

CAYMAN ISLANDS



Supplement No. 4 published with Gazette No. 25 dated
7 December, 2009.

THE TOBACCO LAW, 2008
(LAW 18 OF 2008)

THE TOBACCO REGULATIONS, 2009

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CAYMAN ISLANDS

**THE TOBACCO LAW, 2008
LAW 18 OF 2008**

THE TOBACCO REGULATIONS, 2009

In exercise of the powers conferred by section 25 of the Tobacco Law, 2008, the Governor in Cabinet makes the following regulations-

1. These Regulations may be cited as the Tobacco Regulations, 2009.

Citation

2. In these Regulations-

Definitions

“controlled smoking area” means that section of a public facility where smoking is permitted as regulated by the Law;

“facility” includes establishment;

“recreational facilities” includes cinemas, theatres, entertainment or games rooms, parks or sports facilities; and

“year” means a calendar year.

3. (1) An applicant for a Certificate of Registration as a dealer in tobacco products shall submit to the Chief Officer an application in writing in the form set out as Form 1 in Schedule 1 accompanied by a non-refundable fee of one hundred dollars.

Application for a
Certificate of
Registration and annual
registration

Schedule 1

(2) A successful applicant shall be issued a Certificate of Registration in the form set out as Form 2 in Schedule 1.

(3) An application for annual registration shall be accompanied by the following fees-

- (a) five hundred dollars for a retailer;
- (b) seven hundred and fifty dollars for the operator of a cigar bar;
and
- (b) five thousand dollars for a wholesale distributor or importer,

which fees shall be refundable if the application is unsuccessful.

(4) Where a registrant wishes to relocate his business establishment he shall apply by letter, at least ninety days prior to such proposed relocation, to the Chief Officer for a variation of his Certification of Registration which variation shall be granted subject to paragraph (5).

(5) In processing an application under paragraph (4) the Chief Officer in consultation with the Department of Planning shall take into account the suitability of the location of the proposed new premises and the extent to which the registrant has been in compliance with the Law.

Duration of registration

4. (1) In accordance with Trade and Business Licensing Directions, the period of registration shall coincide with the duration of the business licence accorded the registrant by the Trade and Business Licensing Board.

(2) In respect of an initial application, where at the date of application-

- (a) there are two months or more remaining in the year, registration is issued until the end of that year with the full fee being payable;
or
- (b) the period remaining in the year is less than two months, the registration fee is pro-rated on a monthly basis until the end of the year and the applicant shall pay the equivalent of one year's registration fee plus the prorated fee for the current year.

Schedule 1

(3) An application for renewal shall be in the form set out as Form 3 in Schedule 1 but where, in the context of his dealership in tobacco products there has been no change in the applicant's circumstances since his last registration, he shall use the form set out as Form 4 in Schedule 1.

(4) The deadline for the submission of applications for renewal of the Certificate is 1st November of each year and applications submitted after 1st

November and up to 31st January of the following year will attract a late fee of an additional 50% of the registration fee, but applications submitted after 31st January will attract a late fee of an additional 100% of the registration fee.

(5) Registration will continue uninterrupted once the application for renewal is received prior to the expiration date but where the registration has expired and no application for renewal is received, the registrant shall cease operations and shall wait for twelve months before consideration may be given to his new application for registration.

5. (1) The owner of any recreational facility who is desirous of using his business enterprise to deal in or promote the use of a tobacco product, is debarred from acquiring a Certificate of Registration.

Businesses not eligible
for registration

(2) The prohibition described in paragraph (1) shall also apply to any other business enterprise where minors are the primary customers or consumers of the product or service that is the main business of the establishment.

6. The register required to be kept and maintained by the Chief Officer under section 4(5) of the Law shall be computerised and shall contain the following information-

Form and content of
register

- (a) the serial number of the application ;
- (b) the date of the application;
- (c) the name of the owner and the location and mailing address of the business enterprise;
- (d) the name of the principal owner and contact details;
- (e) the Trade and Business licence number;
- (f) the nature of the business (whether wholesale distributor, importer or retailer);
- (g) the outcome of the application;
- (h) the details of Internet sales;
- (i) the number of the Certificate; and
- (j) the period of the validity of the Certificate.

