protection;
- (b) the need to maintain public confidence in the respective sectors under which the licence is issued and that the imposition of licensing fees is carried out in a manner that does not hamper the respective business or industry;
- (c) the need to ensure access to information relating to the conditions for issuance of licences and

licensing procedures and in accordance with the provisions of the Access to Information Act;

- (d) the need to ensure that the licensing procedures are simple and that licensing services are accessible to a person applying for a licence; No. 31 of 2016.
- (e) cost effectiveness of the licensing process;
- (f) the importance of declaring and upholding proper standards of conduct by licensees;
- (g) the need to promote efficiency and effectiveness in the administration of the licensing processes; and
- (h) the licensing processes are undertaken in a fair and transparent manner.

4. A licensing authority shall ensure that the process of applying for a licence from the respective authority is efficient and effective by — General duty on licensing authority.

- (a) providing a mechanism for a person to make a simultaneous application for more than one licence;
- (b) preventing multiple licensing procedures;
- (c) ensuring that applicants are given adequate opportunity to make representations on an application for a licence;
- (d) adhering to timelines for the processing of licensing applications as set out in this Act or the relevant licensing legislation; and
- (e) establishing and implementing a system that designates different codes for the different categories of licences issued by that authority.

5. The following principles shall apply to the interpretation and application of this Act and licensing legislation enacted by a county government — Principles of interpretation and application.

- (a) simplicity of the process of application for a licence;
- (b) equity, transparency and accountability in the administration of licensing procedures
- (c) ensuring that the licensing framework is

consolidated and requires persons to hold a minimum number of licences and be subject to a minimum number of different licensing processes;

- (d) access to information relating to the licensing requirements and procedures;
- (e) enabling licence holders to respond to changes in the market quickly with minimum regulatory friction; and
- (f) certainty by having in place clear and consistent licensing conditions.

6. A county government shall, in establishing and administering a licensing regime —

Obligations of county governments.

- (a) protect the rights of consumers, producers, suppliers and service providers in the respective county;
- (b) promote the regulation of developing markets;
- (c) ensure that the quality of goods produced and services delivered are of high standard;
- (d) effectively administer control over persons engaged in activities that are potentially risky as threatening to the life or health of individuals, property and State, public interest or nature and cultural heritage;
- (e) ensure that the licensing fees imposed with respect to the licence are not prohibitive and do not hinder the conduct of business; and
- (f) ensure that each category of the licences offered by the county government is designated a unique code.

PART III – LICENSING PROCEDURE

7. (1) An application for the grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence shall —

Application for granting, amendment, renewal restoration and replacement of licence.

- (a) be made in writing and in the prescribed form;
- (b) contain such information as is prescribed under the respective licensing legislation; and
- (c) be signed by the applicant or in the case of an

application for transfer of a licence be signed by the applicant and the proposed transferee.

(2) A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable the electronic application for grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.

(3) A person may make one application to the same licensing authority in relation to more than one licence with respect to goods or services falling within the same sector.

(4) A person shall pay to the relevant licensing authority the application fees payable under the relevant licensing legislation.

8. A county government shall, in the enactment of legislation and for the effective administration of the licensing processes, prescribe procedures for a single application process with respect to an application for more than one licence.

Single application process.

9. (1) A licensing authority may serve a notice on an applicant requiring the applicant to provide such further information as may be required to determine an application for a licence under the respective licensing legislation.

Notice for further information.

(2) A notice under subsection (1) shall be made within three days of receipt of the application and shall specify the time within which the applicant shall furnish the information requested in the notice and the person to whom such information shall be submitted to.

(3) The licensing authority may reject an application without dealing with it any further if the applicant fails to comply with the notice under subsection (1).

(4) A person whose application has been rejected under subsection (3) shall forfeit any application fees paid to the respective licensing authority.

10. (1) Where a licensing authority intends to vary the conditions of fees payable for the issuance of a licence, the licensing authority shall —

Consultation.

(a) undertake public participation and consult with stakeholders likely to be affected at the formative

stage of the proposal;

- (b) undertake a regulatory impact assessment which shall include a costs benefit analysis of the proposed variation;
- (c) provide sufficient information to members of the public to enable them to make an informed decision;
- (d) allow for adequate time for consideration of proposals by members of the public;
- (e) take into account the comments and proposals submitted under paragraph (a); and
- (f) publicise the final decision taken with respect to the proposals.

(2) In carrying out public participation under subsection (1), the licensing authority shall adhere to the requirements set out under section 91 of the County Governments Act.

No. 17 of 2012.

11. (1) A licensing authority shall where the respective legislation requires an application to be advertised, publish a notice of the application in at least one daily newspaper of wide circulation in the county and shall cause to be advertised in a local radio station or through such other electronic media as the authority shall consider appropriate.

Advertising of applications.

(2) A notice under subsection (1) shall include —

- (a) a statement for the submission, to the licensing authority by any person, of relevant information with respect to the application; and
- (b) set out the procedure by which, and the time within which, submissions shall be made to the licensing authority.

(3) The date referred to in subsection 2(b) shall not be earlier than fourteen days and not later than twenty eight days after the date on which a notice is first published under this section.

12. (1) An applicant may withdraw an application at any time before a licence is issued under section 15.

Withdrawal of application.

(2) A person who withdraws an application under

subsection (1) shall forfeit any fees paid in connection with an application made under this Act or the respective county licensing legislation.

(3) Notwithstanding subsection (2), a county government may enact legislation providing for circumstances under which fees paid by an applicant for a licence may be refunded.

13. (1) A licensing authority shall be deemed to have allowed an application if the licensing authority fails to determine the application within twenty eight days after the application is made or within the time prescribed in the relevant licensing legislation, whichever is earlier.

Period of determination of application.

