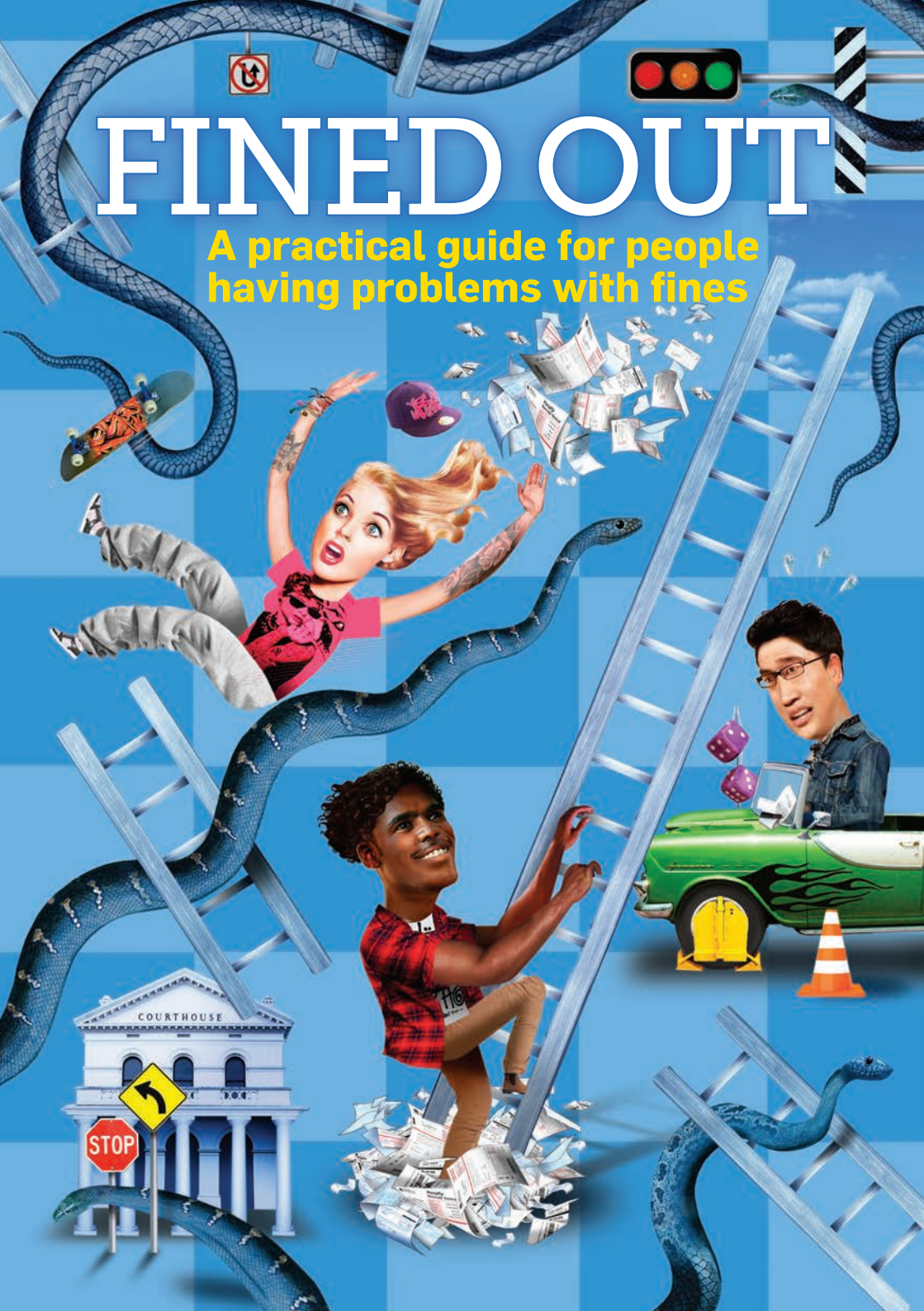


FINED OUT

A practical guide for people
having problems with fines



What is **FINED OUT** all about?

FINED OUT is a practical guide to the NSW fines system. It provides information about how to deal with fines and contact information for services that can help people with their fines.

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If you are hearing/speech impaired, you can communicate with us by calling the National Relay Service (NRS) on **133 677**



TIS provides free interpreters if you do not speak English. TIS can help you talk to us in your language. Call the Telephone Interpreter Service on **131 450**

For more information about Legal Aid NSW services:



Legal Aid
NEW SOUTH WALES

ICLC
INNER CITY LEGAL CENTRE



Online self-help legal tools

There are two online self-help legal tools called guided pathways. These tools are available for people with NSW fines and traffic offence fines or court attendance notices (CANs).

Fines

nsw.finefixer.org.au

FineFixer NSW takes people through a series of simple questions and gives you useful options relevant to your particular issue. There is information about challenging fines, applying to pay in instalments, organising a work and development order, getting legal help or other options depending on your circumstances. A wide variety of fine types are covered including public transport, tolls, parking, council, court, failure to vote, failure to attend jury duty and ambulance fees.

Traffic offences

traffic.guidedpathways.legalaid.nsw.gov.au

The traffic offences pathway takes you through a series of simple questions and gives options to help you decide what to do next with common traffic offence problems such as driver licence suspensions, fines and needing to attend court.

You can also find these and other self-help legal tools on the LawAccess NSW legal help website – legalhelp.lawaccess.nsw.gov.au

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1 Introduction



A fine is a financial penalty for breaking the law. The *Fines Act 1996 (NSW)* and the *Fines Regulation 2010 (NSW)* sets out the rules about fines.

You can view the *Fines Act 1996 (NSW)* and the *Fines Regulation (NSW) 2010* online at www.legislation.nsw.gov.au

1.1 Types of fines

There are three types of fines:

- ◆ Court fines
- ◆ Victims Restitution Orders
- ◆ Penalty notices (sometimes referred to as infringement notices or on-the-spot fines).

Court fines

If you are found guilty of an offence in court, one of the things the court can do is give you a fine. In addition to a fine, courts may impose a victim's support levy (VSL), court costs levy (CCL) and make an order that you pay witness expenses. These are treated as fines when enforced by Revenue NSW.

Victims Restitution Orders

Unlike criminal proceedings, a Victims Restitution Order (VRO) is

a civil process where proceedings were commenced against you to recover an award for financial support or recognition payment paid to a victim of an act of violence that you were convicted of. As a result of these proceedings, a VRO is granted.

When you receive a letter from Victims Services about a Victims Restitution Order you have the option to set up a payment plan to pay off the debt with Revenue NSW. If you are eligible, you can then arrange a Work and Development Order to clear the fine and stop the payment plan.

If you don't deal with your VRO, it is treated the same as a court fine when enforced by Revenue NSW.

To find out more about your options if you get a VRO, visit www.victimsservices.justice.nsw.gov.au/Pages/vss/vs_recovering/vs_rest-definition.aspx

Penalty notices

Penalty notices can be issued for a lot of different offences, like fines for travelling on public transport without a ticket or concession card, fines for parking longer than permitted or in unauthorised zones,

speeding, riding a bike without a helmet, driving an unregistered vehicle or without a current driver licence.

Penalty notices can be handed to you directly, left on the vehicle or sent by post or email. They must be given by an authorised officer such as a police officer or public transport ticket inspector.

There are separate sections in this book for penalty notices: [[see Part 2](#)] and court fines [[see Part 3](#)], because even though there are a lot of things that are the same for both, there are also some important differences – so you need to start off knowing which type of fine you’ve been given.

1.2 The Commissioner of Fines Administration (Revenue NSW)

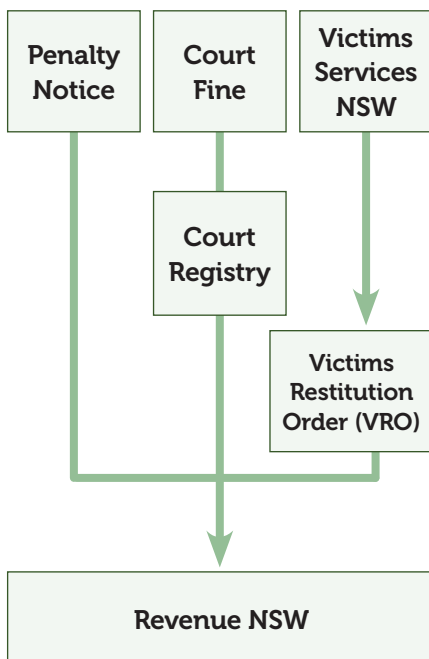
The Commissioner of Fines Administration uses the name “Revenue NSW” in the administration of its functions under the *Fines Act 1996*. The role of Revenue NSW is to receive and process fines issued by various government agencies and authorities, and to make

enforcement orders and take enforcement action against people who don’t pay their fines.

For the purposes of this resource we will refer to the agency which deals with fine recovery as Revenue NSW.

Note

Commonwealth, interstate and territory fines can also be enforced in NSW by Revenue NSW.



Did you know there are organisations that can help you sort your fines out?

These organisations are known as 'advocates' and Revenue NSW has a specialist Advocacy Support Team that helps these organisations help you!

The Revenue NSW team, and the advocates they support, work with clients such as:

- ◆ People with a mental health impairment, cognitive impairment or intellectual disability
- ◆ People who are homeless
- ◆ People with a serious addiction to drugs, alcohol or volatile substances
- ◆ People with NSW Trustee and Guardian financial management orders
- ◆ Prisoners and people recently released from custody
- ◆ People in serious financial, medical or domestic hardship
- ◆ Young people (under 18 years)
- ◆ First Nations people.

The Revenue NSW Advocacy Support Team works closely with advocates to ensure their clients are aware of, and have access to, all the options available to help them deal with their fines. They can help you organise a way to pay off your fines by instalments at an affordable rate, access a Work and Development Order or, depending on your circumstances, apply for the fines to be postponed, reduced or written off.

If you need help with fines, contact an advocate. Ask them if they are registered with the Revenue NSW priority advocacy hotline service.

If you are a community worker and would like to help your clients with fines debt, you can visit this Revenue NSW webpage:

www.revenue.nsw.gov.au/fines-and-fees/advocates

Do they have to give me a fine? What is a caution?

The Department of Communities and Justice have guidelines under the *Fines Act 1996* for authorised officers (except NSW Police). These guidelines mean the authorised officer, like a transit officer, may in certain circumstances issue a caution instead of a penalty notice. Circumstances that they can take into account include:

- ◆ The offence involved no risk to public safety, damage to property or financial loss, or did not have a significant impact on other members of the public
- ◆ The person is homeless
- ◆ The person has a mental illness or intellectual disability
- ◆ The person is a child (under 18)
- ◆ The person has a special infirmity or is in very poor physical health
- ◆ The offending behaviour is at the lower end of the seriousness scale for that offence
- ◆ The person is co-operative and/or complies with a request to stop the offending conduct, and
- ◆ It is otherwise reasonable, in all the circumstances of the case, to give the person a caution.

You can find the Department of Communities and Justice caution guidelines at:

www.justice.nsw.gov.au/justicepolicy/Documents/caution_guidelines_under_the_fines_act_pdf.pdf

-

Penalty notices

PART
2



Penalty notices



2.1 Overview

A penalty notice is a fine issued by an authorised officer which contains details of the alleged offence and the monetary penalty attached to that offence.

Even if you can't afford to pay it upfront, it is best not to ignore a penalty notice. If you do, it just gets more expensive and more complicated. As well as the amount of money you owe increasing, you could have your:

- ◆ driver licence suspended
- ◆ car registration cancelled
- ◆ bank account or wages garnisheed (this means Revenue NSW take money out of every pay)
- ◆ property taken by the Sheriff, or
- ◆ taken to the Local Court for an examination summons or charge put on your land.

Tip

Even if you don't think you can afford to pay a penalty notice, there are ways to deal with it, which will stop further action being taken against you. In some cases you can even do voluntary activities to pay the fine. [👉 [see Parts 2.2–2.10](#)]

If you are in fine default, there are extra costs for fine enforcement. This is the money they charge you for chasing up the fine. They include:

- ◆ \$65 to Revenue NSW for a fine enforcement order (\$25 if you are under 18)
- ◆ \$40 to Transport for NSW for certain enforcement action, such as suspension of your driver licence, and
- ◆ \$65 to the Sheriff for any enforcement action by their office.

When you get a penalty notice, read it carefully and make sure you know when payment is due. If you do nothing about the penalty notice within that time, Revenue NSW will send you a penalty









Penalty notices


reminder notice to the address provided by the issuing authority or the address recorded with Transport for NSW, and you have a further 28 days to deal with the penalty notice.

Tip

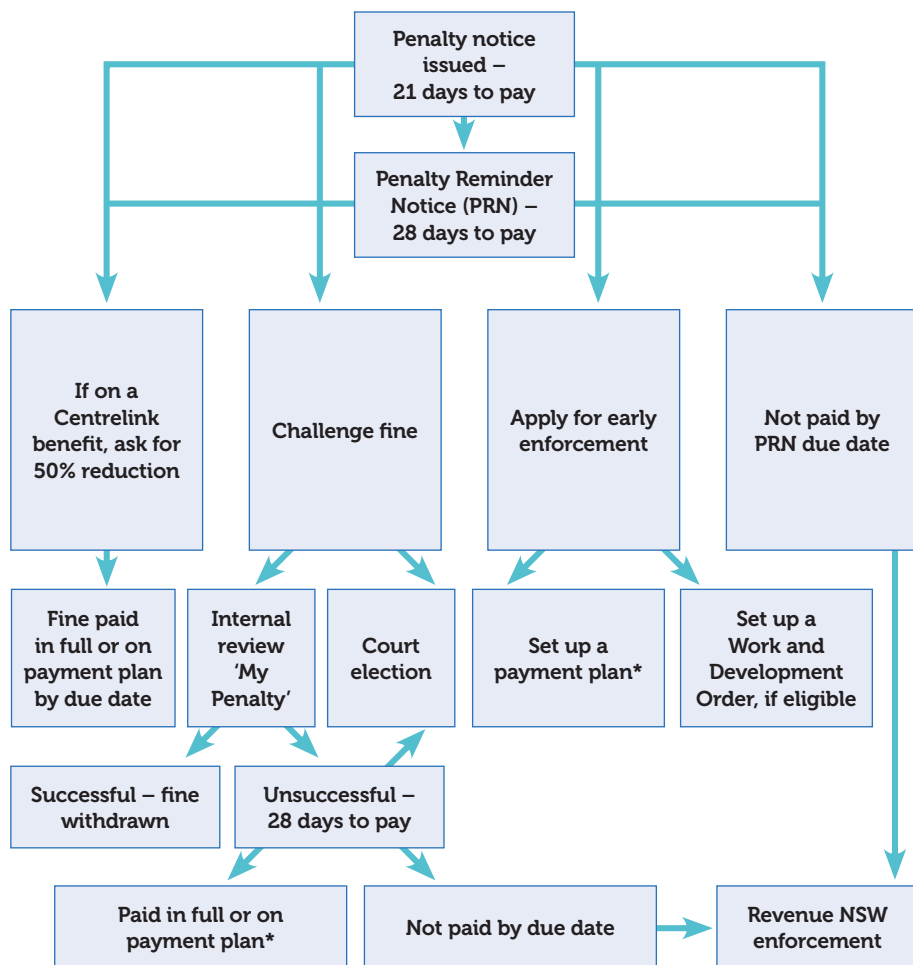
You must let Service NSW know when you change your mailing and residential addresses within 14 days. This means when you get a fine, it comes to the right address so you can deal with it. You can do this online or drop in to your closest office. Service NSW will give you a sticker to put on your licence or photo card so it's up to date.

