



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

| Application Details | |
|--|---|
| Ref. No. | CMTEEDDFOI 2023-366 |
| Date of Application | 24 October 2023 |
| Date of Decision | 3 January 2024 |
| Processing time (in working days) | 24 |
| Fees | N/A |
| Decision on Access | Partial Release |
| Information Requested (summary) | Process followed when another driver is nominated for a mobile speed camera and whether Access Canberra staff can access other state data bases to confirm interstate driver licence details. |
| Publication Details | |
| Original application | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A |
| Decision notice | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A |
| Documents and schedule | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A |
| Decision made by Ombudsman | N/A |
| Additional information identified by Ombudsman | N/A |
| Decision made by ACAT | N/A |
| Additional information identified by ACAT | N/A |

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Tuesday, 24 October 2023 12:02:17 PM

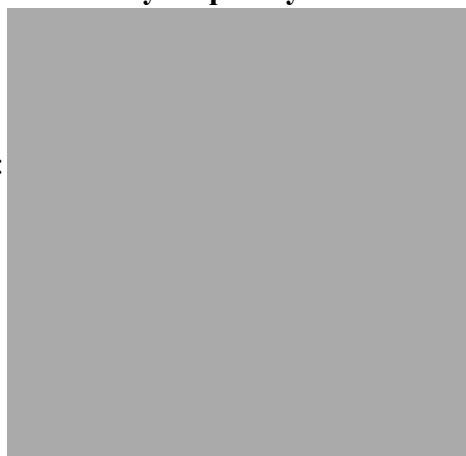
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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:
First Name:
Last Name:
Business/Organisation:
Address:
Suburb:
Postcode:
State/Territory:
Phone/mobile:
Email address:



Request for informati

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

I want to know the process Access Canberra follows when they receive an online Statuary Declaration nominating another driver responsible for a mobile speed camera offence. I would also like to confirm whether access Canberra has access to other state data bases for confirmation of license details and identification. Thirdly would like to know if Access Canberra has the correct date of birth, name and address of an interstate driver- is this enough identifying information to reissue, and infringement notice in that person's name.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2023-366



FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 24 October 2023, in which you sought access to infringement information as follows:

"I want to know the process Access Canberra follows when they receive an online Statutory Declaration nominating another driver responsible for a mobile speed camera offence. I would also like to confirm whether access Canberra has access to other state data bases for confirmation of license details and identification. Thirdly would like to know if Access Canberra has the correct date of birth, name and address of an interstate driver- is this enough identifying information to reissue, and infringement notice in that person's name."

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision within 30 working days of the access application being received. Following on from third party consultation, the due date for a decision is 3 January 2024.

Decision on access

Searches were completed for relevant documents and **one (1)** document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of the document that falls within the scope of your request and the access decision for that document.

I have decided to grant partial access in full to the one (1) document relevant to your request. I have decided to refuse access to parts of this document where I consider that information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decisions are detailed further in the following statement of reasons and the document being released to you is provided at **Attachment B** of this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

Statement of Reasons

In reaching my access decisions, I have taken the following into account:

- the Act;
- the scope of your requested information;
- the ACT Ombudsman FOI Guidelines;
- third party consultation under section 38 of the Act; and
- the content of the document that falls within the scope of your request.

Exemption claimed

My reasons for deciding not to grant access to the identified document and components of the document are as follows:

Contrary to the public interest information under schedule 1 of the Act

Folio 1 of the identified document does not contain information that is considered to be contrary to the public interest under schedule 1 of the Act.

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Public Interest

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the document found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within this document is within the ‘public interest’.

Factors favouring disclosure in the public interest under Schedule 2, section 2.1 of the Act:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *contribute to positive and informed debate on important issues or matters of public interest*

(iii) inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community

(vii) advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government

(xiii) contribute to the administration of justice generally, including procedural fairness

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in this document may reasonably be expected to promote open discussion about government operations within the community. It is reasonable to expect that information about this topic may be of interest to others and contribute to informed debate about this topic of interest. I have placed substantial weight on the above factors favouring disclosure.

