

# The Shopfront

## YOUTH LEGAL CENTRE

### Driving – Information for Young People

#### Fact Sheet 3 – Demerit Points

##### What are demerit points?

Demerit points are imposed by the Road and Traffic Authority (RTA) for some types of driving offences, such as speeding, going through a red light, or tailgating.

If you incur any demerit points, they will go on your traffic record. The points stay on your licence for 3 years after the date of the offence.

##### What offences attract demerit points?

Many different driving offences attract demerit points. The more serious the offence, the higher the demerit points.

To give you an idea, the table below list some types of offences and their corresponding demerit points (effective from 1 July 2009). You can see the full list of offences on the RTA website: <http://www.rta.nsw.gov.au/rulesregulations>.

During Christmas, New Year, Easter and long weekends, double demerit points apply for all speeding, seatbelt and helmet offences. For offences marked with an asterisk (\*), committing the offence in a school zone incurs one extra demerit point.

Offence	Demerit points
Negligent driving	3
Failure to display L plates	2
Failure to display P plates	2
Parking on or near a children's crossing*	1
Not stopping at red light	3
Not wearing seatbelt	3
Tailgating	3
Disobeying "no right turn", "no left turn" or "no entry" signs	2
Exceeding speed limit by no more than 10km/h*	1 (4 for L, P1 and P2 drivers)
Exceeding speed limit by more than 10km/h but not more than 20km/h*	3 (4 for L, P1 and P2 drivers)
Exceeding speed limit by more than 20km/h but not more than 30km/h*	4 (4 for L, P1 and P2 drivers)
Exceeding speed limit by more than 30km/h but not more than 45km/h*	5 (5 for P1 and P2 drivers)
Exceeding speed limit over 45km/h*	6 (6 for P1 and P2 drivers)

## **What if I want to contest the penalty or demerit points for a traffic offence?**

If you commit a driving offence, you will normally receive a penalty notice telling you the amount of the fine and how many demerit points you have received.

If you think you are not guilty, you can send in the "court election" form and have the matter decided by the court. If the court finds you not guilty, you will not have to pay the fine and there will be no points recorded.

You may also elect to take the matter to court if you agree you are guilty but disagree with the penalty. The court may reduce the fine (or decide not to fine you at all) but *the court has no power to get rid of the demerit points if you are guilty of the offence.*

## **What happens if I receive too many demerit points?**

Once you get a certain number of demerit points your licence will be automatically suspended.

The number of demerit points you are allowed to accumulate before this happens depends on the type of licence you hold. The limit for each licence type is as follows:

- Full (unrestricted) licence: 12 demerit points in a 3-year period
- Provisional P2 licence: 7 points in a 3-year period
- Provisional P1 licence: 4 points in a 3-year period
- Learner Licence: 4 points in a 3-year period

## **How long are the suspension periods?**

Suspension periods vary according to the type of licence and the number of demerit points accumulated.

For a learner, P1 or P2 licence, your licence will be suspended for 3 months.

For a full (unrestricted) licence:

- 12 to 15 points: three months
- 16 to 19 points: four months
- 20 or more points: five months

## **Good behaviour option for full licence holders**

If you have a full licence, you can apply for a 12-month good behaviour licence instead of serving the suspension.

If you get 2 or more demerit points during the good behaviour period, you will be suspended for double the original suspension time. There is no right of appeal.

If you have a P1 or P2 licence or you are already serving a good behaviour period, you cannot apply for a good behaviour period.

## **Appealing against demerit point suspension**

Full licence holders have no right of appeal against a demerit point suspension (according to the RTA, this is because you have the option of a 12-month good behaviour licence).

Provisional licence holders may appeal to the Local Court against a demerit point suspension. The Local Court may confirm the suspension or overturn it. The court also has power to vary the period of the suspension (this usually means the suspension period is reduced, but the court actually has power to increase the suspension period).

When dealing with a licence suspension appeal, the court will *not* listen to any arguments about you being innocent of the offence(s) that caused you to get the demerit points. If you think you are not guilty of a traffic offence, you will need to send in the "court election" form on the penalty notice. If it is too late to do this or you are not sure what to do, you should get legal advice.

## **At the end of the suspension or good behaviour period**

If you serve a suspension or a good behaviour period for demerit points, all those points are wiped off your licence and you start with a clean slate.

When your suspension or good behaviour period is up, you will automatically get your licence back, as long as it hasn't expired or been cancelled in the meantime. If it has expired you will need to re-apply.

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### **Updated May 2010**

*The information in this fact sheet contains a basic summary of the law in New South Wales. It is not legal advice. This means that if you need legal advice, you should see a lawyer.*

For more information, visit us at [www.theshopfront.org](http://www.theshopfront.org) or contact us at:

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