2012/132

Sentencing Amendment Regulations 2012

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 5th day of June 2012

Present:
Her Excellency the Administrator of the Government in Council

Pursuant to section 147 of the Sentencing Act 2002, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Schedule 4
Forms 12 and 12A replaced

Regulations

1 Title
These regulations are the Sentencing Amendment Regulations 2012.

2 Commencement
These regulations come into force on 1 August 2012.

3 Principal regulations
These regulations amend the Sentencing Regulations 2002 (the **principal regulations**).

4 Regulation 3 replaced (Interpretation)
Replace regulation 3 with:

"**3 Interpretation**
In these regulations, unless the context otherwise requires, **Act** means the Sentencing Act 2002."

5 Regulation 4 revoked (Changes to ownership of confiscated motor vehicles)
Revoke regulation 4.

6 Regulation 4A amended (Security interests in respect of confiscated vehicles)

(1) Replace the heading to regulation 4A with "**Registrar of court to check personal property securities register**".

(2) Replace regulation 4A(2) with:

"(2) The Registrar of the court must, on the day after the vehicle is surrendered or seized, take all lawful and reasonable steps to 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."

(3) In regulation 4A(3),—

(a) replace "security interest" with "financing statement"; and

(b) after "secured party", insert "(including any lessor)".

7 Regulation 5 amended (Prescribed forms)

In regulation 5(3), after "12A", insert ", 12AB,".

8 Schedule amended

(1) In the Schedule, form 11A,—

(a) replace the form heading with "Warning notice to party to security agreement or lease"; and

(b) replace "an encumbrance" with "a security agreement or lease".

(2) In the Schedule, form 11B, under the heading "**Right of review**", replace paragraph (c) with:

"(c) you are a secured party under a security agreement relating to the motor vehicle or the lessor of the motor vehicle under a lease, but have no relationship of another kind with the offender:".

(3) In the Schedule, replace forms 12 and 12A with the forms set out in the Schedule of these regulations.

Schedule

r 8(3)

Forms 12 and 12A replaced

Form 12

Warrant for confiscation of motor vehicle

Section 132, Sentencing Act 2002

To every constable and every bailiff, and to the Registrar of the High Court/District Court* at [*place*]

*Select one.

1 [*Full name, address, occupation, date of birth*] (the offender) was convicted on [*date*] of [*offence*] by the High Court/District Court* at [*place*].

*Select one.

2 *Omit this paragraph if it does not apply*.

At the material time the offender was driving or in charge of a vehicle in which [*full name, address, occupation, date of birth*] (the substitute) has an interest.

3 On [*date*], an order was made by the High Court/District Court* at [*place*] for the confiscation of the following motor vehicle in which the offender/substitute* has an interest:

Make and model:

Year of first registration:

Registration number:

*Select one.

4 Under the confiscation order, the offender/substitute* was required to surrender the motor vehicle to a constable or bailiff or the Registrar at [*place, date, time*].

*Select one.

5 The offender/substitute* has failed to surrender the motor vehicle.

*Select one.

6 I direct you, unless the motor vehicle is sooner surrendered to a constable or bailiff or the Registrar, to seize the motor vehicle and to deliver it into the custody of the Registrar of the High Court/District Court* at [*place*].

*Select one.

Form 12—*continued*

Entry to premises

For the purpose of executing this warrant, you may enter any premises, by force if necessary, if you have reasonable cause to believe that the motor vehicle is on those premises. You must show this warrant to any person who is on the premises.

Date:
Place:
Signature:
(Judge)

Form 12A
Warrant for recovery of motor vehicle

Section 137B, Sentencing Act 2002

To every constable and every bailiff, and to the Registrar of the High Court/District Court* at [*place*]

*Select one.

1 On [*date*], an order was made by the High Court/District Court* at [*place*] for the confiscation and destruction of the following motor vehicle:

Make and model:

Year of first registration:

Registration number:

*Select one.

2 The vehicle was sold to [*full name, address, occupation, date of birth*] (the purchaser) on [*date*].

3 The sale was subject to a condition that the vehicle be dismantled for any saleable parts and the remainder destroyed to the satisfaction of the Registrar within 30 working days or any longer period specified in writing by the Registrar.

4 The purchaser did not comply with that condition of sale and the person in possession of the vehicle was required to surrender the vehicle to a constable or bailiff or the Registrar at [*place, date, time*].

5 The person in possession of the vehicle has failed to surrender the motor vehicle.

6 I direct you, unless the motor vehicle is sooner surrendered to a constable or bailiff or the Registrar, to seize the motor vehicle and to deliver it into the custody of the Registrar of the High Court/District Court* at [*place*].

*Select one.

Entry to premises

For the purpose of executing this warrant, you may enter any premises, by force if necessary, if you have reasonable cause to believe that the motor vehicle is on those premises. You must show this warrant to any person who is on the premises.

Form 12A—*continued*

Date:
Place:
Signature:
(Judge)

Form 12AB
Warrant for recovery of motor vehicle from secured party

Section 141C, Sentencing Act 2002

To every constable and every bailiff, and to the Registrar of the High Court/District Court* at [*place*]

*Select one.

1 On [*date*], an order was made by the High Court/District Court* at [*place*] for the confiscation of the following motor vehicle:

Make and model:

Year of first registration:

Registration number:

*Select one.

2 The vehicle was transferred to [*full name, address, occupation, date of birth*] (the secured party) on [*date*].

3 The transfer was made under a court order that the vehicle be sold within a reasonable period.

4 The secured party has not complied with that order and the person in possession of the vehicle was required to surrender the vehicle to a constable or bailiff or the Registrar at [*place, date, time*].

5 The person in possession of the vehicle has failed to surrender the motor vehicle.

6 I direct you, unless the motor vehicle is sooner surrendered to a constable or bailiff or the Registrar, to seize the motor vehicle and to deliver it into the custody of the Registrar of the High Court/District Court* at [*place*].

*Select one.

Entry to premises

For the purpose of executing this warrant, you may enter any premises, by force if necessary, if you have reasonable cause to believe that the motor vehicle is on those premises. You must show this warrant to any person who is on the premises.

Form 12AB—*continued*

Date:
Place:
Signature:
(Judge)

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 2012, amend the Sentencing Regulations 2002 (the **principal regulations**). The amendments reflect changes to the Sentencing Act 2002 (the **Act**) that come into force at the same time and that are made by the Sentencing Amendment Act 2011.

Regulation 5 revokes regulation 4 of the principal regulations, which is no longer required as a result of the repeal of section 132(5) and amendments to section 137 of the Act.

Regulation 4A of the principal regulations is amended to reflect changes to the vehicle confiscation regime in the Act.

Regulations 7 and 8 make amendments to forms 11A and 11B in the Schedule of the principal regulations and replace forms 12 and 12A in the Schedule with *new forms 12, 12A, and 12AB*.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered by the Ministry of Justice.

Wellington, New Zealand:
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