



**ELECTRICAL WORKERS REGISTRATION BOARD**

**DISCUSSION PAPER**

**EMPLOYER LICENCES**

Issued by:  
N J J Sickels  
2 August 2010

## **Introduction**

Recent amendments to the Electricity Act 1992 (the Act) introduced changes to the manner in which employer licences are provided for under the Act. A specific change is that the Electrical Workers Registration Board (the Board) is the body now responsible for all aspects of employer licensing.

During April 2009 a discussion paper was released which set out the Board's initial position in relation to employer licensing and the discussion paper attracted fourteen submissions. At that time the Board agreed, with the exception of transitioning existing employer licences into the Board's systems, to hold further development on such licences in abeyance until the new electricity regulations were introduced.

As the Electricity (Safety) Regulations 2010 (the regulations) have now been in place for over three months and, following full consideration of the fourteen submissions received, this paper has been produced to enable interested parties to consider proposed rules of the Board for employer licensing.

This discussion paper has been produced to give emphasis to the proposed rules of the Board as all other requirements applicable to employer licensing are either legislative or regulatory and those requirements are included in this discussion paper at schedules 1 and 2 respectively for quick reference.

## **Proposed rules**

The following are the rules for employer licensing proposed by the Board;

### **1 Employer licences issued by the Secretary**

- (a) the Board will recognise any existing employer licence pursuant to section 35 of the transitional provisions of the Electricity Amendment Act 2006;
- (b) annually the Board will require existing employer licence holders to supply to the Board a certificate from an "approved person" which certifies that the employer licence holder is maintaining a system of operation that satisfies the requirements of section 115 of the Act and regulation 94 of the regulations;
- (c) the annual certificate referenced in (b) above will be required to be provided to the Board on each annual anniversary of the employer licence grant date and that certificate must have been issued by an "approved person" within the previous thirty days of being provided to the Board;

### **2 New employer licences**

- (a) The Board will issue any new employer licence to any person who;
  - (i) makes an application for an employer licence on an application form which has been approved by the Board; and
  - (ii) pays the prescribed fee as referenced in schedule 6 to the regulations; and

- (iii) provides the Board with a certificate from an “approved person” that certifies that the applicant for an employer licence is maintaining a system of operation that satisfies the requirements of section 115 of the Act and regulation 94 of the regulations;
- (b) Any supervision that is afforded under an employer licence must be at least in accordance with the Supervision Procedures for Trainees issued by the Board and dated March 2010;
- (c) The “approved person” referenced in (a) (iii) above must provide the certificate to the Board in accordance with regulation 95 of the regulations;
- (d) The certificate referenced in (a) (iii) above may be in a format developed by the “approved person”;
- (e) The Board will place a condition on all new employer licences that will require every holder of an employer licence to ensure that all employees of the licence holder, who carry out prescribed electrical work complete competency programmes in accordance with the Board’s Gazette Notice which was published on 10 June 2010;

(Please note that there no need to repeat competency programmes if such programmes have been completed prior to the employer licence grant date).

- (f) The Board will place a condition (f) on all new employer licences that will require any work on live high voltage electric lines carried out under an employer licence to comply with the provisions of New Zealand Electrical Code of Practice 46: 2003;
- (g) The Board will issue any new employer licence for a period of five years from the licence grant date and any such licence will remain in force for that period unless it is sooner cancelled or suspended.

### **3 Renewal of new employer licences**

- (a) The Board will require any person wishing to renew an employer licence to satisfy the same requirements as for employer licence issuing and be subject to the same conditions as those applicable for the initial issuing of the licence.

### **4 Approved persons**

- (a) The Board will maintain a list of approved persons and that list will be publicly available on the Board’s website.

### **5 Persons receiving training for individual Board registration**

- (a) Any person receiving training under an employer licence towards one of the Board’s classes of registration is not required to uplift a trainee Limited Certificate from the Board;

- (b) Any person seeking registration in one of the Board's registration classes must fulfil the requirements/standards for registration as specified in the Board's Gazette Notice which was published on 1 April 2010;
- (c) Any person seeking registration in one of the Board's registration classes and who opts for competency based training under the auspices of an employer licence must receive such training in accordance with a competency based training programme which has been approved by the Board;
- (d) Any person seeking registration in one of the Board's registration classes and who opts for "time served" training under the auspices of an employer licence must receive such training from a person(s) who holds registration in one of the Board's registration classes and any such training must be within the scope of work applicable to the registered person's registration.

