

# Changing audit conditions and increasing certificate creation limits

4 March 2024

## 1 Purpose of this consultation

The Energy Savings Scheme (ESS) has been in place since 2009, with the Peak Demand Reduction Scheme (PDRS) commencing in 2022. Key to ensuring the ongoing success of the ESS and the PDRS is the effective and efficient administration of the scheme. This includes managing risk by setting audit conditions and certificate creation limits appropriate to an Accredited Certificate Providers' (ACP) knowledge and understanding of the schemes and their compliance history.

Our typical approach to setting certificate creation limits was established in 2017. Since then, the ESS has evolved and the PDRS has been added. The way we manage risk also needs to evolve to reflect the expansion of the schemes and their developing maturity.

We are therefore proposing to update our typical approach to setting certificate creation limits and change the way in which we ask ACPs to apply to change audit and certificate creation limit conditions. Our proposed changes are intended to make the process more efficient and give us better information to assess the applications.

We want to consult with ACPs and ACP applicants on these proposed changes. We are keen to hear your thoughts and will take your feedback into account when finalising our approach.

This consultation will cover:

- Proposed introduction of an application form to help guide applicants through the process.
- Proposed information needed to support an application.
- Our typical approach to increasing certificate creation limits.

We have also provided some information about the things we consider and how we assess an application to help you understand our approach.

## 2 Introduction of an amendment application form

We are proposing to introduce an application form that sets out the information needed to support an application to amend an audit condition or increase a certificate creation limit. We are proposing this change as a form will make it easier for applicants to understand the type of information we will require. The application form would be uploaded into our online system, TESSA, to complete the application process.



Would the introduction of an application form for amendments pose any issues or challenges for your business? Please provide details or examples where possible.

### 3 Proposed information to support an application

We use audits and certificate creation limits to manage the risk of improper certificate creation. To assess an application to change an audit requirement or increase a certificate creation limit we need to understand how the business will manage the change in risk. To do this we propose requiring the following information be provided to support the application:

- A description of the proposed change.
- Detailed reasoning and justification for the request including changes to the business model or way of working as the business grows.
- The ACP's understanding of the risks associated with the current conditions and how those risks could change with the proposed change.
- How the ACP will manage these risks, for example what resources will be added to manage additional workloads or changes made to processes and business systems.
- Analysis of the ACP's successful audits, responses to audit recommendations to improve business performance, and how identified issues were addressed.
- Any other information that the Scheme Administrator should consider.



Do these proposed information requirements pose any issues or challenges for your business? Is there other information you could provide us to support your application? Please provide details or examples where possible.

### 4 Typical approach to increasing limits

The ESS has evolved since the typical approach to increasing limits was introduced in 2017. We are proposing to streamline the typical approach to increasing certificate creation limits to acknowledge the change in activities and increase in certificate creation volumes and audits. This approach is set out in Table 1 which describes the number of audits and certificates required as a minimum before an ACP should consider applying to progress to a higher limit. This approach removes several of the steps currently set out in the ACP Compliance Guide.

Table 1 Our typical approach to audit conditions and certificate creation limits

| Starting conditions                                | Minimum audit volumes <sup>a</sup>                                  | New conditions  |
|--|---|---|
| Pre-registration                                   | 1 audit over<br>5,000 ESCs or<br>50,000 PRCs (see also section 4.1) | Annual audits<br>25,000 ESCs or<br>250,000 PRCs   |
| Annual audits<br>25,000 ESCs or<br>250,000 PRCs    | 2 audits over<br>50,000 ESCs or<br>500,000 PRCs                     | Annual audits<br>100,000 ESCs or<br>1,000,000 PRCs  |
| Annual audits<br>100,000 ESCs or<br>1,000,000 PRCs | 2 audits over<br>100,000 ESCs or<br>1,000,000 PRCs                  | Annual audits<br>200,000 ESCs or<br>2,000,000 PRCs  |
| Annual audits<br>200,000 ESCs or<br>2,000,000 PRCs | Considered on a case-by-case basis                                  | 2 or more audits per year<br>More than 200,000 ESCs or<br>2,000,000 PRCs, set on a case-by-case basis |

a. This is the minimum number of audits covering the minimum number of certificates that we expect an ACP to complete at its current conditions (starting conditions) to progress to the next stage (new conditions).

### 4.1 Automatic progression from pre-registration to periodic audit conditions

If an ACP's accreditation starts with pre-registration audit conditions, we are proposing that we automatically amend the audit conditions to periodic if the first audit is satisfactory and there are no compliance issues. That is, an ACP does not need to apply for this change – it is something that we will do as part of completing the first audit. In these cases, we will set the unaudited certificate limit to 25,000 ESCs for an ESS accreditation or 250,000 PRCs for a PDRS accreditation.



