

Applying for a Limited Licence

A Community Law Guide

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Disclaimer

Every effort has been made to ensure this guide is accurate, however we cannot take responsibility for any errors or omissions. The information in this guide is for general purposes only and is not a substitute for face-to-face legal advice. You may need to seek specific advice for your particular situation, and where appropriate we encourage you to do so.

Introduction

Under the Land Transport Act 1998, some disqualified drivers can apply to the District Court for a Limited Licence. If granted, a Limited Licence means someone is able to drive within certain limits imposed by a judge in the District Court.

Not everyone can apply for a Limited Licence. If your disqualification arises from “driving while disqualified” or “driving outside the terms of a Limited Licence”, you can’t apply for a Limited Licence. There are other restrictions on who can apply for a Limited Licence – see Part One of this guide for more information.

The most common reason people apply for a Limited Licence is because they urgently need a licence for their job.

Other people apply for a Limited Licence if they urgently need a licence to care for a family member, for example.

If you don’t feel confident completing an application yourself, you can speak with court staff at the District Court, or you can seek help from your local Community Law Centre or from a lawyer.

PART ONE: OVERVIEW OF LIMITED LICENCES

A “Limited Licence” allows you to drive for a limited purpose and subject to conditions (for example, only between certain hours on certain days). To obtain a Limited Licence, you make an application to the District court.

Who can’t apply for a Limited Licence?

You can’t apply for a Limited Licence if you:

- have been disqualified from driving for an indefinite period (under section 65 of the Land Transport Act), or
- are currently disqualified because you were convicted of driving while disqualified, or of driving outside of the terms of Limited Licence, or
- have committed a serious driving offence (which has a minimum sentence of six months disqualification), within five years
- are disqualified from driving a passenger transport vehicle (for example, a taxi or bus) and you want a Limited Licence in order to drive that vehicle.

“Stand down” period for serious traffic offences

If you were disqualified for an offence with a mandatory sentence of six months suspension from driving, there is a 28-day “stand down” period between when you were disqualified from driving, and when the court will hear your application for a Limited Licence.

You can file an application for a Limited Licence at any time after being disqualified. However, the court will not look at your application for at least 28 days after you were disqualified.

No “stand down” period for less serious traffic offences

If your offence has a mandatory sentence of less than six months suspension (such as the careless use of a motor vehicle, or your licence was suspended because of excess demerit points), this stand down period doesn’t apply, and the District Court will look at your application when you apply.

Important: even if you have applied for a Limited Licence, you cannot drive until the court decides to grant you a Limited Licence.

How much does it cost to apply for a Limited Licence?

The cost of filing an application for a Limited Licence at the District Court is \$153.33.

You do not have to pay a lawyer to help you, although it will make it much easier if you can afford it (the fees could be more than \$1,000).

The cost for obtaining the Limited Licence itself from the NZTA is \$39.50.

How does the court decide whether to grant a Limited Licence?

The District Court can grant a Limited Licence if it is satisfied that:

- the applicant is eligible to apply for a licence, and
- the applicant will suffer “extreme hardship”, or someone else will suffer “undue hardship”, as a result of the disqualification, and
- public safety will not be put at risk by the granting of a licence.

Disqualification from driving is intended to punish an offender, not their family or employer. This is why the “standard” for hardship is different for you (the applicant) and for the people your disqualification is likely to affect (your employer or a family member). The difference between “extreme” and “undue” hardship is explained below.

“Extreme hardship” for the person applying for the licence

Extreme hardship is difficult to prove. If driving is a crucial part of your employment, and without a licence you risk losing your job or livelihood, this might be considered as “extreme” hardship.

Your disqualification is meant to be a penalty or a punishment, so the court won’t mind if you are merely inconvenienced. For example, if public transport is available to get you to work, the court may require that you take public transport for the period of your disqualification, even if it grants you a Limited Licence to keep on working.

“Undue hardship” for someone else

Undue hardship is a lower standard and may be easier to prove.

Many people applying for a Limited Licence argue that not being able to drive would cause their employer undue hardship. For example, you might argue that it would cause undue hardship to your employer to have to re-assign responsibilities or temporarily employ someone else to do your job.

Other people applying for a Limited Licence argue that not having a licence will cause undue hardship for their family. The fact that not having a licence would inconvenience your family does

not meet the standard of undue hardship. You must be able to show evidence of greater than normal hardship. For example, you might show that your disabled partner or parent relies on you to drive them to the doctor.

If you argue that losing your licence would cause undue hardship to someone else, that person will need to provide evidence of this, and may be asked to appear in court for cross-examination. A letter from that person will not be enough – their evidence must be sworn as an affidavit or affirmation.

Talking with your employer

The sooner you talk with your employer about the impact your disqualification might have, the sooner you can start looking at alternatives. If your employer believes a Limited Licence is essential, think about making an application to the court.

What “limits” will a Limited Licence specify?

