



## Legal Update Bulletin

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### Newsworthy

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#### Labour laws to be changed this year

By Terry Bell

Cape Town - The labour laws will be amended this year. "That much is a done deal," a senior ANC parliamentarian conceded this week. However, the nature and extent of the amendments are still not decided and battle lines are being drawn.

On the one side are groups such as the International Monetary Fund (IMF) and various "free market" think-tanks; on the other are the trade unions, which, for the most part, oppose any reform. Both sides appear to have supporters in the government.

But the unions this week hardened their stance. "We will resist up to the last man," Cosatu general secretary Zwelinzima Vavi announced. The national treasury has come down in favour of IMF proposals that the firing of workers be "streamlined". Its approval is contained in its response to an IMF consultation mission report.

The report claims: "Easing labour market regulations would help make a significant dent in unemployment." It is also quite blunt in its criticism of central bargaining and its assessment that "streamlined [dismissal] procedures should have a positive effect on firms' decisions to hire workers".

What has particularly angered trade unionists is not only that the treasury says it is "largely in agreement with [IMF] labour market observations", but that it requests that the IMF make "some changes to the wording" to the paragraph dealing with labour law reform. This is "due to the sensitive nature of the issue".

"We are deeply concerned," says Federation of Unions of SA acting general secretary Dennis George.

The general secretary of a Cosatu-affiliated union noted: "We would not be at all surprised if the cabinet has already made decisions about attacking worker rights."

Copies of a confidential discussion document presented to the cabinet last October, which outlined the new accelerated and shared growth initiative, have circulated within the labour movement.

The document says "regulatory burdens", particularly for small, medium and micro enterprises (SMMEs), stand in the way of economic growth and job creation. In line with this, the document notes that there are "further proposals to lower the regulatory and tax burden on SMMEs".

A draft discussion paper drawn up by labour lawyer Halton Cheadle notes a need for reform of the laws, but only to extend protection to more workers, without undermining the rights enjoyed by all parties under the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA).

Cheadle points out that these laws came into force in a piecemeal fashion, in some cases merely replicating sections from the 1956 LRA. Political pressures ensured that the reform process was completed before commissioned research was available.

Among proposals from small business is exemption from agreements made in bargaining councils and from the provisions of the BCEA. Unions point out that provisions for exemptions already exist and are applied.

The department of labour would not comment. Thoraya Pandey, a spokesperson for the treasury, said it was not clear which IMF report was referred to. "When it is clear which report is referred to, we will comment."

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<http://www.busrep.co.za/index.php?fArticleId=3073939>

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#### Manholes a deadly menace in Joburg

By Lebogang Seale, Linda Mbongwa and Poloko Tau

The city of Johannesburg says it spent about R5-million to replace missing manhole covers last year.

On Monday, in a random inspection, it took a team from The Star less than an hour to spot 17 conspicuous open manholes and drains in parts of greater Johannesburg. Some were close to public places such as schools and parks.

The Star set out to investigate after three-year-old Mpho Raliete fell into a manhole in Katlehong on the East Rand on Saturday and was swept 10km to his death.

The Star found uncovered manholes and drains in:

- Ivory Park Ext 8, Tembisa (3 metres from a daycare centre);
- Ivory Park Ext 7 (300m from a primary school);
- Ivory Park Ext 3 (close to a community hall);
- Mashemong Section, Tembisa (near a clinic);
- Phomolong Section, Tembisa (near a secondary school);
- Ndhayeni Section, Tembisa (near a bottlestore);
- Blenheim Street, Kensington;
- Corner of Cole and Roberts avenue, next to Jeppe Boys' High, Kensington, eastern Joburg;
- Dube, Soweto (opposite the South West Gauteng College);
- Zola Ext 3, Soweto;
- Koma Road, Zondi 1, Soweto.

At a street corner in Ivory Park Ext 7, a huge storm-water drain with gaping holes on both sides confronts passers-by - mostly children going to and from a nearby public park a mere 10m away, and from Rebonwe Primary School, 300m away.

Further down the road, in Ext 8, a similar gaping hole lies wide open at a street corner. Children from a daycare centre just 3 metres away play freely - some taking turns to skip near the large hole.

There are more storm-water drains in the adjacent Ext 3 Ivory Park as well as Mashemong, Phomolong and Ndhayeni sections of Tembisa.

In the central business district are several gaping manholes and storm-water drains, some of them close to private schools.

In Kensington, a huge storm-water drain lies open at Blenheim Street, while a broken concrete manhole cover is half-submerged at the corner of Cole and Roberts avenues, next to Jeppe High.

There are two other storm-water drains around the suburb, while in Soweto, several manholes are open.

A manhole in open veld in Dube, opposite the South West Gauteng College, is open, its lid lying next to it. Residents pass through the veld every day.

In Zola Ext 3 there is a partly open storm-water drain, while in Koma Road, Zondi 1, a storm-water drain has a missing metal cover.

The head of communications for Johannesburg Water, Jameel Chand said the city spent some R5-million to replace about 10 000 missing manhole covers in the 2004/5 financial year, and had budgeted another R5-million for this financial year.

Although the department was trying to close manholes, it was up to the relevant communities to alert them whenever they spotted any.

"We try to attend to all missing manholes within 24 hours of reports, but if people don't report them, we can't do anything," Chand said, adding that the steel covers would be replaced by concrete covers because criminals were stealing them and selling the steel as scrap.

Johannesburg Roads Agency maintenance general manager Alan Agaienz said the agency always did its best to avoid casualties resulting from manhole and storm-water drainage.

"We have our maintenance inspectors who regularly check if there are any problems. As soon as we have identified any missing manhole covers, we order a replacement. "If it's an open storm-water drain, we cover it, and if it's a river, we try to assist the community by educating them on safety measures." The Ekurhuleni metro was not available for comment at the time of going to press.

Meanwhile, Dudu Gwala, the mother of baby Karabo Gwala, who died in Dube two years ago in similar circumstances to little Mpho, said she was horrified.

"It's shocking to hear that despite the efforts we've made to ensure it never happens again, children still die in this manner," she said on Monday.

After Karabo's death, the family didn't want compensation from the Joburg council but instead suggested that the council conduct an awareness campaign on child safety. The campaign features billboards with the message Qaphela, a Zulu word meaning "Beware", along main roads around Joburg and a radio advert warning people about storm-water drains, manholes and electricity.

A Karabo Gwala Memorial Park was also set up in Dube. "When they launched the memorial park, we were promised that something like this would never happen again.

"This is not right. We will pray for Mpho's family," said Gwala.

If you spot any open manholes or dangerous drains, contact the Joburg metro's 24-hour call centre on 011-688-1500 or 0800-150-000.

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## Acts

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No. 1262 23 December 2005

The President published a notice in Government *Gazette* 28364 Notice No. 1262 of 23 December 2005, that he has assented to the Constitution Twelfth Amendment Act of 2005.

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## Bills

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### GOVERNMENT IMMOVABLE ASSET MANAGEMENT BILL

[B1 OF 2006 ]

To provide for a uniform framework for the management of an immovable asset that is held or used by a national or provincial department; to ensure the coordination of the use of an immovable asset with the service delivery objectives of a national or provincial department; to provide for issuing of guidelines and minimum standards in respect of immovable asset management by a national or provincial department; and to provide for matters incidental thereto.