(2) In calculating a period referred to in subsection (1), the following periods shall be excluded-

- (a) any period between the date on which a request for further information or supporting evidence is made under section 9;
- (b) any period between the date on which a notice is published under section 9(2) and the date fixed by the notice as the date by which any submission with respect to the application must be lodged;
- (c) any period, not exceeding fourteen days, between the date on which the licensing authority refers the application to another person and the date on which the authority receives a response to that reference from that other person; or
- (d) any period between the date on which the licensing authority refers the applicant for assessment and the date on which the authority obtains or receives the results of an assessment where the licensing authority has referred the application for assessment in connection with the determination of the application.

14. A licensing authority may-

Determination of application.

- (a) grant an application for a licence unconditionally;
- (b) grant the application subject to conditions authorised by the relevant licensing legislation; or

(c) refuse the application.

15. (1) A licensing authority shall inform the applicant of its decision under section 14 within seven days of the decision.

Notice of decision on application.

(2) Where an objection has been raised with respect to an application for a licence, the licensing authority shall inform, in writing, the person objecting to the issuance of a licence of its decision with respect to the objection.

(3) If the decision of a relevant licensing authority is to refuse an application, the authority shall inform the applicant, in writing, of the reasons why the application was refused.

16. (1) A licensing authority that grants an application shall issue to the applicant an original or replacement licence, as the case requires.

Issuance of licence.

(2) A licence shall be issued under subsection (1)-

(a) when the relevant licensing authority informs the applicant of its decision to grant the licence; and

(b) upon the payment of any fee required by the relevant licensing legislation.

(3) A licence issued under this section shall include-

(a) a unique identifier;

(b) the code of the category of the licence;

(c) name of the licensing authority;

(d) the name of the licensee;

(e) the nature of the business to which the licence relates;

(f) a reference to the provisions of the relevant licensing legislation;

(g) the authority conferred by the licence;

(h) conditions to which the licence may be subject;

(i) the date on which the licence comes into force;

(j) the date on which the licence expires; and

(k) such other information that the relevant licensing

authority may consider appropriate to include.

17. (1) A licence comes into force on the date on which it is issued or on a date specified on the licence.

Duration of licence.

(2) A renewed licence comes into force on the date following the expiry date of the licence it renews and for the period stipulated in the licence.

(3) Subject to the provisions of the relevant licensing legislation, if an application for renewal of a licence is made before the date on which the licence would expire, the licence remains in force until the date on which the applicant is notified of the relevant licensing authority's decision on the application to renew the licence.

18. (1) A licensee shall be required to observe the following conditions in addition to those that may be imposed by the licensing authority or under the respective county legislation-

Conditions for issuance of licence.

- (a) to provide the service or carry out the business specified in the licence;
- (b) to comply with all applicable laws and the conditions for issuance of the licence;
- (c) to provide the licensing authority with information with respect to any change in its directorship or shareholding in accordance with section 22;
- (d) to pay such fees as may be prescribed; and
- (e) to maintain, and where required, submit to the licensing authority such information as may be necessary for the continued licensing of the licence holder.

(2) A licensing authority shall, unless the circumstances or facts relating to the application vary and the licensing authority considers it proper, impose the same conditions for the issuance of the same type of licence.

19. (1) Subject to the provisions of this Act and licensing legislation enacted by the relevant county government, a licensing authority may vary a condition attached to a licence.

Variation of conditions of a licence.

(2) Before varying a condition of a licence under subsection (1), the licensing authority shall give notice in writing to the affected licensees and by publication in a

newspaper of nationwide circulation and through such other media as the licensing authority shall consider appropriate.

- (3) A notice under subsection (2) shall-
- (a) specify the variation intended to be made with respect to the licence;
 - (b) set out the reasons for such variance;
 - (c) specify the time within which the variation shall take effect;
 - (d) require the licensee and any other person to submit any representations within thirty days from the date of the notice;
 - (e) specify the place from which information relating to the variation may be obtained; and
 - (f) set out such further information as the licensing authority may consider necessary.

(4) Where a variation is intended to remedy or prevent an act which may be against public interest, the licensing authority may vary the condition and inform the licensee in writing within one day of such variation and reasons thereof.

20. (1) A licensing authority may cancel a licence if the licensee –

Cancellation of licence.

- (a) fails to meet any condition imposed by the licensing authority;
- (b) fails to comply with the provisions of the licensing legislation; or
- (c) surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.

21. (1) An applicant or any other person who is aggrieved by a decision of a licensing authority with respect to the application or cancellation of a licence may apply for a review of the decision —

Review of decisions.

- (a) in accordance with the relevant licensing

legislation; or

- (b) to the extent to which the relevant licensing legislation does not provide the applicant with such right, to the county executive committee member responsible for matters relating to the subject of the licence.

(2) An application for review shall be determined within twenty-one days of the application for review or such time as may be prescribed by the relevant licensing legislation, whichever is shorter.

PART IV – ADMINISTRATION OF LICENSING SCHEMES

22. A person who holds a licence shall notify the respective licensing authority of any change that occurs in the licensee's name, directorship, shareholding, address or registered particulars, within fourteen days after the change.

Change in particulars.

23. (1) A licensing authority shall keep and maintain a licence register.

Administration of register of licences.

(2) A register under subsection (1) shall contain-

- (a) information contained in a licence and specified under section 16(3);
- (b) the type of entity to which the licence is issued;
- (c) information with respect to any re-issuance, revocation, suspension, transfer or variation of a licence; and
- (d) such other information as may be prescribed under the respective county legislation.

(3) A licensing authority shall-

- (a) make the register available for inspection by members of the public; and
- (b) provide such information with respect to a licence issued by the licensing authority upon application under the respective licensing legislation; and
- (c) make the register accessible to the public online.

