

## **BUILDING REGULATIONS: COMPETENT PERSON SELF-CERTIFICATION SCHEMES<sup>1</sup> - CONDITIONS OF AUTHORISATION FROM 6 JUNE 2012<sup>2</sup>**

	<b>Conditions of Authorisation</b>	<b>Notes on how to demonstrate meeting the conditions</b>
		<i><b>N.B. In all cases the demonstration shall be sufficient to meet the relevant requirements in BS EN 45011.</b></i>
<b>No.</b>	<b>Section 1 The scheme operator<sup>3</sup></b>	
1.	Scheme operator to give a commitment to achieve/maintain UKAS (United Kingdom Accreditation Service) accreditation to standard BS EN 45011: 1998 (or latest equivalent standard) within a period agreed with DCLG and to ongoing external monitoring by UKAS. Scheme operator to meet all the relevant requirements in EN 45011 whether or not separately specified in these conditions of authorisation.	The scheme operator shall familiarise itself and demonstrably comply with the requirements of EN 45011.  UKAS accreditation should normally be achieved within two years from the date of authorisation of a new scheme or an extension of a scheme (but see also footnote 2 below).
2.	Scheme operator to have a robust and non-discriminatory management, quality and administrative system.	The scheme operator's management, quality and administrative system (including surveillance) shall be documented so as to meet the requirements of EN 45011.

<sup>1</sup> Schemes are authorised under paragraph 4A of Schedule 1 to the Building Act 1984 and are named in Schedule 3 to the Building Regulations 2010 (as amended).

<sup>2</sup> DCLG will allow existing scheme operators a two year period of grace from the date of publication of these conditions of authorisation within which to become fully compliant with them. During these two years DCLG will accept a demonstration of commitment and capability to meet the conditions, where full compliance cannot be achieved, as being sufficient for continued authorisation but a scheme will have to fully comply with all the conditions, including the achievement of UKAS accreditation, in respect of all the types of work for which it is authorised by the end of the two years if its authorisation is to continue beyond that date.

<sup>3</sup> Referred to as a "certification body" in EN 45011.

3.	Scheme operator, including assessors and inspectors that it employs, to have the technical ability to assess/inspect the competence of prospective and existing members <sup>4</sup> to deliver compliance with the requirements of the Building Regulations.	<p>The scheme operator shall document how the relevant technical requirements of the Building Regulations are to be met, in relation to the types of building work undertaken. This includes where a scheme operator acquires the competence from, or sub-delegates the assessment/inspection process to, a third party.</p> <p>Assessors and inspectors must be competent at least to the equivalent level in the relevant sector Minimum Technical Competence (MTC) assessment procedure, where one is in place or is being worked towards (see condition no 9).</p>
4.	Scheme operator to ensure that the scheme is financially viable and self-sufficient within a reasonable timescale.	<p>The scheme operator shall:</p> <p>(a) have a transparent fee structure showing income from members and how the scheme will be self-financing with a sufficient surplus for development;</p> <p>(b) ensure that the scheme is self-financing, within a period of not later than five years after authorisation;</p> <p>(c) use scheme funds received from members from registration and notification fees etc only for the benefit of members of the scheme. This can include use of funds for the general benefit of the sector in which the scheme operates.</p>
5.	Scheme operator to have an absence of, or methods for avoiding, conflicts of interest between the commercial interests of any sponsoring or parent organisations and management of the scheme.	<p>The scheme operator shall document how any conflicts of interest will be managed as required by EN 45011.</p> <p>For example: possible conflicts of interest may arise where a scheme is part of or owned by a larger commercial, trade or professional body.</p>
6.	Scheme operator to promote the development and growth of the scheme to potential members and its use to customers.	<p>The scheme operator shall advertise the scheme, explaining its purpose and benefits, to encourage potential members to join and use by customers. This includes distributing promotional literature provided by DCLG.</p> <p>The scheme operator shall document how the scheme proposes to develop and grow and from where new members covering the relevant types of work would be derived for at least the first five years following authorisation. This requirement will be met if it can be demonstrated that further membership growth is not practicable.</p>

<sup>4</sup> Registered businesses, including sole traders.

