

Why do I have to pay restitution if I have already met the penalty imposed by the court?

The restitution process is a 'civil' process as opposed to the 'criminal' proceedings. However, the Commissioner may consider 'criminal' penalties when determining the amount of restitution to be paid.

Why do I have to pay restitution if I have paid the Victims Support Levy (previously called the Victims Compensation Levy)?

The Act provides that a person who is convicted of an offence is liable to pay a Victims Support Levy. This levy does not relate to the restitution proceedings. If you have a question about the levy you should contact the court where you were convicted.

Why wasn't I told when the victim lodged the application?

Victims support payments and restitution are separate. Applications for victims support payments do not involve or rely upon the identification or conviction of the offender.

Restitution proceedings only start when someone has been convicted of the offence that resulted in victims support payments being made.

Transfer of Restitution Debts to the Office of State Revenue (OSR)

On 1 May 2017 Victims Services commenced transferring debts to the Office of State Revenue (OSR). This followed from 8 March 2017 when legislative amendments were passed under the *Fines Amendment Act 2017* to enable unpaid restitution debt orders to be transferred to OSR and imposed as fines for collection by OSR. Defendants under

current payment arrangements will need to ensure their payments are up to date. Should a debtor default or fall into arrears on their repayments, the debt may be transferred to OSR after the expiration of 28 days of a default notice being issued to the debtor.

Once the debt has been transferred to OSR, enforcement action will commence which can include:

- cancelling or suspending of your driver's licence or your vehicle registration
- deducting money from your bank account or wages
- authorising the Sheriff to seize your goods or property
- placing a charge on any land or property you own
- further costs associated with enforcement action will also be added

Contact details for the Restitution Section, Victims Services

Phone 1800 633 063
Aboriginal Contact Line 1800 019 123
Hours 8am to 6pm, Monday to Friday
Email vs@justice.nsw.gov.au
Web www.victimsservices.justice.nsw.gov.au
Street address Level 1, Justice Precinct Offices
160 Marsden Street, Parramatta
Address all mail to
The Commissioner of Victims Rights
Victims Services, Locked Bag 5118
Parramatta NSW 2124

Have you been convicted of an offence?

You may have to pay restitution





What is restitution?

When a victim of a crime that happened in NSW receives financial support from Victims Services under the *Victims Rights and Support Act 2013* the Commissioner of Victims Rights is entitled to recover money from any person who has been convicted of the criminal offence that relates to the victim's claim. This is called restitution.

A 'conviction' includes bonds, fines, community service orders, imprisonment and other penalties. It also includes an order made under section 10 of the *Crimes (Sentencing Procedure) Act 1999* (previously section 556A of the *Crimes Act 1900*).

What happens first?

When you are convicted of an offence that relates to the harm suffered by a victim, and the victim has received support payments, the Commissioner of Victims Rights will let you know:

- 1 payment has been made to the victim; and
- 2 recovery of the money is now being sought.

This is called a provisional order.

When can a provisional order be made?

Provisional orders can be made a long time after a person's conviction. This is because a victim may lodge an application for victims support up to two years after the act of violence, or up to two years after they have turned 18 if they were a child at the time of the offence.

In addition, there are other exceptions that allow further time:

- In cases of child abuse, sexual assault against an adult, and domestic violence: the original application can be made up to 10 years afterwards, or 10 years after a child victim turns 18.
- In cases of sexual assault against a child: no time limit.

A provisional order will be made within two years of the period in which a victim may receive victims support, or within two years from the date of conviction of a defendant for the offence on which the restitution proceedings are based.

This is why it can be some time after your conviction that you receive a provisional order.

What can I do if I receive a provisional order?

You can:

- **Lodge a written objection.**
The Commissioner will then consider submissions and documentation before deciding how much restitution is payable and the way it will be paid, for example, lump sum and/or monthly instalments. If you are in custody further action will be postponed until your release. You will be advised of the decision by mail. Or:

- Apply to enter an arrangement with the Commissioner. The arrangement will outline:
 - the amount of restitution you will pay; and
 - how you will make the payments.

What happens if I do not respond?

The Commissioner will make a restitution order for the full amount of the provisional order, payable immediately. The restitution order is a judgment debt and is enforceable.

Can I make an offer to settle the matter?

Yes, you can make an offer to pay a lump sum to finalise the matter at any time after the Commissioner has made a provisional order against you.

What if I cannot pay the provisional order in a lump sum payment?

The amount payable may be paid by instalments.

How can I make instalment payments?

Instalment payments can be made using a number of methods including:

- direct debit deductions from a bank account;
- Centrelink's Centrepay Deduction facility;
- using a PayWay payment card to pay at any Australia Post office by cash, BPAY® or EFT.

These methods are free. Alternatively, payments may be made by cheque or money order by mail, but additional costs may apply.