



# NSW Legislative Council Hansard (Proof)

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

Extract from NSW Legislative Council Hansard and Papers Wednesday 29 March 2006 (Proof).

### Second Reading

**The Hon. HENRY TSANG** (Parliamentary Secretary [5.33 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

This Bill amends the *Fines Act 1996* to:

- authorise and validate the collection of compensation levies from inmates' prison earnings; and
- put the enforcement of compensation levies under the *Fines Act 1996* beyond doubt.

The *Victims Support and Rehabilitation Act 1996* requires everyone convicted of an offence punishable by imprisonment to pay a compensation levy. The levy is \$70 when the person is convicted on indictment, and \$30 otherwise. The Act also provides for that money to be paid into the Victims Compensation Fund, from which compensation under the Act is paid to the victims of acts of violence.

The purpose of the compensation levy is to force those persons committing criminal offences to make a personal contribution to the compensation of victims of crime. The levy is additional to the restitution that an offender is required to pay when one of their victims receives compensation under the *Victims Support and Rehabilitation Act 1996*.

#### *Enforcement of compensation levies from prison earnings*

Regulation 7 of the *Victims Compensation Regulation 1997* previously authorised the deduction of compensation levies from the prison earnings of inmates.

The specific section (section 80) in the *Victims Compensation Act 1996* that permitted such a Regulation to be made was repealed when the *Fines Act 1996* commenced and a compensation levy was included in the definition of a 'fine.'

The effect the repeal of section 80 of the *Victims Compensation Act 1996* appears to have been that Regulation 7 of the *Victims Compensation Regulation 1997* was impliedly repealed, but this was not recognised at the time.

The entire *Victims Compensation Regulation 1997* later lapsed under the *Subordinate Legislation Act 1989*.

Compensation levies, however, continued to be deducted from inmates' prison earnings in accordance with established procedures.

This Bill inserts section 18 into the *Fines Act 1996*. This is similar to Regulation 7 of the *Victims Compensation Regulation 1997* and will ensure that compensation levies can continue to be deducted from inmates' prison earnings.

#### *Enforcement of compensation levies under the Fines Act*

Compensation levies are defined as 'fines' for the purposes of the *Fines Act 1996* and the Act allows the State Debt Recovery Office to enforce fines imposed by courts.

The State Debt Recovery Office enforces compensation levies against offenders who are not imprisoned and this money is paid into the Victims Compensation Fund.

It has been suggested that a compensation levy payable under the *Victims Support and Rehabilitation Act 1996* might be construed as not being 'imposed by a court.'

The Bill inserts a new subsection 4(2A) in the *Fines Act 1996* to provide that a compensation levy is taken to be

a fine imposed by a court. This will put the enforcement of compensation levies under the *Fines Act 1996* beyond any doubt.

*Validating Past Collection—Schedule 3*

Schedule 3 of the Bill validates the past collection of compensation levies provided they could have been collected if the provisions of the Bill were in force.

This is consistent with the purpose of the levy—requiring those persons committing criminal offences to make a personal contribution to the compensation of victims of crime.

It is both in the public interest, and in the interest of victims, that this Bill be passed to validate the past collection of compensation levies from inmates' prison earnings, and under the *Fines Act 1996*.

I commend the Bill to the House.