DZOMBO SETS THE STANDARD IN LIMPOPO
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The CPHA Magazine is the official publication of the Contractors’ Plant Hire Association (CPHA) and as the recognised voice of the industry, it is distributed monthly to key industry players.

These include:  
- Civil engineering contractors  
- Building contractors and sub-contractors  
- Landscape contractors  
- Plant hire companies  
- Government departments and municipalities  
- Mining Houses  
- Equipment manufacturers

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The CPHA Magazine is the only real voice of the Hire Industry in Africa.

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Dzombo Civils and Plant Hire’s ongoing fleet modernisation programme continues to keep pace with industry requirements for latest generation earthmoving units that deliver lowest cost per tonne production, their new Cat 730C articulated trucks being prime examples.

Taking its name from one of Africa’s ‘big five’, Lephalale based company, Dzombo Civils & Plant Hire (Dzombo) has undergone rapid expansion since its establishment in 2005, firstly in the road construction sector, which remains a core business, followed by bulk materials handling, and load and haul contracts in the coal-fired power generation industry. ‘Dzombo’ is derived from a legendary bull elephant of the same name (born circa 1935), which once roamed South Africa’s Kruger National Park: a symbol of strength, endurance and longevity.

As a plant hire leader, Dzombo’s business model continues to evolve, as does its earthmoving and allied fleet, to keep pace with its clients’ requirements within the local Waterberg District operating region, as well as further afield nationally. This includes plans to open a George plant hire office to service the southern Cape, as well as the prospect of entering the opencast mining sector as a contractor.

“In the road construction field, as well as for building and platform construction, we are a leading supplier of Cat motor graders. Our core specialisation is in fielding final level operators that meet the highest industry standards,” comments Wynand Botha, head of Dzombo.

Grader units in the fleet comprise latest generation Cat 140K’s, working alongside previous generation H and G Series units. These units include a Cat 160H grader for dedicated mine haul road maintenance. Dzombo now plans to expand its grader capability to meet local provincial, as well as national demand.

“Modern day research and development enhancements seen on the K-Series build on the outstanding legacy of older series models like the G, first introduced globally in 1973, which still remains an outstanding construction grader, designed like most Cat machines for a second and third life rebuild.”

This is a dedicated plant hire business committed to maintaining the highest industry standards. Every Dzombo operator applicant undergoes detailed pre-assessment screening irrespective of their prior experience. They then attend a comprehensive training programme undertaken by an independent and accredited institution to meet CETA (Construction Education and Training Authority) and MQA (Mine Qualifications Authority) certification. This ensures compliance with industry legislation, as well as Dzombo’s strict adherence to safety, health and environmental practices.

“Correct selection and accreditation translates into excellent return on investment for contractors that use our services,” Botha points out, adding that the company has a growing number of women operators on the team, all of whom demonstrate the highest levels of proficiency.

Dzombo’s current earthmoving fleet numbers around 70 units, working alongside its allied plant mix, which includes 10 and 18 m³ tippers, deployed for bulk earthworks and asphalt delivery, plus water, fuel bowser and service trucks.

“Going forward, we have decided to standardise on Cat for our earthmoving fleet requirements,” says Botha.

**DZOMBO SETS THE STANDARD IN LIMPOPO**

Dzombo Civils and Plant Hire’s ongoing fleet modernisation programme continues to keep pace with industry requirements for latest generation earthmoving units that deliver lowest cost per tonne production, their new Cat 730C articulated trucks being prime examples.

Compared to its predecessor, the Cat 730C truck features a new, more powerful engine, an advanced transmission, plus automatic traction control.
Dzombo has a highly experienced management team in place, together with qualified earthmoving equipment artisans and field service vehicles to support 24/7 operations. This is backed up by Dzombo’s comprehensive spares stock holding, as well as overnight inventory support from Barloworld Equipment, where required. (Barloworld Equipment is Caterpillar's southern African dealer.)

Alongside its plant hire solutions for the Limpopo road construction market, the company has been a part of the construction mix from 2009 at South African energy parastal, Eskom’s, new Medupi coal fired power station development in Lephalale. This includes a plant hire contract awarded by Grinaker-LTA, which was responsible for the construction of an approximately 45 km water pipeline at the facility. Meanwhile, current on hire works include the supply of Cat machines to Basil Read for the construction of ash dams at Medupi.

