

June 2014

Fines

The law, your options

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 **Victoria
Legal Aid**

Lawyers And
Legal Services

Do you need this booklet in a different format?

Please ring us on 9269 0234 and ask for Publications.
We can talk with you about what you need.

Produced by Victoria Legal Aid

Victoria Legal Aid
350 Queen Street
Melbourne 3000

For help with legal problems, call Legal Help on 1300 792 387

For business queries, call 9269 0234

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Disclaimer: The material in this publication is a general guide only. It is not legal advice. If you need to, please get legal advice about your own particular situation.

Changes to the law

The law changes all the time. To check for changes you can:

- call Victoria Legal Aid's Legal Help phone line on 1300 792 387
- visit Victoria Legal Aid's website at www.legalaid.vic.gov.au
- contact a community legal centre. Call the Federation of Community Legal Centres on 9652 1500 to find your nearest community legal centre.

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Victoria Legal Aid

We are a state-wide organisation that helps people with their legal problems. We focus on helping and protecting the rights of socially and economically disadvantaged Victorians.

We have lawyers in offices in most major metropolitan and country regions. We also fund private lawyers to provide legal services to the public.

We can help you with your legal problems about criminal matters, family breakdown, family violence, child support, immigration, social security, mental health and debt.

For free information about the law and how we can help you, call Legal Help on 1300 792 387.

About this booklet

This booklet will help you understand your options for dealing with fines.

What this booklet covers

You can get a fine if you break the law. People mainly get fines for:

- driving offences, such as speeding
- driving without an e-tag on certain roads
- parking offences
- littering
- not having the right ticket on public transport.

It is important to pay or do something about your fine or you may end up with more costs, your licence suspended or have to go to court.

Getting more help

Go to the back of this booklet, at page 16, to a section called 'Where to get help' for contact details for services that can help you with legal advice and other support.

Legal words

Some legal words are explained in 'What do these words mean?' on the next page. These words are highlighted in bold the first time they are used.

The law on fines is changing. The changes will happen in 2015 onwards.

What do these words mean?

Court officials, lawyers and financial counsellors use legal words when they talk. Some of these legal words are also used in this booklet. This is what they mean:

agency – the organisation that issued you the fine

attachment of earnings order – when the court asks your employer to take the money from your wages to pay your fine

bail – a promise to attend at court on a particular day

community-based order – an order of the court to do unpaid community work or attend an educational program instead of paying your fines

community work permit – an agreement with the sheriff to do unpaid community work

discharge – when the magistrate finds you guilty of committing an offence, but decides you do not have to pay the fine, also called dismissal

enforcement order – a written document made by a court that says you must follow an order

fine – in this booklet, a fine means an infringement notice (see below)

infringement notice – money you have to pay for minor offences such as littering, parking or traffic offences (also known as ‘on the spot’ fine)

infringements registrar – a person who makes decisions about fines at the Infringements Court

infringement warrant – a court document that allows a sheriff to take certain actions

instalment – a payment that is made regularly until your fine is paid off

judicial registrar – a person who makes decisions about some civil matters and less serious criminal matters at the Magistrates’ Court

magistrate – a person who makes decisions in the Magistrates’ Court

oral examination – when you are questioned under oath by the infringements registrar about your financial position

payment plan – an agreement with an agency that gives you extra time to pay your fine

penalty reminder notice – a notice you get if you do not pay your fine on time

revoke – to cancel an (enforcement) order

sanctions – a range of penalties for people who do not pay their fines

serve – the legal delivery of a document

sheriff – a person with legal authority to take control of your property under a court order

special circumstances – if you find it difficult to avoid getting fines because of a mental illness, intellectual disability, drug addiction or homelessness

summons – a court document that tells you when you must go to court

What happens if I get a fine?

If you are fined you will get an **infringement notice** that tells you:

- what law you have broken
- how much you have to pay
- when you have to pay the **fine**.

You usually have **28 days** to take action. You have a few options to deal with your fine.

