



Has your licence been disqualified for more than two years?

A guide to help you apply to remove your licence disqualification

Contents

- 2 How can this guide help me?
- 3 Do I need to get legal advice?
- 4 Applying to remove a disqualification period of more than two years
- 8 How to apply to a Magistrates Court
- 11 How to prepare your affidavit
- 13 Things to consider before your hearing
- 15 What to do in court
- 18 Can I apply to the Department of Transport and Main Roads to remove the disqualification?
- 21 Getting back on the road
- 23 Applying to a District or Supreme Court
- 25 Sample documents and forms
- 32 Legal words and terms explained

Disclaimer

This guide is intended to provide you with information only. If you have a legal problem, you should get legal advice from a lawyer. Legal Aid Queensland believes the information provided is accurate as at July 2017 and does not accept responsibility for any errors or omissions.

We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you would like this publication explained in your language, please telephone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. This is a free service.



How can this guide help me?

This guide can help you if:

- you have been disqualified from holding or obtaining a driver licence absolutely or for a period greater than two years, and
- you have already served at least two years of the disqualification period, and
- your disqualification was imposed in Queensland, and
- you want to apply to get your driver licence back.

This guide provides information on where to apply to get your licence back (court or the Department of Transport and Main Roads) and how to complete the relevant application forms. If you need to go to court to get your driver licence back, this guide provides information on how to prepare for court and what to expect when you go to court.

Do not use this guide if:

- you were disqualified from holding or obtaining a driver licence for a period of two years or less, or
- your disqualification was imposed outside of Queensland. If this has occurred, please contact the Legal Aid office in the location where your disqualification was imposed for information and advice on how to get your driver licence back.

Do I need to get legal advice?

You should seek legal advice before filing your request to remove your licence disqualification in the court.

Contact Legal Aid Queensland

Legal Aid Queensland provides free legal advice, and you can call us on 1300 65 11 88 for the cost of a local call. If it is appropriate in your circumstances, a customer service officer will give you legal information and make a booking for you to talk with one of our Legal Aid lawyers. You can talk with the lawyer over the phone or visit one of our offices and talk with them face-to-face.

Contact a private lawyer

You may have your own lawyer, but if not, you can find one by:

- looking in the phone book
- calling the Queensland Law Society's private lawyer referral line on (07) 3842 5842
- visiting the Queensland Law Society's website www.qls.com.au

Contact your local community legal centre

Community legal centres provide free legal help. They can usually only provide legal advice. To find out where your closest centre is, call Legal Aid Queensland on 1300 65 11 88.

Applying to remove a disqualification period of more than two years

When am I disqualified?

If you are convicted of drink or drug driving, dangerous driving, or driving while disqualified by a court, then the court must cancel your licence and make an order disqualifying you from holding or obtaining a driver licence for a stated period.

Your driver licence is cancelled from the day you are disqualified by the court and you cannot drive any motor vehicle during this period. If this has happened to you, it means you have been ‘disqualified’ from driving.

The disqualification period may be for a few months or for a period of more than two years – depending on the circumstances of the offence. The court takes into account the seriousness of the offence and your traffic history when deciding how long to disqualify you for.

If you are convicted of driving a motor vehicle while disqualified, then a court must disqualify you for a period of at least two years but no more than five years. You cannot apply for or obtain a driver licence until each disqualification period has ended, or a court removes each disqualification beforehand. You cannot apply to a court to remove the disqualification until you have served at least two years of your disqualification period.

You may be disqualified as a result of other offences involving the driving of a motor vehicle, but drink or drug driving, or driving while already disqualified are the most common reasons.

Who can apply?

Section 131(2) of the *Transport Operations (Road Use Management) Act 1995* allows a person who has been disqualified from holding or obtaining a driver licence for a period of more than two years to apply to a court for the removal of the disqualification.

