



Maritime Transport (Infringement Fees for Offences— Hawke’s Bay Regional Council Navigation and Safety Bylaw 2018) Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 18th day of February 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 330 of the Maritime Transport Act 1994 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Hawke's Bay Regional Council Navigation and Safety Bylaw 2018) Regulations 2019.

2 Commencement

These regulations come into force on 21 March 2019.

3 Interpretation

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

Act means the Maritime Transport Act 1994

bylaw means the Hawke's Bay Regional Council Navigation and Safety Bylaw 2018

provision means a provision of the bylaw.

- (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.

6 Regulations revoked

The Local Government (Infringement Fees for Offences: Hawke's Bay Regional Council Navigation Safety Bylaws) Regulations 2012 (SR 2012/165) are revoked.

Schedule 1
**Infringement offences and fees under Hawke’s Bay Regional Council
Navigation and Safety Bylaw 2018**

Clause	Description of offence	Fee (\$)
	r 4	
2.2.1	Failing to provide sufficient and accessible personal flotation devices of appropriate size on recreational craft when in use	300
2.2.2	Failing to wear personal flotation devices at all times on craft of 6 metres or less or on paddle craft when underway or preparing to become underway	300
2.2.4	Failing to ensure persons on board craft greater than 6 metres wear personal flotation devices in situations of danger or risk	300
2.3.1	Swimming, jumping, diving, or other activities within specified areas	200
2.4.1	Operating vessel’s propulsion system in manner that may damage property, scour ramp or waterway, or injure	200
2.4.2	Master of commercial vessel— <ul style="list-style-type: none"> • failing to station crew member appropriately when testing vessel’s propulsion system: • failing to ensure appropriate warning given when testing vessel’s engines: • failing to notify harbourmaster or harbour security prior to testing engines 	200
2.5.1	Failing to keep anchored or moored vessel in seaworthy condition	200
2.6.1	Impeding seaplane that is landing or taking off	200
2.7.1	Failing to adequately anchor or moor vessel in navigable waters	200
2.7.2	Cutting, breaking, or destroying vessel’s mooring or fastening	500
2.8.1	Anchoring or mooring in prohibited anchorage	200
2.8.4	Anchoring vessel so as to impede safe passage	200
2.9.1	Obstructing navigation of waterway or access to specified places	200
2.9.2	Placing obstruction in waterway that may restrict navigation or cause death, injury, or damage	300
2.9.3	Extending equipment over side of vessel so as to cause hazard	200
2.11.1	Failing to notify harbourmaster of collision or other matters	200
2.12.1	Securing vessel to navigation aid without authorisation	200
2.12.2	Damaging, removing, defacing, or otherwise interfering with navigation aid or warning	500

**Maritime Transport (Infringement Fees for Offences—
Hawke's Bay Regional Council Navigation and Safety
Bylaw 2018) Regulations 2019**

