

GENERAL INFORMATION ABOUT INFRINGEMENT NOTICES

Who can be issued with an infringement notice?

Infringement notices can be issued to any person or body corporate with duties under the Health and Safety in Employment Act 1992 ('HSE Act'). The "person" may be:

- an employer
- an employee
- a self-employed person
- a principal
- a contractor
- a subcontractor
- a person who controls a place of work

Infringement offences

An infringement offence is any offence described in section 50(1) of the HSE Act. It includes most breaches of the legislation. There are two categories of infringement fee:

- (\$800 - \$4,000) Failure to systematically identify hazards in terms of section 7(1) or
- (\$100 - \$3,000) Most other breaches of section 50 (1) of the HSE Act or its regulations.

Setting the fee

The issuing inspector will use their discretion to determine the fee. In doing so, they must take into account:

- Whether or not harm resulted from the offence and
- If so, the extent of any harm; and
- What potential harm could have resulted from the offence and
- The size of the business if an employer, principal or contractor; and
- The financial circumstances of the person and
- The safety record of the person.

For a breach of section 7(1) the issuing inspector need only consider the last three points.

Requirements for notices

Before issuing you with the notice the health and safety inspector must believe on reasonable grounds that you have

breached the HSE Act or regulations. Also, you must have had prior warning of the infringement offence (arising out of or relating to the same or a similar matter) in the form of:

- a written warning from an inspector
- an improvement notice
- a prohibition notice
- an infringement notice
- a conviction for an offence under the HSE Act
- a hazard notice
- a compliance order

An infringement notice must be issued within 14 days of the inspector becoming aware of the alleged offence. You cannot be issued with an infringement notice and later prosecuted for the same matter (unless the offence is continuing or repeated). An infringement notice does not result in a criminal record, but may be considered by a court if you are prosecuted for another breach of the HSE Act.

The inspector may require further information

When considering issuing an infringement notice to a person, an inspector may require the following information from that person.

In the case of an **individual**:

- the person's full name
- whether, in relation to a place of work, the person is 1 or more of the following:
 - an employer
 - an employee
 - a self-employed person
 - a principal
 - a contractor
 - a subcontractor
 - a person who controls a place of work
- the person's date of birth
- the person's residential address and if different, postal address.

[newzealand.govt.nz](https://www.newzealand.govt.nz)



FACT SHEET

In the case of a **body corporate**:

- the body corporate's legal name
- whether the body corporate is one or more of the following:
 - an employer
 - a principal
 - a contractor
 - a subcontractor
 - a person who controls the place of work
- the postal address of the body corporate.

The person is required by law to provide this information. Any information provided will be treated in confidence.

If you are issued with an infringement notice

It will be mailed to you. The back of the Infringement Notice contains a summary of your rights. You are required to pay the infringement fee within 28 days of being served with an infringement notice. Following payment, no further action will be taken for that offence.

Alternatively, you may, by writing to the Department of Labour at the address shown on the Infringement Notice:

- Raise any matter relating to the circumstances of the alleged offence for consideration or
- Deny liability for the offence and request a Court hearing or
- Admit liability for the offence, but wish to have a Court consider written submissions as to the penalty.

If you do not pay the fee within 28 days, and do not elect to take it to Court, you will be served with a reminder notice.

After a further 28 days, reminder notices unpaid or unappealed are passed to the Department for Courts for collection (with costs).

For more information, refer to the Summary of Rights on the back of the infringement notice, or visit the website at: www.dol.govt.nz

