

2007

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

VICTIMS OF CRIME AMENDMENT BILL 2007

EXPLANATORY STATEMENT

Circulated by authority of
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Victims of Crime Amendment Bill 2007

Outline

This Bill introduces a \$10 levy on all offences, except parking offences, where a court fine is imposed. The revenue raised via this levy will fund enhanced services for victims of crime in the ACT.

In addition to imposing a levy on court fines, the Department of Territory and Municipal Services' (TAMS) Road Traffic Authority will also increase all traffic infringement penalties by \$10.

The implementation of the \$10 infringement penalty increase does not require new amending legislation as the infringement notice regime is under executive control. To introduce the \$10 penalty increase, TAMS will amend the *Road Transport (Offences) Regulation 2005* to increase all traffic infringement notices by \$10, and hypothecate \$10 for each penalty paid to victims' services. The \$10 infringement penalty increase will not apply to parking offences.

The money raised from the levy and the infringement penalty increase is to provide an ongoing funding source to enhance services for victims of crime, and will be used specifically for this purpose.

The money collected will ensure a better integration and access to services, information and support for victims of crime involved in the criminal justice process.

These funds are separate from any compensation which an offender is ordered to pay by the Courts under the *Victims of Crime (Financial Assistance) Act 1983*.

This Bill is informed by human rights' principles as they stand at the time of the Bill's introduction to the Assembly.

A flat \$10 on court-imposed fines and on traffic infringement notices is considered an affordable option. Nonetheless, if there are hardship cases, there are mechanisms in place to alleviate such circumstances in the Bill and in the *Road Transport (General) Act 1999*.

The levy will not apply to young people aged between 12-17. The Bill provides that the \$10 levy will apply in the Magistrates Court and the Supreme Court, but will not be imposed in the Children's Court.

Clause 1 – Name of Act

This is a technical clause that names the short title of the Act. The name of the Act would be the *Victims of Crime Amendment Act 2007*.

Clause 2 – Commencement

The Act will commence on the day after it is notified.

Clause 3 – Legislation Amended

This clause provides that this Act amends the *Victims of Crime Act 1994*. Consequential amendments are also made to the *Crimes (Sentencing) Act 2005*, the *Magistrates Court Act 1930*, and the *Victims of Crime Regulation 2000* are provided in Schedule 1, Parts 1.1 and 1.2 of the Bill.

Clause 4 – Part 5 – Victims Services Levy

This clause substitutes Part 5 of the *Victims of Crime Act 1994* with the following new provisions relating to the victims services levy.

Section 23 Meaning of offence – pt 5

In this part, *offence* means an offence dealt with by the Supreme Court or the Magistrates Court in which a fine is imposed. It does not apply to parking offences. Clauses 1.5 and 1.6 of the Bill amends the *Victims of Crime Regulation 2000* prescribing the excluded offences.

The levy does not apply to offences dealt with by the Children’s Court, and does not apply to children aged between 12-17.

Section 24 Imposition of victims services levy

Sub-section 24(1) imposes a levy in order to provide a source of revenue to improve services for victims of crime.

Sub-section 24(2) provides that an adult who is convicted of an offence and ordered by a court to pay a fine in relation to the offence, is liable to pay the Territory a \$10 victims’ services levy.

Sub-section 24(3) stipulates that the victims’ services levy is an additional payment and does not form part of the court fine.

The levy is recoverable under Part 3.9 of the *Magistrates Court Act 1930*. Section 154D of the *Magistrates Court Act 1930* relating to imprisonment for fine defaulters does not apply to recovering the victims’ services levy. Any unpaid victims’ services levy in the Supreme Court would be referred to the Magistrates Court for recovery.

Section 25 Notice of levy

Sub-section 25(1) provides that the amount of the victims' services levy payable by a person must be stated on the fine order or on any notice or copy of the fine order given to the person.

Sub-section 25(2) defines 'fine order' as provided in section 14(2) of the *Crimes (Sentencing) Act 2005* in defining 'fine order'.

Section 26 Levy not to be reduced

Sub-section 26(1) provides that a court must not reduce the victims' services levy payable by a person or exonerate a person from liability to pay the levy.

Sub-section 26(2) provides the court may exonerate the person from paying the levy if the court is satisfied that paying the levy is likely to cause undue hardship.

Section 27 Effect of appeal etc

Sub-section 27(1) provides that the commencement of any proceeding to appeal against, or for review of, a conviction for an offence for which a victims' services levy is imposed on a person stays the person's liability to pay the levy.

Sub-section 27(2) provides that setting aside the conviction annuls the person's liability to pay the victims services levy.

Sub-section 27(3) provides that the dismissal of the appeal or review removes the stay of liability.

Part 6 Miscellaneous

Section 28 Regulation-making power

This section provides that the Executive may make regulations for this Act.

Clause 5 Dictionary, note 2, new dot points

This clause inserts 'Magistrates Court' and 'Supreme Court' to the *Victims of Crime Act 1994* to dictionary's note 2.

Clause 6 Dictionary, definition of offence

This clause substitutes the definition of *offence* in the *Victims of Crime Act 1994* dictionary to define offence for the Act generally – means an offence against a law in force in the ACT; and for Part 5 (Victims services levy) – see section 23.

Clause 7 Dictionary, new definition of *victims services levy*

This clause inserts a new definition of *victims services levy*.

Schedule 1 Consequential Amendments

Clause 1.1 Section 14(5), note

This clause inserts a new note to Part 1.1 of the *Crimes (Sentencing) Act 2005* stipulating that the amount of the victims' services levy payable by a person is stated on a fine order or copy of the fine order given to the person.

Clause 1.2 Section 141(2), new note

This clause inserts a new note to Part 1.2 of the *Magistrates Court Act 1930* stipulating that the amount of the victims' services levy payable by a person is stated on a fine order or copy of the fine order given to the person.

Clause 1.3 Section 146, definition of *fine*, new par (da)

This clause inserts an extended definition of fine in the *Magistrates Court Act 1930* to include a victims' services levy imposed under the *Victims of Crime Act 1994*.

Clause 1.4 Section 154D(4)

This clause substitutes section 154D(4) of the *Magistrates Court Act 1930* with a new section providing that this section does not apply to a person if the person's liability to pay the fine is derived from the imposition of a victims services levy under the *Victims of Crime Act 1994*; or the imposition of a levy under the *Victims of Crime (Financial Assistance) Act 1983*; or from a reparation order under the *Crimes (Sentencing) Act 2005*.

Clause 1.5 New Section 49A

This clause inserts a new section 49A in the *Victims of Crime Regulation 2000*, which prescribes the offences to which the victims' services levy does not apply.

Clause 1.6 New schedule 1

This clause inserts a new schedule 1 to the *Victims of Crime Regulation 2000*, describing the offences to which the victims' services levy does not apply. Excluded offences are parking offences as described in schedule 1, Part 1.1, Part 1.2 and Part 1.3 in the Bill.