Purpose of this guide

From 1 July 2012, commercial airlines operating flights to New Zealand will become liable for infringement fees for breaching certain immigration-related obligations.

This guide is provided to assist airlines to understand how the Carrier Infringement Regime will operate.

Carriers should also read the Information for Airlines Guide (INZ 1117) [which is available on the Department of Labour website], and the Carrier Portal Manual.

NOTE: Operators of private aircraft should refer to the Department of Labour website www.dol.govt.nz for information about their obligations.

Disclaimer

This document is a guide only. It should not be used as a substitute for legislation or legal advice. If this guide differs from the Immigration Act 2009 and/or the Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010, the Immigration (Carriers’ Information Obligations) Regulations 2010, and the Immigration (Carriers’ Infringement Offences, Fees, and Forms) Regulations 2012, the Act and regulations prevail. If you have any doubt about any matter relating to the infringement process, you should seek legal advice.

Transition to the Ministry of Business, Innovation and Employment

The Department of Labour will be integrated into the new Ministry of Business, Innovation and Employment from 1 July 2012. Although the Department will cease to exist from that time, the name will not be phased out immediately, and the Department will continue to work with airlines in the same way it always has. All information included in this guide will continue to apply after 1 July 2012. Airlines will be kept informed about any changes as the transition to the new Ministry progresses.

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Introduction

Airlines flying to New Zealand have obligations under the Immigration Act 2009 (the Act). The obligations that airlines must meet are designed to protect New Zealand’s border and the integrity of the immigration system, by ensuring only people who are eligible to enter New Zealand are allowed to travel to New Zealand.

In general, the obligations relate to providing information to the Department of Labour (the Department) about people intending to travel to New Zealand, complying with any directions from the Department in relation to a person who wishes to travel to New Zealand, and checking the person’s travel documentation before allowing them to travel to New Zealand. Obligations of a similar nature apply in many other countries, and have been in place in New Zealand for some time.

An airline that fails to comply with any of these obligations commits an offence under the Act. The Department has the option of dealing with certain offences as infringement offences, rather than prosecuting the airline. It may also choose to engage with the airline through training, provision of advice or information, or other means.

If an airline commits an infringement offence, the Department may either prosecute the carrier, or serve an infringement notice on the carrier, who will then become liable for an infringement fee.

The level of the fees is set by the Immigration (Carriers’ Infringement Offences, Fees, and Forms) Regulations 2012 which come into force on 1 July 2012.

Infringement fees are paid directly to the New Zealand Government account. Neither the Department, nor Immigration New Zealand (INZ) which provides immigration services on behalf of the Department, receive revenue from infringement fees.
Further information about particular offences

### Outward tickets

The introduction of infringement fees for the offence of failing to check that a passenger holds an outward ticket has been deferred until a later date that is yet to be determined. The fee has been set at NZ$500. In the meantime, airlines are expected to put in place measures to ensure they meet this obligation. INZ, while continuing to monitor airlines’ compliance with this obligation, will carry out a review, to identify any steps that can be taken to assist carriers to meet their obligation to check for outward tickets. The outcome of this review will inform the decision as to when to bring this fee into effect.

### Passenger Name Records requirements

New Zealand is currently considering adopting the guidelines on the provision of Passenger Name Records (PNR) by airlines to government authorities developed by the International Civil Aviation Organisation in association with the World Customs Organisation and the International Air Transport Association.

The guidelines seek to provide a consistent approach to the provision of PNR by setting out a message format known as PNRGOV and transmission standards. These guidelines have been (or are being) adopted by other countries such as Australia, Canada and the United States of America.

A Government interagency working group has been established to develop a joint border policy statement on PNR and consider implementation. The group is comprised of border agency representatives from the Department of Labour (Immigration New Zealand), the New Zealand Customs Service, and the Ministry for Primary Industries.

Border agencies are also engaging with several airlines to inform the implementation of any new policy and technical solutions. The new policy is expected to be in place by November 2012 and a representative from the interagency working group will liaise with airlines on an implementation schedule.

Until this project concludes, INZ is unlikely to infringe airlines for failure to provide PNR, unless it believes that an airline is committing serious and persistent breaches of their PNR obligations. INZ reserves the right to proceed with infringing or prosecuting the airline in such a case. It will consult with other border agencies prior to taking any such action.

### How is the carrier infringement regime administered?

**Immigration New Zealand – Carrier Infringement Unit**

INZ has a Carrier Infringement Unit based in the Immigration Border Operations Centre (IBOC) at Auckland International Airport. Immigration officers within the Carrier Infringement Unit (‘infringement officers’) will administer all aspects of the carrier infringement regime, and other
matters related to airlines’ compliance with their obligations under the Immigration Act 2009 and related regulations.