You can:

- pay the fine in full – follow the instructions on the infringement notice
- for a driving offence when you were not driving, nominate the driver – give the **agency** their name and address. If you can, give the agency the person's licence number or date of birth
- ask the agency for a **payment plan** if you need more time to pay
- ask the agency to review your fine
- choose to go to the Magistrates' Court.

If you do nothing, you will get a **penalty reminder notice**. This gives you more time to work out what to do, but more costs are added to the original fine.

If you still do nothing, your fine will be sent to the Infringements Court.

See 'What happens at the Infringements Court?' on page 11.

Make sure you check the date your payment is due. If you do not pay the fine by this date or take other action you will have to pay more.

What if I am under 18?

If you were under 18 when you broke the law, there is a more flexible system for chasing up unpaid fines. It is called the Children and Young Persons Infringement Notice System (CAYPINS).

Contact the CAYPINS Helpline at the Children's Court to find out your options.

See 'Where to get help' on page 16.

What if I cannot pay the fine on time?

If you cannot pay on time ask the agency that fined you for a payment plan.

A payment plan is where you can:

- get more time to pay the fine
- pay the fine off in more than one payment over time.

This is called paying by **instalment**.

Ring the agency that sent you the fine to find out how to start a payment plan. You may need to fill out a form. If the agency agrees to a payment plan, you need to stick to it. If not, the agency will take action to get the money.

See 'What happens if I do not pay the fine?' on page 9.

If you have fines from different agencies, you may need more than one payment plan. Contact Civic Compliance Victoria for more information.

See 'Where to get help' on page 16.

Can I ask the agency to review my fine?

Yes, before the due date. The agency can look at your fine if:

- you believe there was a mistake made in giving you the fine
- you believe the fine should be given to someone else
- you believe there are exceptional circumstances which mean you should not pay the fine
- you have **special circumstances**.

Special circumstances are if you keep getting fines **because of**:

- mental illness
- intellectual disability
- addiction to drugs, alcohol or volatile substances (such as inhalants like paint, glue or petrol)
- homelessness.

If you have special circumstances, get legal help. If you ask for a review at agency stage you may not get the chance of having your fines listed in the Special Circumstances List at the Magistrates' Court.

It might be better to wait until your fines are listed in the Special Circumstances List.

See 'Where to get help' on page 16.

The agency **cannot** review your fine if you got caught for:

- drink or drug driving
- excessive speeding (driving more than 25 km over the speed limit or over 130 km per hour).

Ask for a review before the due date on your fine. The agency cannot review the fine once it has been lodged with the Infringements Court.

See 'What happens if I do not pay the fine?' on page 9.

How do I apply for a review?

You apply for a review by writing to the agency that fined you. The agency's contact details are on the fine. You need to explain why you think the fine should be reviewed.

You can only apply for review of a fine once. It is a good idea to get legal advice before sending in your application.

See 'Where to get help' on page 16.

The agency should make a decision within 90 days. They will let you know in writing. You do not need to take any further action if the agency decides to:

- cancel the fine
- change the fine to a warning.

If the agency does not cancel or withdraw the fine, you can:

- pay the fine by the new due date
- ask for a payment plan
- choose to go to the Magistrates' Court.

See 'When can I go to the Magistrates' Court?' on page 14.

What happens if I do not pay the fine?

If you do not pay the fine by the due date, you will get a penalty reminder notice.

The agency charges you extra costs. The new amount is on the notice. You must pay by the due date on the notice. You can still get a payment plan, ask for a review, or go to the Magistrates' Court. This must be done before the fine is sent to the Infringements Court.

If you do not pay the penalty reminder notice on time, the agency sends your fine to the Infringements Court.

An **enforcement order** will be made against you. The court charges you extra costs. You have 28 days to pay.

See 'What happens at the Infringements Court?' on page 11.

If you do not pay the enforcement order on time, you will get an infringement warrant.

