

DEPARTMENT OF JUSTICE, VICTIM SERVICES RESTITUTION PROGRAM

Restitution: Step by step

You have the right to ask for restitution

Restitution is the term the justice system uses to describe money offenders pay to victims of crime. You may ask for restitution if you lost money as a result of a crime. This includes anything you had to pay for as a direct result of the crime (expenses). It is important that you ask for restitution early in the process and before the offender has been found guilty.

You may ask for these things:

- repairs or replacement of damaged or lost property
- treatment for physical injuries
- loss of income if you had to take time off work because of the crime
- money lost because you bought stolen property that was returned to the rightful owner
- all costs related to having to leave your home if the offender is someone who was living with you

If you have any costs you are unsure of, ask a Victim Services Officer with the Provincial Victim Services Program. You may NOT ask for restitution for such things as pain and suffering or emotional distress. These things can only be decided in civil court. See *How to claim restitution in civil court*. Get this fact sheet from the Provincial Victim Services Program or the police.

Step 1 Ask for restitution

You can find everything you need to know about asking for restitution in *How do I ask for restitution?* Get this fact sheet from the Provincial Victim Services Program or the police.

Step 2 The Crown Attorney may present your request for restitution in court

If the offender is found guilty of a criminal offence against you, the Crown Attorney can present your request for restitution during the offender's sentencing.

The Crown Attorney may present your request to the judge under these conditions:

- There is enough evidence to back up your request.
- The Crown Attorney thinks there is a good chance that the offender can pay the amount that you asked for.

Step 3 The judge may order the offender to pay restitution

A judge may order the offender to pay restitution for the same reasons the Crown Attorney used to present your request. However, the judge may come to a different conclusion. If the judge orders the offender to pay restitution, they will do so in one of 3 ways:

- as part of a conditional sentence
- as part of a probation order
- as a stand-alone order.

For more information on how a judge may order restitution, get these fact sheets from the Provincial Victim Services Program or the police:

- *Restitution as part of a conditional sentence or probation order*
- *Stand-alone restitution orders*

Step 4 You get a copy of the restitution order

The court will send you a copy of the restitution order. If you don't get one, ask the Provincial Victim Services Program to send it to you. The order contains 2 important pieces of information:

- the amount the offender was ordered to pay
- the deadline for payment

Step 5 The offender pays you through the court

The offender pays your restitution through the court. The court then sends the payment to you by cheque within 30 days. To continue to get restitution payments, tell one of these agencies whenever you change your address or contact information:

- the court
- Restitution Coordinator

You may need to take civil action

If the offender fails to pay by the due date, you may try to get the money through a civil court action. See *How do I seek restitution in civil court?* Get this fact sheet from the Restitution Coordinator with the Department of Justice Victim Services or the police.

Questions?

Contact the Provincial Victim Services Program office near you.

Dartmouth (Serving Dartmouth, Halifax, and Halifax County)

Call 902-424-3307

Visit or mail to 277 Pleasant St. 3rd floor, Dartmouth, NS, B2Y 4B7

Kentville (Serving Annapolis, Digby, Hants, Kings, Lunenburg, Queens, Shelburne, and Yarmouth counties)

Call 902-679-6201 or toll-free 1-800-565-1805

Visit or mail to 49 Cornwallis St, suite 204, Kentville, NS, B4N 2E3

Pictou (Serving Antigonish, Colchester, Cumberland, East Hants, and Pictou counties)

Call 902-485-3580 or toll-free 1-800-565-7912

Visit 290 West River Rd, Pictou

Mail to P.O. Box 430, Pictou, NS, B0K 1H0

Sydney (Serving Cape Breton, Guysborough, Inverness, Richmond, and Victoria counties)

Call 902-563-3655 or toll-free 1-800-565-0071

Visit or mail to 136 Charlotte St., 4th floor, suite 9, Sydney, NS, B1P 1C3

DEPARTMENT OF JUSTICE, VICTIM SERVICES RESTITUTION PROGRAM

How do I ask for restitution?

Follow these steps to ask for restitution

Step 1 Keep a record of the money you lost or spent

Start to keep a record of the money you lost or spent as soon as possible after the crime. Do NOT include anything you have already been compensated for by your bank or insurance company. Make photocopies of these papers:

- bills for the cost of repairs
- estimates to replace stolen, damaged, or destroyed items
- invoices
- pay stubs to help prove you lost wages
- receipts
- any other papers that prove you lost or spent money because of the crime

You should now have 2 copies of each of the papers listed above. Keep one set of copies for yourself. Attach the other copies to the Request for Restitution form. These papers are the evidence the Crown Attorney needs to back up your request for restitution. See Step 2.

NOTE: Some cash register receipts fade over time. Make extra photocopies of them so you don't lose any information.

