



Maritime Transport (Infringement Fees for Offences— Nelson City Council Navigation Safety Bylaw 2012) Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 23rd day of November 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 330 of the Maritime Transport Act 1994, 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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Regulations

1 Title

These regulations are the Maritime Transport (Infringement Fees for Offences—Nelson City Council Navigation Safety Bylaw 2012) Regulations 2015.

2 Commencement

These regulations come into force on 25 December 2015.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **provision** means a provision of the Nelson City Council Navigation Safety Bylaw 2012.
- (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 those provisions.

4 Infringement offences and fees

- (1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence under the Maritime Transport Act 1994.
- (2) The infringement fee for an offence referred to in subclause (1) is the fee specified in relation to that offence in the third column of Schedule 1.

5 Infringement notices

Every infringement 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.

**Schedule 1
Infringement offences and fees under Nelson City Council
Navigation Safety Bylaw 2012**

Provision	Description of offence	Fee (\$)
	rr 3, 4	
cl 2.1	Failing to follow reporting procedures	500
cl 2.2(b), (c), (d), (e)	Failing to act appropriately in specified zone	100
cl 2.2(f)	Operating motorised craft within Tahunanui exclusion zone	100
cl 2.3	Failing to comply with operating requirements of zones	200
cl 2.4	Failing to comply with operating requirements of lane	200
cl 2.5	Failing to stay clear of exclusion zone	100
cl 2.6(a), (b)	Placing an obstruction likely to restrict navigation or cause damage to vessels or property, or injury or death to any person	100
cl 2.6(c)	Impeding navigation of vessel greater than 500 gross tonnage	200
cl 2.7(a)	Failing to provide sufficient accessible personal flotation devices	100
cl 2.7(b)	Failing to ensure that any person being towed wears an appropriate personal flotation device, or failing to wear an appropriate personal flotation device while being towed	100
cl 2.7(d), (e)	Failing to ensure persons on board vessels wear personal flotation devices in accordance with requirements	100
cl 2.8	Owner of a power-driven vessel capable of a proper speed exceeding 10 knots allowing a person under the age of 15 years to be in charge of, operate, or navigate that vessel	100
cl 2.9(a)(i)	Operating or navigating a vessel at a speed exceeding 5 knots within 50 metres of another vessel, floating structure, or person in the water	200
cl 2.9(a)(ii)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of the shore or of any structure	200
cl 2.9(a)(iii)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of a vessel or floating structure flying flag A (diver's flag)	200
cl 2.9(a)(iv)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of any area set aside or zoned	200
cl 2.9(a)(vi)	Operating or navigating a vessel at a speed exceeding 5 knots within any zone set aside as a 5-knot zone or as a swimming area	200
cl 2.9(b)	Operating or navigating a vessel at a speed exceeding 3 knots within any marina	100
cl 2.9(c)	Operating or navigating a vessel at a speed exceeding 5 knots while any person has a portion of his or her body extending from vessel	200
cl 2.9(d)	Allowing oneself to be towed by a vessel at a speed exceeding 5 knots	200
cl 2.9(e)	Failing to recover any object dropped by any person being towed	100
cl 2.10	Operating a vessel creating damaging wake or wash	100
cl 2.11(a)	Towing a water skier or person in breach of requirements	100
cl 2.11(b)	Allowing oneself to be towed by a vessel in breach of requirements	100
cl 2.12(a)	Towing a water skier or person in breach of requirements	200
cl 2.12(b)	Allowing oneself to be towed by a vessel in breach of requirements	200
cl 2.13(a), (b)	Failing to manoeuvre a vessel, or allowing oneself to be towed by a vessel, in an access lane other than by the most direct route through and on the starboard side of the access lane	100

**Maritime Transport (Infringement Fees for Offences—
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Schedule 1

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Provision	Description of offence	Fee (\$)
cl 2.13(c), (d)	Obstructing, or creating danger to, persons or vessels making legitimate use of an access lane	100
cl 2.13(e)	Undertaking an activity in an access lane other than the priority activity while the priority activity is taking place	100
cl 2.14(b)	Obstructing persons or vessels making legitimate use of a reserved area	100
cl 2.14(c)	Undertaking an activity in a reserved area other than the priority activity while the priority activity is taking place	100
cl 2.15	Anchoring or mooring a vessel in a prohibited anchorage	100
cl 2.16(a)	Tying a vessel to a navigation aid without written permission from the Harbourmaster	100
cl 2.16(b)	Damaging, removing, interfering, or defacing navigation aids	100
cl 2.16(c)	Erecting, displaying, or maintaining any beacon, buoy, or other device without written permission	100
cl 2.17	Failing to stay 200 metres clear of oil tanker or any other vessel showing flag B or an all-round red light	200
cl 2.18	Failing to comply with river safety rules	100
cl 2.20(a)	Failing to display flag B during day and an all-round red light at night (explosive cargo)	500
cl 2.20(b)(i)	Being master of a vessel from which dive operations are in progress and not clearly displaying flag A	200
cl 2.20(b)(ii)	Diving from a vessel without clearly displaying flag A	200
cl 2.21	Sounding whistle, siren, or horn in breach of requirements	100
cl 2.22(a), (b)	Using distress signals improperly	100
cl 2.23(a)	Impeding a seaplane from taking off or landing	200
cl 2.23(b)	Operating a seaplane within the harbour without permission	200
cl 2.24	Operating without authorisation for hire or reward a vessel in breach of requirements	500
cl 2.25(a)	Failing to carry appropriate navigation aids	100
cl 2.25(b)	Failing to use and display visibility aids	100
cl 2.26	Failing to identify vessel with appropriate markings	100
cl 3.1(d)	Allowing use of a mooring by unauthorised vessel	100
cl 3.1(g)	Anchoring a vessel so that it obstructs a mooring	100
cl 3.5(b), (c)	Unauthorised use, occupation, transfer, sublet, or disposal of berth	200
cl 3.5(e)	Failing to comply with terms of licence	200
cl 3.6(a)	Occupying visiting vessel berth without authorisation	100
cl 3.6(b)	Anchoring or mooring in prohibited anchorage area	100
cl 3.7	Tying up vessel to a berthed vessel in marina	100
cl 3.8	Use of marina berth by a commercial vessel without authorisation	200
cl 3.10	Failing to securely fasten vessel and to ensure safe and adequate means of access	100
cl 3.11(a)	Failing to maintain a vessel in a seaworthy condition	200
cl 3.12	Altering or modifying berth without authorisation	500
cl 3.13	Failing to make good any damage to mooring or berth	200
cl 3.14	Fishing in marina in contravention of direction by Marina Supervisor	50
cl 3.15	Operating propulsion system in breach of requirements	100
cl 3.16	Creating excessive noise or public nuisance	100
cl 3.18(a)	Failing to maintain a safe marina environment	100

