

# **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 13: Criminal Justice and Court Fees**

##### ***Section 179: Surcharges: imprisonment in default and remission of fines***

522. Under section 82(1) of the Magistrates' Court Act 1980 ("the 1980 Act"), a magistrates' court may, at the point that it convicts a person, commit the offender to prison in a limited number of circumstances for a default in paying certain financial impositions including the Victim Surcharge payable under section 161A of the Criminal Justice Act 2003. These circumstances include, under section 82(1)(c), a case where the offender is sentenced to a term of immediate imprisonment or detention in a young offenders' institution, or is serving such a term at the time he or she is convicted.
523. *Subsection (1)* inserts a new subsection (1A) into section 82 of the 1980 Act to prevent section 82(1)(c) from applying to the Victim Surcharge. This will ensure that the Victim Surcharge may not be discharged as extra days added to an immediate sentence of imprisonment.
524. Where a fine has been imposed following conviction in either a magistrates' court or the Crown Court, they can currently use the powers in section 85 of the 1980 Act and section 165 of the Criminal Justice Act to remit the whole or any part of the fine when the court believes, for example, that a change of circumstances of the offender warrants such action. These provisions currently determine what should happen to other impositions which are dependent on the amount of a fine where it is remitted (for example, number of hours of unpaid work a person may be required to undertake to discharge an unpaid fine). However, no provision is currently made for making a corresponding reduction in the amount of the Victim Surcharge where the associated fine has been reduced or nullified in exercise of these powers to remit a fine. *Subsections (2) and (3)* amend section 85 of the 1980 Act and section 165 of the Criminal Justice Act respectively to address this lacuna. New section 85(3A) of the 1980 Act and new section 165(5) of the Criminal Justice Act 2003 direct the court when remitting a fine to make a consequential adjustment of the previously ordered Surcharge. Thus, for example, where the court originally ordered a fine of £500, with an accompanying Surcharge of £50, and that fine is subsequently reduced to £300, the Surcharge must be reduced by the court to £30.