Where do I apply in Queensland?

| If | The application must be made to |
|---|--|
| The disqualification order was made by a Magistrates Court | The Magistrates Court in the area you live |
| The disqualification order was made by a judge of the District Court or Supreme Court | The District Court or Supreme Court for the area in which you live |
| You now live outside Queensland | The Magistrates Court in Brisbane |

If you have been disqualified both in the Magistrates Court and in the District or Supreme Court, then you must make separate applications to the courts for removal of the disqualifications. You are not allowed to apply for a driver licence until all of your disqualifications are removed or the disqualification periods have ended.

When can I apply?

You may apply for removal of a disqualification any time after two years have passed since the date of the particular disqualification order.

Remember, if your application is refused, a further application cannot be made until 12 months after the date of the refusal. That is why it is important to make an accurate assessment of your chances of success before applying for removal of the disqualification.

If you have a bad traffic history or have been previously disqualified for a number of periods of more than two years and you have served at least two years of the latest disqualification period, then you should think about waiting a bit longer than the two years to improve your chance of success.

This is important when, for example, you have been imprisoned for part of the two years since the disqualification, or have had further traffic offences since the disqualification that you want to have removed. In these circumstances, it may be better to wait two years after being released from prison or after driving while disqualified. The court looks at any offences that you have committed since the disqualification. If you have committed any criminal or traffic offences since the disqualification then seek legal advice before filing your application.

If you have had two or more cumulative disqualifications (are to be served one after another) that are still current, then you should get legal advice.

Make sure you carefully prepare all the information you need to present to the court.

What if I received my disqualification outside of Queensland?

If you have been disqualified from holding or obtaining a driver licence outside of Queensland, then you need to seek advice from a lawyer in the location where your disqualification was imposed to find out whether you can apply to have your disqualification removed. You cannot have it removed by a Queensland court.

If you have been disqualified outside Queensland from holding or obtaining a driver licence, then it is an offence to apply for or obtain a Queensland driver licence without first having each of those other disqualifications removed.

Remember, this guide relates to Queensland and cannot be used for removing disqualifications outside Queensland.



How to apply to a Magistrates Court

Step 1: Get a copy of your traffic history

Fill in the *Release of Information Application* form (F2121). The identifying number can be found in the bottom right hand corner of the form. You can obtain the form at a Department of Transport and Main Roads Customer Service Centre or download it from the Department of Transport and Main Roads website www.tmr.qld.gov.au

Take the completed form to a customer service centre to get a copy of your traffic history. You will be able to find the address of the nearest centre to you by looking on the Department of Transport and Main Roads website. You can telephone 13 23 80 to find out what the current fee is to get a copy of your traffic history. If there is not a centre near you, then you can post the completed form together with the necessary fee to:

Customer Service Support
Department of Transport and Main Roads
GPO Box 2451
Brisbane QLD 4001

Step 2: Get a copy of your criminal history

If you have been convicted of criminal offences, then you must apply in person to your local police station to get a copy of your criminal history. Your criminal history is a record of all your criminal convictions. If you are not sure whether you have criminal convictions, then ask for your criminal history.

You must apply in person at your local police station to get a *National Police Certificate on name only* (QP349c) or *Copy of Own Criminal History* form (QP349a).

To find out what the current fee is to get a copy of your criminal history, telephone the Queensland Police Service on (07) 3364 6854 or visit their website www.police.qld.gov.au

Step 3: Check your details

Check your traffic and criminal histories carefully to make sure they are correct. You should also make sure that two years have passed since the date of your disqualification. If not, then you should wait until the two years are up, before making an application.

Step 4: File an Application for Removal of Disqualification form

Get an *Application for Removal of Disqualification of Driver Licence* form from the Magistrates Court (see sample on page 26). Complete the form and make two copies of it. Make sure you list all your disqualifications on the form.

When you have completed the form, give the original and copies to the court. You will need to pay a filing fee to the Magistrates Court. Check with the court to find out the current filing fee.

The court keeps the original of the form, one copy goes to the police and the other one is returned to you when a date has been set for the hearing. In some Magistrates Courts in Queensland you may have to serve (deliver) the copy to the police prosecutor yourself – the court staff will usually tell you when you file the form.

Applications for removal of licence disqualification are usually heard in court about six to eight weeks after the application is filed.

