



Fire and Emergency New Zealand (Offences) Regulations 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 12th day of November 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 187, 191, and 192 of the Fire and Emergency New Zealand Act 2017—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Internal Affairs.

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Regulations

1 Title

These regulations are the Fire and Emergency New Zealand (Offences) Regulations 2018.

2 Commencement

These regulations come into force on 13 December 2018.

3 Interpretation

In these regulations, unless the context otherwise requires, **Act** means the Fire and Emergency New Zealand Act 2017.

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.

5 Infringement offences

- (1) A person who contravenes a provision specified in the first column of Schedule 2 commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding the amount specified in relation to that offence in the third column of Schedule 2;
 - (b) in any other case, to a fine not exceeding the amount specified in relation to that offence in the fourth column of Schedule 2.
- (2) An offence in subclause (1) is an infringement offence with an infringement fee of,—
 - (a) in the case of an individual, the infringement fee specified in relation to that offence in the fifth column of Schedule 2;
 - (b) in any other case, the infringement fee specified in relation to that offence in the sixth column of Schedule 2.

6 Infringement offence for breach of restriction or prohibition on entry to site

- (1) This regulation applies if a prohibition or restriction on access to land or a building is imposed under section 175 of the Act.
- (2) No person to whom the restriction or prohibition applies may access the land or building, as the case may be, in a manner contrary to the restriction or prohibition unless the person is granted access under section 176 or 177 of the Act.
- (3) A person who contravenes subclause (2) commits an offence and is liable on conviction to a fine not exceeding,—
 - (a) in the case of an individual, \$2,250;
 - (b) in any other case, \$11,250.
- (4) The offence in subclause (3) is an infringement offence with an infringement fee of,—
 - (a) in the case of an individual, \$750;
 - (b) in any other case, \$3,750.

7 Strict liability offences

- (1) A person who contravenes a provision specified in the first column of Schedule 3 commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding the amount specified in relation to that offence in the third column of Schedule 3;
 - (b) in any other case, to a fine not exceeding the amount specified in relation to that offence in the fourth column of Schedule 3.
- (2) In any prosecution for an offence against subclause (1), it is not necessary to prove that the defendant intended to commit the offence.

8 Infringement notice

An infringement notice issued under section 153 of the Act must be in the form set out in Schedule 4.

9 Reminder notice

The reminder notice for the purpose of section 153 of the Act must be in the form set out in Schedule 5.

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 relating to these regulations as made.

Schedule 2

Infringement offences

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Infringement offences in relation to Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018

Regulation	Description of offence	Fine (\$)		Fee (\$)	
		Individual	Other	Individual	Other
5	Failure by owner or tenant of building to maintain means of escape from fire for building	2,250	11,250	750	3,750
6	Failure to store flammable cleaning liquid and flammable material in required manner	2,250	11,250	750	3,750
8(1)	Failure by tenant of building to inform building occupants of evacuation procedure	2,250	11,250	750	3,750
8(2)	Failure by occupant of building to follow evacuation procedure	2,250	11,250	750	3,750
9(2)	Failure by owner of building to ensure that occupants who are employees of owner are trained to assist other occupants to evacuate building	2,250	11,250	750	3,750
9(3)	Failure by tenant of building to ensure that occupants who are employees of tenant are trained to assist other occupants to evacuate building	2,250	11,250	750	3,750
10(1)	Failure by owner or occupier to take reasonable fire prevention precautions in relation to specified appliances, equipment, and systems	2,250	11,250	750	3,750
10(2)	Failure to comply with requirements for use of appliance that gives open flame or is fuelled by flammable liquid or gas	2,250	11,250	750	3,750
11	Failure to follow requirements in relation to control of open flames in building	2,250	11,250	750	3,750
12(1)	Failure to follow requirements in relation to packing or unpacking of goods packaged in flammable material	2,250	11,250	750	3,750
12(2)	Failure to follow requirements in relation to storage of flammable packaging materials	2,250	11,250	750	3,750
13	Failure to follow requirements in relation to storage of certain materials inside and outside buildings	2,250	11,250	750	3,750

