



**RESOURCE MANAGEMENT (INFRINGEMENT OFFENCES)  
REGULATIONS 1999**

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MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 11th day of October 1999

Present:

THE RIGHT HON JENNY SHIPLEY PRESIDING IN COUNCIL

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

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ANALYSIS

- 1. Title and commencement
  - 2. Infringement offences
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- Schedule 1  
Infringement Offences and Fees
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Form of Infringement Notice

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Resource Management (Infringement Offences) Regulations 1999.  
(2) These regulations come into force on 1 February 2000.

**2. Infringement offences**—Those offences under the Resource Management Act 1991 listed in Schedule 1 are infringement offences for the purposes of sections 343A to 343D of that Act.

**3. Infringement fees**—The fee specified in Schedule 1 for each offence is the infringement fee for that offence.

**4. Infringement notices**—Every infringement notice issued under section 343C of the Resource Management Act 1991 must be in the form set out in Schedule 2.

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## SCHEDULES

## SCHEDULE 1

Regs. 2, 3

## INFRINGEMENT OFFENCES AND FEES

<i>Offence specified as infringement offence</i>	<i>General description of offence</i>	<i>Infringement fee for offence</i> \$
Section 338 (1) (a)	Contravention of section 9 (restrictions on use of land)	300
	Contravention of section 12 (restrictions on use of coastal marine area)	500
	Contravention of section 13 (restriction on certain uses of beds of lakes and rivers)	500
	Contravention of section 14 (restrictions relating to water)	500
	Contravention of section 15 (1) (a) and (b) (discharge of contaminants or water into water or onto or into land where contaminant is likely to enter water)	750
	Contravention of section 15 (1) (c) and (d) (discharge of contaminants into environment from industrial or trade premises)	1,000
	Contravention of section 15 (2) (discharge of contaminant into air or onto or into land)	300
Section 338 (1) (c)	Contravention of an abatement notice (other than a notice under section 322 (1) (c))	750
Section 338 (1) (d)	Contravention of a water shortage direction under section 329	500

SCHEDULE 1—*continued*INFRINGEMENT OFFENCES AND FEES—*continued*

<i>Offence specified as infringement offence</i>	<i>General description of offence</i>	<i>Infringement fee for offence \$</i>
Section 338 (2) (a)	Contravention of section 22 (failure to provide certain information to an enforcement officer)	300
Section 338 (2) (c)	Contravention of an excessive noise direction under section 327	500
Section 338 (2) (d)	Contravention of an abatement notice for unreasonable noise under section 322 (1) (c)	750

SCHEDULE 2

Reg. 4

FORM OF INFRINGEMENT NOTICE

[Front]

INFRINGEMENT NOTICE

NOTICE NUMBER .....

(Issued under the authority of section 343c of the Resource Management Act 1991)

ENFORCEMENT AUTHORITY

ENFORCEMENT OFFICER IDENTIFICATION

[Specify enforcement authority]

.....

.....

TO: [Full Name]

..... of

[Address]

.....

You are alleged to have committed an infringement offence against the Resource Management Act 1991, as follows:

Details of Alleged Infringement Offence

Section of Resource Management Act 1991 contravened: .....

Nature of infringement:

.....  
.....  
.....

Location: .....

Date: ..... Approximate time: .....

THE FEE FOR THIS INFRINGEMENT IS \$ .....

Payment of Infringement Fee

The infringement fee is payable to the enforcement authority within 28 days after .....  
[Date notice is delivered personally or posted]

The infringement fee is payable to the enforcement authority at .....  
[Address at which fee may be paid]

Payments by cheque should be crossed "Not Transferable".

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Signature of Enforcement Officer.

IMPORTANT

PLEASE READ SUMMARY OF RIGHTS PRINTED OVERLEAF

SCHEDULE 2—*continued*FORM OF INFRINGEMENT NOTICE—*continued*

## SUMMARY OF RIGHTS

**Note:** If, after reading this summary, you do not understand anything in it, you should consult a lawyer immediately.

*Payment*

1. If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you in respect of this infringement offence. Payments should be made to the enforcement authority at the address shown on the front of this notice.

**Note:** 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 an informant in respect of an infringement fee payable by you, paragraphs 3 and 4 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.

*Further Action*

2. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to the enforcement authority at the address shown on the front of this notice within 28 days after the service of this notice.

3. If you deny liability and wish to request a hearing in the District Court in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a Court hearing in respect of the offence. The enforcement authority will then, if it decides 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.

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

4. If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or otherwise, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a hearing in respect of the offence AND in the same letter admit liability in respect of the offence AND set out the submissions that you would wish to be considered by the Court. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the Court. There is no provision for an oral hearing before the Court if you follow this course of action.

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

*Non-payment of Fee*

5. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).

SCHEDULE 2—*continued*FORM OF INFRINGEMENT NOTICE—*continued*

6. If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay COSTS IN ADDITION TO THE INFRINGEMENT FEE (unless the enforcement authority decides not to commence court proceedings against you).

*Defence*

7. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the enforcement authority at the address shown on the front page of this notice within 28 days after the date of service of this notice on you. Late payment or payment made to any other address will not constitute a defence to proceedings in respect of the alleged offence.

**Note:** The following paragraph relates to defences available where a person is charged with an infringement offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act 1991.

8. (1) You will have a further defence (in addition to that indicated in paragraph 7 above) if you can prove—

(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) The effects of the action or event were adequately mitigated or remedied by you after it occurred; OR

(b) That 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 in each case—

(i) The action or event could not reasonably have been foreseen or provided against by you; and

(ii) The effects of the action or event were adequately mitigated by you after it occurred.

(2) Subparagraph (1) does not apply unless you deliver a written notice to the enforcement agency within 7 days after you receive the infringement notice—

(a) Stating that you intend to rely on the matters in subparagraph (1); and

(b) Specifying the facts that support your reliance on subparagraph (1).

(3) If you are a principal, employer, or the owner of a ship and you may be liable for an alleged offence committed by your agent, employer, or the person in charge of your ship, you will have a good defence (in addition to that indicated in paragraph 7 above) if—

(a) You are a natural person (including a partner in a firm) and you can prove that—

(i) You did not know nor could reasonably be expected to have known that the offence was to be or was being committed; OR

(ii) You took all reasonable steps to prevent the commission of the offence:

(b) You are a body corporate and can prove that—

SCHEDULE 2—*continued*FORM OF INFRINGEMENT NOTICE—*continued*

(i) Neither the directors nor any person concerned in the management of the body corporate could reasonably be expected to have known that the offence was to be or was being committed; OR

(ii) You took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

**Queries/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 it (if this notice sets out more than 1 offence and you are not paying all the infringement fees for all the alleged offences); AND
- (d) Your address for replies (if you are not paying all the infringement fees for all the alleged offences).

FULL DETAILS OF YOUR RIGHTS AND OBLIGATIONS ARE SET OUT IN SECTIONS 341 TO 343D OF THE RESOURCE MANAGEMENT ACT 1991 AND SECTION 21 OF THE SUMMARY PROCEEDINGS ACT 1957.

NOTE: ALL PAYMENTS, ALL QUERIES, AND ALL CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE ENFORCEMENT AUTHORITY AT THE ADDRESS SHOWN.

MARIE SHROFF,  
Clerk of the Executive Council.

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## 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 February 2000, provide for infringement offences, infringement fees, and infringement notices in respect of certain environmental offences.

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

Date of notification in *Gazette*: 14 October 1999.

These regulations are administered in the Ministry for the Environment.