

Variation of Special Licences

Section 44 of the *Liquor Licensing Act 1990* provides the Commissioner for Licensing with the power to vary conditions of a special liquor licence at a licensee's written request (see application form [here](#)).

The power to vary a special licence is designed to provide a mechanism whereby **reasonable adjustments** to a licence can be made without the need for the licence holder to make application for a new licence.

In this regard, the Commissioner for Licensing and the Licensing Board have both determined that any changes granted under section 44 of the Act:

- should not be seen as effectively granting the authority of a general, on, club or off licence under the guise of a special licence and,
- should not be changes that would undermine, or be clearly contrary to, the decision of the Board when the licence application was first considered.

Requests for variation by the Commissioner that are likely to be granted

Most straightforward requests, such as a variation or increase to trading hours or a variation or increase in trading days, are likely to be approved. Other requests for variation may involve requests for additional authority for the sale of liquor that had not been envisaged by the licensee at the time of the initial licence application. These requests are also likely to be granted. For example:

- a request by the operator of a combined restaurant and retail craft outlet who has the ability to sell a limited amount of wine with food and who may not have initially considered sales of, say, Tasmanian wine for consumption off the premises and who now wishes to satisfy customer requests; or
- a request for some limited takeaway sales of Tasmanian wine from the operator of a cruise vessel operating in and visiting vineyards in a high profile wine region.

In all these cases, however, while there may not be any fundamental changes to the operation of the licence, the Commissioner will take account of the initial decision of the Licensing Board to ensure that there were no particular circumstances in that decision that would be relevant in approving the subsequent variation.

Requests for variation by the Commissioner that are not likely to be granted

Other requests, however, are highly unlikely to be granted. For example:

- a request by a restaurateur operating under a special licence for authority to sell liquor for consumption with or without a meal;
- or a request from the operator of a premises located in a tourism and hospitality area (with a focus on the promotion of Tasmanian products) for authority to sell non-Tasmanian and / or non-Australian wines.

Examples of requests that have been refused can be found [here](#).

Right of appeal

If you choose to apply for a variation to your special licence and are refused, you have the right to appeal to the Licensing Board against the Commissioner's decision.