

Annual Report on the Infringements System

2012-13

Infringement Management and Enforcement Services

Contents

Executive Summary	3
1 Infringements System	4
2 Governance and Administration	5
2.1 The Infringements Act 2006.....	5
2.2 Attorney-General's Guidelines.....	5
2.3 Role of the Department of Justice	5
2.4 The Infringements Court.....	5
2.5 The Infringements Standing Advisory Committee (ISAC)	5
2.6 Enforcement agencies	5
2.7 Community sector and industry organisations.....	6
3 Infringements Policy.....	7
4 KEY INITIATIVES AND HIGHLIGHTS FOR 2012-13.....	8
Raising Public Awareness	8
Collaborating for enforcement	8
Fines Reform	9
5 INFRINGEMENTS REPORTING.....	10
6 INFRINGEMENTS ACTIVITY.....	11
7 INFRINGEMENTS AND ROAD SAFETY	14
8 INFRINGEMENTS AND LOCAL COUNCILS	16
9 INFRINGEMENTS AND OPTIONS FOR REVIEW	19
10 ENFORCEMENT ORDER ACTIVITY.....	22
11 REVOCATIONS ACTIVITY	23
12 INFRINGEMENTS AND FINANCIAL HARDSHIP	25
Appendix 1 List of enforcement agencies 2012-13	27

Executive Summary

5.82
Million
infringements

The State is responsible for managing the infringements system in Victoria. Infringements are issued by a variety of state and local government agencies including municipal councils, universities and hospitals.

Enforcement agencies are required by the *Infringements Act 2006* to provide information, including statistical data to the Attorney-General.

This report provides a brief snapshot of infringements issued during 2012-13. Where possible, comparative analysis in relation to the numbers and types of infringements has been made with previous reporting periods. A number of additional agencies are now reporting infringements data in 2012-13.

3.49
Million
Victoria Police

In 2012-13 there were 5.82 million infringement notices issued in Victoria. The number of infringements issued in Victoria has increased by 18 per cent since 2011-12, with Victoria Police continuing to issue the majority for traffic offences. Municipal councils issued 1.7 million infringements in 2012-13 (an increase of 2 per cent since 2011-12) with the majority of infringements issued for parking offences (1.65 million).

While government agencies (excluding Victoria Police) issue less than 10 per cent of the total infringements, the volume of these increased in 2012-13 due to a large number of infringements issued by the Victorian Electoral Commission for failure to vote in local and State elections held during this period.

1.7
Million
Municipal
Council

The majority of offences issued across all agencies continues to be for traffic (58 per cent of the total) and parking offences (30 per cent).

Victoria's road safety camera network continues to be an effective system for deterring high risk driver behaviour, with compliance rates for both the fixed and mobile cameras continuing to be exceptionally high.

547,000
Government
Agencies

A person can contest the initial decision to issue an infringement in court or request an internal review of the decision. Only one per cent of people issued with an infringement elected to go to court and most of the matters contested were for traffic offences, in particular those that relate to tolling offences.

77,000
Other

Less than half a million requests were made to enforcement agencies for an internal review, with 50 per cent of reviews reconfirming the infringement. Infringement notices that remain unpaid may be lodged by enforcement agencies with the Infringements Court. Enforcement orders may be made to request payment of the outstanding amount of the infringement penalty and for additional costs. In 2012-13, around 1.8 million orders enforcement were made, with only three per cent revoked.

To assist those experiencing financial hardship, agencies may offer individuals the option of paying their infringements via payment plans. Almost 600,000 payment plans were offered by enforcement agencies with 591,898 plans commencing, the majority to enable an extension of time for payment. Of those payment plans commenced, the default rate in 2012-13 was seven per cent.

The State continues to review the operation of the infringements system. Reforms to address how the State collects and enforces fines are being developed for implementation.

This Annual Report for 2012-13 and past reports are available from the Department of Justice's website at www.justice.vic.gov.au.

1 Infringements System

The infringement management system in Victoria provides an administrative framework for dealing with large numbers of offences across the state. Infringement offences are covered by more than 60 Victorian Acts and are administered by a wide variety of state and local government agencies, including municipal councils, universities and hospitals.

Infringement notices or 'on the spot fines' may be issued by enforcement agencies for a range of offences including parking, traffic and public transport offences. Fixed penalties apply to offences and give a person to whom an infringement notice is issued the option of paying a fixed penalty, rather than proceeding to a court hearing. The value of a penalty unit for a financial year is fixed by the Treasurer under the *Monetary Units Act 2004* and usually increases in accordance with the consumer price index.

The infringements system is intended to provide a simple, speedy and efficient means of disposing of matters in which the nature of the offending and the level of the penalty do not warrant judicial adjudication.

Key features of Victoria's infringement system include:

- ◆ a common process for issuing and enforcing infringement notices across enforcement agencies
- ◆ any person served with an infringement notice may elect to have the matter heard and determined in the Magistrates' Court
- ◆ the right for a person to have an infringement notice reviewed by the issuing agency where there may have been a mistake of law or identity, or where special or exceptional circumstances may apply
- ◆ a recognition that people with special circumstances (i.e. people with a mental or intellectual disability, disorder, disease or illness, a serious addiction, or who are homeless) should not be dealt with through an automated enforcement process
- ◆ the availability of payment plans for people experiencing financial hardship
- ◆ strong enforcement measures against people who refuse to pay their fines.

If the infringement notice is paid, the payment will exiate the wrongdoing. No further proceedings may be taken against the offender in respect of the conduct which is the subject of the infringement notice, and there is no conviction recorded against them.

2 Governance and Administration

2.1 The Infringements Act 2006

The *Infringements Act 2006* (the Infringements Act) provides the framework for the issuing, serving and enforcement of infringement notices in Victoria. The Infringements Act is supported by the Infringements (General) Regulations 2006 and the Infringements (Reporting and Prescribed Details and Forms) Regulations 2006.

The Attorney-General is the Minister responsible for the Infringements Act and for general oversight of the infringements system.

2.2 Attorney-General's Guidelines

Under the Act, the Attorney-General has issued Guidelines (the *Attorney-General's Guidelines to the Infringements Act*) that explain the fundamental principles underpinning the Infringements Act. The purpose of the Guidelines is to:

- ◆ assist enforcement agencies in meeting their responsibilities for issuing infringement notices for offences and for the enforcement of infringement notices, and
- ◆ set out the policy outlining which offences are appropriate to be dealt with by way of infringement and how that policy should be applied by agencies seeking to make new offences infringeable.

The Attorney-General's Guidelines are available from the Department of Justice's website at www.justice.vic.gov.au.

2.3 Role of the Department of Justice

The Department of Justice supports the Attorney-General and the Government in the administration of the Infringements Act and the infringements system.

Enforcement agencies that propose to create new or vary existing infringement offences must consult with the Infringements System Oversight Unit (ISOU), a business unit within the Infringement Management Enforcement Services (IMES) branch of the Department of Justice. The role of ISOU is to provide advice to the Attorney-General and the Government on infringements policy, scrutinise all proposals to introduce new infringement offences or review existing infringements and provide information to stakeholders (such as enforcement agencies) on the operation of the infringements system.

2.4 The Infringements Court

The Infringements Court is a venue of the Magistrates' Court, which deals with the processing and enforcement of infringement notices and penalties, such as speed camera and parking fines.

The role of the Infringements Court is to resolve large numbers of unpaid infringement notices lodged by enforcement agencies for offences (such as speeding, parking or littering) that have fixed penalties. The Infringements Court is designed to reduce the workload on judicial and administrative resources of the hearing courts without removing the right of any individual to appear before a magistrate.

2.5 The Infringements Standing Advisory Committee (ISAC)

The Infringements Standing Advisory Committee (ISAC) is convened by the Department of Justice and is made up of representatives from Victoria Police, state government agencies, local government, the Infringements Court and the Magistrates' Court, and other non-government community legal organisations. ISAC provides an opportunity for stakeholders to meet and canvass a wide range of views on the infringements system and consider developments in infringements policy and practice.

2.6 Enforcement agencies

Infringements may be issued by state government agencies or enforcement agencies upon detection of an infringement offence. Government agencies administer a number of primary Acts that create infringement offences. The infringement penalty amount is fixed in the relevant legislation that sets out the offence.

While there are many government agencies with legislative powers to issue infringements, not all will do so.

There are over 120 enforcement agencies throughout Victoria, comprising state government (such as Victoria Police and the Department of Transport, Planning and Local Infrastructure), local government and some non-government agencies (such as hospitals and universities). Enforcement agencies must be authorised by or under legislation (the power to issue infringements comes from each separate Act). A list of enforcement agencies issuing infringements in 2012-13 is included at Appendix 1.

2.7 Community sector and industry organisations

Many community and industry sector organisations indirectly play an important role in the infringements system. Community sector organisations are involved in advocacy and support work, while there are a number of peak industry bodies that represent those with an interest in the infringements system. Some of these organisations include:

- ◆ Municipal Association of Victoria
- ◆ Local Government Professionals
- ◆ Public Interest Law Clearing House
- ◆ Federation of Community Legal Centres
- ◆ Youth Law
- ◆ Financial and Consumer Rights Council.

