

Fines

Introduction

A fine is a financial penalty payable to the State for a breach of the law. The types of fines which you may encounter are: -

1. Court fines

If a person is found guilty of an offence in court, one of the penalties a court may impose is a fine.

2. Penalty notices

These are also sometimes referred to as infringement notices or on-the-spot fines. They include traffic tickets, as well as fines received for a variety of offences. A penalty notice may be issued on-the-spot by an authorised officer such as a police officer or public transport ticket inspector, attached to a vehicle or may be sent to you in the mail.

This information will only cover Penalty Notices. If you require information on Court Fines please contact the SUPRA Legal Service.

Penalty Notices - Overview

A penalty notice is a fine issued by an authorised officer which contains details of the alleged offence and the monetary penalty attached to that offence. Penalty notices are dealt with by the State Debt Recovery Office (SDRO).

It is important that you do not ignore your penalty notice, as it will become more costly and complicated. The consequences of non-payment of fines can also be far reaching – in addition to increased costs, you could have your drivers licence cancelled or suspended, your car registration cancelled, your wages garnished, your assets seized, be ordered to perform community service or be imprisoned. (Imprisonment is an option of last resort. We are not aware of any one being imprisoned in NSW since the introduction of the *Fines Act 1996* (NSW).)

The increased costs related to fine enforcement include: \$65 payable to the SDRO for each fine enforcement order made or each civil sanction taken; \$40 payable to the RMS for each RMS restriction imposed. In addition if the SDRO take you to court to enforce the fine you will have substantial additional costs added to the debt including court filing and service fees, legal costs, and the Sheriff's enforcement costs.

An issuing officer can issue an official caution instead of a penalty notice if it is "appropriate in all the circumstances". The giving of an official caution doesn't mean you won't also get a fine. The fact that a caution was not issued where in the circumstances it would have been appropriate to do so may provide grounds to seek an internal review.

When you receive a penalty notice you should read it carefully and take note of when payment is due. The options available at this stage are:

1. Paying the fine
2. Applying to pay the fine in instalments over 2 months
3. Applying to enter into a Time to Pay arrangement with the SDRO
4. Requesting an internal review if there are special or extenuating circumstances
5. Electing to have the matter heard in a Local Court
6. Apply for a Work and Development Order (WDO)

You generally have 21 days in which to pay a fine. If you receive a penalty notice and do nothing, the SDRO will send you a penalty reminder notice giving you a further 28 days in which to pay the fine. If at the end of the reminder period the penalty notice remains unpaid the SDRO will commence enforcement actions against you.

1. Paying the fine

If you receive a penalty notice in relation to a driving offence and you were not the person responsible for the vehicle at the time of the offence, by law, you must nominate the actual driver so that a new penalty notice can be issued in the driver's name. If this is the case, do not pay the fine. Instead you should complete the Statutory Declaration nominating the driver and send it to the SDRO before the due date on the penalty notice.

If you do not wish to contest the fine or request a review, and you have the means to pay the full fine, it is in your best interest to pay by the due date in order to avoid further costs. Once a fine has been paid in full to the SDRO the fine enforcement process ends.

Once you pay your fine no further proceedings will be taken for the offence. While payment of a fine is not an admission of guilt, some traffic matters will remain on your record after the fine is paid and may be brought up if you are being sentenced in court for driving offences.

2. Making part payments towards your penalty notice

If you are in temporary financial difficulty you can make part payments of as little as \$20 towards your penalty notices provided that full payment is made by the due date on the penalty reminder notice. If you do not finalise a fine by the due date on the penalty reminder notice the SDRO will take enforcement action for the outstanding balance, plus an additional \$50 enforcement cost. Payments may be made in any of the ways described on the notices. For more information on methods of payment see the SDRO website at: http://www.sdرو.nsw.gov.au/payments.html#pay_pn

3. Applying to enter into a Time to Pay arrangement with the SDRO

If you are on a low income you can apply to enter into a Time to Pay arrangement with the SDRO from the date that the penalty notice was issued, rather than waiting for the fine to be referred to the SDRO for enforcement. For more information on Time to Pay arrangements see the SDRO website at <http://www.sdرو.nsw.gov.au/>

4. Requesting an internal review if there are special or extenuating circumstances

You can request an internal review in relation to a penalty notice on specific grounds up until the due date for payment. If you believe there are special circumstances as set out in the SDRO's policy guide that apply to you, or you wish to seek leniency, you can request a review of the penalty notice by submitting a "Request Review of Penalty Notice" form to the SDRO accompanied by any supporting documents. It is advisable to get legal advice on the policy or your situation before you send in your review request.

5. Electing to have the matter heard in a Local Court

You can elect to have the matter dealt with by a Local Court. You may choose to challenge a penalty notice in the Local Court either because you:

- * believe you are not guilty; or
- * because you consider the penalty is too harsh under the circumstances.

To do this you fill out the court election form on the back of the penalty notice or on the SDRO website at http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr_pn_020.pdf and send it to the SDRO before the due date for payment. Your matter will then be listed for hearing at a Local Court and you will be sent a notice advising you of the date to appear in court.

We strongly suggest that you get legal advice **before** electing to have the matter heard by a court. The maximum fine a court could impose may be much higher than the amount in the penalty notice and you could be ordered to pay court costs. In addition, once you have court elected you cannot change your mind about having the matter determined by the Court.

After you have elected to have the matter heard by a court, you can make representations to the prosecutor about any special or extenuating circumstances relating to the offence and seek to have the penalty notice withdrawn before the matter is heard by the court.

6. Applying for a Work and Development Order (WDO)

WDOs are made by the SDRO to allow eligible people who are experiencing acute economic hardship, have a mental illness, intellectual disability or cognitive impairment, are homeless, or have a serious addiction to drugs, alcohol or volatile substances to satisfy their fine debt through unpaid work with an approved organisation or through certain courses or treatment. A WDO can only be made if an application is supported by an approved organisation, or in the case of medical/mental health treatment, a health practitioner qualified to provide that treatment. If you are eligible to apply for a WDO, you can apply to have all your fines included in the Order. For more information please see the SDRO website at www.sdoro.nsw.gov.au

The SUPRA legal service can assist you with legal advice about Fines.

Disclaimer:

This information is intended as a guide to the law as it applies to people who live in or are affected by the law as it applies in NSW. It does not constitute legal advice.

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