



New South Wales

# Road Transport (Driver Licensing) Regulation 2008

under the

Road Transport (Driver Licensing) Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

ERIC ROOZENDAAL, M.L.C.,  
Minister for Roads

## Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Road Transport (Driver Licensing) Regulation 1999*, which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the classes of driver licences and the form of those licences,
- (b) learner licences, provisional licences and heavy vehicle learner licences,
- (c) the eligibility requirements for the different classes of driver licences,
- (d) procedures relating to applications for the issue or variation of driver licences,
- (e) the requirement that holders of driver licences submit to testing of driving ability and knowledge of safe driving practices and road law and undergo medical examinations,
- (f) the expiration, renewal and surrender of driver licences,
- (g) the variation, suspension, cancellation and downgrading of driver licences and the offences for which demerit points are incurred,
- (h) the motorcycle licence riding and testing scheme,
- (i) interlock driver licences and devices,
- (j) exemptions of drivers from requirements to hold driver licences,
- (k) miscellaneous provisions, including provisions relating to the administration of the driver licensing scheme and fees payable,
- (l) savings, transitional and formal matters.

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Road Transport (Driver Licensing) Regulation 2008

Explanatory note

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This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature, matters of a savings nature and matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including sections 9, 11, 12, 13, 14, 15, 17, 19 (the general regulation-making power), 20, 21C, 25, 25A, 40 and 41.

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## Road Transport (Driver Licensing) Regulation 2008

under the

Road Transport (Driver Licensing) Act 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Road Transport (Driver Licensing) Regulation 2008*.

#### 2 Commencement

This Regulation commences on 1 September 2008.

**Note.** This Regulation replaces the *Road Transport (Driver Licensing) Regulation 1999* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Object

The object of this Regulation is to assist in providing for the consistent administration and enforcement of a driver licensing system throughout Australia.

#### 4 Definitions

(1) In this Regulation:

**alcohol interlock program**, in relation to a person, means an interlock program referred to in Chapter 5 of the *Road Transport (General) Act 2005* the participants in which are holders of interlock driver licences.

**allied professional practitioner** means a clinical psychologist, an optometrist or occupational therapist registered or licensed under a State or Territory law that provides for the registration or licensing of such persons.

**applicable fee**—see clause 111.

**articulated bus** means a bus consisting of more than one rigid section with passenger access between the sections and the sections connected to one another so as to allow rotary movement between the sections.

**Assessing Fitness to Drive** means the publication *Assessing Fitness to Drive* published by Austroads Inc and approved by the Australian Transport Council, as in force from time to time.

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Part 1 Preliminary

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**car licence** means a licence referred to in clause 7 (3).

**car-based motor tricycle** means a motor trike that:

- (a) has displayed on it a compliance plate issued by the Australian Transport Safety Bureau, with the category LEM, LEP or LEG, and
- (b) has a GVM that is not greater than 1 tonne, and
- (c) is constructed or equipped to seat not more than 3 adult persons including the driver, and
- (d) has a rear mounted engine of a kind manufactured for a motor car, and
- (e) has a transmission of a kind manufactured for a motor car with direct drive to the rear wheels, and
- (f) has at least 2 of the following characteristics:
  - (i) pedal operated clutch or automatic transmission,
  - (ii) pedal operated fully integrated braking system,
  - (iii) left-hand operated gear stick not mounted on the handlebars.

**class B motor vehicle** means:

- (a) a motor vehicle with a GVM exceeding 4.5 tonnes but not exceeding 12 tonnes, or
- (b) a motor vehicle and trailer combination with a GCM exceeding 4.5 tonnes but not exceeding 12 tonnes.

**class C motor vehicle** means a coach (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*) or a motor vehicle with a GVM of more than 12 tonnes.

**Contracting State** means a foreign country that is a signatory to the *United Nations Convention on Road Traffic, Geneva, 1949*.

**converter dolly** means a trailer with one axle group or single axle and a fifth wheel coupling designed to convert a semi-trailer into a dog trailer.

**foreign driver licence** means a licence to drive a motor vehicle held by an international visitor and issued in the country in which the person is ordinarily resident.

**GCM** and **GVM** have the same meanings as they have in the *Road Transport (Safety and Traffic Management) Act 1999*.

**heavy combination vehicle licence** means a licence referred to in clause 7 (9).

**heavy rigid vehicle licence** means a licence referred to in clause 7 (8).

**implement** means a motor vehicle (other than a mobile crane) that comprises an excavator, road grader, road roller, bulldozer, forklift

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truck or other machinery or apparatus and is not constructed on a chassis of a type normally used in the construction of a motor lorry.

**international driving permit** means a permit issued by:

- (a) a competent authority of a Contracting State or a subdivision of such a State, or
- (b) an association duly empowered by such an authority in accordance with the *United Nations Convention on Road Traffic, Geneva, 1949*.

**international visitor** means a person who:

- (a) is ordinarily resident in a foreign country, and
- (b) is not a permanent resident of Australia.

**licence class**—see clause 5.

**licence expiry date** means the date recorded in the driver licence register, in accordance with clause 103 (1) (f), as the date on which the driver licence expires.

**light rigid vehicle licence** means a licence referred to in clause 7 (6).

**medical practitioner** means a person registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of such persons.

**medium rigid vehicle licence** means a licence referred to in clause 7 (7).

**motor bike** means a motor vehicle with two wheels and includes a two wheeled motor vehicle with a side car attached to it and supported by a third wheel.

**motor trike** means a motor vehicle with three wheels, but does not include a two wheeled motor vehicle with a side car attached to it and supported by a third wheel.

**motorcycle licence** means a licence referred to in clause 7 (2).

**multi-combination vehicle licence** means a licence referred to in clause 7 (10).

**prime mover** means a motor vehicle built to tow a semi-trailer.

**provisional P1 licence** means a provisional licence issued in accordance with clause 20.

**provisional P2 licence** means a provisional licence issued in accordance with clause 27.

**rigid** means not articulated, other than in respect of an articulated bus.

**road transport legislation** has the same meaning as in the *Road Transport (General) Act 2005*.

**Safe-T-Cam sign** means a traffic sign bearing the words “SAFE-T-CAM MANAGING SPEED AND FATIGUE”.

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Part 1 Preliminary

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**Safe-T-Cam zone** means a length of road to which a Safe-T-Cam sign applies, being a length of road beginning at a Safe-T-Cam sign and ending 300 metres along the length of road in the direction driven by a driver on the road who faces the sign before passing it.

**school zone** means a school zone (as defined in rule 23 of the *Road Rules 2008*), but only during any period in which the speed limit indicated by a school zone sign has effect, as referred to in rule 318 (3–1) of those Rules.

**semi-trailer** means a trailer (including a pole-type trailer) that has:

- (a) one axle group or single axle towards the rear, and
- (b) a means of attachment to a prime mover that would result in some of the load being imposed on the prime mover.

**the Act** means the *Road Transport (Driver Licensing) Act 1998*.

**trailer** means a vehicle that is built to be towed, or is towed, by a motor vehicle but does not include a motor vehicle being towed.

**1999 Reg** means the *Road Transport (Driver Licensing) Regulation 1999*.

**Note.** Other expressions are defined in the Dictionary to the Act.

- (2) Notes included in this Regulation do not form part of this Regulation.

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## Part 2 Driver licences generally

### 5 Licence classes and class codes (cf cl 26 1999 Reg)

- (1) For the purposes of this Regulation, the classes of driver licence are as follows:
- (a) car licence (being a car licence other than an interlock driver licence or a car licence that is an interlock driver licence),
  - (b) motorcycle licence,
  - (c) light rigid vehicle licence,
  - (d) medium rigid vehicle licence,
  - (e) heavy rigid vehicle licence,
  - (f) heavy combination vehicle licence,
  - (g) multi-combination vehicle licence.
- (2) A licence class may be shown on a driver licence by means of a symbol or by the code (the *licence code*) shown opposite the relevant licence class in the following table.

Licence class	Licence code
motorcycle licence	R
car licence	C
light rigid vehicle licence	LR
medium rigid vehicle licence	MR
heavy rigid vehicle licence	HR
heavy combination vehicle licence	HC
multi-combination vehicle licence	MC

- (3) A licence class may be described by reference to its licence code.

### 6 Hierarchy of licence classes (cf cl 27 1999 Reg)

- (1) For the purposes of this Regulation, the hierarchy of licence classes, ordered from the lowest to the highest class, is as follows:
- (a) car licence,
  - (b) light rigid vehicle licence,
  - (c) medium rigid vehicle licence,
  - (d) heavy rigid vehicle licence,

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Part 2 Driver licences generally

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- (e) heavy combination vehicle licence,
- (f) multi-combination vehicle licence.

(2) A motorcycle licence is not included in the hierarchy.

### **7 Vehicles authorised to be driven in licence classes** (cf cl 26 1999 Reg)

- (1) The holder of a licence of a particular class may drive motor vehicles of a particular kind, as set out in this clause, and motor vehicles in any lower class according to the hierarchy of licence classes.
- (2) The holder of a motorcycle licence may drive a motor bike or motor trike, other than a motor trike that has a body type commonly known as, or similar to, a sedan, station wagon, coupe, convertible, roadster, utility, tray top or van.
- (3) The holder of a car licence (other than an interlock driver licence) may drive any of the following:
  - (a) a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver),
  - (b) a car-based motor tricycle,
  - (c) any tractor or implement.
- (4) However, the authority conferred by a car licence (other than an interlock driver licence) does not entitle the holder to drive:
  - (a) a motor bike, or
  - (b) a motor trike (other than a car-based motor tricycle) that does not have a body type commonly known as, or similar to, a sedan, station wagon, coupe, convertible, roadster, utility, tray top or van.
- (5) The holder of a car licence that is an interlock driver licence may drive a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver).
- (6) The holder of a light rigid vehicle licence may drive a motor vehicle that:
  - (a) has a GVM greater than 4.5 tonnes but not greater than 8 tonnes, or
  - (b) seats more than 12 adults (including the driver) and has a GVM not greater than 8 tonnes.
- (7) The holder of a medium rigid vehicle licence may drive a motor vehicle that has 2 axles and a GVM greater than 8 tonnes.

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- (8) The holder of a heavy rigid vehicle licence may drive a motor vehicle (including an articulated bus, but not including any other articulated vehicle) that has 3 or more axles and a GVM greater than 8 tonnes.
  - (9) The holder of a heavy combination vehicle licence may drive:
    - (a) a prime mover to which is attached a single semi-trailer plus any unladen converter dolly, or
    - (b) a rigid motor vehicle to which is attached a trailer that has a GVM greater than 9 tonnes plus any unladen converter dolly.
  - (10) The holder of a multi-combination vehicle licence may drive any motor vehicle or combination of vehicles other than a motor bike or motor trike described in subclause (2).

**8 Authorisation to tow trailers and semi-trailers** (cf 26 (10)–(12) 1999 Reg)

- (1) The holder of a car licence or light rigid vehicle licence may drive a motor vehicle covered by that licence class that is towing a single trailer with a GVM not greater than 9 tonnes, but only if:
  - (a) in the case of a motor vehicle that has a GVM of up to 4.5 tonnes, the requirements of any law in force in this State in relation to the mass limits for combinations of light vehicles are met, or
  - (b) in the case of a motor vehicle that has a GVM greater than 4.5 tonnes, the mass limits for combinations specified in the *Road Transport (Mass, Loading and Access) Regulation 2005* are met.
- (2) The holder of a medium rigid vehicle licence or heavy rigid vehicle licence may drive a motor vehicle covered by that licence class that is towing a single trailer (other than a trailer commonly known as a semi-trailer) that has a GVM not greater than 9 tonnes, but only if the mass limits for combinations specified in the *Road Transport (Mass, Loading and Access) Regulation 2005* are met.
- (3) Nothing in subclause (2) prevents the holder of a medium rigid vehicle licence or heavy rigid vehicle licence from towing a car carrier, horse float or like trailer that has a GVM not greater than 9 tonnes.
- (4) The driver of a vehicle towing a semi-trailer must hold a heavy combination vehicle licence.

**9 Conditional licences and condition codes** (cf cl 28 and 57 (2) 1999 Reg)

- (1) A condition to which a driver licence is subject may be shown on the driver licence by means of a code or symbol.

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Clause 9 Road Transport (Driver Licensing) Regulation 2008

Part 2 Driver licences generally

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- (2) If a condition is shown by a code or symbol, the driver licence must bear a note to the effect that the condition can be found out by inquiry of the Authority.
- (3) The holder of a conditional licence must, if required to do so by the Authority, carry, when driving, any notice issued by the Authority containing a full explanation of the conditions to which the licence is subject.  
Maximum penalty: 20 penalty units.
- (4) The holder of an Australian driver licence issued in another jurisdiction that is a conditional licence bearing the code X, and that refers to a condition imposed under a provision of a law of that jurisdiction corresponding to this clause or clause 55, must carry a notice issued by the Authority containing a full explanation of the conditions to which the licence is subject when driving in this State.  
Maximum penalty: 20 penalty units.
- (5) A condition code in Column 1 of the Table to this subclause may be used on a driver licence to indicate that the licence is subject to the licence condition set out in Column 2 opposite that code.

<b>Condition code</b>	<b>Licence condition</b>
A	The holder must drive only a motor vehicle fitted with an automatic transmission.
B	If the holder drives a heavy vehicle, the vehicle must be fitted with a synchromesh transmission or automatic transmission.
E	If the holder is the rider of a motor bike or motor trike, the motor bike or motor trike must be of restricted engine capacity as notified in writing by the Authority to the holder on issue or variation of the licence.
I	The holder must drive only a motor vehicle fitted with an approved interlock device within the meaning of Part 2A of the Act.
S	The holder must wear corrective lenses at all times while driving.
V	The holder must drive only a motor vehicle fitted with specified driver aids, or modified as directed in writing by the Authority or printed on the licence.

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Condition code	Licence condition
X	The holder must comply with any condition of which the holder has been notified in writing by the Authority on issue or variation of the licence or that is printed on the licence.
Z	The holder must not drive with a breath or blood alcohol concentration of 0.02 grams or more of alcohol in 210 litres of breath or 100 mls of blood.

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- (6) A short description of a licence condition may be printed on a driver licence.

**10 Form of driver licence** (cf cl 22 1999 Reg)

- (1) A driver licence must show:
- (a) a licence number for the person to whom it is issued, and
  - (b) the full name of the person, and
  - (c) a photograph of the person, and
  - (d) the person's date of birth, and
  - (e) the person's residential address, and
  - (f) the person's signature (or a reproduction of that signature), and
  - (g) the class or classes of licence held by the person, and
  - (h) the expiry date of the licence, and
  - (i) the code of any condition to which the licence is subject.
- (2) Despite subclause (1) (e), the Authority may issue a driver licence showing an alternative address to any of the following persons:
- (a) a judicial officer within the meaning of the *Judicial Officers Act 1986*,
  - (b) a Crown Prosecutor appointed under the *Crown Prosecutors Act 1986*,
  - (c) a person who lives at the same residential address as a person referred to in paragraph (a) or (b).

**11 Code on licences issued to temporary overseas visitors** (cf cl 22 (3) 1999 Reg)

The Authority may include on a driver licence issued subject to clause 43 (Special eligibility criteria for temporary overseas visitors) a code or symbol, together with a statement, to indicate that the licensee has not provided the Authority with evidence of permanent resident status.

## **2008 No 397**

Clause 12 Road Transport (Driver Licensing) Regulation 2008

Part 3 Learner licences, provisional licences and heavy vehicle learners

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### **Part 3 Learner licences, provisional licences and heavy vehicle learners**

#### **Division 1 Learner licences**

#### **Subdivision 1 Eligibility for, conditions of, and cancellation or suspension of learner licence**

##### **12 Eligibility to apply for learner licence** (cf cl 10 1999 Reg)

- (1) A person is eligible to apply for a learner licence if the person meets the relevant eligibility requirements set out in this clause, or is exempted from being required to do so:
  - (a) in any case (including a learner licence that is a motorcycle licence)—by the Authority under Part 4, or
  - (b) in the case of a learner licence that is a motorcycle licence—under clause 69.
- (2) The relevant eligibility requirement for a learner licence that is a car licence is that the person is at least 16 years of age.
- (3) The relevant eligibility requirements for a learner licence that is a motorcycle licence are:
  - (a) that the person is at least 16 years and 9 months of age, and
  - (b) that the person is the holder of a certificate of satisfactory completion of a learner licence rider training course under Part 9 (being a certificate that is not more than 3 months old when the person applies for the licence).
- (4) The Authority may grant a learner licence to an applicant who is under the required age, but only if the Authority is satisfied that special circumstances exist that justify the granting of a learner licence to the person.
- (5) Despite any other provision of this clause, a learner licence may be granted for any period to a person whose provisional licence, not being a motorcycle licence, has been cancelled.

