



Licence duration

Part V Environmental Protection Act 1986

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Questions regarding this document should be directed to:

Department of Environment Regulation
Locked Bag 33 Cloisters Square
PERTH WA 6850

Phone: +61 8 6467 5000
Fax: +61 8 6467 5562
Email: info@der.wa.gov.au
Web: www.der.wa.gov.au

Accessibility

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Objective

To provide guidance on the Department of Environment Regulation's (DER) application of licence duration in Part V *Environmental Protection Act 1986* (EP Act).

Background

DER grants licences to the occupiers of prescribed premises under Part V of the EP Act. The Act provides for a licence to remain in force for the period that is specified in the licence.

In the past, licences have generally been granted for durations of between one and five years. The process of applying for and assessing a new licence ahead of expiry of the previous licence, i.e. a licence renewal, imposes an administrative burden on both industry and the department. In many cases, the conditions of the subsequent licence were very similar to the licence that expired.

Other Western Australian decision-making authorities grant licences for extended or indefinite periods of time and it is also common practice in other states of Australia and overseas.

The department has a preference for longer term (20-year) licences under Part V, Division 3 of the EP Act to provide greater certainty to industry, reduce the administrative burden on both industry and the department, and allow DER to focus on areas that deliver a greater environmental protection benefit, including proactive compliance assessment and management, and regulating industry to ensure that contemporary risk-based pollution prevention, control and abatement outcomes are achieved.

Under the EP Act, the Chief Executive Officer (CEO) has broad powers to amend a licence at any time, including the power to vary the conditions which apply to a licence, remove redundant conditions or impose new conditions and requirements where necessary. The CEO may also revoke or suspend a licence on certain grounds.

DER's Regional Prescribed Premises Compliance program uses risk-based priority ratings to determine the frequency of compliance inspections for prescribed premises. Any issues identified on a licensed premises during a compliance inspection, or at any other time, can be addressed using the CEO's powers under the EP Act and appeal rights exist with respect to these actions.

Legislation

The EP Act provides for a licence to remain in force for the period that is specified in the licence.

63. Duration of works approvals and licences

Subject to this Act, a works approval or licence shall continue in force for such period as is specified in the works approval or licence.

Guidance Statement

In determining the licence duration of a licence granted under Part V, Division 3 of the EP Act, the CEO or his/her delegate will have regard to providing the maximum appropriate licence term, up to 20 years, taking account of:

- 1. the duration of other statutory approvals, such as planning approvals;**
- 2. the level of risk of harm to public health and the environment posed by the premises;**
- 3. whether the licenced premises has been subject to recent environmental assessment;**
- 4. matters relevant to the efficient operation of the licensing regime; and**
- 5. any other matter the CEO considers relevant.**

Implementation

Under this guidance statement, most new licences for new prescribed premises will be granted for 20 years' duration.

There will be a transition period for existing licences. During this transition period, licences will be renewed for varying periods of up to 20 years, to ensure that in future a similar number of licences will expire (and require renewal) each year.

After the end of this transition period, most licence renewals will be for 20 years' duration.

Fees will continue to be levied annually, as prescribed by the *Environmental Protection Regulations 1987*.

Commencement

This Guidance Statement is to take effect from 1 December 2014.

Review

This guidance statement is to be reviewed no later than as soon as practicable following the fifth year of its commencement.