



Transport (Motor Driver Licensing) Regulations 2016

His Excellency, Tom Marsters

Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this 6th day of September 2016

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to sections 24A and 126 of the Transport Act 1966, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations —

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Schedule 1
Demerit Point Offences

Regulations

- 1 Title**
These regulations are the Transport (Motor Driver Licensing) Regulations 2016.
- 2 Commencement**
These regulations come into force on the 28th day after the date on which these regulations are made.
- 3 Interpretation**
(1) In these regulations, unless the context otherwise requires,—
Act means the Transport Act 1966
Commissioner means the Commissioner of Police appointed under section 9 of the Police Act 2012
driver licence or **licence** means a licence issued under the Act that entitles the holder to drive a vehicle of the class for which the licence is issued
heavy duty motor vehicle means a motor vehicle (other than a motor car that is not used, kept, or available for the carriage of passengers for hire or reward) having a gross laden weight exceeding 2,000 kg
motor car has the same meaning as in section 2 of the Act
motorised quad bike means a motor vehicle with 4 wheels designed with handle bars for steering control
motorised trike means a motor vehicle that has 3 wheels symmetrically arranged in relation to the longitudinal median axis
motor cycle has the same meaning as in section 2 of the Act
motor vehicle has the same meaning as in section 2 of the Act

organised criminal group has the same meaning as in section 109A of the Crimes Act 1969

resident means a person who has resided in the Cook Islands for at least 3 months, but does not include a visitor

testing officer means a person approved by the Commissioner to carry out motor driver theory tests or practical driving tests for the purposes of these regulations

visitor—

- (a) means a person who holds a visitor's permit for the Cook Islands or is otherwise entitled to stay in the Cook Islands as a visitor; but
- (b) does not include any person who—
 - (i) has or is eligible to have Cook Islander status endorsed on his or her passport; or
 - (ii) is a permanent resident of the Cook Islands.

visitor licence means a licence issued for a limited period under regulation 8 that entitles the holder to drive any vehicle of the class for which the licence is issued.

- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Part 1

Licence classes

4 Classes of motor cycle licences

- (1) A licence to drive a motor cycle may be any of the following classes—
 - (a) class A1—any motor cycle that has an engine capacity not exceeding 125 cc;
 - (b) class A2—any motor cycle that has an engine capacity exceeding 125 cc and not exceeding 250 cc;
 - (c) class A3—any motor cycle that has an engine capacity exceeding 250 cc and not exceeding 500 cc;
 - (d) class A4—any motor cycle that has an engine capacity exceeding 500 cc.
- (2) Any person, including a visitor, who is aged 16 years or over may apply for a class A1 motor cycle driver licence.
- (3) Any resident of the Cook Islands who is 19 years of age or older, but not a visitor, may apply for a class A2, class A3, or class A4 motor cycle driver licence.

5 Classes of motor vehicle driver licences

A licence to drive a motor vehicle may be any of the following classes—

- (a) class B—any motor car;
- (b) class C—any heavy duty motor vehicle;
- (c) class D—any passenger service vehicle.

6 Learner licences

- (1) On and from the commencement of these regulations, any person who has not previously held a driver licence in the last 5 years is eligible to apply for a learner licence only.
- (2) A person must hold a learner licence for a minimum of 2 years without disqualification before he or she is eligible to apply for a full licence of any class.
- (3) Any person, including a visitor, may hold a learner licence, but not a full licence, of—
 - (a) class A1 or class B if he or she is 16 or 17 years of age or over;
 - (b) class C if he or she is 18 years of age or over;
 - (c) class D if he or she is 21 years of age or over.
- (4) Every learner licence is subject to the following conditions—
 - (a) that the holder may drive a vehicle of the relevant class only between the hours of 6 am and 10 pm on any day;
 - (b) that the holder must not drive a vehicle on any day after consuming any drink or drug on that day;
 - (c) that the holder must display learner plates on their vehicle in plain sight.
- (5) The Commissioner may, on application, exempt any emergency service worker (police, ambulance, or fire service) from any condition in sub-clause (4).

