



**Local Government (Infringement
Fees for Offences: Auckland
Regional Council Navigation
Safety Bylaw 2008) Regulations
2009**

Anand Satyanand, Governor-General

Order in Council

At Wellington this 9th day of March 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 699A of the Local Government Act 1974, His Excellency the Governor-General acting on the advice and with the consent of the Executive Council, makes the following regulations.

Regulations

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Regulations

- 1 Title**

These regulations are the Local Government (Infringement Fees for Offences: Auckland Regional Council Navigation Safety Bylaw 2008) Regulations 2009.
- 2 Commencement**

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.
- 3 Interpretation**
 - (1) In these regulations, unless the context otherwise requires,—
Act means the Local Government Act 1974
provision means a provision of the Auckland Regional Council Navigation Safety Bylaw 2008.
 - (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 the provisions.
- 4 Infringement offences and fees**
 - (1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence against the Act.
 - (2) The infringement fee for an offence referred to in subclause (1) is the infringement 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.

Schedule 1
Infringement offences and fees under
Auckland Regional Council Navigation
Safety Bylaw 2008

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Provision	Description of offence	Fee (\$)
cl 1.1.4	Failing to comply with a requirement of the Harbour Master, an enforcement officer, or an honorary enforcement officer	100
cl 2.1.1	Failing to carry personal flotation devices on vessel as required	100
cl 2.1.6	Failing to ensure persons on board a vessel wear personal flotation device in situations of danger or risk	100
cl 2.1.7	Failing to ensure a person being towed is wearing a personal flotation device as required	100
cl 2.2.1	Swimming, diving, or jumping around or off wharves, jetties, or other area designated by the Harbour Master	100
cl 2.3.1	Operating a propulsion system while lying at a wharf or unloading	100
cl 2.4.1	Failing to keep a vessel in a seaworthy or serviceable condition	100
cl 2.4.2	Failing to remove an unseaworthy or unserviceable vessel in accordance with direction	100
cl 2.4.3	Operating an unseaworthy or unserviceable vessel	100
cl 2.5.1	Impeding the landing or taking off of a seaplane, helicopter, or other aircraft	200
cl 2.5.2	Operating a seaplane, helicopter, or other aircraft in any area other than a reserved area without the Harbour Master's prior approval	100
cl 2.5.3	Operating a seaplane, helicopter, or other aircraft from a vessel, wharf, jetty, platform, or structure within a coastal marine area without the Harbour Master's prior approval	100
cl 2.6.1	Anchoring a vessel so as to obstruct approach to wharf, pier, jetty, or boat ramp	100

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Provision	Description of offence	Fee (\$)
cl 2.6.2	Failing to adequately moor or secure a vessel	100
cl 2.6.3	Cutting, breaking, destroying, or unlawfully detaching a vessel's mooring or fastening	100
cl 2.7.1	Anchoring or mooring in prohibited anchorage	100
cl 2.7.2	Anchoring or mooring in a restricted anchorage and failing to keep a vessel ready for departure or failing to have an anchor watch on board	100
cl 2.8.1	Obstructing navigation of a waterway	100
cl 2.8.2	Placing an obstruction in waters that is liable to restrict navigation, cause loss of life or injury, or cause damage	100
cl 2.8.3	Leaving equipment extended over the side of a vessel so as to create a hazard	100
cl 2.9.1	Failing to notify a collision or accident as required	100
cl 2.10.1	Tying up to a navigation aid without prior permission of the Harbour Master	200
cl 2.10.2	Damaging, removing, defacing, or interfering with a navigation aid or warning	200
cl 2.10.3	Erecting, maintaining, or displaying a beacon, buoy, or other device that may be used as, or mistaken for, a navigation aid without prior permission	200
cl 2.11.1	Fitting vessels with unauthorised lights, sirens, or other sound or lights signals	100
cl 2.11.2	Unauthorised use of blue flashing lights	100
cl 2.11.3	Unauthorised use of purple flashing lights	100
cl 2.11.5	Failing to use orange flashing lights on a fast passenger ferry	100
cl 2.11.6	Using whistles, sirens, or horns in a manner that could adversely affect the navigation safety of other vessels	100
cl 2.12.2	Unauthorised activities within a flagged area	100
cl 2.13.1	Discharging, dropping, or causing anything to be discharged or dropped from a vessel, wharf, or land that results in, or may result in, danger to navigation	100
cl 2.14.1	Failing to identify a vessel with a marked name or similar identity mark	100
cl 2.15.1	Failing to carry an appropriate means to navigate safely	100
cl 2.16.1	Failure to display a unique personal water craft number correctly	100

