

Sample 1 – Application for an order directing the issue of a restricted licence (s87)

Application for an Order directing the issue of a Restricted Licence (s87)

Transport Operations (Road Use Management) Act 1995



Queensland
Government

1. This form is to be used by you when you have been charged with a drink driving offence under s79 or s80(5A) of the Transport Operations (Road Use Management) Act 1995 (the Act) and you are eligible to apply to a court for an order directing that you be issued with a restricted licence.

You will need to complete this application before the court hearing and give the application to the Magistrate **immediately after** you have been found guilty and **before** the Magistrate disqualifies you from holding or obtaining a driver licence.

2. This form may also be used if you have paid the monetary penalty on a Drink Driving Infringement Notice issued under s81 of the Act and you are **eligible** to apply to a court for an order directing that you be issued with a restricted licence.

You will need to lodge this application with the Magistrates Court in the district where you reside prior to the expiry of the 28 day period commencing from the date of the issue of the infringement notice. You must promptly deliver a copy of this application to the Department of Transport and Main Roads.

Eligibility to apply for a restricted licence (please read carefully)

(1) You are **ONLY** eligible to apply if, when you committed the drink driving offence—

- (a) you were the holder of a Queensland (Qld) class C open licence and you were driving a class C motor vehicle (other than a moped), or
- (b) you were the holder of a Qld class RE open licence and you have held a class RE licence for at least 1 year in the last 5 years and you were riding a class RE motorbike; or
- (c) you were the holder of a Qld class R open licence and you were riding a class R motorbike.

(2) You are **NOT** eligible to apply if, within the last 5 years before making this application—

- (a) you have been previously convicted in Qld of a drink driving offence under the Act, s79 (drink or drug driving offence) or s80(5A) (fail to supply specimen of breath for a breath test);
- (b) you have been previously convicted Qld of a drink driving offence that would have been an offence under the Act, s72 or s80(5A), if it had been committed in Qld;
- (c) you have been previously convicted in Qld of an offence under the Criminal Code, s28A (dangerous driving of a vehicle);
- (d) you have had your provisional or open licence suspended or cancelled for any reason other than a suspension or cancellation mentioned in the note below in (2) (c);
- (e) you have been disqualified from holding or obtaining a Qld driver licence other than a disqualification mentioned in the following note.

Note: Your eligibility to apply for a restricted licence is not affected by a suspension, cancellation or disqualification:

- that was set aside on appeal;
- because of your mental or physical disability;
- because you did not pay a fine;
- because you failed to appear in court to answer a charge of drink or drug driving;
- that was a 24 hour suspension because of a drink or drug driving related matter.

(3) You are also **NOT** eligible to apply if, when you committed the drink driving offence—

- (a) you were the holder of a non-Qld driver licence;
- (b) you were the holder a Qld learner, provisional, probationary licence or not the holder of a licence;
- (c) you were learning to drive the next higher class of licence under the authority of your Qld open licence;
- (d) you were driving the vehicle under a s79E order or a Qld restricted licence issued to you under a court order;
- (e) you were not authorised under your Qld open licence to drive the motor vehicle (for example, you were riding a motorbike but you only held a class C licence);
- (f) you were using the motor vehicle in an activity directly connected with your means of earning a living;
- (g) you were driving a truck, tractor, specially constructed vehicle, bus (a motor vehicle built and fitted to carry more than 12 adults, including the driver), articulated motor vehicle, B-double, road train, taxi, limousine, tow truck, pilot or escort vehicle escorting an oversize vehicle, a vehicle carrying a placard load of dangerous goods or a vehicle used by a driver trainer to give driver training;
- (h) the concentration of alcohol in your blood or breath was equal to or more than 0.15.

(4) You are also **NOT** eligible to apply if, immediately prior to being convicted of the drink driving offence, you no longer hold a Qld open licence.

