



Local Government (Infringement Fees for Offences: Tasman District Council Consolidated Bylaw, Chapter 5: Navigation Safety) Regulations 2007

Anand Satyanand, Governor-General

Order in Council

At Wellington this 5th day of March 2007

Present:

His Excellency the Governor-General in Council

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

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**Form for Tasman District Council Consolidated
Bylaw, Chapter 5: Navigation Safety 2005
infringement offence notice**

Regulations

1 Title

These regulations are the Local Government (Infringement Fees for Offences: Tasman District Council Consolidated Bylaw, Chapter 5: Navigation Safety) Regulations 2007.

2 Commencement

These regulations come into force on 10 April 2007.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Local Government Act 1974

provision means a provision of the Tasman District Council Consolidated Bylaw, Chapter 5: Navigation Safety 2005.

(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 in relation to that offence in the third column of Schedule 1.

5 Infringement notices

An 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
Infringement offences and fees under Tasman
District Council Consolidated Bylaw, Chapter 5:
Navigation Safety 2005**

Provision	Description of offence	Fee (\$)
cl 2.1.1	Failing to provide sufficient, and accessible, personal flotation devices	100
cl 2.1.6	Failing to ensure persons on board wear lifejackets in situations of danger or risk	100
cl 2.1.7	Failing to wear an appropriate personal flotation device while being towed or to ensure persons being towed wear personal flotation devices	100
cl 2.2.1	Diving, swimming, or other related activities in restricted areas without the Harbourmaster's permission	100
cl 2.3.1	Operating a vessel's propulsion system at a wharf or ramp in a way that may cause damage or injury	100
cl 2.4.1	Failing to keep an anchored or moored vessel in a serviceable and operational condition without the Harbourmaster's permission	200
cl 2.4.4	Operating a vessel in breach of advice that the vessel is unseaworthy	200
cl 2.5.1	Impeding a seaplane that is landing or taking off	200
cl 2.5.2	Attempting to take-off or land, or taking off or landing, an aircraft in a waterway specified in Schedule 2, clause 1, without the Harbourmaster's permission	200
cl 2.6.1(a)	Anchoring a vessel so as to cause an obstruction	100
cl 2.6.1(b)	Anchoring a vessel so as to create a hazard	100
cl 2.6.3	Placing an obstruction that is likely to restrict navigation, or cause injury or death to any person or damage to any vessel or property	100
cl 2.7.2	Failing to ensure that any lights of a marine farm or other structure are operational during the hours of darkness	200
cl 2.7.4	Having, on inspection, a structure or maritime facility that poses a danger to navigation	100
cl 2.8.1	Anchoring or mooring in a prohibited anchorage	100
cl 2.9.1	Failing to report, and provide full written details of, a collision or accident to the Harbourmaster	200
cl 2.10.1	Tying a vessel to a navigation aid without the required permission	100
cl 2.10.2	Damaging, removing, defacing, or interfering with a navigation aid	100
cl 2.10.3	Erecting, maintaining, or displaying a device that may be used as a navigation aid without the required permission	100

