



## Sentencing

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## Introduction

In Queensland, the *Criminal Code Act 1899* (Qld) (Criminal Code) and other legislation set out the punishments that can be imposed for particular offences, while the *Penalties and Sentences Act 1992* (Qld) (Penalties and Sentences Act) outlines sentencing guidelines and a wide range of sentencing options for judges and magistrates that must be adhered to when sentencing adult offenders. The guidelines make it clear that the only purpose for which sentences may be imposed are to administer just punishment, facilitate rehabilitation, ensure deterrence and denunciation, and to protect the community.

The *Youth Justice Act 1992* (Qld) provides sentencing guidelines and options for the sentencing of juvenile offenders (offenders younger than 18 years of age).

Commonwealth offences are dealt with under the *Crimes Act 1914* (Cth) and other Commonwealth legislation.

The *Corrective Services Act 2006* (Qld) (Corrective Services Act) contains some rules in relation to parole eligibility for people sentenced to longer periods of imprisonment for violent and sexual offences.

This chapter will only discuss the current sentencing options available to the courts under the Penalties and Sentences Act, under which the majority of sentences are imposed.

## General Considerations when Sentencing an Offender

The Penalties and Sentences Act also lists factors which the court must consider when deciding on an appropriate sentence, including (s 9):

- the maximum penalty prescribed for that offence
- the nature and seriousness of the harm done
- the previous convictions of the offender
- the offender's age, character and intellectual capacity
- the prevalence of the offence
- any other relevant circumstances.

If the offence involved violence, the sentencing court will carefully consider the risk of physical harm to any members of the community if a custodial sentence were not imposed, and may be more likely to consider a prison term (s 9(3) Penalties and Sentences Act). In sentencing an offender for an offence of a sexual nature committed in relation to a child under 16 years, the court must order that the offender serve a term of imprisonment, unless there are exceptional circumstances (s 9(4) Penalties and Sentences Act).

The Penalties and Sentences Act requires the sentencing court to treat each previous conviction as an aggravating factor if it is reasonable to do so (s 9(10)). Whether it is reasonable to do so may depend upon how much time has elapsed between each conviction and whether similar offences were

involved. However, this should not result in a sentence that is disproportionate to the seriousness of the current offence.

Section 9(10A) of the Penalties and Sentences Act also requires the courts to treat the fact that the offence is a domestic violence offence as an aggravating factor when determining the appropriate sentence for the offender, unless exceptional circumstances of the case exist.

The age of the offender is a relevant consideration for the court to take into account in sentencing. Youthful offenders will often be given sentences that allow them the opportunity for rehabilitation (see *R v Lovell* [1999] 2 Qd R 79). In some cases, the court may consider that an elderly person (perhaps with disabilities) would suffer more from a prison sentence, and this may affect the length of any prison term imposed.

The courts must also take into account whether the offender has pleaded guilty (s 13 Penalties and Sentences Act) or has cooperated with law enforcement agencies (s 13A Penalties and Sentences Act). Additionally, the court, if it convicts an offender of a personal offence (i.e. an offence committed against a person), may also make a non-contact order that the offender not contact the victim or an associate, or that the offender not go to a stated place for a stated period of time (pt 3A Penalties and Sentences Act).

## Serious Violent Offences

Offenders can be declared convicted of a serious violent offence under pt 9A of the Penalties and Sentences Act. This declaration is automatic where the offender has been sentenced to 10 years imprisonment or more for an offence listed in sch 1 of the Penalties and Sentences Act.

Offences in sch 1 include a wide range of violent and sex offences and also include bomb hoaxes, escaping from lawful custody, riot and dangerous operation of a vehicle. The sentencing court has the discretion to make a declaration when sentencing offenders to between five and ten years of imprisonment. The court can also make that declaration where an offender is sentenced to imprisonment, and the offence has involved serious violence against another person or the offence resulted in serious harm to another person.

In cases where the court has made such a declaration, the offender's parole eligibility date is the lesser of 80% of the term of imprisonment or 15 years (or later if fixed by the court). The court may also fix a parole eligibility date in this instance, but it cannot be earlier than 80% of the term of imprisonment.

