

# Offence notices

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## Offence notices, Continued...

### **Policy statement & principles**

This section contains the following topics:

- What
- How
- Why

#### **What**

Infringement notices are legal notices issued on prescribed forms for a variety of mostly minor offences (e.g. speeding).

Infringement notices are a quick and cost-effective means of enforcement of minor breaches of the law without having to prepare a charging document.

#### **Why**

Road policing is an integral part of Police's business, contributing to reducing crime and social harm and building public trust and confidence.

Enforcement of traffic offending is complementary to prevention activity and supports partnerships that are crucial to reducing road trauma and crime.

#### **How**

Police has three infringement notices that are integral to addressing traffic offending:

- Stationary Vehicle Offence Infringement (Carbonised form)
- Overloading Offence Infringement Notice (Carbonised form)
- Infringement Offence Notice (OnDuty application)

## Offence notices, Continued...

### Overview

This section contains the following topics:

- [Introduction](#)
- [Three types of infringement notice](#)
- [Charging document](#)

### Introduction

Infringement notices are issued for a variety of (mostly) minor offences (e.g. speeding). Issuing an infringement notice is a quick and cost-effective means of enforcement of minor breaches of the law without having to prepare a charging document.

This chapter explains how to use infringement offence notices (IONs), generally issued under section [139](#) of the Land Transport Act 1998 (LTA).

### Three types of infringement notice

Addressing traffic offending is integral to a Police employee's duties. For this purpose, there are three types of infringements available:

|              | Name   | Format             |
|--------------|--|--------------------|
| <b>SVOIN</b> | <a href="#">Stationary Vehicle Offence Infringement Notice</a> | Carbonised form    |
| <b>OOIN</b>  | <a href="#">Overloading Offence Infringement Notice</a>        | Carbonised form    |
| <b>ION</b>   | <a href="#">Infringement Offence Notice</a>                    | OnDuty application |

**Note:** Refer to the 'Alcohol' related chapters for information about [Alcohol Infringement Offence Notices \(AION\)](#) (POL1030).

### Charging document

Where a driver is to be processed by way of a court hearing, the matter must be proceeded by preparing a charging document. This charging document can include infringement-only matters in particular circumstances. Consider if it may be appropriate to issue a summons (POL2141).

|                   | Name  | Format  |
|-------------------|---|---|
| Charging Document | If a person requests a court hearing, subsequent to the issuing of an infringement, the file is prepared by the Police Infringement Bureau. | File initiates 'NIA entry' that generates charging document |

For more information about issuing summonses, refer to the '[Criminal procedure](#)' chapter of the Police Manual.

## Offence notices, Continued...

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### Infringement notices

This section contains the following topics:

- [How to serve an infringement notice](#)
- [Audit](#)
- [Time limit](#)
- [Table of penalties](#)
- [Enforcing fees and fines](#)
- [Transient offenders](#)
- [Infringement notice cancellation or withdrawal](#)
- [The infringement notice process](#)

If a person is alleged to have committed an infringement offence, they may be either:

- proceeded against by the filing of a charging document for the offence (unless it is an overloading offence); or
- served with an infringement notice under section [139](#) of the LTA.

**Note:** Police no longer need leave of a Judge or Registrar in order to initiate a prosecution for an offence listed as an infringement offence in the LTA. However, because of the advantages inherent in the infringement system and to avoid clogging the courts with minor cases, an infringement notice should be issued directly to the individual.

#### Exception is a SVOIN

Stationary Vehicle Offence Infringement Notices (SVOINs) are issued under section [139\(1\)](#) of the LTA. If an enforcement officer has reasonable cause to believe an infringement offence is being, or has been, committed, the officer can issue an infringement notice and leave on an unattended vehicle or hand to the owner or driver, or post it.

#### How to serve an infringement notice

An ION may be served by:

- attaching it, or a copy, to the vehicle;
- personally delivering it, or a copy, to the person; or
- posting it, or a copy, to the person at their:
  - last known residence or business or postal address, or
  - if they hold a land transport document, the last address provided for that document.