(As an aside, construction at Medupi commenced in May 2007: the power station comprises 6 units with a total installed capacity of 4 764 MW. In August the first module, Unit 6, was officially opened. Eskom says that the power station is planned to be fully installed by 2019.)

Coal for Medupi, as well as the nearby and existing 3 990 MW Matimba power station, is being supplied by Exxaro’s Grootegeluk opencast mine where Dzombo is currently hiring equipment for construction works.

Meanwhile, ongoing Dzombo projects at Medupi include a coal materials handling contract for Eskom subsidiary, Roshcon. Here Dzombo’s Cat articulated truck fleet includes three Cat 730C latest generation models supplied in March this year.

For the materials handling phases, Dzombo supplies Cat 966H wheel loaders, as well as a larger Cat 980H (fitted with an 8 m³ bucket) for coal loading into its articulated trucks. The project scope entails coal stockpile transfers: a dump and return operation over a total distance of some 7 km.

“With its rated payload of 28 tonnes, the Cat 730C is the ideal model size for the plant hire industry,” says Botha, “and to date they have proven to be fuel efficient units with excellent return on investment to date.”

CAT 730C KEY FEATURES

Compared to its predecessor, the Cat 730C truck features a new, more powerful engine, an advanced transmission, plus automatic traction control.

The engine is a 274 kW Cat C13 ACERT™ unit, which delivers nearly 16 percent more gross power, plus a 30 percent gross torque improvement.

On the C-Series, the Cat 6F/1R power-shift transmission, which electronically modulates clutch engagement pressures for smooth, positive shifts, now also incorporates Caterpillar Advanced Productivity Electronic Control Strategy (APECS). The APECS system improves acceleration, maintains torque converter lock-up (and ground speed) during critical shifts, increases rimpull, provides automatic speed-holding, modifies shift points to match operating conditions (for increased fuel economy), and automatically reduces retarding forces on lesser grades in lower gears. The overall net benefits are optimum productivity and truck control.

“Controlling speed on downhill grades, 730C models employ a new engine compression brake that provides 60 percent more retarding power than predecessor models,” points out Barloworld Equipment Cat sales professional, Molly Breton.

CONDITION MONITORING

Dzombo has a strict maintenance programme in place to ensure high mechanical rolling availability across its earthmoving fleet, which is complemented by the adoption of Barloworld Equipment’s Equipment Management Solutions (EMS) suite, a telemetry service available in five levels.

Machines fitted with Caterpillar’s EMS hardware transmitting module, Product Link™, enable near real-time monitoring of key factors such as machine location, utilisation and mechanical health via the Cat internet portal, VisionLink™. Information is transmitted either through GSM cellular connection, or satellite. (GSM technology coverage is available throughout southern Africa, with satellite catering for remote connections outside the cellular grid.) Machines like the Cat 730C leave the factory ‘Product Link’ ready.

Machine tracking and reporting is the responsibility of the Equipment Monitoring Bureau. This is a control room based at the Barloworld Condition Monitoring Centre in Boksburg, Johannesburg.

“Dzombo is currently registered on Level 1 and is now migrating to Level 2. In summary, Level 1 Access enables users to enter the VisionLink portal to know where their equipment is and what it’s doing; whilst Level 2 Inform enables users to manage equipment health and utilisation trends compared to benchmarks via automated reporting,” explains Breton. These reports show a range of parameters such as fuel burn trends by machine and site application; fault codes that indicate a need for operator training or repairs; the amount of time units spend idling as opposed to earning; and confirmation on individual machine hours recorded in order to schedule prescribed maintenance. The Equipment Monitoring Bureau generates a monthly fleet summary report for the customer, highlighting areas for potential improvement.

“As part of our predictive and preventative maintenance strategies, we also make use of Cat S-O-S Laboratory fluid and wear analysis services housed at the Barloworld Condition Monitoring Centre to ensure world class equipment availability for our clients,” adds Botha.
In December 2015 the regrowth works of the Cambambe hydroelectric power station, in the Kwanza River, about 180 kilometres southeast of Luanda, the capital of Angola, will be concluded. This dam currently supplies power to the cities of Luanda, Ndalatando, Cacuaco, Malanje, Gabela, Porto Amboim and Sumbe, benefiting a population of approximately 8 million people.