The **infringements registrar** issues an **infringement warrant** so the **sheriff** can get money from you. The sheriff comes to your home to get the money or property. The court charges you extra costs again. If you cannot pay, the sheriff gives you a written seven-day notice. You have seven days to pay or apply to the Infringements Court to have the enforcement order cancelled.

See 'How do I ask the infringements Court to revoke the enforcement order?' on page 12.

You should get legal advice immediately if the sheriff comes to your home.

See 'Where to get help' on page 16.

If you do not pay the infringement warrant on time, the sheriff can apply a range of sanctions

Sanctions include:

- selling your things to cover the cost of the fine (this does not include items that you need to live in basic comfort, like your refrigerator or television)
- putting a wheel-clamp on your car or motorbike until you pay the fine
- suspending your driver's licence and motor vehicle registration until you pay the fine
- taking money from your wages, called an **attachment of earnings order**
- selling your house, but only as a last resort.

If you do not have enough property to cover what you owe, the sheriff can arrest you and:

- release you on a **community work permit**, but only if you agree to the conditions and can do the work
- release you on **bail**. Later, you will have to go to the Magistrates' Court.

If you have to go to the Magistrates' Court, the **magistrate** can send you to jail.

The amount of time you have to spend in jail is based on how much you owe in fines. If the magistrate believes that jail is too harsh because of your personal situation, you may:

- get your fines **discharged**, which means you do not have to pay any money
- get part of your fines discharged, which means you pay part of the total amount
- be put on a **community-based order** to work off the fines.

If you have special circumstances, the magistrate can also discharge your fines.

If your unpaid fines reach this stage, you should get legal advice immediately.

See 'Where to get help' on page 16.

What happens at the Infringements Court?

If the agency sends your fine to the Infringements Court you will get an enforcement order. The order should explain your options.

If you pay the amount on the order by the new due date there is no further action.

If you cannot afford to pay, ask the court for a payment order. You can apply in person or in writing. A payment order is where you can:

- get more time to pay the fine
- pay the fine off by instalments
- remove the added costs if you can explain why you did not respond to the fine earlier.

If the infringements registrar needs more information about your financial situation, they can **serve** you with a **summons** to attend the Infringements Court. This process is called a summons for **oral examination**. It helps the registrar work out the best way for you to pay your fine. If you do not attend, the registrar can issue a warrant for your arrest.

You can also ask the court to **revoke** (cancel) your enforcement order if you:

- disagree with the fine
- think you should pay the amount on the original fine and not the extra costs
- have special circumstances that apply to you.

See 'How do I ask the Infringements Court to revoke the enforcement order?' on page 12.

If you do not take any action on the enforcement order, the infringements registrar will issue an infringement warrant.

See 'What happens if I do not pay the fine?' on page 9.

How do I ask the Infringements Court to revoke the enforcement order?

You need to:

- write to the court
- explain why you disagree with paying the fine and/or the extra costs
- ask for a revocation (cancellation).

You can apply under special circumstances if you keep getting fines **because** of:

- mental illness
- intellectual disability
- neurological disorders
- a serious addiction to drugs, alcohol or volatile substances (such as inhalants like paint, glue or petrol)
- homelessness.

Some fines are excluded from being revoked, including excessive speeding (driving more than 25 km over the speed limit or over 130 km per hour) and drink or drug driving offences.

When you write to the court you need to support what you say with evidence, for example, a letter from a doctor about your mental illness and how this affects you.

It is important to get legal advice before you send in your application.

See 'Where to get help' on page 16.

If the infringements registrar revokes the enforcement order, it does not mean the fine is cancelled. The Infringements Court will send your fine back to the agency for them to decide if it will cancel the fine or not.

If the agency does not cancel the fine, the infringements registrar will list it at the Magistrates' Court in the Special Circumstances List. You have to go to court.

If the infringements registrar does not revoke the enforcement order, you can still go to the Magistrates' Court for a hearing. Ask the registrar. You have 28 days to do this or you have to pay the fine (and costs).