Schedule 1

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Clause	Description of offence	Fee (\$)
2.12.4	Erecting, maintaining, or displaying beacon, buoy, or other device as navigation aid without permission	200
2.13.1	Fitting or using non-prescribed sound or light signals without permission	200
2.15.1	Failing to enhance visibility of kayak or paddle craft	200
2.16.1	Failing to mark vessel with identifying name or number	200
2.17.1	Failing to register personal watercraft	200
3.1.2	Allowing unsupervised under-age person to operate powered vessel capable of exceeding 10 knots	200
3.2.1	Exceeding 5-knot speed limit in restricted-speed locations	200
3.2.2	Propelling or navigating vessel at speed exceeding 5 knots while person has part of body extending from vessel	200
3.2.3	Being towed by vessel at speed exceeding 5 knots in restricted-speed locations	200
3.2.4	Permitting vessel to continue onwards after person being towed has dropped waterski or similar object	200
3.3.1	Towing person at speed exceeding 5 knots without observer of appropriate age	200
3.3.2	Being towed at speed exceeding 5 knots without observer of appropriate age	200
3.4.1	Operating vessel towing person between sunset and sunrise	200
3.4.2	Being towed by vessel between sunset and sunrise	200
3.6.1	Failing to take most direct starboard route through access lane	200
3.6.2	Being towed, or causing object to be towed, other than by most direct starboard route through access lane	200
3.6.3	Proceeding in access lane in dangerous manner	200
3.6.4	Obstructing another person using access lane for declared purpose	200
3.6.5	Entering, remaining in, or using access lane for purpose other than declared purpose while lane in use	200
3.10.1	Obstructing person using reserved area for reserved purpose	200
3.10.2	Entering reserved area in use for purpose other than reserved purpose	200
3.12.1	Operating vessel in breach of Maritime Rules Part 22 (collision prevention)	200
3.12.2	Failing to comply with directions of enforcement officer	200
3.13.1	Napier pilotage area: allowing vessel under 500 gross tonnage to impede navigation of vessel of 500 gross tonnage or more	200
3.14.2	Napier pilotage area: navigating vessel under 500 gross tonnage within moving prohibited zone	200

Clause	Description of offence	Fee (\$)
3.15.1	Failing to display appropriate flag in required manner while dive operations in progress	200
3.15.2	Diving from vessel without ensuring appropriate flag displayed in required manner	200
4.1.1	Having explosives on board or intending to load explosives without hoisting appropriate flag or light in required manner	200
4.3.1	Failing to operate tanker in port in accordance with International Safety Guide for Oil Tankers and Terminals	500
4.3.2	Master of tanker— <ul style="list-style-type: none"> • failing to berth or mooring tanker at specified wharf: • failing to keep oil cargo tanks securely closed: • failing to keep vessel carrying bulk oil cargo ready to move 	500
4.5.1	Napier pilotage area: failing to obtain hot work permit	200
4.5.2	Napier pilotage area: failing to take certain precautions before welding operations commence or failing to comply with requirements of hot work permit	200
4.6.3	Breakwater harbour: failing to identify or track lost logs	300
4.6.4	Breakwater harbour: failing to notify harbour security or harbourmaster of lost logs or recovery of lost logs	300
5.3.1	Operating commercial vessel for hire or reward without authorised Navigation Safety Licence	200
5.3.3	Operating vessel granted Navigation Safety Licence while licence suspended	200
Sch 1.4.1	Napier pilotage area: failing to comply with specified navigational requirements	200
Sch 1.5(c)	Entering, remaining in, or using surf-riding reserved area otherwise than for designated purpose	200
Sch 1.5(d)	Failing to comply with wave rules in surf-riding reserved area	200
Sch 1.5(e)	Bathing in reserved area when not necessary as part of activity for which area is reserved	200
Sch 1.5(f)	Anchoring vessel or setting nets, lines, or crayfish pots in specified areas	200
Sch 1.5(g)	Ahuriri Estuary: unauthorised powered vessel upstream of Pandora Bridge	200
Sch 1.5(h)	Napier pilotage area: unauthorised air activities	200
Sch 1.5(i)	Battery Road beach: entering bathing reserved area with motorised vessel	200
Sch 1.6.1	Breakwater harbour: failing to comply with radio clearance requirements	200
Sch 1.6.2	Breakwater harbour and breakwater harbour approach channel: anchoring vessel or setting nets, lines, or crayfish pots	200

**Maritime Transport (Infringement Fees for Offences—
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Schedule 1

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Clause	Description of offence	Fee (\$)
Sch 2.1	Wairoa River: exceeding speed of 5 knots within 5 metres of river bank	200
Sch 2.3 (Area D, para (b))	Clive River: exceeding 5-knot speed limit in specified area	200
Sch 2.4(b)	Porangahau River: vessel entering bathing reserved area	200
Sch 2.4(d)	Porangahau River: jet skiing on river other than 30 metres downstream of Beach Road bridge	200
Sch 2.5	Te Paerahi Beach: unauthorised vessel entering bathing and surfing reserved area	200
Sch 2.6	Propelling or navigating vessel on river with speed uplifting in manner likely to endanger or unduly annoy	200
Sch 2.7	Person in charge of vessel on river— <ul style="list-style-type: none"> • failing to keep to starboard or give way to vessel coming downstream: • operating vessel in unsafe river and weather conditions 	300

