

Appealing a Centrelink Decision

You have the right to appeal most Centrelink decisions to reject a claim for payment, cancel a payment, impose a waiting period, reduce a rate of payment, or recover a debt. There are four levels of appeal:

1. Firstly, you can appeal against a decision to an **Authorised Review Officer**. This is an internal review by Centrelink itself.
2. If you disagree with the Authorised Review Officer's decision, you have the right to appeal to the **Administrative Review Tribunal** (ART1). This is the first level of external review. The Tribunal is completely independent of Centrelink.
3. If you disagree with an ART1 decision, you have the right to appeal to the **Second Tier of the ART** (ART2). Centrelink (Services Australia) also has the right to appeal any ART1 decision made in your case to ART2.
4. In strictly limited cases, you and Services Australia may have the right to appeal an ART2 decision to the **Federal Court**. This factsheet does not contain information about appealing at the Federal Court level – seek legal advice from an EJA member centre.

1. INTERNAL REVIEW BY CENTRELINK: AUTHORISED REVIEW OFFICER

Explanation and informal review

If Centrelink has made a decision and you do not understand why the decision was made or you think they made a mistake, you can ask for a verbal explanation of the decision and an informal review.

You do not need to ask for a verbal explanation or informal review before asking for a formal review by an Authorised Review Officer.

Centrelink will contact you to explain the decision and answer any questions you have. They will try to phone you but will not leave a phone number to call them back – so watch out for calls.

Centrelink may be able to change the decision without needing a formal review.

Formal review by an Authorised Review Officer

If you do not agree with the explanation provided by the original decision-maker, you have a right to appeal to a Centrelink Authorised Review Officer (ARO).

The ARO will examine your case closely and review whether relevant law and policy has been properly applied in your case. They will contact you or your advocate to discuss your appeal if possible and take into account new information and evidence.

- If the ARO decides to change the original decision, they will advise you in writing and organise to pay any backpay.
- If the ARO agrees with the original decision they will advise you in writing, with a full explanation.
- If the ARO has only partly changed your decision, e.g., reduced a debt but not cancelled it.
- The ARO's letter will advise you of your right to appeal to the Administrative Appeals Tribunal, and the time limits that apply.

Making an online request for an explanation or formal review

You can ask Centrelink for an explanation for a decision or apply for a formal review by an Authorised Review Officer by either:

- **Calling Centrelink** – if you ask for review by phone, keep a record of the date and time of the call and ask for a receipt number so you have proof of the conversation.
- **Visiting** your local Centrelink office – ask for a receipt number.
- **Completing an online application** – the explanation or formal review of decision form found on Services Australia website.

IMPORTANT: The online application is designed for requesting either an explanation of a decision OR a formal review. The first question on the form asks whether you want an explanation of the decision or a formal review. If you want to ask for a formal review by an Authorised Review Officer without first getting a verbal explanation from another officer, make sure you tick the **FORMAL REVIEW** box.

Time limits for ARO appeals

If you are appealing a **decision to reject a claim, or cancel or reduce a payment**, you should generally request a formal review by an Authorised Review Officer within 13 weeks of being given written notice of the original decision. If you lodge later, you may not receive back payments to the date the original decision took effect.

There are no time limits for requesting a review of a **Centrelink debt** by an Authorised Review Officer. You can appeal against a Centrelink debt at any time and get any repayments you have made refunded.

***See the table at the end of this factsheet** for full details of appeal timeframes for different payments.

2. EXTERNAL REVIEW: ART1

If you disagree with the decision made by the ARO, you have the right to appeal to the Administrative Review Tribunal (ART). Your appeal will be considered by the first tier of the ART – sometimes called the ART1.

The ART is completely independent of Centrelink.

How do I appeal to the ART?

You can lodge your appeal:

- By completing an application form. You can ask the ART to send to you a form or download it or print the form or– available at <https://www.art.gov.au/help-and-resources/forms>
- Online at <https://online.aat.gov.au/>.¹
- By phoning the ART on 1800 228 333.

When the ART has received your application, you will receive a letter confirming that your application has been received. Within a few weeks the ART will send another letter with a hearing date. Hearings can be held by phone, video or in person.

¹ This URL is correct despite referring to AAT.

Time limits for ART1 appeals

There is no time limit for ART1 appeals. However, if you are appealing the rejection, cancellation or rate of payment, you need to appeal to the ART1 within 13 weeks of being given notice of the ARO decision in order to receive full back pay if your appeal is successful.

If you are appealing a decision to raise a debt against you, there is no time limit for appealing to the ART, even if you have paid off the debt completely.

Appeal process

What to expect at your hearing:

- Your ART1 hearing will be relatively informal.
- In most cases, the hearing will be held with just you and one ART1 member.
- Centrelink will not be present at most ART1 hearings.
- You will be provided with a copy of the papers prepared by Centrelink in relation to its decision. These documents will also be provided to the ART1 member hearing your appeal.

