

# The Shopfront

## YOUTH LEGAL CENTRE

### FINES KIT

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This kit is designed to assist youth workers and community organisations to help young people deal with their unpaid fines. It is not a substitute for legal advice. For legal advice, further information or for a hard copy of this kit, please contact the Shopfront Youth Legal Centre on (02) 9322 4808, email [shopfront@freehills.com](mailto:shopfront@freehills.com) or go to [www.theshopfront.org](http://www.theshopfront.org).

# The Shopfront

## YOUTH LEGAL CENTRE

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### Fines and their enforcement

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#### 1 Introduction

This document explains how fines are imposed, how they are enforced by the State Debt Recovery Office, and what can be done about unpaid fines.

For a practical guide to dealing with unpaid fines, including links to forms and fact sheets, please see the separate document called *Fines – Step By Step*.

The Shopfront Youth Legal Centre also has a *Fines Kit*, available on our website or in hard copy on request.

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#### 2 The *Fines Act* and the State Debt Recovery Office

##### 2.1 The *Fines Act*

The law on how fines are imposed, and how unpaid fines are enforced, is set out in the *Fines Act 1996*.

The *Fines Act* commenced in January 1998 and significantly changed the way unpaid fines are dealt with. Under the old system, it was easy to turn unpaid fines into community service or to “cut them out” in prison or detention, but it was difficult for the government to collect money from fine defaulters. The current system places more emphasis on getting people to pay their fines.

Although this system has succeeded in collecting large amounts of outstanding debt, it has caused hardship to many people who genuinely cannot afford to pay their fines.<sup>1</sup> In recent years there have been some amendments to the *Fines Act* which have made the system more flexible and have reduced hardship for disadvantaged people.

##### 2.2 The State Debt Recovery Office

The State Debt Recovery Office (SDRO) was created in 1998 when the *Fines Act* came into force. Contact details for the SDRO are at the end of this document.

The SDRO has extensive powers to enforce unpaid fines. The SDRO also has other options for people who cannot afford to pay their fines. Over the years, the SDRO has improved the way it deals with disadvantaged people.

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<sup>1</sup> For more information about these problems, see the Sentencing Council’s interim report at [http://www.lawlink.nsw.gov.au/lawlink/scouncil/ll\\_scouncil.nsf/pages/scouncil\\_reports#report1](http://www.lawlink.nsw.gov.au/lawlink/scouncil/ll_scouncil.nsf/pages/scouncil_reports#report1), or the submissions made by the Shopfront Youth Legal Centre at <http://www.theshopfront.org/25.html>.

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## 3 Fines and how they are imposed

### 3.1 What is a fine?

A fine is a **penalty** (punishment) imposed for an offence. Fines can be imposed either by a **court** or by **penalty notice**.

The *Fines Act* applies not only to fines but to other charges such as court costs and Victims' Compensation Levies<sup>2</sup> [section 4].

The *Fines Act* does not apply to civil debts or to compensation ordered by a court (for example, when you are ordered to pay money to someone to fix the damage you caused to their property). It is up to the creditor (the person you owe money to) to recover these debts, with the help of the court system if necessary.

### 3.2 Court-imposed fines

When imposing a fine, the court must take into account the person's **capacity to pay** [section 6].

The magistrate or judge who imposes the fine cannot allow more than **28 days** to pay [section 7]. However, the offender may apply for **further time to pay** the fine to the registrar of the court, and the fine may be **paid off by instalments** at the court [sections 10, 11].

Written notice of the fine must be given to the offender [section 9]. This is usually mailed out about a week after the court date.

If the fine remains unpaid after time to pay has expired, the registrar of the court refers the fine to the **SDRO** for the issue of a **court fine enforcement order** [sections 12-17].

### 3.3 Penalty notices

A **penalty notice** (also called an **infringement notice**) is an on-the-spot fine issued by an appropriate officer (eg a police officer, transit officer, parking inspector, council ranger) [sections 19-39].

The **amount** of the fine is prescribed by the relevant Act or Regulations.

The issuing agency may decide to issue a **caution** instead of a penalty notice.<sup>3</sup>

A penalty notice may not be issued to a **child** under 10. The Police (and some other agencies including RailCorp) have a policy of not issuing them to children under 14.

If you think you are not guilty of the offence or the fine amount is too high, you may fill in the **court election** form on the back of the penalty notice and choose to have the matter dealt with by a court.

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<sup>2</sup> Under section 79 of the *Victims Support and Rehabilitation Act* 1996, a levy is imposed on everyone found guilty of an offence punishable by imprisonment (which includes just about every offence). The levy is \$60 (it increased from \$30 on 10 December 2008) for Local and Children's Court matters and \$140 (up from \$70) for District and Supreme Court matters. It can be waived for people under 18.

<sup>3</sup> Currently, an issuing agency may give you a caution instead of a fine, but there is no formal process for this. The *Fines Act* will soon be amended to insert new sections 19A-19B and provide a formal framework for cautions. These amendments (which are not yet in force) were introduced by the *Fines Further Amendment Act* 2008.

Penalty notices are administered by the **SDRO**<sup>4</sup>. If the penalty notice is unpaid after the due date (21 days), and you do not elect to have the matter heard by a court, the SDRO will issue a **reminder notice** giving you a further 28 days to pay.

If the fine is still unpaid after this period, and you have not sent in the court election, the SDRO issues a **penalty notice enforcement order** [sections 40-56].

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## 4 Enforcement orders

Once a fine is referred for enforcement, the SDRO makes an **enforcement order** and imposes an **enforcement cost** of \$50 (or \$25 for fines incurred when under 18) [sections 12-17, 40-47].

The SDRO sends a notice to the fine defaulter, advising of the making of a fine enforcement order [sections 59-64]. The notice includes details of:

- the amount now payable;
- the fact that the fine defaulter has 28 days to pay or to make a time to pay arrangement;
- the possibility of further costs being incurred if enforcement action must be taken; and
- the fact that review options are available in circumstances of disagreement.

A fine defaulter may apply to the SDRO for **time to pay** at any time after an enforcement order is made and before a Community Service Order is issued [section 100].

There may be **other options**, depending on the fine defaulter's situation. For more information about time to pay and other options, see section 7 of this document.

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## 5 Enforcement action by the SDRO

If the fine defaulter does not respond to an enforcement order or keep up with payments, there are four stages of **enforcement action**.

Each stage of enforcement action incurs an extra **enforcement cost**. The costs are set out in the *Fines Regulation 2005* and are \$40 or \$50 for each step. If **all** of the fines were incurred when **under 18**, **no enforcement costs** will be charged [section 102A].

### 5.1 RTA sanctions [sections 65-70]

If the fine is not paid by the due date and the fine defaulter does not apply for time to pay, the fine is **referred to the Roads and Traffic Authority (RTA)**.

The RTA will **suspend the fine defaulter's driving licence** without notice. **A fine defaulter who has no licence** will be prevented from getting a licence.