Built in 1962, the station is being renovated and expanded since 2009 to increase its energy production by 80%. From the current 180 MW per year, this infrastructure will then produce 960 MW, becoming the largest power production plant of the Kwanza basin. In 2014, Cambambe was certified with ISO 9001, 14001 and 18001 seals, being the first hydroelectric project in Africa to obtain such recognition.

Part of the project which is being conducted by the Brazilian construction company Norberto Odebrecht is the rise of the dam’s height by 20 metres. This heightening will increase the capacity of the reservoir from 2 to 5.5 km² and allow the four existing generators to produce 65 megawatts each instead of the present 45.

In order to put into place the over 65,000 cubic metres of concrete needed to rise the dam, Odebrecht counts with the help of three Linden Comansa tower cranes: two 21LC750 with maximum load capacity of 48 tonnes acquired in 2012 and a 21LC400 with maximum capacity of 18
tonnes leased by IBERGRU, the exclusive distributor of Linden Comansa in Angola.

The first 21LC750 was located on the left bank of the Kwanza River, erected with fixing angles on a special concrete foundation which, given its short width, was anchored to a rock on the river bank. It was mounted with a freestanding height of 78.8 metres, the maximum possible height with 2.5-metre-wide mast sections (fourteen D36 sections), and a jib length of 80 metres.

On the right bank, a second 21LC750 was erected with a freestanding height of 87.2 metres, achieved with 12 sections D36 - as her “sister” in the left margin - increased by three 5-metre-wide D56 sections at its bottom. Another concrete foundation was anchored on the riverside to allow this crane’s assembly on fixing angles.

After a year and a half working in concreting and materials lifting tasks, the first 21LC750 (left bank) was relocated within the jobsite and substituted by a 21LC400 from IBERGRU’s rental fleet, which was erected with a freestanding height of 80 metres and a jib length of 70 metres. This crane was assembled on the same fixing angles of the previous 21LC750, so it was necessary to have two transition sections in order to allow the progression from the 4 metre-wide fixing angles to the 2.5-metre-wide D33 mast section.

The relocated 21LC750 is currently working on the construction of the power house (or power generation centre) where it was assigned to moving precast segments up to 19 tonnes of weight for the new water tunnels, as well as lifting and placing all the electromechanical gear that will allow the production of energy, such as turbines and generator sets.

The assembly and jacking-up of the first 21LC750 was performed by Linden Comansa’s technical assistance service team, while the remaining assemblies, jacking-ups and technical service was entrusted to IBERGRU. IBERGRU is the official distributor of Linden Comansa in Portugal since 2002. In 2008, the company opened offices in Angola, where it offers its tower crane rental services as well as technical planning and coordination for all kinds of lifting projects.
SKID STEER LOADERS FOR ALL DAY OPERATIONS

CSE Equipment’s SR and SV series skid steer loaders, encompasses a range of models, with advanced features for improved performance, enhanced productivity and increased operator comfort.

“Robust Case SR and SV series skid steer loaders have been designed for exceptional driving force, increased stability and reliable handling in all conditions,” says Brenton Kemp, managing director of CSE Equipment - the Capital Equipment Group (CEG) of Invicta Holdings Limited. “Turbocharged, four cylinders, Tier 3 certified diesel engines, which provide the power and torque required to efficiently cope in the toughest site environments, also ensure operating efficiency and fuel economy.

“An important feature of this highly efficient series is the large fuel tank - with a capacity of between 60.5 and 96.5 litres - which enables the machine to operate all day without the need to stop operations for re-fuelling.

“Six radial lift SR boom skid steers have been engineered for digging, prying and pushing and three vertical lift SV machines efficiently handle demanding lift and carry tasks.”

Models in the SR and SV series range from the SR130 unit, with
Left and above: CSE Equipment’s SR and SV series skid steer loaders, encompasses a range of models, with advanced features for improved performance, enhanced productivity and increased operator comfort

a 590 kg operating capacity, to the SV300 machine, with a 1 360 kg operating capacity. Peak torque specifications are from 130.5 Nm at 1 750 rpm, to 340 Nm at 1 400 rpm. Tipping load capacities extend from 1 179 kg to 2 720 kg and the breakout force of the bucket cylinder are between 18.5 kN and 38.2 kN.

Users can choose from standard mechanical drives, or optional electro-hydraulic (EH) switchable controls. The EH option facilitates the match of control patterns to operator preference.

