

**Reprint  
as at 1 July 2010**



**Sentencing (Offender Levy)  
Amendment Act 2009**

Public Act    2009 No 42  
Date of assent    27 October 2009  
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 and the Department of Corrections.**

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Sentencing (Offender Levy) Amendment Act 2009.
- 2 Commencement**  
This Act comes into force on a date to be appointed by the Governor-General by Order in Council.  
Section 2: Sentencing (Offender Levy) Amendment Act 2009 brought into force, on 1 July 2010, by the Sentencing (Offender Levy) Amendment Act 2009 Commencement Order 2010 (SR 2010/90).
- 3 Principal Act amended**  
This Act amends the Sentencing Act 2002.

**Part 1**  
**Amendments to Sentencing Act 2002**

- 4 Reparation**  
Section 12 is amended by inserting the following subsection after subsection (1):  
“(1A) When considering undue hardship or other special circumstances under subsection (1), a court must not take into ac-

count that the offender is required to pay a levy under section 105B.”

**5 Taking into account financial capacity of offender**

Section 35 is amended by adding the following subsection:

“(3) Subsection (2) is subject to section 105C.”

**6 Determining amount of fine**

Section 40 is amended by adding the following subsection:

“(5) When considering the financial capacity of the offender under subsection (1), the court must not take into account that the offender is required to pay a levy under section 105B.”

**7 New heading and sections 105A to 105J inserted**

The following heading and sections are inserted after section 105:

“Subpart 4A—Offender levy and victims’  
services bank account

**“105A Interpretation**

For the purposes of this subpart, unless the context otherwise requires,—

“**account** means the Crown bank account known as the victims’ services bank account established under section 105G

“**approved agency** means an organisation for the time being approved by the Secretary under section 105J

“**Secretary** means the Secretary for Justice; and includes a person or body authorised by the Secretary to exercise or perform his or her functions, powers, and duties under this Act.

**“105B Offender to pay levy**

“(1) This section applies to an offender who has been convicted of an offence.

“(2) On being sentenced or otherwise dealt with by a court in relation to 1 or more offences, the offender must pay a levy.

“(3) The levy is not a sentence and is in addition to any sentence.

**“105C Priority of payments received from offender**

If the court imposes or has previously imposed on an offender a sentence or an order of reparation or a sentence of a fine, or both, any payments received from the offender must be applied in the following order of priority:

- “(a) in payment of the amount due under any sentence or order of reparation:
- “(b) in payment of the offender levy:
- “(c) in payment of any fine.

**“105D Amount of levy**

The amount of the levy payable under section 105B is \$50 unless regulations made under section 147 prescribe otherwise.

**“105E Payment of levy**

An offender must pay the levy to the Secretary, who must pay the levy into the account.

**“105F Distribution of money in account**

The Secretary may, from time to time, pay to an approved agency any amount of money from money that is held in the account.

**“105G Victims’ services bank account**

The Secretary must, for the purposes of this subpart, establish through the Treasury a separate Crown bank account to be known as the victims’ services bank account.

**“105H Payments from, and other operation of, account**

The Secretary must ensure that money is paid out of the account, and that the account is otherwise operated, only as permitted or required by this subpart or by regulations made under section 105I.

**“105I Regulations on operation of account**

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- “(a) providing for the circumstances and manner in which money may or must be paid out of the account:
- “(b) providing for the manner in which, and the conditions subject to which, the Secretary may or must otherwise operate the account.

**“105J Approval of agency**

- “(1) The Secretary may approve an organisation as an approved agency for the purposes of this subpart.
- “(2) Before approving an organisation as an approved agency, the Secretary must be satisfied that—
  - “(a) the organisation has as one of its roles providing services to victims of crime; and
  - “(b) any amount paid to the organisation under section 105F will be applied to provide services to victims of crime; and
  - “(c) the organisation has members with the knowledge, experience, and skills to provide services to victims of crime; and
  - “(d) the organisation has in place administrative arrangements that will enable money received by the organisation to be accounted for.
- “(3) The Secretary may at any time, by notice in writing to an organisation approved under subsection (1), revoke that approval if the Secretary is no longer satisfied of the matters set out in subsection (2) or of any other matters that the Secretary considers relevant.”

**8 Enforcement of payment of amounts under sentence of reparation, reparation orders, etc**

- (1) Section 145(1) is amended by adding “; or” and also by adding the following paragraph:
  - “(c) the amount of any levy payable under section 105B.”
- (2) Section 145 is amended by inserting the following subsection after subsection (2):
  - “(2A) However, if the only amount payable is the levy,—

- “(a) Part 3 of the Summary Proceedings Act 1957 applies (even if sections 19 and 19B to 19F of the Crimes Act 1961 would be applicable); but
- “(b) sections 83(2)(a) and (b), 87(1)(a), and 88 of the Summary Proceedings Act 1957 do not apply and the following references must be read as follows:
- “(i) the reference in section 88B(1)(a) to the amount of \$25 must be read as a reference to the amount of the levy (being \$50 or any other amount that may be prescribed by regulation); and
- “(ii) the reference in section 88B(1)(b) to 3 years must be read as a reference to 1 year.”

## **9 Regulations**

Section 147 is amended by inserting the following paragraph after paragraph (c):

- “(ca) prescribing the amount of the levy payable under section 105B:”.

## **Part 2 Consequential amendments to other enactments**

### **10 Consequential amendments to other enactments**

The enactments listed in the Schedule are amended in the manner indicated in that schedule.

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**Schedule**  
**Consequential amendments**

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**Customs and Excise Act 1996 (1996 No 27)**

Definition of **fine** in section 280C: add:

- “(d) a levy payable under section 105B of the Sentencing Act 2002”.

**Social Security Act 1964 (1964 No 136)**

Definition of **fine** in section 126A(1): add:

- “(c) a levy payable under section 105B of the Sentencing Act 2002.”

**Summary Proceedings Act 1957 (1957 No 87)**

Section 81: insert after subsection (1):

“(1A) Where a levy is payable under section 105B of the Sentencing Act 2002, an order made under subsection (1)—

- “(a) must require payment of the levy; and  
“(b) must not result in amounts owed by an offender being paid in a different order of priority to that set out in section 105C of the Sentencing Act 2002.”

Section 83: insert after subsection (1):

“(1A) Where a levy is payable under section 105B of the Sentencing Act 2002, an order made under subsection (1) must require payment of the levy at the same time as any other amount payable under the order.”

**Tax Administration Act 1994 (1994 No 166)**

Definition of **finer defaulter** in section 85A(6): add:

- “(e) a levy payable under section 105B of the Sentencing Act 2002”.
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**Notes****1 General**

This is a reprint of the Sentencing (Offender Levy) Amendment Act 2009. The reprint incorporates all the amendments to the Act as at 1 July 2010, 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 (Offender Levy) Amendment Act 2009 Commencement Order 2010  
(SR 2010/90)

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