



SAFETY | COMPETENCY | COMPLIANCE

Debt Management

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1. Purpose

- 1.1 This debt management policy sets out the Board’s policy as regards outstanding fines and/or costs or other sums owed to the Board by a practitioner as a result of their being involved in a disciplinary or complaints process under the Electricity Act 1992 (“the Act”).

2. Disciplinary Fines and Costs Policy

- 2.1 Part 11 of the Act (Exercise of Disciplinary Powers) sets out the following:
- (a) Section 147M sets out the disciplinary powers of the Board. Included within these powers is the ability to order a person to pay a fine;
 - (b) Section 147N allows the Board to order a person to pay costs of and incidental to the investigation, prosecution and hearing of a complaint; and
 - (c) Section 147O provides that fines and costs are debts due to the Board which are recoverable in any court of competent jurisdiction.
- 2.2 Section 106 of the Act which provides registered persons with an entitled to be licensed if they meet certain criteria contains a proviso in sub-section 6:
- “... if any fee or other money payable to the Board under this Act by the registered person has not been paid, the Board may refuse to renew that person’s practising licence until that fee or other money is paid.”*
- 2.3 Section 103(1)(b) of the Act allows the Board to impose conditions on a licence. It states:
- (1) A practising licence issued to a registered person is subject to—
 - (b) any other terms and conditions that the Board thinks fit.

- 2.4 The Board has directed the Registrar not to renew a practising license to any person where there are outstanding fines, costs or other monies owed as a result of a disciplinary action other than in accordance with these Rules.
- 2.5 Any fines and/or costs imposed by the Board will be invoiced by, and are payable to, the Ministry of Business Innovation and Employment (on behalf of the Board).
- 2.6 Invoices for fines and/or costs will be sent following the issue of the Board's disciplinary order. Invoices will be issued with a due date which will be no earlier than the 20th of the month following the issue of the invoice.
- 2.7 A practitioner may apply to the Registrar to pay the fines and/or costs by instalments. Any arrangement for the person to pay the debt by instalments must be reasonable and its acceptance is at the discretion of the Registrar.
- 2.8 Where the fines and/or costs remain unpaid as at the due date on the invoice and there is no agreement to pay by instalments or an instalment agreement has not been upheld by the practitioner that person's listing in the Electrical Workers Database will be "flagged" as having a debt owing.
- 2.9 Any person "flagged" as having a debt owed will have any subsequent application to renew a practising license or employer license refused by the Board until the debt is paid or an acceptable payment plan has been put in place and payments have commenced and are current and up to date at the time of the renewal application.
- 2.10 Where a practicing license renewal is refused due to a debt being owed the person effected is responsible for resubmitting the application once the debt has been cleared or an acceptable payment arrangement entered into.
- 2.11 If a practicing licence is issued or renewed when a debt is owed and a payment arrangement has been entered into then the licence is to be issued on the following condition:
- That the licence will be suspended if the licence holder does not maintain the required payments under the payment arrangement until such time as the payments are resumed and arrangements satisfactory to the Registrar are made to pay any missed payments.
- 2.12 If a practitioner breaches the condition in clause 2.11 then the Registrar, under delegation, is to provide written notice of the breach to the practitioner giving 10 working days' notice to remedy the breach and advising that the practitioner's licence will be suspended if the breach is not remedied. If on the expiry of the 10 working day period the practitioner has not remedied the breach then the Registrar shall give a further 5 working days' notice that the licence will be suspended if the breach is not remedied. If the practitioner does not remedy the breach within that further 5 working day period then the Registrar is to suspend the licence without further notice.
- 2.13 Any suspension for a breach of the condition in clause 2.11 will remain until such time as the breach is remedied to the satisfaction of the Registrar. .
- 2.14 The Appendices contains the draft letter to be sent to a practitioner who is affected by this Policy.
- 2.15 The Board may refer any debt owed to a debt collector at any time.
- 2.16 The Board may enforce any debt owed in a court at any time.
- 2.17 The Board will write off any debt owned by a practitioner on their death or bankruptcy. The Registrar shall, in any bankruptcy proceedings, file a proof of debt as part of the insolvency process on behalf of the Board.

- 2.18 A practitioner may apply to the Board in writing to have a debt owed reduced or written off on the basis that there are exceptional circumstances. Any such application is to be addressed to the Registrar and is to set out the reasons why the practitioner seeks to have the debt reduced or written off. The Board may invite the practitioner to appear and be heard before the Board in person or through a representative.

