



DYKES VAN HEERDEN GROUP OF COMPANIES  
professionals striving for excellence

## **CERTIFICATES OF COMPLIANCE**

### **1. ELECTRICAL CERTIFICATE**

The Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) require every user or lessor of an electrical installation to be in possession of a valid certificate of compliance and to produce such a certificate on request to an inspector, supplier or approved inspection authority, unless there is an agreement to transfer the responsibility to the lessee as aforementioned but still excludes electrical installations that existed prior to 23 October 1992 and had no change of ownership since 1 March 1994 (unless there had been an addition or alteration to it). Prior to 1 May 2009, the certificate, once issued, continued to remain valid until or unless the Seller made additions or alterations to the electrical installation and if he/she did, they only needed a new certificate for the portion of the installation that was impacted upon as a result of the addition or alteration. The Electrical Certificate of Compliance was also transferable with no limitations. However, currently the owner may not allow a change of ownership if the certificate of compliance is older than two years. If the certificate is not older than 2 years it is freely transferable. Any person who contravenes or fails to comply with any of the provisions mentioned above, shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a maximum period of 12 months and, in the case of a continuous offence, to an additional fine of R200,00 for each day on which the offence continues or to additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall not exceed 90 days.

### **2. BEETLE CERTIFICATE**

A beetle certificate is not a requirement by law, although it is regularly included in agreements in the coastal provinces to protect the purchaser of a new property against buying a beetle infested property and the damage caused as a result. It is also regularly required by the Banks as a condition before registration of a Mortgage Bond can take place due to the Bond Holder's security being at risk in the event of the property being infested by beetles causing damage to wooden floors and other wood installations in the property that may be very expensive to replace. In practice, a certificate is usually accepted by the Purchaser and Financial Institutions if the certificate is not older than 6 months, although one needs to peruse the specific wording of the beetle clause and the mortgage condition to determine whether an existing certificate can be transferred in terms thereof. In the event that the certificate is required as a condition in a Mortgage Bond as a prerequisite for registration thereof, the cost of the certificate should in the absence of an agreement between the Seller and the Purchaser that it shall be for the account of the Seller, be for the account of the Purchaser.

### **3. PLUMBING CERTIFICATES: A REQUIREMENT FOR PROPERTY TRANSFERS IN THE CITY OF CAPE TOWN**

The City of Cape Town recently passed a by-law in terms of which it is required that a plumbing certificate issued by an accredited plumber is e-mailed to Council prior to registration of transfer. The form of the certificate is specifically prescribed in Schedule 4 of the By-Law. The City has indicated that they are not allowed to withhold rates clearances as a result of non-compliance with this requirement. It can be implied from the certificate itself that a new certificate needs to be obtained for each transfer as it does not contain an expiry date and requires the details of the seller, the purchaser and the property in each instance. The certificate does not directly distinguish between Sectional Title units and Free Standing Erven. However, as

a result of the fact that "Owner" (the person in whom, from time to time, is vested the legal title to the premises) is defined in Section 1 to include the owner of a Section as defined in the Sectional Titles Act and the Developer or Body Corporate. The By-Law states in Section 64 thereof that any person who contravenes or fails to comply with its provisions (amongst other things) is guilty of an offence and is, on conviction liable for a fine or imprisonment not exceeding five years or both such fine and term of imprisonment. In respect of common property, it is safe to assume that it is applicable for transfers in both instances.

#### 4. COMPLIANCE CERTIFICATES IN RESPECT OF GAS INSTALLATIONS

On the 15<sup>th</sup> July 2009 new regulations in terms of the Occupational Health and Safety Act of 1993 were published governing "Pressure Equipment Regulations". In terms of the same there is now a duty on the homeowner to hold an external inspection and leak test after the installation or reinstallation and before the commissioning of a gas system. The same can only be done by authorized persons who must issue a certificate of conformity after the completion of a gas installation, modification, alteration or change of user or ownership. It can therefore be implied that a new certificate needs to be obtained each time there is a change of ownership.

#### 5. ELECTRIC FENCE CERTIFICATE

The Occupational Health and Safety Act 1983 (Act No 6 of 1983) also requires that from the 1<sup>st</sup> of October 2012, an Electrical Compliance Certificate has to be issued in respect of all electrical fence systems which are installed after the 1<sup>st</sup> October 2012 or in respect of which any modifications or alterations have been made to such electrical fence system after the 1<sup>st</sup> October 2012. In addition if there is a change of ownership which takes place after the 1<sup>st</sup> October 2012, such certificate must be issued. The certificate is transferrable. There has been some confusion on whether there was a postponement of the commencement date of this requirement which was mainly caused as a result of the fact that electrical fence installers must pass new examinations and be registered with the Department of Labour by 1 October 2013. The Governing Body Electric Fence Installers, South African Electric Fence Installers Association announced however that they will be granting temporary accreditation until 1 October 2013 to allow compliance with this new regulation.

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