

**Reprint
as at 1 August 2012**



Sentencing Amendment Act 2011

Public Act 2011 No 47
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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.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Sentencing Amendment Act 2011.

2 Commencement

(1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

(2) Any provisions of this Act that are not in force on the expiry of the period of 15 months that starts on the date on which this Act receives the Royal assent come into force (despite subsection (1)) on that expiry.

Section 2(1): sections 3–6, 8, 9, 11–14, 31, 39, and 40 brought into force, on 13 February 2012, by the Sentencing Amendment Act 2011 Commencement Order 2011 (SR 2011/392).

Section 2(1): sections 7, 10, 15–30, and 32–38 brought into force, on 1 August 2012, by the Sentencing Amendment Act 2011 Commencement Order 2012 (SR 2012/131).

3 Principal Act amended

This Act amends the Sentencing Act 2002.

4 Reparation

(1) Section 12(1) is amended by inserting “or order” after “sentence” in each place where it appears.

(2) Section 12(3) is amended by inserting “or order” after “sentence”.

(3) Section 12 is amended by adding the following subsection:

“(4) In this section, **order of reparation** means an order under section 106(3)(b), 108(2)(b), or 110(3)(b).”

5 Taking into account financial capacity of offender

Section 35 is amended by repealing subsections (2) and (3) and substituting the following subsections:

“(2) Subsection (3) applies if the court is considering whether to impose—

- “(a) more than 1 sentence of reparation on an offender; or
- “(b) a sentence of reparation and a sentence of a fine on an offender; or
- “(c) a sentence of reparation on an offender who is subject to an earlier sentence or order of reparation or an earlier sentence of a fine, or a combination of any of those.

“(3) The court must take into account that any payments received from the offender must be applied in the order of priority set out in sections 86E to 86G of the Summary Proceedings Act 1957.”

6 New section 36 substituted

Section 36 is repealed and the following section substituted:

“36 Payment conditions of sentence of reparation

“(1) If a court sentences an offender to make reparation, the court may—

- “(a) make an order, under section 81(1)(a) of the Summary Proceedings Act 1957, allowing the offender greater time to pay or allowing the offender to pay by instalments, or both; or
- “(b) make an order, under section 83(1) of the Summary Proceedings Act 1957, requiring the offender to pay immediately; or
- “(c) direct the Registrar to determine the conditions of payment of the reparation, including whether to—
 - “(i) require the offender to pay the reparation immediately under section 83(1) of the Summary Proceedings Act 1957 (which applies with any necessary modifications); or
 - “(ii) enter into an arrangement with the offender allowing the offender greater time to pay or allowing the offender to pay by instalments, or both, under section 86 of the Summary Proceedings Act 1957.

“(2) If the court does not make an order or give a direction under subsection (1), the reparation must be paid in 1 lump sum within the time allowed for the payment of fines generally by section 80 of the Summary Proceedings Act 1957.”

7 New section 38A inserted

The following section is inserted after section 38:

“38A Cancellation of sentence of reparation

“(1) A court may, on an application under subsection (2) or (3) or on its own initiative,—

“(a) cancel a sentence of reparation; or

“(b) cancel a sentence of reparation and substitute any other sentence (including another sentence of reparation) that could have been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed.

“(2) An offender who is subject to a sentence of reparation or a Registrar may apply in accordance with section 72 for an order under subsection (1) on the ground that the reparation is unaffordable because the offender’s financial position has changed significantly since the sentence was imposed.

“(3) A Registrar may apply in accordance with section 72 for an order under subsection (1) on the ground that the Registrar reasonably believes that the sentence is unenforceable because the offender provided false or misleading information about the offender’s financial position that the court relied on in imposing the sentence or because of any other reason.

“(4) The court may make an order under subsection (1) (whether on application or on its own initiative) only if—

“(a) the person to whom the offender is required to pay the reparation—

“(i) has been informed and has been given the opportunity to be heard about the matter; or

“(ii) is unable to be found despite reasonable efforts made by the Registrar; and

“(b) the court is satisfied that—

“(i) the ground in subsection (2) or (3) has been established; and

“(ii) enforcement of the original sentence of reparation under Part 3 of the Summary Proceedings Act 1957 (or, if applicable, under section 19 of the Crimes Act 1961 or section 28I of the District Courts Act 1947) is unlikely to be effective.