7. (1) Within six months of the issuance of the initial Certificate and no later than February of the subsequent year every importer and wholesale distributor shall provide the Chief Officer with a signed statement containing the following particulars in relation to the tobacco product-

Responsibilities of the
registrant

- (a) the name and type of the product;
- (b) the country of origin of the product;
- (c) the name of the manufacturer;
- (d) an annual report from the manufacturer in relation to the product and its emissions as required either in the country of origin or by ISO standards;
- (e) current details regarding identified health risks of tobacco use as required by the manufacturer, by the authorities in the country of origin and in keeping with the latest medical evidence; and
- (f) the quantities of the product imported during the previous year.

(2) The registrant shall at all times display the Certificate in a prominent place of the business for the benefit of the public.

Display on package, of health warning and level of toxicity

8. (1) No person shall sell a tobacco product unless on each package there is displayed on a principal display surface, a graphic health warning in accordance with the following specifications-

- (a) the warning shall be written in English and shall be legible and clearly visible to the person who sells as well as to the prospective purchaser;
- (b) the text of the warning shall occupy at least thirty percent of the display space but no less than that required by the country of origin and be positioned parallel to the top edge of the package; and
- (c) the text of the warning shall be so positioned on the package as to ensure that it does not become severed or illegible upon the opening of the package.

(2) Every seller of a tobacco product shall ensure that there is displayed on a principal display surface of every package of the product that he sells, a statement as to the level of the product's toxic emissions and such statement shall be in accordance with the following specifications-

- (a) the statement shall be in English; and
- (b) the text of the statement shall be so positioned as to ensure that it does not become severed or illegible upon the opening of the package.

(3) Where cigars are sold as single items the retailer shall provide plastic bags-

- (a) on which shall be printed the health warnings and health messages; or
- (b) in which a leaflet containing the health warnings or health messages shall be placed.

9. At the point of sale of a tobacco product the owner of the establishment shall display, in a prominent place in the vicinity of the area where such products are located, a sign which-

Display of health message at point of sale

- (a) shall be written in English and be legible and clearly visible to the person who sells the product as well as to the prospective purchaser of the product;
- (b) shall read “SMOKING KILLS” or “SMOKING IS DANGEROUS TO YOUR HEALTH” and any other related message as may be determined by the Chief Officer; and
- (c) shall be prominently displayed on a surface measuring no less than eight and one half inches in height and fourteen inches in width containing black and white capitalised font against a red background.

10. (1) Every retailer at the point of sale shall display a sign to the effect that the legal age at which a tobacco product may be purchased is eighteen years.

Display of sign showing qualifying age for purchase

(2) The sign shall be not less than four inches in height and six inches in width on a red background with black and white text and shall state that “tobacco products are not sold to anyone under the age of eighteen.”.

(3) The sign shall also state that the seller may require evidence of the age of the prospective buyer.

11. (1) A retailer, in attempting to verify that the prospective purchaser of a tobacco product is not a minor, shall require him to produce documentary identification that contains-

Proof of age and identity

- (a) a photograph of the prospective purchaser;
- (b) his date of birth; and

- (c) evidence that the document was issued either by the Government of the Islands or by or on behalf of the Government of any other country.

(2) Subject to paragraph (1) the following types of identification are acceptable-

- (a) a driver's licence;
- (b) a passport; or
- (c) a voter's registration card.

Restrictions on the sale and display of the brand element

12. (1) Subject to paragraph (3) a retailer may display the brand element.

(2) The prohibition outlined in section 8 of the Law and those enumerated in this regulation do not apply to a merchant-

- (a) who is not a retailer; and
- (b) whose establishment does not trade exclusively in brand elements.

(3) Where the retailer displays the brand element, such display shall be subject to the following restrictions-

- (a) there shall be only one area in any business premises where such display may be permitted;
- (b) only one packet size of twenty cigarettes of each brand may be displayed in the display area;
- (c) the size of the display area shall not exceed one square meter;
- (d) there shall be no display of cartons; and
- (e) where the venue is an enclosed facility, the product displays shall not be visible from outside unless those displays are in respect of non-tobacco brand elements.

Internet sales transactions

13. (1) Every application to the Chief Officer for registration shall be accompanied by a disclosure as to whether the applicant is or intends to become engaged in Internet sales and failure to so disclose is a bar to lawfully engaging in such sales.

(2) Commercial transactions in tobacco products on the Internet are permissible but only for export purposes and among registered dealers in tobacco products, whether local or overseas.