(4) A licensing authority to which an application for

information is made may charge a prescribed fee for the provision of information under subsection (3) and the fee shall not exceed the actual cost of making copies of such information and where applicable, supplying the information to the applicant.

24. (1) A licensing authority shall be guided by the following principles in setting the fees for issuance of a licence under the respective county legislation-

Licensing fees.

- (a) authority to set the fees and the setting of fees within the scope of the authority;
- (b) need to ensure efficiency in the delivery of goods and services;
- (c) accountability;
- (d) public participation;
- (e) avoidance of multiplicity in the issuance of licences and multiple imposition of fees where goods are transported across different counties.
- (f) cross-subsidization where fees collected for providing a category of goods or services covers the costs incurred in providing goods and services in another category in accordance with existing legislation;
- (g) adherence to existing policy on the charging and collection of fees; and
- (h) avoidance of multiple licensing in a specific sector.

(2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licences by the respective county.

(3) A county government shall, in formulating a licensing fees policy, be guided by the principles set out under this Act.

- (4) A licensing authority may impose –
- (a) a licence fee for an application for the grant, transfer or renewal of a licence; and
 - (b) an annual licence fee for administering and monitoring a licence.

(5) In determining the fee payable with respect to a licence, a licensing authority-

- (a) shall act in accordance with the licensing fees policy;
- (b) may fix different fees with respect to the different types of licences;
- (c) may waive the requirement for fees and prescribe conditions for such a waiver;
- (d) shall take into account the costs incurred in administering the licensing scheme; and
- (e) shall ensure that the fees set do not adversely affect competition and investment.

(6) Pursuant to section 20(1)(a) and (c) of the Intergovernmental Relations Act, the Council of County Governors shall provide a platform for consultation and collaboration by county governments in—

- (a) establishing a system to facilitate the effective implementation of this Act; and
- (b) establishing and implementing harmonised processes for issuance of licences and imposition of fees where goods are transported across different counties

25. (1) Where a licensing authority is required to serve a notice on a person under this Act or any other licensing legislation, the authority shall serve the notice-

Service of notices.

- (a) in the case of an individual by—
 - (i) delivering it personally to the individual;
 - (ii) sending it by registered post, addressed to the individual at the address indicated on the application as the individual's postal address, for service of notices;
 - (iii) leaving it with an authorised person at the individual's place of residence or business; or
 - (iv) sending it by means of electronic communication to the individual at the address indicated in the application as the

individual's address for service for electronic communication; and

- (b) in the case of a company by—
- (i) delivering it to the person concerned in the company's management and authorized to receive documents on behalf of the company;
 - (ii) sending it by registered post, addressed to the company at the address indicated on the application as the company's postal address, for service of notices;
 - (iii) leaving it with a person authorised to accept service on behalf of the company; or
 - (iv) sending it by means of electronic communication to the company at the address indicated in the application as the company's address for service for electronic communication.

(2) A notice required to be served on joint applicants or joint licensees shall be deemed to have been served on all of them when it is served on any of them.

26. A fee payable with respect to a licence or an application for a licence may be recovered by the relevant licensing authority as a debt in a court of competent jurisdiction.

Recovery of unpaid fees.

27. A person who contravenes a provision of this Act commits an offence and is liable, on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or to both.

General penalty.

28. (1) The Cabinet Secretary may make Regulations for the better carrying out the provisions of this Act.

Regulations.

(2) For the purposes of Article 94(6) of the Constitution—

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the

objectives specified under subsection (1); and

- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.
No. 23 of 2013.

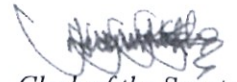
29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county.

County
legislation.

(2) Notwithstanding the generality of the provisions of subsection (1), a county assembly may enact legislation to provide for-


- (a) singular licence application framework;
- (b) conditions applicable to different categories of licences;
- (c) measures to ensure ease and mitigating the cost of doing business within the respective county;
- (d) a coding system for all categories of licenses issued by the county government
- (e) prescribed forms for the application for a licence;
- (f) a fee that may be imposed with respect to an application made under this Act;
- (g) conditions for the refund of any fees paid with respect to an application made under this Act;
- (h) framework for the review of a decision of a licensing authority under this Act; and
- (i) such other matter as the respective county assembly may deem necessary for the better carrying out of the provisions of this Act.

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 21st February, 2024.



Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.



Speaker of the Senate

COMMENTS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

General comments

We note that the County Licensing (Uniform Procedures) Bill 2022 establishes standards and uniform procedures for county governments to license. It is expected to streamline the procedures in the forty-seven county governments when applying for licenses to promote the ease of doing business in the counties. The uniform licensing procedures ensures certainty in the process and ultimately spur the growth of Micro, Small and Medium Enterprises (MSME) for posterity in general and in line with the governments Bottom-up Economic Transformation Agenda.

Although the Bill also supports the framework for the efficient generation of Own-Source Revenue (OSR), it is a non-money bill as it focuses on regulating the procedures for the application and issuance of licenses. However, notwithstanding clause 2, wherefore, "*licensing authority*" means *a person authorised by legislation to issue a licence*, and considering the monetary implications of implementing the law, it is important to clarify that the Bill does not seek to establish institutions at the counties with attendant additional administrative and human resources which can undermine the cost-effectiveness and administrative efficiency principle.

Specific Comments

Below is a matrix of specific comments in relation to different clauses.