“(5) If the court is considering a substitute sentence,—

- “(a) the court must take the following matters into account:
 - “(i) the amount of the original sentence of reparation that has been paid and the amount outstanding;
 - “(ii) any other sentences or orders imposed on the offender for the offending for which the original reparation was imposed and the extent to which the reparation was taken into account in imposing those sentences or orders; and
- “(b) if the offender provided false or misleading information about the offender’s financial position, the court may take the following matters into account:
 - “(i) the extent to which the information was false or misleading;
 - “(ii) the offender’s culpability in providing the information, including whether, in the court’s opinion, the offender intended to mislead the court.

“(6) If the court cancels a sentence of reparation, the amount of reparation outstanding is deemed to be remitted from the date the order is made or any other date that the court may specify.”

8 Determining amount of fine

Section 40 is amended by repealing subsection (4) and substituting the following subsections:

“(4) Subsection (4A) applies if a court imposes a fine—

- “(a) in addition to a sentence of reparation; or
- “(b) on an offender who is subject to an earlier sentence or order of reparation.

“(4A) In fixing the amount of the fine, the court must take into account—

- “(a) the amount of reparation payable; and
- “(b) that any payments received from the offender must be applied in the order of priority set out in sections 86E to 86G of the Summary Proceedings Act 1957.”

9 New section 42A inserted

The following section is inserted after section 42:

“42A Offender may be detained for purpose of making declaration

A court may direct that an offender be detained in the custody of the court for a period not exceeding 2 hours for the purpose of making a declaration of financial capacity in accordance with section 42.”

10 Jurisdiction and procedure

- (1) The heading above section 72 is amended by adding “*and cancellation of sentences of reparation*”.
- (2) Section 72(1) is amended by inserting “38A,” after “section”.
- (3) Section 72(2) is amended by repealing paragraph (b) and substituting the following paragraphs:
 - “(b) on the chief executive of the Ministry of Justice, if a Registrar is not the applicant under section 38A; or
 - “(c) on the chief executive of the Department of Corrections, if a probation officer is not the applicant under section 54, 54K, 68, or 69I.”
- (4) Section 72 is amended by inserting the following subsections after subsection (2):
 - “(2A) An application under section 38A must be served in accordance with section 79A or 79B of the Summary Proceedings Act 1957.
 - “(2B) If an application under section 38A has been lodged in a court by a Registrar, the Registrar may, for the purpose of having the offender brought before the court dealing with the application, issue a warrant for the arrest of the offender.
 - “(2C) Sections 88AA and 88AC of the Summary Proceedings Act 1957 apply with any necessary modifications to a warrant to arrest issued under subsection (2B).
 - “(2D) For the purposes of sections 280C to 280F of the Customs and Excise Act 1996 and sections 295 to 297 of the Immigration Act 2009, a warrant for the arrest of the offender issued under subsection (2B) is to be treated as a warrant for arrest that has been issued in respect of the non-payment of the whole, or of any part, of a fine.”

11 Section 105C repealed

Section 105C is repealed.

12 Discharge without conviction

(1) Section 106 is amended by repealing subsection (3A) and substituting the following subsection:

“(3A) Sections 32 to 38A apply, with any necessary modifications, to an order under subsection (3)(b) as they apply to a sentence of reparation.”

(2) Section 106 is amended by repealing subsections (4) to (7).

13 Conviction and discharge

(1) Section 108 is amended by repealing subsection (2A) and substituting the following subsection:

“(2A) Sections 32 to 38A apply, with any necessary modifications, to an order under subsection (2)(b) as they apply to a sentence of reparation.”

(2) Section 108 is amended by repealing subsections (3) to (6).

14 Order to come up for sentence if called on

(1) Section 110 is amended by repealing subsection (3A) and substituting the following subsection:

“(3A) Sections 32 to 38A apply, with any necessary modifications, to an order under subsection (3)(b) as they apply to a sentence of reparation.”

(2) Section 110 is amended by repealing subsections (4) to (7).

15 Interpretation of terms used in sections 128 to 142

(1) Section 127(1) is amended by repealing the definition of **encumbrance**.

(2) Section 127(1) is amended by repealing the definition of **hire purchase agreement** and substituting the following definition:

“**hire purchase agreement** means—

“(a) an agreement under which goods are let or hired with an option to purchase, however the agreement describes the payments, under which the person who agrees to

purchase the goods is given possession of them before the total amount payable has been paid:

“(b) an agreement for the purchase of goods by instalment payments, however the agreement describes the payments, under which the person who agrees to purchase the goods is given possession of them before the total amount payable has been paid”.

