

Factsheet No. 9

Penalty Notices: Your Review Rights and Payment Options



There are two types of fines: penalty notices and court fines. Penalty notices are issued by an authorised officer such as a parking inspector, ranger or transit officer.

Court fines are imposed by a judge or magistrate. There are different rules for each type of fine.

This factsheet is to help you understand what to do if you have received a **penalty notice**. If you have received a **court fine**, please see Factsheet No.10 (<https://bit.ly/fs10ctfines>).

Tip 1: Deal with fines promptly.

Tip 2: If you don't pay a fine, the fine amount will be increased and your licence could be suspended.

Tip 3: Your options for appealing a fine reduce as the fine becomes more overdue.

OPTIONS

If you have received a penalty notice, you have the following options for dealing with the fine:

- pay the fine in full or make arrangement to pay by instalments
- seek an internal review via Revenue NSW
- appeal the fine to court
- apply for a Work and Development Order (WDO)
- apply for a 50% reduction of the fine
- seek a write-off.

Part A: Paying a fine

How long do I have to pay my fine?

You have 21 days from the time you receive your first penalty notice. If you do not pay within that

time, you will be sent a Penalty Reminder Notice giving you another 28 days to pay. At the end of the 28 days, if you still haven't paid you will receive an overdue fine notice. If you still don't pay, you will receive an enforcement order.

Can I request an extension of time to pay my fine?

Yes, you can request an extension of time to pay.

Can I seek to pay my fine by instalments?

Yes. If you ring Revenue NSW you can arrange to pay fines by instalments.

Can I arrange to pay by instalments through Centrepay?

Yes. If you receive a Centrelink payment you can apply to have instalment payments deducted from your benefit.

Part B: Seeking an internal review

How do I seek an internal review of the penalty notice?

Internal reviews are handled by Revenue NSW. You can seek a review by:

Online

<https://www.revenue.nsw.gov.au/fines-and-fees/request-a-review>

Mail:

Revenue NSW
PO Box 786

Phone:

1300 138 118

7.30am - 8.00pm Monday to Friday

For overseas callers:

+61 2 4937 9207

Hearing or speech impaired:

TTY 1300 889 529

Translating and Interpreting Service

(TIS): 131 450

What are the grounds for seeking an internal review?

You can seek internal review if:

- you think the fine was wrongly issued (e.g. if you don't believe you committed an offence)
- there are exceptional circumstances relating to the offence
- you have a mental illness, disability or are homeless
- you are under 18 years of age
- you are suffering from financial hardship.

Should I attach any evidence to my internal review application?

Yes. If you can, you should include supporting documents such as any evidence that supports your case, medical documents or proof of being in receipt of social security benefits.

Can I seek an internal review even if I have paid the fine?

Yes.

Are there time limits for seeking an internal review?

Yes, the following time limits apply:

- If you have not paid the fine, you must seek review by the due date on the Penalty Reminder Notice.
- If you have paid the fine already, you must seek review within 60 days from the date that the original penalty notice was issued.

PART C: Taking your matter to court

Can I challenge my fine in the court?

Yes, you can appeal the fine to court if you:

- don't believe you broke the law,
- think the penalty is too harsh, or
- want the the court to consider special circumstances such as mental illness, disability or homelessness.

It's a good idea to seek review of the fine with Revenue NSW before going to court.

What are the risks?

If you go to court and are found guilty, the court can give you a higher fine and you may have to pay a court costs levy, a victim's support levy and the legal costs of the prosecutor. You may be convicted of an offence and that conviction may be recorded on your criminal record. ***It is important to seek legal advice before taking your matter to court.***

Can I still take a matter to court if I am under 18?

Yes. You can elect to take your matter to court If you are under 18 years old. Your matter will be heard in the Children's Court, unless the penalty notice is a traffic offence and you are of "licensable age" (16 and 17).

What will happen at court?

The prosecution is required to give you a Fact Sheet that outlines the alleged offence. You need to read this Fact Sheet carefully.

