INTERGOVERNMENTAL AGREEMENT FOR THE ELECTRICAL EQUIPMENT SAFETY SYSTEM

An agreement between each of the States and Territories of Australia, being:

The State of New South Wales
The State of Victoria
The State of Queensland
The State of Western Australia
The State of South Australia
The State of Tasmania
The Australian Capital Territory
The Northern Territory of Australia

Intergovernmental Agreement for the Electrical Equipment Safety System

Date:

1 Background

1.1 The Electrical Equipment Safety System (**EESS**) aims to promote public safety by setting uniform electrical equipment requirements, enforcing those uniform requirements, and developing a culture of compliance in the regulated industry.

1.2 This Agreement details the arrangements for the implementation and administration of the EESS.

1.3 The Parties to this Agreement are the Ministers responsible for electrical equipment safety in each participating jurisdiction (**responsible Minister**).

2 Objectives of the Intergovernmental Agreement

2.1 This Agreement has the following objectives:

a) to implement and co-ordinate the EESS through consistent legislative requirements across the States and Territories of Australia for the regulation of household electrical equipment;

b) to facilitate improved coordination between electrical equipment safety regulators for the interpretation and application of electrical safety requirements, the approach to investigations and enforcement activity (e.g. check testing, recalls, prohibitions or cancellations of registrations or certifications), and the associated information sharing related to these activities;

c) to coordinate the continued adoption of a unified and consistent system of certification and registration requirements (including the adoption of requirements as published in the Uniform Equipment Safety Rules and a single regulatory compliance certification mark) for household electrical equipment and businesses that manufacture, import and supply such equipment;

d) to manage the collection and distribution of registration fees to fund the administration, maintenance and hosting of the centralised database and assist with the resourcing of related market surveillance and enforcement activities.

3 Governance

3.1 The following governance groups are established under this Agreement.

Ministerial Oversight Committee (MOC)

Membership

3.2 The MOC shall comprise of the responsible Ministers from each of the Participating Jurisdictions.

Functions

3.3 The MOC is the national policy and governance body for the EESS and has responsibility for:

a) overseeing the legislative and regulatory framework for the EESS;

b) overseeing the funding arrangements for the EESS, including agreement of change of fees over and above any increase arising from the Queensland Government indexation policy as published by the Queensland Department of Treasury and Trade in the Queensland Government Gazette from time to time;

c) approving changes to this Agreement;

d) overseeing national and policy governance relating to the EESS;

e) overseeing the Standing Committee of Official's (**SCO**) management of the EESS;

f) approving changes to the EESS Law, including for example, but not limited to, changing the number of risk categories (currently three) or registration requirements provided by the EESS;

g) functions that are conferred by this Agreement; and

h) other functions as required from time to time.

Conduct of business

3.4 The MOC will primarily conduct business by correspondence but may convene as required in order to perform the functions outlined above. The MOC may establish practices and procedures as it thinks fit from time to time.

3.5 Any such meetings may be conducted in person or via teleconferences, video conferences or other similar technology.

Standing Committee of Officials (SCO)

Membership

3.6 The SCO shall be comprised of a senior officer nominated by the responsible Minister for each jurisdiction.

3.7 Each jurisdiction is entitled to one representative.

3.8 The MOC may appoint other parties to the SCO by unanimous agreement.

Functions

3.9 The SCO is responsible for managing and coordinating the day-to-day administration and operation of the EESS, including:

a) managing the operation of the EESS;

b) appointing a secretariat (the **SCO Secretariat**);

c) managing the funding arrangements for the EESS;

d) managing the EESS National Database (including processes for hosting, maintenance and funding);

e) liaising and collaborating with relevant industry and community stakeholders on the implementation and operation of the EESS;

f) reviewing and developing the EESS Law and supporting Uniform Equipment Safety Rules for approval by MOC;

g) reviewing and endorsing any proposed changes to AS/NZS 4417;

h) reviewing and endorsing determinations, modifications, exemptions and guidelines under the EESS;

i) implementation of any national policy and governance decisions made by the MOC;

j) undertaking such activities as directed or requested by the MOC from time to time;

k) reporting and making recommendations as required to the MOC and providing recommendations regarding the EESS and Uniform Equipment Safety Rules and any other relevant matters;

l) functions conferred by this Agreement; and

m) such other functions as required from time to time.

