



WITH COMPLIMENTS

Susan B Cohen
Attorneys, Notaries & Conveyancers

Susan Barbara Cohen BA LLB LLM (Property Law)
Karlien van Graan B COM LLB

79 - 11th Street
Parkmore, SANDTON
P O Box 781622
2146

Tel: 011 883 4601
Fax: 011 883 2684
Email : susan@susancohen.co.za
Website: http://susancohen.co.za



Susan B Cohen

Attorneys, Notaries and Conveyancers

Forward email

Online Printable Version

In this Issue

March 2023

Installing Home Solar
- How to Comply
with the Regulatory
Requirements

Budget 2023: Your
Tax Tables and Tax
Calculator

Can You Claim
Damages After

Installing Home Solar – How to Comply with the Regulatory Requirements

"We have this handy fusion reactor in the sky
called the sun; you don't have to do anything, it
just works. It shows up every day" (Elon Musk)

Eskom's no-end-in-sight loadshedding, rising electricity
costs, South Africa's abundance of sunshine, and the global
move to sustainable energy solutions have all contributed to
the current boom in home solar photovoltaic (PV) roof



installations.

They don't come cheap, but quite apart from the direct practical and financial benefits of going as much off-grid as possible, you will be boosting your property's resale value (supposedly by between 4% and 8% depending on the system you install and your current house value). And at least one municipality is already planning to pay you for any excess power you feed back into its grid – expect that to become a growing trend.



Moreover, in addition to the existing tax incentives for businesses installing solar, the Budget Speech has promised both an expansion of the tax incentives and the introduction of a new tax incentive for individuals in the form of a 25% tax rebate (maximum R15,000 per individual) of the cost of “new and unused” solar panels (not inverters or batteries) – **available for 1 year only (1 March 2023 to 29 February 2024)** “to encourage investment as soon as possible”.

Step 1: How to choose an installer for a safe and legal installation

Before you accept a quote for your solar project (typically some solar panels, an inverter and a battery or two), there are several regulatory requirements to bear in mind, and the best way to ensure that you comply with everything (quite apart from the safety aspect) is to choose an installer with a good track record and the right qualifications. Bear in mind that you will need your installer to issue a valid compliance certificate for the system for several reasons –

- To complete the process of getting the system authorised (see below),
- To add the system to your homeowner's insurance,
- To ensure that the system's warranties aren't voided, and
- To allow you to claim the new tax rebate as above.

Questions to ask a prospective installer: Here's a list of questions to ask (adapted from the excellent list in “City of Cape Town's Checklist for safely going solar” on [cape{town}etc](#)) –

- What prior experience do you have in solar PV installations?
- What three recent clients of yours can I phone for references?
- Did you design, supply and install the systems, or did you only carry out one or two of these steps?
- Are you an accredited service provider under [PV Green Card](#), [SAPVIA](#) or [P4 Platform](#)?
- Can you supply proof of electrical Certificates of Compliance and/or professional engineer sign-offs on previous installations?
- Can you prove that your previous installations were correctly authorised by the local authority (or Eskom if direct customers)?
- Do you employ or subcontract qualified staff to design and install systems? (Note: The City of Cape Town suggests you ask for “proof of up-to-date registration (a wireman's licence and DoLE registration)”).
- Is the inverter you are quoting for on the local authority's approved inverter list? (Note: Find the City of Cape Town's list [here](#); if you are told that your local authority has no such list, get written confirmation).
- If you propose a “grid-tied system” (see definition below) do you have available an Engineering Council of South Africa (ECSA) registered professional to sign it off?
- Are the solar PV panels in compliance with SANS/IEC standards? (Note: The City of Cape Town [article](#) recommends you get a certificate of compliance for SANS/IEC 61215:2015 / SANS/IEC 61646:2016).
- Are you registered with [SAPVIA](#) and the [ECB](#)? (Note: Per The City of Cape Town “it's not compulsory but shows commitment to industry best practice.”)
- What warranties apply to your installation and the components? (Keep proof, with all manuals).
- Is your quote comprehensive and does it include installation of circuit breakers (specialized to the DC current from the panels), obtaining SSEG registration (see below) and a Certificate of Compliance?

Step 2: How to comply with all regulatory requirements

- Next, comply with the SSEG (Small Scale Embedded Generation) process – have your chosen installer do everything on your behalf. You will need to register the system for authorisation with

either Eskom or your local municipality (whichever supplies your electricity).

