ERAC
ELECTRICAL REGULATORY AUTHORITIES COUNCIL

Australia and New Zealand's Electrical Equipment Safety System (EESS)

A GUIDE TO SUPPLYING SAFE ELECTRICAL EQUIPMENT

FOR MANUFACTURERS, IMPORTERS, SUPPLIERS, RETAILERS AND ALL TRADERS OF ELECTRICAL APPLIANCES AND FITTINGS

WHO SHOULD READ THIS?

Manufacturers and importers of electrical equipment
Suppliers of electrical equipment
Retailers of electrical equipment

ERAC IS THE PEAK BODY OF REGULATORS RESPONSIBLE FOR THE OPERATION OF AN EFFECTIVE POLICY MAKING, INVESTIGATION, COMPLIANCE, ENFORCEMENT AND CONFORMANCE SYSTEM FOR ELECTRICAL SAFETY ACROSS AUSTRALIA AND NEW ZEALAND.

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INTRODUCTION

WHAT DOES ERAC DO?

ERAC is the peak body of regulators responsible for the operation of an effective policy making, investigation, compliance, enforcement and conformance system for electrical safety across Australia and New Zealand.

We administer electrical safety legislation applicable in all states and territories of Australia and New Zealand covering electrical generation, transmission, distribution, installation, worker and contractor licensing and equipment safety.

As part of administering this legislation we promote, monitor and enforce safe supply and use of electrical equipment by:

- Working with manufacturers, importers, suppliers retailers and all traders of electrical equipment to ensure they provide safe products to Australian and New Zealand consumers;
- Monitoring the Australian and New Zealand marketplace to encourage appropriate behaviour and processes that ensure the safe supply and use of electrical equipment;
- Conducting compliance audits and check testing of electrical equipment and suppliers;
- Investigating incidents involving electrical equipment;
- Investigating complaints of non-compliance involving electrical equipment;
- Providing advice to Australian and New Zealand Governments on electrical safety issues associated with electrical equipment.

All electrical equipment in Australia and New Zealand must comply with the fundamental safety requirements and any relevant standards under applicable state, territory and national electrical safety legislation.

WHAT IS THIS GUIDE?

ERAC has produced this guide to give manufacturers, importers, suppliers, retailers and all traders of electrical equipment information that will help you:

- Comply with safety requirements in Australia and New Zealand;
- Contribute to safe and fair trading;
- Take the appropriate steps before supplying the Australian and New Zealand market;
- Avoid enforcement action which can be costly to the responsible supplier, especially where someone has been harmed, property damaged or a safety recall is required.

The information in this guide tells you about;

- Compliance requirements;
- Market monitoring and audit processes;
- Enforcement action for non-compliance.

The information in this guide is current as at the date of publication and is intended to be used in conjunction with the relevant electrical safety legislation for all states and territories of Australia and New Zealand. No information in this guide overrides or replaces any requirement specified by electrical safety legislation or regulations in Australia or

To reduce compliance and enforcement action, ensure your equipment is safe before placing it in the Australian and New Zealand marketplace.

BACKGROUND TO ERAC'S EESS

It is important for people with duties, obligations or responsibilities for carrying out requirements under relevant electrical safety legislation for all states and territories of Australia and New Zealand to understand how and why we choose to respond to non-compliance.

It is also important to outline our overall approach to enforcement. This will help you develop or refine your own internal operating systems and procedures to achieve compliance.

OPTIMISING SAFETY

The use of electrical equipment in Australia and New Zealand is commonplace in almost every aspect of business and personal life. Society relies on electrical technology to improve business efficiency, maintain well being and improve social interaction. The use of electricity as an energy source brings with it risks that need to be understood and managed.

ERAC manages the acceptable levels of electrical safety through the Electrical Equipment Safety System (EESS) that forms part of the regulatory environment. In addition Australia and New Zealand's regulatory environment is closely aligned with international practices through the application of relevant Australian and New Zealand Standards which are based on International Standards wherever possible.

Where appropriate Mutual Recognition Arrangements (MRA's) between Australian States and Territories and New Zealand and our trading partners reduce the impact of the regulatory environment and support compliance through international regulatory co-operation.

HARMONISATION

ERAC has introduced model legislation which Australian states and territories and New Zealand have replicated into their own legislation to create a harmonised legislative environment for electrical equipment safety to support the EESS.

In addition all certification bodies which certify the safety of electrical equipment in Australia and New Zealand must follow uniform EESS Equipment Safety Rules in order to harmonise pre-market certification processes.

A copy of the EESS Equipment Safety Rules may be found at www.erac.gov.au.