When the police receive your application they may ask you, your employer, neighbours, family and friends whether there is evidence that you have driven a motor vehicle since being disqualified. They may also ask about your general behaviour.

Even though you have applied for removal of your disqualification, you must not drive a motor vehicle at this time. If you are convicted of driving at this time you will be further disqualified from holding or obtaining a driver licence.

Step 5: Get evidence to support your application

If your Probation Order contains a condition to undertake a driving-related rehabilitation program, and you have successfully completed the program, obtain a copy of the completion certificate to support your application. In circumstances where you have attended intervention to change your driving behaviour and/or address substance abuse, consider asking your treating practitioner to provide confirmation of your attendance and progress. You may also consider getting character references to further support your application.

Evidence supporting your application needs to be given at the hearing. You need to prepare an affidavit like the one on pages 27–29, but do not file it before you go to court. An affidavit is a written statement you make under oath (you promise to tell the truth) with your signature witnessed by a Justice of the Peace. You can download an affidavit form from the Queensland Courts website www.courts.qld.gov.au

How to prepare your affidavit

Your affidavit should include:

- your age, marital status and occupation
- the work you do and how long you have had your job
- Your average weekly income (after tax) and any extra income received
- whether you have a family to support, how many children you have and how old they are
- whether your spouse works and how much they earn per week
- full details of your work history
- details of the circumstances which led to the offence(s) which resulted in disqualification
- the nature of the offence(s) which led to the disqualification
- your behaviour after the offence(s) and any criminal behaviour since the disqualification
- whether you need a driver licence to earn a living or get to and from work
- difficulties experienced because you do not have a licence
- your attitude towards holding a licence, including a statement, if it is true, that you realise holding a driver licence is a privilege and not a right
- your statement, if it is true, that you have not driven a motor vehicle in Queensland since you were disqualified from driving
- your statement, if it is true, that you have not been disqualified from holding or obtaining a driver licence outside Queensland during the last two years
- your statement, if it is true, that you have a current disqualification from holding or obtaining a driver licence outside Queensland, and
 - (a) that you have not driven in Queensland on a licence issued since the disqualification(s), and
 - (b) the steps you will take to remove the disqualification(s) before obtaining a licence to drive in Queensland
- your reasons for needing a driver licence

-
- any changes in behaviour or lifestyle which indicate you are less likely to commit further offences and details of any courses or counselling you have undertaken to change your behaviour
 - any other relevant circumstances.

If you need to attach a document to your affidavit (eg your traffic history or criminal history), this document is called an ‘exhibit’. You need to put or attach a certificate of exhibit on the document. A certificate of exhibit is a statement that confirms the document is the true copy of the document referred to in the affidavit. This certificate of exhibit will need to be signed by the Justice of the Peace who witnesses your affidavit. You can download a certificate of exhibit from the Queensland Courts website www.courts.qld.gov.au. See the sample *Certificate of exhibit attaching a traffic history* on page 30.



Things to consider before your hearing

Going to court checklist

Before you go to court for your hearing, make sure you have not forgotten anything. Use the following list to check you have remembered everything.

- I have thought about my case carefully and think I have a reasonable chance of success.
- I have copies of my traffic and criminal histories.
- I have checked my traffic and criminal histories to make sure they are correct.
- I have made three copies of the *Application for Removal of Disqualification* form.
- I have filed the *Application for Removal of Disqualification* form in the Magistrates Court.
- I have asked for an affidavit from my probation officer and affidavits or references in support my application, as described above, if appropriate.
- I have done something about the disqualifications imposed on me outside Queensland, if applicable.
- I have prepared an affidavit.
- I know the date, time and place of my hearing.

Going to court

- 1 On the date of the hearing, dress neatly and get to court early to work out which court room you need to go to. **DO NOT BE LATE.**
- 2 Give your name to the court clerk or police prosecutor. Tell them that you are applying for removal of a disqualification and that you are representing yourself.
- 3 You should have with you the original and two copies of the affidavit, signed and witnessed by a Justice of the Peace. The original is for the court, the first copy is for the prosecutor and the second copy is yours.
- 4 Before the court proceedings begin, you should give the prosecutor a copy of the affidavit.
- 5 Ask the prosecutor whether your application is opposed and, if so, why.
- 6 You should ask to see the prosecutor's copy of your traffic and criminal histories to check that they are the same as the ones you have – check whether the prosecutor's copy contains convictions that you don't know about.



