

4/02/2020



WHAT

Changes to the ESS Rule were gazetted on 10 January 2020.

Ahead of the new ESS Rule¹ starting on 30 March 2020, we will publish additional information on what it means for you, including updated guidance material.

We provide a summary of the key changes to the ESS Rule below, including important exceptions to its start date that may apply to you.



WHY

The NSW Government has committed to regularly updating the ESS Rule. Among other things, updates to the ESS Rule are intended to maintain its effectiveness and integrity.

For a version of the *Energy Savings Scheme Rule of 2009 – 30 March 2020 (new Rule)* please visit our [website](#).



WHO

Changes to the ESS Rule are relevant to all affected stakeholders, including Accredited Certificate Providers (**ACPs**), auditors, and installers.

Where necessary ACPs will need to update their processes, documentation, calculations and compliance practices to

incorporate the changes and Scheme Administrator requirements.

You should ensure that you are fully across all the changes to the ESS Rule.

We will update all relevant documentation to reflect the new Rule requirements and communicate this over the coming weeks to help ACPs and other interested or affected stakeholders.



WHEN

The new Rule commences on 30 March 2020. However, there are some important exceptions that may apply to you, including:

- ▼ General provisions for when the old rule continues to apply for the purposes of calculating energy savings
- ▼ For some methods, changes to specific clauses have a later start date of 15 August 2020.

These transitional arrangements are found under Clause 11 of the new Rule – see the section below for more details.



WHAT NEXT

If you have any questions about what these changes mean for the administration of the ESS Rule, please contact us at: ess_compliance@ipart.nsw.gov.au

¹ The Energy Savings Scheme (Amendment No. 1) Rule 2020

Clause 11 – Savings and Transitional Arrangements

The transitional arrangements for general amendments, as well as changes in the PIAM&V, NABERS, SONA and IHEAB methods, are outlined in clauses 11.11 to 11.15 of the new Rule.

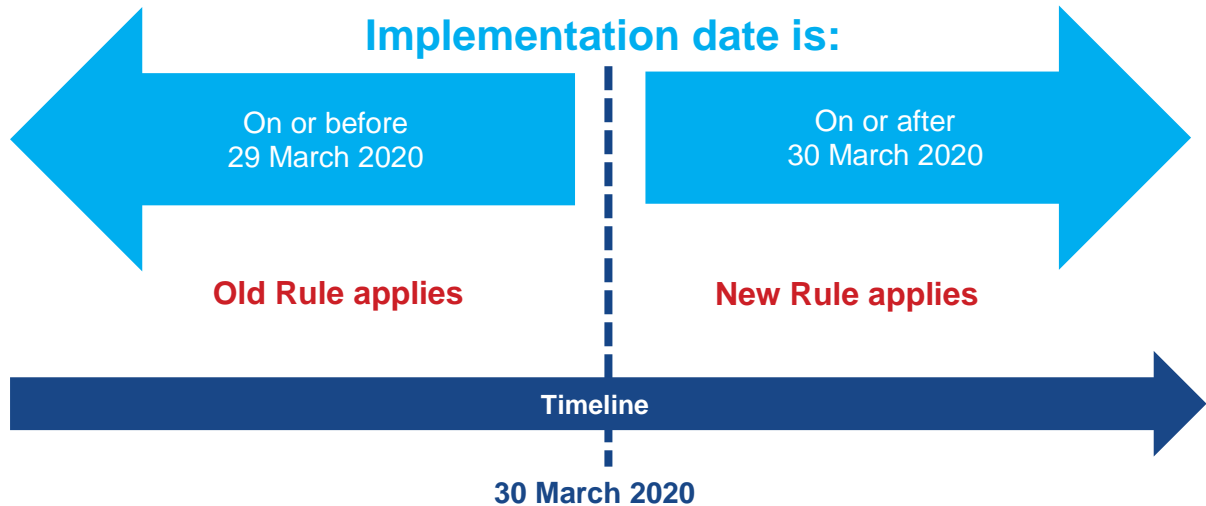
General transitional arrangements

Under the new Rule, there are general provisions for when the old Rule continues to apply for the purposes of calculating energy savings.

Clause 11.11 expressly provides that an ACP must calculate energy savings from an implementation in accordance with the *Energy Savings Scheme Rule of 2009 – 31 July 2018* (**old Rule**), where the **implementation date** determined in accordance with the new Rule **is on or before 29 March 2020**.

This means that the requirement to use the old Rule in clause 11.11 prevails over the requirement to use the new Rule in clause 3.2. Clause 3.2 of the ESS Rule provides that, *unless expressly provided otherwise*, the new Rule applies to the calculation of energy savings used to create ESCs for which an application for registration is made on or after 30 March 2020.

