

Graduated Demerit Point system for Novice Drivers

Why introduce a Graduated Demerit Point system for Novice Drivers

Safer drivers mean safer roads for all Western Australians. To achieve this, the Government is introducing a new Graduated Demerit Point system for Novice Drivers. This new system takes effect on 1 December 2010

Research has found that novice drivers who get demerit points for breaking the road rules were 66 per cent more likely of being involved in a crash. It also shows that these drivers, who break the road rules as a novice, are more likely to be involved in crashes later in life. Early intervention is critical if we are to reduce the number of new/inexperienced driver's being killed or seriously injured in traffic crashes.

Every year more than 50 young people aged 17-24 years die on our roads. This makes them twice as likely to be killed as other licence holders.

In an effort to reduce traffic related mortality and morbidity rates, the Road Safety Council developed a number of recommendations based on International research and best practice. Through these recommendations it is estimated that the lives of up to 28 West Australians will be saved each year, plus result in a significant reduction in the number of serious injuries.

One of the key recommendations was a Graduated Demerit Point system to deter unsafe driving practices. Research shows that infringements and convictions received as a novice are good predictors of future crash involvement and that the most effective time to motivate drivers to develop safe driving behaviours is when they first gain their Provisional licence.

Essentially, influencing driver behaviour at an early stage of the driving experience helps Novice Drivers to develop safe driving practises that they will keep with them throughout their driving life.



Who is a Novice Driver?

For the purposes of this Graduated Demerit Point system, a person is a Novice Driver until they have held a driver's licence for at least two (2) years or periods adding up to two (2) years. This may include:

- a first time learner's permit holder
- the holder of a provisional driver's licence
- a driver from overseas who has not held a driver's licence for at least two years
- the holder of an extraordinary driver's licence

At what age do I become a Novice Driver?

You can be a Novice Driver at any age.



Many people do not apply for their first driver's licence until much later in life. Novice Driver laws focus on the amount of driving experience a person has, not their age.

Novice Driver Types

There are two types of Novice Driver;

Novice Driver Type 1:

A person is a Novice Driver Type 1 until they have held a driver's licence for a period of at least one year or periods adding up to one year, and includes a first time learner's permit holder.

Up until the end of the first year of holding a licence a person will only be able to have three (3) demerit points recorded against them. If four (4) or more demerit points are recorded against a person, they will be disqualified for at least three months and any driver's licence held will be cancelled.

Novice Driver Type 2:

A Novice Driver Type 2 is a person who has held a driver's licence for more than one (1) year but less than two (2) years.

Up until the end of the second year of holding a driver's licence, a person will only be able to have seven (7) demerit points recorded against them in total. If eight (8) or more demerit points are recorded against the person, they will be disqualified for at least three months and any driver's licence held will be cancelled.

The Novice Driver concept aims to ensure that a driver gains at least two years experience before they are able to hold an unrestricted licence or what is colloquially called an ordinary or full licence.

The Graduated Demerit point system aims to reduce the crash risk of Novice drivers by limiting their driving to safer, lower risk conditions, progressively lifting these restrictions as they move through successive stages of driving and develop more experience.

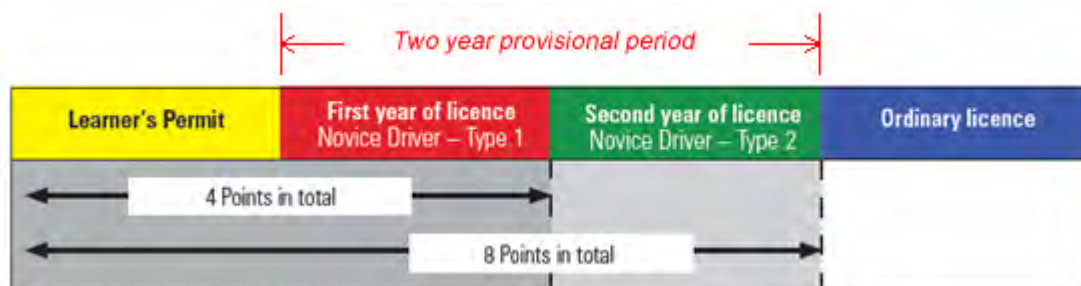
Provisional licences

You will remain a Novice Driver until you have held a driver's licence for at least two years or periods adding up to two years, whereas a Provisional Licence Holder does not commence the provisional period until they have been granted a driver's licence.

