

# Factsheet No. 8

## On-the-Spot Fines – COVID-19

### Your Review Rights and Payment



This factsheet is to help you understand what to do if you have received a penalty notice for breaching the new COVID-19 public health orders.

**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 an on-the-spot COVID-19 fine (also known as 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)
- seek a write-off of the fine.

#### 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 an enforcement order.

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

Yes. As part of its response to COVID-19, Revenue NSW is extending payment timeframes.

##### Can I seek to pay fine by instalments?

Yes. If you ring Revenue NSW you can arrange to pay fines by instalment or arrange to part-pay the fine.

##### Can I arrange for part payment if I am on Centrelink?

Yes. If you receive a Centrelink payment you can arrange to pay off fine by instalments.

#### 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  
Strawberry Hills NSW 2012

###### 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 (eg. if you believe you did have a reasonable excuse for leaving your home)
- 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 any supporting documents such as any evidence that supports your 'reasonable excuse' (eg. photo and location of park you were exercising in when you were fined), medical evidence 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 time limits are as follows:

- 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.

## Extra Commissioner review

The Commissioner of Police has announced that he will undertake a review of all on-the-spot COVID-19 fines. The criteria for this review have not been published and it is unclear how such a review will be undertaken. You don't need to do anything for this review to occur and you can still seek internal review and/or appeal your matter to court.

## 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 court to consider special circumstances such as mental illness, disability or homelessness.

It's a good idea to seek review of the fine before going to court, in case Revenue NSW decide to withdraw it.

### What are the risks?

If you go to court and are found guilty, the court can give you a higher fine. You may also have to pay a court costs levy, a victims 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 breach the public health orders, you can enter a plea of 'not guilty' on the first day of court.

Your matter will not be finalised on the first day court. You will need to tell the court how many witnesses you are calling, if any. You will need to come back to court for the hearing of your

serve you with their evidence. If you agree that you breached the public health orders 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 not ready to enter a plea (ie. 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** – by the due date on the penalty reminder notice.
- **If you paid the fine before receiving a penalty reminder notice** – 90 days from the date that the penalty notice was issued.
- **If you asked NSW Revenue for a review and paid all of the fine before there was a penalty reminder notice** - 28 days from receiving the review decision.
- **If you asked Revenue NSW for a review and have not paid the whole fine** – by the due date on the new penalty reminder notice.

### **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 Revenue NSW are not listing any new Court Elections from 23 March 2020 until 1 October 2020

## **PART D: Applying for a Work 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 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**

### **Is there any means to have the fine written-off?**

Yes, in exceptional circumstances. Revenue NSW

does have the authority to write-off unpaid fines but only in certain circumstances. 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 (see: <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 unsuccessful, you can apply to the Hardship Review Board for a review of the decision.

## **Part F: 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.

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 the 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 G: Police issued Court Attendance Notice (CAN)**

### **What if I have been issued with a CAN by NSW Police?**

In some circumstances police may not issue you with an on-the-spot-fine, but instead issue you with a CAN. If you have been given a CAN, you have been charged with a criminal offence and should get legal advice asap. You must attend the court on the date, time and location outlined in the CAN.

If you have been given a court attendance notice, get legal advice - contact Law Access/Legal Aid NSW: 1300 888 529 or the Aboriginal Legal Service: 1800 765 767.

## **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](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](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

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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.

