

# Fines

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

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

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

## What is a fine?

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

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

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

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

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

An **infringement notice** is a notice issued by the police, a local government authority or other

prosecuting agency, requiring the payment of a sum of money as a penalty for breaching a particular law. The difference between a fine and an infringement is that an infringement notice does not have to be dealt with in court in order to be legally binding.

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

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

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

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

One significant difference between a fine and an infringement is that, as a measure of last resort, you may have to serve time in custody for an unpaid fine, but not for an unpaid infringement.

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

See the **Legal Aid WA information sheet: Infringement notices**. To find out how to obtain a copy and where to find other information about infringement notices, go to the final heading in this sheet: **Where can I get more information?**

## What should I do if I receive a fine?

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

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

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

However, note that if you already have another unpaid fine outstanding, payment can be enforced before the end of the 28 day period.

### Can I get more time to pay the fine?

If you need longer than 28 days to pay, you should go to the Court Registry **before the 28 days run out**, to apply for **time to pay**.

You can apply for time to pay even if:

- a licence suspension order is in place;
- an order to attend for work and development is in place;
- a work and development order is in place; or
- a warrant of commitment (WOC) inquiry is occurring.

However, you cannot apply for time to pay if:

- an enforcement warrant is in place;
- a work and development permit (WDP) is in place;

- an ongoing fine expiation order is in place; or
- a warrant of commitment (WOC) is in force.

For more information on licence suspension orders, orders to attend for work and development, work and development orders, WOCs, enforcement warrants, WDPs and fine expiation orders, see below.

You may be required to undergo a **means test** to check your income, in order to show the order is necessary. As part of this, you may have to provide documents such as pay slips or proof of social security benefits and expenses to support your application. If you refuse a means test, you may be refused time to pay.

A time to pay order can allow you to:

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

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

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

**“If you need longer than 28 days to pay, you should go to the Court Registry before the 28 days run out, to apply for time to pay.”**

## What if I dispute the fine?

If you consider that the fine you have received is too high or you dispute the conviction that led to the fine, you may be able to appeal the court's decision. There are strict time limits that apply to appeals. You should get legal advice as soon as possible after you receive your fine. You should get legal advice before commencing an appeal.

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

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

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

For more information about Legal Aid WA's **Duty Lawyer Service**, go to the **Get help at court** web page on the Legal Aid WA website ([www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)) or contact the **Legal Aid WA Infoline** on 1300 650 579.

## What happens if I do not pay the fine?

If you fail to pay your fine within 28 days and you have not applied at the Court Registry for time to pay, or your application for time to pay has been refused or cancelled, the Registrar of the **Fines Enforcement Registry** can enforce payment of your fine.

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

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

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

- make a **licence suspension order**
- issue an **enforcement warrant**
- issue a **work and development permit**

- issue an order to attend for **work and development** (community work)
- issue a **fine expiation order**
- as a last resort, apply to the Magistrates Court for a **warrant of commitment inquiry** to be held, which may result in the Court ordering that a warrant of commitment (imprisonment) be issued
- **publish your details** on a website.

## What is a licence suspension order?

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

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

However, the Registrar cannot make a licence suspension order if:

- your address is in a 'remote area' or
- you have provided the Registrar with information about your personal circumstances which gives them reasonable grounds to believe that a licence suspension order would stop you or your family from being able to access urgent medical treatment or from doing your job or make it difficult for you to meet family or personal responsibilities.

'Remote area' does not include the metropolitan region. A list of WA remote areas is available from the WA government Fines Enforcement Registry (FER) web page:

([www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer](http://www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer)).

## Cancellation of licence suspension order – hardship and remote areas

You may apply to have your licence suspension order cancelled, or avoid having a licence

suspension order made against you, if you can show that not having a licence would:

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

If satisfied one of these circumstances exist, the Registrar must cancel the licence suspension order.

Further, if you give the Registrar a notice stating that your current address is in a remote area, the Registrar must cancel the licence suspension order. This notice must be given in the required form (FER009), which can be accessed from the Fines Enforcement Registry (FER) web page: ([www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer](http://www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer)) under the heading 'Application Forms, Factsheets and Publications'.

