



Policy

Extended Trading Permits - Sunday Trading: Non-metro Liquor Stores

Disclaimer

This Policy is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

Introduction

Pursuant to section 60 of the *Liquor Control Act 1988* (“the Act”), on application by the licensee, the licensing authority may grant an extended trading permit authorising the licensee to sell and supply liquor under the licence, according to the tenor of a permit, in circumstances to which that licence would not otherwise apply.

Section 60(4)(g) of the Act specifically identifies that one of the purposes for which a permit may be granted is extended trading hours.

This document provides guidance on the legislative requirements relating to extended trading permits for Sunday trading and the circumstances that the licensing authority may have regard to when considering applications for these permits.

Factors Involved in Assessing Applications

Ongoing Extended Trading Permits

In considering a permit under section 60(4)(g), the licensing authority must give consideration to the requirements of section 97(1), section 98D, section 60(4) and section 76 of the Act, as well as the overall merits of the particular application, and most importantly, the objects of the Act as set out in section 5.

In support of their application on ongoing Sunday trading, licensees of liquor stores seeking an extended trading permit will be expected to demonstrate that the grant of the permit is in the public interest. Therefore, applications are subject to the public interest test set out in section 38 of the Act. For guidance on the public interest test, please refer to the Director’s policy titled “*Public Interest Assessment*”.

In terms of the public interest, under section 33(1) of the Act, the licensing authority has an absolute discretion to grant or refuse an application under the Act, on any ground or for any reason that the licensing authority considers to be in the public interest.

Given that section 98D does not authorise non-metropolitan liquor stores to trade on a Sunday, and that many country communities already have access to packaged liquor from a number of different outlets, travelling distance to the nearest outlet will be one of the circumstances of particular relevance.

Festive Season Permits

The Christmas/New Year shopping hours and the requirements of the public for packaged liquor during the festive season, are circumstances that can justify the granting of extended trading permits for liquor stores to trade on the two Sundays preceding Christmas and the Sunday before New Year's Day.

Easter Permits

In considering applications for extended trading permits from licensees of liquor stores located in a country townsite to trade on the Sunday of Easter, one of the circumstances of particular relevance to an application will be whether or not the liquor store is located in a holiday/tourist area which traditionally has a large influx of visitors over the Easter weekend.

Sunday Trading – One Off Extended Trading Permits – Special Occasion or Event – Non-Metro Liquor Stores

A licensee that wishes to apply to trade on a Sunday for a special occasion or event, such as a festival, must lodge submissions in support of their application that include the nature of the event, the additional number of people expected to visit the area or location, and the reasons why they believe that the demand for packaged liquor cannot be met by existing licensees in the area.

Application kits containing the lodgement guide and all the required forms can be downloaded from the Department's website at www.rgl.wa.gov.au or by contacting the Department on (08) 9425 1888.

Non-compliance

If a licensee fails to comply with the conditions of the permit, the licensing authority may decide to:

1. cancel the permit under section 60(8a) of the Act. Permits may be cancelled, at the absolute discretion of the licensing authority, if it is satisfied that the permit is no longer appropriate and in the public interest.

A cancellation of a permit is not open to appeal, other than to the Supreme Court and only then on a question of law.

2. issue an infringement under section 167 of the Act to the licensee and approved manager;
3. require the licensee to show cause why more restrictive conditions should not be imposed on the licence;
4. lodge a section 95 complaint for disciplinary action against the licensee. Under section 96 of the Act, if such a complaint was upheld by the Liquor Commission, a range of disciplinary action could be imposed including: a reprimand and a fine of up to a maximum of \$60 000. However, the penalty sought could also include the suspension of the licence for a specified period of time or the cancellation of the licence.