If the fine remains unpaid for 6 months, the RTA will **cancel** the licence and may also cancel the fine defaulter's **vehicle registration**<sup>5</sup>.

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<sup>4</sup> The old Infringement Processing Bureau (IPB) which used to be part of the NSW Police, is now part of the SDRO.

The RTA may also put in place a “**customer business restriction**”. This means they may refuse to deal with the fine defaulter regarding such things as issuing or renewing licences or registrations, transferring registrations, issuing number plates and licence testing. However, **the RTA cannot refuse to issue you a photo ID/proof of age card.**

**The RTA cannot take any action on your licence for non-traffic fines incurred when you were under 18 [section 65(3)].** Other types of RTA sanctions may still be imposed but in practice it appears that this is not happening.

RTA sanctions (ie suspension, cancellation, customer business restriction) will automatically be **lifted** when the fine is **paid in full** or after **6 regular payments** on a time-to-pay arrangement [section 65(4A)] or if you have lodged an **appeal** or **annulment application** with a court[section 69].

The SDRO may allow RTA sanctions to be lifted earlier in some circumstances (see section 8 of this document).

## 5.2 Civil enforcement [sections 71-77]

If the fine remains unpaid after cancellation at the RTA, or the RTA is unable to match the fine to a licence or registration, the next stage is **civil enforcement**. The SDRO can:

- (a) issue a **property seizure order**. This allows the Sheriff to repossess assets like furniture, TV or a vehicle within certain guidelines. The Sheriff, or another person executing the order, may require a person who they reasonably suspect to be the fine defaulter to give their name and address, and to produce identification. Failure to do so (without reasonable excuse) is an offence (maximum fine: \$1,100) [section 104].
- (b) issue a **garnishee order** to forcibly take money out of the fine defaulter's pay or bank account. The SDRO must leave a certain amount for the person to live on (this amount changes from time to time). The SDRO **does not garnishee Centrelink payments.**
- (c) register the fine enforcement order as a **charge on land** where the amount exceeds \$1,000.
- (d) issue an **examination summons** requiring the fine defaulter to appear at a Local Court to be questioned about their assets and income.

## 5.3 Community Service Orders [sections 78-86]

The SDRO may make a Community Service Order (CSO) if it is satisfied that:

- **civil enforcement has not been successful, or is unlikely to be successful;** and
- the fine defaulter **is capable of performing work** under the CSO. Whether someone is capable of performing a CSO is assessed by the Probation and Parole Service.

The cut-out rate for community service work is **\$15 per hour**, up to a maximum of 300 hours (for an adult) or 100 hours (for a child) on any one order. It is the person's age at the time of the CSO being imposed (not at the time the fine was

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<sup>5</sup> A fine default cancellation of your vehicle registration does not cancel your vehicle insurance policy (*Fines Act* section 70) or your third-party insurance (*Motor Accidents Compensation Act* 1999, section 14).

imposed) that is relevant. Adults do their fine-default CSOs cumulatively; children do them concurrently [section 81].

The fine defaulter may satisfy the order by **completing the work** or **may pay the amount outstanding** at any time.

If the fine defaulter **fails to comply** with the CSO, the SDRO may **revoke the order and notify the fine defaulter**, who may apply to have the revocation reversed.

In practice, hardly any CSOs are made for fine defaulters. However, some fine defaulters may be able to “work off” their fines with a **Work and Development Order** (see section 7.8 of this document).

#### 5.4 Imprisonment [sections 87-97]

If a **CSO is revoked**, the SDRO may then issue a **warrant of commitment** for the imprisonment of the fine defaulter for the applicable period. The rate is **one day’s imprisonment for every \$120** owing [section 90].

A police officer may **execute the warrant**, ie: **arrest** the fine defaulter. The police may (in accordance with certain guidelines) delay the execution of the warrant to enable the fine defaulter to pay the fine or seek cancellation of the warrant. The fine defaulter can **avoid imprisonment by paying the full amount outstanding**.

A police officer executing a warrant may require a person who they reasonably suspect to be the fine defaulter to **give their name and address, and to produce identification**. Failure to do so (without reasonable excuse) is an offence (maximum fine: \$1,100). The police officer must first warn the person that failure to provide details is an offence [section 104].

The imprisonment may be served by **full-time imprisonment** or by **periodic detention** (weekend or midweek). Multiple terms of default imprisonment are served consecutively (ie if a person owes 2 fines of \$200 and \$400 respectively, he or she will serve 2+4=6 days), but are concurrent with any term of non-fine default imprisonment (this means that people can still cut out their warrants while they are serving a sentence).

**There are special provisions for juveniles.** If someone was under 18 at the time of the offence (and under 21 when charged or issued with a penalty notice) they cannot be locked up for defaulting on the fine, unless they have adult fine default warrants as well, in which case they will do time in an adult prison for the whole lot! [section 92].

In practice, hardly any fine defaulters have been imprisoned since the commencement of the *Fines Act*. This is because the fine defaulter must first fail to complete a community service order, and the SDRO rarely issues CSOs.

## 6 Options for dealing with unpaid fines: before enforcement order is made

### 6.1 Penalty notice fines - time to pay

When the fine is still at penalty notice or reminder notice stage, the SDRO may allow more time to pay (usually only about a month). The SDRO accepts payment by instalments while the fine is still at penalty notice stage, but only if the fine is paid off in full by the due date [section 33(2)].

Payments can be made by, mail (cheque or money order), phone (credit card), internet (credit card or billpay) or in person at a post office. At this stage, payments on penalty notices cannot be made via Centrepay (automatic deductions from Centrelink benefits).

## 6.2 Court fines - time to pay

When imposing a fine, the court only allows 28 days to pay, but this can easily be extended by filling out an application form at the court.

Courts accept payments in person over the counter, by cheque, by money order or by credit card. Unfortunately they do not accept payments via Centrepay (automatic deductions from Centrelink benefits).

As long as you keep paying the instalments, there will not be any interest or extra costs added, and the fine will not be referred to the SDRO for enforcement.

## 6.3 Penalty notice fines - court election

If you want to challenge a penalty notice (because you believe you are not guilty or the amount of the fine is too high), you may send in the **court election** form. This may be done after you have already received the penalty reminder notice, but must be done before an enforcement order has been made [sections 23A, 35, 36].

The matter will be listed in the **Local Court** or **Children's Court**, depending on your age and the type of offence. If you were under 18 at the time of the alleged offence, and are still under 21, you will go to the Children's Court. There is an exception for **traffic offences**: if you were old enough to have a licence at the time of the offence (this means 16 for cars, and 16 and 9 months for motorbikes) you go to the Local Court.

Just like any criminal charge, you may **plead guilty or not guilty** (or, if you have a mental illness or intellectual disability, you may make an application under section 32 of the *Mental Health (Criminal Procedure) Act*). See the Shopfront's separate material on *Criminal Procedure* for further information.

## 6.4 Penalty notice fines – parking and traffic offences

If you have received a penalty notice for a **parking offence** or a **camera-detected traffic offence**, but you were not driving the car at the time, the procedure for challenging the fine is different.

