

A Guide to Applying for a Limited Licence



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Whitireia Community Law Centre Trust Incorporated

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A Guide to Applying for a Limited Licence

Introduction

Under the Land Transport Act 1998 it is possible for some disqualified drivers to apply to the District Court for a limited licence. If granted, this licence permits driving within the constraints imposed by the court. However, not everyone can make this type of application. For example, those drivers whose disqualification arises from “driving while disqualified” or “driving outside the terms of a limited licence” cannot apply for a limited licence. More detail on who is restricted from applying for this type of licence is given in section one.

This resource has been prepared using a case study example that focuses on an application based on medical grounds. The most common ground for applying for a limited licence is usually based on the fact that the applicant needs a licence for employment reasons. An example of an application for a “work” licence is provided at the back of this resource. A person applying for a limited licence for work purposes should carefully read the first example before making an application as the forms and principles are the same.

This “self help” resource is targeted at beneficiaries who need to have a licence for other than employment reasons or persons on low incomes who need a licence for work purposes. It provides these individuals with a guide to making an application and provides a plan that will assist them in obtaining a limited licence.

Those individuals who do not feel they have the confidence to complete the documentation or speak for themselves in Court are advised to seek help from a lawyer. This booklet will give them an appreciation of the processes involved and the type of evidence they would need to provide their lawyer with, should they wish to proceed with an application.

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CASE STUDY: TERRY'S LIMITED LICENCE APPLICATION

Terry is 66 years old and has health problems. He is retired and receives superannuation. Every so often he has to go into hospital for treatment and regularly goes to his GP. Terry and his sister Florence, who is 70, have shared a house for ten years. Six months ago Florence developed bowel cancer and has been very unwell. Terry takes Florence to the hospital for treatment twice a week and to her GP every fortnight.



Two weeks ago Terry was watching the rugby at a friend's house. Although he had been drinking Terry still drove. On the way home, he was stopped by the police who breath tested him. Terry's breath alcohol level was 630mg (the legal limit is 400mg) so he was charged and subsequently convicted by the court of driving with excess breath alcohol. He was fined and disqualified from driving for 6 months. This is the only drink driving offence Terry has ever had.

Terry wants to know if there is any way he would legally be able to drive Florence to hospital and to the GP and/or himself to the GP and hospital for his own check-ups.



SECTION ONE

LIMITED LICENCES – THE LAW

It is possible to apply to the court for a “limited licence” which allows a person to drive for a limited purpose and subject to conditions (e.g. only between certain hours on certain days).

WHO CAN APPLY FOR A LIMITED LICENCE?

If someone has been disqualified from driving they can apply for a limited licence BUT ONLY IF it would cause EXTREME HARDSHIP to that person or UNDUE HARDSHIP to someone else.

A person cannot apply for a limited licence if he or she:

- a) has been disqualified from driving for an indefinite period (under section 65 of the Land Transport Act) **or**
- b) Is currently disqualified as a result of having been convicted of driving whilst disqualified or driving outside of the terms of limited licence **or**
- c) is disqualified from driving for committing a serious driving offence attracting a minimum sentence of 6 months disqualification, within five years of committing another such serious driving offence **or**
- d) is disqualified from driving a passenger transport vehicle (e.g. a taxi) if the limited licence was to enable the person to drive a vehicle used in passenger transport (other than a rental vehicle).

To apply for a limited licence an applicant must prove that not having a licence would cause them EXTREME HARDSHIP or someone else UNDUE HARDSHIP. There is a deliberate difference between these two standards, as disqualification is intended as punishment to the offender and not their family or employer.

EXTREME HARDSHIP

Extreme hardship is a difficult hurdle for most applicants. An example of extreme hardship may be where, for instance, the disqualified person works as a sales representative or owner/driver for a transport company and losing his or her licence may result in the person losing their business and livelihood. In this case the court may grant a limited licence, as losing a business could be considered “extreme hardship”. The non-availability of alternative transport options is also another factor that may cause extreme hardship to the applicant.

UNDUE HARDSHIP

This is a lower standard and may be easier for an applicant to prove to the court. When someone loses his or her licence it is likely to cause inconvenience to his or her family. This factor alone, however, is not enough reason for the disqualified person to apply for a limited licence. The court will need to see evidence of greater than normal hardship. For example, undue hardship could exist where a disqualified

driver has **disabled children** who rely on that parent to get them to school or to the doctor. Where the disqualified driver is employed in a job requiring them to drive, a disqualification may cause **the employer** (not the disqualified person) undue hardship. The employer would suffer undue hardship if it would be difficult to shuffle responsibilities within the company or impossible to temporarily employ someone else to do that particular job.

An employer will be required to give sworn or affirmed evidence of exactly what hardship this will cause them and must be prepared to attend court and be cross-examined on that evidence. It is unlikely that the employer will have to attend court, but they should be prepared to if required.

STAND DOWN PERIOD

An application can be filed at any time after the disqualification is imposed, however it will not be heard by the Court until at least 28 days after the disqualification commenced. This stand down period does not apply to drivers whose suspension arose for an offence where the mandatory sentence is less than 6 months. This means that if you have been convicted of an offence such as careless use of a motor vehicle or have had your licence suspended as a result of excess demerit points, you can make the application at any time after your disqualification or suspension notice is received.

COST

The cost of filing an application for a limited licence at the District Court is currently \$150.

WHAT THE COURT LOOKS AT WHEN CONSIDERING WHETHER TO GRANT A LIMITED LICENCE

After any applicable stand down period finishes, a Court can grant a limited licence if it is satisfied that:

- The applicant is eligible to apply for a licence; (i.e. see the section “who can apply” above) 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.

In making the order for the licence the Court will specify:

- The reason for the granting of the licence, the circumstances in which the driver is permitted to drive and any conditions that are to be attached to the grant of the limited licence; and
- the details of the vehicle that driver will be permitted to drive; and
- the days of the week and times that driver is permitted to drive;
- the areas in which the driver is permitted to drive.