Regulation	Description of offence	Fine (\$)		Fee (\$)	
		Individual	Other	Individual	Other
14	Failure by owner to follow requirements in relation to maintenance of hand-operated firefighting equipment	1,500	7,500	500	2,500
15	Failure to install hand-operated firefighting equipment if required by FENZ	2,250	11,250	750	3,750

Infringement offences for contraventions of provisions of Act

Provision of Act	Description of offence	Fines (\$)		Fees (\$)	
		Individual	Other	Individual	Other
58(1)	Lighting or allowing another person to light fire in open air during restricted fire season	2,250	11,250	750	3,750
59(2)	Failure to carry and produce permit for inspection when required	1,500	7,500	500	2,500
60(1)	Causing or allowing fire to get out of control and to spread	2,250	11,250	750	3,750
61(2)	Failing to take required actions in relation to burning or smouldering substance in open air	2,250	11,250	750	3,750
76(1) or (2)	Failure of owner to provide and maintain evacuation scheme for relevant building	2,250	11,250	750	3,750
93(1) or (2)	Failure of levy payer to provide return or providing late return	2,250	11,250	750	3,750
95(2)	Failure of levy payer or insurance intermediary to provide levy information when required	1,500	7,500	500	2,500

**Schedule 3
Other offences**

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Other offences in relation to Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018

Regulation	Description of offence	Fines (\$)	
		Individual	Other
7(1)	Failure of owner of building to have evacuation procedure in place	15,000	30,000
7(3)	Failure of owner of building to ensure that information about evacuation procedure readily available	15,000	30,000

Other offences for contraventions of provisions of Act

Provision of Act	Description of offence	Fines (\$)	
		Individual	Other
57(1)	Lighting or allowing another person to light fire in open air during prohibited fire season	15,000	30,000
64	Failure to comply with notice under section 62	15,000	30,000
67	Failure to comply with notice under section 65	15,000	30,000

Provision of Act	Description of offence	Fines (\$)	
		Individual	Other
94(1)	Failure of levy payer or insurance intermediary to keep specified records for specified time	5,000	10,000

Schedule 4 Infringement notice

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Form

Infringement notice

Section 153, Fire and Emergency New Zealand Act 2017

Infringement notice No:

Date of notice:

Enforcement authority

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

Address for correspondence and queries:

Details of person to whom infringement notice issued

Full legal name:

Full address:

Date of birth:

Gender:

Occupation:

Telephone number:

Alleged infringement offence details

The offence is one against [*provision*].

Date:

Time:

Place:

Nature of alleged infringement:

The infringement fee payable is:

Service details

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

Payment of infringement fee

The infringement fee is payable within 28 days after [*date notice delivered personally or sent by post*].

The infringement fee may be paid to the enforcement authority at [*address of enforcement authority*] by—

- payment into the bank account [*bank account into which the infringement fee may be paid*]; or
- cheque.

Payments into the bank account specified above must refer to the infringement notice number at the top of this notice.

Cheques must be made out to [*enforcement authority*], crossed, marked “Not Transferable”, and marked with the infringement notice number at the top of this notice.

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 an alleged infringement offence within 28 days after you have been served with this notice, no further enforcement action will be taken for that offence. Payments should be made to the enforcement authority as specified in this notice.

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 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

3 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to the enforcement authority as 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 will not constitute a defence.

Further action

4 You must write to the enforcement authority at the address for correspondence and queries 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 alleged offence and request a court hearing; or
- (c) admit liability for the alleged offence, but wish to have a court consider written submissions as to penalty or otherwise.

The letter must be signed and must be delivered before, or within 28 days after, you have been served with a reminder notice, or within any further time that the enforcement authority allows.

5 If you deny liability for the alleged offence and request a court hearing, the enforcement authority will serve you with a notice of hearing that sets out the

place and time at which the matter will be heard by the court (unless the enforcement authority decides not to start court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 6 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 to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the written submissions you wish to be considered by the court.

The enforcement authority will then file your letter with the court (unless the enforcement authority decides not to start court proceedings).

Note: Costs will be imposed in addition to any penalty.