Applicant's personal details (please PRINT)

Family name

TRAN

Given name/s

BOSCA ALBERTO

Current residential address (number, street and suburb or town)

26 LITTLE STREET

BROWNS PLAINS

Postcode 4118

Date of birth

1 / 02 / 81

Your Qld open driver licence number

6 7 8 9 1 2 3 4

Licence class/es

C

Licence expiry date

1 / 09 / 2012

Occupation

LANDSCAPE GARDENER

Additional information

You must satisfy the court that you are a fit and proper person to hold a restricted licence, having regard to the safety of other road users and the public generally. You may be required to submit yourself as a witness to give evidence in respect of all matters relevant to this application and are liable to cross-examination with respect to the evidence.

Other persons may be called as witnesses to give evidence in respect to all matters relevant to this application and may be liable to cross-examination with respect to that evidence.

The court will not grant the application for an order directing the issue of a restricted licence to you unless you are able to satisfy the court that—

- (a) you are an appropriate person to hold a restricted licence, having regard to the safety of other road users and the public generally; and
- (b) a refusal to make the order would cause extreme hardship to you or your family by depriving you of your means of earning a living.

Applicant's declaration

I declare that by completing this application form I am eligible to make this application for an order directing that I be issued with a restricted licence.

The facts and circumstances I am relying on to satisfy the court that this application should be granted to me are as follows—

1. I am required to travel to various places to do my work and need a driver licence to drive a ute and carry bulky equipment.
2. This offence occurred on a Friday night when I was not working.

Note: If necessary, please provide additional information or supporting documents.

I declare that the information set out above is complete, true and correct.

Applicant's signature

B A Tran

Date

12 / 03 / 2012

Privacy Statement: The Department of Transport and Main Roads (the department) provides this form under the Transport Operations (Road Use Management) Act 1995 so that you may apply to a court for an order directing that you be issued with a restricted licence. The information collected on this form is accessible by authorised departmental persons and some of this information may be disclosed to the Queensland Police Service and interstate driver licensing authorities. The department will not disclose your personal details to any other third parties without your consent unless required by law.

SSA Multimedia Services Form F3181 V01 Jun 2010

Sample 2 – Applicant’s Affidavit

MAGISTRATES COURT OF QUEENSLAND

Registry: Brisbane
Number: M1234 of 2012

IN THE MATTER OF
section 87 of the Transport Operations
(Road Use Management) Act 1995

AFFIDAVIT OF BOSCA ALBERTO TRAN

BOSCA ALBERTO TRAN of 26 Little Street, Browns Plains in the State of Queensland, Landscape Gardener, states on oath:

1. I am the Applicant in this matter.
2. I am 31 years of age, married with 3 children that I support. My children are aged 11, 7 and 5.
3. My wife works one day per week at Cindy Kindy, Buranda and earns an average of about \$100 a week clear. She has tunnel vision and is not able to get a driver’s licence.
4. I am the holder of Queensland driver licence number 67891234 (Type O, Class C) which expires on 1 September 2012. Exhibit BAT1 is a copy of my licence.
5. I work as a landscape gardener for Beautiful Gardens, at 273 Logan Road, Buranda. I have been with that firm since I left school in 1998, and I’m now one of the most experienced employees.
6. Most of my work is not done at Buranda. My work entails looking after gardens that are already in existence and developing new gardens, including basic maintenance like lawn mowing, weeding, building retaining walls, rockeries, planting small and large plants etc. Beautiful Gardens has a number of regular clients as well as one-off jobs. As part of my daily duties, I am required to travel to the homes or business premises of these clients to do my work. I usually start the day at Buranda, drive one of the work trucks or utes to and from wherever I’m working on the day (as I need to take heavy equipment with me to and from the job site) and then come back to Buranda. Sometimes if the job goes for more than one day, to save time I take the work ute home and drive directly from my home to the work site the next day.

