

2020-2021 ESS Rule Change

28 January 2022

The NSW Government has updated the *Energy Savings Scheme Rule of 2009 (ESS Rule)*. The *Energy Savings Scheme (Amendment No.1) Rule 2021^a* commences on 28 February 2022. This fact sheet outlines the commencement arrangements and summarises the key ESS Rule changes. We have dedicated and separate fact sheets for all you need to know about:

- Updates to air conditioner and refrigerated cabinet activities, and
- New heat pump and solar water heater activities.

We have updated our guidance material, tools and templates to reflect the ESS Rule changes to assist affected stakeholders, including Accredited Certificate Providers (**ACPs**), auditors, and installers. You can access this documentation now and prepare your business by updating your processes, documentation and systems.

If you have any questions about the new ESS Rule or our updated guidance, please contact us at: ess_compliance@ipart.nsw.gov.au.

1 Commencement of the new ESS Rule

The new ESS Rule commences on 28 February 2022. You will need to continue using the **old ESS Rule** until the new ESS Rule commences.

Date from	Date to	Description	Short name
28 February 2022	Not applicable	Energy Savings Scheme Rule of 2009 – 28 February 2022	New ESS Rule
30 March 2020	27 February 2022	Energy Savings Scheme Rule of 2009 – 30 March 2020	Old ESS Rule

^a The *Energy Savings Scheme (Amendment No.1) Rule 2021* was gazetted on 28 January 2022.

1.1 General transitional arrangements

Under the new ESS Rule, there are general provisions for when the old ESS Rule continues to apply for the purposes of calculating energy savings. If an application to register energy savings certificates (**ESCs**) is made on or after the commencement date of the new ESS Rule, but the implementation date on or before 27 February 2022, the old ESS Rule will continue to apply.^b However, if the implementation date is on or after 28 February 2022, the new ESS Rule applies. Figure 1 and Box 1 provide an illustrative example. This provision applies to all activities and calculation methods (except for new water heater activities under the Home Energy Efficiency Retrofits (**HEER**) and Installation of High Efficiency Appliances for Businesses (**IHEAB**) deemed energy savings calculation methods)^c under the ESS Rule.

ESCs calculated using either the old ESS Rule or new ESS Rule must be created no later than 6 months after the end of the year in which energy savings occur.^d This deadline has not changed.

Figure 1 Transitional arrangements for calculating energy savings



Box 1 Examples of how the transitional arrangement is applied

The implementation date of a project is 30 December 2021. You apply to register the ESCs created for the implementation on 1 March 2022. The application to register ESCs is made after the commencement date of the new ESS Rule (28 February 2022). You must calculate the energy savings for the project using the old ESS Rule, as the implementation date of the project is before the commencement date of the new Rule (as per clause 11.16).

^b Clause 11.16 of the ESS Rule.

^c Clause 11.17 and 11.18 of the ESS Rule. Commencement arrangement of the new water heater activities are set out in the [Fact sheet – Water heaters](#).

^d Section 34(3) of Schedule 4A to the ES Act.

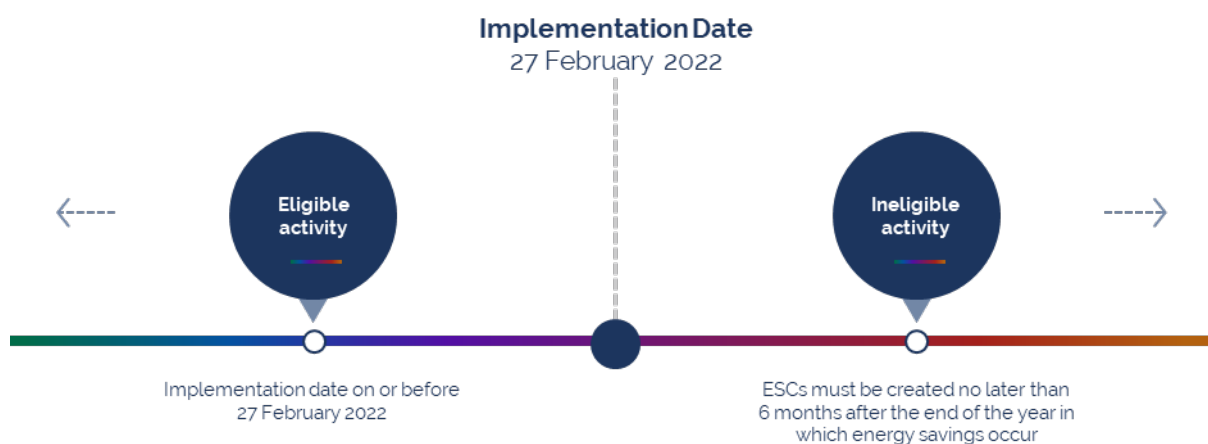
Box 1 Examples of how the transitional arrangement is applied

