



# Domestic Violence, Crime and Victims Act 2004

## 2004 CHAPTER 28

### PART 2

#### CRIMINAL JUSTICE

##### *Surcharges*

#### 14 Surcharge payable on conviction

- (1) In Chapter 1 of Part 12 of the Criminal Justice Act 2003 (c. 44) (general provisions about sentencing), after section 161 insert—

##### *“Surcharges*

#### **161A Court’s duty to order payment of surcharge**

- (1) A court when dealing with a person for one or more offences must also (subject to subsections (2) and (3)) order him to pay a surcharge.
- (2) Subsection (1) does not apply in such cases as may be prescribed by an order made by the Secretary of State.
- (3) Where a court dealing with an offender considers—
- that it would be appropriate to make a compensation order, but
  - that he has insufficient means to pay both the surcharge and appropriate compensation,
- the court must reduce the surcharge accordingly (if necessary to nil).
- (4) For the purposes of this section a court does not “deal with” a person if it—
- discharges him absolutely, or

- (b) makes an order under the Mental Health Act 1983 in respect of him.

### **161B Amount of surcharge**

- (1) The surcharge payable under section 161A is such amount as the Secretary of State may specify by order.
- (2) An order under this section may provide for the amount to depend on—
- (a) the offence or offences committed,
  - (b) how the offender is otherwise dealt with (including, where the offender is fined, the amount of the fine),
  - (c) the age of the offender.

This is not to be read as limiting section 330(3) (power to make different provision for different purposes etc).”

- (2) In section 164 of that Act (fixing of fines), after subsection (4) insert—

“(4A) In applying subsection (3), a court must not reduce the amount of a fine on account of any surcharge it orders the offender to pay under section 161A, except to the extent that he has insufficient means to pay both.”

- (3) In Part 1 of Schedule 9 to the Administration of Justice Act 1970 (c. 31) (cases where payment enforceable as on summary conviction), after paragraph 12 insert—

“13 Where under section 161A of the Criminal Justice Act 2003 a court orders the payment of a surcharge.”

- (4) In Schedule 5 to the Courts Act 2003 (c. 39) (collection of fines), in paragraph 1(1) (application of Schedule), after “a fine” insert “or a surcharge imposed under section 161A of the Criminal Justice Act 2003”.

- (5) The Secretary of State may by order—

- (a) make provision amending Schedule 5 (collection of fines) or Schedule 6 (discharge of fines by unpaid work) to the Courts Act 2003 in its application by virtue of subsection (3) or (4) to surcharges;
- (b) make provision for any part of Schedule 5, or the whole or any part of Schedule 6, not to apply to surcharges;
- (c) make amendments to any enactment that are consequential on provision made under paragraph (a) or (b).