



## **Wild Animal Control (Infringement Offences) Regulations 2019**

Patsy Reddy, Governor-General

### **Order in Council**

At Wellington this 16th day of December 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 40 of the Wild Animal Control Act 1977 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Wild Animal Control (Infringement Offences) Regulations 2019.

### 2 Commencement

These regulations come into force on 3 February 2020.

### 3 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

### 4 Descriptions in Schedule 2 are indications only

The descriptions in the second column of Schedule 2 are an indication of the content of the provisions they describe and are not intended to be used in the interpretation of those provisions.

### 5 Penalties for infringement offences

The penalties for an infringement offence in the Wild Animal Control Act 1977 are the penalties specified for that infringement offence in the third and fourth columns of Schedule 2.

### 6 Infringement notice and reminder notice

- (1) An infringement notice issued under section 31I of the Wild Animal Control Act 1977 must be in form 1 set out in Schedule 3.
- (2) A reminder notice issued under section 31J of the Wild Animal Control Act 1977 must be in form 2 set out in Schedule 3.

## Schedule 1

### Transitional, savings, and related provisions

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### Part 1

#### Provisions relating to these regulations as made

There are no transitional, savings, or related provisions relating to these regulations as made.

**Schedule 2**  
**Penalties for infringement offences under Wild Animal Control Act**  
**1977**

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<b>Section</b>	<b>Description of offence</b>	<b>Infringement fee (\$)</b>	<b>Maximum fine (\$)</b>
31B(2)	Hunting without authority of land owner	400	800
31C(4)	Selling, delivering, or receiving carcass without ears attached	400	800
31D(3)	Inadequate fencing	800	1,600
31E(2)	Interfering with items on land	600	1,200
31F(2)	Failing to provide Crown with proceeds from sale of animal or carcass	400	800

## Schedule 3

### Infringement notice and reminder notice

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#### Form 1

#### Infringement notice

*Section 311, Wild Animal Control Act 1977*

Infringement notice No:

Date of notice:

#### **Enforcement authority**

This infringement notice is issued by [*name or identification number of authorised person*].

Address for correspondence:

#### **Details of person to whom infringement notice issued**

Full name:

Full address:

†Date of birth:

\*†Gender:

\*†Occupation:

\*Telephone number:

†Not required if the notice is served on a company or other body corporate.

\*Specify only if known.

#### **Alleged infringement offence details**

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

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

#### **Service details**

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

**Payment of infringement fee**

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

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

***Information***

If there is anything in these notes 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 for the alleged infringement offence 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 authority*] in the manner specified in this notice.

3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below 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.

***Defence***

4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, a reminder notice in respect of the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

***Further action, including right to request hearing***

5 You may—

- (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; 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.

6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must sign the letter 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 authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] 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 authority*] decides to take no further action to require payment for the alleged offence).

**Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). 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.

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

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

#### *Non-payment of fee*

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice or within any further time that [*name of enforcement authority*] allows, you will be served with a reminder notice (unless [*name of enforcement authority*] 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.
- 11 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,—
- (a) [*name of enforcement authority*] 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.

- 12 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

*Correspondence*

- 13 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 authority*] 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.

Form 2  
Reminder notice*Section 31J, Wild Animal Control Act 1977*

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 infringement notice are as follows.

**Enforcement authority**

The infringement notice was issued by [*name or identification number of authorised person*].

Address for correspondence:

**Details of person to whom infringement notice issued**

Full name:

Full address:

†Date of birth:

\*†Gender:

\*†Occupation:

\*Telephone number:

†Not required if the notice is served on a company or other body corporate.

\*Specify only if known.

**Alleged infringement offence details**

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

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

**Service details**

(To be provided for filing in court)

The infringement notice was served by [*method of service*] at [*full address of service*] on [*date*].

This reminder notice was 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 authority*] 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 authority*] by [*specify method(s)*].

***Information***

If there is anything in these notes 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 for the alleged infringement offence 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 authority*] in the manner specified in this notice.
- 3 If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into an arrangement with [*name of enforcement authority*] allowing you to pay the infringement fee by instalments, paragraphs 5(b) and (c) and 6 to 9 below 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.

***Defence***

- 4 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to [*name of enforcement authority*] in the manner specified in this notice before, or within 28 days after, this notice is served on you. Late payment or payment made in any other manner is not a defence.

***Further action, including right to request hearing***

- 5 You may—
  - (a) raise any matter relating to the circumstances of the alleged offence for consideration by [*name of enforcement authority*]; 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.
- 6 To take an action listed in paragraph 5, you must write to [*name of enforcement authority*] at the address for correspondence shown on this notice. You must

sign the letter 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 authority*] allows.

- 7 If, in your letter, you deny liability for the alleged offence and request a court hearing, [*name of enforcement authority*] 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 authority*] decides to take no further action to require payment for the alleged offence).

**Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). 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.

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

- 9 [*Name of enforcement authority*] will then file your letter with the court (unless [*name of enforcement authority*] 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, not just the infringement fee. In that case, the court may impose a fine that is greater than the infringement fee (but you still cannot get a conviction). Also, costs will be imposed in addition to any penalty.

#### *Non-payment of fee*

- 10 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after you have been served with this notice, you will become liable to pay court costs as well as a fine (unless [*name of enforcement authority*] decides to take no further action to require payment for the alleged offence).
- 11 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

#### *Correspondence*

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
  - (b) the reminder 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 authority*] at the address shown on this notice.

*Further details of your rights and obligations*

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

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 February 2020,—

- prescribe the forms to be used for infringement notices and reminder notices issued under the Wild Animal Control Act 1977; and
- prescribe penalties for infringement offences under the Wild Animal Control Act 1977.

Provisions addressing procedural matters related to infringement offences can be found in—

- sections 31G to 31L of the Wild Animal Control Act 1977;
- section 21 of the Summary Proceedings Act 1957.

### **Regulatory impact assessment**

The Department of Conservation produced a regulatory impact assessment in February 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.doc.govt.nz/about-us/our-role/legislation/regulatory-impact-statements/proposal-to-introduce-an-infringement-notice-system-for-less-serious-offending-against-conservation-legislation/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

**Wild Animal Control (Infringement Offences)  
Regulations 2019**

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Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 19 December 2019.

These regulations are administered by the Department of Conservation.

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Wellington, New Zealand:

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