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Signed: _____ Taken by: _____

AFFIDAVIT OF BOSCA ALBERTO TRAN
Filed on behalf of the Applicant
Form 46 Rule 431

Bosca Alberto Tran
26 Little Street
BROWNS PLAINS QLD 4118
Tel: xxxx xxxx

Sample 2 – Applicant’s Affidavit continued

7. Sometimes other employees come with me from Buranda – it depends how big the job is and whether more than one person is needed. Often someone else drives as well and I am left to finish the job on my own.
8. My normal work hours are Mondays to Fridays from 6am to 3pm and on Saturdays from 6am to 11am. It is a condition of my employment that I am available to work at least one Sunday every two months from 6am to whenever the job finishes. I usually work every 4th Sunday. I rely on the extra money I get for this work.
9. I have spoken to my employer Roger Minty. Roger has said that if I don’t have a licence and can’t drive, even though he would like to keep me, he cannot provide another employee to drive me around to and from the various sites and therefore unfortunately there would not be a job for me at Beautiful Gardens.
10. I also need my licence to drive to and from work as there is no public transport that I could reasonably take to get to and from my work place at Buranda and my wife is unable to get a licence. Nor is there anyone else who could drive me to and from work and I cannot afford taxis. By car it usually takes me about an hour to drive to/from work at Buranda. As I mentioned, sometimes I take the work vehicle home from the site and drive back in it the next day. While there is a train station at Buranda, my work is about a 20 minute walk from that station. The nearest train station to me is not walking distance, and it doesn’t go through Buranda. I would need to catch a bus to the station, a train into the City and then a train back out. The trains and buses don’t start early enough for me to do this and be at work by 7am and certainly not at 6am. Nor could I carry the necessary equipment by public transport. It would also take me about 3 hours each way to catch public transport. My wife works at Buranda one day each week. She took the job there because I already worked at Buranda and could drive her to and from work. She would have the same problems catching public transport, so it would not be feasible for her to continue working. The \$100 she earns is necessary for us to keep to our commitments, with a small “safety net”.
11. So that I can do my job, I would need a licence to be able to leave home at about 4:45am and arrive home at about 5:30pm, earlier on Saturdays. I would also need a licence to be able to leave home at about 5am and arrive home at say 4pm on the Sundays that I work. I would need to be able to drive my car and the work vehicles.

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Signed:

Taken by:

Sample 2 – Applicant’s Affidavit continued

12. Four years ago my wife and I bought a house and we have a mortgage of \$100,000 owing. I am currently taking home about \$650 a week (excluding the money I get for when I work on Sundays) and my wife about \$100 per week. My wife also gets approximately \$150 a week family benefits from Centrelink.

My major weekly financial commitments are approximately as follows:

a) mortgage repayments	\$300.00
b) personal loan for car	\$100.00
c) petrol	\$ 50.00
d) electricity	\$ 50.00
e) telephone (incl mobiles)	\$ 20.00
f) food	\$250.00
Total	\$770.00

There are also other expenses such as doctors’ visits, medication, school expenses, clothing, registration, car repairs etc. We put aside as much as we can from the Centrelink benefits and my Sunday earnings to pay for these. It is still a pretty tight exercise.

13. Landscaping is the only work I know. I started doing it as a school based apprenticeship, and have been doing it ever since. I have worked very hard for Beautiful Gardens and I know that they would be happy to keep me on as long as I want to stay – provided I can do the job. Without a licence, I can’t do my job. While there are other jobs going in landscaping, all the ones I have seen advertised require a driver’s licence. There may be other jobs I could get, but I would earn a lot less as I don’t have experience in any other field. I need to earn at least what I’m getting now to be able to pay the mortgage. If we had to sell the house and rent, we would have to pay a lot more each week and we just couldn’t afford it.
14. I got caught for drink driving on the way home from a night out playing darts. I play darts once a week and I usually get a lift with Bob, another team member. On the evening in question Bob was sick so I drove. I was counting my drinks so that I would be ok to legally drive home. I arrived at about 7:30 and had three standard beers between 7:30 and 10:30 when the game finished. Our team won and the boys

Signed:

Taken by:

Sample 2 – Applicant’s Affidavit continued

persuaded me to stay after the game and have “one for the road”. Stupidly I agreed and had another drink – and then a couple more. My wife rang wondering where I was so without thinking further I quickly finished my drink and drove home. There was a “booze bus” on the way home and I was one of the drivers pulled over and tested. I was found to be over the limit.