3. Employer Licence Holder Fines and Costs Policy

- 3.1 Section 120 of the Act allows the Board to impose fines and or costs on an Employer Licence holder in respect of a complaint laid against the Employer Licence Holder
- 3.2 Section 122 of the Act provides that every fine imposed under section 120 is recoverable in any court of competent jurisdiction as a debt due to the Board.
- 3.3 Any fines and/or costs imposed by the Board will be invoiced by, and are payable to, the Registrar (on behalf of the Board).
- 3.4 Invoices will be issued with a due date which will be no earlier than the 20th of the month following the issue of the invoice.
- 3.5 The Board may refer any debt owed to a debt collector at any time.
- 3.6 The Board may enforce any debt owed in a court at any time.
- 3.7 The Board will not renew any Employer Licence where the holder owes the Board a debt until such time as that debt is paid in full.
- 3.8 The Board will write off any debt owned by an Employer Licence holder on the bankruptcy or liquidation of the Employer Licence Holder. The Registrar shall, in any bankruptcy or insolvency proceedings, file a proof of debt as part of the insolvency process on behalf of the Board.

Appendices

Letter to Practitioner re Debt

[Date]

Reference EWR xx

Dear [Name]

Thank you for your practising licence application received on xxx. I note our records show that you currently have an outstanding debt of \$...

Your attention is drawn to the Board's Debt Management Policy a copy of which is attached for your reference. Under this Policy a practitioner's licence will not be renewed where there is an outstanding debt as a result of a disciplinary action.

In accordance with this Policy, the Board is refusing to renew your practising licence until such time as the outstanding debt is paid or you have made satisfactory arrangements to pay by instalments. If you wish to make an arrangement to pay by instalments you will need to write to me setting out your proposed payment plan. The Debt Management Policy contains further information in relation to payment plans which you should note in making an application to pay by instalments.

Please note your application for a licence renewal will have to be resubmitted to the Board for consideration once the outstanding debt has been paid or an acceptable payment plan has been entered into.

Finally you are reminded that it is an offence under the Act to carry out or supervise prescribed electrical work without a current practising licence.

Yours sincerely

Simon Robb
Registrar

Schedules

Legislation: Electricity Act 1992

103 Practising licence subject to terms and conditions

- (1) A practising licence issued to a registered person is subject to—
- (a) the terms and conditions imposed by notices published under section 85(1)(c) in relation to the class of registration concerned; and
 - (b) any other terms and conditions that the Board thinks fit.
- (2) The terms and conditions may include, for example,—
- (a) terms and conditions of the kind referred to in section 85(2);
 - (b) a condition that imposes limits on the circumstances in which the particular practising licence holder may do, or assist in doing, work:
 - (c) a condition that imposes limits on the work that the particular practising licence holder may do, or assist in doing, under the licence.
- (3) The conditions referred to in subsection (2)(b) and (c) may be in addition to, or instead of, any other limits that would otherwise apply in respect of the class of registration concerned.
- (4) The Board may, by written notice to a registered person, revoke, amend, or add to any term or condition imposed under subsection (1).
- (5) Subsection (1)(a) is subject to subsection (4) and section 107.

106 Renewal of practising licence

- (1) A registered person is entitled to a renewal of his or her practising licence if the Board is satisfied that—
- (a) the person has complied with the application requirements in section 105; and
 - (b) the person complies with the current applicable minimum standards for registration; and
 - (c) there is no reason to believe that the person has breached any term or condition of the licence during the period before the licence is renewed; and
 - (d) the person is a fit and proper person to hold a practising licence; and
 - (e) the person has satisfied the requirements of a competence programme that the person is required to complete under subsection (5).
- (2) If the Board is satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must direct the Registrar to
- (a) renew the licence for the period (not exceeding 5 years) that the Board thinks fit; and
 - (b) send to the person notification of the Board's decision; and
 - (c) enter details of the renewal in the register.
- (3) If the Board is not satisfied that the registered person is entitled to a renewal of his or her practising licence, the Board must notify the person of—
- (a) the Board's decision; and
 - (b) the person's right of appeal to a District Court against the decision.

- (4) For the purposes of subsection (1)(c), the Board may, if it thinks fit, disregard a breach of a term or condition of the practising licence.
- (5) The Board may require a registered person to complete a competence programme before it renews that person's practising licence (regardless of whether or not the Board is satisfied of the matters referred to in subsection (1)(a) to (d)) if the person is required to complete a competence programme when applying for a renewal of the licence in accordance with a condition or requirement imposed by a notice published under section 85.
- (6) Despite subsection (1), if any fee or other money payable to the Board under this Act by the registered person has not been paid, the Board may refuse to renew that person's practising licence until that fee or other money is paid.

