



**DLA CLIFFE DEKKER
HOFMEYR**

CONSTRUCTION & ENGINEERING

ALERT

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OCCUPATIONAL HEALTH AND SAFETY ACT, NO. 85 OF 1993: CONSTRUCTION REGULATIONS, 2014

The Department of Labour's 2014 Construction Regulations as required by the Occupational Health and Safety Act, No. 85 of 1993 came into effect on 4 April 2014 (new Regulations). These new Regulations repeal the 2003 Construction Regulations (old Regulations) entirely.

The Regulations describe the requirements and obligations that must be complied with when embarking on construction work to ensure that all construction work is performed in a safe manner.

The new Regulations apply to all persons involved in construction work, with the exception of Regulations 3 and 5(7) which do not apply to clients building single-storey dwellings for residential purposes.

The new Regulations impose duties on the client (or his duly appointed agent), the designer, the principal contractor and other contractors.

Some important aspects of the new Regulations are:

- The duty of the client to create a health and safety specification which will be used by the appointed principal contractor to compile a health and safety plan (plan), which must be implemented and complied with during construction;
- The designer must ensure that the applicable safety standards are complied with in the design;
- The plan must be kept in a health and safety file which must be kept on site at all times and made available to the relevant persons upon request;
- Each contractor must compile a risk assessment which will form part of the health and safety file and must inform the client of potential dangers and hazards in writing;
- All personnel must be trained in accordance with the plan before they are allowed on site;
- All necessary care must be taken by the relevant competent persons when working with heavy or dangerous machinery or with flammable or hazardous materials on site; and
- Adequate supervision and monitoring of contractors must be present at all times on site.

continued

Three dates are relevant to the application and enforceability of the new Regulations for current construction projects and, in the interim, the old Regulations will apply:

- Where physical construction commenced on or before 7 February 2014, parties are exempt from complying with the new Regulations until 6 August 2015;
- Where physical construction commenced after 7 February 2014, parties are exempt from complying with the 2014 Regulations until 7 August 2014;
- Parties are exempt from compliance with Regulations 3 (application for a construction work permit) and 5(7)(b) (appointment of an agent) of the new Regulations until 7 August 2015, 18 months after the commencement of the new Regulations.

The new Regulations make non-compliance an offence sanctioned by either a fine or imprisonment.

Jurg van Dyk, Bianca Pollastrini and Sihle Masango



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