

SUPPLEMENT to the Solomon Islands GazetteFriday 28th August, 2015

S.I. No.66

[Legal Notice No. 76

**TOBACCO CONTROL ACT 2010
(NO. 2 of 2010)****TOBACCO CONTROL (PROVISIONS FOR LICENCES)
REGULATIONS 2015****ARRANGEMENT OF REGULATIONS**

1. Citation and commencement
2. Interpretation
3. Meaning of “distribute”
4. Application for licences
5. Certificate of Compliance
6. Offence of submitting false or misleading information
7. Considerations for an application for licence
8. General conditions for licences
9. Renewal, suspension and cancellation of licences
10. Appeals
11. Forms & fees
12. Penalties

SCHEDULE

Part 1 Fees

Part 2 Forms

Form A – Standard Application Form

Form B – Licence

Form C – Certificate of Compliance

**TOBACCO CONTROL (PROVISIONS FOR LICENCES)
REGULATIONS 2015**

Citation and
commence-
ment

- 1.** These Regulations may be cited as the Tobacco Control (Provisions for Licences) Regulations 2015 and commence on the date of its publication in the *Gazette*.

Interpretation

- 2.** In these Regulations, unless the context otherwise requires –

“Act” means the Tobacco Control Act 2010;

“applicant” means any person applying for a licence to manufacture, import, export, distribute or sell tobacco products;

“business certificate” means a certificate of incorporation issued under the Companies Act 2009;

“business licence” means a licence issued under the Honiara City Act 1999 or any other relevant Provincial Ordinance for the purpose of carrying on a business;

“Certificate of Compliance” means a document described under regulation 5;

“Class 1 Distributor” means a manufacturer, importer or exporter of tobacco products who sells tobacco products by wholesale;

“Class 2 Distributor” means a wholesaler.

“Permanent Secretary” means the Permanent Secretary responsible for matters relating to health and tobacco control;

“Provincial Ordinance” has the same meaning described in section 30 of the Provincial Government Act 1997;

“licence” means a written authorisation by the Permanent Secretary as prescribed in Form B under Part 2 of the Schedule;

“licensee” means a person who has been granted a licence by the Permanent Secretary to manufacture, import, export, distribute or sell tobacco products under the Act;

“manufacture” includes to construct, package and label tobacco products;

“manufacture, import, export, distribute or sell” includes causing to manufacture, import, export, distribute or sell;

“Minister” means the Minister responsible for matters relating to health and tobacco control;

“sell” means sell by retail and “sale” has a corresponding meaning;

“verified Certificate of Compliance” means a Certificate of Compliance that has been verified by an authorised officer.

“wholesaler” means a person, apart from a Class 1 Distributor, who engages in a business of selling goods by wholesale to retailers.

3. To “distribute”, in relation to tobacco products, means to:

- (a) sell by wholesale as a manufacturer, importer or exporter; (“Class 1 Distributor”); or
- (b) sell as a wholesaler (“Class 2 Distributor”).

Meaning of
“distribute”

4. (1) An applicant who wishes to apply for a licence to manufacture, import, export distribute or sell tobacco products shall submit his or her application to the Permanent Secretary in Form A under Part 2 of the Schedule.

Application
for licences

(2) The application shall be accompanied by:

- (a) a standard application fee set out in Part 1 of the Schedule;

- (b) a certified copy of the applicant’s business certificate or business licence;
- (c) for an application to sell tobacco products or distribute tobacco products as wholesale—a verified Certificate of Compliance in Form C in Part 2 of the Schedule; and
- (d) for an individual:
 - (i) a certified copy of an identity document;
 - (ii) a certified copy of a recent police clearance.
- (3) The Permanent Secretary may, in considering an application, request from the applicant additional information necessary to make his or her determination.
- (4) In this regulation:

“identity document” means any document containing legal proof of the individual’s identity and includes a birth certificate, driver’s licence, or passport;

Certificate of Compliance **5.**

- (1) An application to sell tobacco products or distribute tobacco products must be accompanied by a Certificate of Compliance.
- (2) A Certificate of Compliance must contain the following information:
 - (a) the name of the applicant;
 - (b) the place of business of the applicant;
 - (c) written confirmation that the place of business of an applicant’s place of business for sale or wholesale of tobacco products is not within 50 metres radius of the grounds or facilities of a school, hospital or health clinic;
 - (d) be issued by a senior officer of the Ministry responsible for lands, housing and survey; and
 - (e) be verified by an authorised officer.