3 Infringements Policy

The Attorney-General's Guidelines (Ann.A) outlines the current policy related to infringement offences. This policy requires the Department of Justice to be consulted when new infringement offences are proposed by government agencies and outlines the principles used to determine the suitability of a particular offence to be enforced by infringement notice. Agencies are expected to comply with this policy when proposing new infringement offences, as this will:

- ✓ ensure that infringement notices are used appropriately as an alternative way of dealing with certain offences
- ✓ ensure consistency in the use of infringement notices. Consistency of approach is crucial to maintaining public understanding of, support for and compliance with the infringements system
- ✓ maintain Victoria's high voluntary compliance rate with infringement notices.

The policy sets out that for offences to become infringement offences their suitability must be considered in terms of the gravity of the offence, clarity about what constitutes the offence, the level of the penalty and consequence of issuing an infringement notice or payment of an infringement penalty.

ISOU provides advice to legislating agencies on the suitability of certain offences for enforcement by infringement. This involves consultation with government agencies about new policy initiatives, appropriate penalty levels and where applicable, any operational issues. During 2012-13, the Department consulted with a number of government agencies on a range of offences including in relation to:

- road safety
- heavy vehicle national law
- fisheries
- conservation, forests and lands
- education
- major sporting events
- tobacco
- mineral resources.

4 KEY INITIATIVES AND HIGHLIGHTS FOR 2012-13

Given that almost 60 per cent of infringements issued are vehicle related matters, the Department continues to focus on raising public awareness, targeted enforcement activity and long term legislative

Raising Public Awareness

Road safety remains a top priority as 58 per cent of infringements issued in 2012-13 related to traffic offences like speeding or running red lights. This year, the government commenced a new campaign, "See the Bigger Picture. Cameras Save Lives".

The highly successful media campaign commenced in November 2012 and concluded in June 2013.

The campaign comprised radio and television commercials as well as a relaunch of the enhanced "Cameras Save Lives" website. The website demonstrates the role of speed cameras in reducing road trauma and highlights their positive contribution to the road safety program. The site also serves to offer complete transparency around the road safety camera program in Victoria. It includes information on infringement statistics, providing quarterly data on such things as on-the-spot, fixed camera, mobile camera and tolling fines.

More information can be found on the "Cameras Save Lives" website at www.camerassavelives.vic.gov.au.



Collaborating for enforcement

The Department of Justice is working with other enforcement agencies to improve enforcement outcomes.

In 2012-13, IMES and the Victorian Taxi Directorate (now known as the Taxi Services Commission)¹ worked together to reduce the amount of outstanding warrants against taxi drivers, who represent a large proportion of those people with outstanding warrants. A two staged approach was taken which included:

- ◆ sending a clear message of deterrence to the taxi driving community through publications in the monthly 'Taxi Talk' magazine and the Victorian Taxi Directorate's Taxi e-News, and
- ◆ conducting a joint compliance program, which included Sheriff's Officers issuing Notices of Intention to Suspend, arresting some drivers and clamping vehicles relating to outstanding infringements worth a combined value of more than \$1 million.

IMES will continue to work with the Taxi Services Commission to establish a good long-term working relationship and jointly develop credible and effective enforcement systems.

¹ The Taxi Services Commission took over from the Victorian Taxi Directorate as regulator of Victoria's taxi industry on 1 July 2013 and will be responsible for the progressive roll out of major taxi reforms for the taxi industry.

Taxi Driver Blitz

From January to May 2013, IMES and the Victorian Taxi Directorate conducted targeted operations using GPS tracking to locate drivers who had failed to take action to deal with their fines.

This operation was the first of its kind to use GPS tracking and resulted in 51 drivers owing more than \$1 million in outstanding fines, being intercepted on the roads.

A number of drivers paid their warrants in full, with one driver paying more than \$8,000 to avoid having his taxi clamped. In total, taxi drivers paid almost \$50,000 during the operations.

The joint operation gained media attention with Channel 7 News attending one of the major blitz operations and supported the broader goal to increase awareness within the taxi industry of the importance of dealing with outstanding fines.

Fines Reform

The value of outstanding fines in Victoria, particularly those relating to infringements, is high and continues to grow. A small percentage of people are continuing to amass significantly high levels of debt.

The Government is continually looking at ways to improve the operation of the fines and infringement system to address the way the State collects and enforces fines. Funding of \$34.5 million was provided in the State budget to strengthen the fines and infringement system in Victoria. A number of reforms are being undertaken to result in a restructure of the entire infringements system. These changes will result in substantial legislative reform and upgrades to the infringements IT systems. In addition, significant reforms are proposed to provide disadvantaged and vulnerable people with better options to deal with their obligations and debt.

The proposed legislative reforms are expected to be introduced into Parliament during the 2013-14 financial year.

5 INFRINGEMENTS REPORTING

Enforcement Agencies provide detailing of the operation of the infringements system during a specified year in addition to providing information about activities and initiatives undertaken in any given financial year period and analysis of trends (if any) of infringements activity and enforcement action since the Act commenced.

This includes:

- ◆ The number of official warnings served in relation to each category of infringement offence.
- ◆ The number of official warnings withdrawn in relation to each category of infringement offence.
- ◆ The number of infringement notices served in relation to each category of infringement offence.
- ◆ The number of infringement notices withdrawn in relation to each category of infringement offence.
- ◆ The number of elections to court in relation to each category of infringement offence.
- ◆ The number of applications for internal review.
- ◆ More specific details of the decisions relating to the applications for internal review.
- ◆ The number of payment plan applications, offers and defaults.

In 2012-13 a number of enforcement agencies have commenced reporting of infringement data for the first time. These agencies issued a relatively low volume of infringements. The additional enforcement agencies included in this report should be considered when relying on comparative data from previous years.

In March 2013, the Government announced the amalgamation of a number of government departments. These changes came into effect on 1 July 2013 and data for the 2012-13 year will reflect the departments and naming conventions as they existed prior to amalgamation.

Enforcement agencies are required by the Infringements Act to provide information, including statistical data on infringements issued to the Attorney-General every six months. This information is used to compile the Annual Reports on the Infringement System, which have been prepared since 2006 when the current infringements system came into force.

The Infringements (Reporting and Prescribed Details and Forms) Regulations 2006 prescribe the information each enforcement agency is required to submit to the Attorney-General.

A list of enforcement agencies issuing infringements for 2012-13 is included in Appendix 1.



**120 +
Enforcement
Agencies**

6 INFRINGEMENTS ACTIVITY

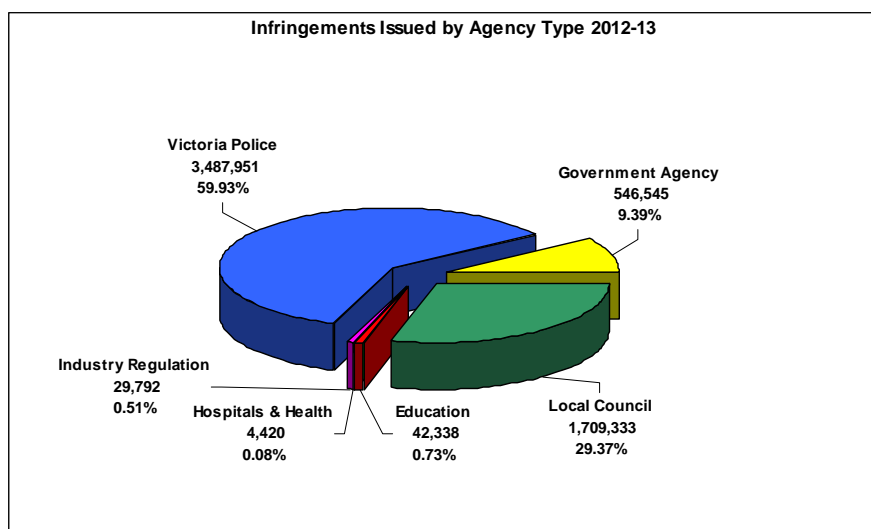
Infringements issued by agency type

In 2012-13 there were 5.82 million infringement notices issued in Victoria for a wide range of offences. This represents an 18 per cent increase in the number of infringement notices issued compared to the 2011-12 reporting period. Since reporting commenced in 2006-07, the numbers of infringements issued has increased by 28 per cent.

Figure 1 represents the numbers of infringements issued in 2012-13 according to type of enforcement agency. Victoria Police issued the majority of notices as they have wide powers to issue infringement notices across a broad range of legislation. The level of infringements issued by Victoria Police for 2012-13 is 3.49 million, 17 percent higher than the number of infringements issued in 2011-12 (2.84 million).

Local councils issue the second largest number of infringement notices. In 2012-13, local councils issued 1.7 million infringement notices, a two per cent increase in the number issued in 2011-12 (1.67 million).

Figure 1: Infringements issued by agency type 2012-13



While government agencies only represent 9.4 per cent of the total number of infringements issued in 2012-13, the number of infringements issued by them increased by 62 per cent from 206,303 in 2011-12 to 546,545 in 2012-13. This is partly due to the numbers of infringements issued by the Victorian Electoral Commission (VEC) in 2012-13. During this period, the VEC conducted 78 local government elections, two State by-elections and one local government by-election compared to only one State by-election and three local government by-elections in 2011-12. Failure to vote is an infringeable offence.

