



# **National Transport Commission (Road Transport Legislation — Driver Licensing) Regulations 2006<sup>1</sup>**

## **Select Legislative Instrument 2006 No. 19**

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *National Transport Commission Act 2003*.

Dated 15 February 2006

P. M. JEFFERY  
Governor-General

By His Excellency's Command

JAMES ERIC LLOYD  
Minister for Local Government, Territories and Roads

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## Contents

1	Name of Regulations	2
2	Commencement	2
3	Road transport legislation — driver licensing	2

### 1 Name of Regulations

These Regulations are the *National Transport Commission (Road Transport Legislation — Driver Licensing) Regulations 2006*.

### 2 Commencement

These Regulations commence on the day after they are registered.

### 3 Road transport legislation — driver licensing

For section 7 of the *National Transport Commission Act 2003* (the NTC Act), Schedules 1 and 2 set out road transport legislation about driver licensing.

*Note 1* The road transport legislation set out in Schedules 1 and 2 does not have the force of law (see paragraph 7 (2) (a) of the NTC Act).

*Note 2* These Regulations must be made in accordance with the Agreement (see subparagraph 3 (b) (ii) of the NTC Act).

*Note 3* These Regulations are not subject to disallowance — see the *Legislative Instruments Act 2003*, subsection 44 (2) (table, item 44) and the *Legislative Instruments Regulations 2004*, regulation 8 and Schedule 2 item 7.

*Note 4* These Regulations are not subject to sunseting — see the *Legislative Instruments Act 2003*, subsection 54 (2) (table, item 51) and the *Legislative Instruments Regulations 2004*, regulation 9 and Schedule 3 item 4.

*Note 5* The texts set out in Schedules 1 and 2 are those of 2 documents prepared, as ‘in-principle’ drafts of legislation, by the former National Road Transport Commission and approved by the Ministerial Council for Road Transport on 15 December 1997:

- Schedule 1 — *National Driver Licensing Scheme — Primary Principles*
- Schedule 2 — *National Driver Licensing Scheme — Supporting Principles.*

The documents were never converted into formal legislation. The text set out in the Schedules has been formatted in accordance with current legislative practice as far as possible. It is otherwise unaltered.

# Schedule 1 Text of National Driver Licensing Scheme — Primary Principles

(regulation 3)

## Contents

<b>Part 1</b>	<b>Preliminary</b>	
	1 Commencement	6
	2 Purposes	6
	3 Binding the Crown	7
	4 Penalties	7
<b>Part 2</b>	<b>Definitions</b>	
	5 Definitions	7
<b>Part 3</b>	<b>Driver licensing system</b>	
<b>Division 1</b>	<b>Driver licensing authority</b>	
	6 Minister to appoint driver licensing authority	8
	7 Fixing fees	8
	8 Functions of driver licensing authority	8
	9 Powers of driver licensing authority	9
	10 Driver licensing authority not to issue or renew licence in certain circumstances	9
	11 Recognition of offences for which demerit points are incurred	9
	12 Demerit points	10
	13 Demerit points penalties not affected by court-imposed penalties	12
	14 Mutual recognition	12
	15 Security of information in registers	13
	16 Delegation by driver licensing authority	13
<b>Division 2</b>	<b>Regulations</b>	
	17 Regulations to be based on Supporting Principles	14

---

18	Model driver licensing system	14
19	Power to include or exclude areas	16
20	Review of decisions	16
<b>Part 4</b>	<b>Offences</b>	
21	Driving when unlicensed or disqualified	17
22	Obtaining driver licence by false statements	17
23	Evidentiary provisions	18
<b>Part 5</b>	<b>General</b>	
24	Indemnity	18
25	Learner drivers	19
<b>Part 6</b>	<b>Dictionary</b>	
26	Definitions	19

The purpose of the Primary Principles is to establish a framework for a national driver licensing scheme throughout Australia. The scheme will provide uniform arrangements for the post-novice licensing of drivers of motor vehicles, the renewal of licences, and their suspension and cancellation. The Primary Principles contain provisions relating to the appointment of a driver licensing authority, the functions and power of the authority, the security of personal or commercially sensitive information, the management of demerit points for driving offences, the delegation of powers by the authority, and the review of decisions made by the authority.

## Principle 2

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# Part 1 Preliminary

## 1 Commencement

A national driver licensing scheme modelled on the Primary and Supporting Principles set out in this document is scheduled for implementation in all Australian States and Territories by February 1999.

## 2 Purposes

- (1) The purposes of the scheme are to:
  - (a) provide for the establishment of an Australia-wide driver licensing system that is designed to provide:
    - (i) uniform licence classes for the drivers of motor vehicles; and
    - (ii) uniform attendant eligibility criteria for those licence classes; and
  - (b) define the responsibilities of people in respect of driver licensing; and
  - (c) provide a means of identifying licensed drivers of motor vehicles; and
  - (d) facilitate the regulation of drivers of motor vehicles in the interests of safety and efficiency and law enforcement generally; and
  - (e) provide a means of enforcing safety standards relating to the driving of motor vehicles on roads and road related areas; and
  - (f) facilitate:
    - (i) the recovery of expenses incurred in administering the system; and
    - (ii) the collection of licence fees.
- (2) However, these Primary Principles (other than primary principle 25) are not intended to affect existing State and Territory laws relating to learner licences, provisional licences, restricted licences or people holding those licences.

## Principle 5

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- (3) The Primary Principles, Supporting Principles and the resulting amended driver licensing law are intended to improve road safety and transport efficiency, and reduce the costs of administering road transport.

### 3 Binding the Crown

- (1) It is intended that the amended driver licensing law of the States and Territories will bind the Crown in all its capacities.
- (2) However, it is not intended that the Crown be made liable to be prosecuted for an offence.

### 4 Penalties

- (1) The Primary and Supporting Principles do not list penalties for offences against the amended driver licensing law.
- (2) It is intended that the penalties will be determined in the National Road Transport Commission's Compliance and Enforcement Module.
- (3) In the interim, State and internal Territory penalty levels may apply.

## Part 2 Definitions

### 5 Definitions

Expressions used in the Primary Principles that are defined in the Dictionary to the Principles have the meanings given to them in the Dictionary unless the context or subject matter otherwise indicates or requires.

**Principle 8**

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**Part 3 Driver licensing system**

**Division 1 Driver licensing authority**

**6 Minister to appoint driver licensing authority**

The Minister may, by notice in the *Gazette*, appoint an authority to administer the driver licensing system established by the Primary and Supporting Principles.

**7 Fixing fees**

- (1) The Minister or the driver licensing authority may, by notice in the *Gazette*, fix fees for services provided by the driver licensing authority in connection with the licensing of drivers, or the renewal or late renewal of driver licences.
- (2) While fees of that kind fixed by one of those means are in force, fees of that kind cannot be fixed by another of those means.
- (3) This principle is not intended to prevent a law, other than the amended driver licensing law, fixing fees for services provided by the driver licensing authority.

**8 Functions of driver licensing authority**

The functions of the driver licensing authority are:

- (a) to administer the driver licensing system established by the Primary and Supporting Principles; and
- (b) to maintain a driver licence register in accordance with the Supporting Principles; and
- (c) to maintain a demerit points register in accordance with the Supporting Principles; and
- (d) to provide information about drivers in accordance with the Supporting Principles; and
- (e) such other functions as are conferred by the Primary Principles or the Supporting Principles.



**Principle 11**

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*Note* In relation to paragraph 8 (d), the Supporting Principles do not preclude the driver licensing authority from the release or sale of statistical data calculated from the register.

**9 Powers of driver licensing authority**

The amended driver licensing law shall provide that the driver licensing authority has all the powers it needs to carry out its functions.

**10 Driver licensing authority not to issue or renew licence in certain circumstances**

- (1) The driver licensing authority must not issue a driver licence to a person unless it is satisfied that:
  - (a) the person is eligible to be issued with the driver licence; and
  - (b) if the person is the holder of an Australian driver licence or a licence to drive a motor vehicle in a foreign country — that licence has been surrendered;in accordance with the Supporting Principles.
- (2) However, the driver licensing authority may issue a driver licence to a person without the person surrendering the person's licence to drive a motor vehicle in a foreign country in circumstances prescribed by the Supporting Principles.
- (3) The driver licensing authority must not renew a driver licence of a person if it is satisfied that the person no longer resides within the jurisdiction.

