



New Law Bulletin

A Review of the Changes to Driver Licencing Provisions

Our readers will be aware from our past blogs of a driver's ability to apply for a Special Hardship Order in certain circumstances.

As from the 1st of July 2015, the Queensland Government reviewed the provisions of and enacted Part 14 of the Transport Operations (Road Use Management/Driver Licencing) Regulation 2010.

We have reviewed these provisions and can say that although the changes substantially rework the earlier provisions of Part 6C, there is in effect no real change.

We have summarised this as follows:

- To apply for a Special Hardship Order, your licence must be suspended either because of high speed (more than 40km over the limit) – Section 79(9), or through the accumulation of excess demerit points whilst on a Good Behaviour Licence – Section 86(1).

It is still necessary to apply to the Court to obtain a Special Hardship Order.

You can only apply for a Special Hardship Order for the same class of licence as that suspended.

You cannot apply if within 5 years prior to your suspension your licence was suspended, cancelled, or disqualified in Queensland. However, this does not include suspensions which relate to "interim suspensions" if you are caught drink driving. Further, a suspension under SPER or one that was set aside by a review by QCAT is also excluded from the rule.

In order to apply, your Application must be made within 21 days of the suspension.

The relevant Court where the Application is to be made is Brisbane or the local Court in the district in which the person resides.

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The making of an Application still stays the suspension (i.e. you can continue to drive until the day before the Application is heard).

For the Court to determine the Application you must attend on the day. You are entitled to be represented by a lawyer.

The Court has to be satisfied that you are a “fit and proper person to continue to drive, having regard to your traffic history and the safety of other road users and the public generally, and refusal would cause extreme hardship by depriving you of the means of earning a living, or would cause severe and unusual hardship to you or your family.”

It is still necessary to have an Affidavit of yourself if you are self employed, and from your employer if you are employed.

If the Court, after hearing argument from you and from Queensland Transport (who are entitled to appear), is satisfied of these matters, they will grant you a restricted licence to drive your vehicle for restricted hours and for a restricted purpose. The Court can also impose conditions for example where your journey must start and end, and whether you can carry passengers or not. Unfortunately, if your Application to the Court is unsuccessful, you must serve out the balance of your suspension period from the time of the Court’s refusal.

It is important to note that a Special Hardship Order can only be applied for in certain circumstances.

Upon accumulation of 12 points if you are on an Open Licence, or more than 4 points if you are on a P Licence, you must be given a Notice to Choose by Queensland Transport. If you elect the Good Behaviour Licence for 1 year you cannot have more than 1 point accumulated during that time. If you do, then that is the only time that you can apply for a Special Hardship Order (unless your suspension relates to high speed).

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