Your options to deal with a penalty notice are:

- ◆ Pay the fine [ [see Part 2.2](#)]
- ◆ Organise a payment plan [ [see Part 2.3](#)]
- ◆ Agree to add the fine to an existing payment plan [ [See Part 2.3](#)]
- ◆ Apply for a 50% reduction of a penalty notice fine if you are on a Centrelink or Veterans benefit [ [See Part 2.4](#)]
- ◆ Ask for an internal review if there are special or extenuating circumstances [ [see Part 2.5 and Part 2.6](#)]
- ◆ Nominate another driver. If the penalty notice relates to a parking or traffic offence issued to you as the registered owner of the vehicle, and you were not the driver of the vehicle, you can apply online telling Revenue NSW the name and address of the responsible driver. The penalty notice will be withdrawn from your name and a new notice will be issued to the correct driver. [ [see Part 2.7](#)]
- ◆ Decide to have the matter heard in a Local Court [ [see Part 2.8](#)]
- ◆ Apply for a Work and Development Order (WDO) [ [see Parts 2.10 and 5.4](#)]

If you don't deal with the penalty notice by the due date on the penalty reminder notice, Revenue NSW will send you an enforcement order and an additional \$65 will be added to the fine amount. [ [see Part 4](#)]

Overview of the penalty notice process



* You can set up a payment plan for a fine at any stage.

2.2 Paying the fine

If you do not want to dispute a fine and you can pay it, then it is best to pay by the due date to avoid additional enforcement costs. Once a fine has been paid in full the matter is finalised and no further enforcement action occurs.

Paying the fine does not mean that you are admitting that you are guilty, however bear in mind that some traffic matters will stay on your record once you have paid the fine. These can be brought up in court later if you are being sentenced for other driving offences. If you pay either a penalty notice or penalty reminder notice you are accepting responsibility for the fine. If the offence incurs demerit points with Transport for NSW, these will be applied once payment is made. This will happen if payment is made in part or in full.

[👉 [See Part 7](#)]

Note

You can apply for early enforcement as soon as you get a penalty notice. This means your penalty notice will be issued as an enforcement order, without the \$65 fee, so you can pay by instalment or a work and development order if you are eligible.

[👉 [see Part 2.9](#) and [Part 2.10](#)]

2.3 Payment plans

If you can pay the full amount within three months

You will first need to pay \$40 or one-sixth of your fine, whichever is greater, before the fine reminder due date.

- ◆ When Revenue NSW receive your first payment, they'll set up fortnightly payments.
- ◆ They will then send you a copy of the plan which tells you how much to pay and when to pay.
- ◆ Under this plan, you must pay up to five more instalments of at least \$40 until you clear your debt.

Penalty notices

- ◆ If you miss one of these payments you must immediately pay your fine in full, as well as a \$65 late fee.
- ◆ To make sure you don't miss a payment, you can set up a direct debit by calling Revenue NSW on **1300 492 392**. You can pay directly from your bank account or by Visa or Mastercard.

If you need longer than three months to pay

You can set up a payment plan to pay over a longer period on your fine or overdue fine. You may also be able to have your fine added to an existing payment plan.

To set up a payment plan for a fine:

- ◆ contact Revenue NSW on **1300 138 118** before the due date or
- ◆ download and complete a payment plan application form at: www.revenue.nsw.gov.au/help-centre/resources-library/sdr040.pdf

To set up a payment plan for an overdue fine:

- ◆ contact Revenue NSW on **1300 655 805** or
- ◆ go to: www.apps09.revenue.nsw.gov.au/customer_service/fss/index.php and update your

Sharon's story

Sharon was driving home from her weekly yoga class when she heard her mobile phone ring. Without thinking she answered it and spoke to her daughter. A police officer saw her and pulled her over and fined her. Sharon receives a parenting payment from Centrelink and doesn't have enough money saved to pay the fine in full. She sought advice from Nick, a volunteer lawyer at a community legal centre. Nick told Sharon that she could phone Revenue NSW to arrange early enforcement with a payment plan. That way she wouldn't have to pay additional enforcement costs and could pay a small amount every fortnight until the fine is paid. Sharon phoned Revenue NSW the following day and was able to set this up. Sharon now has \$30 per fortnight paid directly from her Centrelink payments to Revenue NSW. This will continue until the fine is paid in full.

payment plan online using the myEnforcement portal.

You can also choose to have your instalments deducted from your Centrelink benefit by choosing Centrepay as your payment method.

2.4 50% reduction in the fine amount

2.4.1 Who is eligible to apply for a 50% reduction?

You may be eligible if you:

- ◆ receive a Centrelink or Veterans benefit
- ◆ are suffering financial hardship
- ◆ are not suitable for a payment plan with Revenue NSW
- ◆ are not eligible for a Work and Development Order (WDO).

2.4.2 When can't I apply for a 50% reduction?

A reduction will not be granted if you are able to deal with the fine in another way, such as a payment plan or WDO.

A reduction may not apply to:

- ◆ penalties that have already been paid, enforced, withdrawn or resolved in any other manner

- ◆ penalties for which the penalty reminder notice has expired
- ◆ court fines (including fines that originated from a penalty notice)
- ◆ fines related to voting or jury duty
- ◆ fines issued to a body corporate
- ◆ penalties for significant offences listed on the Revenue NSW website
- ◆ further fines from a repeat offender.

Some significant offences that are usually not eligible for a reduction include:

- ◆ speeding over the sign posted speed limit
- ◆ offences in school zones
- ◆ heavy vehicle offences
- ◆ seatbelt offences
- ◆ mobile phone offences
- ◆ red light offences
- ◆ parking offences which attract demerit points, like parking in a disabled parking area
- ◆ driving offences related to alcohol and drug use
- ◆ animal offences relating to dangerous dogs

Penalty notices

- ◆ littering offences relating to fire safety hazards
- ◆ pollution offences including asbestos offences
- ◆ COVID-19 offences
- ◆ criminal offences

Note that you may still apply for a reduction for a significant offence because Revenue NSW may still consider granting a reduction.

2.4.3 How do I apply for a 50% reduction?

You will need to apply for a reduction over the phone with Revenue NSW.

You will need to specifically ask for the 50% reduction because Revenue NSW may not offer it to you.

You will need to tell Revenue NSW why you are not able to pay for the fine in full. For example, you have other existing debt with Revenue NSW.

You may be asked to confirm your government benefit by providing:

- ◆ your Customer Reference Number (CRN); or
- ◆ a copy of your healthcare card.

Revenue NSW may also ask for other supporting documents including:

- ◆ copies of pay slips;
- ◆ a statement of income from Centrelink; or
- ◆ copies of bank statements.

Another person can apply for a reduction on your behalf. They will need to provide Revenue NSW with a written authority to apply for a reduction from you or be a registered advocate with Revenue NSW.

2.4.4 What happens if my application for a 50% reduction is approved?

If your application is approved, you will receive written notification and be given options on how to deal with the rest of your fine (such as through a payment plan).

Although the fine itself will be reduced by 50%, this will not change the status of other penalties you have incurred such as demerit points, driver licence sanctions, suspensions, cancellations or disqualifications.

Penalty notices

2.4.5 What will happen if my application for a 50% reduction is refused?

You will still receive a written notice of the decision along with further information on your options for dealing with the fine (such as through a WDO or a payment plan).

If your application is refused, you can seek a review of the decision through Revenue NSW or the court.

2.5 Applying for an internal review

If you believe a fine should not have been issued to you, in certain circumstances you can ask for it to be reviewed. You can make a request for review of a fine if:

- ◆ You believe there has been a mistake in issuing the fine
- ◆ There is an issue of mistaken identity
- ◆ There are exceptional circumstances relating to the issuing of the fine that need to be considered. [👉 [see Part 2.6](#)]
- ◆ The person who was fined has an intellectual disability, mental illness, cognitive impairment or is homeless and:

- did not understand that their conduct constituted an offence or
- was unable to control their conduct.

A review of a penalty notice can be requested even if it has been paid or part paid.

If the fine has been paid in full and no reminder has been served, then an application for review must be made within 60 days from the date the penalty notice was served.

To request a review of your fine, go to: www.revenue.nsw.gov.au/fines-and-fees/request-a-review. To login, you'll need to enter the penalty or infringement notice number and the date of the offence.

If you've lost your fine and are unable to log in, contact Revenue NSW on **1300 138 118** or complete the online enquiry form at: www.revenue.nsw.gov.au/fines-and-fees/request-a-review.

If the review is unsuccessful Revenue NSW will send you a new penalty reminder and you have the option to elect to have the fine heard in court. You need to submit

Penalty notices

a court election by the due date on the penalty reminder notice.

[👉 [see Part 2.8](#)]

Internal Review Guidelines can be viewed at:

www.revenue.nsw.gov.au/help-centre/resources-library/br001.pdf

[Read more](#) about the documents Revenue NSW will accept as supporting evidence on the [Review Assist page](#):

www.revenue.nsw.gov.au/help-centre/resources-library/Review-Assist.pdf

2.6 Telling Revenue NSW about special or extenuating circumstances

If you believe there are special circumstances in your case, or you want to ask for leniency, you can request a review of your penalty notice. You can apply online or you can complete a form and send it to Revenue NSW. You must add supporting documents if you are asking to have the penalty notice withdrawn. Read more on the Revenue NSW website:

www.revenue.nsw.gov.au/fines-and-fees/request-a-review

David's story

David and Lucy were at home watching TV when Lucy started to experience severe stomach pain. David immediately rushed Lucy to hospital. On the way to hospital David's vehicle was captured by a speed camera exceeding the speed limit by 10 km/h. David got Lucy to the hospital and she was admitted with acute appendicitis. Fortunately, she was able to receive treatment in time and made a full recovery. One week later David received a penalty notice in the mail. He went onto the Revenue NSW website and completed a request for review form online, explaining that he had been rushing his wife Lucy to hospital as she had appendicitis. He was able to provide a report from a doctor confirming that Lucy had been admitted to hospital shortly after the offence occurred. Revenue NSW reviewed the fine and withdrew it because David was responding to a medical emergency at the time of the offence.

Penalty notices

The Revenue NSW Review Guidelines explain what evidence you need to provide when you ask for this type of review. Go to:

www.revenue.nsw.gov.au/help-centre/resources-library/br001.pdf.

Revenue NSW will review the fine if:

- ◆ There was a medical emergency. For example, taking someone who needs urgent medical attention to a hospital
- ◆ The offence was committed because you feared for your safety
- ◆ There was a mechanical breakdown. For example, your car was parked in a no parking zone
- ◆ You have had a good driving record for the last 10 years

Revenue NSW will not consider applications for leniency for some more serious offences, where safety is an issue, for example:

- ◆ Excessive speeding. This means speeding more than 20 km/h over the limit
- ◆ Using a mobile phone while driving
- ◆ Ignoring RailCorp safety notices

- ◆ Demerit point offences in school zones

- ◆ Proceeding through a red light

If Revenue NSW does not withdraw the penalty notice, they will tell you in writing and will also send you a new penalty reminder notice. Further time will be given to pay the fine or make a court election.

2.7 Nominating another driver

If you own the vehicle involved but were not driving or in control of it at the time of the offence, you can fill out and submit an online nomination through MyPenalty to let Revenue NSW know who was driving the vehicle, or who owns it.

The form can be completed online through the Revenue NSW website: www.revenue.nsw.gov.au/fines-and-fees/nominate-someone-else

You can nominate another driver at any time, even after enforcement. As long as Revenue NSW has enough time to transfer the fine to the correct driver. When you submit the details online to Revenue NSW the fine should be withdrawn and a new penalty notice issued in the name of the nominated driver.

Penalty notices

It is a criminal offence to provide false or misleading information on a nomination. There are significant penalties for this offence including fines.

You can't use the nomination process if you were given an on-the-spot fine by a police officer, a rail transit officer or another authorised government officer.

Self-nomination as a driver

You can nominate yourself as the person in charge of a vehicle at the time an offence for which a penalty notice has been issued. You can let Revenue NSW know your details through:

- ◆ Sending a letter to Revenue NSW with the details of the offence and your details
- ◆ Advising online using the MyPenalty portal on the Revenue NSW website – you will need the penalty notice number and the date of the offence
- ◆ Sending an email through the Revenue NSW contact us page on their website.

2.8 Who and how to tell about a change of address?

As well as friends and family, phone, gas and electricity suppliers, and anyone else who sends bills or money to you, you need to let the following agencies know when you change your address:

Transport for NSW

- ◆ After you have lived at a new address for 14 days fill in the application online at: www.service.nsw.gov.au/transaction/change-address-and-contact-details-driver-licence-vehicle-registration-or-other-road

- ◆ Tel: **132 213**

- ◆ Visit a Service NSW office.

