



Australian Government

**Department of Industry,
Innovation and Science**

Memorandum of Understanding

Between

The Commonwealth of Australia

as represented by

**The Department of Industry, Innovation and Science
(Industry)**

(ABN 74 599 608 295)

and

**Standards Australia Limited
(Standards Australia)**

(ABN 85 087 326 690)

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This **MEMORANDUM OF UNDERSTANDING** is made

this **13** day of **November** 2018

BETWEEN

The **COMMONWEALTH OF AUSTRALIA**, as represented by the Department of Industry, Innovation and Science (**Industry**) ABN 74 599 608 295

AND

STANDARDS AUSTRALIA LIMITED (ABN 85 087 326 690) (**Standards Australia**), a public company limited by guarantee.

Background :

- A The purpose of this Memorandum of Understanding (MoU) is to describe and acknowledge the role and commitments of each of the Commonwealth and Standards Australia (the Participants), in collaboration, to assist the community to strengthen Australia's national standards system. This will be achieved by recognising the many community benefits which flow from standardisation, for example in improvements in quality, community safety, the environment, business efficiency and the competitiveness of Australian industry in national and international markets.

The Participants agree and acknowledge that this MoU terminates and replaces the MoU between the Commonwealth and Standards Australia dated 17 May 2013.

- B The Commonwealth:
- (i) aims to promote an internationally recognised standards and conformance infrastructure;
 - (ii) seeks to encourage the further development of that infrastructure;
 - (iii) aims to enhance the ability of Australia's standards and conformance infrastructure to best meet the changing needs of industry and consumers;
 - (iv) looks to organisations within that infrastructure, such as Standards Australia, to provide leadership and guidance;
 - (v) recognises Standards Australia as a key organisation in Australia's standards and conformance infrastructure in coordinating and developing knowledge and international experience in standards development; and
 - (vi) recognises the role of the Standards Development Accreditation Committee (SDAC), a Committee of the Standards Australia Board, in accrediting standards development organisations to develop Australian Standards.

- C Standards Australia is a non-government, not-for-profit organisation with the following roles:
- (i) to develop national and internationally harmonised standards and other solutions;
 - (ii) to coordinate national and international standardisation initiatives, knowledge and information exchange;
 - (iii) to accredit non-government organisations to develop Australian Standards through the SDAC; and
 - (iv) to work with governments, industry and community in the design, development, delivery and implementation of innovative solutions.

Paragraph 1 Legal Status of this MoU

- 1.1 The Participants do not intend to create any legally binding relationship or obligations by entering into this MoU.

Paragraph 2 Duration of this MoU

- 2.1 This MoU has effect for a period of five (5) years from the date of its execution unless earlier terminated in accordance with Paragraph 12 or extended by agreement by both Participants.

Paragraph 3 Definitions

- 3.1 General terms used in this MoU will have the meaning given in the definitions contained in the current version of International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 2, *Standardization and related activities – General Vocabulary*, unless the context requires otherwise.
- 3.2 The following terms and their definitions will apply for the purpose of this MoU:

‘Australian Standard’ is a trade mark of Standards Australia used in connection with consensus-based voluntary standards developed by or on behalf of Standards Australia or by accredited Standards Development Organisations (and in relation to which the ‘Australian Standard’ mark is an indicator of accreditation).

‘National Differences’ means those elements of an Australian Standard that are deviations from an international standard or, where appropriate, from a de-facto international standard.

‘Regulatory Impact Statement’ (RIS) means the formal codification of good regulatory practice as set out in the *Best Practice Regulation Handbook* issued by the Office of Best Practice Regulation (or its successor) and the Council of Australian Governments’ *Best Practice Regulation, A Guide For Ministerial Councils and National Standard Setting Bodies* prescribed for use by government in consideration of significant regulatory proposals.

'Standards Development Organisation' means an organisation accredited by Standards Australia to develop Australian Standards.

Paragraph 4 Participant Representatives

- 4.1 Each of the Participants will from time to time nominate a representative to manage the relationship between Standards Australia and the Commonwealth. The details of the current Commonwealth Representative and the Representative from Standards Australia will be notified in writing prior to the commencement date of this MoU. Any change to these details must be advised in writing by the relevant Participant. Any notice given by a Participant under the MoU will be in writing and addressed to the Representative at the nominated address in Paragraph 13.