The Magistrate can find you guilty without conviction and discharge the fines, so you do not have to pay. Or you can be put on a bond (a promise to the court to do or not to do certain things). Though you may not have to pay the fines there will be a finding of guilty.

See 'When can I go to the Magistrates' Court?' on page 14.

When can I go to the Magistrates' Court?

It is important to get legal advice before you choose this option.

See 'Where to get help' on page 16.

If you have only just got the fine, you can go to the Magistrates' Court to challenge it if:

- you do not think you broke the law
- it was not you who broke the law, it was someone else
- you believe you should not have to pay the full amount.

You can also go to the Magistrates' Court if you have asked for an enforcement order to be revoked but the infringement registrar has refused.

See 'How do I ask the Infringements Court to revoke the enforcement order?' on page 12.

If you want to go to court, write to the agency or Infringements Court to tell them **as soon as possible**.

The agency that issued your fine or the Infringements Court can also take the matter to the Magistrates' Court if you do not pay your fine.

What happens at the Magistrates' Court?

This depends on which stage you are at. If you have chosen to go to court early this means you get to tell your side of the story to a magistrate or a **judicial registrar**. They then make a decision about what you must do.

The magistrate or the judicial registrar can decide to:

- cancel the fine
- take away the extra costs
- order you to pay a smaller fine.

However, the magistrate can also decide to:

- give you a larger fine
- make you pay for the court costs
- cancel or suspend your driver's licence
- record a conviction against your name.

If you have to pay, you can ask for the amount you owe to be converted to a community-based order. Ask for the court registrar at the Magistrates' Court to apply. You must agree to the conditions of the order. You must also have enough free time to do the community work.

If you are found guilty of a non-traffic related offence, it will appear on a Victorian Police criminal record check.

If you are at the Magistrates' Court after an infringement warrant was made because you did not pay, the magistrate can send you to jail, as well as what is listed above.

Where to get help

Victoria Legal Aid

Legal Help

For free information about the law and how we can help you, call Legal Help on 1300 792 387

Monday to Friday, 8.45 am and 5.15 pm

More information

More information is on our website at www.legalaid.vic.gov.au

Do you need help calling us?



Translating and Interpreting Service

Tel: 131 450



National Relay Service

TTY users: Call 133 677

Speak and Listen users: Call 1300 555 727

Internet relay users: See www.relayservice.gov.au

Local offices

We have offices all over Victoria. Our offices are open Monday to Friday, 8.45 am to 5.15 pm.

See the back cover for office locations.

All offices are accessible to people with a disability.

Children's Court of Victoria

Helps people under 18 deal with fines.

477 Little Lonsdale Street, Melbourne 3000

CAYPINS

Children and Young Persons Infringement Notice System

Tel: 8638 3300

Civic Compliance Victoria

Deals with questions about the Infringements Court, the Sheriff's Office, the Traffic Camera Office and City Link.

Ground floor, 277 William Street, Melbourne 3001

www.fines.vic.gov.au

Federation of Community Legal Centres

Call to be referred to your local centre, or a specialist service such as the Homeless Person's Legal Clinic, or Youthlaw.

Tel: 9652 1500

Email: administration@fclc.org.au

www.communitylaw.org.au

Infringements Court

A venue of the Magistrates' Court which deals with the processing and enforcement of infringement notices and penalties.

Ground floor, 444 Swanston Street, Carlton VIC 3053

Tel: 9200 8222

Magistrates' Court of Victoria

www.magistratescourt.vic.gov.au

Tel: 9628 7777

Enforcement Review Co-ordinator

Melbourne Magistrates' Court (Special Circumstances List)

Level 2, 233 William Street, Melbourne VIC 3000

Tel: 9628 7902

Sheriff's Office

Deals with warrants and sanctions.

Ground floor, 277 William St, Melbourne 3000

Tel: 9200 8222

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350 Queen Street, Melbourne



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Your day in court

Booklet about going to the Magistrates' Court when you are charged with a criminal offence.

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