When the court makes the order for the Limited Licence, it will specify:

- why the licence has been granted, the circumstances in which the driver is permitted to drive, and any conditions attached to the grant of the Limited Licence
- the details of the vehicle the driver is allowed to drive
- the days and times of the week the driver is allowed to drive
- the areas in which the driver is allowed to drive.

PART TWO: PREPARING TO APPLY FOR A LIMITED LICENCE

Working out what conditions your Limited Licence should have

The purpose of the Limited Licence is to lessen the hardship of not having a licence. It is not a substitute licence allowing the disqualified person to drive whenever and wherever they want.

Before applying for a Limited Licence, you need to think about:

- which car you need to drive
- what times and days you need to drive
- where you need to drive (the areas, suburbs and streets) – creating a map to attach to your application is a great idea

One of most common conditions for Limited Licences is that the driver must carry a notebook (called a “logbook”), which they fill in every time they drive the car. The logbook should record the time and the odometer reading (kilometres driven), and the start and finish times of all car trips. It should also state where they left from and where they went, and why each trip was made.

Make sure that all conditions you propose (to the police and in your application) are clear and unambiguous.

Approaching the police

The District Court is far more likely to grant a Limited Licence if your application is not opposed by the police.

Before you apply for a Limited License at the District Court, you should approach the police prosecutor at your local police station, either by phoning them or visiting in person.

You should explain why you need a Limited Licence, and the conditions you believe would be fair (such as, driving only to and from work, on certain streets, and always with a logbook).

The police may have suggestions about these conditions (for example, they may suggest that you limit further the hours you can drive or specify that you will drive by the most direct route and not stop except for emergencies).

Once you have completed all your draft documents (see Part Three), you should show these to the police before filing your application at the District Court. This will help ensure that any concerns the police may have about your evidence are dealt with before the matter goes to court.

You should ask the Police if they require those people who are filing an affidavit in support of your application to attend the court hearing.

What if the police oppose my application?

The fact that the Police are opposing an application does not automatically mean the licence will not be granted, but it will make the application process more difficult. It means you will have to strongly argue your case in court.

PART THREE: DOCUMENTS

To apply to the District Court for a Limited Licence, you will need to complete the following documents:

- a cover page
- an application for a Limited Licence
- your affidavit
- an affidavit from your employer or someone else (for example, a family member) who is affected by your ability to drive and who is therefore supporting your application
- a draft Court Order (if the court agrees that you need a Limited Licence, the judge can stamp this draft order, which will then become the final Court Order)
- if necessary, a letter to the court requesting that the person who has written an affidavit to support cannot be present at the hearing
- any other letters in support of your application

These documents are explained in more detail below.

Templates of these documents are available at the end of this guide and online at www.communitylaw.org.nz, in the Community Law Library. The templates contain tips and helpful notes that will make it easy for you to fill out each form and make sure your application to the District Court is complete.

Cover Page

This is simply one-page that goes at the front of your application. Fill in the gaps in the template document, including the location of your local District Court, your name, address and occupation.

Application Form

This is the form that contains all the information relating to your Limited Licence application. Using the template document, fill in your name and address, the date of your hearing (the court staff will tell you this), the details of your vehicle, the purpose for your Limited Licence, the conditions you are proposing for your limited license, the grounds for your application, the period you are disqualified from driving for, and the date.

Affidavits

It is important to include evidence in support of your application for a Limited Licence.

You need to provide your own evidence, and when you are arguing that your disqualification will cause undue hardship to another person, they need to provide evidence of this too, usually in the form of an affidavit. (Sometimes, however, this will not be possible. For example, the person may be

too ill or too young to complete and swear an affidavit. If this is the case then you should ideally get a professional such as that person's doctor or social worker to provide an affidavit in support instead. If this is not possible then you will at least need a letter from these professionals to attach to your own affidavit.)

Affidavits are documents containing sworn evidence (evidence sworn on the Bible). If you don't want to swear on the Bible, you can complete an affirmation (evidence affirmed as true and correct).

For the Limited Licence application, you will need to complete your own affidavit, and you will need to ask your employer (or other person who supports your application, such as a family member) to complete an affidavit as well.

These affidavits must set out the reasons why you need the licence, and why your employer (or family member) needs you to have a licence. Another way of thinking about an affidavit is "your story" – it must clearly set out the facts relevant to your application.

Your affidavit needs to cover:

- your personal circumstances
- the offence which led to your disqualification from driving
- whether you have any previous driving-related convictions
- what you have done about any fines imposed
- how you have managed in the 28-day stand down period (if relevant)
- what hardship would be lessened by the grant of a limited licence – both to you and to the other person (such as an employer or family member). It is not enough just to say that you think that there is hardship, you must provide enough facts to convince the judge that the hardship is extreme hardship for you, and/or undue hardship for the other person.

If you have lost your licence because of excess demerit points, you also need to attach the suspension notice to your affidavit.

