

Independent Pricing and Regulatory Tribunal
New South Wales

Compliance Guide

Scheme Participants

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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

Electricity retailers and other mandatory participants (**Scheme Participants**) are obliged to meet energy saving targets.² Energy savings can be achieved by installing, improving or replacing energy saving 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. The Independent Pricing and Regulatory Tribunal of NSW (**IPART**) is both the Scheme Administrator and Scheme Regulator of the ESS.³

This document assists Scheme Participants in completing the *Annual Energy Savings Statement (AESS)* to assess their individual energy savings target for a compliance year. Scheme Participants with no liable acquisitions in the relevant compliance year should complete a *Nil Return* (refer section 2.1 of this document).

This document is a guide only and is not legal advice. The legal requirements for Scheme Participants participating in the ESS are set out in:

- ▼ Part 1 of Schedule 4A to the *Electricity Supply Act 1995 (Act)*
- ▼ Part 6 of the *Electricity Supply (General) Regulation 2014 (Regulation)*
- ▼ the *Energy Savings Scheme (Electricity Load Exemptions) Order 2019 (Ministerial Order)*, and
- ▼ the *Scheme Regulator Exemptions Rule No. 1 of 2016 (Exemptions Rule)*.

2 How to comply

Scheme Participants must self-assess their individual energy savings target for each compliance year and determine if they have an energy savings shortfall by completing and submitting an Energy Savings Statement (AESS or Nil Return) to IPART by the deadline. In particular, Scheme Participants must:

¹ Clause 1(2) of Schedule 4A to the Act

² Clause 4(1) and 5 of Schedule 4A to the Act - Retailers, direct suppliers of electricity and market customers

³ Clauses 54(2) and 56(2) of Schedule 4A to the Act

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- ▼ complete the relevant template for the Energy Savings Statement (AESS or Nil return)
 - ▼ arrange for their AESS to be audited, if required (refer to section 2.2.2 of this guide), and
 - ▼ lodge the relevant Energy Savings Statement and supporting documents with IPART by no later than 30 April of the year following the compliance year (e.g., for the 2020 compliance year Scheme Participants must lodge their AESS or Nil Return by 30 April 2021).

If a Scheme Participant fails to lodge an AESS or Nil return in accordance with our requirements, we may make a default assessment for the Scheme Participant. Where a Scheme Participant or IPART calculates an energy savings shortfall, the Scheme Participant will be required to pay a penalty by 30 June of the year following the compliance year.

There are two categories of Scheme Participants and two compliance pathways:

- ▼ those that have not made any liable acquisitions during the compliance year (refer section 2.1), and
- ▼ those that have made liable acquisitions during the compliance year (refer section 2.2).

Liable acquisitions are defined in clause 10 of Schedule 4A to the Act, as shown in Box 2.1.

Box 2.1 Clause 10 of Schedule 4A to the Act Liable acquisitions

(1) *For the purposes of this Part, a liable acquisition is any purchase of electricity by a scheme participant, from the Market Operator or from any other person, whether or not a registered participant under the National Electricity (NSW) Law, where the electricity is purchased for consumption by, or onsale to, end users in this State, or for use in this State.*

(2) *A supply of electricity generated by a scheme participant is also to be treated as a liable acquisition under this Part if:*

(a) the scheme participant is a retailer and the electricity is supplied by the retailer for consumption by, or onsale to, end users in this State, or for use in this State, or

(b) the scheme participant is a direct supplier of electricity and the supply is of a kind specified by the regulations to be a liable acquisition under the scheme.

(2A) However, if a scheme participant purchases electricity from another scheme participant, the purchase is not a liable acquisition if the purchase of the electricity is, or the supply of the electricity is to be treated as, a liable acquisition for that other scheme participant or for a scheme participant who is further up the chain of supply of the electricity.

(3) *For the purposes of this Part:*

(a) a liable acquisition is made by a scheme participant on the date the electricity is purchased by the scheme participant or, in the case of a supply of electricity treated as a liable acquisition, supplied by the scheme participant, and

(b) the value of a purchase or supply of electricity is the amount of electricity purchased or supplied, expressed in megawatt hours.

(4) Electricity is taken to be purchased by a scheme participant on the date the electricity is physically delivered to the scheme participant (regardless of when the contract or other arrangement for purchase of the electricity was entered into or made).

(5) This section is subject to Division 5 (which provides for exemptions).

