

Reprint
as at 13 December 2018



Biosecurity (Infringement Offences) Regulations 2010 (SR 2010/67)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 22nd day of March 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 165(1)(va) to (vd) of the Biosecurity Act 1993, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry for Primary Industries.

Schedule 2
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Regulations**1 Title**

These regulations are the Biosecurity (Infringement Offences) Regulations 2010.

2 Commencement

These regulations come into force on 22 April 2010.

3 Infringement offences

A breach of a provision specified in Schedule 1 is an infringement offence.

4 Border infringement offences

An infringement offence is a border infringement offence if it is committed—

- (a) in a biosecurity control area at a port approved as a place of first arrival under section 37 of the Biosecurity Act 1993; or
- (b) at a port approved for the arrival of craft under section 37A of the Biosecurity Act 1993.

5 Infringement fees

The fee specified in the third column of Schedule 1 for an infringement offence is the infringement fee for that offence.

6 Infringement notices

- (1) The infringement notice for an infringement offence (other than a border infringement offence) must be in form 1 set out in Schedule 2.
- (2) The infringement notice for a border infringement offence must be in form 2 set out in Schedule 2.

Schedule 1 Infringement offences and fees

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Schedule 1: replaced, on 13 December 2018, by regulation 4 of the Biosecurity (Infringement Offences) Amendment Regulations 2018 (LI 2018/228).

Provision of Biosecurity Act 1993	General description of offence	Infringement fee (\$)	
		Individual	Corporation
s 154N(12)(a)	Failing to comply with section 17, which relates to providing notice of a craft's intended arrival in New Zealand	400	800
s 154N(14)(a)	Failing to make the declaration required by section 24J(b) or 24K(8)(b), setting out the steps taken to comply with an applicable craft risk management standard or a craft risk management plan, if an inspector requires the person to make the declaration	400	800
s 154N(17)(b)(i)	Operating or purporting to operate a transitional facility or a containment facility when not approved as the facility's operator	400	800
s 154N(17)(b)(v)	Not complying with the operating standards for a transitional facility or a containment facility when operating or purporting to operate the facility	400	800
s 154N(20)	Failing to answer within a reasonable time or failing to answer completely within a reasonable time, having been asked a question by an inspector or an automated electronic system while in a biosecurity control area	100	100
s 154N(21)	Making an erroneous declaration that he or she is not in possession of specified goods	400	

Schedule 2

Forms

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Form 1

Infringement notice

Section 159, Biosecurity Act 1993

Infringement notice No:

Date of infringement notice:

Issuing inspector:

Pax ref:

This notice is issued to the person described below in respect of the alleged offence described below:

Name:

Address:

Date of birth:

Proof of identity:

Occupation:

Details of alleged offence

Date:

Time:

Day of week: S M T W T F S

Location:

Offence: *[specify details of the relevant regulation and the nature of the offence]*.

The infringement fee payable for this offence is \$*[amount]*, and is payable to the Ministry of Agriculture and Forestry not later than 28 days after a reminder notice has been served.

Method of service: Personal/Postal service*

*Select one.

Served by: *[full name or identifying number]*

On: *[date]*

At: *[full address of place where served]*

Methods of payment

Infringement fees must be paid to the Ministry of Agriculture and Forestry using 1 of the following methods: *[specify methods of payment and places at which payment may be made]*.

Remittance advice

Infringement notice No:

Date of infringement notice:

Pax ref:

Name of person who committed infringement offence:

Address:

The remittance advice must accompany payment by cheque. Please detach the remittance advice and send it with payment to:

Ministry of Agriculture and Forestry

PO Box 53137

Manukau 2150

New Zealand

Important

Please read the following information.

Information

Defence

- 1 You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to the Ministry of Agriculture and Forestry (**MAF**) using one of the methods of payment specified on this form before or within 14 days after you have been served with this notice.

Note: Late payment or payment at any other address will not be a defence.

Right to request hearing

- 2 You have the right to request a hearing. A request for a hearing must be made in writing (in English), be signed by you, and be delivered to the Ministry of Agriculture and Forestry, PO Box 53137, Manukau 2150, New Zealand before or within 28 days after you have been served with a reminder notice.
- 3 If you request a hearing, you may deny liability for the offence or admit liability and make submissions as to penalty or any other matter.
- 4 If you deny liability for the offence, MAF will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless MAF decides not to commence court proceedings).

Note: If the court finds you guilty of the offence, it may impose costs in addition to any fine.

- 5 If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—

- (a) admit the offence; and
- (b) set out the written submissions you wish the court to consider.

MAF will then file your letter and request for hearing with the court (unless MAF decides not to commence court proceedings).

There will be no oral hearing before the court if you follow this course of action.

Note: The court may impose costs in addition to any fine.

Consequences of taking no action

- 6 If, within 28 days after being served with this notice, you have not paid the infringement fee and MAF has not received a request for a hearing, you will be served with a reminder notice (unless MAF decides not to pursue the matter).
- 7 If, within 28 days after being served with a reminder notice, you have not paid the infringement fee and MAF has not received a request for a hearing, you will become liable to pay costs in addition to the infringement fee specified in this notice (unless MAF decides not to commence court proceedings against you).

