

Are you disqualified from driving?

You may be able to have your
disqualification periods removed



Some drivers who are disqualified from driving can ask the Local Court to remove their disqualifications. Read this brochure to find out if you are eligible and how to apply.

Whether you are eligible or not will depend on the type of driving offences that you have been convicted of, as well as the length of time since you were last convicted of a driving offence.

Before you apply to remove your licence disqualifications you should get legal advice.

What should I do first?

Get a copy of your driving record

To get a current copy of your driving record, complete a form called *Driving record application for disqualification removal order*.

You can get a copy of the form at www.nsw.gov.au or from any Service NSW centre.

If you are a disqualified driver there is no fee for getting a copy of your driving record.

When you submit the form to Transport for NSW (TfNSW), you must include proof of identification documents that have been witnessed and certified by a relevant witness. See page 2 of the application form for who can certify your documents.

You will then receive a letter and a copy of your driving record. This letter will tell you if TfNSW considers you eligible to apply for the removal of your disqualification through a NSW local court.

Get legal advice

You should get legal advice to see if you can apply. We tell you where you can get legal advice under 'Where can I get legal help?'.

So the lawyer can give you the right advice, you should take the up-to-date copy of your driving record to your appointment.

Who cannot apply?

You can't apply if you have ever been convicted of one of these serious driving offences:

- murder or manslaughter caused by the use of a motor vehicle
- an offence under the *Crimes Act* that caused the death, grievous bodily harm or wounding by a motor vehicle
- predatory driving or police pursuits (under the *Crimes Act*)
- negligent driving causing death or grievous bodily harm
- intentional menacing driving, or
- failing to stop and assist after impact causing death or grievous bodily harm.

If you currently have a mandatory interlock order against you, these particular disqualifications can't be removed.

Who can apply?

You can apply if:

- you have not been convicted of any of the offences listed under 'Who cannot apply?', and
- you haven't committed any other driving offence during the 'offence-free period' that applies to you.

Your 'offence-free' period depends on what offences your licence was disqualified for. You must show you had no driving offences for either four years or two years before the date you apply.

It will be **four years** if you are disqualified from driving because of any of these offences:

- a major offence (for example, drink driving, or driving in a manner or speed that is dangerous)
- exceeding the speed limit by more than 30km/h
- street racing, or
- aggravated burnout.

It will be **two years** if you have been disqualified from driving because:

- you were declared an habitual traffic offender, or
- you committed any other driving offences.

How do I apply?

Complete a form called *Application to remove driver licence disqualification* and lodge it at any Local Court.

You can get the form at any Local Court registry, or at www.localcourt.justice.nsw.gov.au.



There will be a fee. If you are on a Centrelink benefit or experiencing financial hardship, ask if the fee can be waived.

How should I prepare my application?

You should say in your application why it is important to have your driver licence.

You should:

- think about the things the court needs to look at. See page 7 under 'How does the court decide?'
- tell the court everything you want it to know about why your period of disqualification should be removed, and
- try to get evidence to support your case.

For example:

If you need your licence for work (or if not having a licence has stopped you from getting a job or doing some types of work), ask your employer for a letter about why you need your licence. It should say how not having a licence has affected your ability to work.

If you are self-employed and need your licence for your business explain why. For example:

- Do you need to travel from place to place during the day?
- Do you use tools or other things that you can't carry on public transport?
- Does it cost you money because you don't have a licence? Get evidence of this if you can.

If public transport options are limited in your area or at the times you need to travel, attach copies of timetables or other information that shows why it is hard for you to use public transport.

If you need your licence to help with caring or family responsibilities explain:

- who you care for. For example, your child, an elderly relative or a person with a disability or medical condition
- what care you give. For example, do you take that person to medical or other appointments? Do you help with day to day care like shopping or cleaning?
- if public transport is not available, or not suitable for what you need to do, and
- how not being able to drive has made it difficult or impossible to give the care they need.

You should talk to a lawyer about what would help in your case.





How does the court decide?

You must go to court and tell the magistrate why your disqualifications should be removed. The magistrate has to look at a number of things, including:

- the safety of the public
- your overall driving record
- the type of offences that led to your licence being disqualified
- if you can use other transport
- your family, carer, work, education or other commitments
- your health and finances, and
- anything else they think is important.



If the court removes my disqualification period, what happens next?

Do not drive until you have a new driver licence

Before you can drive you must apply for a driver licence from Service NSW.

If you drive before you get a new licence you may be convicted of 'driving while cancelled'. You could go to gaol for up to 12 months and you could be disqualified from driving again for at least six months.

To get a new licence you must do the usual road safety and knowledge tests, and anything else Service NSW needs you to do.

Service NSW will check if there were any recent driving offences the court didn't know about when it heard your case. If they believe you did have a traffic offence during the offence free period, your case will be sent back to the court and you won't be given a licence until the court has re-heard your case.

Sort out any fines

If you still have any fines to pay you should sort this out straight away. Service NSW may not give you a licence if you have TfNSW restrictions because of fines.

To find out if you have any fines or restrictions in place because you haven't paid a fine, or if you need help to manage your fines debt, contact Revenue NSW on **1300 655 805** or visit www.nsw.gov.au/money-and-taxes/fines-and-fees

You may be able to get a Work and Development Order (WDO). A WDO allows you to clear fines through unpaid work, courses, counselling or treatment. For more information or to find a WDO service in your area call LawAccess NSW on **1300 888 529** or visit the WDO page at www.legalaid.nsw.gov.au

What happens if the court doesn't remove my disqualification period?

Do not drive

If you drive you could go to gaol and your licence will be disqualified for an additional period. The police may also take away your car or number plates for six months.

You cannot appeal the court's decision. But you can try again after 12 months, as long as you are still eligible. See page 4 'Who can apply?'

Think about why the magistrate refused your application. Is there anything you can do over the next 12 months to fix those issues or that may give you a better chance next time?

If you have any more driving offences this will end your offence-free period and delay your ability to apply again.



Where can I get legal help?

LawAccess NSW

LawAccess NSW is a free information service run by Legal Aid NSW which provides legal information and referrals for people with a legal problem in NSW. Access the web chat service on the website or call **1300 888 529** (9am to 5pm, Monday to Friday (excluding public holidays)). www.legalaid.nsw.gov.au

Legal Aid NSW

Legal Aid NSW helps people with their legal problems. LawAccess NSW can refer you to our phone-based Legal Aid NSW Statewide Advice Team if you meet certain eligibility criteria – you can call them on **1300 888 529**.

Aboriginal Legal Service (NSW/ACT) (ALS)

If you are Aboriginal or Torres Strait Islander you can also contact the ALS for free legal advice. To find your closest ALS office call **1800 765 767** or visit www.alsnswact.org.au.



Where can I get more information?

- Transport for NSW can give you general information and help with how to get your driving record – call **13 22 13** or email: disqualificationremovalorders@transport.nsw.gov.au
- Service NSW – call **13 77 88** or visit www.service.nsw.gov.au for help on how to apply for your licence.
- Revenue NSW – call **1300 655 805** or visit www.nsw.gov.au/money-and-taxes/fines-and-fees for information about your fines

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.

The brochure is available in Arabic and Chinese (Sim).



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Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

Do you find it hard to hear or speak?



If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service NRS. Ask for LawAccess NSW on **1300 888 529**.