## Multiple Offences

Offenders convicted of more than one offence are sentenced separately for each offence. The court may order that the sentences be served at the same time (concurrent sentences) or after the first sentence has been served (cumulative sentences). Most sentences are ordered to be served concurrently (s 155 Penalties and Sentences Act). This means that the length of time to be served would be equal to the length of the longest of the sentences imposed. Cumulative sentences must be ordered when the offender has committed an offence listed in sch 1 of the Penalties and Sentences Act of serious violent offences, and that offence was committed while serving a term of imprisonment, on

parole, on leave of absence from prison or at large after escaping from custody (s 156A Penalties and Sentences Act).

## Imprisonment

The Criminal Code and other Queensland legislation set out maximum periods of imprisonment that may be imposed upon people convicted of particular criminal offences. However, lesser periods of imprisonment may be imposed by the courts (unless the defendant is convicted of murder, when life imprisonment is mandatory). It is rare for a person to be given a maximum sentence, as these are generally reserved for the very worst type of offences.

A court must record a conviction if imprisonment is imposed (s 152 Penalties and Sentences Act).

A court sentencing an offender to a term of imprisonment of three years or less is required to fix a parole release date, which is the date when the offender will be released from custody (s 160B Penalties and Sentences Act). The balance of the period of imprisonment will be served in the community under supervision as parole. This does not apply if the offender is being sentenced for a sexual offence or serious violent offence.

Where the offender is sentenced to a term of imprisonment of more than three years for a sexual offence or serious violent offence, the court may fix the date the offender is eligible to apply for parole (s 160C Penalties and Sentences Act). This is a date on which the offender will be able to apply for parole, but whether the application is successful will be determined by the Parole Board. In the case of a serious violent offence, s 182 of the Corrective Services Act provides that the parole eligibility date cannot be earlier than 80% of the term of imprisonment. If granted parole, the balance of the term of imprisonment is served in the community under supervision.

## Life imprisonment

The period that is actually served when a person is sentenced to life imprisonment is determined by the Parole Board, which has the power to approve or reject applications for parole. Section 181 of the Corrective Services Act provides that prisoners sentenced to life imprisonment must serve at least 15 years of their term of imprisonment (20, 25 or 30 years for certain murder cases) before being eligible to apply for parole. Whether or not they are released is a decision for the Parole Board, not the courts.

## Parole

When a prisoner is granted early release from prison, they are allowed to serve the remainder of their sentence of imprisonment on parole in the community under supervision. For further information on parole see the chapter on *Prisons and Prisoners*.

## Other Sentences

### Indefinite sentences

An offender who is a serious danger to the community as defined in the Penalties and Sentences Act, and who has been convicted of a violent offence can be given an indefinite sentence (pt 10). This means that no definite term of imprisonment is specified and that the prisoner can only be released by court order as a result of a periodic review of the prisoner's circumstances. A violent offence is

defined to mean an indictable offence that involves the use or attempted use of violence against a person and for which the offender may be sentenced to life imprisonment (e.g. murder, manslaughter, rape and armed robbery).

An indefinite sentence can only be imposed if the court is satisfied that the offender is a serious danger to the community because of the offender's character, age, health, mental condition, the severity of the violent offence and any special circumstances.

In imposing an indefinite sentence, the court must state in its order the term of imprisonment that it would have imposed had it not imposed an indefinite sentence. This nominal sentence is relevant to reviews of the indefinite sentence and any future discharge of the order (s 171 Penalties and Sentences Act). For murder offences, the nominal offence will be 20 to 30 years, depending on the circumstances of the murder(s).

## Suspended sentences

A suspended sentence of imprisonment is imposed when a court sentences an offender to a term of imprisonment and then suspends the whole or part of the sentence. This means that the offender serves either no actual imprisonment or only part of the term of imprisonment.

Sentences of imprisonment for five years or less may be suspended (s 144 Penalties and Sentences Act). In imposing such a sentence, the court must set a period of five years or less (the operational period) during which the offender must not commit another offence. If the offender commits another offence punishable by imprisonment during the operational period, the court must order the offender to serve the whole of the suspended period of imprisonment unless the court is of the opinion that it would be unjust to do so, taking into account certain considerations (e.g. whether the subsequent offence was of a trivial nature, but also the seriousness of the original offence) (s 147 Penalties and Sentences Act). If the court does not order that the offender serve the whole of the suspended period, it may order that part of that period be served, or (in certain circumstances) extend the operational period.

Parole does not apply to suspended sentences unless the whole sentence is later activated through the commission of a further offence within the operational period. Once the prisoner is required to serve the relevant sentence, the same general rules as to eligibility for parole apply to the sentence.