The Bill seeks to -

- (i) limit its scope of application to national and provincial government;
- (ii) determine the following objects:
  - (a) Providing a uniform immovable asset management framework to promote accountability and transparency within government;
  - (b) ensuring effective immovable asset management within government;
  - (c) ensuring alignment of use of immovable assets with service delivery objectives of a national or provincial department and the efficient utilisation of immovable assets;
  - (d) optimising the cost of service delivery through prudent allocation of limited state resources in relation to -
    - the accountability for capital and recurrent works;
    - the acquisition, re-use and disposal of an immovable asset;
    - the maintenance of existing immovable assets;
    - protecting the environment and the cultural and historic heritage; and
    - improving health and safety in the working environment;
- (iii) clarify the role of custodians and users in relation to immovable assets owned or leased by the state;
- (iv) outline the principles of immovable asset management to be maintained by government;
- (v) impose a duty on the accounting officer of every user and custodian to submit immovable asset management plans in coordination with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the Public Service Act, 1994 (Act No. 104 of 1994);
- (vi) determine the minimum content of immovable asset management plans;
- (vii) determine the legal status of an immovable asset management plan;
- (viii) provide for the administration of the Act, such as exemptions, delegation and assignment, offences and penalties, as well as for the Minister to issue standards and guidelines for immovable asset management, with the concurrence of the Ministers of Finance and Public Service (the legal status of these standards and guidelines are also determined); and
- (ix) enable the Minister to make regulations, and to regulate the matter in the transitional period by suspending requirements if and where necessary.

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## **SURVEYING PROFESSION BILL**

[B – 2005]

Minister of Agriculture published the Surveying Profession Bill for general comment in Government *Gazette* 28216 Government Notice 1226 of 18 November 2005

To provide for the establishment of the South African Council for Surveyors as a juristic person; to broaden access to the profession of Surveyors; to provide for different categories of surveyors and the registration of surveyors; to authorise the identification of areas of work for surveyors; to recognise certain voluntary associations; to protect the public from unethical surveying practices; to maintain a high standard of professional conduct and integrity; to establish disciplinary mechanisms and an Appeal Board; and to provide for incidental matters.

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## **Regulations**

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### **FOODSTUFFS, COSMETICS AND DISINFECTANT ACT, 1972 (ACT NO.54 OF 1972)**

The Minister of Health published for comment in Government *Gazette* 28217 Regulation *Gazette* 8347 Notice No. R. 1111 of 18 November 2005 the Regulations Governing Microbiological Standards for Foodstuffs and Related Matters: Amendment.

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### **NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO. 93 OF 1996)**

The Minister of Transport published the Amendment of the National Road Traffic Regulations in Government *Gazette* 28227 Regulation *Gazette* 8350 Notice No. R. 1066 of 23 November 2005.

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## **FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES ACT, 1947 (ACT No. 36 OF 1947)**

The Minister of Agriculture published the proposed amendment to the Regulations relating to the registration of Fertilizers, Farm Feeds, Agricultural Remedies, Stock Remedies, Sterilizing Plants and Pest Control Operators, Appeals and Imports as from 1 April in Government *Gazette* 28259 Notice No. R. 1139 of 2 December 2005.

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## **AGRICULTURAL PESTS ACT, 1983 (ACT No. 36 OF 1983)**

The Minister of Agriculture, acting under section 6 Act amended the control measures as per the Schedule in Government *Gazette* 28329 Regulation *Gazette* 8368 Notice No. R. 1223 of 23 December 2005.

### **CORRECTION NOTICE**

Government Gazette No. R. 1223 published in *Government Gazette* No. 28329 (*Regulation Gazette* No. 8368) of 23 December 2005, is hereby corrected as follows:

In the English text:

Substitute the expression "Hopefield and Moorreesburg", for the expression "Hopefield, Moorreesburg", where it appear in Column 2, Paragraph 5.

In the Afrikaans text:

Substitute the expressions "uitsonderd" and "Hopefield en Moorreesburg, Van Rhynsdorp, Vredendal and" with the expression "uitgesonderd" and "Hopefield, Moorreesburg, Van Rhynsdorp, Vredendal en" where it appears in Column 2, Paragraph 5 as well as "uitsonderd" for the expression "uitgesonderd" where it appears in Column 3 Paragraph 5.

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## **MINE HEALTH AND SAFETY ACT, 1996 (ACT No. 29 OF 1996)**

Minister of Minerals and Energy published the Regulations Relating to Outlets, Ladderways and Travelling Ways in Government *Gazette* 28333 Regulation *Gazette* 8369 Notice No. R. 1224 of 15 December 2005.

### **REGULATIONS RELATING TO OUTLETS, LADDERWAYS AND TRAVELLING WAYS**

#### **SCHEDULE**

#### **CHAPTER 13**

#### **Outlets**

##### **13.1(1)**

The employer must prevent employees from being trapped in any underground excavation by providing whenever practicable, from every underground working place, two exits, each of which is connected to separate means of egress to the surface.

##### **13.1(2)**

Where it is not practicable to provide two exits as contemplated in regulation 13.1(1) above, the employer must implement other reasonably practicable measures, determined by the mine's risk assessment, to prevent employees from being trapped in any underground excavation.

##### **13.1(3)**

Except in the case of emergency no person may enter or leave the underground workings of a mine except by means of ingress or egress especially provided or set apart for that purpose by the employer unless such person is authorised to do so by the employer.

#### **Repeal**

##### **13.1(4)**

The following regulations promulgated under the Minerals Act, 1991 (Act No. 50 of 1991) in force in terms of Schedule 4 of the Act, are hereby repealed-

6.1.1

6.1.2

6.1.3

6.2.1

6.2.2

6.2.3

6.2.4.

6.2.5

6.3.1

6.3.2

6.3.2.1

6.3.2.6

6.3.2.7  
6.3.2.8  
6.3.2.12  
6.3.3.1  
6.3.3.2  
6.3.3.3  
6.3.3.4  
6.3.3.5  
6.3.3.6  
6.9  
6.11

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## **MINE HEALTH AND SAFETY ACT, 1996 (ACT No. 29 OF 1996)**

Minister of Minerals and Energy published the Chapter 8 Machinery and Equipment Regulations Government *Gazette* 28333 Regulation *Gazette* 8369 Notice No. R. 1225 of 15 December 2005.

### **CHAPTER 8 MACHINERY AND EQUIPMENT**

#### **Scraper Winch and Mono-Rope Installation**

8.4(1) The employer, at every mine where scraper-winch or mono-rope winches are operated, must take reasonable measures to prevent persons from being injured as a result of-

(a) any person coming into contact with any moving part of a scraper winch or monorope winch installation or any equipment attached thereto; and  
(b) the scraper winch or mono-rope winch installation being unsafe.

8.4(2) The measures to be taken by the employer in terms of regulation 8.4(1) must include measures to ensure that-

- (a) scraper-winch and mono-rope winches are only operated by competent persons authorized by the employer to do so;  
(b) the scraper winch or mono-rope winch is not operated until it is examined and declared safe to operate by a person authorised to do so by the employer;  
(c) means are provided to forewarn persons of the intention to commence operating any scraper-winch or mono-rope winch;  
(d) means are provided for persons to signal to the operator, from any access point to the installation, to shut down the operation of the scraper-winch or mono-rope winch installation;  
(e) scraper winch and mono-rope winch ropes, scraper attachments and rope splicing are regularly inspected;  
(f) the scraper winch ropes are always underlay;  
(g) a written procedure is prepared and implemented for the installation of the winch system, covering at least-
- (i) the requirements of scraper and mono-winch foundations and installations;
  - (ii) the crossover and anti-fouling arrangements of ropes from two or more winches;
  - (iii) illumination of the moving parts of any winch so that they can be identified by persons;
  - (iv) appropriate sheave and return pulley anchor and rigging arrangements, including the use of safety slings;
  - (v) measures to ensure that winch ropes are used within the design capacity;
  - (vi) winch starter box location to ensure ease of operation by the operator; and
  - (vii) the moving and transport of winches from one location to another.

