



**THE SUMMARY PROCEEDINGS REGULATIONS 1958,  
AMENDMENT NO. 22**

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CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 31st day of May 1993

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 212 of the Summary Proceedings Act 1957, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Summary Proceedings Regulations 1958, Amendment No. 22, and shall be read together with and deemed part of the Summary Proceedings Regulations 1958\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of July 1993.

\*S.R. 1958/38 (Reprinted with Amendments Nos. 1 to 9: S.R. 1980/84)

Amendment No. 10: (Revoked by S.R. 1987/311)

Amendment No. 11: (Revoked by S.R. 1987/311)

Amendment No. 12: (Revoked by S.R. 1987/311)

Amendment No. 13: S.R. 1985/231

Amendment No. 14: (Revoked by S.R. 1988/37)

Amendment No. 15: S.R. 1987/211

Amendment No. 16: S.R. 1987/311

Amendment No. 17: S.R. 1988/37

Amendment No. 18: S.R. 1989/12

Amendment No. 19: S.R. 1991/189

Amendment No. 20: S.R. 1992/70; S.R. 1992/141

Amendment No. 21: S.R. 1993/81

**2. New form 10 substituted**—The First Schedule to the principal regulations is hereby amended by revoking form 10 (as substituted by regulation 3 (1) of the Summary Proceedings Regulations 1958, Amendment No. 16), and substituting the form 10 set out in the Schedule to these regulations.

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Reg. 2

SCHEDULE

NEW FORM 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL  
REGULATIONS

“Form 10

Notice No. ....

REMINDER NOTICE IN RESPECT OF INFRINGEMENT OFFENCE

Section 21 (2), Summary Proceedings Act 1957

INFORMANT

[Empty box for Informant details]

C.R. NO. ....

TO DEFENDANT

Name: .....	Date of Birth: .....
Address: .....	Sex: .....
.....	Occupation .....
.....	Driver's Licence No. ....

THE INFORMANT SHOWN ABOVE ALLEGES THAT YOU COMMITTED AN INFRINGEMENT OFFENCE

ON [Date] AT [Time]  
AT [Place] IN THAT YOU

[Here set out details of offence, including the registration number of any vehicle used in the offence]

THIS IS AN OFFENCE AGAINST

[Here set out enactment and provision applicable]

THE PENALTY FOR THE OFFENCE IS:

Infringement fee (excluding towage fee):  
\$.....

Towage fee: \$.....

Other (specify): \$.....

Total Payable: \$.....

OTHER PENALTIES: .....

.....

BEING:

- 1 An overloading infringement offence
- 2 A stationary vehicle infringement offence
- 3 A moving vehicle infringement offence
- 4 Another offence specified in Second Schedule to Transport Act 1962
- 5 An infringement offence against some other Act

[Mark box beside relevant offence]

INFRINGEMENT NOTICE ISSUED BY

[Name or Number, if any, of officer who issued notice]

SERVICE DETAILS

[To be completed only on copy to be filed in Court]

INFRINGEMENT NOTICE

Served by [Method of service\*] on [Date of service]

REMINDER NOTICE

Served by [Method of service\*] on [Date of service]

\* Attaching to vehicle [Infringement notice only]

Personal Service

Registered post or ordinary post

THE LAST DAY FOR PAYMENT IS 28 DAYS AFTER SERVICE OF THIS NOTICE.

CHEQUES, MONEY ORDERS, ETC., SHOULD BE MADE OUT TO THE INFORMANT AND CROSSED 'NOT NEGOTIABLE'. PAYMENT IS TO BE MADE TO THE INFORMANT AT THE ADDRESS SHOWN ABOVE.

IF YOU WISH TO DENY THE OFFENCE OR WISH TO HAVE A COURT CONSIDER SUBMISSIONS IN RESPECT OF THE OFFENCE, FOLLOW THE DIRECTIONS CONTAINED IN NOTE 2 PRINTED OVERLEAF.

COURT RECORD

SCHEDULE—*continued*NEW FORM 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL  
REGULATIONS—*continued*

## NOTES TO DEFENDANT

1. If you pay the infringement fee within 28 days after the service of this notice, no further enforcement action will be taken.

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

3. If you wish to deny liability in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the informant at the address shown on the front page of this notice requesting a hearing in respect of the offence. The informant 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** that 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 informant at the address shown on the front page of this notice requesting a hearing in respect of the offence AND in that 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 informant 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** that costs will be imposed in addition to any penalty.

**NOTE** also that, if the offence alleged against you is an OVERLOADING OFFENCE, you should not make written submissions as to penalty as the penalty for the offence is fixed and may not be reduced by the Court.

5. If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after the service of this notice, you will, unless the informant decides not to commence court proceedings against you, become liable to pay COSTS IN ADDITION TO A FINE.

6. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the informant at the address shown on the front page of this notice before or within 28 days after the 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:**

There are 4 types of infringement offences:

- 1 Overloading offences:
- 2 Stationary vehicle offences:
- 3 Moving vehicle offences:
- 4 Other infringement offences, including—

SCHEDULE—*continued*NEW FORM 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL  
REGULATIONS—*continued*

- (a) Offences specified in the Second Schedule to Transport Act 1962 other than those referred to in notes 1 to 3 above:
- (b) Offences in respect of which a person may be issued with an infringement notice under the Litter Act 1979, the Weights and Measures Act 1987, or any other Act (other than the Transport Act 1962) allowing the use of the infringement notice procedure under section 21 of the Summary Proceedings Act 1957.

