

NO. 4 OF 2010

THE ALCOHOLIC DRINKS CONTROL ACT

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THE ALCOHOLIC DRINKS CONTROL (LICENSING) REGULATIONS

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THE ALCOHOLIC DRINKS CONTROL (LICENSING) REGULATIONS

[Legal Notice 206 of 2010]

1. Citation

These Regulations may be cited as the Alcoholic Drinks Control (Licensing) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"District Committee" has the meaning assigned to it under section 2 of the Act;

"licence" means a licence issued under these Regulations;

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

"off-licence" means a licence for the sale of alcoholic drink to be consumed elsewhere than on the premises.

3. Conduct of business and affairs of District Committee

(1) The conduct of business and affairs of the District Committee shall be as specified in the First Schedule.

(2) Save as specified in the First Schedule, the District Committee shall regulate its own procedure.

4. Application for licence

(1) A person who wishes to manufacture or otherwise produce; sell, dispose of, or deal with; import or cause to be imported; or export or cause to be exported any alcoholic drink under the Act, shall apply to the District Committee for a licence.

(2) An application for a grant or renewal of an alcoholic retail drinks licence shall be in Form 1 as set out in the Second Schedule.

(3) An application for a grant or renewal of a licence to manufacture or otherwise produce; sell, dispose of, or deal with an alcoholic drink shall be in Form 2 specified in the Second Schedule.

(4) An application for a grant or renewal of a licence to import or cause to be imported; or export or cause to be exported any alcoholic drink shall be made to the District Committee in the district where the business premises is situated and shall be in Form 3 specified in the Second Schedule.

(5) An application for the transfer or removal of a licence shall be made in triplicate in Form 4 set out in the Second Schedule.

(6) An application for a temporary alcoholic drink licence or a temporary extension alcoholic drink licence shall be made in Form 5 set out in the Second Schedule.

(7) An application for an assurance under section 11 of the Act shall be made in triplicate in Form 10 in the Second Schedule.

(8) Any application submitted under subregulations (3) and (4) shall be accompanied with—

- (a) such registration or identification documents as may be required by the District Committee;
- (b) a detailed physical address, telephone number, facsimile number and email address of the applicant;
- (c) detailed information relating the proposed services to be provided;
- (d) where applicable, information relating to the previous experience in the provision of the services for which a licence is sought; and
- (e) any other information that the District Committee may require.

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5. Failure to submit documents or information

(1) Where an applicant fails to submit all documents or information required under these Regulations, the District Committee may reject the application and inform the applicant, in writing, of the rejection.

(2) Where the District Committee rejects an application due to incomplete or insufficient information, the rejection shall not, bar the applicant from resubmitting the application.

6. Granting of licences

(1) Upon the completion of the application process, the District Committee shall, if it is satisfied that the applicant has complied with the requirements under these Regulations, issue a licence to the applicant.

(2) A licence issued under these Regulations shall be in Form 6, 7, 8 and 9 set out in the Second Schedule.

7. Licence terms and conditions

(1) The District Committee may specify the terms and conditions of a licence consistent with the provisions of the Act and these Regulations.

(2) A licensee shall comply with all terms and conditions of his licence.

8. Notification of change of particulars

A licensee shall—

- (a) notify the District Committee of his intention to change the name or contact address he filed with the District Committee at least thirty days before effecting such change; and
- (b) notify the District Committee and the public of any trade or brand name he intends to use at least thirty days prior to using the trade or brand name.

9. Transfer or assignment of a licence

(1) A licensee shall not transfer or assign a licence granted under the Act without the written consent of the District Committee.

(2) The District Committee may, when considering an application for the transfer or assignment, consider the same requirements and terms as if considering an application for the grant of a new licence.

(3) The District Committee shall communicate its decision on an application for the transfer or assignment of a licence to an applicant within thirty days of receipt of the application and state the reasons for the decision.

10. Renewal of a licence

(1) A licensee shall make an application for the renewal of his licence in accordance with the procedure set out in the Act and these Regulations.

