

# National Building Regulations and Building Standards Act 103 of 1977 (NBRBSA)

Topic: Building Standards, Health, Safety and Environmental

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## IN A CALABASH

### Introduction

**In order to ensure that buildings and related structures, including fixtures and fittings therein, are correctly and safely built, certain building laws are applicable in South Africa.**

**The National Building Regulations and Building Standards Act (NBRBSA) regulates the erection of buildings and structures, regardless of size or cost, subject to some minor exemptions.**

### Objectives of the Act

The NBRBSA aims to promote uniformity in the law relating to the erection of buildings in the areas of jurisdiction of local authorities.

In addition and most importantly, the NBRBSA prescribes and sets out in detail the applicable building standards which all builders and persons who want to erect or build any structure building, dwelling or structure have to comply with.

The NBRBSA is a vast piece of law which has a very detailed set of regulations attached to it to prescribe and set out in detail the dimensions and specifications applicable to the various fixtures and fittings making up a structure or a building.

This summary sets out only the more general provisions pertaining to a building.

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### Application of the Act and its implication to Tourism

The Act applies to every person who is planning to build or erect a structure or building, save for those who have been exempted.

In relation to the tourism industry, when a person or entity decides to build or extend its operation or facilities, including the adding on of additional bathrooms, building a look-out facility or establishing an entertainment area, this work must be done strictly in compliance with the provisions of this Act.

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## Summary of the provisions of the Act

In terms of the NBRBSA, a building to which the Act applies will include–



- any structure of a temporary or permanent nature, irrespective of the materials used in the erection thereof, erected or used for or in connection with–
  - o the accommodation or convenience of human beings or animals;
  - o the manufacture, processing, storage, display or sale of any goods;
  - o the rendering of any service;
  - o the destruction or treatment of refuse or other waste materials;
  - o the cultivation or growing of any plant or crop;
- any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- any fuel pump or any tank used in connection therewith;
- any part of a building; and
- any facilities or system, or part or portion thereof, within or outside but incidental to a building for the provision of water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of the building.

### Exemption of buildings from national building regulations and authorisation for erection thereof

Any building control officer may, in respect of the erection of a building defined in the national building regulations as a minor building work, in writing, exempt the owner of such building from the obligation to submit a plan in terms of this Act to the local authority in question for approval; or grant authorisation for the erection of such building in accordance with the conditions and directions specified in such authorisation. Any such authorisation shall lapse if, after the expiry of a period of 6 months, the erection of the building has not commenced. The building control officer extend such period at the written request of the owner of such building or any person having an interest therein, if he or she is satisfied that there are sound reasons to do so.

### Approval by local authorities of applications in respect of erection of buildings

No person can, without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of the Act.

If a local authority, having considered a building controller's recommendation, is satisfied that the application in question complies with the requirements of the Act and any other applicable law, it may grant its approval. Such approval shall be endorsed on at least one of the copies of the plans, specifications and other documents in question returned to the applicant.

### **Appointment of building control officer by local authority**

A local authority must appoint a person as building control officer in order to exercise and perform the powers, duties or activities granted or assigned to a building control officer by or under the Act, which could include two or more of such appointed officials.

A building control officer will—

- make recommendations to the local authority regarding any plans, specifications, documents and information submitted to such local authority;
- ensure that any instruction given by the local authority is carried out;
- inspect the erection of a building and any activities or matters connected therewith in respect of which approval was granted; and
- report to the local authority non-compliance with any condition on which approval was granted.

### **Fire protection plan**

When a fire protection plan is required by the local authority, the building control officer concerned shall incorporate in his or her recommendations a report of the person designated as the chief fire officer by such local authority, or if such building control officer has also been designated as the chief fire officer concerned, he or she will report such recommendations.

### **Erection of buildings in certain circumstances subject to prohibition or conditions**

If, in the opinion of the local authority, any building or earthwork—

- will not be in the interest of good health or hygiene;
- will be unsightly or objectionable;
- will probably or in fact be a nuisance to the occupiers of adjoining or neighbouring properties;
- will probably or in fact detract from the value of adjoining or neighbouring properties; and/or
- is being or is to be erected on a site which is subject to flooding or on a site which does not drain properly or is filled up or covered with refuse or material impregnated with matter liable to decomposition,

such local authority may prohibit the person erecting such building or earthwork from commencing or proceeding with the erection, except on such conditions as such local authority may determine.

### **Erection of buildings subject to time limit**

If, for a period exceeding 3 months, the erection of a building is not proceeded with, the local authority order the owner of such building to resume and complete the erection of such building within a period specified in such notice.

