Version
as at 5 April 2025

Marine Mammals Protection Regulations 1992

(SR 1992/322)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 16th day of November 1992

Present:
Her Excellency the Governor-General in Council

Pursuant to section 28 of the Marine Mammals Protection Act 1978, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Department of Conservation.

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Regulations

1 Title and commencement

(1) These regulations may be cited as the Marine Mammals Protection Regulations 1992.

(2) These regulations shall come into force on 1 January 1993.

2 Interpretation

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

the Act means the Marine Mammals Protection Act 1978

commercial aircraft operation means a commercial operation using any aircraft (as defined in section 5 of the Civil Aviation Act 2023)

commercial operation or **operation** means an operation carried on for any form of hire or reward in which persons are transported, conveyed, conducted, or guided where a purpose is to view or come into contact with any marine mammal in New Zealand or in New Zealand fisheries waters

commercial operator means a person who carries on a commercial operation

commercial shore-based operation means a commercial operation that does not use any aircraft or vessel

commercial vessel operation means a commercial operation using any vessel (being a ship as defined in section 2(1) of the Shipping and Seamen Act 1952) or hovercraft

contact, in relation to a marine mammal, includes any interaction involving a person and the mammal that is likely to produce an effect on the mammal

customary marine title area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Director-General means the Director-General of Conservation

dolphin means—

(a) all species commonly known as dolphins; and includes dusky dolphins, common dolphins, bottlenose dolphins, and Hector's dolphins; but

(b) does not include the species known as killer whales and pilot whales

harass includes to do any act that—

(a) causes or is likely to cause injury or distress to any marine mammal; or

(b) disrupts significantly or is likely to disrupt significantly the normal behavioural patterns of any marine mammal

permit means a permit issued under regulation 12

seal means all species commonly known as seals and sea lions; and includes New Zealand fur seals, leopard seals, southern elephant seals, and Hooker's sea lions

whale means all species commonly known as whales; and includes baleen whales, sperm whales, beaked whales, killer whales, and pilot whales

working day means any day except—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing with 20 December in any year and ending with 15 January in the following year.

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

Regulation 2(1) **commercial aircraft operation**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Regulation 2(1) **customary marine title area**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Regulation 2(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Regulation 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Regulation 2(2): inserted, on 3 February 2020, by regulation 75 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

3 Application

(1) These regulations shall apply throughout New Zealand and New Zealand fisheries waters.

(2) Nothing in these regulations applies in respect of any fishing vessel while the vessel is engaged in commercial fishing (as defined in section 2(1) of the Fisheries Act 1983), unless—

(a) the vessel is also engaged in a commercial operation; or

(b) the vessel deviates off course to engage in recreational viewing of marine mammals.

4 Purpose

The purpose of these regulations is to make provision for the protection, conservation, and management of marine mammals and, in particular,—

(a) to regulate human contact or behaviour with marine mammals either by commercial operators or other persons, in order to prevent adverse effects on and interference with marine mammals:

(b) to prescribe appropriate behaviour by commercial operators and other persons seeking to come into contact with marine mammals.

Part 1
Requirements relating to permits

5 Commercial operations carried on without permit prohibited

No commercial operator shall carry on any commercial operation, except pursuant to a permit issued by the Director-General under regulation 12.

6 Criteria for issuing permits

(1) Before issuing a permit, the Director-General shall be satisfied that there is substantial compliance with the following criteria:

(a) that the commercial operation should not be contrary to the purposes and provisions of the Act:

(b) that the commercial operation should not be contrary to the purposes and provisions of general policy statements approved under section 3B of the Act, conservation management strategies approved under section 3C of the Act, or conservation management plans approved under section 3D of the Act:

(c) that the commercial operation should not have any significant adverse effect on the behavioural patterns of the marine mammals to which the application refers, having regard to, among other things, the number and effect of existing commercial operations:

(d) that it should be in the interests of the conservation, management, or protection of the marine mammals that a permit be issued:

(e) that the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient experience with marine mammals:

(f) that the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient knowledge of the local area and of sea and weather conditions:

(g) that the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should not have convictions for offences involving the mistreatment of animals:

(h) that the commercial operation should have sufficient educational value to participants or to the public.

(2) Section 76 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies to any application under these regulations for a permit to watch marine mammals within a customary marine title area.