A diagram and a practical example of how clause 11.11 applies are shown in Figure 1 and Box 1 respectively.

Figure 1 Application of general transitional arrangements**Box 1 Example of how the general transitional arrangement is applied**

The implementation date of a project developed under the Commercial Lighting method is 29 March 2020. The ACP applies to register the ESCs created from such implementation on 1 May 2020.

Although the application to register ESCs is made after the commencement date of the new Rule (30 March 2020), the ACP must calculate the energy savings for the project using the old Rule, as the implementation date of the project is before the commencement date of the new Rule (as per clause 11.11).

The deadline for registering ESCs calculated using the old Rule is determined in accordance with the requirements outlined in section 131(3) of the *Electricity Supply Act 1995* (ie, no later than 6 months after the end of the year in which energy savings occur).

Method specific transitional arrangements

Clause 11.11 (general transitional arrangements) is subject to clauses 11.12 to 11.15, which provide specific arrangements for the following methods:

- ▼ PIAM&V (clause 7A.5A)
- ▼ NABERS (clause 9.8)

- ▼ SONA (clause 9.3), and
- ▼ IHEAB (Activity Definition F1).

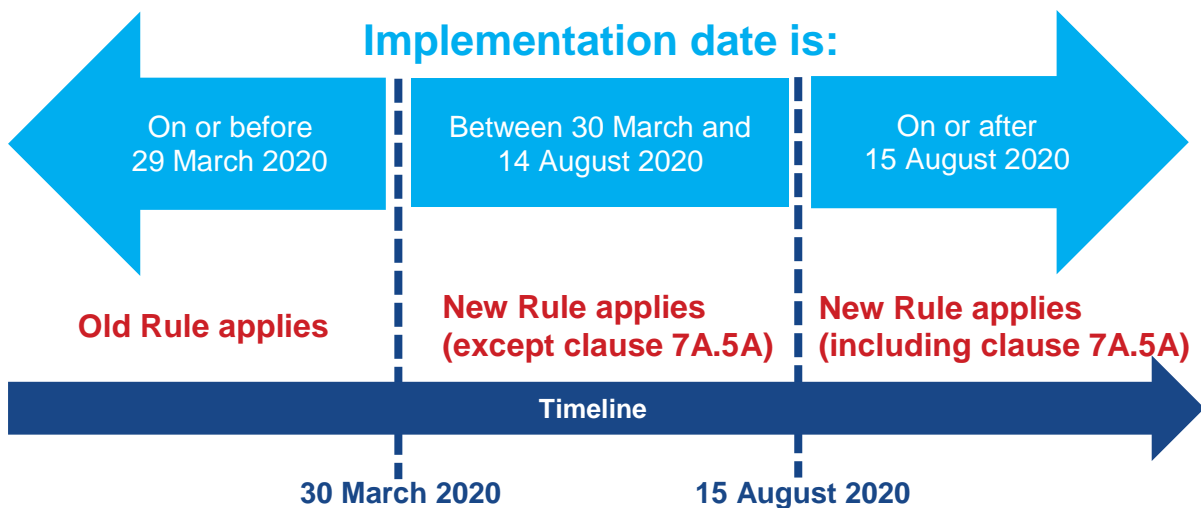
In particular, specific arrangements for calculating energy savings using the old Rule under the PIAM&V, SONA and IHEAB methods apply if the **implementation date** of a project is **on or before 14 August 2020**.

In response to enquiries received about the transitional arrangements for PIAM&V, we have included a diagram (Figure 2) and practical examples (Box 2) to illustrate how clause 7A.5A may apply, depending on the implementation date.

Clause 7A.5A provides that measurement procedures in relation to the baseline energy model under clause 7A.3 must be deemed appropriate for the implementation by an M&V Professional, with their written explanatory reasoning provided prior to the implementation date.

We will provide additional guidance on how transitional arrangements apply for other calculation methods soon.

Figure 2 Application of transitional arrangements for PIAM&V



Box 2 Examples of how the clause 11.12 transitional arrangement is applied**Example 1:**

The implementation date of a project developed under the PIAM&V method is 1 September 2020. The ACP did not engage the M&V Professional before the implementation date and is planning to do so at the end of the project (ie, once the operating energy model has been completed and energy savings have been calculated).

In this case, **clause 7A.5A of the new Rule applies**, as the implementation date of the project is after the date specified in clause 11.12 of the new Rule (14 August 2020). As such, ACPs must obtain the M&V Professional's written explanatory reasoning (with their validation of measurement procedures related to the baseline energy model) **before** the implementation date.

