

# **HKQ-01**

**Federation of Hong Kong Industries**

**Hong Kong Q-Mark Council**

**Product Certification Schemes Regulations**



香港工業總會  
FHKI



香港優質標誌局  
Hong Kong Q-Mark Council

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## **Introduction and Authority of Hong Kong Q-Mark Council**

1. The Hong Kong Q-Mark Schemes, established in July 1978, are administered by the Hong Kong Q-Mark Council under the auspices of the Federation of Hong Kong Industries.
2. The General Committee (GC) of the Federation of Hong Kong Industries (FHKI) is the sole authority by which the licensees may be granted. The General Committee delegates all its authority governing the operation of the Hong Kong Q-Mark Product Certification Scheme to its Hong Kong Q-Mark Council (“the Council”) and applications for participation in the Schemes and for a licence to use the HK Q-Mark logo should be addressed to the Council.
3. Objectives of Hong Kong Q-Mark Council:
  - Foster industrial development by enhancing the quality of products and services, and environmental conservation, as well as management systems in compliance with internationally recognised standards.
  - Acknowledge quality excellence in products and services and environmental management, and promote the concept of quality and environmental conservation in local and overseas markets.
4. The operation of the Hong Kong Q-Mark Product Certification Schemes is financed mainly by income arising from certification and maintenance processes. Other minor income comes from joint advertisements with licensees, exhibitions, and other promotional activities.
5. This document has 8 Chapters. It contains the general regulations applicable to all the product certification schemes of Hong Kong Q-Mark Council. The regulations for a particular product certification schemes shall refer to that specific scheme. The regulations in this document shall be amended from time to time and licensee certified by Hong Kong Q-Mark Product Certification Schemes or have applied for it shall be notified of the changes. Other interested parties may obtain the current version from the Hong Kong Q-Mark Council's website.

## **1. General Definition**

The definitions and interpretations used in this document shall be as indicated below:

- 1.1 “Applicant” means an individual, firm or company who has formally undergoing application of product certification.
- 1.2 “Assessment” means an in-depth appraisal of an Applicant's or a Licensee's quality and technical system at a Plant to assess compliance with the Regulations. It is classified as Certification, Surveillance and Recertification assessments.
- 1.3 “Audit Testing” means sampling and testing of product which are ordered by an assessment team during an assessment. In Certification, Surveillance and Recertification Assessments, product sample shall be sampled and tested for audit testing. The testing and compliance standards shall be confirmed by the assessment team in considering the Regulations of this Scheme. The test shall be conducted by an independent HOKLAS or its MRA partners accredited laboratory and the result shall be produced in a HOKLAS endorsed test report or equivalent. Where appropriate, the Council shall arrange a second sampling and duplicate product testing for the failed test item.
- 1.4 “Auditor” means a nominee of the Council appointed to carry out assessments. Auditors are classified as Lead Auditors or Auditors.
- 1.5 “Certificate of Conformity” means the certificate issued by the Council to confirm certification of an Applicant or a Licensee in respect of a particular product manufacturing plant.
- 1.6 “Certification” means acceptance by the Council, on the basis of assessments, that the Applicant or the Licensee complies with the Regulations for a particular product.
- 1.7 “Certification Mark” means the Certification logo which the Licensee is authorized to use. The use of this logo should be in accordance with the Regulations.
- 1.8 “Council” means Hong Kong Q-Mark Council, under the auspices of the Federation of Hong Kong Industries to implement and run Hong Kong Q-Mark Product Certification Schemes.
- 1.9 “Council Members Committee” or simply “Council Members” is the management committee of Hong Kong Q-Mark Council, the decision making body of the Hong Kong Q-Mark Council with the authority to manage the operation of Hong Kong Q-Mark Product Certification Schemes on behalf of the Federation of Hong Kong Industries. It is also a decision making board of Hong Kong Q-Mark Council to deliberate and grant a Certification.

