



# ELECTRIC FENCING LEGISLATION

**There is still a lot of confusion and misinformation around the “new” Electric Fencing Legislation.**

## **A. Background:**

1. **Electric Fencing Legislation is nothing new, having been first introduced on the 12<sup>th</sup> of August 1988 as per Government Gazette No. R.1593 to which ALL electric fences had to be in compliance with, including subsequent amendments, as published from time to time.**
2. **Due to continued non-compliance, Government introduced new Legislation as per Government Gazette No. 34154, dated the 25<sup>th</sup> March 2011, to enforce compliance.**
  - 2.1. **As per said Gazette, all new / repaired / re-installed / restrung / extended and or upgraded electric fences must be in full compliance regarding installation specifications, including materials used, as per SANS (South African National Standard) 10222-3:2011 Edition 4, Electrical Security Installations, Part 3., including subsequent amendments, as published from time to time.** (The Gazette is the Act and the SANS (South African National Standards) document sets specifications / standards. They go hand in hand.)
3. **This new Legislation came into effect on the 1<sup>st</sup> of July 2011.**
4. **In terms of this Legislation, ALL electric fence installations, new as well as existing, now require an EFC (Electric Fence System Certificate of Compliance).**
5. **The enforcement thereof came into effect on the 1<sup>st</sup> December 2012.**
6. **This certificate must be produced to an Inspector of the Department of Labour on request.**

## **B. When should an EFC be issued / obtained?**

1. This is the single biggest issue still causing the most confusion. **Crucial, please see point 5 on the next page.**
2. **Firstly, ANY new electric fencing installation is subject to certification on completion of the work done.**
3. **Secondly, ANY repaired\* / re-installed / restrung / extended and or upgraded electric fence installation as from the 1<sup>st</sup> December 2012 must be in full compliance regarding installation specifications, including materials used, as per SANS (South African National Standard) 10222-3:2011 Edition 4, Electrical Security Installations, Part 3., including subsequent amendments, as published from time to time, requiring an EFC upon completion;**

**\* Repaired. Any repairs other than;**

- 3.1. Repairing a broken wire;
- 3.2. Replacing a broken insulator;
- 3.3. Repairing the energizer;
- 3.4. Replacing a lightning arrestor.

That is it. Any other work falls under the new legislation and requires Certification.

4. **Thirdly, when selling. As from the 1<sup>st</sup> December 2012, ANY and ALL properties sold with electric fencing are subject to, and requires, an EFC, irrespective of when the electric fence was installed;**

- 4.1. There is also a lot of confusion and misinformation around this issue. The legislation is very clear on this issue; you need an EFC, irrespective when the fence was installed! Do not get caught on this one. Many a client has cried long tears after litigation compelling same after the fact.

Gido has reported extensively on this issue on our [Facebook](#) page, quoting numerous case studies.

5. **Fourthly, and this is the most critical part**, even though the Legislation prescribes when and how certification should / must be obtained, **this Legislation was promulgated under the OHS Act (Occupational Health and Safety Act, 1993 (Act No. 85 of 1993))**. Effectively, what this means is that ALL properties with electric fencing are automatically subject to certification.

5.1. **Thus, ANY and ALL properties with existing electric fences, but specifically commercial, industrial, business, Bodies Corporate, Home Owner Associations, freehold and or sectional title, town house complexes, housing estates, eco parks, business parks, ANY area that is fenced off with an electrified boundary security fence, including fenced off neighborhoods, is / are automatically subject to, and require certification.**

5.2. **As per a DOL (Department of Labour) directive when queried, ALL electric fences must be certified, irrespective when installed; with the onus on the property owner / Trustees / HOA Directors / managing agent, etc. to obtain said EFC (Electric Fence System Certificate of Compliance).**

5.2.1. Please see notes under %General+.

### C. “Deemed” compliance – Pre July 2011 installations:

1. **A clause that has had the most severe impact on property owners that everybody tends to overlook, or chooses to ignore, is clause 12 (1) of the Legislation.**

%2 (1) No person shall design, manufacture, sell, install or use an electric fence or electric fence energizer other than in accordance with the relevant health and safety standard incorporated into these Regulations under section 44 of the Act: Provided that electric fences or electric fence energizers installed in accordance with the Electrical Machinery Regulations, 1988, prior to the coming into force of these Regulations shall be deemed to comply with this regulation.+

**The critical sentence being:** “Provided that electric fences or electric fence energizers installed in accordance with the Electrical Machinery Regulations, 1988, prior to the coming into force of these Regulations shall be deemed to comply with this regulation.+”

1.1. Quite simply what this means is that with electric fencing Legislation being in existence since 1988, the assumption is that your fence was installed by a reputable company **in compliance with legislation in force from time to time**, and is therefore compliant.

