THE CODEMARK AUSTRALIA SCHEME RULES

VERSION 2016.1

Preface

The Australian Building Codes Board, in consultation with the then New Zealand Department of Building and Housing, State & Territory governments, industry groups and prospective Certification Bodies, developed and in 2005 implemented the CodeMark Scheme - a third-party scheme for the certification of building products and systems.

In 2012, a review of the CodeMark Scheme was commenced in consultation with State and Territory governments, industry groups, Scheme Certification Bodies and the Ministry of Business and Innovation and Employment, New Zealand. The review recommended several areas for improvement to strengthen the CodeMark Scheme.

This has resulted in the development of the CodeMark Australia Scheme Rules Version 2016.1, which only cover the CodeMark Australia Scheme. CodeMark will continue to operate in New Zealand under separate New Zealand CodeMark Scheme Rules.

The CodeMark Australia Scheme supports the use of new and innovative building products in Australia by providing a nationally accepted process for demonstrating compliance with the requirements of the Building Code of Australia. The Scheme provides confidence and certainty to regulatory authorities and the market. The Scheme provides for the issue of Certificates of Conformity for particular products and permits the use of the Certificate numbers and Scheme certification marks on Certified Products.

A Certificate of Conformity is one of several options available for meeting the 'Evidence of Suitability' requirements of the BCA. However, unlike other Evidence of Suitability options, Certificates of Conformity receive mandatory acceptance under State and Territory building control legislation.

The Accreditation of Scheme Certification Bodies and certification of building products under the Scheme are subject to the requirements detailed in these CodeMark Australia Scheme Rules.

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Section 1 | **General – Interpretation and Background**

Background

1. The CodeMark Australia Scheme (the Scheme) is a building product certification scheme owned by the Commonwealth of Australia acting on behalf of the Commonwealth of Australia, the State of New South Wales, State of Queensland, State of Victoria, State of South Australia, State of Tasmania, State of Western Australia, the Australian Capital Territory and the Northern Territory (Scheme Owner).

2. The Scheme Owner has appointed a Scheme Administrator to manage and administer the Scheme in accordance with these Rules and a Scheme Accreditation Body to assess and accredit Certification Bodies in accordance with these Rules. Both of these bodies operate subject to deeds of agreement with the Scheme Owner.

3. The Australian Building Codes Board (ABCB) is a joint initiative of all levels of Australian Government, in co-operation with the building industry. The ABCB was established by an inter-government agreement by the Scheme Owner. The ABCB's mission is to address issues relating to safety, health, amenity and sustainability in the design, construction and performance of buildings. This is achieved through the National Construction Code (NCC) and the development of effective regulatory systems and appropriate non-regulatory solutions.

4. Prior to these Rules, the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) was appointed to be both the Scheme Administrator and the Scheme Accreditation Body by the Scheme Owner. JAS-ANZ is a not for profit, self-funding international organisation established under a Treaty between the Governments of Australia and New Zealand to act as the joint accreditation body for Australia and New Zealand for certification of management systems, products, inspections and personnel.

5. The Scheme is based on relevant international standards produced by the International Organisation for Standardisation (ISO) and mandatory documents produced by the International Accreditation Forum (IAF). The use of internationally recognised certification and accreditation infrastructure maximises reliability, integrity, credibility and confidence.

Abbreviations

6. The table below sets out the abbreviations used in these Rules.

ABCB	Australian Building Codes Board
BCA	Building Code of Australia
IAF	International Accreditation Forum
IEC	International Electrotechnical Commission
ISO	International Organisation for Standardisation
JAS-ANZ	Joint Accreditation System of Australia and New Zealand
NCC	National Construction Code

Definitions

7. In these Rules, the definitions set out in ISO/IEC 17000 are incorporated into these Rules.

8. In these Rules, the terms set out in bold below have the meaning given underneath for the purposes of these Rules and any appendices to these Rules.

Accreditation

An attestation by the Scheme Accreditation Body that a Certification Body is competent to carry out the specific conformity assessment tasks required by the Scheme.

Approved User

For the purposes of Section 5 and Section 6 means a Certificate Holder, a Certification Body, the Scheme Accreditation Body and the Scheme Administrator.

Australian Building Codes Board or ABCB

Means the board established by an agreement between the governments of the Commonwealth of Australia, State of New South Wales, State of Queensland, State of Victoria, State of South Australia, State of Tasmania, State of Western Australia, the Australian Capital Territory and the Northern Territory.

Australian Building Codes Board Office or ABCB Office

Means the part of the Commonwealth Department of Industry, Innovation and Science (or any other department or agency of the Commonwealth that may from time to time be the custodian of the Mark of Conformity) that is responsible for assisting the ABCB in undertaking its functions and exercising its powers.

Building Code of Australia or BCA

Volumes One and Two of the NCC, published by the ABCB.

Certified Product

A Product that bears the Mark of Conformity in accordance with Section 5 of these Rules.

Certificate of Conformity

A certificate:

a. in the template form approved by the ABCB Office and located on the ABCB website (www.abcb.gov.au),

b. issued by a Certification Body; and

c. that complies with the requirements of these Rules.

Certificate Holder

The person to whom a Certificate of Conformity has been issued by a Certification Body in relation to a Certified Product.

Certification Body

An organisation accredited by the Scheme Accreditation Body under the Scheme to issue Certificates of Conformity.

Critical nonconformity

A nonconformity where the potential impact warrants immediate corrective action.

Deemed-to-Satisfy Provision

Has the same meaning as that given in the BCA, as amended from time to time.

Major nonconformity

A nonconformity where the potential impact is likely to compromise compliance if no remedial action is taken to correct the nonconformity.