APPLYING THE LAW TO TERRY'S CIRCUMSTANCES



In this case it would be difficult for Terry to prove that not having a licence would cause **extreme** hardship to him, as he doesn't absolutely need to drive himself to the doctor (i.e. he could get a taxi or take public transport). So **in this case Terry is unlikely to meet the criteria for obtaining a limited licence to drive himself to the doctor or hospital.**

However, in these circumstances Terry can make a good case that him not driving causes **undue hardship to Florence**, as she is very ill and relies on Terry to get her to hospital twice a week. She could not afford taxis and is not well enough to take public transport. **So Terry could apply for a limited licence on the basis that Florence would suffer undue hardship if it were not granted.**

Terry can only apply for the limited licence 28 days after the day on which he was disqualified. During this 28-day period he will have to arrange for someone else to take Florence to hospital or she will have to take taxis. Terry cannot drive during this period even if Florence gets very ill. In the meantime Terry should be preparing the court papers and dealing with the police so that his application can be heard on the first available day after his stand down period.

SECTION TWO

APPLYING FOR A LIMITED LICENCE

Terry decides to apply for a limited licence. He needs to decide at what times and days he needs a licence (i.e. if possible he should find out when Florence's regular appointments will be for the next few months). As Florence may get worse within the subsequent months the licence should allow him to drive in any other urgent situation to do with Florence's health. However the licence should also be as "tight" as possible in terms of defining the exact times, days and areas of driving. The Police and the Court do not want to see limited licences being abused by the disqualified person.

It is important to remember that 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 blanket rights to drive whenever and wherever they want.

STEP ONE - APPROACHING THE POLICE

Terry then needs to approach the **Police prosecutions** section with his proposal for the limited licence. To do this Terry needs to ring his local police station and ask to speak to the prosecution section. His local Community Law Centre could assist him with this.

The Police may have suggestions in relation to the conditions to be added (i.e. limiting the hours of driving or specifying that he will drive by the most direct route and not stop except for emergencies). **If Police agree to the proposal it will make it a lot easier to obtain the licence.** If they do not agree the matter will have to be argued in Court.

One of the main conditions is that the person applying will carry a notebook with them (called a "logbook") which the person will fill in every time they drive the car, recording the time and odometer reading **when** they left, **where** they left from and **where** they are going and **why** the trip is being made.

The most important thing when drafting the documents is to make sure that they are clear and unambiguous. A Police officer who stops Terry driving must be able to see immediately from his Order and logbook that he is driving consistently with the Court requirements.

The Police will eventually want to see the completed forms that Terry will be filing at Court. (See Steps 2-5 for the forms that are needed).

If Florence is too ill to go to Court Terry should also talk to the Police about this and get their consent for her not to attend. As a matter of courtesy he should also inform the Court that agreement has been made for Florence not to attend. An example of a letter is set out below (Step 6). He would hand over the letter at the same time as filing the documents.

COMPLETING THE FORMS

Terry needs to provide the following:

- a cover page
- an application for a limited licence;
- an affidavit by Terry;
- an affidavit by Florence; and
- a draft Order.

The **application** for a limited licence gets Terry's application into the District Court system **so that a hearing time can be set**.

The **affidavits** are documents containing Terry and Florence's **sworn evidence** which support Terry's application for a limited licence i.e. setting out the reasons he needs the licence.

The **Order** is in fact a draft order until the judge stamps it to make it final. It sets out the conditions on which Terry can drive and if the court agrees with the proposal for Terry's limited licence. The judge will then stamp the order, which will then become the final order of the Court.

This order can then be taken to the Land Transport Safety Authority for the limited licence itself to be issued. (More on this later: see Section Three.)

STEP TWO - COMPLETING AN APPLICATION

Terry completes the details on the application for a limited licence. Helpful notes have been added at the end of each document, including the application, which should help you to complete your own form. Each note refers to a bracketed number in the document, e.g **(1)**. The numbers themselves would not be in the documents Terry files in Court and should not be included in your own documents.

IN THE DISTRICT COURT
HELD AT PORIRUA (1)

(2)

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 TERRENCE
SMITH of 100 Beach Road, Porirua, Retired (3)

APPLICATION FOR LIMITED LICENCE

This application is filed by TERRENCE SMITH of 100 Beach Road, Porirua whose phone number is (04) 237 6812.

TAKE NOTICE that on the 28th day of April 2006 at 11.45am **(4)** the abovenamed Applicant will apply to the District Court at Porirua for an order:

1. AUTHORISING the Applicant to hold or obtain a driver's licence authorising him to drive a blue 1990 Toyota Corolla with the number plate RR 1111 registered in the name of TERRENCE SMITH; **(5)** and

2. Solely for the purpose of transporting FLORENCE SMITH to and from hospital or her general practitioner **(6)**; and

3. ONLY within the area south of Paremata in Porirua City (with Paremata Road, Porirua as a northern boundary) and north of Wellington Hospital (with Constable Street, Newtown as a southern boundary) **(7)**; and

4. BETWEEN the hours of 8.00am and 5.00pm Monday to Friday and at any times outside of these hours in emergencies **(8)**

ON THE CONDITION that **(9)**;

1. THE Applicant is 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.

2. A logbook is carried and filled out by the Applicant prior to the commencement of each journey. The logbook is to show the destination and purpose of the journey, the time of departure, and time of arrival and the vehicle's kms at the start of each journey.

3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence. When stopped by an enforcement officer the Applicant will tell that person forthwith that he is a disqualified driver and show them the order, the Limited Licence together with the logbook and the Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this licence.