##### **13 Conditions of learner licences** (cf cl 11 1999 Reg)

A learner licence may be subject to any of the following conditions:

- (a) a condition specifying the minimum period for which a learner licence must be held before a provisional licence will be issued to the holder,
- (b) a condition limiting the hours during which and locality in which the learner may drive a motor vehicle.

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**14 Cancellation or suspension of learner licence** (cf cl 12A 1999 Reg)

In addition to any other ground on which a learner licence may be cancelled or suspended by the Authority, a learner licence may be immediately cancelled or suspended by the Authority in the event of any of the following:

- (a) the holder of the learner licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,
- (b) the holder of the learner licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,
- (c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the holder of the learner licence in respect of any such offence.

**Subdivision 2 Restrictions relating to learner licences****15 Learner licence holder must be supervised in vehicle and display “L” plates** (cf cl 12 (1) and (2A) 1999 Reg)

- (1) The holder of a learner licence must not drive a motor vehicle (other than a motor bike or motor trike) on a road or road related area unless:
  - (a) the seat next to the learner is occupied by a person who holds an Australian driver licence (not being an Australian learner licence or provisional licence) authorising the holder to drive such a vehicle, or by a police officer or a person authorised by the Authority to test drivers who is submitting the learner to a driving test for the purposes of this Regulation, and
  - (b) a sign, issued or authorised by the Authority and displaying the letter “L” in black on a yellow background, is displayed:
    - (i) on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and
    - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “L” on the sign when viewed from ahead of or behind the vehicle.

Maximum penalty: 20 penalty units.

- (2) The offence under subclause (1) (a) is the offence of being the holder of a learner licence driving unaccompanied by a supervising driver for the purposes of section 19A of the Act and sections 205 and 206 of the *Road Transport (General) Act 2005*.

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- (3) If a person is convicted of an offence under subclause (1) (a), the person is disqualified by the conviction (and without any specific order) from holding a driver licence:
- (a) for a period of 3 months, or
  - (b) if the court on the conviction thinks fit to order a different period of disqualification determined in accordance with subclause (4), for the period specified in the order.

**Note.** Section 189 of the *Road Transport (General) Act 2005* provides for the effect of a disqualification (whether or not by order of a court).

- (4) In determining a different period of disqualification under subclause (3), the court may specify a period that is:
- (a) more than 3 months but no more than 12 months, or
  - (b) less than 3 months, but only if:
    - (i) the person's driver licence or authority to drive in New South Wales has been suspended for a period (*the suspension period*) under section 205 or 206 of the *Road Transport (General) Act 2005* for that offence, and
    - (ii) the specified disqualification period when added to the suspension period results in a total period of not less than 3 months.
- (5) The disqualification referred to in subclause (3) is in addition to any other penalty imposed for the offence.
- (6) A period of disqualification imposed under subclause (3) commences on the date of conviction for the offence to which it relates.
- (7) The Authority may exempt a person from a requirement in subclause (1) (b) if the person, having held a licence other than a learner licence, currently holds a learner licence because of failing a test of driving ability that the Authority required the person to take.
- (8) In this clause, a reference to a learner licence includes a reference to a foreign driver licence that has the same or similar effect as a learner licence.

### 16 Responsibility of person supervising holder of learner licence (cf cl 12 (5) 1999 Reg)

A person accompanying a learner in a vehicle being driven by the learner on a road or road related area (other than a person submitting the learner to a driving test for any of the purposes of this Regulation) must:

- (a) supervise the learner with respect to the driving of the vehicle, and

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- (b) take all reasonable precautions to prevent a contravention of the road transport legislation.

Maximum penalty: 20 penalty units.

**17 Motor bikes and motor trikes** (cf cl 12 (2), (2A) and (3) 1999 Reg)

- (1) The holder of a learner licence must not ride a motor bike or motor trike on a road or road related area:
- (a) if the motor bike or motor trike is being used for the carriage of any person except the learner, and
  - (b) unless a sign, issued or authorised by the Authority and displaying the letter “L” in black on a yellow background, is displayed:
    - (i) in a conspicuous position at the rear of the motor bike or motor trike, and
    - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “L” on the sign when viewed from behind the motor bike or motor trike.

Maximum penalty: 20 penalty units.

- (2) The holder of a learner licence must not ride a motor bike or motor trike on a road or road related area unless, at the time it is ridden, the motor bike or motor trike:
- (a) is listed for the time being in the Authority’s publication *Approved motorcycles for novice riders*, published on the Authority’s website and available from motor registries, and
  - (b) has an engine capacity that is not greater than 660 ml and a power to weight ratio that is not greater than 150 kilowatts per tonne.

Maximum penalty: 20 penalty units.

- (3) The Authority may exempt a person from a requirement in subclause (1) (b) if the person, having held a licence other than a learner licence, currently holds a learner licence because of failing a test of riding ability that the Authority required the person to take.
- (4) In this clause, a reference to a learner licence includes a reference to a foreign driver licence that has the same or similar effect as a learner licence.

**18 Restrictions on towing** (cf cl 13 1999 Reg)

The holder of a learner licence must not drive a motor vehicle on a road or road related area if the vehicle:

- (a) is towing any other vehicle (whether or not a trailer), or

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(b) is being towed by any other vehicle.

Maximum penalty: 20 penalty units.

### 19 Owner of vehicle must take steps to prevent breach of this Subdivision

(cf cl 12 (4) 1999 Reg)

Without limiting the liability of any other person, the owner or person in charge of a motor vehicle is guilty of an offence if the person causes, permits or allows, or fails to take reasonable precautions to prevent, a contravention of this Subdivision.

Maximum penalty: 20 penalty units.

## Division 2 Provisional licences

### Subdivision 1 First-stage provisional licences (provisional P1)

#### 20 Issue of provisional P1 licence (cf cl 15 (1), (2) and (3) 1999 Reg)

(1) Except as provided by Division 1, a driver licence issued to an applicant who has not previously held, for a continuous period of at least 12 months (not including any period of suspension), any of the following licences:

- (a) a car licence or motorcycle licence, or
- (b) an Australian driver licence of a class considered appropriate by the Authority, or
- (c) a foreign driver licence of a type considered appropriate by the Authority,

must be a provisional licence of class C or class R, to be known as a provisional P1 licence.

- (2) A provisional P1 licence is to be issued for a period of up to 18 months.
- (3) However, the period for which a provisional P1 licence is to be issued to a person who is a licence holder transferring from being a licence holder in another State, Territory or country may be reduced by the Authority by the amount of time that the person held the licence in the other State, Territory or country.

#### 21 Conditions to which provisional P1 licence of class C is subject (cf cl 15 (4) 1999 Reg)

A provisional P1 licence of class C is subject to the following conditions (in addition to any other conditions that may be attached to the licence):

- (a) the holder must not drive any motor vehicle unless a sign, issued or authorised by the Authority and displaying the letter "P" in red on a white background, is displayed:

- (i) in the case of a vehicle not towing a trailer—on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and
  - (ii) in the case of a vehicle towing a trailer—on the exterior of the vehicle and trailer in a conspicuous position at the front of the vehicle and the rear of the trailer, or a conspicuous position on the roof of the vehicle, and
  - (iii) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from ahead of or behind the vehicle,
- (b) the holder must not drive a car-based motor tricycle.

## 22 Conditions to which provisional P1 licence of class R is subject

(cf cl 15 (4) 1999 Reg)

A provisional P1 licence of class R is subject to the following conditions (in addition to any other conditions that may be attached to the licence):

- (a) the holder must not drive any motor bike or motor trike unless a sign, issued or authorised by the Authority and displaying the letter “P” in red on a white background, is displayed:
  - (i) in a conspicuous position at the rear of the motor bike or motor trike, and
  - (ii) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from behind the motor bike or motor trike,
- (b) the holder must not drive a motor bike or motor trike on a road or road related area unless, at the time it is driven, the motor bike or motor trike:
  - (i) is listed for the time being in the Authority’s publication *Approved motorcycles for novice riders*, published on the Authority’s website and available from motor registries, and
  - (ii) has an engine capacity that is not greater than 660 ml and a power to weight ratio that is not greater than 150 kilowatts per tonne.

## 23 Restrictions on towing (cf cl 15 (6) 1999 Reg)

The holder of a provisional P1 licence must not drive a motor vehicle on a road or road related area if:

- (a) in the case of a provisional P1 licence of class C—the motor vehicle is towing any other motor vehicle (whether or not a trailer) having an unladen mass in excess of 250 kg, or

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- (b) in the case of a provisional P1 licence of class R—the motor bike or motor trike is towing any other vehicle (whether or not a trailer).

Maximum penalty: 20 penalty units.

### **24 Cancellation or suspension of provisional P1 licence** (cf cl 15 (5) and (8) 1999 Reg)

- (1) In addition to any other ground on which a licence may be cancelled or suspended by the Authority, a provisional P1 licence may be cancelled or suspended immediately by the Authority in the event of any of the following:
  - (a) the holder of the licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,
  - (b) the holder of the licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,
  - (c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the licence holder in respect of any such offence,
  - (d) the holder of the licence fails to observe any term or condition of the licence.
- (2) If a provisional P1 licence held by a person is cancelled by the operation of section 189 of the *Road Transport (General) Act 2005*, the Authority may issue another provisional P1 licence to the person and require the person to hold the licence for a period of 12 months before being eligible to apply for a provisional P2 licence or an unrestricted licence of any class.

### **25 Demerit points and speeding offences—eligibility for provisional P2 or unrestricted licence** (cf cl 15 (7) 1999 Reg)

A person who holds a provisional P1 licence of class C is not eligible to apply for a provisional P2 licence of class C, and a person who holds a provisional P1 licence of class R is not eligible to apply for an unrestricted licence of class R, if:

- (a) the person has incurred 4 or more demerit points while holding the provisional P1 licence, and action under section 17 of the Act to suspend or cancel the licence as a consequence has not been taken or completed, or
- (b) the person has committed speeding offences, within the meaning of section 33 of the Act, while holding the provisional P1 licence, and action under that section to cancel or suspend the licence as a consequence has not been taken or completed.

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**26 Provisional P1 licence ceases to be in force on issue of other licence**

(cf cl 15 (9) and (10) 1999 Reg)

- (1) On the issue to a person of a provisional P2 licence of class C, LR, MR or HR, any provisional P1 licence of the same class previously issued to the person ceases to be in force.
- (2) On the issue to a person of an unrestricted licence of class R, any provisional P1 licence of the same class previously issued to the person ceases to be in force.

**Subdivision 2 Second-stage provisional licences (provisional P2)****27 Issue of provisional P2 licence** (cf cl 15A (1), (2) and (3)1999 Reg)

- (1) Except as provided by Division 1 and Subdivision 1, a licence (other than a motorcycle licence) that is issued to an applicant who has not previously held, for a period or periods totalling at least 36 months (not including any period of suspension), any of the following:
  - (a) a car licence, or
  - (b) an Australian driver licence of a class considered appropriate by the Authority, or
  - (c) a foreign driver licence of a type considered appropriate by the Authority,must be a provisional P2 licence of class C, class LR, class MR or class HR.
- (2) A provisional P2 licence is to be issued for a period of up to 30 months.
- (3) However, the period for which a provisional P2 licence is to be issued to a person who is a licence holder transferring from being a licence holder in another State, Territory or country may be reduced by the Authority by the amount of time that the person held the licence in the other State, Territory or country.

**28 Conditions to which provisional P2 licence is subject** (cf cl 15A (4), (4A) and (5) 1999 Reg)

- (1) A provisional P2 licence is subject to the condition (in addition to any others that may be attached to the licence) that the holder must not drive any motor vehicle unless a sign, issued or authorised by the Authority and displaying the letter "P" in green on a white background, is displayed:
  - (a) in the case of a vehicle not towing a trailer—on the exterior of the vehicle in a conspicuous position at the front and the rear of the vehicle, or a conspicuous position on the roof of the vehicle, and

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- (b) in the case of a vehicle towing a trailer—on the exterior of the vehicle and trailer in a conspicuous position at the front of the vehicle and the rear of the trailer, or a conspicuous position on the roof of the vehicle, and
  - (c) in such a manner as to be clearly visible and not to in any way obscure the letter “P” on the sign when viewed from ahead of or behind the vehicle.
- (2) However, the driver of an emergency vehicle, within the meaning of the *Road Rules 2008*, is exempt from that condition while driving the vehicle in the performance of his or her duty.
  - (3) A provisional P2 licence is subject to the condition that the holder must not drive a car-based motor tricycle in addition to any other conditions that may be attached to the licence.

### **29 Cancellation or suspension of provisional P2 licence** (cf cl 15A (6) and (8) 1999 Reg)

- (1) In addition to any other ground on which a licence may be cancelled or suspended by the Authority, a provisional P2 licence may be cancelled or suspended immediately by the Authority on any of the following grounds:
  - (a) the holder of the licence is convicted of an offence under the Act or this Regulation or of an offence set out in Schedule 1,
  - (b) the holder of the licence pays a penalty pursuant to section 183 of the *Road Transport (General) Act 2005* in respect of any such offence,
  - (c) an order under Division 4 of Part 3 of the *Fines Act 1996* has been made, or is taken to be made, against the licence holder in respect of any such offence,
  - (d) the holder of the licence fails to observe any term or condition of the licence.
- (2) If a provisional P2 licence held by a person is cancelled by the operation of section 189 of the *Road Transport (General) Act 2005*, the Authority may issue another provisional P2 licence to the person and require the person to hold the licence for a period of 24 months before being eligible to apply for an unrestricted licence of any class.

### **30 Demerit points and speeding offences—eligibility for unrestricted licence** (cf cl 15A (7) 1999 Reg)

A person who holds a provisional P2 licence is not eligible to apply for an unrestricted licence of the same class if:

- (a) the person has incurred 7 or more demerit points while holding the licence, and action under section 17 of the Act to cancel or

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suspend the licence as a consequence has not been taken or completed, or

- (b) the person has committed speeding offences, within the meaning of section 33 of the Act, while holding the licence, and action under that section to cancel or suspend the licence as a consequence has not been taken or completed.

**31 Provisional P2 licence ceases to be in force on issue of other licence**

(cf cl 15A (9) 1999 Reg)

On the issue to a person of an unrestricted licence (other than a motorcycle licence), any provisional P2 licence previously issued to the person ceases to be in force.

**Subdivision 3 Restrictions on provisional P1 and P2 licences**

**32 High performance vehicle restrictions** (cf cl 15B 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional licence, such a licence (other than a motorcycle licence) is subject to the condition that the holder must not drive a high performance vehicle.
- (2) For the purposes of this clause, a **high performance vehicle** is a vehicle:
- (a) with an engine having 8 or more cylinders, or
  - (b) the engine of which is turbocharged or supercharged (other than a diesel powered vehicle), or
  - (c) that has had any substantial modification made to the engine of the vehicle to increase the performance of the vehicle (not being a modification made by the manufacturer of the vehicle in the course of manufacture of the vehicle), or
  - (d) that has had any modification made to the vehicle that is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a high performance modification for the purposes of this clause, or
  - (e) that is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a high performance vehicle for the purposes of this clause.
- (3) A vehicle is not a **high performance vehicle** for the purposes of this clause if it is listed for the time being in the Authority's publication *Novice Driver—High performance vehicle restrictions* as a vehicle that is not a high performance vehicle.

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- (4) This clause applies only to a provisional licence issued after 16 December 2005 and applies only if:
  - (a) the person to whom the licence is issued had not held a provisional licence at any time before that date, or
  - (b) the person to whom the licence is issued had held a provisional licence at a time before that date and the licence issued after that date is issued after a disqualification for an offence committed on or after 11 July 2005.
- (5) Nothing in subclause (4) affects a condition imposed on a provisional licence under clause 15B of the *Road Transport (Driver Licensing) Regulation 1999* on or before 16 December 2005.
- (6) The Authority's publication *Novice Drivers—High Performance Vehicle Restrictions* is to be published on the Authority's website and is to be available for perusal free of charge at each motor registry.