A court must record a conviction if an order of suspended imprisonment is made (s 143 Penalties and Sentences Act).

## Fines

A court may impose a fine when it finds a person guilty of an offence, whether or not it records a conviction (s 44 Penalties and Sentences Act). It may impose a fine in addition to, or instead of, any other sentence (e.g. in addition to imprisonment). The legislation under which the offender is convicted will usually specify the maximum fine to which they are liable.

Fines are expressed in penalty units. The value of a penalty unit can change, but currently one penalty unit is equivalent to \$130.55 (reg 3 *Penalties and Sentences Regulation 2015* (Qld)).

In determining the amount of the fine and how it is paid, the court must, as far as practicable, consider the financial circumstances of the offender and the burden that payment of the fine will impose on the offender (s 48 Penalties and Sentences Act). In considering the offender's financial circumstances, the court must take into account any existing order or proposed order for restitution, compensation or the confiscation of the proceeds of crime. If the court considers it would be appropriate to impose a fine and to make a restitution or compensation order, but it is obvious that the offender cannot pay both, then the court must place more importance on ordering restitution or compensation, although it may still impose a fine. In fixing the amount of the fine, the court may also consider any loss or damage to a person's property caused by the offence and the value of any benefit received by the offender.

The court will specify a period within which the fine must be paid (by instalments if necessary). It will also stipulate a term of imprisonment that the offender will face if they default in payment of the fine.

Before any order is made, the court must inform the offender of their right to verbally apply for a fine option order (s 53 Penalties and Sentences Act).

Fines are enforced under the *State Penalties Enforcement Act 1999* (Qld).

## Fine option orders

A fine option order allows a convicted person to perform unpaid community service instead of paying the fine imposed on conviction for an offence. A fine option order may be applied for immediately after a fine is imposed or within a fixed time set for payment of the fine (ss 53–55 Penalties and Sentences Act).

A court may only make a fine option order if the court is satisfied that:

- the offender is unable to pay the fine in accordance with the original order
- the offender's family would suffer economic hardship
- the offender is a suitable person to perform community service under a fine option order (s 57 Penalties and Sentences Act).

The number of community service hours required to be performed must satisfy the justice of the case. The number of hours ordered must not be more than five hours for each penalty unit or part of a penalty unit that was imposed as a fine under the original order (s 69 Penalties and Sentences Act).

The number of community service hours required to be performed under a fine option order can be reduced in whole or in part if the offender subsequently pays the fine or part of the fine that was originally imposed (s 70 Penalties and Sentences Act). The offender's program of community service to be undertaken to satisfy the fine option order will be supervised by a corrective services officer.

A fine option order is subject to similar requirements that are imposed for a community service order. If any requirement is not met, the court may extend the period in which community service is to be performed. The order may also be revoked for non-compliance, when the offender will immediately be liable to serve the period of imprisonment that was specified as the default period in the original fine order (s 74 Penalties and Sentences Act). This period of imprisonment will be reduced if the fine

has been partly paid, or the offender has performed part of the community service that was required to be performed (s 82 Penalties and Sentences Act).

## Review of fine option orders

A fine option order may be revoked if the court is satisfied that:

- the offender is not able to comply with the order because the offender's circumstances have materially altered
- the offender is no longer willing to comply with the order
- the circumstances of the offender were not accurately presented to the court when the order was originally made (s 79 Penalties and Sentences Act).

In such a case, the court may confirm or vary the original fine order, or it may revoke the original order and resentence the offender. In determining how to resentence the offender, the court must take into account the extent to which the offender had complied with the fine option order (s 80 Penalties and Sentences Act).

## Fine defaulters

If a person fails to pay a fine by the due date, enforcement action may be taken. A warrant can be issued for a person's arrest and imprisonment if they do not elect to pay the fine, pay by instalments through the State Penalties Enforcement Register (SPER), contest the fine or apply to the court for a fine option order. There are many steps SPER can take to try and recover the fine amount, including ordering a bank to transfer funds from an offender's account to SPER or ordering their employer to deduct money from a person's pay each month and transfer it to SPER. Once a warrant has been served, the only option to avoid imprisonment is to pay the full outstanding amount.

## Community-based Orders

### Probation orders

A probation order is a community-based order where the offender is under the supervision of a corrective services officer and must comply with certain conditions. A probation order can only be made if the offender agrees to comply with it, so it is important for the offender to understand all the conditions of the order before they agree (s 96 Penalties and Sentences Act). Probation orders may be combined with community service orders and are often given to young offenders who would benefit from the supervision and direction of such an order.