Your employer's (or family member's) affidavit or affirmation needs to cover:

- their circumstances
- and why they believes you need a Limited Licence
- how it would cause them undue hardship if you are not able to drive.

There is no prescribed (official) affidavit/affirmation form to use, but it can look like the template affidavit in the appendix to this guide. You can download this template at www.communitylaw.org.nz. Your local Community Law Centre may be able to help you with your affidavit.

Affidavits (or affirmations) must be sworn or affirmed in front of a Justice of the Peace (JP), a lawyer or a court registrar. You state "on oath" that the contents of the affidavit are true and correct, and both you and the JP sign the affidavit. JPs can be found in the yellow pages and are free.

The penalty for making a false affidavit or affirmation is a prison term of up to five years (s.110, Crimes Act 1961). It is therefore extremely important that details in the affidavit are true.

Draft Court Order

You must also complete a draft Court Order to submit with your application. Note that it is headed “Order”, but it does not become a final order until the Court grants a Limited Licence.

Using the template document, complete the draft order with all the relevant details. These are the same as in your application, but in a different format.

Make sure the draft Court Order fits on one page only. The “Notes to Applicant” must be included on a second page and filed with the documents at Court.

Letters to the Court

What happens if my support person cannot attend the court hearing?

The law says that a Court Order for a Limited Licence should not be granted unless each person who files an affidavit appears in court, and is available for cross-examination on their evidence (section 104, Land Transport Act 1998).

However, under the same section of the Act, if both parties (you and the police) agree, then a person’s attendance at court can be excused.

If the police have excused any person who has written an affidavit supporting you, you should include a letter to the court about this when you make your application. A copy of the letter should also be given to the police.

Other letters of support

You can also attach letters of support to your application, which support your story (or the story of the person submitting an affidavit in support), from specialists such as doctors. When you refer to these letters in your affidavit, write something like: “attached and marked with the letter “A” is a letter from my doctor...”.

The original letters need to be attached to the affidavit and be marked with “A” or “B” at the top. The letters need to have an “exhibit note” attached, stamped or written on them. The person who witnesses the affidavit will also sign the exhibit notes, as they form part of the evidence.

If the information contained in the letters is crucial to the success of the application, it is better to have specialists (such as doctors) swear affidavits containing the information as sworn evidence.

Finalise your forms

Once you have finalised all of your forms, and made sure that the police are happy with your evidence, and all of the affidavits have been sworn, you are ready to submit the application to the District Court.

PART FOUR: FILING THE DOCUMENTS

Make photocopies

You will need a number of copies of the different documents in your application, to give to different parties along the way.

Keep for yourself:

- one copy of the entire application for a Limited Licence
- two extra copies of each of the affidavits (and attached letters)
- two extra copies of the draft Court Order.

Take to the District Court:

- The original and four copies of the draft Court Order (these copies will be “sealed” by the Court – stamped as final orders – if your application is successful)
- The original and two copies of the application for a Limited Licence
- The original of each of the affidavits
- If appropriate, a letter explaining a supporter’s non-attendance at court
- The filing fee of \$153.33 (or other amount advised by the Court).

You need to take these forms and file them in the same District Court that imposed your disqualification. Take your documents to Traffic/Criminal counter at the District Court. The court staff will fill in a hearing date for your Limited Licence application, and give you two copies of this “complete” application.

Serve the documents on the police

Next you need to “serve” the documents on the police. You do this by taking to the police prosecutions section of your local police station:

- a copy of the application completed by the court (with the hearing date)
- a copy of the draft Court Order
- one copy of each of the affidavits.

If possible, give these documents to the police officer you have already talked to about your application.

PART FIVE: THE COURT HEARING

Know where to go for the hearing

When you file the documents at the court, ask the court staff member which courtroom the hearing will be in. Go and find the room so you know in advance where to go for the hearing.

It is very important that you turn up at the District Court on the hearing date, and on time. If you are late, or don't turn up at all, your application may be struck out (rejected) by the judge. If there is an emergency that prevents you from getting to court, contact both the court and the police immediately, to see if the case can be adjourned.

At the court hearing

On the day of your hearing, bring all of the documents with you.

Sit in the public gallery at the back of the assigned courtroom and wait for your case to be called.

When the judge enters the courtroom, the court registrar will announce that the court is in session and that everyone must stand. The judge bows and then everyone in the court sits down. The court registrar will then announce the first case.

When your case is called, you should stand and move to the "bar" to identify that you are present. If you are appearing without a lawyer, the judge or a court attendant will indicate where the "bar" is (it is where lawyers stand when addressing the court and the judge). Ask the judge or a court attendant if you are not sure where to stand.

The judge will look at your application and may question you about why you want a Limited Licence. They may ask you about the contents of your affidavit or other questions about your application. You should address the judge as "Your Honour" or "Ma'am" or "Sir" and be respectful at all times.

If your supporter is also appearing in court, the judge may ask that person to stand and may ask them questions about the affidavit they submitted in support of your application.

