



Local Government (Infringement Fees for Offences: Bay of Plenty Regional Navigation and Safety Bylaws) Regulations 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 7th day of October 2002

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 699A of the Local Government Act 1974, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Local Government (Infringement Fees for Offences: Bay of Plenty Regional Navigation and Safety Bylaws) Regulations 2002.

2 Commencement

These regulations come into force on 21 October 2002.

3 Interpretation

In these regulations, unless the context otherwise requires,—
Act means the Local Government Act 1974
provision means a provision of the Bay of Plenty Regional Navigation and Safety Bylaws 2001.

4 Infringement offences and fees

- (1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence against the Act.
- (2) The infringement fee for an offence referred to in subclause (1) is the infringement fee specified in relation to that offence in the third column of Schedule 1.

5 Infringement notices

Every infringement notice in respect of an infringement offence against a provision specified in the first column of Schedule 1 must be in the form set out in Schedule 2.

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Schedule 1

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**Schedule 1
Infringement offences and fees under Bay of Plenty
Regional Navigation and Safety Bylaws**

| Provision | Description of offence | Fee (\$) |
|-----------|--|-------------|
| cl 2.1.1 | Failing to carry lifejackets as required | 100 |
| cl 2.1.5 | Failing to wear lifejackets as required if danger or risk to safety of persons aboard | 100 |
| cl 2.2 | Swimming or diving around wharves | 100 |
| cl 2.3 | Using propulsion system inappropriately while lying at a wharf or while loading to or from a boat trailer at a ramp | 100 |
| cl 2.4.1 | Failing to keep vessel in serviceable condition | 100 |
| cl 2.5 | Impeding passage of a seaplane when it is landing or taking off | 200 |
| cl 2.6 | Mooring, anchoring, or securing vessels inadequately | 100 |
| cl 2.7 | Anchoring in prohibited anchorage | 100 |
| cl 2.9.1 | Obstructing access to waterways | 100 |
| cl 2.9.2 | Obstructing waterways | 200 |
| cl 2.10 | Failing to show navigation lights or day shapes when required | 100 |
| cl 2.11 | Failing to notify Harbourmaster of collision or accident | 100 |
| cl 2.12.1 | Tying up to navigation aid without written permission of Harbourmaster | 100 |
| cl 2.12.2 | Damaging, removing, defacing, or interfering with a navigation aid or warning | 200 |
| cl 2.12.3 | Using beacon, buoy, or device as navigation aid without permission | 200 |
| cl 2.13 | Sounding whistle in breach of requirements | 100 |
| cl 2.14 | Discharging, or allowing the discharge of, anything in the water from anywhere that constitutes a danger to navigation safety | 200 |
| cl 3.1.1 | Operating a vessel capable of exceeding 10 knots if under-aged | 100 |
| cl 3.1.2 | Allowing under-aged person to operate vessel capable of exceeding 10 knots | 200 |
| cl 3.2.1 | Exceeding speed limit in certain conditions | 200 |
| cl 3.2.2 | Propelling vessel while person sitting in specified areas | 200 |
| cl 3.2.3 | Causing or allowing self to be towed in certain conditions | 200 |
| cl 3.2.4 | Failing to recover dropped water ski | 100 |
| cl 3.4.1 | Towing a person without a person responsible for notifying mishap | 100 |
| cl 3.4.2 | Causing or allowing self to be towed without a person responsible for notifying mishap | 100 |
| cl 3.5.1 | Operating, between sunset and sunrise, a vessel towing a person | 200 |
| cl 3.5.2 | Allowing self to be towed by a vessel between sunset and sunrise | 200 |
| cl 3.6.1 | Failing to follow most direct route through an access lane and failing to keep to that side of an access lane that lies to the starboard of vessel | 100 |

