

IMMIGRATION ACT 2009: EDUCATION PROVIDERS

WHO IS THIS FOR?

This factsheet is for New Zealand education providers.

WHAT IS CHANGING?

Education providers who enrol students not entitled to study in New Zealand face penalties, and immigration officers will have powers to enter and inspect records of education providers.

POST-COMPULSORY EDUCATION

The Immigration Act 2009 (the 2009 Act) introduced changes to the offence provisions relating to education providers, including substantially increased fines.

Under s352 of the 2009 Act, it is an offence to allow a student to undertake a course of study which they are not entitled to undertake.

There is a defence under s352, where the education provider can demonstrate that it did not know the person was not entitled to study and took 'reasonable precautions' and 'exercised due diligence' to ascertain whether the person was entitled to undertake the course.

The penalty for allowing a student to undertake a course of study which they are not entitled to undertake is up to \$30,000 (s358(2)), and up to \$50,000 (s358(1)) if knowingly doing so.

The powers for immigration officers to enter education providers' premises and inspect their records (s278) come into force on 3 September 2012.

COMPULSORY EDUCATION

Providers of compulsory education cannot be prosecuted for enrolling a child who is unlawfully in New Zealand. Immigration New Zealand cannot use the powers of entry and inspection to search the records of providers of compulsory education to locate a child or any member of the child's family (s278(3)).

COMPLIANCE

Education providers are responsible for ensuring prospective students hold authority from Immigration New Zealand to study before allowing them to undertake any course of study or training. Where a prospective student does not hold the necessary authority to study, or an education provider is unable to determine this, the provider may either:

- obtain advice from Immigration New Zealand, an immigration adviser licensed under the Immigration Advisers Licensing Act 2007, or a person who is exempt from being licensed under the Immigration Advisers Licensing Act 2007; or
- advise the student to seek advice from Immigration New Zealand, an immigration adviser licensed under the Immigration Advisers Licensing Act 2007, or a person who is exempt from being licensed.
- Education providers who take these steps should meet their obligation to take reasonable precautions and exercise due diligence under the 2009 Act.

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DISCLAIMER

Every care has been taken to ensure the information in this factsheet is accurate. While the use of the information in this factsheet may assist you, Immigration New Zealand will act according to the requirements of the Immigration Act 2009.