**Note:** In the event of a major Mobility network outage record all details in your notebook until the network is restored.

#### Audit

All infringement notices are accountable and the numerical sequence can be audited by departmental auditors and/or Treasury.

#### Time limit

Infringement notices should be served (affirmed) within 5 days of the offence but no later than four months. Statutory time frames may not be met if a notice is served beyond four months of the date of the offence, meaning the notice may not be proceeded with.

The Summary Proceedings Act allows an offender 28 days (and a further 28 days) plus time for postal delivery to pay the fee, reducing the available time for serving the notice to four months after the offence was committed.

## Offence notices, Continued...

### Table of penalties

For a list of the fees and penalties refer to the [Precedent Code Index](#).

### Enforcing fees and fines

An infringement notice recipient can pay the fee or challenge the notice by either:

- writing to the issuing authority; or
- by electing a court hearing.

This is what happens when the recipient takes no action.

| If . . .                                      | then . . .  |
|---|---|
| the fee is not paid within 28 days from issue | PIB sends the person a reminder notice.   |
| the fee is not paid within another 28 days    | PIB may file a copy of the reminder notice in court.  |
| the reminder notice is filed in court         | the courts orders the person to pay a fine equal to the infringement fee plus court prescribed costs. It also becomes an unpaid fine in the court's collections unit. |

### Transient offenders

Infringement notices may have to be issued to transients or people without a permanent address. This type of offender may not have or claim not to have an address, i.e., people who live in a vehicle or a tourist travelling through New Zealand.

Offenders issued with an infringement notice must provide an address. If an address is not provided then:

- the notice cannot proceed beyond the initial 28 day period for fee payment, and
- an opportunity to create a change in offender behaviour for improving road safety or wider community safety is lost.

Where an offender claims to have no address, ask them for any one of these:

- Bank account address. Almost all offenders will have a bank account which will have a postal address, to which the notice can be posted.
- 'Care of' address. Their relatives or friends may be able to accept mail on their behalf.
- Driver licence address.
- Vehicle registration address, if it is in the name of the offender.
- An overseas address can be provided by those outside New Zealand. If they are in a rental vehicle, and there are language difficulties, then use the address in the rental agreement.

If an address cannot be identified, an innovative response to the offence must be taken.

Professional judgement will be required, taking into account the circumstances of each case.

### Infringement notice cancellation or withdrawal

Any application to have an infringement notice cancelled or withdrawn must be made in writing to the Customer Services Manager, Police Infringement Bureau (PIB).

Police employees who have been issued with a notice (whether the notice was issued on or off-duty), and want the infringement notice reviewed, with a view to having that notice withdrawn or cancelled, **will be treated like any member of the public** and must also make an application in writing to the Customer Services Manager, Police Infringement Bureau (PIB).