The judge's decision

The judge will usually announce their decision about whether they are granting you a Limited Licence immediately. The judge may decide to make some changes to the Draft Order and will then stamp and sign the copy on the court file.

It is unusual for the judge to decide not to make the order if the police have already agreed. However, sometimes this happens.

If the judge decides not to grant you a Limited Licence, you will be unable to drive for the remaining period of your disqualification. You will have to wait three months before you can apply for a Limited Licence again.

However, if your circumstances change or new evidence comes to light that was not available when you made your first application, you may be able to reapply sooner.

Getting the Court Order

If your application is granted, after the hearing you should go to the registrar's office to find out when you can pick up the sealed (stamped and final) copies of the Court Order. They are usually ready later the same day.

When the Court Order is ready, the court will give you two copies. The court keeps the original on file and sends a copy to the NZ Transport Agency (NZTA).

PART 6: GETTING YOUR LIMITED LICENCE

It is very important to understand that the Court Order made by the District Court is a final Court Order, but it is **not** a Limited Licence. You cannot drive until you obtain a Limited Licence.

In order to get the Limited Licence:

- Visit your local NZTA driver licensing agent – these are selected branches of the Automobile Association (AA), Vehicle Testing New Zealand (VTNZ) and Vehicle Inspection New Zealand.
- Pay the Limited Licence application fee (\$39.30).
- Give the agent a copy of the Court Order.
- Complete an application form.

The agent will send your application form and the Court Order to the NZTA. The NZTA will then make a decision about whether to issue or decline your Limited Licence.

The agent can't issue you with a temporary licence when you submit your application. This is because the NZTA must be satisfied that you are entitled to a limited licence **before** issuing any Limited Licence (including any temporary Limited Licence). Basically this means the NZTA checks all the things the court will also have checked (such as whether you were eligible to apply for a Limited Licence in the first place), and also whether you received another disqualification after the Court Order was granted.

The NZTA will assess your application within four days of receiving it.

If your application is not granted, you will be sent a letter outlining the reasons why and advising you of your right of appeal to the District Court.

If your application is granted, the NZTA will issue you a temporary Limited Licence to use while your photographic Limited Licence is being created and mailed to you.

More information about the NZTA process for issuing Limited Licences can be found on the NZTA website: www.nzta.govt.nz/resources/factsheets/50/limited-licences.html

Driving on a Limited Licence

For the rest of your disqualification period, you can drive according to the terms of your Limited Licence. When you drive, you must remember to carry with you at all times:

- Your Limited Licence
- A copy of the Court Order
- A logbook which you complete for each car journey
- Any logbooks which you have already used up since the beginning of the Limited Licence period.

What happens if I am convicted of a serious driving offence while I have a limited licence?

If you are driving on a Limited Licence and you are convicted of an offence resulting in disqualification, your limited licence is revoked (cancelled) and you are no longer entitled to drive. You must surrender your revoked limited licence to the court, the police, the NZTA or an authorised NZTA agent. The original disqualification order is brought back for the remainder of the period it was originally imposed for.

APPENDICES: FORMS

These template forms can be completed and filed when making an application for a Limited Licence.

- Template cover page
- Template Limited Licence Application
- Template affidavit for applicant
- Template affidavit in support – employer
- Template affidavit in support – family member
- Template draft Court Order
- Template letter regarding supporting witnesses (this is a letter to the District Court requesting that a support person be excused from appearing in person at the hearing)
- Sample letters in support of your application (this is an example of letter from someone who can support evidence, in this case, a GP. You would need to ask a relevant person to write their own letter in support).

To complete these documents, you need to fill in any details that are [*written in italic font and contained in square brackets*]. For example: if the template contains a sentence like:

- I am [*briefly outline your personal background: your age, occupation, etc.*]

You need to fill in the [*square bracket*], so that the sentence reads:

- I am 34 years of age and have been a carpark attendant for five years.

These templates are printed here, and they are also available to download as separate templates at: www.communitylaw.org.nz

Type in “limited license” to the Community Law Library, and choose the Limited License kete (kit).

If you are unsure how to complete these forms, contact your local Community Law Centre. The forms will need to be adapted to suit your individual circumstances.



TEMPLATE COVER PAGE

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[your name]* of *[address]*, a *[your occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

[Description of Document. Choose one of the following:]

**APPLICATION FOR LIMITED LICENCE *[or]*
AFFIDAVIT OF *[name]* IN SUPPORT OF *[name's]* APPLICATION FOR A LIMITED LICENCE**

This application is filed by *[full name]* of *[address]* whose phone number is *[number]*.



