

A guide to enforcement review

Fines and Enforcement Services



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1. What is an enforcement review?

The *Fines Reform Act 2014* provides a mechanism for the Director, Fines Victoria (Director) to review an enforcement agency's decision to issue and enforce a fine. This is called an **enforcement review**.

You can apply to the Director for enforcement review if you have:

- received an [eligible fine](#), and
- been served with a notice of final demand for that fine.

If your fine is at infringement stage (which means you have only received an infringement notice or a penalty reminder notice), you will need to apply for an internal review with the enforcement agency that issued the fine.

See the [fines lifecycle](#) for more information about your options at each stage.

1.1 Are my fines eligible for an enforcement review?

There are some fines that the Director cannot consider for an enforcement review. These include:

- excessive speed fines (which means speeding more than 25km/h over the limit, or more than 130km/h)
- drink-driving or drink-boating fines
- drug-driving fines
- fines issued by a court
- fines issued to a child (anyone under 18 years of age).

In addition, the Director cannot consider an enforcement review for fines where any of the following has happened:

- you have paid the fine in full
- a Sheriff's officer served you with a **seven-day notice** and the seven days have passed, or you waived the seven-day period
- a Sheriff's officer has **seized your vehicle** under a vehicle seizure and sale notice
- you are the director of a company and were made personally liable for the company's fine (this is known as a **declared director**)
- the Director has made an **attachment of earnings** direction against you to deduct money from your salary
- the Director has made an **attachment of debts** direction against you to deduct money from your bank account, or against other money owed to you
- the Director has recorded a **charge over your land**.

There are also other fines that are not eligible for an enforcement review on the grounds of [person unaware](#).

1.1.1 Fines issued to children

Fines issued to children (anyone under 18 years of age) are managed by the Children's Court and not Fines Victoria. For this reason, you cannot apply for an enforcement review if you are a child or received your fine when you were a child. See the [Children's Court website](#) for more information.



2. Applying for an enforcement review

Any individual or company with an [eligible fine](#) can apply for an enforcement review. You can also authorise a person to apply for an enforcement review on your behalf. For example, a lawyer, guardian, financial counsellor, or family member.

2.1 What does my enforcement review application need to include?

Your enforcement review application must:

- be in writing
- state the [ground/s](#) on which you want the fine to be reviewed, and
- provide your current address.

You should include evidence to support your application. The evidence you should provide will depend on the review ground stated in your application. The evidence you provide might include copies of relevant documents, witness statements, or reports from professionals such as a general practitioner, psychologist, counsellor, or case worker.

It is an offence to knowingly provide false or misleading information as part of an enforcement review application. This offence carries a penalty of 10 penalty units (more than \$1800).

2.2 How can I apply for an enforcement review?

The easiest way to apply for an enforcement review is online at fines.vic.gov.au/request-a-review.

However, you can also submit your application:

- online at fines.vic.gov.au/contact-us
- by mail to PO Box 14487, Melbourne Victoria 8001
- in person at Ground Floor, 277 William Street, Melbourne, Victoria (open 9am-5pm, Monday to Friday, except public holidays).

2.3 How many times can I apply for an enforcement review?

You can only apply once on the grounds of [contrary to law](#), [mistaken identity](#), [exceptional circumstances](#) or [person unaware](#) for a specific fine.

If you apply on the ground of [special circumstances](#), you can apply twice for a specific fine.

See [section 3](#) for more information on the grounds for enforcement review.

3. What are the grounds for enforcement review?

Your reasons for applying for an enforcement review need to fit within one or more of the following grounds:

- [person unaware](#)
- [contrary to law](#)
- [mistake of identity](#)
- [exceptional circumstances](#)
- [special circumstances](#).



3.1 Person unaware

You can only request a review under this ground if all of the following apply:

- you found out about the fine within the last 14 days, and
- the fine was not personally given to you by an officer, and
- the fine is **not** for a traffic offence or tolling offence (see [section 3.1.1](#) for more information).

You **can** apply for a review under this ground for a parking fine

Your application should include evidence of the date you became aware of your fine. This may be through a statutory declaration. You should also include evidence showing why you were unaware of your fine. For example:

- a copy of your passport or a boarding pass showing that you were overseas
- removalist invoices if you moved house, or
- mail theft reports if your mail was stolen.

