

TASMANIA

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**VEHICLE AND TRAFFIC (REVIEW OF  
DECISIONS) REGULATIONS 2021**  
**STATUTORY RULES 2021, No. 53**

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**SCHEDULE 1 – ADMINISTRATIVE DECISIONS AND ELIGIBLE PERSONS**

## **VEHICLE AND TRAFFIC (REVIEW OF DECISIONS) REGULATIONS 2021**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Vehicle and Traffic Act 1999*.

Dated 12 July 2021.

B. BAKER  
Governor

By Her Excellency's Command,

MICHAEL DARREL JOSEPH FERGUSON  
Minister for Infrastructure and Transport

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These regulations may be cited as the *Vehicle and Traffic (Review of Decisions) Regulations 2021*.

#### **2. Commencement**

These regulations take effect on 4 August 2021.

### **3. Interpretation**

In these regulations –

*administrative decision* means a decision made under a provision specified in column 3 of a table in Schedule 1 other than a decision referred to in regulation 4;

*applicant* means a person who makes an application;

*application* means an application under Part 3 for the review of an administrative decision;

*eligible person*, in relation to an administrative decision, means the person specified in column 4 of a table in Schedule 1 as an eligible person in relation to the decision;

*notice* means a notice in writing;

*reviewing authority*, in relation to an application, means the person with whom the application is required to be lodged under regulation 8(1).

### **4. Certain decisions not to be taken to be administrative decision**

(1) In this regulation –

*Act* means the *Vehicle and Traffic Act 1999*.

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- (2) For the purposes of these regulations, an administrative decision does not include a decision under the Act –
- (a) to refuse to register a vehicle because an offensive advertising notice is in force in relation to the vehicle; or
  - (b) to cancel the registration of a vehicle because an offensive advertising notice is in force in relation to the vehicle.

## **PART 2 – ADMINISTRATIVE DECISION**

### **5. Notice of administrative decision**

(1) In this regulation –

*decision-making authority*, in relation to an administrative decision, means whichever of the following authorities made the decision:

- (a) the Registrar;
- (b) the Commission.

(2) As soon as practicable after making an administrative decision, the decision-making authority for the decision must give each eligible person in relation to the administrative decision notice of –

- (a) the decision; and
- (b) the person’s right to apply for a review of the decision; and
- (c) the procedure for making such an application; and
- (d) the name of the relevant reviewing authority for the application; and
- (e) the effect of regulation 6(3).

(3) Whether before or after receiving a notice under subregulation (2) in respect of an administrative decision, an eligible person in relation to the

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administrative decision may request from the decision-making authority a written statement of the reasons for the decision.

- (4) If a decision-making authority receives a request under subregulation (3), the decision-making authority is to provide, as soon as practicable after receiving the request, the person who made the request with a written statement of the reasons for the decision specified in the request.

**PART 3 – INTERNAL REVIEW OF DECISION**

***Division 1 – Application for review of administrative decision***

**6. Applications for review of decision**

- (1) An eligible person in relation to an administrative decision may apply, in writing, for a review of the administrative decision.
- (2) An application under subregulation (1) –
  - (a) may be in any form; and
  - (b) must –
    - (i) specify the administrative decision to which the application relates; and
    - (ii) specify the applicant’s reasons for seeking a review of the decision; and
  - (c) is to be lodged with the reviewing authority in accordance with regulation 8; and
  - (d) must be lodged under regulation 8 within 20 working days after the day on which notice is given to the applicant, under regulation 5, in respect of the administrative decision to which the application relates.
- (3) The making of an application under subregulation (1) does not, of itself, operate to

stay or set aside the operation of the administrative decision to which the application relates.

**7. Reviewing authority may waive certain requirements**

- (1) Despite regulation 6(1), the reviewing authority for an application may waive the requirement for the application to be made in writing if it is satisfied that it is reasonable in the circumstances to do so.
- (2) A waiver given under subregulation (1) may not be revoked.