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Schedule 1

Provision	Description of offence	Fee (\$)
cl 2.16.1	Failing to register a unique personal water craft number with the council together with the name and address of owner	100
cl 3.1.2	Owner allowing a person under the age of 15 years to operate a vessel capable of exceeding 10 knots	200
cl 3.2.1	Exceeding the speed limit in certain conditions	200
cl 3.2.2	Propelling a vessel while a person is sitting in specified areas on the vessel	100
cl 3.2.3	Allowing oneself to be towed in certain conditions	200
cl 3.2.4	Failing to recover a water ski or similar object from the water	100
cl 3.3.1	Towing a person without a person responsible for notifying a mishap	200
cl 3.3.2	Causing or allowing oneself to be towed without a person responsible for notifying a mishap	200
cl 3.4.1	Waterskiing or towing between sunset and sunrise	200
cl 3.4.2	Allowing oneself to be towed between sunset and sunrise	200
cl 3.6	Engaging in dangerous or obstructive conduct in an access lane	200
cl 3.9.1	Failing to reserve an area for a race, trial, competition, or other event within areas specified in Schedule 7.1.17	100
cl 3.9.1	Failing to obtain prior approval for a race, trial, competition, or other event within areas specified in Schedule 7.1.17	100
cl 3.9.2	Failing to reserve an area or obtain a speed uplifting for a race, trial, competition, or other event	100
cl 3.10.1	Obstructing a person while that person is using a reserved area for the purpose for which it was reserved	100
cl 3.10.2	Entering, remaining in, or using a reserved area other than for the purpose for which it was reserved, while that area is in use for its reserved purpose	100
cl 3.12.1	Operating a vessel in breach of Maritime Rule 22 (Collision Prevention)	200
cl 3.13.1	Impeding the navigation of a vessel over 500 gross tonnage	200
cl 3.14.3	Navigating a vessel within the moving prohibited zone of a vessel of 500 gross tonnage or greater	200
cl 3.15.1	Failure by a master to display flag A when diving is in operation	200

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Schedule 1

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Provision	Description of offence	Fee (\$)
cl 3.15.2	Failure by a person diving from a vessel to display flag A when diving is in operation	200
cl 3.16.2	Fishing, anchoring, or otherwise impeding the passage of a fast ferry in the Motuihe Channel	200
cl 3.16.3	Failing to use the Motuihe Channel fast passenger ferry lane as described	200
cl 3.17.2	Exceeding 12 knots or using an automatic steering device in the Waitemata Harbour restricted zone	200
cl 3.18.2	Impeding the passage of another vessel, anchoring, or fishing in the harbour bridge precautionary area	200
cl 3.19.1	Failing to report inoperative or malfunctioning navigational or manoeuvring equipment	200
cl 3.19.2	Unauthorised navigating with inoperative navigational or manoeuvring equipment	200
cl 3.20.2	Exceeding 5 knots in the Kawau Island restricted speed area	200
cl 3.21.2	Unauthorised entry to the area in the Auckland ferry terminal basin	200
cl 3.22.1	Any pilot or pilot exempt master failing to be trained or not operating as required	100
cl 3.22.2	Failing to complete ongoing training or audits	100
cl 3.22.4	Failing to operate in accordance with an approved operating manual	100
cl 3.22.9	Failing to use an approved passage plan	100
cl 3.22.10	Failing to ensure adequate crew members on bridge to carry out a passage plan	100
cl 3.22.12	Failing to navigate within a marked channel	100
cl 3.23.1	Failing to operate a commercial fast vessel in accordance with a Navigation Safety Operating Plan when required	200
cl 3.23.2	Failing to operate a commercial fast vessel in accordance with a Navigation Safety Operating Plan	200
cl 3.23.3	Operating a commercial fast vessel in fog without prior approval from the Harbour Master	200
cl 3.24.1	Unauthorised entry of a vessel of 500 gross tonnage or more or 40 m or more in length in any areas of restricted access for large vessels	200
cl 3.25.1	Propelling a recreational vessel so that its wake causes unnecessary danger, damage, or harm	100
cl 3.26.1	Failing to use an operational automatic identification system in declared fog conditions	200

