



Local Government (Infringement Fees for Offences: Hawke's Bay Regional Council Navigation Safety Bylaws) Regulations 2008

Anand Satyanand, Governor-General

Order in Council

At Wellington this 6th day of October 2008

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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Regulations

1 Title

These regulations are the Local Government (Infringement Fees for Offences: Hawke's Bay Regional Council Navigation Safety Bylaws) Regulations 2008.

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 Council Navigation Safety Bylaws 2007.
- (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

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.

6 Revocation

The Local Government (Infringement Fees for Offences: Hawke's Bay Regional Navigation and Safety Bylaws) Regulations 2003 (SR 2003/358) are revoked.

Schedule 1 r 4
**Infringement offences and fees under
Hawke's Bay Regional Council Navigation
Safety Bylaws 2007**

Provision	Description of offence	Fee (\$)
cl 2.1.1	Failing to provide sufficient and accessible personal flotation devices on recreational craft when in use	200
cl 2.1.6	Failing to ensure persons on board recreational craft wear personal flotation devices in situations of danger or risk	200
cl 2.2.1	Swimming, jumping, diving, or other activities within certain areas	100
cl 2.3.1	Operating vessel's propulsion system at wharf or ramp in a way that may damage property, scour waterway bed, or injure person	100
cl 2.3.2	Master of commercial vessel failing to comply with requirements relating to testing vessel's propulsion system	100
cl 2.4.1	Failing to keep anchored or moored vessel in seaworthy condition	100
cl 2.5.1	Impeding seaplane when it is landing or taking off	200
cl 2.6.1	Failing to adequately anchor or moor vessel in navigable waters	100
cl 2.6.2	Cutting, breaking, or destroying vessel's mooring or fastening	200
cl 2.7.1	Anchoring or mooring in prohibited anchorage	100

Provision	Description of offence	Fee (\$)
cl 2.8.1	Obstructing navigation of any waterway or access to certain places	100
cl 2.8.2	Placing obstruction in any waters that is liable to restrict navigation or cause loss of life, injury, or damage	200
cl 2.8.3	Leaving equipment and other things extended over side of vessel so as to cause hazard	200
cl 2.9.1	Failing to notify collision, accident, or other matters to Harbour Master as required	100
cl 2.10.1	Tying up to navigation aid without authorisation	100
cl 2.10.2	Damaging, removing, defacing, or interfering with navigation aid or warning erected or authorised by Harbour Master	200
cl 2.10.4	Erecting, maintaining, or displaying without permission beacon, buoy, or other device that may be used as or mistaken for navigation aid	200
cl 2.11.1	Fitting or using non-prescribed sound or light signals without permission of Harbour Master	100
cl 3.1.2	Owner allowing person under 15 years to operate powered vessel capable of exceeding 10 knots unless person is under direct supervision of person over 15 years who is within immediate reach of controls	100
cl 3.2.1	Exceeding speed limit in certain circumstances	200
cl 3.2.2	Propelling or navigating vessel at more than 5 knots while person has part of his or her body extending from vessel	100
cl 3.2.3	Allowing oneself to be towed by vessel at speed exceeding 5 knots in certain circumstances	200
cl 3.2.4	Person in charge of vessel continuing to tow person after person being towed drops water ski or similar object	100
cl 3.3.1	Towing person at speed in excess of 5 knots without person of appropriate age on board responsible for notifying mishaps	100
cl 3.3.2	Allowing oneself to be towed at speed in excess of 5 knots without person of appropriate age on board responsible for notifying mishaps	100
cl 3.4.1	Operating vessel towing person water skiing between sunset and sunrise	100
cl 3.4.2	Allowing oneself to be towed water skiing by vessel between sunset and sunrise	100

Provision	Description of offence	Fee (\$)
cl 3.6.1	Person propelling, navigating, or manoeuvring vessel in access lane failing to take most direct starboard route through access lane	100
cl 3.6.2	Person being towed through access lane causing himself or herself to travel other than by most direct route on starboard side of vessel	100
cl 3.6.3	Proceeding in access lane in manner that is dangerous to any person or vessel in access lane	200
cl 3.6.4	Obstructing another person using access lane	100
cl 3.6.5	Entering, remaining in, or using access lane for purpose other than purpose for which declared, while other persons in access lane for purpose for which it was declared	100
cl 3.10.1	Obstructing person using reserved area for purpose for which it is reserved	100
cl 3.12.1	Operating vessel in breach of Maritime Rules Part 22 (Collision Prevention)	200
cl 3.13.1	Master of vessel under 500 gross tonnage impeding navigation of vessel of 500 gross tonnage or more in Napier pilotage area	200
cl 3.14.2	Navigating vessel under 500 gross tonnage within moving prohibited zone of vessel in Napier pilotage area	100
cl 3.15.1	Failing to display appropriate flag while diving operations in progress	100
cl 3.15.2	Diving without ensuring that appropriate flag is displayed	100
cl 4.1.1	Having on board or intending to load explosives without hoisting appropriate flag or light	200
cl 4.5.1	Failing to obtain hot work permit as required	200
cl 4.5.2	Failing to take certain precautions before welding operations commence	100
cl 5.4.1	Operating vessel for hire or reward without commercial vessel licence if vessel not subject to maritime rules under Maritime Transport Act 1994	100
cl 5.4.2	Owner using vessel for hire or reward in area where by-laws apply, without licence issued by Harbour Master	100
Sch 1.4.1	Failing to comply with certain navigational requirements while in Napier pilotage area	200
Sch 1.4.3	Failing to comply with requirements relating to entering, moving within, or leaving breakwater harbour	100

