



## 2011 CHAPTER 24

### PART 1

#### VICTIMS AND WITNESSES

##### CHAPTER 1

##### THE OFFENDER LEVY

##### *Offender levy imposed by court*

##### **Offender levy imposed by court**

1.—(1) This section applies where a court dealing with an offender for one or more offences imposes a sentence which is or includes—

- (a) a sentence of imprisonment;
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 13(4)(b) or 14(5) of the [Criminal Justice \(Northern Ireland\) Order 2008 \(NI 1\)](#);
- (d) a sentence of detention under Article 45(1) of the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#);
- (e) a community order (within the meaning given by Article 2(2) of the [Criminal Justice \(Northern Ireland\) Order 1996 \(NI 24\)](#)); or
- (f) a fine.

(2) Subject to subsections (3) to (5), the court must, in addition, order the offender to pay an amount (“the offender levy”) determined under section 6.

(3) Subsection (2) does not apply where the offender is an individual under the age of 18.

(4) Subsection (2) does not apply by virtue of a sentence mentioned in subsection (1)(a) or (b) if—

- (a) that sentence is to be served concurrently with another such sentence imposed on the offender on a previous occasion; and
- (b) the offender levy has been imposed under this section in relation to that other sentence.

(5) Where the court considers—

- (a) that it would be appropriate to make a compensation order under Article 14 of the [Criminal Justice \(Northern Ireland\) Order 1994 \(NI 15\)](#), but
- (b) that the offender has insufficient means to pay both the offender levy and appropriate compensation,

the court must reduce the offender levy accordingly (if necessary to nil).

(6) A sentence mentioned in subsection (1)(a) and (b) includes a sentence which is suspended under section 18 of the Treatment of Offenders Act (Northern Ireland) [1968 \(c. 29\)](#).

(7) The Department may by order amend subsection (1).

(8) No order shall be made under subsection (7) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(9) In Article 29 of the Criminal Justice (Northern Ireland) Order 1996 (fixing of fines) after paragraph (3) insert—

“(3A) In applying paragraph (3), a court must not reduce the amount of a fine on account of any offender levy it orders the offender to pay under section 1 of the Justice Act (Northern Ireland) 2011, except to the extent that the offender has insufficient means to pay both.”.

### **Enforcement and treatment of offender levy imposed by court**

**2.—**(1) An offender levy imposed by a court on an offender is enforceable in the same manner as any fine which has been, or might have been, imposed by the court in dealing with the offender.

(2) Accordingly any statutory provision referring (in whatever terms) to the enforcement of a fine imposed by a court shall have effect in relation to the enforcement of an offender levy imposed by that court as it has effect in relation to the enforcement of that fine.

(3) Subsections (1) and (2) are subject to—

- (a) any provision made by regulations under subsection (4); and
- (b) section 4.

(4) The Department may make such regulations with respect to the enforcement of an offender levy imposed by a court as it considers appropriate.

(5) Regulations under subsection (4) may in particular—

- (a) modify any statutory provision as it has effect by virtue of subsection (2) in relation to an offender levy imposed by a court; and
- (b) make such incidental, supplemental or consequential provision (including provision to modify a statutory provision) as appears to the Department to be expedient.

(6) In subsection (5) “modify” includes the making of additions, omissions, exceptions and amendments.

(7) Except as provided by or under this Part, amounts in respect of offender levies imposed by a court are to be paid, collected and treated in the same manner as amounts in respect of fines so imposed.

### **Deduction of offender levy imposed by court from prisoner's earnings**

3.—(1) In this section—

- (a) “a relevant prisoner” means a person serving a sentence of imprisonment or detention who is liable to pay an offender levy imposed by a court;
- (b) “earnings”, in relation to a relevant prisoner, means money earned by that prisoner for work carried out under rule 51 of the Prison and Young Offender Centre Rules (Northern Ireland) 1995 ([SR 1995/8](#)).

(2) The governor of a prison or young offenders centre, or a person authorised by the governor, may make deductions from the earnings of a relevant prisoner for the purpose of discharging or reducing the liability of that prisoner to pay the offender levy.

