



National Animal Identification and Tracing (Infringement Offences) Regulations 2012

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 10th day of December 2012

Present:

His Excellency the Governor-General in Council

Pursuant to section 69 of the National Animal Identification and Tracing Act 2012, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Primary Industries, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the National Animal Identification and Tracing (Infringement Offences) Regulations 2012.
- 2 Commencement**
These regulations come into force on 10 January 2013.
- 3 Interpretation**
In these regulations, **Act** means the National Animal Identification and Tracing Act 2012.
- 4 Infringement offences and infringement fees**
- (1) The offences specified in Schedule 1 are infringement offences under the Act.
 - (2) The infringement fee payable for an infringement offence is the fee specified for the offence in Schedule 1.
 - (3) A person (the **defendant**) charged with an alleged infringement offence has a defence to the infringement offence if the defendant proves that—
 - (a) the defendant took all reasonable steps to avoid committing the offence; or
 - (b) the act or omission constituting the offence—
 - (i) took place in circumstances of an adverse event or an emergency; and
 - (ii) was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
 - (4) A defence is available only if the defendant provides to the prosecutor a written notice—
 - (a) stating that the defendant intends to rely on a defence under subclause (3); and
 - (b) specifying, as relevant,—

- (i) for a defence under subclause (3)(a), the reasonable steps that the defendant claims to have taken:
 - (ii) for a defence under subclause (3)(b), the circumstances of an adverse event or emergency and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
- (5) A notice given under subclause (4) must be provided to the prosecutor—
- (a) not later than 7 working days after the summons has been served on the defendant; or
 - (b) with the leave of the court, within any further time that the court allows.

5 Infringement offence notice and reminder notice

Infringement offence notices and reminder notices issued under the Act must be in the applicable form set out in Schedule 2.

Schedule 1 Infringement offences

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Enactment	General description of offence	Infringement fee (\$)
Clause 82(1), Schedule 2 of Act	A person who is a PICA or has been determined to be a PICA for a NAIT location by a NAIT officer and who fails to register as a PICA for a NAIT location in accordance with the Act	300
Clause 82(2)(a), Schedule 2 of Act	A PICA for a NAIT location who, without an exemption, fails to register a NAIT animal at that location in accordance with the Act	150

Enactment	General description of offence	Infringement fee (\$)
Clause 82(2)(b), Schedule 2 of Act	A PICA for a NAIT location who, without an exemption, fails to comply with section 31 of the Act in relation to a NAIT animal consigned for transport or droving from a NAIT location registered by the PICA	150
Clause 83(1)(a), Schedule 2 of Act	A PICA for a NAIT location who, contrary to the requirements prescribed by regulations made under the Act and without an exemption, fails to fit a NAIT device to a NAIT animal born in that location before the animal is first moved from the location or within the time specified in regulations made under the Act, whichever is the sooner	150
Clause 83(1)(b), Schedule 2 of Act	A PICA for a NAIT location who, contrary to the requirements prescribed by regulations made under the Act, in a case where a NAIT device is lost or becomes detached from a NAIT animal in that location, before the animal is moved from that location, fails to apply a replacement device and to reregister that animal	150
Clause 83(1)(c), Schedule 2 of Act	A PICA for a NAIT location who, contrary to the requirements prescribed by regulations made under the Act, fits a NAIT device prescribed for 1 species or sub-group of species to an animal of another species or sub-group of species	150
Clause 83(1)(d), Schedule 2 of Act	A PICA for a NAIT location who, contrary to the requirements prescribed by regulations made under the Act and without an exemption, when a NAIT animal arrives at that location without a NAIT device, fails either to return the animal to the PICA who consigned the animal to the location or to fit a replacement device on the animal and reregister it in the manner, and within the time, specified in regulations made under the Act	150