Step 2 Fill out a Request for Restitution form

Pick up a hard copy of this form at one of these places:

- the courthouse or Justice Centre
- RCMP or municipal police stations
- the Provincial Victim Services Program office near you

Return the completed form to the police as soon as possible.

The hard copies are 3 attached pages (triplicate). Be sure to press firmly with your pen when you fill out the form so that all of your written information can be read on each of the 3 pages.

You can also find this form online. Type "Victim Services Nova Scotia" into your search engine. In the left-hand column of the Victim Services page, choose Forms, then choose Request for Restitution Form. Print the form. Fill it in, then make 2 photocopies.

Read the form carefully and fill it in to the best of your knowledge. You will have to enter each loss or expense separately. Do NOT add them together. Include as much detail as you can. Use exact dollar amounts. If you need more room to add losses or expenses, write them on another piece of paper. Make 2 copies of this new page and attach one copy to each page of the form.

Once the form is filled in, keep one copy for yourself. If you have the hard copy, detach the pink page marked Pink Copy for Victim. Keep this copy.

If you printed and filled in the online form, keep a copy for yourself.

Attach a copy of each of the papers listed in Step 1 to the form you keep. Give the other 2 copies to the police as described in Step 3

NOTE: You must tell the Crown Attorney if you received any money from your bank or insurance regarding anything in your request for restitution. You do this by checking the box marked “If you already received, or expect to receive monies (in compensation) for this financial loss ...”

Step 3 Give the completed form to the police

Attach copies of the papers listed in Step 1 to the white page of the hard copy form. If you printed and filled in the online form, attach copies of the papers listed in Step 1 to one of the copies.

Give the forms to the police except for the copy you keep for yourself as described in Step 2. The police will give them to the Crown Attorney.

It is important to give your completed forms with all the supporting papers attached to the police as soon as you can. This way, the judge will have all your information before they sentence the offender. You may add information at a later date. See Step 4.

Step 4 If you have more information, bring it to the Crown Attorney

You may want to add more information to your request for restitution after you have given your form to the police. If this happens, bring copies of the new bills, pay stubs, etc. to the Crown Attorney’s office. If you don’t know where the Crown Attorney’s office is, ask the police or the Provincial Victim Services Program.

You **MUST** ask for restitution or add to your request **BEFORE** the offender has been sentenced.

What happens after I give my information to the police and Crown Attorney?

You can get a step-by-step description of the restitution process in *Restitution: Step by step*. Get this fact sheet from the Provincial Victim Services Program or the police.

Questions?

Contact the Provincial Victim Services Program office near you.

Dartmouth

(Serving Dartmouth, Halifax, and Halifax County)

Call 902-424-3307

Visit or mail to 277 Pleasant St. 3rd floor, Dartmouth, NS, B2Y 4B7

Kentville

(Serving Annapolis, Digby, Hants, Kings, Lunenburg, Queens, Shelburne, and Yarmouth counties)

Call 902-679-6201 or toll-free 1-800-565-1805

Visit or mail to 49 Cornwallis St, suite 204, Kentville, NS, B4N 2E3

Pictou

(Serving Antigonish, Colchester, Cumberland, East Hants, and Pictou counties)

Call 902-485-3580 or toll-free 1-800-565-7912

Visit 49 290 West River Rd, Pictou

Mail to P.O. Box 430, Pictou, NS, B0K 1H0

Sydney

(Serving Cape Breton, Guysborough, Inverness, Richmond, and Victoria counties)

Call 902-563-3655 or toll-free 1-800-565-0071

Visit or mail to 136 Charlotte St., 4th floor, suite 9, Sydney, NS, B1P 1C3

DEPARTMENT OF JUSTICE, VICTIM SERVICES RESTITUTION PROGRAM

Restitution as part of a conditional sentence or probation order

Restitution may be part of the offender's sentence

A judge may order the offender to pay restitution for these reasons:

- There is enough evidence to back up your request.
- The judge thinks there is a good chance that the offender can pay the amount that you asked for.

If this is the case, restitution can be part of the offender's

- conditional discharge
- suspended sentence
- probation order
- conditional sentence
- prison sentence

Conditional discharge and suspended sentence

An offender **will always** have a probation order if they were given a conditional discharge or a suspended sentence.

Conditional sentence

When a judge gives an offender a conditional sentence, it means that they must live by certain conditions and may not go to jail. A judge may give an offender a conditional sentence under these circumstances:

- They found the offender guilty of a crime that does not have a minimum prison sentence.
- They imposed a prison sentence of less than 2 years.
- They decided that the offender is not a threat to the community.

Prison sentence

Restitution may be ordered by a judge as part of a custodial or prison sentence. A judge may or may not add a probation order to this kind of sentence.