#### **Lifting Equipment Regulations**

##### **Definitions**

For purposes of regulation 8.5, unless the context otherwise indicates -

**"Lifting equipment,"** means any equipment or machine or arrangement of equipment or machines intended or used for the lifting, lowering, suspension, or moving in suspension of any person or load.

**"Lifting tackle,"** means any attachment, including anchoring points, used to secure lifting equipment or a load to lifting equipment.

8.5(1) The employer must take reasonable measures to ensure that no person is injured due to the failure of any lifting equipment or lifting tackle as a result of-

- (a) incorrect design for the intended application;  
(b) incorrect installation; or  
(c) insufficient maintenance.

8.5(2) The employer must take reasonable measures to ensure that the installation, use (including the transport of persons), maintenance, inspection, testing and keeping of records of lifting equipment and lifting tackle are done in accordance with a written operating procedure prepared and implemented for that purpose.

8.5(3) The employer must take reasonably practicable measures to ensure that -

- (a) only lifting equipment and lifting tackle with a minimum factor of safety of four (4) is used;  
(b) lifting equipment and lifting tackle are not used beyond their design capacity; and  
(c) the safe working load of any lifting equipment and lifting tackle is conspicuously and clearly marked or indicated thereon.

8.5(4) Notwithstanding regulation 8.5(2), the employer must take reasonably practicable measures to ensure that the following lifting tackle has a minimum factor of safety of-

- (a) ten (10) for natural fiber ropes;
- (b) six (6) for steel wire ropes, man-made fiber ropes and textile webbing; and
- (c) four (4) for high tensile steel chains.

8.5(5) The employer must take reasonable measures to ensure that only persons authorised in writing by the employer to do so, operate lifting equipment and lifting tackle.

8.5(6) The employer must take reasonably practicable measures to ensure that the lifting equipment used at the mine is designated and manufactured in accordance with an appropriate standard.

**Repeal**

8.5. (7) The following regulations, made under the Minerals Act, 1991 (Act No. 50 of 1991) in force in terms of Schedule 4 of the Act are hereby repealed-

**Chapter 16 Chapter 19**

16.98	19.1
16.98.1	19.2.1
16.98.2	19.2.2
16.98.3	19.3.1
16.98.4	19.3.2
16.98.5	19.3.3
16.99	19.3.4
16.100	19.4
16.101	19.5
16.102	19.6
16.103	
16.103.1	
16.103.2	
16.104	

**MINE HEALTH AND SAFETY ACT, 1996 (ACT No. 29 OF 1996)**

Minister of Minerals and Energy amended the regulations published under Government Notice No. R 904 appearing in Government Gazette 23583 of 2 July 2002, in Government *Gazette* 28333 Regulation *Gazette* 8369 Notice No. R. 1226 of 15 December 2005.

**AMENDMENT TO THE REGULATIONS IN RESPECT OF OCCUPATIONAL HYGIENE**

**SCHEDULE**

Definitions

1. In these regulations "the Regulations" means the regulations published under Government Notice No. R 904 in Government Gazette No 23583 of 2 July 2002.

Amendment of Regulation 9.2(7)

2. The regulations are hereby amended by the substitution for regulation 9.2(7) of the following regulation

**Report to Regional Principal Inspector**

9.2 (7) The *employer* must **[annually]** submit to the regional *principal inspector of mines*, on forms 21.9(2)(a); 21.9(2)(b); 21.9(2)(c) and 21.9(2)(d), 21.9.2 (e) and 21.9.2(f) prescribed in chapter 21, and within **[30] 60** days from the end of the relevant **[annual]** reporting period as indicated on each form, reports which contain **[quarterly]** information on the airborne pollutant, **[heat stress, cold stress] thermal stress** and noise aspects of the system of *occupational hygiene* measurements, established and maintained in terms of *regulation* 9.2(2). **[, covering the immediately preceding 12 months]**

Substitution of forms under chapter 21

3. The forms required in terms of regulation 9.2(7) prescribed in chapter 21 of the regulations are hereby amended-

- a. by the substitution for forms 21.9(2)(a)-(d) of the of the following forms; and
- b. by the insertion of forms 21.9(2)(e) and(f) after forms 21.9(2)(a)-(d).

21.9(2)(a)	Airborne Pollutant – Particulates Personal Exposure Report Form
21.9(2)(b)	Airborne Pollutant – Gases and Vapours Personal Exposure Report Form
21.9(2)(c)	Heat Stress Exposure Report Form
21.9(2)(d)	Cold Stress Exposure Report Form
21.9(2)(e)	Personal Noise Exposure Report Form
21.9(2)(f)	Operational Details Report Form

**GENERAL EXPLANATORY NOTES**

[ ] Words in bold type, in square brackets indicate omissions from existing enactments

\_\_\_\_\_ Words underlined with solid line insertions in existing enactments

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## Draft Regulations

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

The Minister of Labour published the Draft Electrical Installation Regulations in Government *Gazette* 28293 Regulation *Gazette* 8362 Notice No. R. 1161 of 9 December 2005.

### OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO. 85 OF 1993) DRAFT ELECTRICAL INSTALLATION REGULATIONS

The Minister of Labour intends, in terms of section 43 of the Occupational Health and Safety Act, 1993 on the recommendation of the Advisory Council for Occupational Health and Safety to repeal the Electrical Installation Regulations, 1992 and supersede it by wording in accordance with the schedule.

Interested persons are invited to submit any substantiated comments or presentations on the proposed regulations to the Director General of Labour, Private Bag X117, Pretoria, 0001 (for the attention of the chief inspector: Occupational Health and Safety), within 90 days of the date of publication of this notice.

#### SCHEDULE

##### 1.

#### Definitions

In these regulations any expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the content indicates otherwise

"**accreditation authority**" means the South African National Accreditation System (SANAS);

"**annexure**" means an annexure to these regulations;

"**approved inspection authority for electrical installations**" means a person or body approved by the chief inspector in terms of regulation 5 to carry out inspections, tests and investigations on electrical installations;

"**electrical certificate of compliance**" means a certificate, with a unique number obtainable from the chief inspector, in the form of annexure 4, and issued by a registered person in respect of an electrical installation or part of an electrical installation or a certificate of compliance issued under the Electrical Installation Regulations, 1992;

"**electrical contractor**" means a person, who undertakes to perform electrical installation work on behalf of any other person, but excludes an employee of such first mentioned person;

"**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, television or radio circuits; and

(c) an electrical installation on a vehicle, vessel, train or aircraft;

"**electrical tester for single phase**" means a person who has been registered as an electrical tester for single phase in terms of regulation 13 and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of electrical installations supplied by a single phase electricity supply, excluding specialized electrical installations;

"**general control**" includes the instruction, guidance and supervision by a registered person over electrical installation work that is being carried out;

"**installation electrician**" means a person registered as an installation electrician in terms of regulation 13 who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation, excluding specialized electrical installations.