(3) Section 127(1) is amended by repealing the definition of **leasing agreement** and substituting the following definition:

“**lease** does not include a hire purchase agreement or a rental service agreement to which the holder of a rental service licence under the Land Transport Act 1998 is a party”.

(4) Section 127(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**constable** has the meaning given to it in section 4 of the Policing Act 2008

“**Police employee** has the meaning given to it in section 4 of the Policing Act 2008

“**secured party** has the meaning given to it in section 16 of the Personal Property Securities Act 1999, except that the reference to security interest is a reference to security interest as defined by this subsection

“**security agreement** has the meaning given to it in section 16 of the Personal Property Securities Act 1999, but does not include a lease

“**security interest** has the meaning given to it in section 17 of the Personal Property Securities Act 1999, but does not include a lease”.

16 Confiscation and destruction after third illegal street racing offence

Section 129A is amended by adding the following subsection:

“(5) The court must not make an order under subsection (3) in respect of a motor vehicle that 1 or more persons treated as a substitute have an interest in if it is satisfied that either of the following applies to each substitute:

- “(a) the substitute did not know, and could not reasonably have known, that the offender would commit the offence or offences; or
- “(b) the substitute took all reasonable steps to prevent the offender from committing the offence or offences.”

17 Written caution to persons with interest in motor vehicles involved in offences

- (1) Section 129B(2) is amended by inserting “issued and” after “written caution be”.
- (2) Section 129B(3)(b) is amended by repealing subparagraph (ii) and substituting the following subparagraph:
 - “(ii) is a secured party under a security agreement relating to the motor vehicle, or the lessor of the motor vehicle under a lease, but has no relationship of another kind with the offender.”
- (3) Section 129B(7) is amended by adding the following paragraph:
 - “(c) by being left for the person at the person’s place of business with another person (other than the offender).”
- (4) Section 129B(8) is amended by inserting the following paragraph before paragraph (a):
 - “(aa) a constable.”
- (5) Section 129B(8)(a) is amended by adding “authorised by the Commissioner of Police to serve documents under this Act”.
- (6) Section 129B(9) is amended by omitting “the date, and the time of service” and substituting “date, time, and mode of service”.

18 Review of written caution

Section 129C(1) is amended by repealing paragraph (c) and substituting the following paragraph:

- “(c) the applicant is a secured party under a security agreement relating to the motor vehicle, or the lessor of the motor vehicle under a lease, but has no relationship of another kind with the offender.”

19 Appeal against confiscation by persons treated as substitutes

(1) Section 129E(1) is amended by repealing paragraphs (a) to (g) and substituting the following paragraphs:

- “(a) the motor vehicle was stolen or converted at the material time;
- “(b) the appellant did not own or have an interest in the motor vehicle at the material time;
- “(c) the appellant is a secured party under a security agreement relating to the motor vehicle, or the lessor of the motor vehicle under a lease, but has no relationship of another kind with the offender;
- “(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;
- “(e) the appellant took all reasonable steps to prevent the offender from committing the offence or offences;
- “(f) the appellant had not, before the commission of the offence or offences, been served with a written caution under section 129B in relation to the offender;
- “(g) the appellant did not know, and could not reasonably have known, that the offender would commit the offence or offences;
- “(h) confiscation of the motor vehicle is causing, or will cause, undue hardship to the appellant or any other person (other than the offender).”

(2) Section 129E(2)(b) is amended by omitting “substitute who” and substituting “substitute or who”.

(3) Section 129E(5)(a) is amended by omitting “subsection (1)(b) or (g)” and substituting “subsection (1)(a), (d), or (h)”.

20 New section 129EA inserted

The following section is inserted after section 129E:

“129EA Appeal against confiscation by third party

“(1) If the court orders the confiscation of a motor vehicle under section 128, 129, or 129A, a person (other than the offender or, as the case may be, the substitute for the offender) may, within 20 working days after the date of the order, or within any further time that the appropriate court allows, appeal to

the appropriate court against the order on the ground that the confiscation is causing, or will cause, undue hardship to the appellant or any other person (other than the offender or, as the case may be, the substitute for the offender).