Paragraph 5 Cooperation

- 5.1 The Participants will actively maintain a cooperative relationship (including by sharing all relevant information) in order to enhance the efficient and effective operation and administration of this MoU.

Paragraph 6 General Provisions

- 6.1 The MoU encompasses the preparation of Australian Standards by Standards Australia and by bodies accredited by Standards Australia's SDAC to develop Australian Standards. It also encompasses coordinating participation in international and regional standardisation activities.
- 6.2 The MoU acknowledges that certain Commonwealth agencies and authorities have a responsibility to prepare standards and technical regulations which may or may not involve the participation of Standards Australia or the reference of Australian Standards.
- 6.3 Standards Australia will have regard to the following principles in the preparation of new or revised Australian Standards:
- 6.3.1 to support the fair and equitable selection of standards related activities and projects that will be resourced by Standards Australia, a contestable and appropriately rigorous Prioritisation and Selection Process will be applied by Standards Australia;
 - 6.3.2 for all standards development projects, the primary decision criterion is a net benefit to the Australian community as a whole;
 - 6.3.3 unnecessary cross references to other standards will be avoided;
 - 6.3.4 standards should be written in terms that do not inhibit competition; and
 - 6.3.5 standards should have clearly identifiable outcomes and, wherever appropriate, contain performance based requirements that specify outcomes rather than inputs or other prescriptive requirements. This should not preclude the development, in some instances, of Australian Standards which contain detailed technical specifications that offer "deemed to comply" solutions to performance based requirements. It is recognised that certain levels of prescription may be

required to ensure public safety in high risk situations and where interconnection and compatibility is involved.

- 6.4 Standards Australia will maintain a dialogue with relevant Commonwealth agencies, standards setting authorities and, where appropriate, State and Territory authorities, about proposed new projects, including new or revised standards, to ensure all parties are aware of possible regulatory impacts and the need for harmonisation and alignment.
- 6.5 When preparing Australian Standards, Standards Australia will ensure that its practices comply with the World Trade Organization (WTO) Agreement on Technical Barriers to Trade (TBT) and the Code of Good Practice at Annex 3 of that Agreement with which Standards Australia is committed to comply. It will also take into account Australia's undertakings in Free Trade Agreements.
- 6.6 When preparing Australian Standards, Standards Australia will, in accordance with Articles 3 and 4 of the WTO TBT Agreement, utilise accepted international standards to the maximum extent possible and will only depart from this practice where there are compelling reasons to do so.
- 6.7 Standards Australia will seek consensus and a fair and acceptable balance of all relevant interests when developing Australian Standards, reflecting not only sound and modern technical practice, but also taking full account of the needs of producers, service providers, users and others who are materially affected.
- 6.8 When preparing Australian Standards, Standards Australia will ensure all reasonable steps are taken to ensure the process is carried out in an expeditious manner, without compromising any agreed objectives or scientific rigour.
- 6.9 Standards Australia will ensure the maintenance of a robust, transparent and independent appeals and complaints mechanism for the handling of all complaints and appeals relating to any aspect of its standards development process.

Paragraph 7 Recognition

- 7.1 The Commonwealth recognises Standards Australia as the peak non-government standards body in Australia encompassing Australia's participation in the development of international standards and the coordination of the development of Australian Standards.
- 7.2 The Commonwealth recognises Standards Australia as the Australian member of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the Pacific Area Standards Congress (PASC).
- 7.3 The Commonwealth recognises the SDAC established by Standards Australia as a Chartered Committee for the accreditation of Standards Development Organisations to develop Australian Standards.
- 7.4 The Commonwealth recognises the objective of common standards for Australia and New Zealand and their development on an equitable basis.
- 7.5 The Commonwealth recognises that copyright in Australian standards and other technical documents developed by Standards Australia vests in Standards Australia.

