

The Tobacco Tax Act, 1998

being

Chapter T-15.001* of the *Statutes of Saskatchewan, 1998* (effective January 1, 1999, except subsection 34(4) effective November 15, 1998) as amended by the *Statutes of Saskatchewan, 1999, c.28; 2000, c.31; 2002, c.13; 2004, c.T-18.1 and 31; 2006, c.44; 2010, c.35; 2013, c.36; and 2017, c.4.*

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER T-15.001

An Act respecting Taxes on Tobacco

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Tobacco Tax Act, 1998*.

Interpretation

2 In this Act:

(a) **“authorization”** means a valid, written authorization to mark packages that is issued pursuant to section 15;

(a.1) **“black stock”** means tobacco products that are stamped or marked in accordance with any statute or regulation of Canada to indicate that duty has been paid but that are not stamped or marked in accordance with any statute or regulation of a province to indicate that they are intended for retail sale in a particular province or in particular provinces;

(a.2) **“collection agent”** means:

(i) a customs officer;

(ii) the Canada Post Corporation established pursuant to the *Canada Post Corporation Act* and its officers, employees and agents if the Canada Post Corporation has been authorized to collect and agrees to collect, as agent of the Government of Canada, duties as defined in the *Customs Act* (Canada) respecting mail delivered into Saskatchewan; or

(iii) any other prescribed person or member of a prescribed class of persons;

(b) **“consumer”** means a person who purchases or acquires tobacco in Saskatchewan:

(i) for consumption or use by that person;

(ii) for consumption or use by another person at the first person's expense; or

(iii) on behalf of, or as the agent for, a principal for consumption or use by the principal or by another person at the principal's expense;

(c) **“Crown”** means the Crown in right of Saskatchewan;

- (d) **“customs officer”** means an officer, as defined in the *Customs Act* (Canada), who is employed at a customs office in Saskatchewan;
- (d.1) **“duty free shop”** means a duty free shop as defined in the *Excise Tax Act* (Canada);
- (e) **“enforcement officer”** means:
- (i) an employee of the department over which the minister presides who is designated pursuant to section 29 as an enforcement officer;
 - (ii) a person who is designated pursuant to *The Traffic Safety Act* or is a member of a class of persons designated pursuant to *The Traffic Safety Act* as a traffic officer;
 - (iii) a member of a police service as defined in *The Police Act, 1990*;
 - (iv) a person appointed pursuant to *The Police Act, 1990* as a special constable;
 - (v) a member of the Royal Canadian Mounted Police; or
 - (vi) any other person or class of persons prescribed in the regulations as enforcement officers;
- (e.1) **“exempt consumer”** means a person who is exempt from paying tax:
- (i) pursuant to the *Indian Act* (Canada); or
 - (ii) pursuant to the regulations;
- (e.2) **“exempt sale retailer”** means a retailer of tobacco who is registered in accordance with the regulations to sell tobacco to exempt consumers;
- (f) **“importing consumer”** means a person who:
- (i) resides, ordinarily resides or carries on business in Saskatchewan; and
 - (ii) imports or sends tobacco into Saskatchewan, or acquires or receives delivery of tobacco in Saskatchewan, from outside Canada:
 - (A) for consumption or use by that person;
 - (B) for consumption or use by another person at the first person’s expense; or
 - (C) on behalf of, or as the agent for, a principal for consumption or use by the principal or by another person at the principal’s expense;
- (f.1) **Repealed.** 2017, c4, s.3.
- (f.2) **Repealed.** 2017, c4, s.3.
- (g) **“licence”** means a valid licence issued pursuant to section 10;
- (h) **“licensed importer”** means a licence holder who imports tobacco into Saskatchewan;

- (h.1) **“licensed manufacturer”** means a person who is licensed in accordance with this Act and the regulations to manufacture tobacco products in Saskatchewan;
- (i) **“marked tobacco”** means tobacco that is in a package that is marked as required by section 11 and includes prescribed tobacco but does not include tobacco that is black stock;
- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k) **“package”** includes a carton, case or other container that contains or is intended to contain tobacco;
- (l) **“prescribed”** means prescribed in the regulations;
- (m) **“recipient”** means:
- (i) a consumer or any other person who gives or agrees to give any consideration for tobacco;
 - (ii) a person to whom tobacco is supplied, whether or not that person gives any consideration for the tobacco;
 - (iii) a licensed importer or any other person who imports tobacco into Saskatchewan; or
 - (iv) a person who grows tobacco in Saskatchewan for commercial purposes or who manufactures a tobacco product in Saskatchewan for commercial purposes;
- but does not include an importing consumer;
- (m.1) **“smokeless tobacco products”** means tobacco products that are not smoked but are used in another form, and includes chewing tobacco and snuff;
- (n) **“tax”** means the tax on tobacco imposed by this Act;
- (o) **“tobacco”** means tobacco in any form in which it is used or consumed, and includes smokeless tobacco products and raw leaf tobacco;
- (p) **“unmarked tobacco”** means tobacco that is not marked tobacco.

1998, c.T-15.001, s.2; 2004, c.T-18.1, s.297; 2010, c.35, s.3; 2017, c4, s.3.

PART II
Tax

Tax payable by recipient

3(1) Every recipient shall pay to the Crown a tax on tobacco:

(a) at the time the recipient:

- (i) acquires or receives the tobacco from another person; or
- (ii) imports the tobacco into Saskatchewan; or

(b) in the case of a person growing the tobacco in Saskatchewan for commercial purposes or manufacturing a tobacco product in Saskatchewan for commercial purposes, at the prescribed time and in the prescribed manner.

