

energy

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Energy Bulletin Special Edition – April 2007

Introduction of infringement notices

This 'special edition' of the Energy Bulletin introduces EnergySafety's system of infringement notices.

The article "Introduction of infringement notices for enforcing energy related legislation" in Energy Bulletin No. 39 (July 2006) foreshadowed the intention to introduce an infringement notice system to apply to the legislation EnergySafety administers.

Infringement notices are a means for more efficient and lower cost compliance enforcement, just as used for traffic offences, for example.

EnergySafety's system of infringement notices has now been developed and the necessary legislation to allow its introduction has been approved.

The principal purpose of this Energy Bulletin is to advise industry about the introduction of the infringement notice system for electrical and gas legislation and to give notice that EnergySafety will commence serving infringement notices from 1 May 2007 (other than in respect of advertising by electrical contractors – refer to page 3 for details).

NEWSFLASH

The State Government recently announced the appointment of the Hon Michelle Roberts MLA as Minister for Employment Protection.

This means that the Department of Consumer and Employment Protection's EnergySafety, Resources Safety, WorkSafe and Labour Relations Divisions are now part of Minister Roberts' portfolio responsibilities.

Minister Roberts also holds the portfolios of Housing and Works, Indigenous Affairs, Heritage and Land Information.

The offences against which an Infringement Notice may be served by an EnergySafety inspector, and the penalties applicable, are shown in the following pages of this Energy Bulletin.



ALBERT KOENIG
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EnergySafety



Introduction of infringement notices (*continued*)

The infringement notice process

The process for serving an Infringement Notice will be as follows, as shown in this example dealing with an electrical or gas installation's non-compliance (although note that some offences may not involve the issuing of an Inspectors Order or Defect Notice):

- An Inspector becomes aware of an offence against one of the Acts or Regulations being administered by EnergySafety.
- An Inspectors Order or Defect Notice is issued by the Inspector (typically an Inspector of a network operator) to the alleged offender and EnergySafety is made aware of the circumstances of the offence and details of the alleged offender.
- EnergySafety decides if the alleged offender will be prosecuted in a Magistrate's Court or if an Infringement Notice will be served.
- When an Infringement Notice is served, the recipient may choose to do any of the following:
 - pay the modified penalty stated on the notice within 28 days – there is no admission of guilt attached

to such payment and no criminal record is created. The payment of past Infringement Notice penalties cannot be raised in any future prosecution of that offender; or

- request, within 28 days, an extension of time in which to pay the penalty and provide information to support the request – EnergySafety may decide to allow an extension of time if the circumstances so warrant; or
- request, within 28 days, that the Infringement Notice be withdrawn and provide information to support the request – EnergySafety must then decide if the notice will be withdrawn; or
- inform EnergySafety, within 28 days, that he/she intends to contest the matter in Court – EnergySafety must then decide if it will prosecute the offender; or
- ignore the notice – after 28 days, EnergySafety can refer the matter to the Fines Enforcement Register for recovery (plus additional costs), or EnergySafety can initiate a prosecution for the offence.

EnergySafety can publish summary information (such as statistical information) about the serving of infringement notices but cannot identify any individual person or company to whom an Infringement Notice has been served.

An operative's performance record may influence a decision to serve an Infringement Notice or to initiate prosecution proceedings. Also, the seriousness of the offence and its repercussions will influence whether to serve an Infringement Notice or initiate prosecution.

EnergySafety's Electrical Licensing Board and Gas Licensing Committee will have access to an operative's complete performance record [as they do at present] including infringement notices when considering possible disciplinary action. The payment of Infringement Notice penalties however cannot be included in evidence presented to the State Administrative Tribunal in any proceedings against an operative in that jurisdiction.

The offences that may be the reason for an infringement notice are detailed on the following pages.

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Offences under electricity related legislation

Offences under Electricity Act 1945

Section	Description	Penalty Individual	Penalty Corporation
25(1)(a), 52	<i>Failing to maintain service apparatus in safe and fit condition</i>		\$4 000
25(1)(b), 52	<i>Failing to take all reasonable precautions to avoid the risk of fire or damage</i>		\$4 000
30(7)	<i>Failing to comply with order of inspector</i>	\$500	\$2 000
33B(2)	<i>Selling or hiring, or exposing or advertising for sale or hire, prescribed appliance without approval</i>	\$1 000	\$4 000
33C(3)	<i>Failing to comply with notice prohibiting sale, hire or use of unsafe or dangerous apparatus</i>	\$1 000	\$4 000
33F	<i>Selling or hiring, or exposing or advertising for sale or hire apparatus or installation that does not comply with energy efficiency labelling regulations</i>	\$500	\$2 000