Paragraph 8 Standards Australia Undertakings

- 8.1 Standards Australia will provide national leadership for establishing documentary Australian Standards in Australia as defined in Paragraph 3 and which are consensus based, voluntary documents with which compliance is not mandatory unless incorporated into law or called up in contractual arrangements.
- 8.2 In this role Standards Australia will, wherever possible, give priority to requests for work the Commonwealth considers necessary for the successful attainment of public and national interest objectives.
- 8.3 When preparing and revising Australian Standards, Standards Australia will seek to ensure they do not inhibit international trade.
- 8.4 Standards Australia will, in consultation with relevant stakeholders, undertake a net benefit analysis to justify the setting of priorities for the development of new or revision of existing standards and make such net benefit analysis available upon request. The net benefit analysis will include an assessment considering impacts on:
 - 8.4.1 Public Health and Safety
 - 8.4.2 Social and Community Outcomes
 - 8.4.3 Environmental Outcomes
 - 8.4.4 Competition
 - 8.4.5 Economic Outcomes
 - 8.4.6 Standards and Legislation
- 8.5 Standards Australia will maintain a standards review process to ensure that standards are relevant, up to date and fit for purpose. This process should consider criteria in the net benefit analysis.
- 8.6 Where the Commonwealth seeks the development of Australian Standards for regulatory purposes, Standards Australia will use good regulatory principles to ensure that such standards are drafted in a form suitable for referencing in legislation/regulation and that they represent a minimum effective solution.
- 8.7 Standards Australia recognises that Commonwealth agencies are required to develop Regulatory Impact Statements (RIS) for new legislative proposals, including for standards that are to be referenced in regulation.
- 8.8 Subject to agreement on financial compensation with the relevant regulatory agency Standards Australia will coordinate and assist with the provision of technical input and information, through Standards Australia Technical Committees, as requested to assist in the drafting of a RIS for a regulation which references a standard or standards.
- 8.9 Standards Australia accepts that standards referenced in legislation:
 - 8.9.1 must represent minimum effective solutions;
 - 8.9.2 clearly separate essential regulatory requirements from those which are not;

- 8.9.3 where appropriate, will be structured in a hierarchical form with the higher form in performance terms and the lower form in prescriptive terms;
 - 8.9.4 where they support a performance regulation, will clearly outline technical solutions reflecting a range of ways in current use by which legal obligations can be met;
 - 8.9.5 will provide a designation including standard number and year; and
 - 8.9.6 will, wherever possible, be standalone documents to minimise duplication and cross referencing. The referencing of secondary and tertiary standards will be limited, where practical, by including information in the primary standard.
- 8.10 Standards Australia will make the standards development process accessible to the general public, including by:
- 8.10.1 making all significant documents that define the standards development process (also known as Standardisation Guides) and other information readily available via the Internet; and
 - 8.10.2 promoting and providing opportunities for public comment and minimum reasonable time periods for consultation.
- 8.11 Standards Australia will continue to improve the efficiency and timeliness of standards development, including by:
- 8.11.1 making options available such as greater use of independent experts to prepare early drafts of Australian Standards;
 - 8.11.2 reducing face-to-face meetings, including through better use of technology;
 - 8.11.3 increasing use of partnering arrangements; and
 - 8.11.4 effective project management.
- 8.12 Standards Australia will maintain SDAC (or its successor) as a committee of the Standards Australia Board and will invite the Commonwealth to be an *ex officio* member. The SDAC will meet at least twice per year and will have the duties and roles as set out in the Charter approved by Standards Australia from time to time.
- 8.13 Standards Australia will ensure that stakeholders:
- 8.13.1 are given opportunities for input into priorities for standards development;
 - 8.13.2 including small business, consumer organisations, industry and government, have the opportunity to be adequately represented in Australia's standards setting and various advisory and consultative structures; and
 - 8.13.3 are actively involved in decisions about whether a standard needs to be developed or revised.
- 8.14 Standards Australia will make every effort to ensure a balanced representation on technical committees, including:
- 8.14.1 small business, academic, consumer and other community interests;