Instead of sending in the court election, you must send to the SDRO a **statutory declaration**, stating the name and address of the person who was responsible for the car when the fine was incurred [section 38]. The fine will then be sent to that person. If you don't know who was driving, you must still send in a statutory declaration with as much information as possible.

## 6.5 Penalty notice fines – request for review

Instead of (or as well as) sending in a court election, you may ask for a review of the decision to issue a penalty notice. This can be done by filling in a form or writing a letter to the SDRO. The SDRO's Review Guidelines (available on the SDRO website) may be helpful.

The agency that issued the penalty notice may decide to:

- withdraw it completely;

- give you a caution instead<sup>6</sup>; or
- allow the penalty notice to stand. In this situation you still have the opportunity to court-elect (if you have already sent in the court election form, this will be processed and you will be given a court date).

Under proposed amendments to the *Fines Act*<sup>7</sup> (which have not yet come into force) an issuing agency **must** withdraw a penalty notice if:

- the penalty notice was issued contrary to law;
- the issue of the penalty notice involved a mistake of identity;
- the penalty notice should not have been issued, having regard to the exceptional circumstances relating to the offence;
- you have an intellectual disability, a mental illness, a cognitive impairment or are homeless, *and* unable to understand that your conduct constituted an offence, or unable to control such conduct; or
- an official caution should have been given instead of a penalty notice.

## 6.6 Court fines – annulment application or appeal to court

For court fines, the following options are available whether or not an enforcement order has been made.

### Annulment application to court

If the fine was imposed by a Local or Children's Court, and you were **not** present at court, you may apply to the court for an **annulment** [*Crimes (Appeal and Review) Act section 4*]. The time limit for annulment applications is 2 years.

The court will annul the conviction and the fine if satisfied that:

- you were not aware of the court proceedings until they were over; or
- you were hindered by accident, illness, misadventure or other cause from attending court; or
- it is in the interests of justice for it to be annulled (for example, if there is a real doubt about your guilt) [*Crimes (Appeal and Review) Act section 8*].

### Annulment application to Attorney-General

If you were present when the fine was imposed, or you are outside the 2-year time limit for an annulment application to the court, you may be able to make an **annulment application to the Minister** (Attorney-General). You will have to show that there is a serious doubt about your guilt or your liability for a penalty [*Crimes (Appeal and Review) Act section 5*].

### Appeal

Otherwise, you may challenge the fine by lodging an **appeal to the District Court** [*Crimes (Appeal and Review) Act section 11*]. The time limit is 28 days (but can be extended to 3 months in special circumstances).

<sup>6</sup> Currently, an issuing agency may give you a caution instead of a fine, but there is no formal process for this. The *Fines Act* will soon be amended to insert new sections 19A-19B and provide a formal framework for cautions. These amendments (which are not yet in force) were introduced by the *Fines Further Amendment Act 2008*.

<sup>7</sup> These amendments (which are not yet in force) were introduced by the *Fines Further Amendment Act 2008*, and will insert new sections 24A-24J into the *Fines Act*.

## 7 Options for dealing with unpaid fines: after enforcement order is made

### 7.1 Time to pay

To apply for time to pay, you usually have to fill in a **form** setting out your **financial circumstances** and a suggestion of how much you would like to pay each week or fortnight. The SDRO will accept your instalment proposal if they think it is reasonable. This depends on your financial situation, how much you owe, and how long you will take to pay it off. The SDRO will often accept as little as \$20 per fortnight.

If you wish to pay by **Centrepay** (fine payments deducted directly from Centrelink benefits) this can be set up with a phone call to the SDRO instead of filling out a form.

Payments can be made by:

- mail (cheque or money order);
- phone (credit card);
- internet (credit card or billpay);
- in person at a post office; or
- “Centrepay”.

If the SDRO knocks back your time to pay application, you may apply to the **Hardship Review Board** (HRB). The HRB may direct that enforcement action be suspended pending its review. Upon review the HRB may direct the SDRO to allow further time for the payment of the fine, or to write off any unpaid fine. [sections 101A-101C]

### 7.2 Penalty notice enforcement orders - annulment application to SDRO

If you want to challenge a penalty notice, but the SDRO has **already made an enforcement order**, you may apply to the SDRO for an **annulment** [sections 48-52]. If an annulment is granted, this usually means the matter will be listed in court, as if you had court-elected on the penalty notice.

#### How to make an annulment application

To make an annulment application, you must send in a form setting out the **grounds** (the reasons why you think the enforcement order should be annulled). It is also helpful to have **supporting documents** such as medical and social work reports.

There is a **\$50 fee** but the SDRO may waive it in cases of financial hardship. The SDRO will not usually waive the fee completely, but is often happy to charge just one \$50 fee for multiple annulment applications. If you have paid the fee, the SDRO may remit (repay it) if it considers this appropriate [Fines Regulation clause 6].

#### Grounds for annulment application

The law covering annulment applications was amended in June 2009<sup>8</sup> and it is now more difficult to have penalty notice enforcement orders annulled.

The SDRO **must** annul the enforcement order if:

- you were not aware of the fine until the enforcement order was made; or

<sup>8</sup> State Revenue Legislation Further Amendment Act 2009, Schedule 2(6), which commenced on 26 June 2009.

- you were hindered by accident, illness or misadventure from taking action on the fine before it reached enforcement stage (homelessness and mental health problems are often accepted as illness or misadventure)

but only if the annulment application was made within a reasonable time after you became aware of the fine, or after you stopped being hindered from doing something about it [*Section 49(1)(a)*]. According to the SDRO, a reasonable time would usually be about 3 months, but may be as long as 12 months in some cases.

The SDRO **may** annul the enforcement order if:

- there is a doubt about your guilt or liability for the fine, but only if you have had no previous opportunity for this to be reviewed (this means that if you could have court-elected earlier on, but were simply too lazy to do so, you might have lost your chance to challenge the fine); or
- there is other just cause why the annulment should be granted; however, this cannot be used as a back-door way of getting your annulment application granted if you have not lodged it within a reasonable time [*Section 49(1)(b)*].

#### **If annulment application is granted**

If your enforcement order is annulled on the grounds that there is a doubt about your guilt or liability, the SDRO must **refer the fine to the prosecuting authority** (the organisation that issued the fine – eg Police, RailCorp) for them to decide whether to withdraw the fine or to proceed to court [*section 49A*].

If an enforcement order is annulled, the fine does not simply disappear. Unless the prosecuting authority decides to withdraw the fine, **the matter will be listed in court** and it will proceed as if you had court-elected on the penalty notice. [*Section 51*].

If your enforcement order is annulled, any **RTA sanctions** will be lifted.

#### **If annulment application is refused**

**If the SDRO refuses your annulment application**, you may appeal to the Local Court within 28 days of the SDRO's decision [*section 50*]. While your appeal is pending, **you may apply for any RTA sanctions to be lifted**, and the RTA must lift them [*section 69*].

