

Reprint  
as at 3 February 2020



## Marine Reserves Regulations 1993 (SR 1993/230)

Thomas Eichelbaum, Administrator of the Government

### Order in Council

At Wellington this 5th day of July 1993

Present:

The Hon Doug Kidd presiding in Council

Pursuant to section 24 of the Marine Reserves Act 1971, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Department of Conservation.**

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## Regulations

### 1 Title and commencement

- (1) These regulations may be cited as the Marine Reserves Regulations 1993.
- (2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

### 2 Interpretation

In these regulations, unless the context otherwise requires,—

**the Act** means the Marine Reserves Act 1971

**Director-General** means the Director-General of Conservation

**marine reserve** or **reserve** means a marine reserve constituted under section 4 of the Act

**unspecified scientific study** means scientific study where any of the purposes of the study and the duration of the study are not specified before the date of commencement of the study, whether it is because any relevant details are not known or because of any other reason whatever

**vessel** means any craft designed to manoeuvre on the water, whether or not it has any means of propulsion and regardless of that means of propulsion.

### **3 Application**

These regulations shall apply to all marine reserves, subject to any specific regulations made under the Act in relation to specific reserves.

## **Part 1 Conduct within reserves**

### **4 Diving**

- (1) Subject to the Act and to subclause (2), any person may dive in any part of a reserve.
- (2) No person shall, without lawful authority, dive in any area that has been closed to the public under regulation 12.
- (3) A person who contravenes subclause (2) commits an infringement offence and is liable to—
  - (a) an infringement fee of \$600; or
  - (b) a fine imposed by a court not exceeding \$1,200.

Regulation 4(3): inserted, on 3 February 2020, by regulation 80 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

### **5 Anchoring**

- (1) Subject to the Act and to subclause (2), any person may anchor in any part of a reserve in such a manner that damage to the reserve does not occur or is kept to the minimum practicable level.
- (2) No person shall, without lawful authority, anchor any vessel—
  - (a) in any area that has been closed to the public under regulation 12; or
  - (b) within 100 metres of any buoy moored in accordance with that regulation.
- (3) A person who contravenes subclause (2) commits an infringement offence and is liable to—
  - (a) an infringement fee of \$600; or
  - (b) a fine imposed by a court not exceeding \$1,200.

Regulation 5(3): inserted, on 3 February 2020, by regulation 81 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

### **6 Use of vessels within marine reserve**

- (1) A person must not operate a vessel in a reserve at a speed in excess of 5 knots if the vessel is within—
  - (a) 30 metres of another vessel or a person in the water; or
  - (b) 200 metres of the shore; or

- (c) 200 metres of any vessel that is flying flag “A” of the international code of signals (being the flag to indicate that a diver is below).
- (2) A person who contravenes this regulation commits an infringement offence and is liable to—
  - (a) an infringement fee of \$400; or
  - (b) a fine imposed by a court not exceeding \$800.

Regulation 6: replaced, on 3 February 2020, by regulation 82 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

## **7 Exclusion of public from areas closed for scientific study**

- (1) No person shall, without lawful authority, enter any area of a reserve that has been closed to the public under regulation 12.
- (2) A person who contravenes this regulation commits an infringement offence and is liable to—
  - (a) an infringement fee of \$600; or
  - (b) a fine imposed by a court not exceeding \$1,200.

Regulation 7(2): inserted, on 3 February 2020, by regulation 83 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

## **Part 2 Scientific studies**

### **8 Certain scientific study prohibited without approval of Director-General**

- (1) Except with the approval of the Director-General granted under regulation 10 or regulation 16 or under the Act, no person shall undertake in a reserve scientific study that—
  - (a) involves conduct that would constitute an offence against the Act if it were not authorised by or under the Act (whether by the Director-General or otherwise); or
  - (b) may require the closure of any specified part of the reserve to the public.
- (2) A person who contravenes this regulation commits an infringement offence and is liable to—
  - (a) an infringement fee of \$400; or
  - (b) a fine imposed by a court not exceeding \$800.

Regulation 8(2): inserted, on 3 February 2020, by regulation 84 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

### **9 Application to undertake specified scientific study**

- (1) An application for approval to undertake any specified scientific study shall be made in writing to the Director-General, not later than 2 months before the intended date of commencement of the study or not later than such other date

during that 2-month period as the Director-General may allow, and shall specify—

- (a) the name of the applicant and the address where he or she can be contacted; and
  - (b) the name of the person who will supervise the study and the organisation authorising or sponsoring the study (if any); and
  - (c) a descriptive title of the study and a description of how it is to be undertaken; and
  - (d) the proposed area of the study, including a map showing the boundaries of the proposed area; and
  - (e) the intended date of commencement of the study and its estimated duration; and
  - (f) whether or not there is likely to be any disturbance to the environment, the nature of the disturbance, and the time it is likely to take to overcome the disturbance; and
  - (g) the name of every other person or persons who will be present and participating in the study in the reserve at any time.
- (2) The Director-General may require any applicant to provide further details of the scientific study proposed and his or her ability to conduct the study.