- (3) A verified Certificate of Compliance shall be prima facie evidence that an applicant's place of business is not within 50 metres radius of the grounds or facilities of a school, hospital or health clinic.
- 6.** (1) No person shall intentionally submit false or misleading information to the Permanent Secretary in an application for a licence. Offence of submitting false or misleading information
- (2) A person who contravenes subregulation (1) commits an offence and is liable -
- (a) for an individual -
- (i) for the first offence, to a fine not exceeding 20,000 penalty units or to imprisonment for a term not exceeding two years; or
- (ii) for the second or any subsequent offence, to a fine not exceeding 50,000 penalty units or to imprisonment for a term not exceeding four years.
- (b) for a body corporate -
- (i) for the first offence, to a fine not exceeding 500,000 penalty units;
- (ii) for the second or any subsequent offence, to a fine not exceeding 1,000,000 penalty units.
- 7.** (1) The Permanent Secretary shall take into account the following matters when considering an application for licence: Consideration for an application for licence
- (a) the number of subsisting licenses for the manufacture, import, export, distribution or selling of tobacco products in the country;
- (b) the applicant is a person of good character;
- (c) the application complies with all of the relevant requirements of these Regulations;

- (d) the applicant has not within the last 5 years, been convicted of any offence under the Act or its regulations;
 - (e) pursuant to regulation 5(2)(c), the applicant's place of business for wholesale or retail sale of tobacco products is not within 50 meters radius of the grounds or facilities of a school, hospital or health clinic;
 - (f) for an individual -
 - (i) the applicant is over 21 years; and
 - (ii) the applicant's application is endorsed by two reputable referees;
 - (g) the applicant has not breached any licence conditions within the last 2 years;
 - (h) the applicant operates business from a permanent building;
 - (i) the general principles of the Framework Convention on Tobacco Control.
- (2) In this regulation -
- “a person of good character” means a person:
- (a) for an individual -
 - (i) who does not possess a previous criminal conviction under any Act; and
 - (ii) who has not previously been convicted of an offence under the Act,
 - (b) for a corporation –
 - (i) whose body corporate, related bodies corporate, any officers of the company or any other persons involved in the direction, management and control of the company have a history of consistent compliance with the laws of the jurisdiction in which it operates as a business or company,

“permanent building” means a building that:

- (a) has been constructed according to the requirements of the Honiara City Act 1999, Town and Country Planning Act (Cap.154) and any other relevant laws regulating building standards; and
- (b) has been inspected and granted a permit required under the relevant laws; and
- (c) where the applicant is applying for a licence to manufacture tobacco products—has the following facilities:
 - (i) a functioning waste management system where all waste from manufacturing activities are properly treated to internationally accepted treatment standards;
 - (ii) an international standard product quality laboratory consisting of moisture analysers, cigarette weight testers, cigarette pressure drop tester & cigarette ends loss testers; and
 - (iii) a factory design to meet international fire standards with sprinkler protection equipment installed.

“reputable referee” means a person:

- (a) who does not possess a previous criminal conviction under the Act or any other Act; and
- (b) who does not stand to gain financial or other benefit from the applicant by acting as a referee.

- 8.**
- (1) A licence issued under these Regulations is valid for 12 months from the date of its issue.
 - (2) A licence shall be issued in Form B under Part 2 of the Schedule.

General conditions for licences

- (3) A licensee shall pay the relevant fee set out in Part 1 of the Schedule before manufacturing, importing, exporting, distributing or selling tobacco products.
- (4) No licensee who is issued a licence to manufacture tobacco products shall purchase or use locally-grown tobacco to manufacture tobacco products.
- (5) A licensee who contravenes subregulation (4) commits an offence.
- (6) The Permanent Secretary may vary the conditions imposed on a licence at any time by giving 21 days' written notice to the licensee of the variation to the licence.

