

Applying for a Special Hardship Order



What is a special hardship order?

A special hardship order (SHO) is a court order that allows a driver with a suspended provisional or open licence to continue driving under restricted and specific conditions. It is different to a work licence, which is only available for those convicted of drink or drug driving offences. A special hardship order is issued under section 150(1A) of the Transport Operations (Road Use Management) Act 1995 (Qld).

Who is eligible for a SHO?

You can apply for a SHO if:

1. you hold a Qld provisional or open licence; and
2. this licence has been suspended because you either:
 - gained 2 or more demerit points while driving under a period of good driving behaviour for 1 year; or
 - committed a high-speed driving offence (more than 40km/h over the speed limit).

Note: A SHO is not available to those that hold a learner licence.

You must apply for a SHO after your suspension has commenced.

Who is NOT eligible for a SHO?

You cannot apply for a SHO if, within the 5 years before your licence was suspended:

- your Qld driver licence was cancelled or suspended, including if you were granted a SHO for this suspension;
- you were disqualified from holding or obtaining a Qld driver licence;
- your authority to drive in Qld on a non-Qld driver licence was suspended;
- you were made ineligible to apply for a Qld driver licence because you accumulated excessive demerit points, or were convicted of driving more than 40km/h over the speed limit, at a time when you were unlicensed; or
- you were convicted of operating a vehicle dangerously.

You may, however, still be eligible to apply for a SHO if you have received:

- a suspension for failing to appear in court to answer a drink or drug driving charge;
- an immediate licence suspension because of an alleged drink or drug driving offence;
- a 24 hr suspension because of a matter related to drink or drug driving;
- a suspension or cancellation set aside on review by the Department of Transport and Main Roads (TMR)
- A suspension or cancellation because of mental or physical incapacity;
- A suspension imposed by the State Penalty Enforcement Registry; or
- A suspension/ cancellation set aside on review by the Queensland Civil and Administrative Tribunal.

What are the criteria for a SHO ?

A court may grant you a SHO if it is satisfied that:

1. When the order is made, you hold a provisional or open licence that would be valid but for the suspension to which the SHO relates;
2. You are a fit and proper person to continue to drive, having regard for the safety of other road users; and
3. Refusal to grant the SHO would cause-

- Extreme hardship to you or your family by depriving you of your means of earning a living; or
- Severe and unusual hardship to you or your family, other than by depriving you of your means of earning a living.

How do I apply for a SHO?

To apply for a SHO, you must:

1. Complete a Special Hardship Order Application, available from your local Magistrates Court or TMR customer service centre
2. Prepare your supporting evidence, which may include:
 - your affidavit;
 - if you need a SHO to keep your job, an affidavit by your employer, unless you are self employed;
 - a statutory declaration or other documents that explain why you need an order for study, health or another special reason;
 - your traffic history
 - your criminal history, if any.

Note: Affidavits and statutory declarations are available at all Australian Post offices. Your traffic history can be requested through a TMR customer service centre or online at www.tmr.qld.gov.au, and your criminal history through our local police station. Both requests require you to pay a request fee.

3. Lodge the application and supporting evidence and your Notice of Driver Licence Suspension with your local Magistrates Court after your suspension has started; and

Note: You must make three copies of all documents. All copies will be stamped, and the registry will retain one copy. You will also be required to pay a lodging fee. At this time, the registry will also give you a hearing date.

4. Once accepted and stamped by the court, give a copy of the documents to TMR as soon as possible, and at least 7 days before your court hearing date.

After TMR receives your application, your licence suspension will be lifted until the day BEFORE the court hearing.

It is important your application is lodged with the Magistrates Court before it is lodged with TMR. You must also provide your affidavit and supporting evidence to TMR at least 7 days before your court hearing date.

What should I include in my affidavit and supporting evidence?

Your affidavit should be completed by you and include your personal details, family details, and any information that you will rely on for your special hardship order application, such as:

- details of the offences that led to your suspension, including any explanations for these offences;

- details that you are a 'fit and proper person', including any explanations for traffic or criminal offences;
- details about your income and regular expenditures; and
- details about how a suspended licence will affect any of the following:
 - your job;
 - your family and their finances and/or wellbeing;
 - your studies;
 - your health; or
 - any other special factors.

Your employer's affidavit should include their personal details, confirm details of your employment, and explain why you need a driver's licence to complete your work.

What happens if my application is granted?

You must return to TMR to get a replacement licence. This will have an 'X3' condition code, which requires you to drive only while carrying and obeying a SHO. The SHO will apply until your suspension period finishes.

What happens if my application is refused?

Your licence will be suspended for the remainder of the suspension period.

Where to get Legal Advice?

If you are considering applying for a special hardship order you should get legal advice.

BCLS provides FREE legal information, referrals, advice and assistance about special hardship order applications. To make an appointment see our contact details below.

Bayside Community Legal Service acknowledges the traditional owners of the lands across Queensland, and in particular the Quandamooka peoples, the traditional owners of this land where our Bayside community is situated. We pay our respect to elders past, present and emerging.

Contact Bayside Community Legal Service

Website: www.bcls.org.au

Email: info@bcls.org.au

Phone: (07) 3162 3282

Office Hours: 8:30am to 4:30pm Monday to Thursday

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