4. AT all times the Applicant will not drive with a blood or breath alcohol level above zero; **(10)**

UPON THE GROUNDS **(11)**:

A. THAT the Applicant is a person disqualified from holding or obtaining a drivers licence for a period of six months from 3 March 2006 by an order under the Land Transport Act; **(12)**

B. THAT the order of disqualification would result in undue hardship to the Applicant's sister FLORENCE SMITH;

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

D. THE licence is not for a passenger vehicle;

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

F. CONTAINED in the affidavits of the Applicant and FLORENCE SMITH 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 Wellington this 12th day of April 2006

T Smith

Applicant **(13)**

To: The Registrar District Court Porirua

And to: The Police

This application is filed by TERRENCE SMITH of 100 Beach Rd, Porirua whose phone number is (04) 227 2242

NOTES TO APPLICATION FOR LIMITED LICENCE

- (1) Court details: Here Terry fills in the name of the local District Court that will hear the application.
- (2) File no: The Court will add this number when the application is filed in Court.
- (3) Applicant Details: Here Terry fills in his full name, his address and occupation. At the end of the application he does not need to complete his occupation.
- (4) Date of hearing: The Court will complete this part when Terry files the documents.
- (5) Details of vehicle: Terry sets out the details of the vehicle he will be driving.
- (6) Purpose of limited licence: Terry sets out the reasons he wants the limited licence.
- (7) Area of driving: Terry sets out the area in which he will be driving. A map could be attached with the area highlighted.
- (8) Times of driving: Terry sets out the times during which he will be driving. If he knows the dates and times of Florence's appointments he should be more specific.
- (9) Conditions: These are the general conditions of a limited licence, but the police may require others to be added. For example if the licence has been suspended due to demerit points for speeding, the Police may seek the following condition:
"The applicant must comply with applicable speed limits at all times. For the avoidance of doubt, any breach of this condition would be both a speeding offence and an offence against section 32(1)(b) of the Land Transport Act 1998." This would mean the Police could charge the applicant with driving contrary to the terms of a limited licence if the applicant were caught speeding – the applicant would not be able to drive for the balance of the first disqualification and have six months added to the disqualification. This provides the Court with a method of ensuring road safety.
- (10) Alcohol condition: This condition should be removed if the application for limited licence is not made as a result of a disqualification involving alcohol.
- (11) Grounds: These are the general grounds to be completed, with the details appropriate to Terry's case.
- (12) Period of Disqualification: Terry fills in the period of disqualification and the date that his disqualification began.
- (13) Date: Terry signs and dates the application.

STEP THREE - COMPLETING THE AFFIDAVITS (OR AFFIRMATIONS) IN SUPPORT

Terry will need to complete an affidavit (evidence sworn on the Bible) or an affirmation (evidence affirmed as true and correct) to support the limited licence application. An affidavit is Terry's "story" that forms his statement of evidence needed to support the application for a limited licence, it should set out clearly the facts relevant to his application.

This written statement must be sworn or affirmed in front of a Justice of the Peace, a lawyer or a registrar of the court. This means stating on oath that the contents of the statement are true and correct, and signing the statement. JP's can be found in the yellow pages and do not charge for this service.

The potential penalty for making a false affidavit/affirmation is found in s.110 of the Crimes Act 1961, which provides for a period of imprisonment of up to five years. **It is therefore extremely important that details in the statement are true and accurate.**

Terry needs to cover his personal circumstances, the offence which led to the disqualification, whether he has had any previous driving-related convictions, what he has done about any fines imposed, how he has managed in the 28 day stand down period, and clearly outline why there is a hardship that should be alleviated by the grant of a Limited Licence. If he had lost his licence because of excess demerit points, he would also need to attach the suspension notice to his affidavit.

Florence also needs to make an affidavit or affirmation in which she will confirm her circumstances and why she believes Terry needs a limited licence.

There is no set form to complete for an affidavit/affirmation, as it is created by the person who signs it. An affidavit generally resembles the example affidavit that follows, which Terry has completed. Your local Community Law Centre can help you with your affidavit. There are some notes at the end of the affidavit which may also help.

IN THE DISTRICT COURT
HELD AT PORIRUA

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 TERRENCE SMITH of 100 Beach Road, Porirua, Retired

AFFIDAVIT OF TERRENCE SMITH

SWORN: 12 April 2006

I, TERRENCE SMITH of Porirua, Retired swear:

1. I am 66 years of age and for the last 6 years have been retired and receiving superannuation. Prior to that I was a taxi driver for 38 years.
1. I have been driving for 48 years and up until the recent conviction I had no other traffic convictions.
3. I have a heart problem and need to have regular check ups with my GP and at the hospital.

The Offence

4. ON 3 March 2006 I was convicted and sentenced in respect of driving with excess breath alcohol. I was fined \$630 and disqualified from holding a driver's licence for a period of six months. As stated above, this was my first traffic offence.
5. WHILE I have not paid the fine in full, I have made arrangements with the Court to make time payments of \$25 per week. I have already put in place the automatic payment authority with my bank.

Hardship on my Family

6. I have for the last ten years been living with my sister, FLORENCE SMITH who is also a superannuitant. My sister looked after me when I had a heart attack in 1995 and we have continued to live together since then.
7. MY sister has recently been diagnosed as having bowel cancer. She is currently undergoing Chemotherapy at the Wellington Hospital in Newtown. She is seriously ill and relies heavily on me to support her. Up until I lost my licence I was regularly driving her to both the hospital and to her doctors.
8. WE live at 100 Beach Road, Porirua and the doctor's surgery is at the Porirua Medical Clinic in the Porirua town centre. This is about 5 kilometres from our house.
9. MY sister is a beneficiary and does not have the resources to take taxis to and from the hospital or doctor's surgery. During the last month she has used taxis, neighbours, and friends to transport her around, however this is not a suitable permanent arrangement. Even in this period there have been several mixups in arrangements, with my sister missing an appointment and being late for one. This has been distressing for Florence and disruptive for her medical service providers.
10. I need to be able to provide Florence with transport as there are no other family members in a position to do this for her nor are there any neighbours or friends who can consistently provide transport.
11. I require my drivers' licence to convey my sister to the various medical service providers that she currently needs to see. I could collect medication, groceries and run errands for her by going on the bus, even though this is difficult for me.

12. THE hours of travel are dependent on when she has her various appointments but would not involve driving outside of the hours 8.00am to and 5.00pm, except in emergencies. I have tried to get a schedule of Florence's appointments but her specialist is unable to give this to me any more than a week in advance.
13. I would only be driving my blue 1990 Toyota Corolla with the number plate RR 1111 and would only be travelling within Porirua and between Porirua and Wellington.