(2) The tax required to be paid pursuant to subsection (1) is to be paid at the following rates:

(a) on every cigarette or tobacco stick, 27¢;

(b) on every cigar, the greater of:

- (i) 35¢ per cigar; and
- (ii) 100% of the taxable price of the cigar to a maximum of \$5 per cigar;

(b.1) on every gram of smokeless tobacco products, 27¢;

(c) on every gram of tobacco, other than cigarettes, tobacco sticks, cigars or smokeless tobacco products, 27¢.

(3) The taxable price of a cigar for the purposes of subclause (2)(b)(ii) is the following amount multiplied by 1.3:

(a) if the cigar was manufactured in Canada, the manufacturer's selling price before any volume discount, including any charges for delivery or transportation and any duty and excise tax imposed pursuant to the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada);

(b) if the cigar was manufactured outside Canada, the importer's selling price before any volume discount.

(3.01) For the purposes of clause (3)(b), the importer's selling price of a cigar is the greater of:

(a) the price charged by the importer; and

(b) if the importer sells the cigar to a party who is not dealing at arm's length with the importer and who subsequently sells the cigar to a third party, the price charged to the third party;

including any charges for delivery or transportation and any duty and excise tax imposed pursuant to the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada).

(3.1) Notwithstanding subsection (3), if the manufacturer or importer of a cigar is also the retailer of the cigar, the taxable price of the cigar for the purposes of subclause (2)(b)(ii) is the price the consumer paid for it, including any charges for delivery or transportation but not including:

- (a) the tax payable pursuant to this Act; or
- (b) the tax imposed by Part IX of the *Excise Tax Act* (Canada).

(4) For the purposes of calculating tax payable, the tax payable is to be computed separately on each package of tobacco on which tax is payable.

(5) In making any calculation of tax payable, any fraction of a cent resulting from the calculation is deemed to be 1¢.

1998, c.T-15.001, s.3; 1999, c.28, s.2; 2000, c.31, s.2; 2002, c.13, s.2; 2004, c.31, s.2; 2006, c.44, s.2; 2010, c.35, s.4; 2013, c.36, s.2; 2017, c.4, s.4.

When and how tax is to be remitted

4(1) Every recipient who manufactures a tobacco product in Saskatchewan for commercial purposes, who imports tobacco into Saskatchewan or who grows tobacco in Saskatchewan for commercial purposes shall remit the tax to the minister:

- (a) at the prescribed times and in the prescribed manner; or
- (b) at the times and in the manner prescribed in Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.

(2) Every recipient, other than one mentioned in subsection (1), shall remit the tax to the person who supplied the recipient with the tobacco.

1998, c.T-15.001, s.4; 2010, c.35, s.5.

Tax recovery and credit

5(1) If a recipient, other than a consumer, pays tax on tobacco and later sells or disposes of the tobacco, the recipient shall recover the tax paid from the person who received the tobacco.

(2) The minister may provide a credit or refund for all or part of the tax paid by a recipient on tobacco where the minister is satisfied that:

- (a) the recipient paid the tax; and
- (b) one of the following circumstances has occurred:
 - (i) the tobacco was exported on a permanent basis from Saskatchewan;
 - (ii) the tobacco was stolen or destroyed.

(3) The minister may refund all or part of the tax paid by a recipient on tobacco where the minister is satisfied that:

- (a) the recipient paid the tax; and
- (b) the tobacco was sold to prescribed persons in the prescribed circumstances.

(4) No recipient shall recover any tax pursuant to this section, and no tax credit or refund may be provided pursuant to this section, on unmarked tobacco.

1998, c.T-15.001, s.5.

Tax payable by importing consumer

6(1) An importing consumer shall:

- (a) do all of the following:
 - (i) immediately report to a collection agent on bringing, sending, acquiring or receiving tobacco in Saskatchewan;
 - (ii) provide the collection agent with all information that the collection agent requires respecting the tobacco;
 - (iii) pay to the Crown the same amount of tax that would be payable pursuant to section 3 if the importing consumer were a recipient and had acquired or received the tobacco in Saskatchewan or imported the tobacco into Saskatchewan; or
- (b) follow the prescribed procedures and pay the tax mentioned in subclause (a)(iii) to the Crown in the prescribed manner and at the prescribed time.

(2) For the purposes of subclause (1)(a)(iii), the importing consumer shall pay the amount of the tax to the collection agent.

(3) Subsection (1) does not apply to an importing consumer bringing tobacco into Saskatchewan if no tax is payable on the tobacco pursuant to Division III of Part IX of the *Excise Tax Act* (Canada).

(4) If an importing consumer fails or refuses to comply with subsection (1), the collection agent may detain the tobacco.

(5) Where tobacco is detained pursuant to subsection (4):

- (a) the tobacco is to be returned to the importing consumer if, on or before the end of 60 days from the date the tobacco was detained:
 - (i) the tax payable on the tobacco at the time of the detention and any expenses related to the detention are paid; and
 - (ii) the requirements of this Act and the regulations are followed; or

- (b) the tobacco is forfeited to the Crown and may be disposed of in the manner directed by the minister if, after 60 days from the date the tobacco was detained:
 - (i) the tax payable on the tobacco at the time of the detention and any expenses related to the detention are not paid; and
 - (ii) the requirements of this Act and the regulations are not followed.
- (6) An importing consumer may apply to the Minister of National Revenue, or the Minister responsible for the Canada Border Services Agency, in that Minister's capacity as agent for the Crown, for a refund of tax paid to a collection agent if it is subsequently determined in accordance with this Act that no tax was payable by the importing consumer.

1998, c.T-15.001, s.6; 2010, c.35, s.6.

Power of minister to enforce Act

- 7(1) Unless otherwise provided for in this Act and the regulations, taxes are to be collected and remitted to the minister in accordance with Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.
- (2) The minister may enforce the collection and remission of taxes in accordance with this Act, the regulations, Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.

1998, c.T-15.001, s.7.