If you believe you did not commit the offence, you can enter a plea of 'not guilty' on the first day of court. Your matter will not be finalised on the first day. You will need to tell the court how many witnesses you will be calling, if any. You will need to come back to court another time for the hearing of your case and the prosecution

will be required to serve you with their evidence before that hearing.

If you agree that you committed the offence but you would like to ask for leniency (for example, because it is your first fine or because other factors contributed to the offending), you can enter a plea of 'guilty', and ask the court for a reduced fine or no fine.

Your case may be dealt with on the first day, so you should take any supporting documents with you such as character references or medical certificates.

If you are appealing a driving offence and you are at risk of losing your licence, you should explain to the court why you need your licence (such as for employment or due to carer responsibilities). You will need to provide supporting evidence.

If you are not ready to enter a plea (i.e. you feel you need legal representation or are confused about your plea) you can ask the court for more time to consider your options and have your matter relisted for another date and time.

Are there time limits for electing to go to court?

Yes, the following time limits apply:

- If you have not paid the fine, you must elect to go to court by the due date on the penalty reminder notice.
- If you paid the fine before receiving a penalty reminder notice, you must elect to go to court within 90 days from the date that the penalty notice was issued.

If you asked Revenue NSW for a review and paid all of the fine before there was a penalty reminder notice, you must elect to go to court within 28 days from receiving the review decision.

How do I commence the court process?

There are two ways to appeal to court:

- Online: <https://www.revenue.nsw.gov.au/fines-and-fees/go-to-court>, or
- Fill out a court election form and post it to Revenue NSW:
<https://www.revenue.nsw.gov.au/help-centre/resources-library/Request-to-have-penalty-decided-in-court-individual.pdf>

Revenue NSW will then send you a Court Attendance Notice (CAN) with details of when you must attend court. Note that as at 18 May 2020, Revenue NSW are currently not listing any new Court Elections matters until 1 October 2020.

PART D: Applying for a Work and Development Order (WDO)

What is a WDO?

WDOs let you clear fines with activities like unpaid work, counselling, courses or treatment programs.

Who can apply for a WDO?

You may be eligible if you:

- receive a Centrelink benefit
- are in serious financial hardship
- are homeless
- have a serious addiction to drugs, alcohol or other substances
- have a mental illness or have an intellectual disability or cognitive impairment.

What do I need to obtain a WDO?

Your application must be supported by an approved organisation. The Revenue NSW website has a list of approved organisations.

If you want to have medical treatment then you will need a medical practitioner to support your application and they must be approved by Revenue NSW.

How do I find out more?

You can contact the Revenue NSW Work and Development Order Hotline on 1300 478 879.

PART E: Part E: Applying for a 50% reduction of the fine

Starting from 1 July 2020, Revenue NSW may allow a 50% reduction in penalty notice fine amounts for people who are receiving government benefits and are experiencing financial hardship.

Who can apply for a reduction?

You may be eligible if you:

- receive a Centrelink 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).

A reduction may only apply if the penalty reminder notice has not expired and the fine is due after 1 July 2020.

When does a reduction not apply?

A reduction may not apply to:

- Penalties that have already been paid, enforced, withdrawn or otherwise resolved
- Court fines, including a fine originating from a penalty notice
- Fines related to voting or jury duty, or issued to a body corporate
- Penalty notices for 'significant offences' listed on the Revenue NSW website (see list below)
- Further fines from a repeat offender.

As at 2 July 2020, the Revenue NSW website also lists the following offences as generally not being eligible for a reduction ('significant offences'):

- Speeding over the sign posted speed limit
- Any offences in School Zones
- Heavy Vehicle offences
- Any seatbelt offences

- Mobile phone offences
- Red light offences
- Parking offences which attract demerit points like parking in a disabled parking area
- Animal offences relating to dangerous dogs
- Littering offences relating to fire safety hazards (lit cigarettes)
- Bicycle related mobile phone or red light offences
- Pollution offences (including asbestos offences)
- COVID-19 offences
- Criminal offences
- Alcohol and drug related driving offences.