## Offence notices, Continued...

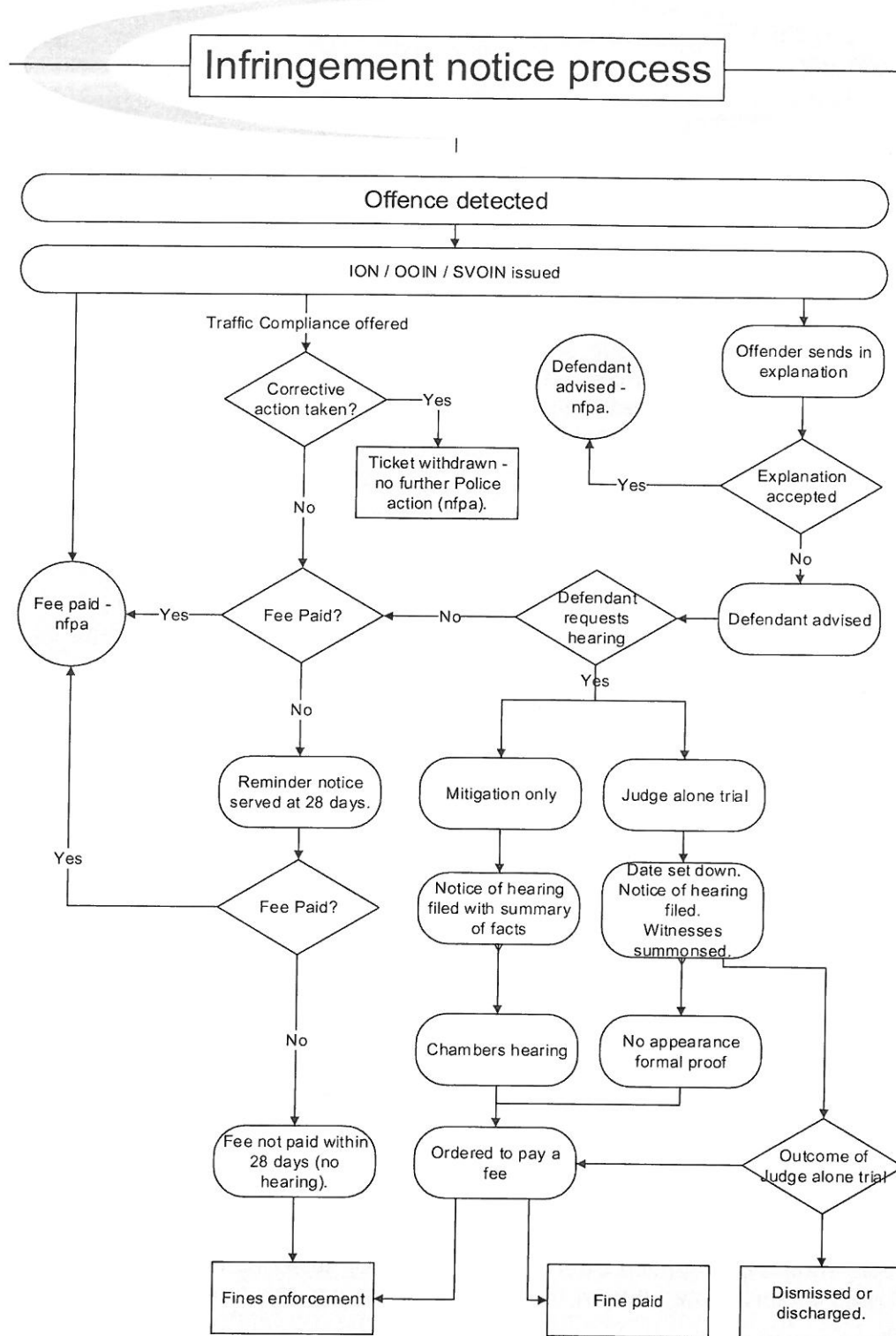
The application must fully detail the reasons for the request. The Adjudication Manager's decision is final. A review application by the Manager (Adjudication) or her/his family member or friend, must be referred to the Manager PIB for action.

If the notice has been actioned by Police and the fee is with the Ministry of Justice for fines enforcement, only the PIB can make application to have the notice withdrawn or cancelled. The same review process applies.

**Note:** If this process is not followed, and an application to withdraw or cancel a notice is made directly to the Ministry of Justice Centralised Processing Unit by a Police employee (other than the Customer Services Manager: PIB), the application will be forwarded to the Manager: Police Infringement Bureau for review.

# Offence notices, Continued...

## The infringement notice process



## Offence notices, Continued...

### Infringement offence notices (ION)

This section contains the following topics:

- [What is an ION used for?](#)
- [Processing an ION](#)
  - [Traffic compliance scheme](#)
  - [Infringement notice service](#)
- [When to use other types of notices](#)
- [Children and young persons who commit an infringement offence](#)
- [Issuing an ION following a non-fatal traffic crash](#)
- [Combined criminal and infringement offences](#)

#### What is an ION used for?

Section [138](#) of the LTA authorises issue of infringement offence notices (ION) to persons alleged to have committed infringement offences. An ION is normally issued for traffic offences such as exceeding the speed limit, invalid warrant of fitness or outdated vehicle registration, but not for parking or heavy vehicle infringements. The relevant fees are listed in the specimen charge book.