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Schedule 1

| Provision | Description of offence | Fee (\$) |
|------------------|--|---------------------|
| cl 3.6.2 | Allowing self to be towed from a vessel that fails to follow most direct route through access lane and failing to keep to that side of an access lane that lies to the starboard of vessel | 100 |
| cl 3.6.3 | Proceeding in access lane in a manner that is dangerous | 200 |
| cl 3.6.4 | Obstructing a person while that person is using an access lane for the purpose for which it was declared | 100 |
| cl 3.6.5 | Using an access lane for a purpose other than for which it was declared | 100 |
| cl 3.8 | Obstructing a person while that person is using a reserved area for the purpose for which it was reserved | 100 |
| cl 3.9.1 | Failing to obtain written permission for special event | 100 |
| cl 3.10.1 | Placing a mooring in any waters unless licensed by Council | 100 |
| cl 3.10.6 | Refusing to upgrade or inspect mooring as directed | 100 |
| cl 3.10.7 | Anchoring to a vessel in a manner that obstructs a licensed mooring | 100 |
| cl 3.10.9 | Mooring a vessel other than a vessel stated on licensed mooring | 100 |
| cl 3.10.14 | Parting with possession of, or assigning, or allowing another person or vessel, to use a licensed mooring without written permission of Harbourmaster | 100 |
| cl 4.5.1 | Failing to obtaining hot work permit before carrying out welding or flame-cutting | 200 |
| cl 4.5.2 | Failing to take appropriate precautions while hot work operations are being carried out | 200 |
| cl 4.5.4 | Allowing work to begin before Harbourmaster is satisfied that requirements of a hot work permit have been met | 200 |
| cl 4.6 | Failing to ensure that vessel berthed safely | 100 |
| cl 5.3.1 | Operating without a licence a vessel not subject to Maritime Rules | 100 |
| cl 5.3.2 | Operating a vessel granted a harbour licence while that licence is suspended | 200 |
| cl 6.2.1 | Failing to call when entering harbour at night | 200 |
| cl 6.2.2 | Failing to call when entering harbour by day | 100 |
| cl 6.2.3 | Transiting harbour entrance during hours of darkness or restricted visibility without ability to communicate with Tauranga Port Radio | 200 |
| cl 6.3 | Failing to comply with directions for navigating in Tauranga Harbour | 200 |
| cl 6.4 | Navigating a vessel under 500 gross tonnage so as to impede navigation of any vessel of 500 gross tonnage or more, or any hovercraft | 200 |
| cl 6.5.1 | Failing to call prior to departure | 100 |
| cl 6.6 | Failing to carry and consult required navigational documents | 200 |
| cl 7.1.1 | Attempting to cross the bar | 200 |
| cl 7.1.2 | Failing to observe the bar unworkable signal | 200 |

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Schedule 2 Bay of Plenty Regional Navigation and Safety Bylaws infringement offence notice

Section 699A, Local Government Act 1974

Notice no:

Enforcement authority

[Specify enforcement authority.]

To

Name: [full name]

Address:

Occupation:

Date of birth:

Maritime document no (if applicable):

Alleged infringement offence(s) details

Date:

Time:

Place:

Vessel name:

Vessel description:

Bylaw offence
provision

Offence

Infringement fee
payable (\$)

1

2

3

Payment of infringement fee(s)

The infringement fee(s) is (or are) payable to the enforcement authority within 28 days after [date this notice is delivered personally, or served by post].

The infringement fee(s) is (or are) payable to: [specify address of enforcement authority].

Do not detach. Please present both copies of this notice when making payment.

Cheques or money orders must be made out to the [specify enforcement authority] and must be crossed and marked not transferable or account payee only.

Issued by: [full name], being a person duly authorised by the Wellington Regional Council.

Important: Please read the statement of rights printed overleaf.

Statement of rights

If, after reading this statement, you do not understand anything, you should consult a lawyer immediately.

- 1 This notice sets out 1 or more alleged infringement offences. Each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.

Note: If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 4(b) and (c), 5, and 6 do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Payments

- 2 If you pay the infringement fee for an alleged offence within 28 days of the service on you of this notice, no further enforcement action will be taken for that offence. Payments may be made at the places indicated on the front page of this notice.

Defence

- 3 You have a complete defence against proceedings for an alleged offence if the infringement fee for that offence has been paid to the enforcement authority at the address shown on the front page of this notice within 28 days after service on you of a reminder notice. Late payment or payment made to any other address will not constitute a defence.

Further action

- 4 You may write to the enforcement authority at the address shown on the front page of this notice if you wish to—

- (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
- (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
- (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9).

Any such letter must be personally signed.

- 5 If you deny liability for the offence and request a hearing, the enforcement authority will, unless it decides not to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court.
- 6 If you admit liability for the offence but want the Court to consider your submissions as to penalty or otherwise, you must, in your letter to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability; and
 - (c) set out the written submissions you wish to be considered by the Court.

The enforcement authority will then file your letter with the Court (unless it decides not to commence court proceedings in respect of the offence). There is no provision for an oral hearing before the Court if you follow this course of action.

Non-payment of fee

- 7 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after the service on you of this notice, you will (unless the enforcement authority decides otherwise) be served with a reminder notice.
- 8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay **costs in addition to the infringement fee** unless the enforcement authority decides not to commence proceedings against you.

Queries and correspondence

- 9 When writing or making payment of an infringement fee, please indicate—
- (a) the date of the infringement offence; and
 - (b) the infringement notice number; and
 - (c) the identifying number of each alleged offence and the course of action you are taking in respect of each alleged offence (if this notice sets out more than 1 offence and you are not paying all the infringement fees for the alleged offences); and
 - (d) your address for replies (if you are not paying all the infringement fees for the alleged offences).

If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on the front of this notice.

Note: All queries and correspondence regarding the infringement offence(s) must be directed to the enforcement authority named in this notice at the address shown.

Marie Shroff,
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 21 October 2002, specify which breaches of the Bay of Plenty Regional Navigation and Safety Bylaws 2001 are infringement offences for the purposes of section 699A of the Local Government Act 1974. It also prescribes the infringement fees for those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 10 October 2002.

These regulations are administered in the Department of Internal Affairs.