In this example, the ACP does not comply with the requirements under clause 7A.5A, as the M&V Professional has not provided the explanatory reasoning in relation to measurement procedures prior to the implementation date (1 September 2020).

Example 2:

The implementation date of a project developed under the PIAM&V method is 1 February 2020. The ACP obtains the M&V Professional's explanatory reasoning on 30 October 2020, after the end of the operating measurement period and once energy savings of the project have been calculated. The ACP applies to register the ESCs created from the implementation on 15 November 2020.

In this case, **clause 7A.5A of the new Rule does not apply**, as the implementation date of the project is before the date specified in clause 11.12 of the new Rule (14 August 2020). As such, ACPs can obtain the M&V Professional's written explanatory reasoning (with their validation of all relevant clauses under PIAM&V) after the implementation date.

In this example, although the application to register ESCs is made after the commencement date of the new Rule (30 March 2020), the ACP must calculate the energy savings for the project using the old Rule, as the implementation date of the project is before the commencement date of the new Rule (as per clause 11.11).

Changes that commence on 30 March 2020

The following changes to the ESS Rule will take effect on 30 March 2020.

Changes that affect multiple methods or general requirements

Table A26	Amended	▼	Building Code of Australia (BCA) Climate Zones adjustments
Clause 5.4	Amended	▼	Generating system limit adjustments
Equation 1	Amended	▼	Energy savings calculation formula clarification
Clause 6.8	Amended	▼	ESC registration data collection (SONA method)
Various clauses	Amended	▼	Update to referenced Australian Standards

Clause 7A –PIAM&V method

Clauses 7A.16	New	▼	Method requirements published by the Scheme Administrator
Equations 7A.1 and 7A.3	Amended	▼	Update to counted energy savings

Clause 8.8 – NABERS baseline sub-method

Clauses 8.8	Amended	▼	Updates to the NABERS baseline method
Tables A20 and A21		▼	Transitional arrangements apply (clause 11.13)

Clause 9.4 – Commercial Lighting

Tables A10.2 and A10.3	Amended	▼	Updates to space type and space type classifications
Tables A10.2 and A10.3	Amended	▼	Updates to Maintained Emergency Lighting space type and definition (Clause 10)
Clause 9.4.1(i)			
Clause 9.4.1(d)	Amended	▼	Update to licensed electrician requirement

Clause 9.8 – HEER

Activity Definitions E1, E2, E3, E4, E5, E11 and E13	Amended	▼ Update to licensed electrician requirement
Activity Definition E13	New	▼ Replacing a T5 luminaire with an LED luminaire
Clause 9.8.2	Amended	▼ Update to the Implementation Date of HEER activities ▼ Transitional arrangements apply (clause 11.11)
Activity Definition E1	Amended	▼ Update to lamp categories and savings factors
Activity Definitions E2, E3, E5 and E11 Table A9.4	Amended	▼ Changes to light output definition (clause 10) and luminous efficacy term
Clause 9.8.1(f)	Removed	▼ Change to four ESC minimum requirement

Clause 9.9 – IHEAB

Activity Definition F4	Amended	▼ Update to Activity Definition F4 requirements and factors
Activity Definition F5	Amended	▼ Update to Activity Definition F5 requirements
Activity Definition F7	Amended	▼ Update to Activity Definition F7 requirements and factors

Changes that commence on 15 August 2020

The following changes to the ESS Rule become effective on in respect of Implementations with Implementation Dates on or after 15 August 2020

Clause 7A – PIAM&V

Clause 7A.5A	New	<ul style="list-style-type: none"> ▼ Baseline Energy Model Measurement Procedures ▼ Transitional arrangements apply (clause 11.12)
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Clause 9.3 – SONA

Schedule B	Amended	<ul style="list-style-type: none"> ▼ Change to the appliance capacity bands and savings factors ▼ Transitional arrangements apply (clause 11.14)
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Activity Definition B5	Amended	<ul style="list-style-type: none"> ▼ Expand Activity Definition B5 to refrigerators with more than two doors ▼ Transitional arrangements apply (clause 11.14)
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Activity Definitions B7	Amended	<ul style="list-style-type: none"> ▼ Changes to Activity Definition B7 equipment requirements ▼ Transitional arrangements apply (clause 11.14)
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Clause 9.9 – IHEAB

Activity Definition F1	Amended	<ul style="list-style-type: none"> ▼ Update to Activity Definition F1 requirements and factors ▼ Transitional arrangements apply (clause 11.15)
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Clause 10 – Definitions and Interpretation

A number of definitions were added or amended to support and clarify changes throughout the Rule.