Noting that the Act has an express pro-disclosure bias which reflects the importance of public access to government information, I must consider the above factors for disclosure against those factors favouring nondisclosure. However, in this case I do give some weight to the factors for nondisclosure.

Factors favouring nondisclosure in the public interest under Schedule 2, section 2.2 of the Act:

(a) disclosure of the information could reasonably be expected to do any of the following:

(iii) prejudice security, law enforcement or public safety

(x) prejudice intergovernmental relations

(xi) prejudice trade secrets, business affairs or research of an agency or person

When considering the information and factors in favour of nondisclosure, I considered the impact on intergovernmental relations. The interactions between external government agencies and the ACT Government, rely on the ability to be able to share information freely without potential threat towards the methods used. Disclosure of this material could reasonably jeopardise the professional working relationships between ACT Government and external agencies. I afford this factor significant weight.

I have considered the safety implications of the materials within scope. Noting that the rego.act database is used and connected to other rego safety activities, the release of this information could prejudice the integrity of Access Canberra's internal IT system processes. Internal staff procedure documents are not intended to be viewed by the public but are created to assist ACT Government employees in performing their daily work duties. Therefore, this information has been excluded from the release in accordance with Schedule 2.2(a)(iii).

Technical information relating to the rego.act and NEVDIS systems, also contain commercial-in-confidence information, sensitive copyright and intellectual property information. Screen-shot information of these systems contains confidential business

information of additional third parties, such as infringement information relating to infringements issued to businesses, which would be contrary to the public interest to release this information.

Having applied the test outlined in section 17 of the Act and deciding that release of some of the information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to information held by CMTEDD within the scope of your request.

Charges

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 3 working days after the date of this decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the CMTEDD FOI team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Emma Hotham
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

3 January 2024



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.



"I want to know the process Access Canberra follows when they receive an online Statuary Declaration nominating another driver responsible for a mobile speed camera offence. I would also like to confirm whether access Canberra has access to other state data bases for confirmation of license details and identification. Thirdly would like to know if Access Canberra has the correct date of birth, name and address of an interstate driver- is this enough identifying information to reissue, and infringement notice in that person's name."

CMTEDDFOI 2023-366

| Ref No | Page number | Description | Date | Status | Reason for Exemption | Online Release Status |
|-------------------------|-------------|--|---------|---------|---|-----------------------|
| 1 | 1-53 | Access Canberra Infringement Review Office - Infringement Declaration - Standard Operating Procedure (A44306001) | undated | Partial | Sch 2, s 2.2 (a)(x) Sch 2, s 2.2 (a)(xi) Sch 2, 2.2.2(a)(iii) | Yes |
| Total No of Docs | | | | | | |
| 1 | | | | | | |

INFRINGEMENT NOTICE DECLARATION SOP

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What is an Infringement Notice Declaration?

An Infringement Notice Declaration is made when a person was not in possession or control of the vehicle at the time of the offence and is required to nominate the person or entity (known user) who was in possession or control of the vehicle. The applicant must submit a written statement by completing an approved declaration form.

When can someone submit an Infringement Notice Declaration?

Currently, the Infringement Review Office allows a person or a corporation to submit an Infringement Notice Declaration if they have been served with any of the below. The infringement status will appear in Rego.ACT as one of the following:

- Infringement Served (INF_SRVD)
- Reminder Notice Issued (RNTC_SRVD)
- Courtesy (CLTR_PRTD)
- Sanctioned (SANCTIONED)

Important Note: *The above allowance is only temporally in place as a courtesy to the community. Currently legislative requirements do not allow a person or a corporation to submit an Infringement Notice Declaration after a Warning Notice of Suspension (Courtesy Letter) has been served, without the administering authority accepting an Out of Time application first.*

What is a person's obligation?

(Section 33 of the *Road Transport (General) Act 1999*)

A responsible person for a vehicle must take **all reasonable steps** to give the administering authority sufficient information to identify and locate the individual who was in possession or control of the vehicle at the time of offence.