Mark of Conformity

The Mark of Conformity means the certification trade mark applied by or issued in accordance with these Rules and the *Trade Marks Act 1995* (Cth) as represented in Section 5.

Minor nonconformity

A minor nonconformity where the potential impact of the nonconformity is not likely to compromise compliance.

National Construction Code

The National Construction Code is an initiative of the Council of Australian Governments developed to incorporate all on-site construction requirements into a single code.

Performance Requirement

Has the same meaning as that given in the BCA, as amended from time to time.

Post Manufacture or Supply Chain Surveillance

Includes the routine selection and evaluation of a Certified Product or claims associated with a Product at any stage in the wholesale or retail distribution, storage, transportation or use in construction of the Product in order to gather information and evidence confirming compliance or non-compliance with these Rules.

Product

Product includes, but is not limited to, the components or systems to which the requirements of the BCA apply.

Product Quality Plan

A document addressing, as a minimum, all of the matters specified in the Requirements for a Product Quality Plan at Appendix 1 and specifying which procedures and associated resources must be applied by whom and when to a specific Product and its manufacture, consistent with ISO 9001 or ISO 10005:2005.

Register of Certificates of Conformity

A central register of all Certificates of Conformity that have been issued by Certification Bodies.

Register of Certification Bodies

A central register of all Certification Bodies.

Registered Testing Authority

Has the same meaning as that given in the BCA, as amended from time to time.

Rules

The CodeMark Australia Scheme Rules 2016 as set out in this document, as varied from time to time.

Scheme

The CodeMark Australia Scheme.

Scheme Accreditation Body

The person appointed by the Scheme Owner to assess and accredit Certification Bodies.

Scheme Administrator

The person appointed by the Scheme Owner to manage and administer the Scheme in accordance with these Rules.

Scheme Owner

The Commonwealth of Australia acting on behalf of the Commonwealth of Australia, the State of New South Wales, State of Queensland, State of Victoria, State of South Australia, State of Tasmania, State of Western Australia, the Australian Capital Territory and the Northern Territory.

Unrestricted Building Certifier

A building certifier licensed in a State or Territory of Australia without any restrictions on that licence.

Objective

9. The objective of the Scheme is to provide confidence to regulatory authorities and the market about the conformance of Certified Products with the requirements of the BCA.

Scope of the Scheme

10. The Scheme is a voluntary third-party certification scheme that authorises the use of Products in specified circumstances in order to facilitate compliance with the BCA.

Referenced Documents

11. Documents referred to in these Rules are:

Accreditation documents	
Accreditation Deed	A deed between the Accreditation Body and a Certification Body
Accreditation Manual	A document setting out the general requirements under which the Accreditation Body may grant or maintain Accreditation.
Standards	
ISO/IEC 17000:2004	Conformity assessment - Vocabulary and general principles (also available as AS ISO/IEC 17000:2005)
ISO/IEC 17065:2012	Conformity assessment - Requirements for bodies certifying products, processes and services (also available as AS/NZS ISO/IEC
ISO 9001	Quality Management Systems - Requirements
ISO 10005:2005	Quality Management systems – Guidelines for quality plans (also available as AS/NZS ISO 10005:2006)

Terminology

12. In these Rules:

a. words in the singular include the plural and words in the plural include the singular;

b. rule headings are inserted for convenient reference only and have no effect in limiting or extending the language of the provision to which they refer;

c. words importing persons include a partnership, a body and an entity whether that body or entity is corporate or otherwise; and

d. reference to any legislation or legislative provision includes any statutory modifications, substitution or re-enactment of such legislation or legislative provision.

Section 2 | Ownership and Scheme Responsibilities

Ownership of the Mark of Conformity

13. The Scheme Owner is the registered owner of the Mark of Conformity.

14. The Commonwealth, acting through the ABCB Office, is the custodian of the Mark of Conformity on behalf of the Scheme Owner.

15. A Certificate Holder's use of the Mark of Conformity is non-assignable and non-transferable. A Certificate Holder must only use the Mark of Conformity in accordance with these Rules and in particular Section 5.