**Maritime Transport (Infringement Fees for Offences—
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2015/289

Schedule 1

Provision	Description of offence	Fee (\$)
cl 3.18(b)	Bringing or keeping dangerous or inflammable goods in breach of requirements	200
cl 3.18(c)	Failing to obtain approvals for repairs, alterations, or work on or to vessel	100
cl 3.18(d)	Failing to ensure safe means of work and proper disposal of rubbish	100
cl 3.19	Unauthorised use of repair grid or use in breach of requirements	100
cl 3.20(a)	Landing or leaving goods on a marina landing stage without permission of Marina Supervisor	50
cl 3.20(b)	Using water supply improperly	100
cl 3.21(b)	Failing to pay charges and fees for using any boat ramp, and failing to prominently display proof of payment on boat or towing vehicle	100
cl 3.22	Swimming or diving within 50 metres of nominated structures without written consent of Harbourmaster or Marina Supervisor	50
cl 4.1(a), (b), (c)	Failing to obtain hot-work permit from Harbourmaster	500
cl 4.1(e)	Failing to secure Harbourmaster's agreement that pre-condition requirements of a hot-work permit are met in full	500
cl 4.2	Failing to meet requirements (explosives anchorage)	1000
cl 4.3	Failing to display flag B during day and an all-round red light at night (dangerous goods)	500
cl 4.4	Failing to stay 200 metres clear of vessel showing flag B or an all-round red light	500
cl 4.5	Failing to meet requirements (oil tanker in port)	750
cl 4.6	Failing to meet requirements (loading or discharge of cargo)	750
cl 6.1(a)	Failing to obtain Harbourmaster approval prior to special or temporary events	200
cl 6.1(c)	Failing to adhere to conditions of special event authorisation	200
cl 6.2	Failing to report collision or accident and moving vessel in breach of requirements	200
cl 6.3	Failing to meet requirements (pollutants, litter, and rubbish)	100
cl 6.4	Anchoring, berthing, or mooring a vessel subject to significant fouling with marine growth	750
cl 6.6(b)	Failing to obey any lawful instruction or order given by Harbourmaster for navigation safety purposes	200
cl 6.6(c)	Failing to supply name, address, and date of birth when required	200

Schedule 2
Form of notice for Nelson City Council Navigation Safety Bylaw
2012 infringement offences

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Form
Nelson City Council Navigation Safety Bylaw 2012 infringement offence
notice

Section 330, Maritime Transport Act 1994

(Front page)

Notice No:

Enforcement authority [*specify*]

Person served

Full name:

Address:

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:

**Bylaw offence
provision**

Offence

**Infringement fee
payable (\$)**

Time for payment of infringement fee(s)

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

*Select one.

To whom payable

The infringement fee(s) is/are* payable to [*specify address of enforcement authority*].

*Select one.

Method of payment

Please present this notice, or a copy of this notice, when making payment.

Cheques or money orders must be made out to [*specify enforcement authority*] and must be crossed and marked not transferable or account payee only.

Issued by: [*full name*], who is a person duly authorised by the Nelson City Council.

Important

Please read the statement of rights printed over the page.

(Back page)

Statement of rights

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

- 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 an informant 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.

Payments

- 2 If you pay the infringement fee for an alleged offence within 28 days of the service on you of this notice, no further enforcement action will be taken for that offence. Payments may be made at the place indicated on the front page 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 at the address shown on the front page of this notice within 28 days after service on you of a reminder notice. 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 front page of this notice if you wish—

- (a) to raise any matter relating to the circumstances of an alleged offence for consideration by the enforcement authority; or
- (b) to deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9); or
- (c) to admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9).

Any such letter must be personally signed.

- 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 that 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). There is no provision for an oral hearing before the court if you follow this course of action.

Non-payment of fee

- 7 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after the service on you of this notice, you will (unless the enforcement authority decides otherwise) be served with a reminder notice.
- 8 If you do not pay the infringement fee and do not request a hearing in respect of an 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 front of this notice.

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

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 25 December 2015, specify in *Schedule 1* which breaches of the Nelson City Council Navigation Safety Bylaw 2012 are infringement offences for the purposes of section 33O of the Maritime Transport Act 1994. They also prescribe the infringement fees for those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 26 November 2015.

These regulations are administered by the Ministry of Transport.