

National Heavy Vehicle Driver Fatigue law – demerit points



Transport
Roads & Maritime
Services

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Demerit points

Severe and critical risk offences under the Heavy Vehicle Driver Fatigue law attract demerit points.

Why do certain fatigue offences attract demerit points?

Demerit points are an important component of the Heavy Vehicle Driver Fatigue national model legislation and are one way of influencing driver behaviour and compliance with road transport laws. Fatigue offences pose a road safety risk and the RMS is responsible for managing the road network so that it is safe and efficient.

Research shows that the demerit point sanction regime has a strong influence on driver behaviour and compliance.

What fatigue offences attract demerit points?

Under the national Heavy Vehicle Driver Fatigue law, severe and critical risk work and rest hours offences attract demerit points.

The offences have been categorised according to the risk they pose to road safety and network management. The more serious the risk, the more serious the category of offence.

So, when does an offence fall into a severe or critical risk category?

Taking a rest break which is 1 hour 15 minutes to 1 hour 30 minutes *shorter* than the required minimum rest time is a severe risk offence. Taking a rest break which is *shorter* than the required minimum rest time by 1 hour 30 minutes or more is a critical risk offence.

What fatigue offences do not attract demerit points?

In NSW, demerit points **DO NOT** apply to minor or substantial work and rest hours offences and **DO NOT** apply to offences such as not signing a work diary page.

In NSW, on the spot fines (penalty notices) issued by Police or RMS Inspectors on the side of the road for fatigue offences do not attract demerit points.

How many demerit points will I lose?

Convictions for severe risk work and rest hours offences attract 3 demerit points.

Convictions for critical risk work and rest hours offences attract 4 demerit points.

How are demerit points applied?

Severe and critical offences are dealt with by the courts. If a driver is convicted or found guilty of a severe or critical risk offence in court, the Magistrate has the discretion to impose or not impose a fine.

However, the law requires that the driver's licence be endorsed with the relevant demerit points for each proven offence. There is no discretion in the law for any other action to be taken regardless of whether a fine is imposed.

Please note: the critical factor in the application of demerit points is whether the driver is convicted or found guilty of the offence (i.e. you enter a guilty plea or the Magistrate finds you guilty) not whether the Magistrate imposes a fine or not.

Disclaimer: This fact sheet does not constitute legal advice. Details are subject to amendment. Check the legislation or contact RMS for more information.