"**installation work**" means the installation, extension, modification, repair of, or the inspection, testing and verification of electrical installations, including the connection of machinery at the supply terminals of such machinery;

"**master installation electrician**" means a person who has been registered as a master installation electrician in terms of regulation 13 and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation;

"**national database**" means a database used for the capturing of all information necessary in terms of these regulations;

"**point of consumption**" means any point of outlet or the supply terminals of machinery which is not connected to a point of outlet and which converts electrical energy to another form of energy: Provided that in the case of machinery which has been installed for any specific purpose as a complete unit, the point of consumption shall be the supply terminals which have been provided on the unit of machinery for that purpose;

"**point of control**" means the point at which the electrical installation on or in any premises can be switched off by an user or lessor from the electricity supplied from the point of supply, or the point at which part of the installation on the premises can be switched off where different users occupy different parts of such premises;

"**point of outlet**" means any termination of an electrical installation which has been provided for connecting any electrical machinery without the use of tools;

"**point of supply**" means the point at which electricity is supplied to any premises by a supplier;

"**provincial director**" means the provincial director as defined in regulation 1 of the General Administrative Regulations published under Government Notice No. R. 1449 of 6 September 1996;

**"reasonably practicable safe electrical installation"** in relation to an electrical installation that existed prior to the publication of the current edition of the health and safety standard incorporated into these regulations in terms of regulation 7 (1) means that such electrical installation complies with the general safety principles of such standard;

**"registered person"** means a person registered in terms of regulation 13 as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

**"SANS 1086-1"** means the code of practice for the installation and maintenance of electrical equipment used in explosive atmospheres published by Standards South Africa;

**"SANS 1089-2"** means the electrical code of practice for the petroleum industry published by Standards South Africa;

**"SANS 10180"** means the code of practice for the classification of hazardous locations and the selection of electrical apparatus for use in such locations published by Standards South Africa;

**"SANS 10142-1"** means the Code of practice for the wiring of premises published by Standards South Africa;

**"specialized electrical installations"** means electrical installations in—

(a) explosive atmospheres as contemplated in SANS1086-1;

(b) the petroleum industry as contemplated in SANS1089-2;

(c) hazardous locations as contemplated in SANS10108;

(d) medical locations as contemplated in SANS10142-1;

**"supplier"** in relation to a particular electrical installation, means any body or person who supplies or contracts or agrees to supply electricity to that electrical installation;

**"supply terminals"** in relation to machinery installed as a complete unit; means the terminals or connection clamps on such machinery where the external conductors supplying the machinery with electricity are terminated or connected;

**"technical working group"** means a technical working group established in terms of regulation 3;

**"valid certificate compliance"** means an electrical certificate of compliance which has been issued in accordance with these regulations and has been correctly completed in its entirety by a registered person.

Scope of application

**2 (1)** These regulations shall be applicable to users or lessors, approved inspection authorities for electrical installations, registered persons, electrical contractors, suppliers, designers and to suppliers of materials and other electrical articles or parts thereof whether temporary, permanent, or in a stationary or mobile state and installation.

Establishment of technical working group for Electrical Installation Regulations

**3 (1)** The chief inspector may establish one or more technical working groups to advise the him or her on any matter relating to these Regulations.

(2) A member of a technical working group shall be appointed by the chief inspector by reason of his or her knowledge of the matter for which the technical working group is established.

(3) A member of a technical working group who is not an officer may be remunerated from money appropriate for such purpose by the Minister.

(4) The chief inspector shall appoint the technical working group members for such period as he or she may determine at the time of appointment: Provided that the chief inspector may discharge a member at any time, for reasons that are fair and justifiable, and appoint a new member in his or her place.

(5) The chief inspector may co-opt any person or persons who have specialized knowledge of any matter dealt with by a technical working group.

(6) A technical working group shall conduct its work in accordance with the instructions and rules of conduct set by the chief inspector.

Responsibility for electrical installations

**4 (1)** The user or the lessor of the 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 and, except for work as permitted in regulation 11 (3), shall not tamper with or allow any tampering on any installation whether or not a certificate of compliance has been issued.

(2) The user or lessor of the electrical installation, as the case may be, shall be responsible for the safety of the conductors on his or her premises connecting the electrical installation to the point of supply in the case where the point of supply is not the point of control.

(3) Where there is no written undertaking by the lessee to ensure compliance and the safety of the electrical installation he or she who leases, the owner of the electrical installation shall be deemed to be the user of such an electrical installation.

Approved inspection authorities for electrical installations

**5 (1)** The chief inspector may approve any juristic person or body that have been accredited by the accreditation authority, as an approved inspection authority for electrical installations.

(2) (a) Application for approval of an approved inspection authority contemplated in sub-regulation (1) shall be made to the chief inspector in the form of annexure 7;

(b) A valid accreditation issued by the accreditation authority shall accompany the application; and

(c) The application form shall be accompanied by the fee determined in terms of regulation 15.

(3) An Approved Inspection Authority for electrical installations shall inform the chief inspector of any changes affecting its approval in terms of sub-regulation (1) within 14 days after such changes.

(4) The chief inspector may at any time withdraw any approval of an approved inspection authority for electrical installations, subject to the provisions of section 35 of the Act and regulation 13 (5).

Functions of approved inspection authorities for electrical installations

**6 (1)** Approved inspection authorities for electrical installations shall only enter premises and conduct an inspection, test or investigation when:

(a) instructed to do so by the chief inspector or provincial director; or

(b) requested to do so by the owner or user of an electrical installation.

(2) Approved inspection authorities for electrical installations shall not operate as electrical contractors.

- (3) Approved inspection authorities for electrical installations shall only inspect the types of installation for which they have been accredited by the accreditation authority.
- (4) Approved inspection authorities for electrical installations shall be accountable and abide by a code of ethics determined by the chief inspector.
- (5) Approved inspection authorities for electrical installations shall submit reports to the person referred to in 1 (a) or 1 (b) as the case may be.

#### Design and construction

- 7** (1) No person shall authorize, design, install or permit or require the installation of an electrical installation, other than in accordance with a health and safety standard incorporated into these regulations under section 44 of the Act: Provided that the components within an electrical installation shall comply with the standards referred to in the incorporated standard and proof of compliance shall be identifiable on the components or certification shall be available from the supplier or manufacturer of the components: Provided further that items of an electrical installation not covered by such incorporated health and safety standard, and the conductors between the point of supply and the point of control, shall be installed in accordance with the by-laws or regulations of the supplier concerned.
- (2) A registered person shall exercise general control over all electrical installation work being carried out, and no person shall allow such work without such control: Provided that where the voltage exceeds 1kV, the installation shall be designed and supervised by a person deemed competent in terms of paragraphs (b), (c) or (d) of the definition of a competent person in terms of regulation 1 of the General Machinery Regulations, 1998.
- (3) No supplier shall restrict the application of a health and safety standard referred to in sub-regulation (1) when an electrical installation is installed, except where the distribution system of the supplier may be adversely affected by the application thereof.

#### Electrical contractor

- 8** (1)(a) Any person, including a juristic person, who intends to do installation work as an electrical contractor shall register annually with the chief inspector in the form prescribed in annexure 1.
- (b) The application shall be accompanied by the fee determined in terms of regulation 15.
- (2) The chief inspector shall register any person contemplated in sub-regulation 1 as an electrical contractor and enter such registration into the national database: Provided such person:
- (a) has a fixed address and a telephone or mobile telephone listed in the name of the business: Provided that if the person does not trade under the name of a business, such address and telephone may be in the name of the person concerned; and
- (b) employs a registered person on a full time basis, or is himself or herself a registered person engaged in such business on a full time basis.
- (3)(a) A registered person who intends to do specific electrical installation work on behalf of another person shall register with the chief inspector as a temporary electrical contractor in the form prescribed in annexure 2.
- (b) The application form shall be accompanied by the fee determined in terms of regulation 15.
- (4) The chief inspector may at any time withdraw the registration of any electrical contractor or temporary electrical contractor, subject to the provisions of section 35 of the Act.

