

*These notes refer to the Justice Act (Northern Ireland)
2011 (c.24) which received Royal Assent on 4 May 2011*

Justice Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Victims and Witnesses

Chapter 1 - The Offender Levy

This Chapter contains the power for a financial levy to be imposed by the court on conviction or attached to certain fixed penalties.

Section 1: Offender levy imposed by court

This section sets out the sentences which attract the offender levy. These are: imprisonment; detention in the young offenders centre; a suspended custodial sentence; a community order; or a fine. The levy will only be attached to those offenders 18 years old or over. Where a period of imprisonment or detention is applied concurrent with a previous sentence of imprisonment or detention and a levy has been imposed on that previous sentence, a further levy will not be applied. Payment of compensation orders will take priority over the levy and the levy must be reduced (to nil if necessary) by the court where it has been determined that the offender has insufficient means to pay both the compensation order and the levy. The amount of any fine imposed can only be reduced on account of the levy where the offender has insufficient means to pay both the fine and the levy. The Department may by affirmative resolution amend the list of sentences to which a levy applies.

Section 2: Enforcement and treatment of offender levy imposed by court

This section states that the offender levy shall, except where provided for in this Act, be enforced in the same manner as a fine, and that the Department of Justice can make regulations with respect to the enforcement of the levy where it considers this appropriate.

Section 3: Deduction of offender levy imposed by court from prisoners' earnings

This section permits the governor of a prison or young offenders centre (or a person authorised by the governor) to deduct money from the earnings of a prisoner to recover the value of levy imposed by the court. It also enables the

Department of Justice to make directions on the rate, timing and conditions of those deductions.

Section 4: Offender levy imposed by court: other supplementary provisions

Section 4 states that a court cannot, at the point of sentencing, set a default period of imprisonment for non-payment of the offender levy. When a fine and an offender levy are imposed together, any payment made will first discharge the levy. If an offender defaults on paying a fine and is imprisoned, or given a supervised activity order, the court may remit such part of the levy which remains outstanding. Where an offender has been given a determinate sentence of imprisonment or detention (which is not suspended) and has made payments towards discharging the levy through deductions from earnings whilst in prison, any outstanding levy amount will be discharged by statute on the full expiry of their sentence i.e. when they are no longer eligible for recall to custody for deductions from prison earnings to recommence.

Section 5: Offender levy on certain penalties

This section sets out the fixed penalties which will attract an offender levy: fixed penalties (introduced in this Act); endorsable road traffic offences; and conditional offers of fixed penalties for speed camera detections for persons aged 18 years and over. It also provides that other Departmental penalties may be levied, subject to approval by an affirmative order of the Assembly. Where the relevant penalty is increased on default, the levy will be increased by the same proportion.

Section 6: Amount of the offender levy

This section sets out the amount of offender levy to be paid depending on the sentence or fixed penalty given. Where more than one sentence is given at the same time, the levy will be applied to the sentence which attracts the highest rate.

If the sentence includes a determinate sentence of imprisonment for more than two years or an indeterminate sentence of imprisonment the levy value is £50.

Where the sentence includes a determinate sentence of imprisonment less than two years it is £25.

Where a sentence includes a community order or suspended sentence of imprisonment it is £20.

Where it includes a fine, it is £15.

For fixed penalties the levy is £5.

The Department may make an order by affirmative resolution of the Assembly which amends the list and values of the levy.