



Having Your Penalty Notice Decided in Court

How do I apply to have the matter decided in court?

To have your penalty decided in court, you must be:

- the person named on the notice,
- the vehicle owner if there is no name on the notice, or
- an authorised representative of the party named on the notice.

To authorise someone else to act on your behalf, send us an Authority to Act form available at www.sdro.nsw.gov.au/about/forms.php

You can request to have the penalty decided in court:

- online at www.sdro.nsw.gov.au/mypenalty
- by sending us a Request to Have a Penalty Decided in Court form available at www.sdro.nsw.gov.au/court
- by sending a written request to:

State Debt Recovery
PO BOX 786
Strawberry Hills NSW 2012

We must receive your request by the due date on the reminder notice.

Do not pay the penalty if you choose to go to court. If you have already paid the penalty, we will refund the amount paid. If you are unsuccessful in court, the court will advise you of the amount and due date to pay.

We do not charge a fee to have a penalty notice decided in court. However, the court may apply additional costs when the matter is determined

Note: Less than 1% of penalties are found 'not guilty' at court.

Can I have my penalty reviewed without going to court?

You can request a review of a penalty by the State Debt Recovery (SDR) at www.sdro.nsw.gov.au/review. If you wish to have your penalty reviewed, do not also request to have the penalty decided in court. By law, we must not continue any review in progress if we receive a request to go to court.

If you request a review and the outcome is not in your favour, you will have 28 days to advise us if you wish to have the penalty decided in court.

What happens at court?

We will send you a Court Attendance Notice (CAN), listing the court and date of first mention in court. The matter is usually listed at the local court nearest to where the offence happened. If you wish to have it transferred to another court, you should apply to the court listed on the CAN, when you receive it.

You will receive a Written Notice of Pleading, asking you to plead either guilty or not guilty. You can submit the notice to the court listed on the CAN in advance of the date of listing or you can enter your plea at court on the day. If you are unsure how to plead, or intend to plead not guilty, you should seek legal assistance.

If pleading not guilty, a further date will be set for you to attend court to present your case and witnesses. Evidence will then be presented by the issuing authority. Depending on the number and complexity of other cases to be decided on the day, your case may be heard at any time.

What are the possible outcomes at court?

The court may determine you were:

- **guilty** – which means you will be required to pay a fine and demerit points will apply if relevant to the offence. The court will decide the amount payable. **Note:** The court may impose additional costs.
- **guilty** – but due to the circumstances, not proceed to a conviction under Section 10 of the Crimes (Sentencing Procedure) Act 1999, which means the court has decided to waive payment of the fine. However, costs will still be imposed. For demerit offences, while no demerits will apply, the offence will be shown on your driving record.
- **not guilty** – which means the fine and any demerit points will no longer apply. No costs will be imposed.

If you do not attend court on the initial date or adjourned date of hearing and have not sent a written notice of pleading to the court, the matter may be determined in your absence or a warrant may be issued. If unsuccessful in court, the court will send you a notice telling you how to pay and the amount.

If you accidentally missed your court date, you can speak with the court where it was listed or seek legal assistance about your options.

I was not the person in charge of the vehicle at the time of the offence. Is court the best option for me?

No. If you were not in charge of the vehicle at the time of the offence you should send us a statutory declaration telling us the name and address of the person responsible, by the due date on the penalty reminder notice. This form is sent with the penalty or penalty reminder notice, or you can download it from www.sdro.nsw.gov.au/name. We will transfer liability for the fine to the person responsible and issue a replacement penalty notice.

What if I no longer want to have the offence decided in court?

If you no longer want to have the offence decided in court and have not received the CAN, please call us urgently. If the penalty is yet to be replaced by a CAN, we may accept your retraction. We aim to process court requests within 21 days, but please be sure you wish to proceed to court before advising us, because many CANs are issued within 24 hours of lodgement.

MORE INFORMATION



www.sdro.nsw.gov.au

For Penalty Notice, Penalty Reminder Notice or Warning Notice enquiries:



1300 138 118
7:30 am – 8:00 pm, Mon. to Fri.
Hearing or speech impaired users:
TTY 133 677
Speak and Listen 1300 555 727
Overseas callers: +612 4937 9207



Email us via:
www.sdro.nsw.gov.au/contact



PO Box 786
Strawberry Hills NSW 2012



Payments by post:
PO Box 4444
Parramatta NSW 2124

Payments by phone:
1300 130 112 (Local and interstate)
+612 9087 7917 (Overseas)

See your penalty notice
for other payment options

Office of State Revenue: ISO 9001 – Quality Certified
Department of Finance, Services & Innovation

© State of New South Wales through the
Office of State Revenue, 2015. This work may be
freely reproduced and distributed for most purposes,
however some restrictions apply. Read the copyright
notice at www.osr.nsw.gov.au or contact OSR.

If the CAN has been issued, it is too late to ask to withdraw the matter from court. Further enquiries should be directed to the court listed on the CAN. You may not be required to attend court if you plead guilty on the Written Notice of Pleading received with your CAN at least seven days before the court date. You should contact the court to know the amount and how to pay.

If you have lost your copy of the Written Notice of Pleading, a blank notice is available at www.sdro.nsw.gov.au/about/forms.php

How do I request an enforced fine be decided in court?

You will need to prove you were prevented from choosing to take the penalty to court before the deadline expired. Please go to the Annulment questionnaire and application at www.sdro.nsw.gov.au/contact/annulment.php to determine if you qualify for annulment to court and for information about fees and how to apply.

Obtaining assistance

In addition to our website and enquiry line, you can get help:

- about court procedures – from staff at the local court
- with legal information or referral to legal advice – from LawAccess NSW, a free service on 1300 888 529 or at www.lawaccess.nsw.gov.au
- if you are under 18 and seeking legal aid – on 1800 101 810 (freecall)
- if you are Aboriginal or Torres Strait Islander – on 1800 686 587 (freecall) or Indigenous Women's Legal Contact Line on 1800 639 784
- if you are a refugee, asylum seeker or newly arrived migrant, or if you have received a criminal infringement notice – from Law Access on 1300 888 529 before choosing court to ensure you understand the potential implications of a conviction in court.

If you need an interpreter, contact the staff at the local court before your court date. If you have trouble with English and do not understand the CAN, you should have it interpreted and explained to you. You may seek assistance from your local court or phone the Telephone Interpreter Service (TIS) on 131 450 and ask for LawAccess NSW.

Useful websites include:

- www.legalaid.nsw.gov.au – for 'going to court – a handy guide for defendants in criminal matters'.
- www.justice.nsw.gov.au – for information about fines and going to court.
- www.lawaccess.nsw.gov.au – for information about 'Fines' or 'Driving offences and crime'.