#### Certificate of compliance

- 9** (1) Subject to the provisions of sub-regulation (3) every user or lessor of an electrical installation, as the case may be, shall have an original valid certificate of compliance in the form of annexure 4, which shall be accompanied by a test report in the format approved by the chief inspector, in respect of every such electrical installation: Provided that such certificate is transferable: Provided further that a certificate older than two years is not transferable.
- (2) Every user or lessor of an electrical installation, as the case may be, shall on request produce the certificate of compliance for that installation to an inspector, an approved inspection authority for electrical installations subject to regulations 6 (1), or the supplier.
- (3) Sub-regulation (1) shall not apply to an electrical installation that existed prior to 23 October 1992 and where there was no change of ownership after 1 March 1994: Provided that, if any addition or alteration is effected to such an installation, the user or lessor of the electrical installation, as the case may be, shall obtain a certificate of compliance for the whole installation, whereafter the provisions of sub-regulation (1) shall be applicable to such installation.
- (4) Where any addition or alteration has been effected to an electrical installation for which a certificate of compliance was previously issued, the user or lessor of such installation shall obtain a certificate for at least the addition or alteration.
- (5) A supplier may at any reasonable time inspect or test any electrical installation: Provided that the supplier shall not charge any fee for such an inspection or test unless the inspection or test is carried out at the request of the user or lessor.
- (6) If after an inspector, an approved inspection authority for electrical installations or supplier has carried out an inspection or test and has detected any fault or defect in any electrical installation, such inspector, approved inspection authority for electrical installations or supplier may require the user or lessor of that installation to obtain a new certificate of compliance: Provided that if such fault or defect in the opinion of the inspector, approved inspection authority for electrical installations or supplier constitutes an immediate danger to persons, the inspector, approved inspection authority for electrical installations or supplier shall forthwith take steps to have the supply to the circuit in which the fault or defect was detected disconnected: Provided further that where such fault or defect is of such a nature that it may indicate negligence on the part of a registered person, the inspector, approved inspection authority for electrical installations, or supplier, as the case may be, shall forthwith report those circumstances in writing to the chief inspector.
- (7) Subject to the provisions of section 22 of the Act, no person shall sell the premises on which an electrical installation exists, without a valid certificate of compliance for the electrical installation: Provided that a written agreement may be entered into between the parties as to obtaining a certificate of compliance.
- (8) A registered person shall only issue a certificate of compliance obtainable from the chief inspector and with a unique number issued by the chief inspector.

#### Commencement and permission to connect installation work

- 10** (1) No person shall commence with installation work which would require a new supply or an increase in electricity supply capacity unless the supplier has been notified thereof in the form of Annexure 3: Provided that the supplier may waive this requirement in respect of such types of work as it may specify.

(2) No person shall connect or permit the connection of any completed or partially completed electrical installation to the electricity supply unless it has been inspected and tested by a registered person and a certificate of compliance for that electrical installation has been issued: Provided that the supplier may on request connect the supply to the installation for the purpose of testing and completion of the certificate of compliance by a registered person: Provided further that this sub-regulation shall not apply in the case where the electricity was disconnected for the non-payment of the electricity account or where there has been a change of tenant but not of ownership.

(3) Where the supply to an electrical installation is 25kVA or above, the user shall subject to regulation 11 (1), appoint an approved inspection authority or a competent person as contemplated in regulation 7 (2) who shall ensure the compliance from the commencement to the commissioning of the installation.

#### Issuing of certificate of compliance

**11 (1)** Only a registered person may issue a certificate of compliance in the form of annexure 4 and which shall be accompanied by a test report in the format approved by the chief inspector, after having satisfied himself or herself by means of an inspection and test that—

(a) a new electrical installation complies with the provisions of regulation 7 (1); or

(b) an electrical installation which existed prior to the publication of the current edition of the health and safety standard incorporated into these regulations in terms of regulation 7 (1), complies with the general safety principles of such standard; or

(c) an electrical installation which existed prior the publication of the current edition of the health and safety standard incorporated into these regulations in terms of regulation 7 (1) and to which extensions or alterations have been affected, that—

(i) the affecting part of the installation, complies with the general safety principles of such standard and is reasonable safe, and

(ii) the extensions or alterations affected comply with the provisions of regulation 7 (1).

(2) If at any time prior to the issuing of a certificate of compliance any fault or defect is detected in any part of the installation, the registered person shall refuse to issue such certificate: Provided that if such fault or defect in the opinion of the registered person constitutes an immediate danger to persons in the case where electricity is already supplied, he or she shall forthwith take steps to disconnect the supply to the circuit in which the fault or defect was detected and notify the chief inspector thereof.

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

(4) No person shall amend a certificate of compliance issued by a registered person.

#### Appeals

**12 (1)** Should a dispute arise over the interpretation of a health and safety standard referred to in regulation 7 between the user, the registered person, the approved inspection authority for an electrical installations, or the supplier, as the case may be, the affected person may appeal against that interpretation to the chief inspector.

(2) The person who appeals under sub-regulation (1) shall serve a notice of appeal, setting out fully the grounds of the appeal, on both the chief inspector and the person against whose interpretation he or she is appealing, by personally delivering the notice of appeal or sending it by registered post.

(3) The person against whose interpretation is being appealed shall, within 14 working days of the date of on which he or she received the notice of appeal, forward a notice setting out the reasons for his or her interpretation, to the chief inspector.

(4) The chief inspector shall, after having considered the grounds of the appeal and the cause of the dispute, confirm, set aside or vary the interpretation of the safety standard referred to in sub-regulation (1) or substitute it for such interpretation, which in the opinion of the chief inspector ought to have been taken.

#### Application for registration as a registered person

**13 (1)(a)** Application for registration as a registered person shall be made to the chief inspector in the form prescribed in Annexure 5.

(b) The application shall be accompanied by the fee determined in terms of regulation 15.

(2) Any natural person who satisfies the chief inspector that he or she —

(a) has sufficient knowledge of the rules applicable to electrical installations in the category for which application is being made;

(b) has appropriate practical experience in respect of the electrical installation, verification and certification of the construction, testing and inspection of the type of electrical installation for which application is being made;

(j) meets any other requirements as may be prescribed by the chief inspector;

shall at the discretion of the chief inspector be registered as an electrical tester for single phase, an installation electrician, or a master installation electrician, as the case may be.

(3) The chief inspector shall furnish such person with the appropriate certificate of registration, subject to such conditions or restrictions, as he or she may deem necessary and enter such registration into the national database.

(4) A registered person shall on request produce his or her certificate of registration to an inspector, approved inspection authority for electrical installations, the supplier or any person to whom he or she intends to issue a certificate of compliance.

(5) If in the opinion of the chief inspector a person who is the holder of a certificates of registration issued in terms of sub-regulations (2) or referred to in regulations 17 (2) has been found guilty of gross negligence in the execution of his or her duties, or is no longer deemed competent to perform his or her duties, the chief inspector may suspend or cancel such certificate of registration.

(6) A registered person shall inform the chief inspector of any changes affecting his or her registration within 14 days after such change.

#### Substitution of lost, damaged or destroyed certificate of registration

**14 (1)(a)** If a registration certificate issued in terms of regulation 8(2), 8(3)(a), 13(3) or referred to in regulation 17 (2) has been lost, damaged or destroyed, the registered person to whom the certificate was issued, may apply to the chief inspector for a duplicate certificate in the form of annexure 6.

(b) The application shall be accompanied by the fee determined in terms of regulation 15.