While section [138](#) of the LTA also provides for offenders to have the matter heard in court, issuing IONs avoids clogging the courts with potentially minor cases.

**Note:** Each ION is an accountable 'form', with individual notice numbers assigned directly to enforcement officers. Copies of notices can be printed from SMART reports.

#### Processing an ION

Refer to OnDuty ION training material.

Only three infringements can be completed on each ION.

When dealing with the driver answer any reasonable and relevant questions and advise them that the notice will be posted to the address they have provided. Upon completion of the notice the driver is free to go, unless enforcement action dictates otherwise.

#### Traffic compliance scheme

The '[Traffic compliance scheme](#)' is available for some offences. The scheme is managed by the Police Infringement Bureau.

#### Infringement notice service

All OnDuty IONs are served on the driver within 7 days of the officer affirming the notice.

The issue date is deemed to be the date the ION is posted to the driver. This also includes overseas drivers.

Overseas drivers should be supplied the notice number (by selecting reveal), fee payable, and the Police website address to enable them to pay the fine online if they wish to do so.

#### When to use other types of notices

Follow the rules in this table for other type of notices.

| If . . .  | then . . .  |
|---|---|
| you detect a major offence at the same time as an ION offence | use the summons procedure if appropriate in relation to the major offence, and write an ION for the other relevant offence. |



## Offence notices, Continued...

|  |   |
|--|---|
| you detect a parking infringement                  | issue an SVION.   |
| you detect an overloading offence                  | issue an OION.  |
| you detect a <u>road user charges</u> infringement | issue an ION.<br><b>Note:</b> Never issue an OION for road user offences. |

### Children and young persons who commit an infringement offence

Refer to this [guidance](#) when dealing with children and young persons.

### Issuing an ION following a non-fatal traffic crash

An ION can be issued following a crash without significant consequences (unless the charge is "careless operation of a vehicle" as that is not an infringement offence) by:

- waiting until all enquiries are complete
- informing all parties of any action you are taking
- issue an ION.

**Note:** If the file is needed for a Judge-alone trial, PIB will return the file to the constable in charge.

### Combined criminal and infringement offences

The summons procedure can be commenced at the same time that an ION is issued, where multiple offences have occurred. For example, if a driver is stopped because the vehicle headlight is faulty and the driver is found to have committed a court level drink impairing driving offence, you can issue an ION for the headlight offence and serve a summons for the alcohol offence.

Where a criminal offence and an infringement level traffic offence have occurred:

- issue an ION for the infringement offence
- if a summons is used to bring the defendant to court for a criminal offence, it can also be used in relation to an infringement offence, unless that matter is dealt with by way of an ION.

If a dual process is followed:

- it is helpful to cross-reference the ION number on the summons, and
- ensure that the Summary of Facts, presented to the court, lists the ION offence/s.

Ensure you are aware of, and meet, any disclosure and prosecution file requirements.

## Offence notices, Continued...

### Stationary vehicle offence infringement notice (SVOIN)

This section contains the following topics:

- [When to issue a SVOIN](#)
- [Completing a SVOIN](#)
- [Serving a SVOIN](#)
- [Towing fees](#)
- [Parking offences and fees](#)

#### When to issue a SVOIN

A SVOIN is used for all parking infringements or when a vehicle is parked and has any or all of the following:

- a smooth, worn or damaged tyre
- no warrant of fitness or certificate of fitness
- no current vehicle licence label displayed
- the registration plates incorrectly attached, or not attached at all
- no red marker light at night in goods service vehicles
- unauthorised, deceptive or obscured registration plates.

**Note:** If a vehicle has no licence plates attached and no licence label displayed, a SVOIN cannot be issued.

#### Completing a SVOIN

Write a summary and/or draw a diagram on the back of the [notice](#).