## 6 Certificates of compliance

- (a) Any employer licence holder who wishes to have an individualised certificate of compliance for prescribed electrical work carried out under that holders licence can seek approval from the Board for such a certificate in accordance with regulation 69 of the regulations.

## 7 Comments sought on this discussion paper

- (a) The Board would appreciate any comments about the implications and impact of the proposals in this discussion paper by 10 September 2010. Comments should be sent to:

The Registrar  
 Electrical Workers Registration Board  
 P O Box 10156  
 WELLINGTON

Or Fax (04) 473 2395

Or by e-mail to: [trish.tchernegovski@dbh.govt.nz](mailto:trish.tchernegovski@dbh.govt.nz)

- (b) Also, the Board would appreciate receiving submissions in the following format:

Section No.	Issue/Proposed Change	Comment/Reason for comment
		I support/disagree with ..... because .....

## 8 Official Information Act 1982

- (a) Please note that any submissions received by the Board will constitute 'official information' under the Official Information Act 1982. That Act is designed to give the people of New Zealand access to information, but with exceptions to preserve the public interest and personal privacy.

- (b) The Board will prepare a summary of submissions received, together with the Board's responses. This summary is intended for circulation to parties who have made submissions.
- (c) In providing your submission, please advise the Board if you have any objections to the release of your submission, and, if you do object, the parts of your submission that you want withheld, and the grounds, under the Official Information Act, for withholding them. The Board will carefully consider your reasons when preparing and releasing any summary, and in considering any formal Official Information Act requests that might be received in the future.

## **9 Privacy Act 1993**

- (a) Any personal information that you supply to the Board in the course of making your submission will be used by the Board only in conjunction with the consideration of matters covered by this discussion paper.
- (b) Your name will be included in any summary unless you inform the Board that you do not wish your name to be included.



Registrar  
2 August 2010

## Schedule 1

The transitional provisions of the Electricity Amendment Act 2006 which apply to this discussion paper are sections 35 and 36. The sections are as follows:

Section 35 of the Electricity Amendment Act 2006 makes provision for persons holding employer licences and states;

- (1) Every person who, immediately before the commencement of this section, held an employer licence under section 101 of the principal Act (as in force immediately before the commencement of this section) is, on and from the commencement of this section, deemed to be a person who holds an employer licence issued under section 115 of the principal Act.
- (2) The licence that the person is deemed to hold under subsection (1) is deemed to-
  - (a) expire on the date on which the employer licence under section 101 of the principal Act would have expired if this Act had not been enacted (but may be renewed under section 119 of the principal Act); and
  - (b) authorise the holder of the licence to authorise any employee of that person to do, or assist in doing, any prescribed electrical work; and
  - (c) be subject to any conditions, limitations, or restrictions that, immediately before the commencement of this section, were imposed by or under the principal Act on that person's licence.
- (3) Nothing in this section prevents the Board from-
  - (a) cancelling or suspending the employer licence that a person is deemed to hold under subsection (1) in accordance with subpart 2 of Part 10 of the principal Act; or
  - (b) exercising any other power in relation to that employer licence under the principal Act.

Section 36 of the Electricity Amendment Act 2006 makes provision for the Board to vary a licence or registration or impose conditions, limitations, or restrictions on licences or registrations and states;

- (1) The Board may at any time, by written notice to any person,-
  - (a) vary any licence or registration that is deemed to be held by that person under any of sections 32 to 35; and
  - (b) impose conditions, limitations, or restrictions on that licence or the registration of that person (or both).
- (2) The variation, condition, limitation, or restriction takes effect on the date specified for the purpose in the notice.

- (3) Any decision of the Board under this section may be appealed under section 147ZA of the principal Act.