The Electrical Equipment Safety System is based on:

- ***Harmonised electrical safety legislation;***
- ***Uniform Equipment Safety Rules;***
- ***Australian and New Zealand Standards;***
- ***International Standards.***

ERAC'S COMPLIANCE STRATEGY

To support the EESS, ERAC's compliance strategy ensures safety issues are quickly identified and consistently managed. Our Strategy is to:

- Monitor the market across the distribution chain and promote greater industry and public awareness of equipment safety;
- Promote greater industry and public awareness of equipment safety compliance requirements such as the use of the Regulatory Compliance Mark (RCM) as the symbol that equipment meets the EESS;
- Audit manufacturers, importers and suppliers of electrical equipment to ensure they comply with safety fundamentals and with legislative obligations;
- Enforce compliance, including issuing notices and prosecution proceedings as appropriate.

ERAC's compliance program has five key components:

- ***Increase industry and public awareness of the need for compliance;***
- ***Proactively audit electrical equipment;***
- ***Investigate incidents involving electrical equipment;***
- ***Investigate cases where non-compliance is suspected or reported;***
- ***Carry out enforcement activities.***

EQUIPMENT COMPLIANCE

WHO MUST COMPLY?

Every Responsible Supplier who manufactures or imports electrical equipment in Australia and New Zealand must ensure their equipment meets the established regulatory framework. This applies whether the equipment is imported or domestically produced.

Importers or manufacturers of electrical equipment must ensure their appliances meet all safety obligations. For instance a gas water heater that needs electrical supply would need to meet the requirements of the EESS and gas safety requirements, which can be found at www.gtrc.gov.au

In addition, there are obligations in regard to Electromagnetic Compatibility (EMC) and energy efficiency with some equipment. Further details on these requirements may be found at:
www.acma.gov.au
www.ret.gov.au
www.rsm.govt.nz
www.eeca.govt.nz
www.energyrating.gov.au
www.waterrating.gov.au

If you need advice about compliance with regulations, ERAC recommends you seek advice from professional consultants who specialise in electrical safety or an accredited testing or certification agency such as those on the NATA or JAS-ANZ websites.
http://www.nata.asn.au/
http://www.jas-anz.com.au/

REGULATORY FRAMEWORK

Australia and New Zealand's harmonised regulatory framework requires every piece of electrical equipment that is sold or offered for sale to be safe. The equipment must meet the relevant standard and appropriate evidence of conformity must be kept to show this. The responsibility for ensuring this rests with the Responsible Supplier.

The framework aligns with the following World Trade Organisation (WTO) requirements:

- Performance based;
- Risk driven;
- Aligned with International Standards;
- Inclusive of MRA's.

Relevant Standard –
For level 1 in-scope electrical equipment
The relevant standard for a type of level 1 in-scope electrical equipment is:

(a) If there is a Standards Australia or joint Standards Australia and Standards New Zealand standard that applies specifically to the type—that standard together with AS/NZS3820 (Essential safety requirements for electrical equipment); or

(b) If there is not a Standards Australia or joint Standards Australia and Standards New Zealand standard that applies specifically to the type and there is an IEC standard that applies specifically to the type—the IEC standard together with AS/NZS3820; or

(c) If neither paragraph (a) nor (b) applies—AS/NZS3820.

For level 2 or 3 in-scope electrical equipment
A standard is a relevant standard for a type of level 2 or 3 in-scope electrical equipment if it is a standard:

(a) Shown in the AS/NZS 4417 as the relevant standard for the type, and the standard can be readily applied to the type; or

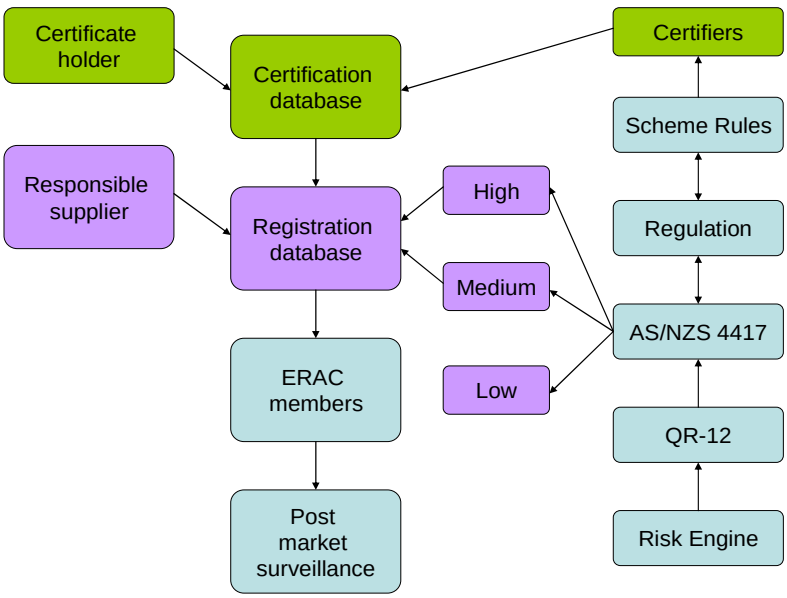
(b) Accepted by a Regulatory Authority as a standard that can be readily applied to the type.