(2) After proof that a certificate of registration has been lost, damaged or destroyed has been submitted to the satisfaction of the chief inspector, the chief inspector shall issue a substitute thereof on which the word "duplicate" will appear

#### Fees payable

**15 (1)** The Minister shall determine all registration and related fees which shall be payable in the form of uncanceled revenue stamps affixed to the relevant application form.

Offences and penalties

**16** (1) Any person who contravenes or fails to comply with the provision of regulations 4,6,7,8,9,10,11, 13 (4) and 13 (6) shall be guilty of an offence and be liable on conviction to a fine or to imprisonment for maximum of 12 months and, in case of a continuous offence, to an additional fine not exceeding R200 for each day on which the offence continues: Provided that the period of such additional imprisonment shall not exceed 90 days.

Repeal of the regulations and saving

**17** (1) Subject to sub-regulation (2), the Electrical Installation Regulations, 1992 published under Government Notice R 2920 of 23 October 1992 as amended by Government Notice R 962 of 20 May 1994 are hereby repealed.

(2) A certificate of registration as electrical tester for single phase, installation electrician and master installation issued under regulation 9 of the regulation repealed by sub-regulation (1) shall be deemed to be a certificate issued under regulation 13 of these regulations.

Short title

**18** (1) These regulations shall be called the Electrical Installation Regulations, 2005.

**Annexure 1**

APPLICATION FOR REGISTRATION AS AN ELECTRICAL CONTRACTOR

**Annexure 2**

APPLICATION FOR REGISTRATION AS A TEMPORARY ELECTRICAL CONTRACTOR

**Annexure 3**

ELECTRICAL INSTALLATION REGULATIONS 10

NOTICE OF COMMENCEMENT OF INSTALLATION WORK

**Annexure 4**

CERTIFICATE OF COMPLIANCE

**Annexure 5**

REGULATION 13 OF THE ELECTRICAL INSTALLATION REGULATIONS 2005 APPLICATION FOR REGISTRATION AS A REGISTERED PERSON

**Annexure 6**

APPLICATION FOR A DUPLICATE CERTIFICATE ISSUED IN TERMS OF REGULATIONS 8(2). 8(3) OR 13(3), AS THE CASE MAY BE

**Annexure 7**

APPLICATION FOR APPROVAL AS AN APPROVED INSPECTION AUTHORITY FOR ELECTRICAL INSTALLATIONS

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

The Minister of Labour published the Electrical Installation Regulations Incorporation of Safety Standards in Government *Gazette* 28293 Regulation *Gazette* 8362 Notice No. R. 1162 of 9 December 2005.

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO. 85 OF 1993)  
ELECTRICAL INSTALLATION REGULATIONS INCORPORATION OF SAFETY STANDARDS**

Under section 44 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), I, MMS MDLADLANA, Minister of Labour, after consultation with the Advisory Council for Occupational Health and Safety, hereby incorporate in the Electrical Installation Regulations, 2005, the safety standards specified in the Schedule.

MMS MDLADLANA, Minister of Labour

SCHEDULE

**1. Regulation 1**

Standard of South Africa, codes of practice:

SANS 1086-1: The code of practice for installation and maintenance of electrical equipment used in explosive atmospheres;

SANS 1089-2: The code of practice for the petroleum industry;

SANS 10108: The code of practice for the classification of hazardous locations and the selection of electrical apparatus for use in such locations.

**2. Regulation 8 (1)**

Standard of South Africa, code of practice:

SANS 10142-1: The code of practice for wiring of premises.

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**NOTICE OF THE DRAFT 2<sup>ND</sup> PHASE OF THE CODES OF GOOD PRACTICE ON BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE)**

The Minister of Trade and Industry intends to gazette the Codes of Good Practice on B-BBEE as legislation.

The draft 2<sup>nd</sup> Phase of the Codes of Good Practice on B-BBEE was released for a public commentary process in Government *Gazette* 28351 Notice No. 2036 of 2005.

Written comments must be received no later than the 30<sup>th</sup> March 2006 and must be addressed to:

**The Chief Director**

**Attention: Ms. Polo Radebe**

**The Department of Trade and Industry**

Private Bag X84,  
Pretoria  
0001  
Tel No.: (012) 394-1636  
Fax No.: (012) 394-2636  
e-mail address: bee-cgp@thedti.gov.za

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## Notices

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### **NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO. 93 OF 1996)**

The Minister of Transport published the Correction Notice of Government Notice No. R 871 of published in Government Gazette No. 27999 of 02 September 2005 to the Amendment of the National Road Traffic Regulations in Government *Gazette* 28258 Notice No. 1318 of 2 December 2005.

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### **NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO. 93 OF 1996)**

The Minister of Transport published the Amendment of the National Road Traffic Regulations in Government *Gazette* 28258 Notice No. 1319 of 2 December 2005.

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### **STANDARDS ACT, 1993 (ACT NO. 29 OF 1993)**

Department of Trade and Industry  
Government *Gazette* 28292 Notices No. 1163 and 1164 of 9 December 2005; and Government *Gazette* 28413 Notices No. 49 of 27 January 2006; and Government *Gazette* 28458 Notices No. 112 of 10 February 2006.

In terms of the Act the Council of the South African Bureau of Standards has acted in regard to standards in the manner set out in the Schedules to this notice.

All South African standards that were previously published by the South African Bureau of Standards with the prefix "SABS" have been redesignated as South African national standards and are now published by Standards South Africa (a division of SABS) with the prefix "SANS".

A list of all existing South African national standards was published by Government Notice No. 1373 of 8 November 2002.

In the list of SANS standards in the Schedule, the equivalent SABS numbers, where applicable, are given below the new SANS numbers for the sake of convenience. Standards that were published with the "SABS" prefix are listed as such.

#### **SCHEDULE 1: ISSUE OF NEW STANDARDS**

The standards mentioned have been issued in terms of section 16(3) of the Act.

#### **SCHEDULE 2: AMENDMENT OF EXISTING STANDARDS**

The standards mentioned have been amended in terms of section 16(3) of the Act, The number and date of a standard that has been superseded appear in brackets below the new number. In the case of an amendment issued in consolidated format, the edition number of the new (consolidated) edition appears in brackets below the number of the standard.

#### **SCHEDULE 3: CANCELLATION OF STANDARDS**

In terms of section 16(3) of the Act the following standards have been cancelled.

#### **SCHEDULE 4: ADDRESSES OF SABS OFFICES**

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### **NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998)**

Minister of Water Affairs and Forestry intends to declare particular trees and particular group of trees "Champion Trees" set out in the attached Schedule protected under Section 12(1)(a) and (b) of the National Forests Act, 1998. The list was published for comment in Government *Gazette* 28307 Notice No. 1180 of 9 December 2005

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## **GAS ACT, 2001 (ACT NO. 48 OF 2001)**

The National Energy Regulator published in Government *Gazette* 28320 Notice No. 2005 of 9 December 2005, the Rules affecting the licensing process for piped-gas. In terms of section 34(3) of the Gas Act, the National Energy Regulator (NERSA) has prepared draft Rules which will affect piped-gas licence applications. These draft Rules have been placed on the NERSA website ([www.nersa.org.za](http://www.nersa.org.za)).

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## **OCCUPATIONAL DISEASES IN MINES AND WORKS ACT, 1973 (ACT No. 78 OF 1973 )**

Minister of Health published notice of the Increase of the Levies which are payable from the Controlled Mines and Works in terms of the ACT with immediate effect 1 February 2006. Levies will be increased per risk shift performed from R0.32 to R1.00 as recommended by actuaries and the Advisory Committee to the Compensation Commissioner. Notice was published in Government *Gazette* 28394 Notice No. 35 of 20 January 2006.