Scheme Responsibilities – Overview

16. The Scheme Administrator is responsible for the management and administration of the Scheme.

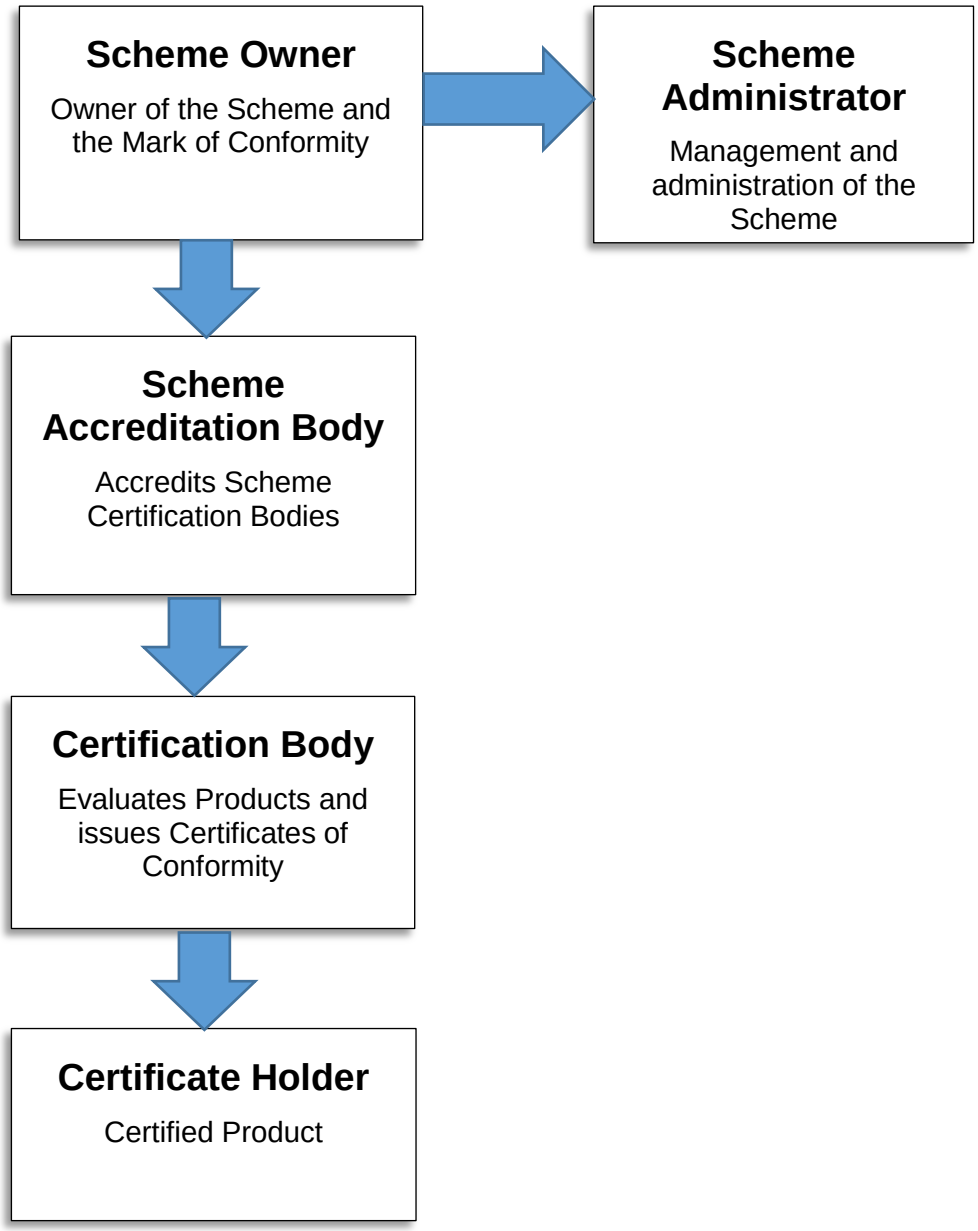
17. The Scheme Accreditation Body is responsible for the Accreditation of Certification Bodies.

18. Each Certification Body is responsible for the Certificates of Conformity that it may issue to a Certificate Holder.

19. Certificate Holders are responsible for ensuring that a Product continues to comply with the requirements of the BCA as specified in the relevant Certificate of Conformity.

Flowchart of Responsibilities in the Scheme

20. The responsibilities of the entities in this Scheme are set out in the flowchart below.



2.1 Scheme Responsibilities – In Detail

Scheme Owner Responsibilities

21. The Scheme Owner is responsible for the following:

    a. maintaining the registration of the Mark of Conformity in accordance with the *Trademark Act 1995* (Cth);

    b. protecting the Mark of Conformity against unsolicited use;

    c. monitoring the use of the Mark of Conformity by all Scheme Certification Bodies and Certificate Holders;

    d. reviewing matters brought to the Scheme Owner by the Scheme Administrator;

    e. undertaking reviews of the Scheme from time to time;

    f. amending the Rules as required;

    g. monitoring and auditing the performance and function of the Scheme Administrator and the Scheme Accreditation Body;

    h. advising the Scheme Administrator of any changes to the Rules;

    i. advising the Scheme Administrator of any changes to the BCA;

    j. creating and disseminating educational materials in collaboration with the Scheme Administrator;

    k. marketing and promoting the Scheme;

    l. approving and issuing the Certificate of Conformity template;

    m. reviewing and maintaining the following documents located on the ABCB website (www.abcb.gov.au):

        (i) the Certificate of Conformity template; and

        (ii) the 'Information required on a Certificate of Conformity' document;

    n. drafting and approving the 'CodeMark Protocol for the Assessment of Products against BCA Performance Requirements'; and

    o. responding to complaints in accordance with Section 6.

Scheme Administrator Responsibilities

22. The Scheme Administrator is responsible for the management and administration of the Scheme in accordance with these Rules and written directions from the Scheme Owner, including the following:

    a. undertaking the day to day administration of the Scheme;

    b. creating and maintaining the Register of Certification Bodies and the Register of Certificates of Conformity which must be accessible by Scheme participants and the general public through the Scheme Administrator's website;

    c. making administrative decisions in accordance with these Rules;

    d. allocating a Certificate of Conformity number block to a Certification Body;

    e. providing the approved Certificate of Conformity template to be used by a Certification Body;

f. notifying a Certification Body and the Scheme Accreditation Body of changes to these Rules;

g. notifying a Certification Body and the Scheme Accreditation Body of changes to the BCA, when relevant;

h. assisting the Scheme Owner to create and disseminate educational materials, tools and general information relating to the Scheme, including hosting relevant forums;

i. notifying the Scheme Owner of any non-conforming Certified Products the Scheme Administrator becomes aware of along with any associated recall action reports associated with the non-conforming Product;

j. at the written request of the Scheme Owner, investigating or reporting into any matter associated with these Rules, (including the issuing of any Certificate of Conformity) or any Accreditation of a Scheme Certification Body, in the timeframe specified in the request, or within reasonable time if no timeframe is specified; and

k. investigating complaints in accordance with Section 6 of these Rules.

23. The Scheme Administrator is the final arbiter of whether a Certificate of Conformity is true and correct as entered on the Register of Certificates of Conformity.

24. The Scheme Administrator must remove from the Register of Certificates of Conformity any Certificate of Conformity that is not true and correct.