### **33 12 month passenger restrictions after licence disqualification** (cf cl 15C 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional licence, such a licence (other than a motorcycle licence) that is issued to a person by the Authority after a licence disqualification is subject to the condition that the person must not drive a vehicle with more than one passenger in or on the vehicle.
- (2) The condition applies only:
  - (a) for the first 12 months of the term of the first provisional licence issued to the person after the licence disqualification or (if that licence is issued for a term of less than 12 months) for the term of that first provisional licence, or
  - (b) if that first provisional licence is issued for a term of less than 12 months, for the term of that first provisional licence and for such part of the term of any provisional licence issued subsequently or by way of renewal of that first provisional licence as will result in the condition applying for a total period of 12 months.
- (3) This clause applies only to a provisional licence issued after 11 July 2005 and applies only if the licence disqualification concerned relates to a conviction for an offence committed after that date.
- (4) In this clause:

***licence disqualification*** means disqualification of a person from holding a driver licence (whether or not by an order of a court) as a consequence of the person being convicted of an offence by a court under the road transport legislation.

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*passenger* means any person in or on a vehicle other than the driver.

**34 Restrictions on passengers under 21** (cf cl 15CA 1999 Reg)

- (1) In addition to any other conditions that may be attached to a provisional P1 licence, such a licence (other than a class R licence) is subject to the condition that, if the holder is less than 25 years of age, the holder must not drive a vehicle at any time between 11 pm on one day and 5 am on the following day with more than one passenger in or on the vehicle who is less than 21 years of age.
- (2) However, the driver of an emergency vehicle, within the meaning of the *Road Rules 2008*, is exempt from that condition while driving the vehicle in the performance of his or her duty.
- (3) In this clause:  
*passenger* means any person in or on a vehicle other than the driver.

**35 Exemptions from provisional P1 and P2 vehicle and passenger restrictions** (cf cl 15D 1999 Reg)

- (1) The Authority may exempt the holder of a provisional licence from the operation of a provision of this Subdivision if the Authority is satisfied that exceptional circumstances exist that justify the exemption.
- (2) An exemption under this clause is to be granted by the issue of an instrument in writing (which is referred to in this clause as an *exemption letter*).
- (3) An exemption may be granted subject to conditions or unconditionally. Any conditions of an exemption have effect as conditions of the licence to which the exemption relates.
- (4) The Authority may revoke a person's exemption at any time by notice in writing sent to the person.
- (5) An exemption under this clause ceases to be in force:
  - (a) when notice of revocation of the exemption is sent to the person or on such later date as the Authority may specify in the notice, or
  - (b) when the person ceases to be the holder of a provisional licence that would (were it not for the exemption) be subject to the condition to which the exemption relates.
- (6) The driver of a vehicle who has an exemption under this clause must produce the driver's exemption letter on demand by a police officer acting in the execution of the police officer's functions under the road transport legislation.  
Maximum penalty: 20 penalty units.

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- (7) A person must not:
- (a) by any false statement, misrepresentation or other dishonest means, obtain or attempt to obtain an exemption under this clause or an exemption letter, or
  - (b) by any statement made to a police officer falsely claim to have been granted an exemption under this clause, or
  - (c) forge or fraudulently alter an exemption letter, or
  - (d) be in possession of an exemption letter knowing it to have been forged or fraudulently altered or knowing it to have been obtained by any false statement, misrepresentation or other dishonest means, or
  - (e) without lawful authority or reasonable excuse be in possession of an exemption letter or an article resembling an exemption letter, or
  - (f) give or lend an exemption letter to another person knowing or having reasonable cause to suspect that the exemption letter may be fraudulently used by that person or another person as evidence of the grant of an exemption under this clause, or
  - (g) fraudulently use or allow another person to fraudulently use an exemption letter or article resembling an exemption letter as evidence of the grant of an exemption under this clause.

Maximum penalty: 20 penalty units.

- (8) A person to whom an exemption is granted under this clause must surrender the exemption letter to the Authority within 14 days after the exemption ceases to be in force.

Maximum penalty: 20 penalty units.

### Division 3 Heavy vehicle learner licences

#### 36 Heavy vehicle learners (cf cl 14 1999 Reg)

The holder of an Australian driver licence (other than a learner licence) for a motor vehicle (other than a motor bike or motor trike) may drive a motor vehicle for which a higher class of driver licence is required if:

- (a) the higher class is one the holder would be eligible to apply for in accordance with this Regulation, and
- (b) the holder is receiving tuition from, and is accompanied by, a person who has held that higher class of driver licence (other than a provisional licence of that class) for a period of, or periods totalling, at least 12 months and is providing tuition in accordance with the laws of this State concerning driver instruction.

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## **Part 4 Eligibility to apply for issue or variation of driver licences**

### **37 Application of Part to learner licences**

This Part (except for clauses 40, 41 and 42) does not apply in respect of learner licences.

### **38 Eligibility to apply for licences in classes C, LR, MR, HR, HC and MC**

(cf cl 6 1999 Reg)

- (1) A person is eligible to apply for a car licence if the person is 17 years of age or over.
- (2) A person is eligible to apply for a driver licence that is not a car licence, a motorcycle licence or a provisional licence if the person meets the relevant eligibility requirements set out in this clause for the class of licence sought, or is exempted by the Authority under this Part from being required to do so.
- (3) The relevant eligibility requirements are:
  - (a) for a light rigid vehicle licence or medium rigid vehicle licence—that the person has, at any time, held an Australian driver licence (including a provisional licence) of class C for a period of, or periods totalling, at least 12 months, and
  - (b) for a heavy rigid vehicle licence—that the person has, at any time, held an Australian driver licence (including a provisional licence) of class C for a period of, or periods totalling, at least 24 months, and
  - (c) for a heavy combination vehicle licence—that the person has, at any time, held an Australian driver licence of class MR or HR for a period of, or periods totalling, at least 12 months, and
  - (d) for a multi-combination vehicle licence—that the person has, at any time, held an Australian driver licence of class HR or HC for a period of, or periods totalling, at least 12 months, and the Authority is satisfied that the person has passed a training course, or has satisfied any other assessment, approved by the Authority.
- (4) In determining the period or periods for which a person has held a licence for the purposes of subclause (3), any period for which the person's driver licence has been suspended (other than a suspension on medical grounds) or the person has been disqualified from driving must be excluded.

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- (5) A person who holds a provisional P1 licence is not eligible to apply for a light rigid vehicle licence, medium rigid vehicle licence, heavy rigid vehicle licence, heavy combination vehicle licence or multi-combination vehicle licence.
- (6) A person who holds a provisional P2 licence is not eligible to apply for a heavy combination vehicle licence or multi-combination vehicle licence unless the Authority, in its discretion, being satisfied that special circumstances exist in the particular case, determines that such a person is eligible to apply for one or the other of those unrestricted licences.

### **39 Eligibility to apply for issue of motorcycle licence** (cf cl 7 1999 Reg)

- (1) A person is eligible to apply for a motorcycle licence if the person:
  - (a) is 17 years of age or over, and
  - (b) meets the relevant eligibility requirements set out in this clause, or is exempted from being required to do so:
    - (i) by the Authority under this Part, or
    - (ii) under clause 69.
- (2) The relevant eligibility requirements are:
  - (a) that the person has, at any time, held an Australian driver licence of class R, or
  - (b) that the person:
    - (i) is the holder of a current learner licence, and has held the licence for not less than 3 months (or such shorter period as the Authority may determine in respect of applicants over 30 years of age), and
    - (ii) has demonstrated to the Authority riding competence, and
    - (iii) has held an unrestricted Australian or New Zealand driver licence continuously for the previous 5 years, or
  - (c) that the person is the holder of a certificate of satisfactory completion of a provisional licence rider training course under Part 9 (being a certificate that is not more than 3 months old when the person applies for the licence).
- (3) Despite any other provision of this clause, the Authority may, in a particular case or class of cases, require a person applying for a motorcycle licence:
  - (a) to undertake an appropriate authorised rider training course referred to in Part 9 even if the person has previously undertaken such a course, and

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- (b) to be the holder of a certificate of satisfactory completion of that course (being a certificate that is not more than 3 months old when the person applies for the licence).

**40 Eligibility to apply for additional licence class** (cf cl 6 (3) 1999 Reg)

A person is eligible to apply for variation of the person's driver licence to include an additional licence class if the person:

- (a) meets the relevant eligibility requirements for that class, or
- (b) is exempted by the Authority under this Part from meeting those requirements.

**41 Exemptions from eligibility criteria** (cf cl 8 1999 Reg)

- (1) The Authority must exempt a person from a relevant eligibility requirement for a driver licence if the person holds an Australian driver licence of an equivalent class.
- (2) The Authority may exempt a person from a relevant eligibility requirement for a driver licence if the person satisfies the Authority that, because of age, experience, occupation or special circumstances, the person is fit to be granted the licence or variation sought.
- (3) If a person has held a licence to drive a motor vehicle in an external Territory or another country, the Authority may take into account some or all of that period for the purposes of determining the period for which a person has previously held a licence.
- (4) Nothing in subclause (2) limits the application of clause 69 to a requirement to hold a certificate issued under Part 9.

**42 Suspended or disqualified persons not eligible** (cf cl 9, 38 (3) 1999 Reg)

- (1) A person whose Australian driver licence has been suspended is not eligible to apply for a driver licence for the duration of the suspension.
- (2) A person is not eligible to apply for a driver licence if:
  - (a) the person is, at the time of application, disqualified from driving in any part of Australia or another country, and
  - (b) in the case of a disqualification imposed in another jurisdiction or another country, the offence giving rise to the disqualification, if committed in this State, would have resulted in the person being disqualified from driving.
- (3) Subclauses (1) and (2) do not apply to an application for renewal of an interlock driver licence by a person whose interlock driver licence is suspended (unless the licence is suspended under Division 3 of Part 4 of the *Fines Act 1996*).

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Part 4 Eligibility to apply for issue or variation of driver licences

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- (4) A person whose licence is suspended under section 16 or 16A of the Act, and who (before the expiration of the period of licence suspension) is subsequently disqualified from driving, remains ineligible to apply for a driver licence, after the period of disqualification ends, for a further period equivalent to the unexpired portion of the period of licence suspension.
- (5) A person whose driver licence expires during a period of suspension for the licence imposed under section 17 of the Act or this Regulation, is not eligible to apply for another driver licence during the unexpired portion of the period of licence suspension.

### 43 Special eligibility criteria for temporary overseas visitors (cf cl 6A 1999 Reg)

- (1) A temporary overseas visitor is not eligible to be issued a driver licence until the person has been a resident of Australia as a temporary overseas visitor for a continuous period of at least 6 months immediately prior to applying for the licence.
- (2) A temporary overseas visitor is not eligible to be issued a driver licence that will be in force for a period of more than 12 months and is not eligible to have a driver licence renewed for a period of more than 12 months. A driver licence renewed before its expiry may be renewed for a period of up to 12 months beyond the expiry of the licence being renewed.
- (3) This clause is subject to the following exceptions:
  - (a) this clause does not apply to a person who holds, or has ever held, a NSW driver licence issued before the commencement of this clause,
  - (b) this clause does not apply to the issue of a driver licence to a person who holds, or held within the previous 2 years, an interstate driver licence or learner licence (including a New Zealand driver licence or learner licence), unless the person is already recorded as a temporary overseas visitor on a driver licence register maintained by the Authority,
  - (c) this clause does not apply to the renewal of a NSW driver licence issued under the exemption provided by paragraph (b),
  - (d) the Authority may exempt a person from the operation of a provision of this clause in such circumstances as the Authority considers appropriate.
- (4) In this clause:  
***interstate driver licence or learner licence*** means an Australian driver licence, or a learner licence, issued in another Australian jurisdiction.

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*NSW driver licence* means an Australian driver licence issued in New South Wales.

*temporary overseas visitor* means a person who:

- (a) is not an Australian or New Zealand citizen, and
- (b) is not a permanent resident of Australia.

## 2008 No 397

Clause 44 Road Transport (Driver Licensing) Regulation 2008

Part 5 Applications for issue or variation of driver licences

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### Part 5 Applications for issue or variation of driver licences

#### 44 Procedure to obtain or vary driver licences (cf cl 16 (1) and (3)–(5) and 30 (4) 1999 Reg)

- (1) An applicant for issue or variation of a driver licence must give the Authority:
  - (a) a completed application in a form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant and the applicant's residential address, including any evidence that the Authority may reasonably require to verify those particulars (for example, evidence of the person's address on the electoral roll), and
  - (c) the applicable fee.
- (2) If there is no postal service to the applicant's residential address, the applicant must also provide an address for the service of notices.
- (3) The Authority may require an applicant for issue or variation of a driver licence to do any one or more of the following:
  - (a) undergo tests or assessments, or provide other evidence of the applicant's knowledge of road law, driving ability, training, experience or suitability to hold a driver licence,
  - (b) provide evidence of the applicant's compliance with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the applicant had last been disqualified from driving,
  - (c) undergo, at the applicant's own cost, a medical examination, or produce evidence of compliance with the medical standards contained in *Assessing Fitness to Drive*,
  - (d) attend a specified medical practitioner or allied professional practitioner for the purpose of that examination,
  - (e) provide evidence that the applicant is eligible to be granted the class of licence sought,
  - (f) have the applicant's photograph taken, or provide a photograph in a form specified by the Authority,
  - (g) provide a specimen signature.
- (4) The Authority may accept evidence of compliance with a requirement in subclause (3) (a), (b) or (c) obtained by an applicant in another jurisdiction.

- (5) If the Authority is satisfied that it is not practicable for the applicant to comply with the requirements in subclause (3) (b) of another jurisdiction, the Authority may require the applicant to comply with the requirements of an equivalent assessment.

**45 Requirement for surrender of current licence before issue or variation**

(cf cl 17 1999 Reg)

- (1) If an applicant for issue or a variation of a driver licence, holds a current Australian driver licence, or a current licence to drive a motor vehicle issued in another country, the applicant must surrender that licence to the Authority before the issue of a driver licence or varied driver licence.
- (2) The Authority may exempt the applicant from surrendering a licence issued in another country if satisfied that the Authority has obtained, or has access to, sufficient information about the licence and licence holder to make the surrender of the licence unnecessary.

**46 When application for driver licence can be refused** (cf cl 18 1999 Reg)

- (1) The Authority may refuse an application for issue or variation of a driver licence if the Authority is satisfied that:
- (a) the applicant is not eligible for the licence or variation, or
  - (b) the applicant does not have sufficient driving ability or knowledge of road law, or
  - (c) the applicant is not a fit and proper person to hold a driver licence, or
  - (d) the applicant does not have sufficient knowledge of safe driving practices, or
  - (e) the applicant does not meet the medical standards contained in *Assessing Fitness to Drive* that are applicable to the driver licence, or
  - (f) the applicant has not complied with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the applicant had last been disqualified from driving, or
  - (g) a provision of the Act or this Regulation prevents approval of the application, or
  - (h) the applicant has not complied with a requirement of the Act or this Regulation relating to the application.

## 2008 No 397

Clause 47 Road Transport (Driver Licensing) Regulation 2008

Part 5 Applications for issue or variation of driver licences

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- (2) The Authority may refuse an application for issue or variation of a driver licence:
  - (a) in accordance with an order made by a court in Australia, or
  - (b) in accordance with a law in force in this State relating to the non-payment of fines, or
  - (c) if the applicant is a person who, if already licensed, would be liable to have his or her licence cancelled under section 33 of the Act, or
  - (d) if the applicant is a person who, if already licensed, would be liable to have action taken against the person under section 16 (9) or 16A (8) of the Act.

### **47 Issue and variation of driver licence** (cf cl 19 and 19AA 1999 Reg)

- (1) If the Authority approves an application, it must issue a driver licence of the class or kind applied for by the applicant.
- (2) However, if an applicant for a driver licence holds a current Photo Card issued under the *Photo Card Act 2005*, the Authority must not issue a driver licence unless the applicant surrenders the Photo Card by returning the Photo Card to the Authority.
- (3) The driver licence may be issued subject to conditions, including any of the conditions to which a provisional licence is subject.
- (4) In determining whether to issue a driver licence subject to a condition, the Authority must have regard to the objects of the Act in relation to the regulation of drivers of motor vehicles in the interests of road safety.
- (5) If the Authority approves an application for variation of a driver licence, it may vary the licence either conditionally or unconditionally.