Regulation 6(2): added, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

7 Requirements to be satisfied before permit for commercial vessel operation issued

Every applicant for a permit for a commercial vessel operation shall submit to the Director-General for approval an application in writing setting out the following:

(a) details of the proposed operation, including—

(i) the type and number of vessels intended for use; and

(ii) any known information relating to the noise level of each vessel both above and below the sea; and

(iii) the proposed area of operation, including a map showing the boundaries of the proposed area of operation and, where appropriate, the specific locations where contact with marine mammals is proposed:

(iv) the maximum number of vessels the operator proposes to operate at any one time:

(v) the proposed base of operation:

(vi) the duration of trips proposed:

(vii) the frequency of trips proposed:

(viii) the proposed kind of contact with marine mammals:

(ix) the maximum numbers of passengers intended to be taken at any one time:

(x) the species of marine mammals with which the operation will have contact:

(xi) the masters proposed to be engaged in the commercial operation:

(b) the experience with marine mammals of the proposed operator and such of the operator's proposed staff who may come into contact with marine mammals:

(c) the knowledge of the local area and sea conditions of the proposed operator and such of the operator's proposed staff who may come into contact with marine mammals:

(d) the details of any convictions of the proposed operator and of those employees of the operator who may come into contact with marine mammals, for offences against the Act or any other Act involving the mistreatment of animals:

(e) the details of any educational material to be provided or educational aspects of the proposed operation.

8 Requirements to be satisfied before permit for commercial aircraft operation issued

Every applicant for a permit for a commercial aircraft operation shall submit to the Director-General for approval an application setting out the following:

(a) the details of the proposed operation, including—

(i) the type and the number of aircraft intended for use; and

(ii) any known information relating to the the noise level of each aircraft both above and below the sea; and

(iii) the proposed area of operation, including a map showing the boundaries of the proposed area of operation and, where appropriate, the specific locations where contact with marine mammals is proposed:

(iv) the maximum number of aircraft proposed to be operating at any one time:

(v) the proposed base of operation:

(vi) the duration of trips proposed:

(vii) the frequency of trips proposed:

(viii) the maximum number of passengers to be carried on the aircraft at any one time:

(ix) the species of marine mammals with which the operation will have contact:

(x) the names of the pilots proposed to be engaged in the commercial aircraft operation:

(b) the experience with marine mammals of the proposed operator and such of the operator's proposed staff who may come into contact with marine mammals:

(c) the knowledge of the local area and weather conditions of the proposed operator and such of the operator's proposed staff who may come into contact with marine mammals:

(d) the details of any convictions of the proposed operator and of those employees of the operator who may come into contact with marine mammals, for offences against the Act or any other Act involving the mistreatment of animals:

(e) the details of any educational material to be provided or educational aspects of the proposed operation:

(f) the number of the air service certificate or other aviation document under which the aircraft will be operating.

9 Requirements to be satisfied before permit for commercial shore-based operation issued

Every applicant for a permit for a commercial shore-based operation shall submit to the Director-General for approval an application setting out, where applicable, the following:

(a) the details of the proposed operation, including—

(i) the type and number of vehicles intended to be used; and

(ii) the proposed area of operation, including a map showing the boundaries of the proposed area of operation and, where appropriate, the specific locations where contact with marine mammals is proposed:

(iii) the proposed guides:

(iv) the maximum number of vehicles the operator proposes to operate at any one time:

(v) the proposed route of persons to be guided to the colony of marine mammals:

(vi) the proposed base of operation:

(vii) the duration of trips proposed:

(viii) the frequency of trips proposed:

(ix) the proposed kind of contact the operation will have with marine mammals:

(x) the species of marine mammals with which the operation will have contact:

(xi) the maximum number of persons intended to be taken at any one time:

(b) the experience with marine mammals of the proposed operator and such of the operator's proposed staff who may come into contact with marine mammals:

(c) the details of any convictions of the proposed operator and of those employees of the operator who may come into contact with marine mammals, for offences against the Act or any other Act involving the mistreatment of animals:

(d) the details of any educational material to be provided or educational aspects of the proposed operation.

10 Requirements to be satisfied before permit issued

(1) Before issuing a permit, the Director-General shall determine whether or not the application by the proposed operator is acceptable to him or her and the Director-General may require the application to be amended by the proposed

operator to incorporate such matters as the Director-General may specify in writing.