Scheme Accreditation Body Responsibilities

25. The Scheme Accreditation Body may verify that Scheme Certification Bodies have demonstrated competence to carry out specific conformity assessment tasks (including but not limited to conducting conformity assessment activities in certification and inspection of building products and processes).

26. The Accreditation of Certification Bodies must be conducted and reviewed by the Scheme Accreditation Body under the general conditions set out in the current Accreditation Deed and Accreditation Manual.

27. The Scheme Accreditation Body is responsible for the Accreditation of a Certification Body, including the following:

a. granting, maintaining, extending, suspending and withdrawing a Certification Body's Accreditation;

b. verifying that a Certification Body maintains compliance with these Rules;

c. advising the Scheme Owner in writing of the status of a Certification Body's Accreditation, when action is taken under Rule 27(a) or when requested in writing by the Scheme Owner;

d. ensuring the Accreditation of a Certification Body is reviewed and appropriate action taken to ensure compliance with these Rules and the BCA, especially when these Rules or the BCA (including referenced documents) are amended;

e. providing a report each quarter to the Scheme Administrator containing a summary of the verification and assessments of each Certification Body that have been undertaken by the Accreditation Body since the last report; and

f. advising the Scheme Administrator of proposed amendments or variations to the ISO, IAF or JAS-ANZ standards and procedures relevant to these Rules, and the significance and impact on the Scheme.

28. The Scheme Accreditation Body must maintain its international recognition within the terms and conditions specified by the Australian Government and any trade facilitation measures the Australian Government has acceded to.

29. When requested by the Scheme Administrator, the Scheme Accreditation Body must provide a copy to the Scheme Administrator of any report of a review of the Accreditation of a Scheme Certification Body.

Certification Body Responsibilities

30. A Certification Body is responsible for evaluating applications for Certificates of Conformity in accordance with:

    a. Section 4 of these Rules;

    b. the requirements of the BCA;

    c. relevant State or Territory legislation; and

    d. any written directions from the Scheme Administrator.

31. A Certification Body is responsible for decisions and actions relating to an application for a Certificate of Conformity, including the following:

    a. granting, maintaining, renewing, reduction, termination, suspending and withdrawing a Certificate Holder's Certificate of Conformity in accordance with Section 4;

    b. verifying that a Certificate Holder maintains compliance with these Rules;

    c. investigating the actions of a Certificate Holder as appropriate or when directed in writing by the Scheme Administrator;

    d. advising the Scheme Administrator in writing of any action taken under Rule 31(a) or of the status of a Certificate of Conformity, when requested in writing by the Scheme Administrator; and

    e. providing an annual report on its Scheme certification activity to the Scheme Administrator.

32. In the event a Certification Body ceases to be accredited for any reason:

    a. the Certification Body whose Accreditation has ceased must provide the Scheme Administrator with all relevant documented evidence (including any evidence used in determining a Certificate of Conformity) concerning all affected Certificate Holders; and

    b. all other accredited Certification Bodies will co-operate, within the scope of their Accreditation, to provide continuity of certification services to the affected Certificate Holders. The requirement for, and extent of any, re-evaluation will depend on the documented evidence provided by the Certification Body whose Accreditation has ceased.

33. A Certification Body is responsible for indemnifying the Scheme Owner, the Scheme Administrator and the Scheme Accreditation Body from, and against, any liability incurred by these three persons as a direct consequence of:

    a. a failure by the Certification Body to comply with these Rules;

    b. a failure by the Certification Body to render a certificate which is not true and correct;

    c. misuse or unauthorized use of the Mark of Conformity; and

d. an act or omission on the part of the Certification Body, or its personnel, in connection with any certification activity.

34. A Certification Body releases the Scheme Owner, the Scheme Administrator and the Scheme Accreditation Body from any liability or responsibility for loss or damage suffered by the Certification Body as a result of:

a. any decision made by the Scheme Accreditation Body under Rule 27(a);

b. information the Scheme Owner, the Scheme Administrator or the Scheme Accreditation Body provides or publishes to anyone in relation to a decision made under Rule 27(a); and

c. any decision made by the Scheme Owner, the Scheme Administrator or the Scheme Accreditation Body under Rule 27(a) to any other body which may impact on the Certification Body 's business or cause any loss or damage to the Certification Body.

Certificate Holder Responsibilities

35. A Certificate Holder must:

a. comply with these Rules;

b. comply with any procedures required by the Certification Body who issued the Certificate Holder with a Certificate of Conformity;

c. prepare and maintain a Product Quality Plan;

d. ensure a Certified Product is:

i. manufactured in accordance with the Product Quality Plan and any conditions associated with the Certificate of Conformity; and

ii. materially the same as any sample that was evaluated by the Certification Body who evaluated the Product prior to certification;

e. notify, in writing, the Certification Body who issued the Certificate Holder with a Certificate of Conformity in relation to a Certified Product of any:

i. intended change, modification or alteration to the Certified Product, its method of manufacture, Product Quality Plan or installation instructions;

ii. reason to suspect the Certified Product may not comply with the BCA; and

iii. intended change to the name, address or contact details of the Certificate Holder's place of Certified Product manufacture as detailed within the Certificate of Conformity;

f. where a Certified Product is found not to be compliant with the BCA or claims stated on the Certificate of Conformity, then the Certificate Holder must:

i. activate the recall procedures of the Product Quality Plan relating to the Certified Product;

ii. notify the Certification Body, Scheme Administrator and Scheme Accreditation Body of the non-compliance; and

iii. report to the persons specified in Rule 35(f)(ii) on the recall actions activated.

g. where certification of a Certified Product is suspended or withdrawn – notify existing customers of this suspension or withdrawal and immediately cease use of the Certificate of Conformity, Mark of Conformity and Certificate of Conformity number;

h. when using the Certificate of Conformity ensure it is reproduced only as set out in these Rules and in its entirety;

i. ensure that the Certified Product is identified as such by applying the Mark of Conformity to the Certified Product or its packaging;

j. use the Mark of Conformity in accordance with Section 5;

k. ensure the Certified Product meets, and continues to meet, the requirements on which the certification is based;

l. comply with a Certification Body's renewal process; and

m. have, and be able to demonstrate, effective control over the manufacture, testing, packaging, branding, delivery, installation and commissioning of a Certified Product.

