



Usage Policy for ECAS Mark (ECAS Mark of Conformity)

Purpose

This document regulates the use of ECAS Mark of Conformity in certified products and this is intended for ESMA and its clients. This will be the document to be used as a reference for the proper usage of the ECAS Mark of Conformity and the corrective action to be taken in case of misuse.

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0. DEFINITIONS

For the purpose of this Policy, the following definitions shall apply:

0.1 ECAS Mark of Conformity

It is an approved mark by ESMA indicating conformity of product to the UAE Product Certification Scheme.

0.2 Certified Product

It refers to the product(s) being evaluated and approved for the UAE Product Certification Scheme.

0.3 Mark

It is a unique graphic identification of an organisation. In the context of product certification, it is a product certification mark given to product/s which complies with an approved standard.

0.4 Approved Standard

It refers to a Product Standard approved by ESMA to be used in verifying conformity of a product.

0.6 UAE Product Certification Scheme

It is a national product certification scheme which allows the use of the ECAS Mark of Conformity to the certified product.

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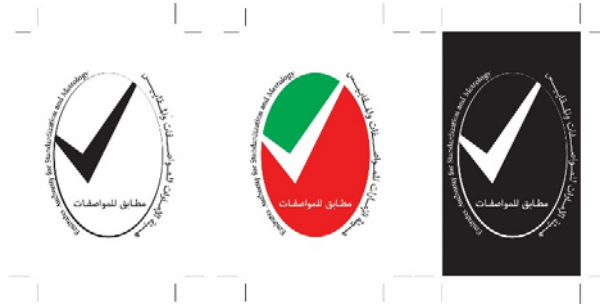
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1. INTRODUCTION

This document is prepared for satisfying the requirement of Federal Law No. 28:2001 Article 5, Clause 11 requiring that the certificate of conformity and marks issued by ESMA shall be properly controlled. It is also in compliance with ESMA BOD resolution Number 78 of 2017 on the mandatory use of ECAS Mark of Conformity. The license to use the ECAS Mark of Conformity (ECAS Mark) is given to companies manufacturing certified products and this document specifies the conditions on the proper use of ECAS-Mark of Conformity and the corrective action for its misuse.

2. DESIGN OF ECAS-Mark of Conformity

2.1 Design



2.2 Colour

The Mark shall have the same colour as provided by ESMA and shall be printed on the product which is in contrast with the Mark for proper visibility/readability. The colour of the mark shall be non-removable or indelible. Single colour can be allowed for secondary packaging but limited to Black (with White background) or White Colour (with Black background) only.

2.3 Size

The size of the mark shall not be less than 3cm x 1.5cm. It shall be visible and readable at all times. In any case of size variations (decreasing or increasing), the size must always follow and respect the proportions of the Mark (1:2) as shown in clause 2.1.

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- 2.4 Access to ECAS Mark of Conformity
The ECAS Mark of Conformity will be transferred electronically to companies after the signing of the License to Use the ECAS Mark of Conformity.
- 2.5. Location of ECAS-Mark of Conformity
The ECAS Mark of Conformity shall be placed conspicuously at front side of the product or at the bottom left away from any other mark.

3. GENERAL RULES

- 3.1 After obtaining the Certificate of Conformity (CoC), the licensee shall use the ECAS Mark of Conformity on the certified products.
- 3.2 The licensee may use the mark for sales promotion for the product. It may be used in advertisements and on stationery together with the mark or the name of the manufacturer or the licensee provided that it is not used in such a manner that ESMA may consider as misleading. The ECAS Mark of Conformity shall be used for every piece of the product. ECAS Mark of Conformity may be used on the following (subject to ESMA approval):
- on the principal display panel of the certified products,
 - on the secondary or tertiary packaging whichever is directly visible to the buyer during display
 - on display areas where product are displayed for sale/marketing/promotion (for small items)
 - on product manuals/brochures
 - any other ESMA approved areas of usage upon official confirmation/approval of ESMA
- 3.3 The ECAS Mark of Conformity shall be reproduced exactly the same color and proportion whenever it is possible.
- 3.4 The ECAS Mark of Conformity is the exclusive property of ESMA and its correct use is a contractual obligation. Intentional misuse of the mark maybe grounds for actions that may include but not limited to withdrawing the Certificate of Conformity.
- 3.5 ESMA shall implement market monitoring for ensuring correct use of the ECAS-Mark of Conformity.
- 3.6 The company/supplier shall not use its product certification in such a manner as to bring ESMA-Conformity Affairs Department (CAD) into disrepute and not make any statement regarding its product certification that ESMA-CAD may consider misleading or unauthorized.