The contact hours for the Carrier Infringement Unit are 9.00 am to 5.00 pm, Monday to Friday (exclusive of public and departmental holidays).

**Carrier portal**

The carrier portal is the online system by which INZ manages carrier infringements, from the time an alleged infringement is raised, to the closure of the matter. All airlines flying into New Zealand receive training from the Carrier Infringement Unit in how to use the portal.

An airline can view and manage information about its infringements in the portal, and communicate with the Carrier Infringement Unit through the portal.

For instructions on the use of the carrier portal and for contact details for any systems issues, see the *Carrier Portal Manual*.

**High level principles for administering the carrier infringement regime**

The carrier infringement regime is part of a continuum of responses that promote and enforce compliance with immigration-related obligations. The Department’s document *Enforcing the Immigration Act 2009: Carriers and Employers* \(^*\) sets out a comprehensive programme of engagement with airlines to deter and remedy offending. These include:

- education
- training and information
- monitoring and reporting on performance
- 24-hour telephone support for offshore check-in process (through IBOC)
- infringement notices, and
- prosecution.

Infringement officers will assess each instance of offending and decide, on a case-by-case basis, whether or not to issue an infringement notice.

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\(^*\) *Enforcing the Immigration Act 2009: Carriers and Employers* can be found at www.immigration.govt.nz/airlines
In any given case, the decision whether or not to issue an infringement notice, or to take another approach, will be based on the principles in the enforcement document, which are:

- consistency
- proportionality
- public accountability
- fairness
- prioritisation
- openness and accountability, and
- innovation and responsiveness.

Various factors may be taken into account when considering whether or not to issue an infringement notice, including matters raised by an airline in its submissions relating to the alleged offence. The factors that are taken into account and the weight to be accorded to each factor will vary according to the circumstances. Factors that may be taken into consideration include (but are not limited to):

- the response that is likely to achieve the best deterrence against future offending
- the frequency of the offending, and the airline’s response to previous instances of offending
- whether or not there are aggravating features such as manipulation of data to achieve a specific outcome, or multiple data entry errors in relation to a single passenger, and
- the nature of the risk triggered by the breach, including the likelihood of a negative outcome for New Zealand.

There are likely to be other factors which are relevant when an officer decides whether or not to infringe an airline for a particular offence.

Infringement offences are strict liability in nature. This means that it is not relevant whether the person who committed the offence did so intentionally or otherwise.

The Department reserves the right to prosecute an airline for any breach of its obligations.
### Offences under the Immigration Act covered by the carrier infringement regime

<table>
<thead>
<tr>
<th>Provision of the Act</th>
<th>Description of offence</th>
<th>Fee for owner, charterer or agent (NZ$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>349(1)(a)</td>
<td>Without reasonable excuse, failing to obtain and provide Advance Passenger Processing data for a person under section 96(2).</td>
<td>1,000</td>
</tr>
<tr>
<td>349(1)(b)</td>
<td>Allowing a person to travel to New Zealand before a directive has been received under section 97(1).</td>
<td>1,000</td>
</tr>
<tr>
<td>349(1)(c)</td>
<td>Without reasonable excuse, allowing a person to board a craft for the purpose of travel to New Zealand where there has been a directive not to allow the person to board under section 97(1)(b).</td>
<td>5,000</td>
</tr>
<tr>
<td>349(1)(c)</td>
<td>Without reasonable excuse, failing to ensure a person complies with certain conditions specified under section 97(1)(c), except where the condition is to show evidence of an outward ticket.</td>
<td>1,000</td>
</tr>
<tr>
<td>349(1)(d)</td>
<td>Without reasonable excuse, failing to provide Passenger Name Record data for a person under section 102(2)(a).</td>
<td>1,000</td>
</tr>
<tr>
<td>349(1)(e)</td>
<td>Without reasonable excuse, failing to ensure access to Passenger Name Record data for a person under section 102(2)(b).</td>
<td>1,000</td>
</tr>
<tr>
<td>349(2)(a)</td>
<td>Without reasonable excuse, failing to ensure a person has the prescribed travel documentation under section 101(1)(a).</td>
<td>5,000</td>
</tr>
</tbody>
</table>

### Infringement offences

**Failure to provide Advance Passenger Processing (APP) information**

**Description:** Airlines must carry out APP checks on all passengers and crew (including New Zealand citizens) intending to travel to New Zealand, before the craft departs for New Zealand, unless an exemption applies. Failure to carry out the APP check, without reasonable excuse, is an offence.
How must APP checks be completed?