Enactment	General description of offence	Infringement fee (\$)
Regulations 5(5A) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	The organiser of an event involving any NAIT animals who is required to notify the event and to register its location (if it is not currently registered) under section 29(3) of the Act and who fails, at least 72 hours before the event, to notify the NAIT organisation of the date of the event and the address of the location of the event and to register the location of the event with the NAIT organisation	150
Regulations 5(5B) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	The owner of a place where NAIT animals will be temporarily held during transport or droving between 2 NAIT locations who is required to register the place under section 29(4) of the Act and who fails, at least 24 hours before temporarily holding animals at the place, to register the place as a transit stop NAIT location	150
Regulations 9 and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A PICA for a NAIT location who fails to provide in an animal exit declaration under section 32(1) of the Act that a NAIT animal was slaughtered at that location or that the carcase of a NAIT animal that died at that location was disposed of at that location or sent to an animal rendering facility	150
Regulations 10(5) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A PICA for a NAIT location who has provided information to the NAIT organisation under section 33(b) of the Act and fails to inform the organisation of any change to the information within 30 days after the change occurs	150
Regulations 10(6) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A PICA for a NAIT location who fails to take all reasonable steps to ensure that information the PICA provides under section 33(a) of the Act to the NAIT organisation electronically or orally by phone is accurate and correct at the time it is provided	150

Enactment	General description of offence	Infringement fee (\$)
Regulations 25 and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A PICA for a NAIT location that is a port of export from New Zealand who, contrary to the requirements prescribed by regulations made under the Act, fails to make (before the animal leaves New Zealand) an animal exit declaration at that port for a NAIT animal that is to be exported live from that port	150
Regulations 26(1) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A person who is granted access to data in the NAIT information system by the administrator or the panel under section 45 or 46 of the Act and who fails to comply with conditions imposed under section 47(5)(a) of the Act that restrict the use to which the data may be put	1,000
Regulations 26(2) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A person who is granted access to data in the NAIT information system by the administrator or the panel under section 45 or 46 of the Act and who fails to comply with conditions imposed under section 47(5)(b) that prohibit further disclosure of the data	1,000
Regulations 26(3) and 27(1), National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012	A person who is granted access to data in the NAIT information system by the administrator or the panel under section 45 or 46 of the Act and who fails to comply with conditions imposed under section 47(5) of the Act other than the conditions referred to in paragraphs (a) to (d) of that provision	1,000

Schedule 2

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Forms

Form 1

Infringement notice for infringement offence
under National Animal Identification and
Tracing Act 2012*Issued under National Animal Identification and Tracing
Act 2012*

(Front)

Ministry for Primary Industries

Manatū Ahu Matua

Notice No:

Infringement notice

Infringement notice served on—

Full name or company name:

Full address (residential or business):

Occupation:

Date of birth:

Alleged infringement offence details

Date:

Time:

Day of week:

Location:

Offence: *[specify]*

Infringement fee payable:

\$*[amount]***Details (if applicable)****Issuing details**

Issuing officer's warrant No:

Method infringement notice served by:

Procedure for payment of infringement feeThe infringement fee is payable within 28 days after *[specify date]*.

Form 1—*continued***Important notice**

Please read the information about infringement offences printed on the back of this notice.

Infringement fees may be paid to the Ministry for Primary Industries by any of the following methods [*specify payment options*].

Cheques should be payable to “Ministry for Primary Industries” and should be crossed and marked “not transferable”.

[*Print deposit slip here*].

(Back)

Information about infringement offences

Note: If, after reading this information, there is something in it that you do not understand, you should consult a lawyer immediately.

1 Payment of infringement fee

If you pay the infringement fee within 28 days after the service of this notice, no further action in respect of the infringement offence will be taken. Payment should be made to the Ministry for Primary Industries in accordance with the instructions on the front page of this notice.

2 Further action

If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to the informant at the address shown in the note at the end of this information within 28 days after the service of this notice.

3 Defences

- (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 for Primary Industries by one of the payment methods specified on the front of this notice within 28 days after you are served with a reminder notice in respect of the offence.

