

# IHEAB & Refrigerated Cabinet Changes from 1 August 2022

29 July 2022

The NSW Government has updated and amended the *Energy Savings Scheme Rule of 2009 (ESS Rule)*. The *Energy Savings Scheme (Amendment No.1) Rule 2022 (New ESS Rule)*<sup>a</sup> commences on 1 August 2022.

The New ESS Rule strengthens the eligibility requirements and changes the financial incentive provided for the installation or replacement of a refrigerated cabinet (RC) using the *Installation of High Efficiency Appliances for Businesses (IHEAB)* method. The New ESS Rule also clarifies that IHEAB cannot generally be used for residential projects.

This document explains the key changes, commencement, and transitional details, and identifies other documents that have been updated. You should familiarise yourself with the New ESS Rule and our updated documents to ensure you understand the changed requirements and the relevant commencement and transitional arrangements.

Table 1 below summarises the key changes and links to updated documents.

Table 1 Summary of changes and updates from 1 August 2022

Item	Description of changes
Refrigerated cabinet activities	<ul style="list-style-type: none"> <li>Activity Definition F1 replaced with Activity Definitions F1.1 and F1.2</li> <li>Purchaser must pay at least \$250 (excl GST) for each new RC or replacement RC.</li> <li><b>Installation of New RC (does not replace existing equipment):</b> <ul style="list-style-type: none"> <li>Use Activity Definition F1.1</li> <li>Energy Efficiency Index (EEI) of the new RC must be less than 77 (EEI requirement of less than 51 remains for Integral Ice Cream Freezer Cabinets)</li> <li>The New RC must not replace an existing RC</li> <li>Changes to the Baseline EEI used in the calculation of the <i>Deemed Equipment Electricity Savings</i> (Table F1.1.1)</li> </ul> </li> <li><b>Replacement of existing RC:</b> <ul style="list-style-type: none"> <li>Use Activity Definition F1.2</li> <li>Energy Efficiency Index of the replacement RC must be less than 81 (EEI requirement of less than 51 remains for Integral Ice Cream Freezer Cabinets)</li> <li>Replaced equipment must be removed and disposed of</li> <li>Changes to the Baseline EEI used in the calculation of the <i>Deemed Equipment Electricity Savings</i> (Table F1.2.1)</li> </ul> </li> </ul>
All IHEAB activities	New requirement that site must not be a Residential Building (for most activity definitions).
Updated documentation	<ul style="list-style-type: none"> <li>Method Guide (updated to version 3.7)</li> <li>Implementation Data Sheet (updated to version 3.4)</li> <li>Application Form Part B (updated to version 3.3)</li> <li>Installer Declaration Template (updated to version 1.2)</li> </ul>

<sup>a</sup> The *Energy Savings Scheme (Amendment No.1) Rule 2022* was gazetted on 29 July 2022

Item	Description of changes
Commencement and transitional arrangements	<ul style="list-style-type: none"> <li>• New ESS Rule commences 1 August 2022</li> <li>• Transitional arrangements apply based on Implementation Date</li> <li>• <b>Implementation Date is prior to 1 August 2022:</b> <ul style="list-style-type: none"> <li>- Must calculate energy savings using the ESS Rule version in force prior to 1 August 2022</li> <li>- Must retain documentation by previous IHEAB Method Guide (version 3.6)</li> <li>- Use updated Implementation Data Sheet to register ESCs (version 3.4)</li> </ul> </li> <li>• <b>Implementation Date is on or after 1 August 2022 but prior to 15 August 2022:</b> <ul style="list-style-type: none"> <li>- Calculate energy savings using the New ESS Rule</li> <li>- Retain documentation as required by current IHEAB Method Guide (version 3.7 or later)</li> <li>- If purchaser has not paid \$250 per new or replacement RC, retain evidence that a contract to install the RC was executed prior to 1 August 2022</li> <li>- Use current Implementation Data Sheet to register ESCs (version 3.4 or later)</li> </ul> </li> <li>• <b>Implementation Date on or after 15 August 2022:</b> <ul style="list-style-type: none"> <li>- Calculate energy savings using the New ESS Rule</li> <li>- Retain documentation as required by current IHEAB Method Guide (version 3.7 or later)</li> <li>- Use current Implementation Data Sheet to register ESCs (version 3.4 or later)</li> </ul> </li> </ul>