TEMPLATE LIMITED LICENCE APPLICATION

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[your name]* of *[address]*, a *[your occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

NOTICE OF APPLICATION FOR ORDER AUTHORISING ISSUE OF A LIMITED LICENCE

TAKE NOTICE that the above-named Applicant will apply to the District Court at *[location]* on the ____ day of _____ 20__ at _____ am/pm FOR AN ORDER:

1. AUTHORIZING the Applicant to hold or obtain a driver's licence authorising *[him/her]* to drive a *[describe vehicle/s make, colour, number plate]*, registered in the name of *[name of registered owner]*; and
2. SOLELY for the purpose of *[briefly outline why you are seeking a limited licence. For example, Transporting X Person to medical appointments OR Carrying out his/her duties as a driver for X Company]*; and
3. ONLY by the most direct route to, from, and between *[describe the geographical area that you will be driving in and/or the places you will drive to. You may wish to attach a map with this area highlighted.]*; and
4. BETWEEN the hours of *[insert the times and days you will be driving]* and at any times outside these hours in emergencies; and

ON THE CONDITIONS that:

- (a) THE Applicant will not to drive if there is another licensed driver in the vehicle, unless for road safety, driving hours, medical or insurance reasons it is unsafe or impracticable for that other licensed driver to drive.

(b) The Applicant will, at all times while driving, carry a logbook in which [he/she] will, prior to undertaking any journey, record clearly in English:

- i. The date and time
- ii. Point of departure
- iii. Destination
- iv. Odometer reading
- v. Reason for the journey

(c) The Applicant will not at any time, exceed the stated speed limits and will comply with all posted speed limits.

(e) The Applicant will also carry a Court stamped copy of the order granting this application together with the New Zealand Transport Agency issued Limited Licence. When stopped by an enforcement officer, at each and every time the Applicant will tell that person forthwith that [s/he] is a disqualified driver and show that enforcement office the Order, the Limited Licence and the logbook. The Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this Licence.

(e) The Applicant is not to drive with a blood or breath alcohol level above zero.

(f) The Applicant while at all times driving will comply with the requirements of the Land Transport Act 1998 with regard to logbooks and driving hours.

(g) The Applicant will also allow the police to examine all copy documentation he receives in relation to any hire of vehicles [he/she] makes.

(h) The Applicant will also if requested produce or have access to proof that [he/she] is driving for the specified purposes permitted pursuant to the Limited Licence.

ON THE GROUNDS:

A. That the Applicant is a person disqualified from holding or obtaining a driver licence for a total period of disqualification of [number] months from [date of order] by an order under the Land Transport Act;

B. That the order of disqualification would result in undue hardship to [insert name of family member / employer] [OR] extreme hardship to the Applicant;

C. That the Applicant is not prevented from obtaining a limited licence;

D. That the licence is not for a passenger vehicle;

E. That the order would not be contrary to the interests of public safety;

F. Appearing in the affidavits of the Applicant and [*name of supporting party*] sworn and filed in support of this application.

THIS application is made in reliance upon sections 103, 104 and 105 of the Land Transport Act 1998.

DATED at [*location*] this _____ day of [*month*] 20__

Applicant

To: The Registrar of the District Court at [*location*]

And to: The New Zealand Police [*location*]

This application is filed by [*your full name*] of [*your address*] whose phone number is [*your phone number*].



TEMPLATE LIMITED LICENCE AFFIDAVIT (FOR APPLICANT)

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[your name]* of *[address]*, a *[your occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

AFFIDAVIT OF *[your name]* IN SUPPORT OF A LIMITED LICENCE APPLICATION

I, *[your name]* of *[address]*, a *[your occupation]*, swear that:

BACKGROUND

1. I am *[briefly outline your personal background: your age, occupation, etc.]*
2. On *[date]* I was convicted and sentenced in respect of *[outline the offence you were convicted of, for example, excess breath alcohol, careless driving, etc.]* and was disqualified from holding a driver's licence for a period of *[number]* months. I have *[paid / entered into a payment arrangement (choose one)]* the fine and costs.
3. *[Do you have any previous **traffic convictions**? If the answer is no, then state this. If you do have previous convictions, briefly state what these were for and how old they are. Note: previous convictions may mean you are not eligible to apply for a limited licence. Refer to the Applying for a Limited Licence guide to find out more.]*

EXTREME HARDSHIP FOR MYSELF *[delete if this does not apply to you]*

4. I have been employed with *[employer]* for *[number]* years. My job involves *[describe what you do. Focus on why you need to be able to drive]*.
5. My employer has advised me that if I am unable to obtain a licence permitting me to drive for my employment, I will lose my job. *[Name of this supporting witness]*, who is the *[position, for*



example, my manager/the director] at *[employer]* has sworn an affidavit in support of my application, confirming the details of my employment.

6. Being unable to drive would cause me an extreme hardship because *[why is it so important that you keep this job? For example, what qualifications and work experience do you have? How difficult would it be to find another suitable position without a driver's license?]*
7. *[If you are on the 28-day stand down period, before applying for your Limited License, explain what is currently happening with your employment.]*

UNDUE HARDSHIP FOR OTHER PERSON

[Option One: Inability to drive will cause undue hardship to your employer (delete if this does not apply to you).]

