



Biosecurity (Infringement Offences) Regulations 2010

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.

Contents

	Page
1 Title	2
2 Commencement	2
3 Infringement offences	2
4 Border infringement offences	2
5 Infringement fees	2
6 Infringement notices	2

Schedule 1

Infringement offences and fees

Schedule 2
Forms

3

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.
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Schedule 1
Infringement offences and fees

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Provision of Biosecurity Act 1993	General description of offence	Infringement fee (\$)
s 154(p)	Having (while in a biosecurity control area) been asked a question by an inspector, failing to answer within a reasonable time, or failing to answer completely within a reasonable time, or wilfully giving a false or misleading answer	100
s 154(s)	Making an erroneous declaration that the person is not in possession of specified goods	400

Schedule 2

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Forms

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:

Form 1—*continued*

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*]

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.

Form 1—*continued*

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).

Form 1—*continued*

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

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*]

On: [*date*]

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

Form 2—*continued***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—

Form 2—*continued*

- (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.

Form 2—*continued***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

Martin Bell,
for 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 22 April 2010, establish an infringement offence regime under the Biosecurity Act 1993 (the **Act**). The regulations specify offences against section 154(p) and (s) of the Act as infringement offences. Both infringement offences are also specified as border infringement offences if they are committed in a biosecurity control area at a port or airport. The regulations prescribe the infringement fees for the infringement offences. The infringement fees are the same whether the offence is a border infringement offence or a non-border infringement offence. The regulations also prescribe forms of infringement notice for infringement offences and border infringement offences. The border infringement notice is tailored for the accelerated infringement notice procedure provided for by section 159A of the Act. The accelerated procedure differs from the standard procedure in that—

- an infringement fee must be paid within 14 rather than 28 days of service of the notice:
- there is no provision for a reminder notice:
- payment may be made immediately at an international airport:
- an infringement notice may be issued and served on a Sunday.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 25 March 2010.

These regulations are administered by the Ministry of Agriculture and Forestry.