- “(2) The appellant must serve the notice of appeal on—
 - “(a) the prosecuting agency in the proceeding that resulted in the relevant conviction; and
 - “(b) any person (other than the offender or, as the case may be, the substitute for the offender) who owns or has an interest in the vehicle.
- “(3) The persons described in subsection (2) are parties to the appeal.
- “(4) The right of appeal under subsection (1) is independent of the offender’s right of appeal against conviction and sentence for the relevant offence or offences.
- “(5) The court must set aside the confiscation of the motor vehicle if satisfied that the ground of appeal stated in subsection (1) applies.
- “(6) For the purposes of subsection (1),—
 - “(a) if the order was made in a District Court, the appeal must be brought in the High Court in accordance with the High Court Rules;
 - “(b) if the order was made in the High Court, the appeal must be brought in the Court of Appeal in accordance with the rules of court governing civil appeals to that court.”

21 Warning notice to secured parties if confiscation not ordered for second illegal street racing offence

Section 129F(2)(c) is amended by omitting “an encumbrance” and substituting “a security agreement or lease”.

22 Court may order declaration of ownership to be completed

Section 130(2)(b) is amended by omitting “encumbrance” and substituting “security interest or lease”.

23 Enforcement of confiscation order

Section 132(5) is repealed.

24 Registrar may direct order to be enforced in another District Court

Section 135(1) is amended by omitting “, by order signed by the Registrar,.”.

25 Offender must not acquire new interest in motor vehicle for 12 months

Section 136(5) is amended by omitting “sections 130” and substituting “sections 129EA, 130”.

26 New section 136A substituted

Section 136A is repealed and the following section substituted:

“136A Registrar must apply for deregistration of motor vehicle subject to confiscation and destruction order

If, under section 129A or 136(4), the court orders a motor vehicle to be confiscated and destroyed, the Registrar—

- “(a) is, for the purposes of the Land Transport Act 1998 and any regulations made under it, entitled to apply for the cancellation of the registration of the motor vehicle; and
- “(b) must make that application before the motor vehicle is sold or disposed of.”

27 Sale of confiscated motor vehicles

(1) Section 137(2) is amended by omitting “in writing”.

(2) Section 137(3) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) if 1 or more security agreements have been brought to the notice of the Registrar before the proceeds of sale are fully applied, and have been established to the Registrar’s satisfaction, in payment to each secured party of the amount to which the secured party would, but for the extinguishment of the security interest concerned, have been entitled under that agreement.”.

(3) Section 137(3)(e) is amended by inserting “section 105B of” after “under”.

(4) Section 137(3) is amended by inserting the following paragraphs after paragraph (f):

“(fa) in payment of any fees and accident insurance levies prescribed under section 242(2)(b) of the Land Transport Act 1998 that are outstanding in respect of the vehicle;

“(fb) in payment of any road user charges under the Road User Charges Act 2012 that are outstanding in respect of the vehicle.”.

(5) Section 137 is amended by inserting the following subsection after subsection (3):

“(3A) If any proceeds of sale are required to be applied to 2 or more security interests under subsection (3)(c), those proceeds must be applied in the order of priority determined for those security interests by Part 7 or 8 of the Personal Property Securities Act 1999.”

(6) Section 137(4) is amended by omitting “paragraphs (d) and (f)” and substituting “paragraphs (d) to (f)”.

(7) Section 137 is amended by adding the following subsections:

“(5) 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.

“(6) 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, apply, under the Land Transport Act 1998, to have the registration of the motor vehicle cancelled as if the Registrar were the person who, under that Act, is entitled to apply for that cancellation.

“(7) The person to whom a motor vehicle is sold under this section obtains, by virtue of this section, good title to the motor vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that sale.”

Section 27(4): amended, on 1 August 2012, by section 94 of the Road User Charges Act 2012 (2012 No 1).

28 Certain sales conditional on dismantling and destruction
Section 137A(4) is amended by omitting “The property in the motor vehicle does not pass from the Crown” and substituting “Despite section 137(7), the property in the motor vehicle does not pass”.

29 Sale of motor vehicle surrendered or recovered under section 137B
Section 137C(1) is amended by omitting “and (2)” and substituting “, (2), (5), and (7)”.

30 Disposal of unsaleable confiscated vehicle
Section 138 is amended by adding the following subsections as subsections (2) and (3):

“(2) If the Registrar proposes to dispose of a motor vehicle under subsection (1), the Registrar—
“(a) is, for the purposes of the Land Transport Act 1998 and any regulations made under it, entitled to apply for the cancellation of the registration of the motor vehicle; and
“(b) must make that application before the disposal of the motor vehicle.

“(3) The person to whom a motor vehicle is disposed of under this section obtains, by virtue of this section, good title to the motor vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that disposition.”

