

Guideline—Crown land debt management

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More information

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Introduction

The Department of Industry—Lands & Water (the department) collects monies from individuals, organisations and agencies in accordance with the *Crown Land Management Act 2016*.

This guideline provides information regarding how the department applies the *Crown land debt management policy IND-O-255* in respect to the management of monies that remain unpaid past the due date. It also provides information on how to submit an application for financial hardship relief.

Note: The department collects information about account holders to determine eligibility for financial hardship applications. We are committed to the principles of protecting, collecting, using and holding personal information in accordance with the *Privacy and Personal Information Protection Act 1998*.

Overview

Part A—Phases of debt management

The four phases of debt recovery that apply in circumstances where an account is unpaid past the due date.

Part B—Debt management overview

An overview of the department's debt management process.

Part C—Guide to applying for financial hardship relief

A step-by-step guide on how to apply for financial hardship relief. It also provides guidance on what you should do if you cannot maintain the agreed payment arrangement.

Assistance

Please contact us if you have questions about applying for a financial hardship concession or assistance in managing a debt to the department. This includes specific advice about what documentation and forms you will require, and how to lodge your application.

- Call 1300 886 235 or (02) 4920 5068
- Email cl.debtmanagement@crowmland.nsw.gov.au

Part A—Phases of debt management

The department undertakes four phases of debt management in circumstances where an account is unpaid past the due date. These phases are detailed below.

Recovery action (phase 1)

Recovery action refers to the initial activities undertaken by us to negotiate and facilitate payment of any amount that remains unpaid past the due date.

Tax invoices are issued to account holders three weeks prior to the due date; however receipt of this tax invoice will vary depending on the location of the account holder.

If any amount remains unpaid past the due date, an arrears and final notice will be issued. These notices are a formal demand for payment.

Arrears notice

An arrears notice is issued 2 weeks after the due date of the original tax invoice if an amount remains unpaid. This notice confirms the outstanding amounts, and requests urgent action be taken by the account holder. The arrears notice advises the account holder that:

- interest for late payment is now accruing on their account
- enforcement action may be pursued unless payment is received, including legal costs being added to their account
- they should contact the department if non-payment of debt is due to financial hardship.

Final notice

If amounts continue to remain unpaid, a final notice is issued 6 weeks after the due date of the original tax invoice. The final notice demands payment is made within 21 days of the notice; repeats the information provided within the arrears notices; and provides additional information about a default credit listing with a credit bureau if legal action is taken.

Contact and facilitation of financial hardship application

Account holders may contact the department, or be contacted by us, at any time during the debt management process to discuss amounts that are unpaid past the due date.

Prior to us contacting an account holder, their account(s) will be reviewed to identify potential eligibility for financial concessions per the *Crown land financial concessions policy*. When debts are verified as payable, we will attempt to contact the account holder to negotiate payment or discuss whether hardship is being experienced.

Financial hardship

In circumstances where account holders are experiencing genuine financial hardship that is impacting their ability to pay their account on time, financial hardship concessions may be available.

Part C of this guideline provides a step-by-step guide detailing how to apply for financial hardship relief. There are no departmental charges for lodging a financial hardship application. All applications are assessed on a case-by-case basis, and we will endeavour to negotiate a solution that is mutually agreeable.

The options available for financial hardship relief may include an extension of time to make full payment (postponement), payment by instalment plan, billing frequency change, interest waiver, or in exceptional

circumstances other waivers. These concessions are negotiable and may be granted for varying periods of time, however arrangements that exceed 12 months will only be considered in exceptional circumstances.

Interest for late payment

Interest for late payment accrues on all amounts that remain unpaid past the due date. The interest is calculated at the rate prescribed in the *Crown Land Management Regulation 2018*—8% per year plus the bank accepted bill rate, rounded to the second decimal place.

Interest is applied 28 days after the due date and is charged daily from the due date until the date when the debt is paid in full.

Collection agency

If the department cannot negotiate payment or facilitate an approved financial hardship application, the debt may be referred to an external collection agency, and ongoing non-payment of debt will result in a default listing with a credit bureau.

The collection agency may undertake enforcement action on our behalf, in accordance with their policy and procedures.

Compliance action (phase 2)

The use of Crown land is conditional upon compliance with the terms and conditions of the signed agreement. The non-payment of rent is a breach of the agreement, and may result in compliance and or enforcement, as detailed in this guideline.

