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| What is a debt?If Centrelink pays you more money than you should have received (including pensions, allowances and FTB), even if it is not your fault, the amount you were overpaid is a debt owed to Centrelink. |

# What actions can I take?

* Get independent advice about your debt from Basic Rights Queensland.
* You can request a copy of your file under the *Freedom of Information Act* to check if the debt is correct. Ask Centrelink for the form “Freedom of Information – Request to access or change documents (SI031)”. There is no cost to get your file.
* If you think the debt has been calculated incorrectly you can appeal to an Authorised Review Officer (ARO). **Please be aware the amount of a debt can occasionally increase as a result of an appeal**, for example, the period of the debt may be extended. Therefore, it is a good idea to seek advice from Basic Rights Queensland before appealing.

# Why was a 10% penalty added to the debt?

A 10% penalty may be added to your debt if:

* you refused or failed to provide information to Centrelink about your income from work; or
* they consider that you knowingly or recklessly provided false or misleading information that resulted in the debt.

The 10% penalty cannot be added if:

* you had a “reasonable excuse” for refusing or failing to provide the information; or
* you were not notified that you needed to provide the information.

If you think you should not have to pay a 10% penalty, you can appeal that decision. See below for details on how to appeal.

# How does Centrelink collect debts?

Centrelink normally sends you a letter demanding repayment of the debt within 28 days. **Don’t panic**. You don’t need to repay the entire amount within 28 days. However, you should contact Centrelink before the due date to negotiate repayments.

Centrelink doesn’t need your permission to start collecting a debt from you. Centrelink may collect debts by taking the following action(s):

* if you are getting a Social Security payment or Family Tax Benefit (FTB), Centrelink can take money from your payments;
* if you are not getting a Social Security payment, Centrelink will try to negotiate a repayment plan with you;
* Centrelink can “garnish” your wages or bank account. This means that money can be taken from your bank account or wages. Your tax return can also be garnished; or
* you can be taken to court and the court may make an order about how the debt is to be repaid.

# How much can Centrelink collect each fortnight?

If you are getting a Social Security payment Centrelink normally deducts 15% of your payment each fortnight (not including Rent Assistance and other extras) to repay a debt.

If you have extra income, Centrelink will want to increase the amount of your repayments.

# What if I can’t afford the debt repayments?

Don’t agree to repay more money than you can afford. If you can’t afford the debt repayments, you should call Centrelink’s debt recovery number on 1800 076 072 to negotiate the amount you repay each fortnight. You will generally need to provide details of your income and expenses to negotiate.

If Centrelink will not agree to reduce your fortnightly repayments and you can’t afford it, you can appeal. See below for details on how to appeal.

# Can the debt be waived?

It is possible that even when you owe a debt you may not have to pay it back. You can appeal asking Centrelink to “waive” the debt.

If a debt is waived, you never have to repay the amount that is waived. The whole debt may be waived, or just a part of it. If your whole debt is waived, any amount you have repaid to Centrelink will be refunded to you.

There are two main reasons where a debt may be waived.

## “Sole administrative error” waiver

Any part of your debt which was caused by Centrelink’s **“sole administrative error”** that you received “in good faith” **must** be waived.

It can be difficult to convince Centrelink that a debt was “solely” caused by its error. Centrelink may admit that it made a mistake but point out that you made a mistake as well (for example, not correcting any mistakes in letters from Centrelink about your income and assets). Even if Centrelink doesn't agree, the Administrative Review Tribunal may see things differently and decide to waive the debt.

For your debt to be waived where it was caused solely by administrative error, it must also be shown that you received the payments “in good faith”. This means you believed that you were entitled to the payments you received during the debt period, at the rate you were paid.

Waiver due to administrative error can only apply where a debt was raised by Centrelink more than six weeks after the commencement of the debt.

Depending on when the debt was raised for **FTB debts** you may also need toshow that you will suffer “severe financial hardship” if you have to repay the debt in order to get the waiver for sole administrative error.

## “Special circumstances” waiver

Your debt **may** be waived where you have **“special circumstances”** and your debt did not occur because you or another person **“knowingly”** made a false statement to Centrelink or knowingly failed to comply with Social Security law.