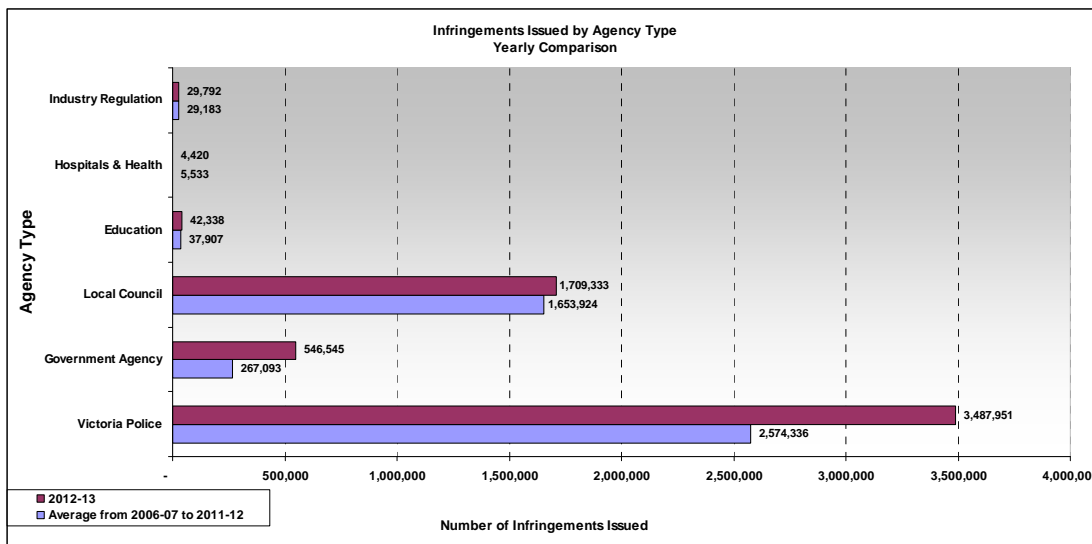
Infringements issued by education and industry regulators in 2012-13 have increased by seven and 11 per cent respectively since 2011-12. Universities and TAFE colleges issued only 0.7 per cent (42,338) of the total infringements for 2012-13, with Monash University issuing the most at around 52,000. Agencies involved in healthcare have decreased the numbers of infringements issued by 34 per cent (5,927 in 2011-12 compared to 4,420 in 2012-13). Northern Health and Bayside Health issued the greatest number of these infringements. It should be noted that healthcare infringements only make up 0.07 per cent of the total number of infringements issued overall in this reporting period.

Industry regulators such as statutory bodies and agencies including the Environment Protection Agency (EPA), Parks Victoria and the Victorian Taxi and Tow Truck Directorate can also issue infringements. Of these agencies, the EPA (15,779) and Parks Victoria (7,375) issued the largest numbers of infringements during 2012-13.

Industry regulators may issue notices for compliance with licensing regimes or standards, while agencies in healthcare are more likely to issue infringements for parking offences.

Figure 2 illustrates infringements issued by agencies over the period 2006-07 to 2011-12 compared to the 2012-13 reporting year.

Figure 2: Infringements issued by agency – yearly comparison of 2006-07 to 2011-12 and 2012-13



Official Warnings

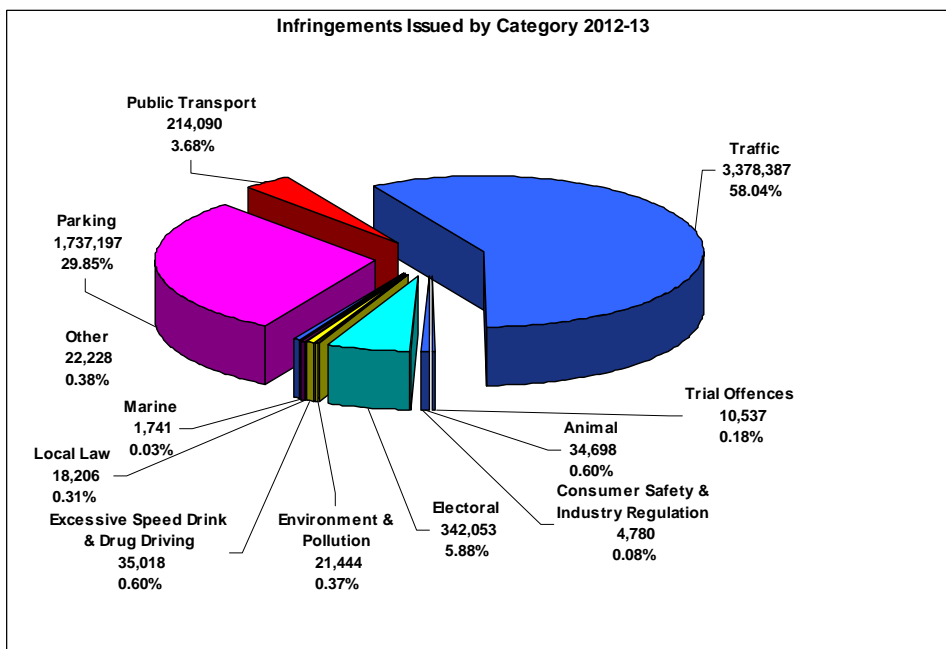
An official warning is a formal warning that agencies can issue instead of an infringement notice in respect of an infringement offence. In 2012-13 there were 155,785 official warnings issued. The issuing of an official warning does not in any way limit an issuing officer’s discretion to serve an infringement notice.

Official warnings may be withdrawn at any time up to six months, from the date of service of the official warning. In 2012-13, one per cent of the total number of official warnings issued were withdrawn (1,664).

Infringements issued by type of offence

Infringements are issued for a broad range of offences and can be categorised as set out in figure 3.

Figure 3: Infringements issued by category 2012-13



The majority of infringements issued for 2012-13 were for traffic offences (58 per cent) followed by parking offences (30 per cent). Traffic offences include infringements for speeding and red light offences as well as using a mobile phone while driving. Offences detected by speed cameras and any tolling offences are also included in this category.

Parking offences can be issued by local councils, VicRoads and Victoria Police. Infringements for parking offences remain quite high for 2012-13 (1,737,197 issued), but this represents only a three per cent increase from 2011-12 (1,684,905).

Infringements issued for electoral offences by the VEC spike during local council or state and federal elections. This was the third highest category of infringements issued in 2012-13. With the federal election held in September 2013 it is likely that these infringement numbers for the 2013-14 year will also be relatively high.

Public transport offences issued by Transport Safety Victoria include offences for fare evasion, disorderly conduct and smoking on public transport or in undesignated areas. Public transport infringements only increased by three per cent, from 206,913 (2011-12) to 214,090 (2012-13).

There were only marginal increases in the number of infringements issued under most categories of offences for the 2012-13 reporting year, with notable exceptions being a decrease in marine offences (down 34 per cent) and environment and pollution offences (down 33 per cent) since 2011-12. The decrease in offences for environment and pollution offences for 2012-13 is attributable to one council advising that data for 2011-12 for this category was incorrect – a figure of 9,000 was inaccurately recorded. This has subsequently been corrected as it will impact on trend data in future years.

All categories have been reported against since 2006-07 with the most increase in infringements issued since this time being for those infringements categorised as being 'other' offences (increase of 68 per cent) and traffic offences (increase of 34 per cent). Offences categorised as 'other' include those offences that do not fit within the general reporting categories as shown in figure 3 above. This may include offences across a range of statutes including those related to firearms; livestock, wildlife and domestic animals; and road management. Offences categorised as 'other' increased substantially from 5,483 in 2008-09 to 17,464 in 2009-10. Since 2009-10, 'other' infringement offences total on average 21,000 infringements per year. There is no single explanation for the marketed rise in infringements in this category other than more offences may now be contained under this reporting category.

7 INFRINGEMENTS AND ROAD SAFETY

Road Safety

Victoria's road safety partner agencies, Victoria Police, VicRoads, the Transport Accident Commission and the Department of Justice share responsibility for managing Victoria's road safety strategy. In March 2013, the Government launched Victoria's Road Safety Strategy 2013-2022 (the Strategy). The Strategy aims to reduce deaths and serious injuries on Victoria's roads by 30 per cent over the next ten years.

Underpinning the Strategy is the Road Safety Action Plan 2013-2016, detailing specific road safety initiatives that will be undertaken by the road safety partners over the first four years of the Strategy. The actions aim to respond to new and emerging road safety challenges through delivering innovative, evidence based road safety initiatives and improvements to Victoria's road network to reduce the road toll.

Road safety continues to target high-risk behaviour and keep road users safe through a combination of enforcement, education and public awareness initiatives, research and developments in engineering.

Road safety is a joint responsibility and all Victorians are encouraged to play their part in reducing the road toll and making safer choices.

Road Safety Camera Commissioner

The Road Safety Camera Commissioner, His Honour Gordon Lewis AM was appointed as the inaugural Road Safety Camera Commissioner in February 2012. In this role, the Road Safety Camera Commissioner is required under the *Road Safety Camera Commissioner Act 2011* to undertake reviews and assessments of the accuracy of the road safety camera system. During 2012-13, the Camera Commissioner conducted a number of investigations including:

- ◆ An investigation into the operation of eight incorrectly programmed traffic light controlled intersections and operation of the road safety cameras installed at them.
- ◆ A technical investigation of the road safety camera systems installed on EastLink.
- ◆ A technical investigation into some of the road safety cameras installed on the Western Ring Road.
- ◆ An investigation into mobile camera site selections.

Copies of his reports including any recommendations the Commissioner made and the Commissioner's Annual Report 2012-13 can be found on the Road Safety Camera Commissioner's website at <http://cameracommissioner.vic.gov.au>. This website was launched in April 2013, rebranded with a new corporate identity to reflect further the independence of the office.

