

Cabinet Resolution No. (35) of 2015 Regarding the UAE Regulation of Control on Conformity Assessment Bodies

The Cabinet:

- Having perused the Constitution;
- Federal Law No. (1) of 1972 on the Competences of Ministries and Powers of Ministers, and amendments thereof;
- Federal Law No. (1) of 1979 Regulating the Industrial Affairs;
- Federal Law No. (4) of 1979 on Suppression of Fraud and Deceit in Commercial Transactions;
- Federal Law No. (24) of 1999 on the Protection and Development the Environment , and amendments thereof,
- Federal Law No. (28) of 2001 Establishing the Emirates Authority for Standardization and Metrology, and amendments thereof,
- Federal Law No. (24) of 2006 on the Consumer Protection, and amendments thereof,
- Cabinet Resolution No. (22) of 2004 on the Executive Regulations of the National Accreditation System; and
- Based on approval of the Cabinet.

Resolves:

Chapter One

Article (1)

Definitions

For the purposes of this Resolution, the following words and expressions shall bear the meanings ascribed to them, unless the context otherwise requires:

The State : United Arab of Emirates.

The Authority : Emirates Authority for Standardization and Metrology (ESMA).

The Board	: The ESMA's Board of Directors.
The Competent Authority	: The competent authority concerned with commercial licensing in any Emirate of the State.
The Technical Requirements	: The conditions and criteria determined by the Authority, which the Conformity Assessment Body must meet for the purposes of obtaining the Registration, Accreditation or Appointment.
Conformity Assessment	: Any activity used directly or indirectly to verify that the product or service meets the related Technical Requirements;
The Conformity Assessment Body	: The body registered, accredited or accepted by the Authority to carry out the Conformity Assessment procedures in accordance with this Resolution, including the testing and calibration laboratories, inspection bodies, merit testing bodies and bodies concerned with certification of systems, individuals or products.
Registration	: The approval issued by the Authority to the Conformity Assessment Body authorizing it to exercise the conformity assessment activity.
Accreditation	: A procedure whereby the Authority grants an official recognition to the Conformity Assessment Body and declares it as qualified and competent to carry out certain tasks.
Appointment	: The procedure issued by the Authority to announce that the Conformity Assessment Body is accepted, after confirmation of its capacities to conduct the Conformity Assessment on the Technical Requirements of the products and services determined by the Authority.
The Accepted Conformity Assessment Body	: The body appointed in accordance with the provisions of this Resolution to provide Conformity Assessment services in the fields determined by the Authority.
The Conformity	: The certificate issued by the Authority in confirmation of the

Certificate	conformity of a particular product or any part thereof with the requirements of the approved standard specification.
The Mark	: Any drawing, label, symbol, stamp, relief or image indicating the Authority or what is issued thereby on the specifications and standards, quality or conformity or indicating any international body relevant to the specifications and standards, quality or the conformity.
The Accreditation Symbol	: The symbol composed of the accreditation logo and identification number issued by the Authority to the accredited Conformity Assessment Body.
The Assessor	: Any natural person having high qualifications, experience and technical competency in a specific field assigned by the Authority to verify that the Conformity Assessment Body meets the Technical Requirements.

Article (2)

Applicability

The provisions of this Resolution shall apply to all testing and calibration laboratories, inspection bodies, merit testing bodies and bodies concerned with certification of systems, individuals, or products operating in the State.

Chapter Two

Registration of Conformity Assessment Bodies

Article (3)

Obligation of Registration

All governmental and private Conformity Assessment Bodies shall be registered with the Authority in accordance with the requirements and procedures set forth in this Resolution, with the exception of medical laboratories, research and development laboratories and laboratories used in personal, training or teaching purposes.

