



Maritime Transport (Infringement Fees for Offences— Bay of Plenty Regional Navigation Safety Bylaw 2017) Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 3rd day of July 2017

Present:

The Right Hon Bill English presiding in Council

These regulations are made under section 330 of the Maritime Transport Act 1994 on the advice and with the consent of the Executive Council.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Infringement offences and fees	2
5	Infringement offence notices	2
6	Regulations revoked	2
	Schedule 1	3
	Infringement offences and fees under Bay of Plenty Regional Navigation Safety Bylaw 2017	
	Schedule 2	7
	Form for Bay of Plenty Regional Navigation Safety Bylaw 2017 infringement offence notice	

Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Bay of Plenty Regional Navigation Safety Bylaw 2017) Regulations 2017.

2 Commencement

These regulations come into force on 3 August 2017.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Maritime Transport Act 1994

bylaw means the Bay of Plenty Regional Navigation Safety Bylaw 2017

Council means the Bay of Plenty Regional Council

provision means a provision or group of related provisions of the bylaw.

- (2) The descriptions given in the second column of Schedule 1 are intended only to be an indication of the content of the provisions they describe, and are not intended to be used in the interpretation of the provisions.

4 Infringement offences and fees

- (1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence against the Act.
- (2) The infringement fee for an offence referred to in subclause (1) is the infringement fee specified in relation to that offence in the third column of Schedule 1.

5 Infringement offence notices

An infringement offence notice in respect of an infringement offence against a provision specified in the first column of Schedule 1 must be in the form set out in Schedule 2.

6 Regulations revoked

The Local Government (Infringement Fees for Offences: Bay of Plenty Regional Navigation Safety Bylaw 2010) Regulations 2010 (SR 2010/414) are revoked.

**Schedule 1
Infringement offences and fees under Bay of Plenty Regional
Navigation Safety Bylaw 2017**

Clause	Description of offence	Fee (\$)
		r 4
2.1.1	Using or allowing use of a recreational craft while not carrying required flotation devices of appropriate size	200
2.1.2	Using or allowing use of a recreational craft in circumstances of increased risk without ensuring that everyone on board is wearing a personal flotation device of appropriate size	200
2.1.3	Failing to wear a properly secured personal flotation device of appropriate size when on board a recreational craft that is 6 metres or less in length while it is making way	200
2.1.8	Towing a person, or being towed, without a properly secured personal flotation device of appropriate size	200
2.2	Swimming or diving around wharves	200
2.3.1	Using a propulsion system in breach of requirements	200
2.4.1	Failing to keep a vessel in seaworthy condition	200
2.4.2	Failing to move an unseaworthy vessel as directed	200
2.5	Impeding a seaplane when it is landing or taking off	200
2.6.1	Mooring or anchoring a vessel so as to impede or create a hazard	200
2.6.2	Interfering with a vessel's mooring	200
2.6.3	Failing to provide adequate access to a vessel alongside	200
2.6.4	Failing to adequately secure a vessel	200
2.6.5	Anchoring more than 14 days in the same or proximate location in Tauranga Harbour	200
2.7	Anchoring in a prohibited anchorage	200
2.8	Anchoring in a restricted anchorage in breach of requirements	200
2.9	Launching a vessel where prohibited	200
2.10.1	Obstructing access by waters to wharves, landing places, boat ramps, slipways, moorings, or waterways	200
2.10.2	Placing an obstruction in any waters	500
2.10.3	Extending equipment over the side of a vessel so as to cause a hazard	200
2.11.1	Failing to notify the harbourmaster of a collision or an accident	200
2.12.1	Tying up a vessel to a device or structure erected as a navigation aid or warning without the written permission of the harbourmaster	200
2.12.2	Damaging, removing, defacing, or interfering with a device or structure erected as a navigation aid or warning	200

**Maritime Transport (Infringement Fees for Offences—
Bay of Plenty Regional Navigation Safety Bylaw 2017)
Regulations 2017**

