

A GUIDE TO DEALING WITH COURT FINES AND INFRINGEMENT NOTICES



How do I receive court fines?

A fine is an amount of money that a court has ordered to be paid as a penalty for a breach of the law. A fine may also include court costs and/or other fees.

There are two ways you can get a court fine:

- from a judge (**court-imposed fines**) and
- **unpaid 'Infringement Notices'** (such as parking tickets).

1. Court Fines

A judge may fine you when you have been found guilty of a criminal offence in a court. Fines can be ordered as penalties for offences like drink-driving, theft, disorderly behaviour or careless driving. A fine may be given as a component of a sentence or as the whole sentence.

In general you will be asked to discuss paying the fine before you leave court. The judge may in some cases instruct you to pay the fine immediately or by instalments.

2. Infringement Notices

You can receive an Infringement Notice from:

- the Police (e.g. for running a red light),
- government agencies such as the Ministry of Fisheries (e.g. for exceeding a shellfish quota) or
- a local authority like the City or District Council for parking tickets or dog offences.

In legal terms all these authorities are referred to as the "Informant" or as the "enforcement authority". Their authority to issue Infringement Notices is determined by specific laws.

An Infringement Notice will be issued for minor offences like parking violations, speeding, littering, polluting the environment, failing to display a Warrant of Fitness or vehicle registration, breaching dog bylaws such as not registering your dog or not having a licence to fish. Your Infringement Notice will give the details of the offence on it.

An Infringement Notice may be issued:

- in person (e.g. when you are stopped by the Police for speeding),
- by being placed on a vehicle (e.g. by the Police or City Council for having no WOF) or
- by being sent to you at your last known address (e.g. speeding camera tickets).

When an Infringement Notice is issued, the enforcing authority determines who is liable for the offence. For example, when a vehicle is involved in the infringement, several people could be liable for the notice:

- the person driving the vehicle,
- the registered owner of the car, or
- the person who allegedly committed the offence (i.e. the person the police caught not wearing a seatbelt).

So even if you weren't the person driving the car, you may still be liable for the fine.

Also, if you sell your car and don't transfer the ownership correctly, you will be liable for any fines incurred by the new owner.

If you don't agree that you are liable for the offence, you have to write to the authority that gave you the ticket and request a hearing. You must do this within 28 days of receiving the Infringement Notice. You cannot do this after it has become a court fine.

Every Infringement Notice has a section headed “Notes to the Defendant” which has your rights, including where you can pay the ticket, the due date of it and what you can do to challenge it. **Read this carefully.**

You will receive an Infringement Reminder Notice 28 days after the original Infringement Notice was issued, giving you a further 28 days to pay the Infringement Notice. **You must either pay this Notice in full (the prosecuting authority will not accept instalment payments) or formally request a hearing within the 28 day time period given.**

If you do not pay the full amount and the ticket becomes overdue, it will be lodged with the court to enforce payment and becomes a fine. The person named on the notice will receive a “Notice of Fine” from the court and a \$30 lodgement fee will be added to the original amount on the ticket. The unpaid ticket is now treated in the same way as a court-imposed fine.

Notification of a fine

You will know you have a fine if you have appeared in court and been fined by a judge. A “Notice of Fine” will also be sent to you immediately. Before you leave court, staff from the Collections Unit may discuss payment of the fine with you.

If you received your fine because of an unpaid infringement notice, you will receive a Notice of Fine by post from the court advising you that your Infringement Notice has become a fine. The Notice of Fine will be sent to your last known address.

A Notice of Fine is a court document and contains several details including the offence, the amount of the fine, the due date, your rights of appeal (as the ‘defendant’) and what will happen if you do not pay the fine by the due date.

Options after receiving a fine

If you do not want to challenge your fine, there are two ways of dealing with a fine. Within 28 days you must either pay the total amount of the fine, or apply to the Collections Unit for an extension of time to pay and/or consent to pay by instalments.

To apply for time to pay, you will need to speak to a Collections Officer in person or phone the Collections call centre on 0800 408 409.

Extra time will only be granted if there are special circumstances. You may need to provide the Collections Officer with details of your financial situation. The Collections Officer will decide the length of the extra time (which cannot exceed 5 years) and also the amount that you will have to pay in each instalment. **There is no automatic right to pay in instalments.** The Collections Officer may also decide that you have to make an initial lump sum payment. If you are granted extra time to pay, regular deductions may be taken from your wages, salary, benefit or bank account. If you do not comply with the arrangement the Collections Unit will take enforcement action.

It is possible to have a decision of the fines registrar reviewed by a judge under s106F of the Summary Proceedings Act. You’ll need to talk to a lawyer about such an application.

Paying a fine

There are several ways you can pay a fine. You can:

- pay online at www.fines.govt.nz. ‘Fines Online’ allows you to pay your fine and also check whether you have fines.
- pay by cash or cheque at any District Court. Some courts will accept payment by EFTPOS and credit card.
- pay by credit card over the phone. Call 0800 408 409.
- take the Notice of Fine to any Post Shop and pay there.
- post a cheque to the Court Processing Centre at PO Box 3535, Wellington.
- arrange with the Court to pay the fine in instalments.



Challenging a fine

The way you challenge a fine depends on the way you received it.

