

Fines



This information sheet is about court fines, including what will happen and what you can do if you fail to pay your fine or fines.

There is a separate information sheet about infringement notices. To get a copy, ask at any Legal Aid WA office or contact the Legal Aid WA Infoline on 1300 650 579.

There is also information about fines and infringement notices on the Legal Aid WA website (www.legalaid.wa.gov.au) under Information about the law.

What is a fine?

A fine is an amount of money that a judge, magistrate or justice of the peace in **court** may order you to pay as a penalty for committing an offence. A fine may be the whole sentence (penalty) or just part of the sentence you receive for the offence. You might receive a fine for an offence such as drink driving or disorderly conduct.

Can I get a fine when I am not present in court?

Yes, you do not necessarily need to be present in court for a fine to be issued against you. For certain offences, you may receive a court hearing notice, which gives you the choice to attend court or not. If you choose not to attend or do not respond to the notice, the court can deal with the offence in your absence and may impose a penalty, such as a fine, in your absence.

If you are on bail, you **must** attend court.

What is the difference between a fine and an infringement notice?

An **infringement notice** is a notice issued by the police, local government authority or other prosecuting agency, requiring the payment of a sum of money as a penalty for breaching a particular law. The difference between a fine and an infringement is that an infringement notice

does not have to be dealt with in court in order to be legally binding.

Infringement notices are issued for breaches of the law that are not as serious, such as minor traffic offences and parking offences. An infringement notice is often called a "ticket", for example a "speeding ticket" or "parking ticket".

Why do I need to know the difference between a fine and an infringement notice?

Different processes apply depending on whether you have received a fine or an infringement notice. There are different processes for:

- disputing payment
- seeking time to pay
- enforcing payment
- applying to have a licence suspension order set aside for non-payment.

One significant difference between a fine and an infringement is that you can serve time in custody for an unpaid fine, but not for an unpaid infringement.

Where can I find information about dealing with an infringement notice?

See the **Legal Aid WA information sheet: Infringement notices**. To find out how to obtain a copy and where to find other information about

infringement notices, go to the final heading in this sheet: **Where can I get more information?**

What should I do if I receive a fine?

If a court imposes a fine on you, you have **28 days** to pay that fine and any court costs that were also ordered to be paid. The total amount of **fine and costs** is referred to as your “fine” when it comes to payment and enforcement of payment.

Your fine does not include any other amounts the court may have told you to pay, such as restitution or compensation to a victim. Those amounts must be paid separately.

The fine must be paid at the Court Registry within the 28 day period.

Can I get more time to pay the fine?

If you need longer than 28 days to pay you should go to the Court Registry **before the 28 days runs out**, to ask for a **time to pay order**. You may be required to undergo a **means test** to check your income, in order to show the order is necessary. As part of this, you may have to provide documents such as pay slips or proof of social security benefits and expenses to support your application. If you refuse a means test, you may be refused time to pay.

A time to pay order can allow you to:

- pay the fine by a set date, some time after the normal 28 day period, or
- pay the fine by instalments on or before set dates.

If you need to, you can amend the order by agreement with the Court Registry.

Be aware that if you breach the order by failing to pay as required, or by refusing to undergo a means test, the court officer handling your time to pay order can cancel it and require you to pay the full fine.

What if I dispute the fine?

If you consider that the fine you have received is too high or you dispute the conviction that led to the fine, you may be able to appeal the court's decision. There are strict time limits that apply to

appeals. You should get legal advice as soon as possible after you receive your fine. You should get legal advice before commencing an appeal.

For more information about appeals, go to the **Appeals** web page on the Legal Aid WA website (www.legalaid.wa.gov.au).

If the fine was imposed **in your absence** and you were not aware of the date when your matter was to be dealt with in court, or you were aware of the date but could not attend for a good reason, you can apply to the court to have the decision set aside and for the matter to be re-heard. In this case, you should seek legal advice.

You can get legal advice from your own private lawyer or from a duty lawyer in the Magistrates Court.

For more information about Legal Aid WA's **Duty Lawyer Service**, contact the Legal Aid WA **Infoline** on **1300 650 579** or see the Legal Aid WA pamphlet: **The Duty Lawyer**.

What happens if I do not pay the fine?

If you fail to pay your fine within 28 days and you have not entered into a time to pay order with the court, or your time to pay order has been refused or cancelled, your fine will be registered with the **Fines Enforcement Registry**, which will handle the enforcement process.

Once your fine is registered, the Registry may issue you with an **intention to enforce**. This notice will list the things that may happen if you do not pay the fine and enforcement fees by the date specified in the notice.

What happens if I do not respond to the notice of intention to enforce?

If you fail to pay the fine and enforcement fees within 28 days from the issue of the notice of intention to enforce and you have not entered into a time to pay agreement with the Registry, the Registrar may:

- make a **licence suspension order**
- issue an **enforcement warrant**
- issue a **work and development order** (community work)
- in some circumstances, issue a **warrant of commitment** (imprisonment)

- **publish your details** on a website.

