

Legal Torque

Limited licences

- Catherine Bormans -

We often receive queries from people about obtaining a work licence to enable them to drive while they are disqualified.

Some people refer to these licences as “work licences” or “special licences”. They are referred to as “limited licences” in legal terms.

Whatever you call them, they are a particular type of licence given to someone who is disqualified or suspended from driving. The limited licence enables them to drive a particular vehicle or vehicles on particular days and times, within a particular area and usually for the purposes of their employment only.

Loss of Licence

A person may lose their licence in a number of ways. The most common cause for being disqualified that we come across is where a person is disqualified after being convicted of driving with an excess breath or blood alcohol level.

Other charges which may result in a disqualification include careless driving causing injury or death and dangerous driving.

Additionally, if a person incurs more than 100 demerit points within a period of two years then that person’s driver’s licence is suspended for three months.

Certain infringement tickets attract demerit points. For instance, following another vehicle too closely or passing on a no passing line will incur not only a fine but demerit points as well. There are also some minor traffic offences such as careless driving which attract demerit points.

If a person exceeds more than 100 demerit points in two years then they will be served with a notice of suspension which suspends their licence for three months commencing from when they are served with the notice.

A person will often be aware in advance that they are about to lose their licence as a result of demerit points. It is often possible for us, if we are contacted in advance of the person receiving their suspension notice, to prepare and arrange to have the limited licence ready to ‘kick in’ as soon as the person’s licence is formally suspended.

We can often arrange for the suspension notice to be served on the person on the morning that they are in court arranging their limited licence. In this way, they can avoid any practical effect of the suspension of their driver’s licence.

Jurisdiction

In order to apply for a limited licence, a person must first establish whether they are eligible to apply for one. Limited licences are available only for disqualifications arising out of certain types of offences. Also, if the person has certain previous convictions they may be ineligible to apply. So the first thing to check is whether there is jurisdiction to apply for a limited licence in the first place.

Grounds to apply

Assuming that there is jurisdiction to make the application for a limited licence, then the Court must be satisfied of certain criteria before they will grant a limited licence.

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Continued from page 1 ...

The Court must be satisfied that:

1. the disqualification or suspension will result in either extreme hardship to the person applying for the limited licence or undue hardship to somebody else; and
2. it would not be contrary to the interests of public safety for the person to be granted a limited licence.

Extreme or undue hardship

Often a person applying for a limited licence is a driver who drives to some extent for the purposes of their work. If driving is an integral part of a person's job then usually the Court is prepared to accept that that person will suffer extreme hardship if they are unable to drive and therefore unable to work.

It may be that a person's inability to drive will cause undue hardship to somebody else. For example, an employer may suffer hardship if an employee can't drive.

Sometimes the hardship is not employment related. A person's family will often suffer hardship if one of the family members cannot drive, so a limited licence may be granted, for example, to enable a person to drive children to and from school. It is up to the Court to decide whether in the particular circumstances there is sufficient hardship to warrant the granting of a limited licence.

Public safety

The Court must also be satisfied that the issuing of a limited licence is not contrary to the interests of public safety. In this regard the Court will look carefully at the person's previous record. If the person has a number of previous convictions for drink driving offences or driving fault offences then that may influence the Court not to grant a limited licence.

The Court also has regard to the circumstances of the offence which resulted in the disqualification. The more serious the offence that caused the disqualification, the

less likely it is that a limited licence will be granted.

The limited licence

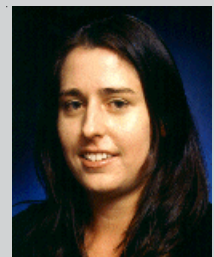
The application for a limited licence must specify the purpose for which the limited licence is issued, the vehicle or type of vehicle which may be driven, the days of the week and the times during which the person will be driving. Usually the application will also specify the area within which the person can drive.

Stand down period

There are a number of offences resulting in a disqualification where the person cannot apply for a limited licence until the expiry of 28 days. Some of the time a limited licence may be granted immediately upon the ordering of a disqualification but for certain offences there is a 28 day stand down period. Some of those offences where there is a 28 day stand down period include: careless use of a vehicle causing injury or death, reckless or dangerous driving, failing to stop after a non-injury accident, driving under the influence of alcohol or drugs and refusing to permit a blood specimen to be taken.

For logbook charges (driving contrary to the driving hours requirements, failing to produce a logbook or producing a logbook with omissions, etc) the 28 day stand down period applies. Often the disqualification on a logbook charge will be limited to just the minimum one month period. However if the disqualification imposed is for longer than one month, then the person can apply for a limited licence for the period of disqualification over one month.

For further information please contact **Catherine Bormans** on telephone **09 915 2412**, email **cmb@fmlaw.co.nz** or visit our website **www.fmlaw.co.nz**



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