

CLAUSE NOTES

Costs of Criminal Convictions Bill 2015

- Clause 1: **Short title**
- Specifies the name of the proposed Act.
- Clause 2: **Commencement**
- Provides that the Act will commence on proclamation.
- Clause 3: **Purpose of Act**
- States that the Act intends to recover some of the general costs of law enforcement and administration from persons sentenced for offences in Tasmanian criminal courts.
- Clause 4: **Interpretation**
- Provides definitions of:
- ‘court’ to have the same meaning as in the *Sentencing Act 1997*;
- ‘offender’ to mean a person who is convicted of an offence whether or not a conviction is recorded in respect of the offence;
- ‘offender levy’ to mean a levy payable under the Act; and
- ‘sentence’ to mean any penalty or imprisonment ordered to be paid or served, or any other order made, by a court after an offender is convicted for an offence, whether or not a conviction is recorded in respect of the offence.
- Clause 5: **Levy payable to recover costs**
- (1) Provides that an offender is liable to pay a levy to the Crown when sentenced for an offence.
- (2) States that an offender is not liable to pay a levy to the Crown if:
- a. the offender is being sentenced for the offence by the Magistrates Court (Youth Justice Division); or
 - b. the offence was committed by the offender before the offender reached the age of 18 years; or

- c. proceedings for that offence were commenced prior to the commencement of this Act.
- (3) Specifies that the offender levy is \$50 if the offender is sentenced for the offence by a court of petty sessions, or \$150 if the offender is sentenced for the offence by the Supreme Court.
- (4) Makes clear that the offender levy is a fixed dollar amount and is not subject to the *Fee Units Act 1997*.
- (5) Provides that where an offender is sentenced by a court for more than one offence in the same sentencing proceedings that an offender is only required to pay the offender levy once.
- (6) Provides that an offender's liability to pay an offender levy is included in the record of conviction and sentence made by the court.
- (7) Makes clear that an offender levy is in addition to any pecuniary penalty or compensation order imposed by the court.
- (8) Provides that the potential liability of an offender to pay an offender levy is not to be taken into consideration when a sentence is determined by the court.
- (9) Provides that an offender levy will be enforced as a fine under the *Monetary Penalties Enforcement Act 2005*.

Clause 6:

Payment of offender levy

- (1) Specifies that, unless a court makes an order under subsection (2), an offender levy is to be paid within 28 days following the completion of all court proceedings in respect of the offence where the offender is liable to pay the offender levy.
- (2) Provides that a court may order specifically when the offender levy is to be paid.
- (3) Provides that a court order made under subsection (2) applies from:
 - a. the date of conviction for the offence; or

- b. if the offender is sentenced to a term of imprisonment that is not wholly suspended, the date on which the offender is released.

Clause 7: Resentencing for offence where offender levy payable

Makes clear that where a court resents an offender for an offence where the offender is liable to pay an offender levy for that offence that the offender is liable to pay the offender levy for the initial sentence for the offence but not in respect of the resentence.

Clause 8: Regulations

Provides that the Governor may make regulations for the purposes of this Act.

Clause 9: Administration of Act

Provides that the administration of this Act is assigned to the Minister for Justice and the department responsible in relation to the administration of this Act is the Department of Justice.