There is a new ‘Power Stance’ chassis with up to 21% longer wheelbase and 30/70 front/rear weight distribution, designed to safely increase the capacity to lift and haul more material. These machines also offer increased travelling speeds and improved stability, regardless of working conditions.

The new design of this series enables easy, ground line access for daily maintenance checks. Two retaining bolts facilitate convenient cab tilting for access to hydraulic and transmission components when necessary. A safety locking system, which prevents the cab from dropping, is automatically activated. Battery and environmental drain hoses are easily accessible from the side of the machine for quick service and maintenance.

The new cab design of this series offers 25% more interior width, with improved visibility, comfort and control. The cab has been sealed to reduce noise levels and dust ingress. There is an ultra narrow wire side screen design, with more glass surface area to provide 360° visibility for the operator. Side lighting enables 24 hour operation.

Optional attachments for these skid steer loaders include buckets, pallet forks, breakers, augers, sweepers, backhoes, stump grinders, cement mixers, cold planers, trenchers, rollers and slot cutters. An hydraulic coupler enables the operator to switch attachments, without having to leave the cab. The standard Connect Under Pressure (CUP) feature allows connection of tool hoses, without the need for a wrench.

Various tyres for specific applications include heavy and severe duty, non-pneumatic, flotation, mining and premium liner options.
BLT SA – exclusive distributors in sub-Saharan Africa for Samson bulk materials handling equipment – has recently delivered two 85 T material feeders to Namdeb Diamond Corporation’s mine in Oranjemund, Namibia.

These mobile surface material feeders, based on Samson’s MF 1610W series, were modified especially for Namdeb, to efficiently handle bulk aggregates, including dune sand and rock, as well as desert sand, gravel and tailing.

“Samson’s automated handling systems, which require minimal civil works, are designed to join together fixed and mobile equipment, providing a cost efficient and highly productive alternative to fixed bulk handling installations,” says Charity Gumede, BLT SA’s marketing director. “These surface material feeders, which receive materials directly from 40 T dump trucks, have a buffer holding capacity of up to 66.2 T. These feeders have a regulated output feed rate of 1 000 T per hour, direct to an on-going conveyor system. Material is drawn from the tipping truck in a controlled stream, which means dust generation is significantly reduced, minimising environmental pollution.

“A special design feature of these units was the incorporation of a reject grille that prevents over sized material passing from the feeder to the on-going conveyor. These grilles, which are fully supported by the feeder, can be manually adjusted for different lump sizes.”

Each material feeder is mounted on a chassis with four pneumatic polyurethane filled tyres and has been provided with a heavy duty removable towing frame for repositioning of the feeder around the site.

These units have a deflected chassis design with an inclined discharge section to raise the material to the discharge height, providing simplified transfer to the conveyor system. A horizontal loading section enables the feeder to receive material direct from tipping trucks. This design maximises holding capacity and minimises vehicle access ramp requirements. The flared entry section increases volume entry, providing reduced tipping time and greater flexibility in vehicle alignment.

For optimum performance, the 5 ply conveyor belts are supported by trapezoidal form, load bearing double apron bars, located on every pitch of the heavy duty conveyor chain.

The electro-mechanical drives comprise a direct coupled electric motor with shaft mounted helical bevel type reductions gears at either side of the shaft. Each drive is controlled by a single AC inverter for soft starting and variable belt speed.

Levelling blade output controllers provide a regulated volumetric discharge to the conveyor proportional to the belt speed.

Instrumentation for enhanced performance and protection of equipment, includes tail shaft rotator sensors and control units, head chute blockage detectors and lockable emergency stop switches.

These material feeders were manufactured in Vredendal, Western Cape, with original Samson components, according to stringent UK engineering specifications. They were transported over 500 km by road to Namibia and are now fully operational on the mine.

Samson fixed and mobile conveying equipment is designed for use in diverse sectors, including mining, agriculture, shipping, transport, power and general industry. The range encompasses link conveyors, grab hoppers, material feeders, radial boom stackers and mobile shiploaders.

BLT SA supports the Samson range with a technical advisory, parts and maintenance service.
Bell is Africa’s very own global equipment supplier. With support from our strategic partners we deliver a full range of premium machines well suited to a variety of industries and applications.

Whether it’s mining, general and bulk earthworks, construction, roads and rehabilitation or waste management, our machines are all built tough for our harsh environment and are fully supported by Africa’s most comprehensive network of people dedicated to your success.

