


Gas and Electricity (Consumer Safety) Regulation 2017

Order under Clause 21(4)

I, Ron Keelty, Director Testing Services, Department of Customer Service as delegate of the Minister, pursuant to Clause 21(4) of the Gas and Electricity (Consumer Safety) Regulation hereby vary the conditions of the Schemes listed in schedule two to be subject to the conditions specified in schedule one.

A handwritten signature in black ink that reads "Ron Keelty". The signature is written in a cursive, flowing style.

Signed this 13th of November 2020

Ron Keelty

Director

Testing Services

Department of Customer service

SCHEDULE ONE

RECOGNISED EXTERNAL APPROVAL SCHEMES - CONDITIONS Conditions imposed by the Minister pursuant to Section 21 (4) of the Gas and Electricity (Consumer Safety) Regulation 2018

Interpretation and definitions

These conditions are imposed by the Minister in addition to the requirements of *the Gas and Electricity (Consumer Safety) Act 2017* and the *Gas and Electricity (Consumer Safety) Regulation 2018*.

“Scheme” means the Recognised External Approval Scheme declared by the Minister.

“Article” or “Electrical Article” shares the definition of “Declared Electrical Article” in Section (12) (1) of the *Gas and Electricity (Consumer Safety) Act 2017*.

“Assessment” includes Evaluation.

Any reference to the Manager in these conditions means a reference to:

- Director, Testing Services, Department of Customer Service; or
- Manager, Electrical & Gas Approvals, NSW Fair Trading

These conditions apply to the approval of declared Articles only

1 Facilities

- 1.1 The Scheme shall have and maintain its principal place of business suitable for the approval or certification of Electrical Articles within the countries of Australia or New Zealand.
- 1.2 The Scheme shall inform the Manager of changes to the location of the Scheme’s principal place of business 14 business days prior to any change.

2 Personnel

- 2.1 All personnel conducting the assessment, review or decision making of approval or certification applications shall be direct employees of the Scheme or, in the case of contracted personnel, the Scheme shall not utilise such contracted personnel for such activities unless they have been approved and confirmed by the Manager.
- 2.2 The Scheme shall ensure personnel reviewing or making decisions regarding approval or certification have suitable qualifications, experience and competence.
- 2.3 The Scheme shall not authorise or otherwise permit other persons to assess, review, approve or certify an Article on behalf of the Scheme.
- 2.4 The Scheme shall inform the Manager of any changes to personnel conducting the assessment, review or decision making of approval or certification applications within 14 business days of the change.

- 2.5 The Scheme shall ensure that all persons who will approve or certify Electrical Articles are aware of the Scheme's approval or certification procedure and are trained in relation to the procedures.

3 JAS-ANZ Accreditation

- 3.1 The Scheme shall maintain JAS-ANZ accreditation; the Scheme shall not approve or certify (including to modify or renew) Electrical Articles unless the Scheme has the class specification for the Electrical Article within their JAS-ANZ Scope (exclusive of any updates / versions of standards).
- 3.2 The Scheme shall provide the Manager with any changes within 14 business days to their JAS-ANZ accreditation or scope, including following each JAS-ANZ reaccreditation. This requirement does not include any change in accreditation or scope that is only related to the updating of standards, or changes that are not related to class specification(s) in the NSW Gazette.
- 3.3 The Scheme shall inform the Manager of any major non-conformances arising from JAS-ANZ audits, together with any corrective actions within 3 business days of responding to JAS-ANZ.

4 Certificates of Currency

- 4.1 The Scheme shall maintain adequate insurance; Public Liability insurance (minimum \$20,000,000 cover), adequate Professional Indemnity insurance and current Certificate of Currency.
- 4.2 The Scheme shall annually provide the Manager with current Certificate of Currency.

5 Test reports.

- 5.1 The Scheme shall verify that any laboratory conducting testing has current ISO/IEC 17025 accreditation from a National Laboratory Accreditation Body with a Mutual Recognition Arrangements (MRA) with the International Laboratory Accreditation Cooperation (ILAC) or IECEE CBTL to test the product to the relevant standard.

The test reports shall show the laboratory's accreditation ID, the standards that were used to conduct the test and the test results for the Article.

Photographs in the test report must provide clear and comprehensive identification of the Article; sufficient supplementary photographs shall be requested and supplied if not suitably provided by the test reports.

- 5.2 The test reports shall show that the Article that was approved or certified complies with the class specification, and any other standard(s) that apply to the Article (if any).

However, the Scheme may verify that an Electrical Article conforms with a clause of a standard by inspection (including photographs), provided that;

- The clause specifies and allows inspection to verify compliance; and
- The scheme is able to demonstrate that such verification of conformance can be reliably done without any testing or examination of a physical sample; and
- The certification file contains a justification validating the use of this provision.

