

Extraordinary driver's licences



This information is about extraordinary driver's licences and the process of applying for such a licence.

What is an extraordinary driver's licence?

An extraordinary driver's licence is a licence granted at the discretion of the court. It allows someone who has been disqualified from holding or obtaining a driver's licence, to drive in certain specified circumstances.

You can apply for an extraordinary driver's licence if you are currently under court imposed disqualification, however there are certain other types of disqualification that do not allow you to apply for an extraordinary licence.

Disqualification is also sometimes called "licence suspension".

Can I apply if I am subject to a disqualification notice from police?

No, if you have been disqualified from driving because the police have issued you with a disqualification notice, **you cannot apply for an extraordinary drivers licence until the period of disqualification imposed by the notice has ended.**

A disqualification notice may be issued immediately by police for an offence of Excess 0.08, Driving under the influence, or Refusing to comply with a requirement to provide a breath, blood or urine sample.

If you still need to apply for an extraordinary driver's licence after the period of disqualification imposed by the notice has ended, the waiting period for applying for the extraordinary licence will be reduced by the amount of time you spent disqualified under the disqualification notice. For information about the waiting period, see below under the heading **When can I apply for an extraordinary licence?**

Can I apply if I am under a licence suspension order for non-payment of a fine or infringement?

No, if your licence has been suspended because you have not paid a fine or infringement (often referred to as being under a "fines suspension"), you **cannot apply** for an extraordinary driver's licence until the fine or infringement has been paid and the suspension has been lifted.

Can I apply if I am under a demerit point suspension?

No, if your licence has been suspended because of excessive demerit points, you **cannot apply** for an extraordinary driver's licence until that suspension has ended. Similarly, if your licence has been suspended following breach of a good behaviour period which was in place as a result of excessive demerit points, you cannot apply for an extraordinary driver's licence until that licence suspension has ended.

Can I apply if I was disqualified from driving in another state?

No, you **cannot apply** for an extraordinary driver's licence in Western Australia unless you were disqualified from driving or had your licence suspended in Western Australia.

Can I apply if my licence has been cancelled?

If your licence has been **cancelled but you are not under disqualification**, you **cannot apply** for

an extraordinary driver's licence. You can, however, re-sit your test to get your licence back.

However, if your licence has been **cancelled AND you are also under disqualification**, either because a court has disqualified you, or because you have been administratively disqualified following conviction for a particular offence, you **can apply** for an extraordinary licence. This situation most commonly arises for provisional licence holders (p-platers).

If you are under cancellation and disqualification at the same time and you want to apply for an extraordinary licence, you can only do so while the period of disqualification is still running.

If you are under cancellation and you have been under disqualification, but the period of disqualification has ended, you cannot apply for an extraordinary licence, however, you can re-sit your test. If you pass your test, you will have a licence again. If you do not pass it, you will not have a licence and will not be allowed to drive. You must pass your test before you can drive.

If you are under cancellation and allowed to apply for an extraordinary licence, where your application is successful, the court may make an order that you re-sit your test before you are allowed to drive under the extraordinary licence. This may be helpful to you because:

- you will not have to wait until after your disqualification has ended to re-sit the test
- you will not have to wait in a queue before you re-sit the test
- when the extraordinary licence ends, you will be allowed to continue driving because you will already have your licence back.

When can I apply for an extraordinary licence?

Applications can only be made after a certain waiting period from the date of your disqualification. The period varies depending on the type of offence for which you were disqualified and any prior traffic convictions you may have.

If you want to know the waiting period that applies to you, you should contact the registry of the court where you are making the application, or seek legal advice. For information on how to contact the courts, see the heading **Where can I get more information?** at the end of this page. See also

the fact sheet on extraordinary driver's licences available from the Magistrates Court website at: www.magistratescourt.wa.gov.au which lists some of the mandatory waiting periods.

How do I apply for an extraordinary licence?