3.1.1 Fines that are not eligible for person unaware

You cannot apply for enforcement review on the ground of **person unaware** for:

- a traffic offence, for example speeding or failing to stop at a red light
- driving in a Melbourne CityLink/Linkt or Eastlink toll zone without an e-tag,
- a littering or waste offence that happened in a vehicle, or
- certain offences relating to driving a boat while under the influence of alcohol.

If your fine is for certain traffic offences (including some littering and waste offences) or tolling offences, you can apply to Fines Victoria for an Infringement Extension within 14 days of becoming aware of the fine. This will give you a further 28 days to deal with the fine.

Visit fines.vic.gov.au/Your-options/Infringement-extension for more information.

If you were a child at the time of the offence, you can apply for an Infringement Extension through the Children's Court. Visit childrenscourt.vic.gov.au for more information.

If your fine is for a conviction related offence like excessive speeding and drink or drug-driving, you need to apply for an Infringement Extension through the Magistrates' Court. Visit mcv.vic.gov.au for more information.

You can also seek legal advice if you are considering applying for an Infringement Extension.

3.1.2 Keeping your address up to date

If you change address, you must update your new address with VicRoads **within 14 days** of moving.

If you had not updated your address with VicRoads within this period and were unaware of your fine because it was sent to your old address, then you cannot apply for an enforcement review on the grounds of person unaware. This is because a fine sent to your VicRoads address is 'deemed served'. This means it is assumed that you received the fine, even if you do not live at that address and did not actually receive the fine.

3.2 Contrary to law

You can apply on this ground if you believe the enforcement agency's decision to enforce your fine was inconsistent with the law.



For example, you may apply on this ground because you believe that:

- the officer who issued your fine was not authorised to do so, made a mistake, or acted unfairly or improperly
- the infringement notice is not valid (for instance, it is incomplete, or it does not otherwise comply with the formal legal requirements for an infringement notice).

3.3 Mistake of identity

You can request a review under this ground if you have been incorrectly identified as the person who committed an offence, and you have evidence to prove you did not.

For example, someone provided your licence or gave your details to police, or you have the same name as another person or family member and the wrong person received the fine.

Your application should include evidence such as a copy of your birth certificate, passport or driver licence showing that you are not the person named in the fine.

You cannot apply for enforcement review on this ground if someone else was driving your vehicle at the time, you are the registered owner of a vehicle and received a camera-detected fine. You need to nominate the person that was driving your vehicle before a notice of final demand is received. It is too late to nominate another driver after you receive a notice of final demand.

3.4 Exceptional circumstances

You can apply on this ground if circumstances leading to the offence were:

- out of the ordinary
- unavoidable, or
- unexpected.

For example, you received a parking ticket because of a medical emergency, or your car broke down.

Your application should include relevant evidence such as a medical report or an invoice from a mechanic or towing service. If you do not have documentary evidence yet, you can ask for more time to get it. You should ask for more time when you submit your application.

3.5 Special circumstances

You can apply on the ground of **special circumstances**¹ if you committed the offence and:

- at the time of your offence you:
 - had a **mental or intellectual disability, disorder, disease, or illness**; or
 - had a **serious addiction to drugs, alcohol or a volatile substance**; or
 - were **homeless**, or
 - were a victim survivor of **family violence**,

and this circumstance or condition was connected to your offending, or

- you are experiencing severe, **long-term circumstances** that:
 - make it impracticable for you to pay or deal with the fine and
 - do not solely or predominantly relate to your financial circumstances.

A company cannot apply for enforcement review on the ground of special circumstances.



¹ You can find the full legislative definition of special circumstances in section 3A of the *Infringements Act 2006*. For further guidance on interpreting 'special circumstances', see also Victoria, *Parliamentary Debates*, Legislative Assembly, 27 October 2021, 4246 (The Hon Martin Foley MP, Minister for Health); clause 56 of the Explanatory Memorandum to the Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021.

3.5.1 Special circumstances connected to your offending behaviour

You can apply for enforcement review based on special circumstances (mental illness, intellectual disability, serious substance addiction, homelessness, or family violence), if you can show that **at the time of the offence**:

- you had the condition or circumstance, and
- there was a **connection** between your special circumstance and your offending behaviour.

If you have a **mental illness**, **intellectual disability**, or a **serious substance addiction**, you need to provide evidence of how this contributed to you having a significantly reduced capacity to:

- understand that your behaviour was against the law, or
- control your behaviour (even if you knew it was against the law).

For example, you did not understand the law and that your behaviour was unlawful because of an intellectual disability.