*Note* Subprinciple 10 (3) does not apply to a person who resides temporarily outside the jurisdiction.

**11 Recognition of offences for which demerit points are incurred**

- (1) The driver licensing authority may, in writing:
  - (a) recognise offences created under a law in force in this or another jurisdiction that are not on the national schedule of demerit points as being offences for which the authority will apply demerit points to drivers; and

**Principle 12**

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- (b) specify the number of demerit points incurred for each of those offences.
- (2) The driver licensing authority must publish a notice in the of the offences recognised under subprinciple (1) and the number of demerit points specified for each of those offences.

**12 Demerit points**

*Recording of demerit points*

- (1) Demerit points incurred by a person for an offence are to be recorded in the demerit points register in respect of the day on which the offence was committed.

*Licence suspension for demerit points*

- (2) The driver licensing authority must give a notice of licence suspension to the holder of a driver licence who incurs 12 or more demerit points within the previous 3 years.
- (3) The period of licence suspension under subprinciple (2) is the period applicable under the table.

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**Licence suspension for demerit points**

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<b>Item</b>	<b>Number of demerit points incurred within previous 3 years</b>	<b>Period of licence suspension</b>
1	12 to 15	3 months
2	16 to 19	4 months
3	20 or more	5 months

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- (4) If a person who has been served with a notice of licence suspension does not make an election under subprinciple (6), the person's driver licence is suspended for the period applicable under subprinciple (3) from the date specified in the notice.

**Principle 12**

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- (5) On the commencement of a period of suspension or a period of good behaviour (see subprinciple (6)), all demerit points recorded in the demerit points register against the person at the date of the notice are taken to be deleted.

*Alternative to suspension*

- (6) A person who incurs at least 12 demerit points within the previous 3 years may, within 21 days after being served with a notice of licence suspension by the driver licensing authority, notify the authority in writing that he or she elects, as an alternative to undergoing the suspension, to be of good behaviour for a period of 12 months from the day on which the licence would have been suspended.
- (7) If a person who makes an election in accordance with subprinciple (6) incurs 2 or more demerit points during the 12 months period, the driver licensing authority must give the person a notice suspending the person's driver licence, commencing on a day specified in the notice, for twice the period that would have applied to the person under subprinciple (3) if the person had not made the election.
- (8) On the commencement of the period of suspension referred to in subprinciple (7), all demerit points recorded in the demerit points register against the person at the date of the notice are taken to be deleted.
- (9) However, demerit points incurred by a person:
- (a) after the person is served with a notice of licence suspension but before the suspension begins; or
  - (b) if the person makes an election in accordance with subprinciple (6) — after the person is served with the notice of licence suspension and before the 12 month period of good behaviour;
- are to be taken into account for the purposes of subprinciple (2) from the end of the period of licence suspension or period of good behaviour.

**Principle 14**

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**13 Demerit points penalties not affected by court-imposed penalties**

- (1) A period of licence suspension under principle 12 is in addition to a period of licence suspension imposed by a court in Australia, or under another law in force in the jurisdiction relating to:
  - (a) driving offences involving the use of alcohol or other drugs; or
  - (b) speeding; or
  - (c) the non-payment of fines.
- (2) Demerit points recorded in the demerit points register against a person are not affected by a period of licence suspension imposed by a court in Australia, or under another law in force in the jurisdiction relating to a matter referred to in paragraph (1) (a), (b) or (c).

**14 Mutual recognition**

- (1) The driver licensing authority must, in accordance with the Supporting Principles, recognise:
  - (a) driver licences issued by another jurisdiction; and
  - (b) licence conditions that apply to those licences, other than conditions that apply only in circumstances that are unique to that other jurisdiction.
- (2) If:
  - (a) a person:
    - (i) commits an offence in this jurisdiction that is included in the national schedule of demerit points; or
    - (ii) pays the amount specified in an infringement notice for such an offence; and
  - (b) the person holds a driver licence issued by another driver licensing authority;the driver licensing authority must, as soon as practicable, transmit all relevant information about the offence to the other driver licensing authority.

**Principle 16**

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- (3) If the person is not the holder of an Australian driver licence, the driver licensing authority must transmit the relevant information about the offence to the driver licensing authority of the State or internal Territory in which the person resides.
- (4) However, the driver licensing authority is not required to transmit any information until after:
  - (a) if the person appeals against a conviction for the offence and the appeal is dismissed — the dismissal of the appeal; or
  - (b) if the person does not appeal — the last time at which the person could have appealed.
- (5) If the driver licensing authority receives information about a person from another driver licensing authority under the provision of the law of the other jurisdiction that corresponds to this principle, the driver licensing authority must take the action it would have taken if the offence had been committed in this jurisdiction.

**15 Security of information in registers**

The driver licensing authority must ensure that the information contained in the driver licence register or the demerit points register that is of a personal nature or that has commercial sensitivity for the person about whom it is kept is not released except as provided by the Supporting Principles.

**16 Delegation by driver licensing authority**

The driver licensing authority may, by signed instrument, delegate to a prescribed person all or any of its powers under the Primary or Supporting Principles.

**Principle 18**

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**Division 2 Regulations**

**17 Regulations to be based on Supporting Principles**

- (1) The State or Territory may make regulations consistent with the Supporting Principles prescribing matters:
  - (a) required or permitted to be prescribed by the Primary Principles; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to the Primary Principles.
- (2) The regulations may apply, adopt or incorporate by reference documents published by the National Road Transport Commission and approved by the Ministerial Council for Road Transport, either as published or as amended from time to time.

**18 Model driver licensing system**

- (1) The Supporting Principles provide a system of licensing drivers of motor vehicles that are used on roads or road related areas that:
  - (a) provides a means of authorising the driving of motor vehicles on roads and road related areas; and
  - (b) enables the identification of licensed drivers of motor vehicles.
- (2) The Supporting Principles:
  - (a) provide for the issue and renewal of driver licences, and for the imposition of conditions on driver licences; and
  - (b) provide for the cancellation, variation and suspension of driver licences; and
  - (c) fix the periods for which a driver licence or renewal remains in force; and
  - (d) require the production of specified information by:
    - (i) applicants for driver licences or renewals of driver licences; or
    - (ii) holders of driver licences; and
  - (e) provide for the issue of infringement notices for specified offences; and

**Principle 18**

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- (f) provide for the recognition by the driver licensing authority of things done under a corresponding law of another jurisdiction; and
  - (g) provide for a refund, in accordance with the Supporting Principles, of part of a licence fee where a driver licence is surrendered before it expires; and
  - (h) provide for the collection of:
    - (i) licence fees; and
    - (ii) fees fixed under the amended driver licensing law or another law relating to services provided by the driver licensing authority; and
  - (i) provide for the approval by the driver licensing authority of the form in which applications are to be made to the authority, and the form in which documents are to be issued by the authority, for the purposes of the Supporting Principles; and
  - (j) provide that the amended driver licensing law, or specified provisions of the amended law, do not apply to a driver, or drivers of a kind, identified in the Supporting Principles; and
  - (k) allow the driver licensing authority to revoke, in the manner and in circumstances specified in the Supporting Principles, an exemption for a driver, or drivers of a kind, given under the amended driver licensing law made for the purposes of paragraph (j); and
  - (l) prescribe different classes of driver licences, and grade each class by reference to the driving skills required for each class, and the eligibility criteria for the issue of each class; and
  - (m) allow the driver licensing authority to exempt a person from the requirement to hold a driver licence or a driver licence of a particular class (an exemption may be subject to conditions imposed by the driver licensing authority); and
  - (n) provide for the maintenance of a driver licence register and a demerit points register; and

## **Principle 20**

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- (o) prescribe:
    - (i) the form in which the driver licensing authority is to issue evidence of the authority to drive a motor vehicle provided by a driver licence; and
    - (ii) the circumstances in which that evidence must be surrendered or returned to the driver licensing authority; and
  - (p) prescribe transitional arrangements for the transition to the amended driver licensing law from the driver licensing system that was previously in operation.
- (3) The Supporting Principles prescribe the offences (relating to the driving or use of motor vehicles), and the number of demerit points incurred for each offence, that comprise the national schedule of demerit points.
  - (4) The Supporting Principles list offences for breaches of the amended driver licensing law.