SWORN at Porirua)
 this 12th day of April)**(1)** *Terrence Smith*
 2006 before me:)

(2) **J. Peace**

Justice of the Peace / ~~Solicitor of the High Court of New Zealand~~ / Registrar
 Porirua **(3)**

NOTES TO TERRY'S AFFIDAVIT

- (1) To the left of the brackets is a "formula" of words which you will find at the end of all affidavits. If the affidavit is to be affirmed then the word "sworn" will be changed to "affirmed". To the right of the brackets Terry will sign his name but only in front of the witness.
- (2) The witness will sign his or her name here.
- (3) The witness will cross out the occupations that do not apply to him or her.

IN THE DISTRICT COURT
 HELD AT PORIRUA

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 TERRENCE SMITH of 100 Beach
 Road, Porirua, Retired

AFFIDAVIT OF FLORENCE SMITH

SWORN: 12 April 2006

I, FLORENCE SMITH of Porirua, Retired, swear:

1. I am 70 years of age and I am on national superannuation.
2. I have for the last ten years been living with my brother who is also on national superannuation. I looked after my brother when he was very ill in 1995 and we have continued to live together since then.
3. I have recently been diagnosed as having bowel cancer. I am currently undergoing chemotherapy twice weekly at the Wellington Hospital. Yesterday I had an operation in the hospital to explore the extent of my cancer.
4. I am unable to attend Court in support of my brother's application due to my ill health and ask the Court to excuse my attendance in the circumstances.
5. I am severely limited as to what I can do for myself at the moment and rely heavily on my brother Terry to help me out

"A"
PORIRUA MEDICAL CLINIC
Your Health Care Specialists

Porirua Medical Clinic
Town Centre
Porirua

1 April 2006

To the Presiding Judge

Re: Terrence Smith's application for a Limited Licence

I have known Terry and Florence Smith now for more than 10 years, they having been patients of mine over that time. Florence nursed Terry back to health in 1995 after a heart attack and they now find themselves in the reverse position with Florence relying on Terry in this traumatic time.

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

I am deeply concerned that if Terry does not get a limited licence for the purpose of transporting Florence that she 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 "A" referred to in the affidavit of Florence Smith sworn at Porirua on the 12th day of April 2006

J. Peace
Justice of the Peace/A solicitor of the High Court of NZ

“B”
WELLINGTON HOSPITAL

Wellington Hospital
Oncology Department
Newtown
Wellington

31 March 2006

To whom it may concern

Re: Florence Smith

This letter is to confirm that Florence Smith has been diagnosed with bowel cancer and is being treated by way of intensive chemotherapy. Currently Florence is having treatment twice weekly and it is crucial that 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 “B” referred to in the affidavit of Florence Smith sworn at Porirua on the 12th day of April 2006

J Peace
Justice of the Peace, Porirua

STEP FOUR – COMPLETING THE DRAFT ORDER

Terry must complete the draft order – it is just headed up as “Order” but as noted previously it does not become a final order until the Court grants the limited licence to Terry. To complete the draft order Terry needs to fill in the relevant details, which will be the same as in the application, but in a different format. See the numbered notes at the end of the Order.

When completing the documents for the Court, Terry must make sure the order is only on one page. The “Notes to Applicant” must be included on a second page and filed with the documents at Court.

IN THE DISTRICT COURT
HELD AT PORIRUA

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 TERRENCE SMITH of 100 Beach Road, Porirua, Retired

ORDER AUTHORISING ISSUE OF A LIMITED LICENCE

ON application made pursuant to sections 103-105 Land Transport Act 1998 this Court has today made an order authorising the abovenamed Applicant to apply and obtain a limited driver licence permitting him to drive the following vehicle:

A blue 1990 Toyota Corolla with the number plate RR 1111 registered in the name of TERRENCE SMITH

BETWEEN the hours of 8.00am and 5.00pm Monday to Friday and outside those hours only in emergencies.

SOLELY for the purpose of transporting FLORENCE SMITH to and from hospital or her doctor.

ONLY within the area south of Paremata in Porirua City (with Paremata Road, Porirua as a northern boundary) and north of Wellington Hospital (with Constable St, Newtown as a southern boundary).

UPON THE FOLLOWING CONDITIONS:

1. THE Applicant is 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.
2. THE Applicant will, at all times whilst driving, carry a logbook in which he will, prior to undertaking any journey, record clearly in English the date and time, point of departure, odometer reading, his destination and the reason for the journey;
3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence (No.). When stopped by an enforcement officer the Applicant will tell that person forthwith that he is a disqualified driver and show them the order, the Limited Licence (No.) and the logbook and the Applicant will carry and produce all records previously completed in compliance with the conditions of this licence;
4. THE Applicant is not to drive with a blood or breath alcohol level above that which is legally allowable;
5. THE Applicant will take the most direct route to his destination not stopping except in the case of emergencies.

THE said applicant was convicted in this Court for driving with excess breath alcohol and thereupon disqualified from holding or obtaining a driver's licence for a period of 6 months from 3 March 2006. He was at the time the holder of a driving licence No. MU1218010 **(1)**

DATED at.....this day

of.....2006

.....
(Deputy) Registrar **(2)**

NOTICE TO APPLICANT (3)

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 licence. 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 you to undergo and pass a test. The authority to whom you apply for your limited licence will advise you if this is so.

NOTES TO THE ORDER

- (1) Terry should fill in his previous driver's licence number, even though the Police will have taken it from him at the time of his disqualification.
- (2) The Court Registrar will complete the date and sign the document.
- (3) These notes form part of the document and should be typed at the bottom. They are there to give advice to the applicant (Terry). The procedure for driving again is discussed further below.

STEP FIVE - POLICE CONFIRMATION

The Court is far more likely to grant a limited licence if the application is not opposed by the Police. For this reason, the applicant should provide the police with a draft copy of the application and any supporting affidavits **before the application is filed at the Court**. This will ensure that any concerns the Police may have over the evidence that is going to be presented by the applicant will be dealt with before the matter goes before the Court.

The draft documents should be sent to the prosecutions section of the local Police and then followed up with a phone call to discuss any potential concerns.

The fact that the Police will oppose an application does not automatically mean the licence will not be granted, but it will make the job a great deal harder!!