Article (4)

Procedures of Registration of Private Conformity Assessment Bodies

The private Conformity Assessment Bodies are registered in accordance with the following procedures:

1. The body interested in operating the Conformity Assessment Body shall apply for a commercial license to the Competent Authority in accordance with the rules and procedures applicable therein.
2. The Competent Authority will refer the application to the Authority for consideration in technical terms and verification of its fulfillment of the Technical Requirements.
3. In case the Technical Requirements are met, the Authority issues a 'no objection certificate' for the issuance or renewal of the commercial license to exercise the activity.
4. The Conformity Assessment Body shall meet all the Technical Requirements for registration, in case of the issuance of the commercial license. Then, it shall apply for activity registration to the Authority within a period not exceeding six (6) months starting from the date of issuance of the commercial license. The Authority may extend this time limit for a similar period based on the reasonable grounds.
5. The Authority shall make a field visit to the Conformity Assessment Body to verify that it meets the Technical Requirements for registration.
6. In case the Conformity Assessment Body meets all the Technical Requirements, it shall be registered and the Authority shall update the register of the registered bodies. If the Conformity Assessment Body does not meet the Technical Requirements within the period referred to in Paragraph (4) of this Article, the Authority shall address the Competent Authority to revoke the commercial license issued for this body.

Article (5)

Procedures of Registration of the Governmental Conformity Assessment Bodies

The governmental Conformity Assessment Bodies are registered in accordance with the following procedures:

1. The Authority considers the registration application in technical terms as submitted by the Conformity Assessment Body and verify whether it meets the Technical Requirements issued by the Authority.
2. The governmental Conformity Assessment Body shall meet all the Technical Requirements for Registration within a period not exceeding six (6) months as of the date of submitting the application. The Authority may extend this time limit for a similar period, based on the reasonable grounds.
3. The Authority shall make a field visit to the Conformity Assessment Body to verify that it meets the Technical Requirements for Registration.
4. In case the Conformity Assessment Body meets all the Technical Requirements, it shall be registered and the Authority shall update the register of the registered bodies.

Article (6)

Registration Period

1. The Registration period is one year. It may be renewed for similar periods at the request of the Conformity Assessment Body thirty (30) days before its expiry date. In the case of non-renewal, the Authority shall address the licensing authority for revocation or non-renewal of the license.
2. The Authority is entitled, throughout the Registration period, to inspect the registered Conformity Assessment Body, whenever the need arises, in order to ensure that the body continues to meet the Technical Requirements for Registration.

Article (7)

Amendment of Conformity Assessment Body's Activities

The registered Conformity Assessment Body may amend any of its activities and competences, subject to approval of the Authority.

Article (8)

Exercise of the Registered Activities

1. The registered Conformity Assessment Body shall not exercise any activity not included in the Registration Certificate without a prior approval from the Authority.
2. The registered Conformity Assessment Body may amend its own activities and related competences after obtaining a written approval from the Authority.

Article (9)

Obligations of Registered Conformity Assessment Bodies

The registered Conformity Assessment Bodies shall:

1. Comply with the Technical Requirements for Registration.
2. Pay all fees and costs arising from Registration.
3. Provide all necessary facilities for the Authority to complete Registration, and empower it to carry out inspection procedures, review quality documents and conduct the necessary field visits.
4. Inform the Authority of any amendment that may occur to the devices and tools used in providing the service, buildings, facilities and environmental conditions that have an impact on the services provided by the registered Conformity Assessment Body or any of the work systems and operational procedures in place.

Article (10)

Suspension and Cancellation of Registration

1. The Board or its designee may make a substantiated decision suspending the Registration of all of any activities of the Conformity Assessment Body for a period not exceeding ninety (90) days in the case there are any non-conformity cases with such body that may impair the efficient performance of any of its activities, or in the case of non-compliance with any other procedures related to Registration.
2. The registered body is notified of suspension of Registration with a notice indicating the underlying grounds, within five (5) working days from the date of the suspension decision.
3. If the Conformity Assessment Body continues without regularization of its position within the period referred to in Paragraph (1) of this Article, the Board may take any of the following procedures:
 - a. Cancel the Registration if suspension relates to all activities.
 - b. Cancel the Registration of the violated activities if suspension relates to a particular part of the activities.
4. The applicant or the registered body may retract the Registration application, subject to payment of all fees and fines incurred as a result of the processes and procedures initiated by the Authority.
5. In all cases, the Authority shall address the licensing authority to revoke the commercial license granted to the Conformity Assessment Body in full or in part, as appropriate.
6. The Conformity Assessment Body whose Registration is cancelled for all or part of its activities, shall re-apply for Registration and pay the due fees, if it desires to re-exercise its activity.