Bell Equipment - a proudly South African company that’s committed to helping businesses to realise Africa’s potential.
BAUMA CONEXPO OFF TO A FLYING START

As we went to press, the huge Bauma Conexpo 2015 show opened its doors at the Johannesburg Expo Centre (NASREC). Early visits to exhibitors revealed that Bauma Conexpo was set fair to eclipse the success of its debut event in 2013.

The exhibition, the largest event of its kind in Africa, covered 68 000 square metres of exhibition space, with representatives from over 40 countries. Visitor numbers were expected to exceed 20 000 over the four days of the show. “We take your presence here in such impressive numbers as a pledge not only of hope but as a commitment to see to it that Africa overcomes its underdeveloped trap and launches a new paradigm of growth and development,” commented Lebogang Maile, MEC for Economic Development in Gauteng in his opening address.

“The exhibition confirms our belief that despite a range of challenges facing our economies, the world recognises that our continent has a lot to offer,” he said. Indeed, the overarching vision of BAUMA CONEXPO AFRICA is to connect Mining and Construction industry players from across the world, with those from the Southern African Development Community (SADC). “As the only exhibition with this focus, BAUMA CONEXPO AFRICA 2015 is in a position to offer exceptional perspectives and commentary on the regional development being driven through these two sectors,” said Elaine Crewe, CEO of BAUMA CONEXPO AFRICA.

Pan-Africanism was highlighted throughout the opening proceedings with both Mr Maile and the Honourable Yamfwa Mukanga, Minister of Transport, Works, Supply and Communications and Government Chief Whip in Zambia, emphasising the importance of cross-border trade and cooperation. “For this continent to get the kind of pay-off that it wants and that we want for it, it’s going to take trade facilitation,” added Consul General Christopher Rowan from the US Consulate General in Johannesburg. “Together we can accomplish much more for the benefit of all industry stakeholders,” commented Megan Tanel, Vice-President of Exhibitions at the US-based Association of Equipment Manufacturers (AEM).

A very early visit to some of the stands revealed that exhibitors were well pleased with the first few hours of Bauma Conexpo. For instance, Geoff Houlgate, managing director of Kaeser Compressors South Africa reported “good inquiries including some sales” within hours of opening his stand.

“Kaeser core products are Electric and Diesel driven Compressors. These products are supplied to all industries and all environments around the world. The company’s slogan is “Built for a Lifetime.” This slogan is backed by the philosophy of the company of being driven by “Energy Efficiency and Reliability” throughout all its products.

Kaeser Compressors South Africa is a wholly owned subsidiary of German Kaeser Kompressoren SE which is based in Coburg, Germany, where the Head Office and main manufacturing plant are situated. Kaeser Kompressoren SE employs over 4 800 people worldwide and is the largest family owned company in the Compressed Air Industry.

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Next month we will be bringing readers a comprehensive review of Bauma Conexpo. 2015

KAESER COMPRESSORS IMPRESS AT BAUMA CONEXPO 2015

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The Kaeser stand adjacent to entrance 2 at Bauma Conexpo Africa 2015, held at NASREC, stood out from the rest and was a hive of activity during the four days of the exhibition. Managing Director Geoff Houlgate was pleased with the enquiries that were received and with the number of orders that were placed with the company during the exhibition.

He said “a big thanks to all our visitors and customers who made the exhibition a success this year. We will definitely be back again in 2018.”
CC8800-1 Now Operational in South Africa

Heavy lift specialist Sarens has deployed its state-of-the-art 1600t crane from Saudi Arabia for operation in Gauteng, with the anticipation that this largest crane in the country will be on hand to deliver its lifting and load hauling capacity on a variety of large-scale infrastructure projects. The 1600t crane is one of the largest crawler cranes currently on the market, second only to the SGC 120-a 3000t crawler crane with a 30m radius, also from the Sarens stable.
WACO INTERNATIONAL ACQUIRES SKYJACKS

...portfolio expands to include access equipment for power, mining and construction sectors...

Earlier this year, leading rental equipment and industrial services business, Waco International, welcomed SkyJacks (power suspended platforms, mobile hydraulic access equipment and aluminium scaffolding specialists) into the group’s global fold. The acquisition has seen Waco International add further depth to its existing portfolio, which spans industry specialists Sanitech, Form-Scaff, SGB-Cape and Abacus Space Solutions.

