

March 2008

FACT SHEET: FINES

What can you do if you receive a Penalty Notice?

1. Pay the penalty in full: Methods for payment are outlined on the back of the penalty notice.
2. Pay the fine in part payments: If your financial circumstances prevent you from paying off the fine in full, you may apply to pay it off without incurring additional costs.
3. Request a review: You may request a review of the circumstances surrounding the issue of the penalty notice by explaining the situation and attaching documentary evidence to support your case. Review guidelines and forms can be downloaded from www.sdرو.nsw.gov.au
4. Nominate the person driving your car at the time of the offence: if you were not the driver of the car at the time of the offence, notify the RTA. This is only an option for camera detected and parking offences. Nomination forms are available from www.sdرو.nsw.gov.au
5. Elect to go to court: You must complete the court election section on the penalty notice. The court may order you to pay additional costs if you unsuccessfully challenge your fine.

What can you do if you receive a Court Fine?

1. Pay the fine in full: you have 28 days to pay the fine to the court registrar.
2. Ask for additional time to pay: If you do not think you can pay the fine and you have a reasonable explanation, you may apply to the Local Court for additional time to pay.
3. Appeal the decision: If you have been convicted and fined through a Local Court you may appeal to the District Court. You have 28 days to lodge an appeal.
4. Apply for an annulment: If you were convicted or sentenced in your absence in the Local Court less than 2 years ago, you may be able to have the conviction or sentenced annulled. This does not mean you will not have to pay the fine, this just means the matter will be heard again.

What happens if you ignore the fine?

Unpaid penalty notices and court fines are referred to the State Debt Recovery Office (SDRO) for enforcement. The SDRO will issue you with an enforcement order. You have a further 28 days from the date of the order to pay the fine and you may be charged an additional enforcement fee (currently \$50.00). If you still do not pay your fine the SDRO may take further enforcement action against you. At each step of the enforcement process costs will be added to the fine.

What you can do in response to a SDRO Enforcement Order:

1. Pay the fine
2. Apply for Time to Pay Order: This allows you to pay off your fine in instalments. You will need to make regular payments until the fine and all enforcement costs are paid. An application form can be downloaded from www.sdرو.nsw.gov.au. If you apply for, or have a current time to pay order in place, the SDRO can arrange to have the payments deducted from your eligible Centrelink benefits using the Centrepay program. Deductions of an agreed amount are made fortnightly and will automatically cease when your fine and enforcement costs are paid.
3. Apply for a Stay: A Stay is a temporary order to stop SDRO enforcement or collection procedures. A Stay could be sought from the SDRO when you are trying to get information and documentation together to support another application, such as a Time to Pay application, or if you will soon have the money to pay the fine and enforcement costs in full. Depending on the circumstances, a Stay may be awarded for up to 12 months.

4. Apply to have the fine written off: You may apply to have the enforcement order written off if you are experiencing serious medical, domestic or financial problems. The circumstances in which fines are written off are very limited.
5. Apply to the Hardship Review Board: If the SDRO refuses your application for 'Time to Pay', or refuses to write of an enforcement order, you may apply to the Fines Hardship Review Board for review. The Hardship Review Board cannot consider liability for a fine.
6. Apply to have a Penalty Notice enforcement order annulled: In some circumstances, (e.g. where you were not aware of the penalty notice until you received an enforcement order, serious illness or accident prevented you from doing anything about the notice, or a question of your liability for the penalty arises) you may be able to apply for an annulment. This means the fine can either be paid without the additional enforcement costs, or the matter will be listed at Court for hearing. A \$50 fee is payable per application.
7. Apply to have fines remitted: Remission removes the obligation to pay the fine. It does not remove the record of the offence or any demerit points lost. An application for remission might be considered after an application for 'write off' has been considered and rejected, or if the grounds on which the remission is sought do not fit within the grounds for 'write off'. The application is made to the Community Relations Division, Attorney General's Department.
8. Consider bankruptcy: Bankruptcy should only be considered after obtaining financial counselling advice.

What happens if you ignore the SDRO enforcement order?

1. Licence Suspension and Registration Cancellation: If payment is not made by the date specified in the SDRO enforcement order, the RTA may suspend your driver's licence and/or cancel your vehicle registration. If you don't have a driver's licence you may be prevented from obtaining one. If the fine remains unpaid for a further 6 months your licence may be cancelled.
2. Civil Enforcement: If you do not have a licence or a registered vehicle or the fine remains unpaid for 6 months, civil action may be taken against you by the SDRO to recover the unpaid fine in the following ways:
 - A. Property Seizure order - the NSW Sheriff may seize and sell your goods to pay unpaid fines.
 - B. Garnishee Order - to an individual or an organisation holding money belonging to you. Garnishee orders are usually directed at banks and employers, forcing them to pay money from your bank account or your wages to the SDRO.
 - C. Charge on Land - if your fine(s) exceed \$1,000 they can be registered as a charge on land owned by you. If the land is ever sold, any outstanding debt will be paid to the SDRO.
 - D. Examination Summons – this an order for you to attend court to answer questions and supply information detailing your financial circumstances. If you do not provide the information without good reason then you may be found to be in contempt of Court. If you do not turn up to Court at the appointed time, you could be arrested and brought before the Court.
3. Community Service Order: If none of the above methods are successful in recovering the debt owed, a Community Service Order (CSO) may be made requiring you to perform community service. Usually, you cannot elect to do community service instead of paying the fine or as an alternative to civil action. However, if it is clear that you do not have the means to pay the fine, you can write to the SDRO and advising them of this and indicate that you would be prepared to do community service. The SDRO may agree to impose a CSO.
4. Imprisonment: If you do not comply with the CSO you may face imprisonment as a sanction of last resort.

Contacts

State Debt Recovery Office
 Penalty Notices - 1300 138 118
 Enforcement Orders - 1300 655 805
www.sdرو.nsw.gov.au

Fines Hardship Review Board: 02) 6354 7116

Inner City Legal Centre: 'Fined Out' Resource
www.iclc.org.au/fined_out/

Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.