### **7.3 Court fines – annulment application or appeal to court**

Please see section 6.6 of this document. The options outlined in that section are also available after an enforcement order has been made.

If the SDRO has imposed **RTA sanctions** you may apply for these to be lifted, and the RTA must lift them while your appeal or annulment application is pending [*section 69*].

### **7.4 Write-off**

The SDRO has **powers to write off unpaid fines** in special circumstances. [*section 101*]

**Write-off does not mean getting rid of your fines completely.** Instead, the SDRO postpones them for 5 years. Then the fines will be wiped if you have not incurred any more enforcement orders in that period (you are allowed to incur fines, as long as you deal with them before they reach enforcement order stage).

The Act provides for the making of guidelines for writing off fines [section 120]. The SDRO has published an information sheet on how to apply for write-off and what sort of information you must provide<sup>9</sup>.

Our experience suggests that the SDRO is quite reluctant to write fines off. There is a chance of having fines written off if you can convince the SDRO that you are **unlikely to ever be able to pay (or work off) the fine, because of a serious illness or disability**. Psychiatric or medical reports, financial statements and support letters are all very helpful in this situation.

When considering a write-off application, the SDRO does not take into account any issues about your liability (guilt). When making a write-off application, it is usually a waste of time to explain why you are not guilty of the offence - if you want to do this, you should make an annulment application.

If your fines are written off, **RTA sanctions will usually be lifted** so you will be eligible to get a licence, register a car, etc.

If the SDRO refuses to write off your fines, you may apply to the **Hardship Review Board**, which may direct the SDRO to write off your fines.

## 7.5 Remission

If you wish to have your fines completely wiped, you may apply to the Governor to have them **remitted** [section 123]. There do not appear to be any guidelines about remission of fines, but a remission is likely to be granted only in **exceptional circumstances**.

## 7.6 Stay of enforcement

If you are unable to get your fines written off, but you are in serious financial difficulty, the SDRO may consider giving you a **stay** for up to 12 months. This means you will not have to pay anything during this period, and no further enforcement action will be taken. The SDRO might also agree to lift any RTA sanctions.

At the end of the stay, you will have to start doing something about your fines.

For fine defaulters who are in **prison**, the SDRO will usually stay enforcement until at least 3 months after release.

## 7.7 Community Service Order

This is not really an option, because a CSO is only made by the SDRO as a last resort before sending you to prison.

## 7.8 Work and Development Order

A Work and Development Order (WDO) is a new option, introduced in July 2009 for a 2-year trial period [sections 99A-99J]<sup>10</sup>. It is more flexible, and available at an earlier stage, than a CSO.

### What is a Work and Development Order?

A WDO is an order made by the SDRO requiring a person to do any one or more of the following:

<sup>9</sup> This is available on the SDRO website at [www.sdرو.nsw.gov.au](http://www.sdرو.nsw.gov.au), under the heading "postponement and cancellation". We believe that the SDRO may also have other guidelines which are not made public.

<sup>10</sup> Introduced by *Fines Further Amendment Act 2008*. The sections on WDOs commenced on 10 July 2009.

- undertake **unpaid work** for, or on behalf of, an “approved organisation”;
- undergo medical or mental health **treatment** in accordance with a health practitioner’s treatment plan;
- undertake an educational, vocational or life skills **course**;
- undergo financial or other **counselling**;
- undergo **drug or alcohol treatment**; or
- (if the person is under 25) undertake a **mentoring** program.

#### **Who is eligible for a Work and Development Order?**

You may be eligible for a WDO if you are having trouble paying your fines due to:

- intellectual disability or cognitive impairment (eg brain injury);
- mental illness;
- homelessness; or
- acute economic hardship.

#### **How to apply for a Work and Development Order**

You can apply for a WDO at any time after an enforcement order has been made, but before a CSO is made.

A WDO application must be supported by an **approved organisation**, or in the case of mental health or medical treatment, a **health practitioner** qualified to provide that treatment.

Organisations and health practitioners may apply to the SDRO to become an **approved organisation** or an **enrolled health practitioner**.

#### **Effect of a Work and Development Order**

If a WDO is granted, any SDRO enforcement action is stopped and any RTA sanctions are lifted.

Under a WDO, you “work off” or “cut out” your fines at the following rate:

- **Unpaid work:** \$30 per hour, up to a maximum of 300 hours for over-18s or 100 hours for under-18s.
- **Treatment, counselling, case management or mentoring:** \$1,000 per month.
- **Vocational, educational or life skills courses:** \$50 per hour or \$350 per day, up to a maximum of 3 full days per month.

#### **If you don’t complete a Work and Development Order**

If you don’t finish a WDO, or if you finish the WDO but still have fines owing, you will still have to pay whatever is left. In some cases the SDRO may agree to write off the remaining fines.

Unlike a CSO, failure to complete a WDO does not lead to imprisonment.

#### **Work and Development Order Guidelines**

These guidelines are very useful and are available on the SDRO website.

## 8 Getting RTA sanctions lifted

The SDRO may **lift RTA sanctions** (meaning you can get your licence back, apply for a new licence, or re-register your car) if:

- you pay the fines in full; or
- you have made at least six regular instalment payments (but only if you have not previously defaulted on a time to pay agreement) [section 65(4A)]; or
- you have appealed to the Local Court against the SDRO's refusal to grant an annulment application (for penalty notice enforcement orders); or have lodged an appeal or annulment application with the court (for court fine enforcement orders) [section 69]; or
- you need to sell your car (and transfer your rego) to pay your fines; or
- a licence is essential for your work; or
- you have special health/personal/family reasons for needing a licence.

If you need a licence for work reasons, a support letter from your employer, saying why you need a licence, will help you convince the SDRO. If you are receiving assistance from a job placement agency, a letter from the agency confirming this, and confirming that a driving licence is needed to obtain employment, will assist.

### If the SDRO agrees to lift the sanctions:

- If your licence or rego has been **suspended**, it will automatically be restored.
- If your licence or rego has been **cancelled**, you will have to re-apply for your licence or rego. If your licence has been cancelled for a long time you might have to do the driving test again.

Whatever the situation, you must not drive until the RTA confirms it is OK.

**If you are in a time-to-pay arrangement, you will have to keep making regular payments, or the SDRO may suspend your licence or rego again.**

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## 9 Contact Details

### 9.1 State Debt Recovery Office

Correspondence:

For fines at **penalty notice** stage: PO Box 786 Strawberry Hills NSW 2012

For fines at **enforcement order** stage: PO Box A2571 Sydney South NSW 1235

Ph: 1300 655 805

Fax: 6354 7271, 6354 7302 (time to pay applications only)

Website: [www.sdro.nsw.gov.au](http://www.sdro.nsw.gov.au) (for useful information, fact sheets, and forms).

If your organisation assists clients with outstanding fines, you may apply to the SDRO for an **Advocacy Hotline**. This gives lawyers and community workers (not clients!) a direct number to the SDRO without having to go through the call centre. For details of how to apply, contact the SDRO.