“The link between excessive speed and the road toll is inarguable. The road safety camera system represents just one means to deter motorists from driving at excessive speeds. This in turn involves the imposition of speed restrictions, their enforcement, a fair, accurate and reliable method of measuring the speed of vehicles and an appropriate system of sanctions.”

HIS HONOUR GORDON LEWIS AM, Road Safety Camera Commissioner
Page 7, ANNUAL REPORT 2012–13

Road Safety Cameras – compliance rates

The Department of Justice oversees the road safety camera program, an integral part of the road safety strategy. Speed and red-light cameras improve road safety by reducing speeding, improving driver behaviour to lower the number of crashes and associated road trauma on Victoria's roads.

Victoria's road safety camera network continues to have exceptionally high compliance rates for both fixed and mobile cameras placed at carefully chosen locations throughout the road network. The cameras are placed at particular locations across Victoria and are aimed at preventing drivers from:

- exceeding the speed limit
- failing to stop at red lights and red arrows
- driving an unregistered vehicle
- failing to stop at red warning lights at railway level crossings.

There are two types of camera systems, fixed and mobile. Of the thousands of motorists who pass speed cameras, approximately 99 per cent comply with the speed limit. The remaining one per cent or so of motorists will be issued with an infringement notice. The high level of compliance for both fixed and mobile cameras is shown in figures 4 and 5. As can be seen there is little fluctuation on a yearly basis

Figure 4: Compliance rates for fixed cameras – yearly comparison 2006-07 to 2012-13

99 % of motorists comply with the speed limits

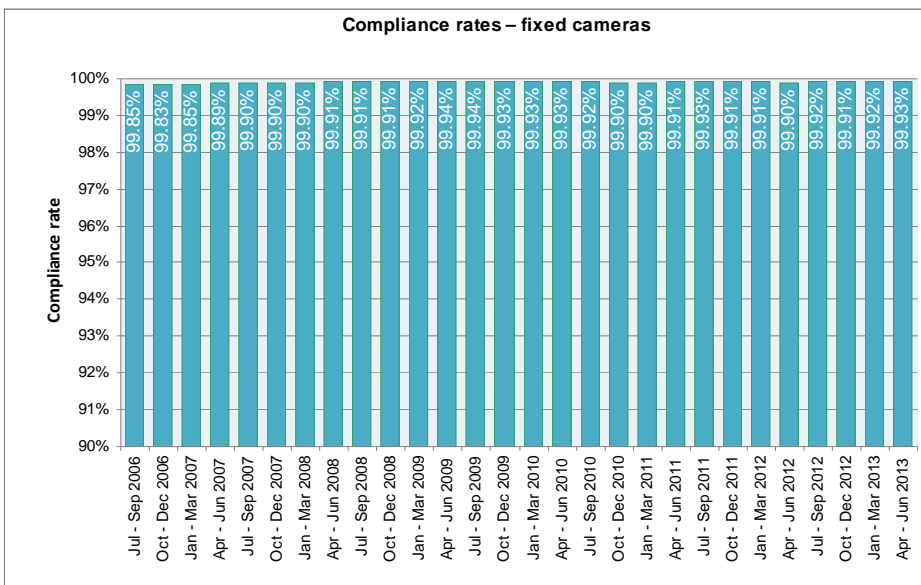
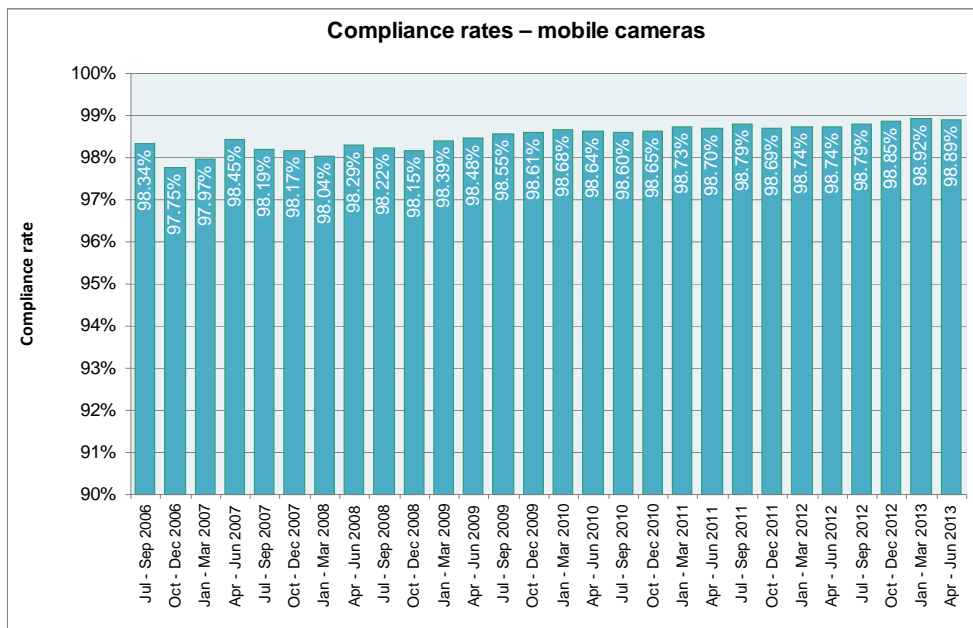


Figure 5: Compliance rates for mobile cameras – yearly comparison 2006-07 to 2012-13



The compliance percentage rate referred to in figure 4 (fixed camera) is calculated by comparing the number of vehicles that travel pass the fixed camera with the number of infringements associated with those cameras. Some fixed cameras do not record the number of vehicles travelling past and therefore are not included as part of the compliance rates in figure 4.

Mobile cameras record details of the number of vehicles that pass the camera location. As shown in figure 5, compliance rates for mobile cameras are only marginally lower than that for fixed cameras and compliance rates on average are 98.8 per cent.

Road Safety infringements

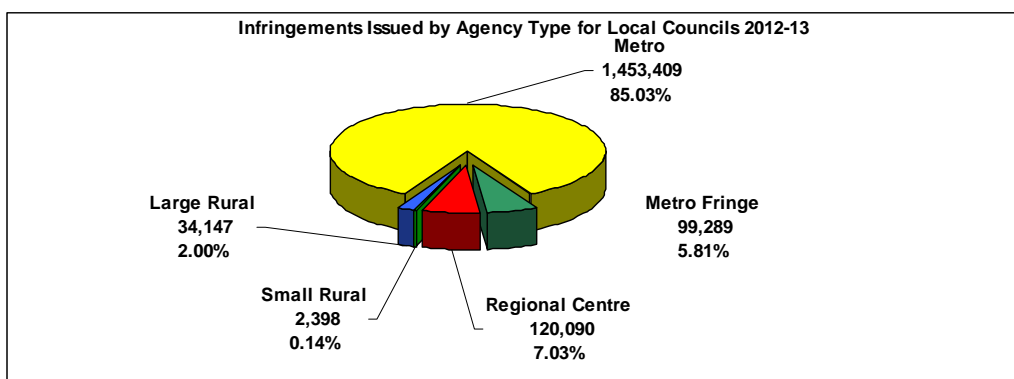
The 'Camera Save Lives' website provides quarterly statistics on the volumes of infringements and trends. This information will not be replicated for the purposes of this report, as it is available from the website at www.camerassavelives.vic.gov.au.

8 INFRINGEMENTS AND LOCAL COUNCILS

There are 79 local councils in Victoria responsible for issuing infringements across a range of offences. These councils are included in the list of enforcement agencies provided at Appendix 1. Councils throughout Victoria are classed according to the size of the population they serve: large rural, metropolitan, metropolitan fringe, regional centre or small rural.

Councils issued 1,709,333 infringements in 2012-13 as shown in Figure 6. Metropolitan councils issued the majority of these infringements (85 per cent) which is consistent with the number of infringements issued in 2011-12 (1,424,636 or 85 per cent).

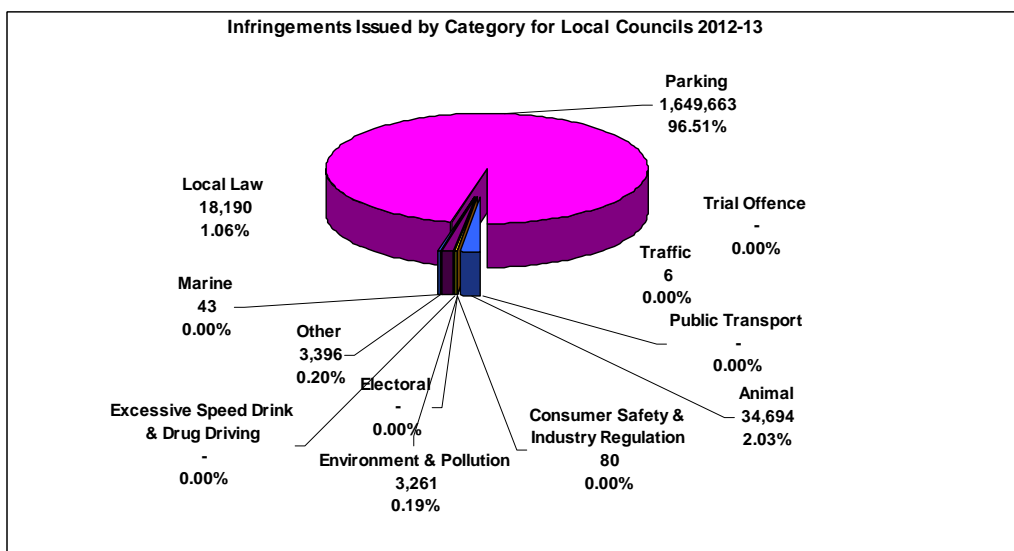
Figure 6: Infringements issued by type of council 2012-13



The total number of infringements issued by councils has only increased by 2 per cent since 2011-12 (1,673,034 compared to 1,709,333) and grown at a rate of eight per cent since 2006-07 (1,572,223).