SkyJacks is currently a leader in its niched sector, offering technologically advanced suspended platforms and mobile elevating working platforms (MEWPS) to the building, construction, power, maintenance and mining industries. The company also designs and builds Trailer and Truck Mounted Boom Lifts, as well as providing aluminium scaffolding rentals.

“SkyJacks has over 36 years’ experience in the equipment rental industry and has long-standing and well-established customer relationships,” says Stephen Goodburn, CEO of Waco International. “We look forward to integrating the company’s products into our current offering, leveraging our vast network across South Africa and Africa. ”

Since the takeover, key management has remained with SkyJacks. They believe that the transaction will unlock substantial growth potential for SkyJacks, providing the company with an opportunity to further enhance its offering, services and geographical footprint. Waco International’s ability to fund capital expenditure and its fast-growing customer base make this an advantageous transaction for both parties.

According Alistair Bennett, Managing Director of SkyJacks, the company has a number of technological and competitive advantages in the market; it is the sole Distributor for Sky Climber Power Suspended Platforms in Southern Africa, it designs and builds its own platforms and has the specialised staff on hand to operate and service equipment. He goes on to say that SkyJacks is committed to providing their customers with safe access solutions.

In addition to supplying Sky Climber Power Suspended Platforms and its own range of Truck and Trailer Mounted Boom lifts, SkyJacks also has a range of Diesel and Electric Scissor Lifts, Diesel Rough Terrain Telescopic Boom Lifts, Diesel Rough Terrain Articulating Boom Lifts and Telehandlers in its hire fleet.
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POWERSCREEN
A TEREX BRAND
The construction and mining sectors in South Africa, which were booming pre-2008 have shown sluggish growth since 2010. The current flat market conditions look set to stay with us for a while, says Stefan Otto, CONMESA’s chairman. “We were hoping to see an upturn in the economy in the next quarter, but with depressed worldwide commodity prices, low investor confidence, concerns about further strike action, instability of the workforce and political uncertainty, the crystal ball remains cloudy. There is no rosy picture.

“The Government’s inability to roll out its much vaunted capital and infrastructure programmes has delayed the award of tenders and halted potential work. New regulations have increased the costs of doing business and have further inhibited investment in South Africa. Not to mention the weakening Rand.

“This is without the impact of excessive wage demands that result in lower employment and Eskom’s constraints on power which translates into lost production. Added to this, we cannot count on the recovery of commodity prices any time soon, given the financial bubble in China. The costs of getting commodities out from beneath the South Africa ground, are simply too high.

“We predict conditions to remain low or even decline further, only starting to pick up again at the beginning of 2016.”

But it’s not all doom and gloom around the CONMESA table. Members believe if union issues can be resolved ahead of pending strike action, South Africa will see an upturn in the mining sector and if the Government’s construction infrastructure development programme is accelerated, there should be a surge in this sector. And for those who can’t see the wood for the trees, the forestry industry has shown a heartening upturn in business, with positive rewards for machinery manufacturers and distributors.

But not everyone is out of the woods. With banks now offering limited finance options, there is a growing trend to turn away from the purchase of new equipment. What’s increasingly popular is the purchase on auction of good quality used assets and more ‘rental with option to purchase’ type of deals. And of course this makes good business sense.

This move is enhanced by end users commissioning OEM’s to maintain equipment through formal service and maintenance contracts. Obvious benefits include no excessive purchase costs, extended service life of every machine, reduced maintenance requirements and minimal downtime.

The local market also shows a steady increase in demand for compact equipment, with more contractors opting to purchase compact wheel loaders and mini excavators, rather than a standard backhoe loader. This has been in vogue globally for many years - South Africa is only now in sync.

What’s also interesting is companies are focusing on efficient technologies by implementing mechanised tasks, rather than an outdated labour intensive site. This could of course be linked to ongoing strike action permeating the struggling economy.

So, in a nutshell, CONMESA members conclude that construction and mining sectors, together with Government’s contribution, stimulation and support, certainly need to continue to dig deep to turn things around to be profitable and sustainable in this country. Before we cast our eyes across borders into Africa.
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CONSTRUCTION INDUSTRY DEVELOPMENT REGULATIONS

By Nikita Lalla, ENSafrica

The Minister of Public Works has announced that he intends to amend the Construction Industry Development Regulations of 2004 (the Regulations), which were passed under the Construction Industry Development Board Act of 2000. The notification of the proposed amendment was published in the Government Gazette of 29 May 2015, and gave interested persons a period of 60 days to submit written comments.