STEP SIX – LETTER TO THE COURT

When filing the application at the Court, Terry should write a letter to the Court letting them know that the Police agree to excuse Florence's attendance at Court. Section 104 of the Transport Act 1998 says that an Order for a limited licence should not be made unless each person who files an affidavit is in Court to be available for examination on their evidence. But under the same section of the Act, if both parties agree (Police and Applicant) then a person's attendance can be excused. It is good practice to write a letter to the Court at the same time as filing papers to let the Court know that is the case, a copy of the letter should also be given to the Police so everyone is clear what the situation is. The letter Terry needs to write would look something like this:

6 April 2006

Registrar
Porirua District Court

Dear Sir/Madam

Re: TERRENCE SMITH - LIMITED LICENCE - SUPPORTING WITNESS

I am applying for a limited licence on the basis that my sister, Florence Smith will suffer undue hardship if I am not able to drive her to the doctor and hospital.

My sister has bowel cancer and is currently undergoing chemotherapy at Wellington hospital. She is not well enough to appear in Court to support my application. She has sworn an affidavit in support of my application.

I have spoken to the Police and they have agreed that it is not necessary for my sister to be present in Court.

Please contact me if you have any questions.

Yours Sincerely

Terrence Smith

STEP SEVEN - FILING THE DOCUMENTS IN COURT

Once the police are happy with the proposal, Terry should finalise the forms, have his affidavit sworn/affirmed and Florence should swear/affirm hers also.

Terry needs to make **six photocopies** of the Draft Order and **two photocopies** of each of the other documents. He keeps two copies of each of the affidavits and two copies of the draft order and takes to the District Court:

- The **original and two copies of the application** for a limited licence;
- The **original of the draft order and four copies**; and
- The **original of each of the affidavits**; and
- The filing fee (**\$150** or other amount advised by the Court); and
- If appropriate, a **letter explaining Florence's non-attendance** at Court.

The forms need to be filed in the **same District Court** as the one that imposed his disqualification.

Terry should go to the Traffic/Criminal counter at the District Court Office. On the applications the court officer will fill in the hearing date for the limited licence. They will keep one copy for the court file and keep the original of each of the affidavits. They will also keep the original Order and four copies which will be 'sealed' (stamped as final orders) by the Court if Terry's application is successful. The court officer will give two copies of the application back to Terry.

Terry will then take one copy of the application completed by the Court and one of the copies of the Draft Order that he has kept and one copy of each of the affidavits to the Police Prosecutions section at the Police Station. If possible Terry should give it to the Police Officer he previously talked to about his application. This is called "service" on the Police.

Terry keeps a copy of each document for himself.

SECTION THREE

PREPARING FOR COURT

When Terry is at Court filing the documents he should ask which Courtroom the hearing will be in and go and find the room so he knows in advance where to go for the hearing.

It is very important that Terry turns up at Court on the hearing date, and on time. If he is late or does not turn up on the hearing date his application may be struck out by the judge. If some emergency occurs he should contact the Court office and the police and see if the case can be adjourned.

Terry should bring all documents to the hearing that may be helpful to the Judge.

AT THE COURT HEARING

Terry will find the Courtroom and will sit in the public gallery at the back of the Court waiting for his case to be called.

When the Judge enters the Courtroom the Court Registrar will announce that the Court is in session and everyone must then stand. The Judge bows and then everyone in the court sits down. The Court Registrar will then announce the first case.



Terry waits until his case is called and moves to the bar to identify that he is present. The bar is where lawyers stand when addressing the court and the Judge. If Terry appears in court without a lawyer then the Judge or a court attendant will indicate where the “bar” is. Ask the Judge or a court attendant if you are not sure about where to stand when addressing the Judge.

The Judge will then look at Terry’s application and may ask Terry some questions about why he wants the licence or about what is contained in his affidavit or other questions about his application. Terry should address the Judge as “Your Honour” or “Ma’am” or “Sir” and be respectful at all times.

THE JUDGE'S DECISION

The Judge will usually announce his or her decision immediately as to whether or not he or she will grant the limited licence. The Judge may decide to make some amendments or additions to the Order and will then stamp and sign his or her 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 and Terry will therefore be unable to drive for the remaining period of his disqualification. If evidence comes to light that was not available at the time of the first application (like Florence's condition or times of treatment change) then Terry may be able to re-apply for a limited licence. Otherwise Terry will not be able to apply again until 3 months after the date of the refusal.

OBTAINING THE ORDER

If Terry's application is granted he should, after the hearing, go to the Court Office to find out when he can pick up the sealed (stamped and final) copies of the Order. They are usually ready later the same day. When the Orders are ready, the Court will give Terry two copies. The Court keeps the original on the Court File and sends a copy to the Central Transport Licensing Registry.

OBTAINING THE LIMITED LICENCE

The Order made by the Court is a final Order **BUT IT IS NOT A LIMITED LICENCE AND TERRY CANNOT DRIVE UNTIL HE OBTAINS THE LIMITED LICENCE.**

In order to get the limited licence, Terry needs to go to his local Land Transport Safety Authority (LTSA) – usually they are in "AA" Offices (Automobile Association). (To find out where the local office is Terry can ring 0800 822 422). Terry then presents the 2 copies of the Court Order and pays the fee of \$46.50. (This amount is current at April 2006). The LTSA will immediately give Terry a temporary licence until a photo licence is sent out to him and will give him back his copy of the order with the LTSA licence no. completed.

As the notes at the end of the Order state, Terry may be required by the LTSA to sit a driving test before they will grant a limited licence, although this is not currently the case.

ON THE ROAD AGAIN

Now, for the rest of his disqualification period, Terry is able to drive according to the terms of the limited licence. When he does he **must** remember to carry with him:

- a) His limited licence; and
- b) A copy of the Court Order; and
- c) A logbook **which he will complete for each journey;** and
- d) Any logbooks which he has already used up since the beginning of the limited licence period.

SECTION FOUR

A LIMITED “WORK” LICENCE

If you will you lose your job because driving is a crucial part of your employment (extreme hardship) or your employer will be severely inconvenienced by your inability to drive during the disqualification period (undue hardship) you may be able to get a limited “work” licence.

