

Revoke, suspend or surrender CCA licence – alcohol

Operational Policy

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About this policy

Introduction

1. This policy outlines the conditions and criteria for:
 - surrender of a CCA licence by a licensee
 - Customs revoking or suspending a CCA licence.
2. This policy does not cover revoking an authorisation. See process: Amend CCA licence – alcohol.

Related documents

3. Use this document in conjunction with the following documents:

Document name	Document type
Revoke or suspend CCA licence - alcohol	Process and procedures
Surrender CCA licence	Process and procedures
Revenue Management POL 003 (Managing licensee debt and non-compliance)	Operational policy
OSH PRO 030 Working off-Site or at Remote Locations	OSH PRO

Note: For relevant legislation links see the reference section at the end of this document.

Overview

4. A CCA licence can be revoked or suspended under [section 64](#) of the Customs and Excise Act 2018 (the Act). This power is delegated to Chief Customs Officer (CCO) level.
5. Customs may consider revocation or suspension of a CCA licence when:
 - there is non-compliance
 - the licensee no longer meets the requirements for being a licensee
 - the licensed area is no longer being used for the licensed purpose.
- The obligations and liabilities of the licensee are not affected ([section 73](#)) if the licence is surrendered, suspended or revoked.

General requirements for revoke or suspend

6. The Legislation requires that advice of intention is given before revocation or suspension, and allows for the right of appeal. Customs must give notice in writing to the licensee at two stages:

- When the intention is formed to revoke or suspend a licence a notice of intention is given (before the licence is suspended or revoked), unless there is good reason not to give such notice. The intention is to give the licensee an opportunity to state their case as to why the licence shouldn't be revoked or suspended, and to remedy any related compliance issues. There is no right of appeal at this stage.
 - Following the initial notice of intention and after giving the licensee an opportunity to be heard and to bring themselves into any required compliance
7. A notice of revocation or suspension is to be given if required compliance has not been remedied.
 8. All notices must be in writing. If a notice is personally handed to the licensee, consideration should be given to assess possible reactions of the licensee from an officer health and safety point of view. Refer to relevant OPS PROs regarding Officer Safety.
 9. When written notices are provided, all appropriate parties within Customs should be kept informed (see paragraph 21). This should be done in writing when reporting decisions and progress. CusMod should be kept updated.
 10. Officers will involve the NZ Police if the licensee is potentially involved in criminal offences or any threat assessment shows that the safety of officers is in doubt.
 11. If the licensee is in receivership or liquidation, the advice of Revenue Management should be sought with a view to Customs to deal directly with the appointed receiver/liquidator.
 12. Officers should be reminded that the obligations and liabilities of the licensee are not affected ([section 73](#)) if the licence is surrendered, suspended or revoked.

Surrendered licences

13. [Section 65](#) of the Act provides that a licence for a CCA may be surrendered at any time by the licensee by giving one month's notice in writing to the chief executive. A surrendered licence has the effect of being 'cancelled'.
14. If the licence revocation process has begun and the licensee wishes to surrender their licence, consideration should be given to following the Surrender CCA Licence process.
15. In any other situation Customs Officers should use OPS FORM 015 Check Sheet for the revocation, suspension or surrender of a licence, to ensure that all requirements are covered off.

Suspension

16. The suspension of a licence is in practice seldom used. However, all of the circumstances must be taken into consideration on a case by case basis before deciding the most reasonable approach to take.
17. Before a decision to suspend a licence is reached, it is essential that the situation should be discussed with the CTS Licensing, Revenue Management, Trade Assurance and Legal Operations (Legal Operations on a case-by-case basis).

Intention to revoke

18. As mentioned in paragraph 7, written notice of the intention to revoke a licence is made to provide opportunities to the licensee to resolve issues, where applicable and to allow the licensee with the opportunity to state their case as to why their licence should not be revoked.

A formal notice must be provided to the licensee which sets out all of the aspects that Customs has taken into account in reaching its decision that revocation is intended. The chief executive may also consider that there is good reason not to give such a notice.

Preparation for closing a CCA

19. Customs officers are responsible for managing a possible revocation and ensuring that the licensee understands what needs to be done to remedy the situation and what will happen if this doesn't occur. It is important that these issues are discussed with the licensee where possible.

20. Involvement of other Customs parties at this point:

Role	Contribution
CCO	Aware of what's happening in their area of responsibility
Customs Technical Specialist (CTS), Licensing	Overview of situation in NZ
Intelligence	Risk assessment for dealing with licensee. ITOC provide a threat assessment as per para 27
Trade Assurance	Contribution to management plan / undertake possible exit audit
Revenue Management	Assessment of debt

21. Consultation with Trade Assurance should occur in all instances and its recommendations should contribute to the overall management plan. A decision whether an exit audit is to be conducted will be made by Trade Assurance within ten working days of the notice of intention to revoke being sent to the licensee.

22. A CCA licence may not be revoked until written advice is received from Trade Assurance that an exit audit is not required, or on receipt of an exit audit report signed by a Trade Assurance SupCO.

23. In terms of [section 66](#) of the Act, a final excise entry must be lodged and all duty due and payable is paid on all goods within the area that are subject to the control of the Customs. This is to occur immediately prior to the suspension, revocation, or surrender, unless the chief executive permits the goods to be removed to another CCA or to be exported.