## **D. The impact of “deemed” compliance:**

1. This “deemed compliance” has already cost some unknowing property owners dearly. There has been an increase in the number of repudiated / rejected insurance claims over the past couple of years due to non-certified and incorrectly certified fences. Claims repudiated / rejected fall into three main categories:

1.1. **Property insurance (Physical structure).** Should the electric fence itself get damaged either through a car going through or into your wall, a tree falling on your fence, a rain / hail storm, or the energizer getting damaged by power surge / lightning, etc. and your fence is NOT certified, your claim MAY not be entertained. **We get calls on a daily basis from clients whose claims have been repudiated.**

1.2. **Householders insurance (Contents).** If you listed your electric fence as a security measure, it has to be compliant and certified, irrespective of when installed. Again, if your fence is NOT certified, your claim MAY not be entertained. We highly recommend checking this with your insurer. The last thing you want is your insurance company repudiating any burglary / robbery claims.

1.3. **Public liability.** This is crucial in terms of your legal obligations and resultant public liability, specifically in view of current legal action involving some property owners.

This one is a lot trickier, as you could be held accountable and liable should somebody get shocked and / or hurt and you are unable to provide current and valid Certification.

**Remember, this is twofold: criminal charges and civil action.** Again, check with your insurer on their policy terms and conditions regarding your public liability. Will they cover you in the event of a civil lawsuit? The last thing you want is criminal charges brought against you and having to pay out hundreds of thousands due to a civil claim should somebody get shocked and / or hurt due to your electric fence not having been certified.

**(Civil cases have blossomed in recent years with “staff / visitors, etc.” instituting civil action, claiming that they had been shocked and / or hurt).**

## **E. The new Legislation in a nutshell:**

1. Electric fences must comply with SANS (South African National Standard) 10222-3:2012 Edition 4.1, Electrical Security Installations, Part 3, (Including subsequent amendments as published from time to time.)

**This Legislation prescribes minimum specifications to which ALL electric fences must adhere.**

**Some of the topics covered in the legislation include the following:**

- 1.1. Energizer and placement specifications;
- 1.2. Energizer lightning arrestors. All energizers must be fitted with lightning arrestors and in the case of security energizers, two arrestors must be used per zone (One on the output wire and one on the return wire);
- 1.3. Energizer earthing specifications; i.e. minimum of 3 x 1.2m earthing rods installed in close proximity to the energizer, in pickable soil+per fence zone. These earthing rods to be spaced 1.2m apart, either in a straight line / L or triangular shape;
- 1.4. Fence construction, e.g. the placement and positioning of brackets;

**There are very specific requirements in terms of minimum height and in the case of free standing fences, barrier fences. These specifications are too numerous and complex to list here. If required, contact Gido for more information.**

- 1.5. Fence circuitry. Security fences to be wired in series, game / animal control fences in parallel.
- 1.6. Specifications regarding the joining of fence wiring / cabling etc.;
- 1.7. Warning signs: specification, type, application and placement;
- 1.8. **All do-it-yourself electric fence installations are outlawed.**
  - 1.8.1. Remember, should an insurer establish that an electric fence was installed by an unregistered installer and the fence has to be fixed or replaced due to damage, such a claim can be rejected on the grounds of defective workmanship.
- 1.9. All Electric Fence System installers must be registered.

2. **Although electric fencing installations are governed by Legislation and SANS, ALL installations are first and foremost subject to the National Building Regulations and Building Standards Act (No. 103 of 1977), with provincial amendments, as promulgated.**
  - 2.1. In terms of bracket placement, one **CANNOT** just install fencing brackets on top of internal boundary walls or against a neighbouring boundary wall angled towards the neighbour, irrespective who built the boundary wall or thickness thereof.
  - 2.2. It is termed “**Encroachment**” and is highly illegal. To read more about this, click [here](#) and scroll down to Q21.
    - 2.2.1. A neighbour cannot by default give permission for this.
    - 2.2.2. An application can however be made through your local council for relaxation of this Legislation. An application, with the necessary supporting documents, will need to be handed in with the relevant application fee.
    - 2.2.3. There have been Supreme Court cases in this regard resulting in fences having to be removed with costs.
    - 2.2.4. The Western Cape actively enforces this Legislation and more and more cases are being inspected with enforcement in Gauteng.
  - 2.3. Yes, there are variations on this topic. The exact line of the boundary wall, additional fences, etc. etc.
  - 2.4. If you are unsure, approach your local building inspector for clarity on this issue.
  - 2.5. Although Gido will not decline the issuing of an **EFC** in terms of existing fences where ~~an~~ encroachment is the case, the property owner will be required to sign a release indemnity in favour of Gido Electric Fencing cc upon the issuing of an EFC.

