



Maritime Transport (Infringement Fees for Offences— Auckland Council Navigation Safety Bylaw 2014) Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 23rd day of November 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 330 of the Maritime Transport Act 1994, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Infringement offences and fees	2
5	Infringement notices	2
6	Regulations revoked	2
	Schedule 1	3
	Infringement offences and fees under Auckland Council Navigation Safety Bylaw 2014	
	Schedule 2	7
	Form of infringement notice for Auckland Council Navigation Safety Bylaw 2014 infringement offences	

Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Auckland Council Navigation Safety Bylaw 2014) Regulations 2015.

2 Commencement

These regulations come into force on 25 December 2015.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **provision** means a provision of the Auckland Council Navigation Safety Bylaw 2014.
- (2) 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.

4 Infringement offences and fees

- (1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence under 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.

5 Infringement notices

Every 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: Auckland Regional Council Navigation Safety Bylaw 2008) Regulations 2009 (SR 2009/42) are revoked.

Schedule 1

Infringement offences and fees under Auckland Council Navigation Safety Bylaw 2014

Provision	Description of offence	Fee (\$)
	rr 3, 4	
cl 7	Failing to carry sufficient and readily accessible personal flotation devices in good operative condition and of appropriate size for each person on board a recreational vessel	200
cl 8(1)	Failing to ensure that each person on board a recreational vessel is wearing a properly secured personal flotation device in circumstances of heightened risk	200
cl 9(1)	Failing to wear a properly secured personal flotation device of an appropriate size on board a small recreational vessel	200
cl 11(1)	Failing to ensure that any person being towed wears an appropriate personal flotation device, or failing to wear an appropriate personal flotation device while being towed	200
cl 12(1)	Failing to nominate a person in charge of the vessel	200
cl 12(3)	Operating a vessel while under the influence of alcohol or drugs	200
cl 13(2)	Allowing a person under 15 years of age, without supervision, to operate a power-driven vessel capable of exceeding a speed of 10 knots	200
cl 14(1)(a)	Operating a vessel at a speed exceeding 5 knots within 50 metres of another vessel	200
cl 14(1)(b)	Operating a vessel at a speed exceeding 5 knots within 50 metres of a person in the water	200
cl 14(1)(c)	Operating a vessel at a speed exceeding 5 knots within 200 metres of the shore	200
cl 14(1)(d)	Operating a vessel at a speed exceeding 5 knots within 200 metres of any structure	200
cl 14(1)(e)	Operating a vessel at a speed exceeding 5 knots within 200 metres of any vessel displaying flag A	200
cl 14(1)(g)	Operating a vessel at a speed exceeding 5 knots within any zone specified by the harbourmaster as a 5-knot zone	200
cl 14(1)(h)	Operating a vessel at a speed exceeding 5 knots within any mooring zone	200
cl 14(2)	Operating a power-driven vessel at a speed exceeding 5 knots while any person has a portion of his or her body extending from the vessel	200
cl 15(2)	Operating an unseaworthy vessel	200
cl 15(4)	Failing to move or remove an unseaworthy vessel as directed by the harbourmaster	200
cl 16(1)	Operating a vessel in breach of Maritime Rules Part 22 (Collision prevention)	200
cl 17	Failing to report a collision or accident as required	200
cl 18(1)	Jumping, swimming, or diving in certain areas in breach of requirements	200
cl 19(1)	Towing without an appropriate lookout	200
cl 19(2)	Towing a person or object between sunset and sunrise	200
cl 19(3)	Permitting a vessel to continue onwards after a person being towed has dropped a water ski or similar object in certain conditions	200