- Airlines should refer to the APP guidelines set out in the guide *People Travelling to New Zealand: Information for Airlines (INZ 1117).*

- All mandatory data fields in the APP system must be completed. Failure to complete all mandatory data fields will be treated as a breach of this obligation.

- All data fields in the APP system must be completed correctly. Information about the passenger must match exactly the biodata information in the person's passport. Incorrect data means that the APP data cannot be validated against INZ’s records. Providing inaccurate APP data will be treated as a breach of the obligation.

- APP crew checks must also be conducted on all crew travelling to New Zealand.

What if an airline has obtained an exemption for a flight?

If the airline’s APP system is down, and it has followed the correct process for contacting IBOC to obtain an exemption for the relevant passengers and crew or flight, it will have a “reasonable excuse” for not providing APP data.

An airline that fails to obtain a flight exemption when there is an APP outage is liable for an infringement fee for each person on the flight for whom APP data was not provided.

**NOTE:** Airlines with a permanent exemption from the requirement to provide APP for a specific route do not commit an offence for failing to provide APP data for persons on that flight.

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*People Travelling to New Zealand: Information for Airlines (INZ 1117)* can be read at www.immigration.govt.nz/airlines.
Common APP issues

<table>
<thead>
<tr>
<th>Issue</th>
<th>Explanation and remedy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biodata</td>
<td>When using the APP system at check-in, airlines should not rely on the biodata information in their reservation systems, as this is sometimes different to the biodata in a passenger’s passport. Airlines should also visually check data obtained through OCR readers or passport scanners. Stained or dirty passports can cause OCR readers to misread the biodata. Check-in staff should always be encouraged to do a visual check of the data inputted.</td>
</tr>
<tr>
<td>Double (or multiple) swipe of passports</td>
<td>Airlines should ensure that each passport for each passenger travelling is correctly swiped once only. Sometimes check-in staff will take the passport of one person from a group of passengers and swipe it for all the persons in that group, instead of swiping each of the other persons’ passports. This is common for infants travelling with parents, tour groups, or family members with similar names. This will result in missing APP data for these people, which is a breach of the obligation to provide APP data for each person.</td>
</tr>
<tr>
<td>Data entry</td>
<td>Inaccurate data entry is one of the main causes of offending. The most common examples of incorrect data entry are:</td>
</tr>
<tr>
<td></td>
<td>• given or family names spelt incorrectly, put in incorrect order, or run together without correct spaces</td>
</tr>
<tr>
<td></td>
<td>• incorrect use of punctuation, including hyphens, and</td>
</tr>
<tr>
<td></td>
<td>• incorrect date of birth, for example incorrect data entered, or data entered in the incorrect order (month and day transposed).</td>
</tr>
<tr>
<td>Country codes</td>
<td>Inputting the wrong nationality code is an offence. The most common error is to mix up Switzerland (CH) and China (CN).</td>
</tr>
<tr>
<td>Travel direction</td>
<td>Check-in staff need to input the travel direction of the passenger correctly to indicate whether they are in transit or whether their destination is New Zealand.</td>
</tr>
<tr>
<td>Passport scanners</td>
<td>The quality and accuracy of passport scanners is the responsibility of the airlines and their check-in agents. Airlines should instruct check-in staff to do a visual check of all data that is scanned into the system from the passport.</td>
</tr>
</tbody>
</table>
Failure to wait for a boarding directive

**Description:** Airlines must not allow a person to board a craft until a boarding directive is received from the Chief Executive of the Department (the Chief Executive).

This offence may occur when an APP outage occurs while a person is checking in, and the airline has reverted to manual processes, for example with respect to checking conditions on a visa. The airline must:

- seek an exemption for the flight (or affected passengers) from IBOC, and
- seek a verbal boarding directive in any case where the person is not admissible to New Zealand on the basis of the travel documentation they hold.

This offence very rarely occurs, and can be avoided by ensuring that airlines follow manual processes when an APP outage occurs. There is no ‘reasonable excuse’ provision for this offence.

Failure to comply with a negative boarding directive

**Description:** An airline must not allow a person to board a plane where a negative boarding directive in relation to that person is received. An airline that allows such a person to board commits an offence, unless there is a reasonable excuse.

This offence, while rare, is taken very seriously by the Department. The Department may opt to prosecute rather than infringe airlines where this occurs.

Failure to ensure person complies with conditions

**Description:** An airline must ensure that a person complies with any conditions specified by INZ, before that person is allowed to board the plane for the purpose of travelling to New Zealand. An airline that fails to ensure the person complies with the condition commits an offence, unless there is a reasonable excuse.

