



Local Government (Infringement Fees for Offences—Environment Canterbury Navigation Safety Bylaws 2010) Regulations 2011

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 19th day of September 2011

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.

Contents

| | Page |
|--|----------|
| 1 Title | 2 |
| 2 Commencement | 2 |
| 3 Interpretation | 2 |
| 4 Infringement offences and fees | 2 |
| 5 Infringement notices | 2 |
| 6 Revocation | 3 |
| Schedule 1 | 3 |
| Infringement offences and fees under Environment Canterbury Navigation Safety Bylaws 2010 | |

Schedule 2
Form of infringement offence notice

8

Regulations

1 Title

These regulations are the Local Government (Infringement Fees for Offences—Environment Canterbury Navigation Safety Bylaws 2010) Regulations 2011.

2 Commencement

These regulations come into force on 21 October 2011.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **provision** means a provision of the Environment Canterbury Navigation Safety Bylaws 2010.
- (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 Local Government Act 1974.
- (2) The infringement fee for an offence referred to in subclause (1) is the 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—Environment Canterbury Navigation Safety Bylaws) Regulations 2005 (SR 2005/344) are revoked.

**Schedule 1
Infringement offences and fees under
Environment Canterbury Navigation
Safety Bylaws 2010**

r 4

| Provision | Description of offence | Fee (\$) |
|-----------|---|----------|
| cl 2.1.1 | Failing to carry required lifejackets on recreational craft | 300 |
| cl 2.1.2 | Failing to ensure that each person on recreational craft wears lifejacket as required | 300 |
| cl 2.1.3 | Failing to wear lifejacket on recreational craft of less than 6 metres | 150 |
| cl 2.1.4 | Failing to wear lifejacket on manually powered craft of less than 6 metres | 150 |
| cl 2.1.5 | Towing a person who is not wearing lifejacket | 150 |
| cl 2.1.5 | Being towed without wearing lifejacket | 150 |
| cl 2.1.7 | Support vessel failing to carry lifejackets or buoyancy aids | 300 |
| cl 2.2.1 | Diving or swimming from wharf or ramp when vessel manoeuvring | 150 |
| cl 2.3.2 | Allowing person under 15 years to navigate powered vessel without supervision | 150 |
| cl 2.4.1 | Exceeding 5 knots within specified distances from shore, person, vessel, or structure | 150 |
| cl 2.4.3 | Navigating vessel causing danger or undue annoyance to persons in vicinity | 150 |
| cl 2.5.1 | Creating wake that endangers other vessels, structures, or persons | 150 |
| cl 2.6.1 | Exceeding 5 knots while part of a person is extended over edge of vessel | 150 |
| cl 2.6.2 | Having part of body over edge of vessel that is exceeding 5 knots | 150 |
| cl 2.7 | Failing to notify Harbourmaster of incident | 300 |
| cl 2.8.1 | Impeding landing or take-off of seaplane | 300 |

**Local Government (Infringement
Fees for Offences—Environment
Canterbury Navigation Safety Bylaws
2010) Regulations 2011**

Schedule 1

2011/328

| Provision | Description of offence | Fee (\$) |
|-------------------------|---|-----------------|
| cl 2.8.2 | Landing or take-off of aircraft without permission of Harbourmaster | 300 |
| cl 2.10 | Obstructing waterways or access to waterways | 150 |
| cl 2.11.1 | Tying vessel to navigation aid or structure without permission of Harbourmaster | 150 |
| cl 2.11.2 | Damaging, removing, defacing, or interfering with navigation aid or structure | 150 |
| cl 2.11.3 | Erecting, maintaining, or displaying any device that may be used or mistaken for navigation aid without permission of Harbourmaster | 150 |
| cl 2.13 | Failing to ensure Flag A displayed during dive operations | 300 |
| cl 2.14.1(a) | Failing to leave buoy marking position of submerged material or cargo | 500 |
| cl 2.14.1(b), (c) | Failing to provide required information regarding submerged material or cargo | 500 |
| cl 2.14.1(d) | Failing to follow directions of Harbourmaster for recovery of material or cargo | 500 |
| cl 2.16 | Operating a vessel contrary to collision rules | 150 |
| cl 3.1 | Towing object, watercraft, or person at speed exceeding 5 knots in specified circumstances | 150 |
| cl 3.1 | Being towed at speed exceeding 5 knots in specified circumstances | 150 |
| cl 3.2.1 | Erecting water ski course markers or structures without permission of Regional Harbourmaster | 150 |
| cl 3.3.1 | Towing person without lookout or with underage lookout | 150 |
| cl 3.3.2 | Being towed without lookout or with underage lookout | 150 |
| cl 3.4.1 | Towing person between sunset and sunrise | 150 |
| cl 3.4.2 | Being towed between sunset and sunrise | 150 |
| cl 4.4 | Improper conduct in access lane | 150 |
| cl 4.6.1 | Failing to use reserved area in accordance with specified conditions | 150 |
| cl 4.6.2 | Obstructing person using reserved area for its reserved purpose | 150 |
| cl 4.6.4 | Failing to keep log of specified activities or to supply the log upon request | 300 |
| cls 5.1.1, 5.1.2, 5.1.3 | Failing to ensure vessel is adequately moored or secured | 150 |
| cl 5.1.4 | Cutting, breaking, or destroying mooring or fastening | 150 |