Australian Electoral Commission (AEC) and New South Wales Electoral Commission (NSWEC)

After you have lived at a new address for 28 days:

- ◆ Fill in an electoral enrolment form and send it to your Divisional AEC office or scan it and email it to info@aec.gov.au. You can get the forms and prepaid envelopes from an AEC office, the NSWEC,

Penalty notices

post offices, or your state or federal MP's office, or from:

- www.aec.gov.au
- AEC Tel: **132 326**
- NSWEC Tel: **135 736**

And because we all forget to tell someone, we can also do this:

Australia Post

Before you move to a new address:

- ◆ Fill in and lodge an Application to Redirect Mail at any Australia Post outlet. You can also download the form from:
- ◆ auspost.com.au/receiving/manage-your-mail/redirect-hold-mail/redirect-mail
- ◆ Tel: **137 678**

Note

If you have sold or given away a vehicle, it is your responsibility to notify Transport for NSW. Make sure you get the new owner's full name and driver licence number. If you do not do this, you could be held responsible for penalty notices incurred after you have disposed of the vehicle. You can complete a notice of disposal online if the buyer is a NSW resident with a NSW driver licence or download the form here: www.service.nsw.gov.au/transaction/submit-notice-disposal-vehicle

Call LawAccess NSW on **1300 888 529** for free legal help if you get a penalty notice after selling a motor vehicle.

Penalty notices

2.9 Deciding to go to court

You can elect to go to court if you:

- ◆ Believe you are not guilty or
- ◆ Believe the penalty is too harsh.

Before making a court election, you may wish to consider applying for a review of the penalty (see above), as it is a lot simpler than going to court and you will still be able to make a court election if the review is unsuccessful, provided you make the court election before the penalty reminder notice due date.

[👉 [see Part 2.5](#)] To go to court you can apply online or fill out a court election form, go to:

www.revenue.nsw.gov.au/fines-and-fees/go-to-court and send it to Revenue NSW.

Court elections before the fine is overdue

You should apply to go to court before the due date on your penalty reminder notice.

If you have already paid the fine, you have 90 days from the date the penalty was issued to apply. If you're not sure of the due date, contact Revenue NSW on **1300 138 118**.

If you do not apply to go to court by the due date, you may need to go through a more difficult process, which involves proving you were unable to request to go to court before the due date.

When Revenue NSW receives the court election form, they will send you a court attendance notice telling you when to go to court.

It's a good idea to get legal advice before you do any of this. The maximum fine a court can give you may be higher than the amount in the penalty notice, and the court can order you to pay some court costs as well. A lawyer can help you decide if this is the right option for you.

For free information and advice contact LawAccess NSW on **1300 888 529**. LawAccess NSW can refer you to your closest free legal service [👉 [see Part 9](#)].

You can also visit your local public library or go online to:

www.legalanswers.sl.nsw.gov.au to find plain English legal information about fines [👉 [see Part 9](#)].

Penalty notices

Tip

It is not always clear exactly what offence the fine relates to. To find out, ask Revenue NSW or the issuing authority for more information about the offence.

You can then visit:

www.legislation.nsw.gov.au
and follow the links to that section of that Act and check the minimum and maximum penalties for the offence. These will be set out as “penalty units”. In 2021, a penalty unit is \$110, so if the maximum fine is 10 penalty units, that means it is \$1,100.

Court election after your fine is overdue

You can also apply to have your overdue fine referred to the court and heard by a magistrate. However, you will also need to explain how you were hindered from acting on the original fine before it became overdue and supply supporting evidence for the reason, including:

- ◆ You didn't know you had been issued with a penalty notice until you got the enforcement order, but only if the court election is

made within reasonable time after receiving the enforcement order

- ◆ You were prevented from doing anything about a penalty notice due to accident, illness or misadventure. For example, because you have been homeless or have a mental illness, intellectual disability or cognitive impairment, but only if the application is made within a reasonable time after these factors ceased to prevent you from taking action
- ◆ The penalty reminder notice was returned to the sender undelivered and notice of the enforcement order was later received by you at a different address
- ◆ There is doubt about whether you are liable for the penalty and there was no previous opportunity to obtain a review
- ◆ Under the circumstances, there is another good reason why the application should be granted.

If your court election for an overdue fine (enforcement order) is not successful you have the right to appeal to the Local Court.

You have 28 days from the date of Revenue NSW's decision to send in your application to the Local Court and there is an application fee for each enforcement order you are appealing. The Registrar of the Local Court may waive this fee if you ask for this when submitting your form.

To appeal a Revenue NSW decision to the Local Court you need to:

- ◆ use a general 'application notice to the Local Court' form available online. You can download this form in PDF to fill out by hand or Word to fill out on your computer.
- ◆ you can find this form here – www.localcourt.nsw.gov.au – click on the *Forms and fees* button and you will find the form under the heading *Applications to the court*.
- ◆ on the form in the orders sought section you need to write 'Appeal against refusal application by Commissioner, Section 50 Fines Act'
- ◆ submit the form with the Revenue NSW letter stating that they refused your request to court elect your fine to your Local Court Registry

- ◆ you can request for the fee to be waived at this time also
- ◆ the Registry will give you a court attendance notice with all the details you need to turn up to court
- ◆ if your application to allow you to court elect your fine is successful, you will get another court attendance notice to take your case to court. You will then get the opportunity to have your say.
- ◆ if your application is unsuccessful, Revenue NSW will be notified and you will be issued with a new penalty reminder notice for payment of the fine.


This process applies to penalty notices only. For information on appealing a court fine [👉 [see Part 3](#)].

2.10 Applying for a Work and Development Order (WDO)

If you are under 18 years of age, homeless, experiencing serious financial hardship, mental illness, intellectual disability or cognitive impairment or have a serious addiction, you may be eligible to pay off your fine through a WDO. A WDO means you do an approved

Penalty notices

activity with a WDO sponsor organisation or health practitioner to pay off all or part of your fines, such as unpaid work, education

and personal development courses, counselling or treatment programs. [ [see Part 5.4](#)]

Isabelle's story

Things were finally looking up for Isabelle and her two kids Sarah and Leo. After all the trouble they had had in the city Isabelle had made a tree change, and moved to a small rural town where she had been able to get a job working as a receptionist for a local vet. Two years earlier she had managed to leave an abusive relationship she had been in since she was 16. She had just turned 29. There was just one problem: her driver licence was suspended.

When she saw Don, a lawyer at a free advice service, she explained that she didn't have a driver licence because of unpaid fines and enforcement costs totalling more than \$3,000. Her former partner, and the father of her two children, had been violent and abusive and she was terrified of him. Isabelle had a car during the relationship, which was registered in her name, but mostly he drove it, leaving Isabelle and the kids to use public transport. He received fines for speeding and parking offences and never paid them. She was so afraid of him that she never filled out a Statutory Declaration to say she hadn't been driving at the time of the offence. With two school-aged children and a new job she really needed her licence so she could get them to school and then get to work.

Don helped her to complete court elections so the fines could go before a court. In support of her application Isabelle was able to provide a detailed report from her psychologist as well as some support letters from domestic violence workers who had known Isabelle when she was trying to escape the relationship. She was also able to provide police records and a statement she had made to them about her former partner. After considering all of the evidence, Revenue NSW wrote to Isabelle to say that the fines had been withdrawn, which meant it wasn't necessary for her to go to court to challenge the fines.

3 Court fines





3.1 Overview

When a person is found guilty of an offence in court the most common type of penalty they get is a fine. Generally, the court has some discretion when deciding on the amount of a fine and will weigh up many factors when making this decision.

One of the factors they consider is the seriousness of the offence. When a judicial officer is deciding how much to fine you, they must take your financial situation into account. If you believe that you won't be able to afford to pay a fine, give the court as much information as you can about your financial position. You can give the court a report from a financial counsellor, your bank statements, payslips or Centrelink documents. This will help the court understand what you can afford.

Craig's story

Craig's heart skipped a beat when he saw the RBT (random breath test) that had been set up on the road ahead of him. As he was waved into the line by a police officer, he thought about the four drinks he'd had at his football team lunch. Surely that wouldn't put him over the limit? The officer asked Craig to count to 10 into the breathalyser. The test showed that he was over the limit. When his blood alcohol level was tested he had a reading of 0.06 which placed him in the low range for a Prescribed Concentration of Alcohol (PCA) offence. This was the first time Craig had ever been charged with an offence. Craig was given an on-the-spot fine and automatic three-month licence suspension.

Craig went online to the Legal Aid NSW Traffic Offences guided pathway ([traffic.guidedpathways.legalaid.nsw.gov.au](https://www.legalaid.nsw.gov.au/traffic-guided-pathways)) to work out his options. He decided to elect to go to court to try and have the fine amount reduced.

When Craig went to court he explained the circumstances of the offence to the magistrate. He then explained that he was a part time cleaner and had very little income. After he had paid rent, child support and other expenses, he had little left over to pay a fine. He had copies with him of relevant documents confirming this, including payslips, rent receipts and child support statements.

The maximum penalty for a first time offence was \$2,200. However, taking into consideration Craig's capacity to pay and other relevant factors, the court imposed a \$200 fine alongside the automatic three-month driving suspension. Craig applied to the Registrar of the court for a payment plan and paid the fine off over three months.

3.2 Applying for an extension of time to pay or payment plan

A court fine has to be paid within 28 days of the court making the order. You can apply at the registry of the court to extend the time or to enter into a payment plan. You

can also apply to have payments deducted from your Centrelink payments. [👉 [see Part 5.3.3](#)]

The Registrar can require you to give them information to back up your application, especially documents about your financial situation, to help them make their decision.

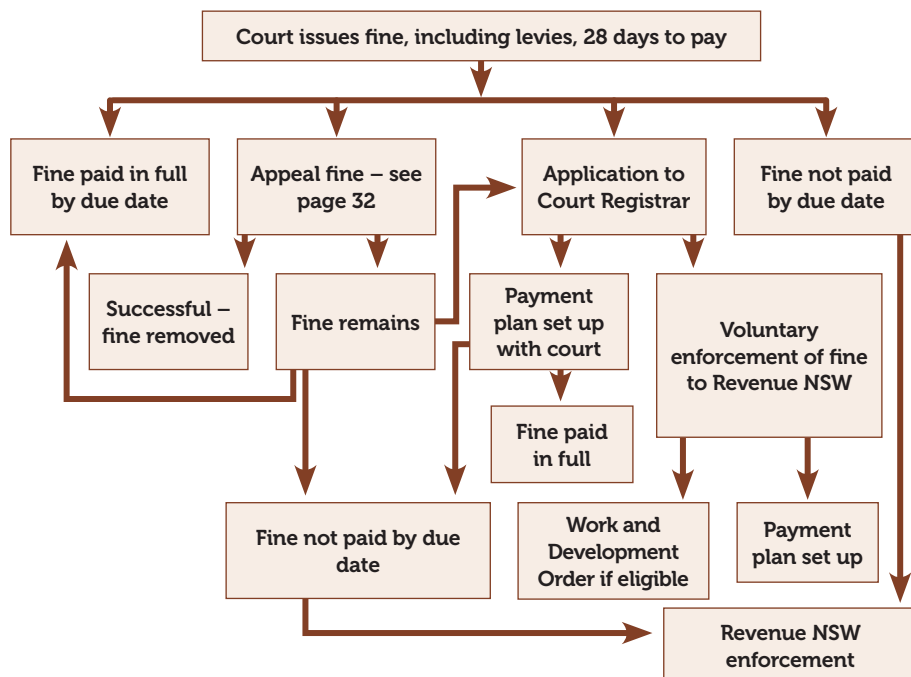
The Registrar's decision is final and cannot be appealed. You can, however, make further applications to pay by instalments if the fine has not yet been referred to Revenue NSW for enforcement. If the Registrar agrees that you can pay a fine by instalments and you don't pay an instalment by the due date, the whole fine becomes payable immediately.

For more information, see the NSW Courts and Tribunals Online Penalty Payment page on their website at:

onlineregistry.lawlink.nsw.gov.au/content/penaltypayment

If the fine has been referred to Revenue NSW for enforcement then you can apply for a payment plan, a Work and Development Order or one of the other options set out in [Part 5](#).

Overview of court fine process



3.3 Voluntary enforcement


If you are on a Centrelink or Veterans benefit, you can ask the registry at the Local Court where the fine was issued to voluntarily enforce the fine over to Revenue NSW before it becomes overdue. You can then apply to pay a court fine by instalments or set up a Work and Development Order through Revenue NSW without the \$65 enforcement cost being added to the fine.

To apply, you need to approach the registry of the Local Court in person. They may ask you to also complete an early enforcement form. You can find a copy of this form on the Revenue NSW website at:

www.revenue.nsw.gov.au/help-centre/resources-library/sdr045_int.PDF

3.4 Referral to Revenue NSW

If you have been given a fine in court, you have 28 days to pay. If it has not been paid by the due date, early enforced or the Registrar has not given you an extension of time to pay or agreed to let you pay by instalments, the fine will be referred to Revenue NSW for enforcement.

Once a fine has been referred to Revenue NSW they will send you a fine enforcement order (Pay Now), which gives you 28 days from the date of the order to pay the fine plus the enforcement fee [ [see Part 4](#)]. If you do not pay your fine within the 28 days, Revenue NSW will take further enforcement action against you. It is important to remember that every time there is enforcement action, costs are added to your fine.

Once a fine has been referred to Revenue NSW, you can apply to Revenue NSW to write off all or part of your unpaid court fine/s in certain circumstances.

[ [see Part 5.6](#)]

3.5 Contesting a court fine

If you have been convicted and fined by a court, and you disagree with the decision, there are several things you can do.

3.5.1 Appeal to the District Court

If you believe you are not guilty of the offence or the penalty is too harsh, you can appeal a Local Court decision in the District Court. The District Court is one level higher than the Local Court.

You have a right to lodge a Notice of Appeal up to 28 days after the sentence date. You can also lodge an appeal up to three months from the sentence date if you get permission from the court. This is called getting leave from the court. To get leave, lodge your Notice of Appeal and include documents that explain why you couldn't lodge it within the 28 days. There is a fee for lodging an appeal to the District Court, but it can be waived. This means you don't have to pay it in cases of financial hardship.