## **19 Power to include or exclude areas**

- (1) The Minister may declare, by notice in the *Gazette*, that the amended driver licensing law, or specified provisions of the amended law:
  - (a) apply to a specified area of the jurisdiction that is open to or used by the public; or
  - (b) do not apply to a specified road or road related area.
- (2) The declaration has effect until it is revoked, or for the period specified in the declaration.

## **20 Review of decisions**

The amended driver licensing law is to provide a system for review of decisions of the driver licensing authority identified in the Supporting Principles.



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## Part 4 Offences

### 21 Driving when unlicensed or disqualified

- (1) A person who drives a motor vehicle of a type for which an Australian driver licence is required on a road or road related area is guilty of an offence if the person is unlicensed or has been disqualified from driving a motor vehicle by a court in Australia.
- (2) A person is unlicensed if:
  - (a) the person drives a motor vehicle without being the holder of an Australian driver licence or a learner licence authorising the driving of a vehicle of the vehicle's class; or
  - (b) an Australian driver licence or other authority of the person to drive a motor vehicle in any State or internal Territory is:
    - (i) suspended; or
    - (ii) cancelled and the person has not subsequently been issued another licence or authority to drive.
- (3) However, a person is not to be treated as being unlicensed if the person is exempted under the amended driver licensing law from the requirement to hold a driver licence to drive a vehicle of the vehicle's class.

### 22 Obtaining driver licence by false statements

- (1) A person is guilty of an offence if the person:
  - (a) by a false statement or any misrepresentation or other dishonest means, obtains or attempts to obtain a driver licence or the renewal of a driver licence; or
  - (b) without lawful authority or excuse, possesses a driver licence obtained or renewed using those means.
- (2) A driver licence so obtained or renewed is void, and the driver licensing authority may alter the driver licence register accordingly.

## Principle 24

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### 23 Evidentiary provisions

- (1) A court may admit as evidence a document that appears to be signed on behalf of the driver licensing authority certifying a matter that appears in or can be calculated from the driver licence register or another record kept by the driver licensing authority.
- (2) A court may admit as evidence a document that is issued under the law of another jurisdiction that relates to:
  - (a) whether a person has a driver licence or other authority to drive a motor vehicle, the extent of the authority conferred by a licence or other authority and any conditions of that licence or other authority; or
  - (b) any offence found to have been committed by a person in relation to the driving of a motor vehicle or in relation to driver licensing, including any penalty imposed or other order made in respect of that offence; or
  - (c) demerit points incurred by a person.
- (3) The court must accept the documents as proof of the facts stated in them if there is no evidence to the contrary.
- (4) A court may admit into evidence other documents prescribed by the amended driver licensing law in the circumstances set out in the Supporting Principles.

## Part 5 General

### 24 Indemnity

- (1) An individual does not incur civil liability for an act or omission done honestly and in good faith in the course of his or her duties under the Primary Principles or Supporting Principles.
- (2) A liability that would, apart from subprinciple (1), attach to an individual because of an act or omission done honestly and in good faith in the course of his or her duties attaches instead to:
  - (a) for an act or omission of a member of the police force — the government; or

## Principle 26

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- (b) for an act or omission of a person acting for the driver licensing authority — that authority.
- (3) An individual does not incur civil or criminal liability for carrying out a test or examination in accordance with the Supporting Principles and expressing to the driver licensing authority in good faith an opinion formed as a result of having carried out the test or examination.
- (4) An individual does not incur civil or criminal liability for reporting to the driver licensing authority, in good faith, information that discloses or suggests that:
  - (a) another person is or may be unfit to drive; or
  - (b) it may be dangerous to allow another person to hold or be issued a driver licence or a variation of a driver licence.

## 25 Learner drivers

The holder of an Australian driver licence may drive a motor vehicle for which a higher class of driver licence would normally be required if:

- (a) the higher class is one for which the person would next be eligible to apply in accordance with the Supporting Principles; and
- (b) the driver is receiving tuition from, and is accompanied by, a person who:
  - (i) has held that higher class of driver licence (other than a provisional licence) for at least one year; and
  - (ii) is providing the tuition in accordance with the laws of the jurisdiction about driver instruction and the display of signs on vehicles used for that purpose.

## Part 6 Dictionary

### 26 Definitions

*Australian driver licence* means:

- (a) a driver licence; or

## Principle 26

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- (b) a licence, probationary licence, conditional licence, provisional licence or driver licence receipt (other than a learner licence) issued under a law in force in a State or internal Territory authorising the holder to drive a motor vehicle on a road or road related area.

**class**, of a driver licence, means a class of licence established by the Supporting Principles.

**conditional licence** means a licence issued as a conditional licence in accordance with the Supporting Principles.

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

**corresponding law** means the law of another jurisdiction under which authority is given to drive motor vehicles on roads or road related areas.

**drive** includes having control over the steering, movement or propulsion of a vehicle.

**driver licence** means:

- (a) a licence (including a probationary licence and a conditional licence but not including a provisional or learner licence) issued in accordance with the Supporting Principles authorising the holder to drive one or more classes of motor vehicle on a road or road related area; or
- (b) a driver licence receipt.

**driver licence receipt** means a receipt that:

- (a) is issued following an application for an Australian driver licence and after payment of any applicable fee; and
- (b) authorises the holder to drive one or more classes of motor vehicle on a road or road related area.

**driver licensing authority** means the authority appointed by the Minister under primary principle 6.

**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.

**Gazette** means the Government of the State or Territory concerned.

## Principle 26

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***infringement notice*** means a notice giving a person alleged to have committed an offence described in the Supporting Principles the option of paying an amount instead of being charged with the offence.

***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.

***learner licence*** means a licence or permit issued to a person under a law in force in a State or internal Territory to authorise the person to drive a motor vehicle on a road or road related area for the purpose of learning to drive a motor vehicle.

***licence fee*** means a tax or charge, however described, imposed on drivers of motor vehicles under another law of the jurisdiction.

***member of the police force*** means:

- (a) a member or special member of the Australian Federal Police; or
- (b) a member (however described) of the police force of a State or Territory; or
- (c) a service police officer within the meaning of the *Defence Force Discipline Act 1982*.

***motor vehicle*** means a vehicle that is built to be propelled by a motor that forms part of the vehicle.

***national schedule of demerit points*** means the schedule of driving offences and corresponding demerit points prescribed in the Supporting Principles.

***probationary licence*** means a licence to drive a motor vehicle:

- (a) issued to a person who applies for a driver licence following a period of disqualification from driving ordered by a court in Australia; or

## Principle 26

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- (b) issued to replace an equivalent licence issued under a corresponding law.

**provisional licence** means a licence (other than a learner licence) to drive a motor vehicle, issued under a law in force in a State or internal Territory, which is subject to conditions, restrictions, or qualifications because of the lack of driving experience of the licence holder.

**restricted licence** means an authority to drive a motor vehicle issued at the direction of a court in Australia that authorises the holder to drive only in the course of his or her employment or in other specified restricted circumstances.

**road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

**road related area** means:

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is open to the public and is designated for use by cyclists or animals; or
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles; or
- (e) any other area that is open to or used by the public and that has been declared under primary principle 19 to be an area to which specified provisions of the amended driver licensing law apply.