**8. Lodgement of application**

- (1) An application is to be lodged with –
  - (a) the Secretary of the Department, if the application relates to an administrative decision specified in column 3 of Part 1 of Schedule 1; or
  - (b) the Commission, if the application relates to an administrative decision specified in column 3 of Part 2 of Schedule 1.
- (2) If an application is given to the incorrect reviewing authority –
  - (a) the application is not invalid solely on that basis; and

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- (b) the incorrect reviewing authority is to ensure that the application is passed to the correct reviewing authority as soon as practicable; and
  - (c) the application is taken to be lodged within the period specified in regulation 6(2)(d) if the application was lodged with the incorrect reviewing authority within that period; and
  - (d) for the purposes of Division 2, the application is taken to be lodged when received by the correct reviewing authority.
- (3) A reviewing authority may consider an application lodged outside the period specified in regulation 6(2)(d) if satisfied that it would be reasonable in the circumstances to do so.

**9. Withdrawal of application**

- (1) An application may be withdrawn by the applicant at any time.
- (2) An application is taken to have been withdrawn by the applicant if the applicant fails to comply with a notice under regulation 10(3)(c) within 2 months after being given that notice.

***Division 2 – Action taking by reviewing authority***

**10. Consideration of application**

- (1) Within 10 working days after an application is lodged with the reviewing authority, the reviewing authority must –
  - (a) subject to subregulation (3) and regulation 11, consider the application; and
  - (b) make a finding under regulation 12, or a determination under regulation 13, in respect of the application.
- (2) A reviewing authority, in considering an application, must –
  - (a) observe the rules of natural justice; and
  - (b) ensure that each employee or agent of the department that is engaged in the review process –
    - (i) was not involved in making the administrative decision under review; and
    - (ii) is not under the direct control of a person who was involved in making the administrative decision under review.
- (3) A reviewing authority, in considering an application, may –

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- (a) engage an independent mediator to assist in the review process; and
  - (b) consult with any representatives of, or organisations in, a sector of the transport industry if –
    - (i) the administrative decision under review relates to matters that are of general importance to that sector; and
    - (ii) it is possible to do so without prejudice to the applicant; and
  - (c) by notice to the applicant, require the applicant to give to it any further information or evidence that the reviewing authority reasonably considers is necessary for a proper consideration of the applicant’s application.
- (4) For the purposes of subregulation (1), if a reviewing authority requests further information or evidence under subregulation (3)(c) in respect of an application –
- (a) that application is taken to have been lodged when the information or evidence so requested is provided to the reviewing authority; and
  - (b) the period specified in subregulation (1) commences upon receipt of all of the further information so requested.

**11. Reviewing authority may extend time period for determination or finding**

- (1) Subject to subregulation (2), the reviewing authority for an application may extend the time period specified in regulation 10(1) in respect of an application by one single period not exceeding 20 working days.
- (2) The reviewing authority may only extend the time period under subregulation (1) if the reviewing authority gives notice of the extension to the applicant within the time period specified in regulation 10(1).

**12. Frivolous or vexatious application**

- (1) After considering an application under regulation 10, a reviewing authority may find the application is frivolous or vexatious.
- (2) If a reviewing authority makes a finding under subregulation (1) in respect of an application –
  - (a) the reviewing authority must, as soon as reasonably practicable, give to the applicant notice of that finding; and
  - (b) the application is taken to no longer be an application for the purposes of these regulations; and
  - (c) the reviewing authority is not required to take any further action in relation to the application.

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- (3) A notice under subregulation (2)(a) in respect of a finding is to –
- (a) give reasons for the finding; and
  - (b) specify –
    - (i) that the applicant has a right to apply for a review of the finding under Part 4; and
    - (ii) the procedure for applying for such a review.

**13. Determination of application**

- (1) If a relevant reviewing authority does not make a finding, under regulation 12, after considering an application under regulation 10, the reviewing authority must –
- (a) affirm the administrative decision; or
  - (b) vary the administrative decision, if the decision is able to be varied and the variation is appropriate in the circumstances; or
  - (c) set aside the administrative decision.
- (2) The reviewing authority is taken to have made a determination under subregulation (1)(a) to affirm the administrative decision to which an application relates if a finding or determination is not made in respect of the application within –

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- (a) the time period specified in regulation 10 as it applies to the application; or
  - (b) if applicable, an extension of time period under regulation 11.
- (3) If the reviewing authority varies the administrative decision under subregulation (1)(b), the administrative decision as varied forms part of the determination for the purposes of these regulations.
- (4) If the reviewing authority sets aside the administrative decision under subregulation (1)(c) –
- (a) the reviewing authority must make a new administrative decision in place of the administrative decision so set aside; and
  - (b) the new decision forms part of the determination for the purposes of these regulations.