If you are **homeless** or a **victim survivor of family violence**, you need to provide evidence of how this contributed to you having a significantly reduced capacity to control your behaviour (even if you knew it was against the law). For example, you received a fine for sleeping in your car because you were homeless.

The Family Violence Scheme

If you are a victim survivor of family violence, you might be eligible to have your fine withdrawn under the Family Violence Scheme, instead of applying for an enforcement review.

For more information, visit fines.vic.gov.au/Support/Family-Violence-Scheme.

3.5.2 Long-term circumstances connected to your ability to deal with your fine

You can apply for enforcement review based on long-term circumstances, if you can show these circumstances mean you are unable to deal with your fine in any way. You may not have had these circumstances at the time of the offence.

You must provide evidence to show that your circumstances:

- are long-term in nature and unlikely to be resolved in the foreseeable future
- are not only, or mainly, connected to financial hardship
- are particularly severe, disabling or incapacitating, **and**
- make it impracticable or unfeasible for you to deal with your fine by:
 - paying in full
 - paying in instalments
 - completing activities or treatment under a work and development permit (WDP)
 - applying for the family violence scheme.

For example, you are unable to deal with your fine by paying, attending WDP activities or treatment because you:

- are undergoing long-term involuntary mental health treatment, or
- have a severe physical or intellectual disability, or
- are highly transient, isolated, or sleeping rough, **and**



- are unlikely to resolve the circumstances in the foreseeable future.

3.5.3 Evidence of your special circumstances

You need to provide evidence to support your enforcement review. Evidence of your special circumstances may include reports, letters, statements, submissions, statutory declarations, police reports and family violence safety notices.

Who can prepare a report?

Depending on your condition or circumstance, you may provide a report from one of the following practitioners.

<p>If you have an intellectual disability or a mental illness or disorder, you should provide a report from your:</p> <ul style="list-style-type: none"> • general practitioner (GP) • psychiatrist • psychologist • psychiatric nurse • occupational therapist, or • accredited mental health social worker or case worker. 	<p>If you have a serious addiction to alcohol, drugs or volatile substances, you should provide a report from your:</p> <ul style="list-style-type: none"> • general practitioner (GP) • psychiatrist • psychologist • drug and alcohol case worker, or • accredited drug and alcohol counsellor or agency.
<p>If you are homeless, you should provide a report from your:</p> <ul style="list-style-type: none"> • general practitioner (GP) • psychiatrist • psychologist • financial counsellor • case worker or social worker, or • recognised health or community welfare service provider (for example, the Salvation Army). 	<p>If you experienced family violence, you should provide a report from your:</p> <ul style="list-style-type: none"> • case worker or social worker (for example, a specialist family violence case worker) • financial counsellor • health practitioner (for example, a general practitioner, psychologist, psychiatrist, registered occupational therapist), or • school principal or school welfare coordinator.

What information should the report include?

The report should include:

- an explanation of your condition or circumstance, including its nature, severity, duration, and impact on your life
- how your condition or circumstance is connected to your offending behaviour, or your long-term inability to deal with the fine
- if you were suffering from any other illnesses or conditions that may be relevant at the time of the offence.
- your practitioner's qualifications, and
- your practitioner's relationship with you and how long they have known you.



Your evidence should be signed and dated **within 12 months** of the date of your application. You can provide evidence that is older than 12 months if it relates to a permanent condition, such as an intellectual disability.

What if I do not have the required evidence yet?

You can ask for more time to get evidence. You should ask for more time when you submit your application for special circumstances. Your fines will be put on hold so you can get additional evidence, such as a report from a relevant practitioner. You need to provide this evidence by a due date (usually within three months of applying).

4. How does the Director make their decision?

The Director can consider a range of factors when conducting an enforcement review, including the strength of any evidence that you provide to support your application.

The Director's decision-making process is guided by the Fines Reform Act and administrative law principles. This means that:

- the review and decision will be carried out in accordance with the law
- the review will be fair (for example, without bias or conflict of interest)
- only relevant matters will be considered
- proper consideration will be given to your human rights, and
- you will be notified about the outcome of your application and the reason for the decision.

4.1 What if I need to provide more information?

If you do not include enough information in your application, the Director may ask you for additional information.

If the Director asks you for additional information, you must provide it by the due date (usually within 21 days).

If you do not provide the additional information within the required time, the Director can conduct your enforcement review without the additional information.

If you are applying on the ground of special or exceptional circumstances, you can ask for more time to provide information, either at the time of making the application or before the application is determined.

