



Tonga

**COMMUNICATIONS TECHNICAL RULES
2018**



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COMMUNICATIONS TECHNICAL RULES 2018

COMMUNICATIONS ACT 2015

IN EXERCISE of the powers conferred by section 78 of the Communications Act 2015, the Regulator makes the following rules -

PART I – PRELIMINARY

1 Short title and commencement

- (1) This Rule may be cited as the Communications Technical Rules 2018.
- (2) These Rules shall come into force on the date they are published in the Gazette or otherwise in accordance with section 10(e) of the Interpretation Act (Cap.1).

2 Interpretations

- (1) Subject to subsection (2), unless the context otherwise requires, terms used in these Rules have the same meaning as in the Communications Act 2015.
- (2) In these Rules, unless the context otherwise requires —
 - “**Act**” means the Communications Act 2015;
 - “**BSMI mark**” means the conformity certification and marking regime administered by the Bureau of Standards, Metrology and Inspection of Taiwan;
 - “**calendar day**” means each day shown on the calendar;

“**CCC mark**” means the China Compulsory Certificate conformity certification and marking regime administered by Certification and Accreditation Administration of China;

“**CE marking**” means the Conformité Européenne conformity certification and marking regime applicable to certain products sold within the European Economic Area;

“**C-tick**” means the conformity certification and marking regime administered by the Australian Communications and Media Authority;

“**day**” means a business day;

“**FCC Declaration of Conformity**” means the conformity certification and marking regime administered by the Federal Communications Commission of the United States of America;

“**KCC mark**” means the conformity certification and marking regime administered by the Korea Communications Commission for South Korea;

“**radio equipment**” means equipment that emits radio frequency energy and which is required for the transmission of radio signals;

“**Register of Type Approved Customer Equipment**” means the register referred to in section 79 of the Act; and

“**VCCI mark**” means the conformity certification and marking regime administered by Voluntary Council for Control of Interference by Information Technology Equipment of Japan.

PART II – ENSURING RADIO EQUIPMENT CONFORMITY WITH TECHNICAL STANDARDS

3 Equipment that requires type approval

- (1) All radio equipment shall be type approved by the Regulator prior to being marketed for use in Tonga, or sold or otherwise supplied for use in Tonga.
- (2) This includes, among other thing -
 - (a) cellular mobile terminals;
 - (b) cellular base stations;
 - (c) cellular repeater stations;
 - (d) wireless microphones; and
 - (e) emergency position indicating radio beacons (EPIRB).

4 Process for certification of type approval conformity

- (1) Type approval for the equipment mentioned in section 4 will be granted by the Regulator, upon application, based on type approvals granted to the equipment by an overseas administration against a technical specification equivalent to the standard that may be specified by the Regulator, in a declaration, in accordance with section 76 of the Act.
- (2) Subject to subsection (11), any person who intends to import into Tonga, or sell or otherwise supply in Tonga, equipment of the type mentioned in section 4 that might be operated for the purposes for which it was designed, shall apply to the Regulator for type approval.
- (3) An application for type approval shall be in the form prescribed by the Regulator and shall -
 - (a) describe the equipment for which type approval is sought;
 - (b) identify the manufacturer of the equipment;
 - (c) identify the model serial number;
 - (d) certify that the equipment meets the minimum standards necessary for deployment in Tonga by -
 - (i) identifying the applicable technical standards to which it conforms; and
 - (ii) identifying, and providing evidence of, any of the following conformity certifications that relate to the equipment -
 - (A) CE marking;
 - (B) FCC Declaration of Conformity;
 - (C) CCC mark;
 - (D) KCC mark;
 - (E) VCCI mark; and/or
 - (F) BSMI mark.
- (4) The Regulator shall, within one (1) day of receiving a completed application for type approval, provide the applicant with written confirmation of the Regulator's receipt of the application.
- (5) The Regulator may, within four days of receiving an application for type approval, request additional information from an applicant if the Regulator believes that such additional information is necessary to confirm or clarify the status or particulars of the conformity certification of the equipment in an overseas administration. The Regulator may refuse to consider the application until the applicant provides the requested additional information.
- (6) The Regulator may request the Supplier(s) and Dealer(s) to submit a sample unit and technical specifications document for proof of compliance only if necessary.