## 1 Activities F1.1 and F1.2 will replace activity F1

The New ESS Rule replaces the existing Activity Definition F1 – Install a New High Efficiency Refrigerated Cabinet or Replace an Existing Refrigerated Display Cabinet with two new Activity Definitions:

- Activity Definition F1.1 – Install a New High Efficiency Refrigerated Cabinet, and
- Activity Definition F1.2 – Replace an Existing Refrigerated Display Cabinet

**Activity Definition F1.1** must be used for new installations and cannot be used for a replacement installation. **Activity Definition F1.2** must be used for a replacement installation.

A new installation occurs when the refrigerated cabinet is installed, where there is:

- No existing End-User Equipment (**EUE**) of the same type, function, output or service (such as where there is no existing refrigerated display/storage capacity), or
- Existing EUE of the same type, function, output or service, but the new refrigerated cabinet will not replace this EUE (such as where the new EUE works together with the existing EUE to provide additional capacity).

A replacement installation occurs where the new refrigerated cabinet is installed to replace existing less efficient equipment of the same type, function, output, or service previously in its place. This would typically result in the existing equipment becoming redundant or underutilised. The replacement refrigerated cabinet can increase refrigerated storage or display capacity but must not reduce production or service levels (including safety).

The new activities F1.1 and F1.2 have stricter requirements than activity F1 and offer different (typically lower) incentives. In particular:

- Activity Definition F1.1 and F1.2 require the new RC to be more efficient than under Activity Definition F1, and
- Activity Definition F1.1 and F1.2 use different (generally lower) Baseline EEs in the calculation of the Deemed Equipment Electricity Savings to Activity Definition F1.

The new activities still require that the new/replacement RC be installed by an appropriately qualified person, and Accredited Certificate Providers (**ACPs**) are still required to remove and appropriately dispose of the replaced EUE. The types of qualifications required will depend on the nature of the work required to do the installation.

ACPs should review and update their systems and procedures to ensure that they remain eligible for accreditation and compliant with the New Rule.

## 2 A minimum co-payment requirement applies to activities F1.1 and F1.2

For activities F1.1 and F1.2, the New ESS Rule requires the purchaser to have paid a net amount of at least \$250 (excl. GST) per installed RC (new or replacement) for the implementation and other associated works carried out at the site (**minimum co-payment**). This amount cannot be reimbursed and must be evidenced to the satisfaction of the Scheme Administrator.

The purchaser is the person who purchases or leases the goods or services that enable the energy savings to be made. For activities F1.1 and F1.2 the purchaser would typically be the person who purchases or leases the efficient RC. However, the purchaser cannot be:

- an ACP unless it will be installed at their own site, or
- any person who purchases or leases the equipment for the purpose of reselling that equipment.

The amount paid by the purchaser must be for the implementation and other associated works. This means that costs such as delivery and installation can be considered, as well as the cost of other IHEAB activities carried out at the same time can be considered. However, costs that are not associated with the implementation cannot be included and the minimum co-payment requirement cannot be met through 'in-kind' payments.

The updated IHEAB Method Guide sets out the minimum records that are required to demonstrate compliance with the minimum co-payment requirement. However, it may be necessary to collect additional documentation for larger or complex projects.

The evidentiary requirements are like those that exist for other ESS calculation methods that require a minimum co-payment such as the Home Energy Efficiency Retrofits (**HEER**) method and the Commercial Lighting Energy Savings Formula.

## 3 IHEAB cannot be used for residential activities

As of 1 August 2022, the New Rule clarifies that the IHEAB method cannot be used to calculate the energy savings from activities undertaken at a residential building. However, a limited exemption to this requirement applies to some activity definitions, typically in relation to the common areas of apartment buildings. The exemptions are specified in the eligibility criteria for the relevant activity definition.

A residential building is a building or part of a building classified under the Building Code of Australia (**BCA**) as Class 1, 2 or 4 building (including any BCA Class 10a building or Class 10b structure) on the same site.