- 1.10 “Concerning Areas” means areas which are not nonconformities and corrective actions are not mandatory. However, the assessment team judges by their experience that these are potential problem areas which may deserve attention.
- 1.11 “Critical Non-conformity” means significant deviations of products from specified requirements in the Regulations, or the absence of, or failure to implement and maintain, a series of required quality management system elements, or a situation which would, on the basis of available objective evidence raise highest degree of doubts to the conformity of the product that the Licensee produces.
- 1.12 “Licensee” means an Applicant who has achieved or has applied Product Certification Scheme.
- 1.13 “Major Non-conformity” means deviation of products from specified requirements in the Regulations, or the absence of, or failure to implement and maintain, one or more required quality management system elements, or a situation which would, on the basis of available objective evidence raise serious doubts to the conformity of the product that the Licensee produces.
- 1.14 “Minor Non-conformity” means failure to meet one requirement of the Regulations, required quality management system elements and/or this Product Certification Scheme or other necessary reference documents, and which is considered NOT to constitute a risk to the quality of product.
- 1.15 “Open Market Testing” means sampling and testing of product which are ordered by an assessment team between the 13<sup>rd</sup> to 24<sup>th</sup> months after the certification. The product sample shall be sampled from the open market. The testing and compliance standards shall be confirmed by the assessment team in considering the Regulations of this Scheme. The test shall be conducted by an independent HOKLAS or its MRA partners accredited laboratory and the result shall be produced in a HOKLAS endorsed test report or equivalent.
- 1.16 “Product Certification Scheme”, or simply “Scheme”, means the product conformity certification scheme for the certification of the production of the product. The Scheme is owned and administrated by FHKI.
- 1.17 “Purchaser” means an individual, firm or company who entered into a contract with Licensee to purchase certified products.
- 1.18 “Quality Control” means the operational techniques and activities that sustain the quality of product.
- 1.19 “Quality Documentation” means the document describing the Applicant's or Licensee's structures, resources, procedures and methods which together ensure that the Applicant or Licensee can meet the requirements of the Scheme.
- 1.20 “Quality Records” means the records required by the Licensee's Quality Documentation to be kept by the Licensee to meet the requirements of the Regulations.

- 1.21 “Quality System Management Office” means a location at which a Licensee's quality and production records are maintained.
- 1.22 “Safeguarding Committee” means the committee authorized by the FHKI to give advice on the impartiality of the activities of the Hong Kong Q-Mark Council.
- 1.23 “Suspension of Licence” means that Council suspends the privilege of licensee using the Hong Kong Q-Mark logo on their certified products in a specific period of time but licence is still kept in licensee's premises or Licensee's voluntary suspension, as a result of fulfillment on the product certification requirement can be made by the existing licensee.
- 1.24 “Technical Expert” means the person who provides specific knowledge or expertise to the audit team.
- 1.25 “Technical Committee” means the committee nominated under manufacturer, suppliers, users, testing body and subject expert are responsible for the drafting, amendment and maintenance of the Product Certification Scheme document.
- 1.26 “Withdrawal of Licence” means that Termination on the subscription of the licence initiated by the licensee or Council with the consensus of the licensee.

## **2. Authority and Administration of Hong Kong Q-Mark Product Certification Schemes**

- 2.1 The Council Members Committee is the authority to grant, renew, suspend or terminate/withdraw any certification under Hong Kong Q-Mark Product Certification Schemes operated by the Council. The Council shall be solely responsible for the running, operation, management and control of the HK Q-Mark Product Certification Schemes.
- 2.2 The Council Members Committee is advised by the GC of the FHKI. To ensure the impartiality of the activities of the Council, GC also assigned a Safeguarding Committee to give advice of day to day operation of the Council.
- 2.3 For technical issues, the Council shall set up Technical Committees for that particular technical area to advise the Council to resolve those technical issues.
- 2.4 The Council Members Committee shall consist of a Chairman -the Chairman of Hong Kong Q-Mark Council, nominated by the GC of the FHKI, the Director-General of the FHKI who shall be the Secretary of the Council and other Council members nominated by the HK Q-Mark Council Chairman and approved by GC.
- 2.5 The Council Members Committee shall meet and conduct its business as it may from time to time decide provided only that at any meeting of the Council Members Committee the quorum shall be at least one-third (1/3) total council members, one of whom shall be the Chairman and that in the event of equality of voting the Chairman shall have a casting or second vote.
- 2.6 If the Chairman of the Council Members Committee is absent from the council meeting, the Vice-Chairman of the Council Members Committee shall assume all of the duties of and shall be entitled to exercise all of the powers of the Chairman.
- 2.7 Decisions of the Council Members Committee bearing the signature of more than 50 percent of total members of the Council Members Committee, which include either the Chairman and/or the Vice-Chairman signature shall be valid and binding for all purpose hereof and it shall not be necessary for the council members to hold a meeting for the purposes of reaching such a decision.

2.8 All grant of new licence and renewal of licence shall be approved by circulation to the Council Members Committee with minimal number of signatures as set out in 2.7.

