

The NEW Electrical Installation Regulations, 2009

The Electrical Installation Regulations, 2009 *repeals* the Electrical Installation Regulations, 1992, promulgated by Government Notice R. 2920 of 23 October 1992, as amended by Government Notice No. R. 962 of 20 May 1994, and **came into effect on 1 May 2009**.

These Regulations were promulgated in terms of section 43 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), after consultation with the Advisory Council for Occupational Health and Safety and the Minister of Finance, in the Schedule.

These Regulations are subject to the proviso that Regulation 5(6) shall only come into effect on 1 April 2010.

SITUATION PRIOR TO 1 MAY 2009

- Under the 1992 Regulations, the Seller was obliged to provide a purchaser with a valid Electrical Certificate of Compliance.
- The certificate, once issued, continued to remain valid until or unless the Seller made additions or alterations to the electrical installation.
- The Electrical Certificate of Compliance was also transferable with no limitations.
- This meant that a seller could provide the purchaser of his property with a Certificate of Compliance dating back to the date that the Seller received transfer of the property now being sold, subject only to the Seller not having made any additions or alterations to the installation.
- The Seller had no duty to have the property re-inspected or to have the certificate re-validated or re-issued.
- He/she only had to deliver a valid certificate to the Purchaser.

THE NEW ELECTRICAL INSTALLATION REGULATIONS, 1 MAY 2009

The duties of the Electrical Contracting Board of South Africa are now transferred on to the Chief Inspector.

A formerly "accredited person" now becomes a "registered person".

The Certificate of Compliance now becomes an Electrical Certificate of Compliance.

An approved inspection authority for electrical installations is a person or body approved by the Chief Inspector (CI) in terms of Regulation 5 to carry out inspections, tests and investigations on electrical installations.

The 2009 Regulations similarly to the 1992 Regulations requires the following:

- ✓ Regulation 2. (1) Subject to subregulation (3), the user or lessor of an electrical installation, as the case may be, shall be responsible for the safety, safe use and maintenance of the electrical installation he or she uses or leases.
- ✓ (2) The user or lessor of an electrical installation, as the case may be, shall be responsible for the safety of the conductors on his or her premises connecting the electrical installation to the p

BUT NOW ALLOWS FOR THE TRANSFERING OF THE OBLIGATION TO THE LESSEE

In terms of Regulation 2 (3):

- (3) Where there is a written undertaking between a user or lessor and a lessee whereby the responsibility for an electrical installation has been transferred to the lessee, the lessee shall be responsible for that installation as if he or she were the user or lessor.
- If there is no written undertaking by the Lessee, the owner is deemed to be the user.

Another amendment is that the certificate now has a limited validity period if the property is transferred, in that it limits the validity period to 2 years:

- Regulation 7 (5) states that:
- Subject to the provisions of section 10(4) of the Act, the user or lessor 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.

Similarly Regulation 7(4) also refers to situations where additions or alterations have been effected to an electrical installation for which a certificate of compliance was previously issued.

Under these circumstances the user or lessor of such electrical installation shall obtain a certificate of compliance for at least the addition or alteration.

Regulation 7(7) provides for the situations where an inspector, approved inspection authority for electrical installations or supplier has carried out an inspection or test and has detected any fault or defect in any electrical installation, they may require the user or lessor to obtain a new certificate of compliance and if they are of the opinion that it poses an immediate danger to persons they shall forthwith take steps to have the circuit disconnected.

Furthermore, where such fault or defect is of such a nature that it may indicate negligence on the part of a registered person, the inspector, approved inspection

authority for electrical installations or supplier shall forthwith report those circumstances in writing to the chief inspector.

The regulations in 7(1) and 7(2) still 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.

Regulation 9 sets the requirements pertaining to the person able to issue a certificate

It states that no person other than a registered person may issue a certificate of compliance and only after satisfying himself by means of an inspection.



- A registered person means a person registered in terms of regulation 11; or
- regulation 9 of the Electrical Installation Regulations, 1992, as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

Regulation 10 sets the procedure to employ in the event of a dispute arising over the interpretation of a health and safety standard;

- Under these circumstances an affected person may appeal against that interpretation to the chief Inspector.
- A person who refers a dispute is required to serve a notice of dispute, setting out fully the nature and grounds of the dispute, on both the chief inspector and the person whose interpretation he or she is disputing, by personally delivering the notice of dispute or sending it by registered post.
- The person whose interpretation is disputed shall within 14 working days of the date on which he or she received the notice of dispute, forward a notice setting out the reasons for his or her interpretation to the chief inspector.
- The chief inspector shall, after having considered the grounds and the cause of the dispute, confirm, set aside or vary the interpretation of the safety standard in question or substitute it for the interpretation, which in the opinion of the chief inspector, ought to have been given.

PENALTIES

The Regulations also sets some severe penalties under **Regulation 15** in so far as it states that: Any person who contravenes or fails to comply with any of the provisions of regulations 3(3), 4, 5,6(1), 7, 8, 9, 11 (4) and 11 (5) 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.

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