## Cancellation of licence suspension order – other circumstances

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

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

## What is an enforcement warrant?

An enforcement warrant allows the Sheriff to take certain actions to encourage payment of the outstanding fine.

## Taking and selling property

The Sheriff can take and sell your personal property, which may include land, and use the proceeds of the sale to pay off the amount you owe.

## Immobilisation of vehicles and removal of number plates

The Sheriff may also:

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

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

If your number plates are removed, the Sheriff must also suspend and disqualify your vehicle licence. If the outstanding amount is still unpaid after 28 days, the Sheriff may cancel your vehicle licence and disqualify you from holding or obtaining a vehicle licence in respect of that vehicle.

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

## Garnishee orders

An enforcement warrant also allows the Sheriff to issue a garnishee order in relation to your earnings or your bank account. Such orders are directed either at your employer or at your bank.

A garnishee order on earnings is an order that your employer deduct a certain amount from your earnings and pay that amount to the Sheriff. However, if your earnings in a pay period are the same or less than a certain 'protected earnings' amount, no deduction will be made.

A bank account garnishee order is an order that your bank pay a certain amount to the Sheriff from your bank account(s). This may be a once-off payment or several payments. However, if the total amount in your bank account(s) is the same or less than a certain 'protected bank account' amount, the bank is not allowed to deduct anything. If the bank deducts anything from your bank account, it must tell you within 7 days.

If a bank account garnishee order is in place, it is an offence if you deliberately prevent the order from

being carried out by closing the specified accounts, withdrawing or transferring money from them, or preventing money from being paid into them, so that no money can be deducted under the garnishee order.

You must notify the Sheriff if you close all of your accounts with the bank, or if someone who regularly deposits money into your account stops doing so. It is an offence not to notify the Sheriff in these circumstances.

You can apply to the Sheriff for a refund of any money deducted under a garnishee order. The Sheriff may refund the money or a part of it if they think fit. The application form (FER011) is available from the Fines Enforcement Registry (FER) web page:

([www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer](http://www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer)) under the heading 'Application Forms, Factsheets and Publications'.

### Time to pay to avoid execution of enforcement warrant

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

## What is a work and development permit?

A work and development permit (WDP) is a permit which allows you to complete certain activities instead of paying your fine. If you are eligible for a WDP, you have the option of undertaking any of the following activities, which must be sponsored by a provider approved for this purpose:

- unpaid work
- medical or mental health treatment
- an educational, vocational or personal development course

- treatment for an alcohol or drug use problem
- if you are under 25 when the permit is issued, a mentoring program.

Further activities might be prescribed by regulations.

You are eligible for a WDP if you are experiencing hardship, which includes (but is not limited to):

- financial hardship
- being the subject of, or exposed to, family violence
- mental illness
- disability
- homelessness
- alcohol or other drug use problems.

An application for a work and development permit can be made by an approved sponsor, with your agreement, after a notice of intention to enforce has been issued. This application must be in the approved form and include a written 'eligibility assessment' by the sponsor stating what kind of hardship you are experiencing. It must also state the amount owed, the activity you will undertake, and the rates which determine what value will be assigned to each part of the activity.

If the Registrar is satisfied that you are eligible, they may then issue a WDP. They must serve a copy of the WDP (or a notice of refusal) on you and the sponsor.

A WDP is in force from the time it is issued until it is completed or cancelled. You, or your sponsor, can apply to cancel the WDP if they are unable to continue to supervise you. The Registrar must then cancel the WDP. The Registrar can also cancel the WDP on their own initiative if there is a good reason to do so, for example if they are satisfied that you have failed without reasonable excuse to undertake the required activity.

Further information on the WDP scheme, including application forms and Work and Development Permit Guidelines are available on the WA government website under Work and Development Permit Scheme:



(<https://www.wa.gov.au/organisation/department-of-justice/work-and-development-permit-scheme>).

Legal Aid WA is operating a Work and Development Permit Service which matches people experiencing hardship with community sponsors. Further information on this service, including Factsheets for clients and sponsors, is available on the Legal Aid WA website under Get Legal Help – What we do – Civil law: ([www.legalaid.wa.gov.au/get-legal-help/what-we-do/civil-law](http://www.legalaid.wa.gov.au/get-legal-help/what-we-do/civil-law)).

