

OCTOBER 2019

# Fines: the law, your options



Victoria Legal Aid

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- call Legal Help on 1300 792 387, Monday to Friday, 8 am to 6 pm, excluding public holidays.

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## **Victoria Legal Aid**

Victoria Legal Aid is a government-funded agency set up to ensure that people who cannot afford to pay for a private lawyer can get help with their legal problems. We provide free information for all Victorians, family dispute resolution for disadvantaged families, provide lawyers on duty in most courts and tribunals in Victoria, and fund legal representation for people who meet our eligibility criteria. We help Victorian people with legal problems about criminal matters, family breakdown, child protection, family violence, child support, immigration, social security, mental health, discrimination, guardianship and administration, tenancy and debt.

# ABOUT THIS BOOKLET

## What this booklet covers

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

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, have your licence suspended or have to go to court.

## Getting more help

This booklet gives general information, not legal advice. We have put the contact details of helpful organisations in the 'Where to get help' section on page 17.

## Legal words

To help you, we have explained some words in 'What do these words mean?' on the next page.

## WHAT DO THESE WORDS MEAN?

In every section of this booklet we highlight legal words in bold when they first appear. The definitions for these words are below.

**bail** – a promise to go to court to face charges on a particular date. Bail may have conditions, like reporting to the police or living at a certain place

**Director** – the person who makes decisions about fines registered with Fines Victoria

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

**enforce/ment** – when the fine is not paid and the Director can take certain actions, like suspending your licence or taking your property

**enforcement review** – a request to the Director to cancel enforcement of your fine

**enforcement warrant** – a document that allows a sheriff to take certain actions, like suspending your licence or taking your property

**evidence** – information (documents or witnesses) used by the court or tribunal to make a decision

**family violence scheme** – victims of family violence may be able to apply to have a fine withdrawn if the family violence contributed to getting the fine

**fine** – in this booklet, a fine means an infringement notice

**Fines Victoria** – the government body that manages fines in Victoria

**infringement notice** – a notice stating that an offence has been committed and the amount of any fine to be paid

**instalments** – 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

**notice of final demand** – a written document issued by the Director which says you have to pay your fine or the Director or sheriff might take certain actions

**payment plan** – an agreement that gives you extra time to pay your fine. This is usually by instalments

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

**serve** – the legal delivery of a document

**sheriff** – a person legally authorised to carry out a court order to seize and sell property

**special circumstances** – if you are getting fines because of a mental illness, intellectual disability, drug addiction, family violence or homelessness

**work and development permit** – a way for people who have special circumstances, or who are experiencing disadvantage, to get their fines cleared by doing approved activities instead of paying

## GETTING 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, and
- when you have to pay the **fine**.

You usually have 21 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, name (nominate) the driver. Give the agency their name and address and, if you know it, their licence number and date of birth
- ask the agency for a **payment plan** if you need more time to pay or would like to pay by **instalments** (over time)
- ask the agency to review your fine. **See** page 9
- if you were a victim of family violence, apply under the **family violence scheme** for the fine to be withdrawn. **See** page 13
- if you have special circumstances or are experiencing disadvantage, ask for a **work and development permit**, a non-financial way to deal with a fine. **See** page 14
- choose to go to the Magistrates' Court if you disagree with the fine. **See** page 15.

**Make sure you check the date your payment is due. If you do not pay the fine or take other action by this date you will get a penalty reminder notice and you will have to pay more.**

If you still do nothing, your fine will be sent to the **Director** (the person at **Fines Victoria** who enforces fines).

**See** 'What happens if I do not pay?' on page 6.

## For under 18s

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 17.

## Need more time to pay?

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 smaller payments over time. This is called paying by instalments.

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?' on page 6.

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

See 'Where to get help' on page 17.



## WHAT HAPPENS IF I DO NOT PAY?

If you ignore the **fine** notice, you will have to pay extra costs and your fine will be sent on for further action.

As long as you apply **before the due date** on any of the notices below, you can still get a **payment plan**, ask for a review, apply to the **family violence scheme**, apply for a **work and development permit**, or go to the **Magistrates' Court**.

### Infringements stage

#### Penalty reminder notice

If you ignore the first **infringement notice**, you will get a **penalty reminder notice**. You will have to pay extra costs. The new amount is on the notice. You must pay or take other action by the due date.

### Enforcement stage

#### Notice of final demand

If you ignore the penalty reminder notice, your fine will be sent to the **Director, Fines Victoria** for **enforcement**. The Director will send a **notice of final demand** and charge you extra costs. You have 21 days to pay or take other action.

Once a notice of final demand has been **served**, the Director can apply a range of penalties.