15. I regret having driven while over the legal limit. Had I left when I had originally intended, I am sure I would have been under the limit, having carefully counted my alcohol consumption. And if I had considered things properly I would have left the car and not have driven. I would not intentionally endanger myself or other road users, and previously I have never knowingly driven a vehicle when over the legal limit.
16. I got my licence on the very first day I could when I was 17 and I have been driving for 14 years. In that time I have never intentionally and would never put any other person’s life or my own in danger. I am not a heavy drinker, and am often the “designated driver” at social functions due to my habit of drinking ginger ale or tea when I am out and intending to drive home. I do not have any previous convictions for drink driving and have a good traffic history (one speeding conviction for driving 10 kms over the speed limit when I was 25). Exhibit BT1 is a copy of my traffic history which I obtained from Department of Transport and Main Roads. Should the court grant my application I will ensure that I do not drive if I have recently consumed alcohol or have any suspicion that I could be anywhere near the limit.
17. If the court refuses my application for a restricted licence I would lose my job and my wife would have to resign. Any Centrelink benefits we would get would not be sufficient to pay our regular commitments, let alone any unexpected expenses, and I believe we would lose our house. This would cause extreme hardship for me and my family.
18. All the facts and circumstances above deposed to are within 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 Bosca Alberto Tran on the day of 2012, at in the presence of:

Deponent

A Justice of the Peace/Solicitor

Sample 3 – Employer’s Affidavit

MAGISTRATES COURT OF QUEENSLAND

Registry: Brisbane
Number: M1234 of 2012

IN THE MATTER OF
section 87 of the Transport Operations
(Road Use Management) Act 1995

AFFIDAVIT OF ROGER MINTY

ROGER MINTY of 78 Crescent Drive, Carina in the State of Queensland, Landscape Gardener, states on oath:

1. I am the owner of a small landscaping business trading as Beautiful Gardens. I employ six permanent employees and others on a casual basis as the need arises.
2. Bosca Alberto Tran is one of the six permanent employees. Bosca has worked for me for the past 12 years, starting while still at school in a school-based apprenticeship.
3. Beautiful Gardens is located at Buranda but most of the jobs Bosca does are at the homes or business premises of clients. He does both maintenance work on existing gardens and creation of new ones. As he is one of my most experienced employees, he often works alone from the beginning or stays behind to finish off after other employees have left. Depending on the job he is doing, he needs to take various tools and other equipment with him to the various sites where he works.
4. My business is not large enough to have the luxury of sending more than one employee to every job. Every employee, especially those who often work alone, has to be able to drive. Beautiful Gardens has five work vehicles which are in use daily by my employees. Sometimes they use their own vehicles and sometimes they take a work vehicle home.
5. I find Bosca to be a very reliable and responsible worker, and I would hate to lose him. However, unfortunately, if he has no licence he can't drive to the work sites and would not be able to do his work. I have no other work I can give him that doesn't require a licence, nor can I spare another employee to drive him around. If Bosca doesn't have a licence, unfortunately I would have to terminate his employment. I have several friends in this business looking for employees, but they all require those employees to have a licence for the same reasons.
6. All the facts and circumstances above deposed to are within 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 Roger Minty on the _____ day of 2012, at _____ in the presence of:

Deponent
AFFIDAVIT OF ROGER MINTY
Filed on behalf of the Applicant
Form 46 Rule 431

A Justice of the Peace/Solicitor
Bosca Alberto Tran
26 Little Street
BROWNS PLAINS QLD 4118
Tel: xxxx xxxx

Sample 4 – Letter to Police Prosecutions

The Officer-in-Charge
Police Prosecutions
240 Roma Street
BRISBANE QLD 4000
15 May 2010

Dear Officer

Re: Work Licence Application – Bosca Alberto Tran DOB 01.02.81

On 7 March 2012 I appeared in the Roma Street Magistrates Court on a drink driving charge. I told the magistrate I wanted to apply for a work licence and my application has been listed for 10 April 2012. On that date I intend to plead guilty to the drink driving charge and apply for the work licence.

I enclose a copy of each of the following:

1. my application for a work licence
2. my affidavit
3. the affidavit of my boss, Roger Minty.

Please confirm whether or not you require my employer Roger Minty in court on 10 April 2012. Roger is extremely busy and would prefer not to appear unless absolutely necessary. He is happy to speak with the Prosecutor on or before the court date or the court by telephone on the day if required.

Yours sincerely

B A Tran