Conditions that may be imposed, as a result of a verbal directive from an immigration officer at IBOC, include checking for sufficient funds, or having the person speak to an IBOC officer over the telephone.
Outward tickets

In some cases airlines are required to ensure that a passenger has evidence of an outward ticket for leaving New Zealand as a condition of the person travelling to New Zealand.

Although this obligation is already in force, the infringement fee for breaching this obligation has been deferred until a later date.

Airlines must ensure that where the APP directive is to board a passenger with an outward ticket, they check that the person has an outward ticket that is valid, and is to a country to which the person has the right to enter. Please refer to People Travelling to New Zealand: Information for Airlines (INZ 1117) for acceptable evidence of an outward ticket.

Airlines will be notified through the carrier portal when a breach of this requirement is detected. See also page 2 for further information.

Failure to check a passenger has the prescribed travel documentation

Description: Airlines must ensure that each passenger boarding the craft has the prescribed travel documentation. Failure to do so is an offence, unless there is a reasonable excuse.

The travel documentation is prescribed in regulations 5(1)(a) and (b) of the Immigration (Carriers’ Information Obligations) Regulations 2010 as:

- a passport or Certificate of Identity, unless exempted in regulations, and
- a visa (if required) or endorsement (of a type described in section 384 of the 2009 Act).

Carriers do not need to check for a visa or endorsement if APP information has been provided for that person.

Checking passports or certificates of identity

An airline must not allow a passenger to travel to New Zealand on a passport that is not recognised by the New Zealand Government.

To ascertain whether a passport or Certificate of Identity is accepted for travel to New Zealand by the New Zealand Government a check-in agent should refer to Timatic and the Administration section of the INZ Operational Manual* (the Operational Manual). Airlines should note that to be acceptable, the travel document must meet the criteria in the

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* The INZ Operational Manual is available at: www.immigration.govt.nz/opsmanual/
Operational Manual, including with respect to the length of time it must be valid.

An airline may also be liable for an infringement fee if it allows a person to travel on a passport or Certificate of Identity that is false or fraudulent, where this is reasonably apparent, or on a travel document that is not that person’s. The Department is likely to consider prosecuting for offending of this nature.

If a person wishing to travel to New Zealand does not have a current passport or Certificate of Identity, but has urgent and compelling reasons to travel to New Zealand, the check-in agent must contact IBOC for clearance to carry the passenger without proper documentation. An immigration officer will assess the circumstances and approve or decline the passenger’s uplift.

Checking visas and endorsements

Airlines are only required to manually check visas or endorsements when an APP check has not been carried out for a passenger (because of an APP outage). In these situations, the airline must contact IBOC to seek an APP exemption before proceeding with manual checks of visas and endorsements in accordance with the steps in the guide People Travelling to New Zealand: Information for Airlines (INZ 1117).

To ascertain whether a person requires a visa for travel to New Zealand, the check-in agent should refer to Timatic and/or the guide.

Failure to provide and ensure access to Passenger Name Record (PNR) information

Description: An airline commits an offence if it fails, without reasonable excuse, to provide prescribed information (PNR) about a person who intended to board the plane for New Zealand (whether or not the person did in fact board the craft), to the Chief Executive of the Department of Labour, on request and within 14 days before or after arrival of craft, in an approved form and manner, where the carrier holds or has access to that information.

An airline also commits an offence if it fails, without reasonable excuse, to ensure the Chief Executive has access to the PNR information.

The prescribed information is listed in regulation 4(2) of the Immigration (Carriers’ Information Obligations) Regulations 2010.
See the information on page 2 with respect to the Department’s approach to breaches of PNR obligations while an interagency approach to the provision of PNR by airlines is developed.

**Multiple offences**

What happens if an airline commits more than one offence when processing a passenger or a group of passengers on a flight?

**Example:** an airline may fail to APP check a passenger, and also fail to check the passenger has the correct travel documentation.

**Example:** an airline has an APP outage, but fails to contact IBOC for an exemption. It allows all passengers to travel without APP processing.

Under the Act, the airline may be served with infringement notices in respect of every offence committed, whether or not they arise from a single act or omission. The legislation does not ‘cap’ the value of the fee that may be imposed.

Whether or not an infringement notice is served with respect to every offence will be at the discretion of the infringement officer, who will take into account the relevant circumstances. One factor the officer may consider is the cumulative value of the fees. It may also be relevant for the officer to consider whether the offences occurred as the result of a single act or omission, or whether there were multiple acts or omissions leading to multiple offences.

As with all enforcement decisions, the officer will be guided by the principles of fairness, proportionality, and consistency when making decisions about multiple offences. In some cases, the most appropriate response may be to prosecute the airline.

