

Version
as at 21 October 2023



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.

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	3
Infringement offences and fees	

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for Primary Industries.

Schedule 2
Forms

5

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

rr 3, 5

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(18)	Failing to comply with Plan rule 8 (clause 22) of the Biosecurity (National PA Pest Management Plan) Order 2022, which relates to cleaning of items before entering or exiting a kauri forest	300	
	Failing to comply with Plan rule 9 (clause 23) of the Biosecurity (National PA Pest Management Plan) Order 2022, which relates to the use of cleaning stations in a kauri forest	400	
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(20A)(a)	Failing to comply with section 17AA(2)(a), which requires a person in charge of a large commercial craft that is en route to New Zealand territory from a point outside New Zealand territory on a flight or voyage that is intended to include arrival in New Zealand to provide information to the craft's passengers about the biosecurity law relevant to arrival in New Zealand, as required by regulations made under the Biosecurity Act 1993	400	800
s 154N(20A)(b)	Failing to comply with the Biosecurity (Information for Incoming Passengers) Regulations 2023, which relate to the content of the required information and the manner in which it is to be provided to passengers	400	800

Provision of Biosecurity Act 1993	General description of offence	Infringement fee (\$)	
		Individual	Corporation
s 154N(21)	Making an erroneous declaration that he or she is not in possession of specified goods	400	

Schedule 1: amended, on 21 October 2023, by regulation 4 of the Biosecurity (Infringement Offences) Amendment Regulations 2023 (SL 2023/257).

Schedule 1: amended, on 2 August 2022, by clause 32 of the Biosecurity (National PA Pest Management Plan) Order 2022 (SL 2022/208).

Schedule 2

Forms

r 6

Schedule 2: replaced, on 25 March 2022, by regulation 4 of the Biosecurity (Infringement Offences) Amendment Regulations 2022 (SL 2022/40).

Form 1

Infringement notice

Section 159, Biosecurity Act 1993

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by *[full name of enforcement officer, identification number of enforcement officer, or full name of other person authorised to issue an infringement notice]*.

Address for correspondence:

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:

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 [*name of enforcement agency*] 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 do not 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 [*name of enforcement agency*] 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 [*name of enforcement agency*];
 - (b) the enforcement action in paragraphs 4 to 6 may be taken if you default on a payment;
 - (c) you cannot 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 [*name of enforcement agency*] 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) [*name of enforcement agency*] 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 [*name of enforcement agency*] 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 [*name of enforcement agency*] 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 [*name of enforcement agency*] 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 [*name of enforcement agency*] allows.
- 10 If, in your written communication to [*name of enforcement agency*] referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, [*name of enforcement agency*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement agency*] 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 [*name of enforcement agency*],—
- (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, [*name of enforcement agency*] will file your written communication with the court (unless [*name of enforcement agency*] 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 [*name of enforcement agency*] 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 [*name of enforcement agency*] 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 2 form 1: replaced, on 25 March 2022, by regulation 4 of the Biosecurity (Infringement Offences) Amendment Regulations 2022 (SL 2022/40).

Form 2

Infringement notice for border infringement offence

Section 159A, Biosecurity Act 1993

Infringement notice No:

Date of notice:

Enforcement authority

This infringement notice is issued by *[full name of enforcement officer, identification number of enforcement officer, or full name of other person authorised to issue an infringement notice]*.

Address for correspondence:

Details of person infringement notice issued to

Full name:

Full address:

†Date of birth:

†Passport No:

*†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:

Service details

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

Payment of infringement fee

This infringement fee is payable within 14 days after *[date infringement notice served]*.

This infringement fee may be paid to *[name of enforcement agency]* 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 do not pay the fee at all (*see* paragraphs 4 and 5):
- what to do if you want to query this notice (*see* paragraphs 7 to 13).

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 [*name of enforcement agency*] 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 [*name of enforcement agency*];
 - (b) the enforcement action in paragraphs 4 and 5 may be taken if you default on a payment;
 - (c) you cannot request a court hearing about the infringement offence (*see* paragraph 12).

What happens if you do not pay on time

- 4 If you do not pay the infringement fee and do not request a hearing within 14 days after being served with this notice,—
 - (a) [*name of enforcement agency*] may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of this notice for filing in the District Court; and
 - (b) if so, you will become liable to pay court costs as well as a fine.
- 5 The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

- 6 You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to [*name of enforcement agency*] in the manner specified in this notice and within 14 days after this

notice is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

- 7 You may—
- (a) ask [*name of enforcement agency*] 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.
- 8 To take an action listed in paragraph 7, you must write to [*name of enforcement agency*] at the address shown on this notice. You must sign the written communication and it must be delivered within 14 days after you have been served with this notice, or within any further time that [*name of enforcement agency*] allows.
- 9 If, in your written communication to [*name of enforcement agency*] referred to in paragraph 7, you deny liability for the alleged offence and request a court hearing, [*name of enforcement agency*] will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless [*name of enforcement agency*] 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.
- 10 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 [*name of enforcement agency*],—
- (a) request a hearing; and
 - (b) admit liability for the offence; and
 - (c) set out the submissions you wish the court to consider.
- 11 If you take the action in paragraph 10, [*name of enforcement agency*] will file your written communication with the court (unless [*name of enforcement agency*] 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.

- 12 If [*name of enforcement agency*] offers the ability to pay an infringement fee by instalments and you enter into an instalment arrangement, paragraphs 7(b) and (c) and 8 to 11 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

- 13 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 [*name of enforcement agency*] at the address shown on this notice.

Further details of your rights and obligations

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

Schedule 2 form 2: replaced, on 25 March 2022, by regulation 4 of the Biosecurity (Infringement Offences) Amendment Regulations 2022 (SL 2022/40).

Martin Bell,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 25 March 2010.

Notes

1 *General*

This is a consolidation of the Biosecurity (Infringement Offences) Regulations 2010 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Biosecurity (Infringement Offences) Amendment Regulations 2023 (SL 2023/257)

Biosecurity (National PA Pest Management Plan) Order 2022 (SL 2022/208): clause 32

Biosecurity (Infringement Offences) Amendment Regulations 2022 (SL 2022/40)

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