

29 November 2018

## Minimum requirements of conduct<sup>1</sup>

IPART, as Scheme Administrator of the NSW Energy Savings Scheme (**ESS**), has established the Minimum Requirements of Conduct (**Minimum Requirements**) which Accredited Certificate Providers (**ACPs**) must meet.

The Minimum Requirements have been established to help ensure that ACPs and their representatives act in a way that protects the interests of customers and maintains the integrity of the ESS. Representatives who engage with customers are effectively the public face of the ESS.

The Minimum Requirements relate to:

- ▼ establishing and maintaining contractual relationships
- ▼ the provision of training
- ▼ establishing and maintaining a register of representatives, and
- ▼ customer engagement and management.

### Who must comply with the Minimum Requirements?

All ACPs are required to meet the Minimum Requirements. This is set out in an ACP's accreditation notice.

The Minimum Requirements apply to ACPs, in respect of their own conduct and the conduct of any person participating in any aspect of a Recognised Energy Savings Activity (**RESA**) on behalf of an ACP. We call these persons 'representatives' (as that term is defined in Table 1), and the Minimum Requirements apply to **all** representatives.

The Minimum Requirements apply from the initial engagement with customers<sup>2</sup> through to the final quality assurance of documents.

IPART assesses ACP compliance with the Minimum Requirements when you apply for accreditation as an ACP, and during implementation of your RESA.

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<sup>1</sup> Previously titled *Minimum requirements for conduct of persons acting on behalf of Accredited Certificate Providers*

<sup>2</sup> For the purposes of the ESS, a **customer** refers to the *original* energy saver or potential *original* energy saver who may nominate the ACP as the *nominated* energy saver for the purposes of creating ESCs. The only exception is the removal of old appliances method, where the customer is the small business owner or householder from where the appliance is removed.

## ACP responsibilities

ACPs are responsible for all activities undertaken as part of their RESA. This includes, but is not limited to:

- ▼ contacting or approaching customers in relation to an ESS activity
- ▼ conducting the initial design or assessment for a project
- ▼ providing quotes to a customer
- ▼ modifying, replacing, installing or removing End-User Equipment (**EUE**)
- ▼ obtaining a nomination, and
- ▼ obtaining other documentation necessary to support ESC creation.

ACPs are responsible and accountable for ensuring the Minimum Requirements are implemented in an appropriate manner, and must maintain evidence to demonstrate ongoing compliance.

### 1.1 Contractual Arrangements

ACPs must exercise effective control over all activities conducted by their representatives. The Scheme Administrator requires ACPs to have contractual arrangements with their representatives in place to ensure the RESA complies with ESS requirements.

The contractual arrangements must be in place before the representative conducts any activity on the ACP's behalf. Contractual arrangements form a record and must be retained and be available for review during an audit or at any time requested by IPART.

ACPs are accountable for compliance with ESS requirements, and cannot avoid this accountability through a contract with their representative. ACPs are accountable for any activity conducted by a representative on their behalf, deliberate or otherwise.

The Scheme Administrator will hold ACPs responsible for all actions, omissions and information provided by representatives acting on their behalf, regardless of any contract or agreement between the representative and other parties. Minimum Requirements for contractual arrangements are set out in Table 1 below.

**Table 1: Minimum Requirements for contractual arrangements with representatives**

	Requirement
Representatives	Must be: <ul style="list-style-type: none"> <li>▼ an employee of the ACP or direct contractor of the ACP, or</li> <li>▼ an employee or contractor of another company or business that has a legally binding contract with either the ACP or a direct contractor of the ACP.</li> </ul>
Contractual arrangements	Must ensure that all representatives: <ul style="list-style-type: none"> <li>▼ conduct activities in accordance with all ESS requirements</li> <li>▼ be appropriately trained prior to performing any activities under the ESS (see section 1.2)</li> <li>▼ abide by the minimum requirements for customer engagement (see section 1.4)</li> </ul>

	Requirement
	<ul style="list-style-type: none"> <li>▼ cooperate with any reasonable request from the Scheme Administrator, auditor or ACP to provide information in relation to any implementation for which ESCs have been or will be created, and</li> <li>▼ are 18 years or older.<sup>a</sup></li> </ul>

<sup>a</sup> Unless the representative is an apprentice working under the supervision of a licensed tradesperson as per the relevant legislation.

## 1.2 Training for Representatives

ACPs are responsible for ensuring that appropriate training is provided to all representatives, so that they can conduct themselves in a professional and competent manner and comply with ESS requirements. ACPs need to tailor the training to their specific activity, needs and processes. Training for representatives must include all the items outlined in Table 2 below.

