

(26) The Board must publish the details of the finding and sanction of the investigating committee in the *Gazette* and if applicable, update the register of contractors accordingly.

(27) Any contractor whose registration is endorsed as a result of the findings of the investigating committee must in any subsequent application for registration as a contractor disclose such endorsement and any applicant who fails to disclose such endorsement, is guilty of an offence.

(28) A contractor whose registration is downgraded by the investigating committee in terms of subregulation (18)(c) –

- (a) may, after the period of downgrading ordered by the investigating committee, apply for the original grading or another or higher grading; and
- (b) must disclose in the application referred to in paragraph (a) the grade from and to which he or she was downgraded, and any applicant who fails to disclose such downgrading is guilty of an offence.”.

26. Amendment of regulation 32 of Regulations

Regulation 32 of the Regulations is amended by the substitution of subregulation (1) for the following subregulation:

“(1) A document purporting to be an extract from, or copy of any register or record kept in terms of the Act and purporting to be certified as a true extract or copy by a person stating that he or she has the custody or control of such register or record, shall in any court and during a formal inquiry in terms of regulation 29 of these Regulations be admissible as evidence upon the mere production thereof, and be prima facie evidence of the facts stated therein without the production of the original register or record or any certificate, licence, other document, microfiche, microfilm, fax or electronic record from or of which such extract or copy was made.”.

27. Addition of regulations 32A, 32B, 32C, 32D and 32E to Regulations

The following regulations are inserted after regulation 32:

"32A. Application of Electronic Communications and Transaction Act, 2002

The provisions of sections 15, 18, 22 and 24 of the Electronic Communications Transaction Act, 25 of 2002, apply to the proceedings of the investigating committee, in respect of admissibility, evidential weight and interpretation of data messages.

32B. Criminal proceedings do not bar formal inquiry

The acquittal or the conviction of the respondent by a court of law on a criminal charge does not bar proceedings against him or her under the Regulations, even if the facts would, if proven, constitute the offence he or she has been charged with in the criminal proceedings.

32C. Electronic signature

(1) If a provision of Part V of the Regulations requires a document to be signed or initialled by or on behalf of a person, it may be effected by use of an electronic signature or an advanced electronic signature as defined in the Electronic Communications and Transactions Act, 25 of 2002.

(2) An unaltered electronically or mechanically generated reproduction of any document may be substituted for the original for any purpose for which the original could be used in terms of the Act.

(3) If a form or document is prescribed by or in terms of the Act, for any purpose

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- (a) it is sufficient if the person required to prepare or complete such a document does so in a form that satisfies all of the substantive requirements of the prescribed form; and
- (b) any deviation from the design or content of the prescribed form does not invalidate the action taken by the person preparing or completing that document, unless the deviation —
 - (i) negatively affects the substance of the document; or
 - (ii) is calculated to mislead.

32D. Serving of notice or subpoena

(1) Any notice or subpoena issued in terms of Part V of the Regulations may be served:

- (a) personally;
- (b) by leaving a copy of the notice or subpoena at the intended recipient's place of residence with a person apparently in charge of the premises at the time of delivery and who is apparently not less than 16 years of age;
- (c) by affixing a copy of the notice or subpoena to the door of the intended recipient's last-known place of residence;
- (d) by sending a copy of the notice or subpoena by registered post to the intended recipient's postal address indicated on the Board's website or last known postal address;
- (e) by transmitting a copy of the notice or subpoena by telefax or through other electronic communications means to the domain indicated on the Board's website, or last known domain; or
- (f) by following any of the above means in serving the notice to a person reasonably believed to appear on behalf of the intended recipient with regard to the subject matter of the notice or subpoena.

(2) The service of any notice or subpoena required to be served in terms of the Regulations must be effected between 06h00 and 20h00 on any day.

(3) Where the service of a notice or subpoena is effected by hand, an additional copy of the notice or subpoena must be prepared and the person receiving the notice must be requested to sign and date the copy and return it to the person serving the notice.

(4) Despite the provisions of subregulation (1) -

- (a) it is sufficient if the person required to deliver a notice or subpoena does so in a manner that satisfies all of the substantive requirements of this regulation; and
- (b) any deviation from the provisions of subregulation (1) does not invalidate the action taken by the person delivering that notice or subpoena, unless the deviation -
 - (i) reduces the probability that the intended recipient will receive the notice or subpoena; or

(ii) is calculated to mislead.

