**CONSULTATION PAPER**

**Proposal Summary:**

The Ministry of Government and Consumer Services is seeking input on the development of a regulatory framework that would establish the key implementation details of the Electrical Safety Authority’s administrative monetary penalties regime.

**Proposal Details:**

In the 2020 Value-for-Money Audit of the Electrical Safety Authority, the Auditor General found that the current process for preventing illegal electrical installations is ineffective and that illegal electrical installations were a problem in the province. The Auditor General recommended enabling the Electrical Safety Authority to directly issue monetary fines.

An administrative monetary penalty, also known as a fine, is a tool to encourage people to follow the law. Administrative monetary penalties for contraventions provide swift and certain consequences which can be more effective at achieving deterrence.

On October 7th, 2021 [Bill 13, *Supporting People and Businesses Act, 2021*](https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2021/2021-11/b013rep_e.pdf), was introduced and proposed legislative amendments to the *Electricity Act, 1998*, to enable the Electrical Safety Authority to issue administrative monetary penalties. The legislative amendments delegate authority for issuing penalties to Directors, set the limitation period for issuing penalties, provide enforcement provisions for non-payment, and set the maximum penalty amount per contravention at $10,000. The Bill received Royal Assent on December 2nd, 2021. The legislative changes will take effect upon development and implementation of a supporting regulatory framework detailing the specifics of the regime.

The ability to issue administrative monetary penalties will strengthen the Electrical Safety Authority’s enforcement framework and provide an additional tool for it to use to promote compliance with the *Electricity Act, 1998*’s electrical safety provisions and its regulations. Administrative monetary penalties have the potential to address the underground economy by reducing the financial incentive to conduct illegal electrical work. This will also support the competitiveness of licensed contractors who are compliant with the *Electricity Act, 1998* and its regulations.

**Proposed components of an administrative monetary penalties regulation:**

The Ministry of Government and Consumer Services is proposing that the administrative monetary penalties regulatory framework for illegal electrical installations consist of the following components:

1. **A schedule of contraventions** – establishes that an administrative monetary penalty may be issued in cases of illegal electrical installations. Contraventions related to illegal electrical installations would include:

* Conducting work without authorization (i.e., working without a licence)
* Advertising without a licence
* Repeated failure to comply with licensing requirements
* Misrepresentation
* Failure to file notification
* Removing labels, seals, tags
* Other code violations such as record of electrical work, interfering with installations, Life and/or Property defects and intentional non-compliance.

1. **Range of administrative monetary penalty** – establishes a three-tier model to determine the amount range. The tiers would identify the severity of the adverse effect, or potential to have an adverse effect, on safety. The proposed tiers and associated penalty range would be:

* Major - $5,001 to $10,000
* Moderate - $1,001 to $5,000
* Minor - $100 to $1,000

1. **Determining administrative monetary penalty tier** – specifies that Directors within the Electrical Safety Authority would determine whether (in their opinion) the contravention had a major, moderate, or minor adverse effect, or the potential to have such an adverse effect, on safety.
2. **Factors for determining the administrative monetary penalty amount within range** – specifies that the amount of the administrative monetary penalty for the contravention would be determined by Directors within the Electrical Safety Authority from within the applicable tier’s range after considering the following criteria:

* Previous similar instances of contraventions of the *Electricity Act, 1998,* and its regulations.
* The extent of the harm, or of the degree of risk of harm, to others as a result of the contravention.
* Whether the contravention was deliberate.
* Whether the contravention was repeated or continuous.
* The length of time during which the contravention continued; and
* Any economic benefit derived by the person from the contravention.

1. **Information to be included in order of payment** – establishes the information required in the order of payment:

* The contravention and the provision contravened;
* The day, days, or parts of days on which the contravention occurred;
* The penalty amount;
* Time of payment and method of payment;
* Where to pay as well as information on interest payable if payment is not made within the prescribed period; and
* Information about the person’s right to make an appeal.

1. **Service of Orders** – establishes how an order can be delivered and when deemed served, via:

* Registered mail - deemed served seven days after mailed;
* Courier - deemed served seven days after the day the courier received it;
* Email - deemed served on day sent (where the person has an address at which they are known to receive email); or
* Personal service - deemed served on the day it was given.

1. **Appeals** –establishes appeals through the Electrical Safety Authority’s existing [appeals structure](https://esasafe.com/appeals/). The Electrical Safety Authority’s appeal process consists of a Review Panel established in O.Reg. 187/09 (General Regulation) under the *Safety and Consumer Statutes Administration Act, 1996.*
2. **Use of funds** –establishes the purposes for which the Electrical Safety Authority may use funds collected through administrative monetary penalties. The proposed purposes are:

* Education on compliance for licensed electrical contractors and master electricians;
* Consumer Awareness; and
* Public electrical safety initiatives

The ministry is seeking feedback on the proposed regulatory framework, which will help inform the development of the regulations for government decision making. We invite you to review the details of this proposal and share comments for ministry consideration by February 24, 2022.

**Privacy Statement**  
Please note that unless agreed otherwise by the Ministry of Government and Consumer Services, all submissions received from organizations in response to this consultation will be considered public information and may be used, disclosed and published by the ministry to help the ministry in evaluating and revising its proposal. This may involve disclosing any response received to other interested parties.  
  
Please keep in mind that the ministry is subject to the Freedom of Information and Protection of Privacy Act, which gives individuals the general right to access records in the custody or control of the ministry, subject to limited and specific exemptions and exclusions. This would include any input received in response to this consultation.  
  
An individual who provides a response and indicates an affiliation with an organization will be considered to have submitted the response on behalf of that organization.  
  
Responses received from individuals who do not indicate an affiliation with an organization will not be considered to be public information. Responses from individuals may be used and disclosed by the ministry to help evaluate and revise the proposal. The ministry may also publish responses received from individuals. Should it use, disclose or publish individual responses, any personal information, such as an individual's name and contact details, will not be disclosed by the ministry without the individual's prior consent unless required by law. Contact information you provide may also be used to follow up with you to clarify your response.  
  
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