

Version
as at 5 October 2023



Fisheries (Infringement Offences) Regulations 2001

(SR 2001/316)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 15th day of October 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 297 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.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for Primary Industries.

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Regulations

1 Title

These regulations are the Fisheries (Infringement Offences) Regulations 2001.

2 Commencement

These regulations come into force on 15 November 2001.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Fisheries Act 1996

regulations means any regulations listed in Schedule 1.

4 Infringement offences

- (1) A person commits an infringement offence for the purposes of sections 260A to 260C of the Act if—

- (a) the person commits an offence against the Act or any of the regulations; and
- (b) the offence involves a contravention of, or failure to comply with, a provision listed in the first column of Schedule 1.

- (2) The various infringement offences are described in the second column of Schedule 1. In some cases, separate offences are prescribed in relation to the same provision.

Regulation 4(1): amended, on 10 January 2019, by regulation 4(1) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).

Regulation 4(1)(a): amended, on 5 October 2023, by regulation 4 of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Regulation 4(1)(a): amended, on 10 January 2019, by regulation 4(2) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).

5 Infringement fees

The fee specified in the third column of Schedule 1 for an infringement offence is the infringement fee for that offence.

6 Infringement notices

Every infringement notice issued under section 260A of the Act must be in the form set out in Schedule 2.

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.

Regulation 7: added, on 21 October 2004, by regulation 3 of the Fisheries (Infringement Offences) Amendment Regulations (No 2) 2004 (SR 2004/327).

Schedule 1

Infringement offences and fees

rr 3, 4, 5

Fisheries (Amateur Fishing) Regulations 1986 (SR 1986/221)

[Revoked]

Schedule 1 Fisheries (Amateur Fishing) Regulations 1986: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986 (SR 1986/222)

[Revoked]

Schedule 1 Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries (Central Area Amateur Fishing) Regulations 1986 (SR 1986/223)

[Revoked]

Schedule 1 Fisheries (Central Area Amateur Fishing) Regulations 1986: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries (Challenger Area Amateur Fishing) Regulations 1986 (SR 1986/224)

[Revoked]

Schedule 1 Fisheries (Challenger Area Amateur Fishing) Regulations 1986: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries (South-East Area Amateur Fishing) Regulations 1986 (SR 1986/225)

[Revoked]

Schedule 1 Fisheries (South-East Area Amateur Fishing) Regulations 1986: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (SR 1991/57)

[Revoked]

Schedule 1 Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991: revoked, on 1 February 2014, by regulation 161(2) of the Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482).

Fisheries Act 1996

Provision	Description of offence	Fee (\$)
s 72(1)	In any 24-hour period, returns or abandons 50 or fewer fish or other animals that are aquatic life that are not listed in an instrument made under section 72A(2)(c)	400
s 72(2)(a)	In any 24-hour period, fails to return or abandon 50 or fewer fish or other animals that are aquatic life that are required by an instrument made under section 72A(2)(c) to be returned or abandoned	400
s 72(2)(b)	In any 24-hour period, fails to comply with conditions or requirements specified in an instrument made under section 72A(2)(c) in respect of the return of 50 or fewer fish or other animals that are aquatic life	400
s 72(3)(b)	In any 24-hour period, fails to comply with conditions or requirements specified in an instrument made under section 72A(2)(a) or (b) in respect of the return of 50 or fewer fish or other animals that are aquatic life	400

Schedule 1 Fisheries Act 1996: inserted, on 5 October 2023, by regulation 5 of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Fisheries (Reporting) Regulations 2017

Provision	Description of offence	Fee (\$)
r 7AAA(1)	Providing trip start report late	750
r 7AAA(2)(a)	Failing to record date and time that fishing trip starts	400
r 7AAA(2)(b)	Failing to record location of where fishing trip starts	400
r 7AAA(2)(c)	Failing to record additional information specified in circular	400
r 7AAAB(1)	Providing trip end report late	750
r 7AAAB(2)(a)	Failing to record date and time that fishing trip ends	400
r 7AAAB(2)(b)	Failing to record location of where fishing trip ends	400
r 7AAAB(2)(c)	Failing to record additional information specified in circular	400
r 7(3)(a)	Failing to record the required information in a fish catch report immediately when fishing starts	400
r 7(3)(b)	Failing to record the required information in a fish catch report immediately when fishing ends	400
r 7(3)(c)	Failing to record the required additional information in a fish catch report within 8 hours after fishing ends	400
r 7(3)(d)	Providing a fish catch report late, but before the close of the 14th day after the date on which it was due	400
r 7(3)(d)	Providing a fish catch report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 8(3)	Providing a non-fish species or protected fish species catch report late, but before the close of the 14th day after the date on which it was due	400
r 8(3)	Providing a non-fish species or protected fish species catch report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 9(3)	Providing a processing report late, but before the close of the 14th day after the date on which it was due	400
r 9(3)	Providing a processing report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 10(3)(a)(i)	Failing to complete a disposal report within 8 hours after fishing ends	400

