



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

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### 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"> <li>• 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.</li> </ul>
2.	Clause 28 (1) (Regulations)	28 - (1) The Cabinet Secretary may make Regulations for the better carrying out the provisions of this Act		<ul style="list-style-type: none"> <li>• 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.</li> <li>• By designating a specific CS, we enhance accountability, streamline processes, and foster a conducive environment for economic growth.</li> </ul>
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"> <li>• Clause 3 and 5 should be merged to cater for the general guidelines to implement the Act to consolidated version below:</li> </ul>	<ul style="list-style-type: none"> <li>• To enhance clarity and eliminate redundancy, we 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.</li> </ul>



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

		<ul style="list-style-type: none"> <li>a) The need to protect consumers of goods and services, ensure public safety and promote environmental protection;</li> <li>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;</li> <li>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;</li> <li>d) the need to ensure that the licensing procedures are simple and that licensing services are accessible to</li> </ul>	<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**

		<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**

		<p>administration of licensing procedures</p> <p>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;</p> <p>d) access to information relating to the licensing requirements and procedures;</p> <p>e) enabling license holders to respond to changes in the market quickly with minimum regulatory friction; and</p> <p>f) certainty by having in place clear and consistent licensing conditions.</p>		
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**KENYA PRIVATE SECTOR ALLIANCE: SUBMISSIONS ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022**

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"> <li>• 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.</li> </ul>
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"> <li>• There is need to introduce alternative dispute mechanisms in cases of dispute.</li> <li>• By widening the scope of decision review beyond the County Executive Committee Member (CECs) responsible for specific licenses, we ensure impartiality, accountability, and transparency.”</li> <li>• This revised clause ensures that disputes are resolved fairly and that decisions undergo rigorous scrutiny.</li> </ul>



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

			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"> <li>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.</li> </ul>
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"> <li>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.</li> </ul>



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