If you were disqualified from holding or obtaining a driver's licence by a **Magistrates Court**, you can apply for an extraordinary licence by lodging an application form at a registry of the Magistrates Court. Application forms are available from any Magistrates Court registry or from the Magistrates Court website at: www.magistratescourt.wa.gov.au.

If you are **under the age of 18**, you must lodge your application with the **Children's Court** rather than the Magistrates Court.

If you were disqualified from driving by the **District Court** or **Supreme Court**, you must lodge your application with whichever of those courts disqualified you.

If you were **disqualified administratively** as a consequence of being convicted of a particular offence, you must lodge your application with the Magistrates Court, or with the Children's Court if you are under the age of 18.

For information about the location of court registries and how to contact the courts, see the heading **Where can I get more information?** at the end of this information sheet.

Do I have to pay a fee when I apply?

Yes, a fee must be paid when you lodge your application. To check the current fee, contact the court registry where you are lodging your application.

What happens after I apply?

Once your application is lodged with the court, a hearing date will be set. This date must be at least 14 clear days from the day you lodge your application. The date will depend on how busy the court list is. Your application will be listed on the earliest available date.

In order to minimise the amount of time it takes for your application to be heard, you should prepare your application form as early as possible and have it ready to lodge with the court as soon as your waiting period ends.

The court will serve a copy of your application on the Department of Transport and an officer from that Department or a police officer will appear at the hearing.

Do I need to be represented by a lawyer at the hearing?

It is your choice to be represented at the hearing or not. If you want to be represented, you will have to engage your own private lawyer. A duty lawyer or other lawyer working for Legal Aid WA is not able to provide legal representation for extraordinary driver's licence applications.

A duty lawyer may be available to give advice on:

- how and when to make an application
- factors the court may consider
- general court procedure.

What happens at the hearing?

You must attend court on the hearing date and give evidence and provide information to the court in support of your application. It is up to you to convince the court that you need an extraordinary licence.

What factors will the court consider at the hearing?

In deciding whether or not to grant an extraordinary driver's licence the court will consider a number of factors. Some of the main factors are listed here.

Safety of the public

You will need to be able to explain your previous driving history and traffic record, as well as the offence that led to you being disqualified. The court will look at how this might affect the safety of other road users and the public generally.

Your character

If you are of good character, bring a responsible person to court who can vouch for your character, such as your employer.

Circumstances of your case

You will need to satisfy the court of at least one of the following:

- you cannot do your job without a licence
- you will lose your job if you are not granted a licence
- you require a licence for medical purposes.

You should also let the court know about any other circumstances relevant to your application, such as where you live, your family responsibilities, or any health issues such as pregnancy or injuries that require you to be able to drive.

If possible, bring your employer to court so they can tell the court about your employment situation and the reasons why you need a driver's licence. If you are self employed you can explain your circumstances to the court yourself.

Nature of the offence or offences giving rise to the disqualification

You will need to be able to explain the circumstances surrounding the offence(s) for which you lost your licence.

Your conduct since the disqualification

The court will want to know things such as:

- has your employment situation changed?
- have there been any further convictions or charges laid against you?
- have you changed your habits (for example, your drinking habits if you were disqualified for drink driving) and if so, in what way?
- if relevant, have you undergone any alcohol or drug counselling?

Degree of hardship to you or your family if the court does not grant the licence

The court will want to know whether refusing to grant the licence will:

- stop you or a member of your family getting urgent medical treatment for an illness, disease or disability
- put an undue financial burden on you because you cannot do your main work
- stop you from travelling to or from your job, or stop a member of your family from travelling to or from their job.

What conditions may be attached to an extraordinary driver's licence?

The court can attach any conditions to your extraordinary licence that it thinks are appropriate. Some of the more common conditions are:

- the days on which you can drive
- the hours within which you can drive
- the purposes for which you can drive (work or medical reasons)
- the locality in which, and the roads on which you can drive
- the vehicle or class of vehicle that you can drive.

What extra condition may be attached if my licence is under cancellation?

