



Magistrates Court of Western Australia Civil Jurisdiction

Fact Sheet 40 – Extraordinary Licence

This fact sheet explains how you can apply for an Extraordinary Licence

What is an Extraordinary Licence?

To be eligible to obtain an extraordinary licence ("EL"), you will first need an order from the court granting the extraordinary licence. An EL is a licence that can be issued by the Department of Transport (or agent), only under an order 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 (**Form 5 - Application for Extraordinary Licence**), together with an **affidavit** in support, and pay the prescribed fee. This **must be lodged electronically** using the Courts Electronic Case Management System (ECMS) [eCourts Portal](#).

Where you're unable to lodge the application electronically, you may seek an exemption from eLodgment by lodging an application at a court registry.

It is compulsory for an EL application to be lodged with a supporting affidavit.

The **Form 5 Application, affidavit** and fees are available from any court registry or on the Magistrates Court website: please refer to the Quick Links page at the end of this document for details.

If the Court disqualification was imposed by the Supreme Court or the District Court an application for an EL is to be made to the court by which the disqualification was imposed. Further information on how to apply can be obtained by contacting the relevant Court.

When an application cannot be made

You cannot apply for an EL when you are:

1. serving a demerit point suspension;
2. serving the period of an immediate disqualification notice;
3. serving a fine suspension imposed by the Fines Enforcement Registry; and/or
4. if an application for an EL has been **refused** by the court within **six (6)** months.

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 approved.

Grounds for granting an extraordinary licence

The court's decision is discretionary, and the court can only make orders to grant an EL if without a licence the applicant will be:

5. unable to access urgent medical treatment for an existing illness, disease or disability suffered by the Applicant or a family member;
6. deprived of the principal means of obtaining income; or
7. 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 attached to 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.

Waiting period before application can be made

It is important to note that you cannot apply for an EL during the period that any disqualification notice is in effect, or before the waiting period from a court conviction has lapsed (as set out in the waiting period table below). Any waiting period specified below is subsequent to any term of imprisonment that may have been imposed (for example, the waiting period does not commence until the day of release from custody).

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. No application for an EL may be made whilst a driver is disqualified.

For more information on disqualification notices, please refer to the website of the Office of Road Safety.

Waiting period from Court Conviction

The period which you are required to wait before being eligible to apply for an EL may be subject to;

- a. the type of offence;
- b. the number of previous convictions you have incurred;
- c. any term of imprisonment; and/or
- d. any period of fine suspension.

The Hearing

A hearing date will be set by the court at least fourteen (14) clear days from the day you lodge the application. This time period cannot be shortened. The hearing is before a magistrate. 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 satisfy the court of your need for an EL.

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 hearing your application 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, a letter from an employer, proof of debts/ repayments etc.

If you are unsure or require assistance, you should seek legal advice.

Factors the Court will consider

When deciding whether or not to grant an EL the Court will consider many factors, including:

1. The safety of the public generally.
2. Your previous driving history and traffic record
3. The circumstances of the case.
4. The nature of the offence(s) giving rise to the disqualification.

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

1. The Court will also consider 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 there been any further convictions or charges laid against you?
- Have you undergone any alcohol or drug counselling?

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 EL; and/or
- The licence is required for medical purposes.

Can I drive once I have obtained a court order?

No, the court may make an order that you can obtain an EL. It is important to know that the order is not a licence to drive.

After an order has been made by the Court granting you an EL you must attend at 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 and can only do so in accordance with the conditions of the EL.

Alcohol Interlock System

An alcohol interlock is a device which, when installed in a motor vehicle, prevents the vehicle from being operated unless the driver's breath sample analysed by the device contains either no measurable concentration of alcohol, or not more than a particular concentration of alcohol.

The WA Interlock Scheme aims to reduce the road safety risk posed by offenders, by separating drinking behaviours and driving behaviours.

For further information on alcohol interlock systems, please refer to the Department of Transport website.

Offences

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

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

What if the application is refused?

If your application is refused, you **cannot** make another application for **six (6) months**.

Where the EL application is refused, the EL application fee is **not** refundable to the Applicant.

Can an extraordinary licence be varied?

Yes, if at a later time, any of the conditions on your EL need to be changed (such as your employment or class of licence) you may make an application vary those conditions by lodging a Form 7- Application to Vary, together with an affidavit **electronically** via Courts Electronic Case Management System (ECMS) [eCourts Portal](#).

Where you're unable to lodge the application electronically, you may seek an exemption from eLodgment by lodging an application at a court registry.

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 EL should be varied.

Quick links

For application forms and further court information please refer to the Magistrates Court website: www.magistratescourt.wa.gov.au

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

For further information on alcohol interlock Systems, please refer to the Department of Transport website at: <https://www.transport.wa.gov.au/>

For legal advice and other legal queries please refer to the Legal Aid website at: <https://www.legalaid.wa.gov.au/>

Offence	Occasion	Waiting Period
Driving under the influence of alcohol or drugs, or alcohol and drugs (s.63 of the RTA)	First offence	21 days
	First offence, if previously convicted of excess 0.08 (64 RTA), excess 0.08 & drugs (64B(3) RTA), fail to provide sample when excess 0.08 (67AD(4) RTA), or fail to comply with other requirements of a police officer (67A RTA)	3 months
	Second (or subsequent) offence	4 months
Excess 0.08 (64 RTA) or Excess 0.08 & illicit drugs (64B(3) RTA)	First offence	21 days
	First offence, if previously convicted of fail to comply with requirement of police officer (67A(3)(b) RTA), or fail to provide sample when excess 0.08 (67AD(4) RTA)	2 months

	Second offence	2 months
	Third (or subsequent) offence, if previously convicted of same.	3 months
Driving while impaired by drugs (64AB(2) of the RTA)	First offence	21 days
	First offence, if previously convicted of excess 0.08 (64 RTA), excess 0.08 & drugs (64B(3) RTA), fail to provide sample when excess 0.08 (67AD(4) RTA), or fail to comply with other requirements of a police officer (67A RTA)	3 months
	Second or subsequent offence	4 months
Failure to provide sample for analysis, or accompany a police officer (67 of the RTA)	First offence	21 days
	First offence, if previously convicted of excess 0.08 (64 RTA), excess 0.08 & drugs (64B(3) RTA), fail to provide sample when excess 0.08 (67AD(4) RTA), or fail to comply with other requirements of a police officer (67A RTA)	3 months
	Second offence	4 months
Failure to comply with requirement to do driver assessment, provide blood sample, or accompany a police officer (67AA(1) of the RTA)	First offence	21 days
	First offence, if previously convicted of excess 0.08 (64 RTA), excess 0.08 & drugs (64B(3) RTA), fail to provide sample when excess 0.08 (67AD(4) RTA), or fail to comply	3 months
	with other requirements of a police officer (67A RTA)	
	Second offence	4 months
Failure to comply with drug test requirement when excess 0.08 (67AD(4) RTA)	First offence	21 days
	Second offence	2 months
	Third (or subsequent) offence, if previously convicted of same.	3 months
Failure to comply with drug test requirement for persons when excess 0.15 (67AD(6) of the RTA)	First offence	21 days
	First offence, if previously convicted of excess 0.08 (64 RTA), excess 0.08 & drugs (64B(3) RTA), fail to provide sample when excess 0.08 (67AD(4) RTA), or fail to comply with other requirements of a police officer (67A RTA)	3 months
	Second offence	4 months

Failure to comply with other requirements of police officer (67A(3) of the RTA)	First offence	21 days
	Second offence	2 months
	Third (or subsequent) offence, if previously convicted of same.	3 months

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.