

## Reduction of a fine amount

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# 1 Definitions

- 1.1 Act:** means the *Fines Act 1996*.
- 1.2 Centrelink Reference Number (CRN):** means the unique identity number comprising nine digits and one letter allocated to Centrelink Customers by the Commonwealth Department of Human Services.
- 1.3 Commissioner:** means the Commissioner of Fines Administration appointed under the Act.
- 1.4 Customer:** means a person who is liable to pay a fine under the Act.
- 1.5 Delegated Officer:** means a Revenue NSW employee delegated by the Commissioner.
- 1.6 Fine enforcement action:** means action under Part 4 of the Act.
- 1.7 Fines Hardship Review Board:** means the Hardship Review Board under section 67 of the *State Debt Recovery Act 2018*, with functions under section 101B of the *Fines Act 1996*.
- 1.8 Government Benefit:** means any of Newstart, ABSTUDY Living, Widow Allowance, Health Care Card, Disability Support Pension, the Ex-Carer Allowance (Child) Health Care card or Commonwealth Seniors Health Care Card (or any other pension or benefit paid by the Commonwealth of a kind approved by the Commissioner), each have the meanings conferred on them by the Commonwealth Department of Human Services.
- 1.9 Fine and Fine Reminder Notice** means a Fine or Fine Reminder Notice issued under Part 3 of the Act.
- 1.10 Registered Advocate:** means a person or organisation which has an approved registration as an advocate with Revenue NSW.
- 1.11 Work and Development Order:** means an order approved by the Commissioner under section 99B of the Act.
- 1.12 Work and Development Order Guidelines:** means the guidelines approved by the Minister under section 99I of the Act and published on the Revenue NSW website ([www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au)).



## 2 Introduction

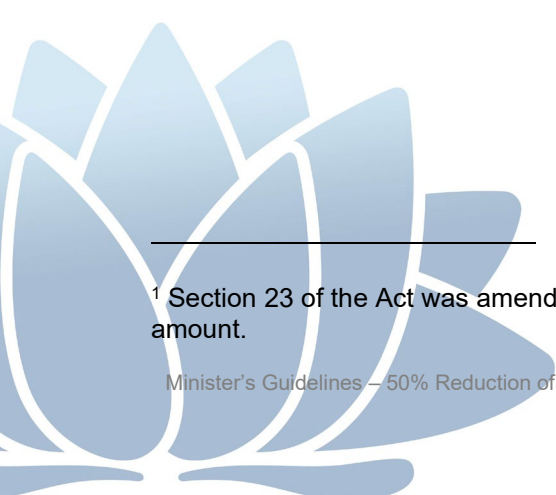
Customers who are issued fines are required by law to pay the full amount under the fine. However, it is recognised that some Customers in hardship may have difficulty in paying the full amount.

The Act contains various provisions to assist Customers experiencing hardship to deal with their fines by means other than payment in full. One of these provisions is contained in section 23 of the Act, under which the Commissioner of Fines Administration may, on application by a person who has been issued a fine, reduce the fine amount by 50%, having regard to Ministerial Guidelines made under section 120 of the Act.<sup>1</sup>

The Ministerial Guidelines set out in this document are made under section 120. They set out the circumstances under which the Commissioner may approve an application for a reduction of a fine amount by 50%.

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<sup>1</sup> Section 23 of the Act was amended by the *Fines Amendment Act 2019* to provide for the reduction of a fine amount.



### **3 Responsibilities**

**3.1** The Commissioner has the following responsibilities under these Guidelines:

- a) ensuring that Revenue NSW staff comply with the Guidelines;
- b) ensuring that appropriate delegations are approved and described within a delegations instrument which is made available to officers responsible for making decisions under the Guidelines.

**3.2** The Minister for Finance and Small Business is responsible for approving the Guidelines under section 120 of the Act.

### **4 Customer's eligibility to be considered for a 50% reduction of a fine amount**

**4.1** The Customer may be eligible to receive a reduction of a fine amount from the Commissioner after a fine is issued, but before:

- a) the fine is paid; or
- b) the fine is withdrawn, annulled, remitted or otherwise resolved.

