

No. S 36

TOBACCO ORDER, 2005
(S 49/05)

TOBACCO (LICENSING OF IMPORTERS, WHOLESALERS AND RETAILERS)
REGULATIONS, 2007

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In exercise of the powers conferred by sections 12 and 36 of the Tobacco Order, 2005, the Minister of Health, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation and commencement.

1. These Regulations may be cited as the Tobacco (Licensing of Importers, Wholesalers and Retailers) Regulations, 2007 and shall commence on the same date as the Tobacco Order, 2005.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"container", in relation to cigarettes, means a box, tin, packet or other receptacle, but does not include any outer wrapper, cellophane or other transparent material;

"import and wholesale licence" means a licence referred to in regulation 3;

"licence" means an import and wholesale licence or a retail licence granted under these Regulations;

"retail licence" means a licence referred to in regulation 4;

"retail outlet" means any shop, kiosk, showboard, stall or counter which offers for sale any goods by retail to customers for their own use or consumption only.

Prohibition of import etc. of tobacco product by importer or wholesaler without licence.

3. No person shall —

(a) import;

(b) distribute by wholesale;

- (c) sell or offer for sale by wholesale;
- (d) permit to be sold or offered for sale by wholesale; or
- (e) have in his possession for sale by wholesale,

any tobacco product unless he is a holder of an import and wholesale licence.

Prohibition of sale of tobacco product by retailer without licence.

4. No person shall —

- (a) distribute by retail;
- (b) sell or offer for sale by retail;
- (c) permit to be sold or offered for sale by retail; or
- (d) have in his possession for sale by retail,

any tobacco product unless he is a holder of a retail licence in respect of the retail outlet.

Application for licence.

5. (1) An application for a licence shall be made to the Director-General in writing in such form as the Director-General may determine.

(2) A separate application for a retail licence shall be made by an applicant for each retail outlet at which he intends to carry out any activity referred to in regulation 4.

Conditions of licence.

6. (1) The Director-General may grant a licence in such form and on such conditions as he may determine.

- (2) The fee payable for the grant or renewal of a licence shall be —
 - (a) \$2,500 per year for an import and wholesale licence; and
 - (b) \$300 per year for a retail licence.

{3} A licence granted under this regulation may be valid for one year from such date as the Director-General may specify in the licence.

(4) The holder of an import and wholesale licence shall not, by way of wholesale, distribute, sell or offer for sale, permit to be sold or offered for sale or have in his possession for sale any tobacco product to any person other than the holder of an import and wholesale licence or the holder of a retail licence.

(5) The holder of a retail licence shall not —

(a) distribute by retail, sell or offer for sale by retail, permit to be sold or offered for sale by retail or have in his possession for sale by retail any cigarette which is removed from its container; or

(b) cause or permit any person who is below the age of 18 years to distribute by retail, sell or offer for sale by retail, permit to be sold or offered for sale by retail or possess for sale by retail any tobacco product at the retail outlet in respect of which the licence was granted.

(6) The holder of a licence shall not store or place or cause to be stored or placed any tobacco product at any premises other than the premises specified in the licence.

(7) The holder of a licence shall not use his licence for any advertising purpose.

Renewal of licence.

7. (1) The holder of a licence may, before the expiry of the licence, make an application to the Director-General, in such form as the Director-General may determine, to renew the licence.

(2) The Director-General may renew a licence for one year from the date of expiry of the licence on such conditions as he may determine.

Replacement of licence.

8. (1) A holder of a licence may make an application to the Director-General for a duplicate licence to replace a licence which has been lost or destroyed.

(2) The fee payable upon the issue of the duplicate licence shall be —

(a) \$100 for an import and wholesale licence;

(b) \$40 for a retail licence.

Changes in particulars.

9. (1) The holder of a licence shall inform the Director-General in writing of any changes in the particulars contained in his licence or application for a licence not later than 3 days after the changes have been effected.

(2) Where the changes in the particulars under sub-regulation (1) require the re-issue of a licence incorporating such changes, the fee payable for the re-issue of the licence shall be –

(a) \$100 for an import and wholesale licence;

(b) \$40 for a retail licence.

Revocation and suspension of licence.

10. (1) The Director-General may, if he is satisfied that a holder of a licence is in breach of any condition contained in the licence or any provisions of the Order or these Regulations, revoke or suspend his licence.

(2) The Director-General shall notify the holder of the licence in writing of such revocation or suspension by registered post or by such other means as he may determine.

(3) The effective date of the revocation or suspension of the licence shall be –

(a) where a date is specified in the written notice referred to in sub-regulation (2) as the effective date of the revocation or suspension, that date; or

(b) where no date is specified in the written notice as the effective date of the revocation or suspension, the date on which the holder of the licence receives the written notice.

(4) The holder of the licence shall surrender it to the Director-General within 7 days from the effective date of the revocation or suspension.

Cancellation of licence.

11. (1) The Director-General may cancel a licence if —

(a) in the case of an import and wholesale licence, the holder of the licence ceases to carry out all of the activities authorised by the licence; or

(b) in the case of a retail licence, the holder of the licence ceases to carry out all of the activities authorised by the licence at the retail outlet in respect of which the licence was granted.

(2) Where a licence is cancelled under sub-regulation (1), the Director-General may, if he considers it appropriate, refund any part of the fee paid under these Regulations in respect of that licence.

Prohibition of transfer, assignment or disposal of licence.

12. A holder of a licence shall not transfer, assign or otherwise dispose of his licence.

Register of licences.

13. (1) The Director-General shall maintain a register in which he shall enter particulars of every licence.

(2) The register shall be in such form as the Director-General may determine and shall be kept up to date.

Furnishing of information by holder of import and wholesale licence.

14. (1) The holder of an import and wholesale licence shall cause to be sent to the Director-General, within such reasonable time as the Director-General may require —

(a) results from a laboratory designated by the Director-General, of tests on tar, nicotine and other substances contained in or emitted from a sample of such consignment of tobacco product as the Director-General may determine;

(b) information about the import, sale or supply of any tobacco product being dealt with under the authority of his licence and of the operations being carried out in relation to such activities.

(2) The holder of an import and wholesale licence shall —

(a) keep the information referred to in sub-regulation (1) at his registered office or principal place of business for at least 2 years from the last date of entry; and

(b) ensure that the information is at all times available for inspection by the Director-General or an authorised officer.

Withholding and withdrawal of tobacco product by holder of import and wholesale licence.

15. When a holder of an import and wholesale licence has been informed by the Director-General that any of his consignment of tobacco product has been found to be harmful or unsafe, he shall, if so directed by the Director-General —

(a) withhold such consignment of tobacco product from distribution by wholesale, sale or offer for sale by wholesale, so far as may be reasonable practicable, for such period as may be specified by the Director-General; and

(b) withdraw such consignment of tobacco product from the market immediately.

Penalty.

16. Any person who contravenes regulation 6(4), (5), (6) or (7), regulation 9(1), regulation 10(4), regulation 12, regulation 14(1) or (2) or regulation 15 is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

Made this 13th. day of Rejab, 1428 Hijriah corresponding to the 28th. day of July, 2007.

PEHIN ORANG KAYA INDERA PAHLAWAN
DATO SERI SETIA HAJI AWANG SUYOI BIN HAJI OSMAN
Minister of Health,
Brunei Darussalam.