Restitution as part of a conditional sentence or probation order

Whether an offender has a conditional sentence or a probation order, they must visit a Probation Officer. During these visits, the Probation Officer reminds the offender to make their restitution payments. They may have to pay the restitution

- right away
- by a specific date
- according to a payment schedule

Be sure to keep track of when the offender must pay restitution. You need to know the offender's deadline so you know when to ask for help.

Ask for help from the Restitution Coordinator

The offender may fail to pay restitution by the due date. If this happens, contact the Restitution Coordinator as soon as possible:

- Call 902-424-8060 or 902-424-2928
- Email: vicserv-restitution@novascotia.ca

The Restitution Coordinator will contact the Probation Officer. The Probation Officer may then charge the offender with failure to comply with a probation order or breaching a condition of a conditional sentence order. Both of these are criminal offences.

Questions?

Contact the Restitution Coordinator
Call 902-424-8060 or 902-424-2928
Email: vicserv-restitution@novascotia.ca

DEPARTMENT OF JUSTICE, VICTIM SERVICES RESTITUTION PROGRAM

Stand-alone restitution orders

A stand-alone restitution order is NOT part of the offender's conditional sentence or probation order. This means that a probation officer will not be reminding the offender to pay restitution.

Learn more about restitution and conditional sentences and probation orders in *Restitution as part of a conditional sentence or probation order*. Get this fact sheet from the Restitution Coordinator or the police.

Judges usually order stand-alone restitution orders to be paid on the day they are made. However, a judge can order the offender to pay at a later date or according to a payment schedule.

The offender pays you through the court

The offender pays your restitution through the court. The court then sends the payments to you by cheque within 30 days. To continue to get restitution payments, tell one of these agencies whenever you change your address or contact information:

- the court or Justice Centre
- Restitution Coordinator

Contact the Restitution Coordinator

The Restitution Coordinator is there to help you through the restitution payment process. They can help you in these ways:

- They encourage offenders to pay restitution.
- They work with probation officers, parole officers, and others to help you to get your restitution.
- They answer questions about restitution and refer you to other people who can help.
- They give you general information (not legal advice) about how civil court works.

Questions?

Contact the Restitution Coordinator

Call: 902-424-8060 or 902-424-2928

Email: vicserv-restitution@novascotia.ca

DEPARTMENT OF JUSTICE, VICTIM SERVICES RESTITUTION PROGRAM

How do I seek restitution in civil court?

The offender may fail to pay the amount the judge ordered

The offender may fail to pay some or all of the restitution the judge ordered. If this happens, you can start a civil action. You can do this when the offender has money, a job or owns personal property (personal property is explained under Step 5 below). These are some possible results of a civil action:

- The court orders the offender's personal property to be taken from them. The property is sold at auction. The money from the sale is used to pay you what you are owed.
- The money the offender owes you is taken out of the offender's bank account.
- The money the offender owes you is taken from their wages.

You may see or hear these terms during a civil action

- claimant or judgment creditor – that's you, the victim of a crime
- defendant or judgment debtor – that's the offender
- garnishment – the act of taking money from an offender's bank account or wages
- lien – a claim against the offender's property. This prevents the offender from selling their property until they what they owe you.

Follow these steps to take civil action against the offender

Step 1 Find out as much as you can about the offender

Throughout the civil action, you will have to give the court as much of the following information about the offender as possible:

- the offender's first, middle, and last names
- the offender's mailing address, street address, and work address
- the offender's date of birth
- the offender's bank
- the name of the offender's lawyer

It's your job to get the information you need

It is up to you to get all the information listed above. You may get some of this information from the Crown Attorney. You can also contact the **Restitution Coordinator at 902-424-8060** to see if they can help you get this information.

You may fail to get all the information you need even with the help of the Crown Attorney and the Restitution Coordinator. In that case, you may need to hire a private investigator or a tracing company. You will NOT be reimbursed for this as part of your restitution.

If you fail to gather all the information listed above, you may NOT be able to get the restitution you seek now or in the future.

Step 2 File a judgment at the Supreme Court

You can file the restitution order you got from the criminal court as a "judgment" with the Supreme Court. To do this, you will need a certified copy of the court paper that shows that the offender was ordered to pay you restitution. This paper will be one of these orders:

- a probation order
- a conditional sentence order
- a stand-alone restitution order

For more information about these orders, get these fact sheets from the Restitution Coordinator or the police:

- *Restitution as part of a conditional sentence or probation order*
- *Stand-alone restitution orders*

You can get a certified copy of the restitution order from the clerk of the court that made the order. In most cases this is the Provincial Court.

Tell the clerk the offender's name and tell them that you are the victim of a crime committed by the offender. This way, you won't have to pay certified copy fees.

Take the certified copy to the Administration Office at the Supreme Court. There, it will be filed as a Supreme Court judgment.

Step 3 Get the Certificate Of Judgment and Execution Order

After you have completed Step 2, you have up to 6 years to fill out and file 2 forms:

- the Certificate of Judgment form
- the Execution Order form

You need to complete and file both of these forms to collect the money you are owed. You can get them from the Administration Office at the Supreme Court or online.