Schedule 1

2017/150

Clause	Description of offence	Fee (\$)
2.12.3	Erecting, maintaining, or displaying a beacon, buoy, or device as a navigation aid without permission	200
2.13	Sounding whistle or using flashing lights in breach of requirements	200
2.14.1	Using distress signals without sufficient cause	200
2.15	Discharging, or allowing the discharge of, anything into the water anywhere where it is a danger to maritime safety	200
2.16.2	Carrying out an activity other than swimming or body boarding within a flagged area	200
2.17.2	Failing to comply with directions of the harbourmaster or an enforcement officer	200
3.1.1	Operating a vessel capable of exceeding 10 knots if under-age and unsupervised	200
3.1.2	Allowing an under-age person to operate unsupervised a vessel capable of exceeding 10 knots	200
3.2.1	Exceeding the 5-knot speed limit in certain areas	200
3.2.2	Propelling or navigating a vessel at a speed exceeding 5 knots while a person is at or on the fore part or bow or part of a person's body is extended outside vessel	200
3.2.3	Failing to recover a dropped water ski or any floating object that may cause danger to any other person or vessel	200
3.2.8	Allowing a wake to cause unnecessary danger or risk of damage	200
3.4.1	Towing a person without an observer	200
3.4.2	Causing or allowing oneself to be towed without an observer	200
3.5.1	Operating, between sunset and sunrise or in restricted visibility, a vessel towing a person	200
3.5.2	Allowing oneself to be towed by a vessel between sunset and sunrise	200
3.6.4	Towing a person in the Hunters Creek Ski Area during the period 2 hours before or after low tide	200
3.7.1	Failing to follow the most direct route through an access lane or failing to keep to the side of an access lane that lies to the starboard of the vessel	200
3.7.2	Allowing oneself or any object to be towed other than by the most direct route through an access lane or other than on the side of an access lane that lies to the starboard of the vessel	200
3.7.4	Proceeding in an access lane in a dangerous manner	200
3.7.5	Obstructing a person while the person is using an access lane or reserved area for the purpose for which it was designated	200
3.9.1	Failing to obtain written permission for a special event	200
3.10.1	In a non-watersports area, operating a personal water craft or hovercraft, landing an aircraft, or towing a person or	200

**Maritime Transport (Infringement Fees for Offences—
Bay of Plenty Regional Navigation Safety Bylaw 2017)
Regulations 2017**

2017/150

Schedule 1

Clause	Description of offence	Fee (\$)
	device from a vessel for recreational purposes other than equipment used for fishing	
3.10.2	Operating a power driven vessel in a passive recreation area	200
3.10.3	Operating a power driven vessel in a swimming area	200
3.10.4	Operating a vessel in a surfing priority area when surfers are present	200
3.10.5	Operating a vessel at a proper speed greater than 5 knots in the Ōkawa Bay water ski restriction area (other than in towing into the area in the permitted manner)	200
3.10.6	Anchoring or mooring a vessel in a transit only area	200
3.10.8	Operating a personal watercraft in the exclusion zone of Ōhiwa Harbour	200
3.10.12	Setting a net within a 500 m radius from the seaward point of the eastern groyne of the Thornton River mouth, as prohibited	200
3.11	Failing to observe a closed area	200
3.12.1	Placing a mooring in the coastal marine area unless licensed by the harbourmaster	200
3.12.6	Refusing to allow inspection of a mooring or to upgrade or repair it as directed	200
3.12.7	Not clearly displaying in the manner required an identification name or number on a moored vessel	200
3.12.8	Anchoring a vessel in manner that obstructs a licensed mooring	200
3.12.15	Parting with possession of, or assigning, or allowing another person or vessel to use, a licensed mooring without the written permission of the harbourmaster	200
3.12.20	Securing a vessel to a mooring without the mooring owner's permission	200
3.13.1	In the Tauranga pilotage area, allowing a vessel of under 500 gross tonnage to impede the navigation of any vessel of 500 gross tonnage or more	200
3.14.3	Navigating a vessel in a moving prohibited zone	200
3.15	Failing to ensure that Flag A is displayed as required when a dive operation is in progress	200
3.16	Failing to operate a vessel in accordance with Maritime Rule Part 22 (Collision Prevention)	200
4.1.1	Failing to display a required signal when loading explosives onto a vessel or having explosives on board the vessel	200
4.1.2	Failing to comply with requirements to keep beyond 200 metres of another vessel that is carrying or loading explosives	200
4.1.3	Allowing a vessel carrying explosives to approach within 200 metres of any other vessel, in breach of requirements	200

