

INFRINGEMENT FEES FOR OFFENCES REGULATIONS – KAI IWI LAKES NAVIGATION SAFETY BYLAW 2017

Proposal

1. This paper proposes that the Cabinet Legislation Committee (the Committee) authorise the submission to the Executive Council of the Maritime Transport (Infringement Fees for Offences – Kai Iwi Lakes Navigation Safety Bylaw 2017) Regulations 2019 (the Regulations).
2. The Regulations specify fees for infringement offences for the corresponding local navigation safety bylaws.

Background

3. Navigation safety bylaws allow councils to manage and regulate maritime safety within their waterways.
4. The Kai Iwi Lakes Navigation Safety Bylaw 2017 is a new bylaw, created following the lapse of a previous Kai Iwi Lakes Bylaw made in 2000. The 2000 Bylaw lapsed as it was not reviewed in 2010 in accordance with section 160A of the Local Government Act 2002.
5. Infringement offence regulations support effective enforcement of navigation safety bylaws. Without infringement offence regulations, the only way a council can enforce a bylaw is by prosecuting the alleged offender in the District Court. The conduct envisaged by these bylaws is of relatively low seriousness and does not justify the full imposition of the criminal law.¹
6. Infringement offence regulations are therefore needed to correspond to the Kai Iwi Lakes Navigation Safety Bylaw 2017 and allow for its effective enforcement.
7. Section 330 of the Maritime Transport Act 1994 empowers the Governor-General, by Order in Council, to make regulations:
 - a) specifying which breaches of navigation bylaws are infringement offences
 - b) prescribing an infringement fee (not exceeding \$1000) for these infringement offences
 - c) prescribing the form of the infringement notice.

¹ The Council has an open dialogue with Maritime New Zealand to avoid issuing infringement offences in situations where prosecuting the offender may be more appropriate.

8. The Regulations are entirely routine and did not require Cabinet approval to make policy decisions.

Comment

9. The Regulations propose to set the infringement fees at \$200.
10. The Northland Regional Council has based the proposed infringement offences and fees in the Regulations on equivalent provisions of the Maritime Transport (Infringement Fees for Offences – Northland Regional Navigation Safety Bylaw 2017) Regulations 2018.
11. These offences and fees are not materially different from those used by other councils throughout New Zealand.

Level of infringement fees

12. The Ministry of Justice did not raise any concerns over the proposed infringement fees and noted that the fees largely sit at a level that reflects the lower relative gravity of the offending.

Consultation

13. The following departments and agencies were consulted: Northland Regional Council, Ministry of Justice, New Zealand Police, Maritime New Zealand, and the Department of Internal Affairs.
14. The Department of the Prime Minister and Cabinet was informed.
15. No issues were raised during consultation.
16. The matters covered in this paper fall within my delegated portfolio responsibilities. The Minister of Transport has been consulted on the proposals and agrees with the submission of this paper.

Timing and the 28-day rule

17. Subject to Cabinet's approval, the Regulations will be notified in the *New Zealand Gazette* (the *Gazette*) on 26 September 2019 to come into force on 24 October 2019. This will be 28 days after notification in the *Gazette*.

Compliance

18. The regulations comply with the:
 - 18.1. LAC Guidelines on *Process and Content of Legislation (2018 edition)*, a publication maintained by the Legislation Design and Advisory Committee
 - 18.2. New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

- 18.3. principles and guidelines set out in the Privacy Act 1993
- 18.4. relevant international standards and obligations
- 18.5. principles of the Treaty of Waitangi.

Regulatory Impact Analysis

19. A Regulatory Impact Statement is not required for this paper as the proposal is of a minor and mechanical nature.

Certification by Parliamentary Counsel

20. Parliamentary Counsel Office has certified the Regulations as being in order for submission to the Executive Council.

Publicity

21. The Regulations will be notified in the *Gazette*.

Recommendations

22. I recommend that the Committee:
 1. **note** that the Maritime Transport (Infringement Fees for Offences – Kai Iwi Lakes Navigation Safety Bylaw 2017) Regulations 2019 (the Regulations) will allow the Northland Regional Council to enforce the Kai Iwi Lakes Navigation Safety Bylaw 2017, which came into force on 1 July 2018
 2. **authorise** the submission of the Regulations to the Executive Council
 3. **note** that the Regulations will come into force on 24 October 2019.

Authorised for lodgement

Hon Julie Anne Genter
Associate Minister of Transport