Meaning of **all reasonable steps**:

- Give the administering authority an infringement notice declaration for the offence within the time required
- Properly and accurately complete all required fields on the infringement notice declaration or approved form

As the administering authority, what are our obligations?

(Division 3.2 section 35 of the *Road Transport (General) Act 1999*)

When a client submits an Infringement Notice Declaration on their infringement notice, we must either:

- Allow the application, or
- Refuse the application, or
- In writing, ask the applicant or a person mentioned in the application for further information to assist the authority to make a decision.

We must also inform the client of:

- The date of the authority's decision.
- If the authority refuses the application – the reason for the decision

In accordance with section 14 of the *Road Transport (Offences) Regulation 2005* the administering authority must serve the infringement notice on the nominated person as soon as practicable, but not later than **1 year**, after the authority **accepts** the infringement notice declaration.

Meaning of **accepts**:

- To give admittance or approval to.

To accept an infringement notice declaration, the administering authority must review it and make a determination (allow, refuse or ask for more information).

What are the types of Infringement Notice Declarations?

In accordance with Division 3.1 section 21A of the *Road Transport (General) Act 1999*, an Infringement Notice Declaration means any of the following:

- Known User declaration;
- Sold Vehicle declaration;
- Illegal User declaration;
- Unknown User declaration

Known User Declaration

(Section 14G of the *Road Transport (Offences) Regulation 2005*)

A Known User declaration should be submitted by the responsible person for a vehicle when they were **not** in possession or control of the vehicle at the time of the offence or by the person that **was** in possession or control of the vehicle at the time of the offence. The following information must be included in the Known User declaration:

- **if the person is the responsible person and an individual**—a statement to the effect that the person was not the person who was in possession or control of the vehicle at the time of the offence; or
- **if the person is not the responsible person and is an individual**—a statement to the effect that the person was the person (the known user) who was in possession or control of the vehicle at the time of the offence;

Sold Vehicle Declaration

(Section 14H of the *Road Transport (Offences) Regulation 2005*)

A Sold Vehicle declaration should be submitted by the responsible person for a vehicle, or the person named in the infringement notice, when they have sold or disposed of the vehicle involved in the infringement notice prior to the time of the offence.

Illegal User Declaration

(Section 14F of the *Road Transport (Offences) Regulation 2005*)

An Illegal User declaration should be submitted by the responsible person for a vehicle, or the person named in the infringement notice, when the vehicle involved in the infringement notice offence has been used without their permission (illegally used) or stolen.

Unknown User Declaration

(Section 14I of the *Road Transport (Offences) Regulation 2005*)

An Unknown User declaration should be submitted by the responsible person for a vehicle, or the person named in the infringement notice, when they do not know who the person/driver that was in possession or control of the vehicle involved in the infringement notice offence. The following information must be included in the Unknown User Declaration:

- if the person is an individual—a statement explaining why the person did not have possession or control of the vehicle at the time of the offence;
- if the person is a corporation—a statement about whether or not the vehicle was being used for an approved corporate use at the time of the offence;

In both situations above the person completing the declaration must provide the following:

- a statement explaining why the person could not find out the identity of the person who was in possession or control of the vehicle at that time;
- a statement about the steps, including any inquiries, the person has taken to establish the identity of the person who was in possession or control of the vehicle at that time;
- the name and home address or business address of the last person known to the responsible person to have been the person who was in possession or control of the vehicle;
- the name and home address or business address of each person who at that time had access to the vehicle.

What if the nominated person states that they were not in possession or control of the vehicle?

There may be an occasion that after an infringement has been transferred to a nominated person, they claim that they were not in possession or control of the vehicle at the time of the offence.

If this happens, the infringement needs to revert to the registered operator of the vehicle. A letter should be sent to the registered operator stating that it is their responsibility to provide further evidence to support their claim that they were not in possession or control of the vehicle at the time of the offence.

How to assess an Infringement Notice Declaration

Known User Declaration

In determining whether to approve a Known User declaration, we must consider several criteria. The declaration should be approved if:

1. The declaration is complete with all relevant information provided (declarations submitted online do not require the applicant to sign the declaration).
2. The applicant has provided sufficient identification details for us to identify the nominated person (ie name, address, date of birth and Australian driver licence number).
3. The person nominated has not previously been nominated for the same infringement (the infringement on rego.act will show a history of previously processed declarations).