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## **COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993(ACT No. 130 OF 1993), AS AMENDED**

The Minister of Labour confirmed his intention to increase the monthly pensions payable in terms of sections 39(1) (c) and (d) and 40(1)(a), (b), (c) and (d) of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), and in terms of sections 49(1)(a) and 54(1)(a), (b), (c) and (d) of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), by 2% in respect of accidents which occurred before 1 April 2005 as well as occupational diseases which were diagnosed before 1 April 2005 with effect from 1 April 2006.

Notice was published in Government *Gazette* 28432 Notice No. 70 on 27 January 2006.

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## **COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993(ACT No. 130 OF 1993), AS AMENDED**

The Minister of Labour published his intention to amend Schedule 4 in terms of section 55 of the Act with effect from 1 April 2006, in Government *Gazette* 28432 Notice No. 71 on 27 January 2006.

### **AMENDMENT OF SCHEDULE 4 OF ACT No. 130 OF 1993**

#### **SCHEDULE 4**

#### **MANNER OF CALCULATING COMPENSATION**

<b>(i)</b>	<b>(ii)</b>	<b>(iii)</b>	<b>(iv)</b>	<b>(v)</b>
Item	Section	Nature and degree of disablement	Nature of benefits	Manner of calculating benefits
1.	47(1)(a)	Temporary total disablement	Periodical payments	75% of an employee's monthly earnings at the time of the accident subject to maximum compensation of R11 865,00 per month.
2.	49(1)	Permanent disablement of 30%	Lump sum	15 times the monthly earnings of the employee at the time of the accident subject to the maximum and minimum compensation of R132 930,00 and R28 215,00.
3.	49(1)	Permanent disablement of less than 30%	Lump sum	An amount which bears to a lump sum calculated under item 2 the same proportion as the degree of permanent disablement to 30%.
4.	49(1)	Permanent disablement of 100%	Monthly pension	75% of an employee's monthly earnings at the time of the accident subject to maximum and minimum compensation of R11 865,00 and R1 410,75.
5.	49(1)	Permanent disablement of less than 100% but more than 30%	Monthly pension	A monthly pension which bears to a pension calculated under item 4 the same proportion as the degree of permanent disablement to 100%.
6.	54(1)(a)	Fatal	Lump sum	Twice the employee's monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled.

7.	54(1)(b)	Fatal	Monthly pension	40% of the monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled.
8.	54(1)(c)	Fatal	Monthly pension	20% of the monthly pension that would have been payable to the employee under item 4 had he been totally permanently disabled, to each child.
9.	54(1)(e)	Fatal	Lump sum	Percentage dependence as portion of R28 680,00.
10.	54(2)	Fatal	Funeral costs	A reasonable amount for funeral costs to a maximum of R9 200,00 or the actual amount, whichever is the lesser.

## COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993(ACT No. 130 OF 1993), AS AMENDED

The Acting Compensation Commissioner, in Government *Gazette* 28433 Notice No. 72 on 27 January 2006, repealed under Section 6 A (b) of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993, as Amended) item 3 as published under Notice No. 278 in the Government Gazette No. 27416 of 24 March 2005 and replaced it with the following

### Rules, forms and particulars which shall be furnished in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993, as amended).

#### Return of Earnings [Section 82 (1)]

3. "The Return of Earnings shall be on form WAS 8 [ANNEXURE 8] with the particulars required therein, as the case may be."

#### IMPORTANT INFORMATION AND GUIDELINES

1. IF THE RETURN IS NOT SUBMITTED TO THIS OFFICE ON OR BEFORE 31 MARCH 2006, A PENALTY MAY BE IMPOSED.
2. KINDLY TAKE NOTE THAT THE RETURN OF EARNINGS, W.As.8, IS MAILED TO ALL REGISTERED EMPLOYERS IN JANUARY EVERY YEAR. THE ONUS RESTS ON THE EMPLOYER TO NOTIFY THIS OFFICE BY THE 15TH FEBRUARY IF THE ANNUAL RETURN OF EARNINGS FORM HAS NOT BEEN RECEIVED. FORMS ARE AVAILABLE ON THE WEBSITE.
3. IF YOU FAIL TO COMPLETE AND SUBMIT THE W.As.8 RETURN OF EARNINGS WITHIN THE PRESCRIBED PERIOD, SECTION 83(6) OF THE ACT EMPOWERS THE DIRECTOR GENERAL TO ESTIMATE THE EARNINGS. A PENALTY, NOT EXCEEDING 10% (TEN PERCENT) OF THE FINAL ASSESSMENT, MAY ALSO BE IMPOSED.

#### WHO IS AN EMPLOYEE AS REFERRED TO IN PART 2.1

"Employee" means a person who has entered into, or works under a contract of service or apprenticeship or learnership with an employer, whether the contract is expressed or implied, oral or in writing, and whether remuneration is calculated by time or work done, or is in cash or in kind and includes -

- a) a casual / temporary employee employed for the purpose of the employer's business
- b) a working director of a company or member of a body corporate, who has entered into a contract of service or of apprenticeship or learnership with the body corporate, in so far that the employee acts within the scope of his/her employment in terms of such contract. (Excluding shareholders or "silent partners" who are only paid dividends or sharing profits).

A person provided by a labour broker, against payment to a client for the rendering of a service or the performance of work and for which service or work such person is paid by the labour broker, is an employee of the labour broker. The earnings of such persons should not be included in the client's Return of Earnings document.

NB. A sole owner or partners in a business/farming operation are not regarded as "employees" as contemplated by the Act and their earnings should, therefore, not be reflected.

#### WHAT ARE EARNINGS AS REFERRED TO IN PART 2.2

Earnings are *all* payments made regularly, before any deductions, whether in money or in kind, to employees.

The following lists are not exhaustive, but are intended only to highlight remuneration items for which there may be some doubt as to their inclusion or exclusion.

Included in the gross earnings before any deductions are the following:

- Overtime of a regular nature, (not intermittent or irregular overtime).
- Bonuses of any kind, including incentive bonuses and annual bonuses.
- Commission, even though the amount may vary from month to month.
- The cash value of food and quarters supplied to employees as part of a remuneration package. Cash value of fringe benefits such as a company car, free accommodation or accommodation at a reduced rate, etc.
- Travel and other allowances paid regularly, as part of the package.
- Where the employee is remunerated in accordance with a package of benefits, all items forming part of the package, other than employer contributions such as medical aid contributions.
- Earnings/Drawings paid to working Directors of a Company or Members of a Close Corporation.

**Also attach a list with their names, ID numbers and addresses.**

Excluded are the following:

- Payments of a reimbursive nature.
- Overtime worked occasionally.
- Payments for specific non-recurring tasks which do not form part of an employee's normal duties.
- *Ex gratia* payments.
- Intangible fringe benefits such as the taxable portion of medical aid/pension contributions by the employer, etc.
- Payments to cover special expenses such as subsistence and travelling costs, lunch and costs for business meetings.
- Travel and other allowances paid occasionally.
- If a director's/member's remuneration is profit sharing, the Director/Member is not an employee in terms of the Act.

#### FINAL EARNINGS

If your activities have ceased, indicate the date of cessation on the front page and declare the final earnings paid to that date.

#### MINIMUM ASSESSMENT {SECTION 83(2)(b)}

As a result of continuously rising costs, the 2005 - 2006 minimum assessment has been increased to R 375 per annum.

