

SOUTH AUSTRALIA

**ELECTRICAL PRODUCTS REGULATIONS 1997**

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## **SCHEDULE** *Transitional Provisions*

**REGULATIONS UNDER THE ELECTRICAL PRODUCTS ACT 1988**

*Electrical Products Regulations 1997*

being

No. 240 of 1997: *Gaz.* 18 December 1997, p. 1692<sup>1</sup>

<sup>1</sup> Came into operation 1 February 1998: reg. 2.

2.

## **PART 1 PRELIMINARY**

### **Citation**

1. These regulations may be cited as the *Electrical Products Regulations 1997*.

### **Commencement**

2. These regulations will come into operation on 1 February 1998.

### **Revocation**

3. All regulations previously made under the *Electrical Products Act 1988* are revoked.

### **Interpretation**

4. (1) In these regulations—

"**Act**" means the *Electrical Products Act 1988*;

"**applicable Safety and Performance Standard**", in relation to an electrical product of a prescribed class, means the Australian Standard or Standards or the part or parts of the Australian Standard or Standards that apply in relation to electrical products of that class according to the proclamation (as varied from time to time) under section 4(2) of the Act declaring the class;

"**applicable Energy Efficiency Standard**", in relation to a domestic appliance of a prescribed class, means the Australian Standard or Standards or the part or parts of the Australian Standard or Standards that apply in relation to domestic appliances of that class according to the proclamation (as varied from time to time) under section 4(2) of the Act declaring the class;

"**AS**" or "**AS/NZS**" or "**Australian Standard**" means an Australian Standard, as published by the Standards Association of Australia from time to time (including any code or standard called up by or under the Australian Standard);

"**RCM**" means the Regulatory Compliance Mark within the meaning of AS/NZS 4417.

(2) For the purposes of these regulations, a requirement under an Australian Standard to make an application for registration for energy labelling approval is to be disregarded.

**PART 2**  
**PRESCRIBED ELECTRICAL PRODUCTS**

**Labelling of electrical products**

5. For the purposes of section 5(1) of the Act, an electrical product of a prescribed class must be labelled by or on behalf of the holder of a certificate of authority issued under this Part with the number or registered trademark specified in the certificate for the purpose or the RCM.

**Authority to label electrical products**

6. (1) An application for the authority of the Minister to label electrical products for the purposes of section 5(1) of the Act must be accompanied by—

- (a) a written report from a body approved by the Minister for the purpose detailing tests and inspections conducted by the body in accordance with the applicable Safety and Performance Standard for the purposes of determining whether that Standard is complied with in respect of the electrical product and the results obtained; and
- (b) a sample of the electrical product (or a sample length of 1 metre if the electrical product is a flexible cord); and
- (c) certification (in the form required by the Minister) that the electrical products form a regular line of manufacture and that each electrical product in the line accords with the sample.

(2) The Minister may require the applicant to provide further information or reports, or a further sample of the electrical product, for the purposes of determining the application.

(3) The Minister may exempt an applicant from a requirement of subregulation (1)—

- (a) if authority to label has previously been granted to another person in relation to the electrical product; or
- (b) if the electrical product is a modified version of an electrical product for which authority to label has previously been granted; or
- (c) if satisfied that the electrical product has been tested and inspected in accordance with, and complies with, an international or other Standard that provides protections that are at least equivalent to those provided by the applicable Safety and Performance Standard; or
- (d) in any other circumstances that the Minister considers appropriate.

(4) An authority to label an electrical product will not be granted unless the Minister is satisfied that the applicable Safety and Performance Standard is complied with in respect of the electrical product.

(5) If the Minister grants an authority to label an electrical product under this Part, the Minister will issue a certificate of authority to the person to whom the authority is granted.

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(6) A certificate of authority issued under this Part authorises the holder of the certificate to label an electrical product of a kind specified in the certificate as follows:

- (a) the electrical product may be labelled—
  - (i) with the number specified in the certificate for the purpose; or
  - (ii) if the certificate so authorises—with the registered trademark specified in the certificate for the purpose; or
  - (iii) subject to paragraph (b), with the RCM;
- (b) the RCM may only be used if the requirements of AS/NZS 4417 are complied with;
- (c) subject to paragraph (d), the required labelling must appear in a conspicuous place on the exterior of the electrical product;
- (d) the certificate may authorise the required labelling to appear on a container in which the electrical product is sold or elsewhere if it is not practicable for it to appear on the electrical product.