What to do in court

Addressing the magistrate or judge

Address the magistrate or judge as ‘Your Honour’. Always stand and face the magistrate/judge when speaking or being spoken to. Speak slowly, clearly and loudly—courts can be noisy places.

You will be referred to as the ‘applicant’. Your name will usually be called by the prosecutor. You should show the magistrate/judge that you are there by walking up to the table in front of the magistrate/judge. Do not be shy and do not hesitate. The magistrate will take into account that you are inexperienced.

What the magistrate or judge will ask

When the magistrate/judge is ready to begin hearing your application, they will ask about your application. You usually have to go into the witness stand with the original affidavit and your copy and ask the magistrate/judge if you can present the affidavit as evidence instead of telling the court your evidence.

Although there is no rule saying that you must provide an affidavit, most magistrates/judges prefer the evidence to be given by affidavit. The prosecution does not usually object to an affidavit being presented as evidence unless it contains something they think is not really evidence. If you do not use an affidavit, then you will have to stand up in court and tell the magistrate/judge your evidence.

When you present your affidavit as evidence you must take an oath (promise) to tell the truth and then state that the affidavit is still true.

What the prosecutor might ask

Even when the prosecution does not oppose your application, you will probably be cross-examined. The prosecutor usually asks questions about:

- the circumstances surrounding the offence which led to the disqualification – such as accidents, why you drove etc
- the patterns of behaviour that led to you committing the offence – such as drinking or drug taking habits, and
- what assurance you can give the court that you will not drink or drug drive or do the things that led to the disqualification again.

What to say to the court

After you have finished giving evidence, the magistrate/judge may ask if you wish to say anything more in support of your application. If there is something you want to emphasise, then you should say so now, for example, that the application is not opposed (if this is the case) and that your behaviour since the date of the disqualification has been good.

Any letter offering you employment and character and employer references should be presented to the court. The prosecutor will be asked if they want to say anything about your application. The magistrate/judge will then decide whether or not to grant your application to have your disqualification removed.

The decision

If your application is granted, then the removal of your disqualification usually happens on the date it is granted. However, the court may grant the application but then decide to delay the operation of the order for a period of time.

Just because the disqualification is removed, it does not mean you can drive straight away. You must not drive until you have been granted a driver licence.

If you also have been disqualified a number of times in Queensland or in another place from holding a driver licence for a period greater than two years, then you must make separate applications to the courts for removal of those disqualifications. You are not allowed to apply for a driver licence until all of your disqualifications are removed or the disqualification periods have ended.

Before you leave the Magistrates/District/Supreme Court, make sure you get a copy of the order from the court clerk. You will need to produce it when you apply for your driver licence at a Department of Transport and Main Roads Customer Service Centre.

Remember, if the court refuses your application you cannot make another application for at least 12 months after the refusal.

Can I apply to the Department of Transport and Main Roads to remove the disqualification?

If you were absolutely disqualified from driving before 13 March 2002 for unlicensed driving, you may apply to the Department of Transport and Main Roads to remove the disqualification. This is instead of applying to the court.

Am I eligible?

You are eligible to apply to the department to have the absolute disqualification removed if:

- you were disqualified absolutely from holding or obtaining a driver licence for the offence of unlicensed or disqualified driving before 13 March 2002
- when you were disqualified, you were not convicted and disqualified absolutely for any other offence at the same time
- you have not applied to the court or department to remove the disqualification in the last 12 months.

If you were absolutely disqualified from driving on or after 13 March 2002, or if you do not meet any of the other requirements, you are not eligible to apply to the department to remove the disqualification. However, you may apply to the court to remove your absolute disqualification.

For example. Jane Doe was caught driving without a driver licence on 1 January 2002. She was not charged with any other offence at the same time. Jane now wants to have the disqualification removed. She is eligible to apply to the department to have the disqualification removed.

