

## ESS NOTICE: 01/2013

# Minimum requirements for conduct of persons acting on behalf of Accredited Certificate Providers<sup>1</sup>

ESS Notice: 01/2013 – February 2013 (Amended July 2014)

The Scheme Administrator has established minimum requirements for conduct which Accredited Certificate Providers (ACPs) must meet to participate in the Scheme. The requirements apply to any person participating in any aspect of an energy savings activity on behalf of an ACP<sup>2</sup>. We call these persons ‘representatives’ and the requirements apply to representatives whether they are an employee of the ACP, a contractor or any other third party acting on the ACP’s behalf. The extent to which ACPs meet these minimum requirements forms a part of the original application assessment, and is monitored for on-going compliance.

In creating Energy Saving Certificates (ESCs) under the Energy Savings Scheme (Scheme), ACPs can be the *original* Energy Saver (the “Purchaser” as defined in the relevant calculation method, but generally the person who purchases/leases the products or services that enable the energy savings to be made, provided they directly benefit from the ongoing services provided by the end-user-equipment) or the *nominated* Energy Saver (nominated by the *original* Energy Saver).

ACPs are responsible for all activities undertaken as part of their energy saving activity. This includes, but may not be limited to:

- ▼ Conducting the initial design or assessment for a project;
- ▼ Providing a quote to a customer for an eligible activity;
- ▼ Selling, installing or removing End-User Equipment (EUE); and
- ▼ Obtaining a nomination.

The Scheme Administrator has prepared these minimum requirements to help ensure that an ACP and its representatives act in a way that maintains the integrity of the Scheme.

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<sup>1</sup> Previously titled “*Minimum Requirements for Installer Conduct (Default Savings Factors)*”

<sup>2</sup> Any activity undertaken to address a requirement to enable ESCs to be created from a project is considered as being undertaken on behalf of the ACP that creates the ESCs.

The key minimum requirements relate to:

- ▼ The contractual relationship between an ACP and its representatives;
- ▼ The information that must be provided by ACPs to all their representatives;
- ▼ The register of representatives; and
- ▼ Providing appropriate customer service.

## 1.1 Contracts

ACPs are expected to have effective control over all activities conducted by their representatives. They are required to put in place a formal, documented and enforceable contract or agreement with each person undertaking any aspect of the energy savings activity for which the ACP will register ESCs – regardless of whether that person is employed by them or by another company with whom they have a contractual relationship.


This contract must be signed by the ACP and their representative; either before the latter conducts any activities on the ACP's behalf; or before an ACP utilises information provided by the representative for the purposes of creating ESCs. Evidence of the contracts must be able to be provided during an audit.

ACPs are accountable for all activities conducted by representatives on their behalf. They will be held responsible by the Scheme Administrator for all actions, omissions and information provided by representatives acting on their behalf – regardless of any contract or agreement with other parties.

### Minimum requirements

The representative must be aged 18 years of over, and must either be:

- ▼ An employee of the ACP;
- ▼ A direct contractor of the ACP;
- ▼ An employee of another company or business that has a legally binding contract with the ACP;
- ▼ A contractor of another company or business that has a legally binding contract with the ACP; or
- ▼ A volunteer who has a direct, documented and legally binding agreement with the ACP.



Contracts or agreements between the ACP and the representative or the representative's employer must be documented and signed by both parties, and must be enforceable (legally binding).

At a minimum, they must require that the representative:

- ▼ Conduct activities in accordance with all Scheme requirements
- ▼ Be appropriately trained (see section 1.2 below), and
- ▼ Abide by the minimum requirements for customer service (see 1.4 below).

## 1.2 Training for representatives

Representatives who engage with customers<sup>3</sup> are effectively the public face of the Scheme. It is important that they are appropriately trained, so that they can conduct themselves in a professional and competent manner.

We recognise that individual ACPs will need to tailor the training of their representatives to their specific needs and processes.