**4.2** To be considered for a reduction of a fine amount, the Customer must, at the time of the offence, be the recipient of a Government Benefit.

**4.3** An application may be made for and on behalf of the Customer who has received a fine. However, the Commissioner may require:

- a) a written authorisation from the Customer allowing the person or persons to act on behalf of the Customer; or
- b) the person or organisation making an application on behalf of the Customer to be a registered advocate with Revenue NSW for the purpose of acting on behalf of Customers.

**4.4** The Customer may apply:

- a) verbally; or
- b) in writing, including using any on-line services platform used by Revenue NSW.



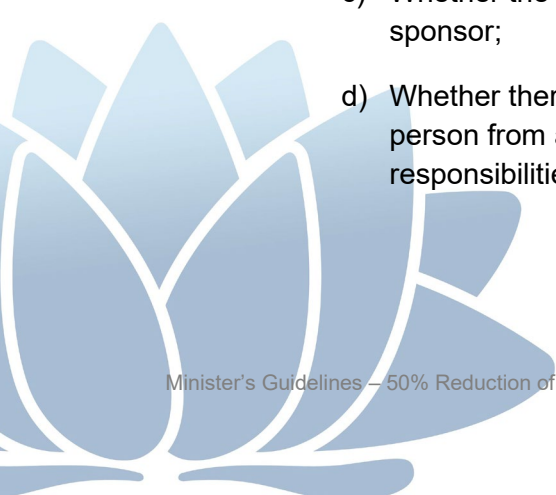
## 5 Demonstrating hardship

- 5.1** To receive a reduction in a fine amount, an eligible Customer must satisfy a Delegated Officer that payment of the full amount will cause hardship.
- 5.2** To establish hardship, the Customer must satisfy a Delegated Officer that the Customer is not in a financial position to pay the fine amount in full. The Delegated Officer is to consider:
- c) If the Customer has no existing debt with Revenue NSW, whether the fine amount being considered it is reasonably able to be satisfied within twelve months on a payment plan.
  - d) If the customer has an existing debt with Revenue NSW, whether the addition of this debt would add more than twelve months to the payment plan and/or make the debt unable to be reasonably serviced by the Customer.
- 5.3** A Delegated Officer may request evidence to support a Customer's application. Supporting evidence may include but is not limited to:
- a) Centerlink customer reference number
  - b) statement of income from Centrelink
  - c) copy of bank statements.

## 6 Exclusions

### Where other mechanisms are available to resolve the fine

- 6.1** In assessing an application for a reduction of a fine amount, the Commissioner will consider whether the fine could be resolved through a payment plan without causing the Customer hardship (as defined in 5.2 above) or a Work and Development Order.
- 6.2** A reduction of the fine amount will not be approved if a Delegated Officer is satisfied that such other mechanisms are available to resolve the fine.
- 6.3** In determining whether a Work and Development Order could be used to satisfy the fine, a Delegated Officer may consider any of the following:
- a) Whether there are sponsors in the area where the Customer resides;
  - b) Whether the hardship ground relied on by the Customer is ordinarily the type for which it may be difficult in obtaining a sponsor;
  - c) Whether the Customer has previously been denied or refused the support of a sponsor;
  - d) Whether there are other circumstances which would reasonably prevent the person from attending to perform a Work and Development Order (carer responsibilities etc).



## Repeat offenders

- 6.4** A fine amount may not be reduced where the Customer has a pattern of offending. For the purposes of this clause, a pattern of offending may include:
- a) similar offending in the twelve months immediately before the date of the offence which is the subject of the application; or
  - b) offending in the twelve months immediately before the date of the offence which is the subject of the application, where one or more of the offences is considered by the Commissioner to be a significant offence<sup>2</sup> to which a 50% reduction in the fine amount ought not apply.
- 6.5** Despite 6.4 above, where the Commissioner is of the opinion that the Customer has an intellectual disability or cognitive impairment, a mental illness or is homeless<sup>3</sup>, and that any of these was a significant contributing factor to the offences, the Customer's application for a reduction of a fine amount may still be considered.