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Provision	Description of offence	Fee (\$)
cl 2.11.1	Blowing or sounding a vessel's whistle, siren, or horn in a harbour except as a navigation safety signal	100
cl 3.1.2	Permitting a person under 15 years of age to be in charge of, propel, or navigate a power driven vessel capable of exceeding 10 knots, without supervision	100
cl 3.2.1(a)	Exceeding 5 knots within 50 metres of another vessel or person	200
cl 3.2.1(b)	Exceeding 5 knots within 200 metres of shore or a structure	200
cl 3.2.1(c)	Exceeding 5 knots within 200 metres of a vessel displaying flag A	200
cl 3.2.2	Exceeding 5 knots while any part of a person is extended over the fore part, bow, or side of a vessel	200
cl 3.2.3	Allowing speed to exceed 5 knots while being towed in circumstances specified in clause 3.2.1	200
cl 3.3.1	Failing to ensure that the wake of a recreational craft does not cause unnecessary danger or risk of damage	100
cl 3.4.1	Towing a person at a speed exceeding 5 knots without a person on board 10 years of age or older and responsible for notifying mishap	100
cl 3.4.2	Allowing speed to exceed 5 knots while being towed without a person on board 10 years of age or older and responsible for notifying mishap	100
cl 3.5.1	Allowing towing between sunset and sunrise	200
cl 3.5.2	Being towed between sunset and sunrise	200
cl 3.6.1	Failing to navigate an access lane by the most direct route and on the side of the lane to the starboard of the vessel	100
cl 3.6.3	Proceeding dangerously in an access lane	100
cl 3.6.4	Obstructing a person using an access lane for its declared purpose	100
cl 3.6.5	Using an access lane for other than its declared purpose while it is being used for its declared purpose	100
cl 3.8.1	Exceeding 3 knots in anchorages or areas specified, and during periods specified, in Schedule 2, clause 4	100
cl 3.8.2	Exceeding 15 knots in the access lane between Grossi Point and Mapua Bar	100
cl 3.9.1	Obstructing a person using a reserved area for the purpose for which it is reserved	100
cl 3.9.2	Using a reserved area for another purpose while it is being used for a reserved purpose	100
cl 3.9.5(b)	Undertaking a prohibited activity in an area specified in Schedule 2, clause 5(c)	100
cl 3.11.3	Diving without flag A being clearly identifiable to vessels	200
cl 3.11.4	As master of a vessel from which diving is in progress, failing to ensure that flag A is clearly identifiable	200

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Schedule 1

Provision	Description of offence	Fee (\$)
cl 3.16	Failing to comply with Maritime Rule, Part 22: Collision Prevention	100
cl 4.1.3	Failing to have a marine structure inspected at the required frequency	100
cl 4.1.4	Failing to provide an inspection report to the Harbourmaster within the required time	100
cl 4.1.7	Unauthorised anchoring or mooring of a vessel or a raft in or over a mooring	100
cl 4.3.1	Failing to communicate with the Tarakohe Harbour Manager within the required time, before entering Tarakohe Harbour	200
cl 5.4.1(a)	Operating a commercial service without a council licence	200
cl 5.7.2(a)	Landing, placing, or leaving goods on a wharf or in a store without council permission	200
cl 5.7.6(a)	Placing or leaving decaying goods on a wharf or in a store	200
cl 5.7.12	Failing to obey the Harbourmaster's orders in relation to a wharf, shed, mooring, anchorage, or harbour area or obstructing traffic or the movement of vessels	200

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Schedule 2
Form for Tasman District Council Consolidated
Bylaw, Chapter 5: Navigation Safety 2005
infringement offence notice

Form
Tasman District Council Consolidated Bylaw, Chapter 5:
Navigation Safety 2005 infringement offence notice
Section 699A, Local Government Act 1974

Notice No:

Enforcement authority

[*Specify enforcement authority.*]

Person served

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 pro-
vision

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*] at the following address: [*specify address of enforcement authority*].

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.

Form—*continued*

Issued by: [*full name*], being a person duly authorised by the Tasman District Council.

Important: Please read the following statement of rights.

Statement of rights

If, after reading this statement, there is anything in it that you do not understand, 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 section 21(3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the enforcement authority in respect of an infringement fee payable by you, paragraphs 4(b) and (c), 5, and 6 of this notice 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 must be made at the address indicated above.

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.

Form—*continued*

Further action

- 4 You may write to the enforcement authority at the address shown above 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.

Form—*continued*

- 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 an 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 above.

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 on 10 April 2007, specify which breaches of the Tasman District Council Consolidated Bylaw, Chapter 5, Navigation Safety 2005 are infringement offences for the

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Explanatory note

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purposes of section 699A of the Local Government Act 1974. They also prescribe the infringement fees for 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*: 8 March 2007.

These regulations are administered by the Department of Internal Affairs.