The implementation date of a project is 1 March 2022. You apply to register the ESCs created for the implementation on 1 April 2022. You must calculate the energy savings for the project using the new ESS Rule.

1.2 Transitional arrangements for HEER activity definition D10

Activity definition D10 has been deleted from the new ESS Rule. This means that ACPs can only create ESCs from activity definition D10 for implementations with an implementation date on or before 27 February 2022. As noted above, ESCs must be created no later than 6 months after the end of the year in which energy savings occur.

Figure 2 Transitional arrangements for HEER activity definition D10



2 Summary of the ESS Rule changes

The key ESS Rule changes include new and updated activities under the HEER and IHEAB deemed energy savings calculation methods.

There are also other policy changes to allow energy savings for:

- Residential aged care and retirement living under the NABERS method.
- Alterations, enlargements or extensions of a BASIX affected building, which were previously considered ineligible activities under the ESS.

- Activities that involve the installation of a new or replacement solar or heat pump water heater eligible under the *Renewable Energy (Electricity) Act 2000* for the Renewable Energy Target (**RET**) scheme, which were previously considered ineligible activities under the ESS.

ACPs should refer to the new ESS Rule to ensure all requirements are met and that energy savings and ESCs are correctly calculated and created.

While some changes may not specifically impact our existing guidance documentation or the activity you are accredited for, there may be other changes that impact you. For example, we have updated the Implementation Data Sheet^e to give effect to the amended and new activity definitions – all ACPs must use the **latest version** for applications to register ESCs on and from 28 February 2022.

We have also made improvements to the HEER and IHEAB method guides to clarify guidance on small business sites, site assessment and post-implementation declarations.^f

Table 1 below outlines the key ESS Rule changes and the corresponding updated ESS documentation.

Table 1 Key ESS Rule changes and updated ESS documentation

Rule change	Relevant clause /activity definition (AD)	Calculation method	Updated documentation
Updates to activities			
Calculation of energy savings from activity definition D10 will no longer be allowed.	AD D10	HEER	<ul style="list-style-type: none"> • HEER – Method Guide • HEER – Application Form Part B • HEER – Site Assessor Declaration • HEER – Post Implementation Declaration
Streamline air conditioner requirements and formula to align with the new GEMS Determination	AD D3 ^a , D4 ^a and D16 ^a AD F4	HEER IHEAB	<ul style="list-style-type: none"> • Fact sheet – Air conditioner and refrigerated cabinets (NEW) • HEER – Method Guide • HEER – Application Form Part B • HEER – Site Assessor Declaration • HEER – Post Implementation Declaration • IHEAB – Site Assessment Report • IHEAB – Method Guide • IHEAB – Application Form Part B • IHEAB – Installer Declaration • Implementation Data Sheet
Update refrigerated cabinets requirements and formula to align with the new GEMS Determination	AD F1	IHEAB	<ul style="list-style-type: none"> • Fact sheet – Air conditioner and refrigerated cabinets (NEW) • IHEAB – Method Guide • IHEAB – Application Form Part B • IHEAB – Installer Declaration • Implementation Data Sheet
Update deemed equipment electricity savings formula for high efficiency motors	AD F7	IHEAB	No impact on existing documentation

^e Under clause 6.8 of the ESS Rule, before you can apply to register ESCs in the ESS Registry, you must submit data, collected via an Implementation Data Sheet, through the ESS Portal.