The majority of council issued infringements are for parking offences (98 per cent) with many of the metropolitan councils issuing large quantities. Figure 7 illustrates the number of infringements issued by category for 2012-13.

Figure 7: Infringements issued by category for local councils 2012-13



The larger councils across Victoria have the highest volumes of infringements. In 2012-13 the councils with the highest numbers of infringements (relative to their locality) were Campaspe Shire Council, Surf Coast Shire, City of Melbourne, Port Philip Council, Hume City Council, City of Whittlesea, Greater Geelong City Council, Ballarat City Council, Benalla Rural City Council and the Borough of Queenscliffe.

The largest number of parking infringements issued in 2012-13 by a metropolitan council were issued by the City of Melbourne. Metropolitan councils since 2009-10 have issued on average 1.4 million parking infringements. It is likely that as populations in these metropolitan councils grow, infringements for parking offences will continue to increase.

Growth in council issued infringements from 2011-12 to 2012-13 by category has been relatively small. Infringement volumes for animal, parking, local laws and consumer safety and industry regulation grew

by two, three, five and nine per cent respectively. As indicated earlier in section 6, Infringements Activity, a recording error was identified in the 2011-12 data in relation to the number of environment and pollution infringements issued. An assessment of data since 2006 revealed this anomaly and the reporting of offences is now on par with the amount issued in previous years.

The following three graphs (figures 8 to 10) represent those infringements issued by category for metropolitan fringe, regional centres and small rural councils for 2012-13.

Figure 8: Infringements issued by category for metro fringe 2012-13

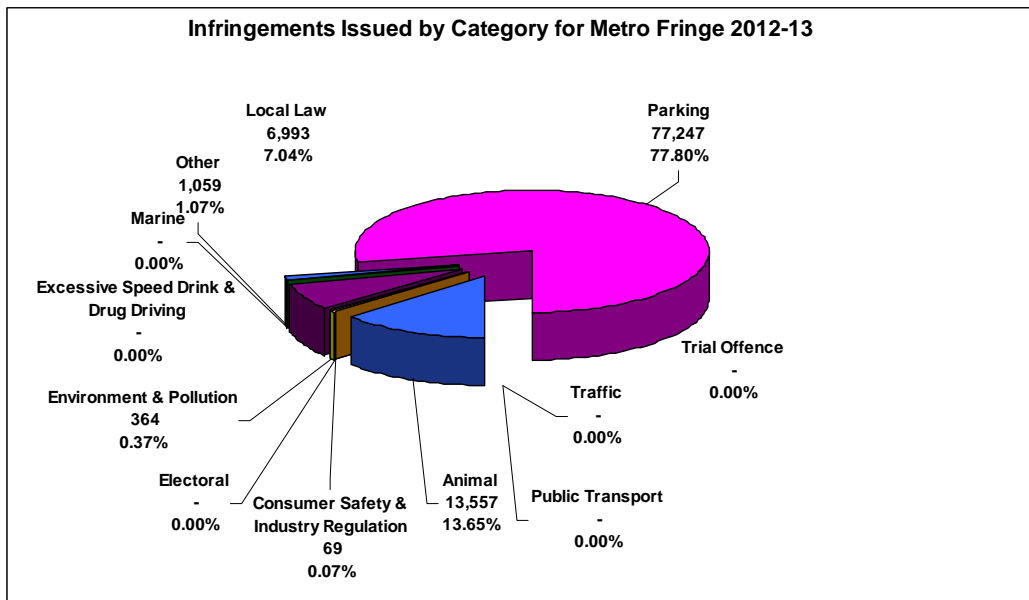


Figure 9: Infringements issued by category for regional centre 2012-13

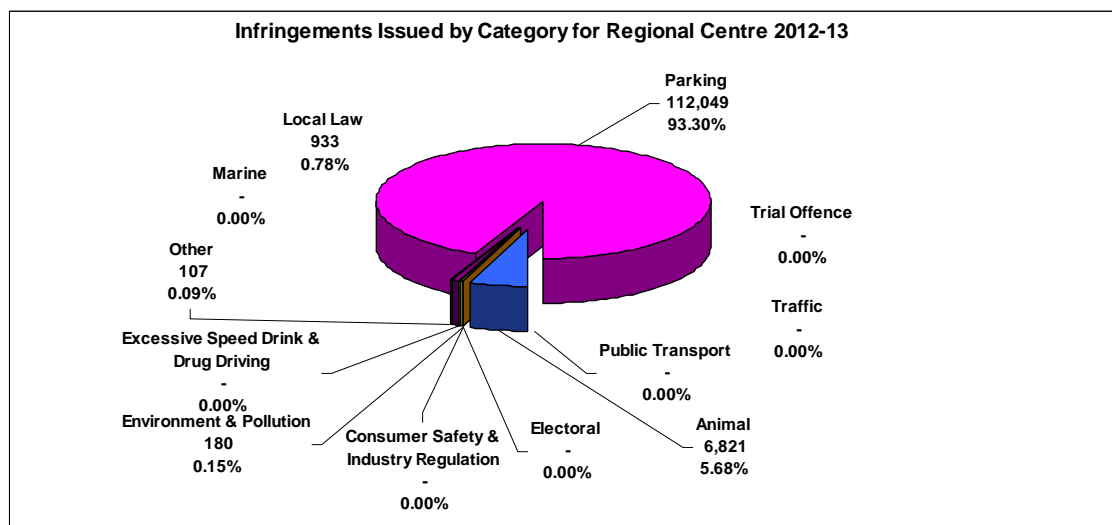
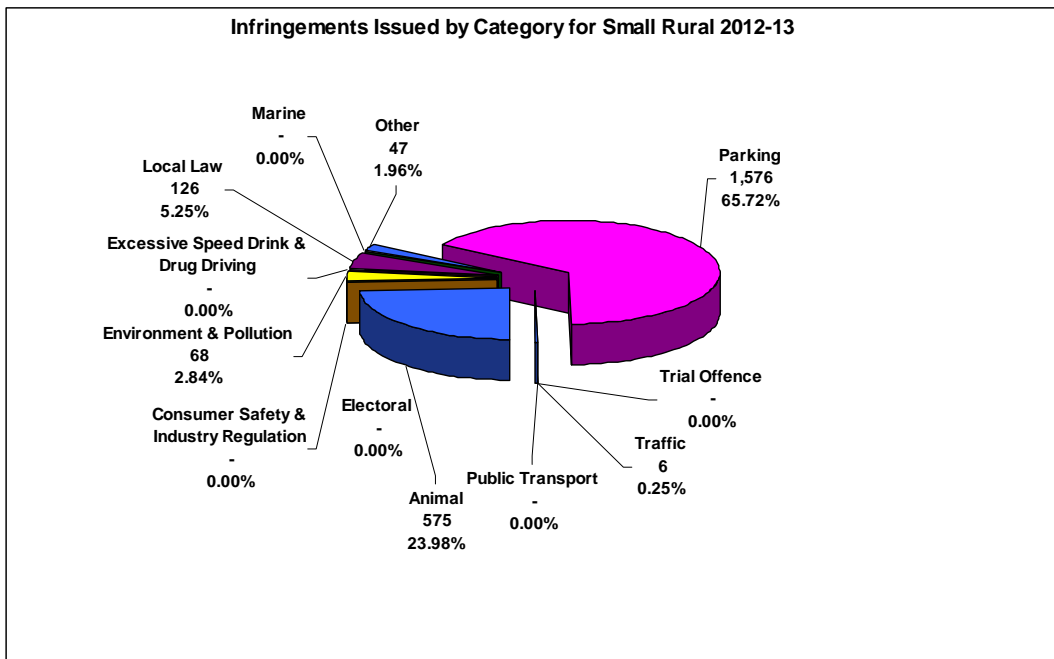


Figure 10: Infringements issued by category for small rural 2012-13



While parking infringement volumes are significant in metropolitan fringe, regional centre and small rural council areas, infringements for other offences such as those related to animals are more significant in metropolitan councils (only 0.73 per cent are issued in metropolitan councils).

The total number of infringements issued since 2011-12 has increased in regional centres and small rural councils (6 and 31 per cent respectively), while infringements in metropolitan fringe councils have decreased by 0.05 per cent.

9 INFRINGEMENTS AND OPTIONS FOR REVIEW

The decision to issue an infringement notice is discretionary and enforcement agencies have the option of issuing an official warning, issuing an infringement or electing to prosecute in the Magistrates' Court. For most infringement penalties, a person receiving the infringement has the following options:

- ◆ pay the infringement penalty
- ◆ ask for an internal agency review
- ◆ ask for additional time to pay
- ◆ ask to pay by instalments
- ◆ elect to go to court.

A person cannot negotiate with an enforcement agency to lower the infringement penalty amount as this amount is set in the relevant legislation in relation to the offence and cannot be altered.

The infringements system includes legislative timeframes that will trigger enforcement actions when an infringement remains unpaid. The options as outlined above, such as internal review and electing to contest the infringement notice in court, allow the fairness of the initial decision to issue an infringement to be tested.