Conduct of business

3.10 The SCO will convene as required to perform the functions outlined above. The SCO may establish practices and procedures as it thinks fit from time to time.

3.11 The SCO Secretariat shall have such functions as the SCO or MOC from time to time confer on it and any functions that this Agreement confers on it.

3.12 The SCO may transact business in meetings (which may be conducted in person or via teleconferences, video conferences or other similar technology) or by correspondence.

3.13 The SCO Secretariat shall arrange for records of meetings to be kept and notices of its decisions to be circulated as necessary to properly perform its functions.

3.14 The SCO will be responsible for advising and obtaining direction and seeking appropriate approvals from their responsible Minister with respect to the activities of the SCO.

Voting in MOC and SCO

3.15 If any matter is not agreed, endorsed or approved unanimously, there shall be a vote on the matter. If there are less than five members the matter must be agreed, endorsed or approved by unanimous vote. If there are five or more members and the matter is agreed, endorsed or approved by all the members of the relevant group minus no more than two members, then the matter will be agreed, endorsed or approved by the group.

3.16 Each jurisdiction is entitled to only one vote in each of the governance groups.

Protocols

3.17 MOC or SCO may approve protocols or agreements pursuant to which any particular function that they have under this Agreement may be performed, either generally or in a particular case, by an Electricity Safety Regulator or another person. Any such protocol shall be published on the EESS website.

4 Financial arrangements

The EESS provides for registration fees for "responsible suppliers" and "in-scope" electrical equipment. Fees are prescribed under schedule 8 of the *Electrical Safety Regulation 2013 (Qld)*

Registration fees are collected by the Queensland Electrical Safety Office (**ESO**) and held in a separate bank account which can only be operated with the signature of at least two people (the "**EESS Account**").

4.1 The Parties agree that the SCO will oversee and manage the financial arrangements of the EESS in accordance with this Agreement **(Attachment 1).** Financial arrangements may include, but not limited to, such activity as EESS related administrative functions or monitoring compliance with EESS Law.

4.2 The Parties agree that the ESO will administer funds on behalf of the SCO.

4.3 The Parties agree that funds obtained through the registration process are not allocated by the SCO for the purposes of consequential enforcement actions undertaken by a jurisdiction from non-compliances identified during EESS funded activities.

4.4 The Parties agree to cover individual costs for responsible Ministers or SCO officials to attend to MOC or SCO functions.

4.5 The SCO Secretariat will prepare an Annual Activities Report, including an annual financial report for the MOC with 3 months of the end of each financial year.

5 EESS laws

5.1 The Parties agree that Participating Jurisdictions will:

(a) introduce legislation to apply, with such modifications as are required to adapt it to the particular jurisdiction, the Queensland EESS Law as a law of their jurisdiction; or

(b) introduce their own EESS law which will be substantially to the same effect as the Queensland EESS Law.

5.2 The Parties will use their best endeavours to ensure that legislation as contemplated by clause 5.1 is introduced and brought into force in their jurisdiction as soon as practicable.

5.3 Despite clause 5.1, the Parties agree that a Participating Jurisdiction may derogate in whole or in part from the EESS, however any such derogation should be:

(a) limited in duration and extent; and

(b) required for the orderly introduction and operation of the EESS in that jurisdiction.

5.4 Despite clauses 5.1 and 5.3, the Parties agree that a Participating Jurisdiction is not required to participate in issuing (or having processes for others to issue) certificates for listing on the centralised database.

5.5 The parties further agree that a Participating Jurisdiction may more generally derogate in whole or in part from the EESS with the agreement of the MOC.

5.6 The Parties agree that the existing Uniform Equipment Safety Rules will, as soon as practicable after the commencement of this Agreement, be replaced by Uniform Equipment Safety Rules that are:

(a) within the Queensland Regulator's rule making power set out in section 48K of the Electrical Safety Act 2002 (Qld);

(b) consistent with the general objectives of the EESS Law;

(c) not significantly or substantially overlap or conflict with the EESS provisions contained in the Electrical Safety Act 2002 (Qld) and the Electrical Safety Regulation 2013 (Qld).