To complete these forms, you need to include the following information:

- all the information about the offender that you gathered in Step 1
- the amount of restitution stated in the original court order
- the costs of other services that you will need to use later such as
 - the fees you will have to pay to register the judgment in the Personal Property Registry and the Judgment Roll. See Step 4.
 - your lawyer's fees. If you don't have a lawyer, you can claim \$25 on the Execution Order form.

You can have your lawyer or the Restitution Coordinator complete these forms for you. Call the Restitution Coordinator at 902-424-8060.

Take these papers to the Supreme Court where the offender was sentenced:

- the completed Certificate of Judgment form
- the completed Execution Order form
- the certified copy of one of these orders:
 - probation order
 - conditional sentence order
 - stand-alone restitution order

The Supreme Court staff will give you back the Certificate of Judgment and an Execution Order, signed and dated, with a registration number. The Certificate of Judgment is valid for 20 years from the date you get it.

Step 4 Register the judgment at the Land Registration office

Go to your local Land Registry office. You can find a list of locations online under the heading *Closure of Land Registry Offices*. Bring these things with you when you go:

- the Certificate of Judgment
- 2 pieces of identification, one of which must be one of the following:

- your driver's licence
- your passport
- your health card
- your birth certificate
- the offender's full name—their first, middle, and last names
- the offender's date of birth
- your lawyer's name, if you have one
- the offender's lawyer's name
- money

At the Land Registry office, you will have to register your judgment in the Personal Property Registry and record it in the Judgment Roll.

It can be difficult and confusing to register your judgment. You may want to hire a private searcher to do this for you. Ask the staff at the Land Registry Office for a list of local searchers.

Personal Property Registry

Registering your judgment in the Personal Property Registry means the Sheriff can take property from the offender to pay your restitution.

You have to choose the length of time you want your registration in the Personal Property Registry to stay active. This is the length of time the Sheriff will spend trying to collect your restitution money from the offender. The fee you pay depends on the length of time you choose.

Note: The Sheriff will only take money from the offender's bank account or wages for as long as your registration is active.

When you finish registering your judgment and Execution Order in the Personal Property Registry, the system will generate a verification statement. Print this document. You will need to give it to Sheriff Services. See Step 5.

Judgment Roll

Recording your judgment in the Judgment Roll means that you can get your restitution money from the sale or mortgage of any land the offender owns. They will need the same information as they did in Step 4.

A Land Registry Officer will record your judgment in the Judgment Roll for you. They will tell you what information they need from you.

One year after you record the judgment in the Judgment Roll, you can start an action to force the offender to sell their land to pay your restitution. You will need a lawyer to help you to do this.

Your judgment will stay on the Judgment Roll for 5 years from the date of the judgment. You can renew the recording up to 3 times, each time for 5 years. It is up to you to keep track of when your recording expires.

You need to pay a fee to register the judgment and to renew it.

You can find out more about registering judgments in the Land Registry Office and Personal Property Registry on the Registering a Judgment page of the Access Nova Scotia website. Type "Registering a Judgment Nova Scotia" into your search engine.

Step 5 Use Sheriff Services to collect your restitution

Sheriff Services is the only agency that is allowed to act on an Execution Order. It uses your order to take the offender's personal property to pay you what you are owed. Personal property includes things like

- bank accounts, stocks, investments etc.

- cars, trucks, vans, boats, airplanes etc.
- jewelry
- furniture
- anything the offender owns except land

Sheriff Services are located in Justice Centres across Nova Scotia. You can find a list of Justice Centres online. Type “Justice Centres Nova Scotia” into your search engine.

You need to give these things to Sheriff Services before they will act on your Execution Order:

- the original Execution Order and 3 certified copies. The court office should have given these to you. See Step 3.
- the registration verification statement you got from the Personal Property Registry. See Step 4.
- detailed information about the offender. See Step 1.
- **Fees:** There is a basic fee for Sheriff Services. The Sheriff will decide if there are any additional fees. If there are, the Sheriff will add them to the Execution Order.

Sheriff Services collects your restitution money

The Sheriff will try to collect on the Execution Order as long as the registration of the judgment in the Personal Property Registry is still active.

Once Sheriff Services has done their work, they will send the original Execution Order and a report to the Court Administration Office.

You will also get a copy of this report along with the money collected, minus the Sheriff’s fees.

Note: Sheriff Services may be unable to collect your restitution money. In this case, you still have to pay their fees.

Note: If the offender moves to another province, you can contact the Supreme Court in that province to find out how to collect on your restitution order.

Questions?

Contact the Restitution Coordinator
 Call 902-424-8060 or 902-424-2928
 Email: vicserv-restitution@novascotia.ca