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- 3.7 In making reference to its product certification in communication media, a supplier of ECAS Mark of Conformity. Certified products must comply with ESMA-CAD requirements. A supplier may publish that it has been authorized to apply certification mark to products to which the certification applies. In all cases, the supplier shall take sufficient care of in its publications and advertisements that no confusion arises between certified and non-certified products. If a supplier wishes to publish a test report or evaluation report, the report shall be reproduced in full, unless specific authorization is granted by ESMA-CAD to publish part(s) of the report. A supplier shall not specify function, or claim or the like in its use information that could mislead purchasers to believe that performances of the products or its use are covered by the certification when in fact they are not.
- 3.8 Instructions or other user information accompanying the product and related to the certification scheme shall be approved by ESMA-CAD. Advertisements containing ESMA-CAD certification mark or reference to certification shall be approved by ESMA-CAD.
- 3.9 In case of any doubts regarding the use of the mark, prior written approval shall be obtained from ESMA to prevent misuse and subsequent corrective action.

4.0 Corrective Action for Defective Products or Misuse of Certification Mark

ESMA-CAD procedures for taking corrective action following the identification of defective products or misuse of its certification marks follow ISO/IEC Guide 27, *Guidelines for corrective action to be taken by a certification body in the event of either misapplication of its mark of conformity to a product, or products which bear the mark of the certification body being found to subject persons or property to risk.*

5.0 Conditions under which Corrective Action is taken

ESMA-CAD will require a misuser (i.e., any person, organization, or corporate body that misuses the certification marks, regardless of whether or not the product is eligible to bear the mark) to take corrective action whenever an the certification mark has been affixed to a product that:

- is hazardous;
- is not authorized to bear the certification mark, e.g., because there is no record of the product in question having been certified; or does not comply with the applicable certification requirements to the extent that the integrity of certification mark is jeopardized;
- bears an unauthorized form of the mark; or
- is in violation of the ECAS-Mark of Conformity policies under which the product was tested and certified.

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A product is considered “hazardous” if it exposes life, limb, or property to imminently dangerous conditions. A hazardous product is considered to exist if the quantity of products involved is such as to constitute an unacceptable percentage, and there is either:

- An unsafe construction; or
- The product is gaining widespread use in an application not foreseen when the standard(s) to which the product is certified was (were) written, such applications in turn being ones for which the product was not certified; and
 - No specific scope of applications has been provided in the standard(s), and
 - No limiting scope of application has been provided by the manufacturer in written material accompanying the product at point of sale.

Note — where an inherent hazard is necessary for the product to perform its intended function, e.g. rotating blades of a food mixer, such a hazard shall not be considered “hazardous” in the context of this definition.

Whenever either a report of misuse of certification mark or of a hazard involved with a product bearing certification mark is received, the validity of the report will be investigated. Where it is established that misuse has occurred ESMA-CAD will determine the scope of the misuse, including products, model number, serial numbers, factory production facilities, production runs and quantities involved.

6.0 Types of Corrective Action

6.1 Corrective action could be one or more of the following:

6.1.1. Notification of parties authorized and responsible for instituting a recall (i.e., the action by which the misuser of the certification mark or the producer of a hazardous product or other party responsible for making the product available withdraws the product from users, the marketplace, or distribution sites and returns them to an acceptable location for corrective action) when, in ESMA-CAD's opinion, such recall is necessary to protect the public and to permit implementation of the corrective action (i.e., the action determined by ESMA CAD to be appropriate to eliminate the consequences of the misuse and to remove the hazard as far as necessary and practicably possible);

6.1.2 Removing the certification mark from the product (This is normally done only at the factory or other central location so that the product in question is removed from the stockroom, marketplace, distribution sites, or user's possession. Alternatively, the certification mark could be removed from the product on site, provided such removal is in collaboration with the involved regulatory authorities who would then proceed to accept or reject the product.);

6.1.3. Rebuilding the product so that it complies with the governing certification requirements;

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6.1.4. Scrapping or replacing a returned product because it is not practicable either to remove the certification mark or to rebuild the product so that it complies with the governing certification requirements; and

4.1.5. Where a hazardous condition exists, ESMA CAD will, in consultation with the appropriate regulatory authorities (such as Dubai Municipality, Abu Dhabi Municipality etc), pursue the release of a notice to the general public about the hazard.

