

CHANGE TO ELECTRICAL INSTALLATION REGULATIONS

On 23rd October 1992 Electrical Installation Regulations were promulgated in terms of Section 35 of the Machinery and Occupational Safety Act No.6/1983. These regulations made the user/lessor of an electrical installation responsible for the safety, safe use and maintenance of the electrical installation he used or let.

The regulations went on further to provide that where ownership of property, on which there was an existing electrical installation, changed after 1 January 1994, the user/lessor was required to obtain a certificate of compliance for the whole electrical installation.

New Electrical Installation Regulations came into effect on 1st May 2009.

For the purposes of the real estate industry the more salient points are that:

1. whereas previously there could be no change of ownership without the Seller having a certificate of compliance, the restriction now is that a change in ownership can take place if the Seller has a certificate that is not more than 2 years old and the Seller has not effected any changes to the installation; and
2. if the purchaser undertakes in writing to take "specified steps sufficient to ensure, as far as is reasonably practicable, that the (installation) will comply with all prescribed requirements and will be safe and without risks to health when properly used, the undertaking shall have the effect of relieving the ...(seller) ...from the duty imposed upon him to such an extent as may be reasonable having regard to the terms of the undertaking." Meaning that if the Purchaser accepts responsibility for the electrical installation and undertakes to have the installation inspected and obtain a certificate of compliance himself then the Seller does not have to obtain a certificate at all if his current certificate is older than 2 years or the property has not been transferred since 1 March 1994.

We recommend that in general Estate agents leave the clause in their standard agreement which deals with electrical compliance, as it is. These changes are of relevance and assistance where the structure on the property is to be demolished, or where the parties intend that the Purchaser takes over the Seller's obligations as the Seller is, for example, not in the financial position to do so.