PART III
Licences, Notices and Marking

Notice required to import

- 8(1) Subject to subsection (2), no person, other than an importing consumer, licensed manufacturer or licensed importer, shall import tobacco into Saskatchewan or acquire or take delivery in Saskatchewan of tobacco that was sent from outside Saskatchewan without:
 - (a) providing advance, written notice to the minister of the proposed importation or the proposed acquisition or delivery; and
 - (b) paying to the Crown any deposit that the minister may require.
- (2) Subsection (1) does not apply to:
 - (a) an interprovincial transporter who is transporting unmarked tobacco through Saskatchewan in accordance with subsection 11(3); or
 - (b) a person who possesses unmarked tobacco at or below the quantities prescribed for the purposes of subclause 11(4)(b)(i).

1998, c.T-15.001, s.8; 2010, c.35, s.7.

Licence required to manufacture tobacco

8.1 No person shall manufacture tobacco products in Saskatchewan without holding a valid licence to do so.

2010, c.35, s.8.

Application for licence

9 Any person who wishes to obtain a licence to manufacture tobacco products or import tobacco into Saskatchewan shall apply to the minister in a form acceptable to the minister.

1998, c.T-15.001, s.9; 2010, c.35, s.9.

Issue of licence

10(1) The minister may issue a licence to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the licence.

(2) At the time a licence is issued or at any subsequent time, the minister may impose any terms and conditions on a licence that the minister considers necessary.

(3) At any time after a licence is issued, the minister may do all or any of the following:

- (a) amend, modify or vary terms and conditions imposed on a licence;
- (b) impose new terms and conditions on a licence;
- (c) repeal terms and conditions imposed on a licence and substitute new terms and conditions in their place.

(4) No person who holds a licence shall fail to comply with the terms and conditions imposed on that person's licence.

1998, c.T-15.001, s.10.

Marking required

11(1) No licensed manufacturer or licensed importer shall purchase, possess, store, transport or sell tobacco in Saskatchewan, or import tobacco into Saskatchewan, unless:

- (a) the packages containing the tobacco are marked in the prescribed manner;
- (b) in the case of unmarked tobacco other than tobacco that is black stock, all of the following circumstances are met:
 - (i) the licensed manufacturer or licensed importer is storing the tobacco for sale or transportation outside Saskatchewan;
 - (ii) the licensed manufacturer or licensed importer has received the written approval of the minister to possess, store or transport the tobacco;
 - (iii) the tobacco is ultimately removed from Saskatchewan;

- (iv) the licensed manufacturer or licensed importer retains for the prescribed period evidence of the removal of the tobacco from Saskatchewan;
 - (c) in the case of a licensed manufacturer who is importing unmarked tobacco into Saskatchewan for the purpose of manufacturing tobacco products, the licensed manufacturer, in accordance with the regulations, maintains and submits to the minister the prescribed records related to the importation of the tobacco;
 - (d) in the case of tobacco that is black stock:
 - (i) the licensed manufacturer or licensed importer:
 - (A) will be selling the tobacco to an exempt sale retailer or a duty free shop; and
 - (B) in accordance with the regulations, maintains and submits to the minister the prescribed records related to the manufacture, importation, storage or sale of the tobacco and a monthly report containing the prescribed information; or
 - (ii) the tobacco will be transported out of Saskatchewan for resale and the licensed manufacturer or licensed importer retains for the prescribed period evidence of the removal of the tobacco from Saskatchewan.
- (2) No person engaged in the business of selling tobacco, other than a licensed manufacturer or licensed importer, shall purchase, possess, store, transport or sell tobacco in Saskatchewan unless:
- (a) the packages containing the tobacco are marked in the prescribed manner; or
 - (b) in the case of tobacco that is black stock, the person is a retailer who is:
 - (i) an exempt sale retailer who is in compliance with subsection (2.1); or
 - (ii) operating as a duty free shop that is registered in accordance with the regulations and is in compliance with subsection (2.1).
- (2.1) For the purposes of clause (2)(b), the retailer shall purchase tobacco that is black stock only from a licensed manufacturer or licensed importer.
- (2.2) No person shall, in Saskatchewan, purchase, attempt to purchase or possess tobacco that is black stock unless the person:
- (a) is an exempt consumer; or
 - (b) is permitted to do so pursuant to subsection (1) or (2).

(2.3) No exempt consumer shall purchase or possess more tobacco that is black stock than the prescribed amount without being authorized to do so pursuant to the regulations.

(2.4) No exempt sale retailer shall sell in Saskatchewan tobacco that is black stock, or offer tobacco that is black stock for sale, to a person unless that person is an exempt consumer.

(2.5) No exempt sale retailer shall sell in Saskatchewan tobacco that is black stock to an exempt consumer in an amount greater than the prescribed amount.

(2.6) An exempt sale retailer may apply, in the prescribed manner and at the prescribed times, to obtain a refund of amounts paid to a licensed manufacturer or a licensed importer respecting tobacco that is black stock that the exempt sale retailer has purchased from the licensed manufacturer or licensed importer and has sold to an exempt consumer.

(3) An interprovincial transporter may transport unmarked tobacco through Saskatchewan if the tobacco is identified in the interprovincial transporter's bill of lading and if a destination outside Saskatchewan for the tobacco is shown in the bill of lading.

(4) Notwithstanding subsection (2.2), an importing consumer may possess unmarked tobacco if:

(a) the unmarked tobacco has been stamped or marked in accordance with a statute or regulation of Canada to indicate that duty has been paid; and

(b) either:

(i) the unmarked tobacco is in prescribed quantities; or

(ii) the importing consumer has paid tax on the unmarked tobacco.

(5) **Repealed.** 2010, c.35, s.10.

(6) **Repealed.** 2010, c.35, s.10.