(3) For purposes of inspection every tobacco dealer shall keep a record of each Internet sale transaction.

14. (1) Where smoking in a public place, other than a public conveyance, is prohibited by the Law, it shall be the responsibility of the owner of the establishment to post at least one no-smoking sign at each entrance and exit, and in appropriate locations to ensure that the public is aware that smoking is not permitted, which sign shall-

Posting of signs in areas where smoking is prohibited

- (a) be written in English;
- (b) be prominently displayed on a surface measuring no less than six inches in height by eight and one half inches in width in a black and white capitalised font at least three inches in height against a red background;
- (c) have on the upper portion of the display surface a reproduction of the international no-smoking symbol, the circle of which symbol shall measure at least six inches in diameter;
- (d) be protected from tampering, damage, removal or concealment; and
- (e) identify the office holder to whom a complaint may be made in respect of anyone found smoking in contravention of the Law.

(2) The no-smoking signs posted in a public conveyance shall-

- (a) prominently display the international no-smoking symbol; and
- (b) identify an office holder to whom a complaint may be made in respect of anyone found smoking in contravention of the Law.

15 (1) Every controlled smoking area designated as such under section 12 of the Law by the owner of the facility shall require the approval of the Building Control Unit of the Planning Department and the Department of Environmental Health and the owner of such facility shall-

Designated smoking areas in a public place

- (a) take every precaution to ensure that the smoke is properly contained and eliminated in accordance with these Regulations;

Schedule 2

- (b) conduct maintenance checks to ensure that health and safety criteria and all other relevant codes and standards are observed; and
- (c) comply strictly with the specifications for the configuration and maintenance of his controlled smoking areas as set out in Schedule 2.

(2) Every controlled smoking area designated as such under section 12(2)(a) to (c) of the Law shall-

- (a) be operated exclusively for the sleeping accommodation of the patron occupying it for not more than three months;
- (b) have a ceiling and, except for doors and windows, be completely enclosed on all sides by solid floor-to-ceiling walls and be under negative pressure relative to adjacent areas;
- (c) have a ventilation system that does not ventilate into any other part of the facility, except any other similarly designated bedroom of the facility;
- (d) be clearly marked as a bedroom in which smoking is permitted; and;
- (e) be located in an area of the facility which is not a thoroughfare.

**SCHEDULE 1
FORMS**

FORM 1

Regulation 3(1)
Serial No.....

THE TOBACCO LAW, 2008

**APPLICATION FOR REGISTRATION AS A DEALER IN TOBACCO
PRODUCTS**

In accordance with the Tobacco Law, 2008 the following information has to be provided by the applicant to the Chief Officer of the Ministry of Health.

1. Name of the Business Enterprise (same as in Trade and Business Licence)

2. Physical Address _____

3. Mailing Address _____

4. Nature of the Business: Wholesale Distributor Retailer Importer

Internet Sales Cigar Bar

5. Principal Owner's Contact details: (same as in Trade and Business Licence)

(a) Mr/Mrs/Miss _____

(b) Date of Birth

(c) Nationality

(d) Telephone number(s):

(e) Fax:

(f) Email: (business)

(g) Email (personal)

6. If the business enterprise will engage in internet sales, state details of the products and countries of destination of customers.

7. Name and types of tobacco products to be traded

8. Sources of tobacco products:

Local (details)

Overseas (countries of origin)

9. Trade and Business Licence No. (if applicable)

Period of validity From _____ to

10. I understand the requirements of being a Tobacco Dealer as per the Tobacco Law, 2008 and its regulations and I shall abide by them.

Applicant's signature: _____

Date: _____

----- **OFFICIAL USE ONLY** -----

a. Date application received: _____ by

b. Fee \$ _____ received _____ by

Receipt # _____

c. Date fees paid into Treasury _____
by _____

d. Disposition of application: Approved Not approved

Reasons if not approved

Date: _____ Signature of Chief Officer

e. Registration
Number _____

f. Date _____ of _____ registration
certificate _____

FORM 2

(Regulation 3(2))

THE TOBACCO LAW, 2008

TOBACCO DEALERS REGISTRATION CERTIFICATE

In accordance with the powers vested in the Chief Officer of the Ministry of Health, under the Tobacco Law, 2008,

of _____

with TBL # _____

is hereby registered as a

Tobacco Dealer (Specify the Nature of Business)

With effect from this ____ day of _____, 20

Until the ____ day of _____, 20

Registration Number: _____

Chief Officer,
Ministry of Health

Dated this ____ day of _____, 20

This certificate is the property of the Government of the Cayman Islands.
By law it is required to be prominently displayed
in the business place.