If you apply for an extraordinary licence while your licence is under cancellation, the court may attach a condition to your extraordinary licence that requires you to **re-sit your driving test** before you can be issued with an extraordinary licence.

See further under the heading above **Can I apply if my licence has been cancelled?**

If the court grants me an extraordinary driver's licence, when can I start driving?

You cannot drive as soon as the court grants your application. Instead, you will be told the time and place when you must collect the court order. You must then take the court order to a licensing centre

of the Department of Transport to have the licence issued. You will need to pay a fee and provide proof of identification to the Department of Transport.

If the court order includes the condition that you must re-sit your driving test, the Department of Transport will not issue you with an extraordinary licence until you have successfully re-sat your test.

As long as you are still under disqualification, you can only drive if the Department of Transport has issued you with an extraordinary licence. If you drive before the extraordinary licence is issued, you are committing an **offence** of driving while disqualified.

How long does the extraordinary driver's licence last?

The licence will be for a period of time set by the court, which cannot exceed 12 months. The Director General of the Department of Transport can renew the licence.

The extraordinary licence only applies to the period of disqualification that was the subject of your application for the extraordinary licence. It does not apply to any other period of disqualification. Once this period of disqualification ends the extraordinary licence attached to it also ends.

If your licence was originally **cancelled** and you did not re-sit your test before getting your extraordinary licence, when your extraordinary licence ends you will have no licence. In order to drive, you will have to successfully re-sit your test and obtain a licence.

If you drive when you do not have a valid licence, you are committing an **offence**.

What happens if my application for an extraordinary licence is refused?

If the court refuses your application, you cannot apply again for six months. Your application fee will not be refunded.

What happens if I breach the conditions of my extraordinary licence?

It is an **offence** to drive contrary to any of the conditions of your extraordinary licence. The penalty for this offence is a fine and your extraordinary licence will be cancelled, unless the court accepts that there are special circumstances that make it appropriate for you to keep the licence.

If you are charged with breaching the conditions of your extraordinary licence and you are appearing in the Magistrates Court or Children's Court, you may seek advice and representation from the duty lawyer on the morning of your court appearance.

Can I apply to change the conditions of my extraordinary licence?

Yes, if your circumstances change, you can apply to the court to change or "vary" the conditions of your extraordinary licence. Your application will need to be considered by a magistrate or judge in a similar way to your original application. You will need to provide information, documents or evidence to show why you need the licence conditions varied.

If you wish to apply for a variation, contact the registry of the court that granted the extraordinary licence. They will inform you of the process for applying for a variation.

A duty lawyer cannot represent you at your application for a variation, however, you can seek advice from a duty lawyer about how to apply for a variation.

Where can I get more information?

Court registry locations and contact details

See the following websites for each of the courts:

- www.magistratescourt.wa.gov.au
- www.childrenscourt.wa.gov.au
- www.districtcourt.wa.gov.au
- www.supremecourt.wa.gov.au.

Department of Transport

- Helpline: 131 156
- See the Licensing page of the Department of Transport website: www.transport.wa.gov.au/licensing.

Magistrates Court website and fact sheet

See the Magistrates Court website for a fact sheet on extraordinary driver's licences: www.magistratescourt.wa.gov.au.

Legal Aid

Go to Legal Aid WA's **website** at: www.legalaid.wa.gov.au under Information about the Law/Criminal for information about:

- cars and driving
- appearing in court
- Legal Aid WA duty lawyer service.

Legal Aid WA Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)
Infoline open Monday to Friday 9.00 am to 4.00 pm
(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450
National Relay Service (for hearing and speech impaired) 133 677

www.legalaid.wa.gov.au

Perth Office

32 St Georges Terrace, Perth, WA 6000
1300 650 579
(08) 9261 6222

Southwest Regional Office

7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230
(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330
(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430
(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530
(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722
(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725
(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743
(08) 9166 5800

Indian Ocean Office

Administration Building, 20 Jalan Pantai
Christmas Island, Indian Ocean, WA 6798
(08) 9164 7529

This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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