

The Shopfront

YOUTH LEGAL CENTRE

Driving – Information for Young People

Fact Sheet 2 – Unlicensed Driving

Driving without a licence

Driving without a licence is a serious offence. Even if you are a good and safe driver, driving unlicensed could get you a hefty fine, and maybe even some time in jail. You could also be disqualified from driving for a year or more.

The penalties for unlicensed driving are different according to whether you were unlicensed, never licensed, suspended, disqualified or cancelled.

Important terms

Suspended means that your licence has been taken away by the RTA, usually for one of the following reasons:

- exceeding your demerit points limit
- speeding more than 30km/h over the speed limit
- not paying your fines.

Your licence is automatically given back to you at the end of the suspension period (unless it has expired in the meantime).

Cancelled means that your licence is no longer valid and you will have to apply for a new one when you are eligible. Your licence can be cancelled if:

- your licence has already been suspended for six months due to unpaid fines and you still haven't sorted out your fines)
- the RTA thinks you are no longer a fit and proper person to hold a licence (eg if you suffer from a medical condition which makes it dangerous for you to drive),
- you are on a learner's licence and the RTA thinks you have an unsatisfactory driving record.

Disqualified means that a court has convicted you of a driving offence and has ordered that you are not allowed to have a licence for a certain period of time.

Once your disqualification period is over, you must not start driving again until you have been to the RTA and got your licence. Depending on how long you have been disqualified, you may have to do the licence test again.

Driving while suspended, cancelled or disqualified

If you drive while your licence is suspended or cancelled, or while you are disqualified from driving, the penalties can be severe and can include a prison sentence if you are a repeat offender.

If you are convicted, the court will also disqualify you from driving. For a first offence, you will be disqualified for at least 12 months (*unless you were driving while you were suspended due to fine default – in this case the minimum disqualification is 3 months*). For a second or subsequent offence, you will be disqualified for at least 2 years.

These disqualifications are *cumulative* upon any existing period of suspension or disqualification – that is, they start when your current suspension or disqualification ends. People can quite easily end up being disqualified for several years because they kept on driving without a licence.

Driving while unlicensed

If you are caught driving unlicensed and have not had a licence in the last 5 years, you won't automatically be disqualified for a first offence, but for a second offence the court *must* disqualify you for 3 years.

Habitual traffic offender

On top of any disqualifications that the court gives out, 3 charges of driving whilst unlicensed, suspended, cancelled or disqualified could make you a *habitual traffic offender*, which may mean another 5 years off the road.

See Fact Sheet 5 for more information about habitual traffic offender declarations.

Court discretion not to disqualify you

In special circumstances, the court can decide to dismiss your charge without a conviction, which means you will not be disqualified.

Sometimes the court will do this if you have been driving unlicensed or suspended because of unpaid fines. The court may adjourn your case to give you time to sort out the fine and get your licence back. If you show the court that you are serious about doing this, they may dismiss the matter and let you keep your licence.

It is important to know that you can do something about your unpaid fines and you can get your licence back without paying them in full. Please see our fact sheet on Fines or contact us about how to deal with your fines.

For more information about how the courts deal with traffic offences, see *Fact Sheet 5 - serious traffic offences and courts*.

Penalties and disqualifications

This table summarises the penalties and disqualifications that may be imposed.

Unlicensed driving offences	Penalties	First Offence	Second or Subsequent Offence
Driving whilst disqualified, cancelled, suspended or refused	Max. court-imposed fine	\$3,300	\$5,500
	Max. gaol term	18 months	2 years
	Disqualification	At least 12 months (3 months if driving while suspended due to fine default)	At least 2 years
Unlicensed driver (driver has not held a licence in last 5 years)	Traffic Infringement Notice	\$647	n/a (must go to court)
	Max. court-imposed fine	\$2,200	\$3,300
	Max. gaol term	n/a	18 months
	Disqualification	Court decision	At least 3 years
Unlicensed driver (driver held a licence that had expired less than 2 years before)	Traffic Infringement Notice	\$422	\$647
	Max. court-imposed fine	\$2,200	\$2,200
	Disqualification	Court decision	Court decision
Unlicensed driver (driver held a licence that had expired 2 years or more before)	Traffic Infringement Notice	\$506	\$1013
	Max. court imposed fine	\$2,200	\$2,200
	Disqualification	Court decision	Court decision

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The information in this fact sheet contains a basic summary of the law in New South Wales. It is not legal advice. This means that if you need legal advice, you should see a lawyer.

For more information, visit us at www.theshopfront.org or contact us at:

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