



# Immigration Compliance Tour Operators and Conveyance Services

## Case Study Example

A tour company at one of South Africa's ports of entry was fined R15,000 per passenger for transporting travellers with incomplete visa documentation. Despite the travellers' claims regarding conflicting online information, lack of prior knowledge and lodging an eVisa application, immigration officials enforced the penalties. Unfortunately, their visa application was still in process at the time they arrived at the port of entry.

## 1. What are the relevant legal provisions under the Immigration Act 13 of 2002?

The following sections and regulations outline the responsibilities of conveyance operators:

- Section 7(1)(g): Stipulates the required forms and particulars for documents such as visas, permits and declarations under the Act, emphasising the necessity of complete and accurate documentation for border crossings.
- Section 35(9): Mandates that the person in charge of a conveyance must ensure all foreign passengers possess valid passports and visas (including transit or port-of-entry visas where applicable).
- Section 35(10): Places responsibility on the person in charge of the conveyance to detain and remove any person denied entry, including covering associated costs.
- Section 50(3): Establishes that a person in charge of a conveyance who negligently contravenes Section 35(9) shall be liable for an administrative fine, as determined by the Director-General.
- Regulation 39(4): Outlines the obligations of conveyance operators to:
  - a. Verify passengers have valid documentation for entry into South Africa
  - b. Maintain accurate passenger name records (PNR)
  - c. Accept penalties for non-compliance, including administrative fines



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## 2. How can tour operators and transport companies avoid similar issues?

- **Early Communication:** Verify visa requirements during the booking process and send timely reminders to travellers regarding advance visa applications.
- **Pre-Departure Checks:** Implement a comprehensive checklist to verify clients' documentation, including visa status, at least one week before departure.
- **Regulatory Updates:** Monitor official immigration resources regularly for any changes or updates to visa requirements.
- **Staff Training:** Ensure staff members are thoroughly trained to understand and implement compliance measures effectively.

## 3. What are the potential penalties for non-compliance?

Contravention of Sections 35(9) and 50(3) may result in administrative fines as determined by the Director-General. These fines can be substantial, highlighting the critical importance of due diligence by tour operators and conveyance companies. Payment must be made within 30 days of the fine being issued.

## 4. What steps should be taken if issues arise at the border/port of entry to South Africa?

- **Maintain Professionalism:** Engage respectfully with immigration officials throughout all interactions.
- **Document the Incident:** Keep detailed records of the situation, including officials' names and all communications or decisions made.
- **Request Formal Documentation:** Ensure the immigration official provides a formal notice containing all relevant details, including the conveyance service particulars, incident date, fine amount and required signatures from both the immigration official and conveyance representative. The document must bear an official stamp.
- **Seek Legal Counsel:** Contact legal or immigration specialists for guidance on challenging fines where appropriate.

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## 6. Where can I find reliable visa and immigration information?

- [Department of Home Affairs Website](#)- Official information on visas and entry requirements.
- [Department of Home Affairs - ePermits](#) - eVisa Platform for eligible visa applicants.
- [Department of Home Affairs](#) - Frequently asked questions
- [South African Government](#) - Government documents including Government Gazettes and the Immigration Act 13 of 2002.
- [Department of Home Affairs - Land Ports](#) - Location and contact details.