(2) When considering an application for renewal of a licence, the District Committee shall consider the extent of compliance, by the licensee, with the terms and conditions contained in the licence in the previous licence period.

11. Revocation of licences

(1) The District Committee may revoke a licence in accordance with the Act.

(2) Any person who is aggrieved by the decision of the District Committee made under this regulation may appeal in accordance with the Act.

12. Obligations of a licensee to provide quality of service

A licensee shall, in addition to the terms and conditions of the licence—

- (a) improve service quality, by identifying service deficiencies and making appropriate changes;

- (b) maintain service quality and hygiene while considering environmental and operating conditions;
- (c) ensure that practices increasing consumer satisfaction and safety and decreasing user complaints are encouraged;
- (d) avoid discrimination, relating to the quality of the service offered, between consumers;
- (e) ensure special needs of disabled consumers are also considered when developing quality of service parameters.

13. Inspections and investigations

The District Committee may inspect or investigate matters relating to the quality of service, of a licensee from time to time to ensure compliance or carry out any other visits or inspections pursuant to the Act.

14. Approvals from other authorities

Notwithstanding that a licence has been issued by the District Committee, a licensee shall bear the responsibility of obtaining the approvals of other Government agencies, local authorities or other relevant authorities that may be required for the provision of the licensed services or premises, or maintenance thereof of any premises on, through, under or across any land.

15. Fees

The Third Schedule shall have effect in relation to the fees payable in accordance with these Regulations.

16. Hours

The alcoholic drink licence hours shall be as specified in the Fourth Schedule.

FIRST SCHEDULE

[r. 3(1)]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE DISTRICT COMMITTEE

1. Tenure of office

- (1) The members of the District Committee referred to in section 8(3)(d) and (e) shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.
- (2) No person shall be eligible to be appointed as a member of the District Committee under section 8(3)(d) and (e) of the Act if such person is—
 - (a) the holder of any licence for the sale, manufacture or distillation of an alcoholic drink;
 - (b) a person having a pecuniary interest in a partnership, company or society which is a licensee;
 - (c) a paid officer or paid agent of a partnership, company or society interested in the sale, or in the prevention of the sale, of alcoholic drink;
 - (d) a person employed directly or indirectly as an agent for the purpose of making application for a licence for any other person, or any partner of a person so employed as an agent;
 - (e) an agent or manager of, or a partner in, any trade or calling carried on upon premises licensed, or in respect of which a licence has been applied for, or the owner, lessor or mortgagee of those premises;

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- (f) an undischarged bankrupt;
- (g) a person who, in Kenya or elsewhere, has been sentenced to imprisonment without the option of a fine and who has not received a pardon therefor.

(3) Any such person who knowingly acts or sits as a member of the District Committee thereof whilst so disqualified commits an offence and liable to a fine not exceeding ten thousand shillings.

2. Appointment of Vice-Chairperson

- (1) The District Committee shall, at its first meeting, elect a Vice-Chairperson from amongst the persons appointed under section 8(3)(d) and (e) of the Act.
- (2) The person elected under subparagraph (1) shall not be of the same gender as the Chairperson of the District Committee.

3. Vacation of office

A member of the District Committee other than an *ex officio* member may—

- (a) at any time resign from office by notice in writing to then Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary on recommendation of the District Committee if the member—
 - (i) has been absent from three consecutive meetings of the District Committee without its permission;
 - (ii) is convicted of a criminal offence that amounts to a felony under the Laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (iv) is otherwise unable or unfit to discharge his functions.

