



Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024

Cindy Kiro, Governor-General

Order in Council

At Wellington this 11th day of March 2024

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 400(1)(i) of the Immigration Act 2009—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Immigration made under section 403A(1) of that Act.

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Regulations

- 1 Title**
These regulations are the Immigration (Infringement Offences, Fees, and Forms) Amendment Regulations 2024.
 - 2 Commencement**
These regulations come into force on 11 April 2024.
 - 3 Principal regulations**
These regulations amend the regulations that were previously called the Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012.
 - 4 Title of principal regulations changed**
In regulation 1, delete "Carriers".
 - 5 New regulation 3A inserted (Transitional, savings, and related provisions)**
After regulation 3, insert:
- 3A Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.
- 6 Regulation 6 replaced (Infringement notices)**
Replace regulation 6 with:
- 6 Infringement notices**

 - (1) An infringement notice issued under section 362 in respect of an offence described in Schedule 1 must be in the form set out in Schedule 2.
 - (2) An infringement notice issued under section 362 in respect of an offence described in section 359A must be in the form set out in Schedule 2A.
- 7 Regulation 7 replaced (Infringement offence reminder notice)**
Replace regulation 7 with:

7 Infringement offence reminder notices

- (1) A reminder notice for the purpose of section 363 in respect of an offence described in Schedule 1 must be in the form set out in Schedule 3.
- (2) A reminder notice for the purpose of section 363 in respect of an offence described in section 359A must be in the form set out in Schedule 3A.

8 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of these regulations as the first schedule to appear after the last regulation of the principal regulations.

9 Schedule 1 amended

In the Schedule 1 heading, replace “**Infringement**” with “**Carriers’ infringement**”.

10 New Schedule 2A inserted

After Schedule 2, insert the Schedule 2A set out in Schedule 2 of these regulations.

11 New Schedule 3A inserted

After Schedule 3, insert the Schedule 3A set out in Schedule 3 of these regulations.

Schedule 1
New Schedule 1AA inserted

r 8

Schedule 1AA
Transitional, savings, and related provisions

r 3A

Part 1
**Provisions relating to Immigration (Infringement Offences, Fees,
and Forms) Amendment Regulations 2024**

1 **References to previous Title**

Every reference in any enactment and in any document to the Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012 must, unless the context otherwise provides, be read as a reference to the Immigration (Infringement Offences, Fees, and Forms) Regulations 2012.

Schedule 2

New Schedule 2A inserted

r 10

Schedule 2A

Form of infringement notice for employment infringement offences

r 6

Employment infringement offence infringement notice

Section 362, Immigration Act 2009

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by [*immigration officer*].

Address for correspondence:

Ministry of Business, Innovation, and Employment [*address*]

Details of person infringement notice issued to

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Name(s) of relevant employee(s) (if known):

Infringement fee payable:

Service details

This infringement notice was served by [*method of service*] on [*date*].

Payment of infringement fee

This infringement fee is payable within 28 days after [*date infringement notice served*].

This infringement fee may be paid to the Ministry of Business, Innovation, and Employment (MBIE) by [*specify method(s)*].

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 4 to 6):
- what to do if you want to query this notice (*see* paragraphs 8 to 14).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 This notice sets out an alleged infringement offence.

Payments

- 2 If you pay the infringement fee in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Please note that, unless you have an arrangement as described in paragraph 3, part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.
- 3 If MBIE offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement,—
 - (a) the time to pay will be agreed with the enforcement authority:
 - (b) the enforcement action in paragraphs 4 to 6 may be taken if you default on a payment:
 - (c) you can't request a court hearing about the infringement offence (*see* paragraph 13).

What happens if you do not pay on time

- 4 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 8 for your ability to do this), you will be served with a reminder notice (unless MBIE decides to take no further action to require payment for the alleged offence). Please note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs as set out in paragraph 5.

- 5 If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
- (a) MBIE may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.
- 6 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 7 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to MBIE in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 8 You may—
- (a) ask MBIE to consider any matter relating to the circumstances of the alleged offence; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence, but have a court consider written submissions as to penalty or otherwise.
- 9 To take an action listed in paragraph 8, you must write to MBIE at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that MBIE allows.
- 10 If, in your written communication to the enforcement authority referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, MBIE will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless MBIE decides to take no further action to require payment for the alleged offence).
- Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.
- 11 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—

- (a) request a hearing; and
- (b) admit liability for the offence; and
- (c) set out the submissions you wish the court to consider.

