

**DEPARTMENT OF PUBLIC WORKS****NO. R. 426****13 APRIL 2018****CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT, 2000 (ACT NO 38 OF 2000)**

The Minister of Public Works intends to amend the Construction Industry Development Regulations, 2004 published under GN 692 in GG 26427 of 9 June 2004, as amended. The draft amendment regulations annexed hereto are accordingly published for public comment.

Interested persons are invited to submit their written comments on the proposed regulations to the Director- General of the Department of Public Works within **30 days** of the date of publication of this notice by-

- (a) Posting it to : Department of Public Works, Private Bag X65, Pretoria, 0001; or
- (b) Delivering it by hand at: Central Government Building, Corner Madiba Drive and Bosman Streets, Pretoria, 0001; or
- (c) Emailing it to: [gugu.mgwebi@dpw.gov.za](mailto:gugu.mgwebi@dpw.gov.za)

Comments must be marked for the attention of Gugu Mgwebi.

Comments received after the closing date may not be considered.

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**T.W NXESI (MP)**

**MINISTER OF PUBLIC WORKS**

**DEPARTMENT OF PUBLIC WORKS****CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT, 2000**

I, Thembelani Waltermade Nxesi, Minister of Public Works, under section 33 of the Construction Industry Development Board, Act, 2000 (Act No. 38 of 2000), make the Regulations in the Schedule.

**T.W NXESI (MP)**

**MINISTER OF PUBLIC WORKS**

**SCHEDULE****GENERAL EXPLANATORY NOTE:**

[       ]       Words in bold type in square brackets indicate deletions from existing regulations

\_\_\_\_\_       Words underlined with a solid line indicate insertions in existing regulations.

**Definition**

1. In these regulations, “the Regulations” means the Regulations published under Government Notice No. R. 692 in Government Gazette No. 26427 of 9 June 2004, as amended by Government Notice Nos. R. 1333 of 12 November 2004, R. 751 of 22 July 2005, R. 842 of 18 August 2006, R. 1121 of 23 November 2007, R. 1224 of 14 November 2008 and R. 464 of 2 July 2013.

**Substitution of regulation 9 of the Regulations**

2. The Regulations are hereby amended by the substitution for regulation 9 of the following regulations:

**“Renewal of registration**

9 (1) Saved as provided for in subregulation (2), these regulations apply with the necessary changes to an application for the renewal of registration in terms of section 20 of the Act.

(2) Notwithstanding anything contained elsewhere in these regulations, a registered contractor with

a contractor grading designation 2 to 6, who applies for a renewal of registration after 1 May 2016, shall be graded in terms of regulation 9A.

(3) Subregulation 9(2) is applicable only to contractors who apply for a renewal of registration, where the renewal application:

(a) is brought after 1 May 2016; and

(b) is the first application for renewal after 1 May 2016.”.

### **Insertion of regulation 9A of the Regulations**

3. The Regulations are hereby amended by the insertion after regulation 9 of the Regulations of the following regulation:

#### **“Manner of determination of contractor grading designation in terms of this regulation**

9A (1) The contractor grading designation of a contractor, in terms of this subregulation is determined by establishing the works capability of the contractor only in accordance with subregulation (2).

(2) The works capability of a contractor must be determined by establishing whether-

(a) the contractor satisfies the requirements contemplated in regulation 12(5) in relation to any specific class of construction works; and

(b) the contractor has during the six years immediately preceding the application completed at least one construction works contract in the category of construction works for which the contractor wishes to register, of which the value equals or exceeds the amount of that works capability designation as contemplated in regulation 12(7).

(3) For the purpose of determining the contractor grading designation of a contractor, the records of one contractor may be transferred to another contractor and treated as if it were the same entity for the purpose of assessment in the case of –

(a) the first contractor being a sole proprietor, partnership or trust who establishes a company or close corporation in terms of the Companies Act, 2008 (Act No. 71 of 2008) or the Close Corporations Act, 1984 (Act No. 69 of 1984);

(b) a change of name of a company;

- (c) the reconstruction of a company;
  - (d) the amalgamation of companies;
  - (e) the takeover of a company;
  - (f) a scheme of arrangement in terms of section 314 of the Companies Act, 2008;
  - (g) the conversion of a company to a close corporation in terms of section 27 of the Close Corporations Act, 1984; and
  - (h) a change in membership or members' interests of a close corporation.
- (4) A contractor seeking the transfer of records referred to in subregulation (3), must apply to the Board in writing for its approval of such transfer and must furnish such particulars as the Board may require.
- (5) The Board must, within 30 working days from receipt of a duly completed application referred to in subregulation (4), notify the contractor of its decision.”.

#### **Amendment of regulation 18 of the Regulations**

4. Regulation 18 is hereby amended by the deletion of subregulation (4) thereof.

#### **Amendment of Regulation 21 of the Regulations**

5. Regulation 21 is hereby amended-

- (a) by the substitution for subregulation (1) of the following subregulation:

"(1) The employer must in relation to a construction works contract registered in terms of these Regulations, within one calendar month of the date-

- (a) of issue of a practical completion certificate;
- (b) on which that contract is renewed;
- (c) on which a contract is cancelled or terminated; and
- (d) of settling all amounts owing to the contractor in accordance with the contract, as determined prescribed format by the employer, submit a **[status]** report to the Board in the prescribed format determined by the Board.”; and

- (b) by the insertion after subregulation (1) of the following subregulation:

“(1A) Where a construction works contract has not been completed, cancelled or terminated within one year from the date of award of tender, the employer must submit a report to the Board, annually, in the prescribed format as determined by the Board.”.

#### **Deletion of regulation 38 of the Regulations**

6. Regulation 38 of the Regulations is hereby deleted.

**Amendment of Table 1 of Schedule 2 of the Regulations**

7. Table 1 of Schedule 2 of the Regulations is hereby amended by the deletion of item 5 thereof.

**Short title and commencement**

8. These regulations are called the Construction Industry Development Amendment Regulations 2018, and commence on the date of publication thereof.