

# **Sentencing Amendment Bill**

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Courts and Criminal Matters Bill as reported from the Law and Order Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- The Crimes Amendment Bill, comprising Part 1
  - The Customs and Excise Amendment Bill, comprising Part 2
  - The District Courts Amendment Bill (No 2), comprising Part 3
  - The Immigration Amendment Bill, comprising Part 4
  - The Misuse of Drugs Amendment Bill, comprising Part 5
  - The Privacy Amendment Bill, comprising Part 6
  - This bill, comprising Part 7
  - The Summary Proceedings Amendment Bill, comprising Part 8
  - The Tax Administration Amendment Bill, comprising Part 9
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## Key to symbols used in reprinted bill

### As reported from a select committee

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

### As reported from the committee of the whole House

#### Struck out

~~Subject to this Act,~~

Text struck out

#### New

Subject to this Act,

Text inserted

Subject to this Act,

Words inserted

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*Hon Rick Barker*

# **Sentencing Amendment Bill**

Government Bill

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

- 1 Title**  
This Act is the Sentencing Amendment Act **2005**.
  
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent. 5
  
- 2A Principal Act amended**  
This Act amends the Sentencing Act 2002.

**22 New sections 145A to (145C) 145D inserted**

The following sections are inserted after section 145:

**“145A Manner in which amounts of reparation must be applied in cases involving same offence**

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“(1) This section applies if a person (the **liable person**) is required to pay an amount of reparation to 2 or more persons in relation to the same offence (whether the requirement to pay the amount of reparation arose before or after the commencement of this section).

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“(2) Any payments received from the liable person must be applied, as between the persons in whose favour the sentence of reparation or order of reparation (or both) was made, in the proportion that reflects the relative total or proportionate amounts ordered to be paid to each of them under the sentence or order (or both or if there was no such order, in equal amounts).

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**New**

“(3) **Subsection (2)** applies subject to any contrary direction by a court.

**Struck out****“145B Manner in which amounts of reparation must be applied in cases involving different offences**

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“(1) This section applies—

“(a) if a person (the **liable person**) is required to pay an amount of reparation to a person or persons in relation to an offence; and

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“(b) if the liable person is later required to pay an amount of reparation to another person or other persons in relation to another offence; and

“(c) if both the amounts referred to in **paragraphs (a) and (b)** have not been paid in full; and

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“(d) whether the requirements to pay the amounts referred to in **paragraphs (a) and (b)** arose before or after the commencement of this section.

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**Struck out**

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- “(2) Any payments received from the liable person must first be applied in satisfaction of the amount of reparation that is payable to the person or persons in whose favour the sentence of reparation or the order of reparation (or both) was made first. 5
- “(3) After the amount of reparation referred to in **subsection (2)** has been paid in full, any further payments received from the liable person must next be applied to the person or persons in whose favour the sentence of reparation or the order of reparation (or both) was made next. 10
- “(4) For the purpose of ascertaining when a sentence of reparation or order of reparation (or both) was made, any sentences of reparation or orders of reparation that are made on the same date must be treated as having been made at the same time for the purposes of **subsections (2) and (3)**. 15
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**New**

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- “145B Manner in which amounts of reparation must be applied in cases involving different offences**
- “(1) This section applies—
- “(a) if a person (the **liable person**) is required to pay an amount of reparation to a person or persons in relation to an offence; and 20
- “(b) if the liable person is later required to pay an amount of reparation to another person or other persons in relation to another offence; and
- “(c) if both the amounts referred to in **paragraphs (a) and (b)** have not been paid in full; and 25
- “(d) whether the requirements to pay the amounts referred to in **paragraphs (a) and (b)** arose before or after the commencement of this section.
- “(2) For the purpose of **subsection (1)** it does not matter whether or not the offence referred to in **subsection (1)(b)** is of the same kind as the offence referred to in **subsection (1)(a)**. 30
- “(3) Any payments received from the liable person must, in respect of 1 or more sentences of reparation or orders of reparation (or
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## New

- both) imposed on the same day in respect of different offences committed by the liable person, be applied (in accordance with **section 145A** if applicable)—
- “(a) as between the persons in whose favour the sentences of reparation or orders of reparation (or both) were made; and 5
- “(b) in the proportion that reflects the relative total or proportionate amounts ordered to be paid to each of them under the sentences or orders (or both).
- “(4) Any payments received from the liable person must, in respect of sentences of reparation or orders of reparation (or both) imposed on the liable person on different days, be applied (in accordance with **section 145A** or **subsection (3)**, if applicable) first in satisfaction of the amount of reparation that is payable to the person or persons in whose favour the sentence of reparation or the order of reparation (or both) was made first. 10 15
- “(5) After the amount of reparation referred to in **subsection (4)** has been paid in full, any further payments received from the liable person must next be applied (in accordance with **section 145A** or **subsection (3)**, if applicable) to the person or persons in whose favour the sentence of reparation or the order of reparation (or both) was next made. 20
- “(6) This section applies subject to any contrary direction by a Court.
- “**145C No Crown liability for error, etc, in applying payments of amounts of reparation** 25  
The Crown is not liable to any person for any error, omission, or delay in applying any payment of an amount of reparation in accordance with **section 145A** or **section 145B**.
- “**145D Definitions for sections 145A to 145C** 30  
In **sections 145A to 145C**,—  
**amount of reparation** means—  
“(a) any amount that is required to be paid under a sentence of reparation; or

“(b) any amount that is required to be paid under any order of reparation

**order of reparation** means—

- “(a) an order made under section 106, section 108, or section 110; or 5
- “(b) an order made in respect of a child, or any parent or guardian of that child, under section 84(1)(b) of the Children, Young Persons, and Their Families Act 1989; or
- “(c) an order made in respect of a young person, or any parent or guardian of that young person, under section 283(f) or (g) of the Children, Young Persons, and Their Families Act 1989; or 10
- “(d) an order that—
- “(i) requires the payment of any amount as compensation or restitution to the victim of an offence against any enactment; and 15
- “(ii) *(that)* is declared by the Governor-General, by Order in Council, to be an order of reparation for the purposes of **sections 145A to 145C.**” 20

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### Legislative history

28 March 2006

Divided from the Courts and Criminal Matters Bill  
(Bill 41-2) as Bill 41-3G

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