# Schedule 2 Text of National Driver Licensing Scheme — Supporting Principles

(regulation 3)

## Contents

<b>Part 1</b>	<b>Preliminary</b>	
	1 Purpose	26
	2 Interpretation	26
<b>Part 2</b>	<b>Application for issue or variation of a driver licence</b>	
	3 Eligibility to apply for issue or variation of a driver licence	27
	4 Procedure for obtaining or varying a driver licence	29
	5 Surrender of current driver licence	30
	6 When application for driver licence can be refused	30
	7 Issue and variation of driver licence	31
	8 Issue of driver licence receipt as interim measure	31
<b>Part 3</b>	<b>Driver licences</b>	
	9 Form of driver licence	32
	10 Issue of replacement driver licence	32
	11 The driver licence register	33
	12 Release of information in demerit point register and driver licence register	34
	13 Licence classes	34
	14 Conditional licences	36
<b>Part 4</b>	<b>Obligations of licence applicants and licensed drivers</b>	
	15 Change of name, address or medical condition	38
	16 Tests and medical examinations of licensed drivers	39
	17 Verification of record and monitoring of compliance	40
2006, 19	<i>National Transport Commission (Road Transport Legislation — Driver Licensing) Regulations 2006</i>	23

<b>Part 5</b>	<b>Expiry, surrender and cancellation of driver licences</b>	
18	Licence expiry date	41
19	Notice of renewal of driver licence	41
20	Renewal of a driver licence	41
21	Demerit points	42
22	Surrender of driver licence	46
23	Variation, suspension or cancellation of driver licence	47
24	Procedures for variation, suspension and cancellation of driver licence	49
<b>Part 6</b>	<b>Review rights</b>	
25	Authority to ensure notification of review rights	50
26	Application for internal review	50
27	Application for external review	52
28	Affected person entitled to be given reasons	52
<b>Part 7</b>	<b>Exemptions</b>	
29	Licence not required for certain motor vehicles	53
30	Authority may exempt certain classes of driver from the requirement to hold a licence	53
31	Interstate and international visitors	53
<b>Part 8</b>	<b>Offences</b>	
32	Licence conditions	55
33	Offences involving driver licence documents	55
34	Notification offences	56
<b>Part 9</b>	<b>Administration</b>	
35	Service of notices on persons	56
36	Delegation of driver licensing authority's powers	56
<b>Part 10</b>	<b>Fees</b>	
37	Licence fees	57
38	Waiver of licence fees and administrative fees	57



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**Part 11**                      **Transitional provisions**

39	Licences issued under previous legislation	58
----	--	----

<b>Dictionary</b>		<b>59</b>
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The Supporting Principles deal with the procedures for issuing and varying driver licences, the obligations of licence holders, suspension, cancellation and termination of driver licences and administration of the driver licensing system. The Supporting Principles should be read in conjunction with the Primary Principles.

If the driver licensing authority decides to cancel or suspend a person's driver licence there are rights of internal and external review of that decision.

**Clause 2**

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**Part 1 Preliminary**

**1 Purpose**

The purpose of these Supporting Principles is to provide for the consistent administration and enforcement of a driver licensing system throughout Australia.

**2 Interpretation**

- (1) In these Supporting Principles, unless the contrary intention appears, words and phrases defined in the Dictionary in the Schedule have the same meanings as in the Dictionary.
- (2) For the purposes of these Supporting Principles, the order of licence classes, from the lowest to the highest, is:
  - (a) car licence;
  - (b) light rigid vehicle licence;
  - (c) medium rigid vehicle licence;
  - (d) heavy rigid vehicle licence;
  - (e) heavy combination vehicle licence;
  - (f) multi-combination vehicle licence.

*Note* Details of licence classes are set out in supporting principle 13.
- (3) A motorcycle licence is not included in the licence class hierarchy set out in subclause (2).
- (4) A licence class may be described by reference to the code set out in clause 13 (13).



### Clause 3

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- (5) The relevant eligibility requirements are:
- (a) for a light rigid vehicle licence or medium rigid vehicle licence — that the person has, at some time, held an Australian driver licence (including a provisional licence) of the class C for a period of at least 12 months; and
  - (b) for a heavy rigid vehicle licence — that the person has, at some time, held an Australian driver licence (including a provisional licence) of the class C for a period of at least 24 months; and
  - (c) for a heavy combination vehicle licence — that the person has, at some time, held an Australian driver licence (including a provisional licence) of the class C for a period of at least 24 months and an Australian driver licence of the class MR or HR for a period of at least 12 months; and
  - (d) for a multi-combination vehicle licence — that the person has, at some time, held an Australian driver licence of the class HC or HR for a period of at least 12 months, and the driver licensing authority is satisfied that he or she has passed a training course, or has satisfied other assessment, approved by the driver licensing authority.
- (6) In calculating the periods for which a person has held a licence specified in a paragraph of clause (5), the driver licensing authority must exclude any period for which the person's driver licence has been suspended or the person has been disqualified from driving.
- (7) The driver licensing authority must exempt a person from a relevant eligibility requirement if the person holds an Australian driver licence of an equivalent class.
- (8) The driver licensing authority may exempt a person from a relevant eligibility requirement if the person satisfies the authority that, by reason of age, experience, occupation or special circumstances, the person is fit to be granted the licence or variation sought.
- (9) If a person has held a licence to drive a motor vehicle in an external Territory or another country, the driver licensing authority may take into account some or all of that period for the purposes of clause (5).

**Clause 4**

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*Note* Details of licence classes and codes are set out in supporting principle 13.

**4 Procedure for obtaining or varying a driver licence**

- (1) An applicant for issue or variation of a driver licence must give the driver licensing authority:
  - (a) a completed application form; 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 appropriate licence fee and administrative fee.
- (2) The driver licensing authority may not require the application form if it would be unreasonable or impracticable in the circumstances to do so.
- (3) The driver licensing authority may require an applicant for issue or variation of a driver licence:
  - (a) to undergo tests or assessments, or provide other evidence of the applicant's knowledge of road law, driving ability, or suitability to hold a driver licence; and
  - (b) to provide evidence of the applicant's compliance with the requirements of a law relating to the assessment of drivers convicted of offences involving alcohol or other drugs in force in the jurisdiction in which the person had last been disqualified from driving; and
  - (c) to undergo, at his or her own cost, a medical examination, or produce evidence of compliance with the medical standards referred to in clause 16 (2); and
  - (d) to attend a specified medical practitioner or allied professional practitioner for the purpose of that examination; and
  - (e) to provide evidence that he or she is eligible to be granted the class of licence sought; and
  - (f) to have his or her photograph taken, or to provide a photograph in a form specified by the authority; and
  - (g) to provide a specimen signature.

## **Clause 6**

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- (4) The driver licensing authority may accept evidence of compliance with a requirement in paragraphs (3) (a), (3) (b) or (3) (c) obtained by an applicant in another jurisdiction.
- (5) If the driver licensing authority is satisfied that it is not practicable for the applicant to comply with the requirements in paragraph (3) (b) of another jurisdiction, the authority may require the person to comply with the requirements of an equivalent assessment.

## **5 Surrender of current driver licence**

- (1) If an applicant for a driver licence, 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 driver licensing authority before the issue of a driver licence or amended driver licence.
- (2) Despite clause (1), the driver licensing authority may exempt a person from surrendering a licence issued in another country if the authority is satisfied that it would be unreasonable, in the circumstances, to require that licence to be surrendered.

## **6 When application for driver licence can be refused**

- (1) The driver licensing authority may refuse an application for issue or variation of a driver licence if the authority is satisfied that:
  - (a) the person is not eligible for the licence or variation; or
  - (b) the applicant does not have sufficient knowledge of road law or driving ability, or is not suitable to hold a driver licence; or
  - (c) the applicant does not meet the medical standards referred to in clause 16 (2) applicable to the driver licence; or
  - (d) the applicant has not complied with the requirements of a law 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

**Clause 8**

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- (e) the applicant has failed to pay a fine or pecuniary penalty arising out of the use of a motor vehicle in Australia; or
  - (f) a provision of these Supporting Principles prevents approval of the application; or
  - (g) the applicant has not complied with a requirement of the Primary or Supporting Principles.
- (2) The driver licensing authority may refuse an application for issue or variation of a driver licence in accordance with:
- (a) an order made by a court in Australia; or
  - (b) a law in force in the jurisdiction relating to the non-payment of fines.

**7 Issue and variation of driver licence**

- (1) If the driver licensing authority approves an application, it must issue a driver licence of the class applied for by the applicant.
- (2) The driver licence may be issued subject to conditions.
- (3) In determining whether to issue a driver licence subject to a condition, the driver licensing authority must have regard to the objectives of the Primary Principles in relation to the regulation of drivers of motor vehicles in the interests of road safety.
- (4) The driver licence may also be subject to any of the conditions to which a provisional licence issued in the jurisdiction is subject.
- (5) The driver licence may be a probationary licence if the person to whom it is issued is returning to driving following a period of disqualification (not including suspension) imposed by a court in Australia.
- (6) If the driver licensing authority approves an application for variation of a driver licence, it may vary the licence either conditionally or unconditionally.