Matrix of comments on the County Licensing (Uniform Procedures) Bill, 2022

| Clauses | Provision | Comment/Proposal |
|----------------|---|---|
| Clause 1 | This act may be cited as the County Licensing (uniform procedures) Act, 2022, and shall come into operation upon the expiry of six months from the date of assent of this Act | It is not clear what informs the six months from the date of assent. Beginning of a Financial Year may be preferred for transition purposes. |
| Clause 2 | "Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to licensing." | There are many ministries that carry out licensing. The Bills needs to clarify which ministry is intended in this place. For this purpose, the Cabinet Secretary for matters relating to trade could suffice. |

| | | |
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| Clause 2 | “Licensing authority” means a person authorized by legislation to issue a licence | There is need to expound on this definition of a licensing authority whether it applies to only a person or also an entity. It is also not clear whether it is only the county government entities or even national government entities operating within the county |
| Clause 3 (c) | The need to ensure access to information relating to the conditions for issuance of licences and licensing procedures and in accordance with the provisions of the Access to Information Act | Specify the year of the Act i.e Access to Information Act, 2016. |
| Clause 5 (c) | Ensuring that the licensing framework is consolidated and requires persons to hold a minimum number of licences and be subject to a minimum number of different licensing processes | The licenses stated need to conform to relevant laws, regulations and policies hence restricting them to a minimum number of licences may lead to gaps in license issuance. |
| Clause 6 | A county government shall, in establishing and administering a licensing regime - | We propose as one of the obligations of the county government that; (g) ensure that it does not prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209 (5) of the Constitution. This is important in cases where businesses operate across multiple jurisdictions or the license is issued to exploit a resource shared |

| | | |
|----------------------|--|--|
| | | by jurisdictions, as it minimises the complexity of compliance, reduces barriers to entry, and manages spillover effects. |
| Clause 7 (2) | A licensing authority shall, within three years of commencement of this Act, put in place mechanisms to enable the electronic application for grant, renewal, transfer or replacement of licence or a variation of a condition for the issuance of a licence | This Section is silent on the counties that are already using electronic systems in licensing. A provision be provided for those counties with existing electronic systems for license issuance |
| Clause 7 (4) | A person shall pay to the licensing authority the application fees payable under the relevant licensing legislation | Introduction of an application fee in addition to the licensing fee is an additional cost on businesses that may negate the provisions of Section 6 (e) that requires that licensing fees do not hinder the conduct of business. |
| Clause 4 (a) and (b) | (a) Providing a mechanism for a person to make simultaneous application for more than one licence (b) Preventing multiple licensing procedures | Ensure clarity on these three areas as they can be misinterpreted and hence double-applied. Clause 4 (a) and (b) and Clause 8 can be given more elaboration or can be combined |
| Clause 8 | A county government shall, in the enactment of legislation and for the effective administration of licensing processes, prescribe procedures for a single application process with respect to an application for more than one licence. | |
| Clause 9 (1) | A licensing authority may serve a notice on an applicant to provide such further information as may be required to determine an application | Clause 9 (1) does not specify the mode of notice. It is important that the person being served with the notice gets to know how the |

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| | for a licence under the respective licensing regulation. | <p>notice will be served so as to anticipate such a notice and where to look for it. Otherwise the notice may be issued and the intended audience does not get to know of such a notice.</p> <p>There is need to specify the mode of notifying the entity seeking license that further information is required, preferably in writing.</p> |
| Clause 9 (2) | A notice under subsection (1) shall be made within three days of receipt of the application and shall specify the time within which the applicant shall furnish the information requested in the notice and the person to whom such information shall be submitted to. | <p>Clause 9 (2) leaves it to the authority to decide the time frame to submit the information requested vide a notice issued on clause 9 (1). This could mean that it will be subjective. There is need to have a standardized time frame.</p> <p>We propose that a timeframe be specified to avoid abuse of the privilege of determining the time.</p> |
| Clause 21 (2) | An application for review shall be determined within twenty-one days of the application of review or such time as may be prescribed by the relevant licensing legislation, whichever is shorter. | Once the review is determined, there is need to provide for the mode of communication of the decision to the licensee and the time period for such communication to be undertaken. |
| Clause 28 (1) | The Cabinet Secretary may make Regulations for the better carrying out of the provisions of this Act | It is not clear which Cabinet Secretary will make the Regulations since the definition of 'Cabinet Secretary' in the Act is not clear since licensing is performed by several ministries in |

| | | |
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| | | different sectors. There is need to house this function under a specific Cabinet Secretary. E.g. trade. |
|--|--|---|

~~Chris Kiptoo~~ 13/3/24

DR. CHRIS K. KIPTOO, CBS

PRINCIPAL SECRETARY/THE NATIONAL TREASURY



MINISTRY OF INVESTMENTS, TRADE, AND INDUSTRY
State Department for Industry
Office of the Principal Secretary

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NAIROBI, GPO
KENYA

When replying, please quote

Ref: MITI/SDI/1/10


Date: 13th March, 2024

Mr. Jeremiah Ndombi
Clerk of The National Assembly
Nairobi

**RESPONSE TO STAKEHOLDER ENGAGEMENT ON THE COUNTY LICENSING
(UNIFORM PROCEDURES) BILL, 2022 (SENATE BILL NO. 9 OF 2022)**

Reference is made to your letter NA/DDC/TRADE/2024/053 dated 7th March 2024. The following are general comments made by our state department;

1. It appears no consideration has been given to the vulnerable groups.
A uniform standard of waiver to be established for all vulnerable groups(PWD).
2. Section 7(2). Since the law will be incepted in the analogue state before transformation into electronic platform after three years, ***we propose the electronic platform should be adopted from inception to reduce turn-around-time. All what is required is to have schedules of the relevant documents e.g. application forms, amendment form in place.***
3. Some Counties may have some specific priorities or unique Industrial opportunities that may require some incentives to attract investments. The inclusion of such provision(s) in the license may need consideration.


