

Clause 3 in Report No. 7 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on April 20, 2017.

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Court Services *Provincial Offences Act*
Write-Off of Uncollectable Fines

Committee of the Whole recommends adoption of the following recommendation contained in the report dated March 31, 2017, from the Regional Solicitor:

1. Council approve the write off of uncollectible minor underpayments of accounts receivable in default totalling \$19,952.
2. The Region write off the uncollectible accounts of defunct entities, businesses or organizations totalling \$2,279,579.94

Report dated March 31, 2017, from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council approve the write off of uncollectible minor underpayments of accounts receivable in default totalling \$19,952.
2. The Region write off the uncollectible accounts of defunct entities, businesses or organizations totalling \$2,279,579.94

2. Purpose

This report recommends the write-off of *Provincial Offences Act* (POA) default fines that have been deemed uncollectable in accordance with The Ministry of Attorney General's Write-Off Directive and Operating Guideline and the Region's Court Services Collections Policy.

3. Background

Provincial directive provides guideline with respect to collection best practices and allows for “write-off” of uncollectible accounts

In February 2008, the Ministry of Attorney General (MAG) published their *Provincial Offences Act Write-Off Directive and Operating Guideline* for the handling of POA fines deemed uncollectible. The purposes are to ensure that municipal partners have made all reasonable efforts to collect and to minimize the value of POA accounts receivable.

In accordance with the Guideline, a POA fine may be written off if:

1. The accounts receivable in default is a minor underpayment (i.e. accounts receivable \$25.00 or less)
2. The accounts receivable is greater than \$25 and was in default for a minimum of four (4) years, all reasonable collection efforts have been followed by the Region, and those collection efforts were unsuccessful. (In this case, the POA debt is deemed “uncollectible.”)
3. The person who owes the unpaid amount(s) is deceased and collection from the estate is impractical or has been unsuccessful.
4. A clerical/court error was determined to have placed the account in default status and/or conviction when the account, if properly administered, would have been completed.
5. The original charging document cannot be located to proceed further with additional collection efforts and/or other court processes.
6. The operating entity, business or organization convicted and that owes the unpaid amount is no longer in operation or has no assets against which the Region can pursue a claim, making collection from the defunct entity impractical
7. A court order or a Provincial or Federal directive requires that collection efforts must cease.

The accounts recommended for write off in this report relate to numbers 1 and 6 above.

Council has approved the Court Services Collections Policy for *Provincial Offences Act* Default Fines Write-off

In November 2008, Council approved the Court Services Collections Policy for POA Default Fines, which addressed collections and write-off of uncollectible accounts.

In May 2016, Council approved amendments to the Region's POA Collection Policy to implement an updated collections strategy. No changes were made to the write-off guidelines which comply with the Ministry of Attorney General's Write-Off Directive and Operating guidelines.

4. Analysis and Options

All practical efforts are made to collect under the Region's Provincial Offences Act Collection Policy

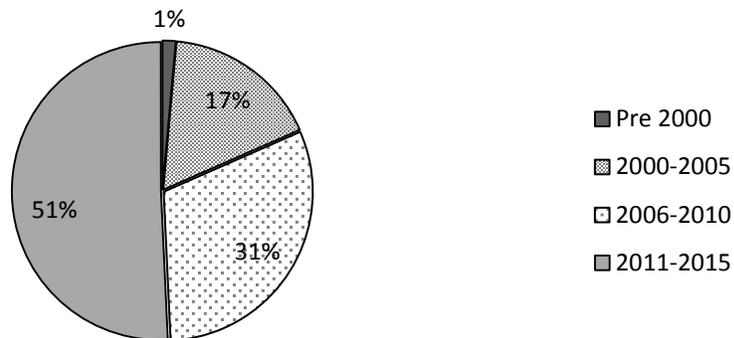
In accordance with the fine enforcement tools authorized by Regional Council in the Collection Policy, Court Services staff have taken every practical step to maximize the collection of defaulted provincial offences fines and to maintain the integrity of the justice system by using all legislative collection tools available. Reasonable collection efforts include:

- Timely distribution of all notices and communications to debtors;
- Consideration of extended payment plans to assist debtors with financial hardship;
- Application of available administrative sanctions (including license suspension and plate denial);
- Enhanced use of collection agencies; and
- Civil fine enforcement mechanisms where available.

