



SAFETY | COMPETENCY | COMPLIANCE

PROPOSED POLICY FOR THE ISSUING OF EMPLOYER LICENCES

The Electrical Workers Registration Board has carried out a review of its policy for the issuing of employer licences and the Board considers that that the present policy, which was introduced in April 2011, should be amended.

Attached is a document setting out proposed policy in relation to the issuing of employer licences and the Board would appreciate any comments about the implications and impact of the proposals by 30 May 2014. Comments should be sent to:

The Registrar
Electrical Workers Registration Board
P O Box 10156
WELLINGTON

Or by e-mail to: info@ewrb.govt.nz

Official Information Act 1992

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.

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.

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.

Privacy Act 1993

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.

Your name will be included in any summary unless you inform the Board that you do not wish your name to be included.



John Sickels
Registrar
10 March 2014



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Issuing Employer Licences

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1. Purpose/Introduction

- 1.1 Sections 115 of the Electricity Act 1992 (“the Act”) provides for the issue of Employer Licences by the Board to any person who meets the requirements laid out in section 116 of the Act.
- 1.2 To enable a consistent and transparent approach to be taken to the administration of the employer licence system the Board has set the following policy in relation to the issuing of employer licences.

2. Applications for Employer Licences

- 2.1 Applications for an employer licence are to be made on the Board’s proscribed form which can be obtained from the Board’s website (www.ewrb.govt.nz) or from the Registrar.
- 2.2 Any application must be accompanied by:
- (a) the prescribed fee. Details of the prescribed fee can be obtained from the Board’s website (www.ewrb.govt.nz) or from the Registrar;
 - (b) the Certificate provided for in section 116 of the Act;
 - (c) a copy of the manual provided for in regulation 95 of the Electricity (Safety) Regulations 2010 (“the Regulations”); and
 - (d) a copy of any report provided by the Approved Person as defined in regulation 96 of the Regulations who has provided the Certificate under section 116 of the Act.

3. Issuing Employer Licences

- 3.1 The Board will issue an employer licence to any person who meets the requirements specified in the Act and Regulations.
- 3.2 Under section 115(3) the Board may impose terms and conditions on an employer licence. The Board will, in considering any application and in issuing any employer licence, impose any terms and conditions it thinks fit. In particular, but without limiting the terms and conditions it may impose, the Board may restrict:
- (a) the type of prescribed work to be undertaken; and/or
 - (b) the geographic areas in which the prescribed work is to be undertaken.

4. Duration of Employer Licences

- 4.1 Employer licences will be issued for an appropriate term.
- 4.2 The Board’s policy is to issue employer licences for no more than 18 months on an initial application unless the applicant can show good reason why a longer period should be granted.

5. Annual Certification

- 5.1 Holders of an employer licence will be required to supply the Board annually with 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.
- 5.2 The annual certificate is required to be provided to the Board within 30 days of the anniversary of the date the employer licence was issued and that certificate must have been issued by an Approved Person within the previous 90 days of being provided to the Board.

6. Change of Manual

- 6.1 The Board must be notified, at the time of the annual certification provided for in clause 5 herein, of any changes to the manual provided for in regulation 95 of the Regulations and must provide a copy of the changed manual with the certification.

7. Renewal of Employer Licences

- 7.1 Any application for renewal of an employer licence that meets the requirements of section 119 of the Act will be granted.
- 7.2 Application is to be made in accordance with the provisions of clause 2 herein.
- 7.3 The Board will, on application consider granting an employer licence for a period greater than 18 months on a renewal.
- 7.4 In accordance with section 119(6) of the Act 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 the renewal) have expired.

8. Approved Persons

- 8.1 For the purposes of section 116(3) of the Act and regulation 96 of the Regulations the Board maintains a list of Approved Persons which can be obtained from the Registrar by applicants for an employer licence.

9. Audit

- 9.1 Employer licence holders will be subject to the Board's Audit Policy and may, at any time, be audited in accordance with it.

10. Complaints and Inspection

- 10.1 Employer licence holders are reminded of the provisions of sections 120 to 122 of the Act in relation to complaints against or Board inquiries into employer licence holders and their attention is drawn to the Board's rules in this respect (O-R-07A Complaints Against Employer Licence Holders).
- 10.2 Employer licence holders are also reminded of the Board's powers of inspection under section 123 of the Act.

Appendices

Approved Application Form (for adoption with this Policy)

A revised form would be developed once the consultation on this policy is complete to reflect the policy as adopted.

Schedules

Legislation: Electricity Act 1992

115 Employer licence

- (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).

116 Requirements treated as satisfied if person obtains certification from approved person

- (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 certification 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.

117 Prescribed electrical work may be done under employer licence

- (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.

118 Duration of employer licence

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.

119 Renewal of employer licence

- (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 no 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 the renewal) have expired.

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.

121 Board must give employer licence holder reasonable opportunity to be heard

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.

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).

123 Powers of inspection

- (1) Every employer licence is subject to a 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 dwelling house) 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 any 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.

Electricity (Safety) Regulations 2010

94 Requirements for system of operation of holders of employer licences

- (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 identified 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 the 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 that 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 or position.

95 Certification of system of operation

- (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.

96 Approved persons

(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 persons who]—

[(a) are accredited auditors; 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).