#### **10 Approval for specified scientific study**

- (1) The Director-General may approve an application for scientific study after having regard to the following matters:
- (a) maintaining the general well-being of the reserve and preserving with the minimum of disturbance the marine life and natural features of the reserve;
  - (b) co-ordination of the study with previously approved studies and other applications for study to avoid conflicting or competing studies within the reserve;
  - (c) the time required to correct by natural processes any disturbance to the reserve or the marine life in the reserve;
  - (d) the contribution that the study would make to a better understanding of marine processes or the scientific discipline appropriate to the study;
  - (e) the maintenance of order in the reserve and the public rights of access and navigation as outlined in section 23 of the Act.
- (2) The Director-General shall advise the applicant whether or not the application is approved.
- (3) Any conditions imposed under the Act by the Director-General on any approval given under this regulation shall be specified in writing by the Director-General.

**11 Reports to Director-General**

- (1) It shall be a condition of every approval given under regulation 10 that the applicant furnish progress reports on the study to the Director-General at such intervals as are specified by the Director-General.
- (2) The applicant shall furnish a final report and a copy of any published paper on the study to the Director-General.

**12 Protection for areas under scientific study**

- (1) The Director-General may restrict or close to public access or use any area within a reserve for the purposes of scientific study, if the Director-General considers that restricted access or closure is desirable because of the nature of the study.
- (2) Where access to an area is restricted or not permitted under subclause (1), the Director-General shall direct the person responsible for the study to advise the public by notice in whatever manner the Director-General considers reasonable and practicable in the circumstances, including notification in a newspaper circulating in the vicinity of the reserve, that access to the area where the study is taking place is restricted or not permitted.
- (3) Any such advice or notice shall specify—
  - (a) the location of the area involved; and
  - (b) the reasons why access is restricted or not permitted to the public; and
  - (c) the dates between which access is restricted or not permitted to the public.
- (4) Where an approval given under regulation 10 is surrendered, or is withdrawn under regulation 14, the person to whom the approval was given shall remove or withdraw any notice given by him or her under subclause (2).
- (5) Any area of a reserve to which public access is restricted or not permitted in accordance with this regulation shall be 4-sided and marked at each corner by a bright yellow moored buoy not less than 1 metre in diameter. There shall be written on the buoy the words “area closed by the Director-General of Conservation for scientific study” and the dates of the period during which the area will be closed.

**13 Participants in scientific study to carry identification**

- (1) Every person participating in a scientific study approved by the Director-General shall, while engaged in the study in the reserve, carry such form of identification as shall be specified by the Director-General.
- (2) On completion of any scientific study or on being notified of any withdrawal of approval under regulation 14, any form of identification issued by the Director-General shall be surrendered to the Director-General by the person responsible for the study.

**14 Withdrawal of approval for scientific study**

- (1) The Director-General may withdraw any approval given under regulation 10 at any time if the Director-General is satisfied that any person participating in the study has committed an offence under the Act, or a breach of these regulations, or has not complied fully with any conditions of the approval to undertake the study.
- (2) Where the Director-General has withdrawn approval for any particular study under subclause (1), the Director-General may refuse, for a period specified by the Director-General, to consider any further applications for approval for scientific study within the reserve by or involving any person who was involved in the study for which approval was withdrawn.

**15 Register of scientific study**

- (1) The Director-General shall cause to be kept for every reserve a register in which shall be entered particulars of scientific studies approved under regulation 10.
- (2) The register shall include details of—
  - (a) the title and a brief description of the study and its objectives; and
  - (b) the dates or projected dates of commencement and completion of the study; and
  - (c) the name of the person or persons responsible for the study.
- (3) The register for a reserve shall be made available for public inspection at the Conservancy Office of the Department of Conservation with jurisdiction over the reserve during ordinary office hours on the days when the office is open for business.

**16 Approval for unspecified scientific study**

- (1) Any person wishing to undertake unspecified scientific study that is required by regulation 8 to be approved by the Director-General shall comply with the provisions of this Part, as modified by this regulation; and those provisions shall, with the necessary modifications, apply to such applications and to approvals granted under this regulation.
- (2) In the case of unspecified scientific study, the Director-General—
  - (a) may waive any requirement in paragraph (c) or paragraph (d) or paragraph (f) of regulation 9(1):
  - (b) need not have regard to the matters specified in paragraph (b) or paragraph (d) or paragraph (e) of regulation 10(1):
  - (c) need not comply with regulation 15.
- (3) The application shall—
  - (a) specify the period for which the approval is required; and

- (b) wherever practicable, describe the work to be carried out; and
  - (c) where applicable and where practicable, provide an estimate of the quantities and volumes of marine life and inorganic matter intended to be taken.
- (4) The Director-General may approve applications for unspecified scientific studies to be carried on for up to 2 years but shall not approve more than 1 application for a reserve at any one time.
  - (5) The Director-General may from time to time renew approvals for unspecified scientific studies.
  - (6) In giving any approval for unspecified studies, the Director-General shall not allow building or placing of any structure within a reserve.