The difference between the two is that a provisional period is a set period of time, whereas a Novice Driver, depending on how long they remain on a learners permit may be much longer.

In most circumstances the two will align and be completed at the same time, however there are circumstances where the two don't align and end at different times.

Where the Novice Driver and provisional licence period align



In the above scenario you can see that the Novice Driver stage and the Provisional Licence stage although not commencing at the same time are completed at the same time.

Can you have a provisional licence for more than two years?

Yes. A person is a Novice Driver until they have held a drivers licence for two years or periods adding up to two years, however there are times where a person can hold a provisional licence for longer than two years.

The legislation regarding provisional licences says that a person must be on a provisional licence for two years or until they reach the age of 19 years which ever is the longer period.

The following example shows how this can occur:

A person may apply for and be granted a drivers licence for a moped (R-N vehicle class) at 16 years and at 17 years be granted their vehicle class "C" licence. At age 18 the person has completed the Novice Driver stage but still has a further one year to complete their provisional licence.

Demerit point limits

A Graduated Demerit points means reduced demerit point limits for Novice Drivers

The demerit point limits are as follows:

Novice Driver Type 1:

A person is a Novice Driver Type 1 until they have held a driver's licence for a period of at least one (1) year or periods adding up to one (1) year, and includes a first time learner's permit holder.

Up until the end of the first year of holding a licence a person will only be able to have three (3) demerit points recorded against them. If four (4) or more demerit points are recorded against a person, they will be disqualified for at least three (3) months and any driver's licence held will be cancelled.

Example:

After 1 December 2010, Carl, a Novice Driver Type 1, accumulates two (2) demerit point while holding a learners permit, and two (2) demerit points in the first year of holding his driver's licence, a total of four (4) demerit points.

As a Novice Driver Type 1, Carl will be disqualified for a period of three (3) months and his driver's licence will be cancelled

Carl will need to re-apply for a new driver's licence and he will also need to re-sit his Computerised Theory Test (CTT) and Practical Driving Assessment (PDA).

Novice Driver Type 2:

A Novice Driver Type 2 is a person who has held a driver's licence for more than one (1) year but less than two (2) years.

Up until the end of the second year of holding a driver's licence, a person will only be able to have seven (7) demerit points recorded against them in total. If eight (8) or more demerit points are recorded against the person, they will be for disqualified at least three months and any driver's licence held will be cancelled.

Example

After 1 December 2010 Mary, a Novice Driver Type 2, accumulates one (1) demerit point while a holder of a learner's permit, then a further two (2) demerit points in the first year of having her driver's licence, but then gets five (5) demerit points in the second year of having a driver's licence for a total of eight (8) demerit points.

As a Novice Driver Type 2, Mary will be disqualified for a period of three months and her driver's licence will be cancelled

Mary will need to re-apply for a new driver's licence and she will also need to re-sit her Computerised Theory Test (CTT) and Practical Driving Assessment (PDA).

Recording of demerit points

When demerit points are recorded against a person, those demerit points are placed on a Department of Transport register.

The recording of demerit points on the register will always reflect the date the offence was committed. The offence date is important as it determines how the Novice Driver demerit points will be applied.

For example on 1 June 2011, Ben is detected speeding by a speed camera and he is later issued with an infringement notice. On 15 June 2011 Ben pays the infringement notice and on 17 June the demerit points are recorded on the Department of Transport demerit points register.

Ben's offence date is registered as 1 June 2011.

What happens if points are recorded after you have finished your Novice Driver Type period?

In some instances Novice Driver demerit points may be added to the Department of Transport register after a driver has moved to either a Novice Driver Type 2 or a full licence. This situation occurs when the offence date falls during an earlier Novice Driver period.

If you commit an offence while you are still a Novice Driver Type 1 which will exceed the Graduated Demerit Point limit (three (3) points) but it is not recorded until after you have transitioned to a Novice Driver Type 2, you will still be disqualified for three months and their licence cancelled.

