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INTERPRETATION AND GUIDANCE NOTES

CHAPTER 2: **Legal Accountability and Liability**

Sub-Title: *Case Analysis: Bennet v Prima Toys and Leisure Trading (Pty) Ltd and Focus Asbestos Removal Services CC* (7 November 2025)

Published Date: 6 January 2026

1. Purpose and Scope of This Case Analysis

This subchapter provides a focused legal analysis of the High Court judgment in *Bennet v Prima Toys and Leisure Trading (Pty) Ltd and Focus Asbestos Removal Services CC* (Western Cape Division, 7 November 2025).[1] The judgment is considered specifically through the perspective of electrical contractors and registered persons operating under the Electrical Installation Regulations, 2009.[2]

The objective is not to restate the case in general terms, but to explain how the principles of delictual liability, statutory duty, foreseeability, and compliance articulated by the Court apply **with greater ease and force to electrical contractors** than to many other trades. This heightened application arises from the unique statutory framework governing electrical installations, which imposes mandatory inspection, certification, and expert responsibility prior to use.

2. Case Summary (Condensed for Application Purposes)

In *Bennet*, the Court held both the client, Prima Toys, and the contractor, Focus Asbestos Removal Services CC, jointly and severally liable for injuries sustained by

[1] https://www.saflii.org/za/cases/ZAWCHC/2025/515.html
[2] Herein after referred to as the "EIR"

an employee who fell through a roof skylight during the execution of work. The Court rejected the argument that the client could avoid liability by relying on formal compliance mechanisms and contractual arrangements.[3]

Specifically, the Court found that a section 37(2) mandatary agreement, the appointment of an independent contractor, and the existence of an Approved Inspection Authority report addressing asbestos risks did not discharge the client's duty of care.[4] The Court emphasised that statutory compliance mechanisms do not replace common-law delictual duties, that duties of care are fact-specific and non-delegable where harm is reasonably foreseeable, and that reliance on regulatory paperwork without substantive risk management is insufficient.

3. Why the *Bennet* Reasoning Applies More Strictly to Electrical Contractors

3.1 Electrical Work Is Subject to a Pre-Use Statutory Compliance Regime

Electrical installation work and components may not lawfully be used unless compliance has been formally certified.[5] The Electrical Installation Regulations establish a mandatory statutory inspection and certification requirement prior to energisation or use. This requires a Certificate of Compliance issued by a registered person, mandatory inspection and testing, and a formal declaration that the installation complies with SANS 10142-1.[6]

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[3] See EIR 2 which renders the User liable for the safe use and operation of the electrical installation irrespective the installation and maintenance thereof could be managed in terms of Section 37 of the OHSA.

[4] See EIR 2.

[5] See EIR 8(2): (2) No person shall connect or permit the connection of any completed or partially completed electrical installation to the electricity supply unless it has been inspected and tested by a registered person and a certificate of compliance for that electrical installation has been issued: Provided that the supplier may on request connect the supply to the electrical installation for the purpose of testing and the completion of the certificate of compliance by a registered person: Provided further that this subregulation shall not apply in a case where the electricity was disconnected for the non-payment of the electricity account or where there has been a change of tenant but not of ownership.

[6] See EIR 9

This framework fundamentally alters the liability position. Whereas the contractor in *Bennet* failed during execution, electrical contractors and registered persons certify compliance after completion of the work. In doing so, they affirmatively represent that the installation is safe, compliant, and free from any risk[7] at a defined point in time. *This certification significantly elevates accountability.*

4. Statutory Duties Unique to Electrical Contractors and Registered Persons

4.1 Registration and Competency

A registered person under the Electrical Installation Regulations has undergone formal training and assessment, is registered with the Department of Employment and Labour, and is legally recognised as competent in the application of SANS 10142-1. This statutory recognition removes any argument based on ignorance, inexperience, or reliance on others.[8]

In *Bennet*, the Court examined the contractor's expertise in light of the risks present. In electrical work, expertise is not inferred; it is presumed by law. A registered person is, by definition, a certified expert.[9]

4.2 General Control and Supervision

[7] See EIR 9(3): *If at any time prior to the issuing of a certificate of compliance any fault or defect is detected in any part of the electrical installation, the registered person shall refuse to issue such certificate until that fault or defect has been rectified: Provided that if such fault or defect in the opinion of the registered person constitutes an immediate danger to persons in a case where electricity is already supplied, he or she shall forthwith take steps to disconnect the supply to the circuit in which the fault or defect was detected and notify the chief inspector thereof.*

[8] See EIR 6 & 11.