Section 3 | Accreditation of a Certification Body

Requirements for Accreditation

36. A Certification Body may be accredited by the Scheme Accreditation Body if the Certification Body meets the following requirements for Accreditation, by:

    a. satisfying the conditions of Accreditation set out in the Accreditation Deed and the Accreditation Manual;

    b. complying with ISO/IEC 17065:2012;

    c. complying with these Rules;

    d. complying with the BCA, or relevant parts of the BCA; and

    e. complying with any written directions from the Scheme Administrator.

37. Whether a Certification Body meets the requirements of Accreditation and maintains those requirements is determined by the Scheme Accreditation Body.

Section 4 | Specific Requirements for Certification Bodies

General

38. Subject to Rule 39, a Certification Body must act in accordance with ISO/IEC 17065:2012. The rules specified in ISO/IEC 17065:2012 and in these Rules are intended to ensure a Certification Body acts in a competent, consistent and impartial manner. This standard and these Rules apply to a Certification Body assessing an application for a Certificate of Conformity and allowing any use of the Mark of Conformity.

39. Additional rules to some of the clauses set out in ISO/IEC 17065:2012 are set out in Rule 42.

40. If there is a conflict between ISO/IEC 17065:2012 and these Rules, these Rules take preference.

41. In ISO/IEC 17065:2012 and in Section 4 of these Rules, the following definitions apply:

shall indicates a requirement;

must indicates a requirement;

should indicates a recommendation;

may indicates a permission; and

can indicates a possibility or a capability.

42. The following additional rules apply in these Rules.

4 General requirements

4.1 Legal and contractual matters

4.1.2 Certification agreement

Add C4.1.2.3

C4.1.2.3 A Certification Body shall ensure that its certification agreement with a Certificate Holder requires the Certificate Holder to acknowledge that:

a. the Scheme Owner does not make any representations, warranties or guarantees, and accepts no legal liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of any material contained within a Certificate of Conformity; and

b. the Scheme Owner disclaims to the extent permitted by law, all liability (including negligence) for claims of losses, expenses, damages and costs arising as a result of the use of a Certified Product referred to in a Certificate of Conformity.

6 Resource requirements

6.1 Certification body personnel

6.1.1 General

6.1.1.1

Add C6.1.1.1.1 and C6.1.1.1.2

C6.1.1.1.1 A Certification Body shall engage, and keep engaged, an Unrestricted Building Certifier.

C6.1.1.1.2 The Unrestricted Building Certifier required to be engaged under Rule C6.1.1.1.1 must be on terms and conditions that do not in any way inhibit the exercise of their professional discretion as a licensed Unrestricted Building Certifier.

7 Process requirements

7.2 Application

Add C7.2.1 and C7.2.2

C7.2.1 A request to transfer a Certificate of Conformity from one Certification Body to another shall be regarded as a new application and evaluated by the new Certification Body accordingly.

C7.2.2 Any application (see Rule 7.2) must be in accordance with the requirements of a Certification Body, including full details of the Product intended for evaluation, the Product's manufacture and Product Quality Plan, the Product's intended use, and the specific BCA provisions the Product complies with.

7.3 Application review

7.3.1

Add C7.3.1.1 and C7.3.1.2 and C7.3.1.3

C7.3.1.1 A Certification Body must conduct a review of the application on a case by case basis and must use an individual deemed by the Certification Body to be competent in these Rules and the BCA. As part of the review, a Certification Body must ensure that any claims of compliance with the BCA are considered.

C7.3.1.2 A Certification Body must examine the Product, its uses and installation (including, if applicable, conducting a construction site visit) to determine the on-site application of the Product. Examination of a Product must enable verification that the specification and claims stated are capable of being evaluated, and to assist in determining the appropriate method of evaluation.

C7.3.1.3 Once agreement on the scope of the application has been achieved, a Certification Body must provide an evaluation plan and an approximate timeframe and cost for the evaluation plan completion.

7.4 Evaluation

7.4.1

Add C7.4.1.1 and C7.4.1.2 and C7.4.1.3

C7.4.1.1 The plan for the evaluation activities (or evaluation plan) must include:

a. a defined scope of use of the Product including any limitations;

b. all requirements or provisions of the BCA including any relevant State and Territory variations and additions against which compliance is claimed;

c. where compliance is claimed against the Performance Requirements of the BCA rather than the Deemed-to-Satisfy Provisions, an evaluation in accordance with the 'CodeMark Protocol for the Assessment of Products against BCA Performance Requirements' located on the ABCB website www.abcb.gov.au;

d. the means for demonstrating conformance of the Product including tests, assessments, inspection procedures and acceptance criteria;

e. an examination and assessment of the submitted Product Quality Plan; and

f. surveillance protocols in accordance with Rule 7.9.

C7.4.1.2 The personnel assigned to prepare an evaluation plan must be one or more persons:

a. deemed by the Certification Body to be competent in assessing compliance with these Rules, the BCA and any applicable manufacturing and installation law and practices; and

b. who is a licensed Unrestricted Building Certifier.

C7.4.1.3 A Certification Body must ensure there is sufficient evidence of Product conformity through various forms of determination activities including where relevant a report from a Registered Testing Authority, a current Certificate of Conformity or Certificate of Accreditation, a certificate from a professional engineer, and the existence and maintenance of a Product Quality Plan. The method of evaluation undertaken by the Certification Body in assessing the documentation must include the determination activities associated with a sample or samples that are representative of the Product as used or installed.