(5) If the investigating committee referred to in regulation 29 is not satisfied that the service was effected in accordance with these Regulations or if the court is not satisfied that a copy of the notice or subpoena was in fact received by the intended recipient, it may make any order that is reasonable in the circumstances.

32E. Employer or principal liable

If in any investigation or prosecution in terms of the Act, these Regulations or the code of conduct, it is proven that-

- (a) an employee/employer and/or agent/principal relationship existed (depending on the circumstances) at the time of an action; and
- (b) the said action by the employee or agent is found by the investigating committee contemplated in regulation 29 or a court not to comply with the Code of Conduct, or to be a transgression of the Act or these Regulations,

that employer or principal is liable for the said action of his or her employee or agent, unless it is proven by the employer or principal on a balance of probabilities that the employer or principal, as the case may be, had no reason to believe that his or her employee or agent had in any way failed to discharge their duties, providing that such absence of belief must be reasonable in the circumstances.”.

28. Amendment of regulation 34 of Regulations

Regulation 34 of the Regulations is amended by the addition to subregulation (1) of the following paragraph:

“(c) subject to the prior consent of the Minister, to a competent authority of another country.”.

29. Amendment of regulation 35 of Regulations

Regulation 35 of the Regulations is amended by the substitution for subregulation (5) of the following subregulation:

“(5) The Board must, on receipt of any fees in terms of these Regulations, issue a receipt to the person who paid those fees, subject thereto that a registration certificate

issued in terms of these regulations is regarded to be a receipt in terms of this subregulation.”.

30. Amendment of regulation 36 of Regulations

Regulation 36 is amended by the addition of the following subregulation:

“(3) Despite subregulation (2), a contractor must within three months after the expiry date of his or her tax clearance certificate, submit a current tax clearance certificate to the Board.”.

31. Amendment of 38 of Regulations

Regulation 38 of the Regulations is amended by

(a) the substitution for subregulations (5) to (8) of the following subregulations:

“(5) Until otherwise determined by the Board by notice in the Gazette, a private sector client or employer must report the award of a construction works contract on the Board’s website.

(6) Until otherwise determined by the Board by notice in the Gazette and notwithstanding Part III of these Regulations, -

(a) in relation to a public sector client or employer,

(i) the advertisement of a tender invitation in terms of a competitive process and the report of the award of a contract following that advertisement; and

(ii) the report of the award of a contract in terms of a non-competitive tender,

(iii) the report of a cancellation of contract, where applicable or

(b) in relation to a client or employer for the private sector the report of the award of a contract and, where applicable, the cancellation of a contract,

on the approved form on the Board’s website, is deemed to be registration of that project in terms of Part 111 of these Regulations.

(7) A client or employer is until otherwise determined by the Board by notice in the Gazette, exempt from paying the fee referred to in regulation 18(4).

(8) Until otherwise determined by the Board by notice in the Gazette, the invitation of a tender offer, report of the award of a contract or the cancellation thereof as

contemplated in subregulation (6) on the Board's website, at least monthly in relation to the public sector and quarterly in relation to the private sector is deemed to be a report in terms of regulation 21."; and

(b) the insertion of the following subregulation after subregulation (12):

"(13) Despite subregulation (11), any contractor who was registered on 1 January 2009, and who at application for that registration, in terms of relaxation 1 published by Board Notice 66 of 2005, submitted proof of application for professional registration as contemplated in regulation 12(8), but not proof of such registration, must submit that proof on the date on which he or she applies in terms of regulation 8 to amend his or her category status, the date of renewal of his or her registration as referred to in regulation 9 or the date on which he or she must confirm his or her particulars in terms of regulation 36(2).".

32. Deletion of Schedule 1 to Regulations

Schedule 1 to the Regulations is deleted.