What steps do I take if I am eligible?

Step 1.

Complete a *Removal of Absolute Disqualification for Unlicensed Driving Application* form (QF 4252).

This form is available on the Department of Transport and Main Roads website www.tmr.qld.gov.au or at any of the department's customer service centres.

Step 2.

Once you have filled out the form, you must send it to:

Charleville Customer Service Centre
Department of Transport and Main Roads
PO Box 240
Charleville QLD 4470

Make sure to keep a photocopy of the completed form for your records.

What happens next?

The department will consider your application. When looking at removing the disqualification, the department might take into account:

- whether you gained any demerit points in the two years immediately before you applied
- whether you have been disqualified from holding or obtaining a driver licence anywhere else in Australia since your Queensland licence disqualification.

The department may decide to:

- remove the disqualification from a particular date
- refuse to remove the disqualification.

The department will write to you with their decision within 30 days from when you applied. The department will give reasons if your application is refused.

What if the department refuses to remove the disqualification?

In this case, you must wait at least one year before either re-applying to the department or court to remove the disqualification.

Getting back on the road

How do I apply for a driver licence?

You can apply for a driver licence at any Department of Transport and Main Roads Customer Service Centre. Remember, you must not drive until you have been granted a driver licence. This means you must not drive to a customer service centre to apply for your driver licence.

At the customer service centre, you must tell the issuing officer that a court has ordered your disqualification to be removed and that you now want to apply for a driver licence. The officer will tell you whether you need to apply for a learner licence or a provisional licence and whether you need to pass a written test and/or a practical driving test. The type of licence you are eligible to apply for and whether you will be required to take a test depends upon how long you have been disqualified from holding a licence and the type of licence you held before you were disqualified.

If you are granted a provisional licence rather than a learner's licence without being required to pass a driving test, it will only be for the class of vehicle for which you previously held a licence. If you want to drive a new class of vehicle, you will have to apply for a learner licence for that class of vehicle.

When making your application, you must:

- complete an application form
- bring proof of identity
- bring proof of Queensland residence.

Sample proof of identification:

- Australian birth certificate
- Australian or foreign passport
- Queensland 18+ card
- Medicare card

Sample proof of Queensland residence:

- ATO tax file number confirmation
- Bank statement
- Queensland local government rates notice

You also may need to pass an eyesight test.

If you believe that the Department of Transport and Main Roads has incorrectly assessed your eligibility for a particular class of licence, or you have a special need for a licence, seek legal advice as to what if any options that you may have.



Applying to a District or Supreme Court

How do I apply to the court to get my licence back?

If the disqualification you want to remove was made by a District or Supreme Court judge, you must take the following steps:

Step 1. File an originating application

You must file an *Originating Application* (Uniform Civil Procedure Rules Form 5) in the District or Supreme Court registry (see sample on page 31).

Check your records to see which court disqualified your licence and file the form in the court that disqualified your licence.

You can download an originating application from the Queensland Courts website www.courts.qld.gov.au. The form is identical whether you are applying in the District or Supreme Court except for the heading, which you will change depending on the court to which you are applying.

Step 2. Pay the filing fee at the relevant court

You will need to pay a filing fee to the District or Supreme Court when you apply to get your licence back. Check with the court to find out the current filing fee.

If you are experiencing financial hardship, you may want to ask the court to waive the filing fee. You will find the necessary information on the Queensland Courts website under “Representing yourself in court”. Alternatively, ask at the court registry.

Step 3. File a supporting affidavit

You must then file a supporting affidavit with the court. This should include the same type of information as is in the sample Magistrates Court affidavit (see pages 27–29) but your affidavit needs to follow the appropriate District or Supreme Court heading and format. The affidavit needs to be in the format of a form 46 of the Uniform Civil Procedure Rules forms on the Queensland Courts website. You can download the affidavit from the Queensland Courts website or obtain a copy from the court registry. The affidavit is filed on the actual date of the application.

You need to attach a copy of the sentencing remarks made by the judge when he/she imposed the disqualification/s you are applying to have removed. You need to apply to Auscript (www.auscript.com or phone 1800 287 274) for a copy of the court transcript.