- 8.14.2 enterprises involved in overseas and interstate trade as well as enterprises producing for the local market;
 - 8.14.3 regular reviews of the composition of such committees; and
 - 8.14.4 requiring all committee membership lists to state the names of the nominating organisations and the names of the companies or entities that employ the members. In addition, prospectively to assist responsible disclosure, committee members will be required to provide details to their committees of all appointments or associations of conflict of interests (including potential conflicts) to the work program of the committee;
 - 8.14.5 to take reasonable steps to avoid conflicts of interest within technical governance bodies and technical committees whether real or apparent. Where there are conflicts of interest Standards Australia will undertake appropriate action to mitigate the impact of this on the standard development process.
- 8.15 Further to Paragraph 8.14.4, Standards Australia will ensure that relevant interests, are declared by individuals at all levels of participation in the standards development process, and throughout the organisation generally. The process for reporting interests will be contained in a *Disclosure of Interests Policy*. Standards Australia will use the information to prevent, or if necessary, manage conflicts of interest and apparent conflicts of interest, and will take account of those interests in determining any appointments to positions of influence or control. These procedures should not unreasonably interfere with the privacy of individuals.
- 8.16 Subject to compliance with its obligations under Commonwealth and State and Territory privacy laws, Standards Australia will maximise the transparency of membership of various advisory and consultative structures.
- 8.17 With reference to Paragraphs 6.5 and 6.6 where an Australian Standard departs from an equivalent international standard, Standards Australia will publish in the Preface to the Australian Standard the compelling reasons for the departure and, wherever possible, ensure that National Differences are clearly identified in accordance with ISO/IEC Guide 21-1: 2005 Regional or National Adoption of International Standards and Other International Deliverables.
- 8.18 In recognition of its status as the peak non-government standards body in Australia, Standards Australia will administer and maintain an avenue for the accreditation of other bodies to develop Australian Standards and will:
- 8.18.1 have available, through the SDAC, documented procedures and systems for the accreditation of other standards development organisations;
 - 8.18.2 ensure the requirements for accreditation are rigorous, transparent and consistently applied;
 - 8.18.3 have available for the guidance of accredited bodies documented procedures and systems for developing standards; and
 - 8.18.4 seek to ensure that each accredited body retains the copyright on its standards it develops, subject to third party rights.
- 8.19 Standards Australia will provide and maintain a search facility on its website to enable all relevant interests to determine whether particular Australian Standards are referenced in all Australian Commonwealth, State and Territory Government legislative instruments. To

assist in achieving this objective, the Commonwealth will, where possible, make available the data on the use of Australian Standards in Commonwealth legislative instruments, and will encourage State and Territory Government departments to do the same for data relating to legislation managed by the jurisdictions.

- 8.20 In its role as Australia's representative in ISO, IEC and PASC, Standards Australia will, in accordance with the principles agreed by the Standards Australia Board as published in *Australian Involvement in International Standardisation*, act in the national interest and recognise the priorities of the Australian community and will consult with the Commonwealth on proposed changes to those principles.
- 8.21 In representing the Australian view at international meetings, and prior to determining the position Australia will adopt in such meetings, Standards Australia and accredited Standards Development Organisations will:
 - 8.21.1 ensure that participation is focussed where there is potential for the greatest net benefit for the Australian community;
 - 8.21.2 consult widely with technical experts, government, industry, consumer organisations and other interested parties and facilitate input and comment from the wider Australian public;
 - 8.21.3 wherever possible, enable representation on the basis of the best available technical expertise, including representation from small firms and non-commercial interests;
 - 8.21.4 advise the Commonwealth in advance of any meetings where significant policy issues are likely to be discussed;
 - 8.21.5 when requested, take account of any Commonwealth views and provide the Commonwealth with the brief for the Australian delegation prior to such meetings and, following the meeting, a report on the outcome;
 - 8.21.6 ensure a transparent process for selecting Australian delegates and criteria for determining whether financial support is provided; and
 - 8.21.7 facilitate participation by Australian consumer interests on the ISO Committee on Consumer Policy.
- 8.22 Where Standards Australia participates in the development of international standards, Standards Australia will make its best endeavours to provide resources and other necessary support to ensure the participation of technical experts from industry, government and consumer groups to formulate and present an Australian view as prescribed in Paragraph 8.21.3.
- 8.23 Standards Australia will develop and maintain links with the national standards bodies of other countries and enter into such bilateral or multilateral reciprocal recognition agreements as it considers necessary to improve quality, safety and the efficiency and competitiveness of Australian industry.
- 8.24 Standards Australia recognises and will cooperate with the other Australian standards and conformance infrastructure bodies including, but not limited to, the National Association of Testing Authorities, the National Measurement Institute and the Joint Accreditation System of Australia and New Zealand, and will participate in annual meetings with these bodies.