6 Independence of Judgment and Conflict of Interest

- 6.1 The Scheme shall ensure that all persons authorised by it to approve or certify Electrical Articles on its behalf:
- a) act independently, impartially and with integrity, and not have any conflict of interest, when approving or certifying Electrical Articles; and
 - b) not engage in any activity that conflicts, or may conflict, with independence of their judgement and integrity in relation to the approving or certifying of Electrical Articles.
- 6.2 The Scheme shall:
- a) have documented procedures in place to avoid, and to manage, conflicts of interest; and
 - b) ensure that its personnel are aware of those procedures and are trained in relation to those procedures; and
 - c) keep a record of that training.

7 Approval or Certification Procedure

- 7.1 The Scheme shall not approve or certify an Electrical Article if it knows or suspects that by its design or construction it is unsafe to use.
- 7.2 The Scheme shall have in place an approval or certification procedure to ensure that an Electrical Article will not be approved or certified if:
- a) the Electrical Article is unsafe to use; or
 - b) it does not comply with the relevant class specification; or
 - c) it does not comply with any other standard(s) that may apply to the Article (if any); or
 - d) it is noncompliant to provisions in the Act or Regulation; or
 - e) it is not suitable for connection to the electricity supply.
- 7.3 The Scheme is to ensure any approval or certification procedures are consistent with these conditions imposed by the Minister.
- 7.4 The Scheme shall submit any changes to the Scheme, including any amended versions of the approval or certification procedures, to the Manager within 14 business days of the change.

8 Approval or Certification of Electrical Articles

- 8.1 The Scheme shall not approve or certify an Article (including a modification to an approved Article and any renewal to that Article) unless the Scheme is satisfied the Article complies with –
- a) the class specification nominated for the Article (including any modifications) to that specification by order in the Government Gazette; or
 - b) any model specification nominated by the Manager in writing to the Scheme (if any) applicable at the time of approval or certification.
- 8.2 In the case of a modified Article, the complete Article must comply with the nominated class specification applicable at the time of approval or certification; this compliance is not limited to requirements associated with the modification.

- A modified Article is an Article that is not of the same design, materials and construction as the originally approved Article. Minor modifications as detailed by an exemption issued under the *Electricity (Consumer Safety) Act 2004* or *Gas and Electricity (Consumer Safety) Act 2017* are exempt.

A Scheme may cancel the approval or certification of a model of Article without cancelling the approval or certification of other models that share the same certificate. In this case, such cancellation shall also be recorded via a modification to the certificate.

- 8.3 The Scheme shall not grant an approval or certificate of longer than five years.

Renewal(s) may be granted for a period up to five years. Applications for renewal must be received before the expiry date of the Approval or Certificate; an expired certificate or approval cannot be renewed – a new certificate must be issued (in this case the authorised mark should align with that of the expired certificate)

A modified approval or certificate shall not alter the date of expiry of a certificate.

The Scheme may extend an approval or certificate but only where the Manager's written authorisation has been provided. The extension period is determined by the Manager for a period not exceeding twelve months.

- 8.4 The Scheme may, on a certificate, include reference to a published standard edition or amendment that is not yet applicable or not yet in the gazetted class specification, only if;

- a) any certificate that include references to such future standard edition or amendment shall accurately reflect evidence of compliance as determined by the Scheme.
- b) it is not a relaxation of the currently gazetted class specification.

- 8.5 If the Article to be approved or certified has been verified for operation to relevant New Zealand Electrical safety requirements (confirmed suitability at 230V, RCBO type etc.), then the certificate may include words to the effect of "Suitable for New Zealand." If the Article has not been so verified the certificate shall not include words to this effect.

- 8.6 The Scheme shall not rely on the approval or certificate of any other scheme or regulator in lieu of *test evidence* when issuing an approval or certificate.

Note: Examples that usually do not require *test evidence* includes components or accessories, such as plugs and cords attached to, or contained within, the Article.