ELECTRICAL EQUIPMENT SAFETY SYSTEM OVERVIEW

The new EESS will commence on 1 March 2013 and has the following features in relation to “in-scope” electrical equipment:

- Nationally consistent, electrical equipment safety legislation throughout Australia and New Zealand that will greatly increase consumer safety.
- A National Database where all suppliers and certain types of equipment must be registered prior to being offered for sale. This will allow equipment to be easily traced to its supplier and act as a gateway to the legal supply of electrical equipment in Australia and New Zealand.
- Risk based classification of equipment into 3 levels (Level 3 = High Risk, Level 2 = Medium Risk and Level 1 = Low Risk) with different requirements for each level.
- A self-funding, user-pays system where registration fees fund improved compliance, surveillance and post market enforcement activities.
- Registration of a ‘Responsible Supplier’, who is a manufacturer or importer of in-scope electrical equipment and who is a legal entity in Australia or New Zealand, has must ensure the safety of the electrical equipment they sell.

The EESS has the following components which will be discussed in this guide:



In-Scope means all new electrical equipment with a rated voltage of:

- *Greater than 50 V AC RMS or 120V ripple-free DC, and*
- *Less than 1000V AC RMS or 1500V ripple-free DC,*

That is designed, or marketed as suitable, for household, personal or similar use.

GENERAL SAFETY REQUIREMENTS

While there is a general requirement under legislation for all electrical equipment to be safe, the Australian and New Zealand regulatory environment also requires equipment to meet the relevant standards and as a minimum meet the essential safety characteristics and requirements set out in AS/NZS 3820.

RESPONSIBLE SUPPLIERS

A Responsible Supplier is a person, company or business that manufactures in-scope electrical equipment in Australia or New Zealand, or imports in scope electrical equipment into Australia or New Zealand.

A Responsible Supplier must be a legally identifiable Australian or New Zealand entity holding an Australian Business Number (ABN), or a New Zealand Inland Revenue Department (IRD) number.

Responsible Suppliers have the main obligation for complying with the Electrical Equipment Safety System. The legislation requires Responsible Suppliers to ensure that the electrical equipment they sell meets relevant standards and is electrically safe. Failure to do so could result in significant penalties.

A Responsible Supplier is a person who manufactures in-scope electrical equipment in, or imports the in-scope electrical equipment into, Australia or New Zealand.

NATIONAL DATABASE

ERAC has established a National Database as the gateway for the supply of in-scope electrical equipment to Australia and New Zealand.

The database records the registration details of Responsible Suppliers of in-scope electrical equipment in Australia and New Zealand. Responsible Suppliers are required to register their details on the database.

As part of the registration process, Responsible Suppliers also make a declaration that the equipment they sell meets relevant standards and is electrically safe.

The database records the details of all Level 2 (medium risk) and Level 3 (high risk) electrical equipment. Responsible Suppliers are required to register all types of Level 2 and Level 3 equipment they sell on the database.

The database also records the certification details of Level 3 (high risk) electrical equipment which requires a valid Certificate of Conformity before it can be sold in Australia and New Zealand.

Compliance Folders for Level 2 (medium risk) equipment can be uploaded onto the database.

Responsible Supplier Declarations or Equipment Declarations are also recorded on the database.

The National Database is accessible at www.erac.gov.au

The National Database is the gateway for the supply of in-scope electrical equipment to Australia and New Zealand. Responsible Suppliers must be registered on the database as well as registering the Level 3 and Level 2 equipment they supply

RESPONSIBLE SUPPLIER REGISTRATION

The legislation requires all Responsible Suppliers to be registered on the National Database. Registration must be renewed annually with an annual registration fee payable by Responsible Suppliers when they register.

Responsible Suppliers are to ensure that the details contained on the database are current, and must update their details (i.e. contact person, address, etc) within 30 days of those details changing. Penalties apply if it is found that a Responsible Supplier's details are not current on the National Database.