Schedule 2
Form for Hawke's Bay Regional Council Navigation and Safety
Bylaw 2018 infringement offence notice

r 5

Form
Hawke's Bay Regional Council Navigation and Safety Bylaw 2018
infringement offence notice

Section 330, Maritime Transport Act 1994

(Front page)

Notice No:

Enforcement authority

[Specify enforcement authority.]

Address: [specify address]

Notice issued by: [full name], being a person duly authorised by the enforcement authority

Person served

Full name:

Full address:

Telephone number(s):

Email address:

Occupation:

Date of birth:

Maritime document No (if applicable):

Alleged infringement offence(s) details

Date:

Time:

Place:

Vessel name:

Vessel description:

For each alleged infringement offence, specify the following, including sufficient details of the alleged offence to fairly inform the person of the nature of the alleged offence:

**Maritime Transport (Infringement Fees for Offences—
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Schedule 2

2019/18

Bylaw provision contravened	Details of offence	Infringement fee payable (\$)
1		
2		
3		

Time for payment of infringement fee(s)

The infringement fee is/fees 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 is/fees are* payable to the enforcement authority at [*specify address of enforcement authority*].

*Select one.

Method of payment

The infringement fee is/fees are* payable to the enforcement authority in cash, or by cheque, money order, direct credit, or credit card.

*Select one.

Cash payments must be made to the enforcement agency in person at the address shown above.

Cheques or money orders must be made out to [*specify enforcement authority*], crossed and marked "Not Transferable" or account payable only, marked with the infringement notice number at the top of this notice, and sent to the enforcement authority at the address shown above.

To pay by direct credit or by credit card, go to [*specify relevant Internet site*]. Online payments must refer to the infringement notice number at the top of this notice and must be made to [*specify account number*].

Important

Please read the statement of rights over the page.

(Back page)

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 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 the enforcement authority 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.

Payment

- 2 If you pay the infringement fee for an alleged offence within 28 days after the service of this notice on you, no further enforcement action will be taken for that offence. Payments may be made as indicated on the other side 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 in accordance with this notice within 28 days after the service on you of a reminder notice (*see* paragraph 7). 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 infringement 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 (*see* 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 (*see* paragraphs 6 and 9).

The letter must be signed by you and delivered to the enforcement authority at the address shown on the other side of this infringement notice before or within 28 days after the service of a reminder notice (*see* paragraph 7), or within any further time that the enforcement authority allows.

- 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).

Non-payment of fee

- 7 If you do not pay the infringement fee or deliver a request for a hearing within 28 days after being served with this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).
- 8 If you do not pay the infringement fee and do not deliver a request for 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 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 other side of this notice.

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

Michael Webster,
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 come into force on 21 March 2019.

The regulations specify which breaches of the Hawke's Bay Regional Council Navigation and Safety Bylaw 2018 (the **bylaw**) are infringement offences under the Maritime Transport Act 1994 (the **Act**).

Regulation 4 provides that the breaches of the bylaw specified in *Schedule 1* are infringement offences under the Act and that the infringement fees set out in that schedule apply to those breaches.

Regulation 5 provides that an infringement notice for the infringement offences created by *regulation 4* must be in the form set out in *Schedule 2*.

Regulation 6 provides for the revocation of the Local Government (Infringement Fees for Offences: Hawke's Bay Regional Council Navigation Safety Bylaws) Regulations 2012, which are replaced by these regulations.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 21 February 2019.

These regulations are administered by the Ministry of Transport.