



**Australian
Competition &
Consumer
Commission**

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13 November 2014

The Registrar of Trade Marks
IP Australia
PO Box 200
WODEN ACT 2606

By email: fep@ipaaustralia.gov.au

Dear Registrar

**Registration - Certification Trade Mark Application No. 1563018
Australian Certification Services**

The Australian Competition and Consumer Commission (the ACCC), in accordance with the provisions of the Trade Marks Act 1995, has completed its final assessment of Certification Trade Mark (CTM) No. 1563018.

A certificate detailing the ACCC's assessment is attached, as well as a certified copy of the rules. The applicant has been notified.

If you wish to discuss any aspect of this matter, please do not hesitate to contact the writer on 02 6243 1351 or by email to adjudication@accc.gov.au.

Yours sincerely

Susan Philp
Director
Adjudication Branch



Australian
Competition &
Consumer
Commission

Final Assessment of Certification Trade Mark Application CTM1563018

lodged by Australian Certification Services Pty Ltd

The Australian Competition and Consumer Commission (the ACCC), in accordance with the requirements of the *Trade Marks Act 1995*, has completed its Final Assessment of the above Certification Trade Mark (CTM) application.


The ACCC's Final Assessment is that it is satisfied that:

- (a) the approved certifiers demonstrate the attributes necessary to competently certify the products in respect of which the CTM is to be registered;
- (b) the rules governing the use of the CTM would not be to the detriment of the public; and
- (c) the rules governing the use of the CTM are satisfactory having regard to the principles relating to restrictive trade practices set out in Part IV of the *Competition and Consumer Act 2010* (the CCA) and the principles relating to unconscionable conduct (Part 2-2), unfair practices (Part 3-1), and safety of consumer goods and product related services (Part 3-3) in Schedule 2 (Australian Consumer Law) of the CCA.

Signed.....  (Deputy Chair)

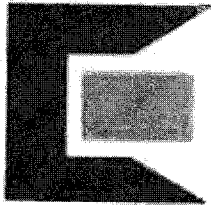
Date..... 12 November 2014

Certified copy
pursuant to section 175(2)(b)
of the *Trade Marks Act 1995*


Commissioner

12 Nov 2014
Date

RULES FOR THE PRODUCT CONFORMITY SCHEME (PCS) CERTIFICATION TRADE MARK





Australian Certification Services – Rules

Amendment History

Issue No	Issue Date	Brief summary of amendments
01	July 2014	Initial issue



Australian Certification Services – Rules

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1 Introduction

- a) Australian Certification Services Pty Ltd (ABN 37 121 022 366) owns the certification trademark known as The Product Conformity Scheme (PCS) Mark (the Mark).
- b) Subject to these Rules, an Applicant may be granted a non exclusive Licence to use the Mark on a Product (as defined in these Rules) where either Australian Certification Services Pty Ltd or another Person authorized by Australian Certification Services Pty Ltd (Certifier) certifies that the Product conforms to an Applicable Standard and the relevant Certification Procedures.
- c) Use of the Mark is not limited to goods manufactured in Australia and, subject to these rules; it may be used on products manufactured or distributed outside Australia.
- d) The Mark is used in relation to those products that can be shown to comply with the applicable standard.
- e) Australian Certification Services Pty Ltd grants licences directly to users (including manufacturers) for the use of the Mark.

2 Applicable Standards

2.1 "Applicable Standards" means those documents (standards) that can be applied to the certification of products with reasonable certainty and which may include;

- a) Australian Standards published by Standards Australia International Limited (Standards Australia)
- b) Interim Standards published by Standards Australia International Limited (Standards Australia)
- c) Standards published by International Organisation for Standardisation (ISO)
- d) Standards published by national standards organizations or government authorities in countries other than Australia
- e) Standards published by Australian or foreign organizations or government authorities.

2.2 Australian Certification Services Pty Ltd maintains a list of "Applicable Standards" that apply to the application of the Mark that is available for public inspection at the offices of Australian Certification Services Pty Ltd during business hours.

3 Approved Certifiers

- a) Australian Certification Services Pty Ltd may authorize one or more Persons to act as a Certifier and to grant Licences allowing Licencees to use the Mark in accordance with the Licence Terms.
- b) From time to time and subject to the terms of agreements with individual Certifiers, Australian Certification Services Pty Ltd may;



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- i. Appoint additional Certifiers
 - ii. Replace a Certifier with another Certifier; or
 - iii. Revoke its authorization of a Certifier to grant Licences.
- c) Approved certifiers must be appropriately qualified and competent by demonstration of;
- i. Experience related to employment within a related manufacturing environment and including a position that incorporated elements of product assessment in either a laboratory or quality control environment and;
 - ii. Tertiary qualifications in materials engineering or a related course and;
 - iii. Experience relating to quality management systems in an auditing or supervising role.

4 Approved Users

- a) Any person who wishes to be an Approved User of the Mark may apply to Certifier in accordance with the application procedures.
- b) The Certifier will grant an Applicant the right to use the Mark if it is satisfied that the applicant;
 - i. Is capable, in relation to products in connection with which use of the Mark is sought of providing such Products certified as complying with Applicable Standards.
 - ii. Is able to pay all fees to the Certifier by the due dates; and
 - iii. Will enter into an agreement, and comply with the Terms of the Certification and these Rules.

