

Subject: Calculating statutory time periods

Purpose: To provide guidance on calculating statutory time periods relevant to processes under the *Land Use Planning and Approvals Act 1993*¹.

Introduction

Many of the processes under the *Land Use Planning and Approvals Act 1993* (the Act) include steps that must be undertaken within specific time periods. Calculation of the closing date for particular steps in statutory processes can be important.

This is a guide to correctly calculating when a statutory time period closes.

Calculating time

Section 29 of the *Acts Interpretation Act 1931* gives direction on how to calculate time.

The first day of any statutory period of time is calculated by excluding the day of the act or event, i.e. the following day is counted as the first day.

Where a statutory time period begins or ends on a Sunday or a day which is a statutory holiday² or a holiday for that part of the State, that day is not counted and an extra day must be allowed. The extra day is calculated as the next day afterwards, if the period of time is counted forwards; and the next day before, if the time period is counted backwards.

If the last day of any period of time falls on a day on which the office is not open, then the period closes on the next day on which the office is open.

Example:

Notice is given in the Saturday newspaper inviting representations over a 28 day period.

Saturday is not counted. The next day, being Sunday, is treated as the first day. The 28 day period is counted forward and will finish on the Saturday but because the office is not open on Saturday or Sunday, representations can be made up until the following Monday. [section 29(1) and (3) of the *Acts Interpretation Act 1931*]

¹ References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the **former provisions** of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*. Parts 2A and 3 of the **former provisions** remain in force until a Local Planning Schedule comes into effect for the municipal area.

² See *Statutory Holidays Act 2000*.

Sections 25(2), 38(2) and 57(5AA) of the Act, the exhibition of draft planning schemes, draft amendments and discretionary permits make allowance for holidays in the calculation of statutory time periods.

Can the period of time be extended?

Sometimes the Act allows for a time period to be extended e.g. “. . .or such longer period as the Commission may allow”.

If further time is required, the planning authority should request an extension of time. The request can be made by the General Manager or the relevant officer of planning authority.

In most instances, standing delegations have been put in place to allow officers of the Commission to respond to such a request.

What if a mistake was made with the calculation of time?

In some instances, the Act provides that no consequences flow from a failure of process. For example, section 42(b) of the Act provides for the approval of amendments:

“notwithstanding any failure to comply with a procedural provision of this Part, the amendment comes into operation on such date as is specified by the Commission . . .”

However, if the miscalculation of time affects the rights of any person to make a representation, it may be necessary to re-notify or to invite representations for an additional period of time to meet statutory requirements.

Further information

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