**Note:** Only one offence can be recorded for each SVOIN.

#### Serving a SVOIN

A SVOIN is legally served when it is either:

- placed on the vehicle; or
- handed to the driver or owner.

| When . . .                | then . . .   |
|---------------------------|--|
| placing it on a vehicle,  | put it under the window wiper on the driver's side, facing into the car. |
| handing it to the driver, | obtain the driver's full particulars.                                    |

#### Towing fees

Use these towing fees as scheduled in the [Land Transport \(Storage and Towage Fees for Impounded Vehicles\) Regulations 1999](#) when completing a SVOIN.

| If the vehicle gross weight is... | then the penalty is a tow fee not exceeding...   |
|-----------------------------------|--|
| 3,500 kg or less                  | <ul style="list-style-type: none"> <li>• \$53.67, where the towage takes place between 7am and 6pm Monday to Friday (other than a public holiday), or</li> <li>• \$71.56 where the towage takes place at any other time.</li> </ul>    |
| more than 3,500 kg                | <ul style="list-style-type: none"> <li>• \$132.89, where the towage takes place between 7am and 6pm Monday to Friday (other than a public holiday), or</li> <li>• \$204.44, where the towage takes place at any other time.</li> </ul> |

**Note:** Additional charges may apply if the vehicle is towed more than 10km.

## Offence notices, Continued...

### Things to note in respect of towing fees

| <b>If. . .</b>  | <b>then. . .</b>   |
|---|--|
| the vehicle is to be towed away after the SVOIN is issued                         | add the towing fee in the appropriate space on the front of the notice. Note any damage to the vehicle and any property inside it. |
| the driver returns to the vehicle at any time after the tow truck has been called | the towing fee is still payable.   |

### Parking offences and fees

The infringement fee is additional to any towage fee. Local authorities may set the fee at a lesser amount than that prescribed. Refer to the Precedent Code Index.

## Offence notices, Continued...

### **Overloading Offence Infringement Notice (OOIN)**

This section contains the following topics:

- [When to issue an OGIN](#)
- [Overloading offences and infringement fees](#)

#### **When to issue an OGIN**

[Overloading Offence Infringement Notices](#) are:

- used for reporting [overloading offences](#) such as exceeding gross weights and axle weights
- served on the vehicle's owner or operator
- mostly used by specialist Road Policing and Commercial Vehicle Investigation Unit personnel.

**Note:** Do not use an OGIN for [road user charges](#) or distance recorder infringements. IONs are used for this purpose.

Check the owner's name and address carefully and send the notice by ordinary post to:

- a company's registered office
- an individual's residential address.

#### **Overloading offences and infringement fees**

Refer to the '[Vehicle dimensions and mass](#)' Police manual chapter for further details regarding vehicles which exceed the [Vehicle Dimension and Mass \(VDAM\)](#) or Certificate of Loading (CoL) mass limits (or both).

For a list of the fees and penalties refer to the [Precedent Code Index](#).

## Offence notices, Continued...

### **Road Safety Directive (POL406)**

This section contains the following topics:

- Forbidding people to drive
  - Impaired driver
  - Work time or rest time non-compliance
  - Driver licence offences
- Vehicle off-load demands

The Road Safety Directive (POL406) is used to:

- record a directive forbidding a person from operating a motor vehicle, or
- directing an off load demand for an overweight and incorrectly loaded vehicle.

#### **Forbidding people to drive**

You must use the Road Safety Directive (POL406) to forbid a person to drive in three situations.

##### **Impaired driver**

Where the action is necessary in the interest of the safety of that person, any other person, or for the public, as set out under section 121 of the LTA, where the person:

- is incapable of having proper control of the vehicle due to their physical or mental condition; or
- does not complete a compulsory impairment test in a satisfactory manner; or
- fails or refuses to undergo a compulsory impairment test when required to do so; or
- not complying with a driving hours requirement.

Where the driver has a positive breath result, the prohibition time period under section 121(3) LTA is 12 hours, unless there is good reason for a different prohibition period (Section 121(2)(a) refers).

##### **Work time or rest time non-compliance**

Where the driver has not complied with work-time or rest-time requirements.