3.5.2 Applying to the court for annulment

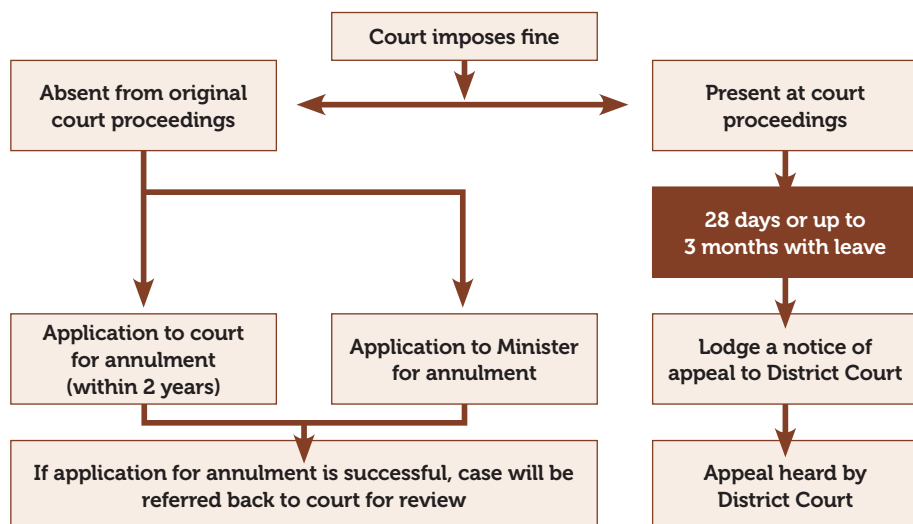
You should get legal advice before applying for an annulment of a court fine.

If you were convicted or sentenced in the Local Court less than two years ago and you weren't there when it happened, you may be able to have the conviction or sentence annulled. This means the case will go to court again and you will have the chance to have your say.

Before you apply for an annulment you should get legal advice and think carefully about whether you are likely to end up better off if you get the annulment and the case goes to court again. The risk is you might lose the case, and end up with additional court costs. To have the conviction annulled, you must prove to the court that:

- ◆ You were not aware of the original case until it was finished or
- ◆ You were unable to attend court because of accident, illness, misadventure or other causes or

Overview of contesting a court fine



- ◆ It is in the interests of justice to do so.

Note

Annulment does not mean you do not have to pay the fine. It just means that a court will hear the case again. You may still end up having to pay the fine.

A step-by-step guide for making an annulment application can be found on the LawAccess NSW website: www.lawaccess.nsw.gov.au/Pages/representing/lawassist_fines/lawassist_aftercourt_fine/lawassist_appealsandannulments_fine/lawassist_making_annulment_application_stepbystep_guide.aspx

3.5.3 Applying to the Minister for annulment

If there is doubt about your guilt or responsibility for a penalty, you can apply for an annulment to the Minister any time after the conviction or sentence date. If the Minister agrees that there is doubt, the matter will be referred back to the Local Court for review.

If your conviction was less than two years ago the Minister may suggest you apply to the District Court first. [👉 [see Part 3.5.2 above](#)].

We suggest that you get legal advice before you file an appeal or apply for an annulment through the court or the Minister. [👉 [see Part 9](#)]

Enforcement action by Revenue NSW

PART
4



Enforcement action by Revenue NSW



4.1 What Revenue NSW can do when a fine isn't paid

The *Fines Act 1996 (NSW)* outlines the processes available to Revenue NSW to pursue payment of an unpaid fine. Revenue NSW must issue a notice and allow a period of 28 days before commencing enforcement action. If the fine remains unpaid after this period the following steps may be taken:

- ◆ Notice that enforcement action will be taken
- ◆ Licence suspension and vehicle registration cancellation
- ◆ Civil enforcement, including:
 - property seizure order

- garnishee order
- examination summons
- charge on land

Note

You can stop the process if you set up a payment plan or apply for a Work and Development Order (WDO) or apply for Revenue NSW to write off your unpaid fines based on hardship. If an application for a payment plan, WDO or write off is declined, you can apply to the Hardship Review Board (HRB) for a review of Revenue NSW's decision.

[[see Part 5](#)]

4.2 Licence suspension and vehicle registration cancellation

If you have not paid the fine by the due date on the Revenue NSW enforcement order, Transport for NSW will be directed to suspend your driver licence, unless you were under 18 at the time of the offence and the offence was not traffic related. If you do not make an arrangement to pay the fine within 21 days of the date of suspension, Revenue NSW will start

Enforcement action by Revenue NSW

civil action. If you do not make an arrangement to pay the fine after civil action, Revenue NSW may refer your fines to a debt collection agency.

Note

Transport for NSW cannot impose driver licence restrictions (suspension) if you were under 18 at the time of the offence and the offence for which the fine was imposed was not traffic related.

Transport for NSW may also impose business restrictions, which means they could refuse to issue or renew a driver licence or allow an application for a driver licence, cancel your vehicle registration, refuse to renew registration and refuse to allow a vehicle's registration to be transferred. A \$40 fee will be added to your fines for any of these Transport for NSW actions. These actions can happen for any type of fine, not just driving-related ones.

Driving while your licence is suspended or cancelled or while your car is unregistered is an offence, and it can lead to more fines and the loss of your licence.

4.3 Civil action

If you do not have a licence or a registered vehicle, or the fine is still not paid after the due date, Revenue NSW can take civil action against you. For each action an enforcement cost of \$65 is added to the fine. Revenue NSW can try to collect the unpaid fine or fines in the following ways.

4.3.1 Garnishee order

Revenue NSW can issue a garnishee order to an individual or an organisation that holds money belonging to you; usually, this means your bank and your employer. A garnishee order means money from your bank account or your wages is paid directly to Revenue NSW to pay off your fines. You must be left with a minimum balance amount (for example in your bank account). The minimum balance amount is updated by law every six months. If you are not left a minimum balance you should contact Revenue NSW or get legal advice.

Revenue NSW cannot directly garnishee Centrelink payments, but it can garnishee bank accounts containing Centrelink payments in

Enforcement action by Revenue NSW

accordance with the *Social Security (Administration) Act*. Section 62 of the Act sets out a formula for calculating a “saved amount”, which cannot be taken under the garnishee. Any amount in excess of the “saved amount” can be taken from the account.

Revenue NSW recognises that in certain circumstances a garnishee order may cause financial hardship. If this is the case, it is possible to apply for a full or partial refund of monies taken under a garnishee order. Evidence to support the claim, including a bank statement will need to be provided. Call LawAccess NSW on **1300 888 529** for free legal help.

4.3.2 Property seizure order

A property seizure order issued by Revenue NSW gives the NSW Sheriff the power to take your goods and auction them. The money from the auction then goes to pay your fines.

The Sheriff is not required to return any property seized under a property seizure order, and any charge on land [🔴 [see Part 4.3.4](#)] doesn't have to be cancelled, even if you later set up a payment plan

with Revenue NSW. The Sheriff only has to return your property and release charges on land once the fine is paid.

4.3.3 Order for Examination

Revenue NSW can send you an Order for Examination, which is an order from the court for you to go to court (they tell you the date and time) to answer questions and give them information, including documents, about your financial circumstances.

If you do not provide the information the court has asked you for, and you don't have a good reason for that, you may be found to be in contempt of court – there are serious penalties for this.

4.3.4 Charge on land

If your fines add up to more than \$1,000 and you own any land, the fines can be registered as a charge on land.

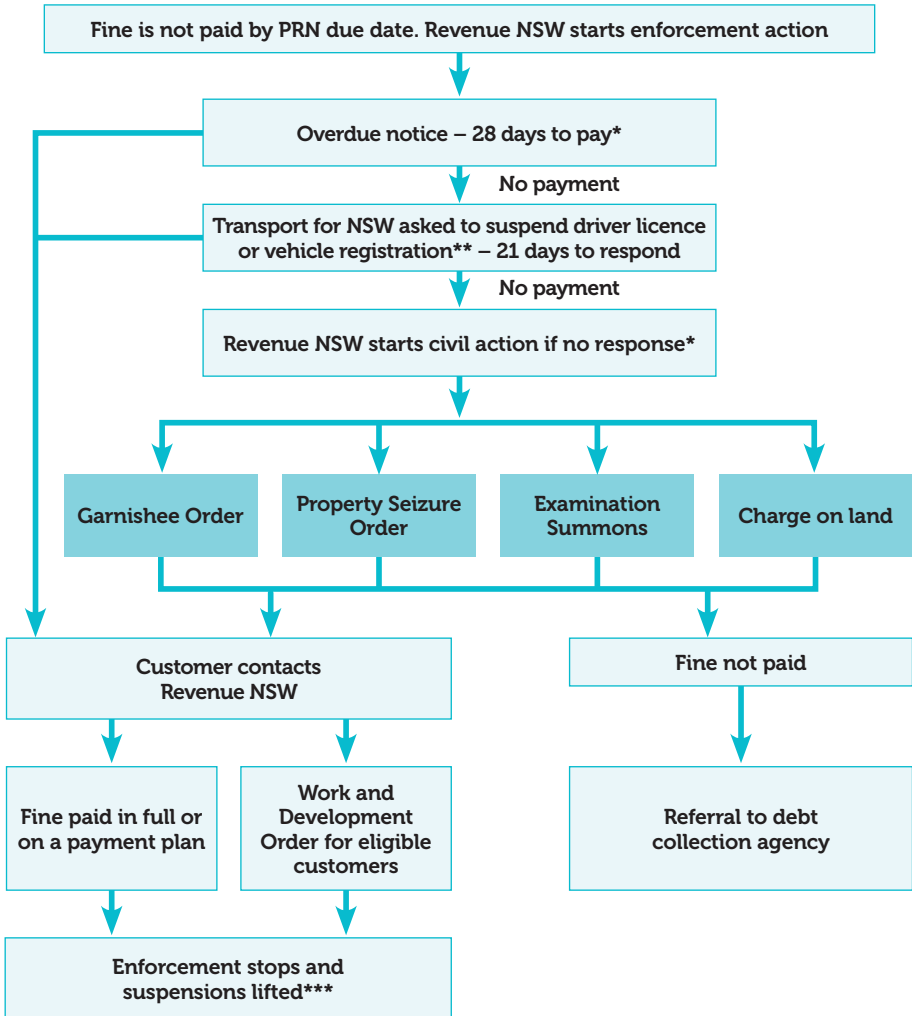
This means that Revenue NSW may register an interest in your property with the Registrar-General, Land Registry Service, which may affect your ability to sell the property.

Enforcement action by Revenue NSW

4.3.5 External debt collection agencies

If civil action does not result in contact from a client, Revenue NSW may engage an external debt collection agency to assist with the recovery of the overdue fines debt. The agencies may contact clients by phone or in person and will explain the Revenue NSW options to resolve the debt. You will be referred back to Revenue NSW to take the appropriate action.

Overview of Revenue NSW enforcement action process



* Enforcement fees added at these points.

** Suspensions remain in place during civil action and until fine under management or paid in full.

*** Always check with Service NSW if you can drive – your licence may be suspended for other reasons, such as demerit points.





Responding to Revenue NSW enforcement action

PART
5





If you have been sent a fine enforcement order and you want to avoid further Revenue NSW enforcement actions, you can do one of these things:

- ◆ Pay the fine [ [see Part 5.2](#)]
- ◆ Apply to Revenue NSW for a payment plan [ [see Part 5.3](#)]
- ◆ Apply to Revenue NSW for a Work and Development Order (WDO) [ [see Part 5.4](#)]
- ◆ Apply for a stay of the enforcement order [ [see Part 5.5](#)]
- ◆ Apply to Revenue NSW for an internal review by following

- ◆ Apply to Revenue NSW for court election if you can prove why you didn't deal with the fine before it became overdue
[👉 [see Part 2.9](#)]
- ◆ Apply to Revenue NSW for the fine to be waived or written off
[👉 [see Part 5.7](#)]
- ◆ If Revenue NSW has refused an application for write off or payment plan, apply to the Hardship Review Board (HRB)
[👉 [see Part 5.8](#)]
- ◆ Apply for remission of the fine
[👉 [see Part 5.9](#)] or
- ◆ Consider bankruptcy.
[👉 [see Part 5.10](#)]

Once you pay the outstanding fine debt and enforcement costs no more enforcement action will be taken.

A payment plan can be set up by contacting Revenue NSW. This can be done by you directly or through an advocate. [\[see Part 9\]](#)

Responding to Revenue NSW enforcement action

The payment plan can be to:

- ◆ make one lump sum payment and pay the rest by instalments, or
- ◆ pay it all by instalments.

If Revenue NSW accepts your payment plan application, you will be granted an extension of time – enough to pay off your fines according to the plan.

5.3.1 The payment plan application process

To apply to enter into a payment plan you can:

- ◆ complete a written application
- ◆ apply online through the MyPenalty or MyEnforcement portal on the Revenue NSW website
- ◆ contact Revenue NSW by phone on **1300 655 805**.

You should do all this before the due date on the fine enforcement order (to avoid further enforcement action), but you can put in a payment plan application at any time.

It is important that your application is realistic – it's better for you and for Revenue NSW if you set up a

plan you can manage rather than one that is so hard you are likely to default on it.

If you have defaulted on previous payment plan arrangements or receive a new enforcement order and are in arrears on your existing payment plan, Revenue NSW may request an increased payment plan amount or lump sum payment.

5.3.2 When a payment plan application has been approved

If your application is approved, Revenue NSW will send you a payment plan which tells you:

- ◆ how much you have to pay
- ◆ the dates when you have to make payments
- ◆ how to make the payments including an option to set up direct debit from your bank account and
- ◆ what enforcement orders are included in the payment plan.

Setting up a payment plan should mean that enforcement action stops and suspensions on your driver licence or car registration will be lifted. [👉 [see Part 5.10](#)]

5.3.3 Payment plans using Centrepay

If you are on a Centrelink or Veterans benefit, you can have your payment plan instalments automatically deducted from your fortnightly payments through the Centrepay program. Also, you do not need to wait until the fines have got as far as enforcement orders to set up a payment plan using Centrepay – you can do it as soon as you get a penalty notice or court fine.

[ see Parts 2.3 and 3.2]

To set up deductions using the Centrepay program, contact Revenue NSW or fill in and send them the Payment Plan Application – go to: www.revenue.nsw.gov.au/help-centre/resources-library/sdr040.pdf. The second page of the application contains a Centrepay deduction authorisation.

You can also set up your court fine Centrepay payments through the court registry. Ask the registry staff for the form.

5.3.4 If you default on your payment plan or get another enforcement order

If you miss an instalment payment, the rest of the fines become payable immediately and enforcement action can be taken. However, if you make the payment within one week of the date the payment is due, you will not be in default.

