

**Reprint
as at 13 February 2012**



**Summary Proceedings (Vehicle
Seizure) Amendment Act 2009**

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Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

**Summary Proceedings (Vehicle Seizure)
Amendment Act 2009**

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Summary Proceedings (Vehicle Seizure) Amendment Act 2009.

2 Commencement

This Act comes into force on 1 December 2009.

3 Principal Act amended

This Act amends the Summary Proceedings Act 1957.

4 Purpose

The purpose of this Act is to reduce traffic offending by strengthening the provisions that govern the seizure of motor vehicles to enforce the collection of unpaid fines and reparation.

5 New section 93A inserted

The following section is inserted after section 93:

“93A Seizure and disposal of motor vehicles: application of sections 100A to 100Y instead of sections 94 to 100

Sections 94 to 100 do not apply to any property that is a motor vehicle; sections 100A to 100Y apply instead.”

6 Seizure and delivery of property

Section 94(3) is repealed.

7 Sections 94A and 94B repealed

Sections 94A and 94B are repealed.

8 New heading and sections 100A to 100Y inserted

The following heading and sections are inserted after section 100:

*“Seizure, release, and sale of motor vehicles***“100A Interpretation**

“(1) In this section and in sections 100C to 100Y, unless the context otherwise requires,—

“**encumbrance**, in relation to a motor vehicle, includes—

“(a) a hire purchase agreement:

“(b) a leasing agreement:

“(c) any other agreement entered into between the defendant and another party under which the other party obtains or retains any interest in the motor vehicle

“**hire purchase agreement** means a hire purchase agreement within the meaning of section YA 1 of the Income Tax Act 2007

“**impoundment costs**, in relation to a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, means the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167 of that Act, and, where those fees and charges have already been paid by the chief executive of the Ministry of Justice, means the amount required to reimburse the chief executive for that payment

“**interest** means any proprietary interest, whether legal or equitable, and whether vested or contingent

“**leasing agreement** does not include any agreement entered into between the defendant and the holder of a rental service licence under the Land Transport Act 1998

“**person who is registered**, in relation to a motor vehicle, means the person who is registered under the Land Transport Act 1998 in respect of the vehicle, and where several persons are so registered, means any one of those persons

“**traffic offence** means—

“(a) any offence against the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Land Transport Act 1998, or the Land Transport Management Act 2003, or against any regulation or bylaw made under any of those Acts:

- “(b) any offence against any regulation or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations
- “**use**, in relation to a motor vehicle, includes driving, drawing, towing, or propelling by means of another vehicle, and permitting to be on any road
- “**written caution** means a caution issued under section 100C.
- “(2) For the purposes of sections 100C to 100Y, a person is, in relation to a defendant, a **substitute for the defendant** or a **substitute** if—
 - “(a) the person is served with a written caution, under section 100C, about the defendant’s default in paying a fine for a traffic offence; and
 - “(b) within 4 years after the date of service of that written caution, the defendant defaults, and continues to be in default, on a further fine for a traffic offence committed while using a motor vehicle that, at the time of the commission of that offence, the person owned or had an interest in.
- “(3) For the purposes of sections 100C to 100Y, a motor vehicle is owned by a person whether the person owns it solely or as a joint tenant or tenant in common with any other person.
- “(4) For the purposes of the exercise of any power, or the performance of any duty or function, under this Part, the person who is registered in respect of a motor vehicle is taken to be the owner of the motor vehicle unless the person exercising the power or performing the duty or function is satisfied that the person who is registered is not the owner of that motor vehicle.
- “(5) A reference in sections 100C to 100Y to a person holding a motor vehicle as nominee for a defendant or for a substitute for the defendant is a reference to a person who purports to be the owner or who is the person who is registered in respect of the motor vehicle but whose purported ownership or registration is subject to an understanding or arrangement that the person—
 - “(a) is not to acquire any rights, or only limited rights, in the motor vehicle; and
 - “(b) will, in relation to the motor vehicle, act on behalf of the defendant or the substitute for the defendant.