8. My disqualification is currently or will cause my employer undue hardship because:
 - *[If you would lose your job, would your employer have to employ someone else? How long would this recruitment process take? Would they have to train the new employee?]*
 - *[If you would keep your job, would your employer be able to deliver their goods to customers on time? Would the rosters or duties of other staff have to be altered to accommodate your disqualification? Etc.]*
9. *[Name of supporting witness]*, who is the *[position, for example, my manager/the director]* at *[employer]* has sworn an affidavit in support of my application, confirming these details.

[Option Two: Loss of employment will cause undue hardship to a family member or other person (delete if this does not apply to you).]

10. I am *[describe your family status, for example, married with two children]*. I earn *[insert \$ amount, per week/month etc.]*. This income is important because *[are you the sole income earner? Does your spouse/partner have any income? Do you have any major financial commitments?]*. If I lose my job then we will be *[for example, unable to pay the mortgage, power bills, etc.]* and *[will you have to rely on a benefit? If so, will you be subject to a stand down from Work and Income (ask your Community Law Centre about this)?]*.

[Option Three: Inability to drive will cause undue hardship to a family member or other person (delete if this does not apply to you).]

11. I am the *[describe your relationship, for example sister, husband, mother, friend]* of *[name of person or people who will experience undue hardship.]*
12. *[Outline for the court the nature of the hardship. Some questions you might want to address include:*



- *What needs does this person have? For example: “my husband has been diagnosed with X, which requires ongoing medical appointments to monitor his health”.*
- *Why are they reliant upon you to meet these needs? Is there anyone else who can provide this assistance?*
- *Why is it important for you to drive in order to meet these needs? Are there any alternative forms of transport available? For example: “Our home is located five kilometres from his doctor’s office”.]*
- *What undue hardship would this person experience if you are unable to drive? For example: “This doctor has advised that if my husband’s health is not regularly monitored then his condition may rapidly deteriorate”.]*

13. I attach an affidavit in support from [name of person or people who will experience undue hardship].

14. I also attach letters in support, marked “[A/B]” from [name of doctor, for example].

AREA

15. The area I am seeking to drive in is [describe the geographical area that you will be driving in and/or the places you will drive to]. This is [briefly explain why you need to drive this route, including whether any public transport is available].

16. I have attached a map (annexed and marked “[A/B]”) showing this route in more detail.

HOURS

17. If this order is granted, the hours of travel it would be required for are between [X] and [Y] on [days required], which are [briefly explain why you need to drive during these times].

VEHICLE

18. If this order is granted I would be driving [describe the vehicle you are seeking to drive] for the purposes of [describe purpose, for example, for employment or to transport my husband to medical appointments].

CONCLUSION

19. In addition to the circumstances outlined above, I ask that the Court also take into consideration [are there any other circumstances you want the Court to be aware of? These could include things about your own health or well-being that did not fit under the earlier headings]. **(delete if not needed)**

20. I respectfully request that this Honourable Court grants the application in terms of the draft order.

SWORN/AFFIRMED at

This day of 20

Before me:

A Deputy Registrar / Justice of the Peace / Solicitor of the High Court of New Zealand



TEMPLATE LIMITED LICENCE AFFIDAVIT IN SUPPORT: EMPLOYER

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[your name]* of *[address]*, a *[your occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

AFFIDAVIT OF *[Name of Supporting Party]* IN SUPPORT OF A LIMITED LICENCE APPLICATION

I, *[employer's name]* of *[address]*, a *[employer's occupation]*, swear that:

BACKGROUND

21. I am the *[position, for example, director/owner/manager]* of *[name of company, location]*. I have the authority to swear this affidavit on behalf of the company.

22. The company *[briefly outline the age, size and nature of the business. What does it do? What industry is it in? How many drivers does it have? Is this a specialist position?]*

APPLICANT'S DUTIES

23. The company has employed *[applicant's name]* as *[position]* for *[X]* years. This role involves *[briefly outline role, focussing on the driving aspect of the job. When is driving required? Is there are particular route? What vehicle(s) are used?]*

24. Because of *[applicant's name]* disqualification, the company has had to *[outline what has happened /will happen to the applicant's duties due to their disqualification. Have rosters or duties had to be altered? What difficulties have resulted for these or other changes? How significant are these?]*.

25. *[If the applicant's job is at risk, explain why. Some considerations may be:*

- *Is the ability to drive an essential or key requirement of the job? Why?*
- *Are there any alternative duties available? If yes, are these sustainable in the long term?]*



26. *[Explain why you support the application for a limited licence:*

- *Would it be difficult to replace the applicant? Why is he/she so valuable?*
- *How long would it take to train a replacement?*
- *What other losses or adverse impact would the employer suffer if the applicant's employment had to be terminated?*
 - *Loss of important customers or contracts?*
 - *Loss of profits?*
- *What are the likely long term consequences of such difficulties for the company?].*

27. For these reasons, I can confirm that the period and time requested in the limited licence application are necessary from the company's point of view.

