



REPUBLIC OF NAURU

PORTS AND NAVIGATION (INFRINGEMENT NOTICES) REGULATIONS 2021

SL No. 25 of 2021

Notified: 27-8-2021

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The Cabinet makes the following Regulations under Section 217 of the *Ports and Navigation Act 2019*:

1 Citation

These Regulations may be cited as the *Ports and Navigation (Infringement Notices) Regulations 2021*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Prescribed offences and modified penalties

- (1) For the purposes of Section 188 and Part 8, Division 4 of the Act:
 - (a) the offences in column A of the table in Schedule 1 are prescribed; and
 - (b) the penalties in column C of the table in Schedule 1 are the modified penalties payable for the prescribed offence in the same row.
- (2) The penalties shall be paid to the Nauru Revenue Office and a copy of the official receipt is to be submitted to the Registrar of Courts.
- (3) Where an alleged offender provides an official Nauru Revenue Office receipt for the payment of the penalty under subregulation (2), the Registrar of Courts shall not list his or her case before the court.

4 Form of infringement notice

For the purposes of Section 188(6) of the Act, the infringement notice to be served on an alleged offender is in Schedule 2.

5 Issuer

An infringement notice issued under Section 188 of the Act shall be signed by the Director, Harbourmaster or an Inspector.

6 Infringement Notice list

- (1) The Nauru Revenue Office shall issue to the court and to the Director of Public Prosecutions a list of offenders, infringement notice numbers and unpaid fines within 7 days before the date on which the infringement notices are listed before the court.
- (2) The Registrar of Courts shall list:
 - (a) before the court for hearing of the infringement notices for which the fixed penalties imposed have not been paid on the dates specified in the Infringement Notices; and
 - (b) list the infringement notices on the same date as specified in Part 3 of the infringement notices.

7**Infringement Notice court appearance**

- (1) Where the person pleads guilty on the date of the hearing of the offence contained in Part 1 of the Infringement Notice, the court shall:
 - (a) impose a penalty for the offence as contained in the Act;
 - (b) order court costs of \$100; and
 - (c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.
- (2) Where the person is not present and is unrepresented in court, a plea of guilty shall be recorded and the matter dealt with in accordance with the procedure of the court and the court shall:
 - (a) impose a penalty for the offence as contained in the Act;
 - (b) order court costs of \$100; and
 - (c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.
- (3) Where the person is present or represented by a legal practitioner and pleads not guilty, the matter shall be dealt with in accordance with the procedure of the court.
- (4) If the person is found guilty after the hearing of an infringement offence under subregulation (3), the court shall:
 - (a) impose the penalty for that offence under the Act;
 - (b) order court costs of \$200; and
 - (c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.

SCHEDULE 1

[Regulation 3]

OFFENCES AND MODIFIED PENALTIES

Column A	Column B	Column C
Offence	Penalty in Act	Modified Penalty
<p>Section 191(1) – Records Failure to:</p> <ul style="list-style-type: none"> • make or maintain record; • make or maintain record in required form; • enter into record any matter for which the record provides or required to be recorded; • keep record or document where record or document required to be kept; • produce record or copy of record or certificate within required time or within 14 days 	\$25,000	\$5,000
<p>Section 192(2) – Failure to give notice</p> <ul style="list-style-type: none"> • failure to give notice; • failure to give notice in the required form or manner. 	\$25,000	\$5,000
<p>Section 193(2) – Giving misleading information</p> <ul style="list-style-type: none"> • knowingly or recklessly gives misleading documents or information 	\$25,000	\$5,000
<p>Section 193(4) - knowingly or recklessly gives misleading documents or information which is substantial cause of:</p> <ul style="list-style-type: none"> • loss of life or personal injury; or • serious damage to the environment. 	\$50,000	\$9,000
<p>Section 194(2) – Hindering</p> <ul style="list-style-type: none"> • obstructs, impedes or interferes with the doing of a thing required or authorised to be done under this Act; • instructs or directs a person to do otherwise than required by this Act; • obstructs, impedes or interferes with: <ul style="list-style-type: none"> - port facilities in a Nauru port; - the operation of a Nauru port or port facilities or other property of a port operator or port service provider; • causes a nuisance in a Nauru port; or 	\$35,000	\$7,500

