

RIGHTS TO REASONS AND REVIEW NOTICE: MARINE SAFETY LICENCES

YOUR RIGHTS TO REASONS FOR A DECISION, INTERNAL REVIEW AND REVIEW BY THE NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

1. REASONS FOR DECISION

Under Section 49 of the *Administrative Decisions Review Act 1997* a person who is dissatisfied with a reviewable decision may make a written request to Roads and Maritime Services (Roads and Maritime) (which acts as a delegate of the relevant Minister) for a statement of the reasons for the decision*.

The application must be made within 28 days of you being provided with the letter setting out the relevant decision.

The Statement of Reasons, if not already provided, will be provided as soon as practicable (and in any event within 28 days) of receipt of your application and will set out the following:

- (a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based,
- (b) Roads and Maritime's understanding of the applicable law, and
- (c) the reasoning processes that led the relevant Roads and Maritime officer to the findings made.

2. INTERNAL REVIEW

Under Section 42 of the *Marine Safety Act 1998* a person who is dissatisfied with any of the following decisions may apply to the NSW Civil and Administrative Decisions Tribunal for a review:

- (a) the refusal to grant a marine safety licence to the person,
- (b) the imposition of conditions or any other limitation or restriction on the person's marine safety licence (otherwise than by regulation), and /or
- (c) the suspension or cancellation of the person's marine safety licence (otherwise than by a court).

However, Section 55 of the *Administrative Decisions Review Act 1997* requires that where the interested person is entitled to seek an Internal Review the person must duly apply for such a review and the review be taken to be finalised before an Application can be made to the Tribunal.

You may seek an Internal Review of this decision by applying to Roads and Maritime. An Application for Internal Review must:

- (a) be in writing, and
- (b) be addressed to the Director Maritime, Roads and Maritime (who acts a delegate for the relevant Minister as the "administrator concerned"), and
- (c) specify an address in Australia to which notices may be sent, and
- (d) be lodged at the office (or an office) of Roads and Maritime within 28 days (or such later date as Roads and Maritime may allow) after the person:

* If the decision concerns a Marine Safety Licence being refused, suspended or cancelled you should have been provided with reasons for the decision with the notification.

- (i) if the person has requested reasons under Section 49—was provided with a Statement of Reasons under Section 49 or notified under Section 50 of a refusal to provide reasons, or
 - (ii) if the person has not requested reasons under Section 49—was notified of the making of the reviewable decision, and
- (e) comply with such other requirements as may be prescribed by the regulations in respect of the making of applications for internal reviews.

The Internal Review must be completed and the result notified to you within 21 days of receipt of the request for an Internal Review or such longer time as is agreed. If a longer time is not agreed the Internal Review is taken to be finalised after 21 days.

The *Administrative Decisions Review Act 1997* allows an application for review of a decision to be made without the need for an Internal Review in some circumstances.

3. APPLICATION FOR REVIEW BY THE NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

If you are dissatisfied with a decision by RMS with regard to a Marine Safety Licence, you may, after an Internal Review and subject to the *Administrative Decisions Review Act 1997* and the Regulations under that Act, apply to the NSW Civil and Administrative Tribunal for review of the decision.

An Application must be made within 28 days of the day when the Internal Review is finalised or taken to be finalised.

The procedures relating to appeals to the NSW Civil and Administrative Tribunal are established by the Tribunal and the fees payable are prescribed in Regulations under the *Administrative Decisions Review Act 1997*.

The NSW Civil and Administrative Tribunal's contact details are:

Address: NSW Civil and Administrative Tribunal
Level 9, 86-90 Goulburn Street
SYDNEY NSW 2000

Hours: 9:00 a.m. – 4:30 p.m. Monday – Friday

Telephone: 1300 006228

TTY: (02) 9377 5859

Internet: <http://www.ncat.nsw.gov.au/ncat/index.html>

You can access copies of relevant legislation at the NSW Government legislation website:
<http://www.legislation.nsw.gov.au>.