

*Liquor Licensing Act 1997; Gaming Machines Act 1992*

# Advertising of applications

## Information guide

The *Liquor Licensing Act 1997 and the Gaming Machines Act 1992* require certain liquor and gaming applications to be advertised. Where deemed appropriate and justified, the Commissioner may dispense with, or modify, advertising requirements. The Commissioner may also direct that advertising apply to other liquor and gaming applications not specifically listed as requiring advertising.

The following information outlines the general approach Consumer and Business Services takes with regards to determining advertising directions. *Please note that this is a guide only.*

Each application is considered in its own context. Applicants should generally expect to be required to meet the advertising obligations set out in the *Liquor Licensing Act 1997 and the Gaming Machines Act 1992*.

Advertising requirements will only be dispensed with, or reduced, where the Commissioner agrees that individual cases justify a relaxation of one or more of the advertising requirements set out in the relevant legislation.

## Applications and advertising

### The following types of applications are required to be advertised

#### New licence

Applications for new licences (whether liquor or gaming) will require full advertising.

Advertising requirements may be dispensed with, or modified in relation to applications for direct sales, producer's (home office) and wholesale liquor merchant's (home office) licences.

#### Transfer of a licence

Applications for the transfer of a licence (whether liquor or liquor and gaming) may result in advertising requirements being dispensed with, or modified if there are no changes to trading hours, authorisations or other conditions of trade (for either liquor or gaming).

#### Removal of a liquor licence

Same principles as for 'new licence' applications apply.

### **Extended trading authorisation**

Applications for extended trading authorisation will require advertising. The extent of the proposed trading hours and the area concerned may result in modified advertising being considered.

### **Prescribed entertainment**

Applications for prescribed entertainment will require advertising. The hours, part of the premises the application relates to and type of prescribed entertainment proposed may result in modified advertising requirements.

### **Variation of licence conditions and other authorisations**

Applications for variation of licence conditions or other authorisations may require advertising or for particular bodies or people to be notified of the application. The proposed variation, along with how existing conditions came to be imposed, will be considered when determining advertising directions.

## **What does 'advertising' mean?**

A notice of the application must be displayed on the premises or in the case of proposed premises, on the relevant land, 28 days immediately before the set determination date. The notice needs to be clearly visible to persons passing the premises or land. Consumer and Business Services (CBS) provide this notice when issuing the advertising directions.

Consumer and Business Services will also ensure that a copy of the notice is published on the CBS website.

Non-compliance with advertising directions may delay the determination of the application.

### **Modified advertising and directions**

Consumer and Business Services may dispense with or modify advertising requirements, or direct that notice be given to a particular person or authorities in addition to what is required by the legislation.

While the Act no longer requires automatic notification to a council of an application, a policy has been adopted that the Commissioner will direct applicants to give notification to council will occur until 18 June 2018.

## Confirmation of advertising

If an application requires advertising, evidence that the advertising directions were met must be lodged with Consumer and Business Services at least seven days prior to the determination date of the application. If such evidence is not received by Consumer and Business Services at least seven days prior to the determination date, the application will be adjourned for determination at a later date.

Confirmation may be in the way of dates of display of the premises notice, and if directions were given, copies of notifications provided to council or other people.

## Objections and submissions

### Objections (not applicable for small venue licence applications)

If an application is required to be advertised, any person can lodge an objection to the application. Objections need to be lodged with Consumer and Business Services at least seven days before the determination date of the application, which will be included in the advertisement notices. A copy of the objection notice must also be served by the objector on the applicant at least seven days before the determination date of the application. Grounds on which objections can be made are listed below.

### Submissions (applies to small venue licence applications)

If an application for, or in relation to, a small venue licence is required to be advertised, any person may lodge a submission in respect of the application. Submissions need to be lodged at least seven days before the determination date and the Commissioner must have regard to any submissions in determining the application.

The *Liquor Licensing Act 1997* sets out the following grounds on which objections may be based (*not applicable for applications in respect of a small venue licence*):

- That the grant of the application would not be consistent with the objects of the *Liquor Licensing Act 1997* or would be contrary to the *Liquor Licensing Act 1997* in some other way
- In the case of an application for the grant or removal of a hotel licence that the grant of the application is not necessary to provide for the needs of the public in the area in which the premises or proposed premises are situated
- In the case of an application for the grant or removal of a retail liquor merchant's licence that the grant of the application is not necessary in order to adequately cater for the public demand for liquor, for consumption off licensed premises, in the area in which the premises or proposed premises are situated

- In the case of an application by a natural person for the grant or transfer of a licence (or for the conversion of a temporary licence into an ordinary licence) that the applicant is of bad reputation or character or is in other respects not a fit and proper person to be licensed
- In the case of an application by a trust or corporate entity for the grant or transfer of a licence (or for the conversion of a temporary licence into an ordinary licence) that the applicant is not a fit and proper person to be licensed or that a person who occupies a position of authority in the entity is of bad reputation or character or is in other respects not a fit and proper person to hold such a position in an entity that holds a licence
- In the case of an application for the grant or removal of a licence that the position, nature or quality of the premises renders them unsuitable to be licensed, or to be licensed under the category of licence applied for
- That if the application were granted:
  - Undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises or proposed premises would be likely to result; or
  - The safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises or proposed premises would be likely to be prejudiced; or
  - The amenity of the locality in which the premises or proposed premises are situated would be adversely affected in some other way

SA Police or the relevant local council may also object to an application.

If an objection to the application is lodged, the pre-advised determination date and time will become a conciliation conference to which all parties to the application will be invited, including the objector(s).

The purpose of the conciliation conference is to engage in meaningful discussion regarding the points of contention surrounding the application, with the aim of resolving any issues and achieving agreement between the parties.

If agreement between the parties is reached, a determination will be made to reflect the agreement.

If agreement is not reached, the parties may request the matter be referred to a contested hearing either before the Commissioner or the Licensing Court of South Australia.

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