

FACT SHEET

Changes to ESS Accreditation Notices to be considered

August 2015

The Independent Pricing and Regulatory Tribunal (**IPART**) is the Scheme Administrator of the Energy Savings Scheme (**ESS**). Our responsibilities as Scheme Administrator include monitoring and managing Accredited Certificate Providers' (**ACP**) compliance with the requirements of the ESS.

ACPs receive an Accreditation Notice (**Notice**), which sets out the ACP's accreditation conditions. Many of these conditions are standard conditions imposed on most ACPs and other conditions are specific to a particular ACP, having regard to their individual circumstances and risk assessment.

ACPs must comply with all accreditation conditions and other obligations under the *Electricity Supply Act 1995* (the **Act**), the *Electricity Supply (General) Regulation 2014* (the **Regulation**), and the *Energy Savings Scheme Rule of 2009* (the **Rule**).

The Scheme Administrator may decide to amend the conditions in a Notice. At times the Scheme Administrator may decide to make changes because of particular circumstances relating to an ACP. At other times the Scheme Administrator may decide to make changes following a change in the Scheme Administrator's standard requirements or changes to legislation.

The Scheme Administrator will consider whether to amend the accreditation conditions of all ACPs to accommodate changes to the Rule introduced in July 2014 (**2014 ESS Rule**), and to improve the efficiency of the administration of the ESS.

Accreditations that use the NABERS baseline method have been excluded from this process as they have conditions specific to the method that do not apply to the broad range of accreditations. They will be dealt with separately, with a separate consultation paper issued.

This fact sheet provides information about the changes the Scheme Administrator will consider and the effect of the changes if made. It also invites submissions, providing ACPs with an opportunity to comment on the changes and to present the Scheme Administrator with any information the ACP considers relevant before the Scheme Administrator decides whether to make any changes to their Notice.

This is the only opportunity for ACPs to comment on the changes to be considered. ACPs that require additional time or information to comment should contact the Scheme Administrator.

What changes will be considered?

The changes the Scheme Administrator will consider are described below. The section of the Notice that would be amended to accommodate the change if made is identified in italics under each heading. Each section outlines the reason for the possible amendment and how it will affect ACPs.

Entitlement to create ESCs

Notice Clause 3

The condition allowing an ACP to register up to 110% of the nominated number of ESCs in certain circumstances has limited application and can be confusing given other applicable restrictions on creating ESCs.

We will consider whether to remove this clause and instead, include a clause limiting the ESC creation to the nominated number of ESCs specified in Item 2(e) of the Schedule.

This is intended to clarify the Scheme Administrator's requirements.

There will be no effect on ACPs who have a limit on the number of ESCs that can be registered between audits. ACPs under a periodic audit regime and to whom this provision may have previously applied, will be required to apply to the Scheme Administrator to have their nominated number of ESCs changed should they wish to register more than the nominated number.

Notice Clause 3 & Schedule Item 2

Under the 2014 ESS Rule, ACPs can no longer create ESCs from implementations that occurred after their application date but prior to their accreditation date. Therefore, the Scheme Administrator will consider changing the "entitlement date"

specified in Notices to the "application date".

This will have no effect on ACPs or their accredited activity.

Creation of Certificates

Notice Clause 4

The recent implementation of the Commonwealth Government's carbon emissions reduction scheme, the Emissions Reduction Fund (ERF), has increased the risk of 'double dipping' (ie, ACPs seeking to receive benefits under both schemes for the same energy savings), which threatens the integrity of the ESS.

In order to protect the integrity of the ESS and reduce the risk of double dipping, we will consider including a condition requiring ACPs to notify us if they become or cease to be eligible to obtain a benefit under a corresponding scheme.

Record Keeping Requirements

Notice Clause 5

We have updated our *Record Keeping Guide* to better identify the records that are required to be kept by ACPs to support ESC creation. This update better communicates our requirements for record keeping arrangements for specific types of accreditations.

We will consider amending the accreditation conditions setting out record keeping requirements to include an obligation to comply with the record keeping requirements described in the *Record Keeping Guide*.

The change would better clarify the Scheme Administrator's requirements for record keeping. However, ACPs are already required to keep records under the Regulation and as outlined in various method guides.

ACPs are currently required to notify us of any changes to their record keeping arrangements. We will also consider removing this requirement given the above requirement to comply with our *Record Keeping Guide*.

Audit Requirements

Notice Clause 7 & Schedule Item 4

We will consider refining the audit condition to avoid misunderstandings regarding the timing of audits.

Currently, many ACPs are required to commence an audit a certain length of time after their immediately preceding audit.

