

Extraordinary driver's licences

This information is about extraordinary licences and the process of applying for one.

What is an extraordinary licence?

An extraordinary 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 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 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, Failing to comply with a requirement to provide a breath or blood sample or to accompany an officer, Excess 0.08 and Failing to comply with a requirement to provide a blood or oral fluid sample or to accompany an officer, or Driving under the influence and Failing to comply with a requirement to provide a blood or oral fluid sample or to accompany an officer.

If you still need to apply for an extraordinary 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 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 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 licence until that licence suspension has ended.

Can I apply if I was disqualified in another state?

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

Can I apply if I do not currently hold a licence?

Yes, as long as you are under disqualification when you apply for an extraordinary licence.

For example:

- If your licence has been **cancelled AND you are also under disqualification**, you can apply for an extraordinary licence. This situation most commonly arises for provisional licence holders (p-platers).
- If you have **never held a licence AND you are also under disqualification**, you can apply for an extraordinary licence.

If you are successful with your application, the court will likely make your extraordinary licence conditional on you meeting the necessary requirements of the Department of Transport before being allowed to drive.

This may be helpful to you because you will not have to wait until after your disqualification has ended to meet the requirements of the Department of Transport.

Can I apply if I am under disqualification for an alcohol interlock offence?

Yes, if you are under disqualification for an alcohol interlock offence you can apply for an extraordinary licence.

If you are successful in your application for an extraordinary licence, the court will likely order you to meet the necessary requirements of the **Alcohol Interlock Scheme** through the Department of Transport before being allowed to drive.

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.

Where do I apply for an extraordinary licence?

If you were disqualified by the Magistrates Court, you must apply for an extraordinary licence to the Magistrates Court.

If you are under the age of 18, you must lodge your application with the Children's 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.

How do I apply for an extraordinary licence in the Magistrates Court?

You apply by lodging an application form and a supporting affidavit.

You must lodge your application electronically using the Courts Electronic Case Management System (ECMS) known as the eCourts Portal, unless you have an exemption. To use eCourts Portal you need to register with a username and password. To register go to:

<https://ecourts.justice.wa.gov.au/eCourtsPortal/Registration/Full>.

When completing the application online, you will be required to upload a completed affidavit in support of your application.

If you are unable to lodge the application electronically, you may be able to seek an exemption by lodging a Form 69 at a court registry.

Application forms (to apply for an exemption as well as the EL application form) and the form for the affidavit are available from any Magistrates Court registry or under “Extraordinary Licences” on the [Fees, Forms & Factsheets](#) webpage on the Magistrates Court of WA website (www.magistratescourt.wa.gov.au).

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.

Will I have to pay any other court costs?

Possibly. The court may order you to pay all or any of the costs of the application, whether you are successful with your application for an extraordinary licence or not.

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 whether 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 licence applications.

What happens at the hearing?

You must attend court on the hearing date. You will be required to 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 licence the court will consider a number of factors. Some of the main factors are listed here.

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 without 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.

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.

A written character reference may or may not be considered by the court. It is technically inadmissible and may be disregarded, so it is best to bring the person to court with you.

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.

“The court can attach any conditions to your extraordinary licence that it thinks are appropriate.”

What conditions may be attached to an extraordinary 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 conditions might be attached?

If you apply for an extraordinary licence while:

- your licence is under cancellation and disqualification
- you are under disqualification and have never held a licence
- you are under disqualification for an alcohol interlock offence

the court may attach a condition to your extraordinary licence that requires you to comply with specific requirements of the Department of Transport before you are allowed to drive.

If the court grants me an extraordinary 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 comply with additional requirements of the Department of Transport before being allowed to drive, the Department of Transport will not issue you with an extraordinary licence until you have successfully completed these requirements. For example, you may be required to re-sit your test or install an alcohol interlock device in your car.

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 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 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, you can choose to get advice before your court date from a private lawyer and can arrange for a private lawyer to represent you in court.

When you are charged with a traffic offence, such as breaching the conditions of your extraordinary

licence, the circumstances where a Legal Aid WA duty lawyer can assist you are limited. However, a Legal Aid WA duty lawyer may be able to assist you with a traffic offence in the following circumstances:

- you are appearing in a regional court and there is a duty lawyer available on your court date;
- you are appearing in a Perth or metropolitan court and your traffic offence is listed in the general list (rather than a dedicated traffic court list) and imprisonment is one of the options available to the court when dealing with your traffic offence.

For more information on the Legal Aid WA duty lawyer service, see the heading Where can I get more information? at the end of this page.

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.

You can choose to get advice before your court date from a private lawyer and can arrange for a private lawyer to represent you in court at your application for a variation. A Legal Aid WA duty lawyer cannot represent you at your application for a variation.

LEGAL AID WA OFFICES



Infoline: 1300 650 579



Translating & Interpreting Service:
131 450



Website/InfoChat:
www.legalaid.wa.gov.au



National Relay Service: 133 677
(for hearing and speech impaired)

Perth Office

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

Midwest & Gascoyne Office

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

West Kimberley Office

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

Great Southern Office

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

Goldfields Office

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

East Kimberley Office

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

Southwest Office

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

Pilbara Office

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

Indian Ocean Office

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

CMS ID: 563465v20

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. ©Legal Aid Western Australia. This information sheet may be copied, reproduced or adapted to meet local needs by community based organisations without permission from Legal Aid Western Australia provided the copies are distributed free or at cost (not for profit) and the source is fully acknowledged. For any reproduction with commercial ends, or by Government departments, permission must first be obtained from Legal Aid Western Australia.