

WaterMark Certification Scheme

Notice of Direction

2016/3.1

Amended fees and charges

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Intent

The intent of this notice is to advise of changes to the fees and charges contained in the Approved Certifier Agreements 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. On transfer of the WMCS the ABCB continued to operate the WMCS in accordance with the fees and charges outlined in Schedule 2 of the existing Approved Certifier Agreements.

Following a full review of the WMCS, on 31 July 2015 the Building Ministers' Forum endorsed implementation of a simplified fee structure developed to achieve full cost recovery for administration of the WMCS. WMCABs have been advised of these decisions at WMCAB forums held on 1 September 2015 and 19 May 2016.

The ABCB will implement the amended fees and charges from 1 January 2017.

Reference Documents

Primary

- WMCS Trade Mark 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.
 - 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.
 - Clause 6.3 **Increase** and interest which states:
 - (a) ABCB may increase the annual fee in clause 6.1(b), such other fee in clause 6.1(c) and/or the royalty payment in clause 6.2(a) on each anniversary of the Commencement Date by giving at least [45 days] notice to the Approved Certifier.
- Approved User Agreement
 - National Construction Code – Volume Three - Plumbing Code of Australia (PCA)

Direction

The directions are as follows:

- 1.0 The ABCB will amend the annual fees and charges contained in Schedule 2 of the Approved Certifier Agreement as follows:

Schedule 2 – Licence and royalty fee

1. Fees

The Approved Certifier must pay the ABCB:

- a) an initial application fee of \$1,500 plus GST payable immediately on the Commencement Date; and
- b) an annual fee of \$10,000 plus GST in quarterly instalments of \$2,500 payable immediately on the Commencement Date and thereafter, payable quarterly in advance within 30 days of the end of each quarter of the year; and
- c) an annual licence fee of \$500 plus GST per WaterMark Licence granted to Approved Users to use the WaterMark. This fee is payable within 30 days of the end of each quarter of the year for all WaterMark Licences granted in that quarter.

2. Royalty fee

The Approved Certifier is not required to pay any royalty fee to the ABCB.

- 2.0 ABCB will implement the amended annual fee structure on 1 January 2017.

- 3.0 The amended annual fee structure will be applicable for Approved Certifier Agreements and the WaterMark Licence, from the first anniversary of Approved Certifier Agreements and WaterMark Licences, respectively, following 1 January 2017.
- 4.0 Four weeks prior to the end of each Approved Certifier Agreement term the ABCB will offer WaterMark Conformity Assessment Bodies (WMCABs) a new Approved Certifier Agreement and will generate an invoice for the first quarterly instalment of the amended annual Approved Certifier Agreement fee, payable on the anniversary of the commencement date of the Approved Certifier Agreement. Thereafter, WMCABs will be invoiced quarterly instalments in advance.
- 5.0 WMCABs will have 30 days from the date of invoice of the Approved Certifier fee quarterly instalment to complete the payment in accordance with the stated acceptable payment methods.
- 6.0 WMCABs will submit the activity report on all WaterMark Licences due in connection to the WMCS for that quarter to the ABCB within 14 days of the end of each quarter.
- 7.0 ABCB will generate an invoice for the WaterMark Licence fees and forward to the WMCAB within seven days of receipt of the activity report.
- 8.0 WMCABs will have 30 days from the date of invoice of the WaterMark Licence fees to complete the payment in accordance with the stated acceptable payment methods.
- 9.0 The ABCB will forward the above correspondence via email and directs WMCABs to submit their quarterly activity reports via email.
- 10.0 A pro-forma activity report in the form of an Excel spread sheet will be provided to the WMCABs for completion.

Consequence of Failure to Comply

- (i) 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.

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