## 9.2 Hardship Review Board

(To appeal refusal of time-to-pay or write-off applications)

GPO Box A2571, Sydney South NSW 1235

Ph: 6354 7116

Fax: 6354 7263

[fineshrb@osr.nsw.gov.au](mailto:fineshrb@osr.nsw.gov.au)

<http://www.hrb.osr.nsw.gov.au/>

## 9.3 Attorney-General's Department

(To apply for annulment of court fines where ineligible to apply to the court)

Legal Services Branch  
Attorney-General's Department  
GPO Box 6  
Sydney NSW 2001.

Ph: (02) 8224 5330

[director-lsb@agd.nsw.gov.au](mailto:director-lsb@agd.nsw.gov.au)

## 9.4 Office of the Governor

(To seek remission of fines)

Office of the Governor of New South Wales  
Level 3, Chief Secretary's Building  
121 Macquarie Street  
Sydney NSW 2000

## 9.5 Shopfront Youth Legal Centre

356 Victoria Street  
Darlinghurst, NSW 2010  
Phone: (02) 9322-4808  
Fax: (02) 9331-3287  
[shopfront@freehills.com](mailto:shopfront@freehills.com)  
[www.theshopfront.org](http://www.theshopfront.org)

### **Shopfront Youth Legal Centre Updated October 2009**

*The Shopfront Youth Legal Centre is a service provided by Freehills, in association with Mission Australia and the Salvation Army. This document was last updated in October 2009 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time.*

*This document provides a summary only of the subject matter covered, without the assumption of a duty of care. The summary should not be relied on as a substitute for legal or other professional advice.*

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# The Shopfront

## YOUTH LEGAL CENTRE

### Fines – Step By Step

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#### 1 Introduction

This document provides a quick reference guide to dealing with fines. The available options and procedures depend on whether it is a court-imposed fine or a penalty notice, whether or not it been referred for enforcement, etc.

This document should be read in conjunction with our other material on fines and criminal law (available on our website at <http://www.theshopfront.org/24.html>).

It is important to get *legal advice*, especially if you are thinking of taking your fines to court, because there is a chance you could get a worse outcome in court.

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#### 2 Finding out about your outstanding fines

(a) **If your fines were imposed quite recently (in the last 2-3 months):**

Contact the relevant court (for court fines) or the State Debt Recovery Office (SDRO) (for penalty notice fines).

(b) **If your fines were imposed longer than 2-3 months ago:**

Contact the State Debt Recovery Office (SDRO).

Contact details are at the end of this document.

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#### 3 Acting for a client in relation to fines

(a) The State Debt Recovery Office (SDRO) generally requires an “**authority to act**” form before they will discuss anything with anyone other than the person named on the fine. Please see the attached links for these forms:

Authority to Act (for fines): [http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr\\_eo\\_009.pdf](http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr_eo_009.pdf)

(b) If your organisation often assists clients with outstanding fines, you may apply to the SDRO for an **Advocacy Hotline** number. This gives lawyers and community workers (not clients!) a direct line to the SDRO without having to go through the call centre and without always requiring a signed authority from the client. For details of how to apply, contact the SDRO.

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#### 4 If you want to challenge the fine

You might want to challenge a fine because you think you are not guilty or the amount of the fine is too high. How you go about this depends on whether it is a court fine or a penalty notice, and whether or not it has reached enforcement stage.

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## 4.1 Penalty notice fines

(a) **If the fine is at penalty notice or penalty reminder notice stage** (up to seven weeks after the fine is issued):

(1) **If it is a parking offence or camera-detected traffic offence and you were not the driver** – you must complete a *statutory declaration* nominating the driver and send it to the *SDRO* within 28 days. The form can be found at:

[http://www.sdro.nsw.gov.au/lib/docs/forms/sdr\\_pn\\_024.pdf](http://www.sdro.nsw.gov.au/lib/docs/forms/sdr_pn_024.pdf)

(2) **For all other fines** – fill in the *court election* on the back of the penalty notice or reminder notice and send it to the *SDRO*. If you wish, you can also write a letter to the *SDRO* requesting them to withdraw the fine, but this is usually unsuccessful. If you have lost the court election form you can download one from:

[http://www.sdro.nsw.gov.au/lib/docs/forms/sdr\\_pn\\_020.pdf](http://www.sdro.nsw.gov.au/lib/docs/forms/sdr_pn_020.pdf)

After a few weeks, you will receive a *court attendance notice*. If you think you are not guilty and that the matter should be withdrawn, you may write *representations* to the prosecuting authority (Police, Railcorp etc). A lawyer can help with this. These representations are generally more likely to succeed than a letter to the *SDRO*.

(b) **If you wish to challenge the fine but it has already become an enforcement order with the SDRO** - you will need to make an *annulment* application to the *SDRO*. There is no time limit. For more information, see:

[http://www.sdro.nsw.gov.au/lib/docs/forms/sfs\\_eo\\_003.pdf](http://www.sdro.nsw.gov.au/lib/docs/forms/sfs_eo_003.pdf)

An annulment application involves filling in a separate form for each enforcement order. On the application form you will need to state a good reason why the enforcement order should be annulled: for example, you didn't know about the fine until you got a letter from the *SDRO*, you knew about the fine but were unable to do anything about it because you were young/homeless/mentally ill/not aware of your legal rights, or you are not guilty of the offence.

There is a \$50 fee for each annulment application. This can be waived in cases of financial hardship. It is not always easy to get fees waived but the *SDRO* is often willing to accept just one \$50 fee for multiple annulment applications. If you are requesting a waiver of the fee, or asking to pay just one fee for multiple applications, you should include details about your financial circumstances. See the attached link for a statement of financial circumstances form:

[http://www.sdro.nsw.gov.au/lib/docs/forms/sdr\\_eo\\_006.pdf](http://www.sdro.nsw.gov.au/lib/docs/forms/sdr_eo_006.pdf)

If the annulment application is granted, the matter may be withdrawn but will probably be listed in court, and will proceed as if you had sent in a court election on a penalty notice.

If your annulment application is refused, you may appeal to the Local Court.