A Responsible Supplier must make a Responsible Suppliers Declaration when they register on the National Database. This is a generic declaration all Responsible Suppliers make that all electrical equipment they supply is electrically safe and will continue to meet relevant standards and comply with the EESS. This Responsible Suppliers Declaration will apply to all electrical equipment generally, and is the only declaration required that will cover Level 1 (Low Risk) electrical equipment.

In addition to the Responsible Suppliers Declaration, for Level 2 (Medium Risk) and Level 3 (High Risk) electrical equipment, Responsible Suppliers must also make Equipment Declarations. The Equipment Declaration is equipment specific and is made when equipment of this type is registered on the database. These declarations state that the equipment meets relevant standards in a way that is required under the EESS for that classification of electrical equipment.

EVIDENCE OF CONFORMITY

The EESS provides for in-scope electrical equipment to be classified into three levels (high, medium and low risk). There are proportionate evidence of conformity requirements for each level, depending upon the potential risk of the item.

All in-scope electrical equipment must be electrically safe and meet the relevant standards.

There are different requirements for evidence of compliance with relevant standards for each equipment risk level.

Level 1 electrical equipment (Low Risk). The Responsible Supplier for Level 1 equipment must keep evidence, in English, that the items meet the relevant standard at the time the item was either manufactured or imported. This evidence is to be kept by the Responsible Supplier for a period of 5 years starting on the day the item is last manufactured or imported by the Responsible Supplier.

Level 2 electrical equipment (Medium Risk). A Responsible Supplier is required to keep a Compliance Folder. A Compliance Folder is a document recording evidence, in English, that must include test reports completed by an approved testing entity or a suitably qualified person, confirming that the equipment type being registered meets the relevant standard(s).

Level 3 electrical equipment (High Risk) The evidence of compliance for level 3 equipment is a valid Certificate of Conformity. The Certificate of Conformity must be issued by a recognised certifying body for each item of Level 3 electrical equipment, or family of items.

Appropriate evidence of conformity must be kept by the Responsible Supplier and made available on the National Database or to an electrical safety inspector on request.

LEVEL 3 EQUIPMENT

Level 3 electrical equipment is classified as a potential high risk level. This means that before a Level 3 product can be sold legally in Australia, it must meet the following requirements:

- There must be a registered Responsible Supplier whose name and details are linked to the equipment;
- The equipment must be registered on the National Database;
- The equipment must have a valid Certificate of Conformity from a recognised certifier; and,
- The equipment is to be marked with the Regulatory Compliance Mark (RCM).

CERTIFICATION

A person may apply to a recognised Certifier for a Certificate of Conformity for a type of Level 3 in-scope electrical equipment. Certifiers include Regulator Authorities and Recognised External Certification Schemes.

The application must be in the approved form, and accompanied by:

- A test report from an approved testing entity,
- The equipment itself or colour images showing the internal and external construction of the equipment;
- Technical documentation describing the item, and;
- The required application fee.

In addition all certification bodies which certify the safety of electrical equipment in Australia and New Zealand must follow uniform EESS Equipment Safety Rules in order to harmonise pre-market certification processes.

A copy of the EESS Equipment Safety Rules may be found at www.erac.gov.au.

A person who is granted a Certificate of Conformity is referred to as a Certificate Holder. A Certificate Holder may be located anywhere in the supply chain including outside Australia and New Zealand.

Australian and New Zealand Responsible Suppliers may be a Certificate Holder or may use a Certificate of Conformity of a Certificate Holder under agreement in order to register Level 3 equipment for sale in Australia or New Zealand.

A certifier may be a government electrical safety regulator in Australia or New Zealand or a recognised external certification scheme designated by a regulator to certify Level 3 electrical equipment under the EESS legislation.

The ERAC Certification portal can direct you to these certifiers and applications can be made for certification can be made at this portal at www.erac.gov.au

LEVEL 2 EQUIPMENT

Level 2 electrical equipment is classified as a potential medium risk.

Before a Level 2 item can be sold legally in Australia it must meet the following requirements:

- The item must be registered on the National Database and linked to a registered Responsible Supplier
- The Responsible Supplier must keep or have access to a Compliance Folder proving that the equipment is electrically safe and meets the relevant standard(s) as in force at the time of the equipment registration.
- The equipment is to be marked with the Regulatory Compliance Mark (RCM).

COMPLIANCE FOLDERS

A Compliance Folder contains evidence (including test reports), in English, confirming that the equipment meets the relevant standard(s). These test reports must be completed by an approved testing entity or a suitably qualified person.

The Compliance Folder may be kept in an electronic form on the National Database. Alternatively, the Responsible Supplier can keep the folder or must be able to access it within 10 business days. The Compliance Folder must be retained by the Responsible Supplier for five years after the term of registration for the equipment ends.