The type of infringement offence which it is alleged *you* have committed appears on the front of this form.

Paragraphs 1 to 6 and paragraph 9 apply to *all* types of infringement offences.

Paragraph 7 below relates only to *stationary* vehicle offences.

Paragraph 8 below relates only to *moving* vehicle offences.

## STATIONARY VEHICLE OFFENCES

7. The following notes relate to STATIONARY VEHICLE OFFENCES only, and should be ignored if the offence alleged against you is not a stationary vehicle offence:

(1) You have a further defence (in addition to that indicated in paragraph 6 above) against proceedings relating to the alleged stationary vehicle offence if—

- (a) A reminder notice in respect of the offence has been filed in Court under section 21 (3) of the Summary Proceedings Act 1957 in respect of another person:
- (b) A Court has imposed a fine in respect of the offence under section 21 (9) of the Summary Proceedings Act 1957 in respect of another person.

(2) Section 41A (2) of the Transport Act 1962 provides that proceedings for a stationary vehicle offence may be taken against one or more of the following persons:

- (a) The person who allegedly committed the offence:
- (b) Any person who, at the time of the alleged offence, was registered as the owner, or one of the owners of the vehicle involved in the offence, in a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:
- (c) Any person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether jointly with any other person or not),—

whether or not (in the case of a person referred to in paragraph (b) or paragraph (c) of note 7 (2) above) the person is an individual or was the driver, person in charge, or user of the vehicle at the time the alleged offence was committed and whether or not the person is a company or other body.

(3) Where proceedings in respect of a stationary vehicle offence are taken against you not as the person who allegedly committed the stationary vehicle offence but as a person who, at the time of the alleged offence, was—

SCHEDULE—*continued*NEW FORM 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL  
REGULATIONS—*continued*

- (a) The registered owner or one of the registered owners of the vehicle; or
  - (b) A person lawfully entitled to possession of the vehicle (whether jointly with any other person or not)—
- the acts or omissions of the driver, person in charge, or user of the vehicle at the time of the alleged offence are conclusively presumed to be your acts or omissions unless you establish the defence described in note (4) below.

(4) Where the acts or omissions of another person are presumed to be yours (as set out in note (3) above) you may overcome the presumption and have a complete defence to any court proceedings against you for the stationary vehicle offence if you prove—

- (a) That, at the time of the alleged offence,—
  - (i) You were not lawfully entitled to possession of the vehicle (either jointly with any other person or severally); or
  - (ii) Another person was unlawfully in charge of the vehicle; and
- (b) You advised the enforcement authority in writing of this forthwith after becoming aware of the alleged offence; and
- (c) You did everything reasonably possible on your part to comply with all requests of the enforcement authority to supply information to that authority regarding the person who was lawfully entitled to possession, or who was in charge, of the vehicle, at the time of the alleged offence.

## MOVING VEHICLE OFFENCES

8. The following notes relate to MOVING VEHICLE OFFENCES only, and should be ignored if the offence alleged against you is not a moving vehicle offence.

(1) Section 41B of the Transport Act 1962 provides that the owner of a motor vehicle commits an offence if the vehicle is used in the commission of a moving vehicle offence.

(2) 'Owner', in relation to a vehicle, means the person registered as the owner under the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and includes a person in charge of the vehicle.

(3) Where proceedings are taken against you as the owner of a vehicle you have a complete defence (in addition to that indicated in paragraph 6, above) to any court proceedings against you for the moving vehicle offence if you prove—

- (a) That, at the time of the alleged offence,—
  - (i) You were not lawfully entitled to possession of the vehicle (either jointly or with any other person or severally); or
  - (ii) Another person was driving the vehicle; and
- (b) You advised the enforcement authority of this forthwith after becoming aware of the alleged offence; and
- (c) You furnished to the enforcement authority a statutory declaration—
  - (i) Identifying the driver, by giving the name and address of the driver or such other particulars within your knowledge as may lead to the identification of the driver; or

SCHEDULE—*continued*NEW FORM 10 SUBSTITUTED IN FIRST SCHEDULE TO PRINCIPAL  
REGULATIONS—*continued*

- (ii) Establishing that you could not identify the driver, after taking all reasonable steps to do so.

9. When writing please include the date of the infringement, the reminder notice number, vehicle registration number [*If shown on the front of this form*], and your address for replies.

NOTE: ALL PAYMENTS, QUERIES AND/OR CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE INFORMANT AT THE ADDRESS SHOWN.”

BOB MACFARLANE,  
Acting for 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 July 1993, substitute a new form 10 in the First Schedule to the principal regulations. Form 10 is the form of the reminder notice issued in the case of infringement offences.

The form is changed to reflect and explain the new stationary vehicle offences and moving vehicle offences under the Transport Act 1962 (as enacted by section 8 of the Transport Amendment Act (No. 3) 1992).

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 3 June 1993.  
These regulations are administered in the Department of Justice.