### Minimum requirements

All representatives must be provided with the following information:

- ▼ An overview of the Scheme;
- ▼ An overview of your energy saving activity;
- ▼ Any of your internal procedures relevant to the representative's role in your energy saving activity; and
- ▼ Relevant legislative or regulatory requirements that your representative may need to address in performing their role (i.e. provisions for telemarketing and door-to-door sales, occupational work health & safety, etc).

Where a customer wants their own staff or contractors to undertake the activity, or part of an activity (e.g. the customer has a qualified electrician on staff who will be installing lighting equipment) the ACP must conduct a site brief prior to the activity taking place. At a minimum, the site brief must inform the customer's staff of any requirements that they must address.

### Additional requirements

We note that in some cases, an ACP's representatives must meet more than the minimum training requirements listed above. For example, under the *Commercial*

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<sup>3</sup> For the purposes of this notice, a 'customer' refers to the energy saver, or potential energy saver.

*Lighting Energy Savings Formula* all lighting upgrades must be undertaken by or completed under the supervision of a licensed electrician. For all activities undertaken as part of the Scheme, ACPs are responsible for ensuring that:

- ▼ they are aware of their obligations under relevant legislation (e.g. the *Electrical (Consumer Safety) Act 2004*);<sup>4</sup> and
- ▼ that their representatives hold the appropriate qualifications for the activities they are undertaking.

### 1.3 Registers

ACPs must maintain a register of all representatives conducting activities on their behalf.

#### Minimum requirements:

The register must include:

- ▼ name;
- ▼ contact details;
- ▼ date of birth;
- ▼ training and qualifications;
- ▼ electrician's licence number (where applicable);
- ▼ relationship to the ACP (i.e. employee or representative);
- ▼ date of employment or commencement of contract; and
- ▼ responsibility for any process sign-off in delivering the lighting upgrade.

### 1.4 Engaging with customers

#### 1.4.1 Energy saver information sheet

As an ACP, you, or one of your representatives, must provide the customer with an energy saver information sheet. The information sheet must be provided before the customer signs the nomination form.

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<sup>4</sup> [http://www.fairtrading.nsw.gov.au/Tradespeople/Electricians/Electrical\\_compliance\\_requirements.html](http://www.fairtrading.nsw.gov.au/Tradespeople/Electricians/Electrical_compliance_requirements.html)

#### 1.4.2 Customer service

ACPs and their representatives are required to provide appropriate customer service. This customer service is essential as it:

- ▼ Helps protect the ACP's and Scheme's reputation;
- ▼ Helps cover the ACP's legal obligations to its customers;
- ▼ Ensures that claimed energy savings actually take place by providing a mechanism for replacement of faulty End-User Equipment; and
- ▼ Helps to maintain the integrity of the Scheme as a whole.

#### Minimum requirements:

ACPs must include the following in a documented customer service procedure:

- ▼ Managing and resolving complaints;
- ▼ Ensuring that all representatives properly identify themselves as representatives of the ACP. For written communication, this includes requiring that letters are sent using the ACP's and/or representative's letterhead, and for emails, that the email is sent from an email account which clearly indicates the ACP's and/or representative's company name;
- ▼ Properly explaining the Scheme to the customer;
- ▼ Providing the customer with the Energy Saver Information Sheet;
- ▼ Providing the customer with contact details for the ACP;
- ▼ Properly explaining the contents of the Nomination Form to the customer before obtaining that person's signature on the Nomination Form;
- ▼ Providing details of the make, model and electrical characteristics of the End-User Equipment being sold or installed;
- ▼ Explaining and demonstrating the End-User Equipment features, installation work and process of installation to the customer;
- ▼ Ensuring that the customer is satisfied with the product as installed; and
- ▼ Ensuring correct use of the term 'energy audit' (i.e. that this term is only used when a thorough assessment of a premises' energy use is undertaken).