The HEER method includes several similar activities to the IHEAB method and is intended for use with residential buildings.

## 4 Updated documentation is available

We have updated our ESS documentation to ensure consistency with the New ESS Rule. A summary of the updated documents is provided in **Table 2**.

Table 2 Updated ESS documentation

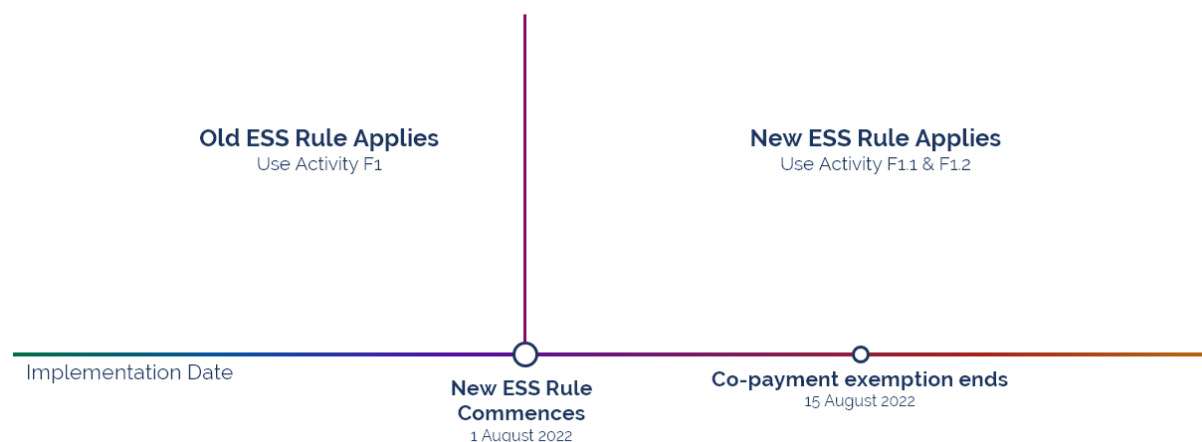
Document Name	New Version Number	Key Changes
Implementation Data Sheet	3.4	<ul style="list-style-type: none"> <li>Removes Activity Definition F1</li> <li>Includes Activity Definitions F1.1 and F1.2</li> </ul>
Method Guide – Installation of High Efficiency Appliances for Business	3.7	<ul style="list-style-type: none"> <li>Removes Activity Definition F1</li> <li>Specifies minimum required records for Activity Definitions F1.1 and F1.2</li> <li>Includes additional guidance for refrigerated cabinets</li> <li>Includes guidance on co-payment requirement</li> </ul>
Application Form Part B	3.3	<ul style="list-style-type: none"> <li>Removes Activity Definition F1</li> <li>Includes Activity Definitions F1.1 and F1.2</li> </ul>
Installer Declaration Template	1.2	<ul style="list-style-type: none"> <li>Removes Activity F1</li> <li>Includes Activity Definitions F1.1 and F1.2</li> </ul>

We are updating our website and documentation to ensure consistency with the New ESS Rule.

## 5 Commencement and transitional arrangements

The New ESS Rule, including Activity Definitions F1.1 and F1.2, commences on 1 August 2022. The New ESS Rule includes several transitional arrangements to assist ACPs and their customers transition to the new requirement. **Figure 1** provides an illustrative example of the commencement and transitional arrangements.

Figure 1 Commencement and transition arrangements



## 5.1 Automatic transition from activity F1 to activities F1.1 and F1.2

ACPs accredited in relation to Activity Definition F1 will automatically transition to Activity Definitions F1.1 and F1.2.<sup>b</sup> This means that if you are accredited for Activity Definition F1, you will automatically be accredited for Activity Definitions F1.1 and F1.2 from 1 August 2022 and will not require or receive a new accreditation notice. Any conditions of accreditation that applied to Activity Definition F1 (such as audit requirements) will automatically apply to Activity Definitions F1.1 and F1.2.

**Energy saver nominations** made in an approved form and manner that refer to Activity Definition F1 are valid for Activity Definitions F1.1 and F1.2.