<ul style="list-style-type: none"> uses any threatening language to, or otherwise molests, any person doing or attempting to do anything required or authorised to be done under the Act. 		
Section 195(1) – Failure to comply with directions.	\$75,000	\$10,000
Section 196(1) – Breach of duty or obligation imposed under Section 51, 52, 53 or 54.	\$100,000	\$15,000
Section 197 – Operating a vessel in contravention of COLREGS where the operation of the vessel has not resulted in any collision or accident	\$50,000	\$5,000
Section 198 – Navigating without a pilot	\$50,000	\$10,000
Section 199(2) – offences in relation to aids to navigation <ul style="list-style-type: none"> damages or removes it; makes a vessel fast to it or otherwise uses a vessel in a way that might damage it; obstructs or interferes with its display or operation; obstructs or interferes with any emission or transmission from it. 	\$25,000	\$5,000
Section 200 – Trespassing on vessels where: (1) the trespasser has not previously been convicted or issued (and paid) an infringement notice for the same offence; and (2) no loss or damage has resulted from the trespass	\$25,000	\$500
Section 200 – Trespassing on vessels	\$25,000	\$5,000
Section 202(1) – Failure to have necessary certificates and necessary documents <ul style="list-style-type: none"> owner and master of a vessel that enters or remains in any restricted place without the 	\$50,000	\$7,500

necessary certificate, corresponding certificate or necessary document		
<p>Section 202(2) – Failure to have necessary certificates and necessary documents</p> <ul style="list-style-type: none"> owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document; or owner and master of a vessel that enters or remains in any restricted place without the corresponding certificate; and the presence of that vessel in that restricted place is a substantial cause of serious damage to the environment. 	\$100,000	\$15,000
<p>Section 203(1) - Discharge of pollutants</p> <p>The owner and master of every vessel:</p> <ul style="list-style-type: none"> from which there has been a prohibited discharge in Nauru; or on which Section 138(4) or (5) has been contravened 	\$75,000	\$10,000
<p>Section 203(2) - Discharge of pollutants</p> <p>crew member of a vessel from which there has been a prohibited discharge whose negligence caused or contributed to the discharge</p>	\$10,000	\$3,000
<p>Section 203(3) - Discharge of pollutants</p> <p>Master of vessel that causes prohibited discharge from another vessel by negligent collision</p>	\$25,000	\$7,500
Section 204 – removal of wreck	\$35,000	\$6,000
Section 205(1) – wreck removal insurance	\$50,000	\$10,000
Section 206 – defacing or obliterating marks on wreck	\$25,000	\$5,000
Section 207(2) – contempt of marine inquiry	\$25,000	\$5,000
Section 208 – contravention of regulation	\$5,000	\$500
Section 209 – contravention of emergency rule	\$5,000	\$2,500

SCHEDULE 2



REPUBLIC OF NAURU

PORTS AND NAVIGATION ACT 2019

[Section 188; Regulation 4]

INFRINGEMENT NOTICE

<p>This Infringement Notice is issued pursuant to the powers under the <i>Ports and Navigation Act 2019</i>.</p>
<p>Important Notice: The consequence of not paying a penalty or fine will result in proceedings for offences against you in the court where fines and imprisonment may be imposed.</p>

Notice No.:	
Date of Issue:	
Penalty:	
Penalty Due:	
Due Date:	
Payment must be made at or to the Nauru Revenue Office within 7 days from the date of service of this Notice.	

<p><u>PART 1 – OFFENCE DETAILS</u> <i>Alleged offender:</i></p> <p>Surname:..... Given Names:</p> <p>Nature of Offence: contrary to Section..... of the <i>Ports and Navigation Act 2019</i>.</p> <p>Location: Date: Time:</p> <p>Details of the circumstances alleged to constitute the offence:</p> <p>Penalty: \$..... Issuer's Signature:</p> <p>Issuer's Name:..... Date:...../...../20....</p> <p><i>Acknowledgement of Service of Notice by: Name and Signature:</i></p> <p>Note:</p> <ol style="list-style-type: none"> 1. This Notice is issued as I..... (issuer) have reason to believe that you committed the offence within the preceding 7 days of the date of this Notice. 2. If the modified penalty applicable to the offence is paid within 7 days, no further action will be taken. If the modified penalty is not paid within 7 days, you may be prosecuted for the offence. If you are prosecuted and found guilty you may be subject to much higher penalties and other orders, such as costs orders. The payment of the modified penalty is not regarded as an admission for any civil or criminal purposes. 3. Where an official Nauru Revenue Office receipt for the payment of the penalty is provided, the Registrar of Courts shall not list the case before the court. 4. Refusal to accept the notice shall be considered hindering the operation of the Act pursuant to Section 194 of the Act.

PART 2 – TIME FOR PAYMENT OF PENALTY

- A. Take Notice that the penalty shall be paid to the Nauru Revenue Office within 7 days of the date of the issuance of this Notice. Failure or late payment of the penalty will result in payment of additional costs in the sum of \$.....
- B. Contesting the Infringement Notice
If you intend to defend or contest the Notice, you are to appear in person or by a legal representative in court on the date and time provided in Part 3.

