

POSTPONING AND WRITING OFF FINES

People experiencing financial, medical or domestic problems are eligible to have their fine(s) postponed and even written off

This information is relevant for people who do not wish to defend or (because of special circumstances) seek SDRO or Court leniency for the offence, which the fine was imposed

An application to postpone State Debt Recovery (SDRO) enforcement action can be made after receiving an Enforcement Order.

If a person is fined (that is they receive a Penalty Notice) they usually have 21 days to pay, ask for a review, or choose to go to court. If they do nothing, a Penalty Reminder Notice is sent out and they have a further 28 days to pay, ask for a review or choose to go to court. If they still do nothing, an Enforcement Order is issued by the SDRO and \$65 is added to the fine.

Once a person receives an Enforcement Order they can apply to the SDRO to have enforcement action postponed.

If successful, the SDRO will stop further enforcement action for five years. This means the Applicant is not required to pay the Enforcement Order fine(s) for five years.

After five years the SDRO will contact the successful Applicant. If the Applicant's circumstances have not improved the SDRO will consider an application to write off the Enforcement Order debt.

Applicants will need to demonstrate that because of their financial, medical and/or domestic problems they either

- cannot pay the fine, or
- doing so will result in the Applicant and/or their immediate family suffering additional and unreasonable hardship and that this situation is unlikely to improve for the foreseeable future.

Applicants are required to provide supporting evidence relevant to the reason(s) for their application. For example:

- Medical grounds: A report from the Applicant's health care provider.
- Domestic/personal grounds: A full description of their circumstances. A supporting letter from an independent source is desirable, e.g. from a community welfare group.

Warning: This fact sheet is for information purposes only and should not be relied upon as legal advice.

This information applies only in New South Wales.

Fact sheet updated 12 Feb 2014.

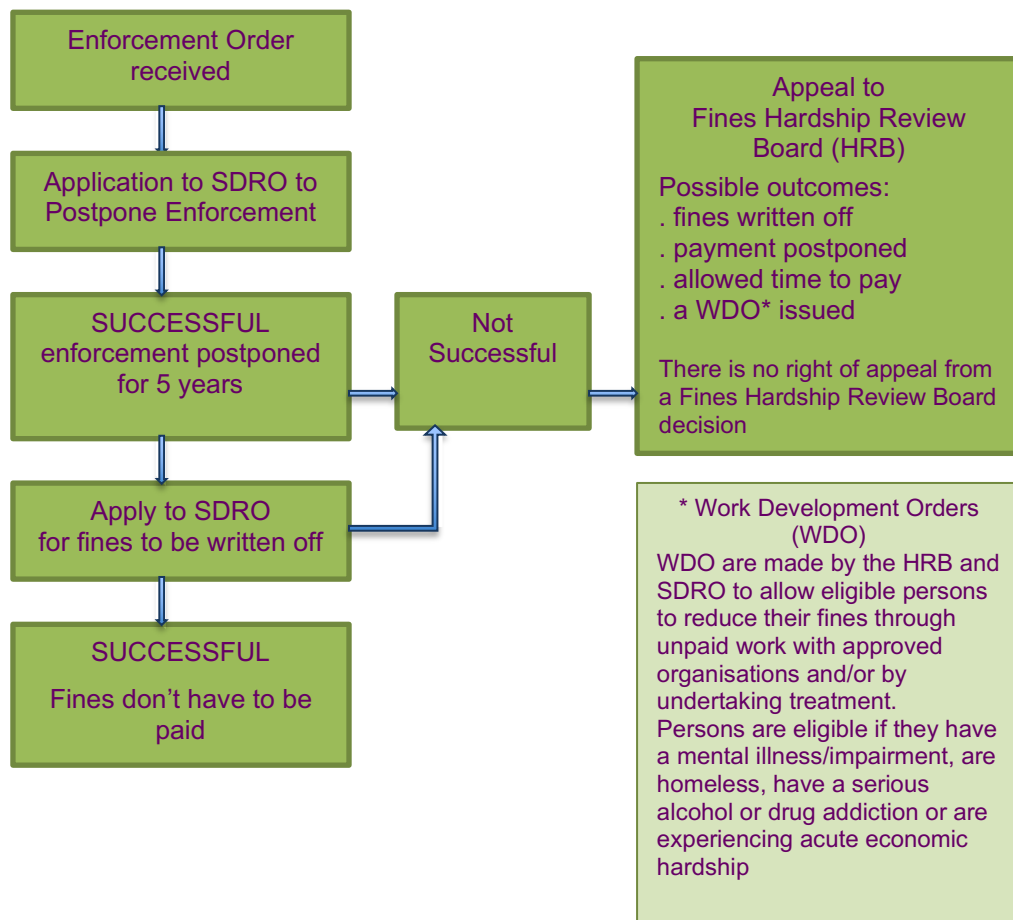
- In all cases, Applicants are required to complete and submit a *Statement of Financial Circumstances* showing their current financial position. Supporting documents such as bank statements, household bills, proof of income, etc. are required. The *Statement of Financial Circumstances* form can be downloaded from the SDRO website (see link below) or completed on line

If the SDRO refuses the application to Postpone Enforcement, Applicants can appeal to the Fines Hardship Review Board ('HRB'). The HRB is an independent body set up to review certain decisions made by the SDRO.

Appeals to the HRB can also be made against other SDRO decisions, including the SDRO's refusal of an application to have fines written off due to financial, medical and/or personal hardship.

Community service Caseworkers are invited to contact our legal team to discuss whether their particular client's situation may qualify for an Application to Postpone Enforcement/fine write-off and what supporting evidence is advisable.

Enforcement Order Application Flow Chart



Important Note

If a successful Applicant receives a penalty notice during the postponement period or within 5 years after a debt has been written off, there is a risk that the SDRO may reverse its decision, in which case the Enforcement Order fines will have to be paid as soon as possible.

An application to Postpone Enforcement action must:

- Be made in writing to the Director of the SDRO. This can be done by letter.
- Be made immediately after receiving an Enforcement Order and within the time to pay period stipulated in the Enforcement Order
- Be accompanied with supporting documentation, reports and details, including a *Statement of Financial Circumstances*. Failure to include supporting evidence may result in applications being refused

An appeal to the Fines Hardship Review Board must:

- Be made in writing using the prescribed form. The form can be obtained by contacting the HRB.
- Be made before the time to pay period stipulated by the SDRO
- Attach any additional supporting evidence (the HRB will obtain the paperwork applicants have already forwarded to the SDRO in their original application)

There is no cost for:

- an Application to Postpone Enforcement
- an appeal to the HRB

Useful Links

Postpone Enforcement Action:

<http://www.sdرو.nsw.gov.au/fines/eo/postpone.php>

Statement of Financial Circumstances:

http://www.sdرو.nsw.gov.au/lib/docs/forms/sdr_006.pdf

Work Development Orders

http://www.sdرو.nsw.gov.au/lib/docs/forms/sfs_wdo_009.pdf

State Debt Recovery Website:

<http://www.sdرو.nsw.gov.au/>

Fines Hardship Review Board:

<http://www.hrb.osr.nsw.gov.au/>

South West Sydney Legal Centre can assist you with any questions or concerns.

Free Phone Advice 9601 7777

Tuesdays: 12.30pm to 2.00pm

Tuesdays: 4.00pm to 6.00pm

Thursdays: 12.30pm to 2.00pm

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