So, if you:

- ◆ Default on a payment plan
- ◆ Are going to default on a payment, or
- ◆ Have been sent another fine enforcement order.

Let Revenue NSW know immediately and, if necessary, apply to set up a payment plan that fits better with your circumstances.

Any Revenue NSW decision about your payment plan can be reviewed by the Hardship Review Board (HRB). The HRB can direct Revenue NSW to:

- ◆ make, revoke (undo) or vary a WDO or payment plan; or
- ◆ write off all or part of an unpaid fine.

Responding to Revenue NSW enforcement action

For more information on making an application to the HRB.

[ [see Part 5.7](#)]

5.3.5 How much can I afford to pay?

If you are going to set up a payment plan with Revenue NSW you need to work out how much you can afford for each repayment. One way to do this is to speak to a financial counsellor for free.

A financial counsellor can:

- ◆ work out exactly what your financial situation is
- ◆ help you understand and fill in the application form
- ◆ advise you about ways you can manage your money
- ◆ work out a budget and
- ◆ help negotiate with people you owe money to.

To find out details of free and accredited financial counsellors in NSW, contact the National Debt Helpline on **1800 007 007** or go online to: financialrights.org.au/self-help-centre/financial-counsellor-search-tool to find your closest financial counsellor.

5.4 Work and Development Orders (WDOs)

The Work and Development Order (WDO) Program is a world-first fine reduction program for disadvantaged and vulnerable people. WDOs allow eligible people to clear (pay off) outstanding NSW fines by doing activities like: unpaid work, courses, treatment programs and other activities with an approved organisation or registered health practitioner. The WDO Scheme is an innovative response to fine default and a good example of collaboration between government, legal, health and community sectors.

Until the WDO Program was introduced, options for disadvantaged people with no capacity to pay their fines were very limited, leading to a vicious cycle of unrecoverable debt, enforcement action, sanctions and compounding disadvantage, with little or no benefit to the wider community.

The WDO Program offers vulnerable people a way to pay off their fines in ways that are achievable for them and good for the community.

For an excellent overview of the benefits of the WDO Scheme we recommend these short films produced by Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT):

- ◆ Work and Development Orders: Breaking the cycle of fine debt (2012)
- ◆ Work and Development Orders: A deadly way to clear your fine debt (2013) (for Aboriginal and Torres Strait Islander communities).

Both videos can be viewed on the Legal Aid NSW YouTube channel (find the Fines and WDOs Playlist):

www.youtube.com/LegalAidNSW

5.4.1 What is a WDO?

Work and Development Orders allow eligible people to clear (pay off) their fines by doing activities like unpaid work, courses, counselling, mentoring (if under 25) or treatment programs.

Activities must be undertaken with an approved WDO sponsor.

[👉 [see Part 5.4.5](#)]

Revenue NSW enforcement action stops when the WDO is approved and Transport for NSW restrictions,

such as driver licence suspension, are lifted immediately.

5.4.2 Who is eligible for a WDO?

You may be eligible for a WDO if you:

- ◆ Are under 18 years of age or
- ◆ Are experiencing serious financial hardship or
- ◆ Receive a Centrelink or Veterans benefit or
- ◆ Are homeless or
- ◆ Have intellectual disability or cognitive impairment or
- ◆ Have a mental illness or
- ◆ Have a serious addiction to drugs, alcohol or other volatile substances (in which case you must do drug or alcohol treatment and/or counselling as your WDO activity if that is your only eligibility).

You only need to meet one eligibility criteria to do a WDO.

Responding to Revenue NSW enforcement action



Tip

Definitions of the terms referred to in this resource and proof requirements for a WDO are set out in more detail in the *Work and Development Order Guidelines 2017*. Find them on the Revenue NSW website:

www.revenue.nsw.gov.au/help-centre/resources-library/gf001.pdf or contact LawAccess NSW on **1300 888 529** to have them explained to you.

5.4.3 What activities can be done under a WDO?

A WDO allows you to do an activity or undertake a treatment program instead of paying money for your fine. Activities can include:

- ◆ Unpaid work
- ◆ Education, training or life skills courses
- ◆ Counselling (includes case management)
- ◆ Financial counselling
- ◆ Medical or mental health treatment programs
- ◆ Drug or alcohol treatment or
- ◆ Mentoring programs (for young people under 25).

Joanne's story

Joanne is 17 and on Youth Allowance. She's been couch surfing for a few months because of problems at home. Joanne has fines of \$600 for catching trains without a ticket and driving as an unaccompanied learner. She wants to clear her fines so she can get her licence.

Joanne can get a WDO because she is homeless. She is doing some programs at her local youth centre, including a barista course, and is in a mentoring program. Joanne can clear her fines and learn some new skills at the same time.

5.4.4 How is a fine paid off under a WDO?

The rate that a WDO activity reduces a fine debt is set out in the table below. The maximum amount that a fines debt can be reduced each month is \$1,000.

You can only have one WDO open at a time. You can do multiple activities in a WDO up to \$1,000 a month.

Responding to Revenue NSW enforcement action

WDO Activity	Some examples	Rate
Courses	<p>Courses at TAFE, university or college.</p> <p>Life skills programs like cooking, gardening, anger management, positive parenting or learning to drive programs.</p> <p>Training courses in computer skills or job preparation.</p>	\$50 per hour
Counselling (includes case management)	<p>Individual therapy with a counsellor or psychologist to improve mental health, emotional or behavioural issues.</p> <p>Family counselling.</p> <p>Group counselling for victims of domestic violence or sexual assault or support groups for women with postnatal depression.</p> <p>Financial counselling.</p> <p>Case management meetings with a social worker.</p>	\$50 per hour
Unpaid work	Volunteering at a charity organisation, neighbourhood centre or community garden.	\$30 per hour
Medical or mental health treatment	<p>Following a written treatment plan from a health practitioner.</p> <p>Seeing a psychologist or mental health nurse under a GP's mental health care plan.</p>	Up to \$1,000 per month
Drug and alcohol treatment	<p>Drug and alcohol counselling.</p> <p>Residential rehabilitation programs.</p> <p>Supervised outpatient detoxification programs.</p>	Up to \$1,000 per month
Being mentored (a mentor is an experienced and trusted advisor)	<p>Mentoring program at a youth service.</p> <p>Working one-on-one with an experienced person, such as an Elder, to achieve your goals</p> <p>Mentoring for ex-prisoners to provide post-release support.</p>	Up to \$1,000 per month

5.4.5 How to get a WDO

The first step in getting a WDO is to link up with a sponsor. A sponsor is an organisation or health practitioner that is registered to participate in the WDO Program and who is willing to supervise activities under a WDO. WDO sponsors include:

- ◆ Non-profit organisations like neighbourhood centres, charities, youth services, drug and alcohol services, some job active providers and Aboriginal and Torres Strait Islander organisations
- ◆ For profit organisations like job active providers, training organisations and allied health professionals like mental health social workers
- ◆ Government agencies like Juvenile Justice, Corrective Services, education providers and health services
- ◆ Registered Health Practitioners like psychologists, doctors, and nurses

A WDO starts when the sponsor lodges an online application for you with Revenue NSW.

Tip

A sponsor organisation cannot charge you to do a WDO. However, you may be asked to pay the normal fees paid by all participants like TAFE fees.

Noel's story

Noel is an Aboriginal man with a young family. He has unpaid fines dating back to 1998 when he was fined as a kid for skateboarding in a prohibited place. Noel wants his licence back so he can get to work and drive his family around. He is accepted into the WDO program at the local Aboriginal Land Council doing voluntary work. He does seven hours every Friday, which equals \$840 a month off his debt. Noel gets his licence back as soon as his WDO is approved and he completes his WDO in just over three months.

5.4.6 Finding a WDO sponsor

If you are working with a support service or health practitioner, they may already be participating in the WDO Program and you could ask them to sponsor you. If they are not

Responding to Revenue NSW enforcement action

already registered, ask if they would be willing to lodge an application to become an approved WDO sponsor. [👉 [see Part 5.4.7](#)]

If you are not already working with a suitable service or health practitioner, there is a list of WDO sponsors on Revenue NSW's website: www.revenue.nsw.gov.au/fines-and-fees/cant-pay-your-debt/find-a-wdo-sponsor or you can call the Revenue NSW WDO hotline on [1300 478 879](tel:1300478879).

If you are having difficulty finding a sponsor in your area, Legal Aid NSW have a WDO Service which may be able to help with a referral. To find a service near you call LawAccess NSW on **1300 888 529** or send an email to wdo@legalaid.nsw.gov.au.

5.4.7 How to become a WDO sponsor

Becoming an approved WDO sponsor is straightforward. The WDO Guidelines set out the criteria and supporting documentation to be submitted with the application. You apply online at:

www.revenue.nsw.gov.au/fines-and-fees/advocates/become-a-sponsor

If you would like to find out more about becoming a WDO

sponsor, Legal Aid NSW have a specialist WDO Service which offers free advice, assistance and education to organisations and health practitioners interested in participating the WDO Scheme. To contact your local WDO Service:

- ◆ phone LawAccess NSW on [1300 888 529](tel:1300888529)
- ◆ go to: www.legalaid.nsw.gov.au/wdo or
- ◆ email: wdo@legalaid.nsw.gov.au

5.4.8 A WDO Plan

Once you have found a WDO sponsor you will need to get together to work out a plan of activities for you to do for your WDO. This might be one activity or a combination of different activities. You may be doing all the activities with the sponsor organisation or they may refer you out to do some of them with another organisation. The maximum amount you can pay off is \$1,000 a month.

5.4.9 Completing a WDO

There is no limit on the amount of fine debt that can be cleared with a WDO. It is possible to pay off large fine debts with the support of your sponsor.

Responding to Revenue NSW enforcement action

If you have completed a WDO and still owe money to Revenue NSW, you will need to make an arrangement to pay the balance of the debt. You, or your advocate, can contact Revenue NSW about entering into a payment plan [👉 [see Part 5.3](#)] applying for another WDO or applying for a write off of the remaining balance. [👉 [see Part 5.6](#)]

If you do nothing about paying the remaining balance, Revenue NSW will start enforcing the fine [👉 [see Part 4](#)], which may result in additional costs and Transport for NSW restrictions.

5.4.10 Varying or revoking a WDO

Revenue NSW can vary or revoke a WDO at any time if your circumstances change.

Revenue NSW may change your WDO if:

- ◆ You get more fines and you want to include them in your WDO
- ◆ You want to undertake new or different activities (if your sponsor is approved for those activities and notifies Revenue NSW).

Revenue NSW may cancel your WDO if:

- ◆ False information is provided to Revenue NSW about the WDO. This may also result in fines debt that had been reduced under the WDO being reinstated
- ◆ You are no longer eligible
- ◆ The sponsor is unable to continue to supervise the WDO
- ◆ You have failed without a good reason to do activities under the WDO. Revenue NSW can only do this after they have taken reasonable steps to consult with you and the sponsor.

Tip

While there is no penalty for not completing a WDO, enforcement action will commence for any outstanding balance unless you have made another payment arrangement with Revenue NSW.

If you disagree with any decision Revenue NSW makes about your WDO you can apply to the Hardship Review Board (HRB) for a review. The HRB can direct Revenue NSW to make, revoke or

Responding to Revenue NSW enforcement action

vary a WDO, or to write off all or part of an unpaid fine.

[👉 [see Part 5.8](#)]

5.5 Applying for a stay of an enforcement order

A stay is a temporary order to stop Revenue NSW from continuing with its enforcement or collection procedures. You can ask for a stay when you are trying to get information and documents together for another payment option application (such as a payment plan application), or if you will soon have the money to pay the fine and the enforcement costs. You can also ask for a stay while you are organising a WDO.

You can apply for a stay either by phoning or writing to Revenue NSW. You will need to explain why you are applying for a stay and may have to provide supporting documents. An advocate can also apply for a stay on your behalf.

[👉 [see Part 2.1](#)]

Revenue NSW can stay an enforcement order for up to 12 months. A sample letter for a stay application is available in this publication. [👉 [see Part 9](#)]

5.5.1 Stay of enforcement for prisoners

When you go into custody Corrective Services NSW will let Revenue NSW know that you are in gaol and your estimated date of release.

If you don't think this has happened you can fill out an Inmate Request for Information Form (IRI), or call Revenue NSW on **1300 554 450**. Alternatively, Revenue NSW is also listed on the Common Auto Dial List (CADL).

When Revenue NSW know you are in gaol, you will have enforcement action stayed until three months after you are released.

You can get IRI forms from Corrective Services NSW staff. These staff will also be able to tell you if you are eligible to do a WDO while in gaol.

Tip

You can also apply to have your overdue fine referred to the court and heard by a magistrate if you have a good reason why you were unable to respond to a penalty notice earlier. You should contact Revenue NSW in the first instance with your supporting evidence. If this is unsuccessful, you may still be able to apply to have the matter dealt with by a court. Ignorance of the time limit would not be sufficient reason.

[ [see Part 2.9](#)]

5.6 Applying to have a fine written off


Revenue NSW has the power to write off all or part of your unpaid fines in a few circumstances. Revenue NSW can decide by itself to write off all or part of an unpaid fine, or it can do it in response to an application from you, an advocate or a WDO sponsor on your behalf.

To have fines written off, you, or someone helping you, can apply in writing to the Director of Revenue

NSW or use the online write off application portal on the Revenue NSW website – www.apps09.revenue.nsw.gov.au/customer_service/forms/fines/write-off

Your application has to persuade Revenue NSW that because of serious financial, medical or personal circumstances, you:

- ◆ Are unable to pay the fines now or in the future
- ◆ Do not own any goods that can be seized
- ◆ Do not have income that Revenue NSW can put a garnishee order on
- ◆ Do not own any property Revenue NSW can impose a charge on, and
- ◆ Are not able to do a WDO.

You will need to include supporting documents, such as medical reports, financial documents, letters from social workers or welfare agencies, copies of court orders, etc. [ [see Part 9](#)]

If your application is successful the fine enforcement orders will be written off, on the conditions that:

Responding to Revenue NSW enforcement action

- ◆ You do not have any further fines referred to the Revenue NSW for five (5) years, and
- ◆ You advise Revenue NSW if your financial, medical or domestic circumstances change within five years.

If in that five years your circumstances improve or you receive a new fine enforcement order for a new fine, Revenue NSW can revoke the write off and start to take enforcement action on any unpaid fines. Any Revenue NSW decision about writing off a fine can be reviewed by the Hardship Review Board (HRB). The HRB can direct Revenue NSW to write off all or part of an unpaid fine. For more information on making an application to the HRB.

