

11 February 2020

Official caution issued to accredited certificate provider

An IPART enforcement officer has issued an **official caution** to an ACP for an offence under the *Electricity Supply Act 1995 (ES Act)*. The ACP has not been named in this notice because no penalty notice was issued to them.

The caution relates to the improper creation of ESCs resulting from a failure to satisfy the requirements of clause 6.2(a) of the *Energy Savings Scheme Rule of 2009 (ESS Rule)*. This is an offence under section 133 of the ES Act.

In this case, there were mitigating circumstances which justified issuing an official caution, rather than a penalty notice. Nonetheless, the offence forms part of the ACP's compliance record and may be taken into account by IPART in deciding on any future enforcement action.

Clause 6.2 of the ESS Rule – Nomination as the Energy Saver

Clause 6.2 is aimed at ensuring that the energy savings are additional to those that would have occurred in the absence of the ESS. The principal object of the ESS is to 'create a financial incentive to reduce the consumption of energy by encouraging energy saving activities' (section 98(1) of the ES Act).

Under clause 6.2(a) of the ESS Rule, an ACP can only create ESCs for an Implementation (ie, a particular upgrade at a site) if it is properly nominated as the "Energy Saver" as at the "Implementation Date".

In this instance, the ACP was not considered properly nominated at the Implementation Date of a particular implementation.

We will continue to focus on Nomination as the Energy Saver

ACPs should ensure that a nomination is in place as at the Implementation Date, as defined by the ESS Rule. The nomination documentation must be in the form approved by the Scheme Administrator and must be completed and signed by an appropriate signatory.

We will continue to focus attention on the form, nature and timing of nominations made for implementations under the ESS.

Compliance with the ESS

IPART has a range of powers available to it in dealing with non-compliance, including prosecuting certain offences under the ES Act. Importantly, IPART may prosecute directors of ACPs, or persons concerned in the management of ACPs, in certain circumstances.

ACPs, and the directors and managers of ACPs, must ensure all activities conducted under the ESS are fully compliant with the ES Act, the *Electricity Supply (General) Regulation 2014*, the ESS Rule and the ACP's accreditation notice.

IPART will maintain its focus on monitoring compliance with the ESS, and will continue to act, where necessary, to ensure its ongoing integrity.