Questions and other correspondence

- 8 When writing or making payment to MAF, please include—
 - (a) the date of the infringement notice; and
 - (b) the infringement notice number; and
 - (c) the course of action you are taking in respect of the alleged offence; and
 - (d) your full address for replies.

Rights and obligations

- 9 Further details of your rights and obligations are set out in section 159 of the Biosecurity Act 1993 and section 21 of the Summary Proceedings Act 1957.

MAF's postal address

All queries and correspondence regarding this notice must be directed to:

Ministry of Agriculture and Forestry

PO Box 53137

Manukau 2150

New Zealand

Schedule 2 form 1: amended, on 13 December 2018, by regulation 5(1) of the Biosecurity (Infringement Offences) Amendment Regulations 2018 (LI 2018/228).

Form 2
Infringement notice for border infringement offence

Section 159A, Biosecurity Act 1993

Infringement notice No:

Date of infringement notice:

Issuing inspector:

Pax ref:

This notice is issued to the person described below in respect of the alleged offence described below:

Name:

Address:

Date of birth:

Passport No:

Country of issue:

Occupation:

Details of alleged offence

Date:

Time:

Day of week: S M T W T F S

Location:

Offence: *[specify details of the relevant regulation and the nature of the offence]*.

The infringement fee payable for this offence is \$*[amount]*, and is payable to the Ministry of Agriculture and Forestry within 14 days after *[date]* (earliest date notice delivered personally or posted).

Method of service: Personal/Postal service*

*Select one.

Served by: *[full name or identifying number]*

On: *[date]*

At: *[full address of place where served]*

Methods of payment

Infringement fees must be paid to the Ministry of Agriculture and Forestry using 1 of the following methods: *[specify methods of payment and places at which payment may be made]*.

Immediate payment

If this notice has been served on you at an airport approved under section 37 or 37A of the Biosecurity Act 1993, you may choose to make an immediate payment at the MAF Infringement Desk. Payment can be made in cash, by approved credit card, or by cheque.

Remittance advice

Infringement notice No:

Date of infringement notice:

Pax ref:

Name of person who committed infringement offence:

Address:

The remittance advice must accompany payment by cheque. Please detach the remittance advice and send it with payment to:

Ministry of Agriculture and Forestry

PO Box 53137

Manukau 2150

New Zealand

Important

Please read the following information.

Information**Defence**

- 1 You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to the Ministry of Agriculture and Forestry (MAF), either—
 - (a) using 1 of the methods of payment specified on this form before or within 14 days after you have been served with this notice; or
 - (b) in person (if you were served with this notice at a port or airport approved under the Biosecurity Act 1993).

Note: Late payment or payment at any other address will not be a defence.

Right to request hearing

- 2 You have the right to request a hearing. A request for a hearing must be made in writing (in English), be signed by you, and be delivered to the Ministry of Agriculture and Forestry, PO Box 53137, Manukau 2150, New Zealand before or within 14 days after you have been served with this notice.
- 3 If you request a hearing, you may deny liability for the offence or admit liability and make submissions as to penalty or any other matter.

- 4 If you deny liability for the offence, MAF will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless MAF decides not to commence court proceedings).

Note: If the court finds you guilty of the offence, it may impose costs in addition to any fine.

- 5 If you admit liability for the offence but want the court to consider your submissions, you should, in your request for a hearing,—

- (a) admit the offence; and
- (b) set out the written submissions you wish the court to consider.

MAF will then file your letter with the court (unless MAF decides not to commence court proceedings).

There will be no oral hearing before the court if you follow this course of action.

Note: The court may impose costs in addition to any fine.

Consequences of taking no action

- 6 If, within 14 days after being served with this notice, you have not paid the infringement fee and MAF has not received a request for a hearing, you will become liable to pay costs in addition to the infringement fee specified in this notice (unless MAF decides not to commence court proceedings against you).

Questions and other correspondence

- 7 When writing or making payment to MAF, please include—
- (a) the date of the infringement notice; and
 - (b) the infringement notice number; and
 - (c) the course of action you are taking in respect of the alleged offence; and
 - (d) your full address for replies.

Rights and obligations

- 8 Further details of your rights and obligations are set out in section 159A of the Biosecurity Act 1993 and section 21 of the Summary Proceedings Act 1957.

MAF's postal address

All queries and correspondence regarding this notice must be directed to:

Ministry of Agriculture and Forestry

PO Box 53137

Manukau 2150

New Zealand

Schedule 2 form 2: amended, on 13 December 2018, by regulation 5(2) of the Biosecurity (Infringement Offences) Amendment Regulations 2018 (LI 2018/228).

Martin Bell,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 25 March 2010.

Reprints notes

1 *General*

This is a reprint of the Biosecurity (Infringement Offences) Regulations 2010 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Biosecurity (Infringement Offences) Amendment Regulations 2018 (LI 2018/228)