“100B Purpose of sections 100C to 100Y

The purpose of sections 100C to 100Y is—

- “(a) to enable fines in default to be collected more effectively through the seizure of motor vehicles; and
- “(b) in cases where the fines in default relate to traffic offending, to reduce opportunities for offending of that kind.

“100C Written caution to person holding interest in motor vehicle

- “(1) If a defendant defaults in paying any fine for a traffic offence committed while using a motor vehicle in which the defendant does not appear to have an interest, the Registrar may order that a written caution be served on any person who appears to own or to have an interest in the motor vehicle.
- “(2) Despite subsection (1), a written caution is not to be served—
 - “(a) on anyone if the Registrar is satisfied that the motor vehicle—
 - “(i) was stolen or converted at the material time; or
 - “(ii) was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998;
 - “(b) on a person who the Registrar is satisfied is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the offender.
- “(3) The written caution must state that any motor vehicle in which the person has an interest is liable to be seized if the defendant defaults in paying a fine for any further traffic offence committed—
 - “(a) while using a motor vehicle in which the person has an interest as owner or otherwise; and
 - “(b) within 4 years after the date on which the written caution is served on the person.
- “(4) A written caution must provide the following information:
 - “(a) the name and identifying details of the defendant;
 - “(b) the relevant traffic fine that the defendant has defaulted in paying;
 - “(c) the identifying details of the motor vehicle in which the relevant traffic offence or traffic offences were committed:

- “(d) that the recipient is believed to have owned or to have had an interest in the motor vehicle at the material time and that none of the reasons stated in subsection (2) has been established to the satisfaction of the Registrar:
 - “(e) the recipient’s right to seek a review of the Registrar’s decision to order the service of the written caution on the recipient.
- “(5) A written caution ordered to be served on a person must be served on the person in one of the following ways:
 - “(a) by being delivered to the person personally or by being brought to the person’s notice if the person refuses to accept it:
 - “(b) by being left for the person at the person’s place of residence with another person (other than the defendant) who appears to be of or over the age of 14 years.
- “(6) A written caution may be served by one of the following persons:
 - “(a) a Police employee:
 - “(b) an officer of the court:
 - “(c) any person who is authorised to serve the written caution under a general or particular authority given by a District Court Judge or Registrar:
 - “(d) any officer or employee of a corporation that is authorised by the Secretary for Justice to serve the written caution.
- “(7) An endorsement on a copy of a written caution stating the fact, the date, and the time of service and purporting to be signed by a person of the kind described in subsection (6) is, in the absence of evidence to the contrary, sufficient proof of service of the written caution in accordance with this section.

“100D Review of written caution

- “(1) A person served with a written caution under section 100C may, within 20 working days after the date of service, apply to the court for a review by a District Court Judge of the decision to serve the person, on 1 or more of the following grounds:
 - “(a) the motor vehicle was stolen or converted at the material time:

- “(b) the person did not own or have an interest in the motor vehicle at the material time:
 - “(c) the person is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the defendant:
 - “(d) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) Every application must include a statutory declaration that specifies a ground stated in subsection (1) and why that ground applies.
- “(3) The Judge must conduct the review on the papers unless the Judge considers that a hearing is necessary.
- “(4) If satisfied that a ground stated in subsection (1) applies, the following provisions apply:
- “(a) the court must cancel the written caution served on the applicant:
 - “(b) if the ground for cancelling the applicant’s written caution is that stated in subsection (1)(a) or (d), the court must also cancel the written caution served on any other person under the same order that required service of the written caution on the applicant:
 - “(c) the Registrar must advise, by ordinary post, facsimile, email, or other electronic means, every person (including the applicant) whose written caution is cancelled of that outcome:
 - “(d) if a written caution served on a person is cancelled, the written caution is deemed not to have been served on the person.

