

Special Hardship Orders

Information Sheet

What is a Special Hardship Order (SHO)?

A SHO is a court order that allows you to continue to drive on your Queensland (Qld) driver licence under stated restrictions. These restrictions will include (but are not limited to) the following:

- the purpose for which you may drive
- the class of vehicle you may drive
- the days and times you may drive
- that you may only drive if carrying a copy of your SHO.

When can you apply to a court for a SHO?

You may be eligible to apply for a SHO if your Qld provisional or open driver licence has been suspended because:

- you accumulated two or more demerit points while you were subject to a good driving behaviour period
- you have been convicted of driving more than 40 km/h over the speed limit.

Note: A SHO is not available to learner licence holders.

When are you not eligible to apply for a SHO?

You are not eligible to apply for a SHO if, within the five years before your driver licence was suspended:

- your Qld driver licence has been cancelled or suspended, including if you have been granted a SHO
- you have been disqualified from holding or obtaining a Qld driver licence
- your authority to drive in Qld on a non-Qld driver licence has been 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
- you have been convicted of operating a vehicle dangerously.

Note: Your eligibility to apply for a SHO is not affected by:

- a suspension because you failed to appear in court to answer a drink or drug driving charge
- an immediate licence suspension under because of an alleged drink or drug driving offence
- a 24 hour suspension because of a drink or drug driving related matter
- 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
- a suspension or cancellation set aside on review by the Queensland Civil and Administrative Tribunal.

How do you apply for a SHO?

To apply for a SHO, you must –

1. Complete a *Special Hardship Order Application* (form F4401) available from a Magistrates Court or a departmental customer service centre.
2. Lodge the application along with your **supporting evidence** (for example, an affidavit from your employer or doctor) and your *Notice of Driver Licence Suspension* with a court in the Magistrates Court District that you reside in.
Note: A fee is payable to the Magistrates Court when lodging this application, for more information contact the Magistrates Court in the district that you reside in.
3. Once accepted and stamped by the court, give a copy of the application and affidavit to TMR as soon as possible, but at least seven days before the court hearing date.

Note: Your licence suspension will then be lifted until the day before the court hearing, allowing you to drive during this period.

What is an affidavit?

An affidavit is a legal document used to detail facts about a matter. For a SHO application, it must be completed by you and include information that you intend to rely on for the application, for example:

- the hours you need to drive for work purposes
- that there is no other means of transport reasonably available for you to get to or from work
- you are the only person available to drive a family member with a medical condition or physical incapacity to receive regular and necessary medical treatment.

An affidavit form can be obtained from a Magistrates Court, Australia Post office or your legal representative. It must be signed and witnessed in the presence of a Justice of the Peace or Commissioner of Declarations.

Can you give a copy of your SHO application to TMR before lodging it with a Magistrates Court?

No. Your SHO application and affidavit must be lodged with the Magistrates Court before a copy is given to TMR.

Can you drive before you give a copy of your SHO application to TMR?

No. You cannot drive until after you have given a copy of your SHO application, stamped by the court, to TMR. Your licence suspension will not be lifted until a copy has been lodged with TMR.

What if you give TMR a copy of your SHO application without a copy of your affidavit?

TMR may accept a copy of your SHO application stamped by the court without your supporting affidavit material. However, you should lodge your affidavit with TMR at least seven days before the court hearing date.

Continued overleaf... TRB Forms Area S4854 V01 Mar 2019

Can you withdraw your SHO application?

Yes. If you decide you no longer want to apply for a SHO you should provide a letter to the Magistrates Court where you lodged your SHO application advising the court that you no longer wish to proceed with your application.

The court will confirm the date from which your SHO application has been withdrawn. The suspension of your driver licence will recommence from the withdrawal date advised by the court.

You should provide a copy of your letter and court confirmation of the withdrawal to TMR by:

Mail: Department of Transport and Main Roads
SHO Processing Section
PO Box 673
FORTITUDE VALLEY QLD 4006

Fax: +61 7 3306 7431

Email: specialhardshiporder@tmr.qld.gov.au

Note: The period between the date your licence suspension was lifted and the withdrawal of your SHO application by the court will not reduce the length of your suspension period. That period will still need to be served in its entirety.

When may a court grant you a SHO?

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

- 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
- you are a fit and proper person to continue to drive, having regard for the safety of other road users
- refusal to grant the SHO would cause—
 - extreme hardship to you or your family by depriving you of your means of earning a living
 - severe and unusual hardship to you or your family, other than by depriving you of your means of earning a living.

What happens if the Magistrates Court refuses to grant your SHO application?

If the court refuses to grant a SHO, your licence suspension will be reapplied for the remaining period less anytime served before you lodged your SHO application.

What happens if the Magistrates Court grants your SHO application?

You must return to TMR to get a replacement licence. You must complete a *Replacement Driver Licence/Driver Licence Receipt/Licence Label Application* (form F3006) and pay the fee. Your replacement licence will be issued with an 'X3' condition code which means you may only drive while carrying, and in accordance with, a SHO.

What happens if you are subject to a Late Night Driving Restriction (LNDR)?

If the court refuses to grant your application for a SHO, your LNDR will start on the day after your reapplied licence suspension ends and will apply for one year. If the court grants you a SHO, your LNDR will start on the same day and will apply for one year. If your SHO permits you to drive between 11pm and 5am, you will not need to apply for a certificate of exemption during the period of your SHO. However, if at the end of your SHO you are still subject to the LNDR, you will need to apply for a certificate of exemption if you need to drive between 11pm and 5am.

How long will your SHO apply for?

The SHO will apply for the length of the suspension period detailed on your suspension notice, beginning from the date of the court order.

Note: Any part of your licence suspension served before the SHO is granted will not reduce the length of the SHO period.

Can you apply to have your SHO driving restrictions varied?

Yes. You may apply to a Magistrates Court to vary the restrictions stated on your SHO if your circumstances change. You will need to complete a *Variation of Special Hardship Order or Section 79E Order* (form F4375).

What happens if you do not comply with the restrictions of your SHO?

If you are convicted of an offence for failing to comply with your SHO, the court may impose a fine of more than \$2300 as well as disqualifying you from holding or obtaining a driver licence for:

- if your SHO still applies – the balance of the order period still to be served as well as an additional three months
- if your SHO no longer applies – three months from the date of the conviction.

What happens when the period of your SHO ends?

You must return to TMR to have your licence reissued (at no charge) without the 'X3' condition code.

Where do you get more information?

For more information visit www.tmr.qld.gov.au or call 13 23 80*.

*Check with your service provider for call costs.