(2) Once the application is approved, it shall be deemed to form part of the permit issued in respect of the application and shall be complied with accordingly.

11 Advertising applications

(1) Before granting a permit for a commercial operation, the Director-General shall require the applicant, at the applicant's own expense, to advertise details of the application in a form agreed by the Director-General and in such newspapers as may be agreed by the Director-General.

(1A) However, this regulation does not apply to an application for a further permit to renew an existing permit on terms and conditions that, in the opinion of the Director-General, are substantially the same.

(2) The advertisement shall set out such details of the proposed operation as required by the Director-General, the name and address of the applicant, and shall call for submissions within 20 working days after publication of the notice.

(3) Submissions shall be sent to the Director-General at such place as the Director-General may specify in the notice; and the Director-General shall send to the applicant a copy of every submission received in respect of the applicant's proposed operation.

(4) The applicant shall make any comments on the submissions to the Director-General within 10 working days after the receipt of submissions.

(5) Before deciding whether or not to grant a permit for any commercial operation, the Director-General shall consider every submission received under this regulation in respect of the proposed operation and the comments received under subclause (4).

Regulation 11(1A): inserted, on 11 September 2008, by regulation 4 of the Marine Mammals Protection Amendment Regulations 2008 (SR 2008/255).

12 Permits

(1) Subject to these regulations, the Director-General, on receiving an application made in writing, may issue a permit authorising any commercial operator to carry on any specified commercial operation.

(2) Every permit issued to a commercial operator shall, where appropriate, specify the following:

(a) the type of aircraft and vessels to be used by the operator:

(b) the names of the pilots of aircraft, the masters of vessels, and guides engaged in the commercial operation:

(c) the land and any area of water to which it relates:

(d) that all aircraft and vessels operated under the permit, and their pilots and masters, respectively, must meet the statutory requirements relating to the licensing and safety of the aircraft and vessels and the qualifications and licensing of the pilots and masters, as the case may require.

(3) The Director-General shall not issue a permit unless he or she is satisfied—

(a) that the proposed commercial operation will not have or be likely to have any adverse effect on the conservation, protection, or management of marine mammals; and

(b) that the criteria specified in regulation 6 have been substantially complied with; and

(c) that sufficient information has been received by the Director-General in respect of the application under regulation 7 or regulation 8 or regulation 9.

(4) The Director-General may issue a permit for any period of time not exceeding 10 years and may renew the permit from time to time.

(5) The Director-General shall, where appropriate, issue to every commercial operator issued with a permit a label identifying each aircraft or vessel as operating under a valid permit. Each label shall be affixed at all times to the aircraft or vessel, as the case may be.

Part 2
Suspension, revocation, restriction, or amendment of permits

13 Suspension, revocation, restriction, or amendment of permits

(1) The Director-General may at any time suspend or revoke any permit, or restrict the operation authorised by any permit, where the holder—

(a) is convicted of any offence against the Act or is convicted under any other Act of any offence involving the mistreatment of animals; or

(b) contravenes or fails to comply with any statutory requirement relating to the licensing, operation, and safety of any aircraft or vessel used by the person carrying on the commercial operation; or

(c) carries on a commercial operation without an appropriately licensed aircraft pilot or crew, or certificated master; or

(d) contravenes or fails to comply with any condition or requirement specified or notified under Part 3 or specified in the permit.

(2) Where the Director-General believes on reasonable grounds that it is necessary for the protection, conservation, or management of any marine mammal or marine mammals of any class, he or she may—

(a) suspend, revoke, or amend (in a manner not inconsistent with Part 3) any permit or permits:

(b) restrict in whole or in part the operation authorised by any permit or permits.

(3) Where any person ceases to be a commercial operator, the Director-General may suspend or revoke that persons's permit.

(4) Every suspension of a permit under this regulation shall be for such period as the Director-General specifies by notice in writing to the holder.

(5) The Director-General may, at the request of the commercial operator and if he or she is satisfied that the criteria specified in regulation 6 have been substantially complied with, amend a permit to allow a change of aircraft or vessel or a change of pilot, master, or guide, as the case may be.

(6) A permit holder shall comply with the advertising requirements in regulation 11 with appropriate modifications, where, in the opinion of the Director-General, a major amendment to the permit is sought by the holder.

