

What are the potential sanctions if someone is subject to regulatory action or prosecution?

There are a number of sanctions that the Civil Aviation Authority, Maritime NZ or the NZ Police could use. This document provides a summary.

Instrument	Section	Regulatory tool or penalty
Statutory Offences		
Crimes Act 1961 section 177	Punishment of manslaughter. This charge would be taken by the Police.	Everyone who commits manslaughter is liable to imprisonment for life.
Maritime Transport Act 1994 section 40	A seafarer may not perform, or attempt to perform, designated safety, security, or marine environmental duties on a ship while— (a) the proportion of alcohol in the seafarer's breath, as ascertained by an evidential breath test subsequently undergone by the seafarer under section 40I, exceeds 250 micrograms of alcohol per litre of breath; or (b) the proportion of alcohol in the seafarer's blood, as ascertained from an analysis of a blood specimen subsequently taken from the seafarer under section 40L or 40M, exceeds 50 milligrams of alcohol per 100 millilitres of blood.	An enforcement officer may arrest a seafarer without warrant if the officer has good cause to suspect that the seafarer has committed an offence.
Maritime Transport Act 1994 section 43	The Director may from time to time— (a) suspend any maritime document issued by the Director under this Act or under any maritime rules, or impose conditions in respect of any such maritime document; or (b) suspend the Director's recognition as a maritime document of any document issued by another person or any organisation, or impose conditions in respect of such recognition,— if he or she considers such action necessary in the interests of maritime safety, and if he or she— (c) is satisfied that the holder has failed to comply with any conditions of the relevant maritime document or with the requirements of section 17; or (d) is satisfied the holder has contravened or failed to comply with section 406; or (e) is satisfied such action is necessary to ensure compliance with any provisions of Parts 1 to 15 or any regulations or maritime rules made under this Act; or	Suspension of maritime documents or imposition of conditions

	(f) considers that the privileges or duties for which the document has been granted, or the relevant document has been recognised as a maritime document, are being carried out by the holder in a careless or incompetent manner.	
Maritime Transport Act 1994 section 44	<p>Revocation of maritime documents</p> <p>(1) If, at any time after an investigation carried out to decide whether any action should be taken under section 43, the Director believes that any relevant maritime document or the recognition of a document as a maritime document should be revoked, the Director may revoke that document or the recognition of that document.</p> <p>(2) Where the Director proposes to revoke a maritime document or the recognition of a document as a maritime document, the Director shall give notice in accordance with section 51, which shall apply as if the proposed revocation were a proposed adverse decision under this Act.</p> <p>(3) Where a maritime document or recognition of a document as a maritime document has been revoked under this section, the holder shall forthwith surrender that document or notification of recognition of that document to the Director.</p> <p>(4) Any person in respect of whom any decision is taken under this section may appeal against that decision to a District Court under section 424.</p>	Revoking a maritime document.
Maritime Transport Act 1994 section 64	Every holder of a maritime document commits an offence who, in respect of any activity or service to which the document relates, does or omits to do any act, or causes or permits any act or omission, if the act or omission causes unnecessary danger or risk to any other person or to any property, irrespective of whether or not in fact any injury or damage occurs.	<p>Conviction – individual max \$10,000 or 12 months prison</p> <p>Conviction – body corporate max \$100,000</p>
Maritime Transport Act 1994 section 65	<p>Every person commits an offence who—</p> <p>(a) operates, maintains, or services; or</p> <p>(b) does any other act in respect of—</p> <p>any ship or maritime product in a manner which causes unnecessary danger or risk to any other person or to any property, irrespective of whether or not in fact any injury or damage occurs [or causes/permits the same].</p>	<p>Conviction – individual max \$10,000 or 12 months prison</p> <p>Conviction – body corporate max \$100,000</p>
Civil Aviation	Section 17 gives power to suspend aviation documents, and section 18	Suspension/revocation of aviation document

Act 1990 sections 17, 18 and 19	<p>gives power to revoke or impose conditions. Section 19 sets the criteria for these powers:</p> <p>(1) The Director may suspend any aviation document issued under this Act or rules made under this Act or impose conditions in respect of any such document, if he or she considers such action necessary in the interests of safety, and if he or she—</p> <p>(a) considers such action necessary to ensure compliance with this Act or rules made under this Act; or</p> <p>(b) is satisfied that the holder has failed to comply with any conditions of an aviation document or with the requirements of section 12; or</p> <p>(c) is satisfied the holder has contravened or failed to comply with section 49; or</p> <p>(d) considers that the privileges or duties for which the document has been granted are being carried out by the holder in a careless or incompetent manner; or</p> <p>(e) in the case of a holder of a New Zealand AOC with ANZA privileges, has received from the Director of CASA a copy of an Australian temporary stop notice given to the holder.</p>	or impose conditions (administrative safety action)
Civil Aviation Act 1990 section 43A	Every person commits an offence who operates any aircraft in a careless manner	Conviction – individual max \$7,000 Conviction – body corporate max \$35,000

Civil Aviation Act 1990 section 44	<p>Every person commits an offence who—</p> <p>(a) operates, maintains, or services; or</p> <p>(b) does any other act in respect of—</p> <p>any aircraft, aeronautical product, or aviation related service, in a manner which causes unnecessary danger to any other person or to any property [or cause/permits the same]</p>	<p>Conviction – individual max \$7,000 or 12 months prison</p> <p>Conviction – body corporate max \$100,000 (a non-negative test by the regulator would only be relevant for this penalty if there was a clear link between the test result and the impaired use of an aircraft etc.)</p>
Regulatory offences		
Maritime Rules (MR) 19	NOTE Maritime Offences have not been set for Part 19. However, they are currently being developed.	
MR 21.6(1)(b)	Owner of ship must maintain safety management system	Conviction – individual \$5,000 Body Corporate – \$30,000

MR 22.39	Responsibilities of owners and persons responsible for navigation of vessel re observance of collision prevention requirements	Conviction – individual \$5,000 Body Corporate – \$ \$30,000
MR91	Navigation safety rules cover various offences for navigating unsafely	Conviction – individual \$1,000 – \$2,000 Body Corporate – \$30,000
Civil Aviation Rule (CAR) 19.7	No crew member may be intoxicated or impaired by drugs.	Conviction – individual \$5,000
CAR 65.25(a)	Responsibilities of holder of air traffic trainee licence or air traffic controller licence to comply with prescribed medical requirements.	Conviction – individual \$2,500 Infringement – individual \$1,000
CAR 91.201	Responsibilities of pilot-in-command for safety of aircraft.	Conviction – individual \$5,000
CAR 91.602(a)	Person must not operate aircraft unless requirements of prescribed rules are met.	Conviction – individual \$5,000 Conviction – body corporate \$30,000 Infringement – individual \$2,000 Infringement – body corporate \$12,000
CAR 115.101(b)(2)	Holder of an adventure aviation operator certificate must comply with the exposition [the exposition includes the drug and alcohol plan].	Conviction – individual \$5,000 Conviction – body corporate \$30,000 Infringement – individual \$2,000 Infringement – body corporate \$12,000