**Maritime Transport (Infringement Fees for Offences—
Bay of Plenty Regional Navigation Safety Bylaw 2017)
Regulations 2017**

Schedule 1

2017/150

Clause	Description of offence	Fee (\$)
4.2.1	Failing to display in the required manner a required signal on a vessel carrying bulk oil cargo	200
4.3.1	Failing to operate a tanker in accordance with ISGOTT	200
4.3.2	Failing to berth a tanker at a specified wharf or failure to keep the tanker ready to move	200
4.4.2	Loading or discharging oil at other than a specified location	200
4.4.4	Failing to comply with requirements to notify the harbourmaster of a transfer of sludge/waste oil or bunker oil	500
4.5.1	Failing to comply with requirements to notify the harbourmaster before carrying out hot works operations in the commercial areas of Tauranga and Whakatāne harbours	200
4.5.2	Failing to take appropriate precautions while welding operations are being carried out	200
4.5.4	Allowing hot work operations to begin or continue when the harbourmaster has forbidden them	200
5.2.3	Failing to supply name and address when required	200
5.3.1	Operating a vessel not subject to any Maritime Rules without a licence	200
5.3.4	Operating a vessel that has been granted a Navigation Safety Licence while that licence is suspended	200
5.3.10	Failing to comply with Maritime Rule Parts 81 and 82 (Marine Craft involved in Adventure Tourism) other than Maritime Rules 81.17, 82.3, and 82.61	200
5.4.2	Allowing the operation of an unregistered personal water craft	200
5.5.1	Failing to display as required a vessel name or number	200
6.1.1	Failing to carry a pilot in the port of Tauranga as required	200
6.1.3	Failing to call Tauranga Port Radio before entering Tauranga Harbour	200
6.1.4	Transiting the Tauranga Harbour entrance during hours of darkness or restricted visibility without ability to communicate with Tauranga Port Radio	200
6.2	Failing to comply with radio procedures for vessels before or after leaving a berth or an anchorage	200
6.3	Failing to carry or consult required navigational documents	200
6.4	Causing a vessel of more than 500 gross tonnes to enter an exclusion zone	1000
7.1.1	Attempting to cross the bar or negotiate the entrance of Whakatāne Harbour at same time as another vessel	200

Schedule 2
Form for Bay of Plenty Regional Navigation Safety Bylaw 2017
infringement offence notice

r 5

Form
Bay of Plenty Regional Navigation Safety Bylaw 2017 infringement offence
notice

Section 330, Maritime Transport Act 1994

(Front page)

Notice No:

Enforcement authority

[*Specify enforcement authority*]

Address: [*specify address*]

Notice issued by: [*full name*], being a person duly authorised by the Bay of Plenty
Regional Council

Person served

Full name:

Address:

Telephone number(s):

Occupation:

Date of birth:

Maritime document No (if applicable):

Alleged infringement offence(s) details

Date:

Time:

Place:

Vessel name:

Vessel description:

For each offence, specify the following, including sufficient details of the alleged of-
fence to fairly inform the person of the nature of the alleged offence:

Bylaw provision contravened	Details of offence	Infringement fee payable (\$)
1		
2		
3		

Time for payment of infringement fee(s)

The infringement fee is/fees are* payable within 28 days after [*date this notice is delivered personally, or served by post*].