The application is not heard in court, but by the judge in their chambers.



Sample documents and forms

Sample 1 – Application for Removal of Disqualification of Driver Licence

Sample 2 – Affidavit – Magistrates Court of Queensland

Sample 3 – Certificate of Exhibit

Sample 4 – Originating Application

Sample 1 – Application for Removal of Disqualification of Driver Licence

APPLICATION FOR REMOVAL OF DISQUALIFICATION OF DRIVER LICENCE TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995 SECTION 131(2)

FAMILY NAME BLOGGS
GIVEN NAMES JOE THOMAS
DATE OF BIRTH 19/06/1987
ADDRESS 8 Anne Street, Carina Qld

On the following dates I was convicted and disqualified from holding or obtaining a drivers licence for a period in excess of 2 years:

| DATE | COURT | OFFENCE | PERIOD OF DISQUALIFICATION |
|------------|----------------------------|---|----------------------------|
| 16/10/2008 | Brisbane Magistrates Court | Driving whilst disqualified | 5 years |
| As above | As above | Dangerous Operation of a Motor Vehicle whilst adversely affected by an intoxicating substance | 3 years |
| | | | |
| | | | |

I now wish to make this application under Section 131(2) of the *Transport Operations (Road Use Management) Act 1995* to have the above disqualifications removed.

I have not made an application under this section in the previous 12 months.

_____ Date: _____
 (Signature)

NOTICE OF DATE OF HEARING FOR THIS APPLICATION

This application has been set for hearing in court no. 38, Level 5, 363 George Street, Brisbane Magistrates Court at 2.15pm on _____ day of _____ 2012

Clerk of the court _____ Date of Receipt _____

NOTE: This application should be filed in triplicate with the court in the district in which the applicant resides, unless residing outside of Queensland, then application must be filed in Brisbane Magistrates Court. Notice of this application must be given to the police at least 28 days prior to the hearing date.

Sample 2 – Affidavit – Magistrates Court of Queensland

In the Magistrates Court of Queensland held at Brisbane

In the matter of section 131 (2) of the
Transport Operations (Road Use management) Act 1995
in the matter of an application by
JOE THOMAS BLOGGS

AFFIDAVIT OF JOE THOMAS BLOGGS

I, Joe Thomas **BLOGGS** of 8 Anne Street, Carina in the State of Queensland, kitchen-hand, being duly sworn, make oath and say as follows:

- 1 I am the applicant in an application to the Brisbane Magistrates Court seeking the removal of orders made against me in the Brisbane Magistrates Court on 16 October 2008 where I was disqualified for a total period of four years from holding or obtaining a driver licence.
- 2 I was born on 19 May 1987 in Auckland, New Zealand. I am 24 years old.
- 3 I have been living in a stable de facto relationship for three years with **JESSICA DOE** and have been helping her raise her daughter. Jessica's daughter is five years old.
- 4 Jessica does not work. I provide the only income for the family apart from her Centrelink payments.
- 5 I completed Grade 10 of my high school education and I have since held various positions in factory work and casual labouring.
- 6 In December 2010 I successfully completed a Certificate I in Construction- Bricklaying (pre apprenticeship) at the Queensland Institute of TAFE. A true copy of my certificate is attached marked "A".
- 7 I recently obtained a position as a kitchen-hand at the local Leagues Club at 1390 Creek Road, Carina. I am currently on probation and I am rostered to work 20 hours a week, however I would like to find full-time employment.
- 8 I would like to work as an apprentice bricklayer, however this job requires a licence because I need to travel to construction sites and carry tools. If I had a driver licence my chances of advancing my employment prospects would greatly improve.