“Legal Aid WA is operating a Work and Development Permit Service which matches people experiencing hardship with community sponsors.”

## What are an order to attend for work and development and a work and development order?

A work and development order is an order requiring you to complete a period of unpaid community work instead of paying off your fine. The order will require you to work at least six hours of community work. Before a work and development order can be made, the Registrar needs to issue an order to attend for work and development. If you are given an order to attend for work and development, you must report to a community corrections centre, where a community corrections officer will assess you for suitability for this order. If you are considered suitable, the CEO (corrections) can then make a work and development order.

An order to attend for work and development can be issued at any time after your fine is registered with the Fines Enforcement Registry, if the Registrar is satisfied that:

- you do not have the means to pay the amount owed, and

- you do not have personal property that could be sold to cover the amount owed, and
- you will be unlikely to have the means to pay or personal property that could be sold, within a reasonable time.

The Registrar may require you to undertake a means test.

Once you have reported to the community corrections centre, if the community corrections officer has assessed you to be suitable, the CEO (corrections) must then make a work and development order unless they are satisfied that you are incapable of performing it, or that you might pose a risk to people in the community.

An order to attend for work and development can be issued after an enforcement warrant has been issued. The enforcement warrant will then be cancelled.

An application form for an order to attend for work and development (FER006) can be found on the Fines Enforcement Registry (FER) webpage under the heading 'Application Forms, Factsheets and Publications'.

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

## What is a fine expiation order?

If you are or have been in custody and have unpaid fines, you can apply for a fine expiation order. This allows you to reduce your fines by a prescribed amount for each day spent in custody. A fine expiation order does not authorise anyone to hold you in custody, which means that you cannot be held in custody because of the order alone.

You can apply for a fine expiation order in relation to a period of custody that you are currently serving or, if you are no longer in custody, in relation to a period of custody that has ended.

The Registrar may issue a fine expiation order if satisfied that:

- you do not have the means to pay the fine, and
- you do not have personal property that could be sold to cover the amount owed, and
- you will be unlikely to have the means to pay or personal property that could be sold, within a reasonable time after the period of custody ends (if you are currently in custody) or after the fine expiation application is made (where you were in custody in the past).

The Registrar may require you to undertake a means test.

As a general rule, your fine is reduced by the daily expiation amount (currently \$250) for each day spent in custody after the expiation period starts. The expiation period must start no earlier than any of the following:

- the first day of the period of custody to which the order relates, or
- the day on which the fine was registered (which is the day when it was imposed), or
- 29 September 2020.

The expiation order ends when your unpaid fines are paid off or the period of custody to which the order relates ends or the order is cancelled (whichever comes first). The Registrar may also cancel an ongoing fine expiation order at any point for good reason.

To apply for a fine expiation order, you need to fill in the relevant application form (FER007), available on the Fines Enforcement Registry (FER) web page: ([www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer](http://www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer)) under the

**“If you are or have been in custody and have unpaid fines, you can apply for a fine expiation order.”**

heading ‘Application Forms, Factsheets and Publications’.

## What is a warrant of commitment?

A warrant of commitment means you will be arrested and sent to prison for failure to pay your fine. Before a warrant of commitment can be issued, a warrant of commitment inquiry must be conducted. The Registrar may apply to the Magistrates Court for such an inquiry if:

- you have been served with an order to attend for work and development or a fine enforcement (WDO) order from the court, AND
- any of the following happened in relation to those orders:
  - you did not report, or
  - a work and development order was not made or could not be served on you, or
  - a work and development order was made but was cancelled because you did not comply, AND
- the Registrar is satisfied that:
  - all applicable enforcement action has been taken, and
  - any further possible enforcement action is not applicable or is unlikely to result in recovery of the amount owed.

The Registrar can also make an application for a warrant of commitment inquiry if you breach an order made at a previous warrant of commitment inquiry.