**Maritime Transport (Infringement Fees for Offences—
Auckland Council Navigation Safety Bylaw 2014)
Regulations 2015**

Schedule 1

2015/287

Provision	Description of offence	Fee (\$)
cl 19(4)	Being towed in breach of requirements	200
cl 20(1)	Failing to ensure that flag A is properly displayed when dive operations are in progress from a vessel	200
cl 20(2)	Failing to ensure that flag A is properly displayed from a buoy when diving unaccompanied by a vessel	200
cl 21(1)	Failing to ensure that a recreational vessel's wake, or the wake from any person or object being towed, does not cause danger or risk to any other person, vessel, structure, or navigation aid	200
cl 22(1)	Operating a vessel's propulsion system around a wharf, quay, jetty, or pontoon in breach of requirements	200
cl 23(5)	Failing to ensure a vessel in an access lane does not obstruct or cause danger to any other vessel or person in the access lane	200
cl 25(1)	Failing to obtain prior approval for an event that is likely to affect public use of the water	200
cl 26(3)	Obstructing a person using a reserved area for its intended purpose, or entering, remaining in, or using the reserved area for any other purpose	200
cl 27(1)	Obstructing any navigable waters or access to any wharf, landing place, boat ramp, slipway, navigational channel, or mooring without prior approval	200
cl 27(2)	Placing any obstruction in, over, or near any navigable waters in breach of requirements	200
cl 27(3)	Leaving any equipment extending over the side of a vessel so as to cause a hazard to another vessel	200
cl 28(1)	Discharging, dropping, or causing or allowing to be discharged cargo or anything into navigable waters that may constitute a danger to navigation safety	200
cl 29(3)	Tying a vessel to a navigation aid without prior approval	200
cl 29(4)	Damaging, removing, defacing, or interfering with a navigation aid	300
cl 29(5)	Erecting a light or structure that may be mistaken as a navigation aid without prior written approval	200
cl 30(1)	Fitting or using any lights, sirens, or other sound not prescribed for that vessel	200
cl 30(6)	Failing to display an orange flashing light on a fast passenger ferry when required	200
cl 32(1)	Operating a vessel while unable to communicate with a land-based person	200
cl 33(1)	Failing to ensure visibility of a paddle craft under 7 metres	200
cl 34(1)	Failing to identify a vessel in accordance with requirements	200
cl 35(1)	Impeding an aircraft that is landing or taking off	200
cl 35(2)	Taking off, landing, attempting to take off, or attempting to land an aircraft in certain areas without permission	200
cl 36(1)(a)	Anchoring or mooring a vessel in a prohibited anchorage without prior approval	200
cl 36(1)(b)	Anchoring a vessel in a restricted anchorage in breach of requirements	200
cl 37(1)	Anchoring a vessel in the same or a nearby location for more than 14 consecutive days without prior approval	200
cl 37(2)	Leaving a vessel unattended in breach of requirements	200
cl 38(1)	Failing to ensure a vessel is adequately secured when not underway	200

**Maritime Transport (Infringement Fees for Offences—
Auckland Council Navigation Safety Bylaw 2014)
Regulations 2015**

2015/287

Schedule 1

Provision	Description of offence	Fee (\$)
cl 38(2)	Mooring or anchoring a vessel that causes a hazard or an obstruction	200
cl 38(3)	Mooring a vessel in a mooring zone in breach of requirements	200
cl 38(4)	Cutting, breaking, destroying, or otherwise tampering with the anchor, mooring, or securing of any vessel	200
cl 39(1)	Operating an unregistered personal water craft or failing to display an identification number	200
cl 40(1)	Placing a mooring in navigable water without a mooring licence	200
cl 50(2)	Failing to obtain approval before commencing hot work operations	200
cl 50(3)	Failing to take required precautions before commencing or continuing hot work operations	300
cl 51	Failing to notify the berth operator, and the harbourmaster if requested, of the carriage of dangerous goods at least 48 hours prior to arrival	300
cl 52(2)	Failing to notify the harbourmaster 24 hours prior to commencing any bunkering operation from a road tanker or vessel	300
cl 53	Failing to report inoperative or malfunctioning navigational or manoeuvring equipment on a large vessel as required or allowing such a vessel to enter or depart certain areas in breach of requirements	300
cl 54(1)	Allowing a vessel under 500 gross tonnage to impede navigation of a large vessel in a pilotage area	200
cl 55(3)	Navigating a vessel within the moving prohibited zone of a large vessel	200
cl 56(2)	Allowing a large vessel to enter an area of restricted access to large vessels without prior approval	300
cl 58(2)	Failing to operate a commercial fast vessel in accordance with an approved Navigation Safety Operating Plan as required	300
cl 59(2)	Operating a vessel in Motuihe Channel fast passenger ferry lane in breach of requirements	200
cl 60(2)	Operating a power-driven vessel at a speed exceeding 12 knots or using an automatic steering device in the Waitemata Harbour restricted zone	200
cl 61(2)	Impeding the passage of specified types of vessels, mooring, anchoring, or fishing in the harbour bridge precautionary area	200
cl 62(2)	Operating a vessel at a speed exceeding 5 knots in the Kawau Island restricted speed area	200
cl 63(2)	Allowing a vessel to enter the ferry terminal basin in breach of requirements	200
cl 64(1)	Allowing a large vessel to cross the Manukau Harbour bar between sunset and sunrise	200
cl 65(2)	Loading or discharging explosive substances outside of an approved berth facility or explosives safety zone	300
cl 65(3)	Vessel entering explosives safety zone without prior approval	200
cl 65(4)	Vessel entering an explosives safety zone when a vessel is showing flag B	200
cl 66(2)	Allowing a vessel carrying explosive substances to approach within 200 metres of another vessel in breach of requirements	200
cl 67(1)	Failing to display flag B by day or a red light by night when carrying or loading bulk oil or explosive substances	300