Electing to go to court

Only a small percentage of people who receive infringement notices elect to go to court. In 2012-13, only one per cent (60,676) of the total number of infringements (5,820,379) issued were contested in court. The majority of matters contested in court were for traffic offences (50,894 or 83 per cent) with 20,496 (34 per cent) for infringements related to toll enforcement.

Internal Review

A person who receives an infringement notice has a right under the Infringements Act to have the issuing enforcement agency review the decision to issue the infringement notice. This process is known as 'internal review'.

A person or someone acting on their behalf is entitled to apply for review of an infringement notice on any of the following grounds:

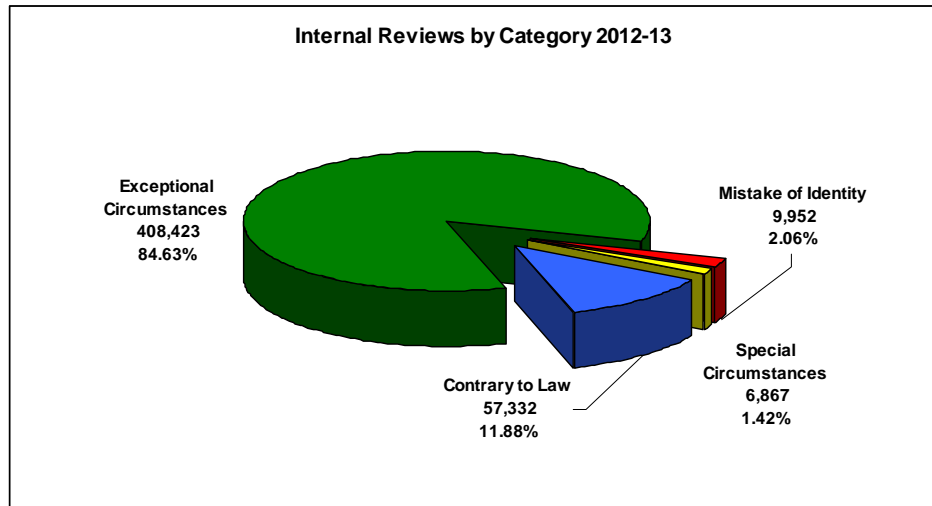
- (a) The infringement was issued contrary to law, or there was a mistake of identity in the infringement notice
- (b) The person had special circumstances. Special circumstances are defined in the Infringements Act as:
 - a mental or intellectual disability, disorder, disease or illness resulting in the person being unable to understand or control the conduct that constitutes the offence
 - a serious addiction to drugs, alcohol or a volatile substance (for example, chroming) resulting in the person being unable to understand or control the conduct that constitutes the offence, or
 - homelessness, where this results in the person being unable to control the conduct that constitutes the offence.
- (c) There are other 'exceptional circumstances' that justify withdrawing an infringement notice.

The legitimacy and fairness of the original decision to issue an infringement notice can be tested independently and inappropriate decisions overturned and infringement notices withdrawn before any significant enforcement action has commenced.

The infringements system provides a process for internal review of most decisions relating to offences for which infringement notices can be issued. There are however a number of exceptions, with the right to an internal review not applying to offences such as those related to excessive speed, drink and drug driving.

In 2012-13, there were 482,574 requests to enforcement agencies for internal review. Figure 11 shows that internal reviews were requested based on the following grounds: exceptional circumstances, contrary to law, special circumstances and mistake of identity. As can be seen, exceptional circumstances make up the bulk of requests for internal review (84.6 per cent). This was also the case in 2011-12 when requests for exceptional circumstances made up 82 per cent (327,252) of all requests.

Figure 11 Internal reviews by category 2012-13



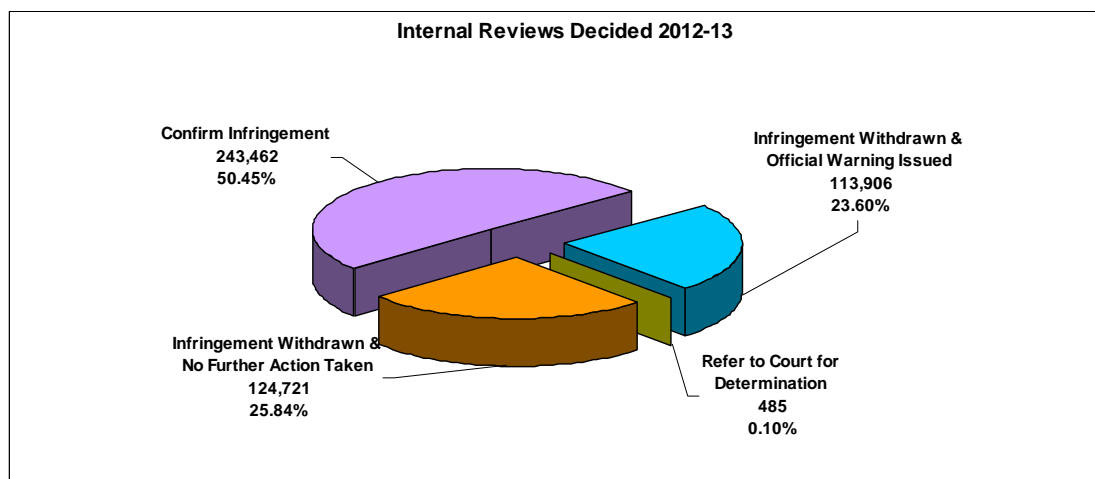
The number of requests to review an internal decision based on special circumstances has decreased from 8,520 (2.13 per cent) in 2011-12 to 6,867 (1.42 per cent) in 2012-13.

After completing a review of the decision to issue an infringement notice an agency has the option to:

- ◆ confirm the decision to issue the infringement notice
- ◆ refer the matter to court
- ◆ withdraw the infringement notice and take no further action
- ◆ withdraw the infringement notice and issue an official warning instead.

Figure 12 shows the outcomes of internal reviews decided in 2012-13. Of the total number of internal reviews in 2012-13 (482,574) over 50 per cent were confirmed, while 26 per cent were withdrawn and no further action taken and 24 per cent withdrawn and an official warning issued. This remains relatively consistent with the outcomes of internal reviews in 2011-12, where 53 per cent were confirmed, 22 per cent withdrawn and no further action taken and 25 per cent withdrawn and an official warning issued.

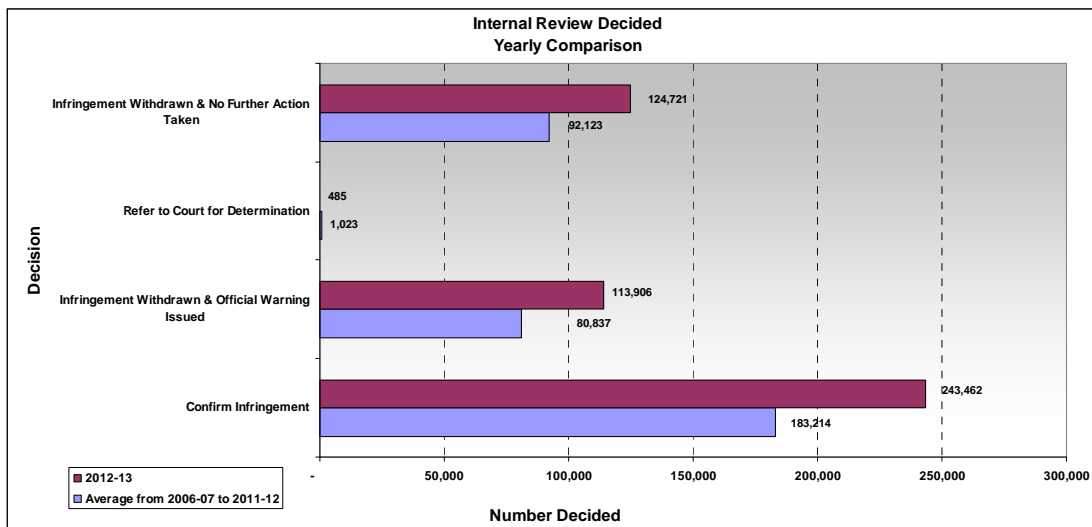
Figure 12: Internal reviews by decision 2012-13



If an agency confirms an infringement notice, a new date will be set and a person must pay the fine by that date or enforcement action will resume.

Figure 13 provides a comparative illustration of internal reviews for infringements decided for the period 2006-07 to 2011-12 compared to the reporting year 2012-13.

Figure 13: Internal reviews decided – yearly comparison



Special circumstances

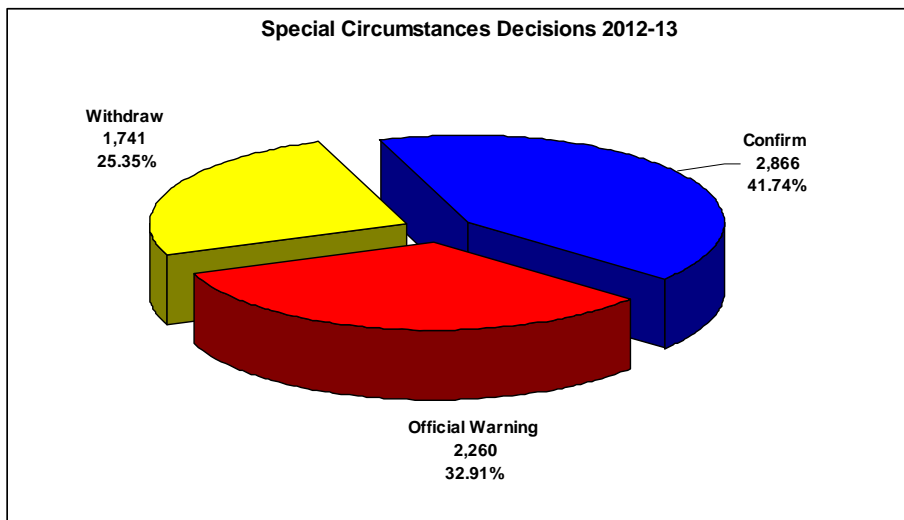
The infringements system recognises there are circumstances in which a person’s capacity to comply with a law or regulation is limited by reasons beyond their control.