**NOTE:** The most likely multiple offence scenario is where an airline fails to obtain an exemption from APP processing during an APP outage. Airlines should take all steps to ensure that check-in staff follow the correct procedures should an APP outage occur.
Some scenarios

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>What if a passenger checks in using a passport for one country, and is correctly APP processed and approved to travel but on arrival, the passenger enters New Zealand using a different passport?</td>
<td>As long as both passports are valid, this is not an offence because the APP and travel document checks were done correctly.</td>
</tr>
<tr>
<td>What if a passenger checks in with correct documentation, and is correctly APP processed and approved to travel, but before arriving, the passenger destroys their documentation?</td>
<td>This is not an offence by the airline because the APP and travel document checks were done correctly.</td>
</tr>
<tr>
<td>What if a passenger checks in with correct documentation, and is correctly APP processed and approved to transit New Zealand, but on reaching New Zealand, the passenger applies to enter New Zealand?</td>
<td>This is not an offence because the APP check was done correctly based on the information provided by the passenger. The passenger’s actions are beyond the control of the airline.</td>
</tr>
<tr>
<td>If an airline that flies into New Zealand has a code-share partner that carries passengers on the first but not final leg of their journey to New Zealand, which airline is responsible for APP or other processing errors?</td>
<td>INZ will infringe the airline that carries the passenger into New Zealand. The infringed airline could pass the cost on to their code-share partner, depending on contractual arrangements between the airlines.</td>
</tr>
<tr>
<td>What if an airline fails to provide APP data for a New Zealand citizen?</td>
<td>Failure to APP or check documentation for a New Zealand citizen may lead to an infringement notice and fee.</td>
</tr>
</tbody>
</table>
What if a passenger checked-in and was allowed to travel on a Kuwaiti Article 17 document?

This could only happen during an APP system outage because the APP system would return a negative boarding directive if information about this document was provided as part of the APP check. Kuwaiti Article 17 documents are not valid for travel to New Zealand because they do not meet the definition of a passport in the Immigration Act 2009. See the Administration section of the Operational Manual. It is likely that the airline would be served an infringement notice and made liable for the fee of NZ$5,000 for this infringement, although in some circumstances, the Department may opt to prosecute the airline instead.
The infringement process – an overview

1. **Receive allegation of infringement offence**
   - Respond to allegation, including as much information and evidence as possible (within 10 working days).

2. **After receiving an infringement notice, an airline may request the Department to take new information into account**

3. **Request review by an infringement officer**
   - Infringement officer takes new information into account.

4. **Pay fine within 28 days?**
   - Yes → Matter closed.
   - No → Request District Court hearing?

5. **Request District Court hearing?**
   - Yes → Department agrees to refer to Court.
   - No → Infringement officer takes new information into account.

6. **Pay fine within 28 days?**
   - Yes → Matter closed.
   - No → Unpaid fine referred to Collections Unit.

7. **Matter closed**
   - (allegation withdrawn).

8. **Alternative enforcement action taken**
   - Notice revoked.

9. **Matter closed**

10. **Unpaid fine referred to Collections Unit**

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**Diagram Notes**
- After receiving an infringement notice, an airline may request the Department to take new information into account.
- The process involves reviewing the case, paying fines, requesting court hearings, and handling appeals.
- Responsibility for matters is closed after either the allegation is withdrawn or alternative enforcement action is taken.

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**Flowchart**
- The flowchart provides a visual representation of the infringement process, showing decision points and outcomes at each step.
The stages of the infringement process

Stage one – detection, verification and allegation of an infringement offence

For each potential infringement offence, INZ will carry out an investigation to identify whether or not there are reasonable grounds to believe that an offence has occurred and, if so, whether there may be a reasonable excuse for the offending (if this defence is available under the Act). It will also consider whether an alternative enforcement approach, including prosecution, is likely to be appropriate.

**NOTE:** Because infringement offences are strict liability it is not necessary to prove that an airline intended to commit the offence.

INZ will investigate and notify all allegations of offending to an airline as soon as possible. In most cases this will be within 24 hours of arrival of the passenger. INZ will endeavour to notify all allegations of offending within five working days.

**If the offence is verified to the satisfaction of an immigration officer:**
INZ will set the status of the infringement record in the carrier portal to ‘substantiated’. The airline will be sent an email notification that there is an alleged infringement in the portal. This email will include details of the alleged offence, such as the flight number, date of arrival, port, and passenger details.

**If the offence is verified, but INZ decides not to proceed with issuing an infringement notice to the airline:** The status of the infringement in the carrier portal will be changed to ‘withdrawn’. An email will be sent to notify the airline about the alleged infringement offence, and the decision not to proceed with issuing an infringement notice to the airline.