^f Sections 2.4.3, 2.8.1 and 2.10.1 of the HEER Method Guide and sections 2.5.1 and 2.7.1 of the IHEAB Method Guide.

Rule change	Relevant clause /activity definition (AD)	Calculation method	Updated documentation
New activities			
Introduce energy savings for heat pump and solar water heaters in households and small businesses	AD D17, D18, D19, D20 and D21	HEER	<ul style="list-style-type: none"> • Fact sheet – Water heaters (NEW) • HEER – Method Guide • HEER – Application Form Part B • HEER – Site Assessor Declaration • HEER – Post Implementation Declaration • Implementation Data Sheet
Introduce energy savings for commercial and industrial heat pump water heaters	AD F16 and F17	IHEAB	<ul style="list-style-type: none"> • Fact sheet – Water heaters (NEW) • IHEAB – Site Assessment Report • IHEAB – Method Guide • IHEAB – Application Form Part B • IHEAB – Installer Declaration • Implementation Data Sheet
Policy changes			
Allow energy savings for activities associated with the alteration, enlargement or extension of a BASIX affected building	Clause 5.4 (b)	All methods	No impact on existing documentation
Allow energy savings for the installation of a new or replacement solar water heater or heat pump water heater created under the RET	Clause 5.4 (g)	All methods	<ul style="list-style-type: none"> • HEER – Method Guide • IHEAB – Method Guide • No impact on other documentation^b
Allow energy savings for residential aged care or retirement living NABERS buildings	Clause 8.8.1	NABERS	<ul style="list-style-type: none"> • NABERS – Method Guide • NABERS – Application Form B
Other changes			
Clarify forward creation for NABERS can only occur under Calculation Method 2	Clause 8.8.2	NABERS	<ul style="list-style-type: none"> • NABERS – Method Guide • NABERS – Application Form B
Update table reference for the Lamp Circuit Power value	AD E2, E3, E5 and E13	HEER	No impact on existing documentation
Allow the Scheme Administrator to accept products with reference to a product register from a specified body	Clause 9.2A.2 (d)	HEER and IHEAB	No impact on existing documentation
Update note reference under clause 9.8.1	Clause 9.8.1	HEER	No impact on existing documentation
Update the meaning of AS or AS/NZS standard to be the standard that is amended from time to time, except for AS/NZS 4234	Clause 10.4A.1 and 10.4A.2		No impact on existing documentation

a. Activity definitions D3 and D4 have been replaced and combined into activity definition D16.

b. An ACP may create tradeable certificates under the RET and create ESCs using the PIAM&V or MBM methods for heat pump and solar water heaters. However, this level of detail is not contained in the method guides.

Key terms

ACP or **accredited certificate provider** means a person accredited as an energy savings certificate provider under Schedule 4A of the ES Act and whose accreditation is in force.

Activity definition (AD) means an activity as specified in a Schedule to the ESS Rule.

BASIX means the NSW Building Sustainability Index established under the *Environmental Planning and Assessment Regulation 2000*.

ES Act means the *Electricity Supply Act 1995*.

ESC or **energy savings certificate** means an energy savings certificate created under Schedule 4A to the ES Act.

ESS Rule means the ***Energy Savings Scheme Rule of 2009***. The ESS Rule sets out the specific requirements of each calculation method under the ESS.

HEER means the Home Energy Efficiency Retrofits sub-method under clause 9.8 of the ESS Rule.

IHEAB means the Installation of High Efficiency Appliances for Businesses sub-method under clause 9.9 of the ESS Rule.

Implementation means the delivery of a RESA at a Site.

Implementation Date is defined in each calculation method of the ESS Rule.

MBM means the Metered Baseline Method under clause 8 of the ESS Rule.

NABERS means the National Australian Built Environment Rating system method.

NABERS baseline means the NABERS baseline sub-method under clause 8.8 of the ESS Rule.

PIAM&V means Project Impact Assessment with Measurement & Verification method under clause 7A of the ESS Rule.

RESA or **recognised energy saving activity** means an activity in respect of which an energy savings certificate may be created under Schedule 4A to the ES Act.