(7) The minister may authorize a person to possess unmarked tobacco in excess of the prescribed quantities mentioned in subclause (4)(b)(i) if the person is transporting the tobacco through Saskatchewan.

1998, c.T-15.001, s.11; 2010, c.35 s.10.

Minister may mark packages

12 Subject to the regulations, the minister may mark any package.

1998, c.T-15.001, s.12.

Minister's authorization to mark or acquire marking equipment

13(1) No person shall mark or purport to mark packages or acquire or possess equipment to mark packages without holding an authorization.

(2) No person who holds an authorization shall refuse or neglect to mark packages as required by this Act and the regulations.

(3) A person who holds an authorization shall not mark packages, cartons or cases of tobacco at any location other than a location or mark-point approved by the minister.

1998, c.T-15.001, s.13; 2010, c.35, s.11.

Application for authorization

14 Any person who wishes to obtain an authorization shall apply to the minister in a form acceptable to the minister.

1998, c.T-15.001, s.14.

Issue of authorization

15(1) The minister may issue an authorization to mark packages and to acquire or possess equipment to mark packages to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the authorization.

(2) At the time an authorization is issued or at any subsequent time, the minister may impose any terms and conditions on the authorization that the minister considers necessary.

(3) At any time after an authorization is issued, the minister may do all or any of the following:

- (a) amend, modify or vary terms and conditions imposed on an authorization;
- (b) impose new terms and conditions on an authorization;
- (c) repeal terms and conditions imposed on an authorization and substitute new terms and conditions in their place.

(4) No person who holds an authorization shall fail to comply with the terms and conditions imposed on his or her authorization.

1998, c.T-15.001, s.15; 2010, c.35, s.12.

Amendment, suspension or cancellation of licence or authorization

16 The minister may amend and, subject to section 17, suspend or cancel a licence or authorization where, in the opinion of the minister, the person who holds the licence or authorization:

- (a) has failed to comply with this Act or the regulations;
- (b) has failed to comply with any term or condition imposed on his or her licence or authorization;
- (c) has provided false or misleading information to the minister in the person's application for the licence or authorization or at any other time; or
- (d) is carrying on business in a manner that is prejudicial to the public interest.

1998, c.T-15.001, s.16.

Opportunity to be heard

17(1) The minister shall not suspend or cancel a licence or authorization without giving the holder of a licence or authorization an opportunity to be heard.

(2) Notwithstanding subsection (1), if the minister considers that it is necessary to act to protect the public interest, the minister may immediately suspend or cancel a licence or authorization without giving the holder of the licence or authorization an opportunity to be heard, but shall give the holder an opportunity to be heard within 30 days after the date on which the minister takes any of those actions.

1998, c.T-15.001, s.17.

PART IV**Investigations, Enforcement and Offences****Interpretation of Part**

18 In this Part:

- (a) "**Act**" includes the regulations;
- (b) "**property**" includes computer hardware;
- (c) "**records**" includes books, papers, documents, information, computer software and electronic records.

1998, c.T-15.001, s.18.

Penalty – purchase or possession of unmarked tobacco

18.1 If a person purchases or otherwise possesses unmarked tobacco, including tobacco that is black stock, in contravention of this Act, the minister may assess against that person a penalty in an amount equal to three times the tax that would have been payable if the tobacco were marked tobacco and were sold to a consumer in Saskatchewan.

2010, c.35, s.13.

Penalty – overpayments to exempt sale retailers received in certain circumstances

18.2(1) The minister may assess a penalty against an exempt sale retailer in the amount set out in subsection (2) if:

- (a) the exempt sale retailer has applied for a refund and received a refund pursuant to subsection 11(2.6); and
- (b) the minister determines that the exempt sale retailer has made a false or misleading statement with respect to a material fact in any report or in any application for the refund or the exempt sale retailer has failed to comply with this Act.

(2) In the circumstances mentioned in subsection (1), any refund paid is deemed to be an overpayment and the minister may assess a penalty in an amount equal to three times the amount of the overpayment.

2010, c.35, s.13.

Notice re penalty pursuant to section 18.1 or 18.2

18.3(1) Before assessing a penalty pursuant to section 18.1 or 18.2, the minister shall provide notice to the person:

- (a) setting out the facts and circumstances that, in the minister's opinion, render the person liable to a penalty;
- (b) specifying the amount of the penalty; and
- (c) informing the person of the person's right to make representations to the minister.

(2) A person to whom notice is sent pursuant to subsection (1) may make representations to the minister respecting whether or not a penalty should be assessed and whether or not the minister's calculation of the penalty is correct.

(3) Representations pursuant to subsection (2) must be made within 30 days after service of the notice pursuant to subsection (1).

(4) After considering any representations, the minister may:

- (a) assess a penalty and set a date by which the penalty is to be paid in full; or
- (b) determine that no penalty should be assessed.

(5) The minister shall serve a copy of his or her decision pursuant to subsection (4) on the person who made the representations.

2010, c.35, s.13.

Penalty – failure to submit returns

18.4 If a person fails to submit a return as and when required by this Act, the minister may assess against the person a penalty in the amount of \$25 for each day of default to a maximum of \$1,000.

2010, c.35, s.13.

Penalties are in addition to taxes

18.5(1) A penalty assessed pursuant to section 18.1, 18.2 or 18.4 is in addition to any taxes or refund overpayments that are payable pursuant to this Act and the assessment of a penalty against a person does not relieve that person from paying that tax or repaying the overpayment.

(2) Subject to subsection (3), a penalty or refund overpayment mentioned in subsection (1) is a debt due to the Crown in right of Saskatchewan and may be recovered:

(a) as if it were a tax pursuant to Part III of *The Revenue and Financial Services Act*; or

(b) in any other manner authorized by law.

