

Special Circumstances Licence Lodgement Guide

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Chesser House, 91 Grenfell Street
Adelaide SA 5000
GPO Box 2169 Adelaide SA 5001
t 131 882
e applications@sa.gov.au
w www.cbs.sa.gov.au

What is a Special Circumstances Licence?

A special circumstances licence authorises the licensee to sell liquor for consumption on or off the licensed premises in accordance with the terms and conditions of the licence.

An application for a special circumstances licence can be made when no other class of licence suits the proposed style of business with or without an extended trading authorisation, and the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those under some other class of licence.

Some examples of premises or activities covered by special circumstances licences are: theatres, limousines, buses, boats, caterers, function rooms etc.

An application for a special circumstances licence must include proposed operating conditions for example, sale of liquor for consumption on or off the premises, sale of liquor with or without a meal, trading hours, entertainment etc.

Examples of conditions

Vehicles

An application can be made to licence various types of vehicles. The vehicles might be limousines, buses, four-wheel drives, trains, trams, etc. The licence may also cover areas adjacent to the licensed vehicles. Examples include when patrons wish to have a glass of champagne before entering a limousine, or while wedding photos are being taken (excluding dry areas).

Limousine

The licence will authorise the sale, supply and consumption of all types of liquor to and by passengers in the vehicle and areas adjacent (excluding dry areas), provided the sale and consumption is under the supervision and control of the driver of the vehicle subject to the conditions set out below:

- No driver of the vehicle is permitted to drink alcohol and is to be totally alcohol free whilst in charge of the vehicle.
- There shall be no liquor in the vehicle except in the boot storage area whilst a minor is in the vehicle, unless that minor is in the company of an adult guardian or adult spouse of the minor. (A guardian in relation to a minor means a parent, including a step-parent or legal guardian of the minor).
- A minor may not consume liquor in the vehicle.

Bus

The licence shall authorise the sale, supply and consumption of liquor only to persons travelling on the bus for consumption on the bus and areas adjacent (excluding dry areas). No sale, supply or consumption of liquor by an employee of the licensee whilst in the course of their employment on the bus is permitted.

Function Room

The licence will authorise the sale of all types of liquor for consumption on the licensed premises to provide for the needs of those attending receptions, conventions or pre-booked functions at the licensed premises.

Cinema

Trading hours each day will be from two hours prior to the advertised commencement time of cinema or theatrical entertainment and concluding by no later than midnight.

Pool Hall

Liquor may only be sold or supplied to the persons:

- who are about to, in the process of or who have played a cue sport at the licensed premises
- who are accompanying those persons or persons viewing cue sport

Arts/Convention Centres/Museums/Galleries

Consumption of liquor on the licensed premises:

- only by persons attending a reception, organised function, exhibition, trade show or entertainment at the premises
- with or ancillary to a meal provided at the premises

A special circumstances licence for a boat/vessel can cover more than one boat or vessel.

Boat/Vessel

An application can be made to licence various types of boats/vessels. The boats/vessels might be used for functions, chartering, touring or hiring out. The licence may also cover areas adjacent to the licensed boat/vessel. For example, when the boat is on charter, anchors at a beach, and patrons wish to sit on the beach for a picnic (excluding Dry Areas). The licence will authorise the sale and supply of liquor for consumption on the vessel to persons on board the vessel:

- for the purpose of a voyage and during the course of that voyage;
- attending an organised function, exhibition or trade show conducted on the vessel.

Caterer

An application can be made to authorise the supply of liquor at functions away from the licensed premises for catering purposes. The caterer might be hired for wedding receptions, birthdays, engagements, etc. at a private home or a hall. For example, a caterer is hired to provide food and alcohol for a 21st birthday held in a hall or backyard. The function is booked and paid for at the caterer's office, which is the licensed premises. The hall or backyard would then become part of the licensed premises during that function. There is usually no direct sale of liquor at the function. The premises at which the function is held should have sufficient toilet facilities for patrons and it is suggested that the licensee speak with the local council prior to the function being conducted.

The licence will authorise the sale and supply of liquor on the licensed premises (for example, caterer's office) for consumption at a place other than the licensed premises provided that consumption is only by persons attending a pre-booked function.

The licensed premises for a caterer is the premises from where the business will be conducted, i.e. invoicing, point of sale, etc. and, by a condition of the licence, the area where the function is conducted.

Please note that these examples are provided as a guide only.

