



## **Employment Relations (Infringement and Reminder Notices) Regulations 2016**

Jerry Mateparae, Governor-General

### **Order in Council**

At Wellington this 21st day of March 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under section 237 of the Employment Relations Act 2000 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Employment Relations (Infringement and Reminder Notices) Regulations 2016.

### 2 Commencement

These regulations come into force on 1 April 2016.

### 3 Interpretation

In these regulations, unless the context otherwise requires, **infringement of-fence** has the same meaning as in section 235A of the Employment Relations Act 2000.

### 4 Infringement notice

An infringement notice for an infringement offence must be in the form set out in Schedule 1.

### 5 Reminder notice

A reminder notice in respect of an infringement notice must be in the form set out in Schedule 2.

## Schedule 1

### Form of infringement notice

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#### Form Infringement notice

*Employment Relations Act 2000, section 235D*

Infringement Notice No:

Date of infringement notice:

Issuing Labour Inspector: *[full name]*

**To:**

Full name of employer:

Address:

Date of birth (if applicable):

**Alleged infringement offence(s) details**

You are alleged to have committed the following infringement offence(s):

Provision(s) breached:

Description of offence(s):

Date(s):

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

Infringement fee(s) payable: \$

Total infringement fee payable: \$

**Time for payment of infringement fee(s)**

You must pay the infringement fee(s) within 28 days after: *[date this notice is delivered personally, or served by post]*

**Procedure for payment of infringement fee(s)**

You must pay the infringement fee(s) to the Ministry of Business, Innovation, and Employment either by direct credit or by cheque.

Payments by direct credit must refer to the Infringement Notice No at the top of this notice and must be made to *[specify account number]*.

Payments made by cheque should be made payable to the Ministry of Business, Innovation, and Employment and sent to *[specify postal address]*. Cheques must be crossed and marked "Not Transferable" and must refer to the Infringement Notice No at the top of this notice.

### ***Information***

If there is anything in these notes you do not understand, you should consult a lawyer.

#### **Payment**

- 1 If you pay the infringement fee(s) within 28 days after the service of this notice, no further enforcement action will be taken against you.

#### **Maximum aggregate infringement fees**

- 2 Under section 235E of the Employment Relations Act 2000, the maximum aggregate infringement fees you are liable to pay in a 3-month period is \$20,000, whether for breaches of the same provision or breaches of different provisions.
- 3 If you believe this notice makes you liable for paying an amount greater than the maximum aggregate figure, you should notify the Ministry of Business, Innovation, and Employment (**MBIE**).

#### **Defence**

- 4 You will have a complete defence against proceedings relating to an alleged offence if the infringement fee is paid to MBIE and received at the address shown on this notice within 28 days after the service of this notice.
- 5 Late payment, or payment made to any other address, will not constitute a defence to proceedings in respect of the alleged offence.

#### **Further action**

- 6 You must notify MBIE if you wish to do any of the following things:
  - (a) raise a matter concerning the circumstances of an alleged offence for consideration by MBIE:
  - (b) deny liability for the alleged offence and request a hearing in the District Court:
  - (c) admit liability for the offence, but have the District Court consider submissions as to penalty or otherwise. In your notification, you must request a hearing, admit liability in respect of the offence, and set out the submissions that you would like the court to consider.

You must ensure that your request is received on or before the last day for payment.

If you deny liability and request a hearing in the District Court, MBIE will then, if it decides to commence court proceedings in respect of the alleged offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court.

If the District Court finds you guilty of the infringement offence, it may impose costs in addition to any fine.

If you admit liability but wish to have the District Court consider submissions, MBIE will then, if it decides to commence court proceedings in respect of the offence, file your notification with the court. You are not entitled to make oral submissions to the court.

**Note:** Each offence listed is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences. If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on this notice.

### Next steps

- 7 If you do not request a hearing and you do not pay the infringement fee within 28 days after the service of this notice, a reminder notice will be sent to you. 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.

**Note:** All payments, queries, and correspondence regarding this infringement notice must be directed to MBIE at the address shown on this notice. When paying an infringement fee or when notifying, please indicate:

- (a) the date of the infringement notice:
- (b) the Infringement Notice No:
- (c) if the notice relates to more than 1 infringement offence, whether you are paying the infringement fees for all or only some offence(s):
- (d) if paragraph (c) applies and you are not paying all fees, whether you are challenging the offences or fees you are not paying:
- (e) your full name and address for replies.

### Rights and obligations: further information

- 8 Further details of your rights and obligations are set out in sections 235A to 235G of the Employment Relations Act 2000 and section 21 of the Summary Proceedings Act 1957.

