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<sup>1</sup> SR 1958/38 (Reprinted with Amendments Nos 1-9: SR 1980/84)

Amendment No 10: (Revoked by SR 1987/311)

Amendment No 11: (Revoked by SR 1987/311)

Amendment No 12: (Revoked by SR 1987/311)

Amendment No 13: SR 1985/231

Amendment No 14: (Revoked by SR 1988/37)

Amendment No 15: SR 1987/211

Amendment No 16: SR 1987/311

Amendment No 17: (Revoked by SR 1991/189)

Amendment No 18: SR 1989/12

Amendment No 19: (Revoked by SR 1997/322)

Amendment No 20: SR 1992/70

Amendment No 20: (Revoked by 1997/322)

Amendment No 21: SR 1993/81

Amendment No 22: SR 1993/150

Amendment No 23: SR 1993/252

Amendment No 24: SR 1993/314

Amendment No 25: SR 1996/26

Amendment No 26: SR 1996/154

Amendment No 27: SR 1997/322

Amendment 1998: SR 1998/64

Amendment (No 2) 1998: SR 1998/133

Amendment (No 3) 1998: SR 1998/223

Amendment (No 4) 1998: SR 1998/292

Amendment (No 5) 1998: SR 1998/329

Amendment (No 6) 1998: SR 1998/450

## Summary Proceedings Amendment Regulations 1999

PURSUANT to section 212 of the Summary Proceedings Act 1957, 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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### **1 Title and commencement**

- (1) These regulations may be cited as the Summary Proceedings Amendment Regulations 1999, and are part of the Summary Proceedings Regulations 1958<sup>1</sup> (“the principal regulations”).
- (2) These regulations come into force on 1 February 2000.

### **2 New form 10 substituted**

Schedule 1 of the principal regulations is amended by revoking form 10, and substituting the form 10 set out in the Schedule of these regulations.

### **3 Revocation**

The Summary Proceedings Amendment Regulations (No 6) 1998 are consequentially amended by revoking regulation 4 and the Schedule.

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**Schedule** Reg 2  
**New form 10 substituted in Schedule 1 of  
principal regulations**

Form 10

Notice No. ....

REMINDER NOTICE IN RESPECT OF INFRINGEMENT OFFENCE

*Section 21(2) and (3C)(b), Summary Proceedings Act 1957*

INFORMANT	
T	C.R.No: .....
TO	
DEFENDANT	
Name: ..... Address: .....	Date of Birth: ..... Sex: ..... Occupation: ..... Driver's Licence No: .....
THE INFORMANT SHOWN ABOVE ALLEGES THAT YOU COMMITTED AN INFRINGEMENT OFFENCE ON [ <i>Dat</i> ] AT [ <i>Tim</i> ] AT [ <i>Plac</i> ] 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 Infringement fee (including towage fee): \$ ..... Amount of infringement fee unpaid: Towage fee: \$ ..... Other (specify): \$ ..... Total payable: \$ ..... OTHER PENALTIES: .....	BEING 1. An overloading infringement offence <input type="checkbox"/> 2. A stationary vehicle infringement offence <input type="checkbox"/> 3. A moving vehicle infringement offence <input type="checkbox"/> 4. Another offence specified in Second Schedule of Transport Act 1962 <input type="checkbox"/> 5. An infringement offence against some other Act <input type="checkbox"/> [Mark box beside relevant offence ] INFRINGEMENT NOTICE ISSUED BY [Name or number, if any, of officer who issued notice ]
THE LAST DAY FOR PAYMENT 28 DAYS AFTER SERVICE OF NOTICE THIS CHEQUES, MONEY ORDERS, ETC, SHOULD BE MADE OUT TO INFORMANT AND CROSSED NEGOTIABLE PAYMENT MUST MADE TO THE INFORMANT AT THE ADDRESS SHOWN ABOVE.	SERVICE DETAILS [To be completed only on copy to be filed in Court ] <b>INFRINGEMENT NOTICE</b> Served by [Method of service*] on [Date of service] [ ..... ] <b>REMINDER NOTICE</b> Served by [Method of service*] on [Date of service] *Attaching to vehicle [infringement notice only] Personal Service Registered post or ordinary post
IF YOU WISH TO DENY THE OR WISH TO HAVE A COURT SUBMISSIONS CONSIDERED OF OFFENCE, FOLLOW THE DIRECTIONS CONTAINED IN PARAGRAPHS 2 TO 4	COURT RECORD

IN YOUR OWN INTERESTS YOU SHOULD READ THE NOTES PRINTED  
OVERLEAF.

**NOTES TO DEFENDANT****INFORMATION ABOUT ALL INFRINGEMENT OFFENCES**

**NOTE:** If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.

**NOTE:** Infringement offence notices may be issued in respect of—

1. Moving vehicle offences:
2. Overloading offences:
3. Stationary vehicle offences:
4. Any other offence (other than a moving vehicle offence, overloading offence, or stationary vehicle offence) specified in Schedule 2 of the Transport Act 1962:
5. Any other offence specified as an infringement offence against the Land Transport Act 1998:
6. 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, the Resource Management Act 1991, or any other Act (other than the Transport Act 1962 or the Land Transport Act 1998) allowing the use of the infringement notice procedure under section 21 of the Summary Proceedings Act 1957.

**The type of infringement offence that you are alleged to have committed appears on the front of this form.**

Paragraphs 1 to 7 below apply to *all* types of infringement offence.