9 Approval or Certification Notices

- 9.1 The Scheme shall, where an approval or certification has been granted, provide the applicant, a written notice with the following particulars-

- a) the name of the certificate holder;
- b) a description of the model (including marked brand or trade name);
- c) the fact that the Scheme has approved the Article;
- d) the date of the approval;
- e) the duration or the expiry date of the approval;
- f) the authorised mark to be applied to the Article to evidence that approval;
- g) the model reference code;
- h) the declared class;
- i) the certificate number / reference number; and

- j) the fact that the Scheme is recognised by the NSW Act
- k) the specification(s) of the Article

Note: an example suitable to satisfy point j) could be:

This certificate was issued by [a scheme / *ABC Pty Ltd*] recognised by [the NSW Gas and Electricity (Consumer Safety) Act / the NSW Recognised External Approval Scheme (REAS)]

Note: Specifications mean any of the following as appropriate; Standards, class specifications (per the NSW gazette) or model specifications (per section 8.1)

- 9.2 The Scheme shall, where an approval or certificate of a modified Article has been granted, provide the applicant for that approval with written notice of the approval or certification of that modified Article and of the details of the modification.
- 9.3 The Scheme shall, where an approval or certificate has been renewed, provide the applicant for that renewal with written notice of that renewal.

10 Certification Records

- 10.1 The Scheme shall maintain a computerised record of all approval or certificates (including modifications and renewals). The record shall contain-
 - a) the particulars of the approvals or certificates as listed in clause 9.1 above;
 - b) details of any modified, renewed, suspended or cancelled approvals or certificate; and
 - c) details of any changes in the name of the approval or certificate holder, in the model reference code or in the description of an approved or certified Article.
- 10.2 The Scheme shall, on request, provide the Manager with any or all records, including test reports and photographs, submitted to the Scheme associated with an approval or certification granted by the Scheme. These records shall be maintained for at least 10 years from the date of expiry of the approval or certificate.

11 Approval or Certification Database

- 11.1 The Scheme shall provide to the Manager or NSW Fair Trading officer upon request, the computerised approval or certification records, or other records required by NSW Fair Trading.

12 Registered Mark

- 12.1 The authorised mark is of a standard format of ABC-XXXXXX-EA, where 'ABC-' are any 2 or 3 capital letters to identify the Scheme, 'XXXXXX' are any six numerals and '-EA' cannot be changed. See schedule 2 for authorised marks.
- 12.2 The Scheme shall not authorise the RCM as a substitute to the mark authorised by the Minister.
- 12.3 The Scheme is permitted to pre-allocate relevant authorised marks.

- 12.4 The Scheme shall inform the Manager and other relevant authorities as directed, within five business days, of the details where it becomes aware that an Article, marked with the Scheme's authorised mark, has been sold or is on sale without the approval or certification of the Scheme.

13 Cancellation and Suspended Approvals or Certificates

- 13.1 The Scheme may cancel or suspend an approval or certificate issued by the Scheme.
- 13.2 The Manager may (adopting the provisions in section 18 and section 19 of the Act) by written notice given to the Scheme, require the Scheme to:
- a) suspend the model approval or certificate for a period not exceeding 90 days, or
 - b) cancel the model approval or certificate.
- 13.3 The Scheme shall advise the approval holder and other relevant authorities as directed, in a form acceptable to the manager, within five business days of a cancellation or suspension of an approval or certificate.
- 13.4 The Scheme shall advise the Manager and other relevant authorities as directed within one business day of the details of any cancellation or suspension of an approval or certificate.

14 Audit Assessment

- 14.1 The Scheme shall allow the Manager or NSW Fair Trading Officer to assess the Scheme, which may include an inspection of the premises and examination of documentation in relation to the Schemes approval or certification processes and issued approvals or certificates, at any time during business hours or by prior agreement.

15 Fees Payable

- 15.1 The Scheme agrees to pay the Department in accordance with Schedule 2 of the Gas and Electricity (Consumer Safety) Regulation 2018 where appropriate.

16 Notification and Reports

- 16.1 The Scheme shall provide the Manager with a written report every six months for the periods beginning 1 January and 1 July within twenty eight business (28) days of the end of that period. The report shall specify for that period;
- the authorised marks of all initial, renewal and modification approvals or certificates
 - any preallocated authorised marks that are without an associated approval
 - the total numbers of the above

Note: It is not necessary to include test evidence or certificates in this report.

- 16.2 The Scheme must provide any notifications, documentation, information or reports for the Manager in writing to: energyapprovals@customerservice.nsw.gov.au

SCHEDULE TWO

Scheme	Authorised mark
Global-Mark Pty Ltd	GMA-xxxxxx-EA
Market Access (AUS) Pty Ltd T/A Certification Body Australia	CBA-xxxxxx-EA
TÜV Rheinland Australia Pty Ltd	TUV-xxxxxx-EA
SGS Australia Pty Ltd	SGS-xxxxxx-EA
SAI Global Certification Services Pty Ltd	SAI-xxxxxx-EA
SAA Approval Pty Ltd	SAA-xxxxxx-EA
Conformity Certification Services Pty Ltd T/A EESS Conformity Certification	CCS-xxxxxx-EA
UL International New Zealand Ltd	ULL-xxxxxx-EA