7 Conditional licences

- (1) Following a period of disqualification imposed by a court, the Commissioner may issue a conditional licence in lieu of a full licence.
- (2) Conditional licences must state any conditions imposed by a court or the Commissioner.

8 Visitor licences

- (1) A visitor may hold a visitor's motor cycle driver licence or motor vehicle driver licence in accordance with these regulations.
- (2) Unless the licence states a different period of validity, a visitor licence of any class expires after a period of 30 days, or at the time that a renewal or extension of that licence expires.

9 Period of validity of licences

Except as otherwise provided in these regulations,—

- (a) a licence issued to a person aged 60 years or over is valid for 1 year;
- (b) a learner licence under regulation 6 is valid for 2 years;
- (c) a visitor licence is valid for the period specified in regulation 8(2);
- (d) in any other case, a licence may be issued for—
 - (i) 1 year; or
 - (ii) 5 years; or
 - (iii) 10 years;
- (e) if an expiry date is shown on a licence, the licence expires at 11:59 pm on that day;

- (f) if an expiry date of a licence for a fixed yearly-term is not shown on the licence, the period of validity expires immediately before the relevant anniversary date (so, for example, a licence issued on 1 March for 1 year expires on the close of the last day of February in the next year).

Part 2

General and miscellaneous provisions

Theory tests for drivers

10 Theory tests

- (1) An applicant for any class of driver licence must undergo a theory test approved by the Commissioner, and the test must be conducted by a testing officer.
- (2) A theory test must test the applicant's knowledge of the following subjects—
- (a) the rules of the road (including the rules in Part 5 of the Act);
 - (b) vehicle handling;
 - (c) vehicle manoeuvring procedures;
 - (d) hazard perception;
 - (e) the effects of weather and road conditions on driving.

11 Standard for passing theory test

An applicant passes a theory test approved by the Commissioner if the applicant answers correctly the number of questions required to be answered correctly as approved by the Commissioner.

Practical driving tests

12 Practical driving tests

- (1) An applicant for any class of driver licence must take a motor vehicle skills test approved by the Commissioner.
- (2) A motor vehicle skills test must test the following skills—
- (a) taking proper precautions before starting the engine of the vehicle;
 - (b) making proper use of all controls;
 - (c) positioning normally on the road and making normal stops in a safe place;
 - (d) driving at a speed appropriate for the conditions;
 - (e) making effective use of rear view mirrors;
 - (f) giving all necessary signals;
 - (g) showing alertness and anticipation of the actions of other road users;
 - (h) overtaking, meeting, and crossing the path of other vehicles safely;
 - (i) acting properly at road junctions;
 - (j) taking appropriate action at pedestrian crossings;
 - (k) taking prompt and appropriate action when required by traffic signs, road markings, and traffic signals.

13 Standard for passing practical driving test

An applicant passes a practical driving test approved by the Commissioner if the applicant passes the test to the standard determined by the Commissioner.

14 Who may conduct practical driving tests

A practical driving test under these regulations must be carried out by a testing officer, being—

- (a) an officer of the Cook Islands Police Service approved by the Commissioner; or
- (b) any other suitably qualified person approved by the Commissioner.

*Eyesight and medical tests***15 Eyesight tests**

- (1) An applicant for a driver licence, or for the renewal of a driver licence, must either—
 - (a) have the applicant's eyesight tested by a testing officer; or
 - (b) provide a testing officer with a certificate issued by an optometrist or a medical practitioner stating that the applicant's eyesight complies with the standards specified in sub clause (2).
- (2) An applicant to whom sub-clause (1) applies must,—
 - (a) in the case of an applicant with vision in both eyes,—
 - (i) have a visual acuity of at least 6/12 using both eyes; and
 - (ii) have a visual field of at least 140 degrees; and
 - (b) in the case of an applicant with vision only in 1 eye,—
 - (i) have a visual acuity of at least 6/12 in 1 eye; and
 - (ii) have a visual field of at least 140 degrees in that eye; and
 - (c) to obtain a motor driver licence of any of classes B, C, and D,—
 - (i) have a visual acuity of at least 6/9 using both eyes and at least 6/18 using each eye separately; and
 - (ii) have a visual field of at least 140 degrees.
- (3) The minimum eyesight standards specified in sub-clause (2) may be met either with or without correcting lenses.