120 Cancellation, suspension, and other actions in relation to employer licences

- (1) The Board may (in relation to a matter raised by a complaint or by its own inquiries) take any of the actions referred to in subsection (2) in relation to an employer licence if it is satisfied that the employer licence holder—
 - (a) obtained the licence by making a false or misleading representation or declaration (whether oral or written); or
 - (b) was not entitled to be issued with an employer licence; or
 - (c) no longer meets all the requirements for the issue of an employer licence; or
 - (d) has failed to comply with any term or condition imposed by the Board in respect of that licence; or
 - (e) has failed to ensure that the prescribed electrical work done by employees of that person—
 - (i) is at all times carried out safely and competently; and
 - (ii) complies with the requirements of this Act and any regulations.
- (2) In any case to which subsection (1) applies, the Board may—
 - (a) do both of the following things:
 - (i) order that the employer licence be cancelled; and
 - (ii) order that the employer licence holder may not apply to be issued with an employer licence before the expiry of a specified period:
 - (b) order that the employer licence be suspended—
 - (i) for any period that the Board thinks fit; or
 - (ii) until the employer licence holder does any things that the Board may specify (for example, reviewing and improving safety procedures):
 - (c) order that the employer licence be restricted, for any period that the Board thinks fit, by limiting the prescribed electrical work that the employer licence holder may authorise an employee to do, or assist in doing, to the work that the Board may specify, and in imposing a limitation of this type the Board may also impose limitations on the circumstances in which an employee may do, or assist in doing, that work:
 - (d) order the employer licence holder to pay a fine not exceeding \$50,000:
 - (e) order that the employer licence holder be censured:

- (f) make no order under this subsection.
- (3) The Board may take only 1 type of action in subsection (2) in relation to a case, except that it may impose a fine under subsection (2)(d) in addition to taking the action under subsection (2)(b), (c), or (e).
- (4) No fine may be imposed under subsection (2)(d) in relation to an act or omission that constitutes an—
 - (a) offence for which the person has been convicted by a court; or
 - (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board may take an action under this section whether or not the person is still an employer licence holder.

122 Miscellaneous provisions concerning actions under section 120

- (1) Every fine imposed under section 120 is recoverable in any court of competent jurisdiction as a debt due to the Board.
- (2) An order under section 120 takes effect on the day of the making of the order; but that fact does not make any person concerned liable to prosecution or disciplinary proceedings for any act done or omitted during any part of that day before the order was made.
- (3) If a person's employer licence is suspended, the person is not authorised under section 117 for the period for which the licence is suspended.
- (4) At the end of a period of suspension, the person's employer licence is immediately revived (unless there is some other ground to suspend or cancel that person's employer licence).

147M Disciplinary powers of Board

- (1) If the Board, after conducting a hearing, is satisfied that a person to whom this Part applies is guilty of a disciplinary offence, the Board may—
 - (a) do 1 or more of the following things:
 - (i) order that the person's registration or practising licence (or both) be cancelled:
 - (ii) order that the person's provisional licence be cancelled:
 - (iii) order that the person may not apply to be reregistered or re-licensed before the expiry of a specified period:
 - (b) order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—
 - (i) for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
 - (c) order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:
 - (i) by limiting the person to the work that the Board may specify:
 - (ii) by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):
 - (d) order that the person be disqualified from doing or assisting in doing prescribed electrical work

that the person would otherwise be authorised to do in that person's capacity as a person to whom this Part applies—

- (i) permanently, or for any period that the Board thinks fit; or
 - (ii) until that person does 1 or more of the things specified in subsection (2):
- (e) order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order:
 - (f) order the person to pay a fine not exceeding \$10,000:
 - (g) order that the person be censured:
 - (h) make no order under this subsection.
- (2) The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—
- (a) pass any specified examination:
 - (b) complete any competence programme or specified period of training:
 - (c) attend any specified course of instruction.
- (3) The Board may take only 1 type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e) or (g).
- (4) No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an—
- (a) offence for which the person has been convicted by a court; or
 - (b) infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.
- (5) The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction for that offence.
- (6) If a person is registered under Part 10 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.

147N Costs and expenses

In any case to which section 147M applies, the Board may order the person concerned to pay to the Board any sum that it considers just and reasonable towards the costs and expenses of, and incidental to,—

- (a) the investigator's investigation of the complaint:
- (b) the prosecution of the complaint by the investigator:
- (c) the hearing by the Board.

147O Enforcement of fines, costs, and expenses

Every fine imposed under section 147M, and any sum payable to the Board under section 147N, is recoverable in any court of competent jurisdiction as a debt due to the Board.

147ZA Appeals

- (1) A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to a District Court against the decision, direction, or order:
 - (a) any decision of the Board to decline to register the person or to decline to issue a licence to the person or to decline to renew the licence of the person:
 - (b) any decision of the Board to decline to issue a limited certificate under section 78 to the person or to decline to renew the limited certificate of the person:
 - (c) any decision of the Board to suspend or cancel the person's registration or licence:
 - (d) any decision of the Board to impose any term or condition in relation to the person's registration or licence or to vary any of those terms or conditions:
 - (e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).
- (2) For the purposes of this Part, any decision of the Plumbers, Gasfitters, and Drainlayers Board acting under this Act must be treated as a decision of the Board.
- (3) Subsection (1) does not confer a right to appeal against a decision under any of sections 84 to 90.

147ZB Time for lodging appeal

An appeal under section 147ZA must be brought within—

- (a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or
- (b) any further time that a District Court may allow on application made before or after the expiration of that period.