Renewal,
suspension
and cancella-
tion of
licences

9.

- (1) A licensee may apply to the Permanent Secretary for the renewal of a licence in Form A of Part 2 of the Schedule and accompanied by the relevant fee in Part 1.
- (2) An application for renewal shall be made at least 60 days before expiry of the licence.
- (3) The Permanent Secretary may, in considering an application for the renewal of a licence, request from the applicant additional information necessary to make his or her determination.
- (4) No applicant shall intentionally submit false or misleading information to the Permanent Secretary in an application for a licence.
- (5) An applicant who contravenes subregulation (4) commits an offence.
- (6) If an application is lodged but the licence expires before a determination is made by the Permanent Secretary, the licensee shall cease operation until the application is determined.
- (7) Where the Permanent Secretary is satisfied that a licence holder has committed a breach of any of the conditions of a licence granted under these Regulations, the Permanent Secretary may suspend the licence for such time period as the Permanent Secretary thinks fit.

- (8) The Permanent Secretary may cancel a licence if the licensee –
- (a) commits an offence under the Act or these Regulations;
 - (b) is a corporation and a winding-up order has been granted; or
 - (c) ceases to carry out the activity to which the licence relates.
- 10.** (1) Where – Appeals
- (a) a fresh application or an application for renewal for a licence is refused;
 - (b) a licence is suspended or cancelled; or
 - (c) a licence condition is imposed or varied,
- the applicant or licensee, may, within 30 days from the decision, appeal to a Principal Magistrate.
- (2) No appeal shall lie in respect of any licence that has been refused or cancelled on the grounds that the applicant has been convicted of an offence under this Act or its regulations.
- 11.** (1) The fees required to be prescribed for the purposes of the Act are set out in Part 1 of the Schedule. Fees and forms
- (2) Where an applicant applies for more than one licence in the same category in Part 1 of the Schedule, the applicant must pay the fee of the higher amount.
- (3) The forms required to be prescribed for the purposes of the Act and these Regulations are set out in Part 2 of the Schedule.
- 12.** (1) A person who contravenes these Regulations commits an offence and is liable – Penalties
- (a) for an individual –
 - (i) for the first offence, to a fine not exceeding 20,000 penalty units or to imprisonment for a term not exceeding two years; or

- (ii) for the second or any subsequent offence, to a fine not exceeding 50,000 penalty units or to imprisonment for a term not exceeding four years.
 - (b) for a body corporate –
 - (i) for the first offence, to a fine not exceeding 500,000 penalty units;
 - (ii) for the second or any subsequent offence, to a fine not exceeding 1,000,000 penalty units.
 - (2) The licence of a licensee who is convicted for any offence in these Regulations shall automatically be suspended indefinitely or cancelled.
-

SCHEDULE**Part 1 FEES**

ITEM	REGULATION PROVISIONS	CATEGORY OF FEE/LICENCE	FEES (SBD)
1	regulation 3	Standard application fee	200
2	regulation 5(2)	Import Licence a. Import of finished tobacco products. b. Import of tobacco (including raw tobacco)	2,000,000 500,000
3	regulation 5(2)	Export Licence	250,000
4	regulation 5(2)	Manufacture Licence	2,000,000
5	regulation 5(2)	Distribution Licence Class 1 Distributor Licence Class 2 Distributor Licence (Where the applicant applies for both licences, the higher fee shall be imposed).	 50,000 30,000
6	regulation 5(2)	Sale Licence* a. Sale under a business certificate b. Sale under a business licence *(Where the applicant has both a business certificate and a business licence, the higher fee shall be imposed).	 20,000 5,000