The principles for a limited “work” licence for are the same as applied to Terry’s case. You must identify the impact on both yourself and your employer because of your disqualification and prove that there is extreme hardship to yourself or undue hardship to your employer and family that warrants the granting of a limited “work” licence.

The sooner you talk with your employer about the impact your disqualification is going to have, the sooner you can start looking at alternatives. If a limited licence is essential, an application can then be made to the Court. Unless you are self-employed, the Court will require affidavit evidence from your employer, as well as yourself, to support the application. **A letter from your employer is not enough – it must be sworn as an affidavit or affirmation.**

Once you have made the decision to make an application you must identify what the minimum requirement of a licence would be to alleviate the hardship you have identified. This includes specifying exactly:

- Which vehicles you need to drive
- What times and days you need to drive
- What geographical location you need to drive within

It is important to be realistic in the application. The disqualification is meant to be a penalty so there may still be a certain amount of personal inconvenience to yourself. For example, you may currently drive to and from work, but there is public transport available. It is likely that the Court will require you to take the public transport for the period of your disqualification – even if a limited licence is granted to enable you to keep on working.

In some circumstances it may be wise to attach a map so the Court can easily see the area proposed.

CASE STUDY: BOB'S LIMITED LICENCE APPLICATION

Two weeks ago Bob was in an accident. He was driving down the main road coming up to a set of traffic lights when the accident happened. Bob was concentrating on getting through the lights before they turned red and didn't realise until too late that the car in front of him had stopped when the light turned orange. Bob drove into the back of the car, causing the driver to fracture a rib and suffer whiplash. The Police were called and Bob has received a summons for careless driving causing injury as a result of the accident.



Bob spoke to a lawyer at his local community law centre and was told that there is mandatory disqualification from driving for six months for this offence as well as a fine. He plans to plead guilty but is concerned about what is going to happen when he loses his licence.

Bob is a carpark attendant at Parkridge Hotel and Convention Centre. He parks guests' cars for them when they arrive and has to drive them around to the front of the hotel again when they leave. Parkridge also offers a valet cleaning service so as well as cleaning the cars, Bob needs to move them to the cleaning area.

Because of his conviction, he will be unable to continue doing this part of his job. He has spoken to his supervisor and was told that Parkridge cannot keep Bob on if he is unable to drive guests' cars. Because Bob has worked at the hotel for three years and it will be difficult for the hotel to employ another carpark attendant with that much experience at such short notice, the hotel is happy to support Bob's application for a limited licence.

APPLYING THE LAW TO BOB’S CIRCUMSTANCES

Bob needs to follow the same approach as Terry did for his limited licence application with one major difference. Bob’s application is made because he will suffer extreme hardship if he loses his job, whereas Terry’s was based on undue hardship to Florence. Other than that, each step is the same as Terry followed. **Bob had to wait for 28 days after his disqualification commenced to make the application.**

IN THE DISTRICT COURT
HELD AT PORIRUA

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 ROBERT
 PAUL JOHNSTON of 59 Park Road, Porirua,
 Carpark Attendant

APPLICATION FOR LIMITED LICENCE

This application is filed by ROBERT PAUL JOHNSTON of 59 Park Road, Porirua whose phone number is (04) 237 7800.

TAKE NOTICE that on the 15th day of June 2006 at 11.45am the abovenamed Applicant will apply to the District Court at Porirua for an order:

1. AUTHORISING the Applicant to hold or obtain a driver's licence authorising him to drive such vehicles as the Applicant is required to drive for the purposes of maintaining his employment as a carpark attendant for Parkridge Limited; and
2. ONLY within the grounds of Parkridge Hotel and Convention Centre, King Street, Porirua; and
3. BETWEEN the hours of 8.30am and 5pm Monday to Friday.

ON THE CONDITION that:

1. THE Applicant is not to drive when there is another licensed driver who is lawfully entitled to drive that vehicle, in the said vehicle.
2. A logbook is carried and filled out by the Applicant prior to the commencement of each journey. The logbook is to show the destination and purpose of the journey, the time of departure, and time of arrival and the vehicle's kms at the start of each journey.
3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence. When stopped by an enforcement officer the Applicant will tell that person forthwith that he is a disqualified driver and show them the order, the Limited Licence together with the logbook and the Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this licence.

UPON THE GROUNDS:

- A. THAT the Applicant is a person disqualified from holding or obtaining a drivers licence for a period of six months from 10 May 2006 by an order under the Land Transport Act;
- B. THAT the order of disqualification would result in extreme hardship to the Applicant;
- C. THAT the order of disqualification would result in undue hardship to the Applicant's employer, Parkridge Limited.
- D. THAT the Applicant is not prevented from obtaining a limited licence;
- E. THAT the licence is not for a passenger vehicle;
- F. THAT the order would not be contrary to the interests of public safety.
- G. CONTAINED in the affidavits of the Applicant and Graham Middleton of Parkridge Limited 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 Porirua this 16th day of June 2006

R Johnston
Applicant

To: The Registrar District Court Porirua
And to: The Police

This application is filed by ROBERT PAUL JOHNSTON of 59 Park Road, Porirua whose phone number is (04) 237 7800.

IN THE DISTRICT COURT
HELD AT PORIRUA

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 ROBERT
PAUL JOHNSTON of 59 Park Road, Porirua,
Carpark Attendant

AFFIDAVIT OF ROBERT PAUL JOHNSTON

SWORN: 13 June 2006

I, ROBERT PAUL JOHNSTON of Porirua, Carpark Attendant swear:

1. I am 34 years of age and have been a carpark attendant for five years.
2. I was convicted of careless driving causing injury and disqualified from driving for six months on 10 May 2006 under the Land Transport Act 1998.
3. I have no other traffic or criminal convictions.
4. I have been employed by Parkridge Limited as a carpark attendant for three years.
5. My job with Parkridge Limited requires me to move guests' cars from the entrance to the Parkridge Hotel and Convention Centre to the carpark and back again, as well as moving cars when required for cleaning.
6. When I was suspended from driving on 10 May 2006 my employer gave me other duties, but I have been told that they will not be able to keep doing this.
7. I will lose my job if I am unable to obtain a limited licence.
8. I support my wife and our two children, aged 5 and 7 and failure to obtain a limited licence will cause hardship to my family. Because I have been suspended from driving and my occupation requires me to be able to drive, it is very unlikely that I would be able to get another job soon.
9. My disqualification has also caused hardship to my employer, Parkridge Limited.
10. If I am unable to obtain a limited licence, my employer will suffer further hardship by being forced to terminate my employment and hire another person to do my job.
11. An affidavit from my employer is included with this application.
12. The vehicles which I would be driving between the hours of 8.30am and 5pm Monday to Friday, within the grounds of Parkridge Hotel and Convention Centre, would be solely for the purposes of my employment. These vehicles belong to passengers and cannot be identified further.