When would a Known User declaration not be approved?

- The applicant has failed to supply sufficient information to find their infringement; or
- The applicant has failed to supply sufficient details for us to identify the nominated person; or
- The infringement is on hold for anything other than the declaration ie dispute, withdrawal, waiver, internal review, in a payment plan (WDP and INMP) or court process.
- The infringement has been paid in full. **Note:** *If an applicant provides further documented evidence confirming they did not pay the infringement, this may be reviewed again by a Team Leader for consideration to accept the declaration.*

If a declaration is refused, the due date should remain the same as when the application was submitted. If the due date has passed, record an extension of 2 weeks to allow time for the client to take up another option.

Note: *If an applicant supplies a Known User declaration nominating a person with an **overseas address**, the declaration **must** be processed as a ‘Overseas User Declaration’. Please refer to the Rego.act Procedure – How to record an Infringement Notice Declaration.*

Sold Vehicle Declaration

In determining whether to approve a Sold Vehicle declaration, we must consider several criteria. The declaration should be approved if:

1. The declaration is complete with all relevant information provided (declarations submitted online do not require the applicant to sign the declaration).
2. The applicant has provided sufficient identification details of the nominated buyer/person to identify the buyer/person on Rego.ACT (ie First name and Surname, home or business address, date of birth or Australian driver licence number).
3. The date and time the vehicle was sold on is prior to the offence date and time of the infringement notice.
4. The buyer/person nominated has not previously been nominated for the same infringement (the infringement on Rego.ACT will show a history of previously processed declarations).

When would a Sold Vehicle declaration not be approved?

- The applicant has failed to supply sufficient information to find their infringement; or
- The applicant has failed to supply sufficient details for us to identify the nominated buyer/person; or
- The sale date and time of the vehicle is **after** the offence date of the infringement notice; or
- The infringement is on hold for anything other than the declaration ie dispute, withdrawal, waiver, internal review, in a payment plan (WDP and INMP) or court process.
- The infringement has been paid in full. **Note:** *If an applicant provides further documented evidence confirming they did not pay the infringement, this may be reviewed again by a Team Leader for consideration to accept the declaration.*

If a declaration is refused, the due date should remain the same as when the application was submitted. If the due date has passed, record an extension of 2 weeks to allow time for the client to take up another option.

Illegal User Declaration

In determining whether to approve an Illegal User declaration, we must consider several criteria, as the approval of an Illegal User declaration withdraws the infringement notice. The declaration should be approved if:

1. The declaration is complete with all relevant information provided (declarations submitted online do not require the applicant to sign the declaration).
2. The applicant has provided sufficient information in relation to the date and time the vehicle was stolen or illegally used.
3. The date and time the vehicle was stolen or illegally used is prior to the offence date and time of the infringement notice.

4. The applicant has provided sufficient identification details of the last person/s known to them to have access to the vehicle involved in the infringement notice (ie First name and Surname, home or business address, date of birth or Australian driver licence number).
5. The applicant has provided sufficient information in relation to when and to whom the vehicle was reported stolen or illegally used (ie Stolen Vehicle Police Report Reference Number).

When would an Illegal User declaration not be approved?

- The applicant has failed to supply sufficient information to find their infringement; or
- The date and time the vehicle was stolen or illegally used is after the offence date of the infringement notice; or
- The contents of the police report does not support the information provided in the Statutory Declaration; or
- The infringement is on hold for anything other than the declaration ie dispute, withdrawal, waiver, internal review, in a payment plan (WDP and INMP) or court process.
- The infringement has been paid in full. **Note:** *If an applicant provides further documented evidence confirming they did not pay the infringement, this may be reviewed again by a Team Leader for consideration to accept the declaration.*

If a declaration is refused, the due date should remain the same as when the application was submitted. If the due date has passed, record an extension of 2 weeks to allow time for the client to take up another option.