## No changes to driver licence sanctions, suspensions, cancellations, disqualifications or application of demerit points if application for reduction of fine amount is successful

- 6.6** For the avoidance of doubt, and having regard to community expectations about serious driving infringements and community safety, a reduction in a fine amount shall not reduce, apply to, or affect:
- a) a suspension, cancellation, disqualification or application of demerit points to a driver licence which is imposed by Transport for NSW as a consequence of an offence to which a fine is issued.

## Other fines not eligible for reduction under these Guidelines

- 6.7** The following types of fines are not eligible for a reduction under these Guidelines:
- a) any fine issued by a court, including a Victim Restitution Order deemed to be a court fine for the purpose of fine enforcement action, even if the fine had originated as a fine before an election was made to have the matter dealt with by a court under section 23A of the Act;
  - b) a voting related fine issued by the NSW Electoral Commission;
  - c) a jury duty related fine issued by the NSW Sheriff's Office<sup>4</sup>;
  - d) fines issued to bodies corporate;
  - e) fines in respect of an offence which the which the Commissioner considers to be a significant offence.

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<sup>2</sup> The Commissioner may, from time to time, publish examples of significant offences on the Revenue NSW website.

<sup>3</sup> Defined as per the Work and Development Order Guidelines (March 2017).

<sup>4</sup> As voting related and jury duty related fines are issued by the Electoral Office and the NSW Sherriff's Office respectively and are only referred to the Commissioner for enforcement, the Commissioner is not able to reduce fine amounts for these fines.

- 6.8** The reduction is only applicable to the original fine amount and is not applied to any additional costs or charges applied after the fine becomes overdue.

## **7 Supporting evidence required**

**7.1** The Commissioner may require the Customer to provide:

- a) their CRN;
- b) a copy of their Health Care Card;
- c) any other document in support of the Customer's application.

## **8 Consideration of the Customer's application may be subject to verification of information or material supplied by the Customer**

**8.1** Consideration of the Customer's application may be subject to:

- a) the Customer authorising Revenue NSW to obtain verification of a Government Benefit;
- b) an assessment of any other material provided by the Customer in support of their application;
- c) information held by Revenue NSW.

**8.2** Verification of the Customer's Government Benefit may be conducted using an on-line service provided by the Commonwealth Department of Human Services.

## **9 Approvals**

**9.1** If a reduction of the fine amount is approved, the Commissioner shall reduce the fine amount by 50% as soon as practicable. The Commissioner may not reduce the fine amount by more or less than 50%.

**9.1** The Customer shall be notified in writing<sup>5</sup> of their reduced fine amount and options to resolve the remaining amount.

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<sup>5</sup> The Customer may be notified by electronic means if the Customer consents.

## **10 Refusals**

- 10.1** If a reduction of a fine amount is refused, the Commissioner must advise the Customer in writing, including a summary of the options available to the Customer to resolve the fine.
- 10.2** If the Customer applies for a reduction of a fine amount after a fine reminder notice has been issued and the reduction is refused, the Commissioner may issue a further fine reminder notice.
- 10.3** The Commissioner may, on application by the Customer, review a decision to refuse an application to reduce a fine amount.
- 10.4** A refusal to reduce a fine amount is not subject to review by the Fines Hardship Review Board.
- 10.5** A refusal to reduce a fine amount does not prevent a person from applying to the Commissioner to write off an enforced fine under section 101 of the Act.

## **11 Rescinded Approvals**

If an application for a reduction of a fine amount is approved, and the Commissioner later determines that any one or more of the grounds relied on was false or misleading, the full amount of the fine may be restored as if the fine amount was never reduced.

## **12 Guideline Review**

These guidelines will be reviewed as the Minister determines in the future.

## **13 Approval by Minister for Finance and Small Business**

Approved by Damien Tudehope, Minister for Finance and Small Business – 17 December 2021