SWORN at Porirua)
this 12th day of April 2006) *R Johnston*
before me:)

J. Peace
Justice of the Peace

Porirua

IN THE DISTRICT COURT
HELD AT PORIRUA

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 ROBERT
PAUL JOHNSTON of 59 Park Road, Porirua,
Carpark Attendant

AFFIDAVIT OF GRAHAM MIDDLETON

SWORN: 13 June 2006

I, Graham Middleton of Porirua, Operations Manager, swear:

1. I am the Operations Manager of Parkridge Limited, which owns Parkridge Hotel and Convention Centre.
2. I make this affidavit in support of Robert Paul Johnston's application for a limited licence.
3. The applicant is employed fulltime by Parkridge Limited as a carpark attendant. He has been employed for approximately three years.
4. The applicant works between 8.30am and 5pm Monday to Friday at Parkridge Hotel and Convention Centre. Due to the nature of his job which mainly involves delivering guests' cars, he drives many different vehicles in the course of his work.
5. If the applicant is unable to receive a limited licence to carry out his duties I will have to review his employment status. I have been able to find temporary duties in the short term for the applicant, but unless the applicant is able to drive I can't carry on employing him.
6. As his employer it would cause hardship if I had to terminate the applicant's employment as I would have to recruit a new carpark attendant and incur expense doing so. It is very difficult finding carpark attendants who have as much experience as the applicant has.
7. The applicant would only be driving guests' cars for the sole purpose of his employment and only if there are no other licenced employees available to drive.

SWORN at Porirua)
this 13th day of May 2006) *G Middleton*
before me:)

J. Peace
Justice of the Peace
Porirua

IN THE DISTRICT COURT
HELD AT PORIRUA

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 ROBERT
PAUL JOHNSTON of 59 Park Road, Porirua,
Carpark Attendant

ORDER AUTHORISING ISSUE OF A LIMITED LICENCE

ON application made pursuant to sections 103, 104 and 105 Land Transport Act 1998 this Court has today made an order authorising the abovenamed Applicant to apply and obtain a limited driver licence permitting him to drive:

ANY such vehicles as the Applicant is required to drive for the purposes of maintaining his employment as a carpark attendant for Parkridge Limited; and

ONLY within the grounds of Parkridge Hotel and Convention Centre, King Street, Porirua; and

BETWEEN the hours of 8.30am and 5pm Monday to Friday.

UPON THE FOLLOWING CONDITIONS:

1. THE Applicant is not to drive when there is another licensed driver who is lawfully entitled to drive that vehicle, in the said vehicle.
2. THE Applicant will, at all times whilst driving, carry a logbook in which he will, prior to undertaking any journey, record clearly in English the date and time, point of departure, odometer reading, his destination and the reason for the journey;
3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence (No.). When stopped by an enforcement officer the Applicant will tell that person forthwith that he is a disqualified driver and show them the order, the Limited Licence (No.) and the logbook and the Applicant will carry and produce all records previously completed in compliance with the conditions of this licence;

THE said applicant was convicted in this Court for careless driving causing injury and thereupon disqualified from holding or obtaining a driver's licence for a period of 6 months from 10 May 2006. He was at the time the holder of a driving licence No. AZ452705.

DATED at.....this day

of.....2006

.....
(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 licence. 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 you to undergo and pass a test. The authority to whom you apply for your limited licence will advise you if this is so.

APPENDIX: FORMS

The attached forms can be completed and lodged along with appropriate affidavits to apply for a Limited Licence.

If you are unsure about how to complete these forms then you should contact your local Citizens Advice Bureau or Community Law Centre.

The forms will need to be suited to each individual case.

IN THE DISTRICT COURT
HELD AT _____

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

of _____

APPLICATION FOR LIMITED LICENCE

This document is filed by _____
of _____
whose phone number is _____

TAKE NOTICE that on the _____ day of _____ 200 the abovenamed Applicant will apply to the District Court at _____ on for an order:

1. AUTHORISING the applicant to hold or obtain a drivers licence authorising him/her to drive a _____

_____ registered in the name of _____ ; and

2. ONLY within the area _____

_____ ; and

3. BETWEEN the hours of _____ and at any times outside of these hours in emergencies; and

4. SOLELY for the purpose of _____

ON THE CONDITIONS that

1. THE Applicant is 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.

2. A logbook is carried and filled out by the Applicant prior to the commencement of each journey. The logbook is to show the destination and purpose of the journey, the time of departure, and time of arrival and the vehicle's kms at the start of each journey.

3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence. When stopped by an enforcement officer the Applicant will tell that person forthwith that s/he is a disqualified driver and show them the order, the limited licence together with the logbook and the Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this licence.

4. THE Applicant is not to drive with a blood or breath alcohol level above zero.

ON THE GROUNDS :

A. That the Applicant is a person disqualified from holding or obtaining a driver licence for a period of _____ months from _____ 200 by an order under the Land Transport Act;

B. That the order of disqualification would result in undue hardship to _____ 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 _____
_____ 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 _____ this _____ day of _____ 200

Applicant

To: The Registrar
 District Court _____

And to: The Police

This application is filed by _____
of _____
whose phone number is _____

SWORN at _____)
this ____ day of _____)
200 before me: _____)

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

IN THE DISTRICT COURT
HELD AT _____

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

AND

IN THE MATTER of an application for a limited licence by

of _____

ORDER AUTHORISING ISSUE OF A LIMITED LICENCE

ON application made pursuant to sections 103-105 Land Transport Act 1998 this Court has today made an order authorising the abovenamed Applicant to apply and obtain a licence permitting him/her to drive:

A _____ vehicle with the number plate _____
registered in the name of _____

ONLY within the area _____

BETWEEN the hours of _____ and outside
those hours only in emergencies.