6 Operation of this agreement

6.1 This Agreement commences on the date on which the first two Parties execute the Agreement.

6.2 This Agreement does not create any legally binding obligations on any Party, and is not legally enforceable.

6.3 This Agreement may only be amended by an agreement in writing executed by all Parties at the time of the amendment. The amending agreement must specify the date on which the amendments will come into force.

6.4 The Parties agree that this Agreement (and subsequent amended Agreements) will be published on the EESS website as soon as practicable after commencement.

6.5 If a Party withdraws for this Agreement, this Agreement will continue in force with respect to the remaining parties

6.6 The SCO shall commission a review of this Agreement's operation and terms, including the operation and terms of the EESS Laws in each Participating Jurisdiction, at the following times:

(a) every fifth anniversary of the commencement date of this Agreement; and

(b) any other time as may be unanimously agreed by the Parties.

7 Other matters

EESS National Database Access Agreement

7.1 Energy Safe Victoria (**ESV**) administers the EESS National Database on behalf of the EESS.

7.2 The *EESS National Database Access Agreement* sets out the terms on which ESV grants parties access to the EESS National Database.

7.3 The Parties agree that ESV may require parties to enter into an EESS National Database Access Agreement before granting access to the database.

7.4 The Parties acknowledge the Access Deed in place between the Commonwealth of Australia, ESV and the State of Queensland that provides the Australian Communications and Media Authority with access to EESS National Database and the Parties confirm the continued operation of that Access Deed in accordance with its terms and conditions

Registrations

7.5 The Parties agree that registrations made under the EESS Law of a Participating Jurisdiction will be recognised under the EESS Laws of all other Participating Jurisdictions.

7.6 The Parties agree that the only fees payable for registration under the EESS will be the same as the registration fees set out in schedule 8 of the *Electrical Safety Regulation 2013* (Qld).

Annual Activities Report

7.7 Following the conclusion of each financial year the SCO Secretariat will prepare an Annual Activities Report for that financial year setting out the following information:

- payments to the ESO, ESV and the SCO Secretariat for operating expenses during that financial year;

- payments for approved EESS Grants during that financial year
- details of any other payments made; and
- details of the electrical safety outcomes and enforcement activities completed under an EESS Grant during that financial year.

7.8 In preparing the Annual Activities Report the SCO Secretariat shall have regard to any information and reports provided by the SCO members in relation to the activities and outcomes of EESS Grants during that financial year.

7.9 The SCO Secretariat must circulate a draft of the Annual Activities Report to SCO members within four months of the end of the financial year to which the report relates.

7.10 SCO members have 30 days to provide comment on the Report to the SCO Secretariat. The SCO Secretariat must consider any comments it receives and, if the SCO Secretariat considers it necessary, prepare a revised draft of the report.

7.11 The SCO Secretariat must circulate the final report to SCO members within 30 days of the end of the consultation period referred to above.

7.12 Each SCO member is responsible for submitting the report to their responsible Minister.

Risk categories and Applicable Standards

7.13 The Parties acknowledge and agree that the risk categories that are to apply to In-Scope Electrical Equipment are as follows:

(i) Level 3 - high risk;

(ii) Level 2 - medium risk; and

(iii) Level 1 - neither Level 2 nor Level 3,

being the same as the risk categories set out in AS/NZS 4417.2; and

7.14 The Participating Jurisdictions further acknowledge and agree that the three risk categories set out in clause 7.13 will be the only risk categories unless the MOC agrees to different risk categories (which may differ from those in AS/NZS 4417.2) being adopted. Agreement from MOC to any different risk categories must be obtained before those different risk categories are adopted.

7.15 The Parties also agree that the Queensland Regulator may, subject to consultation with and agreement by SCO, make a determination that may modify the requirements of AS/NZS 4417 (excluding making different risk categories) or a safety standard applicable to In-Scope Electrical Equipment.

Stakeholder consultations

7.16 The Parties agree to use their best endeavours to ensure that all relevant stakeholders continue to be consulted in an effective manner in connection with the implementation and operation of the EESS Law.

INTERPRETATION

A reference in this Agreement to the EESS, or EESS Law, includes the supporting Uniform Equipment Safety Rules.

Terms defined in the body of this Agreement bear, unless the context otherwise requires, the same meaning throughout this Agreement.