Article (11)

Application for Accreditation

1. The registered Conformity Assessment Body shall apply for Accreditation within the first year of its Registration to the Authority if its activities fall under the fields of mandatory

Accreditation determined by the Authority. It may not exercise its activities in any mandatory field after expiration of the first year from the date of Registration; otherwise the application for Accreditation is optional.

2. If the private Conformity Assessment Body does not have the Accreditation within the period provided for in Paragraph (1) of this Article, the Authority shall cancel the Registration and address the licensing authority to revoke the commercial license granted to the body.
3. If the governmental Conformity Assessment Body does not have the Accreditation within the period provided for in Paragraph (1) of this Article, the Authority shall notify the Competent Authority in that body to take the necessary procedures in this regard.
4. The Authority may extend the period provided for in Paragraph (1) of this Article for an additional period not exceeding six (6) months if the Conformity Assessment Body submits technical reasons justifying the extension.

Chapter Three

Accreditation of the Conformity Assessment Body

Article (12)

Terms of Accreditation of the Conformity Assessment Body

For obtaining the Accreditation, the Conformity Assessment Body shall:

1. Meet all Technical Requirements for Accreditation and the procedures provided for in this Resolution.
2. Submit all required data, information and documents within a period not exceeding forty-five (45) days from the date of application submission.
3. Pay all fees and costs arising from Accreditation within a period not exceeding forty-five (45) days from the date of the relevant claim.
4. Facilitate the implementation of field visits made by the Authority and required for Accreditation.
5. Inform the Authority of any amendment that could occur to any of its own work systems and operational procedures or any of devices and tools used in exercising conformity

assessment activity, including the premises, facilities and environmental conditions, that may impair its activities.

Article (13)

Revocation of the Application for Accreditation

1. The application for Accreditation submitted by the Conformity Assessment Body shall be revoked in the following cases:
 - a. Failure to submit the documents specified in the application for Accreditation within the period referred to in Paragraph (2) of Article (12) of this Resolution.
 - b. Failure to submit the corrected version of the quality booklet of the Conformity Assessment Body within the time limit fixed by the Authority to correct any of non-conformity cases.
 - c. Detection of a number of non-conformity cases that could affect the efficient performance by the Conformity Assessment Body of any of its activities, or non-readiness to obtain Accreditation based on the field visits made by the Authority prior to Accreditation.
 - d. Nonpayment of the due fees to the Authority within the period referred to in Paragraph (3) of Article (12) of this Resolution.
2. In case of revoking the application for Accreditation, the Conformity Assessment Body shall be notified of the revoking decision with a notice indicating the underlying grounds, provided that the Authority shall collect all fees and fines due to processes and procedures implemented.
3. The applicant may re-submit the application after a period not less (60) days from the date of notification of the revoking decision, subject to payment of the described fees.

Article (14)

Obtaining the Accreditation

1. The Conformity Assessment Body is accredited in accordance with the procedures and controls set out in the Cabinet Resolution No. (22) of 2004 concerning the Executive

Regulations of the National Accreditation System, or any legislation in lieu thereof.

2. Notwithstanding Paragraph (a) of Article (14) of the Cabinet Resolution No. (22) of 2004 mentioned above, the Conformity Assessment Body shall be granted an Accreditation certificate in the field of the activities specified therein, which certificate shall be valid for three (3) years subject to renewal for similar periods.

Article (15)

Rules and Procedures on Formation of Accreditation Committees

The Accreditation Committees shall be formed in accordance with the rules, controls and procedures issued by the Board for this purpose. The decision of formation shall define the **modus operandi**, functions and obligations of these committees.

Article (16)

Accreditation Symbol

The accredited Conformity Assessment Body may use the Accreditation Symbol on all checking or calibration reports, conformity certificates or inspection reports issued by them within the scope of the relevant Accreditation in accordance with the document of terms of use of the Accreditation Symbol issued by the Authority.

Article (17)

Sub-Contracting

1. The accredited Conformity Assessment Body may not sub-contract with any third party to provide the conformity assessment service in its stead, except after obtaining a written approval from the applicant for such services and after verification that the sub-contractor fulfills the requirements issued by the Authority in this regard.
2. The Conformity Assessment Body shall bear responsibility resulting from all mistakes or violations committed by the sub-contractor.