28. The company therefore supports this limited licence application, as without *[applicant's name]* services there will be a *[summarise the difficulties outlined above]* and accordingly undue hardship will be suffered by the company.

29. I am also aware that if *[applicant's name]* loses their job then *[outline possible hardship the applicant may suffer, including difficulty finding another job, financial implications.]* I am aware of this because *[for example, "X is a long term and valued employee of our small company"; "Our industry is a specialised one and there are few employment opportunities available"]*.
(IMPORTANT: only include this statement if the person swearing the affidavit has direct and personal knowledge of the hardship the applicant will experience).

SWORN/AFFIRMED at

This day of 20

Before me:

A Deputy Registrar / Justice of the Peace / Solicitor of the High Court of New Zealand



TEMPLATE LIMITED LICENCE AFFIDAVIT IN SUPPORT: FAMILY MEMBER

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[applicant's name]* of *[address]*, a *[applicant's occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

AFFIDAVIT OF *[Name of Supporting Party]* IN SUPPORT OF A LIMITED LICENCE APPLICATION

I, *[family member's name]* of *[address]*, a *[employer's occupation]*, swear that:

BACKGROUND

30. I am the *[outline relationship, for example, mother/husband/partner]* of *[applicant's name]*.
31. *[Provide further details about your relationship. For example, "We have been married for [X] years, we have [X] children together, and rent a house, etc."]* .
32. *[What needs do you have? How serious are these? For example: "I have been diagnosed with X, which requires ongoing medical appointments to monitor my health."]* .

UNDUE HARDSHIP

33. *[Why are you reliant upon the support of the applicant to meet these needs? Is there anyone else who can provide this assistance?]*
34. *[Why is it important for the applicant to drive in order to meet these needs? Could you walk/ take a taxi / use public transport? For example: "Our home is located 5 kilometres from my doctor. The nature of my condition means that I am unable to drive and I cannot afford a taxi"].*
35. *[When and where will the applicant have to drive you? Why?]*

36. [*What undue hardship will you experience if you are unable to drive? For example, “my doctor has advised that if my health is not regularly monitored then my condition may rapidly deteriorate”*].

37. [*Do you have any evidence about your situation. For example, “Attached and marked “A” is a letter from my GP describing my condition. Attached and marked “B” is a letter from my specialist outlining the treatment I am undergoing and the need for regularity in treatment.”*]

(IMPORTANT: The originals of any letters in support will need to be attached to this affidavit and have an “exhibit note” stuck, stamped or written on them. If your GP, for example, is prepared to swear an affidavit in support then you should encourage them to do this instead.)

38. I therefore ask that the court grant [*applicant’s name*] a limited licence so that [*summarise the reasons why a limited licence is important*].

SWORN/AFFIRMED at

This day of 20

Before me:

A Deputy Registrar / Justice of the Peace / Solicitor of the High Court of New Zealand



TEMPLATE DRAFT COURT ORDER

IN THE DISTRICT COURT
HELD AT *[location]*

IN THE MATTER of Sections 103, 104 and 105 of the Land Transport Act 1998

AND

IN THE MATTER of an application for a Limited Licence by

BETWEEN *[your name]* of *[address]*, a *[your occupation]*
Applicant

AND NEW ZEALAND POLICE
Respondent

ORDER AUTHORISING THE ISSUE OF A LIMITED DRIVER LICENCE

(This is not an authority to drive)

ON APPLICATION made pursuant to Section 105 of the Land Transport Act 1998, this Court has made an Order authorising the above-named Applicant to obtain immediately a driver licence authorising the Applicant to drive:

[The following are the same conditions you have outlined in your application.]

1. A *[describe the vehicle or vehicles you are seeking to drive, including the make, model, number plate]* registered in the name of *[insert registered owner]*.
2. SOLELY for the purpose of *[briefly outline why you are seeking a limited licence, for example, transporting his/her disabled family member to medical appointments, or carrying out his/her duties as a driver for x company]*.
3. ONLY by the most direct route to, from, and between *[describe the geographical area you will be driving in and/or the places you will drive to. You may wish to attach a map with this area highlighted as a 'schedule' to the order.]*

AND

4. BETWEEN the hours of *[insert the times and days you will be driving]* and at any times outside these hours in emergencies; and

ON THE CONDITIONS that:

(a) THE Applicant will not to drive if there is another licensed driver in the vehicle, unless for road safety, driving hours, medical or insurance reasons it is unsafe or impracticable for that other licensed driver to drive.

(b) The Applicant will, at all times while driving, carry a logbook in which [he/she] will, prior to undertaking any journey, record clearly in English:

- vi. The date and time
- vii. Point of departure
- viii. Destination
- ix. Odometer reading
- x. Reason for the journey

(c) The Applicant will not at any time, exceed the stated speed limits and will comply with all posted speed limits.

