



Policy

Special Facility Licences

Disclaimer

This guideline 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.

Purpose

The purpose of this policy is to provide guidance as to the legislative and operational requirements associated with the grant, variation, substitution and cancellation of special facility licences.

Legislative Basis

Grant of a special facility licence

Section 46 of the *Liquor Control Act 1988* (“the Act”) provides that the licensing authority **shall not** grant a special facility licence-

- except for a prescribed purpose as set out in Regulation 9A of the *Liquor Control Regulations 1989*;
- just because an approval, consent or exemption required under another written law in respect of a particular licence type, cannot be obtained (for example, town planning approval); or
- if granting or varying a licence of another class, or imposing, varying or cancelling a condition on a licence of another class, or issuing an extended trading permit in respect of another class of licence, would achieve the purposes for which the special facility licence is sought.

Therefore, an applicant for a special facility licence must demonstrate how the business for which the licence is sought meets the prescribed purposes for which a special facility licence may be granted.

If a special facility licence is granted, it must be granted on such terms and conditions as are necessary to ensure that the licence is used only for the prescribed purpose for which it is granted.

Variation of licence conditions by the holder of a special facility licence

Once a special facility licence is granted for a prescribed purpose, section 46A of the Act states that a special facility licence cannot be varied to such an extent that a licence of another class, with or without a permit, would achieve the same purpose.

Substitution of a special facility licence with another class of licence (new application)

Section 46B of the Act provides that the licensing authority may substitute an alternative type of licence in the application, if it is of the view that a licence of another class would be adequate for the purpose sought in a special facility licence application.

For example, if an applicant lodged an application for the grant of a special facility “tourism” licence and the licensing authority was of the view that the manner in which the business will operate will be similar to a tavern licence then the licensing authority is empowered to substitute the licence type.

This provision provides the flexibility for the licensing authority and for the applicant to agree on an alternative and more appropriate licence type, rather than the applicant having to re-apply.

This will reduce delays in determining the application and reduce costs for parties to the proceedings.

Cancellation of a special facility licence (existing licence)

Section 46B of the Act provides the licensing authority with the power to cancel a special facility licence and grant another class of licence (with an extended trading permit if appropriate) on its own motion or on application by the licensee.

If the licensing authority of its own motion proposes to cancel a special facility licence and grant another class of licence, the licensee will be given notice of the proposal and reasons for it, and offered an opportunity to make submissions or be heard.

Lodging an Application

Applicants for a special facility licence or for a variation of a special facility licence must lodge with the Department of Racing, Gaming and Liquor, certain statutory information prior to an application being considered.

To assist applicants in lodging their application, an application kit containing a lodgment guide, forms, and an information bulletin, is available from the Department’s website.

In addition, Customer Service staff are available at any time during office hours to assist applicants understand the legislative requirements relating to the lodgment of an application.

The Department’s website address is www.rgl.wa.gov.au and telephone number is (08) 6551 4888.

DIRECTOR OF LIQUOR LICENSING