Unknown User Declaration

In determining whether to approve an Unknown User declaration, we must consider several criteria, as the approval of an Unknown User declaration withdraws the infringement notice. The declaration should be approved if:

1. The declaration is complete with all relevant information provided (declarations submitted online do not require the applicant to sign the declaration).
2. The applicant has provided sufficient information as why they were not in possession or control of the vehicle at the date and time the offence.
3. The applicant has provided sufficient information explaining why they are unable to provide the identity of the person who was in possession or control of the vehicle at the date and time the offence.
4. The applicant has provided sufficient information about the steps and inquiries they have made to find the identity of the person who was in possession or control of the vehicle at the date and time the offence.
5. The applicant has provided sufficient identification details of the last person/s known to them to have access to the vehicle involved in the infringement notice (ie First name and Surname, home or business address, date of birth or Australian driver licence number).

Note: All unknown user declarations must be approved by a team leader before actioning in rego.

When would an Unknown User declaration not be approved?

- The applicant has failed to supply sufficient information to find their infringement; or
- The applicant has not provided sufficient information about the steps and inquiries they have made to identify the person in possession or control of the vehicle; or
- The infringement is on hold for anything other than the declaration ie dispute, withdrawal, waiver, internal review, in a payment plan (WDP and INMP) or court process.
- The infringement has been paid in full.

If a declaration is refused, the due date should remain the same as when the application was submitted. If the due date has passed, record an extension of 2 weeks to allow time for the client to take up another option.

Domestic Violence and Other Sensitive issues

If a client is claiming that they were victim of domestic violence of any other sensitive issues, please refer the application to your team leader for more direction.

How to find a client in Rego.act or NEVDIS

Rego.act

When searching for a client in Rego.act, team members should use the client's drivers licence number (if ACT licence holder) to search initially, marrying up the record with the name and date of birth provided on the statutory declaration.

If no drivers licence has been provided, or, the client is an interstate licence holder, team members should search by full name and date of birth, ensuring that the details marry up with the full name, date of birth **and** address.

If the addresses are different, the address on Rego.act should be used as the official last known address that has been nominated by the client.

NEVDIS

When a client cannot be located in Rego.act, the team member should look for a record in NEVDIS.

If the client is an interstate licence holder and has provided the licence number and jurisdiction, this licence should be searched initially. When this record has been located, the team member needs to check that the licence is active.

Note: Client's may have several licences from several jurisdictions. If the licence that has been searched is inactive, a secondary NEVDIS search should be completed with the client's full name and date of birth. This should provide you with all licences held by that client. You will need to check each licence to determine which licence is the active licence and use this for your records.

If the client is an interstate licence holder and hasn't provided their licence number and jurisdiction, you will need to search by the client's full name and date of birth. If you are unable to identify the nominated person using this method, you will need to request more information (licence number and jurisdiction) from the applicant. The licence that is currently active needs to be used, and a new client will need to be created in rego.act.

In order to create a new client please see the [Creating a new client record in rego.act](#) SOP located in Objective.

Demerit Point Exchange (DPX)

An infringement that has proceeded to courtesy will also show demerit points either scheduled and/or processed to an interstate licence prior to a statutory declaration being submitted.

The demerit points are applied to interstate drivers licence by the DPX (Demerit Point Exchange)

This is a two step process:

Step 1 : Scheduled for DPX Notification (Not yet sent to exchange no action required)

Step 2 : Processed and added to DPX Export file (Demerits recorded on licence)

Sch 2.2(a)(iii), Sch 2.2(a)(xi)



If a statutory declaration is submitted after the demerit point exchange has taken place, we **MUST** notify the relevant state or territory that the demerit points need to be reversed from the drivers licence as the original client was not responsible for the offence.


