

MAGISTRATES COURT FACT SHEET 40

EXTRAORDINARY DRIVER'S LICENCE

This fact sheet explains how to apply for an extraordinary motor 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

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 the 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-related traffic convictions you may have. The chart in this fact sheet should assist you in determining the required waiting period.

If you are unsure, you should seek legal advice or contact court registry staff to determine the time limit that applies to you. Please be aware that Court Staff cannot always 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 (roadside) disqualification notice, or
3. serving a fine suspension imposed by the Fines Enforcement Registry.

In relation to a demerit point suspension and a 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.

Mandatory waiting periods

There is a mandatory 21 day waiting period before an application for an extraordinary driver's licence can be lodged. In some cases the waiting period is longer. The following is a guide only:

Driving under the influence (reading above 0.15%) *

1st offence ~ 2 months

1st offence with previous 0.08% or refusing preliminary roadside breath test ~ 3 months

2nd or subsequent offence ~ 4 months

Excess 0.08% (reading 0.08% to 0.15%) **

1st offence ~ 1 month

2nd offence ~ 2 months

3rd offence ~ 3 months

1st offence 0.08% with a previous Driving Under the Influence or refusing breath, blood or urine test ~ 2 months

*Note: * Refusing a breathalyser, blood or urine test counts as a Driving Under the Influence offence.*

*** Refusing a preliminary roadside test counts as a 0.08% offence*

If you were issued with an immediate disqualification notice prior to the court imposing a disqualification, this period of time may be deducted from the required waiting period.

The hearing

A hearing date will be set by the Court at least 14 clear days from the day you lodge your 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

Can an extraordinary licence be varied?

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.

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.