



# Enforcement 2010/11

## Key points:

- 5% decrease in enforcement actions resulting from non-complying activities from 2009/10 to 2010/11
- 44% increase in infringement notices issued from 2009/10 to 2010/11
- 46% decrease in abatement notices issued from 2009/10 to 2010/11
- 10% increase in warning letters issued from 2009/10 to 2010/11

## Introduction

Greater Wellington has a responsibility to enforce the Resource Management Act 1991 (RMA). Breaches of the RMA are identified during the investigation of environmental incidents, or as a result of confirmed non-compliance with resource consents by consents and compliance officers. This card summarises enforcement action taken in 2010/11 in response to non-compliance observed by Greater Wellington officers.

Of all incidents reported to the Environment Hotline during 2010/11, 23% involved non-compliance with Greater Wellington's regional rules or resource consents and the RMA (see Incident Response 2010/11).

Environmental Regulation staff have a range of tools available to deal with breaches of the RMA. Figure 1 shows the different types of regulatory actions taken by Greater Wellington in 2010/11. In determining the most appropriate form of enforcement action, Greater Wellington officers consider factors such as the severity of environmental effects, compliance history, efforts to remediate, and the likelihood of reoffending.

Figure 1: Summary of actions taken for non-compliant activities

| Type of action       | 2010-11 | 2009-10 | 2008-09 | 2007-08 | 2006-07 | 2005-06 | 2004-05 |
|----------------------|---------|---------|---------|---------|---------|---------|---------|
| ADVISORY NOTICES     | 90      | 76      | 82      | 60      | 48      | 58      | 61      |
| WARNING LETTER       | 147     | 134     | 149     | 85      | 40      | 15      | 2       |
| INFRINGEMENT NOTICES | 46      | 32      | 46      | 49      | 41      | 44      | 21      |
| ABATEMENT NOTICES    | 74      | 137     | 91      | 83      | 29      | 24      | 26      |
| ENFORCEMENT ORDERS   | 0       | 1       | 0       | 2       | 4       | 0       | 2       |
| PROSECUTIONS         | 8       | 6       | 8       | 4       | 7       | 0       | 0       |
| TOTALS               | 365     | 386     | 376     | 283     | 169     | 141     | 112     |

## Informal Action

### Advisory notices

Advisory notices direct the recipient to cease or take certain actions. They continue to be an effective way of ensuring minor non-compliance is resolved quickly in order to avoid adverse environmental impacts. In 2010/11, 90 advisory notices were issued, an 18% increase from 2009/10 (see Figure 1). This increase is due to increased regular use of advisory notices to identify actions required following scheduled resource consent compliance visits.

## Formal Action

The most frequently used enforcement tools are written warnings, abatement notices and infringement notices.

### Warning letters

Warning letters notify key personnel within an organisation of identified breaches of the RMA, and contribute to an organisation's recorded compliance history. For this reason, multiple warning letters will often be issued for a single incident; to the company, the directors, and any other responsible parties such as managers, landowners or contractors. In 2010/11, 147 warning letters were issued.

### Abatement notices

Abatement notices are a formal instruction directing the recipient to cease or take certain actions to address an environmental effect and/or comply with regulations. They can be issued as a result of breaches of one or more sections of the RMA. In 2010/11, 74 abatement notices were issued. Of these 57% were for offences involving discharges of contaminants to the environment. A further 30% were for unauthorised works in watercourses.

Non-compliance with an abatement notice is an offence against the RMA. If an abatement notice is not complied with, an infringement notice may be issued, or a prosecution initiated against the responsible party.

### Infringement notices

Infringement notices are an individual deterrent in response to minor to moderate environmental effects. The notices are issued for a single offence against the RMA and carry a maximum penalty of \$1000.

In 2010/11, 46 infringement notices were issued, with a combined value of \$23,350. Of these, 43% were issued for unauthorised discharges of contaminants to the environment. The other infringement notices were issued in relation to restrictions on use of land (21%), works in watercourses (34%) and breaches of abatement notices (2%).

### Enforcement orders

Enforcement orders are made by the Environment Court instructing a person to comply with the provisions of the RMA, a rule in a regional plan, or the terms and conditions of a resource consent. No enforcement orders were made in 2010/11.

### Prosecutions

Significant breaches of the RMA can result in prosecution with a maximum fine of \$600,000 for a company or \$300,000 or two years imprisonment for an individual. A total of 19 charges were laid against 8 parties during 2010/11.

Two charges were laid against a landowner for depositing material in the bed of a river to create a bund and for diverting the course of the river. Guilty pleas were entered to one of the charges and the other was withdrawn. A total fine of \$12,700 was made by the Court.

Three charges were laid against two landowners and their company for unauthorised use of land, deposition of fill material in a watercourse, and diversion of a watercourse at a location classified as an area with a high degree of natural character. One landowner and the company pleaded guilty to the three charges and the charges against the other landowner were withdrawn. The Court fined the parties a total of \$60,000.

The other cases are still before the Court.



Figure 2: Photographs relating to enforcement actions taken during 2010/11. From left: deposition of fill material in a watercourse, placement of a concrete block erosion protection wall, discharge of sediment to a watercourse.

## Cost Recovery

It is Greater Wellington's policy to recover the costs incurred in responding to confirmed breaches of the RMA. These costs are sought to ensure that the actual and reasonable costs of compliance work are shared with the party undertaking the non-compliant activity and are not borne by the ratepayer. In 2010/11 cost recovery notices were issued to the value of \$13,772.

## Enforcement History

The range of tools used by Greater Wellington for enforcement has evolved since 1999. Figure 3 shows the changes in the use of the different tools over time.

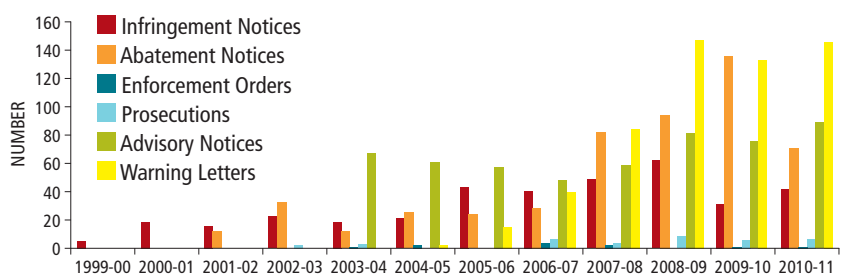


Figure 3: Enforcement action from 1999 – 2011

## What can you do?

If you notice an environmental incident or an activity you think may have adverse environmental effects, phone Greater Wellington's Environment Hotline on 0800 496 734. This is a 24-hour service and our duty officer will respond within the hour on most occasions.

## More information

For more information about how to avoid, reduce or respond to pollution, phone a member of our Environmental Protection team, 04 384 5708 (Wellington) or 06 378 2484 (Wairarapa), or freephone 0800 496 734.

For more information on Greater Wellington's environmental regulation activities please visit our website at [www.gw.govt.nz](http://www.gw.govt.nz)