

### What is a private car park 'fine'?

People use private car parks every day, for example at shopping centres, showgrounds or other private property. Private car park companies say that you enter into a contract when you use their car park, and that they can 'fine' you if you break the rules of that contract. These rules are usually shown at or near the entrance to the car park. They are often on a sign and called '**Conditions of Entry**'. The Conditions of Entry can include rules that say:

1. You must:
  - a. Buy and show a ticket at all times (even during a free parking period)
  - b. Park between the lines
  - c. Not park in a loading zone
  - d. Not show a ticket that has expired
2. You agree to pay (compensate) the car park company if you break their rules (breach the contract). The Conditions of Entry might also say how much you must pay if you break a rule.



Duration	Rate
0.0 - 0.5 Hour	\$3.00
0.5 - 1.0 Hour	\$6.00
1.0 - 1.5 Hour	\$10.00
1.5 - 2.0 Hours	\$15.00
2.0 - 2.5 Hours	\$17.00
2.5 - 3.5 Hours	\$19.00
3.5 - 4.5 Hours	\$22.00
4.5 - Max Hours	\$24.00
Lost Ticket	\$24.00
Earlybird	\$10.00
Night Rate (flat rate)	\$5.00
Weekend Rate (flat rate)	\$7.00

Earlybird Monday to Friday  
Earlybird \$10.00 - 9.00am  
Night Rate (flat rate)  
Monday - Friday  
Earlybird \$10.00 - End before 9.00am next day  
Weekend (flat rate)  
Earlybird \$10.00 - End before 9.00am next day  
Open 24 hours, 7 days  
New day starts at 5.00am  
Credit card surcharge 3.0%

If there is a contract, it will be between the car park company and the driver, of the car, not the owner.

### Can a private car park company give me a fine?

Private car park 'fines' are not fines, even though this is what a car park company might call them. Only legally authorised officers can issue fines, for example the police, transit officers and parking rangers.

Private car park 'fines' are not enforced by Revenue NSW.

A letter or document from a car park company may look like a fine, but it is really a demand that you compensate the company for the loss caused by your breach of contract. Lawyers call this a claim for '**liquidated damages**'.

### Can a car park company demand money from me?

The law on this question is complex. This fact sheet cannot fully explain this law.

In short, if there is a contract between you and the car park company and you did break the car park rules, the company can demand you pay compensation.

But, to successfully claim liquidated damages against you, the company must prove that:

1. It suffered loss or damage because you broke the rules; and
2. The amount they are demanding you pay is the same as, or less than the loss.

At court, it might be hard for a car park company to prove it suffered a loss or the amount of loss.

When the money demanded is too much (excessive), the law calls this a 'penalty'. It is against the law for companies to demand penalties.

If you receive a private car park 'fine' or payment notice demanding money, you should get legal advice as soon as possible.

## **I got a 'fine'/Payment Notice on the window of my car. What should I do?**

Since November 2012, private car park companies cannot force Roads and Maritime Services (RMS) to provide details of the registered owner of a car, for the purpose of demanding money for car park fees or for compensation. Therefore, after November 2012, it would be difficult for the company to find out your identity, to sue you.

If you choose to communicate with the car park company, they can use the details you give them about your identity or location to sue you.

If you are worried or you are unsure about your situation, you should always get legal advice.

## **I got a 'fine'/Payment Notice addressed to my name. What should I do?**

You should not ignore a 'fine' or payment notice that has your name. The car park company might start writing you letters demanding money and might even take you to court. This could cost you more fees and legal costs.

If you receive a private car park 'fine' or Payment Notice addressed to your name you can:

### **1. Write to the company**

- a. **If you were not the driver:** You can write to the car park company to dispute the fine on this basis. You can give them the name of the driver if you want to. If you don't, the company might keep chasing you for payment of the 'fine'.
- b. **If you were the driver:** You can write to the company to dispute the fine if you have a valid reason. For example, you can prove your car was not at the car park at the time stated on the 'fine'.

### **2. Pay the 'fine'**

- a. You can pay the 'fine' in full; or
- b. You can offer to pay part of the 'fine'. This should be done in writing and include the words 'without prejudice' in the heading. It should also clearly state the amount you offer is in 'full and final settlement' of the debt claimed by the car park company.

### **3. Lodge a complaint in the NSW Civil and Administrative Tribunal (NCAT)**

If you cannot reach an agreement with the company, you can lodge a complaint in the NCAT.

The NCAT is an informal Tribunal that helps people resolve an issue or dispute fairly and quickly.

The NCAT has different divisions that decide different types of legal matters. Complaints against car park companies are lodged in the Consumer and Commercial Division. From 6 October 2021, the application

**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.

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fee is \$52 (a reduced fee of \$13 if you are a pensioner or have a legal aid grant or help from a community legal centre).

When you lodge a NCAT application, the car park company might choose to withdraw the 'fine' rather than go to a hearing.

If the NCAT considers the car park company contract is unfair or that the amount claimed is a penalty, it can order that you do not have to pay the 'fine' at all or a reduced amount.

You have three years from each particular payment notice to lodge a complaint in the NCAT.

You should always get legal advice before you decide to lodge a complaint in the NCAT.

## I got a Statement of Claim. What should I do?

A Statement of Claim is an official court document. You should get legal advice as soon as you get one.

**Never** ignore a Statement of Claim. The court might make an order that you must pay the money demanded by the car park company, plus additional court fees and legal costs.

Once you have been served with a Statement of Claim, you have **28 days to file a defence**. If you do not file a defence within 28 days, the car park company can get a judgement against you without you being notified. This is called a default judgement. Once default judgment is made against you, the car park company can enforce the judgment debt, including sending debt collectors to your house.

If you represent yourself in court, you need to complete the *Defence – filing party acting in person or by authorised officer (Form 7B)* found at <https://www.ucprforms.nsw.gov.au/>. You should always get legal advice before you file a defence with the court.

You must file your defence in the court where the car park company filed their Statement of Claim (but you may be able to do this either online or through a local court closer to you). There is no filing fee. Once you have filed a defence, the court will send you a notice of listing. This is a letter with the date and time you and a car park company representative will have your first court appearance. This is called a pre-trial review.

If the case is not settled at the pre-trial review, the court will schedule a hearing so that you and the car park company can present your arguments. The magistrate or assessor will decide the company's claim based on the evidence.

## Who can help - legal services?

1. [South West Sydney Legal Centre](#) (or find out our current [free telephone legal advice times](#));
2. [Financial Rights Legal Centre](#) on Mon – Fri 10 am – 1 pm for free legal advice on 1800 844 949
3. Call [Community Legal Centres NSW](#) on 02 9212 7333 for a community legal centre near you;
4. Call [Law Access NSW](#) for free legal advice between Mon – Fri 9 am -5 pm on 1300 888 529;
5. Contact the [Law Society of NSW Solicitor Referral Service](#) on 02 9926 0300 for help to find a private lawyer