

**Local Government (Infringement
Fees for Offences: Queenstown
Lakes District Navigation Safety
Bylaw 2009) Regulations 2009**



Governor-General

Order in Council

At Wellington this *14th* day of *December* 2009

Present:
His Excellency The Governor General in Council

Pursuant to section 699A of the Local Government Act 1974, 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 Local Government (Infringement Fees for Offences: Queenstown Lakes District Navigation Safety Bylaw 2009) Regulations 2009.
- 2 Commencement**
These regulations come into force on the day after the date of their notification in the *Gazette*.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
Act means the Local Government Act 1974
bylaw means the Queenstown Lakes District Navigation Safety Bylaw 2009
Council means the Queenstown Lakes District Council
craft means a vessel, raft, waterboard of any description, aircraft, or amphibious motorised vehicle
honorary enforcement officer means a person appointed as an honorary enforcement officer under section 650B of the Act
maritime rule means a maritime rule made under the Maritime Transport Act 1994
provision means a provision of the bylaw.
- (2) The descriptions of offences given in the second column of the table in 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 the table in 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 the table in Schedule 1.

5 Infringement notice

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

6 Revocation

The Local Government (Infringement Fees for Offences: Queenstown Lakes District Waterways Navigation and Safety Bylaw 2003) Regulations 2006 (SR 2006/394) are revoked.

Schedule 1
Infringement offences and fees under
Queenstown Lakes District Navigation
Safety Bylaw 2009

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Provision	Description of offence	Fee (\$)
2.1.1	A person under 15 years of age propelling, navigating, or controlling a powered vessel capable of speed exceeding 5 knots	500
2.1.2	Navigating or controlling a vessel without due care and caution and at a speed and manner so as to endanger the lives of, or cause injury to, any person	500
2.1.3	Navigating or attempting to navigate a craft while unfit by reason of alcohol, drugs, or sickness	500
2.1.4(a)	Failing to carry life jackets of appropriate size for each person on board a vessel	300
2.1.4(c)	Failing to wear a life jacket on board a recreational craft 6 m or more in length in certain circumstances	300
2.1.4(f)	Towing a person who is not wearing a life jacket from a vessel	500
2.1.4(f)	Being towed from a vessel without wearing a life jacket	300

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Schedule 1

Provision	Description of offence	Fee (\$)
2.1.4(h)	Failing to ensure that every person on board a recreational craft less than 6 m in length is wearing a life jacket	300
2.1.5	Embarking or disembarking while craft is under way	300
2.1.6	Creating excessive noise or public nuisance	300
2.2.1(a)	Exceeding 5 knots within 50 m of any other craft, floating structure, or person in or on the water	500
2.2.1(b)	Exceeding 5 knots within 200 m of the shore or any structure	300
2.2.1(c)	Exceeding 5 knots within 200 m of any craft flying Flag A of the International Code of Signals	300
2.2.1(d)	Exceeding 5 knots within a reserved area unless specifically permitted	300
2.2.2	Exceeding 5 knots while any part of a person is extended over the fore part, bow, or side of a powered vessel	300
2.2.3	Being towed at more than 5 knots in any circumstance under clause 2.2.1 of the bylaw	300
2.2.4	Failing to recover water ski	300
2.3	Failing to comply with the Harbour Master's instructions as to speed	300
2.4.1	Towing a person from a vessel without a lookout	500
2.4.2	Being towed from a vessel without a lookout	300
2.5.1	Towing a person from a vessel between sunset and sunrise or in restricted visibility	500
2.5.2	Being towed from a vessel between sunset and sunrise	300
2.6.1	Unreasonably obstructing, or loitering on or near, a public boat launching ramp	300
2.6.2	Using a craft to obstruct the use of a public jetty	300
2.6.3	Failing to ensure that a vessel, trailer, or vehicle is entirely free of water weed, plant growth, debris, or unwanted organisms	300
2.7	Wilfully damaging, removing, or interfering with a Council-maintained light, navigation mark, buoy, beacon, wharf, lifebuoy, or life-saving apparatus	300
2.8.1	Using prohibited area of the Kawarau River as a commercial operator	500
2.8.2	Resting or stopping in prohibited area of the Kawarau River	500
2.8.3	Failing, when using a craft on the Kawarau River, to give way to craft exiting the Shotover River	500
2.8.4	Operating a powered craft on prohibited area of the Kawarau River	500