*Select one.

To whom payable

The infringement fee is/fees are* payable to the enforcement authority at [*specify address of enforcement authority*].

*Select one.

Method of payment

The infringement fee is/fees are* payable to the enforcement authority either online or by cheque.

*Select one.

To pay online, go to [*specify relevant Internet site*]. Online payments must refer to the infringement notice number at the top of this notice and must be made to [*specify account number*].

Cheques must be made out to [*specify enforcement authority*], crossed and marked “Not Transferable”, marked with the infringement notice number at the top of this notice, and sent to the enforcement authority at the address shown above.

(Back page)

Statement of rights

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

- 1 This notice sets out 1 or more alleged infringement offences. Each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below.

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 the enforcement authority in respect of an infringement fee payable by you, paragraphs 4(b) and (c), 5, and 6 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

- 2 If you pay the infringement fee for an alleged offence within 28 days after the service of this notice on you, no further enforcement action will be taken for

that offence. Payments may be made as indicated on the other side of this notice.

Defence

- 3 You have a complete defence against proceedings for an alleged offence if the infringement fee for that offence has been paid to the enforcement authority in accordance with this notice within 28 days after the service on you of a reminder notice (*see* paragraph 7). Late payment or payment made to any other address will not constitute a defence.

Further action

- 4 You may write to the enforcement authority at the address shown on the other side of this infringement notice if you wish to—
- (a) raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
 - (b) deny liability for the offence and request a court hearing (*see* paragraphs 5 and 9); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (*see* paragraphs 6 and 9).

The letter must be signed by you and delivered to the enforcement authority at the address shown on the other side of this infringement notice before or within 28 days after the service of a reminder notice (*see* paragraph 7), or within any further time that the enforcement authority allows.

- 5 If you deny liability for the offence and request a hearing, the enforcement authority will (unless it decides not 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.
- 6 If you admit liability for the offence but wish the court to consider your submissions as to penalty or otherwise, you must, in your letter to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability; and
 - (c) set out the written submissions you wish the court to consider.

The enforcement authority will then file your letter with the court (unless it decides not to commence court proceedings in respect of the offence). If you follow the process described in this paragraph, there will be no oral hearing before the court.

Non-payment of fee

- 7 If you do not pay the infringement fee or request a hearing within 28 days after being served with this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).

- 8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless the enforcement authority decides not to commence proceedings against you).

Queries and correspondence

- 9 When writing to the enforcement authority or making payment of an infringement fee, please indicate—
- (a) the date of the infringement offence; and
 - (b) the infringement notice number; and
 - (c) the identifying number of each alleged offence and the course of action you are taking in respect of each alleged offence (if this notice sets out more than 1 offence and you are not paying all the infringement fees for the alleged offences); and
 - (d) your full address for replies (if you are not paying all the infringement fees for the alleged offences).

If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on the other side of this notice.

Note: All queries and correspondence regarding the infringement offence(s) must be directed to the enforcement authority at the address shown on the other side of this notice.

Michael Webster,
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 3 August 2017, specify breaches of the Bay of Plenty Regional Navigation Safety Bylaw 2017 (the **bylaw**) that are infringement offences under the Maritime Transport Act 1994 (the **Act**).

Regulation 4 provides that the breaches of the bylaw specified in *Schedule 1* are infringement offences under the Act and that the infringement fees set out in that schedule apply to those breaches.

Regulation 5 provides that an infringement notice for the infringement offences created by *regulation 4* must be in the form set out in *Schedule 2*.

**Maritime Transport (Infringement Fees for Offences—
Bay of Plenty Regional Navigation Safety Bylaw 2017)
Regulations 2017**

2017/150

Explanatory note

Regulation 6 provides for the revocation of the Local Government (Infringement Fees for Offences: Bay of Plenty Regional Navigation Safety Bylaw 2010) Regulations 2010, which are replaced by these regulations.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 6 July 2017.

These regulations are administered by the Ministry of Transport.