“100E Written caution of no effect if fine quashed or set aside

- “(1) If the fine in respect of which a written caution has been served on a person is quashed or set aside, the written caution ceases to have effect and is deemed not to have been served.
- “(2) If a written caution ceases to have effect under subsection (1), the Registrar must send, by ordinary post, facsimile, email, or other electronic means, a notice advising every person served with the written caution of that outcome.

“100F Seizure of motor vehicles

- “(1) In addition to the matters provided for by section 93(1), a warrant to seize property issued under section 83(2)(a), 87(1)(a), or 88(3)(a) also authorises the seizure of any motor vehicle in which the defendant or a substitute for the defendant appears to have an ownership interest or other interest.
- “(2) For the purpose of executing any warrant to seize property, the bailiff or constable executing it may enter on any premises, by force if necessary, if that bailiff or constable has reasonable cause to believe that a motor vehicle is on the premises, being a motor vehicle in which the defendant or a substitute for the defendant appears to have an ownership interest or other interest.
- “(3) If any person is in actual occupation of the premises, the bailiff or constable must, on entering, produce the warrant to that person.
- “(4) Where the fine is paid on the production of a warrant to seize property, the payment must be recorded on the warrant and the warrant is then of no further effect.
- “(5) Without limiting anything in section 100J, any bailiff or constable seizing a motor vehicle under a warrant to seize property may, instead of or while seizing the vehicle, immobilise the vehicle by attaching to the vehicle any device designed for that purpose.
- “(6) When a motor vehicle is seized, under a warrant to seize property, the bailiff or constable must forthwith give the defendant or the substitute a notice in the prescribed form—
 - “(a) identifying the motor vehicle seized; and
 - “(b) directing the defendant or the substitute for the defendant to notify the Registrar, within 7 days after the date of the seizure, whether the defendant or the substitute owns or has an interest in the motor vehicle and the name and address of any other person who owns or has an interest (including any encumbrance) in the motor vehicle.
- “(7) The notice required to be given by subsection (6) must be delivered to the defendant or the substitute, or left for the defendant or the substitute in a conspicuous place at the premises

from which the motor vehicle is seized, or sent to the defendant or the substitute by ordinary post, facsimile, email, or other electronic means.

“100G Seizure of motor vehicles impounded under Land Transport Act 1998

- “(1) Any motor vehicle in which the defendant or a substitute for the defendant appears to have an ownership interest or other interest may be seized under a warrant to seize property even if it is impounded under section 96 or 96A of the Land Transport Act 1998, as long as it has been impounded under that Act for at least 14 days.
- “(2) The power to seize a motor vehicle described in subsection (1) is not limited by any appeal pending under section 102 or 110 of the Land Transport Act 1998.

“100H Seizure not precluded by low value or low interest

Consistent with the purpose stated in section 100B, a motor vehicle may be seized in accordance with this Part even though the value of the vehicle, or the value of the interest that the defendant or any substitute for the defendant has, or appears to have, in the vehicle, is, or is likely to be, less than the fine in default.

“100I Seized motor vehicle to be retained by or for Registrar

- “(1) The bailiff or constable executing a warrant to seize property must ensure that a motor vehicle seized under the warrant is—
- “(a) taken to the Registrar; or
 - “(b) if the Registrar so directs, taken to, or retained by, any person or at any place specified for the purpose by the Registrar.
- “(2) If any motor vehicle that is seized under a warrant to seize property fails to comply in any respect with section 242 of the Land Transport Act 1998, then—
- “(a) the vehicle may, despite that Act or any other enactment, be towed to any place specified by the Registrar; and
 - “(b) no person who seizes, retains, or disposes of the vehicle in accordance with this Act is under any criminal or civil

liability merely because of the failure of the vehicle to comply with that section.

- “(3) The Registrar must ensure the seized motor vehicle is retained until the motor vehicle is sold or released in accordance with a determination of the Registrar or a District Court Judge.