Provision	Description of offence	Fee (\$)
r 10(3)(a)(ii)	Providing a disposal report late, but before the close of the 14th day after the date on which it was due	400
r 10(3)(a)(ii)	Providing a disposal report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 10(3)(b)	Failing to complete and provide a disposal report at the same time processing report is due	400
r 10(3)(b)	Providing a disposal report late, but before the close of the 14th day after the date on which it was due	400
r 10(3)(b)	Providing a disposal report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 10(3)(c)(i)	Failing to complete disposal report within 1 hour after disposal is finished	400
r 10(3)(c)(ii)	Providing a disposal report late, but before the close of the 14th day after the date on which it was due	400
r 10(3)(c)(ii)	Providing a disposal report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 11(3)(a)	Failing to record the required information in a landing report immediately after a landing is finished	400
r 11(3)(b)	Failing to record the required information within 15 days after a landing is finished	400
r 11(3)(c)	Providing the relevant landing report information late, but before the close of the 14th day after the date on which the information was due	400
r 11(3)(c)	Providing the relevant landing report information within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 14(1)(b)	Providing a monthly harvest return late, but before the close of the 20th day of the month in which it was due	400
r 14(1)(b)	Providing a monthly harvest return within a period starting on the 21st day of the month in which it was due and ending on the 15th day of the following month	750
r 20(1)(b)	Providing a licensed fish receiver return late, but before the close of the 20th day of the month in which it was due	400
r 20(1)(b)	Providing a licensed fish receiver return within a period starting on the 21st day of the month in which it was due and ending on the 15th day of the following month	750
r 25(1)(b)	Providing an annual audit report in December of the year it became due or in January the following year	400
r 25(3)	Carrying out an audit of a newly licensed fish receiver late, but within 1 month after the end of the specified period	400
r 34(1)	Failing to provide a client details annual update form by the due date	400
r 34(3)	Failing to advise of updated client details by the due date	400
r 35(1)	Failing to provide a licensed fish receiver details annual update form by the due date	400
r 35(3)	Failing to advise of updated licensed fish receiver details as soon as is practicable	400
r 36	Failing to record identifying information in a report	400

Part 2 of Schedule 1 of Fisheries (Reporting) Regulations 2017

The following infringement offences and infringement fees apply in respect of a person who is required to comply with Part 2 of Schedule 1 of the Fisheries (Reporting) Regulations 2017:

Provisions of Schedule 1	Description of offence	Fee (\$)
cl 6(2)	Failing to complete a catch, effort, and landing return as required	400
cl 6(4)	In the case of a catch, effort, and landing return due not later than the 15th day of a month, providing the return between the 16th and 20th days of that month (both days inclusive)	400
cl 6(4)	In the case of a catch, effort, and landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both dates inclusive)	750
cl 6(6)	Failing to provide a nil catch, effort, and landing return by the due date	400
cl 7(2)	Failing to complete a catch landing return as required	400
cl 7(4)	In the case of a catch landing return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 7(4)	In the case of a catch landing return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 7(4)	In the case of a catch landing return due not later than 15 days after the last day of the calendar month, providing the return between the 16th and the 20th days after the last day of the calendar month (both days inclusive)	400
cl 7(4)	In the case of a catch landing return due not later than 15 days after the last day of the calendar month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 7(6)	Failing to provide a nil catch landing return by the due date	400
cl 8(4)	In the case of a monthly harvest return due not later than the 15th day of a month, providing the return between the 16th and 20th days of that month (both days inclusive)	400
cl 8(4)	In the case of a monthly harvest return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 8(8)	Failing to provide a nil monthly harvest return by the due date	400
cl 9(2)	Failing to complete a freshwater eel catch effort return as required	400
cl 9(4)	In the case of a freshwater eel catch effort return due not later than the 15th day of a month, providing the return between 16th and 20th days of that month (both days inclusive)	400
cl 9(4)	In the case of a freshwater eel catch effort return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 10(2)	Failing to complete freshwater eel catch landing return as required	400
cl 10(4)	In the case of a freshwater eel catch landing return due not later than the 15th day of a month, providing the return between the 16th and the 20th days of that month (both days inclusive)	400
cl 10(4)	In the case of a freshwater eel catch landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750