We will process **existing applications** for accreditation under Activity Definition F1 (including amendments) as if they were for Activity Definitions F1.1 and F1.2. Applicants will not be required to make a new application or pay an additional application fee, but we may require updated information from them to in relation to the New ESS Rule.

## 5.2 Implementations completed before 1 August 2022 are not affected

While the New ESS Rule commences on 1 August 2022, transitional arrangements will allow ACPs to register ESCs for implementations completed under the previous ESS Rule. Implementations having an Implementation Date prior to 1 August 2022 can register the ESCs after 1 August 2022 using the previous ESS Rule.

<sup>b</sup> Clause 11.21 of the New ESS Rule.

The Implementation Date for the IHEAB method is the date that the EUE was installed. Importantly, where an implementation involves multiple activities (such as multiple refrigerated cabinets), the Implementation Date is the date that all the equipment is installed. **This means that all equipment must be installed prior to 1 August 2022** to calculate energy savings and create ESCs using the previous ESS Rule. If any equipment is installed on after the 1 August 2022, the New ESS Rule must be used to calculate the energy savings for the entire implementation.

Where ESCs are created using the previous ESS Rule you should retain the documentation relevant to the previous rule.

ACPs applying the transitional arrangements to create ESCs using the previous ESS Rule must use the latest version of the Implementation Data Sheet. However, they should:

- Enter 'F1.1' (rather than 'F1') in the Activity Definition column of the Implementation Data Sheet if using Activity F1 for a new installation
- Enter 'F1.2' (rather than 'F1') in the Activity Definition column Implementation Data Sheet if using Activity F1 for a replacement installation, and
- Select 'previous ESS Rule' when uploading the Implementation Data Sheet in the ESS Portal.

### 5.3 A co-payment exemption may apply until 15 August 2022

The New ESS Rule provides a limited exemption to the co-payment requirement for projects where a contract to install or replace an RC was in place prior to 1 August 2022 and where the Implementation Date is on or before 15 August 2022.

Importantly, this provision requires that a contract be in place for the refrigerated cabinet, not the implementation. This means that only those RCs which were agreed to prior to 1 August 2022 (and installed before 15 August 2022) are exempt from the co-payment requirement.

For example, if an agreement to supply and install a single RC is entered into prior to 1 August 2022, but the customer subsequently requests a second RC, this second RC cannot be supplied for less than \$250 if ESCs are to be created from the implementation.

ACPs relying on the co-payment exemption must have adequate documentation of the contract, which clearly shows:

- an agreement with the customer to supply and install a specified number of RCs, and
- that the agreement was finalised prior to 1 August 2022.

The exemption requires that the Scheme Administrator be satisfied that the contract was in place prior to 1 August 2022. ACPs will not be able to create ESCs if the available documentation is insufficient to satisfy the Scheme Administrator.

Importantly, the supply of a proposal or marketing material to the customer (i.e. an offer) is not a contract, as a contract requires acceptance of an offer by the customer. ACPs must be able to demonstrate that an agreement for the supply and installation of the RC was in place with the customer by 1 August 2022 for the co-payment exemption to apply.

## 6 Refrigerated cabinets remain a compliance focus

The installation of refrigerated cabinets has been identified as a compliance priority and is subject to increased compliance monitoring and escalated enforcement action.

ACPs should be aware that we are closely scrutinizing installation evidence to verify nominations of ACPs by purchasers and evidence which demonstrates that RCs have been properly installed. Following commencement of the New ESS Rule, this will also include verification of the minimum co-payment or verification of an existing contractual arrangement.

This will include interviews with purchasers and conducting site inspections. **You will be unable to create ESCs** in situations where an ACP has not been properly nominated as the energy saver for the installation or where the RC has not been properly installed. Further, we note that the *Crimes Act 1900* provides serious penalties of up to 10 years imprisonment for making, possessing or using a false document (including altering a genuine document) for the purpose of obtaining a financial benefit.

ACPs are accountable for the actions of their agents and contractors. We will act against ACPs that break the rules or fail to control the conduct of their agents or contractors. The Scheme Administrator can have regard to the standard of honesty and integrity shown in previous commercial dealings by a person and its associates in deciding whether that person is eligible to be (or remain) accredited. We encourage ACPs to share this notice with their agents and contractors.