(3) Deductions under this section are to be made at such rate and at such times and subject to such other conditions as the Department may direct.

### **Offender levy imposed by court: other supplementary provisions**

4.—(1) A court shall not, at the time of sentencing an offender, exercise any power to issue a warrant committing the offender to prison in respect of the non-payment of an offender levy imposed by the court.

(2) Where an offender is liable to pay both a fine and an offender levy imposed by a court, any amount paid by an offender in respect of that liability shall be treated as first discharging the liability to pay the offender levy.

(3) A court may remit all or part of an offender levy imposed by it on an offender if—

- (a) the court in dealing with the offender imposed both a fine and an offender levy;
- (b) the offender has defaulted in paying the fine; and
- (c) in consequence of that default the court either—

- (i) commits that person to prison; or
- (ii) makes a supervised activity order under Article 45 of the [Criminal Justice \(Northern Ireland\) Order 2008 \(NI 1\)](#).

(4) If—

- (a) the court in dealing with the offender imposed both a determinate sentence of imprisonment or detention (other than a suspended sentence) and an offender levy; and
- (b) the liability of the offender to pay the offender levy was reduced, but not discharged, by deductions made under section 3,

the levy is, by virtue of this subsection, discharged on the expiry of the sentence.

*Offender levy on certain penalties*

**Offender levy on certain penalties**

**5.—(1)** This section applies to—

- (a) a fixed penalty payable in respect of—
  - (i) a notice under Article 60 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) relating to an offence involving obligatory endorsement (within the meaning of Article 3 of that Order),
  - (ii) a conditional offer under Article 80 of that Order relating to such an offence;
- (b) a penalty payable in respect of a penalty notice under section 60;
- (c) a penalty specified by order made by the Department.

(2) The Department may not specify a penalty under subsection (1)(c) unless the penalty—

- (a) is payable in respect of a notice issued to a person by, or on behalf of, a Northern Ireland department under a statutory provision; and
- (b) payment of the penalty in pursuance of the notice discharges the person from liability to conviction for an offence to which the notice relates.

(3) An order under subsection (1)(c)—

- (a) may amend the statutory provision under which any penalty specified by the order is payable;
- (b) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(4) Where the person liable to pay a penalty to which this section applies is over the age of 18, the penalty is increased by an amount (“the offender levy”) determined under section 6.

(5) Accordingly in Article 59 of the Road Traffic Offenders (Northern Ireland) Order 1996 (amount of fixed penalty) at the end insert—

“(3) Where—

(a) the fixed penalty is in respect of—

(i) a notice under Article 60 relating to an offence involving obligatory endorsement; or

(ii) a conditional offer under Article 80 relating to such an offence; and

(b) the person liable to pay the fixed penalty is over the age of 18,

the fixed penalty is increased by the amount of the offender levy determined under section 6 of the Justice Act (Northern Ireland) 2011.”.

(6) Where the amount of a penalty is increased under section 62(5) or Article 69(2) of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) for the purposes of registering an amount for enforcement as a fine, so much of that penalty as consists of the offender levy shall be treated as having been increased by the same proportion.

#### *Amount of the offender levy*

#### **Amount of the offender levy**

**6.—**(1) The offender levy for the purposes of section 1 is—

(a) £50, where the sentence imposed on the offender is or includes—

(i) a determinate sentence of imprisonment or detention for more than 2 years (not being a suspended sentence); or

(ii) an indeterminate sentence of imprisonment or detention;

(b) £25, where that sentence—

(i) is or includes a determinate sentence of imprisonment or detention for 2 years or less (not being a suspended sentence); and

(ii) does not include a sentence falling within paragraph (a);

(c) £20, where that sentence—

(i) is or includes a community order or a suspended sentence of imprisonment or detention; and

(ii) does not include a sentence falling within paragraph (a) or (b);

(d) £15, where that sentence—

(i) is or includes a fine; and

(ii) does not include a sentence falling within paragraph (a), (b) or (c).

(2) The offender levy for the purposes of section 5 is £5.

(3) The Department may by order amend subsections (1) and (2).

(4) No order shall be made under subsection (3) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.