Whether there are “special circumstances” will depend on the particular facts of your case. “Special circumstances” may include:

* financial hardship;
* you or your family’s poor health;
* high medical costs due to you or your family’s poor health;
* any disability that affected your ability to understand or comply with Centrelink’s rules;
* if you would otherwise have been entitled to another Social Security payment;
* any Centrelink errors that partly caused the debt; and
* any unusual or out of the ordinary circumstances that you or your family has suffered.

However, even if you have some “special circumstances” the debt will only be waived where it is seen as “desirable” to do so weighing the cost to the taxpayer of letting you keep the overpayments.

It may be useful to ask doctors, counsellors or community caseworkers to provide reports to help explain your circumstances, however, we recommend you seek advice from Basic Rights Queensland before asking them to write something.

You must not have knowingly made any false statements to Centrelink or knowingly failed to give Centrelink correct information.

For example, if you knew you were giving Centrelink incorrect details about your income from work, then your debt cannot be waived using the special circumstances waiver.

# Will Centrelink automatically consider waiver of the debt?

Usually, you need to appeal and ask Centrelink to waive your debt. See below for details on how to make an appeal.

# Can the debt be written off?

In very limited circumstances a Centrelink debt can be “written off”. When Centrelink writes-off a debt, you do not have to make repayments for an indefinite or specific period. The decision to write-off a debt can be reviewed by Centrelink at any time.

There are only limited grounds to have a debt written-off. Please contact Basic Rights Queensland if you require advice.

# What happens if I become bankrupt?

If you owe a Social Security debt and then become bankrupt, you do not have to repay the debt during the bankruptcy period. Centrelink cannot take deductions from your payments, require payments by instalments, garnish your bank accounts or take court action to recover the debt.

After bankruptcy, Centrelink can only try to recover the debt in limited circumstances. Whether or not a debt can be recovered after bankruptcy is a complicated issue. If Centrelink tries to recover your debt after you are discharged from bankruptcy, you should seek legal advice from Basic Rights Queensland.

# Could I be prosecuted?

As well as owing a Centrelink debt, you may also be prosecuted if the debt occurred due to fraud. Centrelink does not make the decision about whether or not a person is prosecuted. That decision is made by the Director of Public Prosecutions. Fraud means you purposely gave Centrelink false information, failed to give information or received a payment that you knew you were not entitled to.

You may get a letter saying that your case is being considered for prosecution. Centrelink may ask you to attend an interview or make a statement. You do not have to attend this kind of interview. It is important to get legal advice before deciding whether to attend a prosecution interview.

For more information on prosecutions, see the factsheet “Prosecution of Social Security offences”.

# Appeal rights

If you have received a debt notice from Centrelink, you have the right to lodge an appeal. To appeal, you can tell Centrelink that you wish to appeal the debt and obtain a receipt number for your request, or you can complete and upload the “Explanation or formal review of a decision (SS351)” form using your Centrelink online account.

If you disagree with the decision made by the Authorised Review Officer (ARO), you have the right to appeal further to the Administrative Review Tribunal - Level 1 (ART1). Please note there is generally no time limit to appeal a debt to an ARO or the ART1, however you should always check your decision letter as there are some limited exceptions.

You can appeal a decision of the ART1 to the Administrative Review Tribunal - Level 2 (ART2) within 28 days of being notified of the decision. In limited cases where there is an “error of law” a matter can be further appealed to the Federal Court; however, you should get legal advice as the process can be complex and expensive.

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| **Helpful Contacts** |
| Basic Rights Queensland | 1800 358 511 |
| Centrelink Debt Recovery | 1800 076 072 |
| Centrelink Indigenous Debt Recovery  | 1800 138 193 |
| Centrelink Multilingual Call Centre  | 131 202 |
| Telephone Interpreter Service | 131 450 |
| National Relay Service | 1800 555 727 |
| National Debt Hotline  | 1800 007 007 |

# Please Note

This fact sheet was prepared by Basic Rights Queensland (BRQ). It contains general information only and does not constitute legal advice. BRQ is a member of Economic Justice Australia (EJA). EJA members are community legal centres which provide specialist legal services in relation to social security (Centrelink). BRQ is independent of Centrelink, or any other government body and all assistance is free. For advice about social security problems call Basic Rights Queensland on **1800 358 511.**

This fact sheet was updated in November 2024.