



Independent Pricing and Regulatory Tribunal
New South Wales

Accredited Certificate Provider **Compliance Guide**

CONSULTATION DRAFT

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Document Control

Version	Change description	Date published
V1.0	Release of updated <i>Compliance and Performance Monitoring Strategy</i>	April 2014
V1.1	Table 3.4 updated to include a minimum number of ESCs to be audited (per audit step)	February 2015
V2.0	Changes to: <ul style="list-style-type: none">▼ ACPs no longer required to submit quarterly or annual reports.▼ setting the initial audit types for ACPs and new applicants, and▼ other minor changes to the structure of the document including the removal of appendices A and C.	August 2015
V2.1	Inclusion of new section 3.2.3, applicable to the Home Energy Efficiency Retrofits method.	April 2016
V2.2	Table 3.10 updated to include Steps 6 and 7. Minor edits to clarify requirements.	November 2016
V3.0	Changes: <ul style="list-style-type: none">▼ general readability improvements▼ renamed the <i>ACP Compliance Guide</i>▼ additional information on amendments & applications (sections 3 - 5)▼ clarified information on managing compliance (section 3)	Consultation draft October 2017

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1 About this document

The NSW Energy Savings Scheme (ESS) seeks to reduce energy consumption in NSW by creating additional financial incentives for organisations to invest in energy saving projects.

The other objects of the ESS are to:

- ▼ assist households and businesses to reduce energy consumption and energy costs
- ▼ make the reduction of greenhouse gas emissions achievable at a lower cost, and
- ▼ reduce the cost of, and need for, additional energy generation, transmission and distribution infrastructure.¹

Energy savings can be achieved by installing, modifying, replacing or removing end-user equipment. Persons that become Accredited Certificate Providers (ACPs) can create energy savings certificates (ESCs) from these activities and then sell those ESCs to Scheme Participants, who require them in order to meet their individual energy savings targets each year.

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is both the Scheme Administrator and Scheme Regulator of the ESS.² As Scheme Administrator, IPART is responsible for monitoring the compliance of ACPs and using its investigation and enforcement powers to support scheme integrity. This document provides guidance to ACPs on how to manage their accreditation under the ESS, and on the systems and processes IPART uses to monitor and enforce the compliance of ACPs.

We refer to the guidance in this document when making decisions related to ACPs. However, we are not bound by this guidance and make each decision on a case-by-case basis.

This document is a guide only and is not legal advice.

The legislative requirements for ACPs participating in the ESS are set out in:

- ▼ Part 9 of the *Electricity Supply Act 1995* (**Act**)
- ▼ Part 6 of the *Electricity Supply (General) Regulation 2014* (**Regulation**), and
- ▼ the *Energy Savings Scheme Rule of 2009* (**ESS Rule**).

ACPs are also required to meet Scheme Administrator requirements set out in our guidance documents, and conditions of accreditation set out in the Accreditation Notice for each accreditation.

Information about the ESS is on our website at www.ess.nsw.gov.au. The section titled 'How the scheme works' provides an overview of the ESS, what it is, how to be involved and who is involved. The section titled 'Accredited Certificate Providers' provides information and documents relevant to ACPs.

¹ Act, section 98(2)

² Act, sections 153(2) and 151(2)

2 We provide information and systems to support compliance

ACPs must ensure they have the necessary policies, processes and systems to comply with the ESS requirements. We also use various mechanisms to support ACP compliance, including:

- ▼ providing and updating guidance documents and templates
- ▼ providing online systems and tools
- ▼ communicating changes to ESS requirements through emails, our quarterly newsletter and website, and
- ▼ holding stakeholder forums and workshops to inform ACPs about their obligations and seek feedback.

The *Accredited Certificate Provider Application Guide* provides information about the obligations of ACPs under the ESS. This chapter provides information about how we support ACPs to comply with these obligations.

2.1 We produce guidance documents and templates

We produce various guidance documents to set out Scheme Administrator requirements and support ACPs' understanding of the ESS requirements. We update these documents regularly to reflect changes to the legislative framework, clarify requirements or in response to systemic compliance issues. ACPs should regularly check that their systems, processes, and record keeping arrangements meet the current requirements of the ESS legislation and guidance documents.

Application for Accreditation Guide: Provides guidance on the obligations of ACPs, how to apply for accreditation, the application process, and our typical approach to setting the initial conditions of accreditation.

Method Guides: Provide guidance on the use of particular calculation methods or sub-methods under the ESS Rule.

Record Keeping Guide: Provides guidance and sets out requirements for collecting and retaining the required records to support ESC creation in accordance with the ESS Rule and an ACP's conditions of accreditation.

Audit Guideline and *Audit Scope*: Provide guidance for both ACPs and auditors on the audit process, requirements and audit scope.

ESS notices: Inform stakeholders of changing requirements or important new information. We advise ACPs by email when we release a new notice, however ACPs are encouraged to regularly check the [ESS notices and updates page](#) on the ESS website.

Templates: We publish various templates to support ACPs' compliance with the requirements. Some templates are mandatory, such as the *Nomination Form Templates*, while

we provide other templates to assist ACPs to develop records to support their ESC creation. ACPs can find information about templates on the relevant [method pages](#).

2.2 We have online systems and calculation tools

We have a range of online systems and tools to increase administrative efficiency for IPART, ACPs and auditors.