A Compliance Folder is the required evidence of compliance with relevant standards for Level 2 equipment.

Compliance Folders must contain evidence of conformity with the relevant standard for level 2 equipment . Compliance Folders must either be uploaded into the national database, or the address where the compliance folder must be entered into the National Database during the registration process.

LEVEL 1 EQUIPMENT

Equipment classified as level 1 is considered as potentially low risk.

Before level 1 equipment can be sold, the following requirements must be met:

- The equipment must be electrically safe and meet the relevant standard(s)
- The equipment must be marked with the Regulatory Compliance Mark (RCM).

Whereas Level 2 and Level 3 type equipment requires registration on the National Database as well as certain evidence of conformance for each of those types of equipment, there is no specific evidence of conformance required to be held by Responsible Suppliers for Level 1 electrical equipment.

However, Responsible Suppliers of Level 1 electrical equipment must hold evidence that the equipment is electrically safe and meets the relevant standard(s) as in force at the time the equipment was manufactured or imported by the Responsible Supplier.

The evidence must be retained by the Responsible Supplier for five years from the date the equipment was last imported or manufactured by the Responsible Supplier.

EQUIPMENT DECLARATION

Part of the Responsible Supplier registration process is the completion of a Responsible Suppliers Declaration stating that the equipment they supply is electrically safe and meets the relevant standards.

Declarations must be made by an Authorised Representative of the Responsible Supplier. There are significant penalties for making a false declaration under the EESS legislation.

RISK ENGINE

A Risk Engine or risk calculator is used to help determine which types of electrical equipment are Level 3 and Level 2 equipment. The Risk Engine is used by the Australian and New Zealand Standards committee QR-12 made up of electrical industry experts from government and private industry to assess risk.

These types of Level 3 and Level 2 electrical equipment are then identified in Australian and New Zealand Standard AS/NZS 4417.2 and published on the ERAC website.

All in-scope electrical equipment not published as level 3 or Level 2 equipment in this way is automatically classified as Level 1 equipment under the EESS legislation.

The Risk Engine methodology has been assessed and validated by the Royal Melbourne Institute of Technology's Mathematical and Geospatial Sciences Department as a best practice risk assessment tool for the electrical equipment industry globally.

LABELLING WITH THE REGULATORY COMPLIANCE MARK

All Level 1, 2 or 3 electrical equipment offered for sale in Australia and New Zealand by Responsible Suppliers is to be marked with the Regulatory Compliance Mark (RCM), as illustrated below:

The RCM should be placed on the external surface of the electrical equipment as near as possible to the model identification or alternatively, it may be placed on the packaging or promotional material for that item where it is not possible to put the RCM on the item itself due to the size or nature of the equipment.

Further information on labelling of items with the RCM can be found in the *AS/NZS 4417.1 (Use of the mark).*

Responsible Suppliers are given the exact dimensions of the RCM in accordance with AS/NZS 4417.1 when they register on the National Database as a Responsible Supplier.

TRANSITIONING FROM OLD TO NEW REGULATIONS

WHAT YOU NEED TO KNOW

The uniform EESS legislation adopted by all states and territories of Australia and New Zealand on 1 March 2013 has provisions that allow equipment that was in Australia and New Zealand to continue to be marketable under the rules of the previous legislation applicable in those jurisdictions for a transitional period.

Approval to sell products under these previous rules was granted for a period of up to five years and these approvals will continue to be valid under the new EESS until they expire.

Responsible Suppliers only supplying Level 1 equipment have up to six months from the commencement date to register on the national data base. If a Responsible Supplier is supplying Level 3 or Level 2 equipment then they would need to register within six months in order to register this equipment in that time as required by the EESS legislation.

Responsible Suppliers have three years to ensure all equipment they import or manufacture is marked with the RCM. Equipment already in the market will have five years before the marking requirement applies to allow the sale of this existing stock.

Transitional arrangements were established by ERAC in consultation with industry associations representing manufacturers and suppliers of electrical equipment based on supply chain logistics.

MARKET MONITORING OF ELECTRICAL EQUIPMENT

WHY MONITOR?

Regular market monitoring of electrical equipment through audits and inspections of suppliers and equipment is ERAC's proactive approach to maintaining the compliance framework and promoting the appropriate steps to compliance. This minimises the likelihood of unsafe equipment reaching Australian and New Zealand consumers as well as reducing the costs to the community associated with electrical injury and property damage.

Our approach to market monitoring is to:

- Ensure that electrical equipment complies with regulations;
- Strengthening relationships with the electrical industry through education;
- Improve ERAC's understanding of the marketplace;
- Maintain the integrity of the EESS;
- Provide a level playing field for suppliers;
- Target non-compliance.