Provision	Description of offence	Fee (\$)
Sch 1.4.4	Anchoring vessel or setting net, line, or crayfish pots in breakwater harbour or breakwater harbour approach channel	100
Sch 1.5(c)	Entering, remaining in, or using area designated for surfriding for another purpose	100
Sch 1.5(d)	Failing to comply with wave rules in surfriding reserved area	100
Sch 1.5(e)	Bathing in reserved area if not necessary as part of activity for which area is reserved	100
Sch 1.5(f)	Anchoring vessel or setting net, line, or crayfish pots in designated access lane, reserved area, inner harbour, or harbour's approach channel	100
Sch 1.5(g)	Unauthorised powered vessel in the Ahuriri Estuary upstream of Pandora Bridge	100
Sch 1.5(h)	Unauthorised air activities in the Napier pilotage area	100
Sch 2.1	Propelling or navigating vessel at speed exceeding 5 knots within 5 metres of Wairoa River bank	100
Sch 2.3 (Area C)	Failing to comply with speed restrictions or not travelling in an anticlockwise direction in Ngaruroro and Clive Rivers	100
Sch 2.3 (Area D)	Using motorised vessel or exceeding speed limit in Clive River upstream of Clive River Bridge	100
Sch 2.3 (Area E)	Exceeding speed restrictions in Ngaruroro River	100
Sch 2.3 (Area F)	Exceeding speed restrictions in Ngaruroro River during duck shooting season or whitebaiting season	100
Sch 2.5	Person who is permitted to propel or navigate vessel at speed exceeding 5 knots doing so in manner likely to endanger or unduly annoy other water users	100
Sch 2.6	Person in charge of vessel on river— <ul style="list-style-type: none"> • failing to keep to starboard or to give way to vessel coming downstream: • operating vessel in unsafe river and weather conditions 	100

Schedule 2

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**Form of notice for Hawke's Bay Regional
Council Navigation Safety Bylaws 2007
infringement offence**

Form

Hawke's Bay Regional Council Navigation
Safety Bylaws 2007 infringement offence notice
Section 699A, Local Government Act 1974

Notice No:

Enforcement authority*[Specify enforcement authority.]***To**

Full name:

Full address:

Occupation:

Date of birth:

Maritime document No (if applicable):

Alleged infringement offence(s) details

Date:

Time:

Place:

Vessel name:

Vessel description:

For each offence, specify the following:

**Bylaw offence
provision****Offence****Infringement fee
payable (\$)**

Form—*continued***Time for payment of infringement fee(s)**

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

*Select one.

To whom payable

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

*Select one.

Method of payment

Please present this notice, or a copy of this notice, when making payment.

Cheques or money orders must be made out to [*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 below.

Statement of rights

If, after reading this statement, there is anything in it 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.

Form—*continued*

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 after the service on you of this notice, no further enforcement action will be taken for that offence. Payments may be made at the place 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 a letter 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).

The letter must be signed by you and delivered to the enforcement authority at the address specified in this infringement notice and in a reminder notice in respect of the offence before or within 28 days after the service of the reminder notice, or

Form—*continued*

within such further time as the enforcement authority may allow.

- 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 that 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 Unless the enforcement authority decides otherwise, you will be served with a reminder notice if, within 28 days after being served with this notice, you do not—
- (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in this notice a letter requesting a hearing of the offence.
- 8 Unless the enforcement authority decides not to commence proceedings against you, you will become liable to pay costs in addition to the infringement fee if, within 28 days after being served with a reminder notice, you do not—
- (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in the reminder notice a letter requesting a hearing of the offence.

Form—*continued*

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 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 full 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.

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 the 28th day after the date of their notification in the *Gazette*, specify which breaches of the Hawke's Bay Regional Council Navigation Safety Bylaws 2007 are infringement offences for the 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*: 9 October 2008.
These regulations are administered by the Department of Internal Affairs.
