

# Am I eligible to apply for a restricted driver licence?

This table is designed to provide a **simple overview** of eligibility to apply for this type of licence. **It is not legal advice.**

There may be other reasons why you are not eligible to apply. You should seek legal advice if you are unsure of your eligibility.

'PCA' means 'prescribed concentration of alcohol'. Definitions of some other terms used in the table appear below the table.

CRITERION	<b>YOU ARE <u>NOT</u> ELIGIBLE IF:</b>	LEGISLATION
<i>Residence</i>	<b>You live outside of the ACT.</b>	<a href="#">s 10</a> Road Transport (Driver Licensing) Act 1999
<i>Another Australian disqualification</i>	<b>You are currently disqualified in another Australian state/ territory.</b>	<a href="#">s 66A</a> Road Transport (General) Act 1999
<i>Disqualified until court orders</i>	<b>You have been disqualified until a court orders that the disqualification is set aside.</b>	<a href="#">s 67B</a> Road Transport (General) Act 1999
<i>PCA first offender – other than a special driver*</i>	<b>You are a first offender for a PCA in your blood or breath and your blood alcohol concentration was equal to or more than 0.1g (level 3 or 4).</b>	<a href="#">s 67A(2)</a> Road Transport (General) Act 1999
<i>PCA first offender – special driver*</i>	<b>You are a first offender for a PCA in your blood or breath, a special driver* and your blood alcohol concentration was equal to or more than 0.05g (level 2 or above).</b>	<a href="#">s 67A(2)</a> Road Transport (General) Act 1999
<i>Minimum period of automatic disqualification for offence</i>	<b>You are disqualified under an automatic disqualification provision**, except as a first offender for PCA, and you have not served the minimum disqualification period for that offence.</b>	<a href="#">s 67A(5)</a> Road Transport (General) Act 1999
<i>Restricted licence disqualification during original disqualification period</i>	<b>You held a restricted licence, but were disqualified from driving by an Australian court for an offence committed while you held it, and the remainder of your <i>original</i> disqualification period has not yet expired.</b>	<a href="#">s 67C</a> Road Transport (General) Act 1999

You can find all of the legislation referred to in the table or the notes at <http://www.legislation.act.gov.au/>

CRITERION	<b>YOU ARE <u>NOT</u> ELIGIBLE IF:</b>	LEGISLATION
<i>Restricted licence condition contravention during original disqualification period</i>	<b>You held a restricted licence which was automatically cancelled because you contravened one of its conditions, and the remainder of your <i>original</i> disqualification period has not yet expired.</b>	<a href="#">s 33(5)</a> Road Transport (Driver Licensing) Act 1999
<i>Restricted licence – demerit points incurred</i>	<b>Your restricted licence has been cancelled because you incurred 2 or more demerit points while holding it, and the remainder of your <i>original</i> disqualification period has not expired.</b>	<a href="#">s 130(6)(b)</a> Road Transport (Driver Licensing) Regulation 2000
<i>Probationary licence – demerit points incurred</i>	<b>Your licence was cancelled because you incurred 2 or more demerit points while holding a probationary licence, and 6 months have not yet expired since the cancellation date.</b>	<a href="#">s 133(2)(b)</a> Road Transport (Driver Licensing) Regulation 2000
<i>Infringement notice or fine default</i>	<b>You are disentitled to renew your licence or to obtain a driver licence because of default in payment of an infringement notice<sup>‡</sup> or fine enforcement notice<sup>‡‡</sup>.</b>	<a href="#">Sections 45(3)</a> and <a href="#">88(4)</a> Road Transport (General) Act 1999
<i>Licence suspension for 12 or more demerit points</i>	<b>Your licence is currently suspended because of excess demerit points incurred within the previous 3 years<sup>##</sup> and you have not elected to be of good behaviour for 12 months.</b>	<a href="#">Section 18(3) and (4)</a> and <a href="#">s 19</a> Road Transport (Driver Licensing) Act 1999
<i>Good behaviour alternative to licence suspension – 2 or more demerit points</i>	<b>Your licence is currently suspended because you incurred 2 or more demerit points during your elected 12-month good behaviour period.</b>	<a href="#">s 19(8)</a> Road Transport (Driver Licensing) Act 1999
<i>Licence ineligibility for demerit points</i>	<b>You are ineligible to hold a licence because of excess demerit points incurred within the previous 3 years<sup>##</sup> and you have not elected to be of good behaviour for 12 months.</b>	<a href="#">s 20(3)</a> and <a href="#">s 21</a> Road Transport (Driver Licensing) Act 1999
<i>Good behaviour alternative to licence ineligibility – 2 or more demerit points</i>	<b>Your licence is currently suspended because you incurred 2 or more demerit points during your elected 12-month good behaviour period.</b>	<a href="#">s 21(8)</a> Road Transport (Driver Licensing) Act 1999

