

TTN: 132

Cancellations, Suspensions and Reinstatements of Tobacco Licenses

In an effort to reduce the importation and sale of illegal tobacco products and the sale of tobacco products to minors the Department of the Finance introduced the *Tobacco Tax Act* in 2008. The Act contains legislation that permits the Provincial Tax Commissioner to suspend or cancel licenses and permits when a person is in contravention of the Act or any provisions dealing with tobacco in any other Act or Regulation, including Federal acts.

A person found guilty of the importation, sale or possession of illegal tobacco products will be fined under the Tobacco Tax Act. The fine provisions are contained in sections 28 to 31 of the Act. The fines in these sections are substantial and range from \$200 to \$50,000 for the fixed fine provisions plus five times the tobacco tax that should have been paid.

In addition, the Department of Finance works with the Department of Health and Wellness in an effort to prevent the sale of tobacco products to minors. In this regard we receive information from the Department of Health and Wellness informing us when a person has been convicted under the provisions of the *Tobacco and Electronic Smoking Device Sales and Access Act*. When we receive information indicating that a person has been found guilty of an offence under the *Tobacco and Electronic Smoking Device Sales and Access Act* we will suspend or cancel the tobacco retailer's license. We will communicate with the Department of Health and Wellness informing them of the suspension or cancellation.

The Commissioner's authority is contained in section 8 of the *Tobacco Tax Act*, which states:

8. (1) The Commissioner may
 - (a) suspend a license or permit issued under subsection 4(2) for such period of time as the Commissioner considers necessary; or
 - (b) cancel a license or permit issued under subsection 4(2), if, in the opinion of the Commissioner, the person holding the license or permit
 - (c) has failed to comply with any provision of this Act or the Revenue Administration Act or any regulations thereof; or
 - (d) has been convicted of a violation of any provision relating to tobacco in any other Act of the Legislative Assembly or the Parliament of Canada, or in any regulation made under such an Act.

The Department's policy relating to suspensions, cancellations and reinstatements is outlined below.

Suspensions:

A person found to be in contravention of section 8 of the Act shall have their licenses or permits suspended for the following:

One (1) month for the first offence;

Three (3) months for the second offence;

Six (6) months for the third offence.

Cancellations:

A person found to be in contravention of section 8 of the Act for a fourth or subsequent offence shall have their license or permit cancelled.

Reinstatements:

A person who has had their license or permit cancelled as a result of contravention of section 8 of the Act must meet the following requirements before the license or permit may be reinstated:

1. The license or permit must have been cancelled for a period of not less than twelve (12) months.
2. Any fines associated with the conviction that resulted in the cancellation must be paid in full.
3. The vendor must have developed, implemented and documented procedures to prevent a recurrence of the type of offence that resulted in the cancellation of the license or permit.
4. The vendor must have had no additional convictions under any tobacco related provisions of an act of the Legislative Assembly or the Parliament of Canada.

Section 9 of the *Tobacco Tax Act* provides the right to appear before the Commissioner to show cause why the license or permit should not be suspended or cancelled. Please see section 9 of the Act below concerning the process to follow when applying for a hearing before the Commissioner.

Tobacco Tax Act
Section 9

9. (1) A person who is aggrieved by

(a) a refusal to issue a license or a permit to the person; or

(b) a suspension or cancellation of a license or permit held by the person, may, within 20 days after the date that the person was served with a written notice of the decision, serve on the Commissioner a written request to appear before the Commissioner to show cause as to why the license or permit should not be refused, suspended or cancelled, as the case may be.

(2) The Commissioner shall, within 10 days after the date that a written request is served on the Commissioner in accordance with subsection (1),

(a) give the person who served the written request an opportunity to be heard in respect of the matter; and

(b) decide the matter,

(i) in the case of a refusal to issue a license or permit to an applicant, by

(A) confirming the refusal, or

(B) issuing the license or permit to the applicant under subsection 4(2), and

(ii) in the case of a suspension or cancellation of a license or permit, by

(A) confirming the suspension or cancellation of the license or permit, or

(B) reversing the suspension or cancellation on such terms and conditions as the Commissioner considers appropriate.

(3) The Commissioner shall serve on the person who made the written request to appear before the Commissioner a written notice of the Commissioner's decision under subsection (2) setting out the reasons therefor.

Further Information

For copies of the *Tobacco Tax Act* and Regulations and any inquiries regarding this Tobacco Tax Notice, please contact:

Taxation and Property Records Division
Department of Finance
PO Box 1330
Charlottetown PE
C1A 7N1
Telephone: (902) 368-4070
Fax: (902) 368-6164
Website: www.princeedwardisland.ca

This guide is prepared for information purposes only, and should not be considered a substitute for the statutes. Should there be any conflict between the contents of this guide and the statutes, the statutes shall prevail.