

# **Review of Decisions under the Taxi and Hire Vehicle Industries Act 2008**

## **Frequently Asked Questions**

***Disclaimer: This information is intended to provide general guidance only and should not be used as a substitute for professional legal advice. You are advised to refer to the Taxi and Hire Vehicle Industries (Review of Decisions) Regulations 2010 for full information about reviews of decisions made under the Taxi and Hire Vehicle Industries Act 2008 (THVI Act) and seek your own independent legal advice if necessary.***

### **1. I do not understand why a decision was made – what can I do?**

When you are notified of the decision, the person who made the decision will have explained why they made that decision.

If you want more information about the reasons for a decision, you are entitled to ask for a more detailed written statement of reasons for the decision.

If you want to ask for a detailed statement of reasons you can contact the decision-maker, via the contact details included in the notice of decision.

### **2. I am not happy about a decision – can I appeal?**

If you are not happy with a decision that the Transport Commission has made, you may be able to apply for a review.

However, only some decisions are reviewable and only specific people can apply for a review.

#### **Reviewable decisions**

If a reviewable decision has been made, you will have been told about your right to apply for a review at the same time as you were told about the decision.

If you have not been told about your right to apply for a review it is likely the decision is not reviewable.

Reviewable decisions made under the THVI Act are listed [here](#). Reviewable decisions made under the Taxi Industry Regulations are listed [here](#).

Decisions that are not reviewable are listed [here](#).

#### **Eligible persons**

Only specific people can apply for a review. This is usually the person who is directly affected by the decision. These people are listed [here](#).

### **3. Who do I appeal to?**

You have two options for appealing a reviewable decision: Internal Review and External Review. You must go through the Internal Review process before you can apply for External Review.

### **Internal Review**

This means you ask the Transport Commission to review its decision.

The review will be done by somebody who was not involved in making the original decision.

There is no fee for applying for an Internal Review.

If you are unsatisfied with the result of the Internal Review, you can apply for External Review.

### **External Review**

This means you ask the Magistrates Court to review the decision.

You can only apply for External Review once you have gone through the Internal Review process and have been informed of the outcome of that review.

The review will be done by a Magistrate.

There is an application fee (for the current fee click [here](#)).

You may wish to consider seeking independent legal advice and/or representation if you decide to apply for an External Review.

## **4. What happens if I appeal?**

After it has completed the Internal Review, the Transport Commission will make a determination to –

- (a) Confirm the original decision; or
- (b) Vary the original decision; or
- (c) Set aside the original decision and make a new decision.

An Internal Review determination may be appealed. You will be told about your right to appeal when you are told about the decision.

An External Review decision (decision made by a Magistrate) is final and cannot be appealed.

## **5. I want to apply for Internal Review – what do I need to do?**

You need to apply in writing **within 28 days** of being notified of the decision, although the Transport Commission may use its discretion to accept a late application.

You should not necessarily delay applying for review just because you have asked for a detailed statement of reasons for the original decision (see Section 1) and have not yet received it.

There is no specific form on which to apply for a review. However, in your application you will need to:

- Clearly state **what** decision it is that you want reviewed
- Explain the reasons **why** you think it should be reviewed
- Provide any **supporting information or evidence** with your application, and any additional information that the Transport Commission requests from you

You must provide a return address where notice of the review decision can be sent. If you would like to receive a copy of the review decision electronically you should also provide your e-mail address.

It is also helpful to provide a daytime contact number, in case the Internal Review Officer has any questions for you.

Address your application as follows:

"Application for Internal Review"  
Transport Commission

You can either send your application to:

GPO Box 536  
HOBART TAS 7001

or lodge it at 10 Murray Street, Hobart.

## **6. How long will an Internal Review take?**

An Internal Review will normally be completed within 14 days of receiving either your application or any additional information requested by the Transport Commission. This 14-day period may be extended by up to 28 days. If this happens, you will receive notice in writing before the relevant 14-day period is up.

## **7. What happens while I am waiting for the result of my appeal?**

Just because you have applied for review (either Internal or External) does not mean the decision is not implemented in the meantime. This means that you must abide by the terms of the original decision until a new decision is made that changes it.

## **8. How do I find out the result of my appeal?**

The Transport Commission will send you a notice of determination in writing as soon as practical after the review has been completed. This will outline the reasons for the determination and advise you of your right to apply for External Review.

## **9. I want to apply for External Review – what do I need to do?**

You can only apply for External Review once you have gone through the Internal Review process and have been informed of the outcome of that review.

If you wish to apply for External Review, you need to lodge a notice of appeal with the Magistrates Court (Administrative Appeals Division) and pay the required fee.