“100J Immobilisation of motor vehicles

- “(1) Any bailiff or constable executing a warrant to seize property may, while seizing or instead of seizing any motor vehicle, immobilise the vehicle by attaching to the vehicle any device designed for the purpose, pending the payment of the fine in default.
- “(2) No motor vehicle may be immobilised under subsection (1) unless, at the time of its immobilisation, it is—
- “(a) on private property; or
 - “(b) in a public place and the bailiff or constable is satisfied that immobilising the vehicle will not cause undue inconvenience to other persons.
- “(3) Where any motor vehicle is immobilised under subsection (1), any bailiff or constable—
- “(a) may at any time seize the vehicle;
 - “(b) must, on the direction of a Registrar, seize the vehicle.
- “(4) When the motor vehicle is seized under subsection (3), section 100I applies accordingly.
- “(5) If, 14 days after the date of the immobilisation of any motor vehicle under subsection (1), the fine remains unpaid, the Registrar must direct a bailiff or constable to seize the vehicle.
- “(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—
- “(a) tampers with, removes, or attempts to remove a device attached to a motor vehicle under subsection (1); or
 - “(b) removes, or attempts to remove,—
 - “(i) a motor vehicle to which a device is, or has been, attached; or
 - “(ii) any part of that vehicle; or
 - “(iii) any other property from that vehicle.

“100K Personal property securities register to be checked

- “(1) If a motor vehicle is seized under a warrant to seize property, the Registrar must, on the next working day after the vehicle is seized, check whether a financing statement has been registered in respect of the vehicle on the personal property securities register kept under the Personal Property Securities Act 1999.
- “(2) If a financing statement has been registered, the Registrar must forthwith notify the person named as the secured party in the financing statement of the following:
- “(a) that the Registrar may, under section 100M, sell the motor vehicle after the expiration of 7 days from the date of seizure, if the fine remains unpaid and no claim has been made in respect of the vehicle by a person other than—
 - “(i) the defendant; or
 - “(ii) a substitute for the defendant; or
 - “(iii) a nominee for the defendant or the substitute:
 - “(b) of the rights that may be available to the person under sections 100N, 100T, and 100U.

“100L Release of vehicles if fine and other costs paid or if certain appeals successful

- “(1) A motor vehicle that has been seized and is retained by the Registrar may be returned to the person from whom it was seized or to the person apparently lawfully entitled to it if the following are paid:
- “(a) the fine;
 - “(b) if the motor vehicle has been impounded under section 96 or 96A of the Land Transport Act 1998, any impoundment costs;
 - “(c) all costs incurred in seizing, towing, and storing the motor vehicle.
- “(2) Subsection (1) applies even though claims under any of sections 100Q, 100T, and 100U are pending in respect of the motor vehicle.
- “(3) If the motor vehicle has been seized from a substitute for the defendant, the only type of fines required to be paid under subsection (1)(a) are ones imposed in respect of traffic offences

committed by the defendant in a motor vehicle that, at the time of the commission of the offence, was owned by the substitute or in which the substitute had an interest.

- “(4) If the motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle may not be released under subsection (1) before the day after the close of the 28-day period for which the vehicle would otherwise be required to be impounded under that Act.
- “(5) Subsection (4) is subject to section 100U(1)(a) and (2).
- “(6) Despite subsection (1), section 100M, and sections 100Q to 100U, if an appeal, under section 102 or 110 of the Land Transport Act 1998, against the impoundment of the motor vehicle is allowed before the expiry of the 28-day period for which the vehicle would otherwise be required to be impounded under section 96 or 96A of the Land Transport Act 1998, the Registrar must release the vehicle to the person who is registered in respect of the vehicle.
- “(7) Subsection (6) does not apply if the motor vehicle has already been released to a lessor or creditor under section 100T or 100U(1)(a) or been sold under section 100U(1)(b).

