



...EXCEEDING EXPECTATIONS

Dear Sir/Madam

ELECTRIC FENCE SYSTEMS CERTIFICATE OF COMPLIANCE

Electrical Machinery Regulations were published in Government Gazette No. 34154 on 25th March 2011 and came into effect on 1st October 2012. Regulations 12 and 13 deal with Electric Fences and the issuing of Electric Fence System Certificates.

Subregulation 4 provides that:-

".... every user or lessor of an electric fence system shall have an electric fence system certificate in the form of Annexure 1 in respect of such electric fence system: Provided that such certificate shall be transferable."

Subregulation 5 provides that subregulation 4:

"shall not apply to an electric fence system that existed prior to the coming into force of these regulations: Provided that if –

- (a) any addition or alteration effected to such electric fence systems; or
- (b) there is a change of ownership of the premises of which such electric fence system exists after 1 October 2012,

the user or lessor shall obtain electric fence systems certificate for the electric fence system, whereafter the provisions of sub regulation (4) shall be applicable."

Regulation 13 then stipulates who is entitled to issue the Certificate of Compliance upon a change of user or owner.

There is no obligation placed on the user or owner to obtain a Certificate of Compliance if the installation was before 1 October 2012, unless there is a change in owner or user or there is an addition or alteration to the system.

The certificates are transferrable, and unless additions or alterations are effected to the installation the certificate will be good for ever and a day.

So although there is no obligation on a seller, who is selling a property where the installation was installed prior to 1 October 2012, and where there have been no additions or alterations, to be in possession of a certificate, the obligation is on the purchaser to obtain such certificate after registration when ownership changes, you should however state in the Sale Agreement that there have been no additions or alterations to the system.

We believe a clause such as the one set out below to be a simple way of dealing with the matter.

"ELECTRIC FENCE SYSTEM CERTIFICATE OF COMPLIANCE

The Seller will deliver to the Purchaser 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 modified or altered the installation and is not aware of any modification or alteration having been effected since the issue of the certificate."

Should you however require a clause where there is no obligation on the seller to obtain the certificate where the installation predates 1st October 2012 and which includes a warranty

to the effect that there have been no additions or alterations to the system, and where a seller with an installation installed post 1st October 2012, is required to deliver such certificate to the purchaser, then please let us know and we shall furnish you with such a clause.

Should you require any further information, or wish to discuss the matter further, please do not hesitate to contact the writer.

Written by Maria Davey

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Bruce Forrest', with a long horizontal stroke underneath.

Bruce Forrest

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