(3) Sections 60 to 62.1 and subsection 63(1) of *The Revenue and Financial Services Act* do not apply to:

(a) a penalty assessed pursuant to section 18.1, 18.2 or 18.4;

(b) any tax associated with a penalty mentioned in clause (a); or

(c) any refund overpayments payable pursuant to this Act.

(4) If a penalty, tax or refund overpayment mentioned in subsection (3) remains unpaid after the date specified by the minister in a notice served on the person liable, the minister may:

(a) certify the amount of the penalty, tax or refund overpayment owing to the date of the certificate; and

(b) file the certificate mentioned in clause (a) pursuant to subsections 63(2) and (3) of *The Revenue and Financial Services Act*.

2010, c.35, s.13.

Actions of employee, etc. do not prevent assessment of penalty

18.6 The minister may assess a penalty against a person pursuant to section 18.1, 18.2 or 18.4 notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of that person.

2010, c.35, s.13.

Power to enter on land

19 For the purposes of carrying out his or her duties pursuant to this Act, the minister, an enforcement officer and any person lawfully accompanying the minister or an enforcement officer may enter on any land, whether or not that land is enclosed.

1998, c.T-15.001, s.19.

General powers respecting inspections and examinations

20(1) For the purpose of enforcing and administering this Act, the minister or an enforcement officer may do all or any of the following:

- (a) subject to subsection (5), enter, without a warrant, at any reasonable time the following premises for the purpose of conducting an inspection or examination:
 - (i) any premises used by a person in connection with the importation, storage, transportation, sale or marking of tobacco;
 - (ii) any premises containing any records or property that relate to the importation, storage, transportation, sale or marking of tobacco;
 - (b) in the case of an enforcement officer, where the enforcement officer believes on reasonable grounds that a commercial vehicle is carrying or transporting tobacco:
 - (i) inspect or examine the contents of the commercial vehicle; and
 - (ii) if the commercial vehicle is in motion, request or signal the person in charge of or operating the commercial vehicle to stop the vehicle for the purposes of an inspection or examination;
 - (c) make any inquiries of a person that are or may be relevant to the inspection or examination;
 - (d) require any person keeping any records or property related to the importation, storage, transportation, sale or marking of tobacco to provide those records to the minister or an enforcement officer.
- (2) The person in charge of or operating a commercial vehicle shall, when requested or signalled by an enforcement officer pursuant to subclause (1)(b)(ii):
- (a) immediately bring the commercial vehicle to a safe stop; and
 - (b) permit the enforcement officer to inspect or examine the contents of the commercial vehicle.
- (3) If any records or property are provided to the minister or an enforcement officer pursuant to clause (1)(d), the minister or enforcement officer may:
- (a) examine the records or property; and
 - (b) remove the records for the purpose of making copies in accordance with section 23.
- (4) For the purposes of producing a readable record from a computer system used by a person on whom a request is made pursuant to clause (1)(d), the minister or an enforcement officer may use any computer hardware or software belonging to that person.

- (5) The minister or an enforcement officer shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant obtained pursuant to section 22.
- (6) If an enforcement officer has reasonable and probable grounds to believe that a person is in possession of tobacco in contravention of this Act, the enforcement officer may require the person to provide the enforcement officer with identification information for the purposes of enforcing this Act.
- (7) Every person who is required to provide identification pursuant to subsection (6) shall identify himself or herself by:
- (a) giving the enforcement officer the person's correct name and address; and
 - (b) providing the enforcement officer with supporting documents sufficient for identification purposes.

1998, c.T-15.001, s.20; 2010, c.35, s.14.

Demand for records or property

- 21(1)** The minister or an enforcement officer may serve a written demand on any person, including a trustee or a director, officer or employee of a corporation, requiring that person to produce any records or property in that person's control that relate to the importation, storage, transportation, sale or marking of tobacco.
- (2) No person on whom a written demand is served pursuant to this section shall fail to provide the records or property mentioned in the written demand within the time specified in the written demand.
- (3) The minister or enforcement officer may inspect and examine any records produced pursuant to a written demand served pursuant to this section and remove the records for the purpose of making copies in accordance with section 23.

1998, c.T-15.001, s.21.

Warrant

- 22(1)** Where a justice of the peace or provincial court judge is satisfied by information on the oath of the minister or an enforcement officer that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found, the justice of the peace or the provincial court judge may issue a warrant to do all or any of the following:
- (a) enter and search any place or premises named in the warrant;
 - (b) stop and search any vehicle described in the warrant;
 - (c) seize and remove anything that may be evidence of an offence against this Act.

- (2) With a warrant issued pursuant to subsection (1), the minister or enforcement officer may:
- (a) at any time, enter and search any place or premises named in the warrant;
 - (b) stop and search any vehicle described in the warrant;
 - (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the minister or enforcement officer finds in the place, premises or vehicle;
 - (d) require the production of and examine any records or property that the minister or enforcement officer believes, on reasonable grounds, may contain information related to an offence against this Act;
 - (e) remove, for the purpose of making copies, any records examined pursuant to this section; and
 - (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (3) Subject to subsection (4), the minister or enforcement officer may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the minister or enforcement officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.
- (4) The minister or an enforcement officer shall not enter premises that are ordinarily occupied as a private residence without a warrant issued pursuant to this section unless the occupant of those premises consents to the entry.

1998, c.T-15.001, s.22.

Copies of documents

- 23(1)** Where any records are removed pursuant to section 20, 21 or 22, the minister or enforcement officer may make copies of those records.
- (2) The minister or enforcement officer shall:
- (a) make those copies with reasonable dispatch; and
 - (b) promptly return the originals of the records to:
 - (i) the place they were removed from; or
 - (ii) any other place that may be agreed to by the minister or enforcement officer and the person who furnished them or from whom they were seized.