[ [see Part 5.7](#)]

Note

If your fine is written off it means you don't have to pay the fine but the record of the offence, and any demerit points you lost, do not change.

5.6.1 How to have a fine written off

1. Apply to Revenue NSW and supply your supporting evidence.
2. If your application is approved, the outstanding debt will be written off.
3. If your circumstances change or you receive a new enforcement order within five years, the write off may be revoked.
4. There are different ways that a write off can be revoked, a Legal Aid NSW lawyer will be able to help you with your situation. Call LawAccess NSW to be referred to the Legal Aid NSW WDO team.

5.7 Applying to the Hardship Review Board (HRB)

You, or someone acting for you, can apply to the HRB for a review of a Revenue NSW decision about:

- ◆ A payment plan application
- ◆ A WDO application or order
- ◆ Writing off of all or part of an unpaid fine.

An application form and additional information is available on the HRB website –

hrb.revenue.nsw.gov.au/about

John's story

John's mum worked at the local Aboriginal Legal Service (NSW/ACT) and had heard that Legal Aid NSW was running a "bring your fines day" at the local community hall. She told John that he should go and the lawyers could help him with his fines. John had \$5,500 worth of unpaid fines and enforcement costs. He had also lost his driver licence because of the unpaid fines. John saw Sarah from Legal Aid NSW. He told her that he had been unwell for a long time, with a muscle wasting disease that would eventually mean he would be unable to walk. He could no longer work and received a disability support pension. John said it would be really helpful if he could get his licence back, while he was still able to drive, so he could get out a bit and go to medical appointments.

Sarah wrote to John's doctor at the Aboriginal Medical Service and asked if she could provide a medical report with information about John's illness. John's doctor wrote back detailing John's condition and confirmed it was degenerative, which would eventually mean John would be in a wheelchair. Sarah applied for a write off to Revenue NSW, based on John's serious health problems. Revenue NSW wrote John's fines off. It was clear that he had a serious medical condition and would not be able to pay his fines. When John's fines were written off his licence restrictions were lifted.

Revenue NSW may suspend enforcement action while your application to the HRB is being dealt with, but they don't have to unless they are directed to by the HRB. The HRB can do its review without you being there. It will look at your circumstances, including your ability to pay now and in the future, what civil enforcement action could be taken against you

and your suitability for a WDO. The HRB can then direct Revenue NSW to:

- ◆ Make, remove or change an order about a payment plan application
- ◆ Make, remove or change an order about a WDO, or
- ◆ Write off all or part of an unpaid fine.

Responding to Revenue NSW enforcement action

Note

The HRB cannot direct Revenue NSW to lift Transport for NSW restrictions. For information about getting Transport for NSW restrictions lifted.

[👉 [see Part 5.10](#)]

5.8 Remission of fines

The NSW Governor, on the recommendation of the Attorney General, can remit fines. This means that the fine is treated as if it has been paid. You might apply for remission if your application for write off has been rejected, or if the reason you are asking for remission is different from the reasons you use for a write off.

You must apply for remission in writing to the Community Relations Division, Department of Communities and Justice. You must also give details of why you are asking for it and provide supporting documents. Usually people ask for remission on compassionate grounds. Once your application is in, any enforcement action stops and any restrictions (such as Transport for

NSW restrictions) are lifted until a decision is made. The process can take over two months.

Note

If your fine is remitted it means you don't have to pay the fine but the record of the offence, and any demerit points you lost, do not change.

5.9 Bankruptcy

Bankruptcy is a big step, and it means serious restrictions on your life. These restrictions continue until you are “discharged” from bankruptcy, which usually happens automatically after three years. When a person is discharged from bankruptcy, they are released from most of their debts, but not all.

A “provable” debt is a debt which will be extinguished when the period of bankruptcy ends. A debt that is not “provable” will continue to be enforceable even after a person is “discharged” (released) from bankruptcy. Non provable debts are listed in Section 82 of the *Bankruptcy Act* and include penalties or fines imposed by a court.

Penalty notices are not specifically described as non-provable debts in Section 82 of the *Bankruptcy Act*. It is arguable that they are provable debts in bankruptcy and not enforceable once a person is discharged from bankruptcy. The Australian Financial Security Authority (AFSA) is the agency that administers and regulates Australia's insolvency system. AFSA say that even if you go bankrupt, there are some situations where state government agencies may be able to continue with enforcement activity for unpaid penalty notices. Because of changes to the fines system, which take into consideration financial hardship, it is advisable to explore other options for addressing unpaid fines before considering bankruptcy. If you have other debts in addition to unpaid fines a financial counsellor can help to explore options for dealing with these. [🔴 [see Part 9](#)]

5.10 Having transport for NSW restrictions removed (getting your licence back)

If you do not pay your fine, Revenue NSW can ask Transport for NSW to impose restrictions. The restrictions could be a driver licence suspension,

vehicle registration cancellation and customer business restriction. They will also add their own enforcement costs on top of the Revenue NSW enforcement costs.

Note

Community workers, financial counsellors and lawyers can use a special hotline number to speak with Revenue NSW officers. This will often speed up the process of getting Transport for NSW restrictions lifted. To use the hotline, you must be a registered advocate. Most of the contacts listed in the back of this resource are for registered advocates. To become a registered advocate, you can contact Revenue NSW, or you can visit: www.revenue.nsw.gov.au/fines-and-fees/advocates

Revenue NSW can direct Transport for NSW to remove restrictions in the following circumstances:

- ◆ You have paid your fines
- ◆ You start a WDO
- ◆ You set up a payment plan and
 - you have not previously defaulted on a payment plan, or

Responding to Revenue NSW enforcement action

- you pay money towards your fine immediately over the phone

◆ There are compelling reasons to lift (or not impose) Transport for NSW restrictions such as:

- you need your licence to be able to work
- you have to drive someone who is ill to medical appointments
- you are ill and need to drive yourself to medical appointments
- you live in a remote location and have no access to public transport
- you live in an Aboriginal community and have enrolled in a driver training program or school to obtain your licence.

Otherwise restrictions will only be lifted once you set up a payment plan. You may also be asked to make an upfront payment or a number of your part payments before restrictions will be lifted.

Don't start driving again until you are sure the restrictions have been lifted – always check with Service NSW and Revenue NSW first. Your licence may have been suspended due to other traffic offences like demerit points and will stay in place even if your fines are paid in full or under management.

Extra help – young people and First Nations people



Extra help – young people and First Nations people



6.1 Young people and fines

Overview

Many young people are vulnerable to receiving fines, particularly fines that come from being in public places, on public transport or from interactions with public authorities.

Fines can have a significant and disproportionate effect on young people because they are less likely to have the financial capacity to pay the fines, and often have less capacity to understand and appreciate the consequences of not paying their fines.

Options for dealing with fines

Fines cannot be issued to children under the age of 10. Your options as a young person under the age of 18 to deal with your fines are the same as those outlined in other Parts of this booklet.

Plus you have the additional option if you are under 25 years and eligible, to undertake a mentoring program as part of a Work and Development Order (WDO).

If you get a fine and you want to fight it, or you can't afford to pay it, contact Revenue NSW or get legal advice straight away. [[see Part 9](#)]

Enforcement action

If you are under 18 and get a fine, there are a few differences in how Revenue NSW can enforce the fine when it isn't paid on time. These are:

- ◆ Once a fine is first referred for enforcement, Revenue NSW imposes an enforcement cost of \$25 (it's \$65 for adults)
- ◆ If all the fines were issued when you were under the age of 18, Revenue NSW must waive all additional enforcement costs that are charged with each

Extra help – young people and First Nations people

further enforcement action (like the \$40 cost to Transport for NSW for suspending your licence)

- ◆ Transport for NSW cannot take any action on your driving or rider's licence for non-traffic fines that you got when you were under 18.

It is important to note that even where there are Transport for NSW suspensions in force, Service NSW cannot refuse to issue you a Photo Card.

Electing to go to court – the Children's Court

If you choose to deal with your fine by electing to go to court, then the matter will be heard at the Children's Court. This will only happen if you were under the age of 18 at the time of the offence and if you are still under 21.

Exception – traffic offences

Where the fine was a traffic offence, like a speed camera offence and you were old enough to have a licence at the time of the offence (16 years old for cars and 16 years

and nine months for motorbikes), the matter will be heard at the Local Court.

What can the Children's Court do?

The Children's Court has to take some factors into consideration when it sentences you, with a particular focus on rehabilitation. This means giving people skills and knowledge so they have a better chance of not offending again and diverting young people away from the court system.

When you elect to go to court, the fines become like a charge and the Children's Court can then use all the options available to it to sentence you. Some options the Children's Court can use instead of imposing a fine include:

- ◆ Dealing with the matter by way of a caution or referring the matter to a youth justice conference as per the *Young Offenders Act 1997 (NSW)*
- ◆ Dismissing the matter by way of a caution as per the *Children (Criminal Proceedings) Act 1987 (NSW)*.

Extra help – young people and First Nations people

If the Children's Court is considering imposing a fine as a penalty to a young person, they must take into account whether the young person can pay the fine. If the Children's Court is intending on imposing a fine, then the fine can't be more than 10 penalty units (\$1,100) for one offence.

When giving a fine the Children's Court Magistrate has the discretion to be able to waive court and victims support levy costs.

Alison's story

Alison had been trying to get her life together, but sometimes it felt overwhelming. She recently turned 16 and had been living in a youth refuge for six months – things got so bad at home with her mum's drinking, she just couldn't stay there anymore. Alison's use of drugs and alcohol had caused things to spin out of control even more and she spent time in a residential rehabilitation unit for three months before moving to her current placement.

Alison had given her case worker some paperwork, including a \$225 Revenue NSW enforcement order from a fine that had been imposed by the Children's Court for graffiti damage eight months before. The fine had been \$200 and \$25 had been added by Revenue NSW as enforcement costs.

Alison hadn't been in court and the penalty had been imposed in her absence. She couldn't remember getting any letters telling her about court. Things had been pretty chaotic, and she was in rehab when the summons was sent out. \$225 was a lot of money for Alison and thinking about it made her feel really anxious.

Jane, her lawyer, helped her make an annulment application to the Children's Court on the basis that she didn't know about her court matter and had been experiencing homelessness, the paperwork would have been sent to her old address. The court agreed to re-hear the matter and, taking into account her circumstances, her matter was dismissed, which meant she didn't have to pay the fine or enforcement costs.

6.2 First Nations people and fines

Overview

Many Aboriginal and Torres Strait Islander (First Nations) people are vulnerable to receiving fines, particularly fines that come from being in public places, on public transport, driving in regional areas or from interactions with public authorities.

Fines can have a significant and disproportionate effect on First Nations people because they are less likely to have the financial capacity to pay the fines, and if they live in regional areas are more at risk of secondary offending due to licence suspensions from unpaid fines.

Revenue NSW is committed to providing a culturally safe service. When First Nations people contact Revenue NSW, they can request to speak to a Revenue NSW Support Officer who identifies as a First Nations person.

When you call, Revenue NSW staff will ask if you identify as an Aboriginal or Torres Strait Islander person and if you would prefer to speak with a First Nations support


officer. You do not have to answer if you do not want to and you don't have to be transferred to a First Nations officer if you choose not to.

You can also call the Revenue NSW First Nations Hotline directly on **1300 478 879**. This hotline is answered by Revenue NSW staff who identify as First Nations people.


Options for dealing with fines

There are options you can speak to Revenue NSW about to help you pay your fines:

50% reduction

If you are on a Centrelink or Veterans benefit and get a penalty notice fine you can ask Revenue NSW for a 50% reduction. You must do this before it becomes overdue. [ [see Part 2.4](#)]

Payment plan

If you need extra time to pay your fines, you can apply for a payment plan. If you are receiving a Centrelink or Veterans benefit, the payment can be taken out of your benefit each fortnight through Centrepay deductions. [ [see Part 2.3](#) for a penalty notice and [Part 5.3](#) for an overdue fine].

Extra help – young people and First Nations people

Work and Development Order (WDO)

If you need additional help to pay your fines, you may be eligible for a Work and Development Order (WDO). A WDO can be arranged with community partners in your local area to help you do activities or treatment to clear your fine debt without having to pay any money. [see [Part 2.10](#) for a penalty notice and [5.4](#) for an overdue fine]

Call the Revenue NSW First Nations Hotline for more information about doing a WDO.

If you have a Transport for NSW licence suspension, registration cancellation or business restriction in place, you can ask Revenue NSW to lift these when you are completing a payment plan or WDO.

Fine waivers

If you are in severe financial hardship and do not have the capacity to pay your fines or complete a WDO, Revenue NSW may consider writing off the fines. You will need to supply supporting documents. To get help with a fine waiver you can:

- ◆ contact Revenue NSW First Nations Hotline for further information

- ◆ call LawAccess NSW on **1300 888 529** for free legal help
- ◆ find information and an application form online at: www.revenue.nsw.gov.au/fines-and-fees/cant-pay-your-debt

Get help with your fines early

If you would like to take up one of the options above or if you just want some extra information about your fines and these options, contact Revenue NSW:

- ◆ by phone on **1300 478 879**
- ◆ online at: www.revenue.nsw.gov.au/fines-and-fees/request-a-review

If you are not comfortable calling to speak with Revenue NSW, you can ask somebody else to contact us on your behalf. This could be a friend or relative, a support worker at your local neighbourhood centre or Aboriginal Legal Service or your doctor.

You can find more information online about how Revenue NSW can help you resolve your fines. Go to: www.revenue.nsw.gov.au/help-centre/resources-library/fines-getting-back-on-track-aboriginal-peoples.pdf

Demerit points and your driver licence



Demerit points and your driver licence



7.1 Overview

If you get a fine for a traffic offence, you can also get demerit points. If you exceed the threshold number of demerit points allowed within a three year period, your licence will be suspended.

The number of demerit points you are allowed to get before your licence is suspended varies for different types of licence:

- ◆ Full unrestricted licence – 13 demerit points or professional drivers – 14 demerit points
- ◆ Provisional P2 licence – 7 demerit points
- ◆ Provisional P1 licence and Learner's Permit holders – 4 demerit points. P1 licence

holders will have their licence suspended for at least three months for ANY speeding offence. An additional suspension or refusal period will apply for any serious speed offence.

