



Resource Management (Infringement Offences) Amendment Regulations 2010

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of August 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 360(1)(ba), (bb), and (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 paragraphs inserted in Schedule 3 of principal
regulations**

Regulations**1 Title**

These regulations are the Resource Management (Infringement Offences) Amendment Regulations 2010.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Principal regulations amended

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

4 Schedule 1 amended

The item relating to section 338(1)(a) in Schedule 1 is amended by inserting “or (2A)” after “section 15(2)”.

5 Schedule 2 amended

(1) This regulation amends Schedule 2.

(2) Paragraph 2 is amended by—

- (a) inserting “a letter and delivering it” after “writing”; and
- (b) omitting “service of this notice” and substituting “service of a reminder notice in respect of the offence”.

(3) Paragraph 3 is amended by—

- (a) omitting “service of this notice, write” and substituting “service of a reminder notice in respect of the offence, deliver”; and
- (b) inserting “a letter” after “front page of this notice”.

(4) Paragraph 4 is amended by—

- (a) omitting “service of this notice, write” and substituting “service of a reminder notice in respect of the offence, deliver”; and
- (b) inserting “a letter” after “front page of this notice”.

- (5) Paragraph 5 is amended by—
 - (a) omitting “request” and substituting “deliver a letter requesting”; and
 - (b) omitting “issue” and substituting “service”.
- (6) Paragraph 6 is amended by omitting “request” and substituting “deliver a letter requesting”.
- (7) Paragraph 7 is amended by omitting “date of service of this notice on you” and substituting “service of a reminder notice in respect of the offence”.
- (8) Paragraph 8(1) is amended by omitting “11,”.
- (9) Paragraph 8A(3) is amended by omitting “a body corporate” and substituting “not a natural person (for example, you are a body corporate)”.
- (10) Paragraph 8A(3)(a)(i) is amended by—
 - (a) inserting “(if any)” after “directors”; and
 - (b) omitting “concerned in the management of the body corporate” and substituting “involved in your management”.
- (11) The paragraphs set out in Schedule 1 of these regulations are inserted after paragraph 8A.

6 Schedule 3 amended

- (1) This regulation amends Schedule 3.
- (2) Paragraph 2(a) is amended by inserting “within 28 days after you are served with this reminder notice” after “infringement fee”.
- (3) Paragraph 2(b) is revoked and the following subparagraph substituted:
 - “(b) you do not deliver a letter requesting a hearing to the enforcement authority within 28 days after you are served with this reminder notice; and”.
- (4) Paragraph 3(1) is amended by omitting “11,”.
- (5) Paragraph 4(3) is amended by omitting “a body corporate” and substituting “not a natural person (for example, you are a body corporate)”.
- (6) Paragraph 4(3)(a)(i) is amended by—
 - (a) inserting “(if any)” after “directors”; and

- (b) omitting “concerned in the management of the body corporate” and substituting “involved in your management”.
- (7) The paragraphs set out in Schedule 2 of these regulations are inserted after paragraph 4.

Schedule 1 r 5(11)

**New paragraphs inserted in Schedule 2 of
principal regulations**

- 8B (1) This paragraph describes a defence additional to the defences described in paragraphs 7, 8, and 8A. This defence is available if you are charged with an infringement offence against section 15A(1)(a) of the Resource Management Act 1991 (relating to dumping waste or other matter in the coastal marine area from a ship, aircraft, or offshore installation).
- (2) In order to have the defence, you must prove all of the following in relation to the act or omission that is alleged to constitute the offence:
 - (a) that the act or omission was necessary—
 - (i) to save or prevent danger to human life; or
 - (ii) to avert a serious threat to any ship, aircraft, or offshore installation; or
 - (iii) in the case of *force majeure* caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and
 - (b) that the act or omission was a reasonable step to take in all the circumstances; and
 - (c) that the act or omission was likely to result in less damage than would otherwise have occurred; and
 - (d) that the act or omission was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.
- 8C (1) This paragraph describes a defence additional to the defences described in paragraphs 7, 8, 8A, and 8B. This defence is available if you are charged with an infringement offence against section 15B(1) or (2) of the Resource Management Act 1991 (relating to certain discharges of a harmful substance, a contaminant, or water in the coastal marine area from a ship or offshore installation).

- (2) You must prove either of the following to have the defence:
- (a) that the harmful substance, contaminant, or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the purpose of saving life and that the discharge was a reasonable step to effect that purpose; or
 - (b) that the harmful substance, contaminant, or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment, and—
 - (i) such damage occurred without your negligence or deliberate act; and
 - (ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance, contaminant, or water or, if any such escape could not be prevented, to minimise any escape.
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Schedule 2

r 6(7)

New paragraphs inserted in Schedule 3 of principal regulations

- 4A (1) This paragraph describes a defence additional to the defences described in paragraphs 3 and 4. This defence is available if you are charged with an infringement offence against section 15A(1)(a) of the Resource Management Act 1991 (relating to dumping waste or other matter in the coastal marine area from a ship, aircraft, or offshore installation).
- (2) In order to have the defence, you must prove all of the following in relation to the act or omission that is alleged to constitute the offence:
- (a) that the act or omission was necessary—
 - (i) to save or prevent danger to human life; or
 - (ii) to avert a serious threat to any ship, aircraft, or offshore installation; or
 - (iii) in the case of *force majeure* caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and
 - (b) that the act or omission was a reasonable step to take in all the circumstances; and
 - (c) that the act or omission was likely to result in less damage than would otherwise have occurred; and
 - (d) that the act or omission was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.

- 4B (1) This paragraph describes a defence additional to the defences described in paragraphs 3, 4, and 4A. This defence is available if you are charged with an infringement offence against section 15B(1) or (2) of the Resource Management Act 1991 (relating to certain discharges of a harmful substance, a contaminant, or water in the coastal marine area from a ship or offshore installation).
- (2) You must prove either of the following to have the defence:
- (a) that the harmful substance, contaminant, or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the purpose of saving life and that the discharge was a reasonable step to effect that purpose; or
 - (b) that the harmful substance, contaminant, or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment, and—
 - (i) such damage occurred without your negligence or deliberate act; and
 - (ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance, contaminant, or water or, if any such escape could not be prevented, to minimise any escape.

Rebecca Kitteridge,
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 amend the Resource Management (Infringement Offences) Regulations 1999 (the **principal regulations**). The amendments make the principal regulations consistent with—

- amendments made to the Resource Management Act 1991 (the **RMA**) by the Resource Management (Simplifying and Streamlining) Amendment Act 2009; and
- section 21 of the Summary Proceedings Act 1957.

Schedule 1 of the principal regulations is amended to refer to another subsection of section 15 of the RMA against which an offence may now be committed.

Schedules 2 and 3 of the principal regulations include forms with summaries of rights. The summaries are amended as follows:

- the description of the defence under section 340 of the RMA is amended to match amendments made to that section:
- descriptions of the defences under sections 341A and 341B of the RMA are added:
- amendments are made to clarify that a letter requesting a hearing in respect of an offence must be delivered (and so received) within 28 days after service of a reminder notice for the offence:
- several other minor amendments are also made.

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 2 September 2010.
These regulations are administered by the Ministry for the Environment.
