

ELECTRIC FENCE CLEARANCE CERTIFICATES

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Prior to 1 October 2012 there were typically three clearance certificates which the parties to a sale of immovable property obtained prior to transfer:

1. an electrical clearance certificate;
2. an entomologist or pest clearance certificate;
3. a gas clearance certificate.

On 1 October 2012 the Electric Machinery Regulations to the Occupational Health and Safety Act (Act 85 of 1993) came into force requiring:

1. All new electric fence installations after 1 October 2012 to be certified as compliant with the new legislation;
2. All existing electric fences to be certified as compliant when a property is transferred after 1 October 2012.
3. All changes or additions (save for a few minor issues listed in the legislation) to existing electrical fences to be certified.

A number of practical issues have emerged as a result of this new legislation:

1. Only registered Electric Fencing Installers are authorized to issue these certificates. These Installers must be accredited by the Department of Labour.
2. It is not certain whether owners living in a sectional title complex will need a certificate for the perimeter fence of the complex when that owner sells, although it appears unlikely that this will be required – this responsibility should rest with the body corporate or homeowners association.
3. It is not clear whether the certificate is a prerequisite for transfer – the legislation indicates that a certificate is required before a 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.

Parties wishing to sell or buy property should be aware of these issues and should consult a conveyancer for advice before concluding a sale agreement.