16 Medical declaration

- (1) If an applicant for a driver licence, or for the renewal of a driver licence, has suffered from any medical condition or conditions (including any condition relating to eyesight) that has, to the applicant's knowledge, in the 5 years immediately preceding the date of application adversely affected the applicant's ability to drive safely, the applicant must—
 - (a) state this fact on the application form; and
 - (b) produce with the application form a medical certificate that complies with regulation 19.
- (2) If an applicant for a driver licence, or for the renewal of a driver licence, has suffered from any medical condition or conditions (including any conditions relating to eyesight) that could, to the applicant's knowledge, adversely affect

the ability of the applicant to drive safely, but has not done so in the 5 years immediately preceding the date of application, the applicant must—

- (a) state this fact on the application form; and
 - (b) sign a statement to that effect.
- (3) If the applicant for a driver licence, or for the renewal of a driver licence, does not suffer from any medical condition or conditions (including conditions relating to eyesight) that could, to the applicant's knowledge, adversely affect the ability of the applicant to drive safely, the applicant must—
- (a) state this fact on the application form; and
 - (b) sign a statement to that effect.

17 Medical examinations

- (1) Every applicant for a licence who is aged 60 years or over must undergo a medical examination and provide a medical certificate as to his or her fitness to drive a vehicle of the relevant class.
- (2) The Commissioner may require any of the following persons to undergo a medical examination if he or she considers that there are reasonable grounds to require the person to undergo a medical examination in the interest of public safety—
 - (a) an applicant for a driver licence;
 - (b) an applicant for the renewal of a driver licence.

18 Requirements of medical examination

- (1) A medical examination required under these regulations must be carried out by—
 - (a) a medical practitioner, an optometrist, or an occupational therapist, nominated by the applicant; or
 - (b) a medical practitioner, an optometrist, or an occupational therapist, nominated by the Commissioner.
- (2) The Commissioner may nominate a person under sub-clause (1)(b) only if—
 - (a) the applicant fails to nominate a person under sub-clause (1)(a); or
 - (b) the Commissioner is not satisfied that the person nominated by the applicant is appropriately qualified to undertake the medical examination.

19 Medical certificates

A person who is required by these regulations to produce a medical certificate to any person must—

- (a) obtain, from a health professional qualified under regulation 18 to issue the certificate, a certificate that states whether the person is medically fit to drive under the applicable class of licence; and
- (b) pay the appropriate fee (if any).

*Powers of Commissioner***20 Power to cancel and decline to issue or renew driver licences**

The Commissioner may cancel a licence or decline to issue or renew a licence—

- (a) if the Commissioner has reasonable grounds to suspect that an applicant—
 - (i) is applying for the purpose of avoiding a licence disqualification or restriction in another jurisdiction; or
 - (ii) is affiliated with an organised criminal group; or
 - (iii) has provided false or misleading information in their application;
- (b) if an applicant refuses or fails to undergo an examination required under regulation 17; or
- (c) if, following an examination required under regulation 17, the Commissioner—
 - (i) is satisfied on medical grounds that the applicant is not a fit and proper person to be granted a driver licence of the relevant class; or
 - (ii) considers that, in the interest of public safety, any driver licence held by the applicant requires conditions that take into account any relevant physical or mental condition of the applicant.

21 Power to impose conditions upon licences

The Commissioner may issue or renew a licence with conditions if the Commissioner has reasonable grounds to believe that it is in the interest of public safety to impose those conditions.

*Demerit points***22 Demerit points for drivers**

- (1) If a driver licence holder incurs 100 or more demerit points, their licence is suspended for 6 months from the date of the conviction that triggers the suspension.
- (2) Demerit points are to remain on a licence for a period of 3 years from the date of the most recent conviction for an offence listed in Schedule 1.
- (3) Demerit points apply to all licence classes a licence holder possesses.
- (4) Demerit points are not extinguished by licence renewals.
- (5) Demerit points are incurred on conviction for an offence under Schedule 1, and must be recorded by the Commissioner.