31 Offender liable for outstanding costs of seizure, storage, and sale
(1) Section 138A is amended by repealing subsection (4) and substituting the following subsection:

“(4) Part 3 (except section 84) of the Summary Proceedings Act 1957 (or, if applicable, section 19 of the Crimes Act 1961 or section 28I of the District Courts Act 1947) applies with any necessary modifications to any amount the offender is liable to pay under subsection (1) as if it were a fine.”

(2) Section 138A(5) is amended—
(a) by omitting “appearing to have been signed” and substituting “issued”; and
(b) by omitting “, without proof of the signature or office of the person appearing to have signed the certificate”.

32 Procedure if notice given that vehicle subject to encumbrance

(1) The heading to section 139 is amended by omitting “**encumbrance**” and substituting “**security agreement**”.
(2) Section 139(1) is amended—
(a) by omitting “within 1 month after the date of sale” and substituting “before the proceeds of sale are fully applied”; and
(b) by omitting “any encumbrance” and substituting “a security agreement”.

33 Lessor under leasing agreement may apply to Registrar

(1) The heading to section 140 is amended by omitting “**under leasing agreement**”.
(2) Section 140(1) is amended by—
(a) omitting “leasing agreement” and substituting “lease”; and
(b) inserting “or disposed of” after “has sold”; and
(c) omitting “terms of the agreement” and substituting “terms of the lease”.
(3) Section 140 is amended by inserting the following subsection after subsection (2):
“(2A) On the transfer of the motor vehicle under subsection (2) to the lessor, the lease is cancelled.”

34 New section 140A inserted

The following section is inserted after section 140:

“140A What happens if lessor does not apply to Registrar before motor vehicle sold or disposed of

“(1) This section applies if—
“(a) section 140 applies; but

- “(b) the lessor does not apply to the court for the transfer of the motor vehicle under section 140(1) before it is sold or disposed of; and
- “(c) the vehicle is sold; and
- “(d) the proceeds of the sale have not been fully applied.

“(2) The lessor may apply to the court for the release of the proceeds of the sale of the motor vehicle that have not been applied.

“(3) On an application under subsection (2), the Registrar or a District Court Judge may release the proceeds of the sale of the motor vehicle in accordance with subsections (4) and (5).

“(4) The proceeds of the sale of the motor vehicle must be applied in accordance with section 137 as if the lease were a security agreement as defined in section 127(1) and the lessor were a secured party as defined in that subsection.

“(5) However, despite subsection (4), section 137 applies subject to the following modifications:

- “(a) the proceeds of the sale of the motor vehicle must be applied in payment to the lessor of the amount to which the lessor would, but for the sale, have been entitled to under the lease; and
- “(b) the proceeds of the sale of the motor vehicle must be applied in the manner and order of priority set out in section 137, except that,—
 - “(i) in the case of a lease for a term of less than 1 year, those proceeds must be applied for the payment to the lessor described in paragraph (a) after they are applied for the payments described in section 137(3)(a) and (b), but before they are applied for the remainder of the payments described in section 137(3)(c) to (g); and
 - “(ii) in the case of a lease for a term of more than 1 year, those proceeds must be applied for the payment to the lessor described in paragraph (a) as if they were payments described in section 137(3)(c), and section 137(3)(c) and (3A) applied.

“(6) On the release of the proceeds of the sale of the motor vehicle to the lessor, the lease is cancelled.”

35 Secured party may apply to court

(1) Section 141(1) is amended by omitting “any encumbrance (other than a leasing agreement)” and substituting “a security agreement”.

(2) Section 141(1) is amended by inserting “or disposed of” after “has sold”.

(3) Section 141(4) is amended by omitting “This section” and substituting “Subsection (3)”.

(4) Section 141 is amended by inserting the following subsection after subsection (3):

“(3A) If 2 or more secured parties have applied for an order under subsection (3), then the court must transfer the motor vehicle to the secured party with the highest-ranking security interest under the order of priority determined by Part 7 or 8 of the Personal Property Securities Act 1999.”

(5) Section 141 is amended by adding the following subsection:

“(5) The person to whom a motor vehicle is sold under a direction given under subsection (3)(b) obtains, by virtue of this section, good title to the motor vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that sale.”

36 Certain payments required before transfers take effect

Section 141A(3) is amended by adding “or its disposal under section 138”.

37 Application of proceeds of sale by secured party

(1) Section 141B(1) is amended by repealing paragraph (b) and substituting the following paragraph:

“(b) pay into court the proceeds of the sale, less—
“(i) any costs paid under section 141A; and
“(ii) the amount of the costs and expenses of, and incidental to, the sale.”