AUDITS AND INSPECTIONS

WHO CAN BE AUDITED?

Anyone who imports, manufactures, and/or sells electrical equipment in Australia and New Zealand can be audited by electrical safety inspectors.

WHAT ARE THE SELECTION CRITERIA?

The selection criteria used by ERAC are based on:

- Supplier risk assessment;
- Equipment risk assessment;
- Complaints and incidents;
- Advice from other regulatory agencies;
- Type of supplier or trader;
- Regional spread.

INCIDENTS

Where an incident involving electrical equipment occurs that is considered significant or where equipment compliance is drawn into question. ERAC members may at the time of investigation:

- Request the Responsible Supplier to provide information relating to equipment safety or compliance, such as evidence of conformity and/or
- Request the supplier to cease sale of electrical equipment.

Any subsequent action will follow the ERAC member's compliance and enforcement procedures in the jurisdiction where the non compliance occurred.

ALERTS

ERAC maintains a number of international linkages and co-operation arrangements with other regulatory agencies where information on equipment safety is exchanged and surveillance activities are carried out co-operatively.

Based on information exchanged under these arrangements equipment investigations may be carried out or direct enforcement action implemented.

In some cases information from industry participants may be brought to the attention of ERAC for assessment and follow-up action.

Electrical safety inspectors have wide ranging powers to inspect and seize documentation and equipment, write improvement and infringement notices and to initiate prosecutions and recalls involving unsafe electrical equipment.

THE AUDIT PROCESS

If you are selected for a planned electrical equipment audit, ERAC members will normally give you notice. Spot audits may also occur without advance notice, normally during business hours. When an electrical safety inspector visits, you will need to provide:

- Details of the appropriate contact person authorised to respond on behalf of the business;
- Details of your business e.g. registered company, partnership;
- The basis on which the equipment is legally sold in Australia and New Zealand such as evidence of conformity;
- Evidence of correct equipment labelling or marking;
- Evidence of general suitability for the marketplace, including correct plugs, warning labels and instruction manuals.

Obstructing an electrical safety inspector or providing them with false or misleading information may result in significant penalties.

OUTCOMES OF AUDITS

ERAC members will advise the outcome when all elements of the audit have been considered. At the time of the audit, a verbal explanation will be given which may include advice to cease sale.

If the audit has been deemed unsatisfactory inspectors will advise of the problem(s) requiring remedy. Compliance action may include issuing an improvement or infringement notice or the commencement of a prosecution. See the Enforcement section of this Guide for more information.

If you have concerns about any electrical equipment, please contact the ERAC member regulator in your area whose contact details can be found at:
http://www.erac.gov.au/index.php?option=com_content&view=article&id=71:memberoferac&catid=77&Itemid=474

ENFORCEMENT

ERAC members work with manufacturers, importers and suppliers throughout the audit and investigation process to initiate proactive education strategies and audit programs that enhance our effectiveness as safety regulators.

ASSESSMENT PROCESS

Enforcement of electrical equipment safety is based on ERAC members observations and assessment of the market. ERAC members operate in a fair and consistent manner when dealing with non-compliance.

Non-compliance is based on evidence and circumstance to determine the appropriate action required. The action may be a warning or improvement notice, infringement notice or other notice necessary to protect the public or a prohibition or prosecution. A variety of factors are considered for their impact on public safety and care including:

- Severity of offence;
- Impact of offence;
- Co-operation, attitude and behaviour;
- Operational implications;
- Risk to consumers and members of the public.

If the impact from the assessment indicates that non-compliance is sufficiently serious or there is a previous history of non-compliance, an infringement notice may be issued during or directly after the investigation or audit. The sale or offer for sale of a prohibited item will normally result in an infringement notice.

ERAC members will also consider what action(s) may be necessary to correct non-compliance which may include a prohibition. Failure to comply with a prohibition will normally result in a prosecution.

The electrical equipment may also be subject to a compulsory recall to remove hazards from the community under the uniform EESS legislation.

WARNINGS AND ADVISORIES

A warning or improvement notice will outline:

- The offence observed;
- The remedial action to take.

The warning or infringement notice may be accompanied by advice to cease sale and notify consumers who have purchased that equipment.

A follow up audit may be made to monitor compliance and any remedial action required. If remedial action is not taken within the specified time frame, enforcement may be escalated to ensure protection of the public and their property.

While an infringement notice carrying a penalty may follow from an unresolved warning or improvement notice, there is no requirement to give a warning first.

INFRINGEMENT NOTICES

An infringement notice will be issued in the form specified in regulations, and will outline:

- The relevant infringement offence;
- Your rights and obligations;
- The amount of the infringement penalty;
- The address for payment of the penalty.

