

WHAT COMPLIANCE CERTIFICATES DO I NEED WHEN SELLING MY HOME?

Often when conveyancing attorneys attend to property transfers, they find that homeowners are caught unawares of the compliance certificates that are required when selling a house and are subsequently shocked by the associated costs which they did not budget for.

A question frequently asked is whether or not these certificates are a legal requirement and in what circumstances can they be avoided?

In brief, compliance to electrical, solar, water, gas and electric fence certificates is prescribed by law and carries penalties for non-compliance. The beetle certificate is not prescribed by law anymore, but it is customary to include it in standard offers to purchase, especially for property situated in coastal regions. Banks also often include these certificates as requirements for a loan for the property that they are bonding in order to ensure that the property is compliant for their security purposes.

It is recommended that all sellers do a thorough inspection at listing stage, so that they know what they are in for in terms of repairs.

Below is a detailed summary of the different types of certificates of compliance and explanations as to what is required by law:

1. ELECTRICAL COMPLIANCE CERTIFICATE

Under the Regulations promulgated in terms of the Occupational Health and Safety Act 85 of 1993, an Electrical Certificate of Compliance (“COC”) must be obtained whenever a property is constructed or transferred. This certificate confirms that the electrical installation complies with the prescribed safety standards at the time of inspection. A valid COC may only be issued by a registered electrical professional, namely an Electrical Tester for Single Phase (ET), an Installation Electrician (IE), or a Master Installation Electrician (MIE), as reflected on their registration credentials.

In respect of property transfers, the regulations prescribe as follows:

- It is obligatory to obtain an electrical certificate where ownership changes.
- Save where there is a valid certificate in place that is
 - (a) not older than 2 years, and

(b) there were no alterations to the installation since the issue of the current certificate, a new certificate is not required for purposes of transfer. The seller can then hand the current certificate to the buyer.

Parties may nonetheless agree that a new certificate must be provided, even where the current certificate is less than two years old and no alterations or additions to the installation have taken place (which is often the case in many standard offers to purchase)

2. SOLAR SYSTEMS

Where a property is fitted with a solar system, additional requirements apply. Solar installations must be carried out by a qualified Electrical Tester operating under the supervision of an Installation Electrician or Master Installation Electrician who holds a valid wireman's licence. While an Electrical Tester may issue a COC for a solar installation, this is only permissible if they have successfully completed the required trade test and relevant unit standards for inspection, testing, and certification of single-phase domestic installations.

A COC remains valid indefinitely, provided no alterations are made to the electrical installation. Should any changes or additions occur, a new COC must be issued for those specific alterations. For purposes of property transfer, however, an existing COC may only be relied upon for a period of two years from the date of issue. Importantly, a solar system is only covered by the COC if it is expressly recorded on the certificate.

In addition to COC requirements, most local municipalities—as well as Eskom—require the registration of Small-Scale Embedded Generation (SSEG) systems for properties equipped with grid-tied solar installations (typically up to 50kW capacity). This registration is mandatory regardless of whether excess electricity is fed back into the grid. Properties that are entirely off-grid, with no municipal or Eskom connection, are exempt from this requirement.

It is worth noting that, although obtaining a COC is a legal requirement for property transfers, it is not a prerequisite for lodgement in the Deeds Office. However, financial institutions often require a valid COC as a condition for granting and registering a mortgage bond. In such cases, failure to provide a compliant certificate may delay or prevent bond registration.

3. BEETLE CERTIFICATE

Although a beetle (woodborer) certificate of compliance is not a legal requirement in terms of South African legislation, it has become standard practice in property transactions, particularly in the Western Cape and Kwa Zulu Natal.

In most instances, the requirement for a beetle certificate arises from the agreement of sale or is imposed by financial institutions as a condition for granting a bond. Accordingly, while not prescribed by law, it is generally expected that the seller will provide a valid beetle certificate prior to transfer, making it a practical necessity in the conveyancing process.

Some noteworthy points:

- The seller and buyer can contract out of the requirement to provide a beetle certificate. However, if parties agree that no beetle certificate is necessary and the bank requires it for the buyer's home loan, then it will need to be provided at the purchaser's expense. Obviously if it is a cash deal, this does not present a problem.
- The certificate is usually not required in sectional title schemes as these are generally more recent buildings with little or no timber. However, where there is a risk of beetle infection in a sectional title unit, for example where an old building was sectionalised or where you have a top floor unit with wooden beamed roofing, it may well be prudent to provide for a beetle certificate.

4. ELECTRICAL FENCE CERTIFICATE

This aspect is governed by the Electrical Machinery Regulations promulgated under the Occupational Health & Safety Act. The primary purpose of requiring an Electric Fence Certificate of Compliance is to ensure that the installation is safe.

The certificate is required in the following instances:

- Where there is a change in ownership of a property after 1 October 2012 and an electric fence is installed on the property.
- Where there has been no change in ownership, but an electric fence has been altered or modified after 1 October 2012, even if the original installation predates this date.

Unlike electrical compliance certificates, the legislation does not prescribe a fixed period of validity for an Electric Fence Certificate. Once issued, it may be passed from one owner to the next, provided that the agreement of sale does not stipulate otherwise and that no alterations have been made to the installation after the certificate was issued.