What is a licence suspension order?

A **licence suspension order** may be made even if an enforcement warrant is in force.

A licence suspension order applies to your driver's licence and prevents you from driving while the suspension order is in place. It is an **offence to drive** while you are subject to a licence suspension order.

The licence suspension will remain in force until the fine and enforcement fees have been paid or this amount has been recovered under an enforcement warrant.

Cancellation of licence suspension order – hardship and time to pay

As long as an enforcement warrant has not been issued, you may apply to have your licence suspension order **cancelled**, or avoid having a licence suspension order made against you, if you can show that not having a licence would:

- stop you from being able to access urgent medical treatment for an illness, disease or disability that you or a family member suffers from, or
- stop you from doing your job and earning an income that could be used to pay the fine and fees, or stop you from looking for or getting a job, or
- make it very difficult for you to meet family or personal responsibilities,

and you agree to enter into a **time to pay agreement** with the Registry. This means you agree to pay the outstanding amount before a particular date or by regular instalments.

Cancellation of licence suspension order – other circumstances

Your licence suspension order will be cancelled if you pay the fine and enforcement fees, or if the amount is recovered under an enforcement warrant.

The Registrar can also cancel a licence suspension order for **good reason**.

You may also be able to have your licence suspension order cancelled if you dispute the fine that led to the order being made. For more

information see the **Legal Aid WA information sheet: Licence suspension order for non-payment of a fine or infringement**.

What is an enforcement warrant?

An **enforcement warrant** may be issued even if a licence suspension order has also been made.

An enforcement warrant allows the Sheriff to take and sell your personal property, which may include land, and use the proceeds of the sale to pay off the amount you owe. It also allows the Sheriff to either:

- immobilise your vehicle or vehicles by putting wheel clamps on it or them, or
- remove the number plates from your vehicle and suspend your vehicle licence.

It is an **offence** to interfere with the wheel clamps or the immobilisation notice that the Sheriff puts on your vehicle. The wheel clamps will be removed on payment of the outstanding amount.

If your number plates are removed, the Sheriff must also suspend your vehicle licence. If the outstanding amount is still unpaid after 28 days, the Sheriff may **cancel your vehicle licence**.

It is an **offence** to interfere with the notice that the Sheriff puts on your vehicle about the removal of the number plates.

Time to pay to avoid execution of enforcement warrant

The Sheriff may hold off executing the enforcement warrant, that is, hold off seizing property, clamping wheels or removing licence plates if you enter into a time to pay agreement with him. This means you agree to pay the Sheriff the outstanding amount before a particular date or by regular instalments.

What is a work and development order?

A work and development order is an order requiring you to complete a period of unpaid **community work** instead of paying off the debt. The order will require you to work at least six hours of community work. A community corrections officer will assess you for suitability for this order.

A work and development order **can be issued** at any time after your fine is registered with the Fines

Enforcement Registry, if the Registrar is satisfied that:

- you do not have the means to pay the amount owed
- you do not hold a driver's licence or you are already disqualified from driving
- a licence suspension order is unlikely to result in payment of the amount
- you do not have personal property that could be sold to cover the amount owed
- you will be unlikely to have the means or the property to sell within a reasonable time.

A work and development order can be issued before any other enforcement option has been used. It can also be issued after an enforcement warrant has been issued if the enforcement warrant did not result in the recovery of the full amount that is outstanding. The work and development order can then be made in relation to the amount that remains unpaid. If a work and development order is made after an enforcement warrant has been issued, the enforcement warrant will be cancelled.

For information about how many hours of community work you may have to do to pay off your fine, go to the **Consequences of not paying** webpage on the Attorney-General's website (www.courts.dotag.wa.gov.au) and scroll down to the heading **Community service/work and development orders**.

The fine and enforcement fees can be paid at any time during the work and development order and the order will then be considered to be completed. It will also be considered to be completed if you pay part of the outstanding amount and do community work for the rest of the amount.

A work and development order may be **cancelled** at any time and a **licence suspension order** may be made instead.

What is a warrant of commitment?

If you have not paid the fine and enforcement fees and either:

- you do not complete the requirements of a work and development order
- a work and development order is not made or cannot be made against you, or

- a work and development order is made but cancelled,

then the Registrar may issue a warrant of commitment. This means you will be arrested and **sent to prison** for a period of time calculated according to the amount of the fine.

You can still pay the fine at any time which will result in you being released from prison.

For information about how many days in prison you may have to serve to pay off your fine, go to the **Consequences of not paying** webpage on the Attorney-General's website (www.courts.dotag.wa.gov.au) under the heading **Imprisonment**.

Cancellation of warrant of commitment

The Registrar can cancel a warrant of commitment at any time **for good reason**.