[9] See EIR 11(2): *Any natural person who satisfies the chief inspector that he or she—*
(a) has sufficient knowledge of the rules applicable to electrical installations in the category for which the application is being made; and
(b) has appropriate practical experience in respect of the electrical installation, verification and certification of the construction, testing and inspection of the type of electrical installation for which application is being made,
shall be registered as an electrical tester for single phase, an installation electrician, or a master installation electrician, as the case may be.

Electrical installation work must be performed under the general control of a registered person[10] and subject to ongoing supervision, not retrospective approval. This creates a continuous duty that extends beyond the delegation of labour or subcontracting of tasks.

Failure to exercise effective general control exposes both the electrical contractor and the registered person, personally, to liability. Responsibility cannot be avoided by distancing oneself from day-to-day execution where statutory control is required throughout the installation process.

4.3 Certification as a Legal Representation of Safety

When a registered person signs a Certificate of Compliance, they declare that the installation has been inspected and tested, that all prescribed requirements have been met, and that the installation is safe for use.[11] This declaration is stronger than the circumstances in *Bennet*, where no formal safety certification existed for working-at-height risks.

A Certificate of Compliance constitutes a statutory representation of safety. It is a foreseeable reliance instrument for users, insurers, regulators, and the public, and it serves as evidence of both compliance and the assumption of responsibility by the registered person and the electrical contractor.

5. Delictual Liability: Why It Is Easier to Establish Against Electrical Contractors

5.1 Foreseeability

Electrical hazards are inherently dangerous and well documented.[12] Applying the *Kruger v Coetzee* test, a reasonable electrical contractor and registered person must

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[10] See EIR 5(4): A registered person shall exercise general control over all electrical installation work being carried out, and no person may allow such work without such control.
[11] See Annexure 1 to the EIR.
[12] Hence the development of the SANS 10142-1 code.

foresee harm arising from non-compliance, must foresee reliance on the Certificate of Compliance, and must foresee that energisation following certification creates exposure to risk.

Foreseeability in the electrical context is therefore clearer and more direct than in many general construction or maintenance scenarios.

5.2 Wrongfulness and Omission

In *Bennet*, wrongfulness arose from failures to plan, warn, and mitigate foreseeable risks. For electrical contractors, failures to inspect, test, comply with SANS 10142-1, or withhold a Certificate of Compliance are not merely omissions. They are statutory contraventions layered onto common-law duties.

5.3 Causation

The causal chain in electrical cases is typically short and direct: a non-compliant installation is certified, the installation is used, and harm occurs. Unlike *Bennet*, where multiple actors and conditions intervened, electrical harm often flows directly from certified non-compliance.

6. Interaction with the Occupational Health and Safety Act

6.1 Health and Safety Standards

The Occupational Health and Safety Act recognises that health and safety standards need not have the force of law to impose obligations.[13] However, in contrast the SANS 10142-1 is a promulgated health and safety standard, with criminal sanctions for none compliance and in requirement thereto is expressly demanded in terms of Section 22 of the Occupational Health and Safety Act.[14]

[13] See the definition of "standard" in the Occupational Health and Safety Act.
[14] S22 of OHSA: Subject to the provisions of section 10(4), if any requirement (including any health and safety standard) in respect of any article, substance, plant, machinery or health and safety equipment or for the use or application thereof has been prescribed, no person shall sell or market in any manner

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Non-compliance is therefore not a technical failure. It constitutes a breach of statutory duty supporting delictual liability.

