

Fisheries (Infringement Offences) Amendment Regulations (No 2) 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 20th day of September 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 297(1)(nb) of the Fisheries Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

- 1 Title
- 2 Commencement
- 3 New regulation 7 added
 - 7 Infringement offence reminder notices
- 4 Schedule 1 amended
- 5 New Schedule 3 added

Schedule 1

New items for Schedule 1 of principal regulations

Schedule 2

New Schedule 3 added

Regulations

1 Title

(1) These regulations are the Fisheries (Infringement Offences) Amendment Regulations (No 2) 2004.

(2) In these regulations, the Fisheries (Infringement Offences) Regulations 2001 SR 2001/316 are called "the principal regulations".

2 Commencement

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

3 New regulation 7 added

The principal regulations are amended by adding the following regulation:

"7 Infringement offence reminder notices

Every infringement offence reminder notice issued under section 260B of the Act must be in the form set out in Schedule 3."

4 Schedule 1 amended

(1) Schedule 1 of the principal regulations is amended by revoking the item relating to regulation 5AA(2) of the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (SR 1991/57) (using or possessing pots in Paterson Inlet contrary to the regulations).

(2) Schedule 1 of the principal regulations is amended by inserting in the item relating to the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (SR 1991/57), in their appropriate order, the items set out in Schedule 1 of these regulations.

5 New Schedule 3 added

The principal regulations are amended by adding the Schedule 3 set out in Schedule 2 of these regulations.

Schedule 1 New items for Schedule 1 of principal regulations		
Provision	Description of offence	Fee (\$)
r 5AA(2)(a)	Using 3 rock lobster pots in Paterson Inlet contrary to the regulations	250
r 5AA(2)(b)	Using 4 rock lobster pots in Paterson Inlet contrary to the regulations	500

Schedule 2 New Schedule 3 added	
Schedule 3 Form of reminder notice for fisheries infringement offence	

(Front)

Ministry of Fisheries
Te Tautiaki i nga tini a Tangaroa

Notice no:

Reminder notice for fisheries infringement offence

Issued under the authority of section 21(2) of the Summary Proceedings Act 1957

Defendant details---

Full name: Date of birth: Gender:

Full address: Occupation: Telephone no:

Driver licence no: Reg no:

The informant alleges that you committed an infringement offence---

On [insert date]: At [insert time]: At [insert location]:
In that you:

This is an offence against regulation [insert regulation number], being an infringement offence against the Fisheries Act 1996 or regulations made pursuant to that Act.

The penalty for the offence is \$ [infringement fee].

Service details

Infringement notice

issued by: Served by: On [insert date]:

Reminder notice issued by: On [insert date]:

The last day for payment is [specify date], being 28 days from the date of service recorded on this notice.

Procedures for payment

Payment is to be made to the informant, using 1 of the following methods:

1 By cheque with the attached deposit slip sent to the Ministry of Fisheries, Infringement Processing Centre, PO Box 6413, Wellington.

2 By cash or cheque with the attached deposit slip at any branch of the Westpac Bank.

Please quote the "Notice no:" shown above in the top right corner. Cheques should be payable to "Ministry of Fisheries" and should be crossed and marked "not transferable".

If you wish to deny the offence or wish to have the Court consider submissions in respect of the offence, follow the directions contained in

paragraphs 2 to 4 printed overleaf.

Important: it is in your own interests that you should read the notes on the back of this form.

Deposit slip

[Name of branch]

[Ministry logo]

Date:

Notice no:

Notes:

Paid in by:

Cheques:

[please print name]

[as per back]

For credit of Ministry of Fisheries---Infringement Account

\$ [amount paid]

(Back)

Notes to defendant

Information about infringement offences

Note: If, after reading these notes, there is something you do not understand, you should consult a lawyer immediately.

Note: Infringement offence notices may be issued in respect of fisheries related offences against the Fisheries Act 1996 or regulations made pursuant to that Act.

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

1 Payment of infringement fee

If you pay the infringement fee within 28 days after the service of this notice, no further enforcement action will be taken against you. Payments should be made as per the procedures for payment shown on the front page of this notice.

2 Further action

(1) 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.

(2) 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 Court will hear the matter.

Note: If the Court finds you guilty of the offence, costs will be imposed in

addition to any penalty.

(3) If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or other matters, 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 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: When writing, please include the date of the infringement, the reminder notice number, and your address for replies.

3 Non-payment of fee

If you do not pay the infringement fee, 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.

4 Defences

(1) You have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the informant as per the procedures 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.

(2) You have a further defence (in addition to that indicated in clause 4(1) above) against any proceedings for the alleged offence if you prove---

(a) that---

(i) the contravention was due to the act or default of another person, or to an accident, or to some other cause beyond your control; and

(ii) you took reasonable precautions and exercised due diligence to avoid the contravention; and

(b) in the case of an offence concerning the taking of any fish, aquatic life, or seaweed in contravention of any provision of the Fisheries Act 1996, that you immediately returned the fish, aquatic life, or seaweed to the water from which it was taken, except where return was prohibited by the Fisheries Act 1996 and you complied with all the material requirements of that Act in respect of the recording and reporting of the taking, return, or landing of the fish, aquatic life, or seaweed.

Note: Clause 4(2) summarises section 241 of the Fisheries Act 1996. If you intend to rely on the defence summarised in clause 4(2) you should obtain a

copy of section 241 and not rely on the summary above.

Note: All queries and correspondence regarding this infringement must be directed to the informant at the address shown on the front page of this notice.

Payments relating to this infringement should be made in accordance with the procedure for payment shown on the front page of this notice.

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in Gazette: 23 September 2004.

These regulations are administered in the Ministry of Fisheries.