

# COMPLIANCE CERTIFICATES

## Newsletter 15/2014

When an immovable property ("property") is sold, certain compliance certificates must be obtained prior to registration of transfer of the property. Some compliance certificates are obligatory in terms of legislation, depending on the particulars of the transaction and property. A summary of each of the compliance certificates in the context of conveyancing is set out below.

### **ELECTRICAL COMPLIANCE CERTIFICATE**

During May 2009 it became a legal requirement for homeowners to be in possession of a valid electrical compliance certificate ("ECC"). ECCs are certificates issued by a registered electrician certifying that the electrical installations in the property are safe according to certain prescribed standards. No immovable property is to be transferred or let without a valid ECC.

When there is to be a change in ownership of the property, the ECC is valid for a 2 (two) year period. If any alterations or renovations are made to the electrical installations during that 2 (two) year period, the homeowner is required to obtain an additional ECC for such alterations. If the property is not sold and no alterations or renovations have been made to the electrical installation, then the ECC remains valid.

The seller is typically responsible for obtaining the ECC and paying any costs associated with the ECC and any repairs required for the ECC to be issued. Although this requirement may not be waived, the responsibility for attending to the ECC and payment of the costs associated with the ECC, may be shifted to the purchaser by agreement.

### **ENTOMOLOGIST CERTIFICATE**

Property sale agreements typically include a provision requiring the seller to obtain an entomologist certificate ("EC") certifying that the property is free from wood-destroying insects. An EC is also known as a pest or beetle certificate and must be issued by an entomologist registered with the South African Pest Control Association.

If upon inspection of the property, an infestation is found, the entomologist will submit a quotation for work to be performed to eradicate the problem. Once the problem has been attended to, they will issue the EC which will be valid for 3 (three) months.

An EC is not a legal requirement for the transfer of property. It is however advisable for a purchaser to request that an EC be obtained. If a bank is involved with the financing of the purchase of the property, particularly in KwaZulu-Natal, the bank will usually insist on receiving a certified copy of the EC prior to lodgement of the transfer documents in the Deeds Office.

The seller is typically responsible for obtaining the EC and paying any costs associated with the EC including work to be performed to eradicate any infestations. This requirement may be waived or the responsibility placed onto the purchaser by agreement between the parties.

## **GAS CERTIFICATES OF COMPLIANCE**

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In terms of Regulation 17(3) of the Pressure Equipment Regulations to the Occupational Health and Safety Act 85 of 1993, any person disposing of a property on which a gas appliance is installed, must obtain a certificate of compliance (“COC”) in respect of such appliance. Gas and gas systems are very broadly defined and include anything that uses any amount of gas.

A COC in respect of gas installations ensures that all gas fittings are safe and in proper working order. The COC must be issued by an authorised person registered with the Liquified Petroleum Gas Safety Association of Southern Africa. The regulations do not specify the period of validity of the COC but it is advisable to obtain an updated COC prior to any transfer of property requiring a COC.

The seller is typically responsible for obtaining the COC and paying any costs associated with the COC and any repairs that may be required in order for the COC to be issued. This requirement may not be waived as it is a legal obligation for the gas installation to have a valid COC. The responsibility may however be shifted contractually to the purchaser in the sale agreement.

## **ELECTRIC FENCE SYSTEM COMPLIANCE CERTIFICATE**

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Regulation 12 of the 2011 Electrical Machinery Regulations, to the Occupational Health and Act 85 of 1993 requires that the user of an electrical fence system installed on or after 1 October 2012 have an electric fence system compliance certificate (“EFSCC”). Only Electric Fencing Installers registered with the Department of Labour are authorized to issue EFSCCs.

It is not clear whether the certificate is a prerequisite for transfer – the legislation indicates that a certificate is required before an electric fence can be used but another section indicates that a fence should be compliant before it is sold. The safe route to follow would be to require a certificate before transfer and to record in the sale agreement who is obliged to obtain (and pay for) the certificate.

A certificate will be valid (and transferable to successors in title) until a change is made to the electric fence, in which case a new certificate must be obtained.

***For professional but personal advice on, and assistance with conveyancing, please contact Stuart Fourie or Vicky Stott ([stuart@fouriestott.co.za](mailto:stuart@fouriestott.co.za) / [Vicky@fouriestott.co.za](mailto:Vicky@fouriestott.co.za)) or visit our website for further information - [www.fouriestott.co.za](http://www.fouriestott.co.za).***