A probation order may allow the immediate release of the offender:

- under the supervision of a corrective services officer for a period specified in the order (which generally cannot be less than six months or more than three years). When making this type of probation order, the court has a discretion whether or not to record a conviction
- on probation after a period of imprisonment, which must not exceed 12 months. The probationary period served after the period of imprisonment must not be less than nine months or more than

three years. A conviction must be recorded if this type of order is made (s 92(1)(b) Penalties and Sentences Act).

A probation order will require the offender to:

- report to a corrective services officer at the place and within the time specified in the order
- report to and receive visits from the officer as directed by the officer
- take part in counselling and satisfactorily attend any other programs as directed by the court or the officer during the probation period
- notify the officer of any change of the offender's home address or employment within two business days after the change happens
- comply with every reasonable direction of the officer
- observe the law during the probation period
- stay in Queensland, unless the permission of a corrective services officer to leave the state is obtained (s 93 Penalties and Sentences Act).

An order may also require the offender to submit to medical, psychiatric or psychological treatment or comply with other conditions that the court thinks necessary to cause the offender to behave in a way acceptable to the community or to stop the offender from committing further offences (s 94 Penalties and Sentences Act).

## Community service orders

A community service order requires an offender to perform unpaid community service under the supervision of a corrective services officer for a number of hours, which cannot be less than 40 hours or more than 240 hours (s 107 Penalties and Sentences Act). These hours of community service must be completed within one year of the making of the order or by another date specified by the court. The order can only be made with the consent of the offender (s 106 Penalties and Sentences Act).

The order will require the offender to report to a corrective services officer within the time and at the place specified in the order. The officer will, having regard to the skills and abilities of the offender, direct the offender to perform a certain type of community service. The order will contain other requirements similar to those that appear in a probation order (see above). These orders are a particularly useful sentencing option as the offender is giving something back to the community.

When imposing a community service order, the court has discretion whether or not to record a conviction (s 100 Penalties and Sentences Act).

## Intensive correction orders

According to the Penalties and Sentences Act, an intensive correction order can only be made if the court has:

- sentenced an offender to a term of imprisonment of one year or less (s 112)
- recorded a conviction (s 111).

The effect of the order is that the offender serves their sentence of imprisonment by way of intensive correction in the community, rather than in a prison (s 113 Penalties and Sentences Act).

An intensive correction order is usually imposed as a last resort (on people who have a history of offending) before an offender is given a sentence of actual imprisonment (to be served in a prison). The offender must consent to the order (s 117 Penalties and Sentences Act). The order will require the offender to:

- report to a corrective services officer
- abstain from committing any offences during the period of the order (which will be one year or less)
- take part in counselling and attend programs as directed by the court or the officer
- perform community service
- reside at community residential facilities for periods not longer than seven days at a time as directed by the officer (s 114 Penalties and Sentences Act).

An offender may also be required to submit to medical, psychiatric or psychological treatment or comply with any other conditions that the court considers necessary to cause the offender to behave in a way that is acceptable to the community or to stop the offender from committing further offences (s 115 Penalties and Sentences Act).

The offender, subject to an intensive correction order, will not be taken to have been sentenced to a term of imprisonment for the purposes of any legislation providing for the disqualification for, or loss of, office or the forfeiture of benefits (s 113 Penalties and Sentences Act).

## **Breach of a Community-based Order**

It is an offence to breach any requirement of a community-based order. A penalty of up to 10 penalty units (currently \$1305.50) may be imposed where an offender breaches a community-based order without reasonable excuse (s 123 Penalties and Sentences Act). The court may in addition to, or instead of, this fine admonish and discharge the offender or make an order that any amount required to be paid pursuant to the order is to be paid immediately (e.g. restitution or compensation). Also, the court may resentence the offender. In resentencing, the court must take into account the extent of compliance with the order. Upon resentencing, the order will be automatically discharged (ss 125–126 Penalties and Sentences Act).

A community-based order may also be revoked or amended, and the offender may be resentenced if they are unable to, or no longer willing to, comply with the order, or if the offender's circumstances were not accurately presented to the court when the order was originally imposed (s 120 Penalties and Sentences Act).

An offender who breaches an intensive correction order may be sent to prison for the term of imprisonment that remained unexpired at the time of the breach (s 127 Penalties and Sentences Act).