2.1 Scheme Participants that have not made liable acquisitions

Scheme Participants that have made no liable acquisitions during the compliance year should complete the *Scheme Participant – Nil return form*.⁴ Scheme Participants that are completing the *Scheme Participant - Nil return form* do not need to have it audited.

The *Scheme Participant - Nil return form* must be completed and lodged with IPART by 30 April of the year following the compliance year by emailing it to ESSRegulator@ipart.nsw.gov.au. The *Scheme Participant - Nil return form* must be signed by the Chief Executive Officer (or equivalent) and Chairman of the Board (or a duly authorised Board member) of the Scheme Participant.

2.2 Scheme Participants that have made liable acquisitions

⁴ Refer: www.ess.nsw.gov.au/Home/Document-Search/Forms/Form-Scheme-Participants-Nil-Return

Scheme Participants that have made liable acquisitions in the compliance year must complete and submit the AESS template. The key steps are detailed in the following sections.

2.2.1 Complete the AESS template

The AESS template assists Scheme Participants to calculate their individual energy savings target and identify the number of ESCs they may offer for surrender to meet their target. The template will then calculate any relevant energy savings shortfall for the compliance year and any penalty owing.

The AESS template should be downloaded from the ESS website.⁵ Detailed instructions for completing the template are found in section 3 of this guide.

2.2.2 Arrange for an independent audit of the AESS (if applicable)

We require some Scheme Participants to arrange for an audit of the AESS,⁶ depending on the type of data included in the AESS, as outlined in Figure 2.1 and detailed below.

Figure 2.1 AESS audit requirement categories

| AEMO data only | Any non-market acquisition data | Any exempt electricity load data |
|--|--|--|
| <ul style="list-style-type: none">Audit not required | <ul style="list-style-type: none">Audit may be required (exemptions apply) | <ul style="list-style-type: none">Audit required |

There are three categories of AESS audit requirements, as follows:

1. AESSs that only include data relating to liable acquisitions from the Australian Energy Market Operator (AEMO) do not have to be audited. This is because we confirm this data directly with AEMO.
2. AESSs that include any data relating to non-market acquisitions (i.e. data in the 'Inputs - Non market acquisitions' tab of the AESS template) must be audited, unless the AESS meets all of the following criteria:
 - a) the total of non-market acquisitions in the AESS is less than 1,000 megawatt hours (MWh)
 - b) the Scheme Participant has had its AESS audited in previous Compliance years (with no issues identified by the auditor), and

⁵ Refer: www.ess.nsw.gov.au/Home/Document-Search/Templates/Template-Scheme-Participants-Annual-Energy-Savings-Statement

⁶ Clause 55(1)(c) of Schedule 4A to the Act.

-
- c) the Scheme Participant is able to provide satisfactory supporting evidence to IPART with respect to the non-market liable acquisitions it made in the compliance year.
3. AESSs that include any data relating to exempt electricity loads (i.e. data in the 'Inputs - Exempt loads' tab of the AESS template) must be audited. The exemptions outlined above for category 2 data do not apply to AESSs with exempt electricity load data.

Note that AESSs in categories 2 or 3 above will not be considered complete (i.e. in a form approved by the Scheme Regulator) unless an Audit Report is attached at the time of submission (unless the exemption under category 2 applies).⁷

In the case an audit is required, Scheme Participants must select an auditor authorised to undertake audits of AESSs from the ESS Audit Services Panel. It is the responsibility of the Scheme Participant to organise the engagement of an auditor and pay for the audit.⁸

The auditor remains accountable to IPART for the quality and independence of the Audit Report. The contract between the Scheme Participant and the auditor, including the engagement process, must be consistent with Schedule 2 of the *ESS Audit Services Panel Agreement*. A more detailed description of the audit requirements is provided on our website – Scheme Participant Requirements.⁹

Before starting the audit, the auditor must provide IPART with the detailed scope of works (DSW) proposed for the audit. IPART has 14 days to respond to the auditor's proposed DSW. We review the DSW to be satisfied that the auditor is undertaking sufficient procedures to provide an opinion over the AESS and, amongst other things, to be satisfied that the auditor is not affected by a conflict of interest.

Scheme Participants should allow sufficient time for the appointment of the auditor, review of the DSW by IPART, completion of the audit and signing of the AESS. Accordingly, we request that the DSW is provided to us for review no later than the end of February.