33. Amendment of Schedule 2 to Regulations

Schedule 2 to the Regulations is amended-

(a) by the substitution for Table 1 of the following Table:

Table 1

Item	Fee in ZAR	Empowering section of the Act
1. Administration fee in relation to contractor grading designations 1 and 2;	450.00	Section 16(6)
2. Administration fee in relation to contractor grading designations 3-9	750.00	Section 16(6)
3. Renewal fee in relation to contractor registration for contractor grading designations 1 and 2	450.00	Section 20(2)
4. Renewal fee in relation to contractor registration for contractor grading designations 3-9	750.00	Section 20(2)
5. Project registration fee	750.00	Section 22(4)

(b) by the substitution for Table 2 of the following Table:

Table 2

Contractor grading designation	Fee in ZAR	Empowering section of the Act
1(class of construction works)	0.00	Section 16(8)
2(class of construction works)	250.00	Section 16(8)
3(class of construction works)	350.00	Section 16(8)
4(class of construction works)	900.00	Section 16(8)
5(class of construction works)	1750.00	Section 16(8)
6(class of construction works)	3500.00	Section 16(8)
7(class of construction works)	9000.00	Section 16(8)
8(Class of construction works)	29000.00	Section 16(8)
9(class of construction works)	55000.00	Section 16(8)

34. Substitution of Schedule 3 to Regulations

The following schedule is substituted for schedule 3 to the Regulations:

SCHEDULE 3 CLASSES OF CONSTRUCTION WORKS

Description	Designation	Definition	Basic works types	Examples
Civil engineering works	CE	Construction works that are primarily concerned with materials such as steel, concrete, earth and rock and their application in the development, extension, installation, maintenance, removal, renovation, alteration, or dismantling of building and engineering infrastructure	Water, sewerage, roads, railways, harbours and transport, urban development and municipal services	Structures such as a cooling tower, bridge, culvert, dam, grand stand, road, railway, reservoir, runway, swimming pool, silo or tunnel The results of operations such as dredging, earthworks and geotechnical processes. Township services, water treatment and supply, sewerage works, sanitation, soil conservation works, irrigation works, storm-water and drainage works, coastal works, ports, harbours, airports and pipelines.
Electrical engineering works (Infrastructure)	EP	Construction works that are primarily concerned with development, extension, installation, removal, renovation, alteration or dismantling of engineering infrastructure: a) relating to the generation, transmission and distribution of electricity; or b) which cannot be classified as EB.	Electrical power generation, transmission, control and distribution equipment and systems.	Power generation Street and area lighting Substations and protection systems Township reticulations Transmission Lines Supervisory control and data acquisition systems
Electrical engineering works (buildings)	EB	Construction works that are primarily concerned with the installation, extension, modification or repair of electrical installations in or on any premises used for the transmission of electricity from a point of control to a	All electrical equipment forming an integral and permanent part of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction	Electrical installations in buildings Electrical reticulations within a plot of land (erf) or building site Standby plant and uninterrupted power supply Verification and certification of electrical installations on premises

Description	Designation	Definition	Basic works types	Examples
		point of consumption, including any article forming part of such an installation		
General building works	GB	<p>Construction works that:</p> <p>a) are primarily concerned with the development, extension, installation, renewal, renovation, alteration, or dismantling of a permanent shelter for its occupants or contents; or</p> <p>b) cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works.</p>	<p>Buildings and ancillary works other than those categorised as being:</p> <p>c) civil engineering works;</p> <p>d) electrical engineering works;</p> <p>e) mechanical engineering works; or</p> <p>f) specialist works.</p>	<p>Buildings for domestic, industrial, institutional or commercial occupancies</p> <p>Car ports</p> <p>Fences other than classified as SS</p> <p>Stores</p> <p>Walls</p>

Description	Designation	Definition	Basic works types	Examples
Mechanical engineering works	ME	Construction works that are primarily concerned with the development, extension, installation, removal, alteration, renewal of engineering infrastructure for gas transmission and distribution, solid waste disposal, heating, ventilation and cooling, chemical works, metallurgical works, manufacturing, food processing and, materials handling	<p>Machine systems including those relating to the environment of building interiors:</p> <ul style="list-style-type: none"> a) gas transmission and distribution systems b) pipelines c) solid waste disposal d) materials handling, lifting machinery, heating, ventilation and cooling, pumps, e) continuous process systems f) chemical works, metallurgical works, manufacturing, food processing such as that in concentrator machinery and apparatus, oil and gas wells, smelters, cyanide plants, acid plants, metallurgical machinery, equipment and apparatus, and works necessary for the beneficiation of metals, minerals, rocks, petroleum and organic substances or other chemical processes. 	<p>Air-conditioning and mechanical ventilation Boiler installations and steam distribution Central heating Centralised hot water generation Cranes and hoists Dust and sawdust extraction Compressed air, gas and vacuum installations Conveyor and materials handling installations Continuous process systems involving chemical works, metallurgical works, oil and gas wells, acid plants, metallurgical machinery, equipment and apparatus, and works necessary for the beneficiation of metals, minerals, rocks, petroleum and organic substances and other chemical processes Kitchen equipment Laundry equipment Lift installations and escalators Refrigeration and cold rooms Waste handling systems (including compactors)</p>
Specialist	SB	A subset of construction	The extension, installation, repair, maintenance or renewal, or removal, of asphalt	