**NOTE:** Where it is detected that an airline has failed to check that a passenger has an outward ticket, INZ will advise the airline of the breach.
through the portal. INZ reserves the right to prosecute an airline for offences of this nature. See page 2 for further information.

**Stage two – airline’s opportunity to respond to an allegation**

The airline will investigate the circumstances surrounding the alleged offending, for example, by talking with the relevant check-in agent, and viewing systems records.

An airline may then make a submission to INZ regarding the allegation. The submission is made through the carrier portal, by inserting comments and attaching relevant documents to the Case Notes section of the infringement record. By clicking on ‘respond to allegation’ in the portal, the submission will be sent to INZ. The submission should be received by the Carrier Infringement Unit within 10 working days of the allegation being notified to the airline.

If it is not possible to comply with this time frame in a particular case, please discuss this with the infringement officer.

<table>
<thead>
<tr>
<th>When responding to an allegation, an airline is advised to inform INZ as fully as possible of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• whether or not it accepts the allegation</td>
</tr>
<tr>
<td>• if the offence did occur, the reason it occurred</td>
</tr>
<tr>
<td>• what steps will be taken to ensure it does not happen again, and</td>
</tr>
<tr>
<td>• any other comments pertinent to the allegation.</td>
</tr>
</tbody>
</table>

Any relevant documentary evidence should be attached to the submission. The airline must also inform INZ about any changes to their registered legal name or postal address.

INZ will consider the response and will either confirm or withdraw the allegation.

If the allegation is withdrawn, the status of the infringement record will be updated in the portal and the airline will receive an email. This is the end of the matter.

If the allegation is confirmed, INZ may serve an infringement notice (see stage three), or may take alternative measures to enforce compliance.

**Stage three – infringement notice served**

If INZ proceeds with serving an infringement notice, this will be served on the airline both electronically (by email) and in hard copy, either in person or by registered post. The notice will be served to the owner,
charterer or agent in New Zealand. In practice this will generally be the airline’s company office.

If the notice is posted, it is deemed to be served on the date on which it was posted.

If the notice is served in person, the airline representative will be asked to acknowledge receipt of the notice.

The infringement record in the carrier portal will be updated to show that an infringement notice has been served.

The format of the infringement notice is prescribed by regulations. A sample infringement notice is included at Appendix one: sample infringement notice.

**Stage four – following service of an infringement notice**

Airlines have three options following service of an infringement notice.

1. **Pay the fee**

   Information about how to pay the fee is included on the infringement notice. The airline can:
   - pay by direct credit
   - pay by bank cheque
   - pay by telegraphic transfer.

   If the infringement fee is paid within 28 days after the issue of the notice, no further proceedings will be taken, and the infringement record will be updated (closed) in the carrier portal.

2. **If the airline wishes to raise any matter in relation to liability for the offence, it can write to the Carrier Infringement Unit, within 28 days after the notice was served.**

   An infringement officer will consider the request for review, and either uphold or revoke the infringement notice.

   **NOTE:** Because airlines have the opportunity to present evidence about the circumstances of the offending earlier, only new information is likely to be considered. The airline will need to explain why that information was not available earlier.

   If the officer decides to revoke the notice, the airline will be notified in writing and the infringement record will be updated in the carrier portal. This is the end of the matter.
If the notice is upheld, the airline will be notified by email and the infringement record will be updated in the carrier portal.

3. The airline may request to have the matter heard in a New Zealand court of law under the Summary Proceedings Act 1957. The request for a hearing must be made in writing, signed, and delivered to the Department of Labour. This may be at any time following the service of an infringement notice, but within 28 days of service of a reminder notice. Unless the Department decides not to commence court proceedings, the Department will file the letter and request for a hearing with the court. Further details can be found on the infringement notice.

Reminder notice

If, within 28 days of service, the infringement notice is not revoked, the fee is not paid, or a request for a hearing has not been received by the Department, then the airline will be issued with an infringement offence reminder notice.

The reminder notice will be served on the airline both electronically (by email) and in hard copy, either in person or by registered post.

The infringement record in the carrier portal will be updated to show that a reminder notice has been served.

The format of the reminder notice is prescribed by regulations. A sample reminder notice is included at Appendix two: sample infringement offence reminder notice.

Stage five – enforcement action

If the fee is not paid within 28 days of issue of a reminder notice, the matter will be referred to the District Court for collection of the debt. Additional charges (costs) will be imposed with respect to collection of the debt.