4.2 What are the possible outcomes of an enforcement review?

There are two possible outcomes of an enforcement review. The Director can decide to:

- **confirm your fine** – this means that your application was unsuccessful. Your fine remains outstanding, and you need to take action to deal with it,
- or
- **cancel enforcement** – this means that your application was successful. The Director will refer your fine back to the enforcement agency who will then decide what action to take.

The Director will write to you within 21 days of deciding your enforcement review application to tell you the outcome.



4.2.1 If your fine is confirmed

If your **fine is confirmed**, your enforcement review application was unsuccessful. It means the Director has confirmed the enforcement agency's decision to issue you the fine. Within 21 days the Director, will write you informing you of the decision and confirming enforcement of your fine.

This is called a **notice of infringement confirmation**.

Once you receive this notice, you have **21 days** to:

- pay the fine
- apply for a payment arrangement
- apply under the Family Violence Scheme, or
- have a sponsor apply for a Work and Development Permit for you.

If you do not act within 21 days, further enforcement action will continue on your outstanding fine, and additional fees may be added.

Other options if your application is unsuccessful

If your application was unsuccessful on the grounds of special circumstances, you may make a second application on the grounds of special circumstances. You may want to do so if you think that you have new or additional evidence to support your application. You can only apply for special circumstances twice for any fine. See section [2.3](#) for further information.

You may want to seek independent [legal advice](#) about your options following an enforcement review.

4.2.2 If enforcement is cancelled

If **enforcement is cancelled**, your enforcement review application was successful. Within 21 days the Director will write to you informing you of the decision. The Director will also:

- remove the collection fee from your fine, and
- refer your fine back to the enforcement agency which issued your fine.

The Director will send the fine back to the enforcement agency informing them of the reasons for the decision. The Director may also give the enforcement agency a copy of your enforcement review application.

The **enforcement agency** must decide what action it will take and tell you of its decision **within 90 days**. The options available to the enforcement agency depends on whether you applied on the grounds of person unaware or a different review ground.

If enforcement is cancelled on grounds other than person unaware

If the Director cancels enforcement on a ground other than person unaware (special circumstances, contrary to law, mistake of identity or exceptional circumstances), the enforcement agency must withdraw your fine and:

- take no further action
- give you an official warning, or
- commence court proceedings against you for your alleged offence.

If the enforcement agency decides to take no further action, or give you an official warning, you do not need to do anything further as the matter has been finalised.



If the enforcement agency decides to commence a proceeding for your alleged offence, you will need to appear in court. The court will contact you with information about this process and what you need to do.

If enforcement is cancelled on the ground of person unaware

If the Director cancels enforcement of your fine on the ground of person unaware, the enforcement agency may withdraw your fine and:

- serve you with a new fine
- take no further action
- give you an official warning, or
- commence a proceeding in court for your alleged offence.

If the enforcement agency decides **to serve you with a new fine**, you need to deal with the new fine. If you do not take action to deal with the new fine by the due date, extra fees may be added, and the new fine may be registered with Fines Victoria.

If the enforcement agency decides to **withdraw your fine** and take no further action, or give you an official warning, you do not need to do anything further as the matter has been finalised.

If the enforcement agency decides to commence **court proceedings** for your alleged offence, you will need to appear in court. The court will contact you with information about this process and what you need to do.

4.3 Power to waive or reduce fees

The Director has the power to waive or reduce some fees attached to a fine if the Director considers it appropriate in all the circumstances.

When deciding whether to waive or reduce fees, the Director will consider whether there were any circumstances that meant you were not notified of your fine or were unable to deal with your fine in time.

Generally, the Director will not waive or reduce fees because of financial hardship as there are other options available to assist you in those circumstances, such as a payment arrangement or a work and development permit. Visit fines.vic.gov.au for more information about these options.

If the Director waives or reduces fees, you must pay or take another action to deal with the outstanding amount **within 21 days**.

The Director cannot waive or reduce fees that have been imposed by a court.