14 Transfer of permits

(1) A commercial operation permit holder who transfers the permit to another person without first obtaining the written consent of the Director-General commits an infringement offence and is liable to—

(a) an infringement fee of $800; or

(b) a fine imposed by a court not exceeding $1,600.

(2) The Director-General may—

(a) refuse to consent to the transfer of a permit; or

(b) consent to the transfer of a permit either with or without conditions.

(3) Where the holder of a permit is a body corporate, the transfer of control of the management of the holder in whole or in part to another person shall be deemed to be a transfer of the permit.

(4) In considering whether or not to consent to a transfer of a permit the Director-General, shall have regard to the applicable matters contained in regulations 6 to 9.

(5) No permit shall be deemed to allow any person other than the operator specified therein to carry on the commercial operation authorised by the permit.

Regulation 14(1): replaced, on 3 February 2020, by regulation 76 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

15 Director-General may decline to grant permits during specified period

(1) Where the Director-General believes on reasonable grounds that it is necessary for the protection, conservation, or management of any marine mammals or any class of marine mammals, he or she may, by notice published in—

(a) the *Gazette*; and

(b) newspapers circulating in the locality,—

declare that no new permits shall be granted in respect of specified commercial operations during the period specified in the notice.

(2) In considering whether or not to give notice under subclause (1), the Director-General shall have regard to—

(a) the number and effect of existing commercial operations; and

(b) whether or not it is in the interests of the conservation, protection, or management of marine mammals to grant further permits.

(3) A notice under subclause (1) may in like manner be amended or revoked.

16 Rights of appeal

(1) Any commercial operator who makes application to the Director-General for a further permit to renew an existing permit on substantially the same terms and conditions may appeal to the Minister of Conservation against any decision of the Director-General to decline to grant that person a permit; and the Minister may confirm, reverse, or modify the decision appealed against.

(2) Any person may appeal to the Minister of Conservation against the decision of the Director-General to suspend, revoke, restrict, or amend that person's permit; and the Minister may confirm, reverse, or modify the decision appealed against.

Part 3
Behaviour around marine mammals

17 Application of this Part

Nothing in regulation 18 or regulation 19 or regulation 20 shall apply to persons, vessels, aircraft, or vehicles rendering assistance to stranded or injured marine mammals.

18 Conditions governing commercial operations and behaviour of all persons around any marine mammal

Every commercial operation, and every person coming into contact with any class of marine mammal, shall comply with the following conditions:

(a) persons shall use their best endeavours to operate vessels, vehicles, and aircraft so as not to disrupt the normal movement or behaviour of any marine mammal:

(b) contact with any marine mammal shall be abandoned at any stage if it becomes or shows signs of becoming disturbed or alarmed:

(c) no person shall cause any marine mammal to be separated from a group of marine mammals or cause any members of such a group to be scattered:

(d) no rubbish or food shall be thrown near or around any marine mammal:

(e) no sudden or repeated change in the speed or direction of any vessel or aircraft shall be made except in the case of an emergency:

(f) where a vessel stops to enable the passengers to watch any marine mammal, the engines shall be either placed in neutral or be switched off within a minute of the vessel stopping:

(g) no aircraft engaged in a commercial aircraft operation shall be flown below 150 metres (500 feet) above sea level, unless taking off or landing:

(h) when operating at an altitude of less than 600 metres (2 000 feet) above sea level, no aircraft shall be closer than 150 metres (500 feet) horizontally from a point directly above any marine mammal or such lesser or greater distance as may be approved by the Director-General, by notice in the *Gazette*, from time to time based on the best available scientific evidence:

(i) no person shall disturb or harass any marine mammal:

(j) vehicles must remain above the mean high water spring tide mark and shall not approach within 50 metres of a marine mammal unless in an official carpark or on a public or private slipway or on a public road:

(k) no person, vehicle, or vessel shall cut off the path of a marine mammal or prevent a marine mammal from leaving the vicinity of any person, vehicle, or vessel:

(l) subject to paragraph (m), the master of any vessel less than 300 metres from any marine mammal shall use his or her best endeavours to move the vessel at a constant slow speed no faster than the slowest marine mammal in the vicinity, or at idle or "no wake" speed:

(m) vessels departing from the vicinity of any marine mammal shall proceed slowly at idle or "no wake" speed until the vessel is at least 300 metres from the nearest marine mammal, except that, in the case of dolphins, vessels may exceed idle or "no wake" speed in order to outdistance the dolphins but must increase speed gradually, and shall not exceed 10 knots within 300 metres of any dolphin:

(n) pilots of aircraft engaged in a commercial aircraft operation shall use their best endeavours to operate the aircraft in such a manner that, without compromising safety, the aircraft's shadow is not imposed directly on any marine mammal.