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 you have been served with 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 a fine (if the enforcement authority decides to start court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Queries and correspondence

- 9 When writing, please indicate—
- (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 queries and correspondence regarding the infringement offence must be directed to the enforcement authority at the address shown on the front page of this notice.

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

Schedule 5

Reminder notice

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Form

Reminder notice

Section 153, Fire and Emergency New Zealand Act 2017

Reminder notice No: _____ Date of notice: _____

Enforcement authority

Infringement notice issued by [*name or number of authorised person*]

Address for correspondence and queries:

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

Infringement notice served on:

Details of person to whom infringement notice issued

Full legal name:

Full address:

Date of birth:

Gender:

Occupation:

Telephone number:

Alleged infringement offence details

The offence is one against [*provision*].

Date:

Time:

Place:

Nature of alleged infringement:

The infringement fee payable is:

The amount of the 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 [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to the enforcement authority within 28 days after [date infringement notice was delivered personally or sent by post]. The infringement fee remains payable.

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 enforcement authority at [address of enforcement authority] by—

- payment into the bank account [bank account into which the infringement fee may be paid]; or
- cheque.

Payments into the bank account specified above must refer to the reminder notice number at the top of this notice.

Cheques must be made out to [enforcement authority], crossed, marked “Not Transferable”, and marked with the reminder notice number at the top of this notice.

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 an alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for that offence. Payments should be made to the enforcement authority as specified in this notice.

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 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

- 3 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to the enforcement authority as 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 will not constitute a defence.

Further action

- 4 You must write to the enforcement authority at the address for correspondence and queries 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 alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence, but wish to have a court consider written submissions as to penalty or otherwise.

The letter must be signed and must be delivered within 28 days after you have been served with this notice, or within any further time that the enforcement authority allows.

- 5 If you deny liability for the alleged offence and request a court hearing, the enforcement authority will serve you with a notice of hearing that sets out the place and time at which the matter will be heard by the court (unless the enforcement authority decides not to start court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 6 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 to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the written submissions you wish to be considered by the court.

The enforcement authority will then file your letter with the court (unless the enforcement authority decides not to start court proceedings).

Note: Costs will be imposed in addition to any penalty.

Non-payment of fee

- 7 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 this reminder notice, you will become liable to pay costs in addition to a fine (if the enforcement authority decides to start court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Queries and correspondence

- 8 When writing please indicate—
- (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 queries and correspondence regarding the infringement offence must be directed to the enforcement authority at the address shown on the front page of this notice.

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

Rachel Hayward,
for the 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 13 December 2018,—

- create offences for the purpose of the Fire and Emergency New Zealand Act 2017 (the **Act**); and
- prescribe an infringement notice and a reminder notice for the purpose of the Act.

The offences are as follows:

- offences are created for contraventions of the Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018 (*see regulations 5 and 7 and Schedules 2 and 3*). These replace the existing offences in those regulations. Some of the new offences are strict liability offences and some are infringement offences:
- new strict liability and infringement offences are created for contraventions of certain provisions of the Act (*see regulations 5 and 7 and Schedules 2 and 3*). In most cases (except for the offences for breaches of sections 64 and 67 of the Act), contraventions of these provisions of the Act are also already the subject of specific offences in the Act (which generally require proof of knowledge, recklessness, lack of reasonable excuse, or a combination of these). The new offences in these regulations are separate from, and additional to, those offences and are intended to punish the same type of conduct at a lower level of seriousness:
- an offence is created for the contravention of a restriction or prohibition on access imposed under section 175 of the Act (*see regulation 6*).

Regulatory impact assessment

The Department of Internal Affairs produced a regulatory impact assessment on 26 June 2018 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- [https://www.dia.govt.nz/diawebsite.nsf/Files/FENZ-Policy-papers-August2018/\\$file/RIA-for-Proposed-Fire-and-Emergency-New-Zealand-Regulations-\(enforcement\).pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/FENZ-Policy-papers-August2018/$file/RIA-for-Proposed-Fire-and-Emergency-New-Zealand-Regulations-(enforcement).pdf)
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 15 November 2018.

These regulations are administered by the Department of Internal Affairs.