Paragraph 8 relates only to *stationary AND moving* vehicle offences.

Paragraph 9 relates only to resource management infringement offences.

**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.

**Payment**

1. If you pay the infringement fee or the amount of the infringement fee remaining unpaid within 28 days after the service of

this notice, no further enforcement action will be taken against you. Payments should be made to the informant at the address shown on the front page of this notice.

**NOTE:** If the offence alleged against you is an offence to which demerit points apply (other than an offence detected by approved vehicle surveillance equipment), demerit points will be recorded against you upon payment of the infringement fee (or upon conviction of the offence). The number of demerit points that will be imposed is shown on the front of this notice.

#### **Further Action**

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:** 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. You are not entitled to make oral submissions to the Court if you follow this course of action.

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

**NOTE:** 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.

#### **Non-payment of Fee**

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

#### **Defence**

6. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee, or the amount of the infringement fee remaining unpaid, 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.
7. You have a further defence (in addition to that indicated in paragraph 6 above) against proceedings relating to the alleged offence if—
  - (a) A reminder notice in respect of the offence has been filed in court under section 21(3) or (3D) of the Summary Proceedings Act 1957 in respect of another person; or
  - (b) A Court has imposed on another person a fine or costs, or both, in respect of the offence under the Summary Proceedings Act 1957.

#### **INFORMATION ABOUT STATIONARY AND MOVING VEHICLE OFFENCES**

8. The notes in this paragraph relate to STATIONARY AND MOVING VEHICLE OFFENCES only, and should be ig-

nored if the offence alleged against you is not a stationary or moving vehicle offence.

(1) Section 41A(2) of the Transport Act 1962 and section 133 of the Land Transport Act 1998 provide that proceedings for a stationary or moving vehicle offence may be taken against 1 or more of the following persons:

- (a) The person who allegedly committed the offence; or
- (b) Any person who, at the time of the alleged offence, was registered as the owner, or 1 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; or
- (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 item (b) or item (c) above) the person was the driver, person in charge, or (in the case of a stationary vehicle offence) user of the vehicle at the time the alleged offence was committed and whether or not the person is an individual or a company or other body.

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

- (a) The registered owner or 1 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 omission of the driver, person in charge, or (in the case of a stationary vehicle offence) 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 paragraph 8(3) below (with respect to stationary ve-



hicle offences) or paragraph 8(4) below (with respect to moving vehicle offences).

***Defences Relating to Stationary Vehicle Offences***

- (3) Where the acts or omissions of another person are presumed to be yours (as set out in paragraph 8(2) above), you may overcome the presumption and have a complete defence (in addition to those indicated in paragraphs 6 and 7 above) 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 immediately 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.

***Defences Relating to Moving Vehicle Offences***

- (4) Where the acts or omissions of another person are presumed to be yours (as set out in paragraph 8(2) above), you may overcome the presumption and have a complete defence (in addition to those indicated in paragraphs 6 and 7 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 with any other person or severally); or
    - (ii) Another person was driving the vehicle; and

- (b) You advised the enforcement authority in writing of this immediately after becoming aware of the alleged offence; and
- (c) You gave 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
  - (ii) Establishing that you could not identify the driver, after taking all reasonable steps to do so.

**NOTE:** Paragraph 8 above summarises section 41A of the Transport Act 1962 and section 133 of the Land Transport Act 1998. Those sections fully set out the law regarding liability for stationary and moving vehicle offences.

#### **INFORMATION ABOUT RESOURCE MANAGEMENT INFRINGEMENT OFFENCES**

9 The notes in this paragraph relate to RESOURCE MANAGEMENT INFRINGEMENT OFFENCES only, and should be ignored if the offence alleged against you is not a resource management infringement offence.

- (1) Section 340 of the Resource Management Act 1991 provides that proceedings for an offence against the Resource Management Act 1991 may be taken against—
  - (a) The person who allegedly committed the offence;
  - (b) The principal of the person who allegedly committed the offence;
  - (c) The employer of the person who allegedly committed the offence;
  - (d) The owner of a ship, if the offence was allegedly committed by a person while in charge of that ship.

#### ***Defences Relating to Certain Resource Management Infringement Offences***

- (2) In the case of an offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act

1991, you have a further defence (in addition to those indicated in paragraphs 6 and 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.
- (3) Subparagraph (2) does not apply unless you deliver a written notice to the enforcement agency within 7 days after you receive the infringement notice—
  - (i) Stating that you intend to rely on the matters in subparagraph (2); and
  - (ii) Specifying the facts that support your reliance on subparagraph (2).
- (4) 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 those indicated in paragraphs 6 and 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 or could not 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—
  - (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.

**NOTE:** Paragraph 9 above summarises sections 340(1), 340(2), 341(2), and 341(3) of the Resource Management Act 1991. Those sections fully set out the law regarding liability for the relevant resource management offences.

10. When writing, please include the date of the infringement, the reminder notice number, the vehicle registration number (if shown on the front of this form), and your address for replies.

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

MARIE SHROFF,  
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 1 February 2000, substitute a new form 10 in Schedule 1 of the principal regulations. Form 10 is the form of reminder notice issued in the case of infringement offences and the new form incorporates provisions relating to resource management infringement offences.

1999/360                      **Summary Proceedings Amendment  
Regulations 1999**

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Issued under the authority of the Acts and Regulations Act 1989.  
Date of notification in *Gazette*: 14 October 1999.

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