

Excise Duty Memoranda Series

2.2.1 Obtaining and Renewing a Licence

March 2003

Overview	Persons are required to obtain a licence in order to perform certain activities that are restricted under the <i>Excise Act, 2001</i> (the “Act”). This memorandum provides an overview of the licensing process and the requirements of persons who wish to obtain and maintain a licence under 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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La version française de ce document est intitulée *Obtention et renouvellement d'une licence ou d'un agrément*.



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

2.2.1 Obtaining and Renewing a Licence

Requirement to be licensed

- Is licensing required?
1. Every person who possesses, supplies, receives, buys, sells, uses, imports, exports, or performs any other activity involving tobacco or alcohol should ensure that they are in compliance with any restrictions that may be imposed on that activity under the Act. The Act imposes restrictions on several tobacco and alcohol-related activities and, in many cases, a person may only be permitted to undertake these activities if they possess the appropriate licence issued by the CCRA.
 2. A listing of all licences provided for under the Act is available in Excise Duty Memorandum 2.1.1, *Licence Types*. Readers are encouraged to refer to this memorandum to determine if a licence is required in their particular circumstances.

Licensing conditions

- Specified activities
3. Each licence issued under the Act relates to specified activities and authorizes a person to perform only those activities specifically provided for by that licence. There are no licences that allow a person to perform all activities regulated under the Act.
- Compliance with the Act s 24
4. Licensees are required to carry on all activities authorized under their licences in compliance with the Act and its Regulations.
- Conditions imposed by CCRA ss 23(3)
5. The CCRA has the authority to specify the activities that may be carried out under a licence and the premises where these activities may be carried out, as well as to impose any conditions on these activities that are considered appropriate in the circumstances.

How to apply for a licence

- Regulations Respecting Excise Licences and Registrations* ("Regulations") s 2
6. Every person who wishes to obtain a licence under the Act must submit a completed application form L63, ***Licence and Registration Application Excise Act, 2001***, to any CCRA tax services office.
- Signatures
7. An authorized individual of the person must sign the completed application form L63. If the person is a corporation or an association or organization that has duly elected or appointed officers, the president, vice-president, secretary or treasurer (or other equivalent officers) of the organization are deemed to be so duly authorized. Applications submitted by a corporation must also bear the corporate seal. A proprietor or a partner must sign applications submitted by a sole proprietorship or partnership, respectively.
- List of premises Regulations ss 2(1)
8. A licence issued under the Act authorizes a person to carry on the specific activities provided for under that licence. The licensee may carry on those activities at a single location, or at several locations as authorized by the CCRA. Accordingly, all applications for a licence must be accompanied by a list of the premises that the person wishes the CCRA to designate for the purposes of the licence.
- No fees
9. There are no application fees or other costs involved in obtaining a licence under

the Act.

Security requirements

Security required for L63 applications para 23(3)(b)

10. Every person who submits an application for a spirits licence or tobacco licence must also submit security in a form and amount acceptable to the CCRA. A person applying for any other licence under the Act is not required to provide security.

11. Additional information on the amount of security required and the acceptable forms of security is available in Excise Duty Memorandum 2.2.2, *Security Requirements for Licensees*. Information relating to bonds and financial institutions is available in Excise Duty Memoranda 2.2.3, *Surety Bonds* and 2.2.4, *Approved Financial Institutions and Acceptable Bonding Companies*.

Eligibility for a licence

Specific criteria

12. A person must meet specific eligibility criteria to obtain a licence under the Act.

Individuals Regulations para 2(2)(c)

13. A licence may be issued to an individual only if that individual

(a) is at least 18 years of age, and

(b) has sufficient financial resources to conduct the business in a responsible manner.

Partnerships composed of individuals Regulations subpara 2(2)(d)(i)

14. A licence may be issued to a partnership or unincorporated body composed of individuals if the partnership or unincorporated body

(a) is composed of individuals each of whom is at least 18 years of age; and

(b) has sufficient financial resources to conduct its business in a responsible manner.

Partnerships composed of corporations Regulations subpara 2(2)(d)(ii)

15. A licence may be issued to a partnership or unincorporated body composed only of corporations if each of the corporations has sufficient financial resources to conduct its business in a responsible manner.

Partnerships composed of individuals and corporations Regulations subpara 2(2)(d)(iii)

16. A licence may be issued to a partnership or unincorporated body composed of individuals and corporations if

(a) with respect to the individuals, each of them is at least 18 years of age; and

(b) with respect to the partnership or unincorporated body and the corporations, each of them has sufficient financial resources to conduct its business in a responsible manner.

Corporations Regulations para 2(2)(e)

17. A licence may be issued to a corporation if the corporation has sufficient financial resources to conduct its business in a responsible manner.

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Other requirements

Regulations
para 2(2)(a) and (b)

18. In addition to the age and financial ability requirements, a licence will only be issued if the person

- (a) is not the subject of a receivership in respect of their debts,
- (b) has not failed in the past five years to comply with any Act of Parliament (other than the *Excise Act, 2001*) or of a provincial legislature that deals with the taxation or control of tobacco or alcohol or any regulations made under it, and
- (c) has not acted to defraud Her Majesty in the past five years.

