

Magistrates Court (Extension of Time) Guidelines 2024 (No 1)

Disallowable instrument DI2024–151

made under the

Magistrates Court Act 1930, section 124A (Extension of time - guidelines)

1 Name of instrument

This instrument is the Magistrates Court (Extension of Time) Guidelines 2024 (No 1).

2 Commencement

This instrument commences on the day after it is notified.

3 Guidelines

I issue the guidelines in Schedule 1 for deciding applications for an extension of time in relation to taking action in response to an infringement notice or reminder notice received for an infringement notice offence.

4 Definitions

In these guidelines:

administering authority, for an infringement notice offence, means the entity that, under the regulations, is the administering authority for the offence.

infringement notice means a notice under section 120 (Service of infringement notices).

infringement notice management plan—see section 131AA.

infringement notice offence means an offence declared under the regulations to be an offence to which this part applies.

infringement notice penalty, for a person for an infringement notice offence, means—

- (a) the amount prescribed by regulation as the penalty payable by the person for the offence under an infringement notice for the offence; or
- (b) if a reminder notice has also been served on the person for the offence—the total of the amount mentioned in paragraph (a) and the amount prescribed by regulation as the amount payable by the person for the cost of serving the reminder notice.

reminder notice means a notice under section 129 (Reminder notices).

Shane Rattenbury
Attorney General
19 June 2024

Schedule 1

APPLYING FOR AN EXTENSION OF TIME

A person who receives an infringement notice or reminder notice may apply for an extension of time in order to do one or more of the following in relation to the infringement notice or reminder notice received:

- Pay the infringement notice penalty stated in the notice.
- Apply to the administering authority to enter into an infringement notice management plan or add the infringement notice penalty to an existing infringement notice management plan.
- Apply to the administering authority for waiver of the infringement notice penalty.
- Apply for withdrawal of the infringement notice.
- Give the administering authority a declaration as described at Division 3.8.3 (Additional provisions for vehicle-related offences) of the *Magistrates Court Act 1930*.
- Give the administering authority written notice disputing liability.

An application for extension of time can be made either within the timeframe (28 days) in which the person must respond to the infringement notice or reminder notice (*an in-time application*) or outside this period (*an out-of-time application*). The application must be in writing and include any information required by the administering authority.

The maximum amount of time the administering authority may allow for an application for extension of time is 6 months.

Following the processing of an application for an extension of time, the administering authority will provide a letter to the applicant stating the outcome of the application, and, if approved, a revised due date to the applicant. An approved application freezes the infringement notice process at that stage until the extension of time lapses.

If the application is refused, the person must do one of the above not later than 7 days after the applicant is told about the decision and 28 days after the notice to which the application relates was served.

IN-TIME APPLICATIONS

For an application for an extension of time to be considered made in time, the application must be given or sent (within reasonable expectations that the application would be received by the administering authority within the allowed time) to the administering authority before the end of the allowed time, i.e., within 28 days of service of the infringement notice or reminder notice or any extension of time previously given.

When providing an in-time application, an applicant is not required to provide a reason for the requested extension of time.

An extension will be automatically granted if a complete application is made within the allowed timeframe and the requested period of time does not exceed the maximum period of time (6 months) provided for under section 124 of the *Magistrates Court Act 1930*, or does not cause an extension to fall outside this timeframe. If no time period is stipulated in an in-time application, the default extension period that will be granted is 60 days.

OUT-OF-TIME APPLICATIONS

An out-of-time application can be made if:

1. The person has been served with a reminder notice in relation to an infringement notice of the offence; and
2. The person has not done, in relation to the reminder notice or the infringement notice, any of the actions set out in section 124(1)(a)-(e) of the *Magistrates Court Act 1930*; and
3. The time allowed (statutory timeframe plus any extension of time) for doing one of those actions has lapsed.

An application must be in writing, state the special circumstances relied on and include any other information required by the administering authority. The application must be allowed if the administering authority reasonably believes special circumstances justify allowing an extension of time.

Special circumstances can include but are not limited to:

- The applicant had a prolonged absence from the ACT (e.g. was unaware of the issue of the infringement notice or reminder notice).
- The applicant requires additional time to dispute the notice and the period in which the notice can be disputed has not lapsed.
- A severe illness prevented the applicant from making an application in time, including caring responsibilities for a person with a medical condition.
- The applicant was serving a period of imprisonment or was otherwise detained and did not have the capacity to respond to the infringement notice or reminder notice.
- The infringement notice or reminder notice was not received.
- An application was sent in time with a reasonable expectation that the application would be received within the allowed time, but it was not received by the administering authority within the allowed time and this was outside the control of the applicant.
- Other personal circumstances exist that prevented the applicant from applying for an extension of time in time, for example, the death of a relative.
- The applicant is currently experiencing temporary financial hardship.

Relevant documentation may be required to be provided as evidence the special circumstances existed for the applicant during the allowed time.

Should the application reveal circumstances that fall within the guidelines for withdrawal or waiver, for example, administrative or technical reasons outside the control of the applicant, the administering authority should consider whether it is appropriate to make a decision on those grounds without requiring the person to make a separate formal application for waiver or withdrawal.