19 Special conditions applying to whales

In addition to complying with the provisions set out in regulation 18, every commercial operation and every person coming into contact with whales shall also comply with the following conditions:

(a) no person in the water shall be less than 100 metres from a whale, unless authorised by the Director-General:

(b) no vessel shall approach within 50 metres of a whale, unless authorised by the Director-General:

(c) if a whale approaches a vessel, the master of the vessel shall, wherever practicable,—

(i) manoeuvre the vessel so as to keep out of the path of the whale; and

(ii) maintain a minimum distance of 50 metres from the whale:

(d) no vessel or aircraft shall approach within 300 metres (1 000 feet) of any whale for the purpose of enabling passengers to watch the whale, if the number of vessels or aircraft, or both, already positioned to enable passengers to watch that whale is 3 or more:

(e) where 2 or more vessels or aircraft approach an unaccompanied whale, the masters concerned shall co-ordinate their approach and manoeuvres, and the pilots concerned shall co-ordinate their approach and manoeuvres:

(f) no person or vessel shall approach within 200 metres of any female baleen or sperm whale that is accompanied by a calf or calves:

(g) a vessel shall approach a whale from a direction that is parallel to the whale and slightly to the rear of the whale:

(h) no person shall make any loud or disturbing noise near whales:

(i) where a sperm whale abruptly changes its orientation or starts to make short dives of between 1 and 5 minutes duration without showing its tail flukes, all persons, vessels, and aircraft shall forthwith abandon contact with the whale.

20 Special conditions applying to dolphins or seals

In addition to complying with the conditions set out in regulation 18, any commercial operation and any person coming into contact with dolphins or seals shall also comply with the following conditions:

(a) no vessel shall proceed through a pod of dolphins:

(b) persons may swim with dolphins and seals but not with juvenile dolphins or a pod of dolphins that includes juvenile dolphins:

(c) commercial operators may use an airhorn to call swimmers back to the boat or to the shore:

(d) except as provided in paragraph (c), no person shall make any loud or disturbing noise near dolphins or seals:

(e) no vessel or aircraft shall approach within 300 metres (1 000 feet) of any pod of dolphins or herd of seals for the purpose of enabling passengers

to watch the dolphins or seals, if the number of vessels or aircraft, or both, already positioned to enable passengers to watch that pod or herd is 3 or more:

(f) where 2 or more vessels or aircraft approach an unaccompanied dolphin or seal, the masters concerned shall co-ordinate their approach and manoeuvres, and the pilots concerned shall co-ordinate their approach and manoeuvres:

(g) a vessel shall approach a dolphin from a direction that is parallel to the dolphin and slightly to the rear of the dolphin.

Part 4
Miscellaneous provisions

20A Penalties for infringement offences in Act

The penalties for an infringement offence in the Act are the penalties specified for that infringement offence in the third and fourth columns of Schedule 1.

Regulation 20A: inserted, on 3 February 2020, by regulation 77 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

20B Infringement notice and reminder notice

(1) An infringement notice issued under section 27E of the Act must be in form 1 set out in Schedule 2.

(2) A reminder notice issued under section 27F of the Act must be in form 2 set out in Schedule 2.

Regulation 20B: inserted, on 3 February 2020, by regulation 77 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

21 Transitional provisions

(1) Applications (including amended applications) for permits received before the commencement of these regulations shall be dealt with as if the Marine Mammals Protection Regulations 1990 were still in force.

(2) Applications for permits that are received after the commencement of these regulations shall be dealt with under these regulations.

(3) Permits issued under the Marine Mammals Protection Regulations 1990 shall be subject to regulations 13, 14, 16, 17, 18, 19, and 20. The Marine Mammals Protection Regulations 1990 (except regulations 5(4), 5(5), 6(3), 7, 8, and 9) shall continue to apply to such permits as if not revoked, unless inconsistent with these regulations.

22 Regulations revoked

The Marine Mammals Protection Regulations 1990 (SR 1990/287) are hereby revoked.