Once you have reached (or gone over) the number of demerit points allowed for your licence, it will be suspended by Transport for NSW. [see Part 7.4]

You can look at and download the complete list of offences, and their demerit points and fines, on the Transport for NSW website: www.rms.nsw.gov.au/roads/safety-rules/demerits-offences/demerit-points/index.html and click on the heading 'Search all demerit point offences'.

Double demerit points apply for speeding, seatbelt, motorcycle helmet and mobile phone offences during all holiday periods such as long weekends, Christmas, New Year and Easter. Certain driving and parking offences will also attract an additional demerit point if committed in an operating school zone. Double demerits can also apply when school zones

are operational during holiday periods. If you commit a speeding, seatbelt, motorcycle helmet or mobile phone offence during this combined period, it can easily lead to licence suspension.

7.2 Licence suspension

If you exceed your demerit point limit your licence will be suspended and you will get a notice of suspension from Transport for NSW. The length of the suspension depends on the number of demerit points you have, the type of licence you have and the offence committed. If you receive a suspension for a serious speeding offence which also results in a loss of demerit points, you may serve two consecutive suspensions. If you have a full unrestricted licence, the demerit point suspension period will be three, four or five months. If you have a provisional licence, the suspension period is automatically three months.

Once a suspension period is finished your demerits points are cleared, and you start again. If you receive demerit points on a provisional licence, but do not exceed the allowable limit, these

points can carry over to your unrestricted licence when you get one.


If your licence expires or runs out during the suspension period, you must renew it before you can drive again. This is important, because Transport for NSW will not send you a renewal notice while your licence is suspended. You need to know when your licence is due for renewal and get it renewed.

Offences and demerit points stay on your driving record no matter how long ago they happened. It is only the demerit points from offences in the last three years that are taken into account to determine whether you have exceeded your demerit point threshold. You can check your offences and points in the last 40 months on the Service NSW website: www.service.nsw.gov.au/transaction/check-your-demerit-points.

Demerit points and your driver licence

Note

Demerit point licence suspensions are different from Transport for NSW restrictions applied by Revenue NSW for not paying a fine – they are two separate things. So paying your fines may not lift your licence suspension.

For more information about driving while your licence has been suspended because of unpaid fines [ [see Part 4.2](#)].


7.3 Good behaviour period

If you have an unrestricted licence and you get a Notice of Suspension because of demerit points, you can apply to have a 12-month good behaviour period instead of the suspension. You can't do this if you have a provisional licence.

Once you have received a Notice of Suspension letter, you can apply for a good behaviour period in person at Service NSW or online. You must do this before the date that the suspension is due to start. This date is written on the Notice of Suspension. If you get two or more demerit points while you are

serving a good behaviour period, your licence will be suspended for double the original suspension time.

7.4 Appealing a licence suspension due to demerit points

If you hold a Learner or Provisional licence you may appeal to the Local Court against a decision to suspend your licence because of demerit points. You cannot appeal if you are a full unrestricted licence holder [ [see Part 7.3 good behaviour period](#)].

7.5 Police infringement notices and suspension of licence

NSW Police can issue an infringement notice and an immediate suspension of your driver licence for these 'lower range' Prescribed Concentration of Alcohol (PCA) offences and drug driving offences:

- ◆ Low Range PCA (first offence)
- ◆ Novice Range PCA (first offence)
- ◆ Special Range PCA (first offence)
- ◆ Driving with the presence of an Illicit (first offence)

Demerit points and your driver licence

In each of these PCA offences, police can issue an immediate three-month suspension of your driver licence.

For Drive with Illicit Drug Present offences, police will issue a 24-hour licence suspension upon a positive first test. Once the second sample is analysed, if the analysis indicates that Drive with Illicit Drug Present is the appropriate offence, provided it is a first offence, police can issue you with an infringement notice. Police will not be able to issue an immediate suspension for this offence. If there is no court election, once the fine is paid, or the time to court elect has passed, Transport for NSW will suspend your licence for three months.

Once the suspension period is over you can drive as long as your licence has not expired or is suspended for another reason. Contact Service NSW to check before you start driving again.

Dealing with the fine

Revenue NSW cannot review Police Infringement Notice fines except in exceptional circumstances such as human error. For example, NSW Police wrongly listed the passenger

instead of the driver on the offence.


If you need help to pay the fine, you can set up a payment plan or work and development order if you are eligible

[ [see Part 5.3 and 5.4](#)].

Appealing the suspension

If you have received an immediate police suspension, or suspension by Transport for NSW, you can appeal to the Local Court. The appeal must be lodged within 28 days of receiving a notice of the suspension.

Lodging an appeal against an immediate police suspension does not automatically stay the suspension. You can apply for a stay, a stay will only be granted in exceptional circumstances.

The Local Court can only vary or lift the suspension if satisfied there are exceptional circumstances. Get legal advice before lodging an appeal. [ [see Part 9](#)]

7.6 Licence disqualification

A court can disqualify you from driving. This is different to Transport for NSW who suspend your licence. The important difference is that if a court disqualifies you from driving,

Demerit points and your driver licence

your demerit points are not cleared from your record at the end of the disqualification period.

If you are convicted in court for a traffic offence you will usually get demerit points. The court can also find you guilty but dismiss the matter. If you get disqualified and get demerit points that exceed your demerit point limit, your licence will be suspended by Transport for NSW at the end of the disqualification period. So you will lose your licence twice, firstly from the disqualification, then from the demerit points.

Note

Driving while you are suspended or disqualified has severe penalties.

7.7 Suspension of visitor driver privileges

Visiting driver privileges permit people visiting NSW from another state or overseas to drive in NSW, provided they meet certain requirements. More information about visitor driver licence requirements can be found on the Transport for NSW website:

www.rms.nsw.gov.au/roads/licence/visiting-moving/index.html

Interstate and international drivers who default on fines may have their visitor driver privileges withdrawn. This may occur where they have two or more unpaid fines related to traffic offences.

Privacy and access to information



Privacy and access to information



8.1 Overview

There are many independent organisations that may be able to help you with a problem that you cannot solve directly with Revenue NSW:

- ◆ The NSW Ombudsman can consider complaints about the fines process or the service provided by Revenue NSW, and
- ◆ The Information and Privacy Commission can deal with complaints about a breach of your privacy or your right to access information held by Revenue NSW.

8.2 The NSW Ombudsman

The Ombudsman can investigate or otherwise deal with complaints

about NSW public sector agencies including Revenue NSW and agencies that issue penalty notices.

The Ombudsman generally expects you to complain to the agency first. You need to give them a chance to take the action you want or explain why they won't before complaining to the Ombudsman. If the matter is urgent you should call the Ombudsman first to discuss your complaint. The easiest way to lodge a complaint with the Ombudsman is online. Go to: www.ombo.nsw.gov.au, click on the 'Complaints' tab, then the 'Make a complaint' link, and follow the instructions to make a complaint online.

You should include copies of all relevant documents with your complaint.

You can complain to the Ombudsman about administrative conduct, including:

- ◆ Decisions not in accordance with the legislation, policy or Revenue NSW review guidelines
- ◆ Delay in taking action or making a decision
- ◆ Unreasonable or inconsistent decisions

- ◆ Not providing reasons for a decision
- ◆ Unreasonable enforcement action
- ◆ Failure to contact you or reply
- ◆ Not doing what they said they would do
- ◆ Errors or mistakes
- ◆ Not telling you the outcome of your complaint and
- ◆ Poor client service.

The above are examples only. You should contact the Ombudsman for advice about whether or not they can help with your complaint:

- ◆ Phone – **(02) 9286 1000**
- ◆ Email – nswombo@ombo.nsw.gov.au

The Ombudsman has wide discretion to decide when to act on a complaint. The Ombudsman assesses complaints on a case by case basis and will consider whether an alternative and satisfactory means of redress is available to you. The Ombudsman is not an alternative to going to court and may decline to take action if it is considered going to court is the most appropriate way for you to resolve your complaint.

Note

The Ombudsman cannot review or investigate court decisions. If you have a complaint about a court decision, you can write to the Chief Magistrate of the Local Courts or the Community Relations Division of the Department of Communities and Justice.

[➡ [see Part 9 for contact details](#)]

8.3 Privacy

Agencies such as Revenue NSW and Transport for NSW collect and use personal information about people. In most situations they are required to comply with information protection principles set out in the *Privacy and Personal Information Act 1998 (NSW)* (PPIPA). If the information collected is health information, then an agency must comply with health information privacy protection principles set out in the *Health Records and Information Privacy Act 2002 (NSW)* (HRIP). Fact sheets which summarise these principles can be found on the Information and Privacy Commission (IPC) of NSW website www.ipc.nsw.gov.au. There are some circumstances where

Privacy and access to information

government agencies do not have to comply with information privacy principles. For more information about this you can contact the privacy contact officer in the agency concerned or the Information and Privacy Commission of NSW on [1800 472 679](tel:1800472679) or send an email to ipcinfo@ipc.nsw.gov.au.

If a NSW Government agency has failed to comply with their legal obligations in relation to your privacy, you can make a complaint. A complaint must be in writing and made within six months of becoming aware of the conduct you believe breached your privacy. A longer time period may be allowed in some cases.

The first step will generally be to request an internal review by the agency concerned. If you are unhappy with the outcome of the internal review, you can make a complaint to the NSW Civil and Administrative Tribunal (NCAT) which can make a legally binding decision.

More information about your privacy review rights can be found on the Information and Privacy Commission NSW website www.ipc.nsw.gov.au/privacy.

8.4 Access to information

The *Government Information (Public Access) Act 2009 (NSW)* (GIPA) provides a general right to see personal and other information from NSW Government departments and agencies.

There is a general presumption under the GIPA Act that information should be released, unless there is an “overriding public interest against disclosure”. The public interest considerations which might prevent disclosure are set out in Section 14 and Schedules 1 and 2 of the GIPA Act.

The first step in accessing information is to contact the agency concerned to see if the information can be accessed informally or is already publicly available. If that approach is not successful you can fill in the access to information application form available on their website and send it to the government department or agency you want the information from. The application fee is normally \$30, which in certain circumstances can be waived or reduced. A department or agency can also charge a processing fee of

Privacy and access to information

\$30 per hour, which again can be reduced in certain circumstances such as financial hardship.

If the department or agency refuses your GIPA request (some of it or all of it) you have a right to an internal review by the department or agency. Alternatively, or if you are still not satisfied with the outcome of the internal review, you can request an external review, by making an application to the Information Commissioner or the NCAT. An application for review by the Information Commissioner or the NCAT must be made within 40 working days of you being notified of the decision to refuse access.

If however a review has been conducted by the Information Commissioner, then you have a further 20 working days from notification of the Commissioner's decision to appeal to the NCAT.

Revenue NSW has additional information about accessing information on their website: www.revenue.nsw.gov.au/about/right-to-information.

For more information and factsheets in community languages about the GIPA, contact the Office of Information Commissioner NSW on [1800 472 679](tel:1800472679) or visit: www.ipc.nsw.gov.au.



Useful contacts

Government agencies

LawAccess NSW

Telephone **1300 888 529**

National Relay Service –
ask for LawAccess NSW

Voice **133 677**

Speak & Listen **1300 555 727**

Telephone Interpreter

Service (and ask for LawAccess NSW) **131 450**

www.lawaccess.nsw.gov.au

Legal Aid NSW

www.legalaid.nsw.gov.au

Fines and traffic offences

Revenue NSW

Work and Development Orders

WDO Hotline **1300 478 879**

First Nations Hotline **1300 478 879**

Email wdo@revenue.nsw.gov.au

Find a WDO Sponsor

[www.revenue.nsw.gov.au/fines-and-fees/
cant-pay-your-debt/find-a-wdo-sponsor](http://www.revenue.nsw.gov.au/fines-and-fees/cant-pay-your-debt/find-a-wdo-sponsor)

Fines

Penalty notices **1300 138 118**

Enforcement orders **1300 655 805**

[www.revenue.nsw.gov.au/fines-and-fees/
cant-pay-your-debt](http://www.revenue.nsw.gov.au/fines-and-fees/cant-pay-your-debt)

Address

GPO Box 4042, Sydney NSW 2001

Legal Aid NSW WDO Service

Telephone **1300 888 529**

Email wdo@legalaid.nsw.gov.au

www.legalaid.nsw.gov.au/wdo

Note

Community workers, financial counsellors and lawyers can use a special hotline number to speak with Revenue NSW about clients with fines debt. To use the hotline you must be a registered advocate. To become a registered advocate, you apply online through the Revenue NSW website:

[www.revenue.nsw.gov.au/fines-
and-fees/advocates](http://www.revenue.nsw.gov.au/fines-and-fees/advocates)

Hardship Review Board (HRB)

General enquiries **02 7808 6946**

www.hrb.revenue.nsw.gov.au/contact

Address

PO Box A2571, Sydney South NSW 1235

Transport for NSW

General enquiries **13 22 13**

Sydney Region

Switchboard **02 8202 2200**

[www.transport.nsw.gov.au/about-us/
contact-us](http://www.transport.nsw.gov.au/about-us/contact-us)

Roads and Maritime Services

General enquiries **13 22 13**

www.rms.nsw.gov.au/contact-us

Other useful government contacts

Australian Financial Security Authority (AFSA)

General enquiries **1300 364 785**

www.afsa.gov.au/contact-us

Useful contacts

Chief Magistrates Office – Local CourtsGeneral enquiries **02 9287 7588**Email cmo@justice.nsw.gov.au

Address

PO Box A4, Sydney South NSW 1235

Corrective Services NSWGeneral enquiries **02 8346 1333**www.correctiveservices.dcj.nsw.gov.au/csnsw-home/contact-us.html

Address

GPO Box 31, Sydney NSW 2001

Department of Communities and JusticeGeneral enquiries **02 9377 6000**www.dcj.nsw.gov.au/about-us/contact-us

Address

Locked Bag 10, Strawberry Hills NSW 2012

Information and Privacy Commission NSWGeneral enquiries **1800 472 679**Email ipcinfo@ipc.nsw.gov.auwww.ipc.nsw.gov.au