(3) A record certified by the minister or an enforcement officer to be a copy made pursuant to this section:

- (a) is admissible in evidence without proof of the office or signature of the person purporting to have made the certificate; and
- (b) has the same probative force as the original record.

1998, c.T-15.001, s.23.

Search of vehicles

24(1) Where, due to the circumstances or location, there could reasonably be expected to be a high incidence of offences against this Act in any area or where an enforcement officer believes on reasonable grounds that a vehicle may contain evidence of an offence against this Act, an enforcement officer may:

- (a) request or signal to the person in charge of or operating a vehicle in the area to stop the vehicle;
- (b) inspect or examine the contents of the vehicle for evidence of an offence; and
- (c) seize and remove anything that may be evidence of an offence.

(2) The person in charge of or operating a vehicle shall, when requested or signalled by an enforcement officer pursuant to subsection (1):

- (a) immediately bring the vehicle to a safe stop; and
- (b) permit the enforcement officer to inspect and examine the contents of the vehicle.

1998, c.T-15.001, s.24.

Seizure and return of unmarked tobacco

25(1) Subject to subsection 11(4), the minister or an enforcement officer may seize unmarked tobacco, other than tobacco that is black stock, from:

- (a) a licensed manufacturer or licensed importer who fails to comply with clause 11(1)(b);
- (b) a person engaged in the business of selling tobacco who fails to comply with clause 11(2)(a); or
- (c) any person who is in possession of unmarked tobacco in contravention of this Act.

(1.1) Subject to subsection 11(4), the minister or an enforcement officer may seize unmarked tobacco that is black stock from:

- (a) a licensed manufacturer or licensed importer who fails to comply with clause 11(1)(d);
- (b) a person engaged in the business of selling tobacco who fails to comply with clause 11(2)(b) or subsection 11(2.1), (2.4) or (2.5);
- (c) a person who is selling or intends to sell the tobacco that is black stock and who is not a licensed manufacturer, a licensed importer, an exempt sale retailer or a duty free shop;

- (d) an exempt consumer who, without being authorized by this Act and the regulations, possesses unmarked tobacco in excess of the maximum amount set out in subsection 11(2.3); or
 - (e) any other person who is in possession of tobacco that is black stock in contravention of this Act.
- (2) The minister may return unmarked tobacco to the person from whom it was seized in the prescribed manner and in accordance with any prescribed conditions.
- (3) Any person from whom unmarked tobacco is seized pursuant to this section may apply to a provincial court judge for an order to restore the unmarked tobacco to the person.
- (4) A person who wishes to make an application pursuant to subsection (3) shall:
- (a) apply on or before 60 days after the date of the seizure; and
 - (b) provide the minister with notice of the application within the prescribed time and in the prescribed manner.
- (5) Subject to subsection (6), on hearing an application pursuant to subsection (4), the provincial court judge may order that the seized unmarked tobacco be immediately restored to the person who made the application if the provincial court judge is satisfied that the person was in lawful possession of the unmarked tobacco at the time of the seizure.
- (6) If the person from whom unmarked tobacco was seized is charged with an offence against this Act or *The Revenue and Financial Services Act* for a matter related to the administration and enforcement of this Act, the provincial court judge shall not hold a hearing or make any order to restore the unmarked tobacco until:
- (a) the charge is disposed of; and
 - (b) all appeals respecting the charge have been dealt with or the time for appeals has expired.
- (7) Unmarked tobacco seized pursuant to this section is forfeited to the Crown if, after 60 days from the date of the seizure, the person from whom the tobacco was seized does not apply to a provincial court judge for an order to restore the unmarked tobacco to the person.
- (8) The minister may dispose of unmarked tobacco forfeited to the Crown pursuant to this section in any manner that the minister considers appropriate.

Seizure and return of vehicles

26(1) The minister or an enforcement officer may seize a vehicle in which unmarked tobacco is found where the quantity of unmarked tobacco in the vehicle exceeds:

- (a) 10,000 cigarettes;
- (b) 10,000 tobacco sticks;
- (c) 20,000 grams of tobacco; or
- (d) 2,500 cigars.

(2) The minister or an enforcement officer may hold a vehicle seized pursuant to subsection (1) for up to 60 days.

(3) The minister or an enforcement officer shall return a vehicle seized pursuant to subsection (1) to the person from whom it was seized if, within 60 days after the seizure, no prosecution for an offence against this Act is commenced.

(4) If a prosecution for an offence against this Act is commenced within 60 days after the seizure, the minister or the enforcement officer may retain the vehicle until the proceedings involving the prosecution are completed.

(5) If a person from whom a vehicle is seized pursuant to subsection (1) is convicted of an offence against this Act involving unmarked tobacco found in the vehicle, the convicting judge shall order that the vehicle be forfeited to the Crown.

(6) The minister may dispose of a vehicle forfeited to the Crown pursuant to this section in any manner that the minister considers appropriate.

1998, c.T-15.001, s.26.

Offences and penalties

27(1) No person shall:

- (a) make or participate in, assent to or acquiesce in making a false or misleading statement in any application or other document provided to the minister or an enforcement officer pursuant to this Act;
- (b) destroy, alter, mutilate or dispose of any book or record of a licensed importer or holder of an authorization, where the book or record is required to be kept for the purposes of this Act;
- (c) make or participate in, assent to or acquiesce in making a false or misleading entry in a book or record of a licensed importer, holder of an authorization or any other recipient, where the book or record is required to be kept for the purposes of this Act;
- (d) omit or participate in, assent to or acquiesce in omitting an entry of a material fact in a book or record of a licensed importer, holder of an authorization or any other recipient, where the book or record is required to be kept for the purposes of this Act;
- (e) contravene any other provision of this Act or the regulations;

