



Climate Change Response (Infringement Offences) Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 27th day of September 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 30M of the Climate Change Response Act 2002—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Climate Change made after meeting the requirements of sections 3A, 3B, 30M, and 30N of that Act.

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Regulations

- 1 Title**

These regulations are the Climate Change Response (Infringement Offences) Regulations 2021.
- 2 Commencement**

These regulations come into force on 1 January 2022.
- 3 Interpretation**

In these regulations, **Act** means the Climate Change Response Act 2002.
- 4 Transitional, savings, and related provisions**

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Part 1

Infringement offences

5 Offence in relation to collecting information for monitoring of emissions and removals

- (1) A person who is a participant in any year must comply with section 62(a) of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(a)

6 Offence in relation to verifying calculations for monitoring of emissions and removals

- (1) A person who is a participant in any year must comply with section 62(c) of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(a)

7 Offence in relation to keeping records relating to monitoring emissions and removals

- (1) A person who is a participant in any year must comply with section 62(d) of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or

- (ii) in any other case, \$2,000; or
- (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(a)

8 Offence in relation to registration as participant in respect of activities listed in Schedule 3 of Act

- (1) A person who carries out an activity listed in Schedule 3 of the Act must comply with section 56(1)(a) of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(b)(i)

9 Offences in relation to emissions returns

- (1) A person must submit an emissions return when required to do so under the following sections of the Act:
 - (a) section 65:
 - (b) section 118:
 - (c) section 189:
 - (d) section 191:
 - (e) section 193.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(b)(ii)

10 Offences in relation to annual and closing annual allocation adjustments

- (1) A person must comply with the requirements relating to the calculation of, application for, or notification of an annual allocation adjustment or a closing allocation adjustment under section 83 or 84 of the Act, including where required to comply with section 84(1)(a) to (c) by the EPA under section 84(2)(c).
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(b)(iia)

11 Offences in relation to record keeping

- (1) A person must keep records as required—
 - (a) under section 67 or 86D of the Act; or
 - (b) by the pre-1990 forest land allocation plan.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 129(1)(b)(iii)

12 Offences in relation to notifiable matters

- (1) A person must notify the EPA, within the time required, of a matter that is required to be notified under the following sections of the Act:
 - (a) section 112:
 - (b) section 84(2)(b):
 - (c) section 192(3).
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—

- (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
- (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 ss 129(1)(b)(iv) and (v)

13 Offences in relation to providing information or documents

- (1) A person must—
 - (a) provide information to the EPA, the chief executive, or an enforcement officer when required to do so under section 94 or 253 of the Act; or
 - (b) appear before the EPA, the chief executive, or an enforcement officer, or produce any document or documents, when required to do so under section 95 or 254 of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 ss 131(1), 260(1)

14 Offence in relation to collecting information and keeping records relating to importing leviable goods

- (1) A person who is an importer must comply with section 248(1) of the Act.
- (2) A person who contravenes subclause (1) commits an infringement offence and is liable to—
 - (a) an infringement fee of,—
 - (i) in the case of an individual, \$1,000; or
 - (ii) in any other case, \$2,000; or
 - (b) a fine imposed by a court not exceeding,—
 - (i) in the case of an individual, \$3,000; or
 - (ii) in any other case, \$6,000.

Compare: 2002 No 40 s 259(1)

Part 2

Infringement and reminder notices

15 Infringement notice

An infringement notice issued under section 30Q of the Act must be in the form set out in Schedule 2.

16 Reminder notice

A reminder notice for the purpose of section 30V of the Act must be in the form set out in Schedule 3.

**Schedule 1
Transitional, savings, and related provisions**

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**Part 1
Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions in these regulations as made.

Schedule 2

Infringement notice

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Form

Infringement notice

Section 30Q, Climate Change Response Act 2002

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by [*enforcement officer, the enforcement authority, or other person authorised to issue an infringement notice*].

Address for correspondence: [*specify address (this may include an electronic address)*]

Details of person infringement notice issued to

Full name:

Address: [*specify address (this may include an electronic address)*]

*†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

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

Time (if applicable):

Place (if applicable):

Nature of alleged infringement:

Infringement fee payable:

Service details

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

Payment of infringement fee

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

This infringement fee may be paid to the nominated Crown Bank Account by any of the following methods:

- payment by online bank transfer to [*specify account number*]:
- payment in person at [*specify address of place at which fee may be paid*]:
- [*specify any other method(s)*].