Sheet 1

Deponent

Barrister/Solicitor/JP/C Dec

Sample 2 – Affidavit – Magistrates Court of Queensland continued

- 9 On 16 May 2008, I was driving my ute along Milton Road at Auchenflower when I was stopped by the police and was charged with dangerous operation of a motor vehicle while affected by an intoxicating substance I was also charged with driving while disqualified. On 16 October 2008, I was disqualified from holding and obtaining a driver licence for a total of four years.
- 10 At the time of these offences I was distressed after my parents had separated. I had financial difficulties because I was unemployed and had to then move out of home. I began taking drugs and drinking heavily. It was under these circumstances that the offence was committed.
- 11 When I was convicted a probation order for 18 months was made, with an order that I perform 100 hours of community service, which I successfully completed. The community service work involved removing graffiti from areas in Brisbane.
- 12 While completing the community service ordered by the court, I voluntarily attended Alcoholics Anonymous and Narcotics Anonymous meetings. I also attended regular counselling sessions to deal with my parents' separation. I have been sober and drug free since June 2009. As a result of my sobriety, I received a certificate from Alcoholics Anonymous. A true copy of the certificate received from Alcoholics Anonymous is attached marked "B".
- 13 I now help others with their addictions and try to educate the community through a Salvation Army outreach program. As a result of my voluntary work, I have received a commendation from the Salvation Army. A true copy of the certificate of commendation is attached marked "C".
- 14 Over the past three and a half years, I have had time to reflect on my conduct and I understand I must not drive under the influence of alcohol or drugs. I recognise I have a problem with these substances. I accept holding a driver licence is a privilege and not a right. By choosing to drive under the influence, I placed not only my life in danger, but also the safety of everybody else.
- 15 In 2004 I received a speeding ticket. At the time, I was rushing to the hospital to witness my niece's birth. I overlooked payment of the fine and my driver licence was suspended by SPER. I did not pay adequate attention to my mail and somehow missed the notice of intention to suspend my driver licence which SPER posted to me. I was detected driving by a police officer and charged with driving unlicensed, while SPER suspended. I was fined and disqualified for a period of one month.

Sheet 2

Deponent

Barrister/Solicitor/JP/C Dec

- 16 I drove during the period that I was disqualified by the court. At the time, I committed the offence, I was driving to the shops to get food because I had none in the house. I was also intending to buy and deliver some groceries to my sister for her and the baby. My sister was unwell at the time and her husband was away working. I had arranged with a friend to drive me, but my friend did not turn up. In March 2005, I was convicted of driving while disqualified and fined and disqualified from holding or obtaining a driver licence for 2 years.
- 17 I had a previous driving under the influence charge with a blood alcohol content of 0.16 percent. I was disqualified from holding or obtaining a driver licence for 10 months on 23 July 2007. It was one week prior to the expiration of the disqualification that I was charged with the offences for which I am currently disqualified.
- 18 I have not driven a motor vehicle since my driver licence was disqualified and I have not been charged with any other offences. Attached and marked with the letter "D" are copies of my traffic history and criminal history.
- 19 Having a licence is essential to my search for employment as a bricklayer. As an apprentice I would need to travel all over Brisbane. Because I do not hold a driver licence, employers are less likely to hire me. If I had a driver licence my chances of gaining full-time employment would improve.
- 20 I also want to better support my young family. Jessica does not drive and we live in an area with poor public transport. It is difficult for her to get to medical appointments and carry shopping home. If I had a driver licence I would be able to help her more.
- 21 A driver licence would allow me to continue to help others overcome their problems with alcohol and drugs. I want to become a trainee counsellor for the Salvation Army. I currently have to catch a bus and a train to attend my volunteer meetings. I often have to travel late at night and Jessica worries. I do not like to worry her, but I find this work very rewarding. If I had a driver licence I would be able to continue to volunteer and Jessica would be at ease.
- 22 It is for these reasons I request my driver licence be reinstated.

ALL the facts and circumstances herein deposed to are from my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

SWORN by Joe Thomas BLOGGS at Brisbane this day _____ of November 2011 before me

Deponent

Barrister/Solicitor/JP/C Dec

Sample 3 – Certificate of Exhibit

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: of 2011

Applicant: JOE THOMAS BLOGGS

This is exhibit “D” to the affidavit of Joe Thomas Bloggs sworn 2011.