### **48 Issue of driver licence receipt as interim measure** (cf cl 20 1999 Reg)

- (1) As an interim measure, the Authority may issue a driver licence receipt.
- (2) A driver licence receipt has the same force and effect as a driver licence except that a driver licence receipt ceases to be in force on the expiry date indicated on it, or the day on which a driver licence in respect of the same licence class is given to the holder, whichever is the sooner.
- (3) A driver licence receipt must contain the particulars required to be shown on a driver licence under clause 10 (other than a photograph of the person to whom it is issued).

### **49 Competency based assessment** (cf cl 21 1999 Reg)

- (1) The Authority may approve a scheme (to be known as *competency based assessment*) under which a person's competency may be assessed

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for the purposes of a determination in relation to an application for the issue or variation of a driver licence held or to be held by a person. The scheme applies to the extent approved by the Authority.

- (2) The Authority may request the person's participation in the scheme as a prerequisite to the making of the determination, or may instead offer participation in the scheme as an alternative to other means of testing (or provision of information) for the purposes of the determination.
- (3) The Authority may, on application by a person requesting entry into the scheme, issue to the person the log book appropriate to the class of driver licence in which the person is interested together with documentation explaining the operation of the scheme and its relationship to the issue of driver licences.
- (4) An applicant for entry into the scheme must give the Authority:
  - (a) a completed application form in the form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant and the applicant's residential address, including any evidence that the Authority may reasonably require to verify those particulars, and
  - (c) the applicable fee.
- (5) An applicant for entry into the scheme must hold a driver licence of the class required by the Authority, or satisfy such other requirements as the Authority may impose, with regard to the purpose for which the applicant desires entry into the scheme.
- (6) The Authority may issue a replacement log book, on payment of the appropriate administrative fee, if it is satisfied that a log book has been lost, stolen or damaged.
- (7) In this clause:

**log book** means a book, in a form approved by the Authority in relation to a particular class of driver licence:

  - (a) listing the driving competencies to be achieved in order to obtain a licence of that class, and
  - (b) providing for the recording and authentication, in space provided in the book of particulars of assessment, in relation to those competencies of the person to whom the book is issued.

## 2008 No 397

Clause 50 Road Transport (Driver Licensing) Regulation 2008

Part 6 Tests and medical examinations of licensed drivers

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### Part 6 Tests and medical examinations of licensed drivers

#### 50 Tests and medical examinations of licensed drivers (cf cl 31 1999 Reg)

- (1) The Authority may, by notice in writing, require the holder of a driver licence, within a time specified in the notice:
  - (a) to submit to tests of the holder's knowledge of safe driving practices and road law, or
  - (b) to submit to tests or assessments of driving ability, or
  - (c) to undergo a medical examination, conducted in accordance with *Assessing Fitness to Drive*, by a medical practitioner or allied professional practitioner, or produce evidence of compliance with the medical standards set out in that publication, to determine the holder's medical fitness to hold a driver licence, or a licence of a particular class, or
  - (d) to attend a specified medical practitioner or allied professional practitioner for the purpose of that examination.
- (2) The Authority may require the holder of a driver licence to provide to it any documents relevant to the holder's medical fitness to hold a driver licence.
- (3) The Authority must accept, for the purposes of this clause, a certificate, in a form approved by the Authority, of the results of a medical examination conducted in another jurisdiction if that examination otherwise complies with this clause.

## Part 7 Expiry and surrender of driver licences

### 51 Licence expiry date (cf cl 33 1999 Reg)

A driver licence expires at the end of the day that is recorded in the driver licence register as the licence expiry date.

### 52 Notice of renewal of driver licence (cf cl 34 1999 Reg)

- (1) A notice of renewal of a driver licence is a notice:
  - (a) addressed and sent to the holder of the driver licence, and
  - (b) stating that, if the driver licence is not renewed on or before a date specified in the notice, the driver licence will expire.
- (2) If the Authority fails to send a notice of renewal of a driver licence, or if the notice is not received by the holder of the driver licence, that failure or non-receipt does not affect:
  - (a) the expiry of the driver licence, or
  - (b) the obligation of the licence holder to renew the licence if the licence holder wishes to continue to drive a motor vehicle on a road or road related area after the expiry of the licence holder's existing licence.

### 53 Renewal of driver licence (cf cl 35 1999 Reg)

- (1) The holder of a driver licence may apply to the Authority to renew the driver licence at any time within 5 years after the licence expiry date by giving the Authority:
  - (a) an application for renewal of the driver licence in the form approved by the Authority, and
  - (b) personal particulars necessary to identify the applicant, including any evidence that the Authority may reasonably require to verify those particulars, and
  - (c) the applicable fee.
- (2) The Authority may require the applicant to comply with any of the requirements of clause 44 (3) in addition to the requirements specified in subclause (1).
- (3) The Authority may refuse to renew the driver licence only if:
  - (a) the circumstances are such that, if the applicant for renewal were applying for a new licence, the Authority would refuse that application under Part 5, or
  - (b) the Authority is satisfied that the photograph contained in the previous driver licence is no longer a true likeness of the applicant.

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Clause 54 Road Transport (Driver Licensing) Regulation 2008

Part 7 Expiry and surrender of driver licences

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- (4) If a driver licence (the *old licence*) is renewed, the expiry date of the new licence may be calculated from:
  - (a) in the case of renewal before or on, or within six months after, the licence expiry date of the old licence—that expiry date of the old licence, or
  - (b) in the case of renewal within 5 years after the licence expiry date of the old licence—the day the licence is renewed.
- (5) A person whose driver licence is not renewed within 5 years after the licence expiry date is not entitled to apply for a renewal, but may apply for a new licence in accordance with the requirements of Part 5.

### 54 Application for surrender of driver licence (cf cl 37 1999 Reg)

- (1) The holder of a driver licence may apply, personally or by an agent who produces written evidence of his or her appointment as agent, to the Authority to surrender the licence.
- (2) The holder of a driver licence who applies for surrender of the licence must:
  - (a) return the licence to the Authority, or
  - (b) if the licence has been lost or destroyed, give the Authority a statement signed by the licence holder or agent that the licence has been lost or destroyed.
- (3) The Authority must approve an application for the surrender of a driver licence unless:
  - (a) the holder of the licence has failed to meet the requirements of this clause, or
  - (b) the Authority is taking action to suspend or cancel the licence under section 16, 16A, 17 or 33 of the Act or clause 55 or 57, or
  - (c) the licence is suspended under section 16, 16A, 17 or 33 of the Act, section 204 or 205 of the *Road Transport (General) Act 2005*, Division 3 of Part 4 of the *Fines Act 1996* or clause 55 or 57.
- (4) If the holder of a driver licence surrenders the licence, the Authority may refund part of the fee for the issue of the licence, calculated in accordance with the formula:

$$\frac{\text{number of days}}{\text{licence period}} \times \text{fee paid}$$

where:

*fee paid* is the amount, other than the administrative fee, paid for the issue of the driver licence.

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*number of days* is the number of unexpired whole days remaining of the licence period for which the fee was paid, from the day on which the Authority approves the application to surrender the licence.

*licence period* is the total number of days for which the licence was issued.

- (5) The Authority may deduct from the refund the amount of any unpaid administrative fees incurred in respect of the driver licence.
- (6) If the amount of the refund (less any deduction) would comprise an amount that is not a whole number of dollars, the amount is to be adjusted downwards to the next whole number of dollars.
- (7) The holder of a driver licence that has been suspended under a provision referred to in subclause (3) (c) may give custody of the licence to the Authority. If the holder of the driver licence does so:
  - (a) the holder of the driver licence is not eligible for a refund under this clause of any part of the licence fee, and
  - (b) the Authority may dispose of the licence as it thinks fit.

## 2008 No 397

Clause 55 Road Transport (Driver Licensing) Regulation 2008

Part 8 Variation, suspension or cancellation of driver licences

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### **Part 8 Variation, suspension or cancellation of driver licences**

#### **55 Variation, suspension or cancellation of driver licence by Authority**

(cf cl 38 1999 Reg)

- (1) The Authority may vary, suspend or cancel a person's driver licence if it appears to the Authority that:
  - (a) the person has failed or refused to submit to a test or medical examination required under or in accordance with the Act or this Regulation, or has failed such a test or examination, or
  - (b) it would be dangerous for the person to drive a motor vehicle because of illness or incapacity, or because of the effects of treatment for such conditions, or
  - (c) the person does not have sufficient driving ability or knowledge of road law, or
  - (d) the person is not a fit and proper person to hold a driver licence, or
  - (e) the person has not complied with the requirements of a law applying to licence applicants and relating to the assessment of drivers convicted of offences involving alcohol or drugs in force in the jurisdiction in which the person had last been disqualified from driving, or
  - (f) the person is no longer eligible, in accordance with the Act or this Regulation, for a particular class or classes of licence, or
  - (g) the licence was issued or renewed in error, or
  - (h) the licence is incorrect in any respect, or
  - (i) a non-cash payment submitted to the Authority as payment of an applicable fee has been dishonoured, or
  - (j) the person has been convicted in another jurisdiction or another country of any offence which, if the person had been licensed in that jurisdiction or country, would have enabled the driver licensing authority of that jurisdiction or country to vary, suspend or cancel the person's licence, or
  - (k) the person has failed to comply with a condition of the licence, or
  - (l) the photograph contained in the licence is no longer a true likeness of the person.
- (2) Without limiting subclause (1), the Authority:
  - (a) may suspend a person's driver licence if it appears to the Authority that, while driving a motor vehicle, the person has occasioned death or grievous bodily harm to some other person

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as a result of having become incapable of controlling the motor vehicle (for example, as a result of sleep or loss of consciousness), and

- (b) may do so regardless of whether the circumstances in which this has occurred have given rise to the person being prosecuted for an offence.
- (3) In deciding whether to do so, the Authority need not inquire into the likelihood of the person again becoming incapable of controlling a motor vehicle in similar circumstances.
- (4) The Authority must suspend or cancel a person's driver licence in accordance with:
  - (a) an order made by a court in Australia, or
  - (b) a law in force in this State.

**56 Prescribed speeding offences for suspension or cancellation of licences** (cf cl 38A 1999 Reg)

For the purposes of the definition of *speeding offence* in section 33 (5) of the Act, any offence that involves exceeding a speed limit fixed by or under the *Road Transport (Safety and Traffic Management) Act 1999* applicable to the relevant driver or vehicle by more than 30 kilometres per hour is prescribed.

**57 Procedures for variation, suspension or cancellation of driver licence** (cf cl 39 1999 Reg)

- (1) If the Authority decides to vary, suspend or cancel a person's driver licence, the Authority must give the person notice in writing of:
  - (a) the reasons for the proposed variation, suspension or cancellation, and
  - (b) any action that must be taken by the licence holder in order to avoid or reverse the variation, suspension or cancellation, and
  - (c) the date after service of the notice on which the variation, suspension or cancellation takes effect.
- (2) The notice must also state:
  - (a) in the case of a notice to vary a person's driver licence, that if the licence is varied as set out in the notice, the person will no longer be authorised to drive a motor vehicle of a kind specified in the notice on a road or road related area, or
  - (b) in the case of a notice to suspend a person's driver licence, that if the licence is suspended, the person will not be authorised to drive a motor vehicle on a road or road related area for the period of suspension specified in the notice, or

## 2008 No 397

Clause 58 Road Transport (Driver Licensing) Regulation 2008

Part 8 Variation, suspension or cancellation of driver licences

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- (c) in the case of a notice to cancel a person's driver licence, that if the licence is cancelled, the person will no longer be authorised to drive a motor vehicle on a road or road related area.
- (3) Despite subclause (1) (c), if the Authority decides to vary, suspend or cancel a person's driver licence on the ground that the person has failed or refused to submit to a test or medical examination required under or in accordance with the Act or this Regulation, or has failed such a test or examination, the Authority may determine that the variation, suspension or cancellation is to take effect on the service of the notice.
- (4) A notice to vary, suspend or cancel a person's driver licence must also state whether the licence is required to be returned to the Authority and, if so, specify the date by which the licence must be returned and the place to which it is to be returned.
- (5) A driver licence is varied, suspended or cancelled in accordance with the terms of a notice served under this clause unless the Authority, by further notice in writing, withdraws the notice.
- (6) A notice to suspend a person's driver licence under clause 55 (2) may not be withdrawn except on the order of a Local Court in respect of an appeal under Division 3 of Part 3 of the *Road Transport (General) Regulation 2005*.
- (7) If a person's driver licence is varied, suspended or cancelled by the Authority, the person must, if required to do so, return the licence to the Authority within the time required by the notice served under this clause.
- (8) The Authority may decide to vary, suspend or cancel a driver licence under this Regulation without the holder of the licence having been provided with an opportunity to show cause why the licence should not be varied, suspended or cancelled.

### **58 Notice of suspension or cancellation of driver licence** (cf cl 39A 1999 Reg)

- (1) An authorised officer may give a person notice in writing that the person's driver licence is suspended or cancelled if the records of the Authority indicate that the person's driver licence is suspended or cancelled.
- (2) A notice under this clause:
  - (a) must be in a form approved by the Authority, and
  - (b) must identify the person to whom it is given and state that the Authority's records show that the person's driver licence has been suspended or cancelled, and
  - (c) must state the date and time that the notice was given to the person.

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- (3) Where a notice is given by a police officer under this clause, particulars of the notice are to be forwarded to the Authority immediately after the notice is given.
- (4) The giving of a notice to a person under this clause does not preclude any other action against the person in relation to an offence or alleged offence under any Act or regulation (including proceedings for an offence against section 25A of the Act).
- (5) In this clause:  
*authorised officer* means:
- (a) a police officer, and
  - (b) a person who is appointed by the Authority as an authorised officer for the purposes of this clause.

**59 Downgrading of driver licence** (cf cl 40 1999 Reg)

- (1) If a driver licence is cancelled:
- (a) by the operation of the road transport legislation as a result of the imposition on the holder of the licence of a period of disqualification, or
  - (b) by the Authority under section 33 of the Act,  
the Authority may, if the offence or offences (or alleged offence or offences) that gave rise to the cancellation arise wholly or mainly out of the use of a motor vehicle or trailer of a class approved in writing by the Authority for the purposes of this clause, issue the former holder with another driver licence, being one that does not authorise the driving of motor vehicles or trailers of that class, in substitution for the cancelled licence.
- (2) Nothing in this clause:
- (a) limits any discretion of the Authority to decline to issue a licence to a person, or
  - (b) permits the issue of any licence to a person who for the time being is disqualified from holding one.

**60 Demerit points and offences** (cf cl 36 1999 Reg)

- (1) For the purposes of section 15 (1) (a) of the Act, the national schedule of demerit points comprises the offences set out in Columns 1 and 2 of Schedule 1, and the points specified in relation to each offence set out in Column 3 of Schedule 1.
- (2) For the purposes of section 15 (1) (b) of the Act, the offences set out in Columns 1 and 2 of Schedule 2, and the points specified in relation to each offence set out in Column 3 of Schedule 2, are prescribed.

## 2008 No 397

Clause 60 Road Transport (Driver Licensing) Regulation 2008

Part 8 Variation, suspension or cancellation of driver licences

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- (3) Despite subclauses (1) and (2), the number of demerit points to be allocated to an offence committed over a long weekend (other than an offence of another jurisdiction) is the number of points specified in Column 4 of Schedule 1 or 2, as the case may be, in respect of the offence.
- (4) Despite subclauses (1) and (2), the number of demerit points to be allocated to an offence referred to in either of those subclauses (being an offence under a law of another jurisdiction) committed over a long weekend is a number determined by the Authority (not being a number higher than the number applying under subclause (3) to the New South Wales offence with which the Authority has determined it corresponds).
- (5) In this clause:

**long weekend** means a period of consecutive days consisting of:

- (a) a Saturday and Sunday (the **weekend**), and
- (b) one or more days that have been declared to be public holidays (or part of which have been declared to be public holidays) throughout the State and that are any of the following:
  - (i) the Thursday or Friday immediately before the weekend,
  - (ii) the Monday or Tuesday immediately after the weekend, and
- (c) if the Thursday (but not the Friday) immediately before the weekend is such a public holiday—the Friday, and
- (d) if the Tuesday (but not the Monday) immediately after the weekend is such a public holiday—the Monday.