To increase clarity and reduce administrative burdens, we will consider making the following changes to the standard audit clauses:

- ▼ requiring that an audit be conducted in a timely manner
- ▼ introducing a mechanism by which the Scheme Administrator can issue a notice dispensing with a required audit in certain circumstances, and
- ▼ allowing for the Scheme Administrator and/or its representatives to issue a written notice confirming that the Scheme Administrator has accepted the outcome of the audit.

In addition to these changes, for accreditations on a volumetric audit regime, we will consider making the following changes:

- ▼ specifying in the Notice the date by which an auditor must be engaged, and
- ▼ expressly facilitating pre-registration audits by allowing registration of ESCs where those ESCs are already audited as validly created.

These changes would clarify when auditors are required to be engaged.

Recognised Energy Saving Activity Schedule Item 1

The 2014 ESS Rule prescribed activity descriptions for activities using a Deemed Energy Savings Method (DESM).

We will consider updating the activities and site descriptions in Notices that use a DESM to align with the 2014 ESS Rule.

This would mean that ACPs accredited for activities using a DESM would be able to carry out the full range of activities permitted under the 2014 ESS Rule for a particular DESM, except where specifically excluded.

Assistance to Scheme Administrator

Notice Clause 10

In order to effectively administer the ESS, we need to have up to date contact details to ensure we can communicate any relevant information. Further, under the 2014 ESS Rule, a person is only eligible for accreditation if they are a 'suitable person'.

We will consider including an additional clause requiring ACPs to advise the Scheme Administrator of a change to their principal place of business or director (or secretary).

Following such a change, the Scheme Administrator may reassess whether an ACP remains a 'suitable person' to be accredited. To assist in this assessment, the clause would also require ACPs to provide any additional information the Scheme Administrator may require.

Calculation of ESCs

Schedule Item 2

It is no longer considered necessary for ACPs to use an approved Commercial

Lighting Calculation Tool (CLCT) given that the calculation of energy savings is always checked at audit, however this requirement remains in some Notices.

We will consider removing the requirement to use the CLCT as it poses an unnecessary administrative burden.

Additionally, we will consider removing the references to redundant tables from the previous ESS Rule and include the standard safety description from the 2014 ESS Rule.

Special Conditions

Schedule Item 9

Following the 2014 ESS Rule, some special conditions in Notices no longer serve a regulatory purpose. These include obtaining approval to:

- ▼ use Extended Operating Hours, and
- ▼ create ESCs from a site that must comply with Part J6 of the Building Code of Australia.

We will consider removing the special conditions that are no longer considered necessary.

This will reduce the administrative burden on ACPs by removing unnecessary compliance obligations.

References to the 2014 ESS Rule

General changes

The 2014 ESS Rule change altered the clause numbers for some ESS calculation methods and other information referenced in the Notices. The Scheme Administrator issued a letter to each affected ACP in June 2014, amending the relevant conditions.

Currently, affected ACPs have multiple documents from which they must refer to determine their current compliance obligations.

We will consider incorporating the amendments set out in the letter sent to ACPs into their Notice. This will collate the conditions within one instrument. These amendments would not change the obligations imposed, but would increase the usability of the Notice for affected ACPs.

Form of Notice

General changes

Some Notices use an older format with multiple Schedules, which can create some difficulty in ensuring compliance due to the variations in obligations for different methodologies.

We will consider changing the Notices currently in this form to have a single Schedule dealing with a Recognised Energy Saving Activity (RESA).

This amendment would not change any obligations, but would increase the usability of the Notice.

Other minor changes


General changes

We will consider making a number of minor changes to the Notices in order to improve the document and ensure the Notice is consistent with the Act, the Regulation and the 2014 ESS Rule. These changes are largely administrative and will have very limited impact on ACPs.

What is the process for amending Notices?

The Scheme Administrator will review all Notices and consider whether to make the changes. This process is expected to take several months.

The Scheme Administrator welcomes comments from any ACPs and will consider all relevant submissions prior to



deciding whether to amend an ACP's Notice.

In most cases, ACPs will receive no further notice before the Scheme Administrator considers amending their Notice. If an ACP wishes to have a further opportunity to comment or further information, please contact the Scheme Administrator.

Invitation for submissions

IPART invites written comment on this document and encourages all ACPs to provide submissions addressing the matters discussed. Submissions should be made as follows:

Email:

ESS_Compliance@ipart.nsw.gov.au

Email title: 'Notice feedback'

Due date: 31 August 2015

This is the only opportunity for ACPs to comment on the changes or provide relevant information to the Scheme Administrator for consideration prior to deciding whether to amend its Notice.

Any ACP who requires further time or information to make such comments should contact the Scheme Administrator.