The proposed amendment deals with two issues. The first is headed ‘Prompt Payment’, and the second is headed ‘Adjudication’. The proposed amendment is being done by way of a re-working of Part IV of the Regulations, with the existing Part IV being renamed Part IV A, and the new issues being headed Part IV B and Part IV C respectively. There’s considerable detail in the proposed amendment and I’ll simply be discussing the most important aspects in this article.

**Prompt Payment (Part IV B)**

The proposed amendment provides as follows:

- **Application:** It applies to all construction work contracts, oral or written, private sector or public sector. It does, however, not apply to home building contracts contemplated in the Housing Consumer Protection Measures Act 1998.

- **Conditional payment:** No construction work contract may require a payment to be conditional upon payment being received from a third party. There are, however, two exceptions - where business rescue proceedings have commenced in respect of the party that has to pay, and where that party has gone into insolvency.

- **Progress payments:** Notwithstanding any contractual provision to the contrary, a party who has carried out construction work or supplied goods or services is entitled to progress payments. If the contract does not provide for regular intervals, a supplier can submit monthly invoices, or invoices reflecting work completed or goods or services delivered. The amount to which the party is entitled will be calculated in accordance with the terms of the contract or, if such terms don’t exist, the value of the construction work or goods or services supplied. The value of the construction work or goods or services supplied will be calculated with reference to the contract price, prevailing rates or prices or, in the case of defects, the estimated cost of remedying the defect.

- **Date of payment:** The date of payment will be the date provided for in the contract, which must be not later than 30 days of the submission of an invoice. In case of late payments, interest will be payable – the rate will be the repurchase rate determined by the Reserve Bank, plus 6%.

- **Withholding payment:** No party can withhold payment without reasonable grounds, and without first giving notice of its intention to do so. The notice must specify the amount to be withheld and the reason why it is being withheld, and it must be given within five days of the invoice. If the party receiving the notice is not satisfied that notice has been correctly given, or with the reason given for withholding the amount, it can declare a dispute and refer that dispute to adjudication. Where the matter is referred to adjudication, neither party can withhold payment for work or goods that are not in dispute, or for any part of an invoice that is not in dispute. If an adjudicator decides that an amount must be paid, it must be paid within 10 days.

- **Suspending performance:** In a case where payment is withheld without proper notice, the other party can suspend performance without reasonable grounds, and without first giving notice of its intention to do so. The notice must specify the amount to be withheld and the reason why it is being withheld, and it must be given within five days of the invoice. If the party receiving the notice is not satisfied that notice has been correctly given, or with the reason given for withholding the amount, it can declare a dispute and refer that dispute to adjudication. Where the matter is referred to adjudication, neither party can withhold payment for work or goods that are not in dispute, or for any part of an invoice that is not in dispute. If an adjudicator decides that an amount must be paid, it must be paid within 10 days.
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Validity: A failure to comply with these provisions does not render the contract invalid.

Exclusion: Any contractual provision that seeks to exclude these provisions is void.

Notices: Notices must be served in accordance with the agreement, but if there is no provision in the agreement any effective means can be used using the addressee’s last known principal address, including email address.

ADJUDICATION (PART IV C)
The proposed amendment provides as follows:

Referral to adjudication: Every construction work contract must provide for an adjudication procedure that’s substantially in line with the proposed amendment – if it doesn’t, the provisions of the proposed amendment will apply. A contract must do the following: grant each party the right to refer a matter to adjudication; provide a timetable leading to an adjudicator being appointed within seven days and a decision being handed down within 28 days, or whatever other period the parties agree on; allow the adjudicator to take the initiative in ascertaining facts and law.

Appointment of adjudicator: The Board will accredit adjudicator nominating bodies. An adjudicator will not be liable for anything done in good faith, and an objection to an adjudicator will not render the appointment or the decision invalid.

Powers and duties: The adjudicator must act impartially, avoid unnecessary expenditure, and apply the rules of natural justice. The adjudicator will have the authority to decide on matters of procedure, and they can require parties to provide documents, decide on the language of the proceedings, question the parties, make site visits, carry out tests, obtain expert evidence and impose deadlines. If a party fails to comply with any request or timetable, the adjudicator can do the following: proceed with the matter; draw such inferences as they see fit; make a decision on the information available; and impose a financial penalty on the non-compliant party.