##### **Driver licence offences**

Where the driver is unlicensed (including reinstate, no appropriate and expired), section 113(2)(e) LTA empowers an enforcement officer to forbid an unlicensed person from driving until a current licence is obtained.

Where a driver breaches the terms of his/her driver licence conditions, an enforcement officer may give directions or immobilise (s121A LTA) the vehicle. The driver is prohibited from driving until they are able to drive without breaching their licence conditions.

##### **Vehicle off-load demands**

You must use the Road Safety Directive (POL406) to require a driver (and all other persons) to keep a motor vehicle that is over or incorrectly loaded to remain stopped until compliant with the Vehicle Dimension and Mass Rule (2004).

## Offence notices, Continued...

### Children and young people

This section contains the following topics:

- Children and young persons who commit an infringement offence
- Children and young persons who commit an offence

### Children and young persons who commit an infringement offence

IONs can be issued to, and are enforceable against, young persons aged 14-16 years inclusive. The notices do not go through Youth Aid.

IONs should not be issued to children, i.e., those under 14 years of age. If appropriate, traffic infringement offences committed by a child, normally dealt with by an infringement offence notice, should be reported to Youth Aid. If dealing with children or young persons for any traffic offence, notify a parent or guardian.

### Children and young persons who commit an offence

If a young person commits a traffic offence not punishable by imprisonment:

| If the young person is ... | then...   |
|----------------------------|---|
| 15 years old or more       | issue a summons and deal with them as an adult. However, if less than 16 years old, consider all possible alternative options, including a referral to Youth Aid. |
| less than 15 years old     | consider all possible options recommended by Youth Aid, such as family group conference and the issuing of a summons.   |

If the traffic offence is punishable by imprisonment:

| Who               | Action   |
|-------------------|--|
| Constable         | Record information about the offence and create a file.  |
| Constable         | Send the file to the local Youth Aid Section.  |
| Youth Aid Section | Consider dealing with the traffic offence by either: <ul style="list-style-type: none"> <li>• warning</li> <li>• alternative action</li> <li>• family group conference</li> <li>• proceedings in Youth Court.</li> </ul> |

If the child or young person has been arrested for a traffic offence punishable by imprisonment:

| Action  | Comment   |
|---|---|
| Send the file to Youth Aid Section.   | Files relating to youth offending should be referred to Youth Aid.                                  |
| Inform the Youth Aid Section if a young person is to appear in the Youth Court following arrest on traffic matters. | This enables statutory notification to be made to the local Child, Youth and Family Service office. |

## Offence notices, Continued...

### **Road user charges infringement offences**

Refer to 'Road user charges' (RUC) in the 'Commercial and agricultural vehicle compliance' chapter of the Police Manual for details of heavy vehicle offences and calculations.

**Note:** Always issue an ION for RUC offences - not an OION.

For a list of the fees and penalties refer to the Precedent Code Index.

## Offence notices, Continued...

### **Forms**

This section contains links to the following forms:

- [Stationary Vehicle Offence Infringement Notice \(POL 403\)](#)
- [Overloading Offence Infringement Notice \(POL 404\)](#)
- [Road Safety Directive \(POL 406\)](#)
- [Infringement Offence Notice Cover Letter](#)
- [Infringement Offence Notice](#)
- [Warning Letter](#)

### **Stationary Vehicle Offence Infringement Offence (POL 403)**

Download a pdf copy of the [SVOIN](#).

### **Overloading Offence Infringement Notice (POL 404)**

Download a pdf copy of [POL 404](#).

### **Road Safety Directive (POL 406)**

Download a pdf copy of [POL 406](#).

### **Infringement Offence Notice Cover Letter**

Download a pdf copy of the [Infringement Offence Notice Cover Letter](#).

### **Infringement Offence Notice**

Download a pdf copy of the [Infringement Offence Notice](#). **Note:** Compliance details must be manually entered by the officer.

### **Warning Letter**

Download a pdf copy of the [Warning Letter](#).