- (f) hinder, molest or interfere with any authorized person who is doing anything that the authorized person is authorized by this Act or the regulations to do or prevent or attempt to prevent that authorized person from doing that thing; or
- (g) deliver or cause to be delivered unmarked tobacco to another person in Saskatchewan who is not authorized pursuant to this Act to purchase, possess, store or sell unmarked tobacco.
- (2) Subject to subsection (3), every person who contravenes any provision of this Act is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine not exceeding \$10,000, to two years imprisonment or to both;
- (b) in the case of a corporation, to a fine not exceeding \$50,000.
- (3) Every person who contravenes section 13 is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000,000, to three years imprisonment or to both.
- (4) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.
- (5) In addition to a penalty imposed pursuant to subsection (2) or (3), the convicting judge shall order the convicted person to pay to the Crown an amount equal to two times the amount of the tax that the person ought to have paid but did not.
- (6) In this section, “**authorized person**” includes an enforcement officer or any other person who is authorized by this Act or the regulations to undertake any duties, exercise any powers or do any other thing.

1998, c.T-15.001, s.27; 2010, c.35, s.16.

Power of court to order compliance

- 28(1)** If the minister is of the opinion that a person has failed to comply with this Act, the minister may apply to the Court of Queen’s Bench for all or any of the following:
- (a) an order directing the person to comply with this Act or restraining that person from contravening this Act;
- (b) an order directing the directors and officers of a corporation to comply with this Act or restraining those directors and officers from contravening this Act;
- (c) any other order, relief or remedy that the minister may request.
- (2) On an application pursuant to subsection (1), the Court of Queen’s Bench may grant the order requested and may make any other order that the Court of Queen’s Bench considers necessary.

1998, c.T-15.001, s.28.

PART V
Administrative Provisions and Regulations

Designation of enforcement officer

29 The minister may designate any employee of the department over which the minister presides as an enforcement officer.

1998, c.T-15.001, s.29.

General powers of enforcement officers

30 All enforcement officers have the power of peace officers to enforce this Act, the regulations and any orders of the minister made pursuant to this Act and are entitled while performing their duties to all protection to which peace officers are entitled pursuant to the *Criminal Code*.

1998, c.T-15.001, s.30.

Agreements re administering and enforcing the Act

31(1) On behalf of the Government of Saskatchewan, the minister may enter into an agreement with the Government of Canada respecting the administration and enforcement of this Act, including respecting the collection of tax on tobacco sent or delivered to a recipient in Saskatchewan from outside Canada.

(2) An agreement mentioned in subsection (1) may authorize payment to the Government of Canada respecting services provided pursuant to the agreement.

(3) Payments respecting the ongoing costs of services provided under the agreement may be paid out of the amounts collected on behalf of the Government of Saskatchewan and may be accounted for as a reduction of revenues received.

(4) A collection agent acting pursuant to an agreement mentioned in subsection (1) is an agent of the Crown for the purposes of this Act.

(5) The Government of Canada may, as agent of the Crown, act in accordance with the agreement to:

(a) collect tax owing respecting tobacco that is released by a collection agent without payment of all or part of the tax imposed by this Act; and

(b) refund an amount charged or collected by a collection agent that is in excess of the amount of tax payable respecting the tobacco.

(6) No action or other proceeding lies or shall be instituted against a collection agent acting pursuant to an agreement mentioned in subclause 2(a.2)(ii) or subsection (1) for any loss or damage suffered by any person by reason of anything done, attempted, caused or permitted to be done or omitted to be done in good faith by the collection agent:

(a) pursuant to or in the performance or supposed performance of any duty pursuant to this Act, the regulations or the agreement; or

(b) pursuant to or in the exercise or supposed exercise of any power given by this Act, the regulations or the agreement.

(7) Subsection (6) does not absolve the Crown from vicarious liability because of an act or omission for which the Crown would have been liable had that subsection not been in force.

2010, c.35, s.17.

Authority to enter certain agreements

32 The Lieutenant Governor in Council may authorize the Government of Canada to enter into agreements with third parties on behalf of the Government of Saskatchewan for the collection of tax to be paid pursuant to section 6.

1998, c.T-15.001, s.32.

Certificate of minister

33 A certificate of the minister certifying all or any of the following facts is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate:

- (a) that a person named in the certificate was or was not licensed or did or did not have an authorization;
- (b) that a licence or authorization was issued to that person on a date set out in the certificate;
- (c) that the licence or authorization of that person was suspended or cancelled;
- (d) that a licence or authorization issued to that person was made subject to terms and conditions.

1998, c.T-15.001, s.33.

Refunds not assignable or transferrable

33.1(1) In this section, “**refund**” means a refund or right to a refund pursuant to this Act or pursuant to any agreement entered into by the minister for the purposes of this Act.

(2) Notwithstanding any other Act or law but subject to subsections (3) to (5), no refund:

- (a) may be assigned or transferred; or
- (b) is subject to seizure, garnishment or claim by any person, including a creditor of the person entitled to the refund.

(3) Any assignment or transfer of a refund is void as against the minister.

(4) Nothing in this section affects the Crown’s right of set-off against refunds owed to a person to a maximum of the amounts that are owed by that person to the Crown pursuant to any revenue Act as defined in Part III of *The Revenue and Financial Services Act*.

(5) Clause (2)(a) does not apply to an assignment or transfer that has been expressly approved by the minister before the coming into force of this section.

2010, c.35, s.18.

Act and regulations prevail over agreements

33.2 Notwithstanding any other Act or law and notwithstanding any term or provision of an agreement, if there is a conflict between a provision of this Act and any provision of any agreement entered into by the minister before, on or after the coming into force of this section, the provision of this Act prevails.

2010, c.35, s.18.