These include:

- suspending your driver licence and motor vehicle registration until you pay the fine
- taking money from your wages, called an attachment of earnings order
- taking money from your bank account, called an attachment of debt order
- selling your house, but only as a last resort.

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

**See** 'Going to court' on page 15.

## Enforcement warrant

**If you ignore the notice of final demand, an enforcement warrant will be issued by the Director. You will be charged extra costs again.**

This means the **sheriff** can apply penalties including:

- putting a wheel clamp on your car
- removing number plates from your car or motorbike
- selling your car.

## Seven-day notice

If the sheriff comes to your home or stops you in your car, and you cannot pay your outstanding fines, they can give you a seven-day notice. You then have seven days to pay or take other action.

Remember, you can still apply for an **enforcement review**, apply to the family violence scheme, apply for a work and development permit or apply for a payment plan. **See** page 9.

If you do nothing and the seven-day notice expires, none of these options will be available to you anymore, other than paying in full.

After the seven-day notice expires, the sheriff can enter your home to look for personal property that can be sold to cover the fines. This does not include items that you need to live in basic comfort, like your refrigerator or television.

**You should get legal advice immediately if the sheriff gives you a seven-day notice. See 'Where to get help' on page 17.**

## Arrest

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. This is where you do unpaid community work instead of paying your fines, 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.

See 'Going to court' on page 15.



## CAN I APPLY FOR A REVIEW?

### Fines and penalty reminder notices

You can ask the agency who fined you to review (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 have to pay the fine
- you were not aware that you were issued the fine
- you have **special circumstances**, such as a mental illness, intellectual disability, drug addiction, or you are experiencing family violence or homelessness.

If you have special circumstances, get legal help. See 'Where to get help' on page 17.

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).

You can only ask for a review before the due date on your fine. The agency cannot review the fine once it has been registered with the **Director** for **enforcement**. See 'What happens if I do not pay?' on page 6.

### How do I ask for a review?

Write to the agency that fined you. The agency's contact details are on the fine. You may be able to apply online at **Fines Victoria** or the website of the agency that gave you the fine. See 'Where to get help' on page 17.

You need to explain why you think the fine should be reviewed.

You can only apply to review the fine once. Get legal advice before sending in your application.  
See 'Where to get help' on page 17.

### What happens next?

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**
- ask for a **work and development permit**.  
See page 14
- if you were a victim of family violence, apply under the **family violence scheme** for the fine to be withdrawn. See page 13
- choose to go to the Magistrates' Court if you disagree with the fine. See page 15.

### Enforcement review

If you have received a **notice of final demand**, an **enforcement warrant** or a seven-day notice, you can apply for an **enforcement review**. To do this, you need to:

- write to the Director, Fines Victoria
- explain why you disagree with paying the fine and/or the extra costs
- ask for an enforcement review.

You can apply for an enforcement review 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 were not aware that you were issued the fine
- you have special circumstances, such as a mental illness, intellectual disability, drug addiction, or you are experiencing family violence or homelessness.

Some fines are excluded from an enforcement review, including:

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

### How do I apply for an enforcement review?

The easiest way to apply for an enforcement review is through the Fines Victoria website. See 'Where to get help' on page 17.

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.

**Get legal advice before you submit your application. See page 17.**

### What happens next?

#### If enforcement is cancelled

If the Director cancels enforcement, it does not mean the fine is cancelled. The Director will send your fine back to the agency to decide if they will cancel the fine or not.

Things to note:

- If the agency does not cancel the fine, it will be listed at the Magistrates' Court closest to where you got the fine.
- If you have lots of fines, you might have to go to more than one court to deal with them.
- You will need to go to court on the day your matters are listed.
- You may be able to ask the court to hear your matters together if they are on different days. This is called a consolidation. You should get legal advice about this. See 'Where to get help' on page 17.

## If enforcement is not cancelled

If the Director does not cancel enforcement, you will need to pay the fine, apply for a Working Development Permit or ask for a **payment plan**. You can only ask for a review again if you have special circumstances.

Get legal advice if you think the Director's decision was wrong. See 'Where to get help' on page 17.

If the matters go to court:

- the **magistrate** or **judicial registrar** can find you guilty with or without conviction and clear (**discharge**) the fine, so you do not have to pay
- you can be put on a bond (a promise to the court to do or not to do certain things)
- you can be ordered to pay the fine.

Even if you do not have to pay the fine there will be a finding of guilt.

See 'Going to court' on page 15.



## FAMILY VIOLENCE

Family violence is when a family member makes you feel unsafe and afraid. It includes emotional and financial abuse, as well as physical violence and sexual abuse.