**Table 2: Minimum Requirements for training representatives**

Item	Applicability	Content	Timing
1	All representatives (all RESAs)	<ul style="list-style-type: none"> <li>▼ an overview of the ESS and its legislative framework, including the function and importance of the nomination form</li> <li>▼ an overview of the activities that are being undertaken under the RESA</li> <li>▼ any of the ACP's internal procedures relevant to the representative's role in the RESA</li> <li>▼ any co-payment requirement relevant to the method</li> <li>▼ procedures that need to be followed to ensure that each implementation under the RESA complies with the <i>Electricity Supply Act 1995 (NSW)</i>, the <i>Electricity Supply (General) Regulation 2014 (NSW)</i> and the <i>ESS Rule of 2009 (NSW)</i></li> <li>▼ any training necessary to undertake an implementation</li> <li>▼ the records that the representative needs to collect for each implementation to be eligible to create ESCs, and</li> <li>▼ relevant legislative or regulatory requirements with which the representative must comply in performing its role, including provisions for telemarketing and door-to-door sales under the Australian Consumer Law, consumer rights, occupational work health &amp; safety, the <i>Gas and Electrical (Consumer Safety) Act 2017 (NSW)</i> and other statutory requirements.</li> </ul>	Before a representative is involved in the RESA for the ACP
2	Where the ACP's customer is using its own staff/contractors for an implementation of the RESA	ACPs must have a procedure in place which ensures the customer's staff/contractors are trained to undertake the activity in accordance with ESS requirements.	Before the customer's staff/contractors undertake any activities under the ESS

### 1.3 Registers

ACPs must maintain a register of all representatives conducting activities for each RESA.

**Table 3: Minimum Requirements for registers of representatives**

Minimum fields in register
<ul style="list-style-type: none"> <li>▼ name</li> <li>▼ contact details</li> <li>▼ training completed in relation to the ESS and the RESA</li> <li>▼ other training completed relevant to activity (eg. WHS)</li> <li>▼ formal qualifications, licenses and certifications (eg. electrician, plumber)</li> <li>▼ date of completion of ESS training</li> <li>▼ date of completion of any other training/qualifications</li> <li>▼ licence numbers (where applicable, eg. specialist trade work, refrigerant handling)</li> <li>▼ insurance details</li> <li>▼ relationship to the ACP (eg. employee, contractor, third party)</li> <li>▼ date of employment or commencement of contract/agreement, and</li> <li>▼ details of any responsibility for any process sign-off in delivering the RESA.</li> </ul>

### 1.4 Customer engagement

ACPs must have documented customer engagement processes in place to address all the items outlined in Table 4 below.

**Table 4: Minimum Requirements for customer engagement**

Item	Minimum Requirements	Timing
1. Ensure all representatives properly identify themselves as representatives of the ACP	<p>ACPs <b>must ensure their representatives:</b></p> <ul style="list-style-type: none"> <li>▼ identify the ACP they represent in all forms of communication</li> <li>▼ provide the customer with contact details for the ACP, and</li> <li>▼ <b>do not identify themselves as a representative of the ESS, IPART or the NSW Government.</b></li> </ul>	<ul style="list-style-type: none"> <li>▼ All stages of the customer engagement process</li> </ul>
2. Explain the ESS to the customer	<p>ACPs <b>must ensure that their representatives:</b></p> <ul style="list-style-type: none"> <li>▼ provide all relevant fact sheets<sup>a</sup></li> <li>▼ explain the contents and function of the nomination form</li> <li>▼ <b>provide a copy of the nomination form to the customer for their perusal</b></li> <li>▼ <b>explain any mandatory requirements that must be met (eg. co-payment and removal of old equipment)</b></li> <li>▼ <b>explain that IPART or ESS auditors may request information to verify ESCs are properly created</b></li> </ul> <p>▼ do not misrepresent the services being undertaken, and</p>	<ul style="list-style-type: none"> <li>▼ before obtaining that person's signature on the nomination form, <b>and</b></li> <li>▼ <b>before any installation, modification, replacement or removal of EUE commences</b></li> </ul> <p>▼ all stages of the customer engagement process</p>

Item	Minimum Requirements	Timing
	<ul style="list-style-type: none"> <li>▼ provide a copy of the executed nomination form to the customer.</li> </ul>	<ul style="list-style-type: none"> <li>▼ as soon as practicable and within a reasonable time period</li> </ul>
3. Inform the customer about the EUE	<p>ACPs must ensure their representatives:</p> <ul style="list-style-type: none"> <li>▼ provide details of the make, model and electrical characteristics of the EUE, and</li> <li>▼ explain and demonstrate the EUE features, installation work and process of installation.</li> </ul>	<ul style="list-style-type: none"> <li>▼ before sale of the EUE</li> <li>▼ before or during installation</li> </ul>
4. Provide customer service and after sales assistance	<p>ACPs must:</p> <ul style="list-style-type: none"> <li>▼ provide a contact number and complaints resolution process to the customer</li> <li>▼ manage and resolve complaints</li> <li>▼ ensure that the customer is satisfied with the product(s) as installed, and</li> <li>▼ provide a mechanism for replacement of faulty EUE.</li> </ul>	<ul style="list-style-type: none"> <li>▼ At relevant stages of the customer engagement process</li> </ul>

<sup>a</sup> Some calculation methods have a method specific fact sheet. Refer to the relevant method guide for further information.