Offences under Electricity Regulations 1947

Regulation	Description	Penalty Individual	Penalty Corporation
10	<i>Selling or hiring, or exposing or advertising for sale or hire apparatus or installation that does not comply with energy efficiency standards</i>	\$500	\$2 000
242(1)(b), 340	<i>Supplying electricity without receiving certificate of correct installation and fitting</i>		\$4 000
253(1), (9)(b)	<i>Failing to establish and maintain system of inspection or ensure installation is individually inspected</i>		\$4 000
253(7)(a), (9)(b)	<i>Failing to modify inspection practice when ordered to do so</i>		\$4 000
253(7)(b), (9)(b)	<i>Failing to review inspection practice and submit revised system plan and policy statement within required time</i>		\$4 000
253(9)(a)	<i>Supplying electricity in contravention of s. 253(1)</i>		\$4 000
316A, 340	<i>Performing vegetation control work in danger zone of overhead power lines</i>	\$500	\$4 000

Offences under Electricity (Licensing) Regulations 1991

Regulation	Description	Penalty Individual	Penalty Corporation
19(1)	<i>Carrying out electrical work without a licence or permit</i>	\$500	\$2 000
19(2a), 65	<i>Failing to ensure electrical work is checked, tested and certified</i>	\$500	\$2 000
28(1), 65	<i>Failing to notify Board of change of address</i>	\$250	\$1 000
33(1), 65	<i>Carrying on business as an electrical contractor without a licence</i>	\$1 000	\$4 000
34	<i>Knowingly contracting unlicensed person to do electrical work</i>	\$500	\$2 000
35	<i>Falsely representing electrical work to be carried out by or on behalf of employer</i>	\$500	\$2 000
37(1)	<i>Carrying out in-house electrical installing work without a licence</i>	\$1 000	\$4 000
45(1), 65	<i>Failing to display licence and certificate of registration at principal place of business</i>	\$500	\$2 000
45(1), 65	<i>Failing to include licence number in advertisement</i>	\$500	\$1 000
45(2), 65	<i>Failing to notify Board of change of address</i>	\$250	\$1 000
49(1), (3), 65	<i>Carrying out, or causing or permitting to be carried out, electrical work contrary to Wiring Rules, WA Electrical Requirements or specified standards</i>	\$500	\$2 000
50(1), 65	<i>Failing to effectively supervise the carrying out of electrical work</i>	\$500	\$2 000
50A	<i>Causing or permitting unsafe wiring or equipment to be, or to remain, connected</i>	\$500	\$2 000
51(1)	<i>Failing to deliver preliminary notice within required time</i>	\$500	\$2 000
52(1)	<i>Failing to give notice of completion within required time</i>	\$500	\$2 000
52(3)	<i>Giving notice of completion in relation to uncompleted work</i>	\$500	\$2 000
53(2), 65	<i>Employing, engaging or instructing unlicensed person to carry out electrical work</i>	\$500	\$2 000
54(1), (2)	<i>Unauthorised person signing notice of completion or record of work carried out</i>	\$500	\$2 000
57(1), 65	<i>Failing to maintain record of electrical workers</i>	\$250	\$1 000
57(3), 65	<i>Failing to produce record for inspection</i>	\$500	\$2 000
58	<i>Failing to produce licence and registration certificate on request</i>	\$500	\$2 000
59(1)	<i>Giving false information, evidence, statements etc., personation etc</i>	\$500	\$2 000
62, 65	<i>Failing to report defect</i>	\$500	\$2 000
63, 65	<i>Failing to report accident</i>	\$500	\$2 000

See **Note** to table on page 4.

Note: Regulation 45(1) of the *Electricity (Licensing) Regulations 1991* reads:

“The holder of a licence shall ensure that his or her licence document and certificate of registration is conspicuously displayed at his or her principal place of business and that the number of his or her licence appears in any advertisement advertising his or her electrical contracting business.”

The requirement “conspicuously displayed” will be applied to the place of business and also to any advertising of the business. EnergySafety advises that, to satisfy this requirement, the licence number should be in lettering at least 70 per cent of the size of the lettering used for the business name.

To provide industry with time to adjust any current advertising so it complies with Regulation 45(1), EnergySafety will not issue any infringement notices for undersized “EC” licence numbers prior to 1 October 2007.

Offences under Electricity (Supply Standards and System Safety) Regulations 2001

Regulation	Description	Penalty Individual	Penalty Corporation
14(2)(a)	<i>Failing to give notice before commencing major activity</i>		\$2,000
14(2)(b)	<i>Failing to give quarterly outline of proposed major activities</i>		\$2,000
16	<i>Failing to ensure prescribed activity is carried out in accordance with specified standard or code</i>		\$4,000
29	<i>Failing to ensure prescribed activity is carried out in accordance with accepted safety case</i>		\$4,000
30(2)	<i>Failing to lodge report in respect of accepted safety case</i>		\$4,000
33(1)	<i>Failing to establish and maintain record keeping system in relation to accepted safety case</i>		\$4,000
33(3)	<i>Failing to keep records in required manner</i>		\$4,000
33(4)	<i>Failing to keep records for required time</i>		\$4,000
35(1)	<i>Failing to notify Director of notifiable incident within required time</i>		\$4,000
36(2)	<i>Failing to give report of notifiable incident within required time</i>		\$2,000
38(1)	<i>Failing to ensure site of notifiable incident is not disturbed</i>		\$4,000