For more information about the process in relation to fines collection, go to www.justice.govt.nz/fines/fines.
## Contacts

<table>
<thead>
<tr>
<th>Carrier Infringement Unit</th>
<th>The Carrier Infringement Unit is available between the hours of 9.00 am – 5.00 pm, Monday to Friday (exclusive of public and departmental holidays) by email at <a href="mailto:infringement@dol.govt.nz">infringement@dol.govt.nz</a>.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration Border Operations Centre (IBOC)</td>
<td>The Immigration Border Operations Centre is available by telephone 24 hours a day, seven days a week at +64 9 277 1250. If you are phoning from an Australian airport, use the toll-free number: 1800 156 260. You can also contact the centre via telex on AKLAPXH or by email at <a href="mailto:apsso@dol.govt.nz">apsso@dol.govt.nz</a>.</td>
</tr>
</tbody>
</table>

## References

| Legislation (available at www.legislation.govt.nz) | • Immigration Act 2009  
• Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010  
• Immigration (Carriers’ Information Obligations) Regulations 2010  
• Immigration (Carriers’ Infringement Offences, Fees, and Forms) Regulations 2012  
• Summary Proceedings Act 1957 |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| INZ publications | People Travelling to New Zealand: Information for Airlines [INZ 1117]  
Enforcing the Immigration Act 2009: Carriers and Employers Carrier Portal Manual |
## Definitions

| Certificate of Identity | (a) means a document (other than a passport) issued by the government of any country to any person for the purposes of facilitating that person’s entry into or exit from any country, being a document that—
|                         | (i) purports to establish the identity but not the nationality of that person; and  
|                         | (ii) confers on that person a right to enter the country whose government has issued the document; and  
|                         | (b) includes—  
|                         | (i) any emergency travel document or refugee travel document issued under the Passports Act 1992; and  
|                         | (ii) any travel document issued by any international organisation for the time being specified by the Minister for the purpose of this definition. |
| Passport                | means a document that is issued by or on behalf of the government of any country and that is recognised by the Government of New Zealand as a passport, being a document that—  
|                         | (a) purports to establish the identity and nationality of the holder; and  
|                         | (b) confers on the holder the right to enter the country the government of which has issued the document; and  
|                         | (c) has not expired. |
| Visa waiver             | Visitors from certain countries are waived the requirement to hold a visa to travel to New Zealand. On arrival at the border they may apply for and be granted entry permission and a visa allowing them to stay in New Zealand for a defined period of time.  
|                         | Nationals from other countries must apply for and be granted a visa prior to travelling to New Zealand. |
Appendix one: sample infringement notice

Infringement notice

Section 362, Immigration Act 2009

Infringement notice number: IN05010
Date of infringement notice: 12/Jun/2012
Infringement notice served on—
Full name (or company name): Test Carrier
Full postal address (residential or business):
   Postal Line 1
   Postal City 1234
   Postal Country

Alleged infringement offence details
Offence (time, place, and nature): Section 349 (1)(a) Fails without reasonable excuse to comply with any of the carrier’s or the person’s responsibilities under 96(2), Regulation 4
Infringement fee payable: $1,000.00

Passenger’s or crew member’s details (if applicable)
Name: JOHN STEPHEN BLOGGS
Date of birth: 25/Jun/1959
Nationality: Andorra
Travel document number: 102676331
Flight number or craft identifier: NZ001
Arrival date: 17/Nov/2010
Arrival port: Auckland International Airport

Issuing details
Issuing officer: DoL User1
Method infringement notice served by: Personal Service
Address of service:
   Delivery Line 1
   Delivery City 4321
   Delivery Country
Date infringement notice served: 12/Jun/2012

Procedures for payment of infringement fee
You are liable to pay the infringement fee. If it is not paid within 28 days, a reminder notice will be served.
Infringement fees may be paid to the Department of Labour by any of the following methods:

Direct credit to Westpac Account 030049-002701-28 or by cheque

Please quote the infringement notice number shown above.
Cheques must be payable to the Department of Labour and must be crossed and marked “Not transferable”, and sent to-

Department of Labour
PO Box 3705
Wellington
New Zealand
Attention: Finance

Information about infringement offences
Note: You should consult a lawyer immediately if there is anything in this notice that you do not understand.
Payment of infringement fee
1 If you pay the infringement fee within 28 days after service of this notice, no further action on the infringement offence will be taken. Payment must be made to the Department of Labour in accordance with the instructions in this notice.

Further action
2 If you want to raise any matter relating to the circumstances of the offence, you must do so by writing to the Department of Labour at the address shown at the end of this notice within 28 days after service of this notice.

Defences
3 You have a defence against any proceedings for the offence if you can prove that the infringement fee was paid to the Department of Labour by one of the payment methods specified in this notice within 28 days after service of a reminder notice.

Right to request hearing
4 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 Department of Labour at the address shown at the end of this notice within 28 days after service of 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.
If you deny liability for the offence and request a hearing, the Department of Labour 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 Department of Labour 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.
If you admit liability for the offence but want the court to consider your submissions, you must, in your request for a hearing,—
(a) admit the offence; and
(b) set out the written submissions that you want the court to consider.

