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### TOBACCO (CONTROL OF ADVERTISEMENTS AND SALE) ACT (CHAPTER 309)

### TOBACCO (CONTROL OF ADVERTISEMENTS AND SALE) (LICENSING) REGULATIONS 2017

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In exercise of the powers conferred by section 37 of the Tobacco (Control of Advertisements and Sale) Act, the Minister for Health makes the following Regulations:

## PART 1

### PRELIMINARY

#### **Citation and commencement**

1. These Regulations are the Tobacco (Control of Advertisements and Sale) (Licensing) Regulations 2017 and come into operation on 30 December 2017.

#### **Definitions**

2. In these Regulations, unless the context otherwise requires —
- “applicant”, in relation to a licence, means a person applying for or to renew the licence;
  - “container”, in relation to cigarettes, means a box, tin, packet or other receptacle, but does not include any outer wrapper or cellophane or other transparent material;
  - “health product” has the same meaning as in the Health Products Act (Cap. 122D);
  - “home for children and young persons” and “remand home” have the same meanings as in the Children and Young Persons Act (Cap. 38);
  - “import and wholesale licensee” means the holder of an import and wholesale licence mentioned in section 18(1) or (2) of the Act;
  - “licensee” means —
    - (a) an import and wholesale licensee; or
    - (b) a retail licensee;

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“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“medicinal product” has the same meaning as in section 3 of the Medicines Act (Cap. 176);

“responsible officer”, in relation to an applicant or a licensee, means —

- (a) where the applicant or licensee is a body corporate (other than a limited liability partnership), a director of the body corporate;
- (b) where the applicant or licensee is a partnership (including a limited partnership and limited liability partnership), a partner of the partnership; or
- (c) where the applicant or licensee is an unincorporated association, an officer of the unincorporated association;

“retail licensee” means the holder of a retail licence mentioned in section 18(3) of the Act.

## PART 2

### LICENSING

#### **Application for licence**

**3.—**(1) An application for a licence must be accompanied by the appropriate application fee and licence fee specified in the Schedule.

(2) A separate application for a licence must be made for each retail outlet at which an applicant intends to carry out any activity to be authorised by the licence.

#### **Grant of licence**

**4.—**(1) After considering an application for a licence, the Authority may —

- (a) grant the licence in respect of specified premises; or

(b) refuse to grant the licence.

(2) For the purposes of section 18(8) of the Act, the prescribed requirements for the grant of a licence to an applicant are all of the following:

(a) the applicant is —

- (i) a company incorporated in Singapore or registered under Part XI of the Companies Act (Cap. 50);
- (ii) a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A);
- (iii) a sole proprietor or firm registered under the Business Names Registration Act 2014 (Act 29 of 2014);
- (iv) a co-operative society registered under the Co-operative Societies Act (Cap. 62);
- (v) an unincorporated association registered under the Societies Act (Cap. 311); or
- (vi) an individual holding a valid licence under section 32 or 33 of the Environmental Public Health Act (Cap. 95);

(b) the applicant is fit to be granted a licence, having regard to the matters set out in paragraph (3);

(c) the Authority is satisfied that the premises that are the subject of the application are not in an unsuitable location, having regard to the matters set out in paragraph (4);

(d) the Authority is of the opinion that it is not against the public interest to grant the licence.

(3) For the purposes of paragraph (2)(b), the matters that the Authority must have regard to include, but are not limited to —

(a) whether the applicant or a responsible officer of the applicant has been convicted of an offence under —

- (i) section 10(1)(a) of the Act; or
- (ii) section 10(1)(a) of the Act as in force immediately before 1 August 2016,

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whether or not the offence was committed before, on or after 30 December 2017; and

(b) whether any licence held by the applicant or a responsible officer of the applicant has been revoked because of a contravention of —

(i) section 10(1)(a) of the Act; or

(ii) section 10(1)(a) of the Act as in force immediately before 1 August 2016,

whether or not the licence was revoked before, on or after 30 December 2017.

(4) For the purposes of paragraph (2)(c), an unsuitable location includes, but is not limited to, premises that are —

(a) situated within the premises of a healthcare institution licensed under the Private Hospitals and Medical Clinics Act (Cap. 248);

(b) the subject of a pharmacy licence issued under the Health Products (Licensing of Retail Pharmacies) Regulations 2016 (G.N. No. S 330/2016);

(c) premises at which mainly health products, medicinal products or health supplements are sold or offered for sale;

(d) situated in a computer gaming centre or video games arcade;

(e) situated in a child care centre, student hostel, student service centre, home for children and young persons or remand home; or

(f) situated within the compound of a school or an institution of learning, such as a polytechnic or university, attended by individuals below 18 years of age.

### **Duration of licence**

5. A licence is valid for one year.

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**Renewal of licence**

6.—(1) A licensee may, before the expiry of the licensee's licence, apply to the Authority to renew the licence.

(2) An application under paragraph (1) must be accompanied by the appropriate application fee and renewal fee specified in the Schedule.

(3) The Authority may renew a licence, on any terms and conditions, for a term of one year starting the day after the date the licence would otherwise expire.

(4) Regulation 4 applies to every application for the renewal of a licence as if it were an application for a new licence.

**Changes in particulars**

7.—(1) A licensee must inform the Authority of any change in the particulars contained in the licensee's licence or application for the licence no later than 3 days after the change.

(2) The Authority may, on receiving any information under paragraph (1) requiring such alterations or additions as may be necessary to ensure that the particulars recorded in the licence are accurate, grant a replacement licence (containing the alterations or additions) to the licensee concerned —

(a) in place of the licence already granted; and

(b) upon payment of the appropriate fee specified in the Schedule for the replacement licence.