This person will need to re-apply for a new driver's licence. They will also need to re-sit their Computerised Theory Test (CTT) and Practical Driving Assessment (PDA).

Pre and Post 1 December 2010 Demerit Points

Pre-1 December 2010 Demerit Points

At the start of the Novice Driver Graduated Demerit Point system (1 December 2010), some drivers will have already had demerit points recorded against them. These points are known as *pre-1 December 2010 demerit points*.

It is important to note that these points do not count towards either of the Novice Driver Type 1 and 2 demerit point limits. They do, however, count towards the general 12 demerit point limit that all drivers are subject to.

Post 1 December 2010 Demerits Points

Demerit points that are recorded against a Novice Driver after the 1 December 2010 start of the Novice Driver Graduated Demerit Point system will count towards the new limits.

In some cases, the new law may come into effect part way through a driver's first two (2) years of holding a driver's licence.

For example a Novice Driver Type 1, who has two (2) pre-1 December 2010 demerit points, will find that they *do not count* towards the Novice Driver Type 1 limit of three (3) points. Only demerit points recorded after 1 December 2010 will count towards the Novice Driver Type 1 limit.

Another example is a Novice Driver Type 1 with a total of five (5) *pre-1 December 2010 demerit points*, will retain their licence even though they have exceeded the Novice Driver Type 1 points limit. This is because the points were recorded before the introduction of the new system. Only demerit points recorded after 1 December 2010 will count towards the Novice Driver Type 1 limit.

A third example is the Novice Driver Type 2 with 11 *pre-1 December 2010 demerit points*. This driver will retain their licence even though they have 11 demerit points as a Novice Driver type 2. Again as in the previous example, only demerit points recorded after 1 December 2010 will count towards the Novice Driver Type 2 limit, although this driver is at risk of reaching the general demerit point limit of 12.

Demerit point warning letters to Novice Drivers

After 1 December 2010, the Department of Transport will notify a Novice Driver with a warning letter when they have demerit points recorded against them.

This warning letter is designed to make the Novice Driver aware that any additional demerit points will lead them to being disqualified from driving and having their driver's licence cancelled, but also to emphasise safe driving messages.

What is the process if I exceed my Novice Driver demerit point limit?

If you have exceeded your demerit point limit you will receive an Excessive Demerit Point Notice or an Excessive Demerit Point (Novice Driver) Notice.

What is an Excessive Demerit Point (Novice Driver) Notice?

Whichever Novice Driver Type you are, if you exceed the demerit point limit for your Novice Driver Type you will be served with an Excessive Demerit Points (Novice Driver) Notice. This notice advises that your licence will be cancelled and the three (3) month disqualification period will commence 28 days after the day the notice was served.

Note: Every licence holder is subject to an Excessive Demerit Point Notice when 12 or more demerit points have been recorded against them.

What is the difference between Excessive Demerit Point (Novice Driver) Notice and an Excessive Demerit Point Notice?

Essentially an Excessive Demerit Point Notice is for reaching the 12 demerit point limit but also offers those drivers with a full licence the option of taking a 12 month Good Behaviour Period (Double or Nothing) which is not available to either type of Novice Driver, while the Excessive Demerit Point (Novice Driver) Notice is specifically for Novice Drivers.

How are these notices calculated?

There are three calculations are made when Novice Driver demerit points are added to the Transport demerit point register, these examine whether:

- *The driver reaches or exceeds the general 12 point limit*

This initial calculation determines if the driver's total demerit points reaches or exceeds 12, including any pre-and post 1 December 2010 demerit points. This is the only time the pre-1 December 2010 points are taken into consideration for Novice Drivers.

- *The driver reaches or exceeds the Novice Driver four (4) point limit*

The second calculation determines whether the Novice Driver has four (4) or more points recorded against them post 1 December 2010 and whether the person was a Novice Driver type 1 at the time of the offence.

- *The driver has reached or exceeds the Novice Driver eight (8) point limit*

The third calculation determines whether the Novice Driver has eight (8) or more points recorded against them post 1 December 2010 and whether the person was a Novice Driver Type 2 at the time of the offence.

If the answer to any of these questions is 'yes', the driver is issued with either an Excessive Demerit Points Notice or an Excessive Demerit Points (Novice Driver) Notice.