Offences under Energy Coordination Act 1994

Section	Description	Penalty Individual	Penalty Corporation
20(1)(b)	<i>Failing to give inspector access to land, premises or thing, or to give reasonable assistance, when required under s.14 (b)</i>	\$500	\$2,000
20(2)	<i>Failing to provide information, records or documents when requested under s.14 (d)</i>	\$500	\$2,000
20(4)	<i>Failing to comply with order given by inspector under s.18</i>	\$500	\$2,000

Offences under gas related legislation

Offences under Gas Standards Act 1972

Section	Description	Penalty
12(4), 14	<i>Failing to assist inspector in removing an item of equipment</i>	\$400
13(1)	<i>Commencing to supply gas to consumer gas installation that does not comply with prescribed requirements</i>	\$400
13D	<i>Selling or hiring, or advertising for sale or hire, gas appliance that –</i> a) <i>is not approved; or</i> b) <i>is not marked, stamped or labelled in approved manner</i>	\$400
13H(4)	<i>Failing to comply with order prohibiting, or imposing conditions or restrictions on, sale, hire or use of appliance or component</i>	\$400

Offences under Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999

Regulation	Description	Penalty
19(b)	<i>Performing work outside scope of gas fitter's authorisation</i>	\$400
20(1)(b)	<i>Installing appliance, apparatus or part contrary to manufacturer's instructions</i>	\$400
20(3)	<i>Failing to endorse note as to safe operation on notice of completion for used appliance</i>	\$400
20(4a)	<i>Modifying appliance without approval</i>	\$400
22	<i>Leaving Type B appliance permanently connected without certificate of compliance</i>	\$400
23	<i>Failing to record service information in required manner</i>	\$400
26(1)(a)	<i>Failing to ensure gas installation system is gas-tight</i>	\$400
28(3)	<i>Failing to give notice of completion of gasfitting work within required time</i>	\$400
30	<i>Failing to rectify defects and give notice of rectification within required time</i>	\$400
34(1)	<i>Failing to keep records of employed gas fitters in required manner</i>	\$250
34(3)	<i>Failing to keep records for required time</i>	\$250
34(4)	<i>Failing to make records available for inspection</i>	\$250
35(1)	<i>Supplying gas to Type A appliance without notice of completion</i>	\$400
36(1)	<i>Using Type B appliance without certificate of compliance</i>	\$400
39	<i>Marking, stamping or labelling appliance to falsely state or imply that it is approved</i>	\$400
42	<i>Failing to report incident causing, or likely to cause, injury or damage</i>	\$400
42A	<i>Failing to report defect rendering gas installation unsafe</i>	\$400

Offences under Gas Standards (Gas Supply and System Safety) Regulations 2000

Regulation	Description	Penalty
4(2)	<i>Failing to ensure gas supplied to consumer installation is within pressure limits</i>	\$400
5(2)	<i>Failing to ensure natural gas supplied to consumer satisfies quality standards</i>	\$400
7(1)	<i>Failing to ensure LPG supplied to consumer satisfies quality standards</i>	\$400
7(4)	<i>Failing to keep records of sampling for required period</i>	\$400
22(2)(a)	<i>Failing to give notice before commencing major activity</i>	\$400
22(2)(b)	<i>Failing to give quarterly outline of proposed major activities</i>	\$400
24(1)	<i>Failing to ensure prescribed activity is carried out in accordance with specified standard or code</i>	\$400
37	<i>Failing to ensure prescribed activity is carried out in accordance with accepted safety case</i>	\$400
38(1)	<i>Failing to lodge report in respect of accepted safety case</i>	\$400
41(1)	<i>Failing to establish and maintain record keeping system in relation to accepted safety case</i>	\$400
41(3)	<i>Failing to keep records in required manner</i>	\$400
41(4)	<i>Failing to keep records for required time</i>	\$400
43(1)	<i>Failing to notify Director of notifiable incident within required time</i>	\$400
44(3)	<i>Failing to lodge report of notifiable incident within required time</i>	\$400

Late News

On Thursday 5 April 2007, the WA Parliament passed the Gas and Electricity Safety Legislation Amendment Bill 2006.

This Bill amends the *Energy Coordination Act 1994*, the *Electricity Act 1945* and the *Gas Standards Act 1972*. The amendments are expected to come into effect during the next weeks, following proclamation.

The principal purposes of the amendments are to raise the maximum penalties for prosecutions under the Acts and their Regulations and to improve the order-making powers of EnergySafety's inspectors for dealing with electricity and gas network non-compliances.

The next Energy Bulletin will provide details on these changes.