Regulations

34 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (a.1) prescribing persons or classes of persons as collection agents;
- (b) prescribing persons or classes of persons as enforcement officers;
- (c) prescribing tobacco or classes of tobacco as marked tobacco;
- (d) prescribing the time at which and the manner in which recipients who grow tobacco, or who manufacture tobacco products, in Saskatchewan for commercial purposes are liable to pay tax for the purposes of clause 3(1)(b);
- (e) prescribing procedures that recipients who import tobacco into Saskatchewan, who grow tobacco for commercial purposes in Saskatchewan or who manufacture tobacco products in Saskatchewan for commercial purposes must follow and the manner and time of payment of tax by them for the purposes of clause 4(1)(a);
- (f) prescribing persons and circumstances for the purposes of clause 5(3)(b);
- (g) prescribing procedures that importing consumers must follow and the manner and time of payment of tax by them for the purposes of clause 6(1)(b);
- (h) prescribing criteria that an applicant for a licence or an authorization or a class of licences or authorizations must meet;
- (i) prescribing the manner and terms and conditions of marking packages;
- (j) prescribing the period for which evidence of removing tobacco from Saskatchewan must be retained for the purposes of subclause 11(1)(b)(iv) or (d)(ii);
- (j.1) for the purposes of clause 11(1)(c):
 - (i) prescribing records related to the importation of unmarked tobacco that must be kept by a licensed manufacturer; and
 - (ii) prescribing the manner in which and times at which a licensed manufacturer shall submit the records mentioned in subclause (i), or a report related to those records, to the minister;

- (j.2) for the purposes of paragraph 11(1)(d)(i)(B):
- (i) prescribing records related to the manufacture, importation, storage or sale of the tobacco that must be kept by a licensed manufacturer or licensed importer;
 - (ii) prescribing the manner in which and times at which a licensed manufacturer or licensed importer shall submit the records mentioned in subclause (i), or a report related to those records, to the minister;
 - (iii) prescribing information that must be provided in a monthly report by a licensed manufacturer or licensed importer; and
 - (iv) prescribing the manner in which and the time by which a licensed manufacturer or licensed importer shall submit the monthly report mentioned in subclause (iii);
- (j.3) for the purposes of subclause 11(4)(b)(i), prescribing quantities of unmarked tobacco that may be possessed;
- (k) prescribing the circumstances in which the minister may mark packages;
- (l) prescribing the manner and the conditions under which the minister may return any unmarked tobacco to a person from whom it was seized;
- (m) prescribing the time within which and the manner in which notices of applications must be sent to the minister pursuant to subsection 25(4);
- (m.1) excluding any class or form of tobacco from all or any provision of this Act or the regulations;
- (m.2) exempting any recipient or class of recipients or other persons from all or any provision of this Act or the regulations;
- (m.21) requiring licensed manufacturers or licensed importers to report to the minister respecting their sales of tobacco that is black stock to exempt sale retailers, including authorizing the minister to determine the manner and form of reporting;
- (m.3) respecting any class of persons as persons authorized to sell tobacco at retail, including:
- (i) establishing limits or conditions on any authorization;
 - (ii) requiring those persons to be registered or licensed; and
 - (iii) prescribing the terms and conditions of any registration or licence mentioned in subclause (ii) and authorizing the minister to set any additional terms and conditions;
- (m.4) respecting persons or classes of persons who are exempt sale retailers, including:
- (i) requiring those persons or classes of persons to be registered;
 - (ii) prescribing the terms and conditions of registration, including authorizing the minister to impose terms and conditions;

(iii) authorizing the minister to pay refunds to exempt sale retailers respecting any tax they may have paid on a tax-exempt sale of tobacco; and

(iv) respecting the cancellation and suspension of registrations, including authorizing the minister to cancel or suspend registrations;

(m.5) prescribing limits on the quantity of tobacco that may be sold to or purchased by a person at a single retail sale or at retail sales during a specified period, including the power to establish different limits for different circumstances, different types of tobacco or different retailers, consumers or classes of retailers and consumers;

(m.6) respecting a marking system for identifying tobacco that is to be sold to persons who are required to pay tax and, for that purpose:

(i) identifying tobacco that is to be sold to exempt consumers; and

(ii) establishing circumstances, in relation to the marking system, under which a person may possess, purchase, sell, transport or store tobacco;

(m.7) prescribing the terms, conditions and requirements for a tear tape manufacturer to manufacture tear tape for use in marking tobacco products in Saskatchewan;

(m.71) prescribing terms and conditions for stamping tobacco products for sale and distribution in Saskatchewan;

(m.8) establishing the means and conditions for identifying a person or persons for the purpose of determining whether or not the person is an exempt consumer or the persons are exempt consumers;

(m.9) exempting any retailer from collecting the tax, subject to any terms or conditions prescribed in the regulations;

(m.91) respecting the registration of duty free shops and authorizing the minister to impose terms and conditions on that registration;

(m.92) respecting the amount of tobacco that is black stock that an exempt consumer or an importing consumer may purchase or possess at any time without a permit or approval to do so;

(m.93) authorizing the minister to issue permits or approvals to persons who are exempt consumers and respecting the issue of those permits or approvals, including:

(i) prescribing the circumstances in which, and purposes for which, an application for a permit or approval may be made;

(ii) respecting the manner of applying for and issuing permits or approvals; and

(iii) respecting the terms and conditions of permits or approvals, including authorizing the minister to impose terms and conditions;

(n) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;

(o) respecting any other matter or thing the Lieutenant Governor in Council considers necessary or expedient to carry out the intent of this Act.

1998, c.T-15.001, s.34; 2010, c.35, s.19.

PART VI

Repeal, Consequential and Coming into Force

R.S.S. 1978, c.T-15 repealed

35 *The Tobacco Tax Act* is repealed.

1998, c.T-15.001, s.35.

36 **Dispensed.** This/these section(s) makes consequential amendments to another/ other Act(s). Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the amendments have been incorporated into the corresponding Act(s). Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

