

Are you disqualified from driving?



You may be able to have your
disqualification periods removed

In October 2017 the NSW Government introduced new laws to reduce unauthorised driving and repeat driver offending.

Police have stronger powers to improve public and road safety. They can now take away someone's motor vehicle on-the-spot to keep repeat offenders and dangerous drivers off our roads.

The new laws also aim to reduce reoffending by introducing new ways for people to return to lawful driving. Some disqualified drivers will now be able to apply to the Local Court to have their disqualification periods removed from their driver licence. If this happens, they can then apply for a new licence.

This brochure has information about applying to have disqualification periods removed.

What should I do first?



Get a copy of your driving record

Get an up-to-date copy of your driving record from Roads and Maritime Services. You can get the application form called *Driving record application for disqualification removal order* at www.rms.nsw.gov.au/disqualification or at any Service NSW centre or Roads and Maritime Service registry.

Say you need it to work out if you can apply to remove your disqualification periods. Roads and Maritime Services will give it to you for free.



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
- 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 4 years or 2 years before the date you apply.

It will be **4 years** if you are disqualified from driving because of any of these offences:

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

It will be **2 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 this form:

- at any Local Court registry, or
- under 'Forms & fees' 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 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.



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 under *How does the court decide?*
- tell the court everything you want it to know about why your period of disqualification should be removed.
- 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?
- If it costs 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.





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 6 months.

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

Roads and Maritime Services 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, or may suspend any licence they give you, if you still have 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 **www.revenue.nsw.gov.au**

Legal Aid NSW can help you work out how to deal with fines. 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 **02 9219 5000** or visit **www.legalaid.nsw.gov.au/wdo**

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 6 months.

You cannot appeal the court's decision. But you can try again after 12 months, as long as you are still eligible—see *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

A telephone helpline that gives free legal information, referrals to other services and legal advice in some cases. Call **1300 888 529** or visit www.lawaccess.nsw.gov.au

Legal Aid NSW

You can get free legal advice, and in some cases, representation in court from Legal Aid NSW. To find your closest office call **1300 888 529** or look under 'Get legal help' at www.legalaid.nsw.gov.au

Aboriginal Legal Service (NSW/ACT) Ltd (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?



- Roads and Maritime Services can give you general information and help with how to get your driving record—02 6640 2821.
- Service NSW—13 77 88 or www.service.nsw.gov.au for help on how to apply for your licence.
- Revenue NSW—1300 655 805 or www.revenue.nsw.gov.au 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**.

© Legal Aid NSW 2017

Order brochures online at **www.legalaid.nsw.gov.au/publications** or email: **publications@legalaid.nsw.gov.au**.

This brochure is also available in Arabic, Dari/Farsi and Simplified Chinese.

For more information about Legal Aid NSW Services:



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.



If you find it hard to hear or speak, call the National Relay Service (NRS) on **133 677** and ask for LawAccess or visit **www.relayservice.gov.au**

Legal Aid
NEW SOUTH WALES