- 8.25 Where Standards Australia intends to enter into an agreement with a Commonwealth agency for the purpose of preparing standards, it will, in advance of concluding the agreement, advise the Department of Industry, Innovation and Science of the terms and conditions of the agreement to ensure consistency with this MoU.
- 8.26 Standards Australia will keep the Department, as representative of the Commonwealth informed of any contracts of service or other financial agreements related to standards development entered into with Commonwealth departments or agencies.
- 8.27 Standards Australia will divest itself of any certification interests and will not involve itself in new certification activities.
- 8.28 Standards Australia will ensure that Australian Standards do not discriminate between conformity assessment bodies, and Standards Australia will use its best endeavours to ensure that there is no such discrimination in international standards.
- 8.29 In its work within PASC and other regional fora Standards Australia will ensure that the national interest priorities of the Commonwealth and Australian industry are taken into account.
- 8.30 Standards Australia will develop mechanisms to reduce the costs incurred by participation on technical committees, including specific measures to improve efficiency and timeliness.
- 8.31 Standards Australia will publish in its Annual Review an assessment of its performance in meeting the terms of this MoU, including with reference to Paragraphs 8.17 and 8.21.7.
- 8.32 Where it is able to do so Standards Australia will take all reasonable action to ensure fair and equitable access to Australian Standards for all users. It will work towards providing:
 - 8.32.1 competition in the distribution of standards by supporting multiple channels for distribution;
 - 8.32.2 innovative digital, mobile and other channels for accessing standards to give users more choice and to better meet community needs;
 - 8.32.3 flexibility in pricing structures to facilitate economical access for users; and
 - 8.32.4 options for partnering with Standards Australia to facilitate forms of public access to Australian Standards, particularly where referenced in regulation, or where they relate to public interest outcomes, such as health and fire safety.

Paragraph 9 Commonwealth Undertakings

- 9.1 The Commonwealth may, through a grant, provide financial assistance in relation to activities contributing in net terms to the welfare and wellbeing of the Australian community as a whole that would not occur if left entirely to the private market.
- 9.2 The Commonwealth will encourage its agencies to consider the merit of providing financial or in-kind support on a case-by-case basis for the development of regulatory standards.
- 9.3 To ensure standards will serve the public and national interest and not inhibit competition, the Commonwealth will, to the maximum extent possible, participate on

Standards Australia's Council, various advisory and consultative structures and Technical Committees, and maintain an open dialogue with Standards Australia regarding its national interest priorities.

- 9.4 The Commonwealth will actively support Standards Australia's efforts to achieve internationally aligned standards.
- 9.5 The Commonwealth will, in recognising Standards Australia as the Australian member of ISO, IEC and PASC, participate in developing policies and delegation briefs via its membership of relevant Standards Australia Committees and various advisory and consultative structures.
- 9.6 The Commonwealth will, where appropriate, invite Standards Australia to participate in national, regional and international intergovernmental discussions involving the standards and conformance infrastructure. Where such discussions may give rise to intergovernmental agreements, the Commonwealth will, as appropriate, take into account Standards Australia's views on how best to implement such agreements.
- 9.7 The Commonwealth will encourage government legislative and regulatory bodies to use the process of developing standards and related documents provided by Standards Australia rather than develop their own standards and documents and, where appropriate, participate in the development of Australian Standards that are in a form suitable for referencing in legislation, regulations and purchasing guidelines. The Participants note that the Commonwealth's general policy is to use Australian Standards for regulatory purposes only where it is satisfied that the standard represents a minimum effective solution to the problem being addressed. Consistent with this policy, the Commonwealth will retain the right to develop, where warranted, its own standards.
- 9.8 The Commonwealth will encourage Commonwealth, State and Territory government and regulatory bodies to participate in the development of Australian Standards to help achieve balanced representation of all relevant interests on technical committees.