Does the proposal to automatically progress from pre-registration to periodic audit conditions (providing the first audit is satisfactory and there are no compliance issues) raise any issues or challenges for your business? Please provide details or examples where possible.

### 4.2 Higher certificate creation limits and periodic only audit conditions

As part of the new approach, we are proposing to consider certificate creation limits greater than 200,000 ESCs or 2,000,000 PRCs. If an ACP seeks high unaudited certificate limits, we will expect them to have demonstrated excellent compliance over high volumes of certificates and over a sustained period. In these cases, we will set the periodic audit requirements to at least every 6 months and may impose other conditions to help manage risk. In exceptional cases we may remove the unaudited certificate limit entirely.

Given the different risk profile associated with this approach, we will be more likely to require an audit be conducted at any time. The scope of these audits may differ from the standard audit in that additional sampling may be required and greater scrutiny may be applied to implementations.



Are you likely to need to apply for limits higher than 200,000 ESCs or 2,000,000 PRCs? Do you see any challenges or issues with the proposed approach to setting audit conditions for these higher limits? Please provide details or examples where possible.

### 4.3 What if the typical approach isn't right for me?

We know that every business is different. The proposed typical approach does not limit an ACP from applying for something different. Where this is the case, we propose requiring the application include:

- an explanation of why the typical approach won't work, and
- the ACP's ability to manage risks and maintain good compliance at the proposed limit.

## 5 What we consider when assessing an application

In addition to the supporting information provided with an application, we will also consider an ACP's compliance risk profile and how the ACP works with us.

### 5.1 Compliance risk profile

We will consider the compliance risks associated with the ACP's business, any related ACPs and the activities implemented. This includes compliance across all accreditations and those of related ACPs. Key things we will consider favourably include:

- Sustained good compliance across all accreditations.
- Audit findings and recommendations that are limited to matters that are insignificant, less serious, or isolated.
- Prompt and effective responses to audit findings and recommendations.
- Low audit error rates and errors that are not serious, persistent, or systemic.
- Low number of complaints, the nature of which are minor and that you have appropriately resolved with the consumer.
- Good compliance history in similar schemes in other jurisdictions (e.g., the Victorian Energy Upgrades program and Renewable Energy Target) where there is no, or a limited, history of breaches, penalty notices, warnings, or other administrative regulatory action.

## 5.2 How an ACP work with us

How an ACP works with us and their attitude to compliance will be an important part of our assessment. We know that we may not always agree, but it is important that we work co-operatively to resolve issues. We will consider how responsive an ACP has been in their dealings with us. This includes:

- Having productive interactions with us, including a willingness to act on our feedback and respond to complaints and queries from customers.
- A positive response to auditor recommendations that demonstrates that the ACP has appropriately considered the recommendations and implemented controls to resolve issues and address risk.

## 5.3 We will exercise our judgement when granting a limit increase

As is currently the case, we will grant a limit increase if we are satisfied that the information provided supports the request, the compliance risks are low and properly managed, and the ACP has a positive and productive approach to compliance (as described above).

We will not follow the typical approach outlined in Table 1 in all cases. We make all decisions on a case-by-case basis to ensure we appropriately manage the risk of improper certificate creation. This may mean that we do not grant your application or that we give you a lower limit than you applied for. We have broad discretion to apply the appropriate measure, or suite of measures, in any given case. No matter the outcome of your application, we will provide the reasons for our decision. The proposed changes do not impact on an ACP's right to have a decision reviewed.

If our typical approach does not suit your business needs, you may apply for something different (see section 4.3).

# 6 We want your feedback

We're seeking your feedback on any issues or challenges our approach raises for your business. Please send your submissions to [ess@ipart.nsw.gov.au](mailto:ess@ipart.nsw.gov.au) by **28 March 2024** and provide a detailed response including your reasons and examples where possible.

Your privacy is important to us. Please include a completed [ESS submission cover sheet](#) with your submission to confirm you have read and accept [IPART's Submission Policy](#). We will publish your submission on our website unless you ask us to keep it confidential. We will also publish your name unless you ask us to keep it confidential.

# 7 Next steps

We will consider all submissions in finalising our approach and then publish an Information paper detailing:

- How to apply to have your audit and certificate creation conditions changed.
- The information you must provide to support your application.
- Our typical approach to setting audit and certificate creation limit conditions.

We'll also update our website and other guidance documents to reflect the new approach.

We anticipate that the changes will be introduced in mid-2024. We will keep you informed about when the new approach will commence.