



Australian Capital Territory

Road Transport (Driver Licensing) Amendment Regulation 2004 (No 1)

Subordinate Law SL2004-59

The Australian Capital Territory Executive makes the following regulation under the *Road Transport (Driver Licensing) Act 1999*.

Dated 15 December 2004.

JOHN HARGREAVES
Minister

SIMON CORBELL
Minister



Australian Capital Territory

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1 Name of regulation

This regulation is the *Road Transport (Driver Licensing) Amendment Regulation 2004 (No 1)*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This regulation amends the *Road Transport (Driver Licensing) Regulation 2000*.

Note The regulation is also amended in sch 1.

4 New section 137A

insert

137A Demerit points—effect of withdrawal of infringement notice

- (1) This section applies in relation to a person if—
 - (a) an infringement notice for a demerit points offence is served on the person; and
 - (b) demerit points for the offence are recorded against the person in the demerits points register under the Act, section 13A (1) (b), (c) or (d) (Recording of demerit points); and
 - (c) the infringement notice is withdrawn.

- (2) The demerit points are taken, for all purposes, never to have been recorded against the person and the road transport authority must delete them from the register.
- (3) Without limiting subsection (2), if any of the following happened because of the recording of the demerit points against the person, they are taken, by force of that subsection, never to have happened in relation to the person:
 - (a) the sending of a warning notice under the Act, section 15;
 - (b) the refusal of an application for a licence under the Act, section 17;
 - (c) the service of a notice of ineligibility to obtain a driver licence, or a period of such ineligibility or disqualification, under the Act, section 20;
 - (d) the service of a notice of licence suspension, or a licence suspension, under the Act, section 18, section 19 or section 21 or under this part;
 - (e) the making of an election to be of good behaviour under the Act, section 19 or section 21;
 - (f) the service of a notice of additional provisional class suspension under section 128 (Notice of suspension of additional provisional class);
 - (g) the service of a notice of licence cancellation, or a licence cancellation, under section 130 (Demerit points incurred by restricted licence holders) or section 133 (Notice of licence cancellation for demerit points incurred by probationary licence holders);
 - (h) the deletion of the demerit points from the demerit points register because of something mentioned in paragraphs (a) to (g).

- (4) Also without limiting subsection (2), if, immediately before the withdrawal of the infringement notice, the person is subject to a period of licence ineligibility, disqualification, good behaviour or licence suspension (the *designated period*), or the person's licence has been cancelled, because of the recording of the demerit points in the demerit points register, the designated period or cancellation ends by force of that subsection.
- (5) Subsection (2) does not prevent the road transport authority keeping records of the demerit points deleted under subsection (2) or anything mentioned in subsection (3) or (4).
- (6) To remove any doubt, subsection (5) is subject to subsection (2).

Schedule 1 Minor amendments

(see s 3)

[1.1] Sections 56 (3), 88 (3) and 103 (3)

omit

to make representations why

substitute

to make representations about why

[1.2] Part 8 heading

substitute

Part 8 Licence demerit points

Note For demerit points for a licence that is not a learner, provisional, restricted or probationary licence, see the Act, pt 2.3.

[1.3] Division 8.1 heading

substitute

Division 8.1 Demerit points—learner and provisional licences

[1.4] Division 8.2 heading

substitute

Division 8.2 Demerit points—additional provisional class

[1.5] Division 8.3 heading*substitute***Division 8.3 Demerit points—restricted licences****[1.6] Division 8.4 heading***substitute***Division 8.4 Demerit points—probationary licences****[1.7] Division 8.5***substitute***Division 8.5 Demerit points—other provisions for this part****134 Demerit points—points incurred but not taken into account for notices under pt 8**

- (1) This section applies to—
 - (a) demerit points that are incurred by a person on or before the date of a notice of licence suspension, additional provisional class suspension or licence cancellation (a *relevant notice*) served on the person under this part and that were not taken into account for the notice; and
 - (b) demerit points incurred by the person after the date of the relevant notice and before the suspension or cancellation applying under the relevant notice begins.
- (2) The demerit points are only taken into account in relation to the person from the end of the period of suspension or disqualification from holding or obtaining a driver licence applying under the relevant notice.

135 Demerit points—pt 8 not affected by suspension etc under another law

- (1) A period of licence suspension under this part is additional to any period of licence suspension otherwise imposed under territory law.
- (2) A period of disqualification from holding or obtaining a driver licence under this part is additional to any period of disqualification otherwise imposed under territory law.
- (3) Demerit points recorded in the demerit points register against a person are not affected by a period of licence suspension, additional provisional class suspension or disqualification from holding or obtaining a driver licence imposed by a court in Australia or under any other territory law.

136 Demerit points—notices under pt 8

The road transport authority may give a notice of licence suspension, additional provisional class suspension or licence cancellation to a person under this part without giving the person an opportunity to make representations about why the notice should not be given.

Division 8.6 Demerit points—general

137 Demerit points—notices under Act, div 2.3

A notice under the Act, division 2.3 (Demerit points system) must set out details of the demerit points recorded in the demerit points register in relation to the person on whom the notice is served and taken into account for the issue of the notice.

138 Demerit points register—inspection

A person may—

- (a) inspect information in the demerit points register about the person; and
- (b) obtain a certificate of all or any of that information.

Note A fee may be determined under the *Road Transport (General) Act 1999*, s 96 for this section.

Endnotes**1 Notification**

Notified under the Legislation Act on 16 December 2004.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