Description	Designation	Definition	Basic works types	Examples
works	SC	works identified and defined by the Board that involves specialist capabilities for its execution	The development, extension, installation, removal, and dismantling, as relevant, associated with building excavations, shaft sinking and lateral earth support	
	SD		The development, extension, installation, repair, renewal, removal, or alteration of corrosion protection systems (cathodic, anodic and electrolytic)	
	SE		Demolition of buildings and engineering infrastructure and blasting	
	SF		The development, extension, installation, renewal, removal, renovation, alteration or dismantling of fire prevention and protection infrastructure (drencher and sprinkler systems and fire installation)	
	SG		The development, extension, installation, renewal, removal, renovation, alteration or dismantling of glazing, curtain walls and shop fronts	
	SH		The development, extension, installation, maintenance, renewal, removal, alteration or dismantling, as relevant, of landscaping, irrigation and horticultural works	
	SI		The development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration or, dismantling of lifts, escalators, travellers and hoisting machinery	
	SJ		The development, installation, removal, or dismantling, as relevant, of piles and other specialized foundations for buildings and structures	
	SK		The installation, renewal, removal, alteration or dismantling, as relevant, road markings and signage	
	SL		The development, extension, installation, renewal, removal, renovation, alteration or dismantling of structural steelwork and scaffolding	
	SM		Timber buildings and structures	
	SN		The extension, installation, repair, maintenance, renewal, removal, renovation or alteration, as relevant, of the waterproofing of basements, roofs and walls using specialist systems.	
	SO		The development, extension, installation, renewal, removal, alteration or dismantling or demolition of water installations and soil and waste water drainage associated with buildings (wet services, plumbing)	
	SQ		The development, extension, installation, repair, removal, alteration, dismantling or demolition of precast concrete or steel fencing	

35. Transitional measures

(1) An application for registration as a contractor that was made before the commencement of these Construction Industry Development Amendment Regulations, 2008, may until 31 March 2009 be assessed in accordance with the requirements for registration as a contractor contained in the Regulations before the commencement of these Regulations, but any new application that is made after the commencement of these Regulations, must be made and evaluated in accordance with the Regulations as amended.

(2) Any renewal process or update of particulars that has been initiated by the Board may be finalised in terms of the Regulations before the commencement of these Regulations.

(3) Any investigation or prosecution initiated before the commencement of these Construction Industry Development Amendment Regulations, 2008, must be finalised in accordance with the Regulations before these Regulations commenced.

(4) A tender invitation that was published before the commencement of these Construction Industry Development Amendment Regulations, 2008, must be evaluated in accordance with the Regulations that were applicable at the time of invitation and in accordance with the conditions of tender specified in the tender data, but in the case of the classes of works SA (Alarms, security and access control systems), a contractor who submits a tender offer that relates to those classes of works, may not be penalised for not being registered in terms of these Regulations.

(5) A contractor that was registered in the specialist classes of works SA (Alarms, security and access control systems) and SP [Building of Homes as contemplated in the Housing Consumer Protection Measures Act (Act No 95 of 1998)] is entitled to a pro rata refund of the annual fees paid by him or her in terms of section 16(2) of the Act, calculated from the date of commencement of these Regulations to the date on which the next annual fee for the contractor concerned is payable.

(6) The Board may in accordance with the information available in the register of contractors, amend the class of works reflected in the category of registration of a contractor if that category of registration reflects the electrical engineering (EE) class of works.

36. Short title and commencement

These regulations are called the Construction Industry Development Second Amendment Regulations, 2008 and come into effect on 1 January 2009.