

Resource Management (Infringement Offences) Amendment Regulations (No 2) 2006

Preamble

At Wellington this 28th day of August 2006

Pursuant to section 360(1)(bc) of the Resource Management Act 1991, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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	New Schedule 3 added	

1 Title

These regulations are the Resource Management (Infringement Offences) Amendment Regulations (No 2) 2006.

2 Commencement

These regulations come into force on 10 October 2006.

3 Principal regulations amended

These regulations amend the Resource Management (Infringement Offences) Regulations 1999.

4 Infringement notices

Regulation 4 is amended by omitting “343C” and substituting “343C(3)”.

5 New regulation 5 added

The following regulation is added:

“5 Infringement offence reminder notices

Every infringement offence reminder notice issued under section 343C(4) of the Resource Management Act 1991 must be in the form set out in Schedule 3.”

6 Schedule 2 amended

Schedule 2 is amended by—

- (a) omitting “*section 343C*” and substituting “*section 343C(3)*”; and
- (b) omitting “[*address*]” and substituting “[*full address*]”; and
- (c) omitting “address” from paragraph 9(d) of the summary of rights and substituting “full address”.

7 New Schedule 3 added

The Schedule 3 set out in the Schedule of these regulations is added.

Schedule 3—*continued*
Form—*continued*

Payment of infringement fee

The infringement fee was payable to the enforcement authority within 28 days after [date infringement notice was delivered personally or posted]

.....
The infringement fee remains payable to the enforcement authority at [full address at which fee may be paid]

.....
The contact details of the enforcement authority are as follows:

.....
Payments by cheque should be crossed “Not Transferable”.

.....
Signature of enforcement officer

Service details

(To be provided for filing in court)

Infringement notice served by [method of service] on [date of service]

Reminder notice served by [method of service] at [full address of service] on [date of service]

Important

Please read the summary of rights printed on the next page.

Summary of rights

Note: Please read this summary. If you do not understand it, you should consult your lawyer immediately.

- 1 You have not paid the infringement fee described on the front page, 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.

Schedule 3—*continued*
Form—*continued*

- 2 You will become liable to pay **costs in addition to the infringement fee** if—
- (a) you do not pay the infringement fee; and
 - (b) you do not ask for a hearing within 28 days after being served with this reminder notice; and
 - (c) the enforcement authority decides to bring court proceedings against you.
- 3 (1) This defence is available if you are charged with an infringement offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act 1991.
- (2) You must prove either of the following to have the defence:
- (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) you adequately mitigated or remedied the effects of the action or event after it occurred; or
 - (b) that—
 - (i) 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
 - (ii) you could not reasonably have foreseen or provided against the action or event; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.
- (3) Subparagraph (2) does not apply unless—
- (a) you deliver a written notice to the enforcement agency; and
 - (b) in the notice, you—

Schedule 3—*continued*
Form—*continued*

- (i) state that you intend to rely on subparagraph (2)(a) or (b); and
 - (ii) specify the facts that support your reliance on subparagraph (2)(a) or (b); and
 - (c) you deliver the notice—
 - (i) within 7 days after you receive the infringement notice; or
 - (ii) within a longer period allowed by a District Court.
 - (4) If you do not comply with subparagraph (3), you may ask the District Court to give you leave to rely on subparagraph (2)(a) or (b).
- 4 (1) This paragraph describes a defence additional to the one described in paragraph 3. This defence is available if—
- (a) you are—
 - (i) a principal; or
 - (ii) an employer; or
 - (iii) the owner of a ship; and
 - (b) you may be liable for an offence alleged to have been committed by—
 - (i) your agent; or
 - (ii) your employee; or
 - (iii) the person in charge of your ship.
- (2) If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:
- (a) that you—
 - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
 - (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and

Schedule 3—*continued*
Form—*continued*

- (ii) remedy any effects of the act or omission giving rise to the offence.
- (3) If you are a body corporate, you must prove either of the following to have the defence:
 - (a) that—
 - (i) neither the directors nor any person concerned in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
 - (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.
- 5 If you pay all the infringement fees for all the alleged offences described in the infringement notice in a lump sum, please provide a note of—
 - (a) the infringement notice number; and
 - (b) the date of each infringement offence; and
 - (c) the identifying number of each offence.
- 6 If you do not pay all the infringement fees for all the alleged offences described in the infringement notice in a lump sum, please provide a note of—
 - (a) the offences you are paying fees for; and
 - (b) the offences you are not paying fees for; and
 - (c) what you are doing about the offences you are not paying fees for; and
 - (d) your full address for replies.

Full details of your rights and obligations are set out in sections 340 to 343D of the Resource Management Act 1991 and section 21 of the Summary Proceedings Act 1957.

Note: all payments, all queries, and all correspondence about this infringement must be directed to the enforcement authority at the address shown.

Diane Morcom,
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 make minor adjustments to the address details in the infringement notice form in the Resource Management (Infringement Offences) Regulations 1999. They also add an infringement notice reminder four' to the regulations. The amendments are required to reflect changes (made by the Summary Proceedings Amendment Act 2006) to the summary procedure for infringement offences in section 21 of the Summary Proceedings Act 1957.

The regulations come into force on 10 October 2006.

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