**Maritime Transport (Infringement Fees for Offences—
Auckland Council Navigation Safety Bylaw 2014)
Regulations 2015**

Schedule 1

2015/287

Provision	Description of offence	Fee (\$)
cl 68(2)	Berthing or mooring an oil tanker otherwise than at a place authorised for bulk oil discharges or failing to comply with requirements while tanker in port	200
cl 69(1)	Allowing a tanker to lie within 30 metres of another vessel	300
cl 70(1)	Failing to submit pilot log of transits to the harbourmaster annually as required	200
cl 71(1)	Any pilot or pilot exempt master failing to use a passage plan as required	200
cl 71(2)	Failing to ensure sufficient crew members on the bridge of a large vessel to carry out the passage plan as required	200
cl 72(2)	Failing to navigate a vessel within marked channels as required	300
cl 73(1)	Operating a commercial vessel for hire or reward without a licence	300
cl 77(2)	Failing to comply with a direction given by the harbourmaster, an enforcement officer, an honorary enforcement officer, or the police	200

Schedule 2
**Form of infringement notice for Auckland Council Navigation
Safety Bylaw 2014 infringement offences**

r 5

Form

Auckland Council Navigation Safety Bylaw 2014 infringement offence notice

Section 330, Maritime Transport Act 1994

(Front page)

Notice No:

Enforcement authority [*specify*]

Person served

Full name:

Full address:

Occupation:

Date of birth:

Maritime document No (if applicable):

Alleged infringement offence(s) details

Date:

Time:

Place:

Vessel name:

Vessel description:

For each offence, specify the following:

Bylaw offence provision	Offence	Infringement fee payable (\$)
------------------------------------	----------------	--

Time for payment of infringement fee(s)

The infringement fee(s) is/are* payable within 28 days after [*date this notice is delivered personally, or served by post*].

*Select one.

To whom payable

The infringement fee(s) is/are* payable to [*specify address of enforcement authority*].

*Select one.

Method of payment

Please present this notice, or a copy of this notice, when making payment.

Cheques or money orders must be made out to [*specify enforcement authority*] and must be crossed and marked not transferable or account payee only.

Issued by: [*full name*], who is a person duly authorised by the Auckland Council.

Important

Please read the statement of rights printed over the page.

(Back page)

Statement of rights

If there is anything in this statement that you do not understand, you should consult a lawyer immediately.

- 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.

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 4(b) and (c), 5, and 6 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.

Payments

- 2 If you pay the infringement fee for an alleged offence within 28 days of the service on you of this notice, no further enforcement action will be taken for that offence. Payments may be made at the place indicated on the front page of this notice.

Defence

- 3 You have a complete defence against proceedings for an alleged offence if the infringement fee for that offence has been paid to the enforcement authority at the address shown on the front page of this notice within 28 days after service on you of a reminder notice. Late payment or payment made to any other address will not constitute a defence.

Further action

- 4 You may write to the enforcement authority at the address shown on the front page of this notice if you wish—

- (a) to raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
- (b) to deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
- (c) to admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9).

Any such letter must be personally signed.

- 5 If you deny liability for the offence and request a hearing, the enforcement authority will, unless it decides not 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.
- 6 If you admit liability for the offence but wish the court to consider your submissions as to penalty or otherwise, you must, in your letter to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability; and
 - (c) set out the written submissions that you wish the court to consider.

The enforcement authority will then file your letter with the court (unless it decides not to commence court proceedings in respect of the offence). There is no provision for an oral hearing before the court if you follow this course of action.

Non-payment of fee

- 7 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after the service on you of this notice, you will (unless the enforcement authority decides otherwise) be served with a reminder notice.
- 8 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after being served with the reminder notice, you will become liable to pay costs in addition to the infringement fee, unless the enforcement authority decides not to commence proceedings against you.

Queries and correspondence

- 9 When writing to the enforcement authority or paying 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 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); and

- (d) your full address for replies (if you are not paying all the infringement fees for the alleged offences).

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.

Note: All queries and correspondence regarding the infringement offence(s) must be directed to the enforcement authority named in this notice at the address shown.

Michael Webster,
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 25 December 2015, specify in *Schedule 1* which breaches of the Auckland Council Navigation Safety Bylaw 2014 are infringement offences for the purposes of section 330 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 2012.

Date of notification in *Gazette*: 26 November 2015.

These regulations are administered by the Ministry of Transport.