SOLELY for the purpose of _____

UPON THE FOLLOWING CONDITIONS:

1. THE Applicant is 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.
2. THE Applicant will, at all times whilst driving, carry a logbook in which he will, prior to undertaking any journey, record clearly in English the date and time, point of departure, odometer reading, his destination and the reason for the journey.
3. THE Applicant will also carry a Court stamped copy of the order granting this application together with the LTSA issued limited licence (No. _____). When stopped by an enforcement officer the Applicant will tell that person forthwith that s/he is a disqualified driver and show them the order, the limited licence (No. _____) and the logbook and the Applicant will carry and produce all logbook records previously completed in compliance with the conditions of this licence;
4. THE applicant is not to drive with a blood or breath alcohol level above zero;
5. THE Applicant will take the most direct route to his destination not stopping except in the case of emergencies.

THE said applicant was convicted in this Court for _____
_____ and thereupon disqualified from holding or obtaining a
drivers licence for a period of _____ months from _____ 200 . He was at
the time holder of a driver licence no. _____

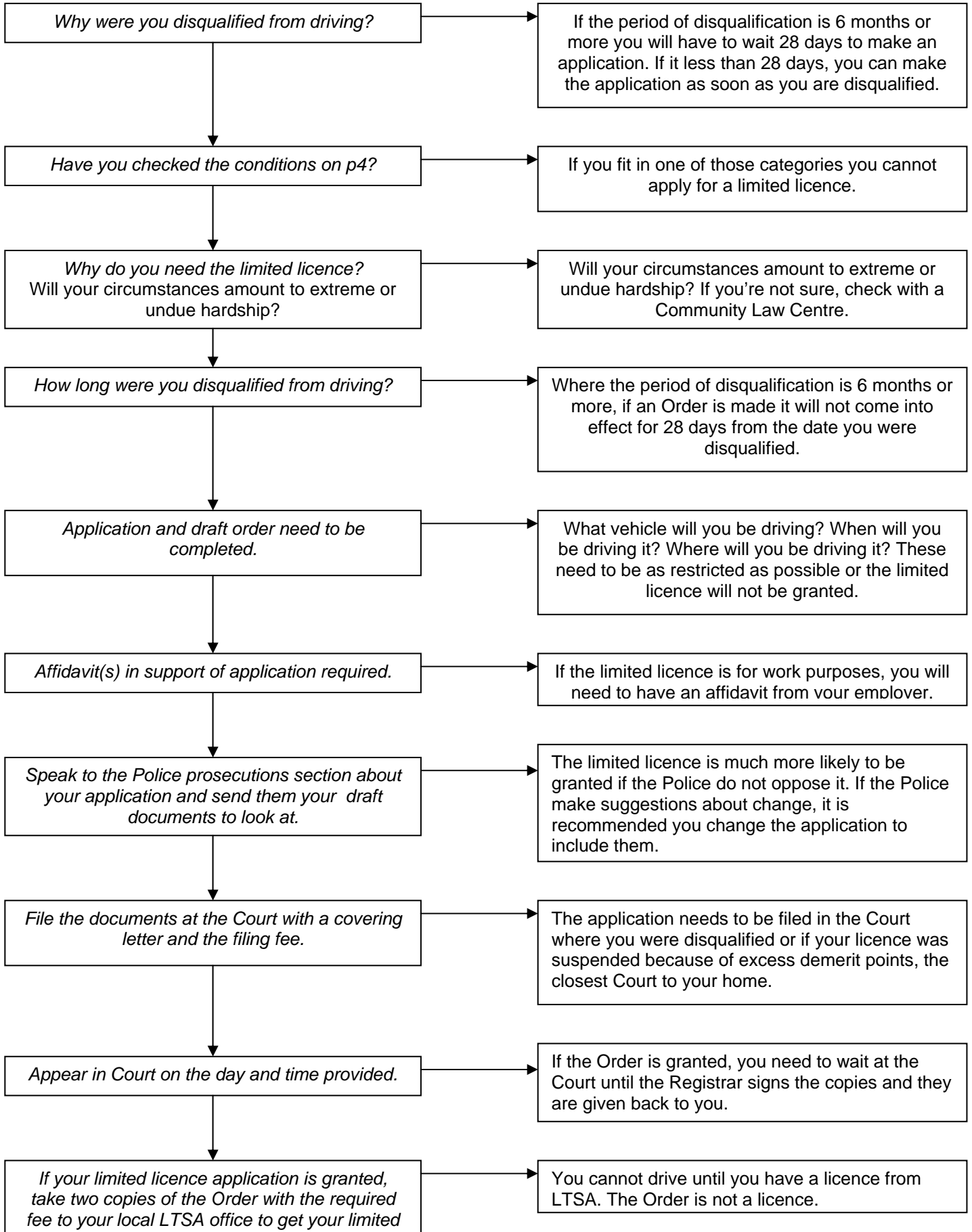
DATED at _____ this _____ day of _____ 200

(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 licence. 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 you to undergo and pass a test. The authority to whom you apply for your limited licence will advise you if this is so.

PROCESS FOR APPLYING FOR A LIMITED LICENCE



If you have lost your licence but need to be able to drive a car for a limited purpose, this book may be of some help to you.

This book is a “self help” resource targeted at beneficiaries who need to have a licence for other than employment reasons, but do not have the money to pay a lawyer to make an application to the Court.

It provides a guide to making an application for a limited licence and a plan that will assist an applicant present the application to the Court.

It will assist those individuals who feel they have the confidence to complete the documentation and speak for themselves in Court.

If you are unsure whether you have the confidence to bring an application you are advised to seek help from a lawyer before proceeding. An example of a limited “work” licence is also provided but individuals are advised to seek legal advice before making such an application.

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