If family violence was the reason you got the **fine**, or if you were not the driver and family violence stopped you from naming (nominating) the driver, you may be able to apply to get the fine withdrawn.

You can apply to the **family violence scheme** by writing to the **Director, Fines Victoria**. In the application, you need to explain how the family violence led to you getting the fine or not being able to name the driver. You need to support your application with a statutory declaration and at least one other piece of **evidence**, such as an application for a family violence intervention order or a report from a family violence support worker.

If your application is successful, the fine will be withdrawn or you will be given more time to name the driver, if you feel it is now safe to do this.

Contact Fines Victoria for more information about the family violence scheme. Get legal advice before you apply. **See** 'Where to get help' on page 17.

## SPECIAL CIRCUMSTANCES

**Special circumstances** are if you keep getting fines because of a mental illness, an intellectual disability, addiction to drugs, alcohol or volatile substances (such as inhalants like paint, glue or petrol), family violence, or homelessness.

If you cannot pay a fine and have special circumstances or serious financial problems, you could be eligible for a **work and development permit**.

The permit is a way for people to clear fine debts by doing approved activities. You need to be getting treatment or services from an approved community agency, doctor or counsellor. The registered organisation applies for you and supervises you while you take part in the program.

The approved activities can include:

- unpaid work
- medical or mental health treatment
- study (including educational, vocational or life-skills courses)
- financial counselling
- drug and alcohol treatment
- participation in a mentoring program (if you are under 25 years old).

You can find out more about the work and development permit scheme from **Fines Victoria**. Get legal advice if you want to do this. See 'Where to get help' on page 17.

## GOING TO COURT

If you have only just got a **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.

If you want to go to court, write to the agency that fined you **as soon as possible**.

**It is important to get legal advice before you choose this option. See 'Where to get help' on page 17.**

The agency that issued your fine can also take the matter to the Magistrates' Court if you do not pay your fine. **See** 'What happens if I do not pay?' on page 6.

### What happens at court?

It 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 **judicial registrar**.

They can decide to:

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

However, they can also decide to:

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

If you have to pay, you can ask for the amount you owe to be converted to unpaid community work. You must agree to the conditions. 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 police criminal record check.

### **If you are at the Magistrates' Court because you did not pay**

As well as the above actions, the magistrate can also:

- discharge (clear) the fines in full or in part (you may have to pay some of the fine)
- order that you do unpaid community work
- postpone (adjourn) the matter for up to six months
- order that you have more time to pay the fines
- order that you can pay the fines by **instalments**.

The magistrate can send you to jail as a last resort. The amount of time you spend in jail will depend on how much you owe in fines.

**If your fines get to this point, get legal advice immediately. See 'Where to get help' on page 17.**



## WHERE TO GET HELP

### Victoria Legal Aid

#### Legal Help

For free information about the law and how we can help you:

- visit our website [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- call 1300 792 387, Monday to Friday, 8 am to 6 pm, excluding public holidays.

#### Do you need help calling us?



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Tel: 131 450



National Relay Service  
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**Speak and Listen users:**  
call 1300 555 727  
**Internet relay users:**  
[www.relayservice.gov.au](http://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.

## **Other services**

### **CAYPINS Helpline**

The Children and Young Persons Infringement Notice System (CAYPINS) is a more flexible way to deal with unpaid fines through the Children's Court

Tel: 1300 787 715

### **Children's Court of Victoria**

Help for people under 18 to deal with fines

Tel: (03) 8638 3300

Website: [www.childrenscourt.vic.gov.au](http://www.childrenscourt.vic.gov.au)

### **Federation of Community Legal Centres**

Call to find your nearest community legal centre

Tel: (03) 9652 1500

Website: [www.fclc.org.au](http://www.fclc.org.au)

### **Fines Victoria**

A central point of contact for people to pay or deal with their unpaid fines. Fines Victoria also manages the family violence scheme and the work and development permit scheme

Tel: (03) 9200 8111

Website: [online.fines.vic.gov.au](http://online.fines.vic.gov.au)

### **Magistrates' Court of Victoria**

Tel: (03) 9628 7777

Website: [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)

### **Sheriff's Office**

Ground floor, 277 William St, Melbourne 3000

Tel: (03) 9200 8222

## Useful Victoria Legal Aid resources

### To order publications

We have free booklets about the law in English and other languages. Visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) to order or download booklets. Call (03) 9269 0234 and ask for Publications to find out more.

### Our public law library

Open Monday to Friday, 9 am to 5 pm  
570 Bourke Street  
Melbourne VIC 3000



### Your day in court

This booklet is for anyone who has to go to the Magistrates' Court because they have been charged with a criminal offence.

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# Fines: the law, your options

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For business queries, call (03) 9269 0234

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