

Minor traffic offence

Driving an unregistered vehicle

July 2013

What do these words mean?

Words that are highlighted in **bold** are explained in our *What do these words mean?* fact sheet.

What is 'driving an unregistered vehicle'?

Your **charge sheet** says that the police have **charged** you with an **offence** of 'driving an unregistered vehicle'. This means that the police **allege** that you were driving a car that you did not have registered with **VicRoads**.

Whether you are guilty depends on the exact facts and circumstances of your case. Look in the 'Details of the charge' in your charge sheet to see what the police officer wrote about your offence. The magistrate refers to this in the courtroom.

What does the prosecution have to prove?

For this type of offence, all the prosecution has to prove is that:

- you drove a car that was not registered with **VicRoads**, and
- you did not have a 'reasonable excuse' for doing so.

They do not need to prove that you intended to or that you knew what you were doing was against the law.

What can I do today?

Admit to the charges and ask for diversion

The diversion program means your case is treated differently. It is normally for less serious cases. You must agree to certain conditions. You do not get a **criminal record**.

To get diversion you must admit responsibility for the offence. This includes everything the **informant** says in the **statement of alleged facts**. This means you tell the magistrate that you know you broke the law but you would like diversion. If you have not been given a **diversion recommendation**, you can ask to **adjourn** the case.

See our *Diversion* fact sheet for more information.

Plead guilty

If you agree that you did break the law, tell the court staff that you are **pleading** guilty. Go into the courtroom. The police prosecutor reads out the statement of alleged facts. The magistrate finds you guilty and gives you a **penalty**.

If you plead guilty the magistrate treats your **plea** as a sign that you are co-operating and may give you a less severe penalty.

See our *Pleading guilty* fact sheet to help you work out what to say to the magistrate.

Plead not guilty

If you believe that you did not break the law or you disagree with what the informant says you did, you must tell the police prosecutor that you plan to plead not guilty. They will hold a **summary case conference** with you before your case is heard in court. After the conference, if you still wish to plead not guilty tell the magistrate. The magistrate adjourns your case for another day.

You will come back to court for a **contested hearing**. At this **hearing** the magistrate listens to **evidence** from you and the police before making a decision. You should have a **defence**.

Saying that you did not know you were breaking the law will not be a good enough defence.

If you are pleading not guilty, get legal advice before the contested hearing. Also see our *Pleading not guilty* fact sheet.

Possible defences

You may have a defence if you have a reasonable excuse for driving unregistered. For example, there was an emergency. The magistrate will decide if your excuse is reasonable.

It is not a defence to say that the vehicle did not belong to you. The law says you must ensure that any vehicle that you drive is registered, even if you do not own it.

It is also not a defence to say that you could not afford to pay the registration fee.

Can I adjourn today's hearing?

You can go into the courtroom and ask the magistrate for an adjournment if you want to:

- go in the diversion program
- get a private lawyer.

Adjournments are hard to get for any other reason. The magistrate may say no.

What are the penalties if I am found guilty?

Fines

The magistrate may give you a fine. You can get:

- up to 25 penalty units – first offence of driving unregistered

- up to 50 penalty units – subsequent offences of driving unregistered.

One penalty unit is about \$145.

Losing your licence

The magistrate may **cancel** or **suspend** your licence for a certain period of time. You should not drive at all during this time. There are no exceptions. For example, you cannot drive to work or to pick up your children. There are no special licences that allow you to drive some of the time. There are very serious penalties for driving when you are not supposed to.

Usually a magistrate would only suspend your licence if you committed other offences at the same time or if you have a bad driving record.

Other penalties

The magistrate may also place you on an **undertaking** to behave well for a certain amount of time.

How does the magistrate decide what penalties to give?

The magistrate looks at:

- how serious your offence is
- if you have been found guilty of similar offences before
- what else is happening in your life.

What else might happen if I am found guilty?

Criminal record

What happens in court goes on your **criminal record**.

This includes:

- the finding of guilt
- a **conviction**, if there is one
- penalties.

The court and the police can see your criminal record. Sometimes they can let other people know what is in your criminal record. For example, a criminal record, especially with convictions, may make it harder for you to get some jobs or get visas to some countries.

See our *Criminal records* fact sheet.

Can I appeal the magistrate's decision?

Yes. If you do not agree with the decision you can **appeal** to the County Court. You have 28 days to do this. Get legal advice before you decide. You could get a higher penalty.

See our *Appealing a Magistrates' Court decision* fact sheet.

How do I pay a fine?

You can pay the fine at any Magistrates' Court. Go to the court counter and ask the staff for help.

Let the magistrate know if you might have trouble paying the fine. There are options. You can ask the magistrate to:

- make a plan for you to pay bit by bit
- give you community work instead of the fine.

If you do not pay, the court can issue a **warrant** for your arrest.

Where can I get help?

Law Institute of Victoria

Referral to a private lawyer

Tel: 9607 9550

Victoria Legal Aid

Legal Help

Free legal help by telephone and information about Victoria Legal Aid services

Tel: 9269 0120 or 1800 677 402 (country callers)

Website

www.legalaid.vic.gov.au