

## Energy Savings Scheme - Scheme Regulator Exemptions Rule No. 1 of 2009

---

By resolution of the Scheme Regulator

### 1. Name and commencement

- 1.1 This Rule is the *Energy Savings Scheme - Scheme Regulator Exemptions Rule No. 1 of 2009* and commences on 14 November 2013
- 1.2 At its commencement, this Rule replaces the *Energy Savings Scheme – Scheme Regulator Exemptions Rule No. 1 of 2009* that commenced on 19 December 2012

### 2. Objects of Rule

- 2.1 The objects of this Rule are to:
  - (a) outline the manner in which Scheme Participants must calculate and claim deductions from the total value of their Liable Acquisitions in accordance with the exemption under the Order; and
  - (b) specify how Scheme Participants must establish their entitlement to make any deductions from the total value of their Liable Acquisitions in respect of an exemption in accordance with the Order.

### 3. Application of the Rule

- 3.1 Without limiting the persons to whom this Rule applies, this Scheme Regulator Exemptions Rule applies to Scheme Participants who claim deductions from the total value of their Liable Acquisitions on the basis that they are supplying electricity to a Specified Person as set out in the Order.

### 4. Status and Operation of the Rule

- 4.1 This Scheme Regulator Exemptions Rule is a Rule made under the Order and section 120(5) of the Act.

### 5. Calculating the Exempt Proportion

- 5.1 Pursuant to section 120(2) of the Act and the Order, a Scheme Participant may deduct from the total value of its Liable Acquisitions the Exempt Proportion of the electricity load (expressed in MWh) that is to be used by a Specified Person.

<b>Note:</b> The Exempt Proportion is either 60% or 90% as specified in the Order.
--

- 5.2 In calculating the Exempt Proportion, the Scheme Participant must use unadjusted data from the relevant NMI associated with a Specified Location, which measures the electricity load used by a Specified Person at the Specified Location.
- 5.3 If there is more than one NMI associated with the Specified Location, the Scheme Participant must calculate the Exempt Proportion using unadjusted data from each relevant NMI.
- 5.4 If an NMI measures a Specified Person's electricity load for more than one Specified Activity or Industry at a Specified Location, and different Exempt Proportions apply to those Specified Activities or Industries, the Scheme Participant may:

- (a) calculate, to the satisfaction of the Scheme Regulator, the proportion of unadjusted data from the NMI that applies to each of the Specified Activities or Industries in order to apply the different Exempt Proportions; or
- (b) apply the lesser Exempt Proportion to the total unadjusted data from the NMI.

**6. Deduction for losses**

6.1 Pursuant to section 120(3) of the Act and the Order, in addition to the deduction under clause 5, a Scheme Participant may also deduct an adjustment for losses equal to 5% of the Exempt Proportion from the total value of its Liable Acquisitions. This allows for losses occurring between the purchase of electricity by the Scheme Participant and its use by the relevant Specified Person at the Specified Location.

**Note:** An allowance of 5% is specified in the Order.

6.2 The Scheme Participant must account for the deduction for losses under clause 6.1 separately to the Exempt Proportion.

**Note:** An example of how this deduction is calculated is set out below.

**Example**

***Assumptions***

This example assumes that:

- (a) a Scheme Participant purchased 104,000 MWh from the Market Operator to supply 100,000 MWh to a Specified Person at a Specified Location for the Compliance Period;
- (b) the Exempt Proportion for the Specified Person at the Specified Location is 60%; and
- (c) Transmission/distribution losses are 4,000 MWh.

***Calculation***

Electricity used by a Specified Person at the Location (NMI reading)	100,000 MWh
Exempt Proportion (60% of 100,000 MWh) <sup>1</sup> (A)	60,000 MWh
Deduction for losses (5% of 60,000 MWh) <sup>2</sup> (B)	3,000 MWh
Value of electricity to be deducted from total value of Liable Acquisitions (sum of A and B)	63,000 MWh

## 7. Establishing entitlement to deduct electricity

- 7.1 In order to show that the deductions made by a Scheme Participant are made in accordance with the Order, the Scheme Participant must:
- (a) provide sufficient evidence and/or calculations to the Scheme Regulator, to establish, to the Scheme Regulator's satisfaction, that it has supplied the amount of electricity claimed in the deduction to the Specified Person at the Specified Location during the Compliance Period for each of the NMIs to which the deductions relate;
  - (b) if requested by the Scheme Regulator, commission an independent audit of the deductions that it has claimed to verify that the deductions are made in accordance with the Order. The Scheme Participant is to bear the costs of any such audit; and
  - (c) if requested by the Scheme Regulator, provide any additional evidence and/or calculations to establish its claim for deduction within the timeframe specified by the Scheme Regulator. The Scheme Participant must provide such evidence or calculations where requested even if an independent audit has been conducted under clause 7.1(b).

**Note:** The types of evidence that the Scheme Participant may provide, or which the Scheme Regulator or an auditor may request may include billing records and/or invoices showing electricity supply to the Specified Person at the relevant Specified Location for individual NMIs. Where NMIs cannot be associated with the Specified Person the Specified Location, a Scheme Participant may provide, or be requested to provide:

- site electrical diagrams, network maps, MSATS data and/or a statutory declaration by a director of a Specified Person identifying the NMIs associated with the Specified Location or Specified Person; or
- a description of the physical boundaries of the Specified Location, including relevant street names or a map showing those boundaries.

## 8. Definitions and Interpretation

- 8.1 In this Scheme Regulator Exemptions Rule:

**Act** means the *Electricity Supply Act 1995* (NSW).

**Compliance Period** means the twelve calendar month period of the previous year from 1 January to 31 December (inclusive).

**Energy Savings Scheme** means the scheme established by Part 9 of the Act.

**Energy Savings Statement** has the meaning given to that term under section 123 of the Act.

**Exempt Proportion** has the meaning given to it in the Order for the purposes of section 120(2) of the Act.

**Order** means the order made pursuant to section 119(1)(a) of the Act as gazetted from time to time and any other order made pursuant to section 119(1) of the Act.

**Liable Acquisition** has the meaning given to that term under section 107 of the Act.

**MSATS** is the Market Settlements and Transfer Solutions administered by the Australian Energy Market Operator.

**NMI** means an individual National Meter Identifier.

**Scheme Participant** has the meaning given to that term under section 99 of the Act.

**Scheme Regulator** has the meaning given to that term under section 99 of the Act.

**Specified Activity or Industry** means an activity or industry for which the Order specifies an Exempt Proportion of an electricity load to be used by a Specified Person.

**Specified Location** means a location at which a Specified Person is supplied electricity by a Scheme Participant for a Specified Activity or Industry, being the location that may be identified by the relevant address set out in the Schedule to the Order.

**Specified Person** has the meaning given to that term in the Order.

8.2 Notes in this Scheme Regulator Exemptions Rule do not form part of the Rule.

8.3 For the purpose of this Scheme Regulator Exemptions Rule:

- (a) the terms and expressions used in this Rule have the same meaning as in the Act unless the terms are expressly defined in this Rule;
- (b) a reference to the Rule is a reference to this Scheme Exemptions Regulator Rule; and
- (c) the singular includes the plural and vice versa.