

SPECIFICATION OF INFRINGEMENT FEE PAYMENT METHODS - FINAL ADVICE

Executive Summary

- 1 You are asked to approve an amendment to the Fisheries (Infringement Offences) Regulations 2001 ('the regulations') to allow the Ministry of Fisheries (MFish) to make administrative changes to infringement and reminder notices in order to specify additional payment methods for infringement fees without making regulatory amendments.
- 2 MFish did not release an Initial Position Paper (IPP) to consult the public because the issue is of a minor and technical nature. The proposed amendment would increase the flexibility within the regulations so that MFish can assist people in complying with their legal requirement to pay infringements fees, and to make the administration of infringement offence-related processes more efficient.
- 3 Section 297(1)(nb) of the Fisheries Act 1996 (the Act) provides the regulation-making power to prescribe the form of infringement notices and infringement offence reminder notices. The regulations set out the detailed form of these notices, including how to pay infringement fees. At present, the only two payment methods outlined in the regulations are by cheque posted to MFish, or by making a deposit at any branch of the Westpac Bank.
- 4 MFish proposes that the regulations be amended to provide a general requirement that 'payment methods are to be specified' on the infringement and reminder notices. As a result of this, the current detailed payment-related information (i.e. posting of cheques and deposit at the specified bank) would be removed from the regulations. This level of detail would only be included on individual notices. This general requirement removes the need for future regulatory amendment if additional payment methods become available and necessary in the future, but still ensures the relevant and specific information on how to pay is available to the public.
- 5 If you approve the proposed amendment MFish will make the necessary administrative changes to the infringement and reminder notices to specify additional payment methods. At this time, additional methods to be included are internet and phone banking. If others, such as credit card and BillPay¹, became viable in the future they can easily be included too.

The Issue

- 6 Infringement notices and fees are an important component of New Zealand's fisheries compliance regime, encouraging voluntary compliance, deterring offending and contributing to the achievement of fisheries management objectives. The regulations set out infringement offences for breaches to a

¹ BillPay is the service provided by New Zealand Post at some of their outlets for receiving payments for the services or fees of third parties.

range of fisheries regulations. Each offence has specific infringement fees, ranging from \$250 to \$750, depending on the type and seriousness of the offence. After the issue of an infringement notice by a fishery officer, the alleged offender has 28 days from the date the notice is served to pay the fee. If after 28 days the fee remains unpaid, an infringement reminder notice is issued. If after another 28 days it still remains unpaid, the fee is referred to Court for collection. The MFish Infringement Processing Centre (IPC) recorded 1,490 infringement notices last year, 656 of which were eventually referred to Court.

- 7 At present, Schedule 2 of the regulations specifies the full details of how to pay infringement fees i.e. either by cheque sent to MFish at its postal address, or by deposit cash or a cheque at any branch of the Westpac Bank. Based on fishers' feedback MFish believes that the limited number of payment methods is a constraint for some people, preventing them from paying fees on time². This situation could be contributing to the high number of infringement fees referred to Court. In turn, fees not being paid on time increase administrative and transaction costs when reminder notices and referrals to Court are necessary.
- 8 The level of payment detail currently specified in the regulations hampers MFish's ability to make mechanistic adjustments that can improve the administrative efficiency of infringement offence-related procedures for the benefit of both MFish and the public.
- 9 MFish believes that in order to provide for greater efficiency a regulatory amendment is being sought which would allow for additional payment options to be adopted should they become viable.
- 10 Whilst not part of the specific regulatory amendment proposed, the implication of this amendment is that MFish intends to introduce two additional payment methods; phone and internet banking. While credit card and BillPay are also available, the set-up and running costs of these methods outweigh their benefits given the volume of infringement notices and their relatively limited accessibility to the public.

Summary of Options

- 11 *Option 1* – retain the *status quo*, which only provides for the two current payment methods to be used.
- 12 *Option 2* - MFish recommends that you agree to amend the Fisheries (Infringement Offences) Regulations 2001 to provide a general requirement

² People who reside in rural areas without easy access to a branch of the Westpac Bank are only left with the option of posting a cheque to MFish. Although the timeframe between the serving of the infringement notice and the due date for the payment is reasonable, in certain rural areas mail collection is not as regular as in larger towns. Additionally, people who do not hold cheque books are also limited to paying at a Westpac Bank branch, if there is one available locally, or to obtain a bank cheque, usually at an additional cost.

that payment methods are to be specified on the infringement and reminder notices. This would replace the current wording that includes full payment details. These details, however, would remain on the notices and MFish would make the necessary administrative changes to include additional payment methods.

Consultation

- 13 Your decision to accept the option proposed is to be made under section 297 of the Act. The change proposed is of a minor and technical nature. For this reason there has been no consultation on the proposal.

Rationale for Management Options

- 14 Making administrative changes to infringement and reminder notices in relation to payment methods through a regulatory amendment is not a practical approach. MFish proposes to correct this problem in order to make additional payment methods available without the need to go through a regulatory amendment.