**14. Notice of determination**

- (1) If a reviewing authority makes a determination under regulation 13 in respect of an application, the reviewing authority must give the applicant notice of the determination –
- (a) as soon as practicable after it has been made; or
  - (b) in a case of an application to which regulation 13(2) applies, is taken to have been made.

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- (2) A notice under subregulation (1) is to –
- (a) give reasons for the determination; and
  - (b) inform the applicant of –
    - (i) the applicant’s right to apply for a review of the determination under Part 4; and
    - (ii) the procedure for applying for such a review.

## **PART 4 – EXTERNAL REVIEW OF DECISION**

### **15. Review of finding or determination**

An applicant in relation to an administrative decision may apply to the Magistrates Court (Administrative Appeals Division) for a review of the finding or determination made under Part 3 in respect of the application.

### **16. Orders on appeal of finding**

- (1) After hearing an application for a review against a finding made under regulation 12 in respect of an administrative decision, the Magistrates Court (Administrative Appeals Division) may, by order –
  - (a) affirm the finding; or
  - (b) set aside the finding.
- (2) If subregulation (1)(b) applies, the Magistrates Court (Administrative Appeals Division) may, by order and with or without directions, remit the matter for reconsideration by the relevant reviewing authority for the administrative decision in accordance with any directions or recommendations of the Court.

## PART 5 – MISCELLANEOUS

### 17. Service of documents

(1) In this regulation –

*electronic communication* means an electronic communication within the meaning of the *Electronic Transactions Act 2000*.

(2) For the purposes of these regulations, an application, notice or other document, may be lodged with or given to a person by –

(a) in the case of an individual –

(i) handing it to the person; or

(ii) leaving it at, or sending it by post to, the person's postal or residential address, or place or address of business or employment, last known to the person seeking to lodge the document; or

(iii) communicating it to the person by way of an electronic communication; or

(b) in the case of a reviewing authority or any other person –

(i) leaving it at, or sending it by post to, the person's principal or

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registered office or one of the person's places of business; or

(ii) communicating it to the person by way of an electronic communication.

(3) For the purposes of subregulation (2)(b)(i), a police station or Service Tasmania shop is not an office or place of business of a reviewing authority.

**18. Savings and transitional**

(1) In this regulation –

*commencement day* means the day on which these regulations take effect;

*superseded regulations* means the *Vehicle and Traffic (Review of Decisions) Regulations 2010*.

(2) An application made to the reviewing authority under the superseded regulations that is not dealt with under those regulations before the commencement day is taken, on and after the commencement day, to be an application made under these regulations.

(3) An appeal made to the Magistrates Court (Administrative Appeals Division) before the commencement day under the superseded regulations may continue to be heard, dealt with and determined, and orders as to costs may be made, in all respects as if –

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- (a) the appeal had been made under these regulations; and
  - (b) these regulations had taken effect on the same day as the superseded regulations took effect.
- (4) For the avoidance of doubt, a person may apply under Part 4 for an appeal to the Magistrates Court (Administrative Appeals Division) in respect of a finding or determination made under Part 3 of the superseded regulations.

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**SCHEDULE 1 – ADMINISTRATIVE DECISIONS AND ELIGIBLE PERSONS**

Regulations 3 and 8

**PART 1 – ADMINISTRATIVE DECISIONS UNDER THE VEHICLE AND TRAFFIC (DRIVER LICENSING AND VEHICLE REGISTRATION) REGULATIONS 2021**

Item	Decision	Relevant provision	Eligible person
1.	A decision of the Registrar to make a novice driver or novice rider subject to a novice case management program	Regulation 20(2)	The novice driver or novice rider
2.	A decision of the Registrar in respect of the content of a novice case management program	Regulation 20(4)	The novice driver or novice rider who is subject to the novice case management program
3.	A decision of the Registrar to refuse an application for the issue or renewal of a driver licence	Regulation 28(1), (8) and (9); Regulation 39(1)	The person whose application has been refused
4.	A decision of the Registrar about a licence condition	Regulation 33(1) and (9) other than the imposition of an I condition under regulation 29(1)	The holder of the licence

