

The Shopfront

YOUTH LEGAL CENTRE

Traffic Fact Sheet 5 – Demerit points

1 What are demerit points?

Demerit points are imposed by Roads and Maritime Services (RMS, formerly the RTA) for driving offences such as speeding, going through a red light or tailgating. These are imposed in addition to fines.

If you commit an offence that carries demerit points, the points are added to your driving record. If you exceed your demerit point limit in a 3-year period, your licence will be suspended.

2 What offences attract demerit points?

Many driving offences attract demerit points. To give you an idea, the table below lists some common types of offences and their demerit points.

For offences marked with an asterisk (*), committing the offence in a school zone incurs one extra demerit point.

During Christmas, New Year, Easter and long weekends, double demerit points apply for all speeding, seatbelt and helmet offences.

Negligent driving	3
Failure to display L plates or P plates	2
Not stopping at red light or stop sign*	3*
Not wearing seatbelt	3
Tailgating	3
Disobeying “no right turn”, “no left turn” or “no entry” signs	2
Parking on or near a pedestrian crossing or children’s crossing	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 L, P1 and P2 drivers)
Exceeding speed limit over 45km/h*	6* (6 for L, P1 and P2 drivers)

You can find lists of all demerit point offences on the RMS website at <http://www.rms.nsw.gov.au/cgi-bin/index.cgi?fuseaction=demeritpoints.browsehandler&category=&offence>.

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

If you commit a driving offence (other than a serious offence that has to go to court – see *Traffic Fact Sheet 7- Serious traffic offences and courts*) 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. You may also elect to take the matter to court if you agree you are guilty but you think the penalty is too harsh.

If the court finds you *not guilty*, you will not have to pay the fine and there will be no demerit points recorded.

If the court finds you *guilty and records a conviction*, the relevant number of demerit points will be recorded against you.

For matters dealt with after 21 January 2011, if you are found *guilty but the charge is dismissed without a conviction* (under section 10 of the *Crimes (Sentencing Procedure) Act*, or if you are under 18, under the *Children (Criminal Proceedings) Act*) no demerit points will be recorded.

4 What happens if I get too many demerit points?

If you reach the relevant limit of demerit points in a 3-year period, your licence will be automatically suspended.

The number of demerit points you are allowed to accumulate depends on the type of licence you hold.

The length of the suspension usually depends on the type of licence you have and the number of points you have accumulated.

Licence type	Demerit points incurred within 3-year period	Suspension period
Full (unrestricted) licence	13 points (14 for professional drivers) 16 to 19 points 20 points and over	3 months 4 months 5 months
Unrestricted licence with good behaviour period	2 points within the term of the good behaviour bond	Twice the period of suspension that would have applied
Provisional P2 licence	7 points	3 months
Provisional P1 licence	4 points	3 months
Learner licence	4 points	3 months

You can check how many demerit points you have by going to the RMS website <https://myrta.com/cleng/menu.do>.

5 What if I have two or more classes of licence?

If you hold two or more licence classes that accumulate the *same* number of demerit points (e.g. P1 motorcycle licence and P1 car licence) and one licence class gets suspended, then the other licence will also be automatically suspended and you can't drive/ride either vehicle.

If you hold two or more licence classes that accumulate *different* numbers of demerit points, and the licence that accumulates less points is suspended, you may still use the licence with the larger points limit. Just make sure you have not also exceeded the larger points limit on the other licence.

For example, if you have a P1 motorcycle licence and an unrestricted car licence, if your motorcycle licence gets suspended, you may still be able to drive a car because that unrestricted licence has a higher demerit point limit.

6 Notice of suspension

The RMS will usually send you a Notice of Suspension which will tell you the date when the suspension begins. Usually this is about a month away, so you have some time to organise alternative transport (or lodge an appeal) before the suspension starts.

You must not drive if your licence is suspended (see *Traffic Fact Sheet 3 – Driving without a licence*).

It is better to appeal the suspension if you can (see *Traffic Fact Sheet 4 – Licence suspension and appeals*).

7 Good behaviour option (full licence holders only)

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

8 Appealing against demerit point suspension (learner and provisional licence holders only)

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

Learner or provisional licence holders may appeal to the Local Court against a demerit point suspension. For more information see *Traffic Fact Sheet 4 – Licence suspension and appeals*.

9 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, usually you will automatically get your licence back, except:

- If your licence has expired or been cancelled during the suspension period, you will need to re-apply.
- If your licence has been suspended for some other reason (eg unpaid fines) you will need to deal with this.
- If you have been disqualified (because of an offence that was dealt with by a court), you will need to re-apply for your licence at the end of the disqualification period.
- If you have had your licence suspended for demerit points twice:
 - If it's your second demerit point suspension in 5 years, RMS can require you to do a Driver Knowledge Test or driver education course, or both.
 - If you are a P1 or P2 licence holder and it's your second demerit point suspension (it doesn't matter how long between suspensions), RMS can require you to do a Driver Knowledge Test.

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The information in this fact sheet contains a basic summary of the law in New South Wales. It is not legal advice. If you need legal advice, you should speak to a lawyer.

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