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Schedule 1

Provision	Description of offence	Fee (\$)
cl 3.26.2	Failing to utilise a pilot if the vessel is not fitted with an operational automatic identification system	200
cl 3.27.1	Unauthorised crossing between sunset and sunrise of the Manukau Harbour bar	200
cl 3.28.1	Placing a mooring, or mooring in any waters, without approval of the Harbour Master	200
cl 4.1	Failing to operate in accordance with the explosives safety requirements	200
cl 4.2	Failing to observe duties with respect to explosives cargo	200
cl 4.2.2	Failing to remain 200 m or greater from a vessel carrying or loading explosives as cargo	200
cl 4.3.1	Failing to display flag B or a red light on an oil tanker at night	200
cl 4.4	Failure of a tanker to observe duties while in port	200
cl 4.5.1	Unauthorised lying by an oil tanker within 30 m of another vessel	200
cl 4.6	Failing to notify the Harbour Master of hot work operations or failure to operate in accordance with that notification	200
cl 4.7.1	Failing to notify the Harbour Master of the carriage of dangerous goods prior to a vessel's arrival	100
cl 4.7.2	Failing to notify the Harbour Master of the carriage of dangerous goods prior to a vessel's departure	100
cl 4.8.1	Failing to notify the Harbour Master of fuel oil operations and bunkering	100
cl 4.8.2	Failing to ensure the receipt of an acknowledgement of written notification of fuel oil operations and bunkering	100
cl 4.8.3	Failing to notify the Harbour Master of fuel oil operations and bunkering	100
cl 5.2	Failing to license a commercial vessel	200
cl 5.2.1	Operating a commercial vessel for hire or reward not subject to Maritime Rules without a licence	200

Schedule 2

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**Form of notice for Auckland Regional
Council Navigation Safety Bylaw 2008
infringement offence**

Form

Auckland Regional Council Navigation Safety
Bylaw infringement offence notice
Section 699A, Local Government Act 1974

Notice No:

Enforcement authority

[Specify enforcement authority.]

To

Full name:

Full address:

Occupation:

Date of birth:

Marine 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 (\$)**

Form—*continued*

Time for payment of infringement fee(s)

The infringement fee(s) is/are* payable to the enforcement authority 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*], being a person duly authorised by the Auckland Regional Council.

Important

Please read the statement of rights below.

Statement of rights

If, after reading this statement, there is anything in it 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.

Form—*continued*

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 places 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 a letter to the enforcement authority at the address shown on the front page of this notice if you wish to—
- (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
 - (c) 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).

The letter must be signed by you and delivered to the enforcement authority at the address specified in this infringement notice and in a reminder notice in respect of the offence before

Form—*continued*

or within 28 days after the service of the reminder notice, or within such further time as the enforcement authority may allow.

- 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 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 Unless the enforcement authority decides otherwise, you will be served with a reminder notice if, within 28 days after being served with this notice, you do not—
 - (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in this notice a letter requesting a hearing of the offence.
- 8 Unless the enforcement authority decides not to commence proceedings against you, you will become liable to pay costs in addition to the infringement fee if, within 28 days after being served with a reminder notice, you do not—
 - (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in the reminder notice a letter requesting a hearing of the offence.

Form—*continued*

Queries and 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 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,
for 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 the 28th day after the date of their notification in the *Gazette*, specify which breaches of the Auckland Regional Council Navigation Safety Bylaw 2008 are infringement offences for the purposes of section 699A of the Local Government Act 1974. They also prescribe the infringement fees for

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those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 12 March 2009.
These regulations are administered by the Department of Internal Affairs.