- (7) The Regulator shall decide whether to approve or reject an application for type approval within five days beginning on the date that is the later of -
 - (a) the date on which the Regulator confirmed receipt of the application under subsection (4); or
 - (b) the date of receipt of any additional information that was requested under subsection (5).
- (8) If the Regulator does not make a decision under subsection (7) about the application for type approval within the specified timeframe, the Regulator is deemed to have approved the application.
- (9) If the Regulator makes a decision to approve an application for type approval under subsection (7), then the Regulator shall, within two working days of that decision, give the applicant a written notice stating that the application has been type approved.
- (10) The Regulator will record the type approval in the Register of Type Approved Customer Equipment.
- (11) If the Regulator makes a decision to reject an application for type approval under subsection (7), the Regulator shall, within two days of the decision, give the applicant a written notice stating that the application has been rejected and setting out the reasons for the rejection.
- (12) Once radio equipment has been type approved by the Regulator, the same model of equipment may be imported into, and sold or otherwise supplied in, Tonga by any person without the need for any additional type approvals.
- (13) For the avoidance of doubt, type approved equipment and associated packaging and user documentation does not require any specific labeling to reflect the equipment's type approval in Tonga.

5 Special arrangements for certification of radio equipment already in use

- (1) A licensee or any person that has imported, or made available for sale or operated any equipment of the type referred to in section 4 before the Commencement Date shall, within 60 days of the Commencement Date, apply for type approval of all that equipment by giving the Regulator a list that -
 - (a) describes the equipment;
 - (b) identifies the manufacturer of the equipment;
 - (c) identifies the model serial number;
 - (d) identifies any of the following conformity certifications that relate to the equipment -
 - (i) CE marking;
 - (ii) FCC Declaration of Conformity;

- (iii) CCC mark;
 - (iv) KCC mark;
 - (v) VCCI mark; and/or
 - (vi) BSMI mark.
- (2) The Regulator shall, within one day of receiving an application for type approval under subsection (1), provide the applicant with written confirmation of the Regulator's receipt of the application.
 - (3) The Regulator may, within 10 days of receiving an application for type approval under subsection (1), request additional information from an applicant if the Regulator believes that such additional information is necessary to confirm or clarify the status or particulars of the conformity certification of the equipment in an overseas administration. The Regulator may refuse to consider the application until the applicant provides the requested additional information.
 - (4) The Regulator must decide whether to approve or reject an application for type approval within 10 days beginning on the date that is the later of -
 - (a) the date on which the Regulator confirmed receipt of the application under subsection (2); or
 - (b) the date of receipt of any additional information that was requested under subsection (3).
 - (5) A decision under subsection (4) may differentiate between individual items of radio equipment that are listed in the application.
 - (6) The Regulator may, by written notice given to the applicant, extend or further extend the period specified in subsection (4).
 - (7) The Regulator may request the Supplier(s) and Dealer(s) to submit a sample unit and technical specifications document for proof of compliance only if necessary.
 - (8) If the Regulator does not make a decision under subsection (4) about the application for type approval within the timeframe determined pursuant to either subsection (4) or (6), the Regulator is taken to have made, at then end of the relevant timeframe, a decision to approve the application in full.
 - (9) If the Regulator makes a decision to approve an application for type approval or part thereof under subsection (4), or is deemed to have made a decision to approve an application for type approval under subsection (8), then the Regulator shall, within three days of that decision, give the applicant a written notice stating that the application has been type approved.
 - (10) The Regulator will record the type approvals in the Register of Type Approved Customer Equipment.
 - (11) For radio equipment that is the subject of applications from two or more separate applicants, the Register of Type Approved Customer Equipment will record the approval only of the application that was received first.

- (12) If the Regulator makes a decision to reject an application for type approval or part thereof under subsection (4), the Regulator shall, within three days of the decision, give the applicant a written notice stating that the application has been rejected and setting out the reasons for the rejection.
- (13) Once radio equipment has been type approved by the Regulator, the same model of equipment may be imported into, and sold or otherwise supplied in, Tonga by any person without the need for any additional type approvals.

Made at Nuku'alofa this 6th day of **December** 2018.

Paula Ma'u
Chief Executive Officer
Ministry of Meteorology, Energy, Information, Disaster Management,
Environment, Climate Change and Communications