## 17 Offences

*[Revoked]*

Regulation 17: revoked, on 3 February 2020, by regulation 85 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

## 18 Revocation

The Cape Rodney-Okakari Point Marine Reserve Bylaws 1989 (SR 1989/382) and the Poor Knights Islands Marine Reserve Bylaws 1989 (SR 1989/383) are hereby revoked.

## 19 Penalties for infringement offences in Act

The penalties for an infringement offence in section 21(1) of the Act are—

- (a) an infringement fee of \$600; or
- (b) a fine imposed by a court not exceeding \$1,200.

Regulation 19: inserted, on 3 February 2020, by regulation 86 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

## 20 Infringement notice and reminder notice

- (1) An infringement notice issued under section 21D of the Act must be in form 1 set out in the Schedule.
- (2) A reminder notice issued under section 21E of the Act must be in form 2 set out in the Schedule.

Regulation 20: inserted, on 3 February 2020, by regulation 86 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

## Schedule

### Infringement notice and reminder notice

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Schedule: inserted, on 3 February 2020, by regulation 87 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

#### Form 1

#### Infringement notice

*Section 21D, Marine Reserves Act 1971*

Infringement notice No:

Date of notice:

#### **Enforcement authority**

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

Address for correspondence:

#### **Details of person to whom infringement notice issued**

Full name:

Full address:

†Date of birth:

\*†Gender:

\*†Occupation:

\*Telephone number:

†Not required if the notice is served on a company or other body corporate.

\*Specify only if known.

#### **Alleged infringement offence details**

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

#### **Service details**

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

**Payment of infringement fee**

The infringement fee is payable within 28 days after [*date infringement notice served*].

The infringement fee may be paid to [*name of enforcement authority*] by [*specify method(s)*].

***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 the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 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***

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner 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 is not a defence.

***Further action, including right to request hearing***

5 You may—

- (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; 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.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). 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.

- 8 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,—
- (a) request a hearing; and
  - (b) admit liability for the offence; and
  - (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

#### *Non-payment of fee*

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice or within any further time that [*name of enforcement authority*] allows, you will be served with a reminder notice (unless [*name of enforcement authority*] 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.
- 11 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,—
- (a) [*name of enforcement authority*] 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.

- 12 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

*Correspondence*

- 13 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.

**Note:** All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

*Further details of your rights and obligations*

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

Schedule form 1: inserted, on 3 February 2020, by regulation 87 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Form 2  
Reminder notice

*Section 21E, Marine Reserves Act 1971*

Reminder notice No:

Date of notice:

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

**Enforcement authority**

The infringement notice was issued by [*name or identification number of authorised person*].

Address for correspondence:

**Details of person to whom infringement notice issued**

Full name:

Full address:

†Date of birth:

\*†Gender:

\*†Occupation:

\*Telephone number:

†Not required if the notice is served on a company or other body corporate.

\*Specify only if known.

**Alleged infringement offence details**

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

**Service details**

(To be provided for filing in court)

The infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

This reminder notice was served by [*method of service*] at [*full address of service*] on [*date*].

**Payment of infringement fee**

The infringement fee was payable to [*name of enforcement authority*] within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

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 [*name of enforcement authority*] by [*specify method(s)*].

***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 the alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement authority*] in the manner specified in this notice.
- 3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 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***

- 4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, this notice is served on you. Late payment or payment made in any other manner is not a defence.

***Further action, including right to request hearing***

- 5 You may—
  - (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; 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.
- 6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must

sign the letter and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). 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.

- 8 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,—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the written submissions you wish the court to consider.

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

#### *Non-payment of fee*

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).

- 11 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

#### *Correspondence*

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
  - (b) the reminder notice number; and

(c) your full name and address for replies.

**Note:** All correspondence regarding the infringement offence must be directed to [*name of enforcement authority*] at the address shown on this notice.

*Further details of your rights and obligations*

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

Schedule form 2: inserted, on 3 February 2020, by regulation 87 of the Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326).

Marie Shroff,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 8 July 1993.

## **Reprints notes**

### **1 *General***

This is a reprint of the Marine Reserves Regulations 1993 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2 *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3 *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4 *Amendments incorporated in this reprint***

Conservation (Infringement Offences in Regulations) Amendment Regulations 2019 (LI 2019/326): Part 7