ESS Portal: A web-based system that allows ACPs to maintain their contact details and user accounts, view the details of their accreditation(s) (including the Accreditation Notice), submit and view implementation data, manage audits, and track key ESS events.

ESS Registry: A web-based system that records information about ACPs, accreditations and ESCs as required by the ESS legislation. It provides for the registration, transfer of ownership, forfeiture and surrender of ESCs by ACPs, scheme participants and other parties. Members of the public may also own ESCs and view information about ACPs and ESCs.

ELT Portal: A web-based system that allows for ACPs and lighting suppliers to apply for the acceptance of emerging lighting technologies (ELTs), such as LEDs and induction luminaires, used under the Commercial Lighting Energy Savings Formula.

Commercial Lighting Calculation Tool: An excel-based calculation tool to help ACPs calculate energy savings for the Commercial Lighting Energy Savings Formula. ACPs may choose to use the commercial lighting calculation tool or develop their own tool. The tool is not compatible with all systems and is provided on an unsupported basis.

HEER Lighting Requirements Tool: An excel-based tool that ACPs may use to determine how to meet the lighting requirements for the Home Energy Efficiency Retrofits method.

2.3 There are other sources of information

In addition to our guidance documents, systems and tools discussed above, we also provide information through other forums.

Email: We have various mailboxes for ACPs and auditors to send queries about ESS requirements, including the [compliance mailbox](#) (for queries regarding accreditations and compliance) and the [lighting mailbox](#) (for ELTs). We also regularly send emails notifying stakeholders of key changes or issues.

ESS newsletter: We publish a quarterly ESS newsletter which provides important information about the ESS to stakeholders. We automatically add the ACP's primary contact to the newsletter distribution list. Anyone can subscribe or unsubscribe to the newsletter via the ESS website.

Online workshops and stakeholder forums: We host regular workshops and forums to give ACPs a practical understanding of how the ESS works and what is involved when participating in the ESS. We also hold stakeholder forums to open a broader dialogue between IPART, ACPs, auditors and other stakeholders. Participation in workshops and events is optional and free.

The Office of Environment and Heritage also provides additional guidance and tools for the use of certain methods, including for the Project Impact Assessment with Measurement and Verification (**PIAM&V**) and the Home Energy Efficiency Retrofits (**HEER**) methods. More information is available on the relevant [calculation method pages](#).

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3 How we monitor compliance and manage non-compliance

We monitor the compliance of ACPs with the Act, Regulation, ESS Rule, Scheme Administrator requirements and conditions of accreditation. We do this to ensure ACPs have adequate knowledge and capability to successfully participate in the ESS and this assists us to manage risks to ACPs, their customers and the ESS. If an ACP fails to meet any of the ESS requirements, we may record it on their compliance record and it may impact our future compliance decisions. This section outlines the various mechanisms we use to monitor and prevent non-compliance, and how we respond to non-compliance.

3.1 We use a range of tools to monitor compliance

We use a range of tools to identify, monitor, investigate and assess potential and actual non-compliance, including:

- ▼ assessing applications and requests to amend or transfer accreditations to ensure applicants have the knowledge, ability and resources to comply with the scheme
- ▼ auditing ACPs to independently verify adherence to legislation, Scheme Administrator guidance and any conditions of accreditation as well as identifying and investigating non-compliances
- ▼ analysing and verifying implementation and other data to identify and prevent non-compliances
- ▼ using industry information and market intelligence to identify compliance issues and help inform regulatory response decisions, and
- ▼ requesting the provision of documents, or requesting that stakeholders attend Tribunal meetings to provide additional evidence.

Where we accredit an ACP for a number of RESAs, the compliance record of each individual accreditation may influence the ongoing audit requirements and conditions of accreditation across some or all of their accreditations. In addition, where ACPs are Related ACPs (for example, the office holders, shareholders and/or systems are common across multiple ACPs), we may take into account the compliance record of one ACP when making decisions that impact on the other Related ACPs.

3.2 The key tool is independent audits

Most ACPs are required to engage an auditor to conduct independent audits of their participation in the ESS.³ A member of the Audit Services Panel must conduct audits. The Accreditation Notice sets out the requirements for when ACPs must arrange for independent audits, and we may require an audit of an ACP at any time.

³ We typically don't require ACPs accredited to use the NABERS Metered Baseline Method to conduct audits.

A successful audit is one where the auditor provides either reasonable assurance or qualified reasonable assurance with no material errors (either qualitative or quantitative) or unimplemented audit recommendations.

A failed audit is one where the auditor does not provide reasonable or qualified reasonable assurance, or where there is a material error or an unimplemented audit recommendation. ACPs can find more information in the *Audit Guideline* and *Audit Scope*.

Item 4 of the Schedule to the Accreditation Notice establishes the ACP's audit regime, which may be one of four types (refer Appendix A for further information about audit types):⁴

1. Spot audit regime – allows for us to require the ACP to conduct an audit at any time.⁵
2. Pre-registration audit regime – requires the ACP to arrange for ESCs to be audited before they are registered.
3. Periodic audit regime – requires the ACP to arrange for an audit either annually, biennially or triennially. There will also be a limit on the number of ESCs that the ACP can create.
4. Volumetric audit regime – requires the ACP to arrange for an audit once they register a specified number of ESCs. Volumetric audit regimes also typically include a periodic audit requirement to ensure that the accreditation is audited at least once a year.