⁷ Clause 26(5) of Schedule 4A to the Act.

⁸ Refer: www.ess.nsw.gov.au/Auditors-Professionals/Audit-Panel

⁹ Refer: <https://www.ess.nsw.gov.au/Scheme-Participants/Scheme-Participant-Requirements>

2.2.3 Submit the documents to IPART

Scheme Participants must submit the completed AESS (with audit report attached, where required) to IPART by 30 April in the year following the compliance year by emailing the following documents to ESSRegulator@ipart.nsw.gov.au:

- ▼ scanned copy of the printed and signed AESS
- ▼ Excel version of the AESS, and
- ▼ audit report (if applicable).

Scheme Participants do not need to arrange for payment of any calculated penalties at the time of submission of the AESS. IPART will issue a notice of assessment and an invoice for the penalty amount, if relevant. Payment is due by 30 June of the year the relevant AESS is lodged.

Although the submission of the AESS is taken to be a Scheme Participant's self-assessment of their target and any associated penalty, we are able to amend the assessment should we consider it necessary. In this case, we may contact the Scheme Participant to clarify inputs to the AESS or discuss any anomalies that have been identified.

3 Completing the AESS

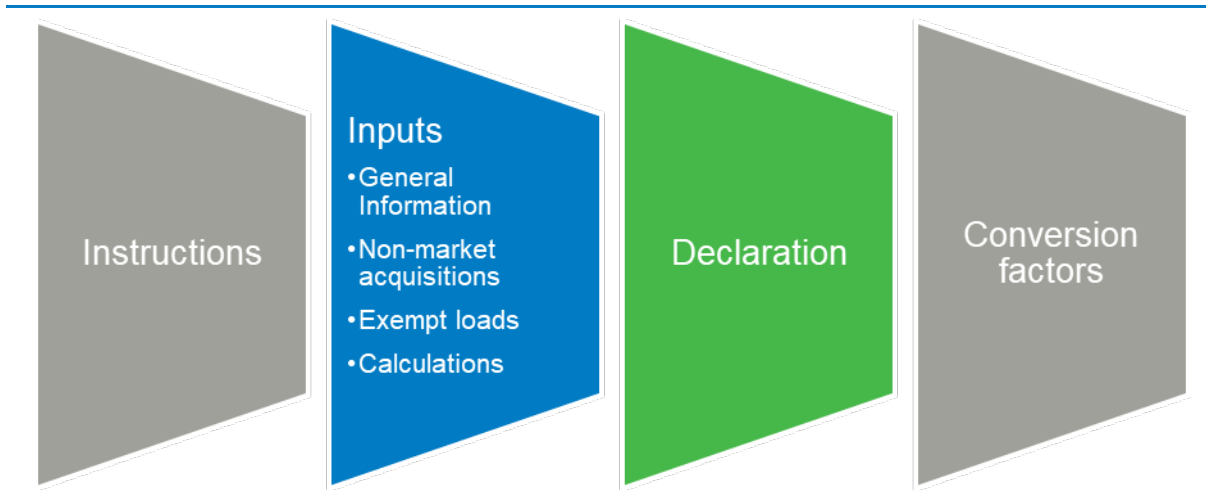
The following section provides a step-by-step guide to completing the AESS. The AESS template can be downloaded from the ESS website:

www.ess.nsw.gov.au/Home/Document-Search/Templates/Template-Scheme-Participants-Annual-Energy-Savings-Statement

3.1 Overview

The AESS template is a Microsoft Excel spreadsheet. The structure of the spreadsheet is illustrated in Figure 3.1. There are seven different worksheet tabs in the spreadsheet, including an 'Instructions' worksheet that describes how the spreadsheet is intended to be used by Scheme Participants and emphasises that the AESS should be completed in close consultation with this guide.

Figure 3.1 Structure of AESS template



You should enter information in the four tabs labelled as 'Inputs'. Note that some cells of the 'Inputs - Calculations' worksheet are locked so that they can be viewed, but not changed.

The 'Conversion Factors' worksheet contains the targets, energy conversion factors as well as factors for calculation of the shortfall penalty. These factors are determined by Schedule 5 and clauses 11, 16 and 17 of Schedule 4A to the Act and published by IPART. They cannot be changed within the spreadsheet.

