

GETTING A FINE WHEN YOU ARE 18 OR OVER

This fact sheet is about fines if you are age 18 years or over. This information sheet details laws and processes for dealing with fines in Victoria as at August 2012.

NOTE: If you are under 18, fines are dealt with in the Children's Court. See our factsheet on 'Fines for under 18s' or contact Youthlaw for help.

What is a fine?

A fine is when you have to pay money as punishment for breaking the law.

There are two types of fines:

- I. **Infringement notices:** for example, infringement notices in the mail, 'on-the-spot' fines or parking tickets
- II. **Court fines:** when you are found guilty of a criminal offence in court and a Magistrate or a Judge fines you as punishment

INFRINGEMENT NOTICES

If you get an infringement notice, you can:

1. Pay the fine
2. Challenge the fine by going to court
3. Write a letter to have your fine cancelled
4. Make a 'special circumstances' application

1. Paying the fine

If you want to pay the fine but you don't have the money, you can call the agency listed on your notice for more time to pay or to arrange a payment plan. If you are on a Centrelink benefit, you can organise payment through Centrepay.

You should take action before the due date on the fine. If you miss the due date, more fees may be added to your fine.

2. Challenging the fine

If you think you shouldn't have been fined because you didn't do anything wrong, you can elect to go to the Magistrate's Court.

You should speak to a lawyer **before** you challenge a fine in court.

3. Write a letter requesting review

You can write a letter to the agency listed on your notice (eg Department of Transport, local councils or Civic Compliance for police fines) and ask them to review the fine because there are 'exceptional circumstances'.

There is no definition of 'exceptional circumstances' but it can include not having enough money to pay the fine if you are unemployed or on a low-income.

In the letter you should explain your situation, eg that you have no or low income, you are studying full-time or you lost your job. The agency can cancel your fine and give you a warning instead.

3. Make a 'special circumstances' application

You can request review of your fines on the basis of your 'special circumstances'.

You have 'special circumstances' if:

- you have a mental illness, intellectual disability or other psychological condition; and/or
- you have a serious addiction to drugs or alcohol; and/or
- you were homeless at the time you got the fine

The agency may withdraw the fine if they agree your special circumstances made you either unable to control what you were doing or unable to understand what you were doing was wrong.

You should speak to a lawyer **before** you make a special circumstances application.

☞ **What if I do nothing?**

Reminder notice and penalties

If you do not pay an infringement notice by the due date, you will get one or two reminder notices to pay and additional costs will be added. You can still challenge the fine or request a review of the fine at this stage.

Enforcement Order at the Infringements Court

If you still don't pay, the fine then goes to the Infringement Court and you will get an enforcement order notice. You can then ask for the Infringements Court to revoke your fine so you do not have to pay.

You can apply to the Infringements Court to have your fines revoked if you have 'special circumstances'. If the Infringements Court agrees you have special circumstances, they then notify the agency who gave you the fine. The agency may then confirm they will take no further action or, if they do not, you will have to go before the Magistrates Court Special Circumstances list.

Infringement Warrants and the Sheriff

If you get an Enforcement Order and you do nothing, there will be an Infringement Warrant made against you in the Infringements Court.

The warrant is passed on to the Sherriff who can then go to your house and hand you a notice giving you seven days to pay the fine and any extra costs. If you don't pay, the Sherriff can sell your property, sign you up for community work if you consent or take you to court.

If the Sheriff takes you to court, the court may can then order you to pay the fine, pay by instalments, do community work, sell off your property or even serve time in prison.

COURT FINES

If you are found guilty of a criminal offence in court and a Magistrate or Judge orders you to pay a fine, your options are to:

1. Pay the fine by the due date
2. Request more time to pay or to set up a payment plan

3. Request community work instead of a fine

If you do not pay the fine, set up a payment plan or request an order to do community work from the court **before** the due date, the court will issue a warrant for your arrest.

The Sheriff will then come to your house with a warrant and they can take you back to court if you do not pay. The court can then order you pay by instalments, do community work, serve time in prison or order the seizure and sale of your property.

GETTING LEGAL HELP

Youthlaw

If you are under 25, you can get free and confidential legal advice. For more information or to speak to a lawyer:

☎: (03) 9611 2412 (9am-5pm, Mon-Fri)

🌐: www.youthlaw.asn.au

Victoria Legal Aid - Legal Help

For legal information, referrals or appointments:

☎: (03) 9269 0120 or 1800 677 402 (country callers)

🌐: www.legalaid.vic.gov.au

Federation of Community Legal Centres

To find your local community legal centre:

☎: (03) 9652 1500

🌐: www.fclc.org.au

Money Help

Money Help is a service run by the Financial Counselling and Consumer Rights Service. Money Help can find a financial counsellor near you who can help you manage overdue fines and other debts.

☎: 1800 007 007

🌐: www.moneyhelp.org.au