Before an audit can commence, we approve the audit scope against the requirements specified in the *Audit Guideline* and *Audit Scope - ESC creation audits*. Audits typically cover:

- ▼ energy saving calculations and subsequent creation of ESCs
- ▼ compliance with conditions of accreditation and the ESS Rule
- ▼ record keeping arrangements, and
- ▼ additional audit checks (as required).

ACPs must provide all information and assistance necessary to comply with any audit, including providing access to premises. In most cases the ACP must engage and pay for the audit however in some cases we will engage an auditor eg, to undertake detailed investigation of potential non-compliance.

3.3 We use various mechanisms in response to non-compliance

We also use various mechanisms to reduce the risk of non-compliance, or address identified non-compliance, including:

- ▼ imposing or amending an ACP's conditions of accreditation, including amending the audit type and frequency of audits and the number of ESCs that ACPs may create between audits
- ▼ entering set-aside deed agreements
- ▼ adjusting the set-aside amount under an undertaking or set-aside deed

⁴ Refer 5.5A for more information on audit types.

⁵ Under clause 56 of the Regulation, we can require spot audits at any time, without notice, and under any audit regime.

-
- ▼ requesting voluntary surrender of improperly created ESCs
 - ▼ ordering the surrender of improperly created ESCs (under section 142 of the Act)
 - ▼ suspending or cancelling an accreditation (under section 137 of the Act)
 - ▼ issuing penalty notices (refer section 3.6), and
 - ▼ prosecuting persons for relevant offences under the Act, eg, in relation to the improper creation of ESCs under section 133, or failing to comply with a notice under section 156.

We base the type of mechanism that we use on a range of factors, including (where relevant):

- ▼ the ACP's compliance record across all accreditations
- ▼ the compliance record of Related ACPs
- ▼ the severity of the non-compliance
- ▼ whether the non-compliance was related to an emerging or known issue
- ▼ whether the non-compliance was isolated or ongoing
- ▼ whether the non-compliance was unintended, negligent or deliberate, and
- ▼ the nature of any other related conduct.

We report significant non-compliance events in our Annual Report to the Minister, which we publish on our [website](#). We may include details of the specific ACPs and their activities associated with these non-compliance events in these reports.

3.4 We use set-aside deeds to manage the risk of improper ESC creation

A key risk mitigation mechanism is to request that an ACP enter into a set-aside deed agreement whereby a certain portion of all ESCs created are put on 'administrative hold' in the ESS Registry until we determine that an audit of those ESCs has identified them as valid (refer section 3.9 of the *Accredited Certificate Provider Application Guide* for more information on set-aside arrangements). In general, this occurs where:

- ▼ audits of other ACPs carrying out similar activities have identified compliance issues that resulted in a large number of improperly created ESCs
- ▼ we identify areas where we think additional compliance measures are warranted to balance increased flexibility in the operation of a particular type of accreditation, or
- ▼ ESS requirements change leading to an increased risk of improper ESC creation.

The set-aside amount, and how it changes over time, may differ depending on the requirements of the deed. ACPs should refer to their individual set-aside Deeds to confirm their particular arrangements.

We take into account whether an ACP has agreed to enter into a set-aside deed when assessing their risk of non-compliance. Where an ACP does not enter into a set-aside deed, we may:

- ▼ reduce the number of ESCs the ACP can register between audits, or

- ▼ require an audit to be conducted before ESCs can be registered ie, pre-registration audits (refer Appendix 5.5A for information about audit types).

3.5 We may amend audit regimes in response to non-compliance

We may amend an ACP's audit regime or ESC creation limit in response to identified non-compliance. This is due to the increased risk of non-compliance, particularly in relation to improper ESC creation. This may occur if:

- ▼ an ACP, or its Related ACPs, fail to comply with scheme requirements under any accreditation, for example by:
 - failing an audit
 - failing to commission audits in a timely manner
 - refusing to forfeit improperly created ESCs
 - breaching relevant legislation, or conditions of accreditation, or
 - being unresponsive or uncooperative to requests from IPART or auditors
- ▼ non-compliances have been identified outside of audits
- ▼ audits of other ACPs carrying out similar RESAs have identified widespread compliance issues, or
- ▼ an ACP becomes dormant or goes into administration.

Imposing a more restrictive audit regime or reducing ESC creation limits decreases an ACP's risks of improperly creating ESCs, and of subsequently being requested or required to surrender ESCs. It also minimises the negative impacts on an ACP's compliance record and protects the integrity of the ESS.

3.5.1 We may reduce volumetric ESC creation limits in response to failed audits

If an ACP fails an audit, we may reduce the number of ESCs that it can register between audits (ie, the volumetric ESC creation limit). If an ACP fails two or more consecutive audits we may require a pre-registration audit for the next audit as well as reducing the ongoing volumetric ESC creation limit, or take other action as appropriate. We may take similar action if an ACP fails non-consecutive audits or is repeatedly late with audits or does not undertake audits as required (if it appears that there is an ongoing risk of improper ESC creation).

Table 3.1 outlines our typical approach for adjusting these limits as a consequence of failed audits. However, we make all compliance decisions on a case-by-case basis to ensure we appropriately manage the risk of improper ESC creation. We have broad discretion to apply the appropriate measure, or suite of measures, in any given case. For example, we may give more weight to a one-off failed audit if it finds that a very large number of ESCs were improperly created by the ACP.