Note: Late payment, or payment by any other method, will not be a defence.

- (2) You have a further defence (in addition to that indicated in paragraph (1)) against any proceedings for an alleged offence if you prove that—

Form 1—*continued*

- (a) you took all reasonable steps to avoid committing the offence; or
 - (b) the act or omission constituting the offence—
 - (i) took place in circumstances of an adverse event or an emergency; and
 - (ii) was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
- (3) A defence referred to in paragraph (2) is available only if you provide to the prosecutor a written notice—
- (a) stating that you intend to rely on the defence; and
 - (b) specifying, as relevant,—
 - (i) for a defence referred to in paragraph (2)(a), the reasonable steps that you claim to have taken;
 - (ii) for a defence referred to in paragraph (2)(b), the circumstances of an adverse event or emergency and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
- (4) A notice referred to in paragraph (3) must be provided to the prosecutor—
- (a) not later than 7 working days after the summons has been served on you; or
 - (b) with the leave of the court, within any further time that the court allows.

Note: All queries and correspondence regarding this infringement must be directed to the Ministry for Primary Industries, [*specify full address*].

4 Right to request hearing

- (1) You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to the informant at the address shown in the note at the end of this information within 28 days after you have been served with a reminder notice. 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.

Form 1—*continued*

- (2) If you deny liability for the offence, the Ministry for Primary Industries 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 the Ministry for Primary Industries decides not to commence court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any fine.

- (3) 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 that you wish the court to consider.

- (4) The Ministry for Primary Industries will then file your letter with the court (unless the Ministry for Primary Industries decides not to commence court proceedings). There will be no oral hearing before the court if you follow this course of action.

Note: Any costs will be imposed in addition to any fine.

5 Consequences of taking no action

- (1) If you do not pay the infringement fee and do not request a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless the informant decides otherwise).
- (2) If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay **costs in addition to the infringement fee** (unless the informant decides not to commence court proceedings against you).

6 Questions and other correspondence

In any correspondence, 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.

Form 1—*continued*

Note: All queries and all correspondence regarding this notice must be directed to the Ministry for Primary Industries, [*specify full address*].

Note: An infringement notice may be cancelled by a NAIT officer or a NAIT authorised person in the interests of justice (so long as neither the particulars of the reminder notice nor a notice of hearing relating to this infringement notice has been filed in the District Court).

Further information

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

Form 2
Reminder notice for infringement offence notice
issued under National Animal Identification and
Tracing Act 2012

*Issued under National Animal Identification and Tracing
Act 2012 and section 21(2) Summary Proceedings Act 1957*

(Front)

Ministry for Primary Industries
Manatū Ahu Matua

Notice No:

Reminder notice served on—

Full name:	Date of birth:	Gender:
Full address:	Occupation:	Telephone no:
Licence:	Other means of identification:	

The informant alleges that you committed an infringement offence—

On *[date]* at *[time]*:

At *[location]*.

In that you *[specify offence]*.

This is an infringement offence against *[section or regulation number]* of the *[Act or regulation name]*.

The penalty for the offence is \$*[infringement fee]*.

The infringement notice is issued by *[insert issuing officer's number]*.

Service details

(To be provided for filing in court.)

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

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

The last day for payment is *[date]*, being 28 days from the date of service recorded on this notice.

Form 2—*continued***Procedure for payment**

Payment is to be made to the Ministry by any of the following methods: [*specify payment options*].

Please quote the “Notice No:” shown above on the top right corner. Cheques should be payable to “Ministry for Primary Industries” and should be crossed and marked “not transferable”.

If you wish to deny the offence or wish to have the court consider submissions in respect of the offence, follow the directions contained in paragraphs 2 to 4 printed on the back of this form.

Important: It is in your own interests that you read the notes on the back of this form. [*Print the deposit slip here*].

(Back)

Information about infringement offences

Note: If, after reading this information, there is something in it that you do not understand, you should consult a lawyer immediately.