“100M Sale of motor vehicle seized

- “(1) If any fine remains unpaid, any motor vehicle seized under a warrant to seize property may, after the expiry of the relevant period specified in subsection (2), be sold at public auction or in any other manner directed by a District Court Judge or the Registrar, and the purchaser of the motor vehicle so sold obtains, by virtue of this section, good title to the motor vehicle despite the interests of the owner or any other person in the motor vehicle before the sale.
- “(2) The relevant period referred to in subsection (1) is 7 days after the day on which the motor vehicle was seized or, if the motor vehicle was seized while impounded under section 96 or 96A of the Land Transport Act 1998, the later of—
 - “(a) the day after the close of the 28-day period for which the motor vehicle would otherwise be required to be impounded under that Act; or

- “(b) the expiry of 8 days after the day on which the motor vehicle was seized.
- “(3) A motor vehicle may be sold under this section even though it fails to comply in any respect with section 242 of the Land Transport Act 1998, and the purchaser of that motor vehicle—
 - “(a) is, despite that Act or any other enactment, entitled to tow the motor vehicle to any appropriate place; and
 - “(b) in so towing the vehicle, is under no criminal or civil liability merely because of the failure of the vehicle to comply with that section; and
 - “(c) must comply in all respects with that Act as soon as the motor vehicle has been towed to that place.
- “(4) If the Registrar considers that a motor vehicle is not roadworthy and that it would be uneconomic to render it roadworthy, the Registrar must, before the motor vehicle is sold under this section, seek to have the registration of the motor vehicle cancelled by taking, so far as practicable, any steps required to be taken, under the Land Transport Act 1998, for that purpose by the owner of, or by the person who is registered in respect of, the motor vehicle.
- “(5) The sale of a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998 is not affected by any appeal that is pending after the 28-day period for which the motor vehicle would otherwise be required to be impounded under that Act or by any appeal that is determined after that period.
- “(6) In any case where a motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the vehicle may be sold under this section (even if the fine and all costs incurred in seizing, towing, and storing the vehicle have been paid) if any impoundment costs are not paid within—
 - “(a) 10 days after the close of the 28-day period for which the vehicle would otherwise be required to be impounded under that Act; or
 - “(b) any longer period specified by the Registrar in writing.
- “(7) The sale of a motor vehicle by the Registrar is deferred by a pending claim in respect of the motor vehicle only if the costs

of storage have been paid under section 100N or a deposit has been paid, or security has been provided, under section 100Q.

“100N Registrar must defer sale if storage costs paid

Any person may pay into court the costs incurred by the court in storing a motor vehicle for at least 8 days and as long as those costs, and any recurring storage costs, are paid, the Registrar must defer the sale of the motor vehicle.

“100O Application of proceeds of sale

- “(1) When a motor vehicle is sold under section 100M, the proceeds of the sale must be applied in the following manner and order of priority:
- “(a) if the motor vehicle has been impounded under section 96 or 96A of the Land Transport Act 1998, in payment of any impoundment costs:
 - “(b) in payment of the costs of the sale (including all costs incurred in seizing, towing, and storing the motor vehicle, and complying with the provisions of this Part preliminary to sale):
 - “(c) in satisfaction of any amount owed under any encumbrance established, before the proceeds of the sale are fully applied, to the satisfaction of the Registrar or a District Court Judge:
 - “(d) in payment of any sentence or order of reparation payable by the defendant:
 - “(e) in payment of any levy payable by the defendant under the Sentencing Act 2002:
 - “(f) in payment of the fine specified in the warrant:
 - “(g) to the defendant or, as the case requires, to the substitute for the defendant.
- “(2) If the proceeds arise out of the sale of a motor vehicle owned by a substitute for the defendant or in which the substitute had an interest, the proceeds must be applied in the manner and order of priority specified in subsection (1), except that the payments described in paragraph (d) or (f) of that subsection are limited to amounts imposed in respect of traffic offences committed by the defendant in a motor vehicle that, at the time

of the commission of the offence, was owned by the substitute or in which the substitute had an interest.

- “(3) The Judge may, on application or on his or her own initiative, give any directions as to the application of the proceeds of sale under this section.