6.2 Section 22 and the Reverse Onus

Where non-compliant electrical installations are sold, supplied, or brought into use, section 39(5)(a) of the Act presumes non-compliance.[15] This presumption is particularly damaging where a Certificate of Compliance has been issued, as any defect undermines the credibility and legal value of that certification.

6.3 Duty of Care Under Section 10(2)

Section 10(2) of the Act imposes an affirmative duty on any person who erects or installs an article for use at work to ensure that the manner of installation does not render it unsafe.[16] In the electrical context, this duty attaches directly to workmanship, judgment, and execution.

Compliance with component standards or testing does not cure an unsafe method of installation. The registered person and contractor are required to ensure that the installation, as erected, does not create risk when properly used.

6.4 Why Section 10(2) Is More Onerous for Electrical Contractors

Although section 10(2) applies broadly, its effect is more onerous for electrical contractors than for general installers of plant or machinery. Electrical work is governed by an integrated regime that combines installation, inspection, testing, and certification into a single regulated process.

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whatsoever such article, substance, plant, machinery or health and safety equipment unless it complies with that requirement.

[15] S39(5)(a) of OHSA: Whenever at the trial of any person charged with a contravention of section 22 it is proved that the accused sold or marketed any article, substance, plant, machinery or health and safety equipment contemplated in that section, it shall be presumed, until the contrary is proved, that such article, substance, plant, machinery or health and safety equipment did not at the time of the sale or marketing thereof comply with the said requirements.

[16] S10(2) of OHSA: Any person who erects or installs any article for use at work on or in any premises shall ensure, as far as is reasonably practicable, that nothing about the manner in which it is erected or installed makes it unsafe or creates a risk to health when properly used.

Electrical contractors and registered persons are statutory gatekeepers of safety prior to use. They cannot rely on downstream inspection or operational controls. Electrical hazards are latent and potentially catastrophic, and the standard of knowledge reasonably available to electrical contractors is extensive and codified in SANS 10142-1.

The issuance of a Certificate of Compliance creates a documented representation of safety that may be relied upon in legal proceedings. General installers are rarely subject to equivalent statutory declarations. As a result, the duty imposed by section 10(2) operates more strictly and exposes electrical contractors to greater legal scrutiny.

7. Why Electrical Contractors Cannot Rely on the *Bennet* Defences

The Court in *Bennet* rejected reliance on mandatary agreements, third-party reports, and passive compliance approaches. Electrical contractors face an even higher bar because they are primary duty holders, compliance is personal and declaratory, and certification precedes lawful use.

Once a Certificate of Compliance is issued, there is no credible basis to argue that responsibility lay elsewhere.

8. Conclusion

The *Bennet* judgment confirms principles which, when applied to electrical work, lead to a clear conclusion. There is no legal excuse for non-compliance with SANS 10142-1 by an electrical contractor or registered person.

Electrical contractors are statutorily recognised experts, required to inspect and test installations before use, personally accountable through certification, and subject to both statutory and delictual liability. Electrical work is not merely regulated**; it is certified for safety**, *and that certification carries significant legal consequences.*

Layman's Summary for Electrical Contractors and Registered Persons

The Bennet v Prima Toys case confirms an important legal reality that directly affects electricians and electrical contractors. The court made it clear that you cannot avoid responsibility for safety simply by having paperwork in place, appointing another party, or relying on agreements or reports. If harm is foreseeable and you are in a position to prevent it, the law expects you to do so.

For electricians, the position is even stricter than in many other trades. Electrical work may not be used unless it is inspected, tested, and certified. When a registered person signs a Certificate of Compliance, they are effectively saying, "This installation is safe to use." That statement carries legal weight and accountability. If the installation later causes harm because it does not comply with SANS 10142-1 or was installed in an unsafe manner, the electrician and the contractor can be held legally responsible.

The key lesson is simple. Electrical contractors are treated as experts by law. There is no defence based on ignorance, rushing the job, or assuming someone else would catch a problem later. If the installation is unsafe, and a Certificate of Compliance is issued, liability is easier to prove against an electrician than against many other trades. The law expects electrical work to be safe before it is switched on, not discovered to be unsafe after someone is injured.