

# Driver Licence Breach

## What happens if I breach the terms of my driver licence?

Car insurance policies usually exclude cover for damage caused while the driver is in breach of a condition of their licence. This is because driving in breach of your licence conditions is likely to increase the risk of an accident.

This means that if you have an accident while breaching the terms of your licence, your insurer is unlikely to pay for the damage to your car or any other car.

## What might cause a breach of my driver licence?

In the case of a **restricted driver licence**, claims are often declined if an accident happens when the driver is driving outside of the time permitted by their licence—i.e. between 10pm and 5am—without a supervisor.

Claims are also declined if an accident happens when restricted drivers are driving with passengers, but without a supervisor.

It is the absence of the supervisor, rather than the presence of the passengers or the time of night, that is the breach of the terms of your licence.

Literature concerning young drivers often highlights their relative driving inexperience. A young driver's inexperience means that they have a lower level of hazard recognition and less ability to negotiate identified hazards. Their reaction time is said to be slower than an experienced driver. The purpose of having a suitably qualified person in a car is to provide guidance to an inexperienced driver.

## What if the breach of licence did not cause the accident?

The law states that if the breach of the terms of your licence did not cause or contribute to the accident, your insurer cannot apply the policy exclusion to your claim.

If you can prove, on the balance of probabilities, that the breach of the licence (most commonly, the absence of a supervisor) did not cause or contribute to the accident, then the insurer cannot decline your claim on the basis of the breach of licence. If the absence of a supervisor in the car only contributed to the accident, this is enough for your insurer to decline your claim. In practice, it is often difficult to prove that a supervisor would not have assisted the driver to avoid the accident.

### What to do

- ① Comply with the conditions of your licence. Failure to do so could mean you will not have insurance cover, in the event of an accident.
- ② Parents should ensure their children comply with licence conditions, and are aware of the consequences of breaching the conditions.
- ③ Remember: If you have an accident while breaching the conditions of your licence, your insurer is unlikely to pay for any damage to your car or to any other car.

## Conditions of Graduated Licences

The licensing system has 3 stages (learner, restricted and full), which apply regardless of the applicant's age when a licence is first applied for. The conditions of learner and restricted licences are:

### Stage 1—Learner Licence

1. You must not drive alone.
2. When learning to drive, you must be accompanied by a suitably qualified person (i.e. a supervisor) who must sit in the front passenger seat beside you at all times. Your supervisor must have held a current full New Zealand driver licence for at least 2 years.

### Stage 2—Restricted Licence

1. You can drive on your own.
2. You cannot drive between the hours of 10pm and 5am or with passengers (other than your spouse or dependents), without a supervisor.
3. If you sit your practical driving test in a car with an automatic transmission, you can only drive automatic cars unless you have a supervisor.

## Real Examples

**Kate's\*** daughter, **Mary\***, was driving Kate's car, when she had an accident. Mary only held a restricted driver licence and she was driving with an unlicensed passenger in the car. The conditions of her restricted driver licence only allowed Mary to drive with a passenger if the passenger was a suitably qualified driver—that is, had held a full driver licence for more than 2 years.

Kate's insurer, XYZ, believed Mary had been driving too fast for the conditions and, as Mary was in breach of her licence, XYZ declined the claim. Kate argued that having a passenger in the vehicle did not, in any way, contribute to the accident. Rather, she believed the accident was caused by a combination of bad road design, slippery conditions and driver inexperience. However, there was no evidence that the accident would have occurred, if Mary had been supervised by a suitably qualified driver.

One week after insuring his car, **Tim\*** had an accident. Tim turned right from a side road onto a major motorway when a second vehicle struck the left-hand side of the vehicle. Tim's friend was in the passenger seat.

Tim's car was extensively damaged. Tim made a claim to his insurer, XYZ, and his car was declared a total loss. XYZ declined the claim as Tim was driving in breach of his restricted driver licence when the accident happened.

Tim's passenger had only held a full driver licence for approximately one week. The ISO Scheme believed that a suitably qualified driver could have prevented the accident by instructing Tim not to proceed until the way was clear.

*\* not their real names*