



## Compliance and Enforcement

# Civil Infringement Notices

### What is an infringement notice?

An industrial inspector may issue a civil infringement notice (infringement notice) to a person where they reasonably believe the person has contravened a 'record-related civil penalty provision' under the *Industrial Relations Act 1979*.

An infringement notice contains details of the alleged contravention, and specifies a penalty amount to be paid. It is similar to an 'on-the-spot' fine.

Examples of contraventions that may attract an infringement notice include where an employer fails to:

- give pay slips to employees;
- record daily start and finish times of employees, including meal breaks;
- record gross and net amounts paid to employees for each pay period;
- record any cash payments made to employees;
- keep employment records for the required length of time;
- produce employment records to an industrial inspector when required to do so.

Record keeping and pay slip requirements can be viewed at

[www.dmirs.wa.gov.au/employmentrecords](http://www.dmirs.wa.gov.au/employmentrecords).

The Roles and powers of industrial inspectors can be viewed at

[www.dmirs.wa.gov.au/PSLRcomplianceetools](http://www.dmirs.wa.gov.au/PSLRcomplianceetools).

## When can an infringement notice be issued?

Before issuing an infringement notice, an industrial inspector must reasonably believe that a contravention of a record-related civil penalty provision has occurred. For example, an inspector could form this belief after conducting a physical workplace inspection or speaking with the employer and employees.

An infringement notice is an alternative to an industrial inspector taking enforcement proceedings in the Industrial Magistrates Court.

There are a number of factors that an industrial inspector will consider when deciding whether to issue an infringement notice to a person, and if so, the penalty amount. These factors include:

- the seriousness of the contravention;
- the number of employees affected;
- whether the person has taken remedial action; and
- the person's past compliance history and attitude towards compliance.

An infringement notice must be issued within 12 months after the day the contravention occurred.

## Infringement notice penalties

An infringement notice may specify a maximum penalty of \$6,500 for a body corporate and \$1,300 for an individual.

An industrial inspector will consider the nature of the contravention and the circumstances surrounding it before deciding on an appropriate penalty amount.

For example, a higher penalty amount may apply where an employer fails to comply with multiple record-keeping obligations.

If an employer does not comply with any of their record-keeping obligations, or fails to comply with key obligations such as giving pay slips, then an infringement notice may not be appropriate. Enforcement proceedings against the employer may be appropriate in such cases.

Paying an infringement notice penalty is not an admission of having committed a contravention. Once the penalty is paid, no proceedings can be brought against the person for the alleged contravention.

## How to pay an infringement notice penalty

When an industrial inspector issues an infringement notice, the penalty amount must be paid within 28 days after the day the notice is served. The notice will clearly identify the due date and methods of payment.

If a person is unable to pay the penalty amount by the due date, they may request an extension of up to a further 28 days by completing a [Request extension of time to pay infringement notice form](#) and forwarding it to the nominated person specified in the infringement notice.

The request must be made before the end of 28 days after the person received the notice.

## Withdrawal of an infringement notice

A person issued with an infringement notice may request that it be withdrawn by completing an [Application for withdrawal of an infringement notice form](#) and forwarding it to the nominated person specified in the notice.

The request must be made before the end of 28 days after the person received the notice.

An industrial inspector may also decide to withdraw an infringement notice.

## What happens if an infringement notice penalty is not paid?

If a person fails to pay an infringement notice, proceedings may be taken in the Industrial Magistrates Court under section 83E of the *Industrial Relations Act 1979* to enforce the relevant record-related civil penalty provision.

The maximum penalty that can be imposed by the Industrial Magistrates Court for each contravention is:

- \$65,000 for a body corporate (\$650,000 if the contravention is a serious contravention); and
- \$13,000 for an individual (\$130,000 if the contravention is a serious contravention).

## Disclaimer

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