The provisions of the Act which apply to this discussion paper are sections 115 to 123 and they are as follows:

Section 115 of the Act makes provision for the Board to issue employer licences and states:

- (1) A person is, on application in the prescribed form (if any) and on payment of the prescribed fee (if any), entitled to be issued with an employer licence by the Board if the person satisfies the Board that the person will at all times maintain a system of operation-
- (a) that complies with the requirements that are prescribed by regulations; and
  - (b) that is sufficient to ensure that employees of that person who do, or assist in doing, prescribed electrical work-
    - (i) are competent to carry out the range of work for which they are employed; and
    - (ii) receive the supervision and training that is necessary to ensure that the work-
      - (A) is carried out safely and competently; and
      - (B) complies with the requirements of this Act and any regulations.
- (2) However, a person is not entitled to be issued with an employer licence if the person is precluded from holding an employer licence because of any action taken by the Board under section 120.
- (3) The Board may impose in respect of any employer licence issued under this section any terms and conditions that the Board thinks fit (for example, by restricting the types of prescribed electrical work that may otherwise be done under the licence).

Section 116 of the Act provides that the requirement to maintain a system of operation (refer section 115(1)) is satisfied if the person obtains certification from an approved person and states;

- (1) A person must be treated as maintaining a system of operation described in section 115(1)(a) and (b) if an approved person, in the prescribed manner, certifies that the system of operation complies with those provisions, and issues a certificate to that effect in the prescribed form.
- (2) A certificate under subsection (1) ceases to have effect if-
- (a) the approved person, by notice in writing to the certificate holder, revokes the certificate; or

- (b) the term of the certification comes to an end.
- (3) For the purposes of this section, approved person means-
  - (a) a person designated by regulations as an approved person:
  - (b) a member of a class of persons designated by regulations as a class of approved persons.

Section 117 of the Act sets out the prescribed electrical work that may be done under an employer licence and states;

- (1) An employer licence authorises the licence holder to authorise any employee of that person to do, or assist in doing, any prescribed electrical work.
- (2) Any authority given under an employer licence to any person to do, or assist in doing, any prescribed electrical work is sufficient authority for the person so authorised to do or, as the case may be, assist in doing that work.
- (3) This section is subject to the terms and conditions imposed under section 115 and to any regulations.

Section 118 of the Act provides for the duration of an employer licence and states;

An employer licence, unless it is sooner cancelled or suspended, is in force for the period (not exceeding 5 years) that is specified in the licence, and comes into force on the date of its issue.

Section 119 of the Act makes provision for the Board to renew employer licences and states;

- (1) Every employer licence, unless it has been cancelled, may from time to time be renewed in accordance with this section.
- (2) An application for the renewal of an employer licence must-
  - (a) be sent or delivered to the Registrar; and
  - (b) be in the prescribed form or, if there is not prescribed form, in the form required by the Board; and
  - (c) contain, or be accompanied by, the information and documentation required by the Board; and
  - (d) be accompanied by the prescribed fee (if any).
- (3) The Registrar must refer any application received by the Registrar under subsection (2) to the Board for consideration under this section.
- (4) On receiving an application under subsection (3), the Board may renew the employer licence to which the application relates for the period (not exceeding 5 years) that the Board thinks fit.

- (5) However, the Board must not renew an employer licence unless the Board is satisfied that the applicant meets all the requirements for the issue of an employer licence.
- (6) If an application for the renewal of an employer licence has been made but not dealt with before the licence expires, the licence continues in force until the application is dealt with by the Board, and any renewal in that case must take effect from the date on which the licence would (but for renewal) have expired.

Section 120 of the Act makes provision for the Board to cancel, suspend, or take other action in relation to employer licences and states;

- (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 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.

Section 121 of the Act requires the Board must give the employer licence holder reasonable opportunity to be heard before taking any action referred to in section 120 and states;

The Board must not take any of the actions referred to in section 120 unless it has first-

- (a) informed the employer licence holder concerned as to why it may take any of those actions; and
- (b) given that person a reasonable opportunity to make written submissions and be heard on the question, either personally or by that person's representative.

Section 122 of the Act refers to miscellaneous provisions concerning actions under section 120 and states;

- (1) Every fine imposed under section 120 is recoverable in any court of 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).