Address

GPO Box 7011, Sydney NSW 2001

NSW Civil and Administrative Tribunal (NCAT)General enquiries **1300 006 228**www.ncat.nsw.gov.au**NSW Office of the Sheriff**General enquiries **02 8688 4080**Jury service **1300 679 272**www.courts.nsw.gov.au/courts-and-tribunals/office-of-the-sheriff-of-nsw.html**NSW Ombudsman**Sydney **9286 1000**Toll free **1800 451 524**www.ombo.nsw.gov.au/contact-us**Governor of NSW**General enquiries **02 9228 4111**www.governor.nsw.gov.au**Service NSW**General enquiries **13 77 88**www.service.nsw.gov.au/contact-us**NSW Community Legal Centres****Community Legal Centres NSW**General enquiries **02 9212 7333**www.clcnsw.org.au**Central Coast Community Legal Centre**Wyang **02 4353 4988**www.centralcoastclc.org.au**Elizabeth Evatt Community Legal Centre**Katoomba **02 4704 0207**Free call **1300 363 967**www.eecclc.org.au**Far West Community Legal Centre**Broken Hill **08 8088 2020**Free call **1800 300 036**www.farwestclc.org.au**Hume-Riverina Community Legal Service**Albury Wodonga **02 6055 8090**Free call **1800 918 377**www.hrcls.org.au**Hunter Community Legal Centre**Newcastle **02 4040 9120**Free call **1800 650 073**www.hunterclc.com.au

Useful contacts

Illawarra Legal Centre

Warrawong 02 4276 1939

www.illawarralegalcentre.org.au

Inner City Legal Centre

Kings Cross 02 9332 1966

SMS 0466 724 979

Free call 1800 244 481

www.iclc.org.au

Kingsford Legal Centre

University of NSW 02 9385 9566

www.klc.unsw.edu.au

Macarthur Legal Centre

Campbelltown 02 4628 2042

www.maclegal.net.au

Marrickville Legal Centre

Marrickville 02 9559 2899

www.mlc.org.au

Mid North Coast Community Legal Centre

Port Macquarie/

Coffs Harbour 02 6580 2111

www.mncccl.org.au

North and North West Community Legal Service

Armidale 02 6772 8100

Free call 1800 687 687

www.nnwcls.org.au

Northern Rivers Community Legal Centre

Lismore 02 6621 1000

Free call 1800 689 889

www.northernriversclc.org.au

Redfern Legal Centre

Redfern 02 9698 7277

www.rlc.org.au

Shoalcoast Community Legal Centre

Nowra 02 4422 9529

Free call 1800 229 529

www.shoalcoast.org.au

South West Sydney Legal Centre

Liverpool 02 9601 7777

www.swsclc.org.au

University of Newcastle Legal Centre

Newcastle 02 4921 8666

[www.newcastle.edu.au/school/newcastle-law-](http://www.newcastle.edu.au/school/newcastle-law-school/legal-centre)

[school/legal-centre](http://www.newcastle.edu.au/school/newcastle-law-school/legal-centre)

Western NSW Community Legal Centre

Dubbo 02 6884 9422

Free call 1800 655 927

www.wnswclc.org.au

Western Sydney Community Legal Centre

Parramatta/Rooty Hill 02 8833 0911

www.wslc.org.au

Children and young people legal services**The Shopfront Youth Legal Centre**

Darlinghurst 02 9322 4808

www.theshopfront.org

Youth Law Australia

Telephone 02 9385 9588

Email advice@lawmail.org.au

www.yla.org.au

First Nations legal services

Aboriginal Legal Service NSW/ACT

Surry Hills **02 9213 4100**

Free call **1800 765 767**

www.alsnswact.org.au

Wirringa Baiya Aboriginal Women's Legal Centre

Marrickville **02 9569 3847**

Free call **1800 686 587**

www.wirringabaiya.org.au

Women's Legal Service NSW

First Nation's Women's

Legal Contact Line **02 8745 6977**

Free call **1800 639 784**

www.wlsnsw.org.au

Other legal services

NSW Law Society Solicitor Referral Service

Referral Service **02 9926 0300**

Email ereferral@lawsociety.com.au

www.lawsociety.com.au/for-the-public/going-court-and-working-with-lawyers/solicitor-referral-service

Community Restorative Centre (Prisoners and family members)

General enquiries **02 9288 8700**

www.crcnsw.org.au

Justice Connect – linking pro bono private legal services with clients

General enquiries **02 8599 2100**

www.justiceconnect.org.au

Finance and credit

Financial Rights Legal Service

National Debt Helpline **1800 007 007**

www.financialrights.org.au

Financial Counsellors' Association of NSW

General enquiries **1300 914 408**

www.fcan.com.au

Rural Financial Counselling Service (RFCS)

Contact list available at:

www.agriculture.gov.au/ag-farm-food/drought/assistance/rural-financial-counselling-service/nsw

Legislation

The *Fines Act 1996 (NSW)* and other laws and regulations referred to in this book can be found at:

www.austlii.edu.au

www.legislation.nsw.gov.au

9 Glossary

Approved organisation/person:

A person or body approved to supervise and administer WDOs by the Secretary of the Department of Communities and Justice (DCJ).

Centrepay: A free service allowing payments to be made directly from Centrelink benefits.

Charge on land: An indication on the lands register that there is an interest to the value of the outstanding fine existing over the property.

CLC: Community Legal Centre.

Examination summons: An order for a person to attend court to answer questions and supply information.

Garnishee order: Where a third party, such as a bank or employer, holds funds on a fine defaulter's behalf. In certain circumstances, Revenue NSW can make a garnishee order directing that third party to pay Revenue NSW from the fine defaulter's funds.

HRB (Hardship Review Board):

A division of the NSW Treasury with the authority to review a decision made by Revenue NSW in circumstances of genuine serious

financial, medical or domestic circumstances, or a combination of these.

NSW Ombudsman: An

independent review body that deals with complaints against acts, decisions and omissions of most NSW Government departments and agencies.

Property seizure order: An order issued by Revenue NSW giving the NSW Sheriff the power to seize a fine defaulter's goods or property and auction them to raise money to pay the fine.

Service NSW: The NSW

Government agency that provides one-stop access to NSW government services through their website, by phone or in-person at service centres. For a list of all services offered through Service NSW go to this web page – www.service.nsw.gov.au/service-nsw-information-guide

Transport for NSW: The NSW Government agency responsible for improving road safety, testing and licensing drivers, registering vehicles and managing the state road network.

Sample letters

Here are some sample letters. Please note that these are only intended to be used as a guide. Letters and forms should always be tailored to your specific circumstances.

Contact LawAccess NSW to get help with preparing letters.

9.1 Applying for an internal review and telling Revenue NSW about your special or extenuating circumstances

01 October 20XX

The Director
Revenue NSW
GPO Box 4042
Sydney NSW 2001

Dear Sir/Madam

Application for review of speeding penalty notices 11223344, 33445566 and 55667788, and camera-detected red light penalty notice 99887766.

I am writing to apply for internal review of the penalty notices listed above because of the following special circumstances.

I own the vehicle with registration number ABC 123, which is the vehicle the penalty notices relate to, but I was not the driver when the offences were committed. My vehicle was stolen from the street outside my home at 789 XYZ Street, Sydney NSW 2000 on 27 August 20XX. I have enclosed copies of the police report I filed on 28 August 20XX and of the letter I sent on 2 September 20XX to the NRMA asking to make a claim under my insurance policy. The NSW police have given me Event Number 9999999 in relation to the theft of my vehicle.

As your records show, these penalty notices were all given after 27 August 20XX, so I could not have been the driver of the vehicle when they were given. I don't know who was driving the vehicle at those times.

Transport for NSW records will show that I have had a clear driving record since I got my NSW driver licence 7 years ago. I have also enclosed a certified copy of my traffic record from Vic Roads, which shows that I had a clean driving record for 10 years in Victoria.

I am asking you to:

- withdraw penalty notices 11223344, 33445566, 55667788 and 99887766; and
- remove any demerit points on my driving record in relation to these penalty notices.

If you have any questions, please contact me on 9786 5342.

Yours sincerely,

Jo Bloggs

9.2 Applying for a write off

01 October 20XX

The Director
Revenue NSW
GPO Box 4042
Sydney NSW 2001

Dear Sir/Madam

Application for write off of enforcement order 12345678.

My details are:

Date of birth: XX Month 19XX
Address: 789 XYZ Street, Sydney NSW 2000
Licence number: 99999999

I am applying for the enforcement order to be written off for the following reasons.

I suffer from severe back problems and depression. I was hospitalised 4 months ago for my back problems, which were caused by injuries that happened 3 years ago. My doctor believes that I am unlikely to be fit to return to any kind of work in the next 18 months, so I cannot do unpaid work under a Work and Development Order. Because of my medical condition and because I was a bricklayer, I am not likely to be able to get full-time work unless there is a great improvement in my condition. I have enclosed a medical report from Dr Fisher.

I am also having psychiatric treatment. This is because of a court order. This treatment is not suitable for a Work and Development Order. My psychiatrist, Dr Goldsmith, has been treating me since 02 February 20XX for depression, which is caused by my marriage break-up and the divorce. I have enclosed Dr Goldsmith's report.

I live with my 4-year-old daughter. I share arrangements for my daughter with my ex-wife. I am unemployed and have been on Centrelink benefits since 15 March 20XX. I have enclosed a Statement of Financial Circumstances, which says that I get \$578.00 a fortnight, and shows that it is spent on rent, food, medical expenses, schooling costs, transport and loan repayments to Ram Loans & Credit. The loan repayments are for a car, which I have to have because of my back problems. I have enclosed supporting documents, including a letter from Centrelink and my car registration.

I don't own anything of value, except furniture and personal effects, that I can sell to pay my fines, and I don't have family or friends who can help me financially. I feel it is unlikely that I will be able to pay off my debt to Revenue NSW, or manage a payment plan, in the next 12-18 months.

I know that you can only write off the payment of fines in extreme circumstances, but I think it would be the right thing to do in my case. I would also like to ask for all proceedings against me to be stopped while you make your decision on this application.

If you have any questions about this, please call me on 9876 5432.

Yours sincerely,

Jo Bloggs

9.3 Applying for a stay (postponement) of proceedings

01 October 20XX

The Director
Revenue NSW
GPO Box 4042
Sydney NSW 2001

Dear Sir/Madam

Application for stay of enforcement orders 99887766 and 11223344.

I live at [insert address]. I am asking for an urgent stay of these enforcement orders. Transport for NSW has put restrictions on my driver licence and there is a property seizure order from 30 April 20XX.

I am 31 and used to work as a labourer. I injured my spine playing rugby 18 months ago and have not been able to work as a labourer since then. At the moment, my expenses are more than my income. I am on a disability support pension, and I need extra help from community charities and my family and friends to cover my living costs.

I am having treatment from a physiotherapist, Melissa Black, and an occupational therapist, Jennifer Lau. I also get home assistance from a Community Health caseworker, Ms Isabelle Smith. I have enclosed letters from Ms Black and Ms Smith that give their opinions about my recovery and return to work. Like them, I am confident I will be able to go back to full-time work within the next 6 months.

I am in the middle of writing a Statement of Financial Circumstances and I have asked for a report from my doctor and my financial counsellor. I will send copies to you as soon as they arrive.

I would like these enforcement orders stayed until I am in a position to set up a payment plan with Revenue NSW, which will be as soon as I am well enough to look for work. I am also asking you to lift the Transport for NSW restrictions until I have sent in a payment plan application.

If you have any questions or need more information, please call me on 9234 5678.

Yours sincerely,

Jo Bloggs

9.4 Applying to the Hardship Review Board (HRB)

01 October 20XX

Fines Hardship Review Board
PO Box A2571
Sydney South NSW 1235

Dear Sir/Madam

Request for review of Revenue NSW decision on a payment plan application

I applied for a payment plan to pay enforcement order 111222333 in instalments. My application was approved, but the payments have been set at a higher rate than I asked for and I cannot pay them at that rate.

I am asking for the Hardship Review Board (HRB) to review Revenue's decision and reduce my fortnightly payments to \$20.00, which is what I asked for in the original application. Here are my reasons.

I suffer from severe osteoarthritis and pain in my shoulders caused by age and a work-related injury that happened 2 years ago. My doctor, Dr Jordan, thinks I am unlikely to be fit to return to my previous work (as a truck driver) in the next 18 months. I have enclosed a medical report from Dr Jordan.

At the moment, I am on worker's compensation. I get \$600.00 a fortnight, and it is all used for food, medical expenses, transport and mortgage payments (to the Commonwealth Bank). I have enclosed copies of letters from SafeWork NSW accepting my claim and bank statements from the last 3 months.

I am also struggling because my wife died not long ago and I am still paying for the funeral. I have to pay it on my own because I have no family or friends who can help me financially.

All this means that I can't stick to the payment schedule in the payment plan. I am asking the board to reduce my instalments to \$20.00 per fortnight.

Also, I am asking you to suspend any enforcement action against me while you are reviewing my application.

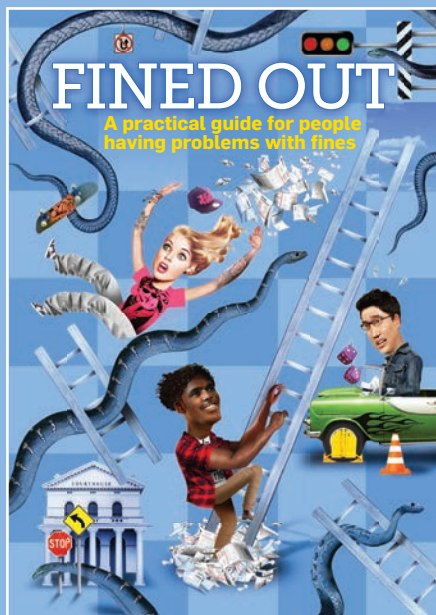
If you have any questions, please call me on 9876 5432.

Yours sincerely,

Jo Bloggs

FINED OUT

**A practical guide for people
having problems with fines**



FINED OUT is a practical guide to the NSW fines system. It provides information about how to deal with fines and contact information for services that can help people with their fines.

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Order publications online at www.legalaid.nsw.gov.au/publications
or email publications@legalaid.nsw.gov.au



If you are hearing/speech impaired, you can communicate with us
by calling the National Relay Service (NRS) on **133 677**



Telephone Interpreter Service: **131 450**

For more information about Legal Aid NSW services:



Legal Aid
NEW SOUTH WALES

ICLC
INNER CITY LEGAL CENTRE