Juma Mukhwana, PhD, CBS
PRINCIPAL SECRETARY

Copy to: Hon. Rebecca Miano, EGH
Cabinet Secretary
Ministry of Investments, Trade and Industry



Kenya Pharmaceutical Association

Nyanza Branch

Mayu Business Center 1st floor
Kibos Rd Kondele. Kisumu
+254 792 450 493
kpanyanza@gmail.com

Date: 2nd April, 2024

Our Ref: KPA/NYZ/04/24

Your Ref: Clerk of the National Assembly

THE KENYA PHARMACEUTICAL ASSOCIATION NYANZA BRANCH SUBMISSION ON THE HARMONIZATION OF COUNTY LICENSING BILL, 2022.

1.0. INTRODUCTION

Kenya Pharmaceutical Association (KPA) is an umbrella body serving Pharmaceutical Technologists duly enrolled by Pharmacy and Poisons Board to practice within the Republic of Kenya. It has a total membership of 12,000 professionals who offer Pharmaceutical services across the Republic. KPA Nyanza in particular draws her membership from Kisumu, Siaya and Homa Bay Counties. The associations' main mission is to champion for excellent pharmaceutical services.

2.0. BACKGROUND

The overall aspiration for UHC is that ALL Kenyans have access to essential quality health services without suffering financial hardship and "leaving no one behind" (Aspirations of Universal Health Coverage).

Pharmaceutical services are Essential Health Services by all standards and pharmacy outlets are essential health service facilities which serves as entry point to the



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healthcare system in Kenya and plays a critical role in supporting the county health system in a way that is yet to be documented.

Data from the Kenya Household Health Expenditure and Utilization Survey 2014 showed that 23% of all outpatient got services from private pharmacies and hospitals. However, Maishameds, a company using technology to advance Primary Healthcare in Kenya states on its website that “small clinics, pharmacies and drug outlets in East Africa provide over 60% of primary healthcare”.

Further a study conducted by KEMRI UW indicated that more than 60% of women in their reproductive age knew their pregnancy status through the community pharmacies. This again qualifies the reason as to which making these services affordable could improve maternal indicators thus lowering both maternal and newborn mortalities.

This clearly indicates the contribution the pharmacies make in making UHC a reality, and justifies the need for support from a policy perspective.

3.0. PROBLEM STATEMENT

KPA Nyanza has continually received myriads of complains from her membership citing consistent harassment by the County Revenue officials in regards to single Business permits, Public permits, waste collection fee and advertisement fee among others. This has happened despite the fact that these drug outlets (Community pharmacies) pay premise and license fees to the regulator (Pharmacy and Poisons Board)



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On the contrary, county governments have increasingly imposed hefty levies on these facilities making the cost of drugs to go up beyond the ability of the vulnerable population making them to be literally left behind contrary to the aspirations of the Universal Health Coverage, UHC.

It is also important to note that the unstable supply of drugs in the public health facilities, coupled with peculiar health seeking behavior among the Kenyan population makes the community pharmacies reliable service points which contribute immensely to the Aspirations of UHC in ensuring improved access to quality health products and technologies at an affordable cost.

4.0. OUR RECOMMENDATIONS

-That the county leverages on the existence of the legal community pharmacies and scraps off county levies as a means of reducing the cost of medication, and instead support them to offer accessible and affordable services to Kenyans.

-That a policy be passed to bring equity in the cost of licensure by PPB which currently is uniform irrespective of the location of the pharmacy, to the extent that a pharmacy in Nairobi CBD pays the same as a pharmacy in the most remote part of Turkana.

It is our very considered opinion that lack of equity in this regard is prohibitive in the sense that most qualified pharmacy practitioners would avoid remote areas where the returns would be low therefore exposing the most vulnerable and denying them their constitutional right to quality healthcare.



**Kenya
Pharmaceutical
Association**
Nyanza Branch

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-That in general terms, any levy on legal pharmacy businesses should be seriously considered to avoid any further increase in the cost of drugs.

-That we pay Ksh. 15,000 for the PPB licensure, Ksh. 5,000 for the practice licence and Ksh. 10,000 for the Premise licence, it is our very considered opinion that because we practice in the counties where the premises are, we be allowed to pay Kshs. 5000 for the licence to the Pharmacy and Poisons Board (PPB), Kenya being the regulator and the Kshs. 10,0000 to the counties to which health has been devolved. Paying the premise fee to PPB and then paying additional fee in the name of county levy, amounts to double taxation.

Sincerely,

David Juma

Branch Deputy Chair.

CC

KPA Branch Chair Nyanza

KPA National Executive Council

County Government of Kisumu, Siaya and Homa Bay.



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 9 of 2022)

**THE COUNTY LICENSING
(UNIFORM PROCEDURES) BILL, 2022**

(A Bill published in the Kenya *Gazette* Supplement No. 196 of 29th November, 2022 and passed by the Senate, with amendments on 21st February, 2024)



**THE COUNTY LICENSING (UNIFORM
PROCEDURES) BILL, 2022**

Clause

PART I - PRELIMINARY

- 1 - Short title and commencement.
- 2 - Interpretation.

PART II – OBLIGATIONS

- 3 – Guiding principles.
- 4 – General duty of a licensing authority.
- 5 – Principles of interpretation and application.
- 6 – Obligations of county governments.

PART III – LICENSING PROCEDURE

- 7 – Application for granting, amendment, renewal restoration and replacement of licence.
- 8 – Single application process.
- 9 – Notice for further information.
- 10 - Consultation.
- 11 - Advertising of applications.
- 12 - Withdrawal of application.
- 13 – Period of determination of application.
- 14 – Determination of application.
- 15 – Notice of decision on application.
- 16 - Issuance of licence.
- 17 – Duration of licence.
- 18 – Conditions for issuance of licence.
- 19 - Variation of conditions of a licence.
- 20 - Cancellation of licence.
- 21 - Review of decisions.