Provisions of Schedule 1	Description of offence	Fee (\$)
cl 10(6)	Failing to provide a nil catch, effort, and landing return by the due date	400
cl 10(7)	Failing to provide a nil freshwater eel catch landing return by the due date	400
cl 11(2)	Failing to complete a paua catch effort landing return as required	400
cl 11(4)	In the case of a paua catch effort landing return due not later than the 15th day of a month, providing the return between the 16th and the 20th days of that month (both days inclusive)	400
cl 11(4)	In the case of a paua catch effort landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 11(6)	Failing to provide a nil paua catch, effort landing return by the due date	400
cl 12(3)	In the case of a trawl catch, effort, and processing return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 12(3)	In the case of a trawl catch, effort, and processing return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 15(2)	Failing to complete a lining trip catch effort return as required	400
cl 15(4)	In the case of a lining trip catch effort return due not later than the 15th day of the month, providing the return between the 16th day and the 20th day of that month (both days inclusive)	400
cl 15(4)	In the case of a lining trip catch effort return due not later than the 15th day of the month, providing the return between the 21st of that month and the 15th day of the following month (both days inclusive)	750
cl 16(2)	Failing to complete a trawl catch effort return	400
cl 16(3)	In the case of a trawl catch effort return due not later than the 15th day of the month, providing the return between the 16th day and the 20th day of that month (both days inclusive)	400
cl 16(3)	In the case of a trawl catch effort return due not later than the 15th day of the month, providing the return between the 21st of that month and the 15th day of the following month (both days inclusive)	750
cl 18(3)	In the case of a squid jigging catch effort return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 18(3)	In the case of a squid jigging catch effort return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 19(3)	In the case of a tuna longlining catch effort return due not later than 15 days after the last day of the calendar month, providing the return between the 16th and 20th days after the last day of the calendar month (both days inclusive)	400
cl 19(3)	In the case of a tuna longlining catch effort return due not later than 15 days after the last day of the calendar month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 20(1)	Failing to provide a client details annual update form by the due date	400
cl 20(3)	Failing to advise of updated client details by the due date	400

Provisions of Schedule 1	Description of offence	Fee (\$)
cl 24(1)	Failing to retain a return book in accordance with the regulations	400
	Schedule 1 Fisheries (Reporting) Regulations 2017: inserted, on 1 October 2017, by regulation 51 of the Fisheries (Reporting) Regulations 2017 (LI 2017/154).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(1)(a) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(1)(b) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(1)(c) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(1)(d) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(1)(e) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(2) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(3) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	
	Schedule 1 Fisheries (Reporting) Regulations 2017: amended, on 10 January 2019, by regulation 5(4) of the Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262).	

Schedule 2

Form of infringement notice for fisheries infringement offences

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Schedule 2: replaced, on 25 March 2022, by regulation 4 of the Fisheries (Infringement Offences) Amendment Regulations 2022 (SL 2022/41).

Form 1

Infringement notice

Section 260A(1)(b), Fisheries Act 1996

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by *[full name of enforcement officer, identification number of enforcement officer, or full name of other person authorised to issue an infringement notice]*.

Address for correspondence:

Details of person infringement notice issued to

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Client number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

The offence is one against *[specify provision]*.

Date:

Time:

Place:

Nature of alleged infringement: *[details of alleged infringement, including (if applicable) species, maximum allowable daily limit, minimum legal size, and minimum net mesh size]*

Infringement fee payable:

Service details

This infringement notice was served by *[method of service]* on *[date]*.

Payment of infringement fee

This infringement fee is payable within 28 days after [*date infringement notice served*].

This infringement fee may be paid to [*name of enforcement agency*] by [*specify method(s)*].

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or do not pay the fee at all (*see* paragraphs 4 to 6):
- what to do if you want to query this notice (*see* paragraphs 7 to 15).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 This notice sets out an alleged infringement offence.

Payments

- 2 If you pay the infringement fee in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Please note that unless you have an arrangement as described in paragraph 3, part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.
- 3 If [*name of enforcement agency*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement,—
 - (a) the time to pay will be agreed with [*name of enforcement agency*]:
 - (b) the enforcement action in paragraphs 4 to 6 may be taken if you default on a payment:
 - (c) you cannot request a court hearing about the infringement offence (*see* paragraph 14).

What happens if you do not pay on time

- 4 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 9 for your ability to do this), you will be served with a reminder notice (unless [*name of enforcement agency*] decides to take no further action to require payment for the alleged offence). Please note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs as set out in paragraph 5.