Trading hours - Section 40

A special circumstances licence allows the licensee to trade as follows:

- On any day between 5 am and midnight
- Sunday between 11 am and 8 pm

Generally, trading hours under a special circumstances licence may be a combination of standard trading hours and extended trading hours depending on the type of business operating under the licence. The trading hours sought must be appropriate for the type of business, and must be justified by the applicant.

Other authorisations

An applicant for a special circumstances licence can apply to the Liquor and Gambling Commissioner for any of the following consents:

- **Extended Trading Authorisation – Section 44:** If a licensee wishes to trade between midnight and 5 am Monday to Saturday, between 8 am and 11 am or 8 pm and midnight on a Sunday, or between midnight and 2 am on Christmas Day or Good Friday, the licensee may apply for an extended trading authorisation. This authorisation cannot operate the day after Good Friday or the day after Christmas Day.
- **Entertainment Consent – Section 105:** If a licensee intends to provide entertainment on the licensed premises, the licensee must apply for entertainment consent. For details on what is classified as entertainment and how to apply.
- **Extension of Trading Area – Section 69:** If a licensee wishes to trade in an area adjacent to the licensed premises, authorisation is required, for example drinking and/or dining on the footpath adjacent to the premises. For details on what is classified as extension of trading area and how to apply, please refer to 'Extension of Trading Area - Lodgement Guide'.
- **Designated Dining Area:** The designation of a dining area allows the sale of liquor at any time to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area.
- **Designated Sampling Area:** The designation of a sampling area allows the sale or supply of liquor by way of sample for consumption on a part of the licensed premises approved for that purpose by the licensing authority. Where the licence is operational from a home office, it is suggested that the applicant speak with the local council first to see what their development and planning approvals permit.

Please refer to '*Submitting a Plan – Lodgement Guide*' for further information about designation of these areas.

Criteria to be satisfied when applying for a special circumstances licence

An applicant for a special circumstances licence must satisfy the licensing authority (by way of submission) that:

- a licence of no other category (with or without an extended trading authorisation) could adequately cover the kind of business proposed by the applicant
- the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those possible under a licence of some other category.

The Liquor and Gambling Commissioner must be satisfied that the premises are suitable to be licensed and must comply with any relevant building regulations and planning approvals.

The applicant must also show that the operation of the licence would not cause undue offence, annoyance, disturbance, or inconvenience to those who work, worship, or reside in the area or that the safety or welfare of children attending kindergarten or school in the vicinity of the proposed licensed premises would not be prejudiced.

An applicant must satisfy the licensing authority that they are fit and proper persons to hold a licence and will need to complete a '*Personal Information Declaration*' form, the results of a police check and creditworthiness will be taken into consideration.

Certificate

If an application is made for a special circumstances licence where the proposed premises are incomplete the licensing authority may grant a 'Certificate' subject to any conditions considered appropriate. The licensing authority will grant the special circumstances licence once the applicant can satisfy the authority that the conditions have been met and the premises have been completed in accordance with the plans lodged.

How to apply

Please refer to the Practice Direction - Application requirements and lodgement of documents.

Who is the applicant?

When lodging an application all the people involved in the business, for example, all partners must be included on the application.

If the business is a company the application should be made in the company name. Where an individual runs the business, the individual is the applicant.

Need help with an application?

Applicants may wish to contact a solicitor or relevant industry association before making an application.

Advertising and notification

Advertising and notifications will be issued to the applicant after the application has been lodged with this Office, and are required to be undertaken at least 28 days before the hearing date.

An application for a special circumstances licence is required to be advertised in '*The Advertiser*', and a local paper (eg '*Messenger*') at the applicant's expense. Consumer and Business Service will provide the applicant with details of the content of the advertisement. The applicant is also required to notify in writing the local council and occupiers of land or premises adjacent to the proposed licensed premises.

An A3 sized notice of the application must be posted in a prominent position on the premises (if the application relates to premises which have not yet been constructed, then on the land) so that it is clearly visible to a person walking by. This will be provided once the application has been given a hearing date.

Objections

Any person may object to an application which has been advertised. The objection must be in writing and lodged with the licensing authority at least 7 days before the hearing date. A copy of the objection must also be served by the objector on the applicant.

How long does an application take to be granted?

An application that is required to be advertised usually takes about six weeks to determine from the time of lodgement, but it may take longer if an objection has been lodged.

Please refer to the following guides provided by this Office on the CBS Website for further assistance with the application process:

- Practice Direction - Application requirements and lodgement of documents
- Submitting a Plan
- Lodging an Objection to an Application
- Fees and Charges

If further information is required, please contact this Office.

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