7.4 Evaluation

7.4.4

Add C7.4.4.1 and C7.4.4.2 and C7.4.4.3

C7.4.4.1 In determining whether the relevant requirements of the BCA have been met, the person undertaking the evaluation for the Certification Body must take into account the nature and significance of any nonconformity of the Product identified during the evaluation process.

There are three levels of nonconformity:

a. **Critical -** a nonconformity, where the potential impact warrants immediate corrective action.

b. **Major -** a nonconformity where the potential impact is likely to compromise compliance if no remedial action is taken to correct the nonconformity within a specified period.

c. **Minor** - a nonconformity where the potential impact of the nonconformity is not likely to compromise compliance. An example of a minor nonconformity is where aspects of the Product Quality Plan are not being followed, but because of other factors compliance is not compromised.

C7.4.4.2 Where more than one related minor nonconformity is raised which collectively present a high risk or potential high risk, the nonconformities are to be classified as critical or major immediately by the person undertaking the evaluation for the Certification Body.

C7.4.4.3 A Certification Body must not issue a Certificate of Conformity until critical or major nonconformities have been corrected and the corrective action is verified by the Certification Body. Depending on the nature of the nonconformity, critical nonconformity may require onsite verification, verification by testing, or verification by examination of revised Product instructions.

7.4 Evaluation

7.4.9

Add C7.4.9.1

C7.4.9.1 A Certification Body must document the results of all evaluation activities during the evaluation process and summarise the results of all evaluation activities in an evaluation report, prior to the final review process (see Rule 7.5). The evaluation report must include:

a. all aspects associated with the evaluation of the Product as identified in the evaluation plan and any nonconformities,

b. recommendations or opportunities for improvement of the Product that the Certification Body has identified as part of their evaluation; and

c. the Product's compliance with the requirements of the BCA.

7.5 Review

Add C7.5.3

C7.5.3 For the purposes of Rule 7.5.1 the evaluation process includes the evaluation plan.

7.6 Certification decision

Add C7.6.7 and C7.6.8

C7.6.7 A Certification Body must not issue a Certificate of Conformity if there are outstanding critical or major nonconformities.

C7.6.8 A Certification Body must not represent a certification decision they make as being a decision made as an agent of the Scheme Owner or with the endorsement of the Scheme Owner.

C7.7 Certification documentation

Add 7.7.4 and C7.7.5 and C7.7.6 and C7.7.7 and C7.7.8 and C7.7.9

C7.7.4 A Certification Body must issue any formal certification documentation in the form of a Certificate of Conformity.

C7.7.5 A Certification Body must:

a. within 7 days of the issue or renewal of a Certificate of Conformity, provide a copy to the Scheme Administrator; and

b. within 7 days of the termination, reduction, withdrawal or suspension of a Certificate of Conformity, notify the Scheme Administrator.

C7.7.6 A Certification Body must ensure that each Certificate of Conformity is completed in accordance with the instructions contained in the document 'Information required on a Certificate of Conformity' located on the ABCB website at www.abcb.gov.au.

C7.7.7 A Certification Body must ensure that each Certificate of Conformity:

a. is issued using the template provided by the Scheme Administrator;

b. is signed by both a responsible manager of the Certification Body and the Unrestricted Building Certifier carrying out the functions at Rule C7.4.1.2(b);

c. is valid for 3 years unless withdrawn or suspended; and

d. when reproduced, is reproduced only in its entirety.

C7.7.8 A Certification Body must only use a number on a Certificate of Conformity, if that number is one of the numbers allocated in a block of numbers to it by the Scheme Administrator.

C7.7.9 A Certification Body must assess requests for an amendment to an existing Certificate of Conformity in accordance with the procedures of the Certification Body.

7.9 Surveillance

C7.9.1

Add C7.9.1.1 and C7.9.1.2 and C7.9.1.3 and C7.9.1.4 and C7.9.1.5 and C7.1.9.6

C7.9.1.1 Certification Body must conduct surveillance of all Scheme Certificate Holders and Products covered by Certificates of Conformity issued by that Certification Body, or for which that Certification Body is responsible.

C7.9.1.2 A Certification Body must conduct an initial surveillance within 12 months of the date of issue of the Certificate of Conformity.

C7.9.1.3 A Certification Body must conduct routine surveillance at intervals of not more than 12 months from the initial surveillance for the entire period of time of a valid Certificate of Conformity.

C7.9.1.4 Initial surveillance (see Rule C7.9.1.2) and routine surveillance (see Rule C7.9.1.3) must include at least the following:

a. review of the Product Quality Plan for the Certified Product;

b. assessment of any changes to the BCA that may impact the certification of the Certified Product;

c. assessment of the content of the Certificate of Conformity, for ongoing accuracy and completeness; and

d. ensuring the Certificate of Conformity is correctly displayed on the Register of Certificates of Conformity.

C7.9.1.5 Post Manufacture or Supply Chain Surveillance must be carried out by a Certification Body at least once in the three year cycle of the Certificate of Conformity for each Certified Product. The nature and extent of Post Manufacture or Supply Chain Surveillance is to be determined by the results of the initial certification and any previous surveillance of the Certified Product.

C7.9.1.6 A Certification Body must undertake Post Manufacture or Supply Chain Surveillance if directed by the Scheme Administrator if any Certified Product complaints are received or the Product has been found to be contrary to the information stated on the Certificate of Conformity.

