



This information sheet is general in nature and provided for information purposes only. It is not intended to be a substitute for legal advice. You should seek your own legal advice as required.

This fact sheet is designed to assist agencies with changes to the special circumstance ground of review.

## Meaning of Special circumstances

The meaning of special circumstances has been **amended** in section 3A of the *Infringements Act 2006*.

This ground of review is designed to divert those with special circumstances from the infringements system at the earliest opportunity.

The existing sub-grounds are kept in the new meaning, but the required link between the special circumstance and offending has been simplified.

A new sub-ground, relating to a person's ability to deal with the fine, has been added.



### Nexus test change

The **previous test** required a person to show that their circumstances **resulted** in them being **unable** to understand or control their offending behaviour.



The **new test means** that a person now needs to show that their circumstances **contributed** to them having a **significantly reduced capacity** to understand or control their offending behaviour.

The decision maker must now be satisfied that:

- the person experiences a mental or intellectual disability, disorder, disease or illness, a serious drug/alcohol/volatile substance addiction, homelessness, or family violence, and
- the condition or circumstances contributed to the applicant having a significantly reduced capacity
  - ▶ to control their conduct (for all of the **above** sub-grounds), or
  - ▶ to understand their conduct (for the mental illness or intellectual disability, or substance addiction sub-grounds).

## Special circumstances: new category recognising long-term circumstances

The new long-term circumstances category is for fine recipients who are experiencing extremely serious circumstances that are long-term in nature and mean that it is impracticable for the person to pay or otherwise deal with their infringement fine.

This category is only intended to apply to a very small cohort of fine recipients who have long-term and extremely serious circumstances that:

- may not have been present at the time of offending
- are particularly disabling or incapacitating in nature, and
- result in the person being unable to pay or otherwise deal with their infringement fine.

The definition excludes any circumstances that solely or predominantly relate to the person's financial circumstances.