If compliance action is taken, it may result in either termination, forfeiture or cancellation of a Crown land tenure or Crown road purchase; or withdrawal of an offer to convert Crown land. The process for compliance action is available within the *Crown Land Compliance and Enforcement Policy IND-O-248*.

The account holder will remain responsible for payment of any amount outstanding on their account, and this breach will be taken into account when determining future Crown land tenure applications.

Enforcement action (phase 3)

The enforcement action taken by Crown lands for unpaid debt may include commencing civil claims litigation against account holders. When a court grants judgement against an account holder the enforcement options include 'garnishee wages', 'garnishee a bank account', or 'apply to execute a writ for the levy of property'.

This action will lead to additional fees payable by the account holder, enforcement or costs orders, interest for late payment charges, and a default listing with a credit bureau.

Debt extinguishment (phase 4)

All debt will be pursued in accordance with the *Crown land debt management policy*. In exceptional circumstance, debt may be extinguished within policy and per the provision contained in the *NSW Treasurer's Directions*.

Part B—Debt management overview

The below table provides an overview of our debt management process.

All account holders are encouraged to contact us as soon as they become aware that they may have difficulty meeting the payment terms of their tenure.

We may also contact the account holder at any time during the debt management process to discuss amounts that are unpaid past the due date.

Process	Timeframe	Account holder actions
Tax invoice ↓	Issued 3 weeks before due date	<ul style="list-style-type: none"> Pay debt in full; or Apply for financial hardship relief
Arrears notice—recovery action ↓	Issued 2 weeks after due date if unpaid	<ul style="list-style-type: none"> Pay the debt in full; or Apply for financial hardship relief
Final notice—recovery action ↓	Issued 6 weeks after due date if unpaid	<ul style="list-style-type: none"> Pay the debt in full; or Apply for financial hardship relief
Contact and facilitation of financial hardship relief—recovery action ↓	Commenced 9 weeks after due date	<ul style="list-style-type: none"> Pay the debt in full; or Apply for financial hardship relief
Compliance action ↓	Commenced 14 weeks after due date	<ul style="list-style-type: none"> Pay the debt in full; or Apply for financial hardship relief; and/or Address all compliance issues
Enforcement action ↓	Commenced 14 weeks after due date	<ul style="list-style-type: none"> Pay the debt in full; or Apply for hardship relief
Debt extinguishment	At the discretion of the Minister for Industry	N/A

Part C—Guide to applying for financial hardship relief

Apply for financial hardship relief (step 1)

- Initiate contact with us to obtain further information about available hardship concessions and discuss possible options
- Complete and submit the relevant hardship application form that applies to your circumstances within the requested timeframe
- Where applicable, submit supporting documentation to verify hardship. No supporting documentation is required when:
 - debt due is less than \$2,000, and
 - the period of concession does not exceed 12 months

Note there are no charges for lodging a financial hardship application.

The application is assessed (step 2)

All financial hardship applications are assessed on a case-by-case basis, with consideration to the following:

- information supplied by the account holder within their application
- account holder's payment history, previous enforcement action, outstanding debt from current and previous years, and compliance with concessions previously provided
- applicant's ability to meet current and future payments based on the evidence provided within their application.

Notification (step 3)

If your application is successful, we will provide you with written notification. This will include confirmation about the agreed arrangement, the interest for late payment charges that may apply, and consequences for non-compliance with the terms.

If your application is unsuccessful, we will provide written notification to explain the reasons why and detail any further options that may be available.

Default on agreed financial hardship relief concessions

In circumstances when you cannot maintain the agreed payment arrangement, you must contact us to discuss your eligibility to re-negotiate an amended payment concession.

If you do not adhere with the agreed payment terms, it may lead to cancellation of the arrangement and the department taking compliance and/or enforcement action as detailed in the *Crown land debt management policy*.

General guidance

Costs

There are no charges for lodging applications covered by this guideline.

Related documents

- *Crown Land Management Act 2016*
- *Crown Land Management Regulation 2018*
- *Privacy and Personal Information Protection Act 1998*
- *Crown land financial concessions policy IND-O-254*
- *Crown land debt management policy IND-O-255*
- *Crown Land Compliance and Enforcement Policy IND-O-248*
- *Guideline—Crown land financial concessions*
- *NSW Treasurer's Directions*

Definitions

Definitions relevant to this guideline are detailed in the *Crown land financial concessions policy* and the *Crown land debt management policy*.