2.9 All notices, applications, letters and other communications relative to any application or licence for The HK Q-Mark Product Certification Schemes shall be addressed to the Council at the only or principal office of the FHKIs. The Council should inform the Licensee, during the application process, of the information it intends to be publicly accessible. Except for the information that is made in the directory of licensee ( include the name of the organization, the address of the organization, the address of the Manufacture Facilities, the Product Certification Scheme applied and name / certificate number of the product(s), the validity of the certification and the enquiry details – enquiry person / telephone / fax number / e-mail address / web-site address ), all other information of the Licensees are considered confidential by the Council. Information about the Licensee obtained from sources other than the Licensee (e.g. complainant, regulators) shall be treated as confidential, such that only personnel who require the information for the assessment will be given access to such information. Such personnel shall include the Council Members Committee and staff, assessors and technical experts involved in the assessment, the members of GC and Safeguarding Committee and accreditation bodies such as the Hong Kong Accreditation Service, with the exception where a conflict of interests arises.

The persons responsible for evaluating the performance of Hong Kong Q-Mark Product Certification Schemes shall also be included when such an arrangement is necessary for the mutual recognition agreement with other certification bodies.

In addition, information shall only be disclosed to third party with written consent of the Licensees except as required by the law or international standards adopted by the Council and its policy. Unless it is prohibited by law, in such case the Licensees shall be notified of the information provided.

Subject to above condition, the Council should

- a) Make copies of any document submitted by an Applicant of licence or an certified Licensee for the purpose of certification, and
- b) Use conventional mail, telephone, fax and unencrypted and unprotected email through the internet, etc to communicate information relating to certification with Applicant and Licensee as well as assessors, technical experts and other relevant parties involved in the certification.



- 2.10 The Council may publish information when the Council finds necessary, in order to inform Applicant and Licensee of certification criteria and requirement for applying certification.
- 2.11 The Council may amend the Regulations for Hong Kong Q-Mark Product Certification stated in this document and other certification criteria from time to time. Applicant and Licensee of certification shall conform to the amended regulations and criteria within the period of time specified by the Council. The Council Members Committee may decide to suspend and terminate/withdraw the certification or refuse to grant certification if Licensee or Applicant fails to conform with the amended version within the specified period of time.
- 2.12 The Council may perform an on-site recertification assessment of a certified Licensee at any time earlier than the scheduled recertification assessment or conduct an on-site surveillance visit to it without giving prior notice to the Licensee.
- 2.13 The decision of the Council Members Committee shall include the right to withdraw / suspend certification or reduce the scope of certification of a Licensee. Official notification of such withdrawal, suspension or reduction shall be given in written form by the Council Members Committee to the authorized representative of the Licensee.
- 2.14 The Council shall set fees and charges for any service provided by the Council. An Applicant or Licensee can obtain a list of such fees and charges from the Council. Fees and charges paid by an Applicant or Licensee shall be in full and non-refundable.
- 2.15 The Council may investigate any complaint made to the Council against a Licensee concerning activities included in its scope of certification. The Licensee shall provide information to the Council upon request and shall co-operate with the Council for the purpose of investigation.
- 2.16 The Council may publish information relating to any suspension and termination/withdrawal of certification granted in any publications and websites of the Council.

### **3. Advisory Board of Hong Kong Q-Mark Council**

3.1 The GC of the FHKI is the advisory board of Hong Kong Q-Mark Council on matters relating to certification.

3.2 The FHKI was established under Ordinance, Cap 321 of the laws of Hong Kong, in 1960. The objectives of the Federation are:

- a) to promote and foster the interests of Hong Kong industrial and business communities.
- b) to promote trade, investment, technological advancement, manpower development, and business opportunities in Hong Kong.
- c) to represent business's views and advise the government on policies and legislation which affect business.

The GC is the Federation's policy-making and management authority, while the Secretariat is responsible for policy implementation and day-to-day operations. The term of office for members of the GC is two years.

3.3 Members of GC shall include

- the chairman of each of the scheduled groups of FHKI ;
- members appointed by the outgoing GC;
- members appointed by the Hong Kong SAR Government; and
- members co-opted by the incoming GC.

3.4 To ensure the impartiality of the activities of the Council, GC also assigned a Safeguarding Committee to give advice of day to day operation of the Council.

3.5 The terms of reference of Safeguarding Committee shall be:-

- a. To establish the policies and principles related to impartiality for the Council and its accredited certification activities;
- b. To counteract any tendency on the part of a certification body to allow commercial or other considerations to prevent the consistent impartial provision of accredited certification activities;
- c. To identify matters affecting impartiality and confidence in certification, including openness and public perception; and
- d. To report to the GC of FHKI directly for any issue affecting impartiality and

confidence in certification.