Part 2 FORMS**FORM A**

TOBACCO CONTROL ACT 2010 STANDARD APPLICATION FORM		
APPLICANT INFORMATION		
Name:	Date of Birth:	
Residential address:		
Province:	Phone Contact:	Facsimile Contact:
Email address:		
BUSINESS OR COMPANY INFORMATION		
Registered name of business/company:		
Business trading name:		
Check relevant type of ownership of this business:		
Partnership <input type="checkbox"/>	Sole owner <input type="checkbox"/>	Corporation <input type="checkbox"/>
Registered Business Licence or Business Certificate Number:		
Registered address of business:		
Province:	Phone Contact:	Facsimile Contact:
Email address:		
Contact person for business:		
Address:		
Province:	Phone Contact:	Facsimile Contact:
Email address:		
TOBACCO CONTROL ACT LICENCE DETAILS		

**TOBACCO CONTROL ACT 2010
STANDARD APPLICATION FORM**

Please indicate if this application is for a new licence or a renewal of an existing licence:

New Licence:

Renewal of Licence:

If renewal, please give your current licence Number:

Check relevant purpose for licence or licences you are applying for (more than one type of license may be needed):

Purpose for Licence

Manufacture of tobacco products

Import of finished tobacco products

Import of tobacco (including raw tobacco)

Export of tobacco products

Distribution of tobacco products (Class 1 Distributor)

Distribution of tobacco products (Class 2 Distributor)

Sale of tobacco products

If you are a retailer, please indicate the type of premise below:

Shop <input type="checkbox"/>	Duty Free Shop <input type="checkbox"/>	Supermarket <input type="checkbox"/>	Hotel/Guest House <input type="checkbox"/>	Canteen <input type="checkbox"/>
Restaurant <input type="checkbox"/>	Night club <input type="checkbox"/>	Other (please specify):		

SIGNATURES

**TOBACCO CONTROL ACT 2010
STANDARD APPLICATION FORM**

By signing this form, I declare that the details of this application are true and correct. I understand that submitting false or misleading information is an offence. I also understand that my business may be de-registered for any failure to comply with tobacco control and tax laws in Solomon Islands.

Signature of business/company owner: _____ Date: _____

Name of business/company owner: _____

ADMINISTRATION USE ONLY

Application granted License#: _____ Start: _____ (dd/mm/yy) Expires: (dd/mm/yy)

Application rejected Reasons for rejection:

Standard application fee paid: _____ Date paid: (dd/mm/yy)

Licence fee(s) paid: _____ Date paid: (dd/mm/yy)

Fees received by: (Name of Officer, Position of Officer, signature)

FORM B

**TOBACCO CONTROL ACT 2010
(NO. 2 of 2010)**

LICENCE

Name of licensee:

Registered business address of licensee:

.....

.....

Contact details of licensee:

Date of issuance of licence:

This licence is valid for 12 months and may be subject to variations, suspension, or cancellation on justifiable grounds.

The Licensee is, subject to the following conditions, hereby granted a licence to:

- manufacture tobacco products
- distribute tobacco products (Class 1 Distributor)
- distribute tobacco products (Class 2 Distributor)
- import tobacco products
- import tobacco
- export tobacco products
- sell tobacco products

Conditions

[List conditions here in numeric format]

NOTE: If you are issued a licence to manufacture or import tobacco products, you are required to report to the Minister by 31 March every year on certain information required under section 17 of the Tobacco Control Act 2010.

ISSUED IN HONIARA this [day] day of [month], [year].

.....
[NAME OF PERMANENT SECRETARY]
MINISTRY OF HEALTH AND MEDICAL SERVICES

FORM C

**TOBACCO CONTROL ACT 2010
(NO. 2 of 2010)**

CERTIFICATE OF COMPLIANCE

In respect of [insert name of applicant], we certify that the applicant's place of business at [insert address of place of business] is not within 50 meters radius of the grounds or facilities of a school, hospital or health clinic.

ISSUED IN [insert place] this [insert day] day of (insert month), [insert year].

[Affix official seal]

.....

[Name of Officer]

.....

[Signature of Officer]

Ministry of Lands, Housing and Survey

Verified by:

.....

[Name of Enforcement Officer]

.....

[Signature of Enforcement Officer]

[Date of verification]

[Affix official seal]

Ministry of Health and Medical Services

MADE AT HONIARA this twenty-eight day of August, 2015.

HON. TAUTAI ANGIKIMUA KAITU'U
Minister for Health and Medical Services

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government
Printed by Pacific Printers Limited.