

Concerns about installation of heat pump water heaters

7 March 2023

Changes to the ESS Rule which took effect from 28 February 2022 have resulted in increased activity and new businesses involved in the installation of heat pump water heaters using the Home Energy Efficiency Retrofits (**HEER**) or Installation of High Efficiency Appliance for Businesses (**IHEAB**) methods. Recently, we have seen an increase in the number of consumer complaints about these activities. Of concern, we have received reports about the following:

Installation and evidence

- installation of heat pump water heaters that are not fit for purpose (e.g. oversized, undersized or not appropriate for the site)
- installation of more than one heat pump water heater (where the installation of a single larger unit may have been more appropriate) leading to space and noise issues
- replacement of ineligible equipment with heat pump water heaters (e.g. replacement of a working or broken solar hot water system)
- incorrect installation of heat pump water heaters leading to safety issues
- replaced water heaters not being removed from site (evidencing that it is inoperative and leaving at the site is not sufficient)
- installers 'staging' photos of old water heaters at otherwise ineligible sites
- Certificates of Compliance for Electrical Work (CCEWs) signed by someone other than the onsite installer
- Dates or signatures on nomination forms altered.

Customer satisfaction

- last minute variation of installation costs and refusal to install equipment as agreed
- site assessments being used as a commercial gating process rather than a genuine assessment of what might be the best solution for the customer
- Reduction in service level - low pressure, low heat and stuttering flow

Sales and marketing

- high pressure sales tactics including 'take it or leave it' offers
- Misleading advertising and marketing including misleading representations that:
 - an offered product is the only one available or the only product approved by government
 - the government requires customers to upgrade their water heaters
 - residential heat pump water heaters are free
 - specific products or companies are preferred by NSW government or IPART

As an ACP that is accredited to do heat pump water activities, please review your current practices and controls (including those applicable to your installers representing you in the scheme) to ensure your business is appropriately managing the risk of non-compliance or other undesirable conduct.

We are closely monitoring installation of heat pump water heaters

We are currently monitoring hot water heater replacement activity and responding to reports of misconduct. We are also paying particular attention to this activity in audits. The activity of installing heat pump water heaters has been assessed as higher risk and was identified as one of our [Compliance Priorities](#). Our audit and compliance team will be looking closely at these activities to ensure they are compliant with the legislation and to assess whether the activities are consistent with the objectives of the scheme to incentivise energy savings activities. We will carefully consider:

- Evidence of installation including geo-tagged photos of the new and old equipment. The photos of the old equipment must show it installed at the site.
- Post-implementation declarations under HEER including that purchasers have agreed that they are satisfied with the result of the activity.
- Installer declarations, certificates of compliance or commissioning reports under IHEAB including that installers have declared that new equipment has been properly installed and old equipment removed.
- Site Assessor declarations including declarations that installations meet eligibility requirements under the rule.
- Compliance with the [Minimum Requirements of Conduct](#) including requirements that ACPs ensure their representatives identify the ACP they represent and do not identify themselves as a representative of the ESS, IPART or the NSW Government.

You should refer to the legislation, the rule, and the [IHEAB method guide](#) or [HEER method guide](#) to understand the requirements for this activity.

We may take escalated compliance action

Where we identify wilful, serious or repeated non-compliance we will consider appropriate regulatory action which may include warnings, penalty notices, civil penalties or prosecution.

We can also impose conditions on accreditations to address any ongoing risk of activities which undermine the objective of the scheme, which is to incentivise genuine energy saving activities. We can also suspend or cancel an accreditation following serious non-compliance.

The Australian Consumer Law applies

The [Australian Consumer Law](#) makes it an offence for a person supplying goods or services to engage in conduct likely to mislead the public about the nature, manufacturing process, characteristics, suitability for purpose, or quantity of those goods or services. It prohibits businesses from making false or misleading representations about:

- the quality, value or grade of goods/services
- the performance characteristics, accessories, benefits and uses of goods/services
- the place of origin of a product (where it was made or assembled)
- the price of goods or services
- a buyer's need for the goods or services

- testimonials relating to goods/services
- any guarantee, warranty or condition on the goods and services.

Accredited Certificate Providers are liable for the actions of agents acting on their behalf. We encourage you to review websites, marketing material, call scripts and other collateral that you or your representatives use promote heat pump water heater sales and installation, and which result in ESC creation and financial benefit for ACPs.

Where we identify potential breaches of the Australian Consumer Law we may refer matters to NSW Fair Trading who are the responsible Australian Consumer Law agency in NSW.