**8 Issue of driver licence receipt as interim measure**

- (1) As an interim measure, the driver licensing authority may issue a driver licence receipt.

### Clause 10

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- (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 comply with the requirements of clause 9, except paragraph 9 (c).

## Part 3 Driver licences

### 9 Form of driver licence

A driver licence must show:

- (a) a licence number for the person to whom it is issued; and
- (b) the first name, second and third initials (if any), and family name of the person; and
- (c) a photograph of the person; and
- (d) the person's residential address; and
- (e) the person's date of birth; and
- (f) the person's signature (or a reproduction of that signature); and
- (g) the class or classes of licence held by the person, as set out in supporting principle 13; and
- (h) the expiry date of the licence; and
- (i) the code of any condition to which the licence is subject, in accordance with supporting principle 14.

*Note* In relation to paragraph 9 (i) the licence holder will receive a full written explanation of the conditions to which his or her driver licence is subject when the licence is issued.

### 10 Issue of replacement driver licence

- (1) The driver licensing authority may, upon payment by the licence holder of the appropriate administrative fee, issue a driver licence to replace a driver licence which:
  - (a) has been stolen, lost, damaged or destroyed; or
  - (b) has been cancelled under paragraph 23 (1) (i).



**Clause 11**

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- (2) A licence holder who seeks a replacement driver licence must provide to the driver licensing authority personal particulars necessary to identify the applicant, including any evidence that the authority may reasonably require to verify those particulars.
- (3) The driver licensing authority may require a licence holder who seeks a replacement driver licence to comply with any of the requirements of clause 4 (3) in addition to the requirements of clause (1).

**11 The driver licence register**

*Note* The driver licensing authority has the function of maintaining the driver licence register—see sub-principle 8 (1) (b) of the Primary Principles.

- (1) The driver licensing authority must record 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; and
  - (b) the first name, second and third initials (if any), and family name of the person; and
  - (c) the person's sex and date of birth; and
  - (d) the person's residential address and address for service of notices (if any); and
  - (e) the class or classes of the licence; and
  - (f) the commencement and expiry dates of the licence; and
  - (g) any conditions to which the licence is subject.
- (2) The driver licensing authority may record, in the driver licence register, other information for:
  - (a) the purposes of the Primary and Supporting Principles; 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, upon payment of the appropriate administrative fee.

### Clause 13

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#### 12 Release of information in demerit point register and driver licence register

A request for information about a person recorded in the demerit point register or driver licence register must be treated by the driver licensing authority in accordance with the Information Privacy Principles contained in section 14 of the Commonwealth *Privacy Act 1988*.

#### 13 Licence classes

- (1) The holder of a driver licence of a particular class may drive a motor vehicle of a particular kind, as set out in this supporting principle.
- (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 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), other than:
  - (a) a motor bike; and
  - (b) a motor trike which does not have a body type commonly known as, or similar to, a sedan, station wagon, coupe, convertible, roadster, utility, tray top or van.
- (4) 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.
- (5) The holder of a medium rigid vehicle licence may drive a motor vehicle that has:
  - (a) 2 axles; and
  - (b) a GVM greater than 8 tonnes.

**Clause 13**

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- (6) 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:
  - (a) 3 or more axles; and
  - (b) a GVM greater than 8 tonnes.
- (7) 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.
- (8) 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 paragraph (3) (b).
- (9) The holder of a licence of a particular class may, in addition to driving motor vehicles in that class, drive vehicles in any lower class according to the hierarchy set out in clause 2 (2).
- (10) The holder of a driver licence of class C or LR may drive a motor vehicle in that licence class that is towing a single trailer with a GVM not greater than 9 tonnes, provided that:
  - (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 the jurisdiction 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 Mass and Loading Regulations are met.
- (11) The holder of a driver licence of class MR or HR may drive a motor vehicle in 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, provided that the mass limits for combinations specified in the Mass and Loading Regulations are met.

## Clause 14

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*Note* The towing allowances of clauses (10) and (11), other than the requirement that the driver of a vehicle towing a semi-trailer must hold a HC licence, apply irrespective of the type of connection between the trailer and the towing vehicle. Clause (11) is not intended to prevent the holder of a MR or HR licence from towing a car carrier, horse float or like trailer of a mass less than 9 tonnes.

The combination length requirements of the Road Transport Reform (Heavy Vehicle Standards) Regulations must also be met, unless modified by permit.

- (12) A licence class may be shown on a driver licence by means of a code or symbol.
- (13) If a licence class is shown by way of a code, the code set out in the following table must be used. In the table, the code in column 1 refers to the class of licence set out opposite that code in column 2.

<b>Column 1 Licence code</b>	<b>Column 2 Licence class</b>
R	motorcycle licence
C	car licence
LR	light rigid vehicle licence
MR	medium rigid vehicle licence
HR	heavy rigid vehicle licence
HC	heavy combination vehicle licence
MC	multi-combination vehicle licence

## 14 Conditional licences

- (1) A condition to which a driver licence is subject may be shown on the driver licence by means of a code or symbol.
- (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 driver licensing authority.
- (3) The driver licensing authority may require the holder of a conditional licence to carry, when driving, any notice issued by the authority containing a full explanation of the conditions to which the licence is subject.

**Clause 14**

- (4) Despite clause (3), the holder of a conditional licence which bears the code *X* must carry a notice issued by the driver licensing authority containing a full explanation of the conditions to which the licence is subject when driving in another jurisdiction.
- (5) A probationary licence may be subject to any of the following conditions:
- (a) the holder must not drive with a blood alcohol concentration greater than zero or 0.02 per cent (as the case may be); and
  - (b) the holder does not incur 2 or more demerit points; and
  - (c) the holder must carry the licence at all times while driving.
- (6) A code in column 1 of the following table may be used on a driver licence to indicate that the licence is subject to the condition appearing in column 2 opposite that code.

<b>Column 1 Licence code</b>	<b>Column 2 Licence condition</b>
A	That the holder must drive only a motor vehicle fitted with an automatic transmission.
B	That if the holder drives a heavy vehicle, the vehicle must be fitted with a synchromesh transmission.
E	That 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 driver licensing authority.
I	That the holder must drive only a motor vehicle fitted with a breath alcohol interlock device.
S	That the holder must wear corrective lenses at all times while driving.
V	That the holder must drive only a motor vehicle fitted with specified driver aids, or modified as directed in writing by the driver licensing authority.
X	That the holder must comply with any condition of which he or she has been notified in writing by the driver licensing authority.

**Clause 15**

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<b>Column 1 Licence code</b>	<b>Column 2 Licence condition</b>
Z	Zero or 0.02 per cent blood alcohol concentration restriction.

## **Part 4 Obligations of licence applicants and licensed drivers**

### **15 Change of name, address or medical condition**

- (1) The holder of a driver licence must tell the driver licensing authority, not more than 14 days after the change, about any change in his or her:
  - (a) name; or
  - (b) residential address, or address for service of notices.
- (2) Unless required by the driver licensing authority, the advice from the licence holder referred to in clause (1) need not be in writing.
- (3) A new residential address must be an address in the jurisdiction at which the driver licensing authority may ordinarily make personal contact with the person.
- (4) If there is no postal service to an applicant's or licence holder's residential address, the person must also provide an address for the service of notices.
- (5) The holder of a driver licence must, as soon as practicable, notify the driver licensing authority of any permanent or long term injury or illness that may impair his or her ability to drive safely.

**Clause 16**

**16 Tests and medical examinations of licensed drivers**

- (1) The driver licensing 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 road law and safe driving practices; or
  - (b) to submit to tests or assessments of driving ability; or
  - (c) to submit to examination by a medical practitioner or allied professional practitioner, or produce evidence of compliance with the medical standards referred to in clause (2), to determine the person'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) A medical examination required by a notice under this supporting principle must be conducted in accordance with:
  - (a) in the case of a driver licence of the class MR, HR, HC or MC — the standards set out in the booklet *Medical Examinations of Commercial Vehicle Drivers* (November 1994) published by the National Road Transport Commission and the Federal Office of Road Safety and endorsed by the Ministerial Council for Road Transport, as amended from time to time; and
  - (b) in the case of a driver licence of the class R, C or LR — one of the following publications, as determined by the driver licensing authority:
    - (i) *National Guidelines for Determining Fitness to Drive a Motor Vehicle* (1988) published by the Commonwealth Department of Transport;
    - (ii) *Drivers and Riders: Guidelines for Medical Practitioners* (1993) published by the Roads and Traffic Authority, New South Wales;
    - (iii) *Interim General Driver Licensing Guidelines* (1994) published by the Roads Corporation, Victoria;
    - (iv) *Drivers and Riders — Guidelines for General Practitioners* (1995) published by the Department of Transport, Queensland.

