



Maritime Transport (Infringement Fees for Offences— Otago Regional Council Navigation Safety Bylaw 2020) Regulations 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 28th day of August 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 330 of the Maritime Transport Act 1994 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Otago Regional Council Navigation Safety Bylaw 2020) Regulations 2023.

2 Commencement

These regulations come into force on 28 September 2023.

3 Interpretation

In these regulations, unless the context otherwise requires, **provision** means a provision of the Otago Regional Council Navigation Safety Bylaw 2020.

4 Infringement offences and fees

- (1) A breach of a provision in the first column of Schedule 1 is an infringement offence against the Maritime Transport Act 1994.
- (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.
- (3) 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 those provisions.

5 Infringement notices

An 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 Regulations revoked

The Local Government (Infringement Fees for Offences: Central Otago District Council Lake Dunstan Navigation Safety Bylaws 2006) Regulations 2010 (SR 2010/415) are revoked.

**Schedule 1
Infringement offences and fees under Otago Regional Council
Navigation Safety Bylaw 2020**

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Bylaw offence provision	Description of offence	Fee (\$)
6(2)	Failing to nominate person in charge of the vessel	150
6(3)	Failing to ensure that kill cord is fitted correctly while vessel is underway	300
7(1)	Failing to have sufficient personal flotation devices for each person on board pleasure craft	500
9(1)	Failing to wear properly secured personal flotation device of appropriate size at all times when on board vessel 6 metres or less in length	300
9(5)(a)	Failing to wear properly secured personal flotation device of appropriate size in situations that may cause danger or risk	300
9(5)(b)	Failing to wear properly secured personal flotation device of appropriate size when being towed by vessel	300
10(2)	Allowing person under 15 years of age to navigate without direct supervision power-driven vessel capable of exceeding speed of 10 knots	500
11(1)(a)	Failing to ensure that vessel keeps to starboard side of navigable channel of river	500
11(1)(b)	Failing, when going upstream on river, to give way to vessel coming downstream	500
11(1)(c)	Navigating vessel on river when weather conditions make it unsafe to do so	500
11(1)(d)	Exceeding speed of 5 knots in area of river outside of Special Speed Zone, Reserved Area, or Access Lane	500
12(1)(a)	Fishing, jumping, diving, or swimming from, or within 50 metres from, landing place in manner that interferes with berthing or departure of any vessel	150
12(1)(b)	Fishing, jumping, diving, or swimming in Commercial Port Area without permission of owner or contrary to conditions	150
13(1)	Placing obstruction in water that is likely to restrict navigation or cause death or injury to person or cause damage to vessel or property	500
14(1)	Navigating unseaworthy vessel	300
14(2)	Operating vessel after being advised by Harbourmaster or enforcement officer that vessel is unseaworthy	500
15(1)	Navigating vessel that does not display identifying name or number of vessel in accordance with requirements	150
16(1)	Erecting, maintaining, or displaying device that may be used as, or mistaken for, navigational aid or warning without prior written approval from Harbourmaster	150
16(2)	Tying vessel to navigation structure without prior written permission from Harbourmaster or Director of Maritime New Zealand	150
17(1)(a)	Propelling or navigating vessel at speed exceeding 5 knots within 50 metres of other vessel, raft, or person in water	500
17(1)(b)	Propelling or navigating vessel at speed exceeding 5 knots within 200 metres of shore or structure	300

**Maritime Transport (Infringement Fees for Offences—
Otago Regional Council Navigation Safety Bylaw 2020)
Regulations 2023**