PART IV – ADMINISTRATION OF LICENSING SCHEMES

- 22 – Change in particulars.
- 23 – Administration of register of licences.
- 24 – Licensing fees.
- 25 – Service of notices.
- 26 – Recovery of unpaid fees.
- 27 – General penalty.
- 28 - Regulations.
- 29 – County legislation.

THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

A Bill for

AN ACT of Parliament to establish standard uniform procedures for licensing by county governments; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the County Licensing (Uniform Procedures) Act, 2022, and shall come into operation upon the expiry of six months from the date of assent of this Act.

Short title and commencement.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to licensing;

“county executive committee member” means the county executive committee member responsible for matters relating to finance in the respective county;

“electronic communication” means any information transmitted, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device; and

“licensing authority” means a person authorised by legislation to issue a licence.

PART II – OBLIGATIONS

3. A person shall, in the implementation of this Act or enactment of the respective county legislation, take into account —

Guiding principles.

- (a) the need to protect consumers of goods and services, ensure public safety and promote environmental protection;
- (b) the need to maintain public confidence in the respective sectors under which the licence is issued and that the imposition of licensing fees is carried out in a manner that does not hamper the respective business or industry;
- (c) the need to ensure access to information relating to the conditions for issuance of licences and

licensing procedures and in accordance with the provisions of the Access to Information Act;

- (d) the need to ensure that the licensing procedures are simple and that licensing services are accessible to a person applying for a licence; No. 31 of 2016.
- (e) cost effectiveness of the licensing process;
- (f) the importance of declaring and upholding proper standards of conduct by licensees;
- (g) the need to promote efficiency and effectiveness in the administration of the licensing processes; and
- (h) the licensing processes are undertaken in a fair and transparent manner.

4. A licensing authority shall ensure that the process of applying for a licence from the respective authority is efficient and effective by — General duty on licensing authority.

- (a) providing a mechanism for a person to make a simultaneous application for more than one licence;
- (b) preventing multiple licensing procedures;
- (c) ensuring that applicants are given adequate opportunity to make representations on an application for a licence;
- (d) adhering to timelines for the processing of licensing applications as set out in this Act or the relevant licensing legislation; and
- (e) establishing and implementing a system that designates different codes for the different categories of licences issued by that authority.

5. The following principles shall apply to the interpretation and application of this Act and licensing legislation enacted by a county government — Principles of interpretation and application.

- (a) simplicity of the process of application for a licence;
- (b) equity, transparency and accountability in the administration of licensing procedures
- (c) ensuring that the licensing framework is

consolidated and requires persons to hold a minimum number of licences and be subject to a minimum number of different licensing processes;

- (d) access to information relating to the licensing requirements and procedures;
- (e) enabling licence holders to respond to changes in the market quickly with minimum regulatory friction; and
- (f) certainty by having in place clear and consistent licensing conditions.

6. A county government shall, in establishing and administering a licensing regime —

Obligations of county governments.

- (a) protect the rights of consumers, producers, suppliers and service providers in the respective county;
- (b) promote the regulation of developing markets;
- (c) ensure that the quality of goods produced and services delivered are of high standard;
- (d) effectively administer control over persons engaged in activities that are potentially risky as threatening to the life or health of individuals, property and State, public interest or nature and cultural heritage;
- (e) ensure that the licensing fees imposed with respect to the licence are not prohibitive and do not hinder the conduct of business; and
- (f) ensure that each category of the licences offered by the county government is designated a unique code.

PART III – LICENSING PROCEDURE

7. (1) An application for the grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence shall —

Application for granting, amendment, renewal restoration and replacement of licence.

- (a) be made in writing and in the prescribed form;
- (b) contain such information as is prescribed under the respective licensing legislation; and
- (c) be signed by the applicant or in the case of an

application for transfer of a licence be signed by the applicant and the proposed transferee.

(2) A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable the electronic application for grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.

(3) A person may make one application to the same licensing authority in relation to more than one licence with respect to goods or services falling within the same sector.

(4) A person shall pay to the relevant licensing authority the application fees payable under the relevant licensing legislation.

8. A county government shall, in the enactment of legislation and for the effective administration of the licensing processes, prescribe procedures for a single application process with respect to an application for more than one licence.

Single application process.

9. (1) A licensing authority may serve a notice on an applicant requiring the applicant to provide such further information as may be required to determine an application for a licence under the respective licensing legislation.

Notice for further information.

(2) A notice under subsection (1) shall be made within three days of receipt of the application and shall specify the time within which the applicant shall furnish the information requested in the notice and the person to whom such information shall be submitted to.

(3) The licensing authority may reject an application without dealing with it any further if the applicant fails to comply with the notice under subsection (1).

(4) A person whose application has been rejected under subsection (3) shall forfeit any application fees paid to the respective licensing authority.

10. (1) Where a licensing authority intends to vary the conditions of fees payable for the issuance of a licence, the licensing authority shall —

Consultation.

(a) undertake public participation and consult with stakeholders likely to be affected at the formative

stage of the proposal;

- (b) undertake a regulatory impact assessment which shall include a costs benefit analysis of the proposed variation;
- (c) provide sufficient information to members of the public to enable them to make an informed decision;
- (d) allow for adequate time for consideration of proposals by members of the public;
- (e) take into account the comments and proposals submitted under paragraph (a); and
- (f) publicise the final decision taken with respect to the proposals.

(2) In carrying out public participation under subsection (1), the licensing authority shall adhere to the requirements set out under section 91 of the County Governments Act.

No. 17 of 2012.

11. (1) A licensing authority shall where the respective legislation requires an application to be advertised, publish a notice of the application in at least one daily newspaper of wide circulation in the county and shall cause to be advertised in a local radio station or through such other electronic media as the authority shall consider appropriate.

Advertising of applications.

