
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation certain provisions of the Justice Act (Northern Ireland) 2011 (c.24) (“the Act”).

The provisions of the Act set out in Article 2 come into operation on 6th June 2012.

Some provisions in Chapter 1 of Part 1 (the offender levy) of the Act come into operation to allow for an offender levy to be imposed by the court in certain cases and attached to certain penalties.

The provisions brought into operation by this Order allow for an offender levy to be imposed by a court where it deals with an offender for one or more sentences which is or includes an immediate custodial sentence specified in section 1(1)(a) – (d) or a fine (section 1(1)(f)). The provisions to allow for an offender levy to be imposed by a court where it deals with an offender for one or more sentence which is or includes a community order (within the meaning of section 1(1)(e)) or a suspended sentence (section 1(6)) are not brought into operation by this Order.

Sections 2, 3 and 4 are also commenced to facilitate enforcement of the offender levy imposed by a court, to allow for the levy to be deducted from prisoners’ earnings, and to allow the remittal or discharge of the levy in certain specified circumstances.

The transitory provision in Article 5 is made to ensure that until powers for courts to impose offender levies to community orders or suspended sentences are brought into operation, the levy can still be attached to a fine where a court has also imposed either a community order or a suspended sentence.

Some provisions in section 5 are commenced to allow the levy to be attached to penalties that are introduced in Chapter 1 of Part 6 of the Act, or a penalty specified by Order made by the Department of Justice. The provisions in section 5 which would enable the levy to be attached to road traffic fixed penalties (section 5(1)(a)) are not brought into operation by this Order (nor are the related provisions in section 5(5) and (6)).

Provisions in section 6 (except section 6(1)(c)) come into operation to set the amount of the levy.

The provisions in Chapter 1 of Part 6 (penalty notices) and Schedule 4 (penalty offences and penalties) also come into operation on 6th June 2012 to create a new diversionary disposal in the form of new penalty notices for first-time or non-habitual offenders committing prescribed offences. This enables police to deal effectively with minor offences without the need for the alleged offender to go to court.

Section 59 and Schedule 4 set out the offences which can attract a penalty notice and the amount payable in relation to that offence. Offences which attract a £40 penalty are indecent behaviour, and being drunk in a public place. Offences with an £80 penalty are theft (for first-time shoplifting offences only), criminal damage, disorderly behaviour in any public place, behaviour likely to cause a breach of the peace in a public place, and resisting, obstructing or impeding a constable in the execution of his duty.

Sections 60 to 70 define the penalty notice, dictate the form that the penalty notice must take, describe the effect of the penalty notice and what happens if the penalty is not paid, set out the restrictions on prosecutions, allow for guidance to be issued in respect of penalty notices, set out the procedures for payment of a penalty, detail the enforcement arrangements that will be activated if a penalty is not paid, and the appeals mechanism to be followed if an individual wishes to challenge enforcement.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The provisions of the Act set out in Article 3 come into operation on 11th June 2012.

Section 91 provides the magistrates' courts with the power to grant defendants bail on compassionate grounds. Previously only the High Court or Crown Court had the power to do so. Sections 83(1) and (3) are also brought into operation to provide that, where a person has been granted a criminal aid certificate for proceedings in the Crown Court, that certificate will also cover work in respect of applying to a magistrates' court for compassionate bail under section 91 of the Act.

Section 90(2) of the Act is brought into operation on 1st September 2012. Section 90(2) is an enabling power set out in Part 8 of the Act (solicitors' rights of audience), which gives the Department the power to make consequential amendments to specified legislation by way of negative resolution Order. Such an Order will enable amendments to be made to the legislation listed in section 90(2) in consequence of, or for giving full effect to, the provisions of Part 8 of the Act.