		The target for membership growth shall comprise competent businesses not already in a competent person scheme for the same type of work.
7.	Scheme operator to provide annual accounts, independently audited, for the scheme itself.	<p>This condition will support conditions 4 and 5 as the accounts will help show that a scheme is financially viable and self-sufficient. It will also help demonstrate that there is not a financial conflict of interest.</p> <p>To be 'independently audited', accounts must have been checked by someone who is competent to check them and independent of the preparation of the accounts.</p> <p>Where a scheme is authorised for more than one type of work the audited accounts may cover all the types of work for which the scheme is authorised.</p>
	<b>Section 2 The scheme operator and its members</b>	
8.	Scheme operator to establish and publish scheme rules, including its application and certification processes and fee structure.	The scheme rules shall be published on the scheme's public website as a minimum.
9.	Scheme operator to assess existing members and applicants as technically competent, against National Occupational Standards (NOS) under a Minimum Technical Competence (MTC) assessment procedure where one is in place for the relevant type(s) of work. For applicants this should be before registering them with the scheme. The assessment must include an on-site inspection.	<p>Where a sector MTC is in place, it must be used. Where one is not in place a scheme operator shall determine and use an appropriate alternative means of assessing technical competence and work towards the development of an MTC with associated NOS as soon as possible, in conjunction with the relevant sector skills body (e.g. Summit Skills or Construction Skills). DCLG will provide a link to an up to date list(s) of sector MTCs on its website.</p> <p>The scheme rules shall set out details of how the technical competence of members/applicants (including those moving from one scheme to another) will be assessed. The assessment on-site shall cover all the types of work for which they are applying.</p> <p>Where scheme operators can demonstrate that existing members have been assessed as competent under the scheme's previous assessment process, there will in most cases be no need for a further assessment of competence before certification.</p> <p>Where there are gaps between the previous and current competence assessment process, any such gaps may be addressed at the next planned</p>

		<p>surveillance visit (see condition 12).</p> <p>Where scheme operators have not previously assessed the competence of existing members they will need to do so. If they are unable to assess and certify these members within the two year period of grace (see footnote 2), it may be possible for that scheme/sector to agree an appropriate further period with DCLG (in consultation with UKAS).</p>
10.	Scheme operator to ensure that its members' competencies are kept up to date, for example as a result of changes to the Building Regulations and/or BS/EN standards or technical approvals.	This may be by means of formal generic training courses, seminars, distance learning, etc, as appropriate, which shall be equally available to all members.
11.	Scheme operator to provide ongoing technical and other help and advice to members as required (i.e. post registration), provided such help/ advice does not cause any conflicts of interest with certification activities of the scheme operator.	This may be accomplished by setting up telephone and e-mail helplines available to all members.
12.	Scheme operator to undertake surveillance of its members' work, including carrying out periodic random inspections of a representative sample of each member's work, during or after completion, to check compliance with the Building Regulations.	<p>A scheme operator shall, under a risk-based approach, undertake a minimum of one on-site inspection of each member's work every three years. This period shall be granted to existing members who have a clean track record, as defined and documented by the scheme operator. This will need to be based on factors such as inspection outcomes, significant complaints and major changes in personnel. Those members without such a record shall be inspected on an annual basis until they have such a record. New members will need to be inspected annually for the first two years following initial assessment to establish a clean track record.</p> <p>Scheme sector or individual scheme operators may choose to adopt more frequent inspection periods, where they consider that there is a need to go beyond the minimum requirements to ensure compliance with the Building Regulations.</p> <p>The scheme operator shall document its surveillance process and keep records of all surveillance made in line with the requirements in EN 45011.</p>
13.	Scheme operator to have effective sanctions in place for dealing with	The scheme rules shall set out the range of sanctions to be applied in particular circumstances, including referral to the local authority where