“100P Remission of fine and costs of sale in certain cases

- “(1) This section applies where a sale of a motor vehicle under section 100M (other than a sale ordered under section 100U(1)(a) or (b)) does not result in a reduction of the defendant’s fine by more than \$100.
- “(2) If this section applies, the Registrar—
- “(a) must remit the costs of the sale of the motor vehicle, as described in section 100O(1)(a) and (b); and
 - “(b) must remit—
 - “(i) the entire fine in default, in any case where the amount of that fine is \$100 or smaller:
 - “(ii) \$100 less any proceeds of that sale that have been applied towards paying the fine, in any case where the fine in default is greater than \$100.
- “(3) The reference to **fine** in subsection (2)(b) does not include any reparation that the defendant is liable to pay, but includes any court costs and other costs that have been added to that reparation.

“100Q Release of motor vehicle to certain owners

- “(1) If satisfied that the defendant does not own the seized motor vehicle, the Registrar or a District Court Judge must release the motor vehicle to a person who satisfies the Registrar or the Judge that the person—
- “(a) is the owner of the motor vehicle; and
 - “(b) is not a substitute for the defendant; and
 - “(c) is not a nominee for the defendant or the substitute.
- “(2) If a person other than the defendant claims to own the motor vehicle and the Registrar is not satisfied of the matters specified in subsection (1), the Registrar must issue a summons calling before the court the claimant and the defendant, and, in that event, any action brought in respect of the claim is stayed.

- “(3) Where a summons has been, or is to be, issued under subsection (2), the Registrar may release the motor vehicle to the defendant or to the substitute for the defendant if a deposit is paid or security is provided for whichever is the lesser of—
 - “(a) the value of the seized motor vehicle; or
 - “(b) the fine in default, including the costs incurred in seizing, towing, and storing the motor vehicle, and any impoundment costs.
- “(4) If, on the determination of the claim, the claim is dismissed, the amount of the deposit or the amount obtained from the security may be applied as if it were the proceeds of the sale of the motor vehicle.
- “(5) In any case where a motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle—
 - “(a) may not be released under this section unless—
 - “(i) the 28-day period for which the vehicle would otherwise be required to be impounded under that Act has expired; and
 - “(ii) any impoundment costs have been paid into court within 10 days after the close of that period or within any longer period specified by the Registrar in writing; and
 - “(b) may be sold under section 100M if those costs are not paid in accordance with paragraph (a)(ii).

“100R Challenge of seizure by persons treated as substitutes

- “(1) If a motor vehicle is seized on the basis that the person who owns, or appears to own, it, or has, or appears to have, an interest in it, is a substitute for the defendant, that person may, within 7 days after the date of the seizure, apply to a District Court Judge to challenge the seizure on 1 or more of the following grounds:
 - “(a) the person did not own or have an interest in the motor vehicle at the material time;
 - “(b) the motor vehicle was stolen or converted at the material time;

- “(c) the person took all reasonable steps to prevent the defendant from committing the traffic offence or traffic offences:
 - “(d) the person had not, prior to the commission of the relevant traffic offence, been served with a written caution under section 100C in relation to the defendant:
 - “(e) the person is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the defendant:
 - “(f) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) Every application must include a statutory declaration that specifies a ground stated in subsection (1) and why that ground applies.
- “(3) The Judge must consider the application on the papers unless the Judge considers that a hearing is necessary.
- “(4) The Judge may order the return of the motor vehicle if satisfied that—
- “(a) a ground stated in subsection (1)(b) or (f) applies; or
 - “(b) another ground stated in that subsection applies to the applicant and to every other person who is treated as a substitute for the defendant.

