



New South Wales

# Fines Amendment (Payment of Victims Compensation Levies) Bill 2006

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

Victims compensation levies are imposed by the *Victims Support and Rehabilitation Act 1996* (formerly called the *Victims Compensation Act 1996*) in respect of certain offences that are punishable by imprisonment. The levies are **fin**es within the meaning of the *Fines Act 1996* (**the Act**)—see section 4 (1) (d) of the Act.

The object of this Bill is to provide for the payment of victims compensation levies under the Act as if the levies were fines imposed by a court, and to provide that payment of certain levies that are payable by persons who are in prison may be enforced by means of the attachment of the person's prison earnings.

Compensation levies are imposed regardless of whether the person convicted is actually sentenced to a term of imprisonment for the relevant offence. Only levies imposed in respect of a conviction that gave rise to a term of imprisonment by way of full-time detention may be enforced by means of the attachment of prison earnings.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the *Fines Act 1996* set out in Schedule 1.

## **Schedule 1 Amendments**

**Schedule 1 [1]** inserts a definition of *compensation levy* in section 3 (Definitions) for the purposes of the Act. At present, that term is used only in section 4 (1) (d) of the Act and is explained there. **Schedule 1 [2]** makes a consequential amendment to that paragraph.

**Schedule 1 [3]** inserts proposed subsection (2A) in section 4 of the Act so as to provide that, for the purposes of the Act, a compensation levy is taken to be a fine imposed by the court by which the person liable to pay the levy was convicted.

**Schedule 1 [4]** inserts proposed section 18 (Special provision relating to certain compensation levies) in the Act.

Proposed section 18 (1) specifies the compensation levies to which the proposed section applies—that is, levies payable by persons (*offenders*) who have been sentenced to a term of imprisonment by way of full-time detention as a result of the conviction that gave rise to the imposition of the levy.

However, proposed section 18 (2) provides that the section does not apply if the relevant sentence has been suspended.

Proposed section 18 (3) provides that the compensation levies to which the proposed section applies that are not paid by the due date may be enforced by deducting the amount due from the prison earnings of the offender concerned. The proposed subsection is expressed to apply despite the other provisions of Division 3 (Court fine enforcement orders) of Part 2 of the Act, which provides otherwise for the recovery of fines imposed by a court that are not paid by the due date.

Proposed section 18 (4) provides that the Commissioner of Corrective Services or the governor of the correctional centre in which the offender is imprisoned may deduct the amount of the compensation levy due from the offender from his or her prison earnings.

Proposed section 18 (5) provides that money may be deducted from prison earnings in accordance with the proposed section despite the provisions of any other Act or law.

Proposed section 18 (6) provides that any unpaid amount of a compensation levy remaining when the offender is discharged from the correctional centre (or released on parole) is taken to have been satisfied.

Proposed section 18 (7) makes it clear that proposed subsection (6) applies in the case of an offender who is released on parole even if the parole is subsequently revoked.

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Proposed section 18 (8) defines *prison earnings* for the purposes of the proposed section.

**Schedule 1 [5]** amends clause 1 (1) of Schedule 3 (Savings, transitional and other provisions) to the Act so as to enable the making of savings and transitional regulations in consequence of the enactment of the proposed Act.

**Schedule 1 [6]** validates enforcement of a compensation levy by means of an action that would have been valid had the proposed amendments to the Act been in force at the time the action was taken.

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First print



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New South Wales

# **Fines Amendment (Payment of Victims Compensation Levies) Bill 2006**

No. , 2006

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## **A Bill for**

An Act to amend the *Fines Act 1996* in relation to the payment of victims compensation levies; to validate certain enforcement actions; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Fines Amendment (Payment of Victims Compensation Levies) Act 2006</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent.	6
<b>3 Amendment of Fines Act 1996 No 99</b>	7
The <i>Fines Act 1996</i> is amended as set out in Schedule 1.	8



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<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 3 Definitions</b>	3
	Insert in alphabetical order in section 3 (1):	4
	<i>compensation levy</i> means a compensation levy payable under Part 5 of the <i>Victims Support and Rehabilitation Act 1996</i> .	5 6
<b>[2]</b>	<b>Section 4 Meaning of “fine”</b>	7
	Omit “payable under Part 5 of the <i>Victims Compensation Act 1996</i> ” from section 4 (1) (d).	8 9
<b>[3]</b>	<b>Section 4 (2A)</b>	10
	Insert after section 4 (2):	11
	(2A) For the purposes of this Act, a compensation levy is taken to be a fine imposed by the court by which the person liable to pay the levy was convicted.	12 13 14
<b>[4]</b>	<b>Section 18</b>	15
	Insert after section 17:	16
	<b>18 Special provision relating to certain compensation levies</b>	17
	(1) This section applies to a compensation levy if the person liable to pay the levy ( <i>the offender</i> ) has been sentenced to a term of imprisonment by way of full-time detention in respect of the conviction that gave rise to the imposition of the levy (whether or not the sentence is consecutive with another sentence or concurrent with another sentence or partly consecutive and partly concurrent).	18 19 20 21 22 23 24
	(2) However, this section does not apply if the relevant sentence has been suspended.	25 26
	(3) Despite the other provisions of this Division, a compensation levy to which this section applies that is not paid by the due date may be enforced by deducting the amount due from the offender’s prison earnings.	27 28 29 30
	(4) The appropriate deduction is to be made by the Commissioner of Corrective Services or the governor of the correctional centre in which the offender is imprisoned.	31 32 33
	(5) Money may be deducted from prison earnings in accordance with this section despite the provisions of any other Act or law.	34 35

Schedule 1 Amendments

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(6)	Any amount of a compensation levy to which this section applies that remains unpaid when the offender is discharged from the correctional centre, or released on parole, is taken to have been satisfied.	1 2 3 4
(7)	Subsection (6) applies even if the offender's parole is subsequently revoked.	5 6
(8)	In this section, a reference to an offender's <i>prison earnings</i> is a reference to the payments (if any) to be made to the offender under section 7 of the <i>Crimes (Administration of Sentences) Act 1999</i> .	7 8 9 10
<b>[5]</b>	<b>Schedule 3 Savings, transitional and other provisions</b>	11
	Insert at the end of clause 1 (1):	12
	<i>Fines Amendment (Payment of Victims Compensation Levies) Act 2006</i>	13 14
<b>[6]</b>	<b>Schedule 3</b>	15
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	16
<b>Part</b>	<b>Provisions consequent on enactment of Fines Amendment (Payment of Victims Compensation Levies) Act 2006</b>	17 18 19
	<b>Validation of enforcement of certain fines</b>	20
	A compensation levy enforced, before the amendment of this Act by the <i>Fines Amendment (Payment of Victims Compensation Levies) Act 2006</i> , by means of an action that would have been authorised by this Act if this Act as so amended had been in force when the levy was enforced, is taken to have been validly enforced.	21 22 23 24 25 26