

Compliance and enforcement measures

Introduction

From time to time enforcement action needs to be undertaken to ensure compliance with the Resource Management Act 1991(RMA) regulations or requirements, rules in the District Plan, or resource consents and associated conditions. Enforcement action is also used to remedy and/or penalise when the RMA is contravened or environmental damage is caused (this could include compensation).

Council and in certain circumstances any person, may initiate enforcement proceedings under the RMA. Before this happens however we aim to educate and encourage the person/s concerned to comply and voluntarily resolve the situation. Where this is inappropriate or unsuccessful, as a final option, Council will then seek formal methods to remedy the situation. Several enforcement options are available and these are described below.

Infringement notice fines

An Infringement Notice Fine may be issued under the authority of section 343c of the RMA and according to the Resource Management (Infringement Offences Regulations) 1999.

Infringement Notice Fines may be issued for:

- Contravention of section 9 of the RMA relating to restriction on use of land (\$300),
- Contravention of an abatement notice (\$750), or
- Contravention of section 22 of the RMA in failing to provide certain information to an enforcement officer.

Summary of Rights information is supplied when Infringement Notice Fines are issued. Otherwise, Summary of Rights information can be obtained from Schedule 2 of the Resource Management (Infringement Offences Regulations) 1999.

Abatement notices

An abatement notice is written notice issued by Council or appointed persons. It can require any person to:

- Cease doing, or prohibit from starting, something which may contravene the RMA, any regulations, a rule in the District Plan or a resource consent, or is likely to be so noxious, dangerous, offensive or objectionable that it has or is likely to have an adverse effect on the environment.
- Do something which is necessary to ensure compliance with the RMA, any regulations, a rule in the District Plan, or a resource consent, and also necessary to avoid, remedy or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person, or relating to any land of which the person is the sole owner or occupier.

An abatement notice, which may include conditions, will be issued if the enforcement officer has reasonable grounds to believe that any of the above circumstances exist. Once the abatement notice has been served, it must be complied with, usually within 15 days unless another period of time has been specified. *An appeal against the abatement notice may be made to the Environment Court.* Appeals do not act as a stay on abatement notices, unless the person is already complying, or a judge orders a stay.

If no appeal to the Environment Court is lodged, an abatement notice continues in force until cancelled by the Planning Guidance Unit. Failure to comply with an abatement notice is an offence under the RMA.

Interim enforcement orders

Any person can apply to the Environment court for an interim enforcement order to deal with an emergency. Because of the urgency, no hearing is necessary. An interim enforcement order is effective as soon as it has been served or at a later date specified in the order. Failure to comply with an interim enforcement order is an offence. The order remains in effect until an enforcement order has been determined, or until it is cancelled by an Environment Court or District Court judge as a result of a hearing or an appeal.

Enforcement orders

Any person can apply to the Environment Court for an enforcement order to require another person to;

- Cease doing, or prohibit from starting something, which may contravene the RMA, any regulations, a rule in the District Plan, a requirement for a designation or heritage order or resource consent.
- Do something to ensure compliance with the RMA, any regulations, a rule in the District Plan, a requirement for a designation or heritage order or resource consent.
- Avoid remedy or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person.
- Pay or reimburse any other party for action undertaken because of the failure of that person to comply with an enforcement order, abatement notice, a rule or a resource consent or any of that person's other obligations under the RMA.

If the abatement notice is not complied within the specified time the Environment Court will hold a hearing and the applicant and the person against whom the order is sought may attend. After the hearing, the judge may make an appropriate enforcement order or refuse the application. Once an enforcement order is served, it must be complied with. Failure to comply is an offence under the RMA.

Prosecution

Council will seek to prosecute liable parties where it considers this appropriate. Prosecution can be sought for a wide range of activities, including contravention of the requirements of the RMA, regulations, plan requirements, resource consents, enforcement order, interim enforcement order or abatement notice, any request for certain information by an enforcement officer, any orders of the Environment Court, any request for attendance or cooperation by the Environment Court, any summons or order to give evidence at a hearing, any order protecting sensitive information. It is an offence to willfully obstruct, hinder, resist or deceive any person lawfully executing powers under the RMA.

Penalties

The maximum fine for people under the RMA is \$300,000 or imprisonment for up to 2 years. If the offence continues, a fine of \$10,000 per day may be imposed for every day or part of a day during which the offence continues. The Court may also order that Council review a resource consent held by the person. The maximum fine for other persons is \$600,000.