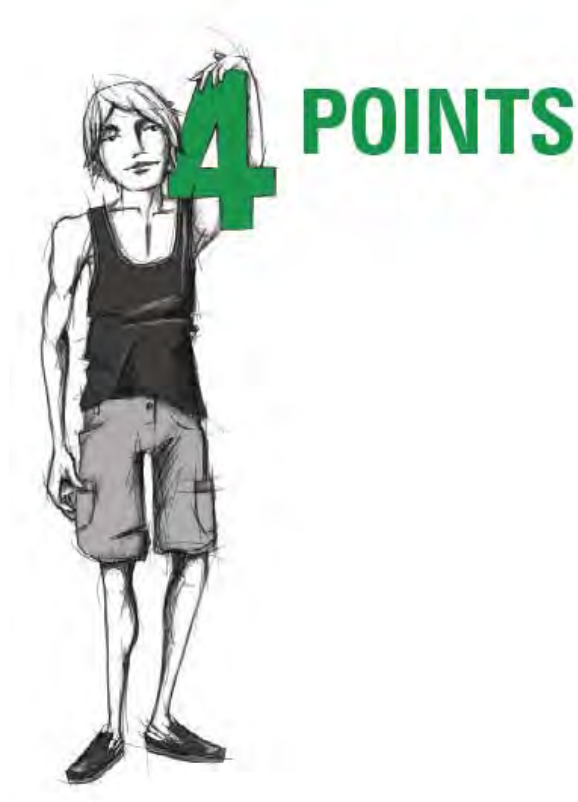
How are these notices served?

Excessive Demerit Points (Novice Driver) Notices must be served in one of two ways:

- Personally served by a delegate of the Department of Transport or,
- Secure collect mail service

When does the Disqualification period commence?

Once the Excessive Demerit Points (Novice Driver) Notice has been served the disqualification will commence 28 days after the day the notice was served.



What is a Disqualification?

What is a disqualification?

The full and correct term is "disqualified from holding or obtaining a driver's licence".

This means that a person is not permitted to:

- Hold a driver's licence;
- Apply for a driver's licence;
- or be granted a driver's licence.

Therefore the disqualification applies to the person not the licence.

Note: The exception to this is an Extraordinary Licence when allowed by law.

A disqualification can occur in two ways:

- by a court
- by the operation of the law

By a court

When a person is convicted of certain traffic offences the court will disqualify the person from holding or obtaining a driver's licence. For example a person convicted of a first offence of driving under the Influence of alcohol (section 63 of *Road Traffic Act 1974*) is liable to a minimum disqualification of six months.

By the operation of the law

In some situations the law will require a person to be disqualified without them having to go to court or even be charged with an offence. An example is where a person has 12 or more demerit points recorded against them, they can become subject to a demerit point disqualification. In this situation a court is not disqualifying them, the law is, and as a result of the service of the excessive demerit point notice.

This also applies to any Novice Driver who exceeds the Graduated Demerit Point limits.

Suspensions and cancellations

When a person is disqualified from holding or obtaining a driver's licence as outlined above the law will operate to either **cancel** or **suspend** their driver's licence.

This will occur via the application of either section 51 or 75 of the *Road Traffic Act 1974*.

Section 51 will operate if the person holds a provisional licence or they do not hold a licence but if they were to be granted a licence it would have to be a provisional licence. Section 75 will operate for ordinary licence holders (those that are not provisional).

The following two examples demonstrate how this process works.

Example 1. –

- A provisional licence holder becomes subject to an excessive demerit point disqualification.
- The **person is disqualified** by operation of the law and their **driver's licence is cancelled** by the operation of section 51 of the Road Traffic Act 1974.
- When the disqualification ends the person has to make an application for a new driver's licence.

Example 2.

- A person with an ordinary licence is convicted by the courts for the offence of Reckless Driving and is given a 6 month disqualification.
- The **person is disqualified** for 6 months and their **driver's licence is suspended** by the operation of section 75 of the Road Traffic Act 1974.
- When the disqualification ends so will the suspension of their driver's licence and they can recommence driving (provided the licence is still current/valid).



Government of **Western Australia**
Department of **Transport**