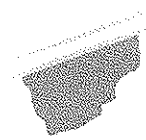




EAIASA

Electrical Approved Inspection Authority Southern Africa



Legal Process Information Document

The legal implications relating to an invalid Certificate of Compliance are extensive and the relevant Legislation is appended hereunder for your legal advisors attention, in order to expedite your legal rights in this matter.

It is recommended that you consult with your own legal representative in order to ensure that your interests in the property sale, with particular reference to the Certificate of Compliance, are protected.

It is important to note that the signatory on the Certificate of Compliance (Electrician/Registered Person) **is not linked by any civil contract to you as the purchaser of a property containing a fixed electrical installation** and you **will therefore not** have any civil recourse to this person. The civil contract in this regard is between this person (Electrician/Registered Person) and the seller. This person (Electrician/Registered Person) is also required to be registered with the Department of Labour (DOL).

In terms of the authority mandated to EAIASA by the Department of Labour, we will notify the Electrician/Registered Person involved in this matter of any non-compliance which may be detected during our visual inspection and request him to rectify such non-compliance in order for a valid Certificate of Compliance to be issued. It must be noted however, that should the Electrician/Registered Person fail to comply with the prescribed requirements the matter will be handed over to the Department of Labour to proceed with further investigation and potential prosecution of the Electrician/Registered Person for failing to comply with such prescribed requirements.

The issuing of a Certificate of Compliance for purposes of declaring an electrical installation safe for continued use is governed by **The Electrical Installation Regulations (2009)** and the **SANS 10142-1 Wiring Code of Premises**.

Where a premises is sold which contains a fixed electrical installation, the requirement for a valid Certificate of Compliance to be produced in the sale process is directed by **Section 22 of the Occupational Health and Safety Act 85 of 1993, read together with the provisions of the relevant Sale Agreement relating to the provision of such Certificate.**

The requirement of any Registered Person (a suitably accredited person registered by the Department of Labour), is to personally inspect and test an electrical installation ***and only after all faults and defects have been rectified***, issue a **valid** Certificate of Compliance.

As the new user of the electrical installation, you are held **personally accountable for the safety, safe use and maintenance of the electrical installation that you use**, and ***be in possession of a valid Certificate of Compliance***. It is important that you satisfy yourself that all the required processes have been done according to legislation in terms of accepting such responsibility.

Your attention is again drawn to the provisions of your Sale Agreement read together with the relevant legislation, which prescribes the **responsibility of the seller to be in possession of a valid Certificate of Compliance, which Certificate must be supplied to the buyer in the sale process.** Any breach of legislative safety requirements will automatically result in a breach of the relevant clause in the sale agreement and will invoke civil recourse processes.

EAIASA can assist by providing an inspection to determine whether all safety requirements have been attended to and provide you with a **Report** and **Notice of Special Findings** attesting to the current status of the electrical installation.

These documents can be used by you to enforce your legal rights as prescribed in your sale agreement against the selling party/parties and should preferably be done prior to registration and transfer of the property.

PLEASE NOTE:

1. On request, pictures will be made available on CD and are to be collected by the client.
2. Maintenance issues do not affect the validity of the Test Report and Certificate of Compliance being investigated i.e. cooking appliances, light fittings, geysers (hot water cylinders) and motors which may not be working but where the power supply is connected to the supply terminals of such equipment.
3. In terms of the audit/inspection, the inspector is not in a position to quote for remedial work or issue a certificate of compliance.
4. Comments made or viewpoints given by re staff of the EAIASA either on site or telephonically are not necessarily that of management, unless confirmed in writing.

CONFIDENTIALITY:

The contents of any documentation relating to the audit/inspection contains confidential information which is subject to NON-Disclosure Agreements (NDA'S) and thus cannot be shared with or by any parties who are not connected to the case without the approval of EAIASA. *It is however important to note that where such information is required to be given to parties not connected to the case by virtue of Legislative requirements, such information will then be made available to such parties.*

COSTING TERMS AND CONDITIONS:

1. All quoted amounts are VAT Exclusive
2. The audit/inspection amount is quoted is valid for thirty days.
3. ***Invoice is payable prior to confirmation of the audit/inspection.***
4. Confirmation by means of signature on the inspection request document serves as acceptance of the terms and conditions of this document.

The Constitution of South Africa – Act 200 of 1993
FUNDAMENTAL RIGHTS

**Every person shall have the right to an environment that is not detrimental to his or her health or well being.
(Section 29)**

OCCUPATIONAL HEALTH AND SAFETY ACT
ACT NO. 85 OF 1993 (THE ACT)

Central to the Act's approach to the regulation of occupational health and safety are the concepts of – 'DANGER', 'HAZARD' and 'RISK'.