#### LETTER OF GOOD STANDING

This letter can be obtained once the employer has complied with the requirements of the Act, including:

- Submitting the latest return of earnings.
- Assessment has been paid or instalments have been arranged.
- Application should be made in good time (one week) preferably on a letterhead, in writing.
- Please quote the registration number, as well as telephone and fax numbers with dialling code.
- Applications on behalf of the employer by Consultants or Agents should be in writing and accompanied by a Power of Attorney.
- Faxed requests are acceptable. The applicable fax numbers are 012 323-5433/323 0262.
- Tampering with the contents of these Letters is a serious offence.

#### WEBSITE ADDRESS

The Compensation for Occupational Injuries and Diseases Act, 1993 and Amendments are available on the website at <http://www.labour.gov.za>

## PUBLICATION OF THE EXPLANATORY SUMMARY OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL

### NOTICE 147 OF 2006

Published by the Department of Transport in Government *Gazette* 28445 Notice No. 147 on 30 January 2006.

The Minister of Transport intends introducing the National Road Traffic Amendment Bill in the National Assembly. The explanatory summary of the Bill was published for comments in accordance with the Rules of the National Assembly.

The Bill seeks to enhance professionalism of law enforcement officers; combat fraudulent and corrupt practices in law enforcement; limit and control fraudulent and corruptive practices generally; clarify conduct that constitutes an offence; increase the range of sanctions for offenders who continuously transgress the laws governing road traffic through the introduction of provisions permitting the seizure of vehicles and loads and the forfeiture of vehicles and loads; empower the Minister to set fees payable in respect of overloaded vehicles and to provide for matters connected thereto.

Copies of the bill are attached to the notice for ease of reference.

Comments may be submitted to: Mr John Motsatsing

Department of Transport

Private Bag X193

PRETORIA

0001

E-mail: [motsatsj@dot.gov.za](mailto:motsatsj@dot.gov.za)

## MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC SECOND AMENDMENT BILL, 2005

### 1. OBJECTS OF BILL

The Bill proposes to amend the National Road Traffic Act, 1996 (Act No. 93 of 1996), in order to—

- enhance the professionalism of traffic officers and combat fraudulent and corruptive practices in law enforcement;
- limit and control fraudulent and corruptive practices generally;
- clarify conduct that constitutes an offence;
- prohibit private persons from operating driving licence testing centers;
- ensure that applicants for driving licences apply at the centers nearest to their place of residence;
- expand the range of human resource development in respect of traffic officers;
- enhance the quality of learner and driving licence evaluation;
- provide for the endorsement or suspension of a driving licence if a driver is convicted on a charge of excessive speeding;
- enhance the quality of roadworthiness certification, the quality of road accident reporting and the regulation of overloading control;
- increase the range of sanctions for offenders through the introduction of provisions permitting the seizure of vehicles and loads and the forfeiture of vehicles and loads; and
- empower the Minister to set fees payable in respect of overloaded vehicles.

### 2. CONSULTATION

Members of the Executive Council responsible for traffic or transport in the nine provinces were consulted and consensus regarding the proposed changes was reached.

### 3. IMPLICATIONS FOR PROVINCES

None.

### 4. FINANCIAL IMPLICATIONS FOR STATE

None.

### 5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely road traffic regulation.

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### STANDARDS ACT, 1993 (ACT No. 29 OF 1993)

The Minister of Trade and Industry published the Proposed Amendment of the Compulsory Specification for Circuit Breakers in Government *Gazette* 28458 Notice No. 118 of 10 February 2006

#### Amendment of the Compulsory Specification for Circuit Breakers

The Minister intends to amend the compulsory specification for Circuit Breakers as published by Government Notice No. 1090 in Government Gazette No. 20461 of 17 September 1999 as set out in the attached schedule.

Any person who wishes to object to the intention of the Minister to thus amend the compulsory specification concerned, shall lodge their objection in writing with the President, South African Bureau of Standards, Private Bag X191, Pretoria, 0001, on or before the date two (2) months after publication of this notice. **(Thus 10 April 2006)**

#### SCHEDULE

Compulsory specification for circuit breakers

##### 1 Scope

1.1 This specification covers circuit breakers with moulded cases, the main contacts of which are intended to be connected to circuits with rated voltages not exceeding 1000 V ac or 1500 V dc., rated currents not exceeding 125A and a rated short circuit breaking capacity not exceeding 10 kA.

1.2 This specification does not cover circuit breakers for equipment covered by SANS 60934:2000, nor circuit breakers incorporating residual current protection (earth leakage protection).

##### 2 Definition

For the purpose of this specification the following definition applies:

**Circuit breaker:** A mechanical switching device, capable of making, carrying and breaking currents under normal circuit conditions and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions such as a short circuit or an earth fault.

##### 3 Requirements

3.1 A circuit breaker shall be safe and shall function safely and correctly during normal and abnormal circuit conditions.

Compliance with this requirement shall be proved by compliance with the requirements of either

3.2 SANS 556-1 *Low-voltage switchgear*, Part 1- *Circuit breakers* as published in Government Notice 39 of 28 January 2005 (Government Gazette 27179).

Or alternatively, for the period up to 31 December 2009:

3.3 SANS 60947-2 / IEC 60947-2:1995, *Low-voltage switchgear and controlgear - Part 2: Circuit-breakers*, as published by Government Notice No. 411 of 27 March 1998, as modified in 3.3.1 and 3.3.2

3.3.1 The power-frequency recovery voltage, as given in 8.3.2.2.6 and 8.3.3.4 (table 13) of the said SANS 60947-2:1995, for a circuit-breaker with a maximum operational voltage of 220/3 80 V a.c. to 240/415 V a.c. (inclusive), shall be 252/436 V a.c.

3.3.2 Table 11 — Values of power factors and time constants corresponding to test currents

1	2	3	4	5	6	7
Test current I kA	Power factor			Time constant ms		
	Short-circuit	Operational performance capability	Overload	Short-circuit	Operational performance capability	Overload
I ≤ 10	0,45 - 0,5	0,8	0,45 - 0,5	5	2	2,5

**Note: After 31 December 2010 all circuit breakers fall within the requirements of all the abovementioned shall comply with the requirements of SANS 556-1 as mentioned in 3.2**

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## Proclamations

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### REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION-RELATED INFORMATION ACT, 2002 (ACT NO. 70 OF 2002)

The President of the Republic of South Africa proclaimed in an amendment proclamation in Government *Gazette* No. 28282, Regulation *Gazette* 8359 Notice No. R. 67, on 29 November 2005 the Commencement of sections 40 and 62(6) of the Act

Proclamation No. R. 55 of 30 September 2005, was amended by the substitution for the date "30 November 2005" in paragraph (b) of the said Proclamation of the date "30 June 2006".

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### ENVIRONMENTAL CONSERVATION AMENDMENT ACT, 2003 (ACT NO 50 OF 2003)

The President of the Republic of South Africa proclaimed the Commencement of Section 1 of the Environment Conservation Amendment Act effective 3 January 2006, in Government *Gazette* No. 28346, Proclamation No. 68, on 20 December 2005.

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## Useful Links

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<http://www.gov.za> : SA Government  
<http://www.info.gov.za/index.html> : SA Government Information  
<http://www.info.gov.za/documents/index.htm> : Gazettes and Notices  
<http://www.info.gov.za/speeches/index.htm> : Government Speeches and Statements  
<http://www.dwaf.gov.za> : Department of Water Affairs and Forestry  
<http://www.deat.gov.za> : Department of Environmental Affairs and Tourism  
<http://www.dme.gov.za> : Department of Minerals and Energy  
<http://www.labour.gov.za> : Department of Labour  
<http://www.doh.gov.za> : Department of Health  
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## Sources

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