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Schedule 1

Provision	Description of offence	Fee (\$)
2.8.5	Failing to communicate with other operators on the lower Shotover River	500
2.8.6	Failing to navigate through the Kawarau Falls control gates in accordance with clause 2.8.6 of the bylaw	500
2.8.7	Exceeding 5 knots on specified lakes	300
2.8.8	Failing to observe river rules	500
2.8.9	Failing to comply with resource consent conditions	500
2.9.1	Towing a water skier or other person in a prohibited area	500
2.10	Failing to report to the Harbour Master a vessel's involvement in a collision, accident, obstruction, or other damage	500
2.11.1	Creating a nuisance through the use or control of a craft, the speed of a craft, or any item towed or used in conjunction with a craft	500
2.11.2	Operating a craft in a manner that is or might be dangerous to the public or other persons	500
2.12.1	Depositing prohibited materials	500
2.13.1	Leaving a craft sunk, stranded, or abandoned	300
2.14.1	Swimming or diving within 50 m of a commercial jetty or wharf	300
2.14.2	Swimming or diving in an area determined by Harbour Master	300
2.14.3		
2.15.1	Conducting an organised water activity without a special permit	300
2.16.1	Undertaking a water-based activity during prohibition	500
2.17.1	Failing to comply with a maritime rule applicable to a water-based activity the breach of which is an offence	500
2.18	Failing to carry appropriate means of communication	300
3.1.4	Failing to properly use a vessel in an access lane	300
3.1.5	Swimming in an access lane	300
3.1.6	Obstructing an access lane	300
3.1.7	Failing to comply with access lane rules	300
4.1.1	Erecting a structure on a foreshore without a relevant licence or consent	500
4.7.1	Placing a mooring in any waters without a licence	500
4.7.7	Anchoring a vessel so as to obstruct a licensed mooring	300
4.7.11	Leaving a licensed mooring vacant or unattended	300
5.1.1	Operating a commercial vessel without a current licence	500
5.1.4	Failing to carry a commercial vessel licence	300

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Schedule 1

Provision	Description of offence	Fee (\$)
5.2	Operating a currently licensed commercial vessel that is required to be surveyed under any relevant maritime rule without a safe ship management certificate	500
5.3.1	Failing to submit operational safety plan to Council	500
5.3.2	Failing to ensure that a passenger on a commercial vessel is not impaired in any way that presents a risk to the passenger or others	300
5.3.3	Refuelling a vessel with passengers on board	500
5.5.2(a)	Failing to complete registration requirements as required by Harbour Master	500
5.5.2(b)	Failing to prepare, adopt, and submit operational safety plan to Harbour Master	300
5.5.2(c)	Failing to undertake and provide evidence of annual audit of operational safety plan, safety operation, and safety equipment	300
5.6.1	Failing to comply with the parasailing requirements in Schedule 3 of the bylaw	300
6.3	Failing to provide full name and address to the Harbour Master on request, or obstructing the Harbour Master in the exercise of his or her duties under the bylaw or any other relevant legislation	500
6.4	Impersonating a Harbour Master, a deputy Harbour Master, an inspector, or an honorary warden	500

Schedule 2

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**Form of notice for Queenstown Lakes
District Navigation Safety Bylaw 2009
infringement offence**

Form

Queenstown Lakes District Navigation Safety
Bylaw 2009 infringement offence notice

Section 699A, Local Government Act 1974

Notice No:

Enforcement authority

[specify]

To *[full name, full address]*

Telephone number:

Occupation:

Date of birth:

Gender:

Marine 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 (\$)**

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Schedule 2

Form—*continued*

Time for payment of infringement fee(s)

The infringement fee(s) is/are* payable to the enforcement authority 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*], being a person duly authorised by the Queenstown Lakes District Council.

Important

Please read the statement of rights below.

Statement of rights

If, after reading this statement, there is anything in it 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.

Form—*continued*

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 places 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 a letter to the enforcement authority at the address shown on the front page of this 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 (refer to 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 (refer to paragraphs 6 and 9).

The letter must be signed by you and delivered to the enforcement authority at the address specified in this infringement notice and in a reminder notice in respect of the offence before

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Schedule 2

Form—*continued*

or within 28 days after the service of the reminder notice, or within such further time as the enforcement authority may allow.

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

Non-payment of fee

- 7 Unless the enforcement authority decides otherwise, you will be served with a reminder notice if, within 28 days after being served with this notice, you do not—
- (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in this notice a letter requesting a hearing of the offence.
- 8 Unless the enforcement authority decides not to commence proceedings against you, you will become liable to pay costs in addition to the infringement fee if, within 28 days after being served with a reminder notice, you do not—
- (a) pay the infringement fee; or
 - (b) deliver to the enforcement authority at its address specified in the reminder notice a letter requesting a hearing of the offence.

Form—*continued*

Queries and correspondence

- 9 When writing 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.


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 the day after the date of their notification in the *Gazette*, specify which breaches of the Queenstown Lakes District Navigation Safety Bylaw 2009 are infringement offences for the purposes of section 699A of the Local Government Act 1974. *Schedule 1* prescribes the infringement fees for those infringement offences. An infringement notice must be in the form set out in *Schedule 2*.

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

Date of notification in *Gazette*:

These regulations are administered by the Department of Internal Affairs.