7. Choice of Action against the Misuser

When the facts indicating a need for corrective action are conclusive, ESMA-CAD will initiate corrective action immediately, provided there is a misuser to be held responsible for such action. Legal actions to be initiated and penalties to be imposed shall be based on Federal Law 28:2001.

8. Initiating Corrective Action with Misuser

When there is conclusive proof that a product is hazardous or is involved in misuse of certification mark, corrective action will be initiated by ESMA-CAD. In such instances, the misuser and, where appropriate, the regulatory authorities shall be notified immediately by telephone, fax, or E-Mail of the problem, and License to apply the certification mark to the involved product shall be terminated. In the case of a hazardous product bearing the certification mark, ESMA-CAD will inform the misuser of the need to take appropriate corrective action, advising of the hazard and the action to be taken.

The initial notification to the misuser will require confirmation in writing by registered (or equivalent) letter, with copies to the appropriate regulatory authorities and/or other bodies when appropriate. Such letter will normally contain: the reason(s) for corrective action, any hazardous conditions that may exist, actions to be taken by the misuser to resolve the problem, and a statement covering the action to be taken to ensure that certification mark is not applied to ineligible products.

9. Completing a Successful Corrective Action with a Misuser who has an Agreement with ESMA-CAD

When a corrective action has been resolved to ESMA-CAD's satisfaction, ESMA-CAD will undertake the following:

9.1. All recipients of the letter which called for corrective action will be sent a second letter which:

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- States the suspension imposed upon the misuser
- has been lifted and that authorization to use the certification mark has been reinstated;
- summarizes the corrective action taken by the misuser;
- When applicable, describes the new marking required to distinguish the product in its corrected state from its previous unacceptable condition.

9.2. Certification records will be revised to include any modifications necessitated by the corrective action. ESMA-CAD shall also carry out an audit of:

- Its own approval and surveillance duties to determine whether part of the misuse was due to a weakness in its own organization;
- its procedures to determine the means whereby ESMA-CAD's approval and surveillance responsibilities can be altered to ensure, so far as realistic to do so, that such misuse of the mark cannot be repeated.

10. Degree of Corrective Action to be Achieve

ESMA-CAD desires that the corrective action be taken on one hundred percent of the product involved. However, this may not be possible, especially if the product has been out on the market for a considerable time. Normally, ESMA considers that corrective action as appropriate has been carried out satisfactorily if:

10. 1. The misuser has made a proper public announcement when asked to do so;

10.2. The products in the marketplace and distribution sites have been recalled, rebuilt, replaced or destroyed under supervision, or other corrections thereto made as required to the maximum degree feasible;

10.3. The misuser has agreed to continue the required corrective action on units which are in the possession of the user until ESMA-CAD is satisfied that the maximum practicable result has been achieved;

10.4. Such necessary steps have been instituted in the manufacturing process to obviate the production of products which will again require similar corrective action.

11. Refusal to Take Corrective Action

When a misuser refuses to take corrective action, ESMA-CAD will take the following steps:

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11.1. Cancellation of appropriate certification contracts with the misuser may be processed;

11.2. Regulatory authorities involved and/or other bodies, when relevant, shall be informed that the misuser has refused to take corrective action and that certification license and contracts in the name of the misuser have been canceled, where the severity of the case warrant such action;

11.3. Legal actions may be taken as per Federal Law 28:2001.

In the event that a supplier refused to take corrective action, discussions with concerned regulatory authorities, government bodies, free zone authorities, interested parties and legal counsel may be held to decide on a course of action. In addition to action that regulatory authorities might take, some possible courses of action open to ESMA-CAD would include:

11.3.1. Promoting a rapid revision of the standard and requiring all certified products of the type involved to meet the new criteria at an early date following the revision to the standard;

11.3.2. Notifying the public of the discovered hazard via the most appropriate news media.

12. REFERENCES

1. ISO IEC 17065:2012 Conformity assessment — Requirements for bodies certifying products, processes and services
2. ISO Guide 27:1983 Guidelines to be taken by the certification body in the event of misuse of its mark of conformity
3. ISO Guide 23:1982 Methods of indicating conformity with standards for third party certification systems
4. Federal Law No. 28:2001 Federal Law of Establishing ESMA

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