**PART 3**  
**PRESCRIBED DOMESTIC APPLIANCES**

**Labelling of domestic appliances**

7. For the purposes of section 5(2) of the Act, a domestic appliance of a prescribed class must be labelled by or on behalf of the holder of a certificate of authority issued under this Part with a label of a kind contemplated by the applicable Energy Efficiency Standard.

**Authority to label domestic appliances**

8. (1) An application for the authority of the Minister to label domestic appliances so as to indicate their energy efficiency for the purposes of section 5(2) of the Act must be accompanied by—

- (a) a written report relating to the domestic appliance prepared in accordance with the applicable Energy Efficiency Standard by a body approved by the Minister for the purpose; and
- (b) a sample of the label in relation to which authority is sought.

(2) The Minister may require the applicant to provide further information or reports, or a sample of the domestic appliance, for the purposes of determining the application.

(3) The Minister may exempt an applicant from a requirement of subregulation (1)—

- (a) if authority to label has previously been granted to another person in relation to the domestic appliance; or
- (b) if the domestic appliance is a modified version of a domestic appliance for which authority to label has previously been granted; or
- (c) if satisfied that a written report relating to the domestic appliance has been prepared by a suitable body in accordance with an international or other Standard that is comparable to the applicable Energy Efficiency Standard; or
- (d) in any other circumstances that the Minister considers appropriate.

(4) An authority to label a domestic appliance will not be granted unless the Minister is satisfied that the applicable Energy Efficiency Standard is complied with in respect of the domestic appliance and the proposed label.

(5) If the Minister grants an authority to label a domestic appliance under this Part, the Minister will issue a certificate of authority to the person to whom authority is granted.

(6) A certificate of authority issued under this Part authorises the holder of the certificate to affix a label of a kind specified in the certificate to a domestic appliance of a kind specified in the certificate in accordance with the applicable Energy Efficiency Standard.

**PART 4  
MISCELLANEOUS**

**Duration and renewal of certificates of authority**

**9.** (1) A certificate of authority issued under Part 2 or 3 remains in force for a period of 5 years from the date on which it is issued.

(2) The Minister may, on the application of the holder of a certificate of authority before expiry of a period for which the certificate is in force, renew the certificate for successive periods of 5 years.

**Transfer of certificates of authority**

**10.** The holder of a certificate of authority issued under Part 2 or 3 may, with the consent of the Minister, transfer the certificate to another person (and, if consent is given, the Minister will vary the certificate accordingly).

**Variation of certificates of authority**

**11.** The holder of a certificate of authority issued under Part 2 or 3 may apply to the Minister to vary the certificate as necessary to accommodate—

- (a) a modification of the electrical product that does not, in the opinion of the Minister, significantly affect any characteristic of the electrical product relevant to the determination of the original application for authority to label the electrical product; or
- (b) a variation in the brand, model or other designation of the electrical product.

**Cancellation of certificates of authority**

**12.** (1) The Minister may cancel a certificate of authority issued under Part 2 or 3 by written notice to the person to whom it is issued—

- (a) if the Minister has, under section 6 of the Act, prohibited the sale or use (or both sale and use) of electrical products to which the certificate relates; or
- (b) if the Minister is satisfied that the terms of the certificate or these regulations have not been or are not being complied with.

(2) The Minister must, before cancelling a certificate of authority under subregulation (1)(b), give the person issued the certificate a reasonable opportunity to show cause why the certificate should not be cancelled.

(3) A person must, within 21 days after receiving a notice under subregulation (1), return the certificate of authority to which the notice relates to the Minister.

Maximum penalty: \$1 000.

Expiation fee: \$150.

**Register of certificates of authority**

**13.** (1) The Minister will keep a register of certificates of authority issued under Part 2 or 3.

(2) The register will include the following information in relation to each certificate of authority issued under Part 2 authorising the labelling of electrical products of a prescribed class:



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- (a) the name and address of the holder of the certificate; and
- (b) a description of the electrical product to which the certificate relates; and
- (c) the number of the certificate; and
- (d) if the certificate authorises the use of a specified registered trademark—the registered trademark; and
- (e) if the certificate authorises the labelling to appear on a container in which the electrical product is sold or elsewhere—details of that authorisation; and
- (f) if the Minister has been notified that the holder intends to label the electrical product with the RCM—details of the notification.

(3) The register will include the following information in relation to each certificate of authority issued under Part 3 authorising the labelling of domestic appliances of a prescribed class:

- (a) the name and address of the holder of the certificate; and
- (b) a description of the domestic appliance to which the certificate relates; and
- (c) details of the label to which the certificate relates.