- 5 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
- (a) [*name of enforcement agency*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.
- 6 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defences

- 7 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to [*name of enforcement agency*] in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.
- 8 You may have a further defence against any proceedings for the alleged infringement offence under section 241 of the Fisheries Act 1996 (the **Act**). If you believe you have a defence, you should refer to the Act.
- 8A Apart from the defence in section 241 of the Act, you may also have a defence under section 72(5) of the Act against any proceedings for infringement offences under section 72(4) of the Act for failing to comply with section 72(1), (2)(a), (b) or (3)(b) of the Act. If you believe you have a defence, you should refer to the Act.

Further action you may take

- 9 You may—
- (a) ask [*name of enforcement agency*] to consider any matter relating to the circumstances of the alleged offence; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence, but have a court consider written submissions as to penalty or otherwise.
- 10 To take an action listed in paragraph 9, you must write to [*name of enforcement agency*] at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement agency*] allows.
- 11 If, in your written communication to [*name of enforcement agency*] referred to in paragraph 9, you deny liability for the alleged offence and request a court hearing, [*name of enforcement agency*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless

[*name of enforcement agency*] decides to take no further action to require payment for the alleged offence).

Note 1: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.

Note 2: Section 252(3A) of the Act applies if, within any 3-year period, the court finds you guilty (whether in the same or separate proceedings) of 2 or more offences against section 72(4) of the Act for failing to comply with section 72(1), (2)(a), (b), or (3)(b) of the Act. This means the court may, but is not required to, impose a fine of up to \$250,000 for the second offence, and any subsequent offence within those 3 years. (*See also Notes 3 and 4 below for further consequences if section 252(3A) applies.*)

Note 3: Under section 375 of the Criminal Procedure Act 2011 and section 257(1A) of the Act, the court may, but is not required to, also make an order that you forfeit any licence, approval, permission, or fishing permit obtained under the Act and that you are prohibited for a period of 3 years from—

- holding the same:
- engaging in fishing, or any activity associated with the taking of fish, aquatic life, or seaweed:
- deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.

Note 4: Further, under section 375 of the Criminal Procedure Act 2011 and section 255C(1)(aa) and (3) of the Act, the court may, but is not required to, order forfeiture of the following:

- any fish, and proceeds from the sale of such fish:
- any illegal fishing gear in respect of which the offence was committed:
- any property used in the commission of the offence:
- any quota or associated quota.

12 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to [*name of enforcement agency*],—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the submissions you wish the court to consider.

13 If you take the action in paragraph 12, [*name of enforcement agency*] will file your written communication with the court (unless [*name of enforcement agency*] decides to take no further action to require payment for the alleged

offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence. (*See also notes 2, 3, and 4 in paragraph 11.*)

- 14 If [*name of enforcement agency*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 9(b) and (c) and 10 to 13 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 15 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the infringement notice number; and
 - (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement agency*] at the address shown on this notice.

Further details of your rights and obligations

- 16 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 1 form 1 paragraph 8: amended, on 5 October 2023, by regulation 6(1)(a) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 1 form 1 paragraph 8: amended, on 5 October 2023, by regulation 6(1)(b) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 1 form 1 paragraph 8A: inserted, on 5 October 2023, by regulation 6(2) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 1 form 1 paragraph 11: amended, on 5 October 2023, by regulation 6(3) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 1 form 1 paragraph 11: amended, on 5 October 2023, by regulation 6(4) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 1 form 1 paragraph 13: amended, on 5 October 2023, by regulation 6(5) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3

Form of reminder notice for fisheries infringement offence

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Schedule 3: replaced, on 25 March 2022, by regulation 5 of the Fisheries (Infringement Offences) Amendment Regulations 2022 (SL 2022/41).

Reminder notice

Section 21(2), Summary Proceedings Act 1957

Reminder notice No:

Date of notice:

This notice is to remind you that you have been issued with an infringement notice.
The details of the notice are as follows:

Enforcement authority

The infringement notice was issued by *[full name of enforcement officer, identification number of enforcement officer, or full name of other person authorised to issue an infringement notice]*.

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Client number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

The offence is one against *[specify provision]*.

Date:

Time:

Place:

Nature of alleged infringement: *[details of alleged infringement, including (if applicable) species, maximum allowable daily limit, minimum legal size, and minimum net mesh size]*

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court.)

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

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

Payment of infringement fee

The infringement fee was payable to [*name of enforcement agency*] within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice.

The infringement fee may be paid to [*name of enforcement agency*] by [*specify method(s)*].

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or do not pay the fee at all (*see* paragraphs 3 and 4):
- what to do if you want to query this notice (*see* paragraphs 5 to 13).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 You have not paid the infringement fee described in this notice, 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.