(2) A notice under subsection (1) shall include —

- (a) a statement for the submission, to the licensing authority by any person, of relevant information with respect to the application; and
- (b) set out the procedure by which, and the time within which, submissions shall be made to the licensing authority.

(3) The date referred to in subsection 2(b) shall not be earlier than fourteen days and not later than twenty eight days after the date on which a notice is first published under this section.

12. (1) An applicant may withdraw an application at any time before a licence is issued under section 15.

Withdrawal of application.

(2) A person who withdraws an application under

subsection (1) shall forfeit any fees paid in connection with an application made under this Act or the respective county licensing legislation.

(3) Notwithstanding subsection (2), a county government may enact legislation providing for circumstances under which fees paid by an applicant for a licence may be refunded.

13. (1) A licensing authority shall be deemed to have allowed an application if the licensing authority fails to determine the application within twenty eight days after the application is made or within the time prescribed in the relevant licensing legislation, whichever is earlier.

Period of determination of application.

(2) In calculating a period referred to in subsection (1), the following periods shall be excluded-

- (a) any period between the date on which a request for further information or supporting evidence is made under section 9;
- (b) any period between the date on which a notice is published under section 9(2) and the date fixed by the notice as the date by which any submission with respect to the application must be lodged;
- (c) any period, not exceeding fourteen days, between the date on which the licensing authority refers the application to another person and the date on which the authority receives a response to that reference from that other person; or
- (d) any period between the date on which the licensing authority refers the applicant for assessment and the date on which the authority obtains or receives the results of an assessment where the licensing authority has referred the application for assessment in connection with the determination of the application.

14. A licensing authority may-

Determination of application.

- (a) grant an application for a licence unconditionally;
- (b) grant the application subject to conditions authorised by the relevant licensing legislation; or

(c) refuse the application.

15. (1) A licensing authority shall inform the applicant of its decision under section 14 within seven days of the decision.

Notice of decision on application.

(2) Where an objection has been raised with respect to an application for a licence, the licensing authority shall inform, in writing, the person objecting to the issuance of a licence of its decision with respect to the objection.

(3) If the decision of a relevant licensing authority is to refuse an application, the authority shall inform the applicant, in writing, of the reasons why the application was refused.

16. (1) A licensing authority that grants an application shall issue to the applicant an original or replacement licence, as the case requires.

Issuance of licence.

(2) A licence shall be issued under subsection (1)-

- (a) when the relevant licensing authority informs the applicant of its decision to grant the licence; and
- (b) upon the payment of any fee required by the relevant licensing legislation.

(3) A licence issued under this section shall include-

- (a) a unique identifier;
- (b) the code of the category of the license;
- (c) name of the licensing authority;
- (d) the name of the licensee;
- (e) the nature of the business to which the licence relates;
- (f) a reference to the provisions of the relevant licensing legislation;
- (g) the authority conferred by the licence;
- (h) conditions to which the licence may be subject;
- (i) the date on which the licence comes into force;
- (j) the date on which the licence expires; and
- (k) such other information that the relevant licensing

authority may consider appropriate to include.

17. (1) A licence comes into force on the date on which it is issued or on a date specified on the licence.

Duration of licence.

(2) A renewed licence comes into force on the date following the expiry date of the licence it renews and for the period stipulated in the licence.

(3) Subject to the provisions of the relevant licensing legislation, if an application for renewal of a licence is made before the date on which the licence would expire, the licence remains in force until the date on which the applicant is notified of the relevant licensing authority's decision on the application to renew the licence.

18. (1) A licensee shall be required to observe the following conditions in addition to those that may be imposed by the licensing authority or under the respective county legislation-

Conditions for issuance of licence.

- (a) to provide the service or carry out the business specified in the licence;
- (b) to comply with all applicable laws and the conditions for issuance of the licence;
- (c) to provide the licensing authority with information with respect to any change in its directorship or shareholding in accordance with section 22;
- (d) to pay such fees as may be prescribed; and
- (e) to maintain, and where required, submit to the licensing authority such information as may be necessary for the continued licensing of the licence holder.

(2) A licensing authority shall, unless the circumstances or facts relating to the application vary and the licensing authority considers it proper, impose the same conditions for the issuance of the same type of licence.

19. (1) Subject to the provisions of this Act and licensing legislation enacted by the relevant county government, a licensing authority may vary a condition attached to a licence.

Variation of conditions of a licence.

(2) Before varying a condition of a licence under subsection (1), the licensing authority shall give notice in writing to the affected licensees and by publication in a

newspaper of nationwide circulation and through such other media as the licensing authority shall consider appropriate.

- (3) A notice under subsection (2) shall-
- (a) specify the variation intended to be made with respect to the licence;
 - (b) set out the reasons for such variance;
 - (c) specify the time within which the variation shall take effect;
 - (d) require the licensee and any other person to submit any representations within thirty days from the date of the notice;
 - (e) specify the place from which information relating to the variation may be obtained; and
 - (f) set out such further information as the licensing authority may consider necessary.

(4) Where a variation is intended to remedy or prevent an act which may be against public interest, the licensing authority may vary the condition and inform the licensee in writing within one day of such variation and reasons thereof.

20. (1) A licensing authority may cancel a licence if the licensee –

Cancellation of licence.

- (a) fails to meet any condition imposed by the licensing authority;
- (b) fails to comply with the provisions of the licensing legislation; or
- (c) surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be cancelled.

21. (1) An applicant or any other person who is aggrieved by a decision of a licensing authority with respect to the application or cancellation of a licence may apply for a review of the decision —

Review of decisions.

- (a) in accordance with the relevant licensing

legislation; or

- (b) to the extent to which the relevant licensing legislation does not provide the applicant with such right, to the county executive committee member responsible for matters relating to the subject of the licence.

(2) An application for review shall be determined within twenty-one days of the application for review or such time as may be prescribed by the relevant licensing legislation, whichever is shorter.

