



Local Government (Infringement Fees for Offences—Marlborough District Council Navigation Bylaw 2009) 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.

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**Form of notice for Marlborough District Council
Navigation Bylaw 2009 infringement offence**

Regulations**1 Title**

These regulations are the Local Government (Infringement Fees for Offences—Marlborough District Council Navigation Bylaw 2009) Regulations 2011.

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 Marlborough District Council Navigation Bylaw 2009.
- (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: Marlborough District Council Navigation Bylaws) Regulations 2003 (SR 2003/161) are revoked.

Schedule 1

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Infringement offences and fees under Marlborough District Council Navigation Bylaw 2009

Provision	Description of offence	Fee (\$)
cl 2.1	Failing to comply with requirements as to personal flotation devices	200
cl 2.2.1	Diving, swimming, jumping, or other related activities near jetty, wharf, quay, or other area	200
cl 2.3.1	Operating a propulsion system in breach of requirements	200
cl 2.4.1	Failing to maintain a vessel in a seaworthy condition	200
cl 2.5	Failing to observe restrictions as to seaplanes	200
cl 2.6.1	Failing to ensure a vessel is adequately moored	200
cl 2.7.1	Anchoring in prohibited anchorage	200
cl 2.8.1	Obstructing access by water to any maritime facility or placing obstruction in any waters	200
cl 2.9.1	Failing to report an accident or a collision	200
cl 2.10	Failing to observe restrictions as to navigation aids	200
cl 2.11	Failing to observe requirements as to flashing lights, sirens, or other sound or light signals	200
cl 2.12	Failing to observe requirements as to towing, mooring, placing, or leaving logs	200
cl 2.13	Discharging a firearm on board a vessel in breach of requirements	200
cl 3.1.2	Permitting person under age of 15 to navigate a powered vessel without direct supervision	200
cl 3.2	Navigating a vessel (including a vessel towing a person or an object) at speed exceeding 5 knots in breach of requirements	200
cl 3.3.1	Failing to ensure that a vessel is marked with its name or a similar identifying mark	200

Provision	Description of offence	Fee (\$)
cl 3.4.2	Causing or allowing oneself to be towed by a vessel without a person on board responsible for notifying a mishap	200
cl 3.5.1	Towing a person or vessel or allowing oneself to be towed by a vessel between sunset and sunrise	200
cl 3.7	Failing to observe requirements as to conduct in access lanes	200
cl 3.11	Failing to observe restrictions as to reserved areas	200
cl 3.13.1	Failing to observe the requirements of Maritime Rule Part 22 (Collision Prevention)	200
cl 3.14.1	Impeding the passage of a vessel of 500 gross tonnes or more with a vessel of less than 500 gross tonnes	200
cl 3.15	Navigating a vessel of less than 500 gross tonnes within moving prohibited zone	200
cl 3.16.2	Diving from a vessel without displaying Flag A	200
cl 4.1.1	Failing to report or advise certain matters to Picton Harbour Radio	200
cl 4.2	Failing to observe requirements as to navigating Tory Channel	200
cl 4.3	Failing to observe requirements as to navigating Picton Harbour, Queen Charlotte Sound, and Tory Channel	200
cl 4.4	Failing to observe requirements as to calling Picton Harbour Radio	200
cl 4.6	Failing to observe requirements as to carrying explosives and carrying out hot work	200
cl 5.1.1	Failing to operate marine farm lights and reflector during hours of darkness and to keep them in good repair	200
cl 6.4.1	Operating certain vessels for hire or reward without licence	200

Schedule 2

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**Form of notice for Marlborough
District Council Navigation Bylaw 2009
infringement offence**

Form

Marlborough District Council Navigation
Bylaw 2009 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 (or are) payable to the enforcement authority within 28 days after [*date this notice is delivered personally, or served by post*] at the following address: [*specify address of enforcement authority*].

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

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

Issued by: [*full name*], being a person duly authorised by the Marlborough District 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 21(3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the enforcement authority in respect of an infringement fee payable by you, paragraphs 4(b) and (c), 5, and 6 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 above if you wish to—
- (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9).

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).

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.

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 Marlborough District Council Navigation Bylaw 2009 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*: 22 September 2011.

These regulations are administered by the Department of Internal Affairs.