Table 3.1 Typical approach for adjusting volumetric audit regimes in response to failed audits

Audit results	Typical response we may take in amending the conditions of accreditation
One-off failed audit	<ul style="list-style-type: none"> ▼ Maintain the current ESC creation limit ^a ▼ Reset the number of audits completed at that ESC creation limit to zero ▼ Number of audited ESCs resets to zero for the purpose of the ACP requesting an increase to its audit limit
Two failed audits in a row	<ul style="list-style-type: none"> ▼ Require a one-off pre-registration audit ▼ Following successful pre-registration audit: <ul style="list-style-type: none"> – reduce the ESC creation limit by one step, and – reset the number of audits completed at the new audit step to zero ▼ Consider other compliance actions as appropriate
Three or more failed audits in a row	<ul style="list-style-type: none"> ▼ Impose pre-registration audit regime for the next two audits ▼ Following two successful pre-registration audits: <ul style="list-style-type: none"> – reduce the original ESC creation limit by two steps, and – reset the number of audits completed at the new audit step to zero

a Refer to Figure 4.1 for information on increasing volumetric audit ESC creation limits

3.5.2 We may amend periodic audit regimes in response to failed audits

Where an ACP with a periodic audit regime fails an audit or does not complete the audit as required by its conditions, we may:

- ▼ require an audit within a specified timeframe
- ▼ amend the audit regime to require more frequent audits
- ▼ move the ACP to a pre-registration audit regime, or
- ▼ take other action, as appropriate.

3.6 We may serve penalty notices in response to non-compliance

An enforcement officer may serve a penalty notice on a person if it appears to them that the person has committed a penalty notice offence under the Act.⁶ Table 3.2 lists the offences for which a penalty notice may be issued. Failure to pay the penalty may result in prosecution or other enforcement action under the *Fines Act 1996*.

Table 3.2 Relevant offences for which a penalty notice may be issued

Penalty Notice Offence	Reference ^a	Penalty Notice Amount ^b
Improper creation of an ESC	Act s133	\$20,000
Contravening condions of accreditation	Act s138(3)	\$20,000
Failure to surrender ESCs in accordance with an order issued by IPART	Act s142(5)	The greater of: <ul style="list-style-type: none"> ▼ \$10,000, or ▼ the sum of \$110 for each ESC not surrendered
Contravening a Scheme Rule	Act s168	Individual = \$1,000 Corporation = \$2,500

a References are to the *Electricity Supply Act 1995*

b Penalty amounts are set for each penalty notice offence in Schedule 4 of the *Electricity Supply (General) Regulation 2014*

⁶ Act, section 187

4 ACPs may request changes to their accreditation

ACPs may apply for amendments to their conditions of accreditations, or to transfer, suspend or cancel their accreditations. This section provides information about changes that ACPs may request and section 5 details how ACPs may submit certain applications.

4.1 ACPs may apply to amend certain conditions of accreditation

The Accreditation Notice sets out the conditions of accreditation. We may amend the conditions of accreditation (eg, to manage non-compliance by an ACP) and ACPs may apply for an amendment to their accreditation. Table 4.1 lists the conditions of accreditation that an ACP may apply to amend⁷, together with guidance on the types of supporting documentation that ACPs must provide with an application.

Table 4.1 Conditions of accreditation that may be amended and required supporting documentation

Accreditation Notice reference	What can be amended	Minimum supporting documentation ^a
RESA <i>Item 1 of the Schedule</i>	Type of activities that will be undertaken, ie, modifying, replacing, installing and/or removing end user equipment	A document outlining how and why the activities have changed such as a project plan or operating procedures
	Energy types eg, adding the calculation of gas savings or fuel switching	<ul style="list-style-type: none"> ▼ A document outlining how and why the activities have changed such as a project plan or operating procedures ▼ Updated version of the relevant document or tool used to calculate energy savings
	End user equipment, eg, adding additional equipment to be upgraded	<ul style="list-style-type: none"> ▼ A document outlining how and why the activities have changed such as a project plan or operating procedures ▼ A description of the ACP's experience installing the proposed equipment ▼ A description of how the installation will comply with any relevant equipment standards
	Site details eg, adding additional sites	<ul style="list-style-type: none"> ▼ A description of the proposed sites, including address details if known ▼ Updated record keeping policies and procedures
Calculation of certificates <i>Item 2 of the Schedule</i>	Addition of a calculation method, eg, adding the Public Lighting method to an existing Commercial Lighting accreditation	<ul style="list-style-type: none"> ▼ Updated record keeping policies and procedures relevant to the new method ▼ Information and required attachments outlined in relevant parts of Application Form Part A and the applicable Application Form Part B

⁷ It will not always be possible to amend the conditions of an existing accreditation so as to change the definition of a RESA or the calculation method. We may require the ACP to apply for a new accreditation in some cases.