FORM 3

(Regulation 4(3))

THE TOBACCO LAW, 2008

TOBACCO DEALERS RENEWAL APPLICATION

I, _____ am registered as a Tobacco Dealer as (Specify the Nature of Business) _____ under the Tobacco Law, 2008.

My registration as such expires on the _____ day of _____, 20 ____ and I am hereby applying for renewal of my registration for a further period of one year.

The renewal fee of \$ _____ is enclosed herewith.

Any changes in particulars of Registration Yes No

If yes, Form 1 also needs to be completed.

Registration number: _____

Applicant's signature: _____

Date: _____

----- **OFFICIAL USE ONLY** -----

a. Date application received: _____ by

b. Fee \$ _____ received _____ by

Receipt # _____

c. Date fees paid into Treasury _____
by _____

d. Inspection Report: Date: _____

Satisfactory Unsatisfactory

Remarks:

e. Disposition of application: Approved Not approved

Reasons if not approved

Date: _____ Signature of Chief Officer

f. Registration
Number: _____

g. Date _____ of _____ registration
certificate _____

FORM 4

(Regulation 4(3))

THE TOBACCO LAW, 2008

REGISTRATION RETENTION APPLICATION

I,.....am
registered as.....under
the Tobacco Law, 2008 and my registration as such expires on theday
of, 20.....and I am hereby applying for a retention of my
registration for a further period of one year.

The retention fee of \$..... is enclosed herewith.

Registration number.....

Signature of applicant.....

Date.....

SCHEDULE 2

(Regulation 15(1))

REQUIRED OUTDOOR VENTILATION AIR

1. Every controlled smoking area shall be equipped with a separate ventilation system that supplies a minimum ventilation rate per person and exhausts to the exterior of the building. (See the Table in this Schedule).
2. The ventilation rate shall be calculated for the maximum permitted occupancy of the controlled smoking area.
3. The ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with the said Table based on the occupancy of the space and the occupant load.
4. The occupant load utilised for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in the Table.
5. Ventilation rates for occupancies not represented in the Table shall be determined by an approved engineering analysis.
6. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period of the occupancy of the building except as otherwise stated in these Regulations.
7. Mechanical exhaust is required and the recirculation of air from any space listed in the Table is prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required.
8. The controlled smoking area shall be so configured that the migration of smoke into non-smoking sections of the facility will not occur.
9. The controlled smoking area shall comply with all applicable codes and standards and where these codes and standards conflict with the requirements of these Regulations, the more stringent shall prevail. The existing fire separations

and other life safety systems shall be maintained or upgraded as required based on the new usage of the space.

10. All ceilings shall be sufficiently sealed to prevent egress of smoke into the ceiling plenum.

11. Outdoor air intake openings shall be so located as to prevent the ingress of any hazardous or noxious contaminant into the air stream.

12. The air removed by a mechanical system shall be discharged to a location from which it cannot again be readily drawn in by a ventilating system.

13. The air removed from a cigar bar shall not be exhausted into an attic or crawl space.

14. Exhaust air shall not be directed into walkways and outdoor exhaust openings shall be so located as not to create a nuisance.

15. The inlet to an exhaust system shall be located in the area of heaviest concentration of contaminants.

16. The air required as specified in the Table shall not be recirculated.

17. Air transferred from occupied spaces is not prohibited from serving as makeup air for required exhaust systems in such spaces as elevators, cigar bars and smoking lounges.

18. The amount of transfer air and exhaust air shall be sufficient to provide the flow rates as specified in the Table.

TABLE
REQUIRED OUTDOOR VENTILATION AIR

OCCUPANCY CLASSIFICATION	ESTIMATED MAXIMUM OCCUPANT LOAD, PERSONS PER 1,000 SQUARE FEET	OUTDOOR AIR [Cubic feet per minute (cfm) per person]
CONTROLLED SMOKING AREAS		
Bars, cocktail lounges	100	30
Cigar bars	70	70
Hotel & motel bedrooms	-	30 cfm per room
Dormitory sleeping areas	20	15

Made in Cabinet the 17th day of November, 2009.

Kim Bullings

Clerk of the Cabinet.