This Agreement may be executed in any number of counterparts.

Definitions

Unless the context otherwise requires:

Electrical Equipment Safety System (EESS) means the electrical equipment safety system, which is intended to be implemented consistently in all States and Territories of Australia and which contains regulations governing the sale of in-scope electrical equipment and provides for a national database where suppliers and certain types of equipment must be registered.

EESS National Database means the database of registered responsible suppliers and certified electrical equipment developed by ESV in conjunction with the ESO in accordance with an agreement between those parties dated 20 September 2010.

Electrical Safety Regulator means the a person, government body or agency that under a law of a Participating Jurisdiction is responsible for monitoring and enforcing compliance with the electrical equipment safety laws in that jurisdiction or, if there is no such person, government body or agency, a person, government body or agency nominated by a responsible Minister to act as the "Electrical Safety Regulator" for that Responsible Minister's jurisdiction.

In-scope electrical equipment has the meaning given in section 48B of the Electrical Safety Act 2002 (Qld).

Queensland Regulator" has the same meaning as "regulator" in the Electrical Safety Act 2002 (Qld).

Uniform Equipment Safety Rules means the Australia / New Zealand Electrical Equipment Safety System Equipment Safety Rules made under the EESS Law as approved from time to time.

Queensland EESS Law means Part 2A of the *Electrical Safety Act 2002* (Qld), Part 7 of the *Electrical Safety Regulation 2013* (Qld) and the supporting Uniform Equipment Safety Rules (as amended from time to time).

The Parties have confirmed their commitment to this Agreement as follows:

Signed *for and on behalf of the State of New South Wales by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Signed *for and on behalf of the State of Victoria by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Signed *for and on behalf of the State of Queensland by*

The Honourable Grace Grace MP
Minister for Education

Minister for Industrial Relations

Date:

Signed *for and on behalf of the State of Western Australia by*

The Honourable Bill Johnston MLA
Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement

Date: 26/7/18

Signed *for and on behalf of the State of South Australia by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Signed *for and on behalf of the State of Tasmania by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Signed *for and on behalf of the Australian Capital Territory by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Signed *for and on behalf of the Northern Territory by*

The Honourable [Insert Name]
[Insert Title]

Date: [Insert date]

Attachment 1 - Financial arrangements

For the purposes of section 204C of the Electrical Safety Act 2002 (Qld), the Parties agree that the ESO may, on behalf of the State of Queensland, make payments out of the EESS Account in accordance with the following funding principles.

Reimbursement of EESS National Database operating expenses

The ESO and ESV are to be reimbursed for costs incurred in connection with the administration, hosting and maintenance of the EESS National Database and the SCO Secretariat

Each financial year the ESO, ESV and SCO Secretariat will forecast their operating expenses through a Distribution Proposal for approval by the SCO.

Once the Distribution Proposal is approved, the ESO will reimburse itself, ESV and the SCO Secretariat out of the EESS Account for their actual operating expenses incurred during that financial year up to the amount approved in the Distribution Proposal. Provided that the claimed expenses are within the approved amount, the ESO, ESV and SCO Secretariat will not be bound by any details in the Distribution Proposal concerning the allocation of Operating Expenses within the approved amount.

If the ESO, ESV or SCO Secretariat wish to be reimbursed for operating expenses in excess of the approved amount, the ESO, ESV or the SCO Secretariat (as the case may be) must obtain approval from the SCO before the ESO reimburses any excess amounts.

Annual Distribution Proposal

The SCO Secretariat will prepare a Distribution Proposal for each financial year for approval by the SCO, no later than 3 months before the commencement of the financial year to which it relates. Parties seeking to apply for funding under the proposal must provide submissions by this date.

The Distribution Proposal must include:

- the estimate of total operating expenses provided by the ESO, ESV and SCO Secretariat
- details of the amounts to be paid for approved EESS Grants (see below)
- details of any other payments proposed to be paid out during that financial year.

The SCO Secretariat will circulate the Distribution Proposal to the SCO for their noting and approval. If the Distribution Proposal has been unanimously approved by the SCO, the Distribution Proposal is to be submitted to the responsible Ministers for their noting, if required.

If the Distribution Proposal is not unanimously approved after there has been a reasonable opportunity for negotiation, the SCO Secretariat will call on the SCO to vote on the Distribution Proposal.