The recognition of 'special circumstances' in the Infringements Act aims to ensure that certain vulnerable members of the community are not unfairly caught up in the infringement system, by providing sufficient flexibility in the system for their special circumstance to be considered in a review of the decision to issue the infringement notice.

The Attorney-General’s Guidelines encourage agencies to identify cases in which special circumstances may apply at an early stage in the infringement process. The aim of the special circumstances provisions is to encourage those people who cannot control or understand the nature or consequences of their behaviour to be diverted away from the criminal justice system.

Figure 14 illustrates the outcome of applications for internal review based on the grounds of special circumstances. In 41.7 per cent of cases, the infringement was confirmed following an internal review based on special circumstances. This is only marginally less than figures for 2011-12 (44 per cent), although the numbers applying for internal review on the grounds of special circumstances decreased by 24 per cent (8,520 in 2011-12 compared to 6,867 in 2012-13). There is no information available as to why the numbers applying for internal review are decreasing.

Figure 14: Special circumstances decisions 2012-13



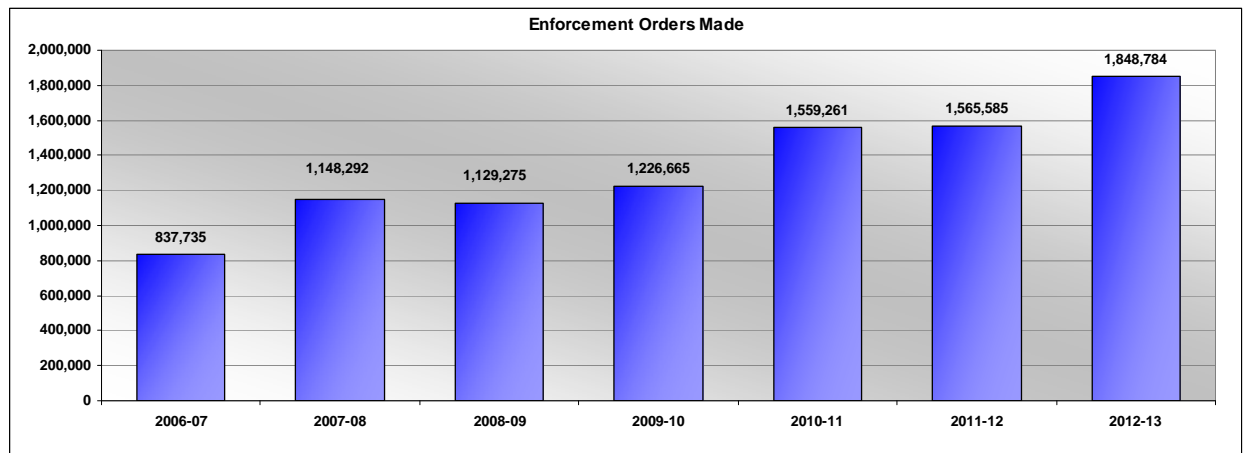
10 ENFORCEMENT ORDER ACTIVITY

Infringement notices that remain unpaid may be lodged by the enforcement agency with the Infringements Court. The Infringements Court will then make an enforcement order requiring the person who received the infringement notice to pay the outstanding amount of the infringement penalty and any additional costs associated with making the order.

If an enforcement order remains unpaid, the Infringements Court will issue an infringement warrant, authorising the Sheriff to use enforcement sanctions to recover the outstanding amount (enforcement sanctions include suspension of a vehicle's registration, wheel clamping of a vehicle or suspension of a driver licence). Warrants may also be executed by the seizure and sale of property and, for natural persons where there is insufficient property, by the arrest and bail of the person to be brought before the Magistrates' Court.

Figure 15 shows the number of enforcement orders made from 2006-07 to 2012-13. The number of orders made in 2012-13 is 15 per cent more than for the same period in 2011-12.

Figure 15: Enforcement orders made



The increase in enforcement orders is reflective of the general upward trend in the number of infringements issued.

Sheriff's on EastLink

The Sheriff's Officer regularly undertakes targeted enforcement activity, such as special operations, roadblocks and blitzes.

In January 2013, Sheriff's Officers teamed up with members of Victoria police to target drivers with unpaid fines and outstanding warrants on the EastLink tollway. The blitz identified 28 people owing almost \$175,000. The Herald Sun was invited to the operation increase public awareness of the role of the Sheriff and to encourage people to deal with their outstanding matters.

Further details on Sheriff enforcement powers are available from the Department of Justice website at www.justice.vic.gov.au and the 'Fines Victoria' website at www.fines.vic.gov.au.

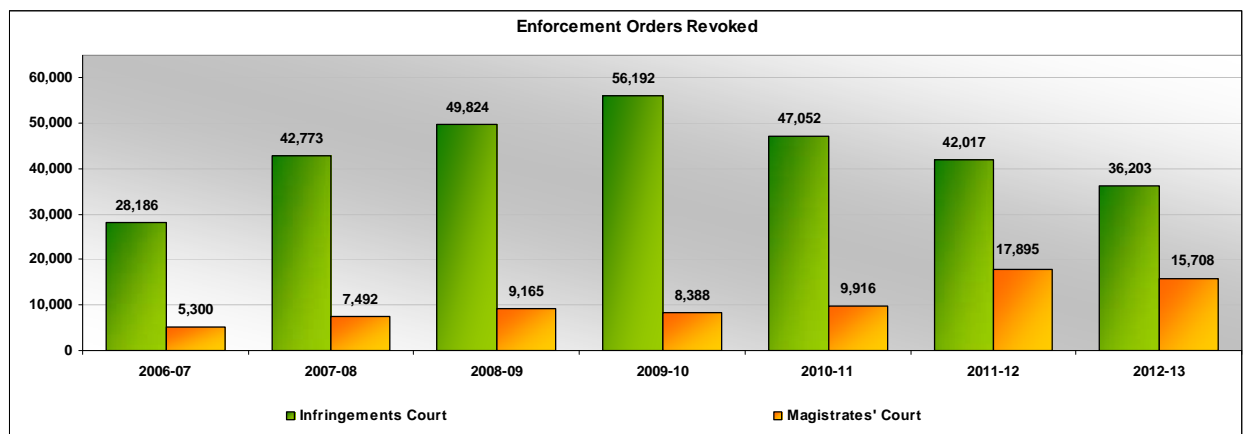
11 REVOCATIONS ACTIVITY

A person against whom an enforcement order is made may apply to the Infringements Court for the order to be revoked. The person must state the grounds on which revocation is sought. If the infringements registrar is satisfied there are sufficient grounds, the order will be revoked and parties notified of the decision. The infringement matter is then referred to an open court hearing in the Magistrates' Court, unless the enforcement agency elects not to prosecute. If the Infringements Court refuses the application and confirms the enforcement order, the applicant may, within timeframes specified in the Act, request that the registrar refer the matter to the Magistrates' Court for the revocation to be reconsidered.

In 2012-13, 1,848,784 enforcement orders were made, with three per cent of these orders revoked. Of those, 36,203 orders were revoked by the Infringements Court (30 per cent of all orders revoked) and 15,708 (70 per cent of all orders revoked) by the Magistrates' Court. These percentages are in line with revocations by the Courts in 2011-12, which were also 30 and 70 per cent respectively.

Figure 16 shows the numbers of enforcement orders revoked by the Infringements and Magistrates' Court since 2006-07.

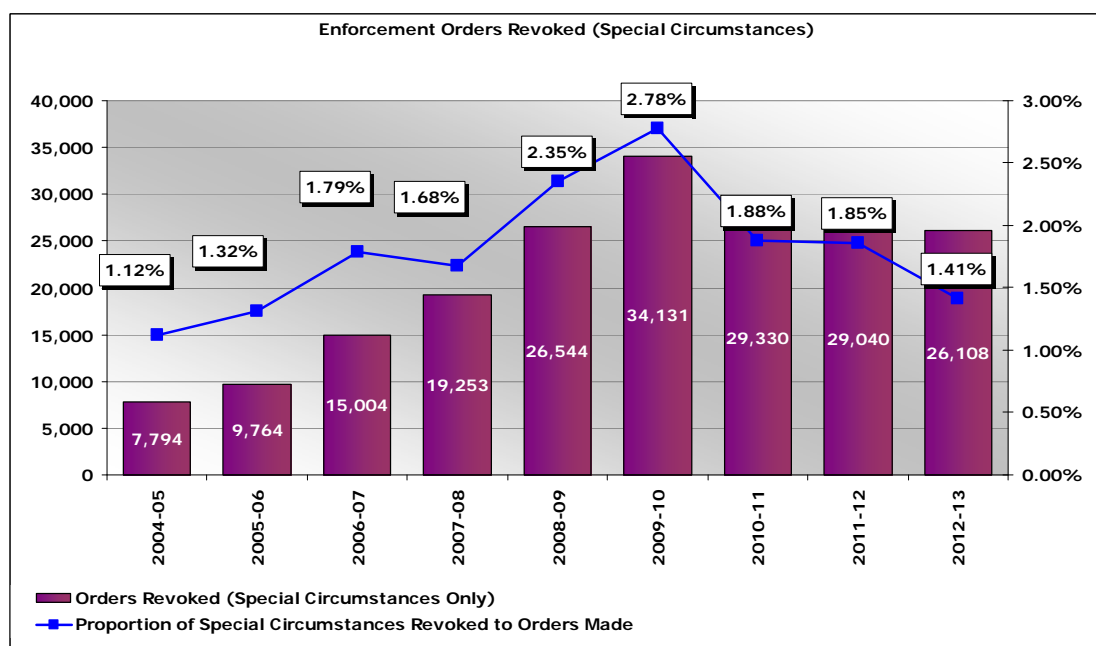
Figure 16: Enforcement orders revoked



Revocation on the grounds of special circumstances

People may apply to the Infringements Court to have an enforcement order revoked on the ground of special circumstances. Figure 17 represents the number of enforcement orders revoked due to special circumstances.

