
EXPLANATORY NOTE

(This note is not part of the Order)

Section 161A(1) of the Criminal Justice Act 2003 (“the 2003 Act”) requires a court, when dealing with a person for one or more offences, to order the person to pay a surcharge. This Order prescribes, in accordance with section 161A(2) of the 2003 Act, those cases where a court is not required to order a surcharge. In accordance with Article 2 a surcharge will not be payable in cases where the offender is dealt with by way of a disposal which is not described in the Schedule to this Order.

This Order also prescribes, in accordance with section 161B(1) of the 2003 Act, the amount of the surcharge where one is payable. Articles 3 to 6 set out further detail on the amount payable as follows.

Article 3 provides for the surcharge payable in relation to offences committed by individuals under 18. Where a court imposes only one of the disposals described in column 1 of table 1 in relation to one or more offences committed by an individual who was under 18 when the offence was committed, the surcharge payable is the amount specified in the corresponding entry in column 2. Where a court imposes more than one disposal described in column 1, the surcharge amount, where the corresponding amounts specified in column 2 are the same, is that amount; where the corresponding amounts are not the same, the surcharge amount is the highest of those amounts.

Article 4 makes similar provision to that in Article 3 but in respect of offences committed by individuals who were 18 or over at the time the offence was committed. In such cases, the surcharge amount is to be determined by reference to table 2.

Article 5 provides for the surcharge payable when a court deals with an individual in relation to more than one offence, at least one of which was committed when the individual was under 18, and at least one of which was committed when the individual was 18 or over. In such a case, the amount of the surcharge is to be determined by reference to table 1: where a court imposes only one of the disposals described in column 1 of table 1, the surcharge payable is the amount specified in the corresponding entry in column 2. Where a court imposes more than one disposal described in column 1, the surcharge amount, where the corresponding amounts specified in column 2 are the same, is that amount; where the corresponding amounts are not the same, the surcharge amount is the highest of those amounts.

Article 6 provides for the surcharge payable when a court deals with a person who is not an individual (for example a legal person) in relation to one or more offences. The surcharge payable by such a person is determined by reference to table 3 in the Schedule. Where a court imposes only one of the disposals described in column 1 of that table, the surcharge payable is the amount specified in the corresponding entry in column 2; when the court imposes both of the disposals, the surcharge payable is the highest of those amounts.

Article 7 of the Order revokes the Criminal Justice Act 2003 (Surcharge) (No. 2) Order 2007 ([S.I. 2007/1079](#)) (“the 2007 Order”). However the 2007 Order continues to apply where a court deals with a person in relation to any offence committed before the coming into force of this Order on 1st October 2012.