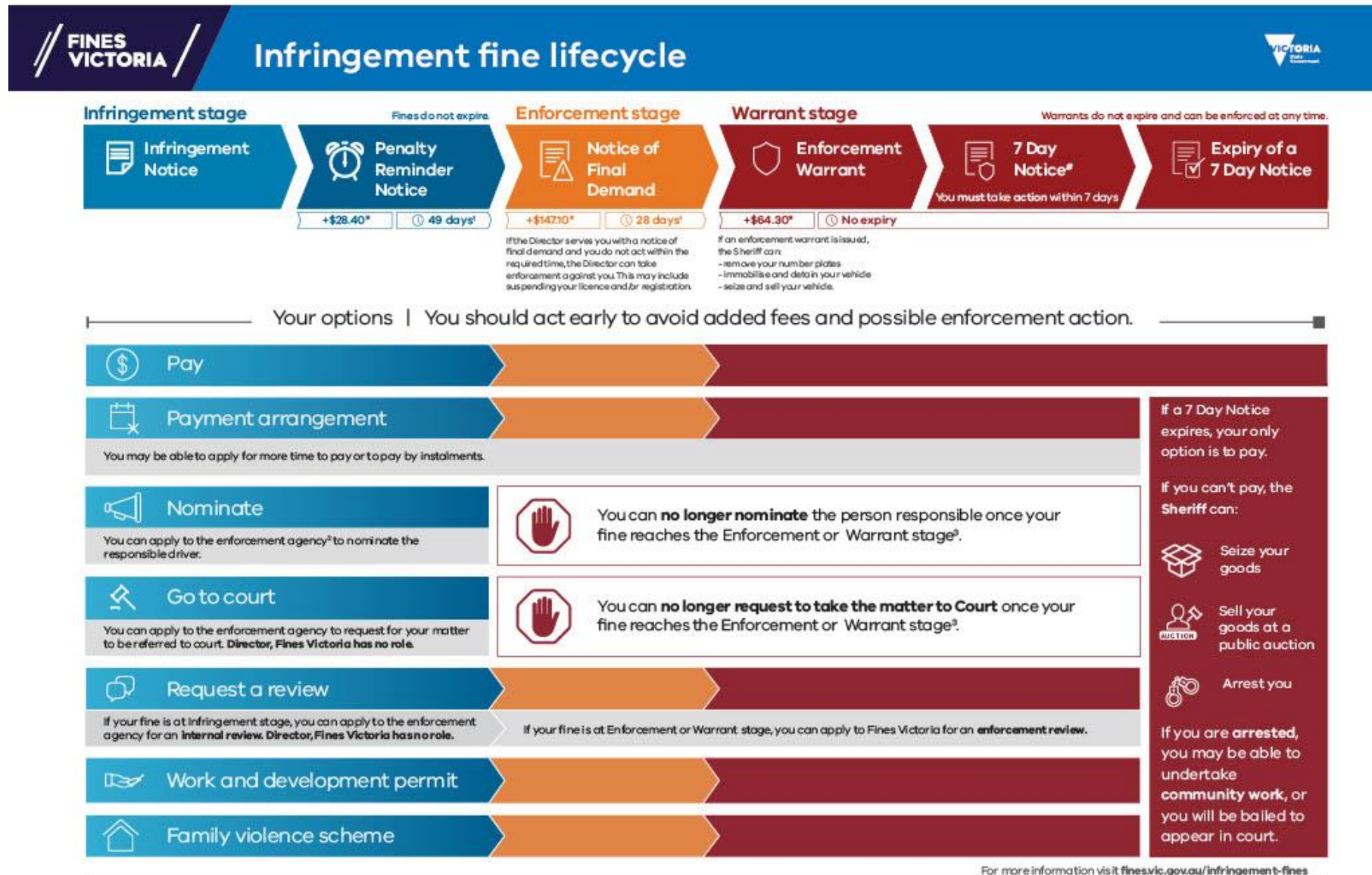
5. Do you need more information?

For more information about your fines and your options to deal with them, visit fines.vic.gov.au or call Fines Victoria on (03) 9200 8111.

If you need help understanding your options, including whether an enforcement review is a good option for you should seek legal advice. The following organisations may be able to help you:

- Victoria Legal Aid | legalaids.vic.gov.au | 1300 792 387
- Federation of Community Legal Centres | fclc.org.au
- Justice Connect Homeless Law | justiceconnect.org.au
- Victorian Aboriginal Legal Service | vals.org.au
- YouthLaw | youthlaw.asn.au

6. The fines lifecycle



For more information visit fines.vic.gov.au/infringement-fines

¹ These are minimum statutory requirements. In practice, these timeframes may be longer, depending on if/when an enforcement agency registers a fine, and if/when the Director, Fines Victoria applies for an enforcement warrant.

² Enforcement agency includes government agencies, councils, education and health organisations.

³ There may be exceptions to this such as if you just became aware of the fine or you could not nominate due to family violence. Please visit fines.vic.gov.au for more information

* Adjusted each July | * 7 day notices do not apply to companies