Accreditation Notice reference	What can be amended	Minimum supporting documentation ^a
	How the calculation method is applied, eg: <ul style="list-style-type: none"> ▼ top-up and forward creation for PIAM or PIAM&V ▼ energy model types for PIAM&V, or ▼ MBM sub-methods. 	<ul style="list-style-type: none"> ▼ Updated record keeping policies and procedures ▼ Information and attachments outlined in relevant parts of the applicable Application Form Part B
	Nominated number of ESCs / ESC creation limit	Dependent on why the increase is being requested
	Type of audit regime, eg, moving from pre-registration to volumetric audit regime	<ul style="list-style-type: none"> ▼ Updated record keeping policies and procedures ▼ Evidence of recent audit and general compliance history ▼ Any other information justifying why the change should be made
Audit requirements <i>Item 4 of the Schedule</i> (refer section 4.2 for more information)	Frequency of audits Date the next audit is due Number of ESCs that can be registered between audits	Description of why the change is being requested and how the ACP's compliance record meets the guidance outlined in section 4.2
Special conditions <i>Item 9 of the Schedule</i>	Special conditions, where these conditions are no longer applicable	Dependent on the type of special condition

- a Further information may be requested through a Request for Further Information (RFI) eg, we may request metered data, calculation spreadsheets or information about End User Equipment
- b Most accreditations will only contain a single calculation method as the conditions of accreditation vary across methods

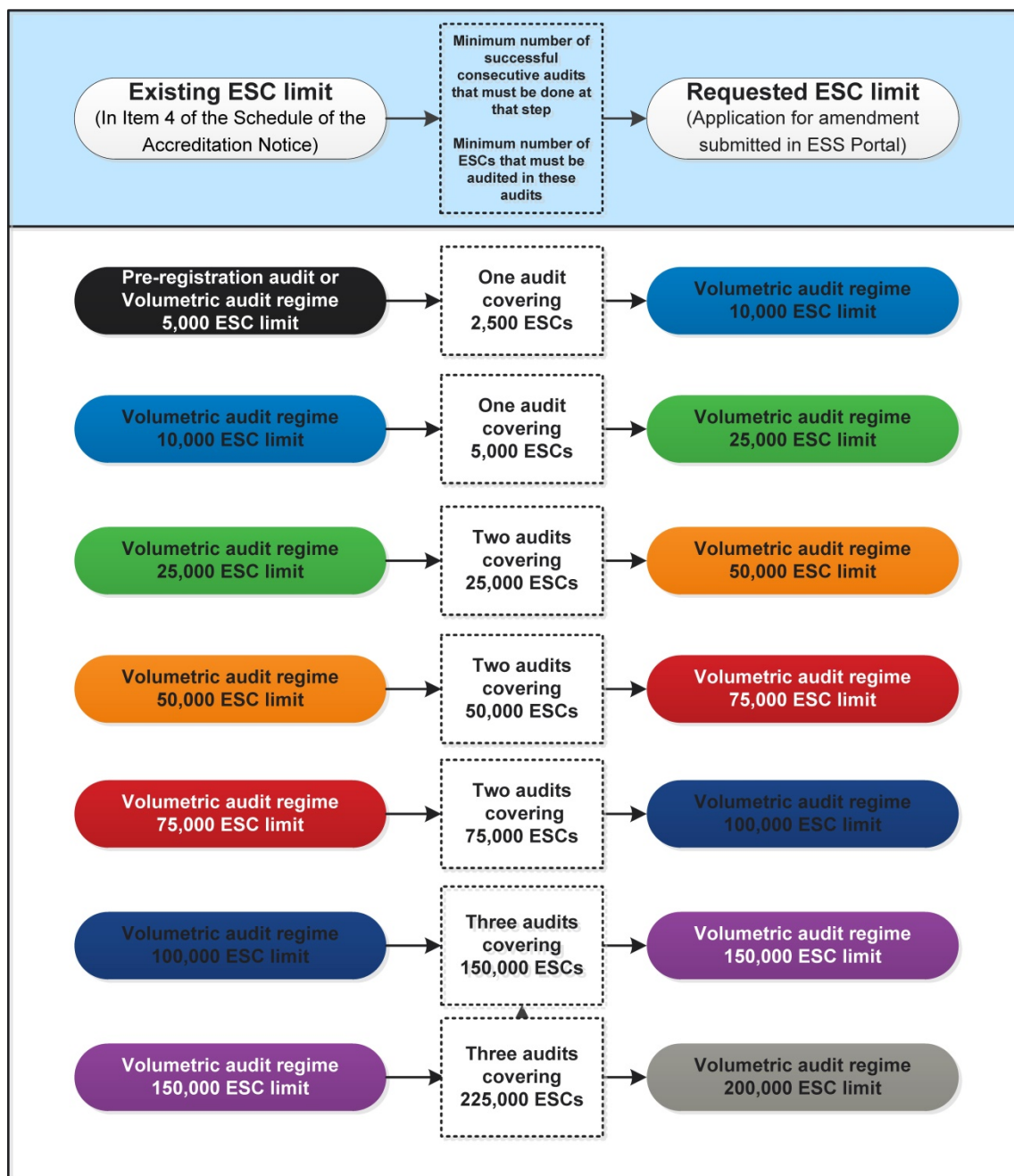
4.2 ACPs may apply to increase their ESC creation limits or reduce the frequency of audits

The following sections detail some of the situations in which volumetric and periodic audit regimes may be amended in response to ongoing compliance (refer to section 3.2 and Appendix 5.5A for information about volumetric and periodic audit regimes).