The purpose of a warrant of commitment inquiry is to determine:

- whether you have the means to pay the fines (either wholly or by instalments), taking into account your income, assets, liabilities and circumstances
- your suitability for a work and development order and the likelihood that you will comply with it

- whether you have previously breached an order made at a warrant of commitment inquiry and
- what action should be taken to enforce the fines.

At a warrant of commitment inquiry, the Magistrate may:

- make a time to pay order
- order that an order to attend for work and development should be issued
- write off all or part of the fine
- amend an order made at a previous warrant of commitment inquiry regarding that fine
- order that a warrant of commitment be issued, or
- make any other order considered appropriate.

The Court can issue an arrest warrant for you to attend the inquiry if:

- a summons has already been served on you in relation to this or a previous inquiry and you did not attend court as required
- you have, at least twice, breached an order made at an inquiry, or
- you have failed to comply with a conditional release undertaking which you entered into after being arrested during a previous inquiry.

If you have been arrested under an arrest warrant in this situation, but it is not practicable to bring you before the Magistrates Court immediately after your arrest, the police must consider whether to release you on a conditional release undertaking. You must be released on a conditional release undertaking if you have been in custody under a warrant for 24 hours or if it becomes clear that it will not be possible to bring you before a court within 24 hours.

Failure to comply with a conditional release undertaking is an offence.

If a warrant of commitment is issued, it will specify a period you must spend in prison. This period must

be at least one day and will be for whichever of the following periods is shorter:

- the period of imprisonment calculated by dividing the amount owed by the amount prescribed (currently \$250) and rounding the result down to the nearest number of whole days, or
- the maximum term of imprisonment (if any) to which you could have been sentenced for the offence concerned.

You will be released when you have either:

- served the whole period of imprisonment imposed under the warrant of commitment, or
- paid the unpaid amount owed on the fine, or
- satisfied a combination of the two options above.

The period of imprisonment runs at the same time as any other period of imprisonment that you are serving or that you have to serve.

**“Before a warrant of commitment can be issued, a warrant of commitment inquiry must be conducted.”**

## Publishing your details on a website

The Registrar can publish some or all of your relevant details on the Registrar’s website if you have one or more outstanding registered fines.

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

- it has been registered
- it has been at least 28 days since the fine was imposed
- if an enforcement warrant is in force, there is no stay of execution



- no time to pay order is in force
- you have not appealed against the fine, or the appeal has been disposed of and the fine is still payable.

The relevant details that can be published are:

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

The Registrar cannot publish details if:

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

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

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

Yes, see above under **What is a fine expiation order?**

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

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

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

- more time to pay the fine

- a community work order
- a detention order.

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

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

## Where can I get more information?

- **Information sheets** available from any Legal Aid WA office (locations on back page) or by contacting the **Legal Aid WA Infoline** on **1300 650 579**:
  - **Infringement notices**
  - **Licence suspension order for non-payment of a fine or infringement**
  - **Appearing in court on a criminal charge.**
- Web pages under Information about the law on the Legal Aid WA website: ([www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)):
  - **Fines**
  - **Infringement notices**
  - **Licence suspension order for non-payment of a fine or infringement**
  - **Appearing in court**
- **Legal Aid WA Infoline** on **1300 650 579** for information and referral.
- **Fines Enforcement Registry** on **1300 650 235**, or **(08) 9235 0235** for eastern states/mobile callers; email: [fines@justice.wa.gov.au](mailto:fines@justice.wa.gov.au).
- Department of Justice website under Fines Enforcement Registry at: <https://www.wa.gov.au/service/justice/administrative-law/fines-enforcement-registry-fer>.

# LEGAL AID WA OFFICES



**Infoline:** 1300 650 579



**Translating & Interpreting Service:**  
131 450



**Website/InfoChat:**  
[www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)



**National Relay Service:** 133 677  
(for hearing and speech impaired)

## **Perth Office**

32 St Georges Terrace, Perth, WA  
6000  
1300 650 579  
(08) 9261 6222

## **Midwest & Gascoyne Office**

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

## **West Kimberley Office**

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

## **Great Southern Office**

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

## **Goldfields Office**

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

## **East Kimberley Office**

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

## **Southwest Office**

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

## **Pilbara Office**

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

## **Indian Ocean Office**

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

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