For more information click [here](#).

## 10. Where can I get more information about my right to appeal?

For further information you can look at the *Taxi and Hire Vehicle Industries (Review of Decisions) Regulations 2010* on the internet: <http://www.thelaw.tas.gov.au/>. These regulations contain the provisions for reviews of decisions made under the THVI Act.

If you wish to appeal against a decision made under a different Act, you should refer to the following legislation:

- Reviews of decisions that are made under the *Vehicle and Traffic Act 1999* (and its regulations) are undertaken under the *Vehicle and Traffic (Review of Decisions) Regulations 2010*.
- Reviews of decisions that are made under the *Passenger Transport Services Act 2011* (and its regulations) are undertaken under that Act.

### Reviewable Decisions under the *Taxi and Hire Vehicle Industries Act 2008*

Decisions that are subject to an internal review under the <i>Taxi and Hire Vehicle Industries Act 2008</i> (THVI Act)	Section of the THVI Act under which the decision is made	Person(s) eligible to apply for a review of decision
To determine that a particular passenger transport service is not a tour	Section 3A(2)	The operator of the passenger transport service
To declare a perpetual taxi licence inactive	Section 20(1)(b)	The licence owner
To refuse an application for an owner-operator taxi licence (when not satisfied that applicant would be the operator of the service)	Section 24(3)	The licence applicant
To cancel an owner-operator taxi licence (when satisfied licence holder has entered into an agreement purporting to lease the licence to another person or purporting to permit another person to operate a taxi service under the licence)	Section 27(2)	The licence holder
To impose conditions on an owner-operator taxi licence	Section 28(1)(a)	The licence holder
To vary or revoke conditions on an owner-operator taxi licence	Section 28(1)(b)	The licence holder
To refuse the transfer of an owner-operator taxi licence to another person (when Commission reasonably believes proposed transferee would not be operator of service)	Section 31(3)	The licence holder
To refuse the transfer of an owner-operator taxi licence (when licence lapsed, under a section 36 suspension or subject to a section 36 notice of intention to suspend or cancel)	Section 31(4)	The licence holder

<b>Decisions that are subject to an internal review under the <i>Taxi and Hire Vehicle Industries Act 2008</i> (THVI Act)</b>	<b>Section of the THVI Act under which the decision is made</b>	<b>Person(s) eligible to apply for a review of decision</b>
To declare an owner-operator taxi licence inactive	Section 34(2)(b)	The licence holder
To suspend an owner-operator taxi licence (excluding decision to suspend licence in prescribed circumstances set out in regulation 10(c) or (d) of the <i>Taxi Industry Regulations 2008</i> )	Section 36(1)	The licence holder
To cancel an owner-operator taxi licence (excluding decision to cancel licence in prescribed circumstance set out in regulation 11(e) of the <i>Taxi Industry Regulations 2008</i> )	Section 36(1)	The licence holder
To suspend or cancel an owner-operator taxi licence (when satisfied there is an immediate and serious danger to public safety)	Section 36(3)	The licence holder
To refuse an application for a wheelchair-accessible taxi licence (when not satisfied that applicant would be operator of service)	Section 41(4)	The licence applicant
To cancel a wheelchair-accessible taxi licence (when satisfied licence holder has entered into an agreement purporting to lease the licence to another person or purporting to permit another person to operate a taxi service under the licence)	Section 44(2)	The licence holder
To impose conditions on a wheelchair-accessible taxi licence	Section 46(1)(a)	The licence holder
To vary or revoke conditions imposed on a wheelchair-accessible taxi licence	Section 46(1)(b)	The licence holder
To refuse the transfer of a wheelchair-accessible taxi licence to another person (when reasonably believes proposed transferee would not be operator of service)	Section 49(3)(a)	The licence holder
To refuse the transfer of a wheelchair-accessible taxi licence to another person (when licence lapsed or under a section 55 suspension or subject to a section 55 notice to suspend or cancel)	Section 49(4)	The licence holder
To refuse the transfer of a wheelchair-accessible taxi licence to another vehicle	Section 50(3)	The licence holder
To refuse an application to transfer a wheelchair-accessible taxi licence to a substitute wheelchair-accessible taxi	Section 51(3)	The licence holder
Not to extend the period of time for which a substitute wheelchair-accessible taxi may operate under a wheelchair-accessible taxi licence	Section 51(5)	The licence holder
To suspend a wheelchair-accessible taxi licence (excluding decision to suspend licence in prescribed circumstances set out in regulation 12(c), (d), (e) or (f) of the <i>Taxi Industry Regulations 2008</i> )	Section 55(1)	The licence holder
To cancel a wheelchair-accessible taxi licence (excluding decision to cancel licence in prescribed circumstance set out in regulation 13(j) of the <i>Taxi Industry Regulations 2008</i> )	Section 55(1)	The licence holder