4.2.1 We may increase ESC creation limits in response to ongoing compliance

In general, if an ACP continues to demonstrate compliance and completes consecutive successful audits, we may consider increasing the number of ESCs that the ACP can register between audits. Figure 4.1 provides guidance on our typical approach to increasing ESC creation limits for ACPs with volumetric audit regimes. In general, an ACP must complete a certain number of consecutive successful audits at the current audit step over a total minimum number of ESCs (refer to the middle boxes in Figure 4.1).

Figure 4.1 Typical approach for increasing volumetric audit ESC creation limits



For example, if an ACP's first audit is successful (refer section 3.2 for information about what constitutes a successful audit), we may consider increasing the volumetric ESC creation limit from 5,000 ESCs to 10,000 ESCs. Successful audits must be the most recent audits conducted of the ACP's accreditation. Boxes 4.1 and 4.2 provide worked examples.

Box 4.1 Example: increasing volumetric ESC creation limit

An ACP has a volumetric audit regime with an ESC creation limit of 75,000 ESCs. The ACP has completed three audits over a total of 80,000 ESCs. Audit #1 audited 40,000 ESCs with no material errors or unimplemented audit recommendations. Audit #2 audited 30,000 ESCs with one material error. Audit #3 audited 10,000 ESCs with no material errors or unimplemented audit recommendations.

The ACP has applied to increase its volumetric ESC creation limit to 100,000 ESCs. Under the general process for increasing volumetric ESC creation limits, the ACP should have:

- ▼ had at least two consecutive audits with no material errors or unimplemented audit recommendations, and
- ▼ had at least 75,000 ESCs audited.

The ACP has not completed two successful consecutive audits covering 75,000 ESCs. The ACP should complete another successful audit covering a minimum of 65,000 ESCs prior to applying for an increase to the volumetric ESC creation limit.

Box 4.2 Example: Increasing volumetric audit limits over time

We initially assign an ACP with a volumetric audit regime with an ESC creation limit of 10,000 ESCs.

To increase the volumetric ESC creation limit to 25,000 ESCs, the ACP should have completed at least one successful audit of 5,000 ESCs. The ACP completes its first audit of 7,000 ESCs and the audit finds no material errors or unimplemented audit recommendations. We approve the ACP's application to increase the volumetric ESC creation limit to 25,000 ESCs.

The ACP's business continues to grow and it applies to increase its volumetric ESC creation limit to 50,000 ESCs. To do this, the ACP should have completed at least two successful consecutive audits of at least 25,000 ESCs. The ACP has completed two audits over a total of 27,000 ESCs with no material errors or unimplemented audit recommendations. We would be likely to approve the ACP's application to increase the volumetric ESC limit to 50,000 ESCs.

4.2.2 We may decrease the frequency of audits in response to ongoing compliance

In general, if an ACP with a periodic audit regime demonstrates ongoing compliance and completes three successful consecutive audits in relation to its accreditation, we may consider reducing the frequency of audits, eg, from once a year to once every two years.

4.3 ACPs may apply to transfer their accreditation to a related body corporate

We may approve the transfer of an accreditation to a related body corporate of an ACP. The ACP that is transferring the accreditation (the **transferor**) must demonstrate that it meets all of the requirements to transfer the accreditation. The entity receiving the accreditation (the **transferee**) must be a related body corporate at the time we approve the transfer. The transferee must also demonstrate it will be able to fulfil all of the obligations required of an ACP in respect of the particular accreditation.

Record keeping requirements for the original ACP continue to apply after an accreditation is transferred to another entity. ACPs must maintain records related to their energy saving activities for at least six years after the ESCs were registered. For more information, refer to the *Record Keeping Guide*.

Information about the application process and possible outcomes is set out in section 5.

4.4 We may suspend or cancel an accreditation

We may suspend or cancel an accreditation if:

- ▼ we are satisfied that the ACP is no longer eligible for accreditation (for example, where the ACP is no longer a suitable person to be accredited)
- ▼ the ACP applies for suspension or cancellation and we are satisfied that suspension or cancellation is appropriate
- ▼ we determine that the ACP has contravened a provision of the Act, the Regulation, the Rule or a condition of accreditation
- ▼ the ACP is an individual and has become bankrupt or has taken steps to become bankrupt, or
- ▼ the ACP is a corporation that is the subject of a winding up order, or a controller or administrator has been appointed.

We may impose conditions on the suspension or cancellation, eg, requiring the ACP to arrange for an audit before we approve the cancellation of the accreditation. If we are considering suspending or cancelling an accreditation, we will notify the ACP and ask it to provide any information relevant to the decision.

ACPs may also apply for suspension or cancellation of their accreditation. Information about the application process and possible outcomes is set out in section 5.

Record keeping requirements continue to apply after an accreditation is suspended or cancelled. ACPs must maintain records related to their energy saving activities for at least six years after the ESCs were registered. For more information, refer to the *Record Keeping Guide*.

5 How ACPs request changes to their accreditation

As noted in section 4, ACPs may apply for amendments to their conditions of accreditation, or to transfer, suspend or cancel their accreditation. This section sets out how ACPs may apply, the information that ACPs must provide with an application and the information that we will consider in our assessment.