4. Meetings

- (1) The District Committee shall meet not less than four times in every financial year in each administrative units of the district and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) The Chairperson shall, through the Secretary convene the District Committee meetings.
- (3) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least a third of all the members shall, convene a special meeting of the District Committee at any time for the transaction of the business of the District Committee.
- (4) Unless three quarters of the total members of the District Committee otherwise agree, at least fourteen days' written notice of every meeting of the District Committee shall be given to every member of the District Committee.
- (5) The quorum for the conduct of the business of the District Committee shall be half of the total members.
- (6) (a) The Chairperson or in his absence, the Vice-Chairperson, shall preside at every meeting of the District Committee.
 - (b) Whenever the Chairperson and Vice-Chairperson are absent, the Chairperson shall nominate one of the members to preside over the meeting and the business transacted in such a meeting shall be as directed by the Chairperson.
- (7) Unless a unanimous decision is reached, a decision on any matter before the District Committee shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (8) All decisions of the District Committee shall be in writing and shall be authenticated by the signatures of both the Chairperson and the Secretary.

- (9) Subject to subparagraph (5), no proceedings of the District Committee shall be invalid by reason only of a vacancy among the members thereof.
- (10) Subject to the provisions of this Schedule, the District Committee may determine its own procedure and the procedure for any sub-committee of the District Committee and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

5. Sub-Committees

- (1) The District Committee may establish such subcommittees as it may deem appropriate to perform such functions and responsibilities as it may determine.
- (2) The District Committee shall appoint the chairperson of a sub-committee established under subparagraph (1) from amongst its members.
- (3) The District Committee may where it deems appropriate, co-opt any person to attend the deliberations of any of its sub-committees.
- (4) All decisions by the sub-committees appointed under subparagraph (1) shall be ratified by the District Committee.

6. Secretariat

The Secretary to the District Committee shall be responsible for—

- (a) providing administrative support to the District Committee;
- (b) the custody and keeping of the minutes of the proceedings of the District Committee and all other records of the Committee;
- (c) the custody of the common seal;
- (d) such other functions as may be assigned by the relevant agency and the District Committee.

7. Place of meetings

The District Committee may, on a rotational basis, hold meetings within the administrative units of their respective districts.

8. Disclosure of interest

- (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.
- (3) A member of the District Committee who contravenes subparagraph (1) commits an offence.

9. Common seal

- (1) The common seal of the District Committee shall not be used except on the order of the District Committee.
- (2) The affixing of the common seal of the District Committee shall be authenticated by the signature of the Chairperson and the Secretary.
- (3) Notwithstanding the provisions of subparagraph (2) the District Committee shall, in the absence of either the Chairperson or the Secretary in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or Secretary.
- (4) The common seal of the District Committee when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the

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contrary is proved, any necessary order or authorization by the District Committee under this paragraph shall be presumed to have been duly given.

SECOND SCHEDULE

[r. 4(2)]

FORMS

FORM 1 (r. 4 (2))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)
APPLICATION FOR THE GRANT OR RENEWAL OF AN ALCOHOLIC RETAIL
DRINKS LICENCE

[To be completed in triplicate]

- 1. Name of applicant
2. Applicant's postal address
3. Address and plot number of premises [Give sufficient details adequately to identify the premises] Street, phone number
4. Name by which premises known
5. If for renewal, give expiring licence number
6. Licence to run from to
7. Type of licence applied for
Date
Signature of Applicant

Note. If the application is for a wholesale alcoholic drinks licence to be applicable to more premises than one, paragraphs 3 and 4 must give particulars of all such premises.

FORM 2 (r. 4(3))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)
APPLICATION FOR THE GRANT OR RENEWAL OF A LICENCE TO
MANUFACTURE OR PRODUCE AN ALCOHOLIC DRINK

- 1. Name of applicant
2. Type of business
(a) Sole proprietorship (the business is owned by one person)
Personal Identification Number
(b) Partnership
Names, Postal Addresses and Phone Contacts of the Partners
Contact Person
(c) Limited Liability Company
Name, Postal Address and Phone Contacts of the Directors
Contact person
3. Postal Address
4. Physical Address (exact place of manufacture)
5. Tel.