PART IV – ADMINISTRATION OF LICENSING SCHEMES

22. A person who holds a licence shall notify the respective licensing authority of any change that occurs in the licensee's name, directorship, shareholding, address or registered particulars, within fourteen days after the change.

Change in particulars.

23. (1) A licensing authority shall keep and maintain a licence register.

Administration of register of licences.

- (2) A register under subsection (1) shall contain-
 - (a) information contained in a licence and specified under section 16(3);
 - (b) the type of entity to which the licence is issued;
 - (c) information with respect to any re-issuance, revocation, suspension, transfer or variation of a licence; and
 - (d) such other information as may be prescribed under the respective county legislation.
- (3) A licensing authority shall-
 - (a) make the register available for inspection by members of the public; and
 - (b) provide such information with respect to a licence issued by the licensing authority upon application under the respective licensing legislation; and
 - (c) make the register accessible to the public online.
- (4) A licensing authority to which an application for

information is made may charge a prescribed fee for the provision of information under subsection (3) and the fee shall not exceed the actual cost of making copies of such information and where applicable, supplying the information to the applicant.

24. (1) A licensing authority shall be guided by the following principles in setting the fees for issuance of a licence under the respective county legislation- Licensing fees.

- (a) authority to set the fees and the setting of fees within the scope of the authority;
- (b) need to ensure efficiency in the delivery of goods and services;
- (c) accountability;
- (d) public participation;
- (e) avoidance of multiplicity in the issuance of licences and multiple imposition of fees where goods are transported across different counties.
- (f) cross-subsidization where fees collected for providing a category of goods or services covers the costs incurred in providing goods and services in another category in accordance with existing legislation;
- (g) adherence to existing policy on the charging and collection of fees; and
- (h) avoidance of multiple licensing in a specific sector.

(2) Each county government shall formulate a licensing fees policy for the imposition of fees and issuance of licences by the respective county.

(3) A county government shall, in formulating a licensing fees policy, be guided by the principles set out under this Act.

- (4) A licensing authority may impose –
- (a) a licence fee for an application for the grant, transfer or renewal of a licence; and
 - (b) an annual licence fee for administering and monitoring a licence.

(5) In determining the fee payable with respect to a licence, a licensing authority-

- (a) shall act in accordance with the licensing fees policy;
- (b) may fix different fees with respect to the different types of licences;
- (c) may waive the requirement for fees and prescribe conditions for such a waiver;
- (d) shall take into account the costs incurred in administering the licensing scheme; and
- (e) shall ensure that the fees set do not adversely affect competition and investment.

(6) Pursuant to section 20(1)(a) and (c) of the Intergovernmental Relations Act, the Council of County Governors shall provide a platform for consultation and collaboration by county governments in—

- (a) establishing a system to facilitate the effective implementation of this Act; and
- (b) establishing and implementing harmonised processes for issuance of licences and imposition of fees where goods are transported across different counties

25. (1) Where a licensing authority is required to serve a notice on a person under this Act or any other licensing legislation, the authority shall serve the notice-

Service of notices.

- (a) in the case of an individual by—
 - (i) delivering it personally to the individual;
 - (ii) sending it by registered post, addressed to the individual at the address indicated on the application as the individual's postal address, for service of notices;
 - (iii) leaving it with an authorised person at the individual's place of residence or business; or
 - (iv) sending it by means of electronic communication to the individual at the address indicated in the application as the

individual's address for service for electronic communication; and

- (b) in the case of a company by—
- (i) delivering it to the person concerned in the company's management and authorized to receive documents on behalf of the company;
 - (ii) sending it by registered post, addressed to the company at the address indicated on the application as the company's postal address, for service of notices;
 - (iii) leaving it with a person authorised to accept service on behalf of the company; or
 - (iv) sending it by means of electronic communication to the company at the address indicated in the application as the company's address for service for electronic communication.

(2) A notice required to be served on joint applicants or joint licensees shall be deemed to have been served on all of them when it is served on any of them.

26. A fee payable with respect to a licence or an application for a licence may be recovered by the relevant licensing authority as a debt in a court of competent jurisdiction.

Recovery of unpaid fees.

27. A person who contravenes a provision of this Act commits an offence and is liable, on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or to both.

General penalty.

28. (1) The Cabinet Secretary may make Regulations for the better carrying out the provisions of this Act.

Regulations.

(2) For the purposes of Article 94(6) of the Constitution –

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the

objectives specified under subsection (1); and

- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.
No. 23 of 2013.

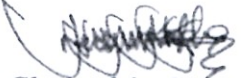
29. (1) A county assembly may enact legislation to give further effect to the provisions of this Act in the respective county.

County
legislation.

(2) Notwithstanding the generality of the provisions of subsection (1), a county assembly may enact legislation to provide for-

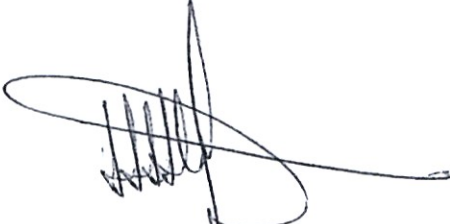
- (a) singular licence application framework;
- (b) conditions applicable to different categories of licences;
- (c) measures to ensure ease and mitigating the cost of doing business within the respective county;
- (d) a coding system for all categories of licenses issued by the county government
- (e) prescribed forms for the application for a licence;
- (f) a fee that may be imposed with respect to an application made under this Act;
- (g) conditions for the refund of any fees paid with respect to an application made under this Act;
- (h) framework for the review of a decision of a licensing authority under this Act; and
- (i) such other matter as the respective county assembly may deem necessary for the better carrying out of the provisions of this Act.

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 21st February, 2024.



Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.



Speaker of the Senate