The information entered into the 'Inputs - General information', 'Inputs - Nonmarket acquisitions' and 'Inputs - Exempt loads' worksheets and the factors contained in the 'Conversion Factors' worksheet are automatically transferred to the 'Inputs - Calculations' worksheet, where additional inputs are required and the calculations are performed.

3.1.1 Inputs for Liable Acquisitions

You are required to provide information related to liable acquisitions in different worksheets of the AESS spreadsheet, as follows:

- ▼ provide the value of the acquisitions from the AEMO in the 'Inputs - Calculations' worksheet
- ▼ provide the non-market acquisitions (whether or not the acquisitions are from a registered participant under the *National Electricity (NSW) Law*) in the 'Inputs - Nonmarket acquisitions' worksheet, and
- ▼ provide the exempt electricity loads being claimed by the Scheme Participant in the 'Inputs - Exempt loads' worksheet.

Liable acquisitions are described in clause 10 of Schedule 4A to the Act. Exemptions to liable acquisitions are described in Division 5 of Schedule 4A to the Act and exemptions are made by the Ministerial Order.

The 'Inputs' worksheets of the AESS template and the information that is required in each worksheet are explained in detail below.

3.2 'Inputs - General information' worksheet

The 'Inputs - general information' worksheet requires general information including legal names, compliance year and contact details.

Cells shaded blue signify that an input is required. The requirements for each input of this worksheet are addressed separately below.

Compliance Year

You must enter the compliance year (being a calendar year commencing 1 January) for which the AESS is being lodged. The compliance year must be entered as the year only, without any reference to the month or day. There will be an error message below the input box if a compliance year has not been entered. If a compliance year is not entered many of the calculations in the AESS will not function properly. The worksheet uses the conversion factors applicable to the stated compliance year in the calculations. If an incorrect compliance year has been entered, the calculations will not be correct.

Scheme Participant

The next section asks for details of the Scheme Participant. You are required to provide:

- ▼ *Name of Scheme Participant:* State the full legal name (not just the business name) of the Scheme Participant.
- ▼ *ABN:* The Australian Business Number (ABN) of the Scheme Participant (if the Scheme Participant has an ABN).
- ▼ *Category of Scheme Participant:* This part of the AESS identifies the category of the Scheme Participant (as set out below).

The three separate categories are defined in the Act (clause 4(1) of Schedule 4A to the Act) as follows:

- a) a retailer
- b) a direct supplier of electricity, and
- c) a market customer.

Contact IPART for further guidance if you are uncertain of the category.

Contact Information

The purpose of this section is to identify key individuals within the Scheme Participant involved with the preparation of the AESS. You are required to complete:

- ▼ *Chief Executive Officer:* State the name and contact details of the Chief Executive Officer of the Scheme Participant. The Chief Executive Officer is one of the people who must sign the AESS.
- ▼ *Main compliance contact:* This must be a person within the Scheme Participant responsible for management of compliance with ESS. This person is likely to be the author of the AESS. This person will be the primary contact person for IPART.

3.3 'Inputs – Nonmarket acquisitions' worksheet

This worksheet is used to calculate the total non-market liable acquisitions (whether or not they are from a registered participant under the *National Electricity (NSW) Law*). The total of non-market liable acquisitions is highlighted at the top.

If relevant, you are required to provide details of non-market liable acquisitions (including small-scale photovoltaic generation) in the blue shaded cells, as defined in clause 10(1) of Schedule 4A to the Act:

-
- ▼ *Name of provider (seller) of liable acquisition (Generating System):* Where the acquisitions are from a registered participant, you should list the name of the generating system as it is listed in AEMO's *Registration and Exemption list*. Where the acquisitions are not from a registered participant, you should use a name for the generating system that is easily identifiable. The names provided in this section will be used by independent auditors to verify the information provided by the Scheme Participant.
 - ▼ *Liable acquisitions - purchased generation (MWh):* The quantity of non-market electricity purchased from that Generating System by the Scheme Participant (this should be taken as the "Sent Out Generation" for the generating system, as referred to in the National Electricity Rules, i.e. the amount of electricity supplied to the transmission or distribution network at the generating system's connection to that point). This figure is not adjusted by any transmission or distribution losses.

Note: Small-scale photovoltaic generation

If relevant, you must include the total quantity of generation from small-scale photovoltaic generation systems, such as rooftop solar panels, as non-market electricity acquisitions in this section of the AESS. It is not necessary to list each small-scale photovoltaic generation system separately.