Paying an infringement penalty will not excuse you from carrying out any remedial action. Continuing to commit an offence may result in further notices or prosecution.

Infringement notices include an explanation of the recipient's responsibilities and rights, so should be read carefully and advice should be sought if necessary.

The following are examples of offences and their related penalties under the uniform EESS legislation:

- *Selling equipment without registering on the national database;*
- *Selling equipment which is not appropriately marked or labelled;*
- *Failing to hold evidence of conformity to the relevant safety standard.*

Penalty:

- *Individual $400*
- *Corporation $800*

OFFENCES AND PROSECUTIONS

ERAC members may take prosecution action rather than issue an infringement notice. This will be considered on a case by case basis.

Penalties vary depending on the severity of the offence and the relevant jurisdiction taking the prosecution. The maximum penalty for a breach of a regulation is $4000 for an individual or $8000 for a corporation.

The maximum penalty for a breach of an electrical safety obligation or duty resulting in death is $300 000 for an individual or $1.5m for a corporation. The maximum penalty for a breach of an electrical safety obligation or duty resulting in multiple deaths is $600 000 or 5 years imprisonment for an individual or $3m for a corporation.

PROHIBITIONS

If it is determined that a serious safety risk is occurring, or could occur, then a prohibition notice may be issued.

A prohibition notice may:

- Require ceasing importation, use, sale or manufacture of the equipment;
- Alert the public or those who have purchased the equipment of safety risks;
- Specify that an instruction be carried out in a stipulated way.

Failing to comply with a prohibition notice may result in a prosecution.

RECALLS

Where it is considered appropriate, recalls will be implemented under the EESS legislation to protect the community from electrical equipment posing electrical safety risks.

Commonly recalls involve the placing of advertisements in newspapers advising the public of the make and model of the electrical equipment affected by the recall and advising how the equipment can be returned or repaired by the supplier.

Recalls are co-ordinated between ERAC and the Australian Consumer and Competition Commission and the New Zealand Ministry of Consumer Affairs who also have the power to recall any unsafe product.

A manufacturer or importer may be issued a recall order under legislation requiring electrical equipment be recalled from use including the provision of information about the recall and actions to be taken such as repair or replacement of the equipment. The cost of the recall is to be incurred by that manufacturer or importer.

INFORMATION

Throughout this publication we refer to ERAC members who are electrical safety regulators in Australian states and territories and New Zealand. Please consult these regulators on specific electrical equipment safety matters in those jurisdictions via the websites listed below.

LINKS TO WEBSITES

www.erac.gov.au

Western Australia

http://www.energysafety.wa.gov.au/

Northern Territory

http://www.worksafe.nt.gov.au/

South Australia

http://www.technicalregulator.sa.gov.au/

Queensland

http://www.eso.qld.gov.au/

New South Wales

http://www.fairtrading.nsw.gov.au/

Australian Capital Territory

http://www.actpla.act.gov.au/

Victoria

http://www.esv.vic.gov.au/

Tasmania

http://www.wst.tas.gov.au/electricity

New Zealand

http://www.ess.govt.nz/

Australian Consumer and Competition Commission

www.accc.gov.au

ACRONYMS AND MEANINGS

Approved Testing Entity:

A testing entity which has been accredited by;

- NATA; or
- an international equivalent of NATA in a country which has a mutual recognition agreement with Australia or New Zealand which allows it to test to relevant Australian and New Zealand Standards and recognised by a Regulatory Authority; or
- an international equivalent to NATA that is a signatory to the ILAC MRA with a scope that includes the EESS.

to undertake tests to the Australian and New Zealand Standard relevant to the type of electrical equipment.

AS/NZS: Australian and New Zealand Standard

A standard jointly published by Standards Australia and Standards New Zealand.

ERAC: Electrical Regulatory Authorities Council

In Australia, technical and safety electrical regulatory functions are largely the responsibility of state and territory governments.

A considerable amount of liaison is therefore required between the eight Australian states and territories and New Zealand to coordinate their activities in respect of regulatory strategies, policies and ongoing reforms.

ERAC is the organisation that works towards this coordination.

The council is made up of representatives of the regulatory authorities responsible for electrical safety, supply and energy efficiency in New Zealand and the Australian states, territories and commonwealth.

ERAC meets twice a year and regularly corresponds both internally and with industry stakeholders on regulatory issues with a view to developing recommendations for consistent operational policy across jurisdictions.

ERAC representatives cover the interests of other members in national forums such as Standards Australia policy boards and technical committees. ERAC also provides a practical single point of regulator contact for unions, industry and other areas of government, at the national level.