(2) Section 141B(2) is amended by omitting “section 137(3)(d) to (g)” and substituting “section 137(3)(c) to (g) and (3A)”.

38 New section 141C inserted

The following section is inserted after section 141B:

“141C Failure by secured party to sell or account for proceeds

- “(1) If the court has directed a secured party under section 141(3)(b) to sell a motor vehicle and the secured party fails to do so within a reasonable time, the Registrar may require any person in possession of the vehicle to surrender it to the Registrar, or a bailiff or constable, at a specified time and place.
- “(2) If the person in possession of the motor vehicle fails to surrender the motor vehicle at the time and place specified by the Registrar, the court may issue a warrant in the prescribed form authorising the Registrar or any bailiff or constable to recover the motor vehicle.
- “(3) For the purpose of executing a warrant issued under subsection (2), the Registrar or bailiff or constable executing it may enter on any premises, by force if necessary, if the Registrar, bailiff, or constable has reasonable cause to believe that the motor vehicle in respect of which the warrant is issued is on those premises.
- “(4) If any person is in actual occupation of the premises, the Registrar or bailiff or constable must, on entering, produce the warrant to that person.
- “(5) If a motor vehicle is surrendered to or recovered by any bailiff or constable under this section, that officer must, as soon as practicable, deliver it into the custody of the Registrar.
- “(6) Sections 133 and 134 apply, with any necessary modifications, in respect of a motor vehicle surrendered or recovered under this section and to a warrant issued under this section.
- “(7) As soon as practicable after the motor vehicle is delivered into the Registrar’s custody under subsection (5), the Registrar must arrange for its sale under section 137 or its disposal under section 138.
- “(8) A secured party who fails, in whole or in part, to pay into court the money required under section 141B(1)(b) is liable to the Crown for any amount not paid, and that amount may be recovered from the secured party as a debt due to the Crown.”

39 Section 145 substituted

Section 145 is repealed and the following section substituted:

“145 Maximum period of detention for administrative tasks

“(1) The purpose of this section is to provide for the maximum period for which an offender may be detained in the custody of the court, on any 1 occasion, to allow any administrative tasks to be completed if—

- “(a) 2 or more of those tasks apply or relate to the offender; and
- “(b) they have to be completed at the same time.

“(2) An offender may be detained in the custody of the court for a period not exceeding 3 hours if the offender is required, at any time before sentencing, to complete both of the following:

- “(a) make a declaration of financial capacity in accordance with section 42;
- “(b) make a declaration of ownership of a motor vehicle in accordance with section 130.

“(3) An offender may be detained in the custody of the court for a period specified in subsection (4) if, at any time after sentencing, 2 or more of the following are required to be completed:

- “(a) the offender to make a declaration of financial capacity in accordance with section 42;
- “(b) an order for a community-based sentence to be drawn up and a copy given to the offender under section 74;
- “(c) an order for a sentence of home detention to be drawn up and a copy given to the offender under section 80ZC;
- “(d) a non-association order to be drawn up and a copy given to the offender under section 115;
- “(e) a protection order to be drawn up and served on the offender under section 123E.

“(4) The period referred to in subsection (3) is—

- “(a) a period not exceeding 3 hours if any 2 administrative tasks are required to be completed; or
- “(b) a period not exceeding 4 hours if any 3 or more administrative tasks are required to be completed.

“(5) If an offender is detained in the custody of the court for 2 or more orders for community-based sentences to be drawn up under section 74, each order is a separate administrative task for the purposes of subsection (4).

“(6) Nothing in this section limits or affects sections 42A, 74(4), 80ZC(4), 115(2), 123E(2), and 130(3) if the administrative

task described in each of those sections is undertaken separately on any 1 occasion, rather than in conjunction with other administrative tasks.

“(7) In this section, **administrative task** means a task of a kind specified in subsection (2) or, as the case may be, subsection (3).”

40 Sections 145A to 145D repealed

Sections 145A to 145D are repealed.

Contents

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Notes

1 General

This is a reprint of the Sentencing Amendment Act 2011. The reprint incorporates all the amendments to the Act as at 1 August 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)***

Sentencing Amendment Act 2011 Commencement Order 2012 (SR 2012/131)

Road User Charges Act 2012 (2012 No 1): section 94

Sentencing Amendment Act 2011 Commencement Order 2011 (SR 2011/392)