## Clause 17

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- (3) The driver licensing 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.
- (4) The driver licensing authority must accept, for the purposes of this supporting principle, 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 supporting principle.

*Note* The application form under clause 4 (1) may require an applicant for a medium rigid, heavy rigid, heavy combination or multi-combination driver licence, or renewal of one of those licences, to complete a questionnaire concerning his or her medical condition and history.

## 17 Verification of record and monitoring of compliance

- (1) If there are reasonable grounds for believing that information contained in the driver licence register is inaccurate or misleading, the driver licensing authority may by written notice require the holder of a driver licence to provide 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 holder's personal details; and
  - (b) the holder's residential address.
- (2) For the purposes of this supporting principle, the driver licensing authority may require the holder of a driver licence to:
  - (a) provide specified documents for inspection; and
  - (b) attend at a time and place specified by the authority for identification.
- (3) If a person who is required to attend for identification requests a change to the time or place specified in the notice, the driver licensing authority must give consideration to that request and may change the time or place in accordance with the request.



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## Part 5 Expiry, surrender and cancellation of driver licences

### 18 Licence expiry date

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

### 19 Notice of renewal of driver licence

- (1) A notice of renewal of a driver licence is a notice:
  - (a) addressed 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 driver licensing authority fails to send a notice of renewal of a driver licence, or the notice is not received by a person, that failure or non receipt does not affect:
  - (a) the expiry of the driver licence; and
  - (b) the obligation of the holder of the driver licence to renew the licence if he or she wishes to continue to drive a motor vehicle on a road or road related area after the expiry of his or her existing licence.

### 20 Renewal of a driver licence

- (1) A person may apply to the driver licensing authority to renew his or her driver licence at any time within five 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 appropriate licence renewal fee and administrative fee.

## Clause 21

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- (2) The driver licensing authority may require the applicant to comply with any of the requirements of clause 4 (3) in addition to the requirements specified in clause (1).
- (3) Subject to clause (4), the driver licensing authority must renew the driver licence.
- (4) The driver licensing authority may refuse to renew a driver licence if the circumstances are such that, if the applicant for renewal were applying for a new licence, the authority would refuse that application under clause 6 (1).
- (5) If a driver licence (in this clause called *the old licence*) is renewed, the expiry date of the new licence may be calculated from:
  - (a) in the case of renewal before, on, or within six months after the licence expiry date of the old licence — that date of the old licence; or
  - (b) in the case of renewal within five years after the licence expiry date of the old licence — the day the licence is renewed.
- (6) A person whose driver licence is not renewed within five years after the licence expiry date is not entitled to apply for a renewal, but may apply for a new licence in accordance with supporting principle 4.

## 21 Demerit points

- (1) In this supporting principle:

*appropriate number of demerit points*, in relation to a relevant offence, means the number of demerit points:

  - (a) specified, in relation to that offence, in column 2 of the table set out at the foot of this supporting principle; or
  - (b) specified by the driver licensing authority under subprinciple 11 (1) of the Primary Principles.

*relevant offence* means an offence committed in any jurisdiction, being an offence of a kind:

  - (a) described in column 1 of the table set out at the foot of this supporting principle; or

**Clause 21**

(b) recognised by the driver licence authority under subprinciple 11 (1) of the Primary Principles.

(2) The demerit points register must be maintained in accordance with clauses (3) and (4).

*Note* The driver licensing authority has the function of maintaining the demerit points register — see paragraph 8 (1) (c) of the Primary Principles.

(3) Subject to clause (4), the driver licensing authority must record against a driver the appropriate number of demerit points if the driver:

- (a) is convicted, or found guilty, of a relevant offence; or
- (b) pays the penalty specified in an infringement notice issued to the driver in respect of a relevant offence; or
- (c) has not paid the penalty and the time for the person to have the matter determined by a court has lapsed.

(4) Demerit points recorded against a driver under clause (3) who does not hold an Australian driver licence must be treated as demerit points recorded against the person if the person subsequently obtains a driver licence.

*Note* if the holder of a driver licence issued by another driver licensing authority commits an offence in this jurisdiction that warrants demerit points, the driver licensing authority must transmit all relevant information about the offence to the other authority — see subprinciple 14 (2) of the Primary Principles.

<b>Column 1 Offence</b>	<b>Column 2 Demerit points</b>	<b>Column 3 Australian Road Rules provision where offence created, except where indicated<sup>1</sup></b>
Exceeding speed limit by 45 km/h or more	6	1.2 (1), 1.4 (1)
Exceeding speed limit by 30 km/h or more but less than 45 km/h	4	1.2 (1), 1.4 (1)
Disobeying traffic signal	3	4.2 (1), 4.2 (4), 4.4 (1), 4.5 (1), 4.5 (4), 4.6 (1), 4.7 (1), 4.7 (2), 4.8 (1), 5.2 (8), 5.4 (1)

**Clause 21**

<b>Column 1 Offence</b>	<b>Column 2 Demerit points</b>	<b>Column 3 Australian Road Rules provision where offence created, except where indicated<sup>1</sup></b>
Disobeying stop or give way traffic sign or line, or police directing traffic	3	Reg. 9 (1), 4.9 (2), 5.2 (1), 5.2 (2), 5.2 (7), 5.3 (1), 5.3 (2), 5.3 (3), 8.2 (2)
Failing to give way	3	2.6 (4), 4.9 (1), 5.2 (5), 5.2 (6), 5.5 (3), 5.5 (4), 5.11 (2), 6.5 (1), 6.6 (1), 6.6 (2), 6.7 (2), 6.7 (3), 6.7 (4), 6.7 (5), 6.8 (1), 6.8 (2), 6.8 (3), 6.9 (1), 6.9 (3), 6.10 (2), 6.11 (1), 6.12 (1), 6.13 (1), 6.14 (1), 7.4 (1), 7.6 (1), 9.15 (1), 9.15 (2), 9.17 (1)
Failing to stop or give way at pedestrian, children's or level crossing	3	4.10 (1), 6.2 (2), 6.3 (2), 6.4 (1), 8.2 (1)
Driving with unrestrained passengers under the age of 16 years	3	15.3 (1)
Driving contrary to a major defect notice	3	Road Transport Reform (Heavy Vehicles Registration) Regulations, subregulation 42 (2)
Driving on wrong side of double dividing lines, or on wrong side of divided highway	3	9.12 (1) (a), 9.16 (1)

**Clause 21**

<b>Column 1 Offence</b>	<b>Column 2 Demerit points</b>	<b>Column 3 Australian Road Rules provision where offence created, except where indicated<sup>1</sup></b>
Exceeding the speed limit by 15 km/h or more but less than 30 km/h	3	1.2 (1), 1.4 (1)
Driving without a seat belt	3	15.2 (1)
Motorcyclist not wearing a helmet	3	15.6 (1)
Risk colliding with alighting, boarding or waiting tram passengers	3	10.3 (1), 10.4 (1), 10.5 (1), 10.6 (1), 10.6 (2)
Careless or negligent driving	3	Provision to be specified
Improper overtaking or passing	2	5.11 (1) (a), 5.11 (3), 9.4 (1), 9.4 (2), 9.4 (4), 9.4 (5), 9.4 (6), 9.5 (1), 9.6 (1), 10.2 (1)
Turning or stopping without signalling	2	3.2 (1), 3.2 (3), 3.4 (1), 7.2 (1), 7.2 (3)
Turning improperly	2	2.2 (1), 2.2 (2), 2.3 (1), 2.3 (2), 2.3 (3), 2.4 (1), 2.4 (2), 2.5 (1), 2.6 (1), 2.6 (2), 2.6 (3), 2.6 (5), 2.6 (6), 2.7 (1), 4.4 (2)
Failing to keep left	2	9.2 (1), 9.2 (2), 9.3 (1), 9.11 (1), 9.16 (3)
Driving contrary to a minor defect notice	1	Road Transport Reform (Heavy Vehicles Registration) Regulations: Subregulation 42 (2)
Failure to dip headlights	1	12.4 (1), 12.4 (2)
Following too closely	1	9.9 (1), 9.9 (2)

**Clause 22**

<b>Column 1 Offence</b>	<b>Column 2 Demerit points</b>	<b>Column 3 Australian Road Rules provision where offence created, except where indicated<sup>1</sup></b>
Driving at night without lights on	1	12.2 (1)
Exceeding the speed limit by less than 15 km/h	1	1.2 (1), 1.4 (1)

<sup>1</sup> Schedule 1 of the Road Transport Reform (Australian Road Rules) Regulations, draft November 1996, unless otherwise specified.

