



fn inc

Attorneys Notaries Conveyancers

1st Floor, 2 Albury Park, Albury Road, Dunkeld West, 2196. Docex 11 Hyde Park. t +27 11 560 7100 f +27 11 759 7960. Stellenbosch Office: t +27 82 287 3173

---

## **ELECTRIC FENCE CERTIFICATE OF COMPLIANCE**

Regulation 12 of the Electrical Machinery Regulations, 2011 imposes an obligation on the user of an electric fence system to have an electric fence system certificate of compliance in the event that a property with an electric fence is transferred.

Regulation 12 does not prohibit transfer of ownership in the absence of such certificate (unlike the case with electrical compliance certificates). It however places an obligation on the “user” to obtain one.

Therefore an electric fence system certificate is required in addition to an electrical compliance certificate if the property has an electric fence, which is defined as an electrical barrier against the trespass of persons or animals which consists of one or more bare conductors. A fence energiser means the electrical machinery arranged so as to deliver a period non-lethal amount of electrical energy to an electric fence connected to it.

Regulation 12(4) and 12(5) of the Regulations requires every user or lessor of an electric fence system to have an electric fence system certificate in respect of such electric fence system if;

- it has been installed after 1 October 2012, or
- if any addition or alteration was effected to an existing electric fence system after 1 October 2012, or
- if there is a change of ownership of the immovable property on which such electric fence system exists, after 1 October 2012

It is therefore recommended that an appropriate clause is inserted in an agreement for the sale of immovable property which precedes the change in ownership, thereby drawing the contracting parties' attention to the need for the certificate in the event that there is an electric fence system on the property.

Herewith a sample clause to regulate the obligation to provide an Electric Fence System Certificate

*The Seller shall at his expense provide the Purchaser with a Certificate of Compliance for any electric fence system on the property as referred to in Regulation 12(4) of Electrical Machinery Regulations, 2011 to the Occupational Health and Safety Act of 1993, to the effect that the installation complies with the provisions of Regulation 13(1) and that the installation is safe.*

*The seller further warrants that he has not added to or altered the installation and is not aware of any additions or alteration having been effected since the issuing of the certificate.*

Please note that an Electric Fence Certificate is transferable and once it has been issued, there is no need to obtain a new one upon further changes of ownership, provided that no alteration, addition or modification has been made to the electric fence since date of issue of the Electric Fence Certificate.

It will therefore be necessary to determine whether your sellers have an electric fence that existed on the property after 1 Oct 2012 and if so does he have a valid Electric Fence Certificate of Compliance and has the system been altered or an addition made to the electric fence since the certificate was issued. If there has been an alteration or an addition, a new compliance certificate will have to be issued.

## **SECTIONAL TITLE PROPERTIES**

In our view the Body Corporate should have the electric fence system certified as a user in the Occupational Health and Safety Act is defined as someone who has right of control over the use of a plant or machinery. The electric fence system will be controlled by the Body Corporate.

## **SUB DIVISIONS AND CLUSTERS**

We are of the opinion that the individual owners of the properties do not have control over the electric fence system and therefore the Home Owners Association should have the electric fence certified.

*Although care has been taken to ensure the accuracy of the above information, FN Inc and its members, employees, agents and representatives cannot be held liable for any loss suffered, as a result of the use of this information.*

*Updated Aug 2017*