### Address for correspondence and payment

All correspondence and queries regarding this notice and payment of infringement fee(s) must be directed to—

Ministry of Business, Innovation, and Employment at: [*specify address*]

## Schedule 2

### Form of reminder notice

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#### Form

#### Reminder notice in respect of infringement offence

*Employment Relations Act 2000, section 235D*

Reminder Notice No:

Date of reminder notice:

**To:**

Full name of employer:

Address:

Date of birth (if applicable):

**Alleged infringement offence(s) for which infringement fee(s) unpaid**

Provision(s) breached:

Description of offence(s):

Date(s):

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

Amount of infringement fee(s) unpaid: \$

Total amount of infringement fee unpaid: \$

**Time for payment of infringement fee(s)**

You must pay the amount of infringement fee unpaid within 28 days after: *[date this notice is delivered personally, or served by post]*

**Procedure for payment of infringement fee(s)**

You must pay the amount of infringement fee unpaid to the Ministry of Business, Innovation, and Employment either by direct credit or by cheque.

Payments by direct credit must refer to the Reminder Notice No at the top of this notice and must be made to *[specify account number]*.

Payments made by cheque should be made payable to the Ministry of Business, Innovation, and Employment and sent to *[specify postal address]*. Cheques must be crossed and marked "Not Transferable" and must refer to the Reminder Notice No at the top of this notice.

**Service details**

(To be provided for filing in the District Court)

Infringement notice served by [*specify method of service*] at [*full address at which the infringement notice was served*].

Reminder notice served by [*specify method of service*] at [*full address at which the reminder notice was served*].

### ***Information***

If there is anything in these notes you do not understand, you should consult a lawyer.

### **Payment**

- 1 If you pay the infringement fee or the amount of the infringement fee remaining unpaid within 28 days after the service of this notice, no further enforcement action will be taken against you.

### **Maximum aggregate infringement fees**

- 2 Under section 235E of the Employment Relations Act 2000, the maximum aggregate infringement fees you are liable to pay in a 3-month period is \$20,000, whether for breaches of the same provision or breaches of different provisions.
- 3 If you believe this notice makes you liable for paying an amount greater than the maximum aggregate figure, you should notify the Ministry of Business, Innovation, and Employment (**MBIE**).

### **Defence**

- 4 You will have a complete defence against proceedings relating to the alleged offence if you can show the infringement fee or the amount of the infringement fee remaining unpaid has been paid to MBIE and received at the address shown on the front of this notice within 28 days after the service of this notice.
- 5 Late payment, or payment made to any other address, will not constitute a defence to proceedings in respect of the alleged offence.

### **Further action**

- 6 You must notify MBIE if you wish to do any of the following things:
  - (a) raise a matter concerning the circumstances of the alleged offence for consideration by MBIE:
  - (b) deny liability for the alleged offence and request a hearing in the District Court:
  - (c) admit liability for the offence, but have the District Court consider submissions as to penalty or otherwise. In your notification, you must request a hearing, admit liability in respect of the offence, and set out the submissions that you would like the court to consider.

You must ensure that your request is received on or before the last day for payment.

If you deny liability and request a hearing in the District Court, MBIE will then, if it decides to commence court proceedings in respect of the alleged offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court.

If the District Court finds you guilty, it may impose costs in addition to any fine.

If you admit liability but wish to have the District Court consider submissions, MBIE will then, if it decides to commence court proceedings in respect of the offence, file your notification with the court. You are not entitled to make oral submissions to the court.

**Note:** Each offence listed is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences. If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out on this notice.

### Next steps

- 7 If you do not request a hearing and you do not pay the infringement fee or the amount of the infringement fee remaining unpaid within 28 days after the service of this notice, you will become liable to pay a fine and court costs.

**Note:** All payments, queries, and correspondence regarding this reminder notice must be directed to MBIE at the address shown on this notice. When paying an infringement fee or when notifying, please indicate:

- (a) the date of the infringement notice:
- (b) the Reminder Notice No:
- (c) if the notice relates to more than 1 infringement offence, whether you are paying the infringement fees for all or only some offence(s):
- (d) if paragraph (c) applies and you are not paying all fees, whether you are challenging the offences or fees you are not paying:
- (e) your full name and address for replies.

### Rights and obligations: further information

- 8 Further details of your rights and obligations are set out in sections 235A to 235G of the Employment Relations Act 2000 and section 21 of the Summary Proceedings Act 1957.

### Address for correspondence and payment

All correspondence and queries regarding this notice and payment of infringement fee(s) must be directed to—

Ministry of Business, Innovation, and Employment at: *[specify address]*



Michael Webster,  
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 1 April 2016, prescribe the form of an infringement notice (*Schedule 1*) and the form of a reminder notice (*Schedule 2*) for infringement offences under sections 235A to 235G of the Employment Relations Act 2000.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 24 March 2016.

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