Payments

- 2 If you pay the infringement fee in full within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to [*name of enforcement agency*] as shown above in **Payment of infringement fee**.

What happens if you do not pay on time

- 3 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 7 for your ability to do this), you will become liable to pay court costs as well as a fine (unless [*name of enforcement agency*] decides to take no further action to require payment for the alleged offence).
- 4 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defences

- 5 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid in full to [*name of enforcement agency*] in the manner specified in this notice before, or within 28 days after, this reminder notice is served on you. Late payment or payment made in any other manner is not a defence.
- 6 You may have a further defence against any proceedings for the alleged infringement offence under section 241 of the Fisheries Act 1996 (the **Act**). If you believe you have a defence, you should refer to the Act.
- 6A Apart from the defence in section 241 of the Act, you may also have a defence under section 72(5) of the Act against any proceedings for infringement offences under section 72(4) of the Act for failing to comply with section 72(1), (2)(a), (b), or (3)(b) of the Act. If you believe you have a defence, you should refer to the Act.

Further action you may take

- 7 You may—
- (a) ask [*name of enforcement agency*] to consider any matter relating to the circumstances of the alleged offence; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.
- 8 To take an action listed in paragraph 7, you must write to [*name of enforcement agency*] at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that [*name of enforcement agency*] allows.
- 9 If, in your written communication to [*name of enforcement agency*] referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, [*name of enforcement agency*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement agency*] decides to take no further action to require payment for the alleged offence).

Note 1: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.

Note 2: Section 252(3A) of the Act applies if, within any 3-year period, the court finds you guilty (whether in the same or separate proceedings) of 2 or more offences against section 72(4) of the Act for failing to comply with sec-

tion 72(1), (2)(a), (b), or (3)(b) of the Act. This means the court may, but is not required to, impose a fine of up to \$250,000 for the second offence, and any subsequent offence within those 3 years. (*See also notes 3 and 4 below for further consequences if section 252(3A) applies.*)

Note 3: Under section 375 of the Criminal Procedure Act 2011, and section 257(1A) of the Act, the court may, but is not required to, also make an order that you forfeit any licence, approval, permission, or fishing permit obtained under the Act, and that you are prohibited for a period of 3 years from—

- holding the same:
- engaging in fishing, or any activity associated with the taking of fish, aquatic life, or seaweed:
- deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.

Note 4: Further, under section 375 of the Criminal Procedure Act 2011 and section 255C(1)(aa) and (3) of the Act, the court may, but is not required to, order forfeiture of the following:

- any fish, and proceeds from the sale of such fish:
- any illegal fishing gear in respect of which the offence was committed:
- any property used in the commission of the offence:
- any quota or associated quota.

10 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to [*name of enforcement agency*],—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the submissions you wish the court to consider.

11 If you take the action in paragraph 10, [*name of enforcement agency*] will file your written communication with the court (unless [*name of enforcement agency*] decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence. (*See also notes 2, 3, and 4 in paragraph 9.*)

12 If [*name of enforcement agency*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 7(b) and (c) and 8 to 11 do not apply, and you are not entitled to request a hearing to

deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

13 When writing, please specify—

- (a) the date of the alleged infringement offence; and
- (b) the number of this reminder notice; and
- (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to [*name of enforcement agency*] at the address shown on this notice.

Further details of your rights and obligations

14 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 3 paragraph 6: amended, on 5 October 2023, by regulation 7(1)(a) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3 paragraph 6: amended, on 5 October 2023, by regulation 7(1)(b) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3 paragraph 6A: inserted, on 5 October 2023, by regulation 7(2) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3 paragraph 9: amended, on 5 October 2023, by regulation 7(3) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3 paragraph 9: amended, on 5 October 2023, by regulation 7(4) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Schedule 3 paragraph 11: amended, on 5 October 2023, by regulation 7(5) of the Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241).

Marie Shroff,
Clerk of the Executive Council.

Notes

1 *General*

This is a consolidation of the Fisheries (Infringement Offences) Regulations 2001 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Fisheries (Infringement Offences) Amendment Regulations 2023 (SL 2023/241)

Fisheries (Infringement Offences) Amendment Regulations 2022 (SL 2022/41)

Fisheries (Infringement Offences) Amendment Regulations 2018 (LI 2018/262)

Fisheries (Transitional Reporting) Amendment Regulations 2018 (LI 2018/140): regulation 6

Fisheries (Reporting) Regulations 2017 (LI 2017/154): regulation 51

Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482): regulation 161(2)

Fisheries (Infringement Offences) Amendment Regulations 2008 (SR 2008/27)

Fisheries (Infringement Offences) Amendment Regulations 2007 (SR 2007/35)