

*These notes refer to the Justice Act (Northern Ireland)
2015 (c.9) which received Royal Assent on 24 July 2015*

Justice Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Prosecutorial Fines

Part 3 of the Act creates new powers to enable public prosecutors to offer lower level offenders a financial penalty, up to a maximum of £200 (the equivalent of a level 1 court fine) as an alternative to prosecution of the case at court.

Prosecutorial Fine

Section 17: Prosecutorial fine: notice of offer

This section empowers a prosecutor to issue a notice offering an alleged offender over age 18 a prosecutorial fine for one or more summary offence(s) and specifies the information which the notice must contain.

The notice of offer will indicate that refusal of the offer may result in prosecution for the offence, and that acceptance of the offer discharges the alleged offender's liability for that offence. The alleged offender is given 21 days to accept or reject the offer, and no further proceedings may be undertaken during this 21 day period. If the prosecutorial fine notice of offer is accepted, then a prosecutorial fine notice will be issued.

Section 18: Prosecutorial fine notice

This section is engaged if an offender accepts the offer of a prosecutorial fine.

On receipt of acceptance of a prosecutorial fine offer, a prosecutor must issue a prosecutorial fine notice to an alleged offender, containing details of the offence and how payment of the fine may be made. The section requires payment of the fine within 28 days of the date of issue of the notice, and requires the prosecutor to alert the fines clerk that a fine notice has been issued.

Section 19: Amount of prosecutorial fine

This section defines the amount of the prosecutorial fine as the total of the amount determined by the prosecutor plus a £10 offender levy. The section also provides that in the case of an offence of criminal damage the prosecutor may also order an amount of compensation in respect of damage caused to be paid

to a victim. The section sets the maximum value of a prosecutorial fine at £200 (level 1 on the standard fine scale) and the maximum compensation at £5000 (the maximum compensation awardable in a Magistrate's court).

Section 20: Restrictions on prosecutions

This section places restrictions on the issue of a prosecutorial fine. It prevents further action being taken against an alleged offender for the alleged offence within 21 days of the issue of a notice of offer. If the prosecutorial fine is paid before the end of the suspended enforcement period no proceedings may be brought for the offence.

Payment of prosecutorial fine

Section 21: Payment of prosecutorial fine

This section sets out the detailed arrangements for the payment of a prosecutorial fine.

Sums paid by way of a prosecutorial fine for an offence are treated as if they were fines imposed on summary conviction of that offence to allow the use of existing court fine recovery and compensation payment mechanisms.

Non-payment of prosecutorial fine

Section 22: Failure to pay prosecutorial fine

This section details the process to be undertaken if a prosecutorial fine is unpaid when the 28 day period allowed for payment has elapsed. In this case the fine is increased by 50% and the total amount is pursued as a court fine. Only the fine and offender levy elements are increased, the compensation element (if any) is not.

Section 23: Registration certificates

This section requires a prosecutor to raise a certificate of registration to allow a defaulted fine to be pursued by a fines clerk.

Section 24: Registration of sum payable in default

This section allows enforcement of the defaulted fine through existing court mechanisms.

Section 25: Challenge to notice of registration

This section allows an alleged offender to challenge the issue of a prosecutorial fine on the basis of mistaken identity.

Section 26: Setting aside of sum enforceable under section 24

This section allows a court to set aside the sum imposed by a prosecutorial fine and declare the disposal void.

Interpretation

Section 27: Interpretation of this Part

This section defines the terms used in the legislation pertaining to prosecutorial fines.