3.6 Members of Safeguarding Committee shall include

- a. Chairman of the Safeguard Committee shall be nominated by Chairman of FHKI and appointed by the GC of the FHKI.
- b. The Safeguard Committee members shall be nominated by the Chairman of Safeguard Committee and approved by the GC of the FHKI. The representation with a balance of interests from both internal and external personnel:
  - i. manufacturers/ service provider.
  - ii. users and consumers.
  - iii. conformity assessment experts.

3.7 For technical issues, the Council shall set up Technical Committees for that particular technical areas to advise the Council to resolve those technical issues.

3.8 Terms of Reference of each Technical Committee shall be:-

- a) To represent a specific group of interests with the relevant technical competence for specific products, so that the schemes developed shall have good public acceptance and are practical;
- b) To assist HK Q-Mark Council, through their personnel's technical competence, in the development and maintenance of product specific criteria (explanatory documents, sampling, testing and inspection requirements, management systems elements/quality systems evaluation and certification) for product schemes which may contain requirements on conformity assessment procedures and functions of the certification bodies complementary to those established by ISO standard;
- c) To provide technical advice on whether or not to certify a product on the basis of information generated from the evaluation process, including inspection and test results; and
- d) An ad-hoc working committee will be formed when needed. Its composition should include members from manufacturers & users, consumers, conformity assessment experts to cover all interests on the proposed product scheme. Invitation to some experts of specific fields could be possible.

3.9 Members of each Technical Committee

Each Technical Committee, together with its members, are appointed by the Chairman of the Council and its composition consists different parties below, so that its representation shall be a balance of interests from both internal and external personnel:

- a. manufacturers / service provider.
- b. users and consumers.
- c. conformity assessment experts.
- d. testing and inspection authority.
- e. subject experts.

## **4. Certification Procedures**

### **4.1 Application of Hong Kong Q-Mark Product Certification Schemes**

4.1.1 The procedure to be adopted for the handling of applications for licences and the fee to be paid in relation thereto shall be as follows: -

- (a) Applications shall be in such form and contain such information as the Council may from time to time specify. At the time of filing an application the Applicant shall attach thereto or include therewith all appropriate descriptive literature and relevant information including manuals, procedures and / or specifications and / or requirements of the product / system, include but not limit to the following:
1. complete and submit the application form prescribed by Council;
  2. pay the appropriate fee;
  3. provide the Quality Documentation and related documentations for Assessment;
  4. nominate a person to be the Responsible Person, the Applicant's formal contact point with the Council;
  5. quality records are documented for at least three months;
  6. valid certificate of the required quality system certification.
- (b) At the time that an application for a licence is filed with the Council an application fee shall be paid to the Council. This fee is non-refundable and is to cover the cost of the evaluation of the application. After receipt of the application with the application fee and where applicable, samples of the product, the Council or her delegation shall communicate with the Licensee of the appropriate Product Certification Scheme requirements (including the relevant standard and testing requirements) to which the product must comply and where applicable, the testing fees which shall be charged by the Council for testing the product to ascertain whether or not it complies with the standard or standards which have been laid down by the Council, and the on-site assessment fee which shall be charged by the Council for the evaluation of the premises, at which the product is to be manufactured and of the quality control systems operated by the Applicant.
- (c) Where applicable, the fees for testing the product shall be in accordance with the nature of the product and the tests required in the particular Product Certification Scheme and which are applicable generally to the testing laboratories and facilities designated by the Council.

- (d) Where applicable, the fees for the testing of the product as notified by the Council shall be paid by the Applicant to the Council before the application shall be processed further. Failure by the Applicant to make payment of the same within the notification period thereof by the Council shall entitle the Council in its discretion to treat the application as having been withdrawn.
- (e) On receipt of sufficient application information and all necessary fees, a lead auditor appointed by the Council shall start the evaluation process. The evaluation process shall include review of Applicant's management system, product specification/information and/or conduct advisory/pre-assessment visit, where necessary with auditors and/or technical experts.
- (f) Where the Council is of the opinion that a number of applications for different products can be conveniently handled together the Council may in its absolute discretion decide that it is not necessary to have separate assessments of the factory premises operated by the Applicant. The Council in its discretion may waive or reduce one or more assessment fees. Where however the Council is of the opinion that different factory premises may apply to the different products then each application must be handled entirely separately and the Council must insist upon separate assessments and payment of separate assessment fees in full notwithstanding that there may be multiple applications made by the same Applicant at the same time.
- (g) Where applicable, the products relating to the subject matter of the application are to be manufactured in different factory premises the Council may in its discretion require separate applications and / or licences for each different factory premises where the product is to be made or may make such other decisions as to the handling of the application including testing of the product and the assessment of the factory premises as the Council may in its discretion consider appropriate. Unless the Council shall decide otherwise a separate factory assessment fee shall be payable in respect of each of the factory premises where the products are to be manufactured and where on licence covers products manufactured in more than one factory premises additional surveillance fees shall be payable.
- (h) The Applicant shall supply to the Council such information as the Council may from time to time require during the processing of the application and failure by the Applicant to supply any such information within a reasonable period of time the

same being requested by the Council shall entitle the Council in its discretion to treat the application as having been withdrawn.