What you should do to prepare for your hearing:

- If you have a lawyer or support worker assisting with your appeal, they can be with you at the hearing.
- You should obtain as much evidence as possible to demonstrate your circumstances. This can be very important, as new evidence is often the reason why appeals are successful.
- You can send in any documents to the ART by email, post or in person before the hearing date.
- You can also present new information or documents at the hearing.
- It does not matter if you did not give this information to Centrelink.

3. APPEALS TO THE ART GENERAL DIVISION: ART2

If you disagree with the decision made by the ART1 member, you have a right to have your matter heard by the ART again. This is sometimes referred to as a second tier appeal, or appealing to ART2. If you are successful at ART1, Centrelink may also choose to appeal the decision to the ART2.

How do I appeal to the ART2?

You can lodge your appeal:

- By completing an application form which you can ask the ART to send to you, or printing the form found at <https://www.art.gov.au/help-and-resources/forms>
- Online at <https://online.aat.gov.au/>.²
- By phoning the ART on 1800 228 333.

When ART2 has received your application, you will receive a letter confirming that your request for review has been received.

Within a few weeks of the application being lodged, ART2 will generally send another letter with a date for a Preliminary Conference. If a hearing date is set, ART2 will send another letter with the details.

² This URL is correct despite referring to AAT.

Time limits

An appeal to ART2 must be made **within 28 days** of receiving the decision made by the ART1.

If you appeal after the 28 days has expired, **you can apply for an extension of time**, although this will only be granted in certain circumstances.

Appeal process

If possible, you should get legal advice on whether it is a good idea to proceed with an appeal to ART2. To ensure you comply with time limits, you can lodge the claim and later withdraw it if you do not wish to proceed.

ART2 is more formal but it is still flexible.

First, there will be at least one meeting between you, a representative from Centrelink, and the Tribunal Registrar to discuss the issues about your case to see if the matter can be resolved without a hearing. This is called a Preliminary Conference and is often done by phone.

At the Preliminary Conference you can negotiate with Centrelink to resolve your appeal. Centrelink may offer to change the decision – “settle” the appeal. You can seek advice from an EJA Member Centre or Legal Aid before you accept or reject any settlement offer from Centrelink.

Any settlement agreed to at the Preliminary Conference will be the final binding decision of the ART.

If your appeal is not resolved at the Preliminary Conference, or you or Centrelink do not otherwise withdraw the appeal, a date will be set for a hearing and your case will be heard by ART2.

PAYMENT PENDING REVIEW

Authorised Review Officers and ART1

If you have no income and your appeal is about being paid a Centrelink payment such as JobSeeker Payment, Parenting Payment, or a Pension, ask Centrelink to treat your appeal as urgent. You should also seek legal advice from your nearest Economic Justice Australia member centre – <https://www.ejaustralia.org.au/legal-help-centrelink/>.

Payment pending review enables you to continue to be paid while you are waiting on a decision from an Authorised Review Officer or the ART1.

It is up to Centrelink to decide whether to grant payment pending review.

In deciding whether to grant payment pending review, Centrelink will consider whether you will be placed in severe financial hardship and/or your caring responsibilities, medical condition(s), accommodation will be significantly adversely affected if not granted. Your appeal also needs to have merit.

Payments made during a period of payment pending review by an Authorised Review Officer or the ART1 are not recoverable as a debt.

ART General Division

Payment pending review by ART2 is not available. However, you can request a 'Stay Order' on implementing an ART1 decision. A request for a 'Stay Order' must be in writing. The ART 'Request for Stay Order' form can be found <https://www.art.gov.au/help-and-resources/forms>.

Before lodging a request for a 'Stay Order' it is a good idea to seek legal advice. If the ART2 decision is not in your favour, Centrelink will recover any payments made to you under the Stay Order.

TIMEFRAMES FOR LODGING A REVIEW REQUEST			
Payment	ARO	ART1	ART2
Most payments	13 weeks from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of ART1 decision
Abstudy and Assistance for Isolated Children Payments (including debts)	3 months from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of ART1 decision
Family Assistance Payments (e.g. Family Tax Benefit, Child Care Benefit, Baby Bonus)	52 weeks from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of ART1 decision
Paid Parental Leave Scheme	28 days from date of original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of ART1 decision
Debt (except for Abstudy or Assistance for Isolated Children payments)	No time limit	No time limit	28 days from date of ART1 decision

You can still request a review by ARO or ART1 after 13 weeks. However, if the review is successful, you may only get your payment from the date you requested the review.

Where can I get help?



You can get free legal advice from your closest member centre which can be found at <https://www.ejaustralia.org.au/legal-help-centrelink/>.

This factsheet draws from previously published factsheets from Social Security Rights Victoria, Basic Rights Queensland and Welfare Rights Centre Sydney.

This factsheet does not constitute legal advice.

Please contact any of our member centres if you wish to obtain free legal advice.
Find your closest member centre at www.ejaustralia.org.au