Where small-scale photovoltaic generation systems are connected to the grid with gross metering arrangements, you must report the gross amount of electricity exported to the grid by those systems. Where small-scale photovoltaic generation systems are connected with net metering arrangements, report the net amount of electricity exported to the grid.

You must use comprehensive billing or other appropriate metering data, and have data capture systems which can be examined by an auditor to provide reasonable assurance that the data reported is accurate.

3.4 'Inputs – Exempt loads' worksheet

This worksheet is used to calculate the total exempt electricity loads, if any.

If relevant, you are required to provide details of exempt electricity loads in the blue shaded cells, as defined in Division 5 of Schedule 4A to the Act, the Exemptions Rule and the relevant Ministerial Order:

- ▼ *Reference:* This is the person (company) specified in the Schedule to the Order.¹⁰
- ▼ *Location:* This is the address at which the specified activity takes place as set out in the Schedule to the Order.

¹⁰ Ministerial Order published in the Government Gazette no.173 of 13 December 2019 should be referred to for 2020 compliance purposes, <https://www.ess.nsw.gov.au/Home/Document-Search/Legislation/Ministerial-Order/Ministerial-Order-2020-compliance-Year>.

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- ▼ *National Metering Identifier (NMI)*: This is the National Metering Identifier at the Location specified above. Note: where the Location is supplied electricity through more than one NMI, Scheme Participants must input the electricity supplied through each NMI as separate entries.
 - ▼ *Electricity Supplied (MWh)*: This is the amount of electricity supplied to a Reference at the Location.

The sheet will then automatically populate the following fields:

- ▼ *Exemption proportion (%) and Exempt load (MWh)*: This is the percentage and amount of the electricity load used by a Reference at a Location that is exempt from the ESS, as stated in the Order.
- ▼ *5% Allowance*: This is the amount of the allowance for distribution or transmission losses also deducted from the total value of the liable acquisitions as stated in the Exemptions Rule.

3.5 'Inputs – Calculations' worksheet

The 'Inputs – Calculations' worksheet is used to calculate the individual energy savings target, the energy savings shortfall and the energy savings shortfall penalty (if applicable). This worksheet is divided into four sections and you are required to provide key inputs for the calculations in some of these sections in the blue shaded cells. The four sections of this worksheet are explained in detail below:

3.5.1 Total liable acquisitions

In this section, the total amount of liable acquisitions is calculated. Key inputs for this calculation (i.e. the non-market liable acquisitions and exempt electricity loads) are automatically populated from the information provided previously in the corresponding worksheets. You are required to provide the following input: AEMO liable acquisitions (MWh).

If relevant, you are required to provide details of liable acquisitions from AEMO, as defined by clause 10(1) of Schedule 4A to the Act. This is the quantity of electricity purchased from AEMO in the compliance year. AEMO will provide this figure to IPART during February each year and we will then forward this figure to the Scheme Participant. AEMO will use the best data it has available at that time on sales for the period 1 January to 31 December of the previous year. In some cases AEMO may separately advise some Scheme Participants of a different figure to that provided by IPART, e.g., due to late adjustments. In this case, Scheme Participants should enter the most up to date figure and include a record of the amendment notification they received from AEMO when they submit their AESS to IPART.

3.5.2 Individual energy savings target

In this section, the individual energy savings target is calculated. Key figures for this calculation are displayed and no additional inputs are required. The individual energy savings target is calculated as per clause 9 of Schedule 4A to the Act.

3.5.3 Energy savings shortfall and penalty calculations

The last two sections of this worksheet calculate the Scheme Participant's energy savings shortfall and energy savings shortfall penalty in accordance with the Act. The energy savings shortfall is defined under clause 14 of Schedule 4A to the Act as:

"The amount of the energy savings shortfall is the number of notional megawatt hours by which the individual energy savings target of the scheme participant for the year exceeds the energy savings attributable to the scheme participant for that year."

A Scheme Participant has met its individual energy savings target for a compliance year if the energy savings attributable (i.e. ESCs offered for surrender) are equivalent to (or exceed) their individual energy savings target.

If a Scheme Participant's attributable energy savings are less than their individual energy savings target then it will have an energy savings shortfall and may be subject to a penalty (under clauses 15 and 18 of Schedule 4A to the Act). The worksheet will calculate the relevant penalty in the case that there is a shortfall.