In sectional title schemes, electric fences are typically located on the common property, which is owned collectively by the body corporate. Each sectional owner holds an undivided share in such common property.

The transfer of a sectional unit constitutes a change in ownership, albeit in part, of the common property. Accordingly, where an electric fence is situated on such property, compliance with the regulations is required.

Given that the management and maintenance of common property fall within the responsibilities of the body corporate, it is sufficient for the body corporate to obtain a single compliance certificate for the entire electric fence installation, which can be produced as required.

A new certificate should be obtained whenever alterations are made to the electric fence. However, it is not necessary to obtain a new certificate upon each transfer within the scheme.

In the case of gated estates that are not sectional title schemes, but rather consist of freehold erven within a homeowners' association, the position differs slightly. Where any portion of the electric fence is situated on an erf being transferred (typically perimeter properties), the regulations are technically triggered by the change in ownership.

This creates a practical inconsistency, as all members of the homeowners' association benefit from the electric fence, yet only those owners whose properties physically host the fence would be required to obtain a certificate.

In line with the approach adopted in sectional title schemes, it is more practical for the homeowners' association to obtain a single compliance certificate for the entire electric fence installation, which can then be made available when required for transfer purposes.

5. WATER INSTALLATION CERTIFICATE

In 2011, the City of [Cape Town](#) Municipality passed a new water bylaw which requires that, with effect from 18 February 2011 onwards, all sellers of properties within its jurisdiction must furnish a Water Certificate to the municipality before transfer of ownership.

Note that:

- This requirement is only applicable to properties that are situated within the jurisdiction of the City of Cape Town Municipality.
- The certificate is required for both freehold and sectional title properties.
- It is not a full plumbing check and fix. Please ensure the buyer understands this. The requirements of what needs to be certified in a Water Compliance Certificate are very specific and limited (as listed below)
- Although the bylaw does not specifically say that the certificate must be provided to the buyer, it has become commonplace to include such a provision in the offer to purchase. It safeguards the buyer who then knows that his or her property at least complies with the requirements of the city's water bylaw - and the seller is in any event obliged to lodge it with the city before transfer.

What does the Water Installation Certificate say?

This Certificate (only) confirms that:

- The water installation conforms to the National Building Regulations.
- The property's water meter is registering.
- There are no defects that can cause water to run to waste.
- No rainwater leaks into the sewerage system.

The intention of the legislation:

- Manage water resources and water loss.
- Protect the buyer from latent defect claims and high water bills due to leakages.
- Health and safety (not allowing a cross connection between storm water and sewer).
- Ensuring water meter accuracy.
- Provide an opportunity to gradually eliminate the increasing number of storm water connections into our sewers that are putting capacity pressures on our sewerage network and treatment capacity and are illegal.

The plumber attending at the property basically does the following:

- Checks that the water meter is standing still when all taps are closed (this means there are no leaks on the property).
- Checks the roof gutters/storm water drains and the sewerage manholes (to ensure the rain water flows into storm water drain and the sewerage in the sewerage drain and no cross connection).
- Checks that the geyser is up to SABS standards.
- Checks pipes under basins/sinks.
- Checks that all external pipes are bracketed properly. In respect of all other plumbing works or sanitary ware which is not working properly, this may fall under either a latent or patent defect and is a matter to be resolved between the seller and buyer, bearing in mind the principles applying to voetstoots clauses

6. GAS CERTIFICATE

Pressure Equipment Regulations were also promulgated under the Occupational Health and Safety Act (effective October 2009), which brought gas appliances installed in properties more or less in line with electrical installations.

- From 1 October 2009, it is required that any person installing a liquid gas appliance at a property must have a certificate of conformity issued in respect thereof.
- The certificate may only be issued by an authorised person registered as such with the [Liquefied Petroleum Gas Safety Association of Southern Africa](#) (LPGAS), after he or she has inspected the installation and is satisfied that it is safe, and leak free.
- Gas installations for which certificates of conformity are required would include built-in gas fires or braais, gas stoves, hot water systems and the like.
- Furthermore, in terms of Regulation 17(3) of the Pressure Equipment Regulations, the law speaks of a certificate being required after any installation, alteration, modification or change of ownership of property which necessarily implies that a certificate would need to be in place or issued upon the transfer of a property.
- The parties cannot contract out of it - it is required in respect of all properties where there is a gas installation, whether the owner lives there, rents out the property or whether it is vacant or stands empty for most of the year.
- Unlike electrical certificates, there is no mention of how long the certificate is valid for once issued in the legislation although many standard offers to purchase will put a time frame on how old the certificate that is provided may be (usually two years).

- Ordinarily in terms of the offers to purchase there will be an obligation placed on a seller to obtain the certificate prior to transfer for delivery to the buyer after transfer. As with the other certificates, it is always better for the inspection and any remedial work to be carried out prior to the date of occupation by the buyer and even earlier due to bank and bond requirements, as mentioned before.

Finally

It is always recommended that sellers do their inspections at the listing stage and then they will know what they are in for in terms of repairs. In addition, although it is usually required that the seller should provide the buyer with the certificate by no later than the date of transfer, it is best that the inspection and remedial work is at least done before occupation by the buyer and better still even earlier, as most banks now request a copy for purposes of clearance of the bond for lodgement.