## Recognizance

A recognizance (or bond) is a promise entered into and recorded before a court. An offender may promise to appear in court when called upon to do so, pay a certain amount of money, keep the peace and be of good behaviour for a specified period.

The Penalties and Sentences Act allows the imposition of recognizances for property-related offences (s 23), and general and fixed-period recognizances for other offences (ss 30–32).

### Recognizances for property-related offences

When an offender has been convicted of a property-related offence, a court may adjourn the sentencing of the offender for not more than six months and release the offender upon a recognizance. To obtain release, the offender may be required to provide a surety and must agree to reappear before the court to be sentenced at the time and place specified in the order or at an earlier time (s 24 Penalties and Sentences Act). A surety is a person who agrees to provide an amount or forfeit a sum of money or property if the offender does not attend court when required.

The offender might have to reappear at an earlier time if, for example, the court wishes to see what steps the offender has taken to restore, reinstate or provide compensation for the victim's property (s 25 Penalties and Sentences Act). If the court makes this order, it cannot record a conviction (s 22 Penalties and Sentences Act).

The recognizance terminates if the offender is called upon to appear at an earlier time or when the offender appears at the time specified in the order (s 28 Penalties and Sentences Act). In sentencing the offender, the court may have regard to the steps (if any) the offender has taken in relation to the aggrieved person's property.

If the offender fails to appear at the time specified in the order or at an earlier time, the recognizance may be forfeited and a warrant issued for the offender's arrest. Upon apprehension, the court may sentence the offender or make any other order that the court could have made and may record a conviction against the offender (s 27 Penalties and Sentences Act).

### Fixed-period recognizance

An offender convicted by a magistrate may be released on a recognizance with or without sureties, on the condition that the offender keeps the peace and is of good behaviour for a period (which must not exceed one year) fixed by the court (s 31 Penalties and Sentences Act).

If the offender is convicted on indictment (i.e. by the District Court or Supreme Court), the same type of order may be made in addition to, or instead of, any other sentence (s 30 Penalties and Sentences Act). If an order for a recognizance is made by the District or Supreme Court, the period during which the offender must keep the peace and be of good behaviour can exceed one year. An offender may be imprisoned until they enter into this type of recognizance.

### General recognizance

Any court may release an offender if the offender enters into a recognizance (with or without sureties) on the conditions that the offender must:

- appear before the court to be sentenced at a future sitting of the court or, if called on, within a period stated by the court
- keep the peace and be of good behaviour in the meantime (s 32 Penalties and Sentences Act).

A conviction may or may not be recorded if these orders are made (s 29 Penalties and Sentences Act), and a court must not deal with an offender in this way if the court is of the opinion that it is appropriate to release the offender on probation.

## **Absolute or Conditional Discharge**

If a court considers that an offence warrants no punishment or only a nominal punishment, the court may order that the offender be released absolutely (s 19 Penalties and Sentences Act). These are given quite rarely and only for the most minor offences.

Alternatively, the offender can be released on a recognizance with or without sureties for a specified amount and on the conditions that the offender be of good behaviour for a fixed period (not exceeding three years) and appear for conviction and sentence if called on at any time during the fixed period (s 19 Penalties and Sentences Act). The court may impose any additional requirements that it considers appropriate, but it cannot record a conviction (s 16 Penalties and Sentences Act).

Before making an order for discharge, the court must consider the offender's character, age, health and mental condition, the nature of the offence, the circumstances (if any) under which the offence was committed that make the offence less serious and anything else the court considers relevant to the decision to make such an order.

The court may forfeit the recognizance and issue a warrant for the offender's arrest if the offender contravenes a condition of the recognizance. The court may then resentence the offender and record a conviction (s 20 Penalties and Sentences Act).

## **Restitution, Compensation and Restoration**

In addition to any other sentence, a court may order an offender to pay restitution or compensation for property loss or destruction connected with the commission of the offence (s 35 Penalties and Sentences Act). If the offence caused any injury to any person (not just the actual victim of the offence), compensation may also be ordered.

A community-based order may contain a specific requirement that restitution or compensation is to be made. Failure to comply with this requirement will amount to a breach of that order.

In making an order for compensation or restitution, a court has the discretion to record a conviction. The court may also order that if the person fails to pay the compensation or fails to make restitution in accordance with the order, the person must be sentenced to a period of imprisonment, which cannot exceed one year if a person is convicted on indictment or six months if an offender is convicted in a Magistrates Court (ss 34–36 Penalties and Sentences Act).