- **Note that authorisation is needed whether or not your system will be feeding electricity back into the grid.** If your system will connect to the grid (via your distribution board or directly) it will be a “grid-tied” one - either “feed-in” or “non-feed-in” depending on whether or not it will export excess power to the grid. If it’s “non-feed-in” you will need to have “Reverse Power Flow Blocking” installed to prevent any excess electricity feeding back into the grid. If it’s a “feed-in” you have more hoops to jump through as an Electricity Supplier. To complicate matters further, you also get “hybrid” systems which can be either on-grid or off-grid. For more detail read the City of Cape Town [article](#) referenced above (“The three types of systems” section).

Incidentally none of this is just bureaucratic red tape – suppliers need to know when it is safe for their technicians to work on the grid, there are issues related to grid management, and there are home safety issues around risk of fires and other hazards.

Check with your supplier (local authority or Eskom) whether you need any authority for a standalone (“off-grid”) system. At date of writing, at least one municipality - City of Cape Town - does require registration “to ensure they are not mistaken for grid-tied systems”.

- The process itself, let alone the terminology and technical requirements (such as wiring diagrams and an engineering sign-off), is complicated. Have your installers do everything for you, and in doubt contact your municipality’s electricity department (or Eskom direct if applicable) for more information.
- Failing to register and obtain written authorisation **prior to installation** could be an expensive business, with some municipalities threatening to use aerial photos, inspections and billing analysis to locate unauthorised systems, which will then attract penalties, contravention notices, and supply disconnection. Failure to register might even cause your insurers to reject a claim and that could be disastrous - think for example of a system failure causing a house fire.
- If you live in a “community scheme” like a sectional title complex or a homeowner’s association complex, check your Rules and Regulations and get necessary consents upfront.
- Make sure that **all** aspects of the installation comply with local regulations to reduce the risk of any future insurance claims being rejected for non-compliance. For example, check the technical requirements for roof structures (ensure that they can cope with the weight and wind load of panels), also you may or may not need building plans, plus some municipalities have lists of approved inverter makes and models.
- Talking of which, don’t forget to send the compliance certificate to your insurers with an instruction to add your new system to your homeowner’s policy.

Safety and recourse for poor work

The City of Cape Town [checklist](#) referenced above is well worth a full read regardless of where you live – read in particular the sections on safety and “Recourse for poor work”.

A final thought - should you ditch Eskom altogether?

A final thought – you could of course go off-grid entirely. It’s tempting isn’t it to wave Eskom and all its issues a cheerful good-bye, you’ll be avoiding a lot of the paperwork mentioned above, plus you won’t be paying Eskom’s “fixed service connection fees” any longer. But then you really will be on your own, with no connection whatsoever to your municipal or Eskom supply. Think about the effect on your resale value as well as the short-term pros and cons of making that sort of decision!

Budget 2023: Your Tax Tables and Tax Calculator

How much will you be paying in income tax, petrol and sin taxes? Use Fin 24’s four-step Budget Calculator [here](#) to find out.

Have a look at the tax tables below for the new tax rates and comparisons with last year’s rates -



Table 4.7 Transfer duty rate adjustments

2022/23		2023/24	
Property value (R)	Rates of tax	Property value (R)	Rates of tax
R0 - R1 000 000	0% of property value	R0 - R1 100 000	0% of property value
R1 000 001 - R1 375 000	3% of property value above R1 000 000	R1 100 001 - R1 512 500	3% of property value above R1 100 000
R1 375 001 - R1 925 000	R11 250 + 6% of property value above R1 375 000	R1 512 501 - R2 117 500	R12 375 + 6% of property value above R1 512 500
R1 925 001 - R2 475 000	R44 250 + 8% of property value above R1 925 000	R2 117 501 - R2 722 500	R48 675 + 8% of property value above R2 117 500
R2 475 001 - R11 000 000	R88 250 + 11% of property value above R2 475 000	R2 722 501 - R12 100 000	R97 075 + 11% of property value above R2 722 500
R11 000 001 and above	R1 026 000 + 13% of property value above R11 000 000	R12 100 001 and above	R1 128 600 + 13% of property value above R12 100 000

