

Employer Stand-Down Periods Fact Sheet – 2017

From 1 April 2017, employers who have incurred a sanction for a breach of employment standards now face a set stand-down period preventing them from recruiting migrant labour.

[Immigration instructions](#) require that a visa applicant's employment be with an employer who is compliant with New Zealand employment and immigration law and has a history of compliance.

Punitive sanctions for breaches of employment standards are issued by the Labour Inspectorate (within the Ministry of Business, Innovation and Employment (MBIE)), Employment Relations Authority (ERA) or the Employment Court.

Stand-down periods range from six months, one year, 18 months or two years, depending on the type and severity of the sanction - e.g. an infringement notice will always result in a six month stand-down. Employers on the stand-down are unable to sponsor new visas to recruit migrant labour.

What type of employers does this affect?

The new measures apply to all employers intending to recruit migrant labour, including those employers who are: supporting work visa applications and approvals in principle; seeking accredited employer status or supporting residence class visa applications based on employment; and employers who are part of the Recognised Seasonal Employer scheme.

What kind of penalty is included?

- Infringement Notices issued by the Labour Inspectorate (MBIE)
- Penalties issued by the Employment Relations Authority or the Employment Court
- Declarations of breach, banning orders and pecuniary penalties issued by the Employment Court.
- Employers issued with penalties as a result of private actions taken by employees either through the Employment Relations Authority or the Employment Court are also included.

How does Immigration New Zealand know who has incurred penalties?

The Labour Inspectorate maintains a public list of employers who have breached minimum employment standards. This information is also provided to Immigration New Zealand.

The list is published on employment.govt.nz and is updated weekly.

www.employment.govt.nz/resolving-problems/steps-to-resolve/labour-inspectorate/employers-who-have-breached-minimum-employment-standards

Note stand-down periods do not apply to employers who received infringement notices or penalties prior to 1 April 2017.

Employers who have challenged their penalties will remain on the list until the outcome of their challenge.



What happens if employers are found to be non-compliant and already have migrant workers in their employment?

These employees will be able to work out the duration of their work visa, but will not be granted further work visas to work for the employer until they have completed the stand-down period.

Examples

Example (a): Company X was added to the stand-down list on 28 April 2017 after they were issued an infringement notice for \$3000 by the Labour Inspectorate for failing to provide individual employment agreements to three employees. Infringement notices are issued by labour inspectors as a result of an employer committing a clear cut breach of their obligation to keep records of employment, for \$1000 per breach, up to a maximum of \$20,000. Any employer issued an infringement notice is immediately placed on the stand-down list for six months. Company X was removed from the list on 28 October 2017.

Example (b): Company Y was ordered to pay a \$70,000 penalty after serious breaches of minimum wage, holiday pay, and record keeping were uncovered by the Labour Inspectorate. As a result they have been placed on the stand-down list for a period of two years, ending 7 September 2019. In addition, this employer is liable to pay arrears back to the affected employees totalling more than \$150,000. More details on this case can be found on the employment.govt.nz website, or the employment law database.

Example (c): Company Z was ordered to pay a \$6000 penalty by the Employment Relations Authority after a former employee made the application following an unjustified dismissal. The employer was penalised by the authority for making unlawful deductions from the employees' wages following a dispute over the recording of hours worked, during which the employer made deductions without properly notifying or gaining written consent from the employee. As a result the employer is on a 12 month stand-down period, ending 22 August 2018.

Further Information

List of employers who have breached minimum employment standards

www.employment.govt.nz/resolving-problems/steps-to-resolve/labour-inspectorate/employers-who-have-breached-minimum-employment-standards

FAQ's about the list on the Immigration New Zealand website

<http://www.immigration.govt.nz/about-us/media-centre/news-notifications/non-compliant-employer-list-implemented>

Immigration Instructions

<https://www.immigration.govt.nz/about-us/policy-and-law/how-the-immigration-system-operates/immigration-instructions>