Failure to comply with a restitution or compensation order can result in the offender being arrested and taken into custody. The offender may again be dealt with for the original offence. Alternatively,

the court has an ability to extend the time within which the payment is to be made (ss 38–40 Penalties and Sentences Act).

## Restoration of property

The District Court and the Supreme Court can order the restoration of property to its owner or a person who is legally entitled to its possession where a convicted offender has unlawfully obtained the property.

The owner or the person entitled to possession of the property can apply for a restoration order. Either court can also order the return of any personal property that appears to have been directly or indirectly obtained as a result of the offence (s 194 Penalties and Sentences Act).

An offender convicted in a Magistrates Court of an offence relating to property may be released with no sentence imposed if the offender pays damages (which may include that person's legal costs) to the person who is entitled to the property (s 190 Penalties and Sentences Act).

## Compensation for personal injuries

For a full discussion of compensation for crime see the chapter on Assisting Victims of Crime.

## Effect of Criminal Convictions

### Criminal records

The Queensland Police Service keeps criminal records for all offenders. These records include details of arrests, court appearances, convictions, fingerprints (when applicable) and photographs. The police, Department of Communities, Disability Services and Seniors and the Childrens Court keep records of juvenile offenders.

The information in a person's criminal history remains permanently on record, although this does not apply to a person against whom charges have been dismissed or dropped.

It is an offence for members of the police service to disclose information from criminal records other than for the purposes of the police service (s 12 *Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld) (CLRO Act) and s 10.1 *Police Service Administration Act 1990* (Qld) (PSA Act)). However, the Police Commissioner may release a criminal history to any police officer and to certain authorised government departments and public bodies (s 10.2 PSA Act).

### Legal disabilities

An offender will generally suffer legal disabilities as a result of a conviction. These disabilities are imposed by law and society, and may last throughout the offender's life. Many offenders also limit their own career ambitions and involvement in community life because they fear disclosure of their conviction.

The extent of the detriment suffered will depend upon whether the court records a conviction against the offender. The Penalties and Sentences Act gives a judge or magistrate considerable discretion in deciding whether to record a conviction, depending upon what penalty has been imposed. In making this decision, the court will consider the nature of the offence, the offender's character and age, and

the impact that the recording of a conviction would have on the offender's economic and social wellbeing or employment prospects (s 12 Penalties and Sentences Act). When the court is imposing a prison sentence, the court must record a conviction (see Imprisonment above).

A conviction that is not recorded is usually taken not to be a conviction for any purpose, except for subsequent proceedings in relation to the same or other offences, or when the court is able to make certain orders under any legislation on the basis of a conviction (s 12(3) Penalties and Sentences Act).

## Disclosure of Criminal Convictions

Generally, it is not necessary to reveal a criminal conviction in a job or licence application unless specifically asked to do so in accordance with specific provisions of the CLRO Act. Examples where an applicant may be asked to reveal any criminal convictions include where the person in question is seeking admission to a profession, where the applicant is seeking to become a police officer or where the person requesting the information has been granted a permit under s 10 of the CLRO Act. Most licence application forms do not require minor traffic violations to be disclosed.

The CLRO Act also provides that an offender is not obliged to disclose a conviction if no conviction was recorded. Similarly, a person need not disclose the fact that they were charged with an offence if the charge was dropped or dismissed, or they were acquitted (s 5 CLRO Act).

The CLRO Act also enables an offender who has had a conviction recorded to deny that conviction on oath or under affirmation if:

- the sentence that resulted from the conviction was non-custodial or was for a term of 30 months (2½ years) imprisonment or less
- 10 years have elapsed since the conviction was recorded, and during the 10 years the person has not been convicted upon indictment of any other indictable offence. A five-year rehabilitation period applies in relation to offences dealt with summarily (before a magistrate) or where the offender was dealt with as a child.

However, the CLRO Act still requires disclosure of convictions if such disclosure is otherwise required.

## Offender Levy

Section 179C of the Penalty and Sentences Act now makes it a requirement that when an adult is sentenced for an offence, they become liable to pay a levy. This levy is not considered to be a fine or to form part of the person's sentence. If a person is convicted of more than one offence at a particular sentence hearing, they are only liable to pay one levy.

Currently the levy payable is \$123.00 for a conviction in the Magistrates Court and \$368.90 for a conviction in either the District Court or the Supreme Court.

# Legal Notices

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