Although ERAC exists entirely through cooperative action and has no executive powers, it is recognised throughout the electrical industry as an authoritative voice for electrical regulators.

EESS: Electrical Equipment Safety System

In 2007, the Electrical Regulatory Authorities Council (ERAC) recognised that a changing marketplace profile, including a greater reliance on imported electrical equipment was increasing the risk of unsafe electrical equipment being supplied in Australia and New Zealand.

These emerging problems and challenges led regulators to collectively believe that a formal and comprehensive review of the Electrical Equipment Safety System (EESS) was essential to providing a strategic direction for future regulatory policy.

Following a thorough consultation and review process, it was recommended that the proposed new EESS have the following features:

- Nationally consistent, performance-based legislation in each jurisdiction setting out the scope of electrical equipment included and excluded from the system, and consistent obligations and penalties.
- A centrally administered and managed ERAC Secretariat to coordinate the EESS, with regulatory and enforcement responsibilities to remain with the states and territories.
- A national database where all suppliers and certain higher risk equipment must be registered prior to equipment being offered for sale. This would allow equipment to be easily traced to its supplier and act as a gateway to legal supply of electrical equipment in Australia and New Zealand.
- Risk based classification of equipment into three levels (high, medium and low risk) with proportionate standards of conformance for each level.
- Placing obligations for safety on a responsible supplier who is the first point of sale for goods in Australia or New Zealand. The responsible supplier must be an Australian or New Zealand entity to ensure enforcement action can be undertaken through the local judicial system.

JAS-ANZ: Joint Accreditation System of Australia and New Zealand

An organisation set up under an agreement by the Australia and New Zealand Government that have appointed it as the accreditation body for Australia and New Zealand responsible for providing accreditation of conformity assessment bodies in the fields of certification and inspection.

NOTE: JAS-ANZ is a member of the International Accreditation Forum (IAF) and Pacific Accreditation Co-operation (PAC) and is a signatory to the IAF and PAC product certification MRA. JAS-ANZ is also a signatory to the Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA for Inspection.

MRA: Mutual Recognition Agreement

A mutual recognition agreement Australia or New Zealand has with global trading partners.

NATA: National Association of Testing Australia

A not-for profit company recognised by the Australian Federal Government as the national authority for the accreditation of laboratories conducting tests and measurement in all technical fields and as a peak authority in Australia for the accreditation of inspection bodies.

NOTE: NATA is a member of ILAC and APLAC and is a signatory to the ILAC/APLAC laboratory accreditation MRA. NATA is also a signatory to the APLAC MRA for Inspection.

Recognised Certifying Body:

Under the Electrical Equipment Safety System the following bodies can be recognised as Certifiers:

- Australian and New Zealand based third party Certification Bodies (CBs) that are:
  - Accredited by JAS-ANZ;
  - Recognised by a single Regulatory Authority;
  - Endorsed to operate throughout Australia and New Zealand based on this accreditation and recognition.
- Overseas based Designated third party Certification Bodies (CB's) that are:
  - Appropriately designated under a mutual recognition arrangement or a free trade agreement to which Australia is a signatory;
  - Recognised by a single Regulatory Authority;
  - Endorsed to operate throughout Australia and New Zealand based on this accreditation and recognition.
  - Accredited by an international equivalent to JAS-ANZ and is a signatory to the IAF MLA with a scope that includes EESS.

Regulatory Authority:

An Australian state or territory or New Zealand government agency responsible for administering electrical safety legislation for electrical equipment.

Suitably Qualified Person:

A Suitably Qualified person is an individual who has:

- A degree qualification in electrical engineering and at least 2 years experience in the use of electrical equipment safety standards for regulatory purposes, or,
- An advanced diploma or equivalent qualification in an electrical discipline and at least 3 years experience in the use of electrical equipment safety standards for regulatory purposes or,
- A trade qualification in an electrical discipline and at least 4 years experience in the use of electrical equipment safety standards for regulatory purposes.

A Suitably Qualified Person can conduct equipment testing and can produce test reports to confirm that the type of Level 1 or 2 equipment being registered meets the relevant standard. These test reports would form part of the Compliance Folder which is required to be kept by the Responsible Supplier.

DISCLAIMER

The contents of this document are provided as a guide and must not be construed as advice or as a statement of law. ERAC members do not accept any responsibility or liability whatsoever whether in contract, tort (including negligence), equity or otherwise for any action taken as a result of reading or reliance placed on ERAC members because of having read, any part, or all, of the information in this guide or for any error, inadequacy, deficiency, flaw in or omission from the guide. Readers who ignore this disclaimer do so at their own risk.

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