(4) The register will be available for inspection by members of the public during ordinary business hours on payment of a fee fixed by the Minister.

#### **Notification of change of name or address**

**14.** If there is any change in the name or address of the holder of a certificate of authority, the holder must, within 21 days after that change, notify the Minister in writing of the new name or address (as the case requires).

Maximum penalty: \$1 000.

Expiation fee: \$150.

#### **Disposal of samples**

**15.** (1) An applicant who provides the Minister with an electrical product as a sample under Part 2 or 3 must make arrangements (acceptable to the Minister) for the disposal of the electrical product within 28 days after notice in writing to do so by the Minister.

(2) If an electrical product is not disposed of as required by subregulation (1), the Minister may arrange for its disposal and recover the cost of doing so from the applicant.

#### **General requirements for applications**

**16.** (1) An application under these regulations—

- (a) must be made in the manner and form required by the Minister; and
- (b) must be accompanied by the fee fixed by the Minister.

(2) The Minister may waive or refund a fee payable under these regulations.

**Examination and purchase of electrical products**

**17.** (1) If requested by an authorised person, a trader must—

- (a) make all electrical products of a class specified by the authorised person that are in the trader's possession available for examination by the authorised person;
- (b) inform the authorised person of the date when the trader obtained an electrical product;
- (c) inform the authorised person of the person from whom the trader obtained an electrical product;
- (d) produce to the authorised person all vouchers, invoices and accounts in respect of an electrical product that are in the trader's possession.

Maximum penalty: \$2 000.

(2) A trader who refuses to sell to an authorised person an electrical product that the authorised person is seeking to purchase for the same price as the electrical product is sold to other purchasers (or, if that price cannot be identified, for a fair price offered by the authorised person) is guilty of an offence.

Maximum penalty: \$2 000.

**Testing of electrical products**

**18.** (1) The Minister may, at any time, cause tests to be carried out on an electrical product that—

- (a) is offered or exposed for sale by a trader; and
- (b) is, in order to be lawfully sold by the trader, required to be labelled under the authority of the Minister or an authority conferred by a corresponding law.

(2) If an electrical product tested under subregulation (1)—

- (a) does not conform with an applicable Safety and Performance Standard or an applicable Energy Efficiency Standard; or
- (b) in the case of a domestic appliance, does not conform with the information as to its energy efficiency contained in a label affixed to the domestic appliance,

the Minister may (by application in proceedings for an offence against the Act or these regulations or by action in a court of competent jurisdiction) recover from the trader by whom the electrical product was offered or exposed for sale the costs incurred in purchasing the electrical product and having it tested.

**Offences relating to labels**

**19.** (1) A person must not, while an electrical product is being offered or exposed for sale by a trader, alter, interfere with or obscure from view a label affixed to the electrical product for the purposes of the Act or a corresponding law.

Maximum penalty: \$2 000.

(2) A trader must not offer or expose an electrical product for sale if a label affixed to the electrical product for the purposes of the Act or a corresponding law is not readily legible by a purchaser or prospective purchaser.

Maximum penalty: \$2 000.

(3) A trader must not display on or near a domestic appliance that is being offered or exposed for sale by the trader a sign or notice that—

- (a) contains information conflicting with the information contained in a label affixed to the domestic appliance for the purposes of the Act or a corresponding law; or
- (b) is likely to mislead a purchaser or prospective purchaser as to matters to which information contained in any such label relates.

Maximum penalty: \$2 000.

**False or misleading statements**

**20.** A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in information provided, or a report prepared, for the purposes of an application under these regulations.

Maximum penalty: \$2 000.

**Hindering or obstructing authorised person**

**21.** A person must not hinder or obstruct an authorised person in the exercise of powers conferred by the Act or these regulations.

Maximum penalty: \$2 000.

**SCHEDULE**  
*Transitional Provisions*

**Interpretation**

1. In this Schedule—

"**revoked regulations**" means the regulations revoked by these regulations.

**Authority to label**

2. (1) An authorisation to label—

(a) an electrical product of a prescribed class for the purposes of section 5(1) of the Act; or

(b) a domestic appliance of a prescribed class so as to indicate energy efficiency for the purposes of section 5(2) of the Act,

under the revoked regulations continues in effect as if a certificate of authority had been issued to the holder of the authorisation under these regulations.

(2) A certificate of authority to label a domestic appliance of a prescribed class that has effect under subclause (1) expires 5 years after the commencement of these regulations.