Publishing your details on a website

The Registrar can publish some or all of your relevant details on the Registrar's website if you have one or more **outstanding registered fines**. Your details cannot be published in relation to outstanding registered infringements.

An outstanding registered fine is a fine which meets the following criteria:

- it has been registered
- it has been at least 28 days since the fine was imposed
- the fine and any enforcement fees have not been paid in full or recovered under an enforcement warrant
- no time to pay order is in force
- the liability to pay has not otherwise been discharged.

The relevant details that can be published are:

- your family name
- your given names
- the street, and the suburb or town, in which you live, according to your last known address
- whether you have one or more outstanding orders to pay or elect, or outstanding registered fines, or both
- the total amount you owe.

The Registrar cannot publish details if:

- you are a child
- you are protected under a violence restraining order or police order
- publication would endanger your safety.

Once the outstanding fine and enforcement fees are paid, the details will be removed from the website as soon as possible.

I was under 18 years old when I was fined. What happens if I don't pay my court fine?

The process for the enforcement of your fine will be different according to your current age.

If you were under 18 when you were fined and are still under 18, then the Children's Court will deal with the failure to pay. The court will give you three choices:

- more time to pay the fine
- a community work order
- a detention order.

The court may also **decline to make a detention order**. This means that you cannot be imprisoned for failure to pay that fine and it cannot be registered with the Fines Enforcement Registry.

If you were under 18 when you were fined but have since turned 18, then the fine may be registered with the Fines Enforcement Registry as normal for adults. This will not happen, however, if other action has been taken to deal with the matter, for example a work and development order has been made.

Can I apply to cut out my fines while I am in custody?

Yes, as long as your unpaid fines and any enforcement fees have been registered with the Fines Enforcement Registry, you can apply to convert them to time in custody. You cannot apply to convert unpaid infringements to time in custody.

When should I apply to cut out my fines in custody?

You should apply to convert your fines to time in custody if you are already in custody for some

other reason. For example, you may be a sentenced prisoner or be on remand awaiting a trial. This is because the time you spend in custody cutting out your fines **runs at the same time** as your term of imprisonment or your remand period, so it is very useful for you to cut out your fines while you are in custody for any other reason.

If you cut out your fines while in custody then when you are released, your outstanding fines will be cleared.

You should remember that **if you have unpaid infringement notices, these cannot be cut out in custody and you will need to deal with these separately.**

What if I am a sentenced prisoner?

If you are a sentenced prisoner you should apply to cut out your fines as soon as possible after you are sentenced to imprisonment, to ensure the time in custody for unpaid fines is completed before your term of imprisonment ends. If you apply late, towards the end of your term of imprisonment, you may need to spend extra time in custody.

What if I am on remand?

If you are on remand, the Registry will consider how long you are likely to be on remand before deciding whether to allow you to cut out your fines while you are in custody. They will not let you cut out fines in custody if you may be released soon as they do not want you doing extra time in custody after you are granted bail or been given a sentence that is not jail.

How is the time calculated?

If you are allowed to cut out your fines in custody, the time you must spend will be calculated according to the amount of your unpaid fine and enforcement fees.

For information about how many days in prison you may have to serve to pay off your fine, go to the **Consequences of not paying** webpage on the Attorney-General's website (www.courts.dotag.wa.gov.au) under the heading **Imprisonment**.

How do I apply?

To apply to have your fines converted to time in custody, there is a form you need to fill out. You can get a copy of this form from the Transitional Manager at the prison where you are being held, or directly from the Fines Enforcement Registry.

Where can I get more information?

Information sheet and pamphlets, available from any Legal Aid WA office

(locations on back page) or by contacting the **Legal Aid WA Infoline on 1300 650 579**:

- **Infringement notices**
- **Licence suspension order for non-payment of a fine or infringement**
- **Appearing in court on a criminal charge**
- **The Duty Lawyer (pamphlet)**

Web pages under Information about the law on the Legal Aid WA website www.legalaid.wa.gov.au:

- **Fines**
- **Infringement notices**
- **Licence suspension order for non-payment of a fine or infringement**
- **Appearing in court**

Legal Aid WA Infoline on 1300 650 579 for information and referral.

Fines Enforcement Registry on 1300 650 235, or **(08) 9235 0235** for eastern states/mobile callers.

Department of the Attorney-General's website (www.courts.dotag.wa.gov.au) under **Fines and infringements**.

Legal Aid WA Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)
Infoline open Monday to Friday 9.00 am to 4.00 pm
(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450
National Relay Service (for hearing and speech impaired) 133 677

www.legalaid.wa.gov.au

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(08) 9261 6222

Southwest Regional Office

7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230
(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330
(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430
(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530
(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722
(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725
(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743
(08) 9166 5800

Indian Ocean Office

Administration Building, 20 Jalan Pantai
Christmas Island, Indian Ocean, WA 6798
(08) 9164 7529

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