Advisers: Parties can be assisted in adjudication proceedings by advisers, legally qualified or otherwise.

Confidentiality: An adjudicator is required to keep all information confidential.

Time limits: An adjudicator must hand down their decision within 28 days of the referral notice, or such further period as the parties may agree to. If the adjudicator fails to comply with these requirements, either party can serve a notice requesting the appointment of a new adjudicator.

Reasons: The adjudicator must provide reasons for their decision if required to do so by either party.

Effect of decision: The parties must give effect to the adjudicator’s decision within a period of 10 days. The decision will be regarded as a ‘liquid document’ under the High Court Rules, which means that provisional sentence will be an option. Where the amount of money involved in the dispute falls within the jurisdiction of the Magistrate’s Court, the decision is regarded as a ‘certificate’ as contemplated in the Magistrate’s Court Act.

Arbitration and review: Any party who is dissatisfied with an adjudicator’s decision has the right to refer the matter to arbitration or review – the decision remains binding whilst this takes place, but if the decision is overturned restitution will be available.

These amendments have important implications for all those involved in the construction industry.

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NEW BEE CODES REQUIREMENTS

By Keith Levenstein, CEO, EconoBEE

The BEE Amended Codes have minimum requirements for three elements: ownership, skills development and enterprise and supplier. If an entity does not meet the minimum requirements on all three elements, their calculated BEE level will drop a further level.

SUB-MINIMUM ELEMENT - OWNERSHIP:
The sub-minimum is 40% of the Net Value element. Net Value takes into account the percentage of shares sold with economic interest in the hands of black people. It also takes into account any debt outstanding on the purchase of those shares. Effectively it looks at how much value has been created in black hands. The Net Value calculation allows up to nine years to repay the debt.

In the first year after the purchase, the shareholder is required to pay 10% of the debt to earn full points. In the second year the target is to repay 20%. For years three and four the target is 40%, and so on. If the business value rises (share price rises) the shareholder will be seen to have more Net Value than their repayment. For example, if a black person has:

- Purchased 25% of the business, and paid 10% of the debt in the first year, the full Net Value of 8 points will be earned.
- Purchased 10% of the business and paid 10% of the debt in the first year, a pro-rata Net Value of 3.2 points will be earned.
- Purchased 25% of the business, and paid 4% of the debt in the first year, a pro-rata Net Value of 3.2 points will be earned.
- Purchased 25% of the business, but paid no debt, but the share price has risen by 10%, the full net value of 8 points will be earned. Conversely if the share price has dropped, the Net Value will decrease accordingly.

MINIMUM REQUIREMENTS TO AVOID DROPPING A LEVEL:
Net Value must achieve 40% of the 8 points available, i.e. 3.2 points. How to reach the sub-minimum:

1. Sell 10% of shares, with economic interest and ensure that the minimum debt is repaid for each year, i.e. 10% in the first year, 20% in the second 40% in years 3 and 4 and so on.
2. Sell up to 25% of shares, with economic interest and ensure that the minimum debt is repaid, or any combination between 10% and 25%.

BEST PRACTICE: HOW MUCH BLACK OWNERSHIP?
- 10% reaches the subminimum on the priority element status.
- 25+1 vote is the Amended Codes target.
- 30% black female will assist your customers through the procurement element.
- 51% black people will assist your customers through the procurement element.

SUB-MINIMUM ELEMENT – SKILLS DEVELOPMENT:
25 points are available for skills development. An entity must achieve at least 40%, i.e. 10 points in order to reach the sub-minimum and not drop a level.

SUB-MINIMUM ELEMENT – ENTERPRISE AND SUPPLIER DEVELOPMENT:
This element includes procurement, enterprise development and supplier development.

- The Amended Codes state that an entity must achieve a minimum of 40% for each of the targets for procurement, enterprise development and supplier development.
- This includes procurement from all suppliers, procurement from EMEs, QSEs, suppliers that are at least 51% black-owned and suppliers that are at least 30% black-women owned. 25 points are available – the sub-minimum target is 10 points.
- It also includes supplier development which awards 10 points and requires a minimum of 4 points as well as enterprise development which awards 5 points and requires a minimum of 2 points.

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