

Excise Duty Memoranda Series

2.1.1 Licence Types

March 2003

Overview	The <i>Excise Act, 2001</i> (the “Act”) requires a person to obtain a licence in order to be authorized to perform certain restricted activities or to obtain the benefit of certain privileges provided for under the Act. This memorandum explains the types of licences provided for in the Act.
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Disclaimer	The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or to contact any Canada Customs and Revenue Agency (CCRA) tax services office for additional information.
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Table of Contents

General	1
Spirits licence	2
Wine licence	2
User’s licence	3
Tobacco licence	3
Tobacco dealer’s licence	4
Excise warehouse licence	4
Special excise warehouse licence	6
Licence for duty free shop operator.....	6
Obtaining a licence under the Act	6

General

- Is a licence required?
1. Persons who wish to undertake any activity involving alcohol or tobacco that may be regulated under the Act should carefully review the following information on licences available under the Act and determine which licence(s) may be required in their particular circumstances.



La version française de ce document est intitulée *Genres de licences ou d’agrément*s.

 Canada Customs and Revenue Agency Agence des douanes et du revenu du Canada

2.1.1 Licence Types

2. Registrations are available to other persons who are engaged in alcohol and tobacco activities, but who are not required to be licensed. Excise Duty Memorandum 2.3.1, *Registration Types*, lists and discusses the types of registrations required.

3. Any person who is not sure if a licence is required to perform their intended activities should contact any Excise Duty office to discuss the situation with an officer. The Act provides several offence provisions that may lead to fines and/or terms of imprisonment for undertaking specific activities without being duly licensed to do so.

Meaning of “personal use”
s 2

4. “Personal use,” in relation to the use of a good by an individual, means the use of the good by the individual, or by others at the individual’s expense, but does not include the sale or other commercial use of the good.

Spirits licence

ss 14(1) and s 60

5. A spirits licence authorizes a person to produce or package spirits in Canada. The production or packaging of spirits by a person who does not possess a spirits licence is prohibited under the Act. The only exception to this prohibition is the packaging of spirits from a marked special container by an individual (i.e., a purchaser) at an authorized bottle-your-own premises.

6. Additional information on the production and packaging of spirits is available in Excise Duty Memorandum 3.1.1, *Producers and Packagers of Spirits*.

Wine licence

ss 14(1) and s 62

7. A wine licence authorizes a person to produce or package wine in Canada. The production or packaging of wine by persons who do not possess a wine licence is prohibited, except for

- (a) the production and packaging of wine by an individual for their personal use, or
- (b) the packaging of wine from a marked special container by an individual (i.e., a purchaser) at an authorized bottle-your-own premises.

These exceptions allow wine to be produced and packaged by an individual in their home, or at a ferment-on-premises facility, for consumption by the individual (or their family and friends) without charge or other remuneration, without being required to obtain a licence under the Act.

8. Additional information on the production and packaging of wine is available in Excise Duty Memorandum 4.1.1, *Producers and Packagers of Wine*.

User's licence

ss 14(1) and s 69 to 76

9. A user's licence authorizes the holder to use bulk alcohol or non-duty-paid packaged alcohol: in an approved formulation; for the production of vinegar; for the fortification of wine (where the person holds a wine licence); or for the blending of spirits and wine where the finished product is spirits (where the person also holds a spirits licence). A user's licence also authorizes the person to destroy alcohol in an approved manner. The possession and use of bulk alcohol and non-duty-paid packaged alcohol are strictly controlled under the Act.

Meaning of "alcohol"
s 2

10. "Alcohol" means either spirits or wine.

Meaning of "approved
formulation"
s 2

11. An "approved formulation" is a product that is made with alcohol by a licensed user in accordance with a formula that has been approved by the CCRA. It may also be an imported product that, in the opinion of the CCRA, would be a product made in accordance with an approved formula if it were produced in Canada by a licensed user.

12. Additional information on the rights of, and restrictions imposed upon, licensed users is available in Excise Duty Memorandum 3.1.2, *Licensed Users*.

Tobacco licence

ss 14(1), 25(1) and
25(3)

13. A tobacco licence authorizes a person to manufacture tobacco products. The Act imposes a prohibition on the manufacturing of tobacco products without a tobacco licence, except for the manufacturing of tobacco products by an individual for their personal use

(a) from packaged raw leaf tobacco or manufactured tobacco on which the duty has been paid, or

(b) in limited amounts from raw leaf tobacco grown on land on which the individual resides (refer to paragraph 15 for details).

Meaning of "tobacco
products" and
"manufactured tobacco"
s 2

14. "Tobacco products" means manufactured tobacco, packaged raw leaf tobacco and cigars. "Manufactured tobacco" means every article, other than a cigar or packaged raw leaf tobacco, that is manufactured in whole or in part from raw leaf tobacco by any process, and includes fine cut tobacco and cigarettes.

Manufacturing for
personal use
ss 25(3)

15. An individual who manufactures tobacco products from raw leaf tobacco that is grown on land on which they reside may do so only if

(a) the product is for their personal use or the use of a family member who resides with the individual and who is 18 years of age or older, and

(b) the quantity of tobacco manufactured in any year does not exceed 15 kilograms for the individual and each family member that resides with them and is 18 years of age or older.