Article (18)

Suspension and Revocation of Accreditation

1. The Board or its designee may make a substantiated decision to suspend the whole activity of Accreditation or any part thereof for a period not exceeding sixty (60) days in case of irregularities regarding essential conformity requirements detected at the accredited Conformity Assessment Body to the extent that such irregularities may affect its efficient performance of the accredited conforming activities, or due to failure of the Conformity Assessment Body to comply with any other Accreditation-related procedures required by the Authority.
2. The Conformity Assessment Body will be notified of Accreditation suspension with a notice specifying all underlying grounds, within five (5) working days from the date of the suspension decision.
3. In case the Conformity Assessment Body does not regularize its position within the period referred to under Paragraph (1) of this Article, the Board may take any of the following procedures:
 - a. Revoke the Accreditation in case the suspension relates to the whole field of Accreditation;
 - b. Revoke part of the field of Accreditation in case suspension relates to a specific field, provided that the Authority shall issue a new Accreditation certificate confirming that such part is not accredited.
4. The applicant or the accredited body may retract the application, subject to payment of all fees incurred for processes and procedures initiated by the Authority. The applicant or the accredited body that retracted its application may re-apply for Accreditation, subject to payment of the due fees.

Chapter Four
Appointment of Accepted Conformity Assessment Bodies
Article (19)

Requirements for Appointment of Conformity Assessment Bodies

To be eligible for appointment, the Conformity Assessment Body must:

1. Be accredited by the Authority in the field for which is applied.
2. Meet all Technical Requirements necessary for appointment and the procedures provided for in this Resolution.
3. Pay all fees and costs incurred for appointment.
4. Submit all such data, information and quality documents as needed.
5. Facilitate such field visits conducted by the Authority as necessary for appointment.
6. Provide an insurance policy issued by an insurer operating in the State, provided that the insurance value shall be determined based on assessment of the risks and damage that may arise due to the appointed Conformity Assessment body exercising any of its activities as determined by the Authority in this regard, provided that the government Conformity Assessment Body shall be excluded from this requirement.
7. Notify the Authority of any modification to any of working systems operating procedures it has in place, or to the equipment and tools used in providing the Accreditation services, including the premises, facilities and environment conditions that may affect its activities.
8. Obtain the Authority's approval in case it intends to amend any of the activities included in the appointment.
9. If the Conformity Assessment Body is accepted as an appointed body for certification of products, it shall promptly and continuously notify the Authority of the details of the bodies and products that obtained the conformity certificates, or the bodies whose certification was suspended or revoked and those whose activity was amended.

Article (20)

Appointment Certificate

The Conformity Assessment Body shall be granted an appointment certificate in the field of the activities specified. This certificate shall be valid throughout the validity period of the Accreditation Certificate, unless the Conformity Assessment Body applies to the Authority to revoke its appointment.

Article (21)

Powers of the Accepted Conformity Assessment Body

1. The Accepted Conformity Assessment Body is granted the powers to issue conformity certificates for products and services subject to the Technical Requirements or standard specification dictated by a decision from the Cabinet.
2. The Conformity Assessment Body accepted in the field of certification shall be granted the powers to use the UAE conformity marks and tags accompanied by the identification number specified by the Authority for the products conformant with the standard specification issued by a Cabinet resolution.

Article (22)

Suspension and Revocation of the Accepted Conformity Assessment Body

1. The Board or its designee may make a reasoned decision to suspend all or any of the activities of the Accepted Conformity Assessment Body for a period not to exceed ninety (90) days if body has any irregularities that may affect the efficient performance of its activities, or due to its failure to comply with other procedures required by the Authority.
2. The Accepted Conformity Assessment Body is notified of suspension of the Appointment with a notice indicating all underlying grounds, within a period of five (5) days from the date of suspension decision.
3. In case the Conformity Assessment Body does not rectify its position within the period referred to under Paragraph (1) of this Article, the Board may take any of the following procedures:

- a. Revoke the Appointment in case the suspension relates to all activities.
 - b. Revoke part of the field of Appointment in case suspension relates to a specific field, provided that the Authority shall issue a new Appointment certificate confirming that such part is not appointed.
4. The Conformity Assessment Body may retract the application for appointment, subject to payment of all fees and fines incurred for processes and procedures initiated by the Authority.
5. The Accepted Conformity Assessment Body may revoke its Appointment, subject to a notice to be served on the Authority at least six (6) before the intended date of revocation.
6. The Accepted Conformity Assessment Body is held answerable for any damage arising from its practice of any of its activities, whether during the period of appointment, suspension or revocation.
7. The Accepted Conformity Assessment Body shall cease to issue the conformity certificates for products and services, or to affix the marks on the products or services during suspension or after revocation of the appointment.

