

Policy relating to refunds for fines debt



Office of
State Revenue

Policy type:	OSR
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Purpose

This document describes the Office of State Revenue policies around refunding amounts to customers in relation to fines debt.

The Commissioner is empowered to undertake various functions under the Fines Act, 1996 (“The Act”), including the receipt and collection of fines, as well as refunding amounts collected.

The intent of this Policy is to ensure that

- all refunds are processed within legislative requirements and within the Treasurer’s Directions issued under Section 9 of the *Public Finance and Audit Act 1983*; and
- applications for refunds under this Policy are managed in a consistent, fair and transparent manner.

Definitions

CUSTOMER: has the same meaning as the definition of fine defaulter in section 3 of the *Fines Act 1996* (the Act).

DELEGATED OFFICER: means an officer delegated to approve a refund amount as defined in the Fines Act 1996 Instrument of Delegation and Authorisation.

EFT: means electronic funds transfer.

GARNISHEE ORDER: means an order issued under Section 73 of the Act.

PAYMENT PLAN: means any arrangement to repay one or more enforcement orders under a formal order issued by OSR, as described in section 100(3) of the Act.

VULNERABLE CUSTOMER: means a customer who would meet the eligibility requirements for a Work and Development Order under section 99B(1)(b) of the Act, excluding acute economic hardship as per 99B(1)(b)(iv) as this is covered separately in this policy.

WORK AND DEVELOPMENT ORDER: means an order issued under Division 8 Subdivision 1 of the Act.

Policy

Circumstances under which a refund will be issued

The Commissioner of Fines Administration will refund an amount paid in the following circumstances:

- (i) Where an overpayment of a debt has occurred, subject to the provisions of Section 122C of the Act; or
- (ii) Where a payment is disputed and OSR is legally obliged to process a refund; or
- (iii) Where it can be clearly demonstrated that the payment was made in error; or
- (iv) Where a delegated officer has approved a refund of a payment made under a bank garnishee order under any of the hardship grounds set out in this policy.

When an overpayment refund may be made under Section 122C of the Act

An amount may be refunded where:

- (i) An overpayment has been made, and there are no other unpaid debts to which the payment may be allocated; or
- (ii) An inadvertent overpayment has been re-allocated in accordance with Section 122C of the Act and the customer has requested a refund of the re-allocated payment.

NOTES: (1) For the purpose of this policy, a re-allocation does not include any instance where a single payment, made through any of OSR's payment channels, is immediately allocated to multiple debts.

(2) For the purpose of this policy, a re-allocation does include any instance where a payment made through any of OSR's payment channels is allocated to a debt that was reactivated to accept the payment.

Grounds under which an amount may be refunded under hardship for a bank garnishee order

A delegated officer may approve a full or partial refund of monies garnisheed where the officer is satisfied that:

- an error or omission on the part of OSR has resulted in the customer failing to receive a fair opportunity to resolve the outstanding debt prior to the issue of the garnishee order; or
- an error on the part of a financial institution has resulted in funds being incorrectly garnisheed; or
- a technical or system error on the part of OSR has resulted in funds being incorrectly garnisheed; or
- medical circumstances of the customer warrant a refund; or

- the health or safety of other persons (other than the customer) would be put at risk unless money is refunded; or
- the customer is facing severe economic hardship as a result of the garnishee order; or
- the customer is identified as vulnerable and failure to refund monies garnisheed would, in the opinion of a delegated officer, be harsh or unreasonable.

Customers may be required to supply appropriate documentation in support of any claim.

Refund amount

OSR will negotiate an appropriate amount to be refunded based on the customer's needs and individual circumstances, taking into consideration any documentation supplied in relation to the customer's claim.

Advocacy Groups

An application to refund monies garnisheed may be made on behalf of a customer by a recognised advocacy group or government agency, subject to privacy legislation.

Any determination to refund monies garnisheed may be made in consultation with an advocacy group or government agency, subject to authorisation and consistent with privacy legislation.

Timeframes

A refund of an over payment will be made as soon as practicable.

Where an application is made under this Policy, the application will be assessed and a response provided to the customer within one business day wherever possible, provided that all required supporting documentation has been received.

While OSR will make all reasonable attempts to ensure that customers receive refunds in a timely manner, OSR cannot influence any timeframe for processing of an EFT by the relevant financial institution.

Refund may be subject to commitment to resolve

Generally, a determination to refund monies deducted under a garnishee order will be conditional upon the customer entering into a payment plan to repay the balance, a Work and Development Order, or otherwise committing to resolving all outstanding enforcement orders within a specified timeframe.