

# The impact South Africa's new driving laws will have on employers

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The Administrative Adjudication of Road Traffic Offences Act (Aarto) will make employers potentially face administrative and financial burdens for their employees' non-compliance where their driving falls within the employees' key duties and responsibilities.



Source: [Home Safely Home by Western Cape Government on Facebook](#)

Employers and employees must familiarise themselves with the key provisions of Aarto. Demerit points will be allocated to a driver's licence for each traffic infringement, which may result in the license being suspended or even cancelled.

## The demerit system is to operate as follows:

- Everyone will start with zero demerit points.
- Different amounts of demerit points are to be allocated for different infringements (Schedule 3 of the Regulations).
- A threshold of 15 demerit points will apply before the licence is suspended.
- A driving licence will be suspended for three months for each demerit point above the threshold.
- The holder of the licence may not drive during the suspension period and driving while the licence is suspended is a criminal offence.
- A licence may be suspended only twice.
- After two suspensions, any demerits above the threshold will result in the licence being cancelled.
- The holder will have to apply for a learner's licence after the cancellation.

Aarto will result in the following additional financial and administrative burdens on employers:

Aarto requires that the employer appoints a proxy who will represent the company vehicles. The proxy will ultimately be

responsible for the coordination and administration of the tracking system and verification of the driver's licences.

Aarto does not provide that the proxy will lose points on behalf of drivers of company vehicles. However, the proxy must ensure that the demerit points are allocated to the correct driver. Should the proxy not do so, the employer will be liable to pay the fine at three times the value applicable to ordinary license holders.



Employers must take steps to appoint a proxy and they should also put certain policies and procedures in place to guide the proxy on how to allocate demerit points to the correct driver and consequences if the proxy fails to allocate the points correctly - which may include disciplinary action against the proxy.

In addition to the appointment of a proxy, employers should also take other proactive steps to mitigate any negative impact on their operations because of Aarto including:

- Putting measures in place to obtain consent from employees to disclose information on their demerit status.
- Considering the inclusion of new disciplinary offences in disciplinary codes and procedures which cater for the circumstances in which an employee commits serious driving violations during the course and scope of his employment resulting in his or her driver's licence being suspended or cancelled
- Implementing awareness campaigns aimed at informing their drivers of the key provisions of Aarto.