- (i) The Applicant is required to complete the whole certification process within twelve months from the date of submission of an application. The Applicant is required to submit a new application again and pay the application Fee if it is unable to complete the certification process within twelve months.

## 4.2 Certification Process

- 4.2.1 The whole Certification Process shall be consisted of two main parts, the on site assessment carried out by the assessment team appointed by the Council and the audit testing of the product sample taken during the on site assessment.
- 4.2.2 On accepting the application, the Council shall arrange with the Applicant for the on-site assessment of the premises/certified locations including Quality System Management Office and Manufacturing Plant at a mutually convenient time.
- 4.2.3 The Council shall appoint an assessment team to assess the Applicant. Members of the team shall be selected to provide adequate expertise to cover the activities to be assessed.

An assessment team is led by a lead auditor. It may include other auditors for management system and technical operation and/or technical experts. A technical expert, if included in an assessment team, shall provide technical advice to the team leader and shall work closely with the team. The Council may also include observer(s) in an assessment team but his/her opinion shall not be taken into consideration by the assessment team or the Council.

Lead auditor shall determine the responsibility of each member in the assessment team and brief them in advance on relevant background information of the organization, its activities to be assessed, the name and background of its senior staff, if necessary with qualification and experience.

- 4.2.4 On-site assessment shall comprise the following:
  - 1. Manufacturing Plant - the assessment team shall assess the plant and equipment including the product and the operation of the relevant sections regarding the quality and technical systems conforming to the Scheme.
  - 2. Quality System Management Office- the assessment team shall assess the quality system relating to the Plant by an assessment of quality and production records.

3. Evaluation of the results of production testing - the assessment team shall assess the quality control system by carrying out an evaluation of quality control testing results covering a minimum of three months. The assessment team shall also examine relevant quality and production records to confirm the output of quality control systems and hence authenticate the conformity of the food product to the specified criteria in the Schemes.
  4. Sampling for Audit Testing - the assessment team shall take random representative samples at the point of release of product from the Plant and/or depots supplied with the product by the Plant.
- 4.2.5 Every auditor in an assessment team shall record the findings in writing and shall discuss the findings with the lead auditor who shall prepare an assessment report summarizing the findings. The lead auditor shall provide a copy of the report to the organization at the end of the assessment visit and submits the report to the Council.
- 4.2.6 After the on-site assessment of the premises / certified locations operated by the Applicant and completion of Audit Testing, the Council shall notify the Applicant whether or not the factory premises meet with the requirement of the Scheme.
- 4.2.7 The Applicant may have to complete any remedial measures as required by the Council. The Applicant shall notify the Council in writing of the actions taken or planned against all identified non-conformities within time interval required by the product scheme or specified by the Council. The Council Members Committee shall make decision on whether or not to grant the certification base on the satisfaction of the remedial measures submitted.
- 4.2.8 In the event that the premises operated by the Applicant fail to meet with the requirement of the Scheme, the Council Members Committee shall inform the Applicant such decision and may in its discretion the reasons of failure. The Applicant may if she wishes to request a re-assessment after she has corrected or rectified the faults or omissions. Where applicable, at the time of applying for re-assessment the Applicant must pay a further assessment fee to cover the cost of re-inspection of the factory premises and re-assessment of the systems operated by the Applicant.
- 4.2.9 If in the opinion of the Council the premises / certified locations operated by the Applicant are such that they are not capable of complying with the requirements to ensure that the products are in accordance with the Schemes which have been laid down by the Council, the Council may notify the Applicant such decision that the said application shall be recommended for withdrawal.



### 4.3 Audit Testing

- 4.3.1 The test of the Applicant's product sample shall be carried out by an independent HOKLAS or its MRA partners accredited laboratory and the results produced in an endorsed test report.
- 4.3.2 The test results shall be reviewed by the assessment team. The reviewed audit testing report, together with the on-site assessment results, shall be submitted to the Council Members Committee for the recommendation of certification.
- 4.3.3 On completion of the audit testing, the Council shall notify the Applicant whether or not the product sample meets the requirement of the Scheme. If product is confirmed to be failing in product audit testing, the Council shall inform the Applicant about the failed test results. If the Applicant wishes to continue the application, changes or improvements shall be implemented into the products and re-test of samples shall be carried out under the condition stated in the Scheme.