**over a long weekend** means during:

- (a) the period commencing on the day immediately before the first day of a long weekend and ending with the last day of a long weekend (inclusive), or
- (b) the following periods in a year:
  - (i) if December 25 is a Monday—22 December until 1 January the following year (inclusive),
  - (ii) if December 25 is a Tuesday—21 December until 1 January the following year (inclusive),
  - (iii) if December 25 is a Wednesday—20 December until 1 January the following year (inclusive),
  - (iv) if December 25 is a Thursday—24 December until 4 January the following year (inclusive),
  - (v) if December 25 is a Friday—24 December until 3 January the following year (inclusive),

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- (vi) if December 25 is a Saturday—24 December until 3 January the following year (inclusive),
  - (vii) if December 25 is a Sunday—23 December until 2 January the following year (inclusive).

## 2008 No 397

Clause 61 Road Transport (Driver Licensing) Regulation 2008

Part 9 Motorcycle licence training and testing scheme

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### Part 9 Motorcycle licence training and testing scheme

#### 61 Definitions (cf cl 41 1999 Reg)

In this Part:

**authorised rider training course** means:

- (a) a learner licence rider training course, or
- (b) a provisional P1 licence rider training course, provided under a rider training agreement.

**rider training agreement** means an agreement referred to in clause 62.

**rider training centre** means premises that a rider training operator is authorised to use for the purpose of providing an authorised rider training course.

**rider training instructor** means a person accredited under clause 63.

**rider training operator** means a person authorised, under a rider training agreement, to provide an authorised rider training course.

**testing officer** means a person accredited under clause 64.

#### 62 Authorisation of rider training operators (cf cl 42 1999 Reg)

The Authority may enter into an agreement with a person under which the person is authorised to provide a rider training course at a rider training centre specified in the agreement.

#### 63 Accreditation of rider training instructors (cf cl 43 1999 Reg)

The Authority may, by instrument in writing, accredit a person as a rider training instructor if the person:

- (a) is the holder of a valid and unexpired licence issued under the *Driving Instructors Act 1992* authorising the person to act as a driving instructor, within the meaning of that Act, in respect of motor bikes and motor trikes, and
- (b) satisfies the Authority that the person is otherwise qualified to conduct an authorised rider training course.

#### 64 Accreditation of testing officers (cf cl 44 1999 Reg)

The Authority may, by instrument in writing, accredit a person as a testing officer if the person:

- (a) is a riding training instructor, and
- (b) satisfies the Authority that the person is otherwise qualified to be a testing officer.

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**65 Objects of authorised rider training course** (cf cl 45 1999 Reg)

- (1) The Authority must not enter into a rider training agreement unless the Authority is satisfied that the rider training course the subject of the agreement is to be directed to ensuring that a person who desires to hold:
  - (a) a motorcycle learner licence, or
  - (b) a provisional P1 licence of class R,has sufficient knowledge and skills to warrant the granting of the licence concerned.
- (2) For that purpose, any such course is to include:
  - (a) the training of applicants in the necessary skills, and
  - (b) the instruction of applicants in the relevant law and safe riding practices, and
  - (c) the testing of applicants' skills and knowledge, and
  - (d) provision for the issue of certificates, in a form approved by the Authority and signed by a rider training instructor or testing officer (or, if the Authority so requires, by both an instructor and testing officer), attesting the satisfactory completion of the course by persons undertaking it.

**66 Application to undertake authorised rider training course** (cf cl 46 1999 Reg)

- (1) A person who wishes to undertake an authorised rider training course must:
  - (a) apply in writing to the Authority, in the form approved by the Authority, and
  - (b) pay to the Authority the applicable fee.
- (2) Despite subclause (1) (a), the Authority may accept an application made to the Authority by telephone.
- (3) The Authority may refund all or part of the applicable fee if:
  - (a) the person does not complete the course, and
  - (b) the Authority is satisfied that the circumstances warrant a refund.

**67 Mandatory training areas** (cf cl 47 1999 Reg)

The Authority may, by instrument in writing, identify any area within the State, being an area in which a rider training centre is situated, as a mandatory training area.

## 2008 No 397

Clause 68 Road Transport (Driver Licensing) Regulation 2008

Part 9 Motorcycle licence training and testing scheme

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### **68 Exemption from requirements of this Part** (cf cl 48 (2)–(4) 1999 Reg)

- (1) The Authority may, by notice in writing, exempt any person or class of persons from all or any of the requirements of this Part.
- (2) An exemption may be unconditional or may be subject to conditions specified in the exemption.
- (3) An exemption that is subject to conditions ceases to be in force as soon as the conditions are not complied with.

### **69 Exemption from compulsory training** (cf cl 48 (1) and (5) 1999 Reg)

- (1) The Authority may exempt a person from a requirement under this Regulation to hold a certificate issued under this Part for such reasons as it thinks fit.
- (2) A person who satisfies the Authority that the person's usual residential address is not within a mandatory training area is exempt from any requirement under this Regulation to hold a certificate issued under this Part.
- (3) A person is exempt from any requirement of this Regulation to hold a certificate issued under this Part if:
  - (a) the person applies for the issue of a learner licence to learn to ride a motor bike or motor trike, and
  - (b) the person is, at the time of applying, the holder of a learner licence to learn to ride a motor bike or motor trike, or the equivalent of such a licence, issued under the law in force in another jurisdiction.

### **70 Exemption from licensing and other provisions** (cf cl 49 1999 Reg)

A person is exempt from the requirement to hold a licence in respect of any motor bike or motor trike while it is being ridden, as part of an authorised rider training course at a rider training centre referred to in this Part, by an applicant for a learner licence who is 16 years and 6 months of age or older.

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## Part 10 Interlock driver licences and devices

### Division 1 Definitions

#### 71 Definitions (cf cl 50 1999 Reg)

In this Part:

**approval** means an approval as an approved interlock installer or approved interlock service provider under section 21B of the Act and this Part.

**approved interlock device** has the same meaning as in Part 2A of the Act.

**interlock device** has the same meaning as in Part 2A of the Act.

**labelled approved interlock device** means an approved interlock device labelled with the words “NSW approved interlock device”.

**maintenance**, in relation to an interlock device, has the same meaning as in Part 2A of the Act.

### Division 2 Interlock driver licences

#### 72 Authority may issue interlock driver licence (cf cl 19A (1) 1999 Reg)

Without limiting clause 47, the Authority may approve an application for, and issue, a conditional licence (an **interlock driver licence**) that authorises the holder of the licence to drive a motor vehicle on a road or road related area subject to the condition that the vehicle must be fitted with an approved interlock device that has been installed by an approved interlock installer in accordance with this Part.

**Note.** Under section 194 of the *Road Transport (General) Act 2005*, a person in respect of whom an order suspending a disqualification to hold a licence is made is entitled to apply for an interlock driver licence.

#### 73 Additional application procedures (cf cl 16 (6) 1999 Reg)

In addition to any other requirement applying to an applicant under Part 5, an applicant for issue of an interlock driver licence who is a person referred to in section 194 (1) of the *Road Transport (General) Act 2005* must:

- (a) undergo, at the applicant’s own cost, a consultation with a medical practitioner nominated by the Authority for the purpose of discussing and giving brief advice to the applicant about the risks of alcohol consumption, and
- (b) provide to the Authority a certificate from that medical practitioner confirming that the applicant has undergone the consultation, and

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- (c) provide to the Authority a certificate, in a form approved by the Authority, from an approved interlock installer certifying that, at the request of the applicant, the installer has installed an approved interlock device (identified in the certificate) in a vehicle (identified in the certificate), and
- (d) give authority in writing for the collection, use and disclosure by an approved interlock installer, approved interlock service provider, the Authority or any person on behalf of the Authority of information obtained as a result of the applicant's participation in the alcohol interlock program.

### **74 Additional interlock driver licence conditions** (cf cl 19A (2)–(4) 1999 Reg)

- (1) An interlock driver licence is subject to the following conditions in addition to the condition set out in clause 72:
  - (a) the holder of the licence must not drive a motor vehicle with a breath or blood alcohol concentration of:
    - (i) more than zero grams of alcohol in 210 litres of breath or 100 millilitres of blood if the licence is a learner licence, a provisional P1 licence or a provisional P2 licence, or
    - (ii) 0.02 or more grams of alcohol in 210 litres of breath or 100 millilitres of blood in any other case,
  - (b) the holder of the licence may drive only a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver),
  - (c) the holder of the licence must not drive a public passenger vehicle or a motor vehicle loaded or partly loaded with any dangerous goods,
  - (d) for the purpose of counselling the holder of the licence with respect to the consumption of alcohol, the holder must (at the holder's own cost) undergo such medical consultations, with such medical practitioners and at such times, as may be required by the Authority,
  - (e) the holder of the licence must ensure that maintenance is carried out as and when required by the Authority (at the holder's own cost) on the approved interlock device identified in the certificate the holder provided to the Authority under clause 73 (c),
  - (f) the holder of the licence must not, without the approval of the Authority, remove or cause or permit to be removed the approved interlock device from the motor vehicle specified in that certificate or from any other motor vehicle in which it is subsequently installed,

- (g) the holder of the licence must not drive any motor vehicle in which the approved interlock device is installed if the holder knows, or could reasonably be expected to know, that the approved interlock device installed is not functioning properly,
  - (h) the holder of the licence must use the approved interlock device in accordance with the instructions (if any) for the proper use of the device supplied to the holder by its manufacturer and the Authority,
  - (i) the holder of the licence must not interfere, or cause or permit any person (other than an approved interlock installer or approved interlock service provider installing, maintaining or removing the approved interlock device) to interfere with the proper operation of the device,
  - (j) the holder of the licence must, if required to do so by the Authority, authorise the Authority in writing (or any persons nominated by the Authority) to provide any data or other information collected by the approved interlock device to persons carrying out functions for the purposes of the alcohol interlock program during the period the licence is in force,
  - (k) the holder of the licence must permit a police officer to inspect the approved interlock device if the police officer asks to inspect the device.
- (2) The Authority may, by notice in writing given to the holder of an interlock driver licence, impose such other conditions relating to the use of an interlock device installed in a motor vehicle driven by the licence holder as the Authority considers appropriate.
- (3) The Authority may, by notice in writing to the holder of the licence, vary or revoke any such conditions.
- (4) In this clause:
- dangerous goods*** has the same meaning as in the *Road and Rail Transport (Dangerous Goods) Act 1997*.
- public passenger vehicle*** has the same meaning as in the *Passenger Transport Act 1990*.

**75 Converted interlock driver licences** (cf cl 19A (5) and 19B 1999 Reg)

- (1) An interlock driver licence is taken, at the end of the day on which its holder ceases to participate in the alcohol interlock program because the holder has completed the interlock participation period applicable to the holder under section 192 of the *Road Transport (General) Act 2005*, to be a car licence other than an interlock driver licence (in this clause referred to as a ***converted interlock driver licence***).

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- (2) The holder of a converted interlock driver licence is not required to observe any of the conditions to which the interlock driver licence was subject under this Division.
- (3) The converted interlock driver licence expires on the day recorded in the driver licence register as the licence expiry date for the interlock driver licence.

**Note.** This provision enables a person who has been issued with an interlock driver licence for a period that exceeds the period the person is required to participate in an alcohol interlock program to continue to drive under the authority of the licence for the duration of the licence.

### Division 3 Approvals relating to interlock devices

#### 76 Fit and proper persons (cf cl 53 1999 Reg)

- (1) For the purposes of this Part, a person is not a fit and proper person to be an approved interlock installer or an approved interlock service provider if:
  - (a) a court in this State or elsewhere has convicted the person of a relevant offence within the period of 5 years immediately before the person applies for the approval, or
  - (b) the person is an undischarged bankrupt, or
  - (c) the person has at any time had an interlock driver licence suspended or cancelled under the Act or this Regulation or has had the person's participation in a program that is similar to the alcohol interlock program that is established under the law of another jurisdiction suspended or cancelled.
- (2) In this clause:

**relevant offence** means any of the following offences committed after the commencement of this clause:

  - (a) an offence involving dishonesty,
  - (b) a major offence within the meaning of the *Road Transport (General) Act 2005*,
  - (c) an offence in another jurisdiction that would have been an offence referred to in paragraph (a) or (b) if committed in this State.

#### 77 Eligibility for approval as approved interlock installer (cf cl 51 1999 Reg)

- (1) A person is eligible to apply to be approved as a person who may install and remove approved interlock devices in motor vehicles for the purposes of Part 2A of the Act (an **approved interlock installer**) if the person:
  - (a) is at least 18 years of age, and

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- (b) is a fit and proper person to be an approved interlock installer, and
  - (c) is suitably qualified to perform the functions of an approved interlock installer, and
  - (d) is capable of performing the functions of an approved interlock installer, and
  - (e) has access to equipment and facilities necessary to enable the person to install and remove approved interlock devices in motor vehicles.
- (2) A person is not eligible to apply to be approved as an approved interlock installer if:
- (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock installer because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock installer revoked, or
  - (c) in the opinion of the Authority, the person has failed to properly perform the functions of an approved interlock installer under the Act or this Regulation, or to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

**78 Eligibility for approval as approved interlock service provider** (cf cl 52 1999 Reg)

- (1) A person is eligible to apply to be approved as a person who may carry out maintenance to ensure the proper operation of approved interlock devices, or conduct inspections of such devices, for the purposes of Part 2A of the Act (an ***approved interlock service provider***) if the person:
- (a) is at least 18 years of age, and
  - (b) is a fit and proper person to be an approved interlock service provider, and
  - (c) is suitably qualified to perform the functions of an approved interlock service provider, and
  - (d) is capable of performing the functions of an approved interlock service provider, and
  - (e) has access to equipment and facilities necessary to enable the person to carry out maintenance to ensure the proper operation of approved interlock devices or to conduct inspections of such devices.

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- (2) A person is not eligible to apply to be approved as an approved interlock service provider if:
- (a) in the opinion of the Authority, the person is unable to perform the functions of an approved interlock service provider because of illness or mental or physical disability, or
  - (b) the person has at any time had an approval as an approved interlock service provider revoked, or
  - (c) in the opinion of the Authority, the person has failed to properly perform the functions of an approved interlock service provider under the Act or this Regulation, or failed to properly perform functions under a program that is similar to the alcohol interlock program established under the law of another jurisdiction, in a significant respect.

### **79 Application for approval as interlock installer or service provider**

(cf cl 53A 1999 Reg)

- (1) An application for approval is to be made to the Authority in the form approved by the Authority and is to be accompanied by the applicable fee (if any).
- (2) The Authority may require an applicant for approval to submit evidence, in a form approved by the Authority:
  - (a) that the applicant is eligible for approval, or
  - (b) verifying any particulars set out in an application.
- (3) The Authority may require an applicant for approval to provide to the Authority information about any other matter relevant to the decision whether to approve the application.

### **80 Determination of applications for approval** (cf cl 53B 1999 Reg)

- (1) The Authority may determine an application for approval by granting or refusing the application.
- (2) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock installer if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 77.
- (3) Without limiting subclause (1), the Authority may refuse an application for approval as an approved interlock service provider if, in the opinion of the Authority, the applicant does not meet any of the eligibility requirements set out in clause 78.

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**81 Conditions of approvals** (cf cl 53C 1999 Reg)

- (1) An approval may be granted unconditionally or subject to conditions specified in the approval.
- (2) After granting an approval, the Authority may, by notice in writing to the holder of the approval:
  - (a) impose conditions or further conditions on the approval, or
  - (b) vary or revoke any of the conditions to which the approval is subject.
- (3) Conditions may include (but are not limited to) conditions of the following kind:
  - (a) conditions relating to the installation, removal, inspection or carrying out of maintenance on approved interlock devices,
  - (b) conditions relating to the compiling and furnishing to the Authority, persons nominated by the Authority and to the holders of interlock driver licences of information obtained by the holder of the approval in carrying out functions for the purposes of Part 2A of the Act.

**82 Duration of approvals** (cf cl 53D 1999 Reg)

An approval takes effect on the date on which it is granted or on such later date as may be specified in the approval and (unless it is sooner revoked) remains in force for the period (not exceeding 3 years) specified in the approval.