7.9 Surveillance

7.9.4

Add C7.9.4.1 and C7.9.4.2

C7.9.4.1 If a Certification Body becomes aware of any nonconformity of any aspects of certification of a Certified Product, written notice must be promptly provided to the relevant Certificate Holder setting out:

a. a description of the nonconformity;

b. the action required to correct the nonconformity; and

c. the date by when the action must be completed (the close out date).

C7.9.4.2 For the purposes of Rule C7.9.4.1 one of the following nonconformities is to be specified:

a. Critical nonconformity

If a critical nonconformity is found, the Certification Body must direct the Certificate Holder to take immediate corrective action and the Certification Body must set the close out date. Products shall not be produced until the critical nonconformity is closed. A Certification Body must conduct onsite verification of effective implementation of any corrective action.

A Certification Body must immediately suspend or withdraw the Certificate of Conformity İf a critical nonconformity is not actioned by a Certificate Holder by the close out date.

b. Major nonconformity

If a major nonconformity is found, the close out date must not exceed 7 days.

A Certification Body must conduct verification of effective implementation of any corrective action.

A Certification Body must determine that a major nonconformity is now a critical nonconformity İf a major nonconformity is not actioned by a Certificate Holder by the close out date.

c. Minor nonconformity

If a minor nonconformity is found, the Certification Body must agree a suitable close out date with the Certificate Holder. The close out date agreed must reflect

the level of risk associated with the nature of the nonconformity and specify the corrective action required.

A Certification Body must take the following action if a minor nonconformity is not actioned by a Certificate Holder by the close out date:

a. review the reasons for non-action with the Certificate Holder; and

b. depending on the nature of the nonconformity and its potential to affect compliance:

   i. determine that a minor nonconformity still exists and set a new close out date; or

   ii. determine that the nonconformity is now a major or critical nonconformity and escalate the nonconformity.

7.9 Surveillance

Add C7.9.5 and C7.9.6

C7.9.5 Prior to the date of expiry of a Certificate of Conformity, a Certification Body must notify the relevant Certificate Holder of the requirements for renewal of a Certified Product's certification. A Certification Body must allow reasonable time for the Certificate Holder to comply with those requirements and for processing of the renewal to take place. A Certificate Holder is to comply with a Certification Body's renewal process.

7.9.6 For the purpose of renewal, a Certification Body must undertake a full review of the evaluation plan and all current supporting documentation to establish whether the evaluation plan is still appropriate. A full review includes:

a. a review of the Product Quality Plan;

b. an assessment of the content of the Certificate of Conformity for ongoing accuracy and completeness;

c. considering any complaints or feedback on the Product or Certified Product;

d. considering any Product or Certified Product alterations;

e. considering any changes to the BCA and how these effect the Product or Certified Product; and

f. considering any past or current non-conformities of the Product or Certified Product.

7.10 Changes affecting certification

Add C7.10.1.1

C7.10.1.1 If a Certification Body receives a written direction from the Scheme Administrator of an amendment to the BCA or the Rules, the Certification Body must, within 3 months of the notification of amendments to the BCA or the Rules coming into effect respectively, ensure that all current Certificate Holders receive the changes in writing, including setting out what action each Certificate Holder must take to ensure that compliance is achieved with the amended BCA or amended Rules.

7.11 Termination, reduction, suspension or withdrawal of certification

Add C7.11.1.1 and C7.11.1.2 and C7.11.1.3 and C7.11.1.4 and C7.11.1.5

C7.11.1.1 A Certification Body may reduce, suspend or withdraw Certificates of Conformity at any time, for:

a. a breach of these Rules;

b. a breach of the conditions of a Certificate of Conformity;

c. a critical nonconformity (see Rule C7.4.4.1);

d. significantly changing a characteristic of the Certified Product without prior notification to the Certification Body;

e. failure to pay any fees, costs or charges associated with the certification;

f. failure to comply with the procedures of a Certification Body; or

g. misuse of the Mark of Conformity.

C7.11.1.2 A Scheme Certification Body may:

a. suspend certification for any of the reasons in Rule C7.11.1.1 where the transgression can be rectified within 30 days; or

b. withdraw certification for any of the reasons in Rule C7.11.1.1 where the transgression cannot be rectified with 30 days.

C7.11.1.4 A Certification Body must notify, in writing, a Certificate Holder, the Scheme Accreditation Body and the Scheme Administrator of any termination, reduction, suspension or withdrawal of certification and the reasons for the termination, reduction, suspension or withdrawal.

C7.11.1.3 A Certificate Holder may terminate certification at any time by written notice to a Certification Body.

C7.11.1.5 A Certification Body or the Scheme Administrator may publish details of terminated, reduced, withdrawn or suspended Certificates of Conformity.

7.12 Records

Add C7.12.1.1

C7.12.1.1 A Certification Body must retain written records associated with the evaluation that demonstrate compliance with these Rules, the BCA and the Certification Body's documented procedures. In particular, the records retained should be sufficient to clearly show that any assessment, evaluation and renewal requirements have been met.

8 Management system requirements

8.3 Control of documents (Option A)

Add C8.3.1.1

C8.3.1.1 To avoid doubt in Rule 8.3.1, "documents" include a Certificate of Conformity.

Section 5 | Use of the Mark of Conformity

General Rules

43. An Approved User and the Scheme Owner may use or display the Mark of Conformity on:

    a. Certificates of Conformity;

    b. Certified Products, and the packaging or labels associated with those Certified Products; and

    c. inspection reports, stationery, documents or advertising materials associated with Certified Products or the Scheme.

44. An Approved User and the Scheme Owner may use the Mark of Conformity with the symbol ® wherever the Mark of Conformity is used under Rule 43.

45. If a certificate number has been issued by a Certification Body, an Approved User who is also a Certificate Holder, must use the Mark of Conformity only with that certificate number.