If the owner fails to resume or to complete the erection of such building within the period specified in such notice or as extended and the local authority is of the opinion that such building is unsightly or dangerous to life or property or detracts from the value of adjoining or neighbouring properties, such local authority may order such owner to

demolish such building, to remove the material of which such building consisted and any other material or rubbish from the site in question, and to otherwise clean up such site within a specified period. When the owner of a building fails to comply, such building can be demolished by the local authority, who may recover the costs from the owner. The local authority may sell such material and may utilise the proceeds of such sale to defray the costs of the demolition, removal or clean-up and shall pay the balance, if any, of such proceeds to such owner.

Any approval granted by a local authority in respect of any application will lapse as soon as a demolition order is served on or delivered to the owner of the building in question in respect of such building.

### **Demolition or alteration of certain buildings which are dilapidated or in a state of disrepair**

If the local authority is of the opinion that—

- any building is dilapidated or in a state of disrepair or shows signs thereof; or
- any building or the land on which a building was, is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property,

it may order the owner of such building, land or earthwork to demolish or repair such building or to alter or secure it, so that it is no longer unsafe or dangerous within a specified time.

But if such local authority is of the opinion that the condition of any building, land or earthwork is such that steps should immediately be taken to protect life or property, it may take such steps without serving such notice on or to the owner and may recover the costs of such steps from such owner.

### **Notice of unsafe condition to local authority**

If the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous to life or property, the owner must notify the local authority.

### **Investigations**

If the condition of any building, the land on which a building was, is being or is to be erected or any earthwork is such that it is dangerous or is showing signs of becoming dangerous to life or property, the local authority may order the owner of such building, land or earthwork to instruct an architect or a registered person to investigate such condition and report to such local authority on the nature and extent of the steps to be taken in order to render such building, land or earthwork safe. In addition, the local authority may order that any activities be stopped or prohibit the performance of any activities which may increase the danger, hinder or obstruct the architect from properly carrying out the investigation. If it is brought to the attention of a local authority or appears that an architect or registered person is not competent to carry out these duties, the local authority may require such architect or registered person to submit evidence of his or her competence to carry out such duties. If the architect or registered person is

unable to satisfy the local authority of his or her competence to carry out the duties in question, the local authority may order the owner of the building, land or earthwork in question to instruct another architect or registered person to carry out the duties.

### **Removal of persons from dangerous building**

If the local authority deems it necessary for the safety of any person, it may order the owner of any building to remove, within the period specified in such notice, all persons occupying or working in such building and to take care that any person not authorised by such local authority does not enter such building or may order any person occupying or working in any building to vacate such building immediately or within a period specified in such notice.

### **Ban on occupying dangerous building**

No person shall occupy, use or permit the occupation of any dangerous or unsafe building unless the local authority has granted permission in writing that such building may again be occupied or used.

### **Certificates of occupancy in respect of buildings**

On written request, a local authority must, within 14 days of such request, issue a certificate of occupancy in respect of a completed building if it is of the opinion that such building has been erected in accordance with the provisions of the Act and the application conditions. Where they are not satisfied that conditions have been met, they must notify in writing such owner or person that it refuses to issue such certificate of occupancy.

The local authority may, at the request of the owner of the building or any other person having an interest therein, grant permission to use the building before the issue of the certificate of occupancy for such period and on such conditions as may be specified in such permission, which period and conditions may be extended or altered by such local authority.

### **Electrical installations—certificate of compliance**

All electrical installations shall be certified as being in compliance with the applicable laws including this Act, OHSA and the SANS codes. This certification will be in the form of a valid certificate of compliance issued by a certified electrician.

### **Design of structure and fire protection system**

Upon completion of the erection or installation of—

- the structural system;
- the fire protection system; or
- the fire installation system,

of any building, the person appointed to design and inspect the erection or installation shall submit a certificate to the local authority indicating that such system has been designed, erected or installed in accordance with the application for which approval was granted.

## **Entry by building control officers and certain other persons of certain buildings and land**

Any building control officer or any other person authorised thereto by the local authority may enter any building or land at any reasonable time with a view to inspect whether the owner of the building or land complies with any provision of the Act or any condition imposed by the local authority in terms of the Act.



### **WHAT HAPPENS IF YOU DO NOT COMPLY?**

Non-compliance with this Act and standards can give rise to serious consequences including–

- loss of property where a demolition order is issued and resultant financial loss;
- loss or damage to assets;
- injury or death;
- environmental degradation;
- criminal sanctions;
- civil sanctions;
- fines and penalties;
- loss of reputation; and
- closure of business.



### **RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT**

- Awareness of all provisions housed under the regulations;
- Notice of building and approval of plans;
- Compliance checklist;
- Contract officer who oversees all operations with support from the architect and engineer;
- Occupational certificate;
- Electrical compliance certificate;
- Structural design certificate; and
- Fire equipment certificate.

## FURTHER INFORMATION

### **Regulators**

Department of Health

Local government

Building inspectors