Note: Infringement offence notices may be issued in respect of offences against the National Animal Identification and Tracing Act 2012 or regulations made pursuant to that Act.

The type of infringement offence that you are alleged to have committed appears on the front of this form.

1 Payment of infringement fee

If you pay the infringement fee within 28 days after the service of this notice, no further enforcement action will be taken against you. Payment should be made to the Ministry for Primary Industries in accordance with the instructions on the front page of this notice.

2 Further action

- (1) If you wish to raise any matter relating to the circumstances of the alleged offence, you should do so by writing to the informant at the address shown in the note at the end of this information within 28 days after the service of this notice.
- (2) If you wish to deny liability in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the informant at the address shown in the note at the end of this information requesting a hearing in respect of the offence.

Form 2—*continued*

The Ministry will then, if it decides to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the court will hear the matter.

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- (3) If you admit liability in respect of the alleged offence but wish to have the court consider submissions as to penalty or other matters, you must, within 28 days after the service of this notice, write to the informant at the address shown in the note at the end of this information requesting a hearing in respect of the offence **and** in that same letter admit liability in respect of the offence **and** set out the submissions that you wish the court to consider. The Ministry will then, if it decides to commence court proceedings in respect of the offence, file your letter with the court. You are not entitled to make oral submissions to the court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

Note: When writing, please include the date of the infringement, the reminder notice number, and your full address for replies.

3 **Non-payment of fee**

If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of this notice, you will become liable to pay **costs in addition to a fine** (unless the informant decides not to commence court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

4 **Defences**

- (1) You have a defence against any proceedings for the offence alleged in this notice if the infringement fee is paid to the informant by one of the payment methods specified on the front of this notice before, or within 28 days after, you are served with this notice. Late payment, or payment by any other method, will not be a defence.
- (2) You have a further defence (in addition to that indicated in paragraph (1)) against any proceedings for an alleged offence

Form 2—*continued*

against clause 82 or 83 of Schedule 2 of the National Animal Identification and Tracing Act 2012 if you prove that—

- (a) you took all reasonable steps to avoid committing the offence; or
 - (b) the act or omission constituting the offence—
 - (i) took place in circumstances of an adverse event or an emergency; and
 - (ii) was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
- (3) A defence referred to in paragraph (2) is available only if you provide to the prosecutor a written notice—
- (a) stating that you intend to rely on the defence; and
 - (b) specifying, as relevant,—
 - (i) for a defence referred to in paragraph (2)(a), the reasonable steps that you claim to have taken;
 - (ii) for a defence referred to in paragraph (2)(b), the circumstances of an adverse event or emergency and the reasons why the act or omission was necessary for the preservation, protection, or maintenance of animal or human life or for animal welfare purposes.
- (4) A notice referred to in paragraph (3) must be provided to the prosecutor—
- (a) not later than 7 working days after the summons has been served on you; or
 - (b) with the leave of the court, within any further time that the court allows.

Note: All queries and correspondence regarding this infringement must be directed to the Ministry for Primary Industries, [*specify full address*].

- (5) Payments relating to this infringement should be made in accordance with the procedure for payment shown on the front page of this notice.

Note: An infringement notice may be cancelled by a NAIT officer or a NAIT authorised person in the interests of justice (so long as neither the particulars of this reminder notice nor a notice of hearing relating to the infringement notice has been filed in the District Court).

Michael Webster,
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 10 January 2013,—

- specify the offences against the National Animal Identification and Tracing Act 2012 and the National Animal Identification and Tracing (Obligations and Exemptions) Regulations 2012 that are infringement offences; and
- prescribe infringement fees; and
- prescribe the form of infringement notices and reminder notices.

Some of the infringement offences described in *Schedule 1* refer to PICAs, who are natural persons in day-to-day charge of NAIT animals.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 13 December 2012.
These regulations are administered by the Ministry for Primary Industries.