## 4.2 Court-imposed fines

(a) **If the court convicted and/or fined you in your absence:**

(1) **If this happened less than two years ago** - you may make an *annulment* application to the *court* (*Crimes (Appeal and Review) Act* section 4). You will need to demonstrate a good reason why you did not attend court, or some other reason in the interests of justice why your application should be granted. If

possible, you should seek legal advice before doing this. The application can be lodged over the counter at the court, or you can download a form from the Local Courts website and send it in. There is a fee but it can be waived or postponed in circumstances of financial hardship. Forms can be found at:

[http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/vwFiles/Forms\\_Appeal\\_AnnulmentApplication.pdf/\\$file/Forms\\_Appeal\\_AnnulmentApplication.pdf](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/vwFiles/Forms_Appeal_AnnulmentApplication.pdf/$file/Forms_Appeal_AnnulmentApplication.pdf)

- (2) **If it was more than two years ago** and you can show that there is some doubt about your guilt or liability for a penalty - you may make an **annulment** application to the **Attorney-General** (*Crimes (Appeal and Review) Act* section 5). If possible, ask a lawyer to help you with this. For more details, see:

[http://www.lawlink.nsw.gov.au/Lawlink/lsb/ll\\_lsb.nsf/pages/lsb\\_reveiwandannulmentofconviction](http://www.lawlink.nsw.gov.au/Lawlink/lsb/ll_lsb.nsf/pages/lsb_reveiwandannulmentofconviction)

(b) **If you were present at court when the fine was imposed:**

- (1) **If it was less than 3 months ago** – you may **appeal** to the **District Court** within 28 days (or within 3 months with the leave of the District Court) (*Crimes (Appeal and Review) Act* section 11). If possible, seek legal advice before appealing. The appeal can be lodged over the counter at the Local or Children’s Court that fined you, or you can download a form from the Local Courts website and send it in. There is an \$85 fee but it can be waived or postponed in circumstances of financial hardship. Forms can be found at:

[http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/vwFiles/Forms\\_Appeal\\_NoticeOfAppealToDC.pdf/\\$file/Forms\\_Appeal\\_NoticeOfAppealToDC.pdf](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/vwFiles/Forms_Appeal_NoticeOfAppealToDC.pdf/$file/Forms_Appeal_NoticeOfAppealToDC.pdf)

- (2) **If it was more than three months ago** and you can show that there is some doubt about your guilt or liability - you may make an **annulment** application to the **Attorney-General** (*Crimes Appeal and Review Act* section 5). See paragraph 4.2(a)(2) above for more information.

The above options are the same regardless of whether the fines have already gone to the SDRO. If an annulment application is granted, the matter goes to court and proceeds as if it is listed for the first time.

## 5 If you want more time to pay

### 5.1 Penalty notice fines

- (a) **If the matter is still at penalty notice or penalty reminder notice stage** - the SDRO does not allow payment by instalments. If you can’t pay the fine in full within the 42 days allowed by the SDRO, and you don’t elect to take it to court, you will have to wait for it to become an enforcement order (which means incurring enforcement costs) and applying to the SDRO for time to pay.
- (b) **If the matter is at enforcement order stage with the SDRO** – you can make a **time to pay arrangement** with the **SDRO**.
- (1) If you are on Centrelink benefits you can arrange to pay by instalments through **Centrepay** deductions. This can be arranged with a phone call to the SDRO or by using the Centrepay deduction form at:

[http://www.sdرو.nsw.gov.au/lib/docs/forms/sfs\\_cp.pdf](http://www.sdرو.nsw.gov.au/lib/docs/forms/sfs_cp.pdf)

- (2) If you are not eligible for Centrepay, you will need to complete a time to pay form, which can be found at:

[http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr\\_eo\\_011.pdf](http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr_eo_011.pdf)

## 5.2 Court fines

- (a) **If the fine is still with the court** – apply at the *court registry*. It is better to arrange for time to pay with the court, because you don't incur SDRO enforcement costs and you don't risk losing your driver's licence.

The court will usually allow payment by instalments, which must be paid directly to the court. Sometimes you can arrange to pay the fine at a different Local Court if it is more convenient. You will need to fill in a form and provide some proof of your income. Court fine information sheets and time to pay forms can be found at:

[http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/pages/lc\\_forms](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_forms).

- (b) **If the fine has already been referred to the SDRO** – you can make a *time to pay application* (see forms above at 5.1 (b)).

## 5.3 Appeal to Hardship Review Board

If the SDRO refuses your application for time to pay, you can appeal to the *Hardship Review Board*. For more information see:

[http://www.hrb.osr.nsw.gov.au/frequent\\_questions/fines.html](http://www.hrb.osr.nsw.gov.au/frequent_questions/fines.html)

# 6 If you want the fine written off, put on hold, etc

These options are only available once the fine has reached *enforcement order* stage.

## 6.1 Write-off

In SDRO language, *write-off* actually means deferring the fines for five years. At the end of the five years, if your financial circumstances have not improved and you have not had any more fines referred to SDRO for enforcement, your fines will be written off completely.

A write-off will only be granted to people who have a serious and long-term illness or disability, are unlikely to obtain regular employment, and are therefore unlikely to be able to pay their fines in the foreseeable future. For information see:

[http://www.sdرو.nsw.gov.au/lib/docs/forms/sfs\\_eo\\_002.pdf](http://www.sdرو.nsw.gov.au/lib/docs/forms/sfs_eo_002.pdf).

A write-off application is made by writing a letter to the SDRO accompanied by a statement of financial circumstances and supporting documents relating to your health, disability, etc.

Note that the SDRO is only interested in your current situation, not the circumstances in which the fine was imposed. *If you think you are not guilty or the fine was excessive*, you should first seek some legal advice about your *appeal* or *annulment* options.

For people in *prison*, a stay of enforcement action can be put on their fines until 3 months after their release. A prison welfare officer, or a probation and parole officer, can assist with this application.

## 6.2 Appeal to Hardship Review Board

If the SDRO refuses your application for a write-off, you can appeal to the *Hardship Review Board*. For more information see:

[http://www.hrb.osr.nsw.gov.au/frequent\\_questions/fines.html](http://www.hrb.osr.nsw.gov.au/frequent_questions/fines.html)

## 6.3 Stay

For people who can't currently pay anything towards their fines, but whose prospects may improve, the SDRO may be prepared to *stay* the fines for twelve months. A stay application is made in a similar way to a write-off application.

## 6.4 Remission

If you want to have your fines wiped completely (without having to go through the five year write-off period first), this is called *remission* and the only person who has authority to do this is the Governor, on the recommendation of the Attorney-General. Presumably such an application would only be granted in exceptional circumstances.

## 7 If you want to work off your fines

Until July 2009, the only way to work off your unpaid fines was to wait for the SDRO to issue a community service order. A community service order is only ever issued in rare cases, as a last resort before sending a fine defaulter to prison.

A *Work and Development Order* (WDO) is a new option. It is similar to a community service order but available at an earlier stage. You may be eligible for a WDO if you have a mental illness, cognitive impairment (including intellectual disability or brain injury), are homeless or are suffering from extreme financial hardship.

The SDRO has a Work and Development Order Fact Sheet available at:

<http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr037.pdf>

There are also some detailed WDO guidelines at:

[http://www.sdرو.nsw.gov.au/lib/docs/misc/wdo\\_guidelines.pdf](http://www.sdرو.nsw.gov.au/lib/docs/misc/wdo_guidelines.pdf)

The Work and Development Order application form can be found at:

<http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr037.pdf>

A WDO must be supported by an “*approved organisation*” or “*health practitioner*”. To apply for registration as an approved organisation, please see:

<http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr036.pdf>

To apply for enrolment as a health practitioner, please see:

<http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr042.pdf>

## 8 If you want to cut your fines out in prison

It is still possible to go to prison for non-payment of fines, but it is at the discretion of the SDRO, and usually doesn't happen until all other options (including community service) have been exhausted.