1. If you were given a **court-imposed fine**:

You can challenge by appealing against the conviction or the amount of the fine, or both. If you have been convicted by the court or a court order has been made against you at a hearing and a fine imposed, the court has the discretion to order a rehearing in certain cases. The rehearing can include either the whole matter or just the fine. To do this, you will need to instruct a lawyer to appeal your case.

2. If you received an **Infringement Notice**:

If you received an Infringement Reminder Notice from the enforcement authority, you cannot challenge the Notice if it has already been referred to the court. The only way to challenge the Notice is to write to the authority before the Notice is lodged with the court.

There are very limited grounds to challenge the procedure used in lodging the Infringement Notice in court. Only if you are successful in getting the 'irregularity' in process upheld will you be given an opportunity to challenge the reason the Notice was given in the first place.

Challenging the procedure used ("Correcting an irregularity")

If you fall within one of the following grounds, you can make an application to "correct irregularities" and a new hearing may be required. The grounds given below allow you to ask for a hearing. At the hearing you have the opportunity to give evidence as to why you did not commit the offence. **Making an application to correct irregularities does not in itself challenge the Infringement Notice.**

There are very limited opportunities to challenge an Infringement Notice in Court. The following grounds are the only ones available to you:

- You are not the person the infringement notice was issued to; or
- You did not receive the reminder notice; or
- If you requested a hearing, you did not receive a copy of the notice of hearing; or
- You believe on reasonable grounds that you requested a hearing but the request was not acted on by the prosecuting authority; or
- You believe on reasonable grounds that you were advised by the prosecuting authority that the Infringement Notice would not be lodged in the court; or
- You believe on reasonable grounds that you were advised by the prosecuting authority that further time for requesting a hearing would be allowed, but action was taken before that time had expired,
- You
 - (a) requested (in writing) further information from the prosecuting authority in relation to the infringement offence, AND
 - (b) you made the request in reasonable time to allow the authority to respond before the 28 day period allowed, AND
 - (c) you believed on reasonable grounds that the authority had not refused to provide the information and that the Infringement Notice would not be lodged in court before the information was provided, AND
 - (d) you were not provided with the information before the Infringement Notice was lodged; or
- There was another irregularity in the procedure leading up to the order for the fine or costs.

To challenge the procedure, you fill in a Form 57 (available from the court) and submit it along with any evidence supporting your application to correct irregularities.

An example of the evidence you need to support an application based on the fact that you did not receive the Infringement Reminder Notice, would be a tenancy agreement or power bill showing you were not at the address the authority sent the notice to on that date. The court is generally not satisfied with a statement alone and it is not enough to say that you did not receive it, you must provide evidence that you were living at a different address or you were overseas. It is always assumed that the Notice was sent out.

The grounds to apply on "other irregularity" are very tight. If your application is not being made on this ground, you should first discuss your application with a Community Law Centre or court staff.

If your application to correct an irregularity is accepted by the court you may be granted a hearing or rehearing. As a result the original infringement ticket or court fine could be withdrawn or reissued minus any enforcement fees. If an infringement ticket is reissued you have the right to dispute the original infringement offence. This has to be done in writing to the correct enforcement authority.

What will happen if I do nothing when I receive a fine?

21 days after the Notice of Fine is sent from the court, if you not acted on your rights or paid the fine, you will be sent a "Final Notice of Fine". This is only to remind you that within a couple of days your fine will become overdue.

If, after 28 days from the original Notice, you still haven't paid your fine or made any payment arrangements with the court, the fine is now overdue. The court will add a \$100 enforcement fee to the total amount of your fine and will take enforcement action. **This means as soon as you ignore a fine notice, your original parking ticket will have gone from \$40 to \$170.**

Enforcement of a fine by a court

There are several ways the court can make sure you pay your overdue fines:

1. The court can take money directly from your wages or benefit under an **attachment order**. Your employer (or WINZ) is legally obliged to make these deductions.
2. Your property can be seized and sold to pay your fines. If a **Warrant to Seize** is granted, a Bailiff can enter your house and take property such as your car or stereo. Once your property has been seized, you will have seven days to pay the fine in full. You may also be charged for towage or storage costs.

Property taken is normally sold at public auction. Any money raised from the sale of the goods will be used firstly to pay costs associated with its seizure and sale (i.e. auctioneers fees, towage or storage costs) with the remainder going towards paying any loan secured by the property and then towards the unpaid fine. If there is money still owing on the unpaid Court fine, after all the costs have been paid, you are still liable for the unpaid balance.

3. **Your car may be clamped**. Cars can be clamped for unpaid fines of the driver or the registered owner of the vehicle. The car will only be released if you pay in full – you will not be able to apply to pay by instalments. There may be additional costs added. It is an offence to tamper with a wheel clamp.
4. If you the court staff are unable to be contact you, a **Warrant for your Arrest** can be issued. If you come to the attention of the Police you may be arrested. You will be brought before the Court to resolve the matter.
5. A **charging order** can be put over house. A charging order will prevent you from selling the property affected until you have paid the fines.

The Ministry of Justice has the ability to match its databases with the databases of other government agencies, such as Work and Income and IRD. This means that it can get your contact details from these other agencies. They can also publish your name in a local or national newspaper to attempt to find you.

If enforcement action has been attempted, and your fines are still unpaid, there are other options available to the court. You could have your fines substituted for community work or even imprisonment. The court's enforcement manager will request this. It is not possible for a fines defaulter to apply directly to the court to have fines remitted or converted into another sentence.