In case failed test results of products are hazardous to the public, the Council shall take appropriate actions, such as to notify the Applicant for product recall and the Applicant shall inform the related Authority about the hazard.

- 4.3.4 Before the time for carrying out re-testing of product sample, the Applicant shall again pay the full amount of the fees for re-testing of the products .
- 4.3.5 All product samples submitted to the Council shall become the absolute property of the Council unless the Council agrees otherwise with the Applicant. The Council may dispose of the samples at any time as the Council thinks fit.

### 4.4 Grant Of Licence

- 4.4.1 In the event that the certification decision of a product has been made by the Council Members Committee as complying with the particular scheme requirements which have been laid down by the Council on that the premises operated by the Applicant, the Council shall proceed to issue a licence. The Council shall send a notification letter to the organization to inform it of the terms of certification.

- 4.4.2 Licences shall normally be granted for products which are considered by the Council to be within Hong Kong, Macau and Mainland China. For products which are not within the said region, approval shall be sought from the Council.
- 4.4.3 The Applicant who satisfies the Council that she is capable of complying with the requirements of the Scheme and who gives to the FHKI such undertakings as the Council may require and whose schemes to be licensed meets with the approval of the Council shall, subject to the conditions of these Regulations, be entitled to a licence.
- 4.4.4 The Council Members Committee may in its absolute discretion in making the decisions: -
- (a) Refuse to grant or renew a licence, or
  - (b) Revoke a licence already granted.
- Notice of any refusal or revocation shall be communicated to the Applicant or Licensee in writing.
- 4.4.5 Where it appears to the Council as a result of a complaint from a member of the public or the result of a routine testing / assessment of the product or otherwise that the products of the Licensee fail to comply with the requirements of the Scheme or as a result of a routine visit to the Licensee and /or her premises / certified locations or otherwise it appears to the Council that the Licensee is not complying with the particular Scheme or that the premises have been materially altered by the Licensee since the time when the same were approved by the Council, the Council shall take appropriate action including to conduct further product tests / on-site assessment of the premises operated by the Licensee. The Licensee shall pay the cost of the same in advance. If the Licensee is not prepared to pay for the cost of the same or fails to pay the cost of the same promptly in advance, the Council Members Committee shall in its discretion to make decision for revoking the licence.
- 4.4.7 In the event of a complaint being made to the Council that any product of the Licensee bearing the HK Q-Mark logo is defective / unsatisfactory, the Licensee shall promptly pay to the Council the cost of all tests / assessments which the Council may consider necessary or appropriate to investigate the complaint and to determine what action should be taken with regard thereto.
- 4.4.8 In the event that a Licensee wishes to have her licence amended in any way she may make application in writing to the Council and the Council shall consider such application and handle the same in such way as the Council in its discretion considers appropriate. In addition to any testing or assessment fees that may be incurred the Licensee shall pay to the Council an endorsement fee of such amount from time to time decided by the Council.

4.4.9 Where a Licensee wishes to make changes to the product or include variations to the product, she may instead of applying for a new licence, apply to the Council to have her existing licence amended as aforesaid provided always that, the Council may require a new application for a new licence if in its absolute discretion it considers appropriate.

#### 4.5 Certificate of Conformity

4.5.1 The Council shall further issue a certificate of the Product Certification Scheme under which the certification is granted to the Licensee for its manufacture process and product under such scheme. In other words, the certificate is the document proof of the Hong Kong Q-Mark License on product certification scheme.

4.5.2 The certificate shall include details of the certification granted, such as the name of Product Certification Scheme under which the certification is granted, the activities to which the certification is related and conditions under which certificate is issued. The certificate of certification shall also bear a registration number and date on which it is issued.

4.5.3 The certificate shall remain property of the Hong Kong Q-Mark Council and shall be returned to the Council forthwith upon withdrawal/termination of licence or the request of the Council, e.g. when the certificate is no longer valid as determined by the Council.

4.5.4 Certificate shall be in such form or forms as the Council may from time to time decide. Licences shall not be assignable. Each certificate when granted shall specify the scope covered by the licence, the name and address of the Licensee, the effective period of the licence, the certified locations, the product scheme(s) / standard(s) and / or requirements to which the product must conform, such terms and conditions of any description whatsoever as the Council in its absolute discretion thinks appropriate as to quality, quality control, restrictions as to use of the HK Q-Mark logo or otherwise as the Council considers appropriate and particulars of the fees to be paid by the Licensee. The terms of the licence including the conditions may be varied, added to or otherwise amended from time to time as the Council in its absolute discretion considers appropriate. Unless in the opinion of the Council the matter is of such urgency that a shorter period of notice is necessary the Council shall give to the Licensee reasonable time prior notice of any variation, addition, or amendment.