**Local Government (Infringement
Fees for Offences—Environment
Canterbury Navigation Safety Bylaws
2010) Regulations 2011**

2011/328

Schedule 1

| Provision | Description of offence | Fee (\$) |
|------------------|--|-----------------|
| cl 5.1.5 | Leaving vessel unattended at wharf without permission of wharf owner | 150 |
| cl 5.2 | Failing to provide safe access to and from large vessel | 500 |
| cl 5.3.1 | Operating propulsion system of large vessel when at wharf or ramp | 500 |
| cl 5.3.2 | Failing to warn persons and vessels in vicinity prior to testing propulsion system | 500 |
| cl 5.4 | Laying, transferring, or using swing mooring without meeting specified requirements | 150 |
| cl 5.5.1 | Failing to maintain mooring in safe working condition | 150 |
| cl 5.5.1 | Failing to comply with mooring inspection requirements | 150 |
| cl 5.5.2 | Failing to mark position of mooring | 150 |
| cl 5.5.3 | Failing to repair or remove mooring | 150 |
| cl 5.5.4 | Re-laying mooring without approval | 150 |
| cl 5.7.1 | Anchoring unlawfully within swing mooring area | 150 |
| cl 5.7.2 | Anchoring unlawfully near swing mooring area | 150 |
| cl 5.8.1 | Failing to maintain maritime facility in safe condition | 150 |
| cls 6.1.1, 6.1.2 | Failing to obtain gas free certificate before commencing work | 1,000 |
| cl 6.1.3 | Failing to display gas free certificate | 300 |
| cls 6.2.1, 6.2.2 | Failing to obtain permission to carry out hot work | 500 |
| cl 6.2.3 | Failing to comply with conditions for carrying out hot work | 500 |
| cl 6.3 | Failing to meet requirements for safe handling of dangerous goods | 500 |
| cl 6.4 | Failing to meet requirements for loading and unloading fuel oil | 500 |
| cl 6.5.1 | Master of oil tanker, or vessel carrying, loading, or unloading explosives, failing to display Flag B by day or all-round red light at night | 500 |
| cl 6.5.2 | Failing to operate an oil tanker in accordance with International Safety Guide for Oil Tankers and Terminals (ISGOTT) | 500 |

**Local Government (Infringement
Fees for Offences—Environment
Canterbury Navigation Safety Bylaws
2010) Regulations 2011**

Schedule 1

2011/328

| Provision | Description of offence | Fee (\$) |
|------------------|---|-----------------|
| cl 7.2.2 | Failing to comply with temporary regulation by exceeding temporary speed limit or using reserved area or access lane for prohibited purpose | 150 |
| cl 7.2.3 | Failing to comply with conditions of temporary regulation | 150 |
| cl 9.1 | Failing to notify, or obtain permission for, movement of large vessel | 500 |
| cl 9.3.1 | Master of vessel failing to provide pilot with all relevant information where required | 500 |
| cl 9.4 | Master of vessel failing to use pilot as required | 500 |
| cl 9.5 | Master of large vessel failing to provide particulars of vessel | 500 |
| cl 9.6.1 | Navigating craft under specified wharves without permission of port company | 150 |
| cl 9.6.2 | Swimming under or near specified wharves without permission of port company | 150 |
| cl 9.7.1 | Allowing vessel under 500 gross tonnage to impede navigation of vessel of 500 gross tonnage or more in specified areas | 150 |
| cl 9.7.2 | Navigating vessel within moving prohibited zone without permission of Regional Harbourmaster | 150 |
| cl 9.7.4 | Anchoring in main navigational channel without permission of Harbourmaster | 150 |
| cl 9.8.1 | Anchoring vessel within 30 metres north or south of liquid petroleum gas pipeline in Cass and Corsair Bays | 150 |
| cl 10.1.6(c) | Crossing Motunau River bar at night or in conditions of poor visibility | 150 |
| cl 10.1.6(d) | Failing to give way to inbound vessel in Motunau Channel | 150 |
| cl 10.1.6(e) | Entering Motunau Channel when inbound vessel over 6 metres is in channel or about to enter channel | 150 |
| cl 10.1.6(f) | Failing to wear lifejacket when vessel crossing the Motunau River bar | 150 |
| cl 11A(a) | Failing to keep to starboard (right) side of river | 150 |
| cl 11A(b) | Failing to give way to vessel coming downstream in river when going upstream | 150 |
| cl 11A(c) | Operating vessel in dangerous river conditions | 150 |
| cl 11A(d) | Exceeding 5 knots in specified river areas | 150 |