If the Distribution Proposal fails the vote, the SCO secretariat must refer the matter to the MOC for resolution.

EESS Grants

An Electricity Safety Regulator of a participating jurisdiction (a Participating Regulator) may apply for an EESS Grant by submitting a Grant Request or Requests to the SCO Secretariat in the form required by the SCO Secretariat and that satisfies the requirements below.

An EESS Grant must be for the purpose of conducting one or more of the following types of electrical safety activities in relation to In-scope electrical equipment and may include without limitation:

- stakeholder engagement and education;
- check testing the compliance of In-scope electrical equipment or classes of in-scope electrical equipment against applicable standards;
- auditing suppliers and retailers for compliance with the EESS;
- auditing the EESS National Database to identify breaches by suppliers of the EESS;
- auditing third-party certifiers for compliance with the EESS;
- research activities related to assessing and improving compliance with the EESS; and
- discretionary maintenance or modifications to the EESS National Database.

A Grant Request must:

- specify the amount of funds requested;
- outline the proposed time-frame for the work to be completed;
- identify the activity or activities from the list above that the funds will be used for and describe how the funds will be applied towards these activities (including appropriate costing information);
- explain why the Participating Regulator considers the grant payment is appropriate in terms of the safety outcomes to be achieved; and
- specify the date by which the Participating Regulator will provide a report on the activities to the SCO Secretariat.

Grant Requests will be submitted to the SCO for assessment and approval on an annual basis. As soon as possible after 31 May each year, the SCO Secretariat will circulate to the SCO:

- copies of all Grant Requests received in the 12 months up to 31 May; and
- any additional information (such as financial information) that the SCO Secretariat considers will be relevant or helpful for the SCO assess the Grant Requests.

The SCO will work collaboratively to assess each of the Grant Requests circulated by the SCO Secretariat and decide whether they should be approved.

In assessing a Grant Request, the SCO must consider:

- whether sufficient funding is available;
- whether the proposal addresses a relevant safety outcome;
- whether the work is able to be completed efficiently and within a specific time-frame;
- the likelihood and extent of resultant education and enforcement action arising from the activities;
- the particular expertise and resources available to the Participating Regulator; and
- the desirability of achieving electrical safety outcomes for In-scope electrical equipment in the most efficient and cost-effective manner possible. These outcomes may be identified from analysis of market trends, incident reports, and communication with other agencies.

If the Grant Request is not unanimously approved by the SCO after there has been a reasonable opportunity for negotiation, the SCO Secretariat will call on the SCO to vote on the Grant Request.

If the Grant Request fails the vote, the Grant Request may be referred by the Participating Regulator to their responsible Minister for resolution by the MOC.

If the Grant Request is not referred to the relevant responsible Minister, the Grant Request will be deemed withdrawn.

Once a Grant Request is approved, the SCO Secretariat must allocate funding for the grant in the Distribution Proposal for the financial year to which the EESS Grant relates.

Other payments

In addition to reimbursements for operating expenses and EESS Grants, the ESO may pay other amounts out of the EESS Account if the payment is:

- for electrical safety services relating to In-scope electrical equipment; and
- provided for in an approved Distribution Proposal

Without limitation, such payments may include:

- reimbursing the cash and in-kind contributions made towards the development, establishment or operation of the EESS and the EESS National Database;
- establishing, operating, maintaining and administrating an EESS website, which can be allocated to any Participating Regulator with the approval of the SCO;
- attending to legal, regulatory or other compliance-related requirements of the EESS National Database;
- administering access to, and responding to queries regarding, the EESS National Database, including discretionary maintenance or modifications to the EESS database;
- providing training in relation to the EESS and the EESS National Database, including developing training manuals and user documentation as required;
- maintaining the registered Australian trade mark number 714440 (being the regulatory compliance certification mark used in the EESS) for and on behalf of the owners of the trade mark, including any renewal, enforcement or defence of the trade mark;
- administration of the EESS Account by the ESO;
- reviewing registration fees, the EESS Law or this Agreement;
- preparing the Annual Activities Report; and
- the development of proposed alterations to the EESS including expenses relating to the engagement of consultants, consultation with stakeholders and the preparation of Regulatory Impact Statements or other documents.