**22 Surrender of driver licence**

- (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 driver licensing 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 driver licensing authority; or
  - (b) if the licence has been lost or destroyed — give the driver licensing authority a statement signed by the licence holder or agent that the licence has been lost or destroyed.
- (3) The driver licensing 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 supporting principle; or
  - (b) the driver licensing authority is taking action to suspend or cancel the licence under principle 12 of the Primary Principles or supporting principle 23 or 24.

**Clause 23**

- (4) Subject to clause (5), if a driver surrenders his or her driver licence, the driver licensing authority may refund part of the fee for the issue of the licence, calculated in accordance with the formula:

$$\left( \frac{\text{number of days}}{\text{licence period}} \right) \times \text{fee paid}$$

where:

*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 driver licensing authority approves the application to surrender the licence;

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

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

- (5) The driver licensing authority may deduct from the refund the amount of any unpaid administrative fees incurred in respect of the driver licence.

**23 Variation, suspension or cancellation of driver licence**

- (1) The driver licensing 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 Primary or Supporting Principles, 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 knowledge of road law or driving ability, or is not suitable to hold a driver licence; or

### Clause 23

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- (d) the person has not complied with the requirements of a law 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
  - (e) except as provided for in paragraph 23 (1) (f), a penalty imposed on the person in any jurisdiction in respect of the operation of a motor vehicle is unpaid and no court order for the payment of a penalty by instalments has been made; or
  - (f) the person has not complied with a court order for the payment by instalments of a penalty imposed on the person in respect of the operation of a motor vehicle; or
  - (g) the person is no longer eligible, in accordance with supporting principle 3, for a particular class or classes of licence; or
  - (h) the licence was issued or renewed in error; or
  - (i) the licence is incorrect in any respect; or
  - (j) a non-cash payment submitted to the authority as payment of an appropriate licence fee or administrative fee has been dishonoured; or
  - (k) 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 suspend, vary or cancel the person's licence; or
  - (l) the person has failed to comply with a condition of the licence.
- (2) The driver licensing 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 the jurisdiction relating to:
    - (i) driving offences involving the use of alcohol or other drugs; or
    - (ii) speeding; or
    - (iii) the non-payment of fines.



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**24 Procedures for variation, suspension and cancellation of driver licence**

- (1) If the driver licensing 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 the variation, suspension or cancellation; and
  - (c) the date by which the person must take that action.
- (2) The notice under clause (1) must also state that:
  - (a) in the case of a notice of intention to vary a person's driver licence — 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 of intention to suspend a person's driver licence — 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
  - (c) in the case of a notice of intention to cancel a person's driver licence — 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) A notice of intention to suspend or cancel a person's driver licence must also tell the person whether the licence is required to be returned to the driver licensing authority, and if so, specify the date by which the licence must be returned.
- (4) A driver licence is varied, suspended or cancelled in accordance with the terms of a notice served under this supporting principle unless the driver licensing authority, by further notice in writing, withdraws the notice.

## Clause 26

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- (5) If a person's driver licence is varied, suspended or cancelled by the driver licensing authority the person must return the licence to the authority within the time required by the notice served under this supporting principle.

## Part 6 Review rights

### 25 Authority to ensure notification of review rights

- (1) In this Part:
- affected person* means an applicant for a driver licence, the holder of an Australian driver licence or the holder of a foreign driver licence.
- (2) Where an affected person is eligible to seek review of a decision of a driver licensing authority under clauses 26 (1) and 27 (1), the authority must advise that person of:
- (a) the person's right to seek review of a decision under clauses 26 (1) and 27 (1); and
  - (b) the options available under other laws to a person to have the decision reviewed by a Tribunal, court, Ombudsman or Parliamentary Commissioner.
- (3) The time periods specified in clauses 26 (3) and 27 (3) are taken not to have commenced until an affected person is notified in accordance with clause 25 (2).

### 26 Application for internal review

- (1) An affected person may apply to the driver licensing authority in writing for an internal review of a decision by the authority:
- (a) not to take into account some or all of the period the person has held a licence to drive a motor vehicle in another country under clause 3 (9); or
  - (b) not to grant an application for the issue, variation or renewal of a driver licence under clauses 6 (1) or 20 (4); or
  - (c) to vary, suspend or cancel the person's driver licence under clause 23 (1); or

**Clause 26**

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- (d) that the person is no longer exempt from the requirement to hold a driver licence under paragraph 31 (2) (e) or 31 (2) (f).
- (2) Despite paragraph (1) (c), an internal review of a decision of a driver licensing authority to suspend or cancel a driver licence under paragraph 23 (1) (e) does not permit review of:
  - (a) the guilt or innocence of the person to whom that paragraph relates; or
  - (b) the imposition of a penalty or the level of a penalty imposed on a person to whom that paragraph relates.
- (3) An application must be made within 28 days after the person is notified of the decision.
- (4) An application for internal review must be considered by a person other than the person who made the decision to be reviewed.
- (5) After considering an application for review, the driver licensing authority must:
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) revoke the decision.
- (6) The driver licensing authority must notify an affected person in writing of its decision within 28 days after the request for internal review is received by the authority.
- (7) A decision subject to internal review under this supporting principle is taken to be affirmed by the driver licensing authority if that authority has not given written notice of its decision to the affected person within 28 days of application being made under clause (1).
- (8) The making of an application for internal review does not affect the operation of the decision.

## Clause 28

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### 27 Application for external review

- (1) Application may be made to the Tribunal for a review of a decision by the driver licensing authority under supporting principle 26.
- (2) Despite paragraph 26 (1) (c), review of a decision by the driver licensing authority to suspend or cancel a driver licence under paragraph 23 (1) (e) does not permit review of:
  - (a) the guilt or innocence of the person to whom that paragraph relates; or
  - (b) the imposition of a penalty or the level of a penalty imposed on a person to whom that paragraph relates.
- (3) An application for external review must be made within 28 days after the affected person is notified of the decision made by the driver licensing authority under supporting principle 26.
- (4) If the driver licensing authority fails to notify the affected person of its decision as required by clause 26 (6), the person may apply for external review within 28 days after the end of the period mentioned in that clause.
- (5) The making of an application for external review does not affect the operation of the decision, unless otherwise ordered by the Tribunal.

### 28 Affected person entitled to be given reasons

- (1) Where an affected person is entitled under clauses 26 (1) or 27 (1) to seek internal or external review of a decision of the driver licensing authority, the affected person may apply to the authority for written reasons for the decision.
- (2) After receiving an application for reasons under clause (1), the driver licensing authority must provide to the affected person, within 14 days of the application being made:
  - (a) the decision of the authority and the reasons for that decision; and
  - (b) the identity or position of the person who made the decision.

**Clause 31**

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- (3) An application for reasons may be made before or during (or both) the period in which an affected person seeks internal or external review of a decision under supporting principles 26 or 27.
- (4) An affected person cannot make application under this supporting principle if the authority has already provided the person with the details prescribed in clause (2).

## **Part 7 Exemptions**

### **29 Licence not required for certain motor vehicles**

The Primary Principles do not apply to the driver of a motor vehicle that is used only on a railway or tramway.

