



## Questions and Answers

# Immediate Disqualification

### When were immediate Disqualification Notices introduced?

Legislation governing service of a Disqualification Notice for specific alcohol offences committed in Western Australia was introduced on 1 August 2012.

### What is a Disqualification Notice?

Disqualification Notices may be served by a WA Police Officer on a driver who has failed an evidentiary breath test for one of the following alcohol related driving offences:

- Section 64 of the *Road Traffic Act (RTA)* - Excess 0.08g - Driving or attempting to drive a motor vehicle with a Blood Alcohol Content (BAC) equal to or above 0.08g of alcohol per 100ml of blood.
- Section 63 of the RTA - DUI Driving or attempting to drive a motor vehicle with a BAC equal to or above 0.15g of alcohol per 100mL of blood.
- Section 67 of the RTA - Refusing to provide a breath or blood.

A Disqualification Notice, once served, immediately disqualifies a driver from holding or obtaining a driver's licence for two months unless revoked (Refer to 'Revoke a Disqualification Notice').

### What is the effect of a Disqualification Notice?

When served, a Disqualification Notice takes effect and immediately disqualifies the person from holding or obtaining a driver's licence for a period of two calendar months unless revoked (Refer to 'Revoke a Disqualification Notice').

It is recommended that you contact the Department of Transport (DoT) on 13 11 56 if you have not been advised of your court date and have not received advice of revocation from the WA Police to find out the status of the Disqualification Notice.

### How long will the Disqualification Notice last for?

A driver will be immediately disqualified from holding or obtaining a driver's licence for two months unless the Disqualification Notice is revoked (Refer to 'Revoke a Disqualification Notice').

### I have been served with a Disqualification Notice, can I apply for an extraordinary licence?

No. Individuals subject to a Disqualification Notice are not eligible to apply for an extraordinary licence for the period that the notice is in force.

### What happens if I am stopped by Police driving while a Disqualification Notice is in effect?

If you drive while subject to a Disqualification Notice you will be charged with an offence of 'No Authority to Drive' (disqualified) which will be heard and determined in Court.

Additionally, your vehicle may be impounded by WA Police for a period of 28 days and you will incur storage fees.

### Can I challenge a Disqualification Notice?

Yes. A person served with a Disqualification Notice can make application to the Magistrates Court to have their Disqualification Notice revoked.

The application must be lodged with the Court at least 14 days before the Appeal Application can be heard and determined. The application must include details of the exceptional circumstances that justify the revocation of the Disqualification Notice. This application form can be located on the Department of Justice Magistrates Court website.

If the Disqualification Notice is revoked, this does not mean that charges related to the alcohol offence will not proceed and this will still be required to be dealt with by the Court on another specified day.

## **If convicted by a Court of the alcohol offence do I get a credit for the period I was subject to a Disqualification Notice?**

Yes. If convicted of the offence the disqualification period imposed by the Courts is reduced by the period the Disqualification Notice was in effect prior to the Court date. For example, if the Disqualification Notice was revoked after 10 days your court ordered disqualification will be reduced by this period.

## **Can I drive if the Disqualification Notice is revoked or the two months has expired but I have not been to Court?**

Yes, provided you are not disqualified for another offence (or your driver's licence has been cancelled) and you hold a current driver's licence.

## **Can I be served with more than one Disqualification Notice?**

Yes. A person can be served with more than one Disqualification Notice for other alcohol related offences committed.

## **Can I drive on my interstate or overseas licence after being served with a Disqualification Notice?**

No. You cannot drive in Western Australia or any Australian licensing jurisdiction while subject to the Disqualification Notice. If you do drive your vehicle will be impounded by the WA Police.

## **Revoke a Disqualification Notice**

A Disqualification Notice may be revoked by the Police Officer who served the Notice under s71 of the *Road Traffic Act 1974* if one of the following occurs:

1. The Police Officer becomes aware that the equipment used was faulty at the time of the analysis.
2. A charge for the offence to which the Disqualification Notice relates has been preferred within 10 days after the notice was given to the person.
3. A charge for the offence to which the Notice relates is discontinued.
4. A court grants you application to revoke the Disqualification Notice pending a hearing. In these cases you need to ensure DoT has received advice from the Court and ended your disqualification.
5. A court dismisses the charge or acquits you of the offence that gave rise to the service of the Disqualification Notice

A notice of revocation will be forwarded by the Police Officer who served the Disqualification Notice. This excludes where a Court revokes the Disqualification Notice. In these cases the Court will issue a revocation order.

Contact DoT on 13 11 56 if you have not been advised of your court date and have not received advice of revocation from the WA Police 10 days after the alleged offence to find out the status of the Disqualification Notice.

## **I have received advice from the Police the Disqualification Notice served on me has been revoked. Can I drive?**

Yes, you can resume driving until the matter is determined by a Court provided you are not subject to any other period of disqualification and you hold a valid and current driver's licence. Contact DoT on 13 11 56 to check the status of your licence.

## **I am on a Good Behaviour Period and have been served with a Disqualification Notice, can I continue driving?**

No, you cannot drive pending your court date unless the Disqualification Notice is revoked as the Disqualification Notice takes priority over your GBP.