You can still ask for a reduction if you have received a penalty notice for a significant offence, as Revenue NSW may still consider a reduction.

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

How do I apply for a reduction?

You can apply for a reduction by calling Revenue NSW. You will need to ask for the 50% reduction, as it will not be automatically offered to you.

You can also ask about a reduction by lodging an online fine enquiry via Revenue NSW's website on: https://www.apps08.osr.nsw.gov.au/customer_service/forms/fines/pnenquiry

What do I need to provide when asking for a reduction?

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

You will need to provide your Centrelink Customer Reference Number and you may need to provide a copy of your Health Care Card.

You may also be asked to provide other supporting documents such as copies of payslips, statement of income from Centrelink and/or copies of bank statements.

What happens after I apply for a reduction?

If your application is approved, the fine will be reduced by 50%. You will receive a written notice which will explain your options to deal with the rest of your fine (such as through a payment plan).

If your application is refused, you will receive a written notice of the decision. The notice will explain your options for dealing with the fine (such as through a WDO or a payment plan).

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

If my fine is reduced, will I still receive demerit points?

Yes. A reduction in the amount of the fine will not change other penalties such as demerit points, driver licence sanctions, suspensions, cancellations or disqualifications.

Can someone apply for a reduction for me?

Yes. Anyone applying on your behalf will need to have written authority from you, or be a registered advocate with Revenue NSW.

How do I find out more about a reduction?

You can contact the Revenue NSW Fines: Financial Hardship Hotline before the due date of your penalty notice on 1300 138 118.

Part F: Seeking a write-off

Can I have the fine written-off?

Yes, in exceptional circumstances Revenue NSW can write-off unpaid fines.

You can apply by writing to Revenue NSW. You will need to include all your personal details and explain your current situation, including why you can't do a WDO.

You will also need to complete a statement of financial circumstances
<https://www.revenue.nsw.gov.au/help-centre/resources-library/forms/sdr006.pdf> and attach any documents to support your application such as bank statements, medical evidence or a letter from a community welfare group.

If your application is successful, your fines will be written-off for 5 years. After 5 years, if your personal circumstances have not improved, Revenue NSW may decide to write-off the fines permanently. They may not do this if you have received more fines during the 5 year period.

If your application is unsuccessful, you can apply to the Hardship Review Board for a review of the decision.

Part G: Overdue payment of fines

What if I have received an overdue fine?

When you get an overdue fine, enforcement costs of \$65 (or \$25 if you are under 18) are added to the total amount payable. Then you have 21 or 28 days to pay the overdue fine, depending on how it is served on you.

Can I seek review of an overdue fine?

Once you have received an overdue fine, your options for seeking review are limited.

What happens if I don't pay the fine at all?

If you do not pay the full amount by the due date, or make arrangements with Revenue NSW to pay by instalments or to do a WDO, Revenue NSW can:

- suspend your driver licence
- cancel your car registration
- charge you extra fees on your outstanding fines
- take money from your wages or bank account
- take away things you own.

Part H: Further information and advice

Links to further information

- Asking for a review:
https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_fines/lawassist_have_yougot_fine/lawassist_review_fine.aspx
- Fines and fees:
<https://www.revenue.nsw.gov.au/fines-and-fees>
- If you are under 18:
https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_fines/lawassist_have_yougot_fine/lawassist_fines_and_young_people.aspx

Where can I get legal advice about penalty notices?

Redfern Legal Centre: fill in our web form at <https://rlc.org.au/contact>. If you can't access the webform, call 9698 7277 and follow the instructions.

Your local community legal centre:
<https://bit.ly/clcnsw2018>

Shopfront Youth Legal Centre (25 years and under): 02 9322 4808

Law Access/Legal Aid NSW: 1300 888 529

Aboriginal Legal Service: 1800 765 767

Published on 7 July 2020.

Produced by Redfern Legal Centre

This factsheet is not a substitute for legal advice. If you have a problem please seek legal advice from your local community legal centre.