

FAQ: Penalty points and the application of the 7-point threshold to Learner and Novice drivers.

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When was the lower penalty point threshold introduced for learner and novice drivers?

The lower penalty point threshold of 7 points for learner and novice drivers was introduced from 1 August 2014. Until this date, a learner or novice driver was subject to the same rules as a person holding a full driving licence in that they would be disqualified from driving if they accumulated 12 points on their licence record.

What has changed?

Under the 'new' system, a novice or learner driver is disqualified from driving if they accumulate 7 or more penalty points on their licence record on or after 1 August 2014.

Where a driver held a learner permit or a previous driving licence prior to 1 August 2014 and while still a learner or a novice, then that driver will be disqualified on reaching 12 penalty points in total or reaching 7 points where the penalty points were applied to the record on or after 1 August 2014.

What is the difference between a learner driver and a novice driver?

A learner driver is someone who holds a learner permit and a novice driver is a person who has held their first full driving licence for two years or less.

If the law was originally changed in 2014, why is this interpretation only being applied now?

When the law was originally introduced, legal advice to the Department of Transport was that it did not apply to drivers who held a learner permit or novice driving licence prior to 1 August 2014. The advice was therefore that a driver who held any type of licence issued prior to 1 August 2014 would stay on the 12 point threshold (the 'old system'). If the driver's first learner permit was issued on or after 1 August 2014, they fell under the 'new' system and they would be disqualified from driving if they accumulated 7 points on their permit/licence.

Over the course of time, there was a review of the novice and learner rules following both a court case on the definition of a novice driver which involved a driver whose licence had lapsed and then they re-entered the system. A number of difficulties arose in applying the existing interpretation of the law where people were re-entering the licensing system carrying existing points on their records. Legal advice received by the Department of Transport during this review was that if a person accumulated 7 points during any period after 1 August 2014, while they were a learner or novice, it meant that they were subject to disqualification, regardless of when they received their first licence. As an example, a driver who received their first learner permit in 2013 would stay on the 12-point threshold under the 'old' system. However, under the 'new' system, if that driver accumulated 7 penalty points on or after 1 August 2014, s/he would be subject to disqualification.

What changes are being made now and how will they affect learner/novice drivers?

This change in interpretation only relates to less than 1% of learner and novice drivers – those who held their first learner permit or full licence before 1 August 2014 and are still learner permit holders or novice drivers. If they accumulate 7 penalty points while a learner or novice driver on or after 1 August 2014 they are now subject to disqualification. Each person affected by this change is being written to directly and their particular circumstances are being set out

for them in that correspondence. All other learner or novice drivers who took out a learner permit or first full licence from 1 August 2014 have always been subject to disqualification on accumulating 7 points within a three-year period.

Will a driver with 7 points or more be disqualified immediately?

No. This is because a driver is legally entitled to be advised of the disqualification when they are notified of the offence that causes the disqualification threshold to be breached. Because these drivers did not receive such a notification, a disqualification will not be applied in these circumstances. However, should any affected person incur additional penalty points from six weeks after the letters issue which results in them having 7 or more points on their licence while still a novice or learner driver, they will then be disqualified.

Will drivers be penalised retrospectively?

Nobody will be penalised retrospectively. A cohort of drivers that were previously on a 12-point threshold will now be subject to a 7-point threshold and will be notified of this change.

What about novice drivers disqualified from driving before their two-year novice period has ended?

If a novice driver is disqualified from driving during their two-year novice period, the novice period will be suspended during the disqualification and will resume when the disqualification expires. The driver will be subject to the 7-point threshold until their novice period ends.

How could there still be penalty points on a driver's record which were incurred before 1 August 2014 if they only remain on a driver record for three years?

Penalty point time periods are suspended and do not count down in the following situations: 1) if a driving licence expires and is not renewed or 2) during a disqualification period if a driver is disqualified.

Are penalty points removed after expiry of the penalty point disqualification?

Yes, the points which led to the disqualification will be removed when the penalty point disqualification has been served.

Is it fair to disqualify a driver who may have challenged the penalty points in Court rather than accepting them?

This is the reason a driver, who under the changed rules, is subject to disqualification will not be disqualified. The change will only be applied where an affected person incurs penalty points applied to their record from six weeks after the rules are implemented. In that case, if still a learner or novice and they have 7 penalty points within a three-year period they will be disqualified.

How many drivers are affected?

The Department will write to just under 3,000 drivers, less than 1% of novice and learner drivers.

Can these affected drivers appeal any disqualification?

The affected drivers will only be disqualified if a further penalty point offence is applied to their licence, while still a novice or learner and they equal or exceed 7 points.

Were any of these drivers, who should have been disqualified, involved in any fatal or serious injury collisions? If so, how many? How can we be sure no one was involved in a fatal or serious collision?

From a review of the National Vehicle Driver File Court Disqualification Records for Dangerous Driving or Careless Driving , the Department found no evidence that the affected drivers have been involved in a fatal or serious collision while they should have been disqualified.

What processes were required to make the changes?

The software programme that determines penalty point disqualifications has been changed to disqualify novice and learner drivers on 7 points received since August 2014 or 12 points received in total. Up to this point, this check was carried out manually.

What is the Department of Transport doing to ensure that all penalty points and disqualifications are being correctly applied?

The new system changes have been fully tested against a range of different driver licence and penalty point endorsement scenarios. Any further offences or disqualifications received by this cohort of novice and learner drivers will be manually inspected to ensure compliance with the rules.

Is a review underway to determine what happened? If so, when will this be completed, and will it be published?

There has been considerable examination of novice and learner records during this process and the Department is satisfied based on the legal advice that the correct approach has been taken.