4.5.5 Certificate/Licences shall normally be for periods of thirty six months, or otherwise if it is specified by the Product Certification Scheme, provided that the Council Members Committee may decide to grant licences for such longer or shorter periods as the Council shall consider appropriate.

4.5.6 Under no circumstances shall a Licensee be entitled to any claim for damages or compensation in the event of a licence being revoked, not renewed, varied, added to or amended in any way whatsoever.

#### 4.6 Certification Maintenance and Renewal

4.6.1 Each grant product certification scheme shall be subjected to scheduled surveillance program (with production sample testing) and open market testing. The Council evaluate the continual conformity of the Licensee shall be based on the surveillance maintenance program and open market test.

4.6.2 The Council may request additional surveillance visit to the licence subjected to the following:

- a) When there are changes in the Licensee's circumstances which may affect its continued conformity with the requirement of the Council;
- b) When such a visit is, in the opinion of the Council, necessary to monitor the performance of the Licensee;
- c) Made for follow up assessment purposes, such as following a report of major or critical nonconformities. Such assessments may require either:
  - i.) A partial assessment to confirm that nonconformities have been corrected; or
  - ii.) A full assessment to confirm compliance with the Regulations.

4.6.3 The certification obtained by a Licensee may be maintained / renewed subject to continual conformity with relevant certification criteria, payment of annual fee, recertification / surveillance visits with related product testing and open market testing. The Council Members Committee may decide to reaffirm, suspend or withdraw the certification on the basis of the findings of recertification, surveillance and product / open market testing. The Council may also issue supplementary criteria to govern recertification and surveillance intervals. Recertification / surveillance visits shall be carried out regularly in accordance with specific schedule, if necessary, the Council may also vary the recertification / surveillance schedule.

- 4.6.4 The duration of a Certification is specified in the product certification scheme. Recertification Assessment shall be carried out at before the expiry date of the certificate at the end of the Certification cycle. The Recertification Assessment shall be carried out as if it is an initial Certification Assessment.
- 4.6.5 When a Licensee is due for a recertification assessment, the Council shall request the Licensee for providing information necessary in the recertification assessment within a specified period of time. The Council Members Committee may decide to suspend the Product Certificate of a licence which fails to provide those information within the specified period.
- 4.6.6 A Licensee may seek to extend its scope of certification in the Product Certification Scheme under which its existing certification has been granted by completing appropriate form. It shall provide the information as required by the Council and it shall further pay the relevant application fee. If a Licensee seeks certification of other activities under another certification scheme that it has not certified, it shall make an initial application for such certification.
- 4.6.7 The procedure for processing an application of an extension of scope is similar to that for an initial application except that no advisory visit/pre-assessment visit shall be conducted. The Council shall determine any necessary assessment and product testing required for the extension. The Licensee shall be notified by Council on the acceptance of extension, together with the additional fee required for the assessment and product testing.
- 4.6.8 Hong Kong Q-Mark Council, Federation of Hong Kong Industries and any person acting on behalf of the Council shall not be liable for any loss or damage suffered by an Applicant arising from whatever cause (including but not limited to any act or statement made) in connection with the refusal to grant certification.

#### 4.7 Register of Licensees

- 4.7.1 The Council shall maintain and publish a directory of Licensee in a suitable form as it consider appropriate in respect of each of its Product Certification Schemes. Each of the directories shall contain details of the certification granted under the relevant scheme. If any other information in relation to a Licensee is to be included in the directory, the Council shall obtain prior consent from it.

4.7.2 A list of Licensees and products / certified locations for the time being shall be kept by the Council and be opened to inspection by the public.

## **5. Complaints And Appeals**

5.1 A licensee or an applicant may lodge a complaint against any decision made or action taken by the Council. The Applicant or Licensee shall lodge complain in written document within three months after such decision or action has been made or taken.

5.2 The Council shall investigate and examine such complaints and notify the complainant the outcome of such investigation and examination.

5.3 A licensee or an applicant may lodge an appeal to the Council if it considers the outcome of the investigation and examination as specified in clause 5.2 above is not acceptable to it.

5.4 A licensee or an applicant may also lodge an appeal against any decision of the Council without first going through the complaints procedures (see clauses 5.1 to 5.2 above).