You can find all of the legislation referred to in the table or the notes at <http://www.legislation.act.gov.au/>

CRITERION	<b>YOU ARE <u>NOT</u> ELIGIBLE IF:</b>	LEGISLATION
<i>Immediate suspension notice</i>	<b>You are currently subject to an immediate suspension of licence notice that has not been stayed.</b>	<a href="#">s 61B(4)(f)</a> and <a href="#">s 61F</a> Road Transport (General) Act 1999
<i>Repeat offender<sup>++</sup> - automatic disqualification provision<sup>**</sup> – alcohol and drugs – disqualifying offence<sup>#</sup></i>	<p><b>1. You are disqualified for one of the following disqualifying offences<sup>#</sup>:</b></p> <ul style="list-style-type: none"> <li>• PCA in blood or breath</li> <li>• drive with prescribed drug</li> <li>• refuse to provide breath or oral fluid sample</li> <li>• refuse blood test</li> <li>• drive under the influence or</li> <li>• another provision of Road Transport (Alcohol and Drugs) Act 1977 prescribed by regulation;</li> </ul> <p><b>2. You are a repeat offender<sup>++</sup> because</b></p> <ul style="list-style-type: none"> <li>• you were convicted or found guilty of a relevant offence<sup>+</sup> before being convicted or found guilty of the disqualifying offence<sup>#</sup> or</li> <li>• you were convicted or found guilty, concurrently with being convicted of the disqualifying offence<sup>#</sup>, of 1 or more relevant offences<sup>+</sup> committed before the disqualifying offence<sup>#</sup>.</li> </ul>	<a href="#">s 67 Road</a> Transport (General) Act 1999
<i>Repeat offender<sup>++</sup> – automatic disqualification provision<sup>**</sup> – culpable driving or similar offences</i>	<p><b>You are disqualified for one of the following automatic disqualification provision<sup>**</sup> offences:</b></p> <p style="padding-left: 40px;"><b>culpable driving or certain other driving offence (including races, attempts at speed records, speed trails etc, burnouts and other prohibited conduct, negligent driving occasioning grievous bodily harm or death, furious, reckless, dangerous or menacing driving)</b></p> <p><b>and you are a repeat offender<sup>++</sup> because you were convicted or found guilty of culpable driving or certain other driving offence within 5 years of your current conviction.</b></p>	<a href="#">s 67</a> Road Transport (General) Act 1999

CRITERION	YOU ARE <b>NOT</b> ELIGIBLE IF:	LEGISLATION
<i>Repeat offender – automatic disqualification provision** – unlicensed driving</i>	<p><b>You are disqualified for one of the following automatic disqualification provision** offences:</b></p> <ul style="list-style-type: none"> <li>• <b>drive while not holding (and never having held) a licence,</b></li> <li>• <b>drive or fraudulently apply for a licence while disqualified or after suspension, cancellation, or refusal</b></li> </ul> <p><b>and you are repeat offender** because you were convicted or found guilty of one of those offences within 5 years before your current conviction.</b></p>	<p><a href="#">s 67</a> Road Transport (General) Act 1999;</p>

\* **special driver** is defined in [s 4B](#) of the Road Transport (Alcohol and Drugs) Act 1977. It has a very broad meaning that refers to most categories of drivers besides those who hold full, current licences for the ordinary motor vehicles that they are driving.