5.1 ACPs should prepare their application thoroughly

ACPs should review this guide and their Accreditation Notice, and then prepare the application form (if relevant) and any supporting documentation (refer Table 4.1 and Table 5.1 for information about supporting documentation). ACPs should ensure they provide all documentation and information relevant to the type of application, so that IPART can process the application as quickly as possible. If an application form is required, complete all sections of the application form with clear and appropriate information.

ACPs should submit the application and supporting documentation electronically as follows:

- ▼ via the [ESS Portal](#) (click the 'Apply for Amendment' link on the dashboard), or
- ▼ by email to the relevant email address.

ACPs should ensure all attachments are accessible and not password protected. All documents should be in commonly used file formats, such as Microsoft Word or Excel, PDF, JPEG, etc. We do not accept applications or supporting documentation made via Google documents, Dropbox or similar online applications.

5.2 We will first review the application to see if it is complete

When an application is received, we review it to ensure that it is complete and that all necessary information has been provided. If the application form or documentation is incomplete, we will request that the missing information be provided before the application can proceed.

We will commence our assessment of the application when we consider that the application is complete and any relevant application fees have been received (refer Table 5.1). We will issue an invoice for any relevant fees and advise the ACP when the application is considered complete.

5.3 We assess applications against ESS requirements

We assess applications against the relevant requirements of the Act, the Regulation, the ESS Rule and relevant guidance documents. We will consider all of the relevant information provided throughout the application process, the ACP's compliance record, the reason for the application, current or emerging compliance issues (both within the ESS and other similar schemes) and other relevant factors.

Where we have accredited an ACP for more than one RESA, we may consider the ACP's compliance record under its other accreditations when deciding how to manage all of the ACP's accreditations. In addition, where ACPs are Related ACPs (eg, they have the same office holder(s)), we may take into account the compliance record of one ACP in our decisions on the accreditations of the Related ACPs.

We are not able to provide assistance with, or feedback on, an application, but may require further information or clarification of the information that the ACP provides. In this case, we may issue a formal RFI which will include details of the information that is required and a deadline for a response. ACPs may request an extension to the deadline if required.

All applications are considered on a case by case basis and approval is not guaranteed.

When we assess applications to amend conditions of accreditation, we may identify consequential administrative changes to other conditions of that accreditation. Depending on the nature of the change, we may invite ACPs to consider and respond to such changes during the assessment process.

5.4 We will communicate our decision in writing

Our decision and reasons for the decision will be set out in a letter to the ACP with any relevant attachments provided (eg, an Accreditation Notice). We will also make relevant documentation available via the ESS Portal.

5.5 ACPs have the right to seek review of certain decisions

ACPs have the right to make an application for internal review of reviewable decisions regarding their accreditation within 28 days of the date of the decision. We will advise ACPs if a decision is reviewable and how they can apply for internal review of the decision.

Table 5.1 How ACPs make applications

	Amendment to conditions of accreditation	Transfer of accreditation to related body corporate	Suspension or cancellation of accreditation
Application form	None	Application Form for Transfer of Accreditation available on the website.	None
Supporting documentation	As relevant to the application. Refer Table 4.1.	As specified on the application form.	As relevant to the application.
Information required	<ul style="list-style-type: none"> ▼ RESA name and RESA accreditation number (refer to the Accreditation Notice). ▼ The details of the amendment(s) (refer Table 5.2). ▼ Reasons for the amendment(s) and how the ACP will address any risks. 	As specified on the application form.	<ul style="list-style-type: none"> ▼ RESA name and RESA accreditation number (refer to the Accreditation Notice). ▼ The type of application ie, suspension or cancellation. ▼ The period of suspension if relevant. ▼ Reasons for the suspension or cancellation.
How to submit the application	▼ Via the ESS Portal . Select the 'Apply for Amendment' link on the dashboard.	▼ Via the ESS Portal . Select the 'Apply for Amendment' link on the dashboard.	▼ Via the ESS Portal . Select the 'Apply for Amendment' link on the dashboard.
Application fee	None	\$500	None
Possible outcomes	<ul style="list-style-type: none"> ▼ We approve the amendment(s) and issue a new Accreditation Notice. ▼ We refuse the proposed amendment(s), make a different amendment and issue a new Accreditation Notice. ▼ We refuse the amendment(s). 	<ul style="list-style-type: none"> ▼ We approve the transfer and provide the new ACP with an Accreditation Notice and the old ACP with a letter of cancellation. ▼ We refuse the application to transfer. In this case we will first advise the applicant of our intention to refuse the application and request they provide any relevant information before we make our final decision. 	<ul style="list-style-type: none"> ▼ We approve the application and the accreditation is suspended or cancelled. ▼ We refuse the application. In this case we will first advise the applicant of our intention to refuse the application and request they provide any relevant information before we make our final decision. ▼ We may also require the ACP to conduct an audit.

