



Local Government (Infringement Fees for Offences: Hawke's Bay Regional Navigation and Safety Bylaws) Regulations 2003

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 8th day of December 2003

Present:

Her Excellency the Governor-General 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: Hawke's Bay Regional Navigation and Safety Bylaws) Regulations 2003.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
Act means the Local Government Act 1974

provision means a provision of the Hawke's Bay Regional Navigation and Safety Bylaws 2002.

- (2) The descriptions given in the second column of Schedule 1 are intended only to be an indication of the content of the provisions they describe, and are not intended to be used in the interpretation of the provisions.

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 for that offence in the third column of Schedule 1.

5 Infringement notices

Every infringement notice for 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 Hawke's Bay
Regional Navigation and Safety Bylaws 2002**

Provision	Description of offence	Fee (\$)
cl 2.1.1	Failing to carry required personal flotation devices	200
cl 2.1.5	Failing to ensure that all those on board are wearing personal flotation devices as required	200
cl 2.2.1	Diving or swimming within 50 metres of any jetty, wharf, or quay in regular use, or within any designated anchorage or mooring area	100
cl 2.3.1	Operating propulsion system inappropriately	100
cl 2.3.2	Testing propulsion system without taking specified precautions	100
cl 2.4.1	Failing to maintain anchored or moored vessel in seaworthy condition	200
cl 2.5.1	Impeding seaplane landing or taking off	200
cl 2.6.1	Anchoring so as to obstruct a vessel or the approach to a wharf, pier, or jetty	100
cl 2.6.2	Cutting, breaking, destroying, or unlawfully detaching the mooring or the fastening to a structure of a vessel	200
cl 2.7.1	Obstructing access to a wharf or other landing place	100
cl 2.7.2	Placing any obstruction (including fishing apparatus), liable to restrict navigation or cause loss of life or injury, in any waters	200
cl 2.8.1	Failing to report collision or accident	100
cl 2.9.1	Tying to navigation aid without prior written permission of Harbourmaster	100
cl 2.9.2	Damaging, removing, defacing, or otherwise interfering with navigation aid or warning	200
cl 2.9.3	Erecting, displaying, or maintaining, without authorisation, any device that may be mistaken for a navigation aid	200
cl 2.10.1	Sounding whistle, siren, or horn in breach of requirements	100
cl 2.11.1	Failing to show navigation lights during hours of darkness or restricted visibility	200
cl 2.11.2	Failing to display, while at anchor, navigation lights during hours of darkness	200
cl 3.1.2	Allowing under-age person to operate, without direct supervision, vessel capable of exceeding 10 knots	200
cl 3.2.1	Exceeding 5 knots in specified areas (including when vessel towing person or object)	200
cl 3.2.2	Exceeding 5 knots while any part of a person is extended over the fore part, bow, or side of vessel	100
cl 3.2.3	Causing or allowing self to be towed in specified areas at speed greater than 5 knots	200
cl 3.2.4	Continuing vessel onwards without acting to recover water ski after any person being towed has dropped ski	100
cl 3.3.1	Towing person at speed greater than 5 knots without additional person on board responsible for notifying a mishap	100
cl 3.3.2	Causing or allowing self to be towed without additional person on board responsible for notifying a mishap	100

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Provision	Description of offence	Fee (\$)
cl 3.3.3	Towing person with person responsible for notifying mis- haps being under-age	100
cl 3.4.1	Operating vessel towing person between sunset and sunrise	100
cl 3.4.2	Allowing self to be towed by a vessel between sunset and sunrise	100
cl 3.5.1	Failing to take most direct starboard route through access lane	100
cl 3.5.2	Failing to take most direct starboard route while towing, or allowing self to be towed, through access lane	100
cl 3.5.3	Proceeding in access lane in a manner dangerous to any other vessel or person in the access lane	200
cl 3.5.4	Obstructing person using access lane for declared purposes	100
cl 3.5.5	Using access lane for other than declared purposes	100
cl 3.7.1	Obstructing a person while that person is using a reserved area for the purpose for which reserved	100
cl 3.8	Failing to obtain permission for special events	100
cl 4.1.1	Carrying or intending to load explosives without displaying Flag B (by day) or red all round light (by night)	100
cl 5.4.1	Operating, for hire or reward, vessel not subject to Safe Ship Management, without commercial vessel licence	100
cl 5.4.2	Operating vessel while commercial vessel licence tempo- rarily suspended	100
Sch 1.4.1	Navigating vessel in Napier Pilotage Area in breach of requirements	100
Sch 1.4.2	Impeding navigation within Napier Pilotage Area of vessels of 500 gross tonnes or more with a vessel less than 500 gross tonnes	200
Sch 1.4.3(a), (b), (d), and (e)	Failing to comply with radio clearance requirements for Breakwater Harbour and its Approach Channel	100
Sch 1.4.3(c)	Entering Breakwater Harbour by recreational craft while vessel manoeuvring in Harbour or its Approach Channel	100
Sch 1.4.4	Anchoring vessel or setting net, line, or crayfish pots in Breakwater Harbour or its Approach Channel	100
Sch 1.5(d)	Failing to comply with surfriding reserved area rules	100
Sch 1.5(f)	Anchoring vessel or setting net, line, or crayfish pots in designated access lane, reserved area, Inner Harbour and its Approach Channel, or Breakwater Harbour and its Approach Channel	100
Sch 1.5(g)	Operating powered vessel in Ahuriri Estuary upstream of Pandora Bridge without authorisation	100
Sch 1.5(h)	Kite surfing, paragliding, or taking part in other activity involving airborne people or equipment in Napier Pilotage area without authorisation	200
Sch 2.1	Exceeding 5 knots within 5 metres of Wairoa River Bank	100
Sch 2.3 Area C	Failing to comply with speed restrictions or travelling in other than anticlockwise direction	100
Sch 2.3 Area D	Using reserved area with other than specified vessels or exceeding 5 knots within reserve area	100
Sch 2.3 Area F	Failing to comply with speed restrictions during duck shooting or white-baiting seasons	100

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Provision	Description of offence	Fee (\$)
Sch 2.6	Failing to keep vessel to starboard side of river channel, or, if going upstream, failing to give way to any vessel coming downstream, or operating vessel in unsafe river and weather conditions	100

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Schedule 2
Hawke's Bay 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]*.

Payment. Please present this notice, or a copy 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 Hawke's Bay 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 wish 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 the Court to consider.

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 to the enforcement authority 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.

Diane Morcom,
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 28 days after the date of their notification in the *Gazette*, specify which breaches of the Hawke's Bay Regional Navigation and Safety Bylaws 2002 are infringement offences for the purposes of section 699A of the Local Government Act 1974. They also prescribe the infringement fees for

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Explanatory note

those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

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

Date of notification in *Gazette*: 11 December 2003.

These regulations are administered in the Department of Internal Affairs.
