

1990 - No. 568

VICTIMS COMPENSATION ACT 1987 - REGULATION

(Relating to the payment and enforcement of compensation levies)

NEW SOUTH WALES



[Published in Gazette No. 106 of 24 August 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Victims Compensation Act 1987, has been pleased to make the Regulation set forth hereunder.

JOHN DOWD
Attorney General

Commencement

1. This Regulation commences on 1 September 1990.

Amendments

2. The Victims Compensation Regulation 1988 is amended:
 - (a) by inserting in clause 2 (1), in alphabetical order, the following definitions:

"appropriate court officer", in relation to a person who is liable to pay a compensation levy in respect of an offence, means:

 - (a) in the case of an offence dealt with by the Supreme Court - the Prothonotary of the Supreme Court; or,
 - (b) in the case of an offence dealt with by the District Court - a Registrar or Assistant Registrar of the District Court; or

- (c) in the case of an offence dealt with by a Local Court - the Clerk of the Local Court by which the offence was dealt with; or
- (d) in the case of an offence dealt with by the Children's Court - a Registrar of the Children's Court;

"Director-General" means the Director-General of the Department of Corrective Services;

"imprisonment" includes penal servitude, but does not include imprisonment that is being served by way of periodic detention;

- (b) by inserting after clause 9 the following clauses:

Notice of liability

10. The appropriate court officer must cause notice to be served on a person who becomes liable to pay a compensation levy:

- (a) of the fact that the person is liable to pay the levy, and
- (b) of the amount of the levy, and
- (c) of the court at which, and the time within which, the levy must be paid.

Payment and enforcement of compensation levies generally

11. (1) A compensation levy for which a person is liable in respect of an offence (other than an offence for which the person has been sentenced to imprisonment) must be paid to the appropriate court officer:

- (a) within 21 days after:
 - (i) the date on which the person was sentenced, or on which an order under section 33 (1) (b)-(g) of the Children (Criminal Proceedings) Act 1987 was made in respect of the person, in connection with the offence; or
 - (ii) the date on which an order under section 556A or 558 of the Crimes Act 1900 was made in respect of the person in connection with the offence, whichever is earlier; or
- (b) within such further time as the appropriate court officer (or such justice employed within the administration of

the court as may be authorised in that regard by the appropriate court officer) may allow.

(2) A compensation levy is to be enforced against a person in respect of an offence (other than an offence for which the person has been sentenced to imprisonment) in the same way as a fine imposed by a justice may be enforced under the Justices Act 1902.

Payment and enforcement of compensation levies in respect of certain prisoners

12. (1) A compensation levy for which a person is liable in respect of an offence (being an offence for which the person has been sentenced to imprisonment) must be paid to the appropriate court officer on the day on which the person is sentenced and, in any case, before notice is sent to the Director-General under subclause (2).

(2) The appropriate court officer must, in the case of a person who is sentenced to imprisonment for an offence for which a compensation levy is payable, cause a notice to be sent to the Director-General:

- (a) of the fact that the person is liable to pay a levy in respect of the offence; and
- (b) of the amount of the levy that remains unpaid.

(3) The requirements of subclause (2) are to be taken to have been satisfied if the notice is sent to the governor of the prison to which the person is committed for imprisonment.

(4) The Director-General is to enforce a compensation levy against a person who is serving a sentence of imprisonment in respect of the offence for which the levy is payable by deducting from the person's prison earnings, for payment into the Compensation Fund, such amount as is necessary to pay the levy.

(5) The liability of a person who is discharged from prison after having served a sentence of imprisonment in respect of an offence for which a compensation levy is payable is, in respect of any part of the levy that remains unpaid as at the date of his or her discharge, to be taken to have been satisfied by the sentence of imprisonment as if the imprisonment had been

served pursuant to a warrant of commitment issued under the Justices Act 1902 in respect of the unpaid amount of the levy.

EXPLANATORY NOTE

The object of this Regulation is to amend the Victims Compensation Regulation 1988 so as to make provision for the payment and enforcement of compensation levies under Part 6A of the Victims Compensation Act 1987. A person who becomes liable to pay such a levy will receive notice of that fact and (unless he or she is to serve a term of imprisonment in respect of the offence for which the levy is payable) will be given at least 21 days within which to pay the levy, failing which he or she will be imprisoned for non-payment in the same way as a fine defaulter can be imprisoned. If the person is to serve a term of imprisonment in respect of the offence, the levy will be paid from his or her prison earnings if it has not previously been paid. The term of imprisonment will "cut out" any amount of the levy that remains unpaid at the end of that term, so ensuring that the person's liability to pay the levy is fully satisfied when he or she is discharged from prison.