Glossary

Category	Definition
Accreditation Notice	A written notice issued by the Scheme Administrator under clause 48(1) of the Regulation specifying any conditions of accreditation.
Accredited Certificate Provider (ACP)	ACPs are voluntary participants in the ESS. They are parties that are accredited to create Energy Savings Certificates (ESCs) from carrying out Recognised Energy Saving Activities (RESAs) that increase the efficiency of electricity and/or gas consumption.
Audit	An independent assessment of whether the auditee has complied, in all material respects, with the requirements of the ESS legislation, our guidance documents and conditions of accreditation. In relation to ACPs, audits can occur either before ESC registration (pre-registration) or after ESC registration (post-registration).
Audit history	Audit history is a subset of the ACP's compliance record. Audit history assesses how ACPs perform in all audit types, including pre-accreditation, pre-registration and post-registration audits. The audit history considers, amongst other things, the number of passed and failed audits, error rates, the number of unimplemented audit recommendations and the timeliness of commissioning audits.
Compliance	The extent to which an ACP meets the requirements of the Act, Regulation, ESS Rule and conditions of accreditation. This is established mainly through auditing and controls on the Registry.
Compliance record	A record of how the ACP has complied with the requirements of the ESS legislation, our guidance documents and conditions of accreditation.
Conditions of accreditation	Conditions imposed by the Scheme Administrator on the accreditation of an ACP under section 138(1)(b) of the Act and specified in their Accreditation Notice.
Energy Savings Certificates (ESCs)	A transferable certificate under Part 9 of the Act that is created in accordance with the ESS Rule, and that represents the energy savings associated with the installation, modification, replacement or removal of energy using equipment.
Failed audit	An audit where there is a material error (either qualitative or quantitative) or an unimplemented audit recommendation.
Improperly created ESCs	ESCs not created in a way that meets the requirements of the Act, Regulation, ESS Rule, guidance documents and any conditions of accreditation imposed on the ACP. In general, improperly created ESCs are forfeited by the ACP.
Material error	A material error can either be quantitative or qualitative. A quantitative material error is when the absolute error rate (as determined by the auditor) is $\geq 5\%$. A qualitative material error is determined by the auditor; it typically relates to issues identified by the auditor that reduce their confidence that the auditee has adequate systems in place to support ESC creation.
Recognised Energy Savings Activity (RESA)	Activities that are eligible under the ESS Rule. ACPs are accredited to carry out these activities at a single site, or at multiple sites, as a program of energy savings activities.
Related ACP	An ACP will be related to another ACP where the risk profile of one ACP is relevant to the assessment of the risk profile of the other. For example, ACPs who share the same office holders, are controlled by the same entity, or use the same staff, are likely to be related ACPs.
Secretariat	The Secretariat exercises the administrative functions of the ESS as determined by the Scheme Administrator and Scheme Regulator.
Scheme Administrator	Scheme Administrator means the person or body required to exercise the functions of Scheme Administrator under the Act. The Scheme Administrator is the decision making body with respect to ACPs and their ESS activities.

Category	Definition
Successful audit	An audit where the auditor provides either reasonable assurance or qualified reasonable assurance, with no material error (either qualitative or quantitative) or unimplemented audit recommendations
Unimplemented audit recommendation	Recommendation in an audit report that is identified as not implemented in a subsequent audit report.

CONSULTATION DRAFT



Appendices

CONSULTATION DRAFT

A Types of audit regimes

Audit requirements are specified in Item 4 of the Schedule to each Accreditation Notice. The types of audit regimes that may be applied are set out in Table A.1.

Table A.1 Types of audit regimes

Audit type	Description
Spot ⁸	<ul style="list-style-type: none"> Spot audits are the minimum audit regime specified in all Accreditation Notices. We can require this audit at any time, without notice. We may do so whenever we consider an audit is required, such as when we identify changes in the risk profile of the ACP or RESA, or require increased certainty of ongoing valid ESC creation.
Single	<ul style="list-style-type: none"> A single audit is a one-off audit conducted after ESCs are registered. We may specify this audit regime if we are uncertain of the ongoing audit requirements at the time of setting the audit condition. After the audit, we may amend the audit regime to a spot, periodic or volumetric audit regime, depending on the results of that audit.
Periodic	<ul style="list-style-type: none"> Periodic audits are conducted after the ACP registers ESCs and must be completed or commenced by the ACP at a specified interval/time. We limit the number of ESCs that can be registered by determining how many can be registered per time period (eg, per year) or for the life of the RESA ('the ESC creation limit'). Generally, the initial periodic audit regime is annual (so the initial audit is required one year after accreditation). However, we may also set a biennial audit regime. We may decrease the frequency of audits with ongoing ACP compliance. Refer to the Accredited Certificate Provider Compliance Guide for more information.
Volumetric	<ul style="list-style-type: none"> Volumetric audits are conducted after the ACP registers ESCs. A volumetric ESC creation limit sets the number of ESCs that the ACP may register before an audit is required. An audit is required once the ESC creation limit is reached, but may be done early to aid business continuity. Volumetric audit regimes typically also include a periodic requirement for at least one audit to be conducted per year. We may increase the number of ESCs the ACP may register between audits with ongoing compliance. Refer to the Accredited Certificate Provider Compliance Guide for more information.
Pre-Registration	<ul style="list-style-type: none"> Pre-registration audits are conducted before the ACP registers ESCs. An ACP may choose to do a pre-registration audit to enable it to register additional ESCs beyond its volumetric ESC creation limit.⁹ We may mandate this as the only audit regime in some cases (eg, in response to non-compliance). Refer to the Accredited Certificate Provider Compliance Guide for more information.

⁸ Spot audits apply to all ACPs. In some cases that may be the only audit regime that is applied. Spot audits are also the regime that is typically applied to applicants proposing to use the NABERS MBM.

⁹ As long as this is within any other ESC registration limits the ACP may have, eg, such as a life limit.