Deponent

A Justice of the Peace/Solicitor

CERTIFICATE OF EXHIBIT
Filed on behalf of the Applicant

JOE THOMAS BLOGGS
8 Anne Street
Carina QLD 4152

Sample 4 – Originating Application

REGISTRY: Brisbane
NUMBER:

Applicant: Joe Thomas Bloggs
AND
Respondent: Commissioner of Police

ORIGINATING APPLICATION

To the respondent:

TAKE NOTICE that the applicant is applying to the court for the following orders:

- 1 That the Order made by this Honourable court on 16 October 2008 absolutely disqualifying the Applicant's motor vehicle driver licence be removed pursuant to s131(2C) of the *Transport Operations (Road Management) Act 1995*.
- 2 That this Honourable court make such other orders as it deems meet.

This application will be heard by Judge _____ at the District Court at
Brisbane on _____ at 9:30 am.

Filed in the Brisbane Registry on
Registrar: _____

ORIGINATING APPLICATION

Filed by the Applicant
Form 5 – Rule 26

Joe Thomas Bloggs
8 Anne Street
Carina Queensland 4054

Legal words and terms explained

Affidavit – a signed, written statement by a person involved in the case, stating what they know. It is sworn under oath.

Affirming – stating that what you say or write is the truth. It is used instead of ‘taking the oath’ if your religion does not allow you to take an oath or you do not have a religion.

Applicant – the person applying to the court to have their disqualification removed (you).

Conviction – this is where a person has been found guilty by a court of law of committing an offence and a record of their guilt has been recorded on their criminal or traffic history record.

Court clerk – the court officer who aids the magistrate in running the court.

Criminal history – a record of criminal offences for which a person has been convicted.

Cross-examination – when someone giving evidence in court is questioned about their evidence.

Deponent – the person who signs an affidavit.

Evidence – these are the facts that a court decides a case on. Evidence can be presented verbally to the court or in the form of an affidavit. Most of your evidence is presented in an affidavit when you apply to the court to remove a disqualification.

Filing – the process whereby documents are accepted by a court and often this is evidenced by the court stamping its seal on the filed document.

Justice of the Peace/Commissioner for Declarations – the person who must watch you sign your affidavit.

Magistrate – the magistrate is the person who will judge your case. They exercise control over the magistrates court and make all findings about law and fact.

Oath – ‘taking the oath’ means swearing on the Bible that you will tell or have told the truth. If you do not believe in the Bible you can affirm that the content of your affidavit is true.

Police prosecutor – the police officer who presents the evidence in court.

Tender – to present your affidavit to the court as evidence.

Traffic history – a written record of the motor vehicle offences committed by you.

Your notes

Your notes

Your local Legal Aid Queensland office

BRISBANE

44 Herschel Street
BRISBANE Q 4000

BUNDABERG

3rd Floor
WIN Tower
Cnr Quay & Barolin Streets
BUNDABERG Q 4670

CABOOLTURE

Ground Floor
Kingsgate
42 King Street
CABOOLTURE Q 4510

CAIRNS

Level 2
Cairns Square Complex
42-52 Abbott Street
CAIRNS Q 4870

INALA

Level 1
Inala Commonwealth Offices
20 Wirraway Parade
INALA Q 4077

IPSWICH

Level 7, 117 Brisbane Street
IPSWICH Q 4305

MACKAY

Ground Floor
17 Brisbane Street
MACKAY Q 4740

MAROOCHYDORE

Ground Floor
M1 Building
1 Duporth Avenue
MAROOCHYDORE Q 4558

MOUNT ISA

6 Miles Street
MOUNT ISA Q 4825

ROCKHAMPTON

Ground Floor
35 Fitzroy Street
ROCKHAMPTON Q 4700

SOUTHPORT

Level 2
7 Bay Street
SOUTHPORT Q 4215

TOOWOOMBA

1st Floor
154 Hume Street
TOOWOOMBA Q 4350

TOWNSVILLE

3rd Floor
Northtown
280 Flinders Street
TOWNSVILLE Q 4810

WOODRIDGE

1st Floor
Woodridge Place
Cnr Ewing Road & Carmody St
WOODRIDGE Q 4114

1300 65 11 88

www.legalaid.qld.gov.au

