

FACT SHEET

Amendments to accreditation as certificate providers

October 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.

Once accredited, ACPs receive an Accreditation Notice (**Notice**), which sets out the ACP's accreditation conditions. 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**).

This fact sheet 'Amendments to accreditation as certificate providers' provides information about the submissions received in response to the fact sheet 'Changes to ESS Accreditation Notices to be considered' (**Consultation Fact Sheet**) and the Scheme Administrator's decisions.

The Consultation Fact Sheet published on the ESS website on 7 August 2015 gave ACPs an opportunity to comment on the changes by inviting submissions before the Scheme Administrator made its decision.

Summary of decisions

The Scheme Administrator has decided to amend the Notices of all ACPs as outlined in the Consultation Fact Sheet.

In summary, the Scheme Administrator made its decision in order 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.

In addition to changes outlined in the Consultation Fact Sheet, the Scheme Administrator has also decided to impose a condition requiring immediate notification when either a winding up order is made with respect to an ACP or a Controller or Administrator has been appointed to an ACP.

In making its decision to amend the Notices, the Scheme Administrator considered the submissions received in response to the Consultation Fact Sheet. The amendments to the Notices will be incorporated in batches and effective upon receipt of the amended Notice. This process is expected to be completed by early 2016.

Legislative framework and decision maker

The Act, the Regulation and the Rule establish the ESS and govern the calculation and creation of Energy Savings Certificates (ESCs). Under sections 136 and 138 of the Act, the Scheme Administrator may accredit parties to undertake energy savings activities and may impose conditions on an accreditation. Under sections 138 and 139 of the Act and clause 48 of the Regulation, the Scheme Administrator may impose, vary or revoke conditions on an accreditation at any time.

IPART is the Scheme Administrator of the ESS under section 153 of the Act. With the Minister's approval, IPART delegated its functions as Scheme Administrator to the Energy Savings Scheme Committee, with the delegation commencing on 9 March 2015. In this statement, a reference to the Scheme Administrator is a reference to IPART acting through the Energy Savings Scheme Committee.

Information considered

In making its decision to amend the accreditation conditions of all ACPs, the Scheme Administrator considered:

- ▼ the three submissions received in response to the Consultation Fact Sheet
- ▼ the relevant provisions of the Act, the Regulation and the Rule, and
- ▼ the objects of the ESS under the Act and our obligation to carry out our functions as Scheme Administrator in accordance with those objects.

Amendments to accreditation as a certificate provider

Notice of winding up or appointment of Controller or Administrator

(paragraph 10)

The Scheme Administrator has decided to impose a condition requiring immediate notification when either a winding up order is made with respect to an ACP or a Controller or Administrator has been appointed to an ACP.

The Scheme Administrator requires this notification as such events impact upon ACPs' eligibility for accreditation in the ESS and is a ground for suspension or cancellation. This condition will have no effect on the day to day operation of an ACP.

Changes outlined in the Consultation Fact Sheet

The Scheme Administrator has decided to incorporate the changes outlined in the Consultation Fact Sheet published on the ESS website on 7 August 2015. This was decided in order to accommodate the changes set out in the 2014 ESS Rule and to improve the overall efficiency of the administration of the ESS. These changes will be incorporated into the Notices of all ACPs.

The Consultation Fact Sheet sets out additional reasons for the Scheme Administrator's decisions in relation to the changes.

The Consultation Fact Sheet gave ACPs an opportunity to comment on the changes by inviting submissions before the Scheme Administrator made its decision.

ACP submissions and Scheme Administrator's response

We received three submissions in response to the Consultation Fact Sheet. The submissions indicated support for the majority of the proposed changes. However, issues were raised regarding the following proposed changes:

- ▼ Entitlement to create ESCs
(*paragraph 3*),
- ▼ Audit requirements
(*paragraph 7 and Item 4 of the Schedule*),
- ▼ Assistance to the Scheme Administrator
(*paragraph 10*), and
- ▼ Special conditions relating to Extended Operating Hours (EOH)
(*Item 9 of the Schedule*).

Further discussion of the submissions received in relation to the proposed changes above is provided in the following sections.

Entitlement to create ESCs (*paragraph 3*)

The Consultation Fact Sheet advised that the Scheme Administrator would consider removing the provision allowing an ACP to register up to 110% of the nominated number of ESCs in certain circumstances.

Three submissions were received that expressed the opinion that the provision should remain, as it allows ACPs a degree of flexibility.

The Scheme Administrator proposed to remove this provision as it is no longer consistent with its approach to dealing with ACPs who wish to create more than

the nominated number of ESCs. The Scheme Administrator now assesses requests on a case-by-case basis. This approach is taken to ensure that the risks are appropriately assessed prior to any ESC registration.

The Scheme Administrator has decided to remove the condition allowing an ACP to register up to 110% of the nominated number of ESCs and insert a new clause limiting the registration to the nominated number of ESCs.

Audit requirements (*paragraph 7 and Item 4 of the Schedule*)

The Consultation Fact Sheet advised that the Scheme Administrator would consider requiring that audits be conducted in a timely manner.

One submission argued that the proposal, as described, was vague.

The proposed change did not include a set duration for completion of audits as various factors can influence the time taken. The Scheme Administrator has decided to impose a condition that is consistent with the requirement placed on auditors. The condition requires that sufficient resources and labour are devoted to the audit to ensure it is conducted and completed in an efficient manner.

Assistance to the Scheme Administrator (*paragraph 10*)

The Consultation Fact Sheet advised that the Scheme Administrator would consider requiring ACPs to notify the Scheme Administrator of a change to the principal place of business and change of director.

A submission was received that expressed the opinion that this may not be practical for larger entities given the position may have little direct involvement with the operational control of the accreditation.

This provision aims to ensure that the Scheme Administrator may check that the person with control of the entity is a 'suitable person' and confirm eligibility for accreditation under the Rule.

The Scheme Administrator has decided to impose a condition requiring ACPs to notify the Scheme Administrator of a change of director to support the objective of the suitability test in confirming eligibility for accreditation.

Special condition relating to EOH

(Item 9 of the Schedule)

The Consultation Fact Sheet advised that the Scheme Administrator would consider removing the special condition relating to obtaining Scheme Administrator approval to use EOH.

One submission requested that the special condition remain as an option.

This provision is redundant as the 2014 ESS Rule no longer includes a provision for ACPs to request a higher value for annual operating hours.

The Scheme Administrator has decided to proceed to remove the special condition relating to obtaining the Scheme Administrator's approval of EOH, given that there is no longer an option for EOH in the legislation.

Contact us

If you require any further information in relation to this fact sheet, please contact the ESS Compliance Team. Contact details are as follows:

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