24. A visit to the licensee's site to discuss options and agree a course of action with the licensee may be required. All alcohol product needs to be identified, and options

identified for disposal. Options include moving it to another CCA, selling the product on hand, or other form of disposal.

Safety of Customs Officers

25. Customs officers visiting the CCA must wear appropriate personal protective equipment such as hi-viz vests, safety boots, and follow local safety rules when at the site. While at a CCA if the officers encounter a situation that they consider unsafe, then they should immediately remove themselves from the area and take actions as per para 33 of OSH PRO 030.
26. Aggressive or abusive behaviour towards a Customs Officer must be recorded through Kiosk, in writing and may require an audit trail if aggression escalates and measures need to be taken. Threats from aggressive/abusive licensees, licensees with gang connections should always be taken seriously.
27. A discussion with a SupCO or CCO will always occur in the first instance and there must be consultation with the Police. This consultation will include whether or not the Police should be present when a site visit is undertaken. Steps taken to reduce any identified risks will be documented and cleared by SupCO or CCO.
28. An assessment by ITOC may identify other risks that require consultation with NZ Police or other government agencies. Risks may include environmental, physical and work site safety.
29. You should always speak with your local Health and Safety officer for advice on health and safety issues associated with closing down a Licenced Manufacturing Area (LMA) or off-site storage area.
30. Advice to ITOC (notification of officer working off-site or at remote locations) should be completed where applicable.

Advice of revocation

31. If all attempts by both Customs and the licensee, including the variation or revocation of any of the terms, conditions or restrictions of the licence have failed to resolve any of the issues identified in the notice of intention to revoke, then formal revocation or suspension of the licence can commence.
32. Notice of revocation or suspension of a licence should be given in writing. The done formally in a letter should outline the reasons why this decision has been made, what further action is required by the licensee i.e. handing in the licence, lodging a final excise entry, paying the duty owed and the time period in which these actions are to be undertaken. If revocation of the licence this marks commencement of the close down of the CCA. Following an assessment of the licensee based on information provided by Revenue Management, Trade Assurance, CusMod and the licensee, Customs will determine what further action is required in relation to any outstanding debt.

Appeals

33. A licensee who has been given notice of revocation or suspension of a licence and who is dissatisfied with that decision may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority (CAA).

34. It is essential that the licensee is advised of this right in the notice of revocation or suspension.
35. Any further action Customs may wish to take may need to be considered in light of any appeal and the reasons for the appeal.

Final Steps

36. A number of administrative steps need to be undertaken as outlined in the process document and associated checklist. See process: Revoke or suspend CCA licence – alcohol.
37. A final letter to the licensee may be sent which confirms action taken and any outstanding debt (if applicable).

Lessons learned

38. After all action has been completed a review of the matter should be undertaken with all relevant internal parties to determine whether any lessons were learned. This may give an indication that some processes need to be amended or the timing of certain interventions may have provided a better result for all parties concerned.

Sale of manufacturing or storage areas

39. The Act and the Regulations do not provide for the transfer of Customs-controlled Area licences.
40. If the licensee ceases to be the owner, occupier or operator in the licensed area, the licence is to be surrendered or revoked. If the new owner, occupier or operator wants the area to remain as a Customs-controlled Area, a new application must be made.
41. If the licensee moves to a premises at a new address, the existing licence should be cancelled and a new licence issued for the new area.
42. If taking over product as a result of the purchase of the business, the excise entry obligations and duty liability arising subsequent to the purchase of the business is the responsibility of the new owner.

Definitions

Term	Definition
Customs-controlled area (CCA) Licence	An authority granted by the chief executive under section 61, in conjunction with section 59, of the Act to carry out one or more of the activities listed in section 56 of the Act and regulation 6 of the Customs and Excise Regulations 1996 (the Regulations). The authority is set out in a document issued to the licensee.
Surrender	A licensee voluntarily gives up the licence issued under section 65 of the Act. The licensee is required to give one month's notice in writing of intention to surrender a CCA licence. Best endeavours should be used to ensure that the licensee returns

Term	Definition
	the original copy of the licence to Customs.
Suspend	To require a licensee to cease operating under the licence for a period of time.
Revoke	To permanently end the licensee's ability to operate under the licence. A licence may be revoked for the reasons set out in section 64(1) of the Act. In some cases, a licence may be revoked because of purely administrative reasons such as the related area is no longer used for the purpose the licence was issued for. In other cases revocation may be the final step in a process where compliance issues have not been able to be satisfactorily resolved.

References

Customs and Excise Act 2018:

- Section 56 Customs-controlled Areas
- Section 67 Exemptions in relation to Customs-controlled Areas
- Section 63 Variation or revocation of conditions
- Section 64 Revocation or suspension of licence
- Section 65 Surrender of licence
- Section 66 Closing a Customs-controlled Area
- Section 73 Liabilities not affected by ceasing to act as a licensee
- Schedule 3, clause 2 Excise duty is a debt owed to the Crown

Customs and Excise Regulations 1996:

- Regulation 2 Interpretation
- Regulation 6 Areas required to be licensed as Customs-controlled Areas