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## **9 If you have lost your licence because of unpaid fines and want to get it back**

If you don't do anything about your fines when an enforcement order is made, the SDRO may direct the RTA to impose licence sanctions. Your licence may be suspended and, if your fines are still not paid after six months, cancelled. At this stage your vehicle registration may also be cancelled. If you don't have a licence in the first place, the SDRO can impose a "customer business restriction" which may stop you from applying for your licence.

Note that they can't do any of the above if your fines are non-traffic fines and you were under 18 when they were incurred.

RTA sanctions can be lifted in the situations outlined below. If the SDRO tells you it has lifted the sanctions, you will have to check with the RTA before you start driving again. In some situations (eg if your licence has been cancelled, or if it has expired during the suspension period), you will have to re-apply for your licence. See the attached link for more information on RTA sanctions:

[http://www.sdrow.nsw.gov.au/lib/docs/forms/sfs\\_eo\\_001.pdf](http://www.sdrow.nsw.gov.au/lib/docs/forms/sfs_eo_001.pdf)

### **9.1 If you pay all your fines in full**

Licence sanctions will be automatically lifted straight away.

### **9.2 If you make 6 payments on a time to pay arrangement**

Licence sanctions will be automatically lifted after six regular payments (unless you have previously defaulted on a time to pay arrangement). If you default on your payments, licence sanctions will be re-imposed.

### **9.3 If you need a licence for work or personal reasons**

You may be able to get your licence sanctions lifted before you have made 6 payments, but you will need to prove that a licence is absolutely essential for work or personal reasons.

If you need a licence for work reasons, a support letter from an employer or employment agency, saying why you need a licence for work, will help you convince the SDRO. The idea is that you will pay the fine back quicker if you are employed than if you can't work because you haven't got your licence.

If you need a licence for personal reasons, your circumstances must be compelling, eg having to drive yourself or a sick relative to frequent medical appointments, living in a remote area with no other way to get your children to school.

### **9.4 If you have lodged an annulment application or appeal**

If you have:

- made an annulment application to the SDRO (in relation to a penalty notice enforcement order), but it has been knocked back, and you have appealed to the Local Court; or
- lodged an appeal or annulment application to the court (in relation to a court-imposed fine)

the RTA must (if asked by you) reinstate your licence while the annulment application or appeal is being decided. If your annulment application or appeal is unsuccessful, the licence sanctions may be re-imposed.

If your appeal or annulment application is successful, and you no longer have any outstanding enforcement orders at the SDRO, any licence sanctions should be automatically lifted. In practice, you may need to ask the SDRO to lift them.

### 9.5 If you make a write-off application

If your fines are written off (ie deferred for five years) the SDRO will usually lift your licence sanctions as well.

### 9.6 If you have applied for a stay

You may be able to get your licence sanctions lifted but you will need to prove that a licence is absolutely essential for work or personal reasons.

## 10 Contact details

### 10.1 State Debt Recovery Office

Correspondence:

When fine is at **penalty notice** stage: PO Box 786 Strawberry Hills NSW 2012

When fine is at **enforcement order** stage: PO Box A2571 Sydney South NSW 1235

Ph: 1300 655 805

Fax: 6354 7271, 6354 7302 (time to pay applications only)

[www.sdronsw.gov.au](http://www.sdronsw.gov.au)

### 10.2 Hardship Review Board

(To appeal refusal of time-to-pay or write-off applications)

GPO Box A2571, Sydney South NSW 1235

Ph: 6354 7116

Fax: 6354 7263

[fineshrb@osr.nsw.gov.au](mailto:fineshrb@osr.nsw.gov.au)

<http://www.hrb.osr.nsw.gov.au/>

### 10.3 Attorney-General's Department

(To apply for annulment of court fines where ineligible to apply to the court)

Legal Services Branch

Attorney-General's Department

GPO Box 6

Sydney NSW 2001.

Ph: (02) 8224 5330

[director-lsb@agd.nsw.gov.au](mailto:director-lsb@agd.nsw.gov.au)

#### 10.4 Office of the Governor

(To seek remission of fines)

Office of the Governor of New South Wales  
Level 3, Chief Secretary's Building  
121 Macquarie Street  
Sydney NSW 2000

#### 10.5 Courts

See the following links for court contact details:

Local Court:

[http://www.lawlink.nsw.gov.au/lawlink/local\\_courts/ll\\_localcourts.nsf/pages/lc\\_location](http://www.lawlink.nsw.gov.au/lawlink/local_courts/ll_localcourts.nsf/pages/lc_location)

Children's Court:

[http://www.lawlink.nsw.gov.au/lawlink/childrens\\_court/ll\\_cc.nsf/pages/CC\\_contact\\_us](http://www.lawlink.nsw.gov.au/lawlink/childrens_court/ll_cc.nsf/pages/CC_contact_us)

District Court:

[http://www.lawlink.nsw.gov.au/lawlink/district\\_court/ll\\_districtcourt.nsf/pages/dc\\_contactus](http://www.lawlink.nsw.gov.au/lawlink/district_court/ll_districtcourt.nsf/pages/dc_contactus)

#### **Shopfront Youth Legal Centre Updated October 2009**

Shopfront Youth Legal Centre  
356 Victoria Street  
Darlinghurst NSW 2010  
Tel: 02 9322 4808  
Fax: 02 9331 3287  
[www.theshopfront.org](http://www.theshopfront.org)  
[shopfront@freehills.com](mailto:shopfront@freehills.com)

*The Shopfront Youth Legal Centre is a service provided by Freehills, in association with Mission Australia and the Salvation Army.*

*This document was last updated in October 2009 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time. This document provides a summary only of the subject matter covered, without the assumption of a duty of care. The summary should not be relied on as a substitute for legal or other professional advice.*

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**NOTE: THIS IS AN EXAMPLE ONLY – DETAILS AND CIRCUMSTANCES WILL BE DIFFERENT IN EACH SITUATION**

Please note that if client is on Centrelink benefits a request for Centrepay deductions can be made over the phone to SDRO on 1300 655 805. If the client is not on Centrelink benefits then this letter is applicable.

State Debt Recovery Office  
Po Box A2571  
SYDNEY SOUTH NSW 1235

20.11.2009]

Dear Sir/Madam

**[Client name and DOB]: Time to pay application [and lifting of RTA sanctions - if applicable]**

**1 Time to Pay Application**

We write on behalf of [client name]. Our service [indicate type of service, client type and what your service provides].

[Client name] has \$### in outstanding fines with the State Debt Recovery Office. [Client name] wishes to enter into a Time to Pay arrangement with the State Debt Recovery Office for enforcement order numbers

- [list enforcement orders]

Our client would like to offer a lump sum of \$## [if applicable] and then [fortnightly] payments of \$##.

In support of this application we enclose a Time to Pay Application form, a current bank statement and a current pay slip [if applicable].

[Note: If Time to Pay application is rejected you may need to provide more information as to your client's financial situation and prospects.]

