

## WaterMark Certification Scheme

### Notice of Direction

**2013/7.0**

### Financial Arrangements

#### Intent

The intent of this notice is to provide instruction on the ABCB interim financial arrangements for the payment of fees and royalties in relation to the WaterMark Certification Scheme (WMCS).

#### 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 WMCS transferred to the ABCB.

Until a full review of the WMCS has been undertaken the ABCB will continue to operate the WMCS according to the Approved Certifier Agreement. Until such time as a full review is undertaken some preliminary changes will be necessary. These reflect the transfer of the WMCS to the ABCB, including changes required to enable the ABCB to meet its reporting obligations to Ministers and the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education.

The ABCB has established interim financial arrangements for the payment of fees and royalties in relation to the WMCS.

#### Reference Documents

##### Primary

- WMCS TradeMark Rules
  - Clause 3 Approved Certifiers
    - (a) The ABCB will approve certifiers and grant Approved Certifiers the right to grant licences for the use of the WaterMark if it is satisfied that the certifier: (ii) is able to pay all fees and royalties to the ABCB by the due dates.
- Approved Certifier Agreement
  - Clause 3.1 Rights
  - 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; and
      - (d) co-operate with the ABCB to maintain the integrity, validity and ABCB ownership of the WaterMarks.

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- Clause 6.1 Fees which states:
  - Subject to clause 6.3, the Approved Certifier must pay the ABCB:
    - (a) an initial application fee in accordance with clause 1(a) of Schedule 2;
    - (b) an annual fee in accordance with clause 1(b) of Schedule 2; and
    - (c) such other fees as the ABCB may stipulate in Schedule 2.
- Clause 6.2 Royalty fee which states:
  - (a) Subject to clause 6.3, the Approved Certifier must pay to the ABCB a royalty fee calculated in accordance with clause 2 of Schedule 2.
  - (b) The royalty payment referred to in clause 6.2(a) is payable within 30 days of the end of each quarter of the year for all money due or deemed to be due to the Approved Certifier (whether or not such money has been received from the Approved Users) in that quarter.
- Approved User Agreement
- National Construction Code – Volume 3 - Plumbing Code of Australia (PCA)

## Direction

The directions are as follows:

- 1.0 The ABCB will be collecting Application, Annual and Royalty Fees in connection with the WaterMark from 25 February 2013 onwards.
- 2.0 Annual and Royalty Fees for the period 25 February – 31 March 2013 will be attended to with the fees for the period 1 April – 30 June 2013.
- 3.0 Four weeks prior to the end of each Approved Certifiers Agreement term, the ABCB will issue an invoice to renew the Approved Certifiers Agreement.
- 4.0 WaterMark Conformity Assessment Bodies (WMCAB) will submit the activity report on all monies due in connection to the WaterMark\* for that quarter to the ABCB within 14 days of the end of each quarter.
- 5.0 ABCB will generate an invoice for the 4% Royalty Fee and forward to the WMCAB within seven days of receipt of the activity report.
- 6.0 WMCABs will have 30 days from the date of invoice to complete the payment in accordance with the stated acceptable payment methods.
- 7.0 The ABCB will forward the above correspondence via email and for the WMCABs to submit their quarterly activity reports via email.
- 8.0 A pro-forma activity report in the form of an Excel spread sheet will be provided to the WMCABs for completion.
- 9.0 The above directions become effective on the 14 July 2013.

*\*Clause 2 of Schedule 2 of the Approved User Agreement states:*

*The Approved Certifier must pay to ABCB a royalty fee of [4%] of all monies due or deemed to be due to it in connection with the WaterMark (including from granting licences to Approved Users to use the WaterMarks and services performed by it in relation to the granting of licences for the WaterMarks)*

## 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 directly for further advise.

- END -

New and Renewed certificates issued during quarter								
Certificate of Compliance	Initial date	Certification date	Expiry date	Certification level	Invoice amount	Royalty Value @4%		
Maintenance and Revised (including addition of new products to existing certificates) certificates issued during quarter								
Certificate of Compliance	Initial date	Certification date	Expiry date	Certification level	Invoice amount	Royalty Value @4%		
Surveillance of manufacturer/supplier (Level 1 certificates require annual surveillance)								
Supplier	Description	Certificate of Compliance	Initial date	Certification date	Expiry date	Certification level	Invoice amount	Royalty Value @4%