



## Memorandum

TO: Members of Council  
FROM: Joy Hulton, Regional Solicitor  
DATE: April 23, 2015  
RE: ***Provincial Offences Act - Consultation for an Online  
Administrative Monetary Penalty System***

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This memorandum informs Council of the consultation paper released by the Ministry of Attorney General regarding the expansion of the administrative monetary penalty systems and the potential use of an online dispute process. It also advises Council of the response to this consultation proposed by staff.

### **Background**

The *Provincial Offences Act* governs the prosecution and enforcement of provincial and federal regulatory offences and municipal bylaws. The Act includes three distinct parts that govern the commencement of proceedings. Most offences are commenced under Part I by a certificate of offence or "ticket". Parking infractions are commenced under Part II. Part III offences are commenced through the laying of an information by a police officer or provincial offences officer.

### ***Provincial Offences Act* Modernization Report**

The *Provincial Offences Act* was first enacted in 1979. Despite many significant developments in the law, including the enactment of the *Charter of Rights and Freedoms*, no comprehensive review of the Act had been undertaken for over 30 years. In 2009, the Law Commission of Ontario approved a project on the Modernization of the *Provincial Offences Act*. The objective of the review was to ensure that the *Provincial Offences Act* system was appropriate for Ontario's current legal environment, and to determine whether a less expensive but equally fair, forum for adjudicating provincial offences should be made available to the public.

The final report of the Modernization of the *Provincial Offences Act* was released in 2011 with forty-seven recommendations. It includes a recommendation to the Ministry of Attorney General to determine which, if any, Part I offences would be better addressed

through an administrative monetary penalty system. This recommendation was based on three core factors:

1. The high volume of minor cases being heard with the provincial offences courts on a yearly basis;
2. The significant costs associated with the administration of those courts; and
3. The increased use of administrative monetary penalty systems in Canada and Ontario as alternatives to traditional court processes.

### **Administrative Monetary Penalty System**

Administrative monetary penalties are a civil mechanism for enforcing compliance with regulatory requirements. It involves a penalty that is imposed upon an offender within the context of an administrative process rather than a judicial process.

Administrative monetary penalties are imposed without a court hearing. Protections are put in place to ensure that the process for imposing a penalty is fair and in accordance with the principles of natural justice. The administrative monetary penalty system is currently in place for certain offences in Ontario (e.g. parking and licencing by-laws).

### **Ministry of Attorney General initiates *Provincial Offences Act* Modernization consultation**

On March 3, 2015 the Ministry of Attorney General released a consultation paper requesting input on the merits of introducing an online administrative monetary penalty system for regulatory infractions in Ontario. Input obtained through this consultation will assist the Ministry to make decisions concerning the framework and key features for the system and draft proposals for legislative changes for potential implementation.

### **York Region Court Services engaged its Provincial Offences Stakeholders**

As part of the consultation process, the Ministry of Attorney General requested that the paper be shared with all stakeholders, providing an opportunity for everyone to have input in this initial consultation phase.

On April 1, 2015, Court Services hosted a meeting with its POA stakeholders, including local municipal staff, the judiciary and the police. Through a facilitated discussion we were able to identify potential business impacts for all stakeholders and open lines of communication in exploring the potential implementation of an online administrative monetary penalty system.

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As a result of this stakeholder engagement, staff identified a number of common concerns and additional questions that will be incorporated into York Region's submission to the Ministry of the Attorney General.

**Written Submissions are due to the Ministry of Attorney General by April 28, 2015**

The Ministry has not made any decisions about a possible future online administrative monetary penalty system for infractions of provincial statutes or municipal bylaws, or what infractions, if any, should move to an administrative monetary penalty system.

Determining the design elements of a delivery model such as, an online dispute resolution system, will require further consultation and it is anticipated that more detailed discussions will take place in future phases of this initiative.

Court Services staff will provide written submissions in response to the consultation to convey the issues and concerns identified through the stakeholder consultation. We will also request that stakeholders be involved in any further consultations or committees that may be formed as a result of this first phase in the consultation process.

Court Services will also share the written submission with all York Region stakeholders.

For more information on this memorandum, please contact Harry Fok, Director, Court Operations, [harry.fok@york.ca](mailto:harry.fok@york.ca) or 905-762-2105 extension 73302.

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