Schedule 1
Penalties for infringement offences under Marine Mammals Protection Act 1978

r 20A

Schedule 1: inserted, on 3 February 2020, by regulation 78 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Section	Description of offence	Infringement fee ($)	Maximum fine ($)
27A(1)(a)	Taking, possessing, exporting, importing, having on board any vessel, vehicle, aircraft, or hovercraft, or having control of any marine mammal	400	800
27A(1)(b)	Failing to give Director-General information that person is required to give	400	800
27A(1)(c)	Placing or leaving any structure or trap or chemical or other substance in any place where marine mammal is or is likely to be	800	1,600
27A(1)(d)	Using any vehicle, vessel, aircraft, or hovercraft to herd or harass any marine mammal	800	1,600
27A(1)(e)	Contravening any notice, direction, restriction, requirement, or condition given, made, or imposed	600	800

Schedule 2
Infringement notice and reminder notice

r 20B

Schedule 2: inserted, on 3 February 2020, by regulation 78 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 1
Infringement notice

Section 27E, Marine Mammals Protection Act 1978

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Service details

This infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee is payable within 28 days after [*date infringement notice served*].

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

1 This notice sets out an alleged infringement offence.

Payments

2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below 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.

Defence

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, a reminder notice in respect of the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

5 You may—

(a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or

(b) deny liability for the alleged offence and request a court hearing; or

(c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—

(a) request a hearing; and

(b) admit liability for the offence; and

(c) set out the written submissions you wish the court to consider.

9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice or within any further time that [*name of enforcement authority*] allows, you will be served with a reminder notice (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). Please note that in some circumstances, if you do not receive a reminder notice, you may still become liable to pay a fine and court costs.

11 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,—

(a) [*name of enforcement authority*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and

(b) if so, you will become liable to pay court costs as well as a fine.

12 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

13 When writing, please specify—

(a) the date of the alleged infringement offence; and

(b) the infringement notice number; and

(c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

14 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 2 form 1: inserted, on 3 February 2020, by regulation 78 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 2
Reminder notice

Section 27F, Marine Mammals Protection Act 1978

Reminder notice No:

Date of notice:

This notice is to remind you that you have been issued with an infringement notice. The details of the infringement notice are as follows.

Enforcement authority

The infringement notice was issued by [*name or identification number of authorised person*].

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

†Not required if the notice is served on a company or other body corporate.

*Specify only if known.

Alleged infringement offence details

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court)

The infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

This reminder notice was served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to [*name of enforcement authority*] within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice.

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

1 You have not paid the infringement fee described in this notice, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

Payments

2 If you pay the infringement fee for the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below 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.

Defence

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, this notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action, including right to request hearing

5 You may—

(a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; or

(b) deny liability for the alleged offence and request a court hearing; or

(c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must

sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty, and you will be required to pay a hearing fee.

8 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your letter,—

(a) request a hearing; and

(b) admit liability for the offence; and

(c) set out the written submissions you wish the court to consider.

9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

Non-payment of fee

10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

11 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Correspondence

12 When writing, please specify—

(a) the date of the alleged infringement offence; and

(b) the reminder notice number; and

(c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

Further details of your rights and obligations

13 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 2 form 2: inserted, on 3 February 2020, by regulation 78 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Bob MacFarlane,
Acting for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 19 November 1992.

Marine Mammals Protection Amendment Regulations 2008

(SR 2008/255)

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 11th day of August 2008

Present:
Her Excellency the Administrator of the Government in Council

Pursuant to section 28 of the Marine Mammals Protection Act 1978, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Regulations

1 Title

These regulations are the Marine Mammals Protection Amendment Regulations 2008.

2 Commencement

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

5 Transitional provision for certain applications

(1) This regulation applies to an application made before the commencement of these regulations for a permit (within the meaning of the principal regulations).

(2) The application must be dealt with—

(a) as if these regulations had not been made if, before the commencement of these regulations, the Director-General required the applicant to advertise details of the application under regulation 11(1) of the principal regulations:

(b) in accordance with the principal regulations as amended by these regulations in all other cases.

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 14 August 2008.

Notes

1 General

This is a consolidation of the Marine Mammals Protection Regulations 1992 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Civil Aviation Act 2023 (2023 No 10): section 486

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326): Part 6

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Marine Mammals Protection Amendment Regulations 2008 (SR 2008/255)

Wellington, New Zealand:
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