**Local Government (Infringement
Fees for Offences—Environment
Canterbury Navigation Safety Bylaws
2010) Regulations 2011**

2011/328

Schedule 1

| Provision | Description of offence | Fee (\$) |
|--|--|-----------------|
| cl 11.2.2 | Failing to navigate Avon River as specified | 150 |
| cl 11.2.3 | Failing to give way when overtaking on Avon River | 150 |
| cl 11.2.4 | Failing to give way to crews travelling up-stream on Avon River | 150 |
| cl 12A | Using an electric trolling motor on specified lakes | 150 |
| cl 12.13.1 | Exceeding 5 knots on Lake Forsyth | 150 |
| cl 12.22.2 | Failing to navigate Loch Katrine as specified when exceeding 5 knots | 150 |
| cl 12.32.1 | Exceeding 5 knots on Lake Pearson | 150 |
| cls 12.36.15, 12.36.17, 12.36.18 | Specifying rowing regatta day on Lake Ruataniwha when not permitted | 150 |
| cl 12.36.16 | Navigating powered craft without permission on Lake Ruataniwha on rowing regatta day | 150 |
| cl 12.36.19 | Failing to notify Regional Harbourmaster of regatta schedule | 150 |
| cl 12.36.20 | Failing to maintain suitable patrol craft | 150 |
| cl 12.36.21 | Failing to provide required regatta signage | 150 |
| Schedule 2 | Impeding passage of large vessels in main navigational channel | 150 |

Schedule 2

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Form of infringement offence notice

Form

Environment Canterbury Navigation Safety
Bylaws infringement offence notice

Section 699A, Local Government Act 1974

Notice No:

Enforcement authority

[Specify enforcement authority.]

Person served

Full name:

Full address:

Telephone number(s):

Date of birth:

Gender:

Occupation:

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 (\$) |
|--------------------------------|----------------|--------------------------------------|
| 1 | | |
| 2 | | |
| 3 | | |

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

*Select one.

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

Cheques or money orders must be made out to the [*specify enforcement authority*] and must be crossed and marked not transferable or account payee only.

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

Important

Please read the following statement of rights.

Statement of rights

If, after reading this statement, you do not understand anything in it, you should consult a lawyer immediately.

- 1 This notice sets out 1 or more alleged infringement offences. Each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences, or in different ways in respect of different alleged offences, as set out below.

Note: If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with 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.

Form—*continued*

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.

Further action

- 4 You may write to the enforcement authority at the address shown on the front page of this notice if you wish to—
- (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9).

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 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.

Form—*continued*

- 6 If you admit liability for the offence but wish the court to consider your submissions as to penalty or otherwise, you must, in your letter to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability; and
 - (c) set out the written submissions you wish the court to consider.

The enforcement authority will then file your letter with the court (unless it decides not to commence court proceedings in respect of the offence). There is no provision for an oral hearing before the court if you follow this course of action.

Non-payment of fee

- 7 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after the service on you of this notice, you will (unless the enforcement authority decides otherwise) be served with a reminder notice.
- 8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay **costs in addition to the infringement fee** unless the enforcement authority decides not to commence proceedings against you.

Queries and correspondence

- 9 When writing 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).

**Local Government (Infringement
Fees for Offences—Environment
Canterbury Navigation Safety Bylaws
2010) Regulations 2011**

Explanatory note

2011/328

Form—continued

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 on the front page of this notice.

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 21 October 2011, specify which breaches of the Environment Canterbury Navigation Safety Bylaws 2010 are infringement offences for the purposes of section 699A of the Local Government Act 1974.

The regulations also prescribe 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*: 22 September 2011.

These regulations are administered by the Department of Internal Affairs.