Regulations
ss 2(3) and 2(4)

19. A person applying for an excise warehouse licence must also provide evidence, where the province in which the warehouse is located has enacted legislation respecting the warehousing of packaged alcohol, that the person has been authorized by that province, or the province's liquor authority, to warehouse alcohol on the premises. This does not apply to alcohol licensees that are producing or packaging alcohol in the province where the warehouse is located.

s 22
Regulations ss 2(5)

20. A person applying for a licence to possess and sell imported manufactured tobacco that is subject to special duty under the Act must submit evidence that the person has a licence issued by the CCRA under the *Customs Act* to operate a duty free shop.

Effect and duration of licence

Regulations s 4

21. A licence is effective from the date indicated on the licence approval notice and remains in effect until the expiry date shown on that notice.

22. At a maximum, licences will be valid for two years from the effective date.

Licence renewal

ss 23(2)
Regulations s 9

23. A person who wishes to renew their licence must submit, at least 30 days before the expiry date, a completed application form L63, ***Licence and Registration Application Excise Act, 2001***, to any CCRA tax services office. The person should indicate in the appropriate box on the form that the application relates to the renewal of an existing licence.

24. A licence will be renewed if the person submits an application for renewal within the specified time and, in the opinion of the CCRA, no grounds exist to cancel or suspend the licence.

s 6 and 7

25. A licensee must report any of the changes listed below in writing to any CCRA tax services office or the Summerside Tax Centre:

- (a) a change of name or legal entity;
- (b) the discontinuance of the operations covered by the licence;
- (c) a change in fiscal months;

- (d) a change in any other information provided on the licence application, including officers and directors; or
- (e) a change of business address or the address where the books and records are maintained.

- Name change 26. In the case of a name change, a person must complete and submit form L63 as soon as possible after the change occurs, indicating in the appropriate box on the form that the application relates to an amendment to an existing licence. However, a new licence and RD program account number will not be issued.
- Change of legal entity 27. Where a change of legal entity occurs (e.g., a proprietorship incorporates or a corporation merges with another corporation) an application for a new licence must be made.
- Assistance 28. For assistance in reporting any of the above-noted changes, contact Business Enquiries at 1-800-959-5525.

Facilities, personnel and equipment

- Regulations
s 13 29. As a condition of holding a licence under the Act, all licensees must provide, at each premises designated in the licence
- (a) adequate space for the examination of goods or records by an officer,
 - (b) the personnel and equipment necessary to ensure that the goods or records can be examined by an officer, and
 - (c) the personnel necessary to provide information to an officer, for audit purposes, with respect to the operations, inventory system and records of the person.

Refusal to issue a licence

- CCRA discretion
ss 23(1) 30. The decision to issue a licence rests with the CCRA. The CCRA may refuse to approve an application if it is not in the best interests of the public to do so.

Cancellation or suspension of a licence

- ss 23(2) 31. The CCRA has the authority to suspend or cancel a licence in certain circumstances.
- Suspension
Regulations ss 10(1) 32. The CCRA may suspend a licence if, at any time, the person to whom the licence has been issued
- (a) fails to notify the CCRA of any changes to their licensing information or fiscal months as required in paragraphs 25 through 27 of this memorandum, or to provide adequate facilities, personnel or equipment as required in paragraph 29 of this memorandum, or
 - (b) fails to meet any of the conditions of the licence.

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- Cancellation
Regulations ss 12(1)
33. The CCRA may cancel a licence, if, at any time, the person to whom the licence has been issued
- (a) requests in writing that the licence be cancelled,
 - (b) becomes bankrupt,
 - (c) no longer meets the eligibility requirements to possess the licence,
 - (d) ceases to carry on the business or activities for which the licence was issued,
 - (e) is the subject of a receivership in respect of their debts,
 - (f) fails to comply with any Act of Parliament (other than the *Excise Act, 2001*) or of a provincial legislature that deals with the taxation or control of tobacco or alcohol or of any regulations under it, or
 - (g) acts to defraud Her Majesty.
- Notice of suspension
Regulations
ss 10(2)
34. If the CCRA suspends a person's licence, a written notice will immediately be sent to the person confirming the suspension and providing the grounds for the suspension.
- Recourse
Regulations ss 10(3)
35. A person who has received notice that their licence has been suspended may, within 90 days from the date of suspension, provide information or make representations to the CCRA regarding why the licence should be reinstated.
- Reinstatement
Regulations s 11
36. When the CCRA is satisfied that the grounds for the suspension of a licence no longer exist, the licence will be reinstated.
- Notice of cancellation
Regulations
ss 12(2)
37. Before cancelling a licence (unless doing so at the request of the licensee), the CCRA will provide the person 90 days' notice of the proposed cancellation, along with all relevant information concerning the grounds for the proposed action.
- Recourse
Regulations ss 12(3)
38. A person who has received notice of the proposed cancellation of a licence may, within 90 days from the date of the notice, make representations to the CCRA regarding why the licence should not be cancelled.

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>