

Factsheet No. 10

Court fines: 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 **court fine**. If you have received a **penalty notice**, please see Factsheet No. 9 (<https://bit.ly/fs9fines>)

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 court fine, you have the following options for dealing with the fine:

- pay the fine in full or make arrangement to pay by instalments
- appeal the fine to a higher court
- seek an annulment
- apply for a Work and Development Order
- seek a write-off.

Part A: Paying a fine

How long do I have to pay my fine?

You have 28 days from the court finalising your case to pay your fine. If you do not pay within that time (or seek more time to pay), the court will refer your fine to Revenue NSW and they are likely to start enforcement action against you.

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

Yes, you can ask the court to give you an extension of up to 3 months to pay your fine. You will need to complete an Application for Time to Pay Court Fines.

Can I seek to pay my fine by instalments?

Yes. You will need to complete an Application for Time to Pay Court Fines.

If you are the holder of a Veterans Affairs Pension, Centrelink Payment or Concession card, you must offer to pay at least \$15.00 per fortnight unless there are exceptional circumstances. For all other applicants, you must offer to pay at least \$100 per fortnight, unless there are exceptional circumstances.

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. To have the fine paid through Centrepay, you should contact the Local Court within 28 days to avoid additional enforcement costs.

You will need to complete the Early Enforcement of Court Fines form and return it to a NSW local court. Keep in mind that in order to pay through Centrepay, you must agree to the fine being enforced, called electing for early enforcement. Following this, it is very difficult to seek review of the fine. You should seek legal advice before electing for early enforcement.

PART B: Appealing the fine

Can I appeal a fine?

Yes, you can appeal the decision of the Local Court to the District Court. You can appeal:

- if you were not present at court when the decision was made
- if you think you should not have been found guilty or a conviction should not have been recorded
- if you believe the sentence (including the fine) was too harsh.

How do I appeal a fine?

You can lodge an appeal by completing a Notice of Appeal and delivering it to the court that sentenced you.

After you file your appeal, the penalty will be delayed until your appeal is decided.

You should get legal advice before lodging an appeal.

What happens after I appeal?

After you lodge your appeal, the fine (and any conviction) will be delayed until the District Court makes its decision. Your matter will be listed in the District Court for mention before a Registrar. At the mention, the Registrar will assign a date for the hearing.

You should go to the court registry and get a copy of all the documents on the court file, including a copy of the transcript of the local court hearing.

What will happen at court?

The judge will usually decide the appeal on the evidence given at the Local Court, as well as oral or written submissions from you and the other side (for example, the DPP).

If you are appealing the fine because you think you should not have been found guilty of the offence, the court will only allow you to call witnesses or submit new evidence in exceptional circumstances.

If you wish to do so, you will need to make an application to the court prior to the hearing.

If you agree you committed the offence but are appealing the fine because you think it was too harsh, you are allowed to submit new evidence (such as medical certificates or reports) and call witnesses (such as people who know you and can give character evidence).

Are there costs of appealing?

Yes, you will need to pay a filing fee of \$119 (as at 18 May 2020). You can apply to the court for a waiver or postponement of fees. Applications will generally be granted if you are under 18, or you receive a Centrelink benefit and/or payment of the fee will cause undue hardship.

Are there time limits?

Yes, you must lodge an appeal within 28 days of the court decision. If you are lodging an appeal after 28 days, you will need to make an Application for Leave to Appeal. Leave to appeal can be made up to three months after the date of conviction and sentence.

What are the risks of appealing?

If you appeal and are found guilty, the court can give you a higher fine. However, the court must give you a warning if they are going to do this. You can then decide to withdraw your appeal and accept the decision of the Local Court.

PART C: Seeking an Annulment

What if I wasn't at court when I got the fine?

If you were not at court when the decision was made, you can apply to the Local Court to have the decision annulled (cancelled) and the case re-heard. A magistrate may annul the decision if:

- you did not receive your Court Attendance Notice (CAN)
- you had a good reason for not attending court
- it is in the interests of justice to annul the decision.

You must make an application for annulment within 2 years of the court's decision. You should get legal advice before seeking an annulment of a court decision.

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.

How do I apply for a WDO?

You will need to make a request to the Local Court within 28 days of the court order. If you wait more than 28 days, extra enforcement costs will be added.

The Local Court will then refer the fine to Revenue NSW. You will then need to contact Revenue NSW and Revenue NSW will decide if you are eligible for a WDO.

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: 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 F: Overdue payment of fines

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 to pay by instalments or to do a WDO, the court will refer the fine to Revenue NSW.

Revenue NSW will send you an overdue fine notice. 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.

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

What if I don't pay the overdue fine?

If you do not pay the overdue fine notice, 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 G: Further information and advice

Where can I get further information?

- Applying for time to pay:
<http://www.localcourt.justice.nsw.gov.au/Documents/Local Court Forms/Application for Time to Pay Court Fines.pdf>
- Paying Court Fines:
https://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_fines/lawassist_after_court_fine/lawassist_payingcourt_fine.aspx

<http://www.localcourt.justice.nsw.gov.au/Documents/Facts%20Sheets/Paying%20Court%20Fines%20brochure%20October%202019%20v.2.pdf>
- Early enforcement of fines:
https://www.revenue.nsw.gov.au/help-centre/resources-library/sdr045_int.PDF
- Appealing to the District Court:
http://www.localcourt.justice.nsw.gov.au/Pages/sentencing_and_penalties/appeals_criminal.aspx#Appeal%20in%20criminal%20and%20AVO%20cases

Where can I get legal advice?

- **Redfern Legal Centre:** fill in our web form at www.rlc.org.au. If you can't access the webform, call 9698 7277 and follow the instructions.
- **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

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