Article (23)

Revocation of Appointment of the Accepted Conformity Assessment Body

The appointment of the Accepted Conformity Assessment Body is revoked if such body:

1. Fails to meet the requirements provided for under this Resolution or any other Technical Requirements.
2. Fails to rectify the irregularities within the time limit specified by the Authority.
3. Misuses the mark, and issues the conformity certificates or allows the affixation of the mark without adequately ensuring that all the product or the service meets the standard specifications entailed under a Cabinet resolution.
4. Misrepresents that it is appointed in a field for which it has not been appointed.
5. Repeats any main irregularities.
6. Enters into a sub-contract for performance of the duties entrusted to it without a written consent of the Authority.

7. Commits any main non-conformity case detected in the assessment processes conducted by the Authority or as a result of the market control.
8. Fails to provide the Authority with requirement documents within the specified period.

Article (24)

International Agreements and Programs

1. The accepted Conformity Assessment Bodies belonging to other states are subject to the mutual recognition agreements concluded between the Authority and Competent Authorities in such states. The functions and powers of the Conformity Assessment Bodies are determined in accordance with these agreements.
2. The Accepted Conformity Assessment Bodies in the State and belonging to the programs of international or regional organizations shall be subject to the International Electrotechnical Commission (IEC), International Organization of Legal Metrology (OIML), GCC Standardization Organization (GSO) or the unilateral recognition agreements concluded by the Authority under the Authority's regulations or upon approval of the Cabinet.

Chapter Five

General Provisions

Article (25)

Administrative Penalties

Without prejudice to any administrative penalties provided for under any other legislation, the Authority shall, in case the Conformity Assessment Body violates this Resolution or any resolutions issued by virtue hereof, take any of the following administrative penalties:

1. Coordinate with the licensing authority to revoke the commercial license.
2. Suspend or revoke the Registration, Accreditation or Appointment, as the case may be.
3. Make an application to the court of summary matters to levy garnishment on the insurance policy value.

Article (26)

Appeal

Every interested party may appeal in writing before the Chairman of the Board as to the decisions and procedures taken against him under this Resolution, within a period of fifteen (15) days from the date of notification of the decision or procedure in question. This appeal shall be adjudicated within thirty (30) days from the date of submission by a panel formed by Chairman of the Board for this purpose. The decision rendered on this appeal shall be final.

Article (27)

Final Provisions

1. The Authority shall not assume any responsibility to third parties for the damage incurred thereby as a result of the registered, accredited or accepted Conformity Assessment Bodies exercising their duties and providing their services. These bodies shall be held answerable to indemnify for such damage.
2. The Authority shall proceed with all procedures and measures necessary to develop the forms and operating systems related to application, selection of assessors and experts on assessment teams, revision of the quality booklet, evaluation of the application on the ground, conducting of the field visits, and amendment or renewal of the Registration, Accreditation or Appointment activities.
3. The fees applicable to Registration, Accreditation or Appointment as well as the administrative fines applicable to violations of the terms and conditions arising therefrom shall be fixed by a Cabinet resolution issued for this purpose.

Article (28)

Regularization of Positions

All Conformity Assessment Bodies operating at the effective date of this Resolution shall regularize their position in compliance with the provisions hereof within a period of one year from the entry into force of this Resolution.

Article (29)

Issuance of Executive Decisions

The Board shall make the necessary decisions to enforce this Resolution

Article (30)

Repealing

Every provision contrary to or inconsistent with the provisions of this Resolution is repealed.

Article (31)

Publication and Entry into Force

This Resolution shall be published in the Official Gazette and shall enter into force ninety (90) days after the date of its publication.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us

On: 29 Muharram 1437 AH

Corresponding to: 11 November 2015 AD