*Reinstatement following disqualification***23 Reinstatement of licence following disqualification**

- (1) If a person holding a motor driver licence is disqualified by or under any Act from driving, the person must apply to the Commissioner for the reinstatement of his or her licence if he or she wishes to use the licence after the end of that disqualification period.
- (2) After the end of the disqualification period, the licence is valid only if reinstated by the Commissioner on application made under this regulation.

- (3) A person is entitled to have his or her licence reinstated under this regulation if—
 - (a) the person has served his or her disqualification, and there are no further subsequent periods of disqualification left to serve at the date of application; and
 - (b) the person applies on a form provided or approved by the Commissioner and satisfies the requirements of these regulations as to theory tests, practical driving tests, eyesight tests, and medical tests as if the applicant were applying for a new licence of the class for which reinstatement is sought.
- (4) A learner licence holder disqualified from driving must complete a further 2 years without recording a conviction listed in Schedule 1 before they may apply for a full licence.
- (5) A licence reinstated under this regulation is subject to any conditions that applied in respect of the licence immediately before the disqualification took effect and any conditions imposed subsequently by or under these regulations.
- (6) The Commissioner may impose additional conditions on any licence reinstated under this regulation for the purpose of ensuring public safety.
- (7) A licence that is reinstated under this regulation retains the expiry date of the licence being reinstated.

Fees

24 Licence fees

- (1) The fees for driver licences are—
 - (a) \$30 for a learner licence;
 - (b) \$20 for a visitor licence;
 - (c) \$20 for a 1-year licence;
 - (d) \$60 for a 5-year licence;
 - (e) \$100 for a 10-year licence.
- (2) An application for a licence must be accompanied by the appropriate prescribed fee for the licence sought.

25 Testing fees

- (1) The fees for driver licensing tests are—
 - (a) \$10 for the police practical test;
 - (b) for any vehicle handling course,—
 - (i) \$50 for motor cycles;
 - (ii) \$50 for motor vehicles.
- (2) An application for any test or course must be accompanied by the appropriate prescribed fee for that test or course.
- (3) Each class of licence attracts a separate fee payable for each test or course.

*Savings provision***26 Savings provision**

- (1) Every motor driver licence that was in force under the Act immediately before the commencement of these regulations continues in force—
 - (a) subject to the conditions, restrictions, and limitations (if any) that applied in respect of the licence at that time; and
 - (b) until the licence expires under sub-clause (2).
- (2) The licence continues in force until the earlier of the following dates—
 - (a) the date of expiry as shown on, or determined in accordance with, the licence; or
 - (b) the date on which the licence is replaced by a licence of the same or a corresponding class issued under these regulations.

Schedule 1
Demerit Point Offences

Table 1.

| Item | Description of offence against Transport Act 1966 | Demerit points incurred |
|-------------|---|--------------------------------|
| 1 | Section 56(1)—Exceeding a speed limit (after taking into account a tolerance of 5 kph over the prescribed limit) by 6-10kph | 5 |
| 2 | Section 56(1)—Exceeding a speed limit (after taking into account a tolerance of 5 kph over the prescribed limit) by 11-19kph | 10 |
| 3 | Section 56(1)—Exceeding a speed limit (after taking into account a tolerance of 5 kph over the prescribed limit) by 20kph or more | 15 |
| 4 | Section 30 – Careless driving and inconsiderate use | 10 |
| 5 | Section 27—Reckless or dangerous driving | 20 |
| 6 | Section 86A – Driving or riding on a motor cycle, quad, or trike without an approved helmet | 10 |
| 7 | Section 32(2)—Driving whilst disqualified | 15 |

Aukino Tairea

Clerk of the Executive Council

These regulations are administered by the Cook Islands Police Service.

These regulations were made on the _____ day of _____ 2016.