Section 123 of the Act relates to powers of inspection and states;

- (1) Every employer licence is subject to the condition that-
- (a) any person authorised by the Board for the purpose may, for an authorised purpose, at any reasonable time, inspect any premises (not being a dwellinghouse) occupied by the employer licence holder, and for that purpose may enter and re-enter any place:
  - (b) the Board may, for an authorised purpose,-
    - (i) require the employer licence holder to produce for inspection, within any reasonable period that the Board may specify, any document or class of document in the possession or under the control of the employer licence holder, and may take copies of, or extracts from, any of those documents:
    - (ii) require the employer licence holder to provide, within any reasonable period that the Board may specify, any information or class of information that the Board may require.
- (2) If the employer licence holder breaches a condition expressed in subsection (1), the Board may act under section 120.
- (3) A person must give to the employer licence holder reasonable notice of that person's intention to enter the premises under subsection (1)(a), unless the giving of the notice would defeat the purpose of the entry.
- (4) Every person must, on entering any premises under subsection (1)(a), and when requested at any subsequent time, produce-
- (a) evidence of that person's authority to enter the premises; and
  - (b) evidence of that person's identity.
- (5) The following are authorised purposes for the purposes of this section:
- (a) the purpose of ensuring compliance with the terms and conditions of the employer licence:
  - (b) the purpose of ensuring that the prescribed electrical work done by employees of the employer licence holder-
    - (i) is at all times carried out safely and competently; and
    - (ii) complies with the requirements of this Act and any regulations.

## Schedule 2

Regulations which apply to this discussion paper are as follows:

Regulation 94 states;

- (1) For the purposes of section 115(1)(a) of the Act, the requirements for the system of operation that must be maintained by the holder of an employer licence are that the holder-
  - (a) identifies the prescribed electrical work (**identified prescribed electrical work**) that will be undertaken under the licence; and
  - (b) identifies the skills and training required in order to carry out each kind of prescribed electrical work; and
  - (c) has in place procedures for each of the following:
    - (i) carrying out, supervising, and monitoring the identified prescribed electrical work:
    - (ii) investigating injuries caused to persons, and damage caused to property, as a result of carrying out any identified prescribed electrical work:
    - (iii) taking action to prevent, and in response to, injuries to persons or damage to property that results from carrying out the identified prescribed electrical work; and
  - (d) maintains a manual that sets out the matters listed in subclause (2).
- (2) The manual referred to in subclause (1)(d) must set out-
  - (a) all matters referred to in subclause (1)(a) to (c); and
  - (b) the names of every employee of the holder who is to carry out identified prescribed electrical work, along with a description of the identified prescribed electrical work that each employee is trained, and has the skills to do; and
  - (c) the location and address of each place of work from which the holder of the licence operates, and is intended to be covered by the licence; and
  - (d) a contact person for the licence, who must be an employee of the holder, identified by name and position.

Regulation 95 states;

- (1) For the purposes of section 116(1) of the Act, an approved person may certify a system of operation if the approved person is satisfied that -
  - (a) the system of operation is sufficient to ensure that the employer's employees who do, or assist in doing, prescribed electrical work -

- (i) are competent to carry out the range of work for which they are employed; and
  - (ii) receive the supervision and training necessary to ensure that the work is carried out safely and competently, and that the work complies with the requirements of the Act and these regulations; and
- (b) the employer has and maintains a manual referred to in regulation 94(1)(d) that complies with regulation 94(2); and
  - (c) the procedures referred to in regulation 94(1)(c) are being followed.
- (2) The form of the certificate may be prescribed by the Board.

Regulation 96 states;

- (1) For the purposes of section 116(3) of the Act, the class of persons designated as approved persons is the class of persons whose names appear on a list, maintained by the Board, of people who –
- (a) hold an audit qualification issued by –
    - (i) a body accredited by the Joint Accreditation System of Australia and New Zealand; or
    - (ii) a body accredited by a signatory to the International Accreditation Forum multilateral recognition arrangement; or
    - (iii) a body approved by or under an international agreement between New Zealand and another country that is not a member of the International Accreditation Forum multilateral recognition arrangement; and
  - (b) satisfy the Board that they are capable of certifying whether a system of operation complies with section 115(1)(a) and (b) of the Act.
- (2) The Board may remove from the list the name of any person who the Board is satisfied does not meet the requirements of subclause (1) and must give written notice to the person concerned.
- (3) Until the date that is 6 months after the date on which this regulation comes into force, the list must include the name of every person who applies (whether before or after this regulation comes into force) to have his or her name on the list and who satisfies paragraph (a) of subclause (1); but after that date, the list may contain only the names of people who satisfy both paragraph (a) and paragraph (b) of subclause (1).

Schedule 6 to the regulations makes provision for a \$400 fee for the application for an employer licence.