Source: National Treasury

Table 4.5 Personal income tax rates and bracket adjustments

2022/23		2023/24	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R226 000	18% of each R1	R0 - R237 100	18% of each R1
R226 001 - R353 100	R40 680 + 26% of the amount above R226 000	R237 101 - R370 500	R42 678 + 26% of the amount above R237 100
R353 101 - R488 700	R73 726 + 31% of the amount above R353 100	R370 501 - R512 800	R77 362 + 31% of the amount above R370 500
R488 701 - R641 400	R115 762 + 36% of the amount above R488 700	R512 801 - R673 000	R121 475 + 36% of the amount above R512 800
R641 401 - R817 600	R170 734 + 39% of the amount above R641 400	R673 001 - R857 900	R179 147 + 39% of the amount above R673 000
R817 601 - R1 731 600	R239 452 + 41% of the amount above R817 600	R857 901 - R1 817 000	R251 258 + 41% of the amount above R857 900
R1 731 601 and above	R614 192 + 45% of the amount above R1 731 600	R1 817 001 and above	R644 489 + 45% of the amount above R1 817 000
Rebates		Rebates	
Primary	R16 425	Primary	R17 235
Secondary	R9 000	Secondary	R9 444
Tertiary	R2 997	Tertiary	R3 145
Tax threshold		Tax threshold	
Below age 65	R91 250	Below age 65	R95 750
Age 65 and over	R141 250	Age 65 and over	R148 217
Age 75 and over	R157 900	Age 75 and over	R165 689

Source: National Treasury

Table C.1 Annual income tax payable, 2023/24

Taxable income (R)	2022/23 rates (R)	Proposed 2023/24 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
85 000	-	-	-	-	-	-
90 000	-	-	-	-	-	-
100 000	1 575	765	-810	-51.4%	1.6%	0.8%
120 000	5 175	4 365	-810	-15.7%	4.3%	3.6%
150 000	10 575	9 765	-810	-7.7%	7.1%	6.5%
200 000	19 575	18 765	-810	-4.1%	9.8%	9.4%
250 000	30 495	28 797	-1 698	-5.6%	12.2%	11.5%
300 000	43 495	41 797	-1 698	-3.9%	14.5%	13.9%
400 000	71 840	69 272	-2 568	-3.6%	18.0%	17.3%
500 000	103 405	100 272	-3 133	-3.0%	20.7%	20.1%
750 000	196 663	191 942	-4 721	-2.4%	26.2%	25.6%
1 000 000	297 811	292 284	-5 527	-1.9%	29.8%	29.2%
1 500 000	502 811	497 284	-5 527	-1.1%	33.5%	33.2%
2 000 000	718 547	709 604	-8 943	-1.2%	35.9%	35.5%

Source: National Treasury

Table 4.8 Personal income tax rates: Retirement fund lump sum benefits

2022/23		2023/24	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R500 000	0% of taxable income	R0 - R550 000	0% of taxable income
R500 001 - R700 000	18% of taxable income above R500 000	R550 001 - R770 000	18% of taxable income above R550 000
R700 001 - R1 050 000	R56 700 + 27% of taxable income above R700 000	R770 001 - R1 155 000	R39 600 + 27% of taxable income above R770 000
R1 050 001 and above	R141 750 + 36% of taxable income above R1 050 000	R1 155 001 and above	R143 550 + 36% of taxable income above R1 155 000

Source: National Treasury

Table 4.9 Personal income tax rates: Retirement fund lump sum withdrawal benefits

2022/23		2023/24	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R25 000	0% of taxable income	R0 - R27 500	0% of taxable income
R25 001 - R660 000	18% of taxable income above R25 000	R27 501 - R726 000	18% of taxable income above R27 500
R660 001 - R990 000	R114 300 + 27% of taxable income above R660 000	R726 001 - R1 089 000	R125 730 + 27% of taxable income above R726 000
R990 001 and above	R203 400 + 36% of taxable income above R990 000	R1 089 001 and above	R223 740 + 36% of taxable income above R1 089 000

Source: National Treasury

[View Source Here](#)

Can You Claim Damages After Hitting a Pothole?

“The American Automobile Association estimated in the five years prior to 2016 that 16 million drivers in the United States have suffered damage from potholes to their vehicle including tire punctures, bent wheels, and damaged suspensions with a cost of \$3 billion a year.” (Wikipedia)



Pothole problems are by no means exclusive to South Africa, but we certainly do seem to have more than our fair share of them.

As a recent High Court decision illustrates, if you suffer any form of loss as a result of a pothole, hold whoever is responsible to account. Sue for your damages!

Injured motorcyclist awarded damages

- Descending a pass on a provincial road with a group of fellow bikers, a motorcyclist leaned into a corner on a sharp bend then hit and went over a pothole. He lost control of the bike which then skidded across the road surface, injuring his shoulder and arm and damaging his clothing and motorbike.
- He was taken by ambulance to hospital, underwent surgery, and although discharged after four days, still two years later is taking painkillers and undergoing physiotherapy for ongoing pain and restricted use of his shoulder and arm.
- An expert confirmed that he had had no opportunity to avoid the pothole and thus the accident. It was also clear that an attempt had been made to repair the pothole.
- He had suffered permanent injuries which “have left him greatly compromised and vulnerable.”
- He sued the Province for damages, and was no doubt pleasantly surprised when the MEC made no effort to defend the action. However, he still had to prove his claim...