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- (a) Unit Capacity in millilitres and Cost in Shillings of the alcoholic drink(s)
- (b) Alcoholic content
- (c) Mode of transportation and storage conditions
- (d) Describe the purpose for which the alcoholic drink (s) will be used (e.g retail, wholesale)

11. Declaration by Applicant:

I hereby declare and certify that the information given in this application including attachments thereto is true and correct to the best of my knowledge and belief.

Date:

Signature:

Official Stamp

FORM 4 _____ (r. 4(5))
 THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)
 APPLICATION FOR *TRANSFER/ REMOVAL OF A ALCOHOLIC DRINK LICENCE

[To be completed in triplicate]

- 1. Name of applicant
- 2. Applicant's postal address
- 3. Type and number of licence held
- 4. Address of premises specified therein
- 5. Name of transferee/address of premises to which it is desired to remove licence

.....

Date

Signature of Applicant

FORM 5 _____ (r. 4(6))
 THE ALCOHOLIC DRINKS CONTROL ACT
 APPLICATION FOR A *TEMPORARY ALCOHOLIC DRINK LICENCE/
 TEMPORARY EXTENSION ALCOHOLIC DRINK LICENCE

- 1. Name of Applicant
- 2. Applicant's postal address
- 3. Type and number of licence held
- 4. Type of licence required
- *5. Address to which temporary licence should be made applicable
- *6. Period for which temporary licence required
- *7. Extension times applied for

Date

Signature of Applicant

*Delete where not applicable.

FORM 6 _____ (r. 6(2))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)

PARTICULARS CONCERNING CLUBS

[To be completed in block capitals]

THESE PARTICULARS relate to an application which has been made for the grant of a [Particulars of type of licence

[Full names of applicant] who intends to hold such licence on behalf of a club]

PARTICULARS

1. Name of club concerned

2. Address and situation of club premises

3. State whether the club is registered or exempted from registration under the provisions of the law for the time being relating to companies or societies

4. Registration No.

5. Particulars of types or categories of membership existing

6. Total membership of club

7. State whether entrance fees or subscriptions are payable

8. Give details of the objects or purposes for which the club is established

9. State whether any persons, other than members, may pay for or be charged for food, drink or accommodation offered by the club

10. State whether the club is a members' club or a proprietary club; that is, who owns the club property, the freehold title or leasehold title to the land upon which the club is situate, and who retains any profits earned or made by the club.

11. State whether any limit is imposed on temporary membership, and whether temporary members are required to pay both entrance fees and subscriptions

12. Particulars of the applicant's office or position in the club the applicant, hereby declare that the foregoing particulars are correct in every detail.

I the applicant hereby declare that the foregoing particulars are correct in every detail.

Date

Signature of Applicant.....

FORM 7 _____ (r. 6(2))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)

ALCOHOLIC DRINK LICENCE

TYPE OF LICENCE

LICENCE No.

This alcoholic drink licence is granted under the provisions of the Alcoholic Drinks Control Act (Cap. 121) to of in respect of premises situate at [Full details of premises to be inserted by issuing officer]

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This licence is granted subject to the provisions of the Alcoholic Drinks Control Act (Cap. 121) and to the following conditions This licence shall expire on Fees paid: KSh. Date of issue Chairman District Committee

FORM 8 (r. 6(2))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121) TEMPORARY ALCOHOLIC DRINK LICENCE

No. This temporary alcoholic drink licence is granted under the provisions of the Alcoholic Drinks Control Act (Cap. 121) to or being the holder of a alcoholic drink licence No. and authorizes the licensee to sell alcoholic drink at This licence is valid from to This licence is issued subject to the provisions of the Alcoholic Drinks Control Act (Cap. 121) and to the following conditions Fee paid: Sh. Date of issue Chairman District Committee

FORM 9 (r. 6(2))