	non-compliance with the Building Regulations and/or a breach of scheme rules by members of the scheme.	appropriate and, in the last resort, termination of membership for refusal to comply.  Provision shall also be made for an appeal against any sanctions imposed.
14.	Scheme operator to use an agreed mechanism to make available to other competent person schemes and other interested parties (e.g. LABC & relevant Government Departments) the names of former members whose membership has been terminated by the scheme and the reason for termination.	This applies where the reasons for termination of membership relate to non-compliance with the Building Regulations or a breach of scheme rules. The names of such former members shall remain available for a period of at least two years.  All members must be made aware of this condition on initial registration and/or renewal of membership.
	<b>Section 3 The scheme operator and its customers</b>	
15.	Scheme operator to keep and publish membership lists and the type(s) of work for which members have been assessed as competent.	This information shall be published on the scheme's public website and the competent person schemes' website, which will allow customers to find a competent installer to carry out work or to check if an installer is a member of a scheme.  Publication is subject to the agreement of members, as a condition of membership, which must be sought on initial registration and/or renewal of membership (e.g. via a tick box).
16.	Scheme operator to have a robust and publicised complaints procedure.	The complaints procedure must cover those relating to non-compliance with the Building Regulations, but may include other types of complaints from customers (and members) relating to the scheme.  The stages of the scheme's complaints procedure shall be set out in detail, at a minimum on its public website, so that those wishing to use the procedure are aware of the stages. The procedures shall be consistent with the principles relating to complaints management of the Office of Fair Trading Consumer Codes Approval Scheme.
17.	Scheme operator to arrange to provide customers with appropriate financial protection to put work to dwellings right, which is non-compliant with the Building Regulations, where the original	Financial protection must be provided, not offered, for a minimum of six years for work to dwellings. But where a manufacturer's product guarantee is for a shorter period, this period will take precedence for that product.  Type of provision may vary from scheme to scheme and sector to sector. Possible mechanisms include guarantees, insurance-backed warranties or, where

	installer cannot do so.	appropriate, professional indemnity insurance.
18.	Scheme operator to require its members to remain responsible for ensuring that all scheme work carried out under a contract with the customer is compliant with the Building Regulations.	<p>This applies in particular where some of the work is sub-contracted to a third party and shall be stated in the scheme rules.</p> <p>The scheme rules shall also state that members must ensure that sub-contractors are competent to carry out the work they are sub-contracted to do.</p>
19.	Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward to all customers a certificate of Building Regulations compliance.	The scheme operator shall have documented systems in place to ensure that members are notifying all jobs carried out under the scheme, in line with regulation 20 of the Building Regulations 2010. The scheme operator should receive notifications well within time to ensure that it meets the 30 calendar day deadline for giving compliance certificates to customers. <sup>5</sup>
	<b>Section 4</b> <b>The scheme operator and DCLG / local authorities</b>	
20.	Scheme operator to provide the information DCLG requires in order to carry out its oversight functions, both on a regular basis or <i>ad hoc</i> as required.	<p>DCLG will specify with all scheme operators the regular information needed for its purposes, which may be published on its website. This is likely to include:</p> <ul style="list-style-type: none"> <li>• provision of a periodic report on: membership numbers; number of work notifications made to local authorities; and number of formal consumer complaints and their outcomes;</li> <li>• financial information annually from the scheme's audited accounts, as appropriate; and</li> <li>• information from UKAS reports on the scheme accreditation, as appropriate (DCLG may request this direct from UKAS).</li> </ul>
21.	Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward this information to the relevant local authority in the format agreed with LABC.	As under condition 19, scheme operators shall have documented systems in place to ensure that members are notifying all jobs carried out under the scheme, in line with regulation 20 of the Building Regulations 2010. The scheme operator should receive notifications well within time to ensure it meets the 30 calendar day deadline for transfer of information to the local authority. <sup>5</sup>

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<sup>5</sup> This does not apply to any pressure testing scheme authorised under regulation 43 of the Building Regulations 2010.