Schedule 1

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Bylaw offence provision	Description of offence	Fee (\$)
17(1)(c)	Propelling or navigating vessel at speed exceeding 5 knots within 200 metres of vessel or raft that is flying flag A	500
17(2)	Propelling or navigating powered vessel at speed exceeding 5 knots while part of person is extended over the fore part, bow, or side of vessel	150
17(3)	Being towed by vessel at speed exceeding 5 knots within 50 metres of other vessel, raft, or person in water or within 200 metres of shore, structure, or vessel or raft that is flying flag A	300
17(8)	Operating power-driven vessel at speed or in manner that creates wake or draw-off that endangers person or property	300
19(4)	Operating vessel in reserved area other than in accordance with condition imposed by Harbourmaster	300
19(5)	Entering reserved area for purpose not specified by Harbourmaster	300
19(6)	Obstructing use of reserved area for purpose specified by Harbourmaster or being in reserved area for purpose other than specified by Harbourmaster without prior approval of Harbourmaster	300
20(2)(a)	Permitting vessel to continue onwards after water ski or similar object dropped by person being towed	150
20(3)(a)	Towing person on object at speed exceeding 5 knots without lookout of 10 years of age or over	300
20(3)(b)	Being towed by vessel at speed exceeding 5 knots without lookout of 10 years of age or over	150
20(4)(a)	Towing person between sunset and sunrise	150
20(4)(b)	Being towed by vessel between sunset and sunrise	150
23(1)(a)	Travelling faster than idle or no wake speed	150
23(1)(b)	Approaching whales or dolphins other than from behind and to the side	150
23(1)(c)	Circling or obstructing the path of marine mammal or cutting through group of marine mammals	150
23(1)(d)	Failing to keep vessel at least 50 metres away from whale or 200 metres away from large whale mother and any calves	150
23(1)(e)	Failing to idle slowly away when in vicinity of dolphins	150
25(1)	Failing to ensure that vessel securely anchored or moored, or secured while unattended	300
25(2)	Failing to secure vessel with rope, chain, or other means of anchoring or mooring that is fit for purpose	300
25(3)	Securing vessel to structure that is not fit for that purpose	300
25(4)	Leaving vessel or property in location where it may cause navigational hazard or nuisance or interfere with normal use of waters	300
25(5)	Setting vessel adrift or interfering with vessel's moorings or fastening	500
26(1)	Laying or moving mooring without coastal permit or when mooring is not permitted activity under Regional Coastal Plan	150
26(2)	Securing vessel to mooring that exceeds length, displacement, or draught specified in coastal permit or licensing arrangement with coastal permit owner	150
27(3)	Failing to contact harbour control before navigating Medium or Large Vessel along Otago Harbour shipping channel	500
28(1)	Navigating vessel within Moving Prohibited Zone without approval from Harbourmaster	300

**Maritime Transport (Infringement Fees for Offences—
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Schedule 1

Bylaw offence provision	Description of offence	Fee (\$)
29(2)	Causing vessel to manoeuvre within 200 metres of berthed tanker flying flag B	150

Schedule 2
Infringement notice for Otago Regional Council Navigation Safety
Bylaw 2020

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Form

Otago Regional Council Navigation Safety Bylaw 2020 infringement notice

Section 330, Maritime Transport Act 1994

Infringement notice No:

Enforcement authority

This infringement notice is issued by the Otago Regional Council.

Address for correspondence:

Notice issued by: *[full name]*, who is a person duly authorised by the Otago Regional Council.**Details of person infringement notice issued to**

Full name:

Full address:

Date of birth:

*Gender:

*Occupation:

*Telephone number:

Maritime document No (if applicable):

*Specify only if known.

Details of alleged infringement offence

Date:

Time:

Place:

Vessel name:

Vessel description:

For each offence, specify the following:

Bylaw offence provision	Description of offence	Infringement fee payable (\$)
1		
2		
3		

Service details

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

Payment of infringement fee

The infringement fee(s) is/are* payable within 28 days after [*date infringement notice is served*].

*Select one.

The infringement fee(s) may be paid to [*specify address of the Otago Regional Council*] by [*specify method(s)*].

Please present this notice, or a copy of this notice, 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 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.

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 the Otago Regional Council 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 Otago Regional Council;
 - (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 the Otago Regional Council 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 Otago Regional Council 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 Otago Regional Council 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 the Otago Regional Council 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 the Otago Regional Council 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 the Otago Regional Council allows.
- 10 If, in your written communication to the Otago Regional Council referred to in paragraph 9, you deny liability for the alleged offence and request a court hearing, the Otago Regional Council will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless the

Otago Regional Council 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 Otago Regional Council,—
- (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, the Otago Regional Council will file your written communication with the court (unless the Otago Regional Council 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 the Otago Regional Council offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 8(b) and (c) and 10 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; and
 - (d) 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).

Note: All correspondence regarding the infringement offence must be directed to the Otago Regional Council at the address shown on this notice. 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 on the front of 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.

Rachel Hayward,
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 28 September 2023, specify in *Schedule 1* which breaches of the Otago Regional Council Navigation Safety Bylaw 2020 are infringement offences for the purposes of section 33O of the Maritime Transport Act 1994. These regulations 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 Legislation Act 2019.

Date of notification in *Gazette*: 31 August 2023.

These regulations are administered by the Ministry of Transport.