



Resource Management (Infringement Offences) Amendment Regulations 2006

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 10th day of April 2006

Present:

Her Excellency the Governor-General in Council

Pursuant to section 360(1)(ba) and (bb) of the Resource Management Act 1991, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

- 1 Title**
- (1) These regulations are the Resource Management (Infringement Offences) Amendment Regulations 2006.

- (2) In these regulations, the Resource Management (Infringement Offences) Regulations 1999 are called “the principal regulations”.

2 Commencement

These regulations come into force on 1 June 2006.

3 Schedule 2 amended

- (1) Schedule 2 of the principal regulations is amended by adding, after the words “*Specify enforcement authority*”, the words “*and its contact details*”.
- (2) Schedule 2 of the principal regulations is amended by omitting all the words from “TO:” to “[*Address*]”, and substituting the words set out in Part A of the Schedule.
- (3) Schedule 2 of the principal regulations is amended by inserting, below the words “[*Address at which fee may be paid*]”, the words set out in Part B of the Schedule.
- (4) Schedule 2 of the principal regulations is amended by revoking the note above paragraph 8.
- (5) Schedule 2 of the principal regulations is amended by revoking paragraph 8, and substituting the paragraphs 8 and 8A set out in Part C of the Schedule.
- (6) Schedule 2 of the principal regulations is amended by omitting the expression “SECTIONS 341”, and substituting the expression “SECTIONS 340”.

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Schedule

Amendments to Schedule 2 of principal regulations

Part A

Amendment to include identifying information

To [*full name*], [*address*], [*other identifying details, if known; for example, date of birth*]

Part B
Amendment to include contact details

The contact details of the enforcement authority are as follows:

.....

Part C
Amendment to correct description of defences

- 8 (1) This paragraph describes a defence additional to the one described in paragraph 7. This defence is available if you are charged with an infringement offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act 1991.
- (2) You must prove either of the following to have the defence:
- (a) that—
- (i) the action or event to which the infringement notice relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property, or avoiding an actual or likely adverse effect on the environment; and
 - (ii) your conduct was reasonable in the circumstances; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or
- (b) that—
- (i) the action or event to which the infringement notice relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and
 - (ii) you could not reasonably have foreseen or provided against the action or event; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.
- (3) Subparagraph (2) does not apply unless—

Part C—*continued*

- (a) you deliver a written notice to the enforcement agency; and
 - (b) in the notice, you—
 - (i) state that you intend to rely on subparagraph (2)(a) or (b); and
 - (ii) specify the facts that support your reliance on subparagraph (2)(a) or (b); and
 - (c) you deliver the notice—
 - (i) within 7 days after you receive the infringement notice; or
 - (ii) within a longer period allowed by a District Court.
- (4) If you do not comply with subparagraph (3), you may ask the District Court to give you leave to rely on subparagraph (2)(a) or (b).
- 8A (1) This paragraph describes a defence additional to those described in paragraphs 7 and 8. This defence is available if—
- (a) you are—
 - (i) a principal; or
 - (ii) an employer; or
 - (iii) the owner of a ship; and
 - (b) you may be liable for an offence alleged to have been committed by—
 - (i) your agent; or
 - (ii) your employee; or
 - (iii) the person in charge of your ship.
- (2) If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:
- (a) that you—
 - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and

Part C—*continued*

- (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.
- (3) If you are a body corporate, you must prove either of the following to have the defence:
 - (a) that—
 - (i) neither the directors nor any person concerned in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
 - (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.

Diane Morcom,
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 amend the infringement notice form in the Resource Management (Infringement Offences) Regulations 1999. They require the inclusion in the form of contact details for the

enforcement authority, provide for the inclusion of identifying information for the alleged offender, and correct the description of the defences available to the alleged offender.

These regulations come into force on 1 June 2006.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 April 2006.

These regulations are administered in the Ministry for the Environment.