“100S Determination of claim by owners

- “(1) In determining a claim under section 100Q(3), a District Court Judge may, if the motor vehicle has not yet been sold, release the motor vehicle to the claimant if satisfied that—
- “(a) the defendant does not have an interest in the motor vehicle; and
 - “(b) the claimant is not a substitute for the defendant; and
 - “(c) the claimant owns the motor vehicle neither as nominee for the defendant nor for the substitute.
- “(2) The Judge may, if the motor vehicle has not yet been sold, release the motor vehicle to a person whose motor vehicle was seized because the person was taken to be a substitute for the defendant if satisfied that 1 or more of the following grounds apply:

- “(a) the person did not own or have an interest in the motor vehicle at the material time:
 - “(b) the motor vehicle was stolen or converted at the material time:
 - “(c) the person is a party to an encumbrance relating to the motor vehicle but has no relationship of another kind with the defendant:
 - “(d) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(3) The Judge may ask any claimant to satisfy the Judge that any agreement, transfer, or change in registration or ownership is genuine if the Judge has reason to question whether the claimant is a nominee for the defendant or any substitute for the defendant.
- “(4) A person who claims to have acquired a motor vehicle from the defendant after the commission of any offence or after the taking of any enforcement action against the defendant must satisfy the Judge that the transaction on which the acquisition was based was genuine.
- “(5) In any case where the motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle—
- “(a) may not be released under this section unless—
 - “(i) the 28-day period for which the vehicle would otherwise be required to be impounded under that Act has expired; and
 - “(ii) any impoundment costs have been paid into court within 10 days after the close of that period or within any longer period specified by the Registrar in writing; and
 - “(b) may be sold under section 100M if those costs are not paid in accordance with paragraph (a)(ii).
- “(6) If the claimant succeeds in the claim to the motor vehicle,—
- “(a) any deposit paid or security provided by the claimant must be returned to the claimant; and
 - “(b) a District Court Judge may order the defendant to reimburse the claimant for any costs the claimant has paid into court under section 100N.

“100T Lessor under leasing agreement may apply to Registrar

- “(1) The lessor (not being the defendant or a substitute for the defendant or a nominee for the defendant or the substitute) under a leasing agreement of a seized motor vehicle may apply to the court, at any time before the Registrar has sold the motor vehicle, for the release of the motor vehicle to the lessor as if the defendant or the substitute for the defendant or the nominee for the defendant or the substitute had breached the terms of the agreement.
- “(2) If subsection (1) applies, the Registrar or a District Court Judge may release the motor vehicle to the lessor.
- “(3) A motor vehicle may also be released under subsection (2) if it has been seized while impounded under section 96 or 96A of the Land Transport Act 1998 even though the 28-day period of impoundment for which the motor vehicle would otherwise be required to be impounded under that Act has not yet expired.
- “(4) This section is subject to section 100V.

“Compare: 2002 No 9 s 140

“100U Claims by creditors

- “(1) Where, on an application or on his or her own initiative, the Registrar or a District Court Judge is satisfied that a person (not being the defendant or a substitute for the defendant) is a creditor under an encumbrance (other than a leasing agreement) over the seized motor vehicle, the Registrar or Judge may, if the motor vehicle has not yet been sold,—
- “(a) release the motor vehicle to the creditor and direct the creditor to sell the motor vehicle and account for the proceeds of sale in accordance with section 100W; or
- “(b) order the sale of the motor vehicle under section 100M.
- “(2) A motor vehicle may also be released under subsection (1)(a) if it has been seized while impounded under section 96 or 96A of the Land Transport Act even though the 28-day period of impoundment for which the motor vehicle would otherwise be required to be impounded under that Act has not yet expired.
- “(3) A purchaser of a motor vehicle that is sold to the purchaser in compliance with a direction under subsection (1)(a) obtains, by virtue of this section, good title to the motor vehicle despite

the interests of the owner or any other person in the motor vehicle before the sale.

“(4) This section is subject to section 100V.

“100V Certain payments required before release to lessor or creditor takes effect

“(1) An order for the release of a motor vehicle under section 100T(2) or 100U(1)(a) does not take effect unless the following costs have been paid into court:

“(a) if the motor vehicle has been impounded under the Land Transport Act 1998, any impoundment costs:

“(b) any costs incurred in seizing the motor vehicle, towing, and storing the motor vehicle, and complying with the provisions of this Part.

“(2) Any costs required to be paid by subsection (1) must be paid within 10 working days after the day on which the lessor or creditor is notified of the decision to release the vehicle, or within any longer period specified by the Registrar in writing.