**83 Subsequent approvals** (cf cl 53E 1999 Reg)

- (1) An approval may be renewed by making an application in accordance with this Division for a new approval (referred to in this clause as a *subsequent approval*).
- (2) If a person applies for a subsequent approval before the term of the person's current approval expires (referred to in this clause as the *old approval*) and the application has not been dealt with by the time the old approval expires, the authority conferred by the old approval continues until such time as the person is notified of the grant, or refusal of, the subsequent approval.

**84 Show cause notice** (cf cl 53F 1999 Reg)

- (1) The Authority may serve a show cause notice on the holder of an approval if the Authority is of the opinion that there is reasonable cause to believe that there are grounds for revoking the approval under section 21B (4) of the Act.

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- (2) A show cause notice is a notice requiring the holder of the approval to show cause why the approval should not be revoked on the grounds specified in the notice.
- (3) Without limiting the grounds that may be specified in the notice, grounds include the following:
  - (a) that the holder of the approval has failed to comply with the Act, this Regulation or a condition of the approval,
  - (b) that the holder of the approval does not satisfy any of the eligibility requirements for the approval set out in clause 77 or 78.
- (4) A show cause notice is to be in writing and is to specify a period of not less than 21 days after service of the notice as the period that the holder has to show cause as required by the notice.
- (5) The holder on whom a show cause notice is served may, within the period allowed by the notice, make written submissions to the Authority in respect of the matters to which the notice relates.
- (6) The Authority may conduct such enquiries and make such investigations in relation to the matters to which a show cause notice relates and the submissions, if any, made by or on behalf of the holder of the approval concerned as the Authority thinks fit.
- (7) This clause does not apply to a revocation of an approval if the Authority has reasonable grounds to believe that the holder of the approval has wilfully failed to comply with the Act, this Regulation or the conditions of the approval and is likely to continue to do so.

### **85 Notice of revocation of approval** (cf cl 53G 1999 Reg)

- (1) The Authority is to include a statement of the reasons for its decision to revoke an approval when giving notice under section 21B (4) of the Act.
- (2) Revocation of an approval takes effect on the day notice of the revocation is given under section 21B (4) of the Act or on a later day specified in the notice.

## **Division 4 Offences**

### **86 Failure to comply with condition of approval** (cf cl 59 1999 Reg)

The holder of an approval who fails to comply with a condition of the approval is guilty of an offence.

Maximum penalty: 20 penalty units.

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**87 Installation or removal of approved interlock devices without approval**

(cf cl 59B 1999 Reg)

A person must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock installer that is in force.

Maximum penalty: 20 penalty units.

**88 Installation or removal of unlabelled approved interlock devices**

(cf cl 59C 1999 Reg)

An approved interlock installer must not install an approved interlock device in, or remove an approved interlock device from, a motor vehicle for the purposes of Part 2A of the Act unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**89 Maintenance or inspection of interlock devices without approval**

(cf cl 59D 1999 Reg)

A person must not carry out maintenance on, or conduct an inspection of, an approved interlock device for the purposes of Part 2A of the Act unless the person is the holder of an approval as an approved interlock service provider that is in force.

Maximum penalty: 20 penalty units.

**90 Maintenance or inspection of unlabelled approved interlock devices**

(cf cl 59E 1999 Reg)

An approved interlock service provider must not carry out maintenance on, or conduct an inspection of, an approved interlock device in a motor vehicle for the purposes of Part 2A of the Act unless the device is clearly labelled in a form approved by the Authority with the words “NSW approved interlock device”.

Maximum penalty: 20 penalty units.

**91 Labelling approved interlock devices** (cf cl 59F 1999 Reg)

(1) A person must not label an interlock device with the words “NSW approved interlock device” unless:

- (a) the device is an approved interlock device, and
- (b) the person is an approved interlock installer or an approved interlock service provider.

Maximum penalty: 20 penalty units.

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- (2) A person must not remove a label bearing the words “NSW approved interlock device” from an interlock device unless:
- (a) the person is an approved interlock installer or approved interlock service provider, and
  - (b) the person for whom the interlock device was installed has ceased to participate in the alcohol interlock program in respect of which it was installed or the label is to be immediately replaced with another such label.

Maximum penalty: 20 penalty units.

**92 Notification of removal of approved interlock devices** (cf cl 59G 1999 Reg)

An approved interlock installer who removes a labelled approved interlock device from a motor vehicle must give the Authority written notice of the removal not later than at the end of the day of the removal.

Maximum penalty: 20 penalty units.

**93 Tampering or otherwise interfering with labelled approved interlock device** (cf cl 59H 1999 Reg)

- (1) A person who, without reasonable excuse, tampers or otherwise interferes with a labelled approved interlock device installed in a motor vehicle is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) A person who aids, abets or causes or permits the commission of an offence referred to in subclause (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

**94 Notification of suspected tampering or otherwise interfering with labelled approved interlock devices** (cf cl 59I 1999 Reg)

An approved interlock installer or approved interlock service provider who becomes aware that a labelled approved interlock device has been tampered or otherwise interfered with must give the Authority written notice of that interference or tampering not later than at the end of the day on which he or she becomes aware of the interference or tampering.

Maximum penalty: 20 penalty units.

**95 False or misleading information** (cf cl 59A 1999 Reg)

A person must not, in purported compliance with clause 92 or 94, provide data or information that the person knows is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

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**Division 5      Miscellaneous**

**96    Police may seize motor vehicle or device** (cf cl 53H 1999 Reg)

- (1) A police officer may stop and inspect a motor vehicle driven on a road or road related area if the officer reasonably suspects that the motor vehicle may be fitted with an interlock device.
- (2) A police officer may seize a motor vehicle driven by the holder of an interlock driver licence in which an interlock device is installed if the officer reasonably suspects that the device has been used in contravention of the Act or the regulations.

**97    Agreements relating to interlock devices** (cf cl 53I 1999 Reg)

The Authority may enter into an agreement with a person (not being inconsistent with the Act or this Regulation) with respect to the supply, or provision of services relating to the installation, removal, maintenance and inspection of, interlock devices for the purposes of the alcohol interlock program.

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Clause 98 Road Transport (Driver Licensing) Regulation 2008

Part 11 Exemptions from requirement to hold driver licence

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### Part 11 Exemptions from requirement to hold driver licence

#### 98 Authority may exempt certain classes of driver from requirement to hold licence (cf cl 54 1999 Reg)

- (1) The Authority may exempt a driver or class of drivers from the requirement to hold a driver licence, or a particular class of driver licence.
- (2) An exemption under this clause may be subject to conditions specified by the Authority.
- (3) The Authority must cause notice of an exemption under this clause to be published in the Gazette.

#### 99 Interstate and international visitors (cf cl 55 1999 Reg)

- (1) A visiting driver who holds:
  - (a) a current Australian driver licence or learner licence (including a New Zealand driver licence or learner licence) issued in another jurisdiction, or
  - (b) a current foreign driver licence and international driving permit, or
  - (c) a current foreign driver licence that is written in English or is accompanied by an English translation,  
that authorises him or her to drive a motor vehicle of a particular kind may drive a motor vehicle of that kind in this State, and is exempt from the requirements of the Act and this Regulation (other than this clause).
- (2) A visiting driver who holds:
  - (a) a current foreign driver licence and international driving permit, or
  - (b) a current foreign driver licence that is written in English or is accompanied by an English translation,  
that authorises its holder to drive a motor vehicle may, in this State, drive a motor vehicle with a GVM that is not greater than 4.5 tonnes and that is constructed or equipped to seat not more than 12 adults (including the driver), and is exempt from the requirements of the Act and this Regulation (other than this clause).
- (3) Subclause (2) applies to any driver licence, regardless of the kind of motor vehicle it authorises its holder to drive, except for a driver licence that authorises its holder to drive only a motor bike, motor trike or motor vehicle referred to in clause 102 (1) (c) or (d).

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- (4) A visiting driver ceases to be exempt under this clause from any requirements of the Act and this Regulation if any of the following happen:
- (a) in the case of a visiting driver who is the holder of an Australian driver licence or learner licence or New Zealand driver licence or learner licence—the driver has resided in this State for a continuous period of more than 3 months, unless the driver also holds a valid Driver Identification Document issued by the Department of Defence of the Commonwealth,
  - (b) in the case of a visiting driver who is an international visitor—the driver has held a permanent visa under the *Migration Act 1958* of the Commonwealth for more than 3 months,
  - (c) the visiting driver is suspended or disqualified from driving a motor vehicle on a road or road related area in any part of Australia or another country,
  - (d) the visiting driver would, if the driver applied for a driver licence, be refused because of a failure to meet the conditions of reinstatement of a driver licence after cancellation,
  - (e) the visiting driver is charged with an offence specified under another law of this State relating to visiting drivers,
  - (f) if, in the reasonable opinion of the Authority, the visiting driver is not a fit and proper person to drive a motor vehicle in this State,
  - (g) if, in the reasonable opinion of the Authority, the visiting driver's ability to drive safely is impaired due to a permanent or long term injury or illness.
- (5) Subclause (4) (e) ceases to have effect in relation to a visiting driver if the charge is withdrawn or dismissed.
- (6) If the Authority forms an opinion that subclause (4) (f) or (g) applies to a visiting driver, the Authority must give the visiting driver notice in writing stating:
- (a) that the visiting driver is no longer exempt from the requirement to hold a driver licence in this State, and
  - (b) that the visiting driver must not drive a motor vehicle on a road or road related area in this State, and
  - (c) the reasons why the visiting driver is no longer exempt, and
  - (d) any action that may be taken by the visiting driver in order to regain the exemption, and
  - (e) the date by which the visiting driver must take that action.

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Part 11 Exemptions from requirement to hold driver licence

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- (7) A visiting driver exempted under this clause must, when driving a motor vehicle or a trailer on a road or road related area:
- (a) carry the licence held by the visiting driver and referred to in subclause (1) or (2), and
  - (b) if requested to do so by a police officer, produce the licence to the police officer.
- Maximum penalty: 20 penalty units.

### 100 Golf and green keeping vehicles used on roads or road related areas

(cf cl 55A 1999 Reg)

- (1) A person is exempted from the requirements of section 25 (1) of the Act in respect of the driving of any golf vehicle or green keeping vehicle directly across a road or road related area that intersects with or traverses a golf course if the vehicle:
- (a) is being used in the course of, or as an incident to, a game of golf or to observe any such game, or
  - (b) is proceeding to or from the golf course to be used for or in connection with the rolling or maintenance or surface improvement of any part of the golf course, or
  - (c) is proceeding to or from a car park or storage building that is separated from the golf course by the road or road related area.
- (2) In this clause:
- golf course*** means an area of land (which includes tees, fairways, greens, rough, pathways, bunkers and bridges) designed and used for the playing of golf.
- golf vehicle*** means:
- (a) a motorised buggy or cart that is designed and used to carry any golfer, spectator or golfing equipment on a golf course, or
  - (b) a motor bike having an engine capacity not exceeding 50 ml that is used to carry a golfer, spectator or golf equipment on a golf course, or
  - (c) any trailer that is being drawn by any such vehicle.
- green keeping vehicle*** means any vehicle used solely or principally for or in connection with the rolling or maintenance or surface improvement of any part of a golf course.

### 101 Drivers of light rail vehicles (cf cl 55C 1999 Reg)

A person is exempted from the requirements of section 25 (2) of the Act in respect of the driving of a light rail vehicle within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*.

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**102 Other exemptions from licensing** (cf cl 55D 1999 Reg)

- (1) A person is exempted from the requirements of section 25 (1) of the Act in respect of the driving of any of the following vehicles:
  - (a) any motor vehicle or trailer while it is being driven by the person who is being submitted (as an applicant for a licence) to a driving test by a police officer or a person authorised by the Authority or by the Commissioner of Police to test drivers,
  - (b) any motor vehicle or trailer, weighing not more than 250 kg when unladen, that is constructed or used solely for cutting grass or for purposes incidental to cutting grass,
  - (c) any motor vehicle or trailer comprising a pedal cycle to which is attached one or more auxiliary propulsion motors having a combined maximum power output not exceeding 200 watts,
  - (d) any motor vehicle or trailer that:
    - (i) is specially constructed to be used, and while on a road or road related area is used, solely for the conveyance of an invalid, and
    - (ii) is not capable of travelling at more than 10 km/h.
- (2) Section 25A (1) (a) and (3) (a) of the Act does not apply to the driving of any of the following vehicles:
  - (a) any motor vehicle or trailer while it is being driven by a person who is being submitted (as an applicant for a licence) to a driving test by a police officer or a person authorised by the Authority or by the Commissioner of Police to test drivers,
  - (b) any motor vehicle or trailer, weighing not more than 250 kg when unladen, that is constructed or used solely for cutting grass or for purposes incidental to cutting grass,
  - (c) any motor vehicle or trailer comprising a pedal cycle to which is attached one or more auxiliary propulsion motors having a combined maximum power output not exceeding 200 watts,
  - (d) any motor vehicle or trailer that is specially constructed to be used, and while on a road or road related area is used, solely for the conveyance of an invalid and is not capable of travelling at more than 10 km/h.

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Clause 103 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

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## Part 12 Miscellaneous

### Division 1 Administration

#### 103 Driver licence register (cf cl 24 1999 Reg)

- (1) The Authority must record the following matters in the driver licence register, in respect of each driver licence:
  - (a) the identification number allocated to the person to whom the licence was issued,
  - (b) the full name of the person,
  - (c) the person's gender and date of birth,
  - (d) the person's residential address and address for service of notices (if any),
  - (e) the class or classes of the licence,
  - (f) the commencement and expiry dates of the licence,
  - (g) any conditions to which the licence is subject.
- (2) The Authority may record, in the driver licence register, other information for:
  - (a) the purposes of the Act and this Regulation, or
  - (b) the purposes of another Act, or
  - (c) other purposes, as the Authority considers appropriate.
- (3) The holder of a driver licence is entitled to request a search of the driver licence register, and to obtain a certificate as to any matter appearing in the register in relation to him or her, on payment of the applicable fee.
- (4) The Authority may correct any mistake or error in, or omission of, matter recorded in the driver licence register, subject to any requirements of the Act or this Regulation.

#### 104 Release of information to Australian Electoral Commission (cf cl 25 1999 Reg)

- (1) The Authority may provide to the Australian Electoral Commission any information recorded in the driver licence register for the purpose of assisting the Australian Electoral Commission to carry out its functions under the *Commonwealth Electoral Act 1918* of the Commonwealth.
- (2) The Authority may provide the information to the Australian Electoral Commission on such conditions as are agreed between the Authority and the Commission, or if there is no agreement, as are determined by the Authority.

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**105 Release of certain information for publication by Authority** (cf cl 25A 1999 Reg)

The Authority may cause the following information recorded in the driver licence register to be published:

- (a) the name of any driving school (within the meaning of the *Driving Instructors Act 1992*) that has presented persons to the Authority for submission to a driving test for a learner licence of class C, being a driving test:
  - (i) conducted in a vehicle of the driving school, and
  - (ii) to which the student has not previously submitted,
- (b) the percentage of those persons who passed the driving test on their first attempt.

**106 Release of information relating to alcohol interlock program** (cf cl 25B 1999 Reg)

The Authority may, for the purpose of enabling the Authority to perform functions conferred or imposed on the Authority by or under the Act in relation to the alcohol interlock program, disclose to the following persons data or information recorded in the driver licence register:

- (a) a person approved under section 21B of the Act and Part 10 as an approved interlock installer or an approved interlock service provider,
- (b) a person who has entered into an agreement with the Authority under clause 97,
- (c) a person who provides any services to a person who has entered into such an agreement in connection with the alcohol interlock program.

**107 Release of driver licence photographs to Crime Commission and ASIO** (cf cl 60 1999 Reg)

- (1) A driver licence photograph, and any photographic image or other matter contained in any database of such photographs, may be released by the Authority:
  - (a) to the New South Wales Crime Commission for the purposes of an investigation of a terrorist act or a threat of a terrorist act, or
  - (b) to the Australian Security Intelligence Organisation for the purposes of an investigation of a terrorism offence.

**Note.** Release of this material to the NSW Police Force is already authorised under section 41 of the Act so long as the release is in accordance with any protocol approved by the Privacy Commissioner.