DANGER - means "anything that may cause injury or damage to persons or property".

HAZARD - means "any source of or exposure to 'danger'".

RISK - means "the probability that injury or damage will occur".

The 'risk' assessment approach in the Act requires the identification of hazards and an assessment of the extent to which they constitute a risk. This assessment will determine what precautionary measures must be taken to create a safe environment.

SAFE - means "free from any hazard".

THE ACT

To provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work.

Definitions

"approved inspection authority" means an inspection authority approved by the chief inspector: Provided that an inspection authority approved by the chief inspector with respect to any particular service shall be an approved inspection authority with respect to that service only

"machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;
(an electrical installation is included as being defined as "machinery")

"Standard" means any provision occurring-

- (a) in a specification, compulsory specification, code of practice or standard method as defined in section I of the Standards Act, 1993 (Act No. 29 of 1993); or
- (b) in any specification, code or any other directive having standardization as its aim and issued by an institution or organization inside or outside the Republic which, whether generally or
- (c) with respect to any particular article or matter and whether internationally or in any particular country or territory, seeks to promote standardization;

Occupational Health and safety Act 85 of 1993 - SECTION 22 - Sale of certain articles prohibited

"Subject to the provisions of section 10(4), if any requirement (including any health and safety standard) in respect of any article, substance, plant, machinery or health and safety equipment, or for the use or application thereof has been prescribed, ***no person shall sell or market in any manner whatsoever such article, substance, plant, machinery or health and safety equipment unless it complies with that requirement.***"

The responsibility for the issue of a valid Certificate of Compliance lies with the seller, and no person shall sell or market any machinery (by definition including an electrical installation) unless a valid Certificate of Compliance has been issued for such electrical installation.

ELECTRICAL INSTALLATION REGULATIONS (2009)

"Certificate of compliance" means

- (a) a certificate with a unique number obtainable from the chief inspector, or a person appointed by the chief inspector, in the form of Annexure 1 J and issued by a registered person in respect of an electrical installation or part of an electrical installation; or
- (b) a certificate of compliance issued under the Electrical Installation Regulations, 1992;

"Electrical installation" means

any **machinery**, in or on any premises, used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an electrical installation irrespective of whether or not it is part of the electrical circuit, but excluding

- (a) Any machinery of the supplier related to the supply of electricity on the premises;
- (b) Any machinery which transmits electrical energy in communication, control circuits, television or radio circuits;
- (c) An electrical installation on a vehicle, vessel, train or aircraft; and
- (d) control circuits of 50 V or less between different parts of machinery or system components, forming a unit, that are separately installed and derived from an independent source or an isolating transformer;

"Installation work" means

- (a) The installation, extension, modification or repair of an electrical installation;
- (b) The connection of machinery at the supply terminals of such machinery; or
- (e) **The inspection, testing and verification of electrical installations for the purpose of issuing a certificate of compliance;**

Responsibility for electrical installations

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.

Certificate of compliance

7.

(1) Subject to the provisions of subregulation (3), **every user or lessor of an electrical installation**, as the case may be, **shall have a valid certificate of compliance** for that installation in the form of Annexure 1, which shall be accompanied by a test report in the format approved by the chief inspector, in respect of every such electrical installation.

(5) 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.

Issuing of certificate of compliance

9.

(3) If at any time prior to the issuing of a certificate of compliance any fault or defect is detected in any part of the electrical installation, **the registered person shall refuse to issue such certificate until that fault or defect has been rectified:**

(4) Any person who undertakes to do electrical installation work shall ensure that a **valid** certificate of compliance is issued for that work.

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 INCORPORATION OF SAFETY STANDARDS INTO
ELECTRICAL INSTALLATION REGULATIONS, 2009**

I, MMS MDLADLANA, Minister of Labour, after consultation with the Advisory Council for Occupational Health and Safety, hereby, under section 44 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), incorporate into the Electrical Installation Regulations, 2009, the safety standards specified in the Schedule.

MMS MDLADLANA, Minister of Labour

SCHEDULE

Standards of South Africa:

SANS 10086-1: The installation, inspection and maintenance of electrical equipment used in explosive atmospheres Part 1: Installations including surface installations on mines;

SANS 10089-2: The petroleum industry -Part 2: Electrical and other installations in the distribution and marketing sector;

SANS 10108: The classification of hazardous locations and the selection of apparatus for use in such locations; and

SANS 10142-1: The wiring of premises Part 1: Low-voltage installations.