

MAGISTRATES COURT FACT SHEET 40

EXTRAORDINARY DRIVER'S LICENCE

This fact sheet explains how to apply for an extraordinary driver's licence.

What is an extraordinary driver's licence?

An extraordinary driver's licence is a licence granted at the discretion of the Court. It authorises the holder to drive in certain circumstances, even though they have been disqualified from driving by a court.

How to apply

You will need to lodge an application form and pay the prescribed fee at a registry of the Magistrates Court.

The application form and fees are available from any court registry or on the Magistrates Court website: www.magistratescourt.wa.gov.au.

Grounds for granting an extraordinary driver's licence

The Court can only grant an extraordinary driver's licence if without a licence the applicant will be:

1. unable to access urgent medical treatment for an existing illness, disease or disability suffered by the Applicant or a family member,
2. deprived of the principal means of obtaining income, or
3. deprived of the only practical means of travelling to and from a place of employment for Applicant or family member.

Time limits

Applications can only be made after a certain waiting period has elapsed. This waiting period will depend on the type of offence and any prior drink/drug-related traffic convictions you may have. The table in this fact sheet is provided to guide you in determining the required waiting period.

If you are unsure, you should seek legal advice to determine the time limit that applies to you. Please be aware that court staff cannot assist you to determine the correct waiting period and you may be required to contact the West Australian Police or the Department of Transport.

When an application cannot be made

You cannot apply for an extraordinary driver's licence when you are:

1. serving a demerit point suspension,
2. serving the period of an immediate disqualification notice, or
3. serving a fine suspension imposed by the Fines Enforcement Registry.

Waiting period before application can be made

In relation to a demerit point suspension and immediate (roadside) disqualification; **you must wait until the end of the period stated in the notice before you are eligible to make an application.**

To lift a fine suspension you need to either pay all outstanding fines or make time-to-pay arrangements with the Fines Enforcement Registry. Your suspension will only be lifted if the fines are paid in full or your time-to-pay application is granted.

It is important to note that you **cannot apply** for an extraordinary driver's licence during the period that any disqualification notice is in effect (normally 2 months from the date of the offence), or before the waiting period from court conviction has elapsed (as set out in the table below).

Waiting Period from Immediate (Roadside) Disqualification

An immediate disqualification notice may be issued by the 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.

A disqualification notice, once served, immediately disqualifies a driver from driving (normally for two months). No application for an extraordinary driver's licence may be made whilst a driver is disqualified.

If you still need to apply for an extraordinary driver's licence after the disqualification imposed by the notice has ended, the waiting period for applying for an extraordinary licence is dependent on the date of court conviction as set out below.

For more information on disqualification notices, please refer to the website of the Office of Road Safety – <http://www.ors.wa.gov.au>.

Waiting Period from Court Conviction

The period which you are required to wait before being eligible to apply for an extraordinary driver's licence is dependent on the type of offence and the number of previous convictions you have incurred.

The following waiting periods apply **from the date you are convicted of the offence by the court**. This information is provided as a guide only. For a full list of penalties and applicable waiting periods, please refer to the *Road Traffic Act 1974*.

Waiting period (from conviction) to be served before applying for extraordinary driver's licence			
	Driving under the Influence (+ 0.15%)	Driving while Impaired by Drugs	Driving in Excess 0.08%
First Offence	3 Months	3 Months	21 Days
Second Offence	4 Months	4 Months	2 Months
Subsequent Offence	4 Months	4 Months	3 Months

*Note: Refusing a breathalyser, blood or urine test counts as a driving under the influence offence.
Refusing a preliminary roadside test counts as an excess 0.08% offence.*

These waiting periods are reduced by the period of any immediate disqualification (normally 2 months).

The hearing

A hearing date will be set by the Court at least 14 clear days from the day you lodge the application. This time period cannot be shortened.

The Court will serve a copy of the application on the Department of Transport. An officer from that department or a police officer will appear on the court date.

You must attend court on the hearing date and justify to the Court your need for an extraordinary licence.

At the hearing you need to provide the Court with sufficient information, documentation, or evidence in relation to your financial and or medical circumstances to enable the magistrate to clearly understand how you are being affected by the loss of your driver's licence. Relevant documents may include bank statements, medical reports, foreclosure notices, proof of debts/ repayments etc.

Factors the Court will consider

When deciding whether or not to grant an extraordinary driver's licence the Court will consider many factors, including:

1. The safety of the public generally.

Your previous driving history and traffic record.

2. The circumstances of the case.

You will need to satisfy the Court on one or more of the following grounds:

- You cannot do your job without a licence;
- You will lose your job if you are not granted an extraordinary licence, and/or;
- The licence is required for medical purposes.

3. The nature of the offence or offences giving rise to the disqualification.

This means the circumstances surrounding the offence for which you lost your licence.

4. The conduct of the applicant since the offence and disqualification.

The court will want to know such things as:

- Has your employment situation changed?
- Have your drinking habits changed since your offence?
- What are they now?
- Have you undergone any alcohol or drug counselling?
- Have there been any further convictions or charges laid against you?

Can conditions be attached to an extraordinary driver's licence?

The Court can attach any conditions it thinks fit to an extraordinary driver's licence. Some of the more common conditions include:

- The days and hours during which you can drive;
- The purposes for which you can drive (for example, to travel to or from work or medical reasons);
- The locality and the roads you can drive on, and/or;
- The vehicle or class of vehicle that you can drive.

Is there a difference between a court order and a licence?

The court may make an order that you can obtain an extraordinary driver's licence. It is important to know that the order is **not a licence to drive**.

Upon being provided with the order by the Court, you will need to present that order to a licensing branch of the Department of Transport. Upon payment of a fee, proof of identification and meeting any other Department of Transport requirements, the licence will be issued.

It is only when the licence is issued by the Department of Transport that you can resume driving.

What if the application is refused?

If your application is refused you cannot make another application for six months. The application fee is not refundable if the application is refused.

Offences

It is an offence to drive contrary to any of the conditions of an extraordinary licence and you are liable to be charged, fined and your extraordinary licence cancelled.

If you drive prior to obtaining the licence from the Department of Transport you will also be liable for prosecution.

Can an extraordinary licence be varied?

If, at a later time, any of the conditions on your extraordinary licence need to be changed (such as your employment or conditions of employment change) you may make an application to a registry of the Court to vary those conditions.

The application will need to be considered by a magistrate in a similar way to the original application.

When you go to court, you will have to tell the magistrate what has changed. You will also have to provide sufficient information, documentation or evidence so that the magistrate can understand what has changed and why the licence should be varied.

This is a guide only. The content is subject to change. If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.