You are required to provide a number of inputs in the blue shaded cells.

Energy savings shortfalls carried forward

Scheme Participants can carry forward up to 10% of their individual energy savings target to the next year, rather than meeting it in the current year. Scheme Participants must then clear any carried-forward amount in the following year. Refer to clauses 19 and 20 of Schedule 4A to the Act for further details on carrying forward.

You are required to complete:

- ▼ *Shortfall carried forward from previous year (notional MWh):* The energy savings shortfall (if any) that the Scheme Participant nominated to be carried forward from the previous compliance year. The shortfall carried forward must be stated in notional MWh and should be in whole numbers without any decimal places.
- ▼ *Shortfall nominated to be carried forward to next year (notional MWh):* The energy savings shortfall (if any) that the Scheme Participant wishes to carry forward to the next compliance year. The shortfall carried forward must be stated in notional MWh and should be in whole numbers without any decimal places. It must not be more than the allowable carry forward amount.

A box on the right hand side of the page displays, for information only, the maximum shortfall allowed to be carried forward to next year. This figure corresponds to 10% of the individual energy savings target for the relevant compliance year and does not include any shortfall carried forward from a previous year, which must be cleared.¹¹ The information in the box is included to help Scheme Participants using the worksheet as a planning tool, to estimate the shortfall they may carry forward to the next year.

When the shortfall nominated to be carried forward to the next year exceeds the maximum 10% allowance, a warning message will be displayed in the 'warnings' window on the right hand side of the spreadsheet.

When the shortfall nominated to be carried forward to the next year is less than the maximum 10% allowance, a message will be displayed next to the 'Energy savings shortfall penalty'. The message notes that Scheme Participants may reduce any energy savings shortfall penalty they may owe by increasing the shortfall nominated to be carried forward to next year (to the maximum).

Energy saving certificates offered for surrender (energy savings attributable)

Clause 13 of Schedule 4A to the Act defines energy savings attributable as:

"For the purposes of this part, the energy savings attributable to a scheme participant for a year is the total value of all energy savings certificates that the scheme participant elects to surrender, in accordance with this Part, for the purpose of meeting its individual energy savings target for that year."

You are required to provide the total number of ESCs registered to the Scheme Participant that have been offered for surrender to meet their Individual Energy Savings Target for the year, not including any surrendered due to an order under clause 45 of Schedule 4A to the Act. Scheme Participants offer ESCs for surrender through the ESS Registry (www.ggas-registry.nsw.gov.au).

A box on the right hand side of the page displays, for information only, the total number of ESCs required to meet an individual energy savings target. This figure is made up of the ESCs required to meet the current compliance year's individual energy savings target plus ESCs required to meet any shortfall carried forward from a previous year, less any shortfall that is nominated to be carried forward to the next year. The information in the box is included to help Scheme Participants using the worksheet as a planning tool, to estimate the number of ESCs to offer for surrender.

When more than the minimum required number of ESCs has been offered for surrender, a warning message will be displayed in the 'warnings' window on the right hand side of the spreadsheet.

¹¹ Clause 19(5) of Schedule 4A to the Act.

When less than the required number of ESCs has been offered for surrender, a message will be displayed next to the 'Energy savings shortfall penalty', advising Scheme Participants that the penalty can be reduced by increasing the number of ESCs offered for surrender.

3.6 'Declaration' worksheet

This worksheet contains the declaration and signature blocks. The Scheme Participant must declare that:

- ▼ where estimates or indicative values have been provided by the Scheme Participant, that these are based on the best available data and methods
- ▼ all information provided by the Scheme Participant is correct and not misleading or deceptive by inclusion or omission, and
- ▼ the Scheme Participant is aware that there are penalties for knowingly providing false, misleading or deceptive information in the AESS.

The declaration must be signed by the Chief Executive Officer (or equivalent) and Chairman of the Board (or a duly authorised Board member) of the Scheme Participant.

3.7 Submitting the AESS

All the worksheets labelled as 'Inputs' and the 'Declaration' worksheet must be printed for signature, signed, scanned and submitted electronically to IPART. The signed electronic document must be submitted together with the Excel version of the AESS, any attachments required (e.g., proof of signatory authority) and the audit report (if applicable).

The AESS and all the relevant documents should be emailed to:

ESSRegulator@ipart.nsw.gov.au