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Clause 108 Road Transport (Driver Licensing) Regulation 2008

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(2) Any release of material under subclause (1) must be in accordance with any protocol approved by the Privacy Commissioner, as required by section 41 (2) of the Act.

(3) In this clause:

**driver licence photograph** means a photograph taken or provided in relation to an application for the issue or renewal by the Authority of a driver licence.

**terrorism offence** has the same meaning as in the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth.

**terrorist act** has the same meaning as in the *Terrorism (Police Powers) Act 2002*.

### 108 Purposes for which photographs may be kept and used (cf cl 60A 1999 Reg)

For the purposes of section 40 (1) (g) of the Act, the Authority may keep or use a photograph for any purpose for which a photograph of a person taken for the purposes of a mobility parking scheme authority may be kept and used by the Authority under regulations made under the *Road Transport (Safety and Traffic Management) Act 1999*.

### 109 Disclosure of demerit points information to CTP insurers

(1) The Authority may enter into an agreement with a CTP insurer (a **points disclosure agreement**) that provides for the disclosure to the CTP insurer with the consent of a person of information as to the number of demerit points recorded against the person on the demerit points register.

(2) The Authority must consult with the Privacy Commissioner before entering into a points disclosure agreement.

(3) The Authority is authorised to disclose information on the demerits point register in accordance with a points disclosure agreement.

(4) A points disclosure agreement may provide for the payment of fees by a CTP insurer to the Authority in connection with the agreement, including fees for the disclosure of information in accordance with the agreement.

(5) In this clause:

**CTP insurer** means a licensed insurer under the *Motor Accidents Compensation Act 1999*.

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**110 Delegation of Authority's powers** (cf cl 61 1999 Reg)

The Authority may delegate all or any of its powers under the Act or this Regulation to the following persons:

- (a) a statutory authority,
- (b) the holder of a statutory office,
- (c) an officer or employee of a government department or statutory authority,
- (d) a police officer,
- (e) a local council or other local government authority,
- (f) an officer or employee of a local council or other local government authority,
- (g) any other person who, in the opinion of the Authority, has appropriate qualifications for the exercise of the power delegated.

**Division 2 Fees****111 Applicable fees** (cf cl 62 1999 Reg)

The applicable fee for a service provided by the Authority under the Act or this Regulation is:

- (a) the fee specified for that service in Schedule 3, or
- (b) the fee fixed for that service by the Authority under section 10 (1) of the Act.

**112 Waiver of fees** (cf cl 63 1999 Reg)

- (1) The Authority may waive the payment of a fee payable under the Act or this Regulation, or both, in a particular case if the Authority is of the opinion that in the particular case it is appropriate to do so.
- (2) Without limiting subclause (1), the Authority may waive payment of a fee in relation to a learner licence if the applicant is, when making the application, the holder of a learner licence issued by another jurisdiction.

**113 Fee exemption for eligible pensioners** (cf cl 64 1999 Reg)

- (1) An eligible pensioner is not required to pay a fee in respect of the pensioner's driver licence.
- (2) In this clause:  
*eligible pensioner* means a person:
  - (a) who is the holder of a Pensioner Concession Card that is in force issued by the Commonwealth Department of Families, Housing,

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Clause 114 Road Transport (Driver Licensing) Regulation 2008

Part 12 Miscellaneous

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- Community Services and Indigenous Affairs or the Commonwealth Department of Veterans' Affairs, or
- (b) who is in receipt of a pension or other amount paid by the Commonwealth Department of Veterans' Affairs in respect of a war-caused disability seriously affecting the person's powers of movement, being a pension or other amount (or a pension or other amount below a rate) approved by the Authority for the purposes of this paragraph, or
  - (c) who is an armed services widow within the meaning of the *Social Security Act 1991* of the Commonwealth, and:
    - (i) who is in receipt of a pension under Part II or IV of the *Veterans' Entitlements Act 1986* of the Commonwealth at the maximum rate applicable under section 1064 (5) of the *Social Security Act 1991* of the Commonwealth, and
    - (ii) who is under the pension age for the person set out in section 5QA of the *Veterans' Entitlements Act 1986* of the Commonwealth, and
  - (d) who is the holder of a current driver licence, being a licence for which no fee was payable under this Regulation or the *Road Transport (Driver Licensing) Regulation 1999*, or
  - (e) who is not the holder of any such current driver licence, but:
    - (i) who has satisfied the Authority, by the production of a certificate from a medical practitioner, that the person is not medically unfit to drive a motor vehicle, or
    - (ii) who has otherwise satisfied the Authority that the person should be treated as an eligible pensioner for the purposes of this clause.

### Division 3 Other

#### 114 Failure to comply with licence conditions (cf cl 56 1999 Reg)

- (1) The holder of a conditional licence or provisional licence who fails to comply with a condition of that licence is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (2) Subclause (1) does not apply to the holder of a provisional licence who is driving a motor vehicle contrary to a condition of that licence restricting the holder to driving motor vehicles with automatic transmissions if the seat next to the holder of the licence is occupied by a person who holds an Australian driver licence (not being an Australian learner licence or provisional licence) authorising him or her to drive such a vehicle.

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- (3) For the purposes of this clause, a person does not hold an Australian driver licence if (whether under a law of this or another jurisdiction):
- (a) the licence has been suspended, or
  - (b) the person has been disqualified from holding a licence.

**115 Failure to return driver licence to Authority** (cf cl 57 (1) 1999 Reg)

The holder of a driver licence who fails to return a driver licence to the Authority when required by or in accordance with this Regulation to do so is guilty of an offence.

Maximum penalty: 20 penalty units.

**116 Notification offence** (cf cl 58 1999 Reg)

A person who does not give information to the Authority when required by this Regulation to do so is guilty of an offence.

Maximum penalty: 20 penalty units.

**117 Change of name, address or medical condition** (cf cl 30 1999 Reg)

- (1) The holder of a driver licence must advise the Authority, not more than 14 days after the change, about any change in the holder's:
  - (a) name, or
  - (b) residential address, or address for service of notices.Maximum penalty: 20 penalty units.
- (2) Unless required by the Authority, the advice need not be in writing.
- (3) The new residential address advised of by the licence holder must be an address in this State at which the Authority may ordinarily make personal contact with the holder.
- (4) If there is no postal service to the licence holder's new residential address, the licence holder must also provide an address for the service of notices.
- (5) The holder of a driver licence must, as soon as practicable, notify the Authority of any permanent or long term injury or illness that may impair the licence holder's ability to drive safely.

**118 Verification of information in driver licence register and monitoring of compliance** (cf cl 32 and 57 (3) 1999 Reg)

- (1) If there are reasonable grounds for believing that information contained in the driver licence register is inaccurate or misleading, the Authority may by written notice require the holder of a driver licence to provide

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Clause 119 Road Transport (Driver Licensing) Regulation 2008

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evidence to the Authority, in a form specified by the Authority, relating to anything relevant to the issuing, variation or continuation of the licence, including:

- (a) the licence holder's personal details, and
  - (b) the licence holder's residential address.
- (2) If the licence holder fails to comply with the notice, the licence holder is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (3) For the purposes of this clause, the Authority may require the licence holder:
- (a) to provide specified documents for inspection, and
  - (b) to attend at a time and place specified by the Authority for identification.
- (4) If a licence holder who is required to attend for identification requests a change to the time or place specified in the notice, the Authority must give consideration to that request and may change the time or place in accordance with the request.

### **119 Damaged or lost licences** (cf cl 29 1999 Reg)

- (1) A licence is of no effect if it is so damaged, or is in such a condition, that the particulars in the licence cannot be read.
- (2) The holder of a driver licence whose licence is damaged, stolen, lost or destroyed must notify the Authority as soon as practicable.

### **120 Issue of replacement driver licence** (cf cl 23 1999 Reg)

- (1) The Authority may, on payment by the holder of a driver licence of the applicable fee, issue a driver licence to replace a driver licence that:
  - (a) has been stolen, lost, damaged or destroyed, or
  - (b) has been cancelled under clause 55 (1) (i) or (j).
- (2) A licence holder who seeks a replacement driver licence must provide to the Authority personal particulars necessary to identify the applicant, including any evidence that the Authority may reasonably require to verify those particulars.
- (3) The Authority may require a licence holder who seeks a replacement driver licence to comply with any of the requirements of clause 44 (3) in addition to the requirements of this clause.
- (4) On the issue of a replacement licence, the licence it replaces is of no effect.

**121 Savings**

Any act, matter or thing that had effect under the *Road Transport (Driver Licensing) Regulation 1999* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

**122 Application of prescribed conditions imposed by amendment to Regulation** (cf cl 28A 1999 Reg)

If this Regulation is amended so as to impose a new condition on a driver licence (whether or not of a particular class) or to amend an existing condition applying to such a licence:

- (a) the new condition or amended condition applies to all such licences, regardless of when they were issued, unless this Regulation expressly or by necessary implication provides otherwise, and
- (b) the new condition or amended condition applies only in respect of conduct occurring after the new condition or amendment to the condition takes effect.

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Road Transport (Driver Licensing) Regulation 2008

Schedule 1 National schedule of demerit point offences

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### Schedule 1 National schedule of demerit point offences

(Clause 60 (1) and (3))

#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 20 (except in a school zone or where the applicable speed limit is specified by rule 24-1, 24-2, 24-3 or 24-4)	Exceeding speed limit:		
	(a) where the speed limit is exceeded by more than 45km/h	6	12
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	4	8
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	4	8
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	4	8

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 20 (in school zone, except where the applicable speed limit is specified by rule 24-1, 24-2, 24-3 or 24-4)	Exceeding speed limit:		
	(a) where the speed limit is exceeded by more than 45km/h	7	14
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	5	10
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	5	10
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	5	10
Rule 27, 28 (1), 29, 31, 32 (1) or 33	Turning improperly	2	2
Rule 37, 39, 40, 41 or 42 (except in school zone)	Make unlawful U-turn	2	2
Rule 37, 39, 40, 41 or 42 (in school zone)	Make unlawful U-turn	3	3

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### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 1 National schedule of demerit point offences

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<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 38, 62, 63 (3) or 64 (except in school zone)	Failing to give way	3	3
Rule 38, 62, 63 (3) or 64 (in school zone)	Failing to give way	4	4
Rule 46 (1) or 48 (1), but only in the circumstances referred to in rule 46 (3) or 48 (3) respectively	Not give proper signal when driving out from side of road	2	2
Rule 46 (1) or 48 (1) (but only in the circumstances referred to in rule 46 (2) or 48 (2) respectively), 53, 112, 113, 117 or 118 (1)	Changing direction or stopping without signalling	2	2
Rule 56 or 59, but only at traffic lights other than traffic lights at toll booths or in school zones	Disobeying traffic light	3	3
Rule 56 or 59, but only at traffic lights in school zones, other than traffic lights at toll booths	Disobeying traffic light	4	4
Rule 57, 60, 61 or 63 (2) (except at level crossing or in school zone)	Disobeying traffic light	3	3
Rule 57, 60, 61 or 63 (2) (in school zone but not at level crossing)	Disobeying traffic light	4	4
Rule 66 (except at level crossing) or Part 17	Disobeying traffic light	3	3

<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 65 (2) (a), 80 or 81 (2) (except in school zone)	Failing to stop or give way at pedestrian, children's or marked crossing	3	3
Rule 65 (2) (a), 80 or 81 (2) (in school zone)	Failing to stop or give way at pedestrian, children's or marked crossing	4	4
Rule 65 (2) (b) (except in school zone)	Obstruct pedestrian—flashing yellow light	3	3
Rule 65 (2) (b) (in school zone)	Obstruct pedestrian—flashing yellow light	4	4
Rule 65 (2) (c) (except in school zone)	Overtake/pass vehicle—flashing yellow light	3	3
Rule 65 (2) (c) (in school zone)	Overtake/pass vehicle—flashing yellow light	4	4
Rule 67, 68, 69, 71 or 101 (except in school zone)	Disobeying stop (including hand-held stop) or give way sign or line	3	3
Rule 67, 68, 69, 71 or 101 (in school zone)	Disobeying stop (including hand-held stop) or give way sign or line	4	4
Rule 70 (except in school zone)	Disobey give way sign on bridge/narrow road	3	3
Rule 70 (in school zone)	Disobey give way sign on bridge/narrow road	4	4
Rule 72 (1), 73, 74, 75, 84, 87, 114, 148 or 149	Failing to give way	3	3
Rule 76 (1)	Drive into path of approaching tram	3	3
Rule 76 (2)	Not move out of path of approaching tram	3	3
Rule 77 (1)	Drive in left lane/traffic line not give way to bus	3	3
Rule 78 (1)	Move into path of police or emergency vehicle	3	3

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### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 1 National schedule of demerit point offences

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<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 78 (2)	Not move out of path of police or emergency vehicle	3	3
Rule 79 (1)	Not give way to police or emergency vehicle	3	3
Rule 81 (1) (except in school zone)	Approach pedestrian crossing too quickly to stop safely if necessary	3	3
Rule 81 (1) (in school zone)	Approach pedestrian crossing too quickly to stop safely if necessary	4	4
Rule 82 (except in school zone)	Overtake or pass vehicle—children's or pedestrian crossing	3	3
Rule 82 (in school zone)	Overtake or pass vehicle—children's or pedestrian crossing	4	4
Rule 83	Not give way to pedestrian in shared zone	3	3
Rule 85	Not give way to vehicle in/entering turning lane	3	3
Rule 86 (1)	Not give way to vehicle (median turning bay)	3	3
Rule 88, 89, 90 or 91	Disobey traffic sign	2	2
Rule 93, 94 or 143	Overtake/pass vehicle contrary to sign	2	2
Rule 115	Not drive to left of central traffic island in the roundabout	2	2
Rule 121 or 122	Failing to stop or give way at level crossing	3	3
Rule 123 (a)	Enter a level crossing when warning lights or bells operating	3	3
Rule 123 (b)	Enter a level crossing when gate, boom or barrier is closed, opening or closing	3	3
Rule 123 (c)	Enter a level crossing when a train or tram is on or entering the crossing	3	3
Rule 123 (d)	Enter a level crossing when a train or tram is approaching the crossing	3	3

<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 123 (e)	Enter a level crossing when crossing or road beyond is blocked	3	3
Rule 126	Following too closely	3	3
Rule 129	Not drive far left side of road	2	2
Rule 130, 131, 132 (1) or (2) or 135	Failing to keep left	3	3
Rule 140	Overtake vehicle when unsafe	3	3
Rule 141 (1)	Overtake to left of vehicle	2	2
Rule 142 (1)	Overtake to right of vehicle turning right/making U-turn	3	3
Rule 144	Fail to keep safe distance when overtaking	3	3
Rule 152	Disobey overhead lane control device	3	3
Rule 162, 163 or 164	Unlawfully driving past safety zone or stopped tram or failing to give way to pedestrian crossing near stopped tram	2	2
Rule 218	Failure to dip headlights	1	1
Rule 219	Use lights to dazzle another road user	1	1
Rule 264	Driver not wearing seat belt	3	6
Rule 266	Drive with unrestrained passengers under the age of 16 years	3	6
Rule 270 (1) (a)	Ride motor bike without helmet (rider alone)	3	6
Rule 288 (4) (except in school zone)	Driver not give way to user/animal on path	3	3
Rule 288 (4) (in school zone)	Driver not give way to user/animal on path	4	4
Rule 289 (2) (except in school zone)	Driver not give way to road user/animal on nature strip	3	3
Rule 289 (2) (in school zone)	Driver not give way to road user/animal on nature strip	4	4

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Road Transport (Driver Licensing) Regulation 2008

Schedule 1 National schedule of demerit point offences

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### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 304	Fail to obey police direction	3	3

### Road Transport (Safety and Traffic Management) Act 1999

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Section 42 (1) (c)	Negligent driving (but not occasioning death or grievous bodily harm)	3	3

### Road Transport (Vehicle Registration) Regulation 2007

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Clause 84 (2)	Use vehicle contrary to a defect notice:		
	(a) in case of a major defect	3	3
	(b) in case of a minor defect	1	1

## Schedule 2 Additional demerit point offences

(Clause 60 (2) and (3))

### Protection of the Environment Operations (Noise Control) Regulation 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Clause 17 (1)	Driver of a motor vehicle with a sound system driving or using the motor vehicle on a road or road related area where the sound system emits offensive noise	2	2

### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 20 (where the applicable speed limit is specified by rule 24-1 (2) or (3), except in a school zone)	Exceeding speed limit for provisional driver:		
	(a) where the speed limit is exceeded by more than 45km/h	6	12
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	4	8
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	4	8

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### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 2 Additional demerit point offences

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<b>Road Rules 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	4	8
Rule 20 (in a school zone where the applicable speed limit is specified by rule 24-1 (2) or (3))	Exceeding speed limit for provisional driver:		
	(a) where the speed limit is exceeded by more than 45km/h	7	14
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	5	10
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(d) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h (in the case of the holder of a provisional P1 licence)	5	10
	(e) where the speed limit is exceeded by not more than 15km/h (otherwise than by the holder of a provisional P1 licence)	4	8
	(f) where the speed limit is exceeded by not more than 15km/h (in the case of the holder of a provisional P1 licence)	5	10

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 20 (where the applicable speed limit is specified by rule 24-2)	Exceeding speed limit on Lord Howe Island:		
	(a) where the speed limit is exceeded by more than 45km/h	6	12
	(b) where the speed limit is exceeded by more than 30km/h but not exceeded by more than 45km/h	4	8
	(c) where the speed limit is exceeded by more than 15km/h but not exceeded by more than 30km/h	3	6
Rule 20 (where the applicable speed limit is specified by rule 24-3)	Pass bus at speed in excess of 40km/h:		
	(a) where the motor vehicle is driven at a speed that exceeds 85km/h	6	12
	(b) where the motor vehicle is driven at a speed that exceeds 70km/h but does not exceed 85km/h	4	8
	(c) where the motor vehicle is driven at a speed that exceeds 55km/h but does not exceed 70km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(d) where the motor vehicle is driven at a speed that exceeds 55km/h but does not exceed 70km/h (in the case of the holder of a provisional P1 licence)	4	8

## 2008 No 397

### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 2 Additional demerit point offences

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#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
	(e) where the motor vehicle is driven at a speed that exceeds 40km/h but does not exceed 55km/h (otherwise than by the holder of a provisional P1 licence)	3	6
	(f) where the motor vehicle is driven at a speed that exceeds 40km/h but does not exceed 55km/h (in the case of the holder of a provisional P1 licence)	4	8
Rule 28 (1A)	Turning left improperly at intersection from a multi-lane road with slip lane	2	2
Rule 46 (1) or 48 (1), but only in the circumstances referred to in rule 46 (4) or 48 (4) respectively	Not stop change of direction signal after change	2	2
Rule 51	Operate indicator light unlawfully	2	2
Rule 60A (except in school zone)	Disobey a red traffic light or arrow when proceeding through bicycle storage area	3	3
Rule 60A (in school zone)	Disobey a red traffic light or arrow when proceeding through bicycle storage area	4	4
Rule 92 (1)	Disobey traffic sign/road marking at intersection	2	2
Rule 95 (1)	Drive in emergency stopping lane	2	2
Rule 96 (1)	Stop on area marked with keep clear marking	2	2
Rule 97 (1)	Disobey road access sign	2	2
Rule 98 (1)	Disobey one-way sign	2	2
Rule 99	Disobey keep left/right sign	2	2
Rule 100	Disobey no entry sign	2	2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 108	Disobey trucks and buses low gear sign	3	3
Rule 111 (1), 116 or 118 (2)	Drive contrary to roundabout rules	2	2
Rule 124	Fail to leave a level crossing	3	3
Rule 127	Long vehicle following other long vehicle too closely, otherwise than where following long vehicle is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	3	3
Rule 127	Long vehicle following other long vehicle too closely, where following long vehicle is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 128A (except in school zone)	Enter blocked crossing	2	2
Rule 128A (in school zone)	Enter blocked crossing	3	3
Rule 132 (2A)	Drive across dividing lines to perform a U-turn	3	3
Rule 136	Drive wrong way on one-way service road	3	3
Rule 137	Drive on dividing strip	2	2
Rule 138 (1)	Drive on/over continuous line near painted island	2	2
Rule 145	Increase speed while being overtaken	3	3

## 2008 No 397

### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 2 Additional demerit point offences

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#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 146	Not drive within single marked lane or line of traffic, otherwise than where vehicle not driven within single marked lane or line of traffic is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 146	Not drive within single marked lane or line of traffic, where vehicle not driven within single marked lane or line of traffic is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 147	Cross continuous line separating marked lanes, otherwise than where vehicle crossing line is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 147	Cross continuous line separating marked lanes, where vehicle crossing line is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 148A	Fail to give way when moving within single marked lane	3	3
Rule 150	Drive on/over continuous white edge line, where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 150	Drive on/over continuous white edge line, where vehicle driven is: (a) not a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	2	2
Rule 150	Drive on/over continuous white edge line, where vehicle driven is not in a Safe-T-Cam zone	2	2
Rule 154	Drive in bus lane	3	3
Rule 155 (1)	Drive in tram lane	3	3
Rule 157	Drive in truck lane	3	3
Rule 157-1 (1)	Drive in T-Way lane	3	3
Rule 159	Bus or truck driver fail to drive in bus lane or in truck lane where required	3	3
Rule 167 (in school zone)	Disobey no stopping sign	2	2
Rule 168 (1) (in school zone)	Disobey no parking sign	2	2
Rule 171 (1) (except in school zone)	Stop on/near children's crossing	1	1
Rule 171 (1) (in school zone)	Stop on/near children's crossing	2	2
Rule 172 (1) (except in school zone)	Stop on/near pedestrian crossing	1	1
Rule 172 (1) (in school zone)	Stop on/near pedestrian crossing	2	2
Rule 173 (1) (except in school zone)	Stop on/near marked foot crossing	1	1
Rule 173 (1) (in school zone)	Stop on/near marked foot crossing	2	2
Rule 175 (1)	Stop on/near level crossing	1	1

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### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 2 Additional demerit point offences

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#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 183 (1) (in school zone)	Stop in bus zone	2	2
Rule 189 (1) (in school zone)	Double park	2	2
Rule 195 (1) (in school zone)	Stop at/near bus stop	2	2
Rule 197 (1) (in school zone)	Stop on path/strip in built-up area	2	2
Rule 198 (2) (in school zone)	Stop on/across driveway/other access to/from adjacent land	2	2
Rule 215–1 (1)	Driving at night/dark without headlight alight, otherwise than where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	1	1
Rule 215–1 (1)	Driving at night/dark without headlight alight, where vehicle driven is: (a) a class B or class C motor vehicle, and (b) in a Safe-T-Cam zone	4	4
Rule 265 (3)	Drive with 1 unrestrained passenger	3	6
Rule 265 (3)	Drive with 2 or more unrestrained passengers	6	12
Rule 267–1 (2)	Learner or P1 or P2 driver drive vehicle unrestrained (no restraint fitted)	3	6
Rule 267–1 (2)	Learner or P1 or P2 driver drive vehicle with unrestrained passenger	3	6
Rule 267–2 (1)	Use vehicle when child is in child restraint in front seat position where airbag fitted	3	6
Rule 268 (3)	Part of body outside vehicle window/door (driver)	3	3

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 268 (4)	Drive with part of passenger's body outside window/door	3	3
Rule 268 (4A)	Drive with passenger in part of vehicle that is not designed for carriage of passengers or goods	3	3
Rule 268 (4B)	Drive with passenger not in properly enclosed part of vehicle	3	3
Rule 268–2 (2)	Drive with person in or on the boot of motor vehicle	3	6
Rule 270 (1)	Ride motor bike without helmet and with one passenger only not wearing helmet	6	12
Rule 270 (1)	Ride motor bike without helmet and with 2 or more passengers not wearing helmets	9	18
Rule 270 (1) (b)	Ride motor bike with one passenger not wearing helmet	3	6
Rule 270 (1) (b)	Ride motor bike with 2 or more passengers not wearing helmets	6	12
Rule 271 (1) (a)	Not sit astride on motor bike rider's seat	3	3
Rule 271 (4), 271–1 (1) or 271–2 (1)	Unauthorised carriage of pillion passenger on motor bike or motor trike	3	3
Rule 271 (5)	Exceed number of passengers in motor bike side car	3	3
Rule 271 (5A)	Ride with passenger under 8 years not in sidecar	3	3
Rule 271 (5C)	Ride with unsafely seated passenger in sidecar	3	3
Rule 287	Not stop and supply required particulars at scene of crash	3	3
Rule 288 (1) (except in school zone)	Drive on path	3	3

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#### Schedule 2 Additional demerit point offences

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#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 288 (1) (in school zone)	Drive on path	4	4
Rule 289 (1) (except in school zone)	Drive on nature strip	3	3
Rule 289 (1) (in school zone)	Drive on nature strip	4	4
Rule 290 (except in school zone)	Drive on traffic island	3	3
Rule 290 (in school zone)	Drive on traffic island	4	4
Rule 291	Start or drive a vehicle causing unnecessary noise or smoke	3	3
Rule 292 (a)	Drive/tow vehicle with unsecured load	3	3
Rule 292 (b)	Drive/tow vehicle with load causing instability	3	3
Rule 292 (c)	Drive/tow vehicle with overhanging load	3	3
Rule 293 (2)	Not remove/have removed any thing fallen/put upon road	3	3
Rule 294 (1)	Tow without appropriate control of towed vehicle	3	3
Rule 294 (2) (a)	Tow without control of trailer	3	3
Rule 294 (2) (b)	Tow trailer when unsafe	3	3
Rule 294-1 (1) (a)	Articulated vehicle tow other vehicle	3	3
Rule 294-1 (1) (b)	Motor vehicle tow more than one vehicle	3	3
Rule 294-2 (1) (a)	Towed vehicle exceed towing capacity	3	3
Rule 294-2 (1) (b)	Towed vehicle exceed maximum laden weight	3	3
Rule 294-3 (1) (a)	Not keep required distance (towing with towline)	2	2

**Road Rules 2008**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Rule 294–3 (1) (e)	Not display warning flag as required	2	2
Rule 296 (1) (except in school zone)	Not reverse vehicle safely	2	2
Rule 296 (1) (in school zone)	Not reverse vehicle safely	3	3
Rule 297 (1) (except in school zone)	Not have proper control of vehicle	3	3
Rule 297 (1) (in school zone)	Not have proper control of vehicle	4	4
Rule 297 (1A) (except in school zone)	Drive with person or animal in lap	3	3
Rule 297 (1A) (in school zone)	Drive with person or animal in lap	4	4
Rule 297 (2) (except in school zone)	Drive without clear view	3	3
Rule 297 (2) (in school zone)	Drive without clear view	4	4
Rule 297 (3) (except in school zone)	Ride with animal on petrol tank	3	3
Rule 297 (3) (in school zone)	Ride with animal on petrol tank	4	4
Rule 298	Tow trailer with person in/on trailer	3	3
Rule 298–1	Driver consume alcohol while driving	3	3
Rule 299 (1) (a) (except in school zone)	Drive vehicle with TV/VDU image visible	3	3
Rule 299 (1) (a) (in school zone)	Drive vehicle with TV/VDU image visible	4	4
Rule 300 (except in school zone)	Driver (other than learner or P1 driver) use hand-held mobile phone while driving	3	3
Rule 300 (in school zone)	Driver (other than learner or P1 driver) use hand-held mobile phone while driving	4	4

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#### Schedule 2 Additional demerit point offences

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#### Road Rules 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Rule 300–1 (except in school zone)	Learner or P1 driver use mobile phone while driving	3	3
Rule 300–1 (in school zone)	Learner or P1 driver use mobile phone while driving	4	4

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#### Road Transport (Driver Licensing) Regulation 2008

Column 1	Column 2	Column 3	Column 4
Provision creating offence	Description of offence	Standard demerit points	Long weekend demerit points
Clause 15 (1) (b)	Learner driver not display “L” plates as required	2	2
Clause 17 (1) (a)	Unauthorised carriage of pillion passenger	2	2
Clause 17 (1) (b)	Learner rider not display “L” plate as required	2	2
Clause 17 (2)	Ride motorcycle of prohibited capacity/power	4	4
Clause 18	Learner tow or be towed by other vehicle	2	2
Clause 23 (a)	Drive vehicle towing excess weight	2	2
Clause 23 (b)	Ride motor bike or motor trike towing other vehicle	2	2
Clause 114 (except in respect of a condition under clause 22 (b), 32, 33 or 34)	Not comply with conditions of licence	2	2
Clause 114 (in respect of a condition under clause 22 (b))	Not comply with P1 (class R) restriction on capacity/power	4	4

## Road Transport (Driver Licensing) Regulation 2008

## Additional demerit point offences

## Schedule 2

<b>Road Transport (Driver Licensing) Regulation 2008</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 114 (in respect of a condition under clause 32)	Not comply with P1/P2 high performance vehicle restriction	7	7
Clause 114 (in respect of a condition under clause 33)	Not comply with P1/P2 passenger restriction	7	7
Clause 114 (in respect of a condition under clause 34)	Not comply with P1 passenger restriction	3	3

<b>Road Transport (Safety and Traffic Management) Act 1999</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Section 41 (1)	Burnout	3	3
Section 48 (2)	Stand/drive vehicle with speed evasion article	9	9

<b>Road Transport (Vehicle Registration) Act 1997</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Section 18 (1), in relation only to a class B or class C motor vehicle	Use unregistered vehicle	4	4

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#### Schedule 2 Additional demerit point offences

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<b>Road Transport (Vehicle Registration) Regulation 2007</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision creating offence</b>	<b>Description of offence</b>	<b>Standard demerit points</b>	<b>Long weekend demerit points</b>
Clause 52 (1) (a)	Use vehicle with defective brakes	3	3
Clause 52 (1) (a)	Use vehicle with defective steering	3	3
Clause 52 (1) (a)	Use vehicle with seatbelt missing/defective	3	3
Clause 52 (1) (a)	Use vehicle with defective seating	3	3
Clause 52 (1) (a)	Use vehicle not fitted/equipped with seatbelts/anchorages	3	3
Clause 52 (1) (a)	Use vehicle with dangerous protrusion on bullbar	3	3
Clause 52 (1) (a)	Use vehicle with obscured/defaced/illegible number-plate or number-plate not displayed or affixed in accordance with Regulation	3	3
Clause 85 (1) (a)	Use vehicle with unauthorised number-plate	3	3
Clause 85 (2) (a)	Use vehicle displaying altered number-plate	3	3
Clause 85 (2) (b)	Use vehicle displaying misleading number-plate	3	3

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## Schedule 3 Fees

(Clause 111)

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1 Issue or renewal of driver licence:	
(a) 1-year	46
(b) 3-year	108
(c) 5-year	145
(d) provisional P1 licence	46
(e) provisional P2 licence	72
(f) learner licence	20
(g) in the case of a temporary overseas visitor to whom clause 43 applies—a driver licence (other than a provisional P1 licence, a provisional P2 licence or learner licence)	46
(h) in the case of a temporary overseas visitor to whom clause 43 applies—a provisional P1 licence	46
(i) in the case of a temporary overseas visitor to whom clause 43 applies—a provisional P2 licence	46
(j) in the case of a temporary overseas visitor to whom clause 43 applies—a learner licence	20
<p><b>Note.</b> Clause 43 provides (with some exceptions) that a temporary overseas visitor is not eligible to be issued a driver licence (which includes a provisional or learner licence) that will be in force for a period of more than 12 months and is not eligible to have a driver licence held by the person renewed for a period of more than 12 months.</p>	
2 Replacement or duplicate licence:	
(a) learner licence	18
(b) any other licence	21
3 Application for driving or riding test	44
4 Competency based assessment:	
(a) scheme participation fee	21
(b) replacement log book	7

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### Road Transport (Driver Licensing) Regulation 2008

#### Schedule 3 Fees

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5	Entry fee for authorised rider training course:	
	(a) provisional licence rider training course	110
	(b) learner licence rider training course	73
6	Certificate from Authority's records	25
7	Information from Authority's records (other than a certificate)	18
8	Hazard Perception Test	36
9	Driver Qualification Test	36
10	Driver Knowledge Test	36
11	Fee per copy for provision of handbook:	
	(a) Road Users' Handbook (including any foreign language version of that handbook)	10
	(b) Heavy vehicle drivers' handbook	10
	(c) Motorcycle riders' handbook	10
	(d) Hazard Perception Handbook	10
	(e) Driver qualification handbook	10

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