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<b>Item</b>	<b>Decision</b>	<b>Relevant provision</b>	<b>Eligible person</b>
5.	A decision of the Registrar to refuse an application for the issue or renewal of an ancillary certificate	Regulation 28(1) and (8) and (9) (as applied by regulation 50(2))	The person whose application has been refused
6.	A decision of the Registrar about a condition of an ancillary certificate	Regulation 33(1) and (9) (as applied by regulation 50(2))	The holder of the certificate
7.	A decision of the Registrar to refuse an application for an exemption from the application of regulation 61(2)(a)	Regulation 73	The person whose application has been refused
8.	A decision of the Registrar to place conditions on, or cancel, an exemption from, the application of regulation 61(2)(a)	Regulation 73	The person who has been issued the exemption
9.	A decision of the Registrar to vary, suspend or cancel a driver licence	Regulation 40(1) (subject to regulation 40(5))	The person whose licence has been varied, suspended or cancelled
10.	A decision of the Registrar to vary, suspend or cancel an ancillary certificate	Regulation 40(1) (as applied by regulation 50(2)); regulation 53(3)	The person whose certificate has been varied, suspended or cancelled

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<b>Item</b>	<b>Decision</b>	<b>Relevant provision</b>	<b>Eligible person</b>
11.	A decision of the Registrar that a person is no longer exempt from the requirement to hold a driver licence	Regulation 49(3)	The person whose entitlement to the exemption has ceased
12.	A decision of the Registrar to refuse an application for registration, or renewal of registration, of a vehicle	Regulation 82(2) and (3); regulation 100(1) and (2)	The person whose application has been refused
13.	A decision of the Registrar about a condition of registration of a vehicle	Regulation 84(1) and (4)	The registered operator of the vehicle
14.	A decision of the Registrar to refuse an application for the transfer of registration of a vehicle	Regulation 101(8), (10), and (11)	The person whose application has been refused
15.	A decision of the Registrar to suspend or cancel the registration of a registered vehicle	Regulation 104(1)	The registered operator of the vehicle
16.	A decision to refuse to clear a written-off vehicle label	Regulation 113	The person whose application for the clearance has been refused
17.	A decision of the Registrar to refuse an application for a trade plate	Regulation 123(1)	The person whose application has been refused
18.	A decision of the Registrar to cancel a trade plate	Regulation 125(2)	The person whose trade plate has been cancelled

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<b>Item</b>	<b>Decision</b>	<b>Relevant provision</b>	<b>Eligible person</b>
19.	A decision of the Registrar to refuse an application for a short term unregistered vehicle permit for a vehicle	Regulation 126(1)	The person whose application has been refused
20.	A decision of the Registrar to cancel a short term unregistered vehicle permit for a vehicle	Regulation 126(7)	The person whose permit has been cancelled
21.	A decision of the Registrar to reassess motor tax for a vehicle	Regulation 149(1)	The registered operator of the vehicle

**PART 2 – ADMINISTRATIVE DECISIONS UNDER  
THE VEHICLE AND TRAFFIC (VEHICLE  
OPERATIONS) REGULATIONS 2014**

<b>Item</b>	<b>Decision</b>	<b>Relevant provision</b>	<b>Eligible person</b>
1.	A decision of the Commission to refuse to grant an application for a permit	Regulation 60(4)	The person whose application has been refused
2.	A decision of the Commission to impose conditions on a permit	Regulation 61(2)	The person whose application has been approved subject to conditions
3.	A decision of the Commission to vary, suspend or cancel a permit	Regulation 63	The holder of the permit

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 21 July 2021.

These regulations are administered in the Department of State Growth.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations –

- (a) provide, for the purposes of the *Vehicle and Traffic Act 1999*, for a mechanism for review of certain administrative decisions made under that Act; and
- (b) are made consequentially on the repeal of the *Vehicle and Traffic (Review of Decisions) Regulations 2010* under section 11 of the *Subordinate Legislation Act 1992*.