Proving negligence, and loss

The Court confirmed that the onus is on a claimant to prove negligence on the part of the local authority, even when, as in this case, the MEC had taken no steps to defend the claim and it was uncontested.

Finding from the uncontradicted evidence of the biker and his expert witnesses that the MEC was solely negligent for the accident in failing to live up to the responsibility “of building, maintaining road infrastructure and putting up road signs cautioning road users of the dangers of potholes”, the Court held

him liable for the claimant's proved damages.

The Court awarded the claimant damages of R850,000 in respect only of those aspects of his claim that he had led evidence to support (future medical treatment and general damages). That figure could increase – although he had failed to produce evidence in support of his further claims (for loss of earnings and damage to property), he can still re-institute action for them.

So, do you have a claim?

You quite possibly do have a claim for any losses you suffer after hitting a pothole. Considering our courts' attitude to the responsibility of local authorities for road maintenance, proving negligence may not be that hard. Line up also evidence to support all aspects of your claim.

Effective 1 March 2023: New Earnings Threshold and National Minimum Wage

Employers and employees need to keep an eye on the annual increases in both the National Minimum Wage and the Earnings Threshold, summarised below for your convenience. Both are effective from 1 March 2023.



The National Minimum Wage increase

The National Minimum Wage (NMW) for each "ordinary hour worked" has been increased by 9.6% from R23-19 to R25-42. Workers who have concluded learnership agreements in terms of the Skills Development Act are entitled to a sliding scale of allowances.

Domestic workers

Domestic workers were brought into line with the NMW in 2022, and assuming a work month of 21 days x 8 hours per day, R25-42 per hour equates to R4,270-56 per month. The [Living Wage](#) calculator will help you check whether or not you are actually paying your domestic worker enough to cover a household's "minimal need" (adjust the "Assumptions" in the calculator to ensure that the figures used are up to date).

The Earnings Threshold Increase

The annual earnings threshold above which employees lose some of the protections of the **Basic Conditions of Employment Act** has been increased by 7.6% from R224,080-48 p.a. (R18,673-87 p.m.) to R241,110-59 p.a. (R20,092-55 p.m.).

"Earnings" (for this purpose only) means "the regular annual remuneration before deductions, i.e. income tax, pension, medical and similar payments but excluding similar payments (contributions) made by the employer in respect of the employee: Provided that subsistence and transport allowances received, achievement awards and payments for overtime worked shall not be regarded as remuneration".

Some employees enjoy only limited BCEA protection even if they earn below the threshold - notably any "senior managerial employee" ("an employee who has the authority to hire, discipline and dismiss employees and to represent the employer internally and externally"), any "sales staff who travel to the premises of customers and who regulate their own hours of work" and any "employees who work less than 24 hours a month for an employer". Take specific advice for details.

The threshold also impacts on some of the protections provided in the **Labour Relations Act** –

- Employees earning less than the threshold, if contracted to a client for more than three months through a temporary employment service ("labour broker") are deemed to be employed by the client unless they are actually performing a temporary service.
- Fixed-term employees earning below the threshold are deemed to be employed indefinitely after three months unless the employer has a justifiable reason for fixing the term of the contract.

Turning to the **Employment Equity Act**, employees earning over the threshold can only refer unfair discrimination disputes (other than disputes based on sexual harassment) to the Commission for Conciliation, Mediation and Arbitration (CCMA) with the consent of all parties. Otherwise, they must go to the Labour Court for arbitration.

Legal Speak Made Easy

“Huur gaat voor koop”

Property sellers, buyers and tenants – understand the important legal principle *“Huur gaat voor koop”*. It gives a tenant the right to continue living in a property until the lease agreement ends, even if the property has a new owner. **In other words, the property is bought and sold subject to any existing lease, and the buyer steps into the seller’s shoes as landlord.** There are other considerations and some exceptions, so legal advice specific to each set of circumstances is essential but the core message remains “Assume the sale is subject to the lease”.



Note: Copyright in this publication and its contents vests in DotNews - see copyright notice below.



A Client Connection Service by [DotNews](#)

© DotNews. All Rights Reserved.

Disclaimer

The information provided herein should not be used or relied on as professional advice. No liability can be accepted for any errors or omissions nor for any loss or damage arising from reliance upon any information herein. Always contact your professional adviser for specific and detailed advice.