5 Administration of Certification Scheme

- a) Each Certifier must administer a Certification Scheme that in the opinion of Australian Certification Services Pty Ltd;
 - i. Provides certification that a Person provides Products conforming to the requirements of one or more Applicable Standards.
 - ii. Is conducted using processes and procedures that conform to relevant Standards and Guides on conformity assessment for product certification.
 - iii. Includes procedures for;
 - Initial inspection and testing of the Products proposed for certification.
 - Assessment of the quality system and production facilities used to produce the Products; and



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- Ongoing surveillance of Certified Products for the duration of the certification.
 - iv. Does not bring Australian Certification Services Pty Ltd or the Mark into disrepute
 - v. Does not mislead or deceive third parties as to the nature, scope or extent of Certification offered under the Certification Scheme.
- b) A Certifier must keep detailed records in relation to;
- i. Each Applicant requesting a Licence to use the Mark;
 - ii. The Licencees granted a Licence to use the Mark the Certification undertaken to grant each such licence the Terms under which the Licence was granted and any restrictions on the Licence;
 - iii. Those Applicants refused a Licence to use the Mark; and
 - iv. Any renewal, revocation, alteration, suspension, termination, surrender or restoration of a Licence to use the Mark.

6 Certification

- a) Within a reasonable time of receiving an application from an Applicant the Certifier must assess the Applicants Products, processes and services.
- b) If the Certifier is satisfied that;
- i. The Applicant meets the requirements for Certification in accordance with the Certifiers Certification Scheme; and
 - ii. The Applicant is not in breach of the Licence Terms (including payment of fees);
- Then the Certifier must;
- i. Grant Certification and the Licence to use the Mark; and
 - ii. Provide documentation (a **Certificate**) to the Licencee as evidence that the Licencee has been granted both Certification and the Licence to use the Mark.
- c) If the Certifier is not satisfied that the Certification is appropriate, the Certifier must advise the Applicant promptly in writing, setting out the grounds for not granting Certification.
- d) The Certificate must set out the date on which Certification and the Licence expire and must include any special conditions, qualifications or restrictions in respect of the Licencees Certification and Licence.
- e) The Applicant must co operate with the Certifier and must provide the information and access that the Certifier requires to assess the Applicants Products Certification. This access must include access to the premises, facilities, documents and records of the Applicant and access to the Applicants contractors and agents.

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- f) The Licencee must maintain its products at the standard required for Certification and must comply with all reasonable requirements that the Certifier considers necessary to ensure that Certification continues to be appropriate in accordance with the Licence Terms.
- g) The Licencee must promptly inform the Certifier of any change that may affect the appropriateness of the Certification, including change or modification to its products, change of assessed site or ownership or control of the Licencee.
- h) The Licencee must not;
 - i. Engage in conduct likely to mislead, deceive or confuse any person in relation to the Licencees Certification; or
 - ii. Otherwise misrepresent the nature, status, scope or effect of the Certification.
- i) The Licensee must pay all fees within 30 days associated with administering the Licence and other services provided.
- j) Upon termination of the Licence the Licencee must immediately discontinue all use of the Mark and all advertising material, packaging and other matter which contains the Mark or reference to it. Any Products not already disposed of by the Licencee which bear the Mark must, if the Certifier requires, be dealt with at the Licencees expense so as to erase the Mark.
- k) The Certificate remains the property of the Certifier and;
 - i. Must be promptly returned on reasonable request of the Certifier or on expiry or cancellation of the Certification; and
 - ii. Must not be altered, modified, defaced or destroyed without the Certifiers permission.

7 Conditions of Use

- a) The Licencee must only use the Mark or claim by implication an entitlement to use the Mark in relation to the Products which are covered by the Licencee and which comply with the Applicable Specification.
- b) A licensee may relinquish at any time by notice in writing to Australian Certification Services Pty Ltd and by return of the Licence. The Licence will remain the property of Australian Certification Services Pty Ltd and must be returned in event of it being relinquished, revoked, altered or suspended.

8 Dispute Settlement

- a) Where there is a dispute and an Applicant or Licencee (Claimant) is dissatisfied with a Decision by Australian Certification Services Pty Ltd related to Certification or other issue relating to the Certification Mark, they may appeal by written Request to Australian Certification Pty Ltd;



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- i. As long as the Request is lodged formally in writing within 30 days of the Decision and;
 - ii. The Request includes details on the grounds on which review of the Decision is sought.
- b) Within 30 days of receipt of the Request Australian Certification Services Pty Ltd must;
- i. Consider the Request and in doing so may refer to or appoint any other person as it sees fit to assist in reviewing the Decision.
 - ii. Make a Determination on whether the Decision is substantially correct or whether the Decision should be changed pursuant to the Request; and
 - iii. Record the Determination in writing including the reasons for the Determination.
- c) Within 7 days of making the Determination Australian Certification Services Pty Ltd must provide a copy of the Determination and the reasons for the Determination to the Claimant.

9 Notices

- a) Any notice or other communication to be given under these rules (other than public notices) must be given in writing and delivered to the last known address of the recipient.
- b) Any public notice must be given by publication on the website of Australian Certification Services Pty Ltd.

10 Miscellaneous

- a) All rights granted to Approved Users in relation to the Mark are non-exclusive and non-transferable.
- b) Australian Certification Services Pty Ltd may amend these rules from time to time provided the amended Rules are not materially inconsistent with these Rules.