12 If you take the action in paragraph 11, MBIE will file your written communication with the court (unless MBIE decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

13 If MBIE offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 8(b) and (c) and 9 to 12 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 14 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the infringement notice number; and
 - (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to MBIE at the address shown on this notice.

Further details of your rights and obligations

15 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 3

New Schedule 3A inserted

r 11

Schedule 3A

Form of infringement offence reminder notice for employment infringement offences

r 7

Employment infringement offence reminder notice

Section 363, Immigration Act 2009

Reminder notice No: _____ Date of notice: _____

This notice is to remind you that you have been issued with an infringement notice.
The details of the notice are as follows:

Enforcement authority

The infringement notice was issued by the Ministry of Business, Innovation, and
Employment (**MBIE**).

Address for correspondence:

Details of person to whom infringement notice issued

Full name:

Full address:

†Date of birth:

*†Gender:

*†Occupation:

*Telephone number:

*Specify only if known.

†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence

The offence is one against [*specify provision*].

Date:

Time:

Place:

Nature of alleged infringement:

Infringement fee payable:

Amount of infringement fee remaining unpaid:

Service details

(To be provided for filing in court.)

Infringement notice served by [*method of service*] on [*date*].

Reminder notice served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to MBIE within 28 days after [*date infringement notice served*]. The infringement fee has not been paid.

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice.

The infringement fee may be paid to MBIE by [*specify method(s)*].

What you need to know

If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 3 and 4):
- what to do if you want to query this notice (*see* paragraphs 6 to 12).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

- 1 You have not paid the infringement fee described in this notice, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

Payments

- 2 If you pay the infringement fee in full within 28 days after you are served with this notice, no further enforcement action will be taken for the offence. Payments should be made to MBIE as shown above in **Payment of infringement fee**.

What happens if you do not pay on time

- 3 If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 6 for your ability to do this), you will become liable to pay court costs as well as a fine (unless MBIE decides to take no further action to require payment for the alleged offence).
- 4 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 5 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid in full to MBIE in the manner specified in this notice before, or within 28 days after, this reminder notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 6 You may—
- (a) ask MBIE to consider any matter relating to the circumstances of the alleged offence; or
 - (b) deny liability for the alleged offence and request a court hearing; or
 - (c) admit liability for the alleged offence but have a court consider written submissions as to penalty or otherwise.
- 7 To take an action listed in paragraph 6, you must write to MBIE at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that MBIE allows.
- 8 If, in your written communication to the enforcement authority referred to in paragraph 7, you deny liability for the alleged offence and request a court hearing, MBIE will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless MBIE decides to take no further action to require payment for the alleged offence).
- Note:** If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.
- 9 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the submissions you wish the court to consider.
- 10 If you take the action in paragraph 9, MBIE will file your written communication with the court (unless MBIE decides to take no further action to require

payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.

Note: The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

- 11 If MBIE offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 6(b) and (c) and 7 to 10 do not apply, and you are not entitled to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise).

Contacting the enforcement authority

- 12 When writing, please specify—
- (a) the date of the alleged infringement offence; and
 - (b) the number of this reminder notice; and
 - (c) your full name and address for replies.

Note: All correspondence regarding the infringement offence must be directed to MBIE at the address shown on this notice.

Further details of your rights and obligations

- 13 Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations but is intended to indicate their general effect.

These regulations, which come into force on 11 April 2024, amend the regulations that were previously called the Immigration (Carriers' Infringement Offences, Fees, and Forms) Regulations 2012 (the **principal regulations**).

Regulation 4 amends regulation 1 of the principal regulations to change the Title of the principal regulations to the Immigration (Infringement Offences, Fees, and Forms) Regulations 2012.

Regulations 5 and 8 amend the principal regulations to include transitional, savings, and related provisions in relation to the change of Title.

Regulations 6 and 7 replace regulations 6 and 7 of the principal regulations to provide for infringement notices and infringement offence reminder notices for new

employment infringement offences under the Immigration Act 2009. The forms for those notices are set out in *new Schedules 2A and 3A*.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 4 March 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.mbie.govt.nz/dmsdocument/11806-impact-statement-temporary-migrant-worker-exploitation-review-phase-one-proposals-proactiverelase-pdf>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 14 March 2024.

These regulations are administered by the Ministry of Business, Innovation, and Employment.