

# The Shopfront

## YOUTH LEGAL CENTRE

### Traffic Fact Sheet 5 – Demerit points

#### 1 What are demerit points?

---

Demerit points are imposed by Transport for NSW (TfNSW), which used to be known as Roads and Maritime Services (RMS), for driving offences such as speeding, going through a red light, or using a mobile phone while driving.

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.

You can find lists of all demerit point offences on the TfNSW website at:

<https://roads-waterways.transport.nsw.gov.au/cgi-bin/index.cgi?fuseaction=demeritpoints.browsehandler&category=&offence>

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.

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)
Using mobile phone while driving	5
Not stopping at red light or stop sign*	3*
Failure to display L plates or P plates	2

Negligent driving	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
Disobey “no parking” or “no stopping” in a school zone	2
Parking or stopping in a bus zone	2
Parking in disabled parking spot without a permit	1

### 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 will receive.

If you think you are not guilty (or if you agree you are guilty but you think the penalty is too harsh), you can send in a *court election* and have your case decided by a court.

You can submit a court election online at <https://www.nsw.gov.au/money-and-taxes/finances-and-fees/finances/apply-to-go-to-court-for-a-fine>, or you can send in the form which you can find at <https://www.nsw.gov.au/sites/default/files/2022-09/request-to-have-penalty-decided-in-court-individual.pdf>.

- 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. [If these demerit points lead to a licence suspension, you may still be able to appeal against the suspension – see part 7 below.]
- If you are found *guilty but the court decides not to record 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.

If it is a *camera-detected offence* and you were not the driver at the time, you need to nominate the driver instead of sending in a court election (for more information see *Traffic Fact Sheet 6 – Speeding*).

If you are worried about your licence being *suspended* because of your demerit points, a court election might be a good idea if you have a real chance of being found not guilty or having no conviction recorded.

However, if you are guilty of the offence and you are on your Ls or Ps, it is often better to pay the fine, wait until you receive a suspension letter, and appeal against the suspension. For more information see *Traffic Fact Sheet 4 – Licence Suspension and Appeals*.

## 4 What happens if I get too many demerit points?

---

If you reach your demerit points limit in a 3-year period, your licence will be automatically *suspended* (or your application for a licence will be *refused* if you do not hold a licence to begin with).

The demerit points limit depends on the type of licence you hold.

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

You can check how many demerit points you have against you by going to the Service NSW website: <https://www.service.nsw.gov.au/transaction/check-your-demerit-points>.

Licence type	Demerit points incurred within 3-year period	Suspension period
Learner licence	4 points	3 months
Provisional P1 licence	4 points	3 months
Provisional P2	7 points	3 months
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 period	Twice the period of suspension that would have applied

## 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 or refusal

---

If your licence is being suspended because of demerit points, this will usually happen after you have paid the fine, or after the due date has passed and the fine has been referred for enforcement.

TfNSW 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.

If you have no licence to suspend but you are instead facing a licence refusal, you will not receive a notice of refusal until you apply for your licence.

It can be a serious offence if your licence is suspended or if your application for a licence has been refused (see *Traffic Fact Sheet 3 – Driving without a licence*).

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

## 7 Appealing against demerit point suspension or refusal (learner and provisional licence holders only)

---

Learner or provisional licence holders may appeal to the Local Court against a demerit point suspension or refusal.

For more information see *Traffic Fact Sheet 4 – Licence suspension and appeals*.

## 8 Good behaviour option (full licence holders only)

---

Full licence holders have no right of appeal against a demerit point suspension.

However, they 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. This is a serious consequence, so you need to think carefully before applying for a good behaviour licence.

You can apply for a good behaviour period via the Service NSW website at <https://www.service.nsw.gov.au/transaction/apply-good-behaviour-period>.

It is important to note you cannot change your mind and choose to serve the suspension after you have applied for a good behaviour period.

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

## 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 you have been disqualified in the meantime (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 your licence has been suspended for some other reason (e.g. unpaid fines) you will need to deal with this.

- If you have had your licence suspended for demerit points twice:
  - 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), TfNSW can require you to do a Driver Knowledge Test.
  - If you are a full licence holder and it's your second demerit point suspension in 5 years, TfNSW can require you to do a Driver Knowledge Test or driver education course, or both.

For more information see *Traffic Fact Sheet 4 – Licence Suspension and Appeals*.

---

### **Updated August 2023**

*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.*

The Shopfront Youth Legal Centre  
356 Victoria Street, Darlinghurst, NSW 2010  
Tel: (02) 9322 4808  
Email: [shopfront@theshopfront.org](mailto:shopfront@theshopfront.org)  
Web: [www.theshopfront.org](http://www.theshopfront.org)