Since 2008, Court Services staff have successfully collected over \$34 million dollars in defaulted fines. However, when the POA court program was transferred to the Region in 1999, the Province also transferred \$13 million in unpaid fines. Approximately \$4.4 million has been written off since that time as the unpaid fines were deemed uncollectible. Currently, 1.7 million remains of the pre-1999 fines. The accounts recommended for write off in this report date as far back as 1993.

Figure 1

Percentage of Fines Recommended for Write-off by Enforcement Year



Minor underpayments are frequently inappropriate for collection activity and are no longer realistically collectible

Despite all available enforcement and collection efforts, Court Services has identified 903 minor underpayments (i.e. accounts receivable \$25.00 or less) totalling \$19,952 that have no reasonable prospect of collection (see Table 1 below). That the legislation has a tendency to create minor underpayments through the automatic addition of late fees and other costs at specified points in time. On many occasions, these extra amounts are added to the fines after an offender has mailed their payment for a fine to the court office. Because a large number of minor underpayments are inherent in the system, in the interests of fairness and practicality, it has always been both provincial and municipal practice to excuse payment of the added amounts in these circumstances.

The Provincial Guideline as provided by MAG allows write-off of minor underpayments (i.e. less than \$25 outstanding) with no time restriction.

Table 1
Accounts Receivable \$25.00 or Less recommended for Write-Off

# Of Accounts	Fine Value	Total
436	\$25.00	\$10,900.00
431	\$20.00	\$8,620.00
36	Less than \$20.00	\$432.60

There is no reasonable prospect of collection from defunct entities or those with no assets

Court Services has identified 614 accounts receivable of corporate entities, businesses or organizations that owe unpaid amounts totalling \$2,279,579.94. The organizations are no longer in operation or have no assets against which the Region can pursue a claim (see Table 2 below). All reasonable collection efforts have been taken while these entities were in operation. Further enforcement options either do not exist or are impractical to implement.

Table 2
Accounts Receivable greater than \$25.00 recommended for Write-off

# Of Accounts	Fine Value	Total
522	Less than \$1,000	\$146,763.38
61	\$1,000 - \$9,000	\$203,132.00
27	\$10,000 - \$99,000	\$520,980.00
4*	\$100,00 or more	\$1,408,704.56

* The four accounts noted in the table above can be attributed to two defunct entities; One entity was charged and convicted for multiple counts under the *Environmental Protection Act*, the other was charged and convicted of multiple counts under the *Retail Sales Tax Act* and the *Corporation Tax Act*

Administrative “write-off” does not absolve guilty parties

The Ministry of Attorney General's Write-Off Directive and Operating Guideline is based on the principle that POA accounts receivable may be written off for accounting purposes only as ‘debts to the Crown are owed in perpetuity and are never forgiven’.

5. Financial Considerations

Currently, the Region uses the cash basis of accounting for POA Courts collections and does not accrue POA Courts receivable, therefore any council approved write-off of accounts receivable will have no impact on the Region's financial statement.

6. Local Municipal Impact

The Region collects POA fines on behalf of the local municipalities. Of the total amount for defunct entities recommended for write-off, fine value of \$123,566.50 is related to municipal parking and bylaw charges (See Table 3 below). Local municipal staff are aware that if the write off is authorized, collection efforts will cease on these accounts and revenue will not be realized by the local municipality. The write off of minor underpayments will have no impact to local municipalities.

Table 3
Accounts Receivable of Defunct Entities Related to Municipal Bylaw charges

Municipality	Total Number of Cases	Fine Amount
Vaughan	44	\$55,923.25
Markham	8	\$4,112.50
Richmond Hill	10	\$56,007.75
Witchurch-Stouffville	2	\$142.00
Aurora	77	\$7,249.00
King	1	\$66.00
East Gwillimbury	1	\$66.00

7. Conclusion

Based on the Region's Collection Policy for *Provincial Offences Act* Default Fines and the Ministry of Attorney General's Write-Off Directive and Operating Guideline, staff recommends that Regional Council approve the write-off of the uncollectible accounts identified in this report.

For more information on this report, please contact Lisa Brooks, Director Court Operations at 1-877-464-9675 ext.73209

The Senior Management Group has reviewed this report. March 31, 2017

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