    An acceptable example is shown below:

46 An Approved User, who is also a Certificate Holder, must apply the Mark of Conformity either:

    a. directly to the Certified Product by stamping, printing, moulding or etching; or

    b. to the Certified Product packaging, labelling or advertising material.

47 An Approved User, who is also a Certificate Holder, may apply in writing to the Scheme Administrator for approval to:

    a. use the Mark of Conformity without the a certificate number as required by Rule 45;

    b. apply the Mark of Conformity in a different manner to that described in Rule 46; or

    c. vary the acceptable format of the Mark of Conformity detailed in Rule 54.

    If the Scheme Administrator grants approval, the Approved User must use the Mark of Conformity in accordance with that approval.

48 An Approved User, who is also a Certificate Holder, may include an additional statement typically used on product packaging and marketing literature with the Mark of Conformity. Acceptable examples are shown below:

"This Product is marked with the CodeMark Australia Scheme Mark of Conformity. This indicates that the conformity of our Product is based upon technical documentation and review of our Product Quality Plan to monitor our ability to consistently produce the Product in compliance with the requirements of [insert relevant provisions] of the BCA."

"Compliance of this Product with the requirements of [insert relevant provisions] of the BCA is monitored by the CodeMark Australia Scheme Certification Body [insert name]."

49. An Approved User, who is also a Certificate Holder, when reproducing the Certificate of Conformity containing the Mark of Conformity, must only do so by reproducing the entire Certificate of Conformity.

50. An Approved User may only use the Mark of Conformity in advertising that is specific to the Certified Product. When more than one product is advertised, the Mark of Conformity must only be used in association with the Certified Product.

51. An Approved User, who is also a Certificate Holder, must not:

a. use the Mark of Conformity in such a manner as to bring the Scheme Owner, the Scheme Administrator, the Scheme Accreditation Body, or the Certification Body into disrepute; or

b. make any statements regarding the certification of a Product or a Certified Product which may be considered misleading or unauthorised.

52. An Approved User, who is also a Certificate Holder, upon the termination, suspension or withdrawal of a Certificate of Conformity, must:

a. discontinue immediately the use of advertising material that contains any reference to the Mark of Conformity; and

b. comply with the terms contained in written directions issued by the Certification Body associated with the termination, suspension or withdrawal of the Certificate of Conformity.

53. When using a Mark of Conformity in any communication media including documents, brochures and advertising, a Certificate Holder is responsible for ensuring their own compliance with the requirements of these Rules.

Acceptable Formats

54. An Approved User must render the Mark of Conformity in one of the three acceptable formats set out below :

a. Format One: Using the following colours:

BLACK

WHITE

SPOT
PANTONE 541 C

b. Format Two: Appearing in black and grey on a white background. An example follows:

c. Format Three: Appearing in black on a white background or in white on a black background. Examples follow:

55 An Approved User must, to retain the integrity of the mark, use the Mark of Conformity by:

a. applying the minimum clear space as set out in the diagram below:

b. not adjusting the proportions or any part of the Mark of Conformity including the clear space; and

c. not reproducing the Mark of Conformity smaller than 20 mm wide.

Section 6 | **Procedures for Resolving Complaints**

Complaints about a Decision Relating to Certification

56 A person who has a complaint which relates to a decision to grant, maintain, suspend, revoke, withdraw or refuse a Certificate of Conformity (containing the Mark of Conformity) to that person, may take the complaint to the Scheme Certification Body who made that decision. The complaint must be actioned in accordance with Rule 38 clause 7.13.

Complaints about a Decision Relating to the Use of a Mark of Conformity or Claims on a Certificate of Conformity

57 If a person has a complaint which relates to a decision on how an Approved User may use a Mark of Conformity, as set out in the Certificate of Conformity, or about any claims contained on the Certificate of Conformity, the person:

a. Step One: may request a reconsideration of the decision or claim in accordance with the review procedures of the Certification Body;

b. Step Two: if dissatisfied with the decision in Step One, may request review by the Scheme Administrator; and

c. Step Three: if dissatisfied with the decision in Step Two, may request review by the Scheme Owner.

Complaints about a Decision Made by the Scheme Administrator

58 If a person is dissatisfied with an administrative decision made by the Scheme Administrator:

a. Step One: the person may request a reconsideration of the decision in accordance with the review procedures of the Scheme Administrator; and

b. Step Two: if dissatisfied with the decision in Step One, the person may request a review of the decision by the Scheme Owner.

Appendix 1 | Requirements for a Product Quality Plan

An evaluation of a Product Quality Plan must include the following:

1. Does the Product have a quality plan for its manufacturing?
2. What are the quality plan inputs? For example, what are the requirements on resources, and what are the Product specifications?
3. What are the quality objectives as set out in the quality plan? As a minimum, the quality objectives must ensure that Certified Products released in the marketplace are the same as those that are submitted for certification, meet the Certificate of Conformity requirements and are expressed in measurable terms.
4. What are the individual management responsibilities for the quality plan?
5. How are documents and data for the quality plan controlled, for example, identified, reviewed, approved, distributed and accessed?
6. How are records related to the quality plan controlled? For example, what records are established and maintained? How long must records be stored for? What records will be made available to product users?
7. How are resources provided to meet each requirement in the quality plan? In particular:
    a. material resources;
    b. human resources; and
    c. facility resources.
8. What does the quality plan state are the requirements to be met for the Product? All requirements must be stated in measurable terms.
9. Are the production provisions, related monitoring and measurement processes for the Product set out in the quality plan?
10. Does the quality plan specify how non-conforming Products will be controlled?
11. Does the quality plan have recall procedures complying with, or similar to, the 'ACCC Consumer Product Safety Recall Guidelines 2015' that would effectively deal with non-conforming certified Products?
12. What are the internal audit processes set out in the quality plan and are they suitable for the Product?