THE ALCOHOLIC DRINKS CONTROL ACT (Cap. 121)(Cap. 121) TEMPORARY EXTENSION ALCOHOLIC DRINK LICENCE

LICENCE No. This temporary extension alcoholic drink licence is issued to being the holder of a alcoholic drink licence, No., and authorizes the licensee to sell alcoholic drink at from o'clock in the afternoon until o'clock in the noon on This temporary extension alcoholic drink licence is granted subject to the provisions of the Alcoholic Drinks Control Act (Cap. 121) and to the following conditions Fee paid: KSh. Date of issue Chairman District Committee

FORM 10 (r. 4(7))

THE ALCOHOLIC DRINKS CONTROL ACT ASSURANCE THAT A ALCOHOLIC DRINK LICENCE WILL BE ISSUED District Committee ofhaving satisfied me that he has an interest in premises to be built/being built* at for the purpose of being used for the sale of alcoholic drink for consumption therein,

and having supplied me with a signed copy of the plans of the premises, he is hereby assured that, on completion of the premises in accordance with the signed plans, and subject to the provisions of, the Alcoholic Drinks Control Act (Cap. 121) he will be granted a alcoholic drink licence.

Fee paid: KSh.

Date of issue

Chairman,

District Committee

THIRD SCHEDULE

[r. 15]

LICENCE FEES

<i>Type of Licence</i>	<i>Fees</i>	
	For 12 months	For 6 months or less
1. General retail alcoholic drink licence —		
(a) in respect of premises situate within a City or a municipality	50,000	30,000
(b) in respect of premises situate within urban areas other than city and municipality	30,000	18,000
(c) in respect of premises situate elsewhere than in a city, municipality and urban areas	15,000	9,000
2. General retail alcoholic drink licence (off Licence) —		
(a) in respect of premises situate within City or municipality	24,000	14,000
(b) in respect of premises situate within urban areas other than city and municipality	18,000	10,000
(c) in respect of premises situate elsewhere than in a city, municipality and urban areas	12,000	7,000

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3. Brewer's alcoholic drink licence		
For each alcoholic drink or product manufactured:		
(a) one million litres and above per annum	1,000,000	
(b) between five hundred thousand (500,000) and nine hundred ninety nine thousand, nine hundred and ninety nine (999,999) litres per annum	500,000	
(c) above twelve thousand (12,000) but below four hundred and ninety nine thousand, nine hundred and ninety nine (499,999) litres per annum	250,000	
(d) twelve thousand litres (12,000) and below per annum	50,000	30,000
4. Wholesale alcoholic drink licence for each premises	50,000	30,000
5. Import alcoholic drink licence (wholesale):		
(a) one million litres and above	1,000,000	
(b) between five hundred thousand (500,000) and nine hundred ninety nine thousand, nine hundred and ninety nine (999,999) litres	500,000	
(c) below five hundred thousand (500,000) litres	250,000	
6. (1) Bottler's alcoholic drink licence.	250,000	150,000

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(2) Depot licence, in addition to subparagraph (1), per depot	50,000	30,000
7. (1) Distributor alcoholic drink licence	50,000	30,000
(2) Depot licence, in addition to subparagraph (1) per depot	20,000	15,000
8. Hotel alcoholic drink licence—		
(a) in respect of premises situate within a City or a municipality	50,000	30,000
(b) in respect of premises situate within urban areas other than city and municipality	30,000	20,000
(c) in respect of premises situate elsewhere than in a city, municipality and urban areas	20,000	12,000
(d) where the licensee holds a general retail alcoholic drink licence in respect of the same premises	5,000	
9. Restaurant alcoholic drink licence —		
(a) in respect of premises situate within City or municipality	30,000	20,000
(b) in respect of premises situate within urban areas other than city and municipality	20,000	12,000
(c) in respect of premises situate elsewhere than in a city, municipality and urban areas	10,000	6,000