### **30 Authority may exempt certain classes of driver from the requirement to hold a licence**

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

### **31 Interstate and international visitors**

- (1) A visiting driver who holds a current:
  - (a) Australian driver licence or learner licence (including a New Zealand learner licence) issued in another jurisdiction; or
  - (b) foreign driver licence and international driving permit; or

### Clause 31

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- (c) 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 the jurisdiction, and is exempt from the requirement to hold a driver licence.
- (2) A person ceases to be exempt under clause (1) if any of the following things happens:
- (a) if the holder of an Australian driver licence or learner licence has resided in the jurisdiction for a continuous period of more than 3 months, unless he or she also holds a valid Driver Identification Document issued by the Commonwealth Department of Defence; or
  - (b) if an international visitor has held a permanent visa under the *Migration Act 1958* for more than 3 months; or
  - (c) if the person is disqualified from driving a motor vehicle on a road or road related area in any State or Territory, or another country; or
  - (d) if the person is charged with an offence specified under another law of the jurisdiction relating to visiting drivers; or
  - (e) if the person, in the reasonable opinion of the driver licensing authority, is not considered suitable to drive a motor vehicle in the jurisdiction; or
  - (f) if, in the reasonable opinion of the driver licensing authority, the person's ability to drive safely is impaired due to a permanent or long term injury or illness.
- (3) If the driver licensing authority forms an opinion on the matters set out in paragraph (2) (e) or (f), the authority must give the person notice in writing stating:
- (a) that he or she is no longer exempt from the requirement to hold a driver licence in the jurisdiction; and
  - (b) that he or she must not drive a motor vehicle on a road or road related area in the jurisdiction; and
  - (c) the reasons why the person is no longer exempt; and
  - (d) any action that may be taken by the person in order to regain the exemption; and

- (e) the date by which the person must take that action.

## Part 8 Offences

*Note* This Part lists offences for failing to comply with these Supporting Principles.

### 32 Licence conditions

The holder of a conditional Australian driver licence who fails to comply with a condition of that licence is guilty of an offence.

### 33 Offences involving driver licence documents

- (1) The holder of a driver licence who fails to return a driver licence to the driver licensing authority when required by or in accordance with these Supporting Principles to do so is guilty of an offence.
- (2) The holder of a conditional driver licence who fails to comply with a requirement under clause 14 (3) or 14 (4) to carry a notice about the condition is guilty of an offence.
- (3) A person who fails to comply with a requirement of the driver licensing authority under clause 17 (1) to provide evidence about the contents of the driver licence register is guilty of an offence.
- (4) A person who produces a false driver licence calculated to deceive, or who uses a driver licence, or the representation of a driver licence, in a manner calculated to deceive, is guilty of an offence.
- (5) A person who alters a driver licence in a way that is calculated to deceive is guilty of an offence.
- (6) A person who produces a driver licence altered in a manner calculated to deceive is guilty of an offence.

**Clause 36**

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**34 Notification offences**

A person who does not give information to the driver licensing authority when required by these Supporting Principles to do so is guilty of an offence.

**Part 9 Administration**

**35 Service of notices on persons**

- (1) The driver licensing authority may serve a notice under the Primary or Supporting Principles on a person by sending the notice by post or by some other means to the person's residential address, or the address for service of notices (if any) recorded in the driver licence register.
- (2) A notice sent to a person under clause (1) to an address from which the person has moved within the previous 14 days, shall be deemed to be served if sent within 7 days after the person vacated the address.
- (3) If a person's residential address or address for service of notices is in another jurisdiction, the driver licensing authority may request the driver licensing authority of another jurisdiction to act on its behalf in serving a notice on the person or in performing any other act which the driver licensing authority could lawfully perform in this jurisdiction.
- (4) If the driver licensing authority receives a request under clause (3) of the corresponding law of another jurisdiction, it may act on behalf of the driver licensing authority of that jurisdiction accordingly.

**36 Delegation of driver licensing authority's powers**

The persons to whom the driver licensing authority may delegate all or any of its powers under the Primary or Supporting Principles are:

- (a) a statutory authority; or
- (b) the holder of a statutory office; or



**Clause 38**

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- (c) an officer or employee of a government department or statutory authority; or
- (d) a member of the police force; or
- (e) a municipality or other local government authority; or
- (f) an officer or employee of a municipality or other local government authority; or
- (g) any other person who in the opinion of the authority has appropriate qualifications for the exercise of the power delegated.

## **Part 10 Fees**

*Note* Under the Primary Principles, administrative fees may be set by the Minister, the driver licensing authority, or under another law (see primary principle 7). Administrative fees, set in any of these ways, and licence fees may be collected under these Supporting Principles (see paragraph 18 (2) (h) of the Primary Principles). Clauses 4 (1), 10 (1) and 20 (1) require the payment of an appropriate administrative fee for the issue, replacement or renewal of a driver licence.

### **37 Licence fees**

Licence fees imposed by another law for the issue and renewal of a licence are payable to the driver licensing authority in accordance with these Supporting Principles.

### **38 Waiver of licence fees and administrative fees**

The driver licensing authority may waive the payment of a licence fee or an administrative fee in a particular case if the authority is of the opinion that in the particular case it is appropriate to do so.

**Clause 39**

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## **Part 11 Transitional provisions**

### **39 Licences issued under previous legislation**

- (1) A superseded licence (that is, a licence issued under a law in force in the jurisdiction before the commencement of the amended driver licensing law ) has effect for the remainder of its duration as if it had been issued under the amended law, and may be renewed, varied, cancelled or suspended in all respects as though it were a driver licence.
- (2) A superseded licence authorises the holder to drive vehicles in the licence class specified in supporting principle 13 that is most nearly equivalent to the class specified in the licence.
- (3) In spite of clause 3 (5), in issuing a driver licence under these Supporting Principles in place of, or following the expiry of, a superseded licence, the driver licensing authority must have regard to the principle that where direct translation to a licence class is not possible, the licence holder should be issued with the next highest licence class.
- (4) The driver licensing authority must cause a notice specifying the nearest equivalent licence class for each of the classes of superseded licence to be published in the *Gazette*.

## Dictionary

In these Supporting Principles, unless the contrary intention appears:

**administrative fee** means a fee:

- (a) for a service provided by the driver licensing authority in connection with the licensing of drivers, or the renewal or late renewal of driver licences; and
- (b) set by the Minister, by the driver licensing authority, or under another law.

**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.

**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.

**breath alcohol interlock device** means a device fitted to a motor vehicle which is capable of:

- (a) analysing a breath sample for the presence of alcohol; and
- (b) interacting with the motor vehicle in such a way that a positive result at a designated blood alcohol level will inhibit the use of the motor vehicle.

**car licence** means a licence referred to in clause 13 (3).

**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.

**GVM** (gross vehicle mass) of a vehicle means the maximum loaded mass of the vehicle:

- (a) as specified by the vehicle's manufacturer; or
- (b) as specified by the registration authority, if:
  - (i) the manufacturer has not specified a maximum loaded mass; or
  - (ii) the manufacturer cannot be identified; or

- (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate.

**heavy combination vehicle licence** means a licence referred to in clause 13 (7).

**heavy rigid vehicle licence** means a licence referred to in clause 13 (6).

**licence expiry date** means the date recorded in the driver licence register, in accordance with paragraph 11 (1) (f), as the date on which the driver licence expires.

**light rigid vehicle licence** means a licence referred to in clause 13 (4).

**Mass and Loading Regulations** means the Road Transport Reform (Mass and Loading) Regulations, as in force from time to time.

**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 13 (5).

**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.

**motorcycle licence** means a licence referred to in clause 13 (2).

**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.

**multi-combination vehicle licence** means a licence referred to in clause 13 (8).

**photograph** includes a digitised, electronic or computer generated image in a form approved by the driver licensing authority.

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

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

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***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.

*Note* The Road Transport Reform (Heavy Vehicle Standards) Regulations make it clear that when a semi-trailer is connected to a converter dolly it is regarded as a single dog trailer.

***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.

***Tribunal*** means the appropriate review body for that jurisdiction.

*Note* The following terms are defined in the Primary Principles:

Australian driver licence, class, conditional licence, Contracting State, corresponding law, drive, driver licence, driver licence receipt, driver licensing authority, foreign driver licence, infringement notice, international driving permit, international visitor, learner licence, member of the police force, motor vehicle, national schedule of demerit points, probationary licence, provisional licence, restricted licence, road, road related area.

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## Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).