

## WaterMark Certification Scheme

### Notice of Direction

## 2013/5.0 Maintenance of Approved User List

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### Intent

The intent of this notice is to provide clarification on the requirements to maintain the list of Approved Users.

### Background

This Notice of Direction is provided in accordance with clause 5 of the Rules for the WaterMark Certification Trade Marks.

On 25 February 2013 responsibility for management and administration of the WaterMark Certification Scheme (WMCS) transferred to the ABCB.

Until a full review of the WMCS has been undertaken to facilitate a smooth transition, the ABCB office will operate the WMCS essentially as is. In the interim some preliminary changes will be necessary. These reflect the transfer of the WMCS to the ABCB office, including changes required to enable the ABCB office to meet its reporting obligations to Ministers, the Department of Industry and the Board.

The ABCB office has identified that Approved Certifiers have not been notifying the ABCB office of Approved Users on a regular basis and as a result the current Approved Users lists is out of date.

### Reference Documents

#### Primary

- WMCS TradeMark Rules
  - Clause 4 Approved Users
    - (c) All Approved Users must enter into and comply with an Approved User Agreement with an Approved Certifier*
    - (d) each Approved Certifier must keep and maintain a list of all current users approved by the Approved Certifier, any identification number of the Approved User and details of licensed Plumbing Products, and make this list available for public inspection during business hours at the office of the Approved Certifier, on request.*
  - Clause 8 – Miscellaneous
    - All information provided by any applicants, Approved Users or Approved Certifiers of the WaterMark may be disclosed to the ABCB, whether they*

*are of a confidential nature or otherwise, and such information may be used or disclosed by the ABCB if the use or disclosure is necessary to comply with the law or to maintain the integrity, validity or the ABCB's ownership of the Watermark.*

- Approved Certifiers Agreement
  - Clause 4.1 Requirement of an Approved Certifier
    - (a) Comply with the Rules and any instructions, requirements, directions and specifications of the ABCB from time to time where they apply to the Approved Certifier or the granting of licences for the use of the WaterMarks (including without limitation granting of access and compliance with the dispute settlement procedures set out in the Rules).*
  - Clause 4.2 Granting licences
    - (b) If a person applies to the Approved Certifier for a licence to use the WaterMark, the Approved Certifier will grant it a licence if it is satisfied that the applicant is capable of:*
      - (ii) complying with the terms of the Approved User agreement*
    - (c) The Approved Certifier must enter into a written agreement with each Approved User that contains terms no less onerous than the Approved User Agreement and the Approved Certifier must ensure that the Approved User complies with all the terms of the Approved User Agreement.*
  - Clause 4.4 Keeping of records
    - The Approved Certifier must*
      - (c) Keep and maintain accurate records and documents in relation to compliance with this agreement and its dealings with applicants and Approved users of the WaterMark*
  - Clause 4.5 Providing information and assistance to the ABCB
    - The Approved Certifier must:*
      - (c) Use its best endeavours to provide the ABCB with any information or assistance that it may require on any matters in relation to the WaterMarks*
      - (d) co-operate with the ABCB to maintain the integrity, validity and ABCB ownership of the WaterMarks*

## **Direction**

The following directions are made to WaterMark Conformity Assessment Bodies (WMCABs) of the WMCS:

1. All WMCABs are to have entered into an Approved User Agreement with the Approved Users as required by the Approved Certifier Agreement in accordance with Clause 4.2(b) of the Approved Certifier Agreement.
2. All WMCABs are to provide the ABCB office with a list of current Approved Users.
3. The list is to detail the following information:
  - a. Name of Approved User
  - b. Street Address
  - c. Postal Address
  - d. Telephone number
  - e. Facsimile number
  - f. Email address
  - g. Website address
4. The list is to be in electronic tabular form preferably MS Excel.
5. The WMCAB are to submit their list to the ABCB office within 30 days of this notice.

6. When a WMCAB enters into an Approved User Agreement with each new Approved User they are to provide information detailed in 3 a-g and 4 above to the ABCB office within 30 days of the initiation of the Approved user Agreement.
7. The WMCAB is to advise the ABCB office in writing of any changes to the information detailed in 3 a-g above within 30 days of the change.
8. The WMCAB is to advise the ABCB office in writing within 30 days when an Approved User Agreements have been terminated or expired so that details of the Approved User can be removed from the List.
9. The above directions become effective as of 1 December 2013.

### **Consequence of Failure to Comply**

Failure to comply with this direction may result in a breach of trademark or the process of certification and authorisation of products, which may cause the termination of the Approved Agreements or Licence.

### **Further Information**

Should any WMCAB or Approved User require further clarification, they should contact the ABCB office directly for further advice, on 1300 134 631 or email [watermark@abcb.gov.au](mailto:watermark@abcb.gov.au).

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