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10. (1) Club alcoholic drink licence (members' club) —	
(a) in respect of premises situate within City or municipality	100,000
(b) in respect of premises situate within urban areas other than city and municipality	80,000
(c) in respect of premises situate elsewhere than in city, municipality and urban areas.	50,000
(2) Club alcoholic drink licence (proprietary club or night club or discotheque)—	
(a) in respect of premises situate within City or municipality	100,000
(b) in respect of premises situate within urban areas other than city and municipality	80,000
(c) in respect of premises situate elsewhere than in a city, municipality and urban areas	50,000
11. Supermarket and franchised retail stores alcoholic drink licence—	
(a) in respect of supermarkets or franchised retail stores for each premises situate within City or municipality	80,000
(b) in respect of supermarkets or	50,000

franchised retail stores for each premises situate within urban areas other than city and municipality 50,000	30,000	
(c) in respect of supermarkets or retail chain stores for each premises situate elsewhere than in a city, municipality and urban areas	15,000	7,000
12. Theatre alcoholic drink licence.		
13. Traveller's alcoholic drink licence		
(a) where the licensee does not hold a general retail alcoholic drink licence in respect of the same premises	30,000	
(b) where the licensee holds a general retail alcoholic drink licence in respect of the same premises	15,000	
14. Railway restaurant car alcoholic drink licence, per car	5,000	
15. Steamship alcoholic drink licence, per steamship	30,000	
16. Temporary or occasional alcoholic drink licence, per day		1,000
17. For transferring an alcoholic drink licence		1,000
18. For removing an alcoholic drink licence		500

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19. For the issue of an assurance under the Act.	1,000
20. For the issue of a duplicate licence...	300

FOURTH SCHEDULE

[r. 16]

ALCOHOLIC DRINK LICENCE HOURS

Licences

Licence Hours, Conditions and Exceptions

1. General Retail Alcoholic drink Licence	Authorized to sell alcoholic drink: (a) From Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m. (b) During weekends and public holidays during the hours of 2:00 pm to 11:00 p.m.
2. General Retail Alcoholic drink Licence (off licence) wines and spirits retailers (rural or sub-urban)	Authorised to sell alcoholic drink on any day of the week during the hours of 5.00p.m to 8:30 p.m.
3. Supermarket or franchised retail stores (urban) alcoholic drink licence (off-licence)	Authorised to sell alcoholic drink on any day of the week during the hours of 10.00 a.m. to 8:30 p.m.
4. Hotel Alcoholic drink Licence	Authorized to sell alcoholic drink on any day of the week to a lodger for his own and his guest's consumption on the premises, at any hour.
5. Restaurant Alcoholic drink Licence	(a) Authorized to sell alcoholic drink on any day of the week to persons taking meals in the restaurant, for consumption with such meals. (b) Authorized to sell alcoholic drink from Monday to Friday during the hours of 5.00 p.m. to 11.00 p.m. (c) Authorized to sell alcoholic drink during weekends and public holidays during the hours of 2.00 p.m. to 11.00.p.m
6. Club Alcoholic drink Licence	Authorized to sell alcoholic drink to members on any day of the week at any hour. Authorized to sell alcoholic drink:
(a) Members club	(a) From Monday to Friday during the hours of 7.00 p.m. to 3:00a m.
(b) Proprietary club (including night club)	(b) During weekends and public holidays during the hours of 7.00 p.m. to 3.00 a.m.
7. Theatre Alcoholic drink Licence	Authorized to sell alcoholic drink during the hours of 5.00 p.m. to 11.00 p.m.
8. Travellers' Alcoholic drink Licence	Authorized to sell alcoholic drink on any day of the week at any hour to persons <i>bona fide</i> travelling by train or air.
9. Railway Restaurant Car Alcoholic drink Licence	Authorized to sell alcoholic drink at any hour.

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[Subsidiary]

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| 10. Steamship Alcoholic drink Licence. | Authorized to sell alcoholic drink on any day of the week at any hour while the steamship, is stationary or on a voyage. |
| 11. Temporary or occasional Licence | Authorised to sell alcoholic drink on the day and during the hours stipulated in the Licence by the District Committee for the purposes of specific occasions, ceremonies or events as indicated in the application. |
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