

Fines are penalties issued to people who break the law by committing driving, parking, littering or public transport offences.

Infringement notices (also known as on-the-spot fines) are issued by police, parking inspectors, council rangers or transit officers. These only end up in court if they are unpaid or challenged.

When an infringement notice is issued

If you receive an infringement notice you usually have 28 days to take action. Your options include:

- pay the fine in full (following the instructions on the infringement notice);
- ask the issuing agency for a review if you do not agree with the details of the fine;
- ask the issuing agency for a review if you have special or exceptional circumstances (see section below) which should result in a waiver of the fine;
- ask the issuing agency for a payment plan or more time to pay;
- notify the issuing agency that you wish to go to the Magistrates' Court (you should seek legal advice before choosing this option); or
- ignore the fine and do nothing, which will result in the matter being referred to the Infringements Court (Magistrates' Court).

Fines issued to people under 18 will be dealt with under the Children and Young Persons Infringement Notice System (CAYPINS).

What is a payment plan?

If you are unable to pay a fine on time, you can ask the issuing agency for a payment plan under which you can get more time to pay or pay by instalments or a combination of these. If the agency agrees to a payment plan, any failure to stick to the plan may incur extra penalties.

Special or exceptional circumstances

If you have what the law regards as special circumstances you can apply for your fines to be withdrawn. Special circumstances include:

- a mental illness;
- an intellectual disability;
- an addiction to drugs, alcohol or other substances; and
- homelessness.

Need more information?

Visit www.moneyhelp.org.au
Or call 1800 149 689

If you have special circumstances you will need to write to the issuing agency explaining your special circumstances and request a review of the fine. You will need to include at least one doctor's letter detailing your condition and how it contributed to you incurring the fine and/or your capacity to repay the fine. A financial counsellor or your community legal centre, will be able to help you to write your application letter to the issuing agency and will also be able to give your doctor some guidance as to what to say in their supporting letter.

Exceptional circumstances are not defined by the law. However, they are likely to cover broader circumstances than those that amount to 'special circumstances'. Some factors may include:

- personal circumstances, whether permanent or temporary, including poverty, age, debilitating life events such as serious acute illness, language or literacy difficulties and cultural differences, which can affect a person's capacity to control their actions or understand the offence they have committed;
- the relative gravity of the offending conduct; and
- whether the offence is a first offence.

If you ignore the fine and do nothing

If a fine isn't paid within the 28 days allowed, a penalty reminder notice will be issued and extra costs added to the fine. A further 28 days will be allowed for payment of the fine, though it's still possible to arrange a payment plan or elect to go to the Magistrates' Court for a hearing.

If the fine remains unpaid on the penalty reminder notice due date, the fine will be sent to the Infringements Court (a venue of the Magistrates' Court that processes unpaid fines) and an enforcement order (which includes extra costs) will be issued for payment within 28 days.

If the fine remains unpaid, extra costs will again be added.

The Infringements Court registrar may then:

- revoke (or cancel) the enforcement order for review by the issuing agency;
- summons you to attend court for questioning about payment arrangements;
- issue a warrant for your arrest if you fail to attend according to the summons; or
- issue an infringement warrant under which the sheriff can settle the fine by way of payment or seizure and sale of your property.

When an infringement warrant is issued

The sheriff's office is responsible for delivering enforcement orders issued by the Infringements Court to people who haven't paid their fines. An enforcement order must be paid in seven days or an application submitted to the court for its cancellation. If neither of these actions are taken, the sheriff can:

- seize and sell personal goods (excluding basic household items like a fridge and computer) to cover the cost of the fine;
- clamp the wheel of a car or motorcycle registered in your name until payment is made;
- suspend your driver's licence or motor vehicle registration until payment is made;
- apply for an attachment of earnings order to your wages or bank account; or
- sell your house.

The sheriff can arrest you if you have insufficient property to cover the fine and:

- release you on a community work permit, if appropriate; or
- release you on bail to go to the Magistrates' Court.

Key messages

- People in financial hardship can pay fines by instalments or get more time to pay
- A person may go to prison or lose their house (in extreme cases) for non-payment of fines
- A person cannot be sent to prison for unpaid fines unless they have been before a magistrate

When will your fine go to the Magistrates' Court?

There are a number of points at which you can elect to have a hearing about the fine in the Magistrates' Court.

When you attend the Magistrates' Court for unpaid fines and enforcement orders, the magistrate may discharge the fine (if you have mental illness, an intellectual disability or special circumstances). The magistrate may also cancel or reduce the fine, and remove extra costs or increase the fine, add court fees, cancel or suspend the offender's driver's licence, and record a conviction against your name.

If the fine is upheld, the magistrate may:

- place you on a community based order to work off the fine (one hour work for each \$20 of the unpaid fine); or
- send you to prison if they believe it is an appropriate action (one day's prison for each \$100 unpaid fine).

You cannot be sent to prison for unpaid fines unless you have been before a magistrate.

Any conviction for a non-traffic related offence will appear on a Victorian

Police criminal record check.

Further information

MoneyHelp 1800 149 689

Consumer Action Law Centre

1300 881 020

Department of Justice

www.fines.vic.gov.au

Victorian Legal Aid

www.legalaid.vic.gov.au

The funding for this fact sheet was provided by the Victorian Property Fund on the approval of the Minister for Consumer Affairs.

The information on this fact sheet is general and does not constitute legal advice.

MoneyHelp's products and services have been prepared for the information of Victorians who are struggling to pay their rent or mortgage, or facing job loss or reduced working hours. Phone 1800 149 689 to speak to a MoneyHelp financial counsellor. A financial counsellor will discuss a range of debt payment options based on an individual's circumstances.

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