PART 3 – NOTICE TO ATTEND TO COURT

Take Notice that if you intend to contest or defend this notice, you must attend the District Court at Yaren on day the day of 20.... atnoon for the hearing.
If you fail to attend to the hearing, the court will proceed to hearing of the Infringement Notice in your absence and impose a fine and costs.
If you fail to pay the fine and costs ordered by the court, you will be arrested under a committal warrant without any further notice.

AFFIDAVIT OF SERVICE

I Issuer, make oath/solemnly affirm that I did on the day of20..... served the alleged offender the original copy of this Infringement Notice at (time) on (date)..... AND he/she acknowledged service by affixing his/her signature to this Infringement Notice.
Issuer: Before me:
(Commissioner for Oaths)

Column A	Column B	Column C
Offence	Penalty in Act	Modified Penalty
Section 191(1) – Records Failure to: <ul style="list-style-type: none">• make or maintain record;• make or maintain record in required form;• enter into record any matter for which the record provides or required to be recorded;• keep record or document where record or document required to be kept;• produce record or copy of record or certificate within required time or within 14 days	\$25,000	\$5,000
Section 192(2) – Failure to give notice <ul style="list-style-type: none">• failure to give notice;• failure to give notice in the required form or manner.	\$25,000	\$5,000
Section 193(2) – Giving misleading information <ul style="list-style-type: none">• knowingly or recklessly gives misleading documents or information	\$25,000	\$5,000
Section 193(4) - knowingly or recklessly gives misleading documents or information which is substantial cause of: <ul style="list-style-type: none">• loss of life or personal injury; or• serious damage to the environment.	\$50,000	\$9,000

<p>Section 194(2) – Hindering</p> <ul style="list-style-type: none"> • obstructs, impedes or interferes with the doing of a thing required or authorised to be done under this Act; • instructs or directs a person to do otherwise than required by this Act; • obstructs, impedes or interferes with: <ul style="list-style-type: none"> - port facilities in a Nauru port; - the operation of a Nauru port or port facilities or other property of a port operator or port service provider; • causes a nuisance in a Nauru port; or • uses any threatening language to, or otherwise molests, any person doing or attempting to do anything required or authorised to be done under the Act. 	\$35,000	\$7,500
<p>Section 195(1) – Failure to comply with directions.</p>	\$75,000	\$10,000
<p>Section 196(1) – Breach of duty or obligation imposed under Section 51, 52, 53 or 54.</p>	\$100,000	\$15,000
<p>Section 197 – Operating a vessel in contravention of COLREGS</p> <p>where the operation of the vessel has not resulted in any collision or accident</p>	\$50,000	\$5,000
<p>Section 198 – Navigating without a pilot</p>	\$50,000	\$10,000
<p>Section 199(2) – offences in relation to aids to navigation</p> <ul style="list-style-type: none"> • damages or removes it; • makes a vessel fast to it or otherwise uses a vessel in a way that might damage it; • obstructs or interferes with its display or operation; • obstructs or interferes with any emission or transmission from it. 	\$25,000	\$5,000
<p>Section 200 – Trespassing on vessels</p> <p>where:</p> <p>(3) the trespasser has not previously been convicted or issued (and paid) an</p>	\$25,000	\$500

infringement notice for the same offence; and (4) no loss or damage has resulted from the trespass		
Section 200 – Trespassing on vessels	\$25,000	\$5,000
Section 202(1) – Failure to have necessary certificates and necessary documents <ul style="list-style-type: none"> owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document 	\$50,000	\$7,500
Section 202(2) – Failure to have necessary certificates and necessary documents <ul style="list-style-type: none"> owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document; or owner and master of a vessel that enters or remains in any restricted place without the corresponding certificate; and the presence of that vessel in that restricted place is a substantial cause of serious damage to the environment. 	\$100,000	\$15,000
Section 203(1) - Discharge of pollutants The owner and master of every vessel: <ul style="list-style-type: none"> from which there has been a prohibited discharge in Nauru; or on which Section 138(4) or (5) has been contravened 	\$75,000	\$10,000
Section 203(2) - Discharge of pollutants crew member of a vessel from which there has been a prohibited discharge whose negligence caused or contributed to the discharge	\$10,000	\$3,000
Section 203(3) - Discharge of pollutants Master of vessel that causes prohibited discharge from another vessel by negligent collision	\$25,000	\$7,500
Section 204 – removal of wreck	\$35,000	\$6,000
Section 205(1) – wreck removal insurance	\$50,000	\$10,000

Section 206 – defacing or obliterating marks on wreck	\$25,000	\$5,000
Section 207(2) – contempt of marine inquiry	\$25,000	\$5,000
Section 208 – contravention of regulation	\$5,000	\$500
Section 209 – contravention of emergency rule	\$5,000	\$2,500