“(3) If the costs specified in subsection (1) are not paid in accordance with subsection (2), the motor vehicle may be sold under section 100M.

“100W Application of proceeds of sale by creditor

“(1) Every person to whom a motor vehicle is released under section 100U(1)(a) must, on disposing of the motor vehicle,—

“(a) account to the Registrar for the proceeds of the sale:

“(b) pay into court the proceeds of the sale, less any costs paid under section 100V, and—

“(i) if the encumbrance is a hire purchase agreement and the motor vehicle is used or was acquired for use primarily for personal, domestic, or household purposes, the amount of the costs and expenses of, and incidental to, the sale within the meaning of section 33 of the Credit (Repossession) Act 1997 and the amount required to settle the agreement under section 31 of that Act; or

“(ii) in any other case, the amount of the costs and expenses of, and incidental to, the sale within the meaning of section 33 of the Credit (Repossession)

sion) Act 1997 and the amount owed by the offender under the encumbrance.

- “(2) The Registrar must then apply the balance remaining in accordance with section 100O(1)(d) to (g) with all necessary modifications.

“100X Failure by creditor to sell or account for proceeds

- “(1) If the creditor fails to comply with a direction under section 100U(1)(a), the Registrar must issue, in the prescribed form, a warrant to recover property and the motor vehicle may be recovered under that warrant as property of the defendant or the substitute for the defendant, and section 100F applies in respect of the motor vehicle with all necessary modifications.
- “(2) As soon as practicable after a motor vehicle is delivered into a Registrar’s custody under subsection (1), the Registrar must arrange for the sale of the motor vehicle and apply the proceeds of sale in accordance with section 100O(1) or, as the case requires, in accordance with a direction under section 100O(3).
- “(3) A creditor who fails, in whole or in part, to pay into court the money required under section 100W(1) is liable to the Crown for any amount not paid, and that amount may be recovered from the creditor as a debt due to the Crown.

“100Y Compensation to person with interest in motor vehicle sold

- “(1) This section applies if—
- “(a) a person (other than the defendant or a substitute for the defendant or a nominee for the defendant or the substitute) suffers loss through the sale under section 100M of a motor vehicle in which the person had an interest; and
- “(b) the defendant or the substitute had not before the sale notified the Registrar of the person’s interest in the property.
- “(2) If this section applies, a Judge may, on the application of that person, order the defendant to pay to the person compensation in respect of the loss.

- “(3) Subsection (1) does not limit or affect any other remedy that a person may have in respect of loss referred to in that subsection.”

9 Transitional provisions relating to Transport (Vehicle and Driver Registration and Licensing) Act 1986

In the period commencing on the commencement of this Act and ending immediately before the commencement of section 32(2) of the Land Transport Amendment Act 2009—

- (a) any reference to a person who is registered in respect of a motor vehicle in sections 100A to 100Y of the principal Act (as inserted by this Act) must (despite the definition of that term in section 100A(1) of the principal Act) be read as a reference to a registered owner within the meaning of the Transport (Vehicle and Driver Registration and Licensing) Act 1986;
- (b) the reference in section 100I(2) and 100M(3) of the principal Act (as inserted by this Act) to section 242 of the Land Transport Act 1998 is taken to be a reference to section 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986;
- (c) the reference in section 100M(4) of the principal Act (as inserted by this Act) to the Land Transport Act 1998 is taken to be a reference to the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

10 Transitional provisions relating to pre-commencement fines and warrants

[Repealed]

Section 10: repealed, on 13 February 2012, by section 47(2) of the Summary Proceedings Amendment Act 2011 (2011 No 32).

Contents

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Notes

1 General

This is a reprint of the Summary Proceedings (Vehicle Seizure) Amendment Act 2009. The reprint incorporates all the amendments to the Act as at 13 February 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 ***List of amendments incorporated in this reprint
(most recent first)***

Summary Proceedings Amendment Act 2011 (2011 No 32): section 47(2)