To complete this, please send an email to the relevant jurisdiction below:

Sch 2.2(a)(x), Sch 2.2(a)(iii)



Template for email

Sch 2.2(a)(iii)



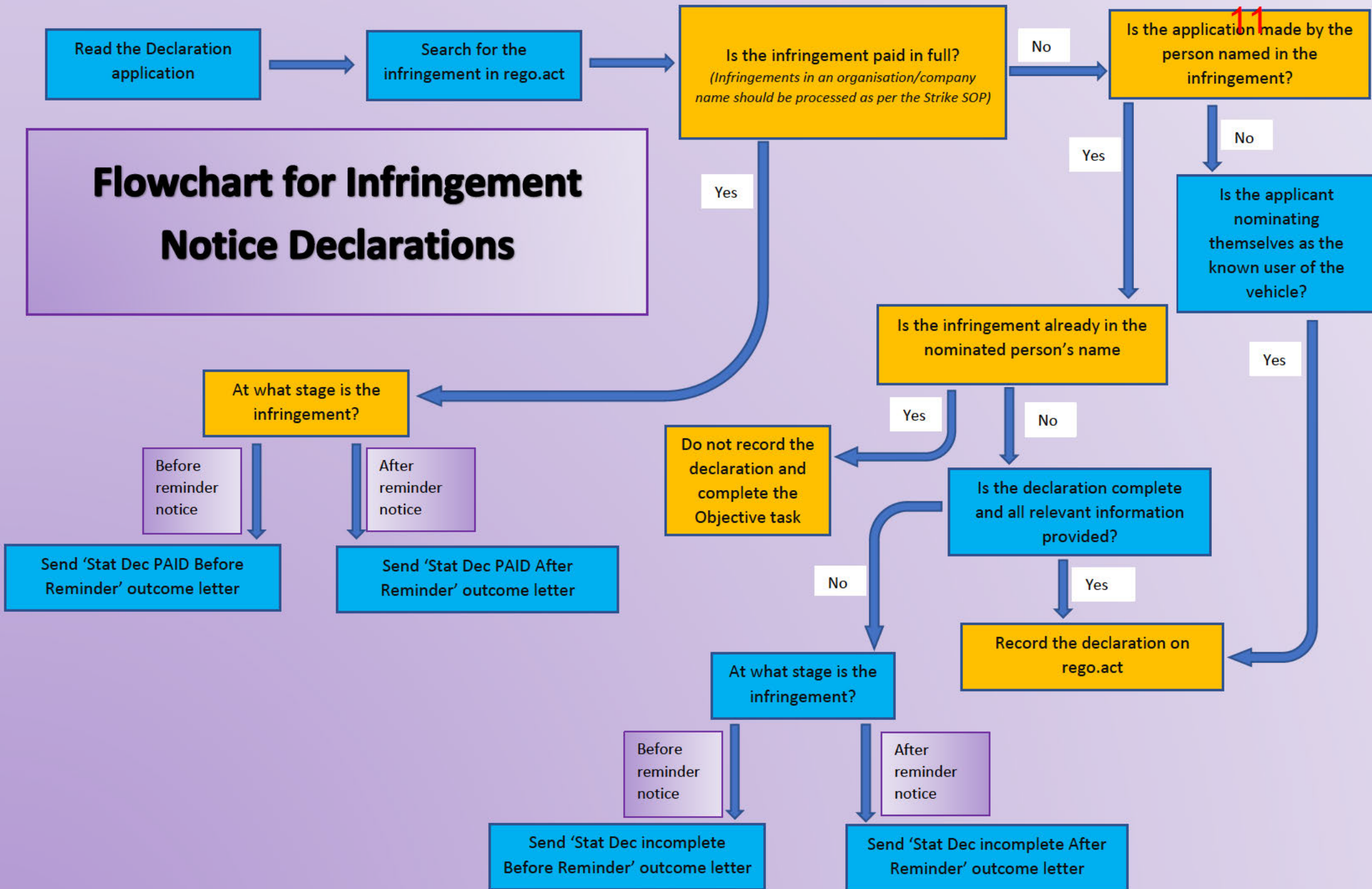
Sch 2.2(a)(iii)



The demerit point removal request email should be saved into the client's workslip.

Flowchart for Infringement Notice Declaration

Flowchart for Infringement Notice Declarations



Sch 2.2(a)(iii), Sch 2.2(a)(xi)