## **F. Who can issue an EFC?**

1. Only a registered Electric Fencing Installer, registered with the Department of Labour, can issue said certification. Note: Electricians CANNOT issue this certification by default, unless registered with the Department of Labour in terms of this Legislation.

## **G. EFC Format:**

1. **What it is NOT, is a one or two page document. Typically, it is anywhere from 10 – 20 pages, compiled as follow (Residential Premises);**
  - 1.1. The Compliance Certificate itself;
  - 1.2. Either addendum A or B or both, regarding installation entity, material specifications, etc.;
  - 1.3. A copy of the energizer Certification documentation;
  - 1.4. A full and detailed drawing in respect of the installation, noting distances, location, bracket positioning, type of fencing / walling attached to, including full description thereof, taking note of the type and quantity of each and every bracket, etc.
  - 1.5. Legend document covering above detailed drawing;
  - 1.6. **In terms of Legislation, the property owner and or new ownersq obligations MUST BE explained to him / her in full.**

(In view of recent lawsuits and civil action claims in the industry, Gido's **EFC** documentation includes a six page document covering basic electric fence legalities, the property ownersq obligations, compulsory monthly maintenance, etc, etc.)

## H. Who receives the EFC?

1. In the event of a new installation / repair / upgrade the owner / person requesting the work, for which he has to sign;
  - 1.1. In the event of a property sale, as per Legislation, the original must be handed to the purchaser on transfer.
    - 1.1.1. In terms of said Legislation, the new property owners legal obligations and accountability must be explained to him / her at the same time.

## I. Validity of an EFC.

1. The validity of an EFC is strictly for two years, where after it has to be renewed.
  - 1.1. It is important to note, should any supplementary work be done after the initial certification, e.g. major repairs / re-installation / restringing / extensions and or upgrades, supplementary certification further to the original certification is required and must be issued in every instance.
  - 1.2. During the two year validity period, the EFC is transferable, subject to;
    - 1.2.1. The original being handed to the purchaser on transfer.
    - 1.2.2. In terms of said Legislation, the new property owners legal obligations and accountability must be explained to him / her at the same time.

## J. When is an EFC not required?

1. The Legislation is quite clear. A certificate is not required, provided the remainder of the electric fencing remains intact, when:
  - 1.1. Repairing a broken wire;
  - 1.2. Replacing a broken insulator;
  - 1.3. Repairing the energizer. Note, repairs to, not replacement of. Should the energizer be replaced, certification, and or supplementary certification, as the case may be, must be issued;
  - 1.4. Replacing a lightning arrestor;
  - 1.5. Other repairs of a minor nature.



## **K. Legal Implications:**

1. **Fences will be inspected and evaluated by the DOL (Department of Labour) Inspectorate to ensure compliance with this legislation.**
  - 1.1. Should a fence be found to be non-compliant, the property owner will be forced to remove the fence or ensure that an accredited installer upgrades it to meet compliance requirements within a specified time.
2. **Irrespective of who last worked on the fence, in terms of South African Law and more specifically the OHS (Occupational Health and Safety Amendment Act, No. 181 Of 1993), residential property owners and or the duly elected and authorised representatives, i.e. Trustees / Home Owners Association Directors / Safety Officers, as the case may be, remain legally liable and accountable for their relevant electric fences in their personal capacities, jointly and or severally as the case may be, in terms of public liability.**
3. **It is crucial knowing this, specifically in view of current legal action, criminally and civilly, involving property owners, Bodies Corporate, Home Owner Associations, etc.**

## **L. General:**

1. Now that you are aware of the facts, **KNOW WHAT YOU ARE DOING.**
2. At the end of the day, the onus is still on you, the property owner, Safety Officer, Body Corporate, Home Owners Association, whether you comply with Legislation or not.
3. **Remember the legislation is there for you, the consumer. It is there to protect you, ensuring that you get an installation that meets the highest standards, protecting you, your family and your assets.**

**Know who you are dealing with – Know what you are getting**

**[www.gido.co.za](http://www.gido.co.za)**