**Revocation or suspension of licence**

8.—(1) The Authority may revoke, or suspend for a period not longer than 6 months, a licence if the Authority is satisfied that —

(a) the licensee is not complying, or has failed to comply, with —

(i) any term or condition of the licence; or

(ii) any provision of the Act or these Regulations;

(b) the licensee is no longer able to satisfy all of the requirements for the grant of a licence in regulation 4(2); or

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(c) the licence was obtained by fraud, or the licensee has, in connection with the application for the grant or renewal of the licence, made a statement or given any information or document that is false or misleading in a material particular.

(2) The Authority must notify the licensee in writing of its decision to revoke or suspend the licence.

(3) Despite any appeal by the licensee or former licensee against the revocation or suspension of the licence to the Minister under section 18(10) of the Act, a licence is revoked or suspended with effect from —

- (a) the date specified in the written notice mentioned in paragraph (2) as the effective date of the revocation or suspension; or
- (b) the date on which the licensee receives the written notice, if no date is specified in the written notice under sub-paragraph (a).

### **Cancellation of licence**

**9.**—(1) The Authority may, on the application of a licensee, cancel a licence held by the licensee if —

- (a) in the case of an import and wholesale licence, the licensee ceases to carry out all of the activities authorised by the licence; or
- (b) in the case of a retail licence for a retail outlet specified in the licence, the licensee ceases to carry out all of the activities authorised by the licence at that retail outlet.

(2) Where a licence is cancelled under paragraph (1), the Authority may refund, in whole or part, any licence fee or renewal fee paid under these Regulations in respect of the grant of that licence.

### **Register of licences**

**10.** The Authority must keep an up-to-date register, in such form as the Chief Executive may determine, of the particulars of every licence and licensee.

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PART 3

DUTIES OF LICENSEES

**Duties of licensees generally**

11.—(1) A licensee must not store or place, or cause to be stored or placed, at any premises not specified in the licensee's licence any tobacco product that the licensee intends to distribute or sell.

(2) A licensee must not transfer, assign or otherwise dispose of the licensee's licence.

**Duties of import and wholesale licensees**

12. An import and wholesale licensee must not —

- (a) distribute by wholesale a tobacco product to any person;
- (b) sell or offer for sale by wholesale a tobacco product to any person;
- (c) permit to be sold or offered for sale by wholesale a tobacco product to any person; or
- (d) have in the licensee's possession a tobacco product for sale by wholesale to any person,

if the licensee knows or ought reasonably to know that the person does not hold a valid import and wholesale licence, or a valid retail licence.

**Duties of retail licensees**

13.—(1) A retail licensee must not, for the purpose of doing any act mentioned in section 18(3)(a) to (d) of the Act, obtain any tobacco product from another person if the licensee knows or ought reasonably to know that the person does not hold a valid import and wholesale licence.

(2) A retail licensee must not —

- (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 the licensee's possession, for sale by retail,

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any cigarette that is removed from its container.

(3) A retail licensee must not cause or permit any individual who is below 18 years of age to do any of the following:

- (a) distribute any tobacco product;
- (b) sell or offer for sale any tobacco product;
- (c) possess for sale any tobacco product.

### **Furnishing of information by import and wholesale licensee**

**14.—**(1) The Authority may require an import and wholesale licensee to —

- (a) send a sample of any consignment of tobacco product being dealt with under the authority of the licensee's licence to a laboratory designated by the Authority to carry out tests on tar, nicotine and other substances contained in or emitted from the tobacco product; and
- (b) send the results of the tests to the Authority.

(2) In addition, the Authority may require an import and wholesale licensee to furnish any information about the import, sale or supply of any tobacco product being dealt with under the authority of the licensee's licence, and about the operations being carried out by the licensee in relation to such activities.

(3) An import and wholesale licensee must comply with any requirement of the Authority in paragraphs (1) and (2) within such reasonable time as the Authority may specify.

(4) An import and wholesale licensee must, for a period of at least 2 years after obtaining the results mentioned in paragraph (1)(b) or furnishing the information mentioned in paragraph (2) —

- (a) keep the results or information at the licensee's registered office or registered principal place of business; and
- (b) allow the Chief Executive or an authorised officer at all times to inspect the results or information.

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## Penalty

**15.** Any person that contravenes regulation 7(1), 11(1) or (2), 12, 13(1), (2) or (3) or 14(3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

## Revocation

**16.** The Tobacco (Control of Advertisements and Sale) (Licensing of Importers, Wholesalers and Retailers) Regulations 2010 (G.N. No. S 478/2010) are revoked.

## THE SCHEDULE

Regulations 3(1), 6(2) and 7(2)

### FEES

1. Fee for an application for an import and wholesale licence	\$100
2. Fee for an application for a retail licence	\$60
3. Fee for an application to renew an import and wholesale licence	\$100
4. Fee for an application to renew a retail licence	\$60
5. Import and wholesale licence fee	\$2,620
6. Retail licence fee	\$340
7. Renewal fee for an import and wholesale licence	\$2,300
8. Renewal fee for a retail licence	\$240
9. Fee for replacement copy of an import and wholesale licence under regulation 7(2)	\$200
10. Fee for replacement copy of a retail licence under regulation 7(2)	\$60

Made on 26 December 2017.

CHAN HENG KEE  
*Permanent Secretary,  
Ministry of Health,  
Singapore.*

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(To be presented to Parliament under section 37(2) of the Tobacco  
(Control of Advertisements and Sale) Act).