Please quote the infringement notice number shown above when making payment.

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 4 to 6):
- what to do if you want to query this notice (*see* paragraphs 8 to 14).

Statement of rights

If there is anything in this statement 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 in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Please note that unless you have an arrangement as described in paragraph 3, part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.
- 3 If [*name of enforcement authority*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement,—
 - (a) the time to pay will be agreed with the enforcement authority:
 - (b) the enforcement action in paragraphs 4 to 6 may be taken if you default on a payment:
 - (c) you can't request a court hearing about the infringement offence (*see* paragraph 13).

What happens if you do not pay on time

- 4 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 8 for your ability to do this), 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 as set out in paragraph 5.

- 5 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
- (a) the [*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.
- 6 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 7 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to the nominated Crown Bank Account in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 8 You may—
- (a) ask [*name of enforcement authority*] to consider any matter relating to the circumstances of the alleged offence; 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.
- 9 To take an action listed in paragraph 8, you must write to [*name of enforcement authority*] at the address shown on this notice. You must sign the written communication 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.
- 10 If, in your written communication to the enforcement authority referred to in paragraph 8, 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, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. 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. You cannot get a conviction for an infringement offence.

- 11 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 written communication to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the submissions you wish the court to consider.
- 12 If you take the action in paragraph 11, [*name of enforcement authority*] will file your written communication 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, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.
- 13 If [*name of enforcement authority*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 8(b) and (c) and 9 to 12 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 14 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

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

Schedule 3

Reminder notice

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Form 1

Reminder notice

Section 30V, Climate Change Response Act

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 notice are as follows:

Enforcement authority

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

Address for correspondence: [*specify address (this may include an electronic address)*]

Details of person to whom infringement notice issued

Full name:

Address: [*specify address (this may include an electronic address)*]

*†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

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

Time (if applicable):

Place (if applicable):

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court.)

Infringement notice served by [*method of service*] on [*date*].

Reminder notice served by [*method of service*] at [*address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to the nominated Crown Bank Account 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 the nominated Crown Bank Account by any of the following methods:

- payment by online bank transfer to [*specify account number*]:
- payment in person at [*specify address of place at which fee may be paid*]:
- [*specify any other method(s)*].

Please quote the infringement notice number shown above when making payment.

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 3 and 4):
- what to do if you want to query this notice (*see* paragraphs 6 to 12).

Statement of rights

If there is anything in this statement 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 in full 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 the nominated Crown Bank Account as shown above in **Payment of infringement fee**.

What happens if you do not pay on time

- 3 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 6 for your ability to do this), 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).
- 4 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 5 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid in full to the nominated Crown Bank Account in the manner specified in this notice before, or within 28 days after, this reminder notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 6 You may—
- (a) ask [*name of enforcement authority*] to consider any matter relating to the circumstances of the alleged offence; 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.
- 7 To take an action listed in paragraph 6, you must write to [*name of enforcement authority*] at the address shown on this notice. You must sign the written communication 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.
- 8 If, in your written communication to the enforcement authority referred to in paragraph 7, 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, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. 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. You cannot get a conviction for an infringement offence.
- 9 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 written communication to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the submissions you wish the court to consider.
- 10 If you take the action in paragraph 9 [*name of enforcement authority*] will file your written communication 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, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

- 11 If [*name of enforcement authority*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 6(b) and (c) and 7 to 10 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the number of this reminder notice; 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.

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, which come into force on 1 January 2022, are made under the Climate Change Response Act 2002 (the **Act**).

These regulations—

- prescribe certain obligations in relation to the New Zealand emissions trading scheme and the synthetic greenhouse gas levy that are similar to existing low-level offences in the Act; and
- provide that a contravention of those obligations is an infringement offence; and

- specify the associated infringement fee and maximum fine for those offences;
and
- prescribe the forms to be used for infringement notices and reminder notices.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 30 September 2021.

These regulations are administered by the Ministry for the Environment.