Paragraph 10 Joint Undertakings

- 10.1 The Participants will encourage full participation of all concerned, especially public purchasing authorities, in the preparation and use of Australian Standards.
- 10.2 Where the Commonwealth or its agencies have regulatory, statutory or other formal standards-making responsibilities, and Standards Australia is also active in these areas, then the Participants will coordinate their activities to the maximum practical extent, to avoid duplication or conflict.
- 10.3 The Participants will exert their best efforts to promote understanding and awareness of Australian Standards and their uses through educational, training and promotional activities.
- 10.4 The Participants will work together to seek wide input and representation in International Standards setting to ensure the effectiveness of Australia's participation, including determining areas of national interest priority for participation. The focus of such participation will be in activities with the potential for the greatest net benefits for the Australian community.
- 10.5 The Participants agree that they will use their best endeavours to promote the role of Standards Australia and the Australian standardisation process within governments, industry and the community.

- 10.7 The Participants will hold meetings of senior representatives as necessary to discuss matters of mutual interest.
- 10.8 The Participants will maintain a dialogue with relevant Commonwealth agencies, standards setting authorities and, where appropriate, State and Territory authorities, about proposed new projects, including new or revised standards to promote awareness of possible regulatory impacts. In doing so they may refer to the 2016 *Best Practice Guide to Using Standards and Risk Assessments in Policy and Regulation*.

Paragraph 11 Variation

- 11.1 This MoU may be varied by agreement of the Participants at any time and any such variation shall be set out in writing and signed by both Participants.

Paragraph 12 Termination

- 12.1 The Participants may, terminate this MoU upon providing 12 months notice in writing to the other Participant.

Paragraph 13 Notices

- 13.1 Notices of communication by Standards Australia to the Commonwealth about this MoU shall, unless otherwise notified in writing by the Commonwealth to Standards Australia, be addressed to the Commonwealth as follows:

General Manager
Trade and International
Strategic Policy Division
Department of Industry, Innovation and Science
GPO Box 9839
CANBERRA ACT 2601

- 13.2 Notices of communication by the Commonwealth to Standards Australia shall, unless otherwise notified in writing by Standards Australia to the Commonwealth, be addressed to Standards Australia as follows:

Chief Executive Officer
Standards Australia Limited
GPO Box 476
SYDNEY NSW 2001

Paragraph 14 Dispute Resolution

- 14.1 The Participants agree to use reasonable efforts to resolve by negotiation any problem that arises among them (**Dispute**). A Participant will not withdraw from this MoU until the following process has been exhausted.
- 14.1.1 If there is a Dispute between the Participants concerning this MoU, either Participant may give written notice of the Dispute to the other party which will state that it is a notice under this Paragraph and will specify the details of the Dispute concerned.

- 14.1.2 The relevant Participant's Representatives will endeavour in good faith to agree upon a resolution of the Dispute.
- 14.1.3 Should Participant's Representatives fail to reach a solution within 14 business days (or a time frame agreed between the Participants), the Dispute will be taken to Senior or Executive Management representatives of each of the Participants.
- 14.1.4 Senior or Executive Management of the Participants will endeavour in good faith to agree upon a resolution of the Dispute.
- 14.1.5 Should Senior or Executive management representatives fail to resolve the Dispute within 10 business days (or other time frame agreed by the Participants) the Dispute will be taken to:
 - (i) the Secretary of the Department of Industry, Innovation and Science;
and
 - (ii) the Chief Executive Officer of Standards Australia.

Disputes will not be referred to any third party or tribunal for adjudication or arbitration.

Paragraph 15 Record Keeping

- 15.1 The Participants will document the administration of this MoU, and will disclose MoU records to the other Participant upon request in writing.

Signing Page

Executed as a Memorandum.

EXECUTED by STANDARDS AUSTRALIA LIMITED

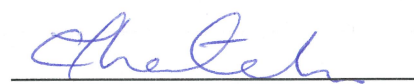
Signed by


Signature of Authorised Person

BRONWYN EVANS
Name of Authorised Person

CEO
Position of Authorised Person


Signed


Signature of witness

CHARLOTTE THATCHER
Name of witness

SIGNED for and on behalf of the Commonwealth of Australia as represented by the Department of Industry, Innovation and Science by its duly authorised delegate in the presence of

Signed


Signature of Witness

Kayla Dominish

Name of witness

Signed Mr Mike Lawson


Signature of delegate

Mr Mike Lawson

Name of delegate

Deputy Secretary

Position of delegate