**If lifting of RTA licence sanctions is applicable insert the following:**

We are also writing to kindly request that any RTA sanctions be lifted once our client has made 6 consecutive payments towards their outstanding fines.

[Note: If the client has a job placement agency or job network provider assisting them in seeking employment, attach letter from them confirming having a licence will assist].

**OR**

[If applicable, attach a letter from a prospective employer or employment agency indicating that a licence is essential/desirable for employment].

Thank you for considering our application. If it is unsuccessful, could you please outline your reasons why.

If you have any queries or require further information please do not hesitate to contact me on [insert relevant contact details].

Yours faithfully

[Sign off]

**NOTE: THIS IS AN EXAMPLE ONLY – DETAILS AND CIRCUMSTANCES WILL BE DIFFERENT IN EACH SITUATION**

State Debt Recovery Office  
PO Box A2571  
SYDNEY SOUTH NSW 1235

[Insert date]

Dear Sir/Madam

**[Client name and DOB]: Application for write-off of enforcement orders**

We act for/are assisting [client name].

[Client name] has \$### in outstanding fines with the State Debt Recovery Office.

We are writing to request that the following enforcement orders be written off:

[List enforcement order numbers]

The grounds for this application are as follows:

**Disability**

[Add details and enclose reports if applicable, covering: nature of disability (intellectual/physical); whether it is a permanent disability; its impact on client's functioning, employability and ability to pay fines]

**Health**

[Add details and enclose reports if applicable, covering: diagnosis (physical and/or mental illness); seriousness and likely duration of illness; its impact on client's functioning, employability and ability to pay fines]

**Domestic circumstances**

[Add details and enclose support material if applicable, covering factors such as: history of abuse/neglect, homelessness, client's responsibility to care for children or other family members, whether client lives in remote area, other relevant circumstances impacting on employability and ability to pay fines]

**Financial circumstances**

We enclose a Statement of Financial Circumstances, a current bank statement and Centrelink income statement.

As the enclosed material shows, [client name] is in extreme financial hardship [insert further details if applicable – eg debts etc] . He/she is not in a position to make regular payments towards [her/his] outstanding enforcement orders. It is unlikely that his/her circumstances will change in the foreseeable future.

Thank you for considering this application. If you have any queries or require further information please do not hesitate to contact me [insert relevant contact details].

Yours faithfully

**[Sign off]**

**NOTE: THIS IS AN EXAMPLE ONLY – DETAILS AND CIRCUMSTANCES WILL BE DIFFERENT IN EACH SITUATION**

State Debt Recovery Office  
Po Box A2571  
SYDNEY SOUTH NSW 1235

[Insert date]

Dear Sir/Madam

**[Client name and DOB]: Application for stay of enforcement action and lifting of RTA sanctions if applicable**

**1 Application for stay**

We act for/are assisting [client name].

[Client name] has \$### in outstanding fines with the State Debt Recovery Office.

We are writing to request that the following enforcement orders be stayed for [indicate a period of time up to 12 months]:

[List enforcement order numbers]

[Client name] is a young person with [list type of health issue or disability, (eg. mental health, physical health or disability), living situation, particular circumstances which client is in. List short history of current client living situation (and living situation at time of receiving fines), diagnosis, treatment, ongoing issues as well as financial issues and future financial prospects. Attach any reports or medical notes in support of this information].

In support of our application, we also enclose a Statement of Financial Circumstances, a current bank statement and Centrelink income statement [or pay slip if applicable]. As you will see, [client name] is currently not in a position to make regular payments towards [her/his] outstanding enforcement orders. If [he/she] continues to incur enforcement costs, this will only add to [his/her] financial hardship.

[Client name] is actively seeking employment and once [he/she] does secure a job, it will provide [him/her] with some stability and income to enter into a time to pay arrangement with your office.

**2 Lifting of RTA sanctions [if required]**

In the meantime, we would kindly ask for any RTA sanctions to be lifted immediately, so that [client name] can obtain [his/her] driver's licence. The lack of a licence rules out many employment opportunities for which [client name] would otherwise be eligible.

[If the client has a job placement agency or job network provider, attach letter from them confirming having a licence will assist].

Although the SDRO do not normally grant the lifting of licence sanctions while enforcement orders are stayed, we kindly ask that special consideration be given to [client name]'s application.

Thank you for considering our application. If you have any queries or require further information please do not hesitate to contact me [insert relevant contact details].

Yours faithfully

**[Sign off]**

**NOTE: THIS IS AN EXAMPLE ONLY – DETAILS AND CIRCUMSTANCES WILL BE DIFFERENT IN EACH SITUATION**

Dr [name]  
[Surgery/Practice]  
[Address]

[Insert date]

Dear Dr [name]

**[Client name and DOB]: request for medical report/information**

We write on behalf of [client name]. Our service [indicate type of service, client type and what your service provides].

We are assisting [client name] with some outstanding fines with the SDRO. [List details of fines and action being taken with fines, ie. are you applying for stay, time to pay arrangement, doing annulments, etc.].

We understand that you are [client name]'s treating [doctor, psychiatrist, psychologist, etc].

We are writing to request a brief report to assist [client name] with his/her application to have his/her fines [insert type of application – eg annulled, written off]

We would be grateful if your report, if possible could address the following:

- how long you have been treating the client and nature of treatment currently being provided;
- diagnosis if possible to provide one;
- your opinion on the link, if any, between [client name]'s condition and the behaviour for which the fines were imposed;
- any comments on the client's capacity to pay the fine(s); and
- any other information you consider relevant.

We enclose [client name]'s signed consent to allow the release of this information.

Before preparing your report, please advise us if you require a fee.

If you have any queries or require further information please do not contact me [insert relevant contact details].

Yours faithfully

**[Sign off]**

**NOTE: THIS IS AN EXAMPLE ONLY – DETAILS AND CIRCUMSTANCES WILL BE DIFFERENT IN EACH SITUATION**

Attention: [worker name]  
[Service]  
[Address]

[Insert date]

Dear [worker name]

**[Client name and DOB]: request for support letter**

We write on behalf of [client name] who we understand is a mutual client. Our service [indicate type of service, client type and what your service provides].

We are currently assisting [client name] with some outstanding fines with the SDRO. [List action being taken with fines, ie. are they going to be heard in court, are you applying for a stay, time to pay arrangement, doing annulments, etc.].

We would appreciate if you could please prepare a short letter of support (addressed to the State Debt Recovery Office) addressing the following:

- the type of assistance you are providing to [client name] and how long you have been assisting them;
- information relating to [client name]'s disability, mental condition, family situation, financial circumstances, medication, treatment, etc;
- your understanding of [client name]'s circumstances at the time the fines were incurred;
- any comment on [client name]'s capacity to pay the fines;
- any other information you consider relevant.

[Indicate if necessary why support letter is helpful for this client].

We enclose [client name]'s signed consent to allow the release of this information.

If you have any queries or require further information please do not hesitate to contact me [insert relevant contact details].

Yours sincerely

[Sign off]