Figure 17: Enforcement orders revoked (special circumstances)



Applications for revocation based on special circumstances may be made by the person who received the infringement notice or a person acting on their behalf. As a percentage of enforcement orders revoked, as shown in Figure 17, special circumstances represent a very small component of the total number of enforcement orders revoked (only 1.4 per cent). As can be seen, the number of orders revoked by special circumstances is marginally decreasing.

12 INFRINGEMENTS AND FINANCIAL HARDSHIP

For those experiencing financial hardship there may be alternatives to enable the due date of a payment for an infringement to be extended. These include:

Payment Plans

A payment plan can be an instalment payment plan, an extension of time, or a payment arrangement that incorporates both an extension of time and instalments. Extension of time payment plans are the most commonly used option. Payment plans are only available to individuals.

Payment Orders

A person who has an enforcement order made against them may apply to the Infringements Court for a payment order. A payment order is an order of the court allowing additional time for payment or payment by instalments. A payment order can be made by the Infringements Court any time prior to the Sheriff seizing goods or arresting a person under a warrant.

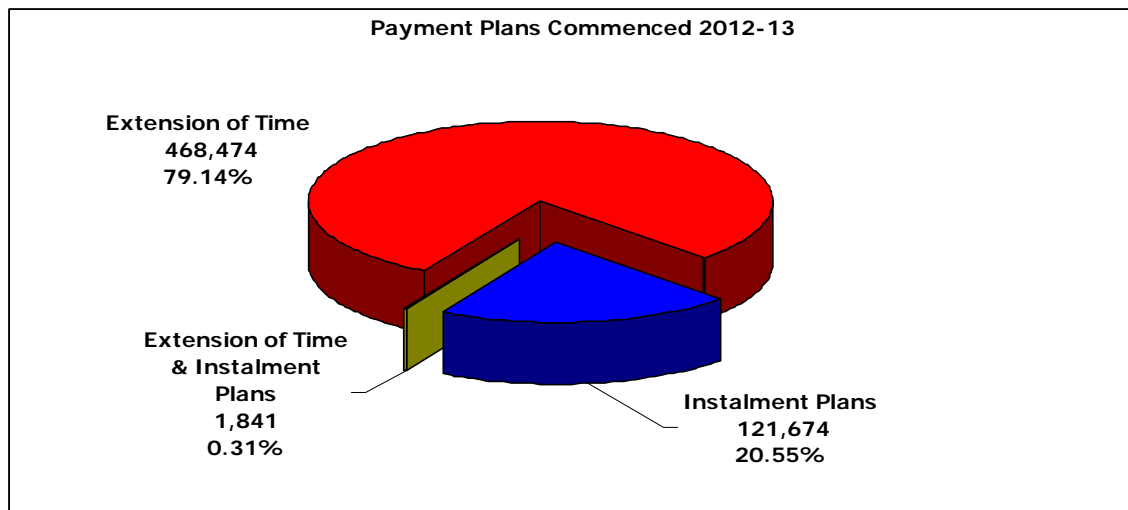
Community Work Permits

When the Sheriff arrests a fine defaulter under an infringement warrant, the Sheriff may offer that person a Community Work Permit if the person does not have any personal possessions that can be seized to satisfy the outstanding fine/s. There is a cap on eligibility of up to 100 penalty units. For example, one penalty unit equals a low speeding infringement, which may be the equivalent of 6 hours community work. This arrangement is similar to a Community Correction Order in that it allows a person to undertake community work in lieu of payment of the fine at the rate of one hour per 0.2 penalty units owing.

Payment Plans

As shown in figure 18 in 2012-13 there were 591,898 payment plans commenced, with 80 per cent for an extension of time to pay. The number of payment plans entered into has increased by 16 per cent since 2006-07.

Figure 18: Payment plans commenced 2012-13



The number of payment plans offered by enforcement agencies varies considerably and is influenced by the volume of infringements issued. Victoria Police offered 610,246 payment plans in 2012-13, with 90 per cent of all payment plans offered taken up by the person. This is on par with 2011-12 rates. Of the total number of payment plans commenced in 2012-13, the default rate was 7 per cent (39,337).

Payment Orders

There were 355,145 payment orders made by the Infringements Court in 2012-13. The percentage of payment orders for instalment payments is now 25 per cent, a one per cent increase on 2011-12. The total number of payment orders granted by the Infringements Court has increased by five per cent since 2011-12 (338,585).

Community Work Permits

Community work permits are used as an alternative to imprisonment. A community work permit enables someone to undertake community work to clear an outstanding infringement warrant. It is only available once it is determined that there is no property to be seized to pay off the infringement debt.

The table below shows the number of community work permits undertaken over the last three reporting periods.

Table 1: Number of community work permits issued from 2011-12 to 2013-14

Financial Year	Number of community work permits
2011-12	1,404
2012-13	1,327

Appendix 1 List of enforcement agencies 2012-13

ENFORCEMENT AGENCIES

Victoria Police

Government Agencies

Consumer Affairs	Department of Primary Industries	VicRoads
Department of Education and Early Childhood Development	Department of Sustainability and Environment	Victorian Electoral Commission
Department of Human Services	Transport Safety Victoria	

Local Councils

Large Rural

Bass Coast Shire Council	Golden Plains Shire Council	Rural City Council Wangaratta
Baw Baw Shire Council	Horsham Rural City Council	South Gippsland Shire Council
Campaspe Shire Council	Macedon Ranges Shire Council	Southern Grampians Shire Council
Colac-Otway Shire Council	Mitchell Shire Council	Surf Coast Shire Council
Corangamite Shire Council	Moira Shire Council	Swan Hill Rural City Council
East Gippsland Shire Council	Moorabool Shire Council	Wellington Shire Council
Glenelg Shire Council	Moyne Shire Council	

Metro

Banyule City Council	Glen Eira City Council	Moreland City Council
Bayside City Council	Greater Dandenong City Council	Port Phillip City Council
Boroondara City Council	Kingston City Council	Stonnington City Council
Brimbank City Council	Manningham City Council	Whitehorse City Council
City of Melbourne	Maroondah City Council	Yarra City Council
Darebin City Council	Monash City Council	
Frankston City Council	Moonee Valley City Council	

Metro Fringe

Cardinia Shire Council	Hume City Council	Nillumbik Shire Council
Casey City Council	Melton Shire Council	Wyndham City Council
City of Whittlesea	Mornington Peninsula Shire Council	Yarra Ranges Shire Council

Regional Centre

Ballarat City Council	Greater Shepparton City Council	Warrnambool City Council
City of Greater Bendigo	Latrobe City Council	Wodonga City Council
Greater Geelong City Council	Mildura City Council	

Small Regional

Alpine Shire Council	Gannawarra Shire Council	Northern Grampians Shire Council
Ararat Rural City Council	Hepburn Shire Council	Pyrenees Shire Council

ENFORCEMENT AGENCIES

Benalla Rural City Council	Hindmarsh Shire Council	Strathbogrie Shire Council
Borough of Queenscliffe	Indigo Shire Council	Towong Shire Council
Buloke Shire Council	Loddon Shire Council	West Wimmera Shire Council
Central Goldfields Shire Council	Mansfield Shire Council	Yarriambiack Shire Council
Northern Grampians Shire Council		

Education

Box Hill Institute of TAFE	La Trobe University Bendigo	Swinburne University of Technology
Chisholm Institute of TAFE	Melbourne University	University of Ballarat
Deakin University	Monash University	Victoria University
Goulburn Ovens Institute of TAFE	North Melbourne Institute of TAFE	
Holmesglen TAFE	RMIT	

Hospital and Health

Barwon Health	Northern Health	Southern Health
Bayside Health	Royal Melbourne Hospital	St Vincents Health
Mornington Peninsula Health	Royal Women's Hospital	

Industry Regulation

Building Commission	Melbourne Market Authority	Plumbing Industry Commission
Country Fire Authority	Metropolitan Fire Brigade	Port of Melbourne Corporation
Energy Safe Victoria	Mt Baw Baw Alpine Resort Management Board	Victorian Commission for Gambling and Liquor Regulation
Environment Protection Authority	Mt Buller and Mt Stirling Resort Management	Victorian Taxi and Tow Truck Directorate
Falls Creek Resort Management	Mt Hotham Alpine Resort Management Board	
Gippsland Ports	Parks Victoria	