

21 February 2020

## Acceptable approaches to landlord/ tenant contributions

This notice provides an example of a payment arrangement involving a contribution to the Purchaser by their landlord or tenant which we consider to be compliant with clause 9.4.1(e) and clause 9.8.1(g)<sup>1</sup> of the *Energy Savings Scheme Rule of 2009 (ESS Rule)*.

The notice is applicable to Implementations where energy savings are calculated using the Commercial Lighting Energy Savings Formula or the Home Energy Efficiency Retrofits method of the ESS Rule.

### The ESS Rule requires the Purchaser to have paid a specified amount

Under clause 9.4.1(e) of the ESS Rule, Energy Savings may only be calculated for an Implementation under the Commercial Lighting Energy Savings Formula if:

The Purchaser has paid a net amount of at least \$5 (excluding GST) per MWh of Electricity Savings, which must not be reimbursed, for the goods or services making up the Implementation, and which payment is evidenced to the satisfaction of the Scheme Administrator.

Under clause 9.8.1(g)<sup>1</sup> of the ESS Rule, Energy Savings may only be calculated for an Implementation under the Home Energy Efficiency Retrofits method if:

The Purchaser has paid a net amount of at least \$30 (excluding GST) which must not be reimbursed, for the Implementation, assessment and other associated works carried out at the Site, and which payment is evidenced to the satisfaction of the Scheme Administrator.

The Purchaser is:

the person who purchases or leases the goods or service that enable the relevant Energy Savings to be made; except where:

- the person is an Accredited Certificate Provider and is not the owner, occupier or operator of the Site; or
- the person purchases or leases the goods or services for the purpose of reselling the End-User Equipment, unless the resale will be an inclusion in a contract for the sale of land, or in a strata scheme, the sale of a lot.

### An acceptable approach to managing landlord/tenant contributions

The following are examples of acceptable arrangements involving a contribution by a related landlord or tenant for the purposes of clause 9.4.1(e) or clause 9.8.1(g)<sup>1</sup>:

1. The **tenant pays** the Accredited Certificate Provider (**ACP**) or the ACP's representative (installer etc.) with a contribution from its landlord (**scenario 1**).
2. The **landlord pays** the ACP or the ACP's representative with a contribution from the relevant tenant (**scenario 2**).

The payment made by the tenant (scenario 1) or the landlord (scenario 2) as the Purchaser must fulfil the requirements set out in clause 9.4.1(e) or clause 9.8.1(g)<sup>1</sup> of the ESS Rule. For that purpose, the Scheme Administrator does not consider the contribution from the landlord to the tenant in Scenario 1 or from the tenant to the landlord in Scenario 2 to be a

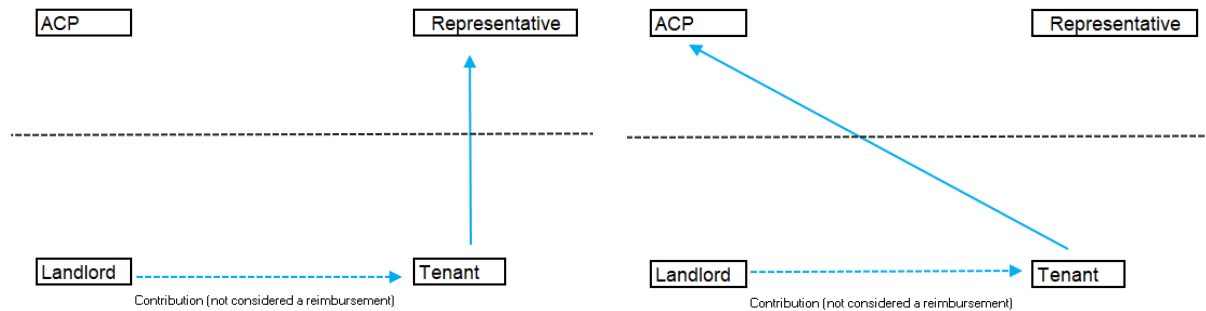
<sup>1</sup> Clause 9.8.1(g) will be renumbered to clause 9.8.1(f) from 30 March 2020.

reimbursement. However, any payment from the ACP or the ACP’s representative to the contributing landlord (scenario 1) or tenant (scenario 2) is considered a reimbursement.

**Scenario 1: Acceptable approach where the tenant pays (Tenant is the Purchaser)**

*Scenario 1a: Tenant pays the ACP’s representative*

*Figure 1b: Tenant pays the ACP*

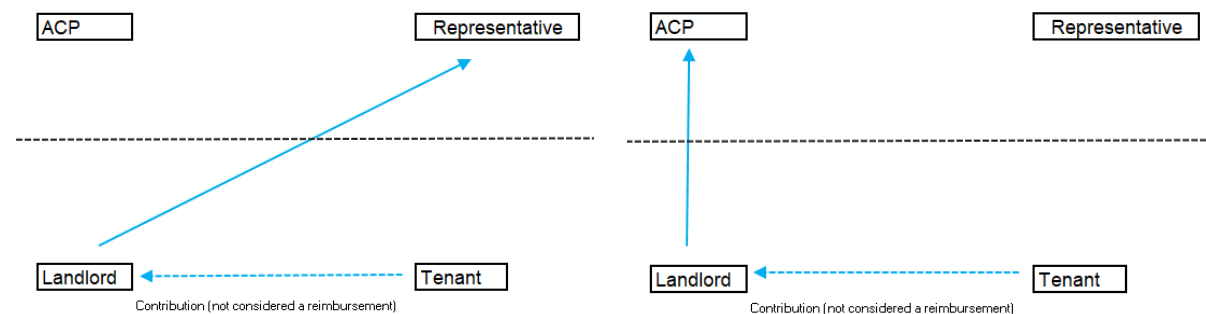


- Payment for the goods or services that enable the Energy Savings
- - - Payment not considered a reimbursement (contribution)

**Scenario 2: Acceptable approach where the landlord pays (landlord is the Purchaser)**

*Scenario 2a: Landlord pays the ACP’s representative*

*Figure 2b: Landlord pays the ACP*



- Payment for the goods or services that enable the Energy Savings
- - - Payment not considered a reimbursement (contribution)

**Application of guidance in other circumstances**

The examples above are provided for the purpose of providing an acceptable approach to compliance with clause 9.4.1(e) or clause 9.8.1(g)<sup>1</sup> for an implementation where a landlord or tenant wants to make a contribution. They are not definitive and other arrangements may satisfy the requirements of the ESS Rule.

ACPs must not rely on this guidance in determining whether an alternative arrangement would comply with clause 9.4.1(e) or clause 9.4.1(g)<sup>1</sup> of the ESS Rule, and arrangements which appear similar may not satisfy the requirements of the ESS Rule.

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In particular, both scenarios assume that the required co-payment is made **entirely** by the tenant (scenario 1) or the landlord (scenario 2). Scenarios where both the landlord and tenant make a payment to the ACP or its representative are not considered by this notice. The examples also assume that the tenant (scenario 1) or the landlord (scenario 2) will retain ownership or possession of the relevant end-user equipment.

### **The nomination must be made by the Purchaser not a contributor**

We also remind ACPs that unless they are the Purchaser, they must be nominated as the energy saver by the Purchaser prior to the implementation. To avoid improperly creating energy saving certificates (ESCs), ACPs should take extra care to ensure they obtain the nomination from the Purchaser, rather than obtaining the nomination from a landlord or tenant who has provided a contribution to the Purchaser.