Assessment of Management Options

Option 1 – Status quo

Impact

- 15 At present, MFish is not able to make the necessary administrative changes to infringement and reminder notices to offer additional payment methods for infringement fees because the specific payment details are outlined in the regulations. Consequently, the only way to make additional payment methods available is through a regulatory amendment. The *status quo* is believed to be causing some inefficiency in the administration of infringements as a significant percentage (44%) were referred to Court for collection last year, resulting in additional administrative and transaction costs. Although the limited number of payment methods available is not believed to be the only cause of this problem, it is believed to contribute to it. The rigidity of the *status quo* prevents MFish from solving this problem through a relatively simple administrative change to the relevant notices.

Costs

- 16 The cost of maintaining the status quo is losing a possible efficiency gain in the administration of infringement offence-related procedures. Additional and avoidable costs for MFish and the public will continue to be incurred. These include: the administrative costs of proposing, reviewing and approving regulatory amendments to specify additional payment methods in the regulations; IPC staff having to issue a significant number of infringement reminder notices and refer some of them to Court if they remain unpaid (postage, staff time and other resources); and transaction costs (i.e. Court charges). These costs reduce the effectiveness of infringement notices within the compliance regime and through that, their effect on the achievement of fisheries management objectives. For this reason, MFish does not believe the *status quo* to be the best option.

Option 2: Amendment to include a general provision to specify payment methods on infringement and reminder notices

Impact

- 17 By allowing administrative changes to infringement fee payment methods to be specified on the infringement and reminder notices, rather than as separate regulatory amendments, this option has the potential to increase efficiency in the administration of infringement offence-related procedures and to avoid future administrative costs, should new payment methods become available.
- 18 Furthermore, by allowing additional payment methods for infringement fees to be made available, this option has the potential to reduce costs for the public and to increase the number of fees being paid on time. Increased efficiency in this context would enhance the role of infringement notices within the compliance framework.

Costs

- 19 Aside from the administrative costs of the proposed regulatory amendment, there are no other direct costs involved in allowing MFish to make administrative changes to infringement notices in order to specify additional payment methods.
- 20 The implication of the amendment is that MFish will make additional payment methods available. The cost of this would be re-printing infringement notices, which already occurs on a regular basis under the *status quo*. There may be additional costs in order to make additional payment methods available. Internet and phone banking costs, for instance, would be negligible as these would constitute a deposit to an existing bank account. For the payer, the cost may include bank transaction fees which are also likely to be negligible in comparison to the infringement fee and unlikely to be greater than under the *status quo*. MFish does not intend to offer credit card and BillPay at present because of the relatively high cost of making those services available, the resource constraints that IPC would face if it were to offer them³, and their relatively lower accessibility in comparison to phone and internet banking.

Benefits

- 21 The benefit of allowing MFish to make administrative changes to infringement notices and reminder notices as such, rather than as regulatory amendments, is avoiding future administrative costs for the purpose of offering additional payment methods for infringement fees. Offering additional payment methods would depend on the cost of individual methods and the benefit for MFish and

³ For credit card, set up costs are approximately \$1,000. Running costs would include bank transaction costs for every payment and a monthly service fee of approximately \$280. For BillPay, the set up cost is expected to be at least \$12,000 and the monthly service fee would be at least \$1,500 due to the relatively low volume of transactions. Set up costs include software licences, installation and trials, and an upgrade of IPC's hardware as it would need to support bar code printing and reading technology.

the public in terms of accessibility and efficiency. Additional payment methods should be offered as long as the cost of making them available is less than the benefit to the public and MFish⁴. The value and volume of infringement notices processed in the future would determine this.

- 22 The implication of the proposed amendment is that MFish will provide additional payment methods for infringement fees. The benefit of this is increased efficiency in the administration of infringement offence-related procedures, as costs would be reduced and the number of infringement fees being paid on time is likely to increase. This benefit will arise from IPC staff using time more efficiently as lower numbers of reminder notices or referrals to Court will be necessary. Likewise, savings would be made in postage and other resources as less reminder notices are likely to be sent out. Individuals who are liable for infringement fees are also likely to benefit from more choices as these could potentially reduce their transaction costs (i.e. bank fees or Court charges). These benefits would materialise as additional payment methods would make it easier for the public to pay infringement fees on time, reducing the number of infringement fees referred to Court and reducing administrative and transaction costs for both the public and MFish.

Statutory Considerations

- 23 In considering the proposed option, you are required to follow relevant statutory criteria contained in the Act. These criteria are set out below.
- 24 **Section 8:** The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. Utilisation is defined in the Act as including using and developing fisheries resources. The preferred option changes the regulations in order to provide for a more efficient regime and so better provides for the utilisation of fisheries resources while ensuring sustainability, thereby furthering the purpose of the Act.
- 25 **Section 297:** MFish proposes that the recommended regulations be made pursuant to section 297(1)(na) and (nb) of the Act which allows regulations to be made for the purpose of prescribing infringement offences and prescribing the form of infringement notices and infringement offence reminder notices.

⁴ Phone and internet banking, the additional payment methods that MFish intends to make available should you agree with the proposed amendment, are consistent with this premise.