The Department of Labour will then file your letter and request for a hearing with the court (unless the Department of Labour 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.

Consequences of taking no action
5 If, within 28 days after service of this notice, you have not paid the infringement fee and the Department of Labour has not received a request for a hearing, you will be served with a reminder notice (unless the Department of Labour decides not to pursue the matter).
If, within 28 days after service of a reminder notice, you have not paid the infringement fee and the Department of Labour 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 the Department of Labour decides not to commence court proceedings).

Questions and other correspondence
6 In any correspondence, please include—
(a) the date of this notice; and
(b) the infringement notice number; and
(c) the course of action you are taking on the offence; and
(d) your full address for replies.

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

Department of Labour’s postal address for correspondence (for postal address for payment, see above)

Department of Labour
PO Box 73007
Auckland
New Zealand
Attention: Carrier Infringement Unit
Appendix two: sample infringement offence reminder notice

Reminder Notice  
Section 363, Immigration Act 2009

Reminder notice number: RN05010  
Date of reminder notice: 12/Jun/2012  
Reminder notice served on—  
Full name (or company name): Test Carrier  
Full postal address (residential or business):  
Postal Line 1  
Postal City 1234  
Postal Country

Alleged infringement offence details  
Offence (time, place, and nature): Section 349 (1)(a) Fails without reasonable excuse to comply with any of the carrier’s or the person’s responsibilities under 96(2), Regulation 4  
Infringement fee payable: $1,000.00

Passenger’s or crew member’s details (if applicable)  
Name: JOHN STEPHEN BLOGGS  
Date of birth: 25/Jun/1959  
Nationality: Andorra  
Travel document number: 102676331  
Flight number or craft identifier: NZ001  
Arrival date: 17/Nov/2010  
Arrival port: Auckland International Airport

Service details  
Test reminder notice Service Details text.

Issuing details of infringement notice  
Issuing officer: DoL User1  
Method infringement notice served by: Personal Service  
Address of service:  
Delivery Line 1  
Delivery City 4321  
Delivery Country  
Date infringement notice served: 12/May/2012

Issuing details of reminder notice  
Issuing officer: DoL User2  
Method reminder notice served by: Registered Post  
Address of service:  
Postal Line 1  
Postal City 1234  
Postal Country  
Date reminder notice served:  
The last day for payment is , which is 28 days from the date of service recorded in the notice.

Procedures for payment of infringement fee  
Infringement fees may be paid to the Department of Labour by any of the following methods:  

Direct credit to Westpac Account 030049-002701-28 or by cheque  

Please quote the infringement notice number shown above.  
Cheques must be payable to the Department of Labour and must be crossed and marked "Not transferable", and
Information about infringement offences
Note: You should consult a lawyer immediately if there is anything in this notice that you do not understand.

Payment of infringement fee
1 If you pay the infringement fee within 28 days after service of this notice, no further action on the infringement offence will be taken. Payment must be made to the Department of Labour in accordance with the instructions in this notice.

Further action
2 If you want to raise any matter relating to the circumstances of the offence, you must do so by writing to the Department of Labour at the address shown at the end of this notice within 28 days after service of this notice.

Defences
3 You have a defence against any proceedings for the offence if you can prove that the infringement fee was paid to the Department of Labour by one of the payment methods specified in this notice within 28 days after service of this notice.

Right to request hearing
4 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 Department of Labour at the address shown at the end of this notice within 28 days after service of this notice.

Note: If the court finds you guilty of the offence, it may impose costs in addition to any fine.

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.

If you deny liability for the offence and request a hearing, the Department of Labour 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 Department of Labour decides not to commence court proceedings).

If you admit liability for the offence but want the court to consider your submissions, you must, in your request for a hearing,—
(a) admit the offence; and
(b) set out the written submissions that you wish the court to consider.

The Department of Labour will then file your letter and request for a hearing with the court (unless the Department of Labour 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.

Consequences of taking no action
5 If, within 28 days after service of this notice, you have not paid the infringement fee and the Department of Labour 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 the Department of Labour decides not to commence court proceedings).

Questions and other correspondence
6 In any correspondence, please include—
(a) the date of the infringement notice; and
(b) the infringement notice number; and
(c) the date of this notice; and
(d) the reminder notice number; and
(e) the course of action you are taking on the offence; and
(f) your full address for replies.

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

Department of Labour’s postal address for correspondence (for postal address for payment, see above)

Department of Labour
PO Box 73007
Auckland
New Zealand
Attention: Carrier Infringement Unit