2.1.1 Licence Types

16. Additional information on the manufacturing of tobacco products is provided in Excise Duty Memorandum 7.1.1, *Manufacturers of Tobacco Products*.

Tobacco dealer's licence

s 2, ss 14(1) and s 26 17. A tobacco dealer's licence authorizes a person to carry on the business of a tobacco dealer. A tobacco dealer is a person, other than a tobacco licensee, who engages in the buying and selling of raw leaf tobacco on which duty is not imposed under the Act, without ever taking possession of the tobacco. The Act imposes a prohibition on carrying on these activities without the possession of a tobacco dealer's licence.

18. Additional information on the rights of, and restrictions imposed upon, a tobacco dealer's licence is available in Excise Duty Memorandum 7.1.2, *Tobacco Dealers*. Information on rules relating to the possession of raw leaf tobacco is available in Excise Duty Memorandum 7.2.1, *Possession of Tobacco*.

Excise warehouse licence

ss 19(1) 19. An excise warehouse licence authorizes a person to possess, in their excise warehouse, non-duty-paid packaged alcohol or tobacco products that are not stamped.

Possession of
non-duty-paid
packaged alcohol
ss 88(2)

20. The possession of non-duty-paid packaged alcohol is prohibited except by

- (a) an excise warehouse licensee in their excise warehouse,
- (b) a licensed user in their specified premises,
- (c) a registered user for use in accordance with their registration,
- (d) a prescribed person who is transporting the alcohol under prescribed circumstances,
- (e) a duty free shop licensee in their duty free shop,
- (f) an accredited representative for their personal or official use,
- (g) a person for use as ships' stores if in accordance with the *Ships' Stores Regulations*,
- (h) a customs bonded carrier, customs bonded warehouse licensee or a sufferance warehouse licensee in the case of imported alcohol under certain conditions,
- (i) an individual who has imported the alcohol for their personal use, and
- (j) an individual who has produced and packaged wine for their personal use.

21. The Act may impose further restrictions on the possession of the non-duty-paid packaged alcohol by these persons. Additional information on the possession of spirits or wine is available in Excise Duty Memoranda 3.2.1, *Possession of Spirits*, and 4.2.1, *Possession of Wine*, respectively.

Possession of tobacco products ss 32(2)

22. The possession of tobacco products that are not stamped is prohibited under the Act except by

- (a) a tobacco licensee in their manufactory or excise warehouse,
- (b) an excise warehouse licensee at their warehouse in the case of cigars or imported manufactured tobacco,
- (c) a special excise warehouse licensee in their warehouse if it is a product they are permitted to distribute,
- (d) a prescribed person who is transporting the product under prescribed circumstances,
- (e) a customs bonded warehouse licensee or a sufferance warehouse licensee, if the product is imported,
- (f) a duty free shop licensee in their duty free shop in the case of cigars,
- (g) a duty free shop that also holds a licence under this Act in the case of imported manufactured tobacco,
- (h) an accredited representative for their personal or official use,
- (i) a person for use as ships' stores in accordance with the *Ships' Stores Regulations* in the case of cigars or imported manufactured tobacco,
- (j) an individual who has imported the product for their personal use within prescribed limits, and
- (k) an individual who has manufactured the product for their personal use as allowed under the Act.

23. The possession of unstamped tobacco products by these persons may also be further restricted under the Act. Additional information on the possession of unstamped tobacco products is available in Excise Duty Memorandum 7.2.1, *Possession of Tobacco*.

Persons not eligible s 19

24. A person who is a retailer of alcohol is not eligible to obtain an excise warehouse licence unless they are also

- (a) an alcohol licensee (i.e., a spirits or wine licensee),
- (b) a provincial liquor authority, or
- (c) a person who supplies goods as ships' stores in accordance with the *Ships' Stores Regulations*.

25. Additional information on excise warehouses is available in Excise Duty Memorandum 8.1.1, *Excise Warehouses*.

Special excise warehouse licence

- ss 20(1) 26. A special excise warehouse licence authorizes a person to store and distribute unstamped tobacco products manufactured by a tobacco licensee that are intended for sale to accredited representatives. The special excise warehouse licensee must be authorized by the tobacco licensee to be the only person, other than the tobacco licensee, to do so.
- Limitations on licence ss 20(2) and 20(3) 27. A person may not hold more than one special excise warehouse licence. A person is also prohibited from designating more than one premises as a special excise warehouse.
28. Additional information on special excise warehouses is available in Excise Duty Memorandum 8.1.2, *Special Excise Warehouses*.

Licence for duty free shop operator

- s 22 and 53 29. A person who is licensed under the *Customs Act* to operate a duty free shop may obtain a licence under the Act, authorizing them to possess and sell imported manufactured tobacco that is subject to special duty. The special duty imposed on imported manufactured tobacco is payable by the duty free shop operator who takes delivery of the products, and a licence is required by the duty free shop operator to possess those products and remit the special duty.
30. Additional information on licences under the Act for duty free shops is available in Excise Duty Memorandum 7.1.4, *Duty Free Shop Operators*.

Obtaining a licence under the Act

31. Instructions and requirements for obtaining a licence issued under the Act are provided in Excise Duty Memorandum 2.2.1, *Obtaining and Renewing a Licence*.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CCRA Web site at <http://www.ccra-adrc.gc.ca/tax/technical/exciseduty-e.html>