<b>Decisions that are subject to an internal review under the <i>Taxi and Hire Vehicle Industries Act 2008</i> (THVI Act)</b>	<b>Section of the THVI Act under which the decision is made</b>	<b>Person(s) eligible to apply for a review of decision</b>
To suspend or cancel a wheelchair-accessible taxi licence (when satisfied there is an immediate and serious danger to public safety)	Section 55(3)	The licence holder
To refuse an application for a luxury hire car licence (when not satisfied the applicant would be operator of the service)	Section 69(3)	The licence applicant
To cancel a luxury hire car licence (when satisfied licence holder has entered into an agreement purporting to lease the licence to another person or purporting to permit another person to operate a luxury hire car service under the licence)	Section 72(2)	The licence holder
Not to approve a vehicle for use as a luxury hire car	Section 73(1)	The registered operator of the vehicle
To impose conditions on a luxury hire car licence	Section 74(1)(a)	The licence holder
To vary or revoke conditions imposed on a luxury hire car licence	Section 74(1)(b)	The licence holder
To refuse the transfer of a luxury hire car licence to another person (when reasonably believes proposed transferee would not be operator of the luxury hire car service)	Section 77(3)(a)	The licence holder
To refuse the transfer of a luxury hire car licence to another person (when licence lapsed or under a section 82 suspension or subject to a section 82 notice to suspend or cancel)	Section 77(4)	The licence holder
To refuse the transfer of a luxury hire car licence to another vehicle	Section 78(3)	The licence holder
To suspend a luxury hire car licence (excluding decision to suspend a licence in prescribed circumstances set out in regulation 6(c), (d) or (e) of the <i>Luxury Hire Car Industry Regulations 2008</i> )	Section 82(1)	The licence holder
To cancel a luxury hire car licence (excluding decision to cancel licence in prescribed circumstance set out in regulation 7(f) of the <i>Luxury Hire Car Industry Regulations 2008</i> )	Section 82(1)	The licence holder
To suspend or cancel a luxury hire car licence (when satisfied there is an immediate and serious danger to public safety)	Section 82(3)	The licence holder
To refuse an application for a restricted hire vehicle licence (when not satisfied applicant would be operator of service proposed to be operated under licence)	Section 84E(3)	The licence applicant
To cancel a restricted hire vehicle licence (when satisfied licence holder has entered into an agreement purporting to lease the licence to another person or purporting to permit another person to operate a restricted hire vehicle service under the licence)	Section 84H(2)	The licence holder
Not to approve a motor vehicle for use as a restricted hire vehicle for general rhv services	Section 84I(1)	The registered operator of the motor vehicle

Decisions that are subject to an internal review under the <i>Taxi and Hire Vehicle Industries Act 2008</i> (THVI Act)	Section of the THVI Act under which the decision is made	Person(s) eligible to apply for a review of decision
To impose conditions on a restricted hire vehicle licence	Section 84J(1)(a)	The licence holder
To vary or revoke any conditions imposed on a restricted hire vehicle licence	Section 84J(1)(b)	The licence holder
To refuse to transfer a restricted hire vehicle licence for general rhv services to another vehicle	Section 84L(4)	The licence holder
To suspend a restricted hire vehicle licence (excluding decision to suspend licence in prescribed circumstances set out in regulation 6(c), (d), (e) or (f) of the <i>Restricted Hire Vehicle Industry Regulations 2013</i> )	Section 84P(1)	The licence holder
To cancel a restricted hire vehicle licence (excluding decision to cancel licence in prescribed circumstance set out in regulation 7(d) of the <i>Restricted Hire Vehicle Industry Regulations 2013</i> )	Section 84P(1)	The licence holder
To suspend or cancel a restricted hire vehicle licence (when satisfied there is an immediate and serious danger to public safety)	Section 84P(3)	The licence holder

### Reviewable Decisions under the *Taxi Industry Regulations 2008*

Decisions that are subject to an internal review under the <i>Taxi Industry Regulations 2008</i> (TIR)	Regulation under which the decision is made	Person(s) eligible to apply for a review of decision
To refuse an application for appointment as an authorised meter adjuster	Regulation 63(5)	The applicant
To suspend or cancel the appointment of a person as an authorised meter adjuster	Regulation 70 (1)	The authorised meter adjuster

### Non-Reviewable Decisions

The following decision made by the Commission under the THVI Act is **not** reviewable:

- A decision of the Commission to declare a perpetual taxi licence inactive under section 20(1)(b).