

**MAGISTRATES COURT
FACT SHEET 40**

EXTRAORDINARY MOTOR 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 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 an application fee at a registry of the Magistrates Court.

Application forms are available from any court registry or online by visiting www.magistratescourt.wa.gov.au

Time limits

Applications can only be made after a 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.

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 Planning and Infrastructure. An officer from that department or a police officer will appear on the court date.

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

You will need to provide the Court with sufficient information, documentation, or evidence to enable the magistrate to clearly understand how you are being affected by the loss of your driver's licence.

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 counseling?
- Have there been any further convictions or charges laid against you?

5. The degree of hardship to the applicant and his or her family if the court does not make the order.

This may include:

- Financial hardship to you and your family if you do not have a licence; and/or
- Any other hardship, which may be relevant (for example, the loss of your job or other employment opportunities).

What if I am under a fine suspension as well as a court or demerit point suspension?

If you are under a fine suspension through the Fines Enforcement Registry (FER) for non-payment of fines, you are unable to make application for an extraordinary driver's licence until your FER suspension has been lifted.

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

Can conditions can 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**.

You will be advised of the time and place at which the Court order can be collected. You will need to present the order to a licensing branch of the Department of Planning and Infrastructure (DPI). Upon payment of a fee, proof of identification and meeting any other DPI requirements, the licence will be issued. It is only when the licence is issued 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.

What is a special application?

A 'special application' can be lodged 21 days after conviction - but only on a first drink-driving-related offence. You are required to prove extreme hardship – see factors the Court will consider above.

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 period depends on the type of offence and the number of past offences. The following is a guide:

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 preliminary roadside test counts as a 0.08% offence.

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

Applications cannot be listed for hearing before the Court until 14 clear days from the date of the application.

Offences

It is 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 DPI 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 you change employment) you may make an application to a registry of the Court to vary those conditions.

The application will need to be considered by 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.