

Draft Construction Regulations 2025: What Clients, Contractors and Developers Need to Know

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South Africa's construction law landscape is changing. The Department of Employment and Labour released the *Draft Construction Regulations, 2024* ("the Draft Construction Regulations") for public comment. These proposed changes form part of the country's broader health and safety law reform and aim to modernise occupational health and safety compliance in the built environment.

Published on 12 March 2025 under Government Gazette No. 52267 (Notice No. 5983), the Draft Construction Regulations are intended to repeal and replace the current Construction Regulations, 2014.

While the deadline for public submissions (12 June 2025) has passed, the Draft Construction Regulations provide valuable insight into the emerging legal obligations for contractors and developers alike. Stakeholders in South Africa's construction industry would be wise to take note and to prepare for what is to come.

Why These Regulations Matter for Construction Law Compliance

The construction industry remains one of the highest-risk sectors in South Africa. Site-related injuries, safety non-compliance, and fatalities remain common, despite existing legal frameworks. The Draft Construction Regulations aim to address these challenges by:

Objective	Relevant regulation/s
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Clarifying the roles and responsibilities of clients, designers, principal contractors, and contractors in managing construction health and safety	Duties of the client (Reg. 5); designer (Reg. 6); principal contractor/contractor (Reg. 7).
Mandating risk assessments and health and safety plans at various project stages to ensure proactive hazard identification and control	Reg. 9: Risk assessments required by contractors; Reg. 7(1)(a): Principal contractor must prepare health and safety plan based on the client's health and safety specifications.
Reinforcing the requirement for competence, supervision, and training of personnel involved in high-risk construction activities	Reg. 8: Appointment of competent managers, supervisors, health, and safety officers and includes the appointment by the principal contractor of one full-time competent person as the construction manager.
Introducing stricter controls for high-risk operations , including work at heights, demolition, excavations, and temporary works	Regs. 13 to 15: Excavation (Reg. 13); demolition (Reg. 14); tunnelling (Reg. 15).
Requiring enhanced coordination and communication mechanisms among multiple contractors and stakeholders on site	Reg. 5(1)(i): The client must ensure co-operation among contractors; Reg. 7(1)(c)(vi): The principal contractor must ensure that contractors implement health and safety plans.
Providing for improved enforcement and oversight by the Department of Employment and Labour through clearer compliance obligations and recordkeeping duties	Regulation 7(1)(b): The principal contractor must keep a physical/electronic health and safety file on site; Regulation 5(1)(o): Clients must ensure regular audits (at least every 30 days) and retain audit reports.

Key Legal Changes in the Draft Construction Regulations

The Draft Construction Regulations introduce a number of important changes, both in terms of project thresholds and legal responsibilities, that industry players should take note of. Some of these changes are:

1. Expanded Definitions, Contractor Responsibilities, and Modernised Language

Core terms such as “*agent*”, “*client*”, and “*contractor*” have been redefined to clarify their roles and liabilities in relation to occupational health and safety. These changes reflect evolving project delivery models and a more holistic view of responsibility throughout the project lifecycle.

The regulations also introduce new terminology like “*pre-construction information*”, “*ergonomics*”, and “*construction health and safety officer*” – all aligning with a more integrated and proactive safety approach.

2. Revised Permit Requirements and CIDB Thresholds

Permit thresholds have shifted significantly. In terms of regulation 3(1), a client who intends to have construction work carried out is now required to apply for a construction work permit at least 30 days prior to commencement of the project, if any of the following thresholds are met:

- The construction work is expected to exceed 365 calendar days [Reg. 3(1)(a)];
- The contract value exceeds the threshold for CIDB Grade 7 [Reg. 3(1)(b)]; or
- The structure to be constructed will be higher than two storeys above ground level [Reg. 3(1)(c)].

Additionally, provincial notification is now required for all construction projects, irrespective of whether they fall within the scope requiring a Construction Work Permit. This requirement is set out in regulation 4(1), which mandates that a contractor undertaking any construction work not covered by regulation 3(1) must notify the provincial director in writing at least 7 days before commencement. Furthermore, regulation 4(3) extends this obligation to clients of CIDB-registered projects, even those falling outside the permit thresholds. These new notifications significantly increase administrative obligations for

project stakeholders, reinforcing the need for diligent compliance planning and timely legal advice to ensure all pre-construction requirements are met.

3. Integrating Safety into the Design Phase

Clients are now required to prepare a *documented design risk assessment* before construction begins [reg. 5(1)(a)]. This elevates the role of health and safety planning from a site-level exercise to a design-phase obligation, a major shift from the previous baseline risk assessment requirement.

4. Digitising Construction Compliance

One of the more modern inclusions is the recognition of electronic health and safety files. This is a welcome move that supports digitised compliance systems, improved document management, and remote access to project records for audit or inspection purposes.

5. Continuous Risk Assessments

In terms of regulation 9(1), a contractor is required to ensure that a competent person, appointed in writing, conducts a comprehensive risk assessment both prior to and during the execution of construction work.

In terms of regulation 9(6), a contractor must review and revise the risk assessment:

- Whenever changes are made to the design or construction method that may alter the risk profile;
- After the occurrence of an incident that reveals shortcomings in the existing controls; and
- At intervals not exceeding 12 months, regardless of whether any changes or incidents have occurred.

This ensures that safety measures are continuously assessed and remain aligned with actual site conditions.

What These Changes Mean for Legal and Construction Professionals

Conclusion

Although still in draft form, the Draft Construction Regulations provide a clear indication of the Department of Employment and Labour's regulatory intent to implement a more comprehensive and design-integrated framework for construction safety governance. Stakeholders who begin preparing now will be better positioned to manage the transition and achieve compliance once the final regulations come into effect.