5.5 An appeal shall be lodged in written document within three months from the date of notification of a decision.

5.6 Appeals Procedure shall be proceeded within a specified period as specified in the product certification scheme after the receipt of the appeal notice from the Applicant/Licensee, and the Applicant/Licensee shall be given sufficient time of notice as specified in the scheme or determine by Council on the time and place of such a meeting. The decision after the majority of the Appeals Procedure shall be final and shall be released in accordance to the scheme.

5.7 The Council shall set up an Appellate Board And the Appellate Board shall consist of a Chairman and at least two other persons, need not be members of the Safeguarding Committee of the Hong Kong Q-Mark Council. All members of the Appellate Board shall not be involved in that matter in question by the Applicant/Licensee and the Chairman of the Appellate Board shall be one of the Safeguard Committee members.

5.8 The Council shall forward to the Appellate Board the grounds of its decision in writing together with a copy of the application, licence (if any), particulars of all relevant tests / assessment and enquires made in relation to the application or licence and results and all such other facts and information as the Council may consider relevant.

- 5.9 The Applicant or Licensee may submit written representations to the Appellate Board for its consideration provided that such written representations are received not less than 3 working days before the meeting of the Appellate Board. Such written representations should be sent to the Council who shall forthwith forward the same to the Appellate Board.
- 5.10 Before the meeting of the Appellate Board, the Applicant or Licensee may withdraw the appeal by notice in writing.
- 5.11 The Appellate Board may confirm or rescind the decision of the Council or make such other decision as it pleases to replace the decision of the Council or otherwise act in its absolute discretion including referring the matter back to the Council.
- 5.12 The decision of the Appellate Board shall be final and binding on the Applicant or Licensee in all respects and there shall be no further appeal or review.

## **6. Payment to fees**

- 6.1 The Licensee shall pay an annual fee to Council for each Certification. The Licensee shall also pay an initial assessment fee and all subsequent fees to Council for certification assessment, surveillance and recertification-assessment.
- 6.2 The Licensee shall pay all fees in connection with inspection, testing and administration, as shall from time to time be determined by the Council to be fair, having regard to the costs relating to the maintenance of the licence.
- 6.3 If for any reason, the licence is suspended, withdrawn/terminated or revoked, the Licensee shall have to pay all fees for the entire valid licensed period under the licence. The whole amount should be settled within one month from the date of withdrawal / suspension.

## **7. Indemnity**

- 7.1 The Licensee undertakes to indemnify and keep indemnified the Federation of Hong Kong Industries against all and any claims demands and losses of any reputation suffered by the Federation of Hong Kong Industries as a result of any wrongful or improper act by the Licensee or any breach of these Regulations or the terms of the licence.
- 7.2 Every Licensee shall inform the Council of the name and office telephone number of at least one responsible member of the staff of the Licensee who is authorized to handle any matters related to the Q-Mark Licence and who has full authority to make immediate decisions with regard to the same. The name of such person and telephone number and address of the Licensee shall be made available by the Council to any member of the

public requesting the same. In the event of the individual nominated by the Licensee being changed or leaving the employment of the Licensee, the Licensee must immediately notify the Council and inform the name and telephone number of another person having like authority.

7.3 When investigating any complaint, the Council shall have due regard to the high reputation and standing of the Federation of Hong Kong Industries and its HK Q-Mark Council and to protect the good image of the HK Q-Mark Council and of the Federation of Hong Kong Industries.

## **8. Property of Hong Kong Q-Mark Council**

The Hong Kong Q-Mark Product Certification Schemes are the properties of and are owned by the Federation of Hong Kong Industries. This fact must be expressly recognized by each and every Licensee.

### Notices

- i. Any notice or other communication required to be given or sent hereunder shall be deemed to be duly given or sent if sent by e-mail, fax or registered prepaid post to the address of the Licensee or Applicant last known to the Secretary of the Council and shall be deemed to be given at the time when the same would have been delivered in the ordinary course of e-mail or fax or post. Any notice or other communication required to be given or sent hereunder to the Federation of Hong Kong Industries or to the Council shall be delivered to the only or principal office of the Federation of Hong Kong Industries and shall be addressed to “The Hong Kong Q-Mark Council, The Federation of Hong Kong Industries.”
- ii. Any reference herein or in any licence granted hereunder to “these Regulations” means these Regulations as the same may be varied, amended or altered from time to time.
- iii. In these Regulations words importing the female gender include the male and corporations.
- iv. These Regulations may be varied amended or altered from time to time by the Council provided always that notice of any variations amendments or alterations shall be given to all Licensees.