\*\* **automatic disqualification provision** is defined in [s 61A](#) of the Road Transport (General) Act 1999, which refers to eight different provisions of the road transport legislation:

- (a) [s 60](#) Road Transport (General) Act 1999 — failing to give information to police about a driver who fails to stop for police;
- (b) [s 62](#) Road Transport (General) Act 1999 — culpable driving
- (c) [s 63](#) Road Transport (General) Act 1999 — burnouts, races, reckless or negligent driving and other offences against the Road Transport (Safety and Traffic Management) Act 1999
- (d) [s 32](#) Road Transport (Alcohol and Drugs) Act 1977 — first offender PCA
- (e) [s 33](#) Road Transport (Alcohol and Drugs) Act 1977 — repeat offender PCA
- (f) [s 34](#) Road Transport (Alcohol and Drugs) Act 1977 — other disqualifying offences
- (g) [s 31](#) Road Transport (Driver Licensing) Act 1999 — repeat offenders driving unlicensed
- (h) [s 32\(5\)](#) Road Transport (Driver Licensing) Act 1999 — driving, or fraudulently applying for a driver licence, while disqualified or suspended or after having a licence cancelled or refused.

# **disqualifying offence** means an offence that leads to a loss of, or disqualification from obtaining, a driver licence:

- a **‘disqualifying offence’ under the Road Transport (General) Act 1999** is an offence of culpable driving or against an ‘automatic disqualification provision’ of that Act, or one of the offences against the Road Transport (Safety and Traffic Management) Act 1999 that [s 63](#) says lead to automatic disqualification: [s 61AA](#).
- a **‘disqualifying offence’ under the Road Transport (Alcohol and Drugs) Act 1977** means ‘an offence against:
  - (a) [s 19](#) (PCA in blood or breath); or
  - (b) [s 20](#) (Prescribed drug in oral fluid or blood – driver or driver trainer); or

- (c) [s 22](#) (Refusing to provide breath sample); or
- (d) [s 22A](#) (Refusing to provide oral fluid sample); or
- (e) [s 22C](#) (Refusing to undergo screening test); or
- (f) [s 23](#) (Refusing blood test etc); or
- (g) [s 24](#) (Driving under the influence of intoxicating liquor or a drug); or
- (h) another provision of this Act prescribed by regulation.'

(see that Act's [Dictionary](#))

# **previous three years** means 'the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person: sections [s 18\(7\)](#) and [20\(6\)](#) of the Road Transport (Driver Licensing) Act 1999

+ **relevant offence** is a 'disqualifying offence' treated as similar for repeat offending purposes, eg:

- a '**relevant offence**' for a '**disqualifying offence**' under the **Road Transport (Alcohol and Drugs) Act 1977** is any other ACT 'disqualifying offence', an offence of culpable driving while incapable of having proper control because of alcohol or a drug, or an offence of another jurisdiction:
  - that corresponds to an ACT disqualifying offence; or
  - that arose out of driving while affected by alcohol or drug.
 ([Section 4F\(3\)](#) and *corresponding offence* in that Act's [Dictionary](#)).
- a '**relevant offence**' for a '**disqualifying offence**' under the **Road Transport (General) Act 1999** is any other ACT 'disqualifying offence' except one for which a person was convicted or found guilty more than five years previously.

++ **repeat offender** refers to someone who has been convicted or found guilty of an earlier 'relevant offence', even if the conviction for the earlier offence is concurrent with, or subsequent to, a conviction for the later offence:

- a '**repeat offender**' for a '**disqualifying offence**' under the **Road Transport (Alcohol and Drugs) Act 1977** is someone convicted or found guilty of a earlier 'relevant offence' and a later 'disqualifying offence': [s 4F\(2\)](#);
- a '**repeat offender**' for an '**disqualifying offence**' under the **Road Transport (General) Act 1999** is someone convicted or found guilty of an earlier 'relevant offence' and a later 'disqualifying offence' : [s 61AA](#).

‡ **infringement notice** means a notice issued under [s 24](#) of the Road Transport (General) Act 1999 (see that Act's [Dictionary](#))

‡‡ **fine enforcement notice** means a notice issued under [s 84](#) of the Road Transport (General) Act 1999