(e) The Applicant will also carry a Court stamped copy of the order granting this application together with the New Zealand Transport Agency issued Limited Licence. When stopped by an enforcement officer, at each and every time the Applicant will tell that person forthwith that [s/he] is a disqualified driver and show that enforcement office the Order, the Limited Licence and the logbook. The Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this Licence.

(e) The Applicant is not to drive with a blood or breath alcohol level above zero.

(f) The Applicant while at all times driving will comply with the requirements of the Land Transport Act 1998 with regard to logbooks and driving hours.

(g) The Applicant will also allow the police to examine all copy documentation he receives in relation to any hire of vehicles [he/she] makes.

(h) The Applicant will also if requested produce or have access to proof that [he/she] is driving for the specified purposes permitted pursuant to the Limited Licence.

(i) This licence expires at midnight on the _____ day of _____ 20_____

THE Applicant, following the conviction for [*describe your conviction, for example excess breath alcohol, careless driving*] was disqualified from holding a drivers licence for a period of [*insert time disqualified*]. [He/she] was at that time holder of a driving licence, number [*insert drivers licence number*].

DATED at [*location*] this day of 20 _____

Deputy Registrar



NOTICE TO APPLICANT

1. This order only authorises you to apply for a licence in the above terms. *You are not authorised to drive until you have applied for and obtained such a license.* You should do so immediately.
2. Before a limited licence in the terms of the above order can be issued it may be necessary for to undergo and pass a test. The authority to whom you apply for your limited licence will advise you if this is so.



**TEMPLATE LETTER REGARDING SUPPORTING WITNESSES
(LETTER TO COURT ADVISING THAT POLICE CONSENT TO NON-ATTENDANCE
OF SUPPORTING WITNESS)**

[Your name
Your address
Your phone number]

[Date]

Registrar
[Location] District Court

Dear Sir/Madam

Re: [Your name] - Limited Licence - Supporting witness

I am applying for a limited licence on the basis that [*explain undue hardship and/or extreme hardship relied upon*].

[*Name of supporting witness*] has provided an affidavit in support of my application. They are not able to appear in Court to support my application because [*provide reasons e.g. illness, work commitments. Remember, inconvenience alone is NOT a good reason.*]

I have spoken to the Police and they have agreed that it is not necessary for [*Name of supporting witness*] to be present in Court.

Please contact me if you have any questions.

Yours sincerely

[Your name]



SAMPLE LETTERS IN SUPPORT TO ATTACH TO AFFIDAVIT

["A"]

Suburban Hospital
Oncology Department
Suburb
City

1 January 2012

To whom it may concern

Re: [FAMILY MEMBER]

This letter is to confirm that FAMILY MEMBER has been diagnosed with lung cancer and is being treated by way of intensive chemotherapy. Currently FAMILY MEMBER is having treatment twice weekly and it is crucial that [he/she] keeps to the schedule advised by this department if the chemotherapy treatment is to have any chance of success.

The programme of treatment is assessed on a weekly basis and it is therefore impossible to know in advance exactly when sessions will be and how many per week will be needed.

Please contact me should any further information be needed.

Yours faithfully

C Ure

Dr C Ure
Consultant Oncologist

*This is the annexure marked "A" referred to in the affidavit of NAME
sworn at on the day of 20....*

*J. Peace
Justice of the Peace/ A solicitor of the High Court of New Zealand*



“B”

LOCAL MEDICAL CLINIC
Dr T. Reatment MD
Town Centre
Suburb

1 January 2012

To the Presiding Judge

Re: *[Applicant's]* application for a Limited Licence

I have known *[Applicant]* and *[Family member]* now for more than 10 years, they having been patients of mine over that time. *[Family member]* nursed *[Applicant]* back to health in 2000 after a heart attack and they now find themselves in the reverse position with *[Applicant]* relying on *[Applicant]* in this traumatic time.

[Family member] was diagnosed with lung cancer two months ago and is receiving chemotherapy twice weekly at present. He needs to get to hospital for this treatment and it is vital that he does so. *[Applicant]* was driving him into the hospital prior to losing her licence. The loss in itself has taken its toll at a time when *[Family member]* needs all the support and assistance he can get. Since *[Applicant]* lost her licence *[Family member]* has missed an appointment and was late for another as arrangements fell through and friends omitted to pick him up. This was devastating for *[Family member]*, not only emotionally and psychologically but also physically, as his health took a turn for the worse after each of these incidents.

I am deeply concerned that if *[Applicant]* does not get a limited licence for the purpose of transporting *[Family member]* that he will stand little chance of making a recovery from the cancer, as the strain and uncertainty of making arrangements, together with the financial burden of taking taxis will only serve to undermine any positive effects of the chemotherapy.

Please do not hesitate to contact me if I can be of further assistance.

Yours faithfully

T Reatment
Dr T. Reatment MD

This is the annexure marked “B” referred to in the affidavit of NAME sworn at on the day of 20.....

*J. Peace
Justice of the Peace/ A solicitor of the High Court of New Zealand*