



Energy Saver/Capacity Holder Nomination

Home Energy Efficiency Retrofits & Installation of High Efficiency Appliances for Business

The Energy Savings Scheme (ESS) and the Peak Demand Reduction Scheme (PDRS) create certificates from projects that produce energy savings and/or the capacity to reduce demand on our electricity network during peak times. As the person that has undertaken a project you are the original Energy saver/Capacity holder (**Section 1**) and have the right to the energy savings, and/or the peak demand reduction capacity for the activity described in **Section 2**. By signing this form, you give them the right to be the energy saver/capacity holder for the purpose of these schemes, so that they can then create and sell certificates.

1. Original Energy saver/Capacity holder details

Name: _____

ABN/ACN: _____

Email: _____

Phone number: _____

2. Implementation and Activity Details

Peak Demand Reduction Scheme (PDRS) ☐ Energy Savings Scheme (ESS) ☐

Address

Add new line for each site

Description

Activity and each equipment are installed/removed

3. Accredited Certificate Provider Details

ACP (company): National Carbon Bank of Australia Pty Ltd

ABN/ACN: 39 159 474 889

Contact name: Carol Castro

Contact email: compliance@ncba.net.au

PDRS accreditation # ACC0000025

ESS accreditation # GHGR01848F

4. Past activities implemented at the site(s)

Only one person can be nominated as the energy saver/capacity holder for the activity described in **Section 2**. You cannot sign this form if you have nominated another person for those activities unless you have revoked that nomination.

Have you or, to the best of your knowledge, has any other person, previously nominated an energy saver/capacity holder for the activity/s at the site(s) listed above in Section 2?

Yes ☐ If yes, please provide a reason for the new nomination form.....

No ☐

5. Nomination of the Accredited Certificate Provider

I, the person described in **Section 1**, or a person authorized to execute this nomination form on behalf of the company or registered body described in **Section 1**, nominate the person described in **Section 3** as the energy saver and capacity holder for the activities set out in **Section 2**, on behalf of the company or registered body described in **Section 1** as applicable.

This nomination form takes effect from the date it is signed and remains in force until I revoke it in writing to the ACP described in **Section 3**, and by email to IPART as the Scheme Administrator at ESS_Compliance@ipart.nsw.gov.au.

I declare that:

- ▼ I am the original energy saver, or I am authorised to execute this nomination form on the original energy saver's behalf.
- ▼ The information provided in this nomination form is accurate and is not misleading by inclusion or omission.
- ▼ I will assist a representative of the Scheme Administrator (IPART), or a member of the Energy Security Safeguard Schemes Audit Services Panel by providing information or reasonable access to the sites described in **Section 2**.
- ▼ The date recorded below is the date when I signed this form
- ▼ I understand that the ACP is required to provide a completed copy of this form for my records within 7 days of me signing this form.

Signed and dated by the original energy saver/capacity holder or their authorised signatory

Signature

Name

Company

Date signed

Position

Energy Saver Terms and Conditions

IN CONSIDERATION OF the Nomination above and of the mutual benefits and obligations set out in this Agreement, the receipt and sufficiency of which consideration is acknowledged, the Customer and NCBA (collectively the "Parties" to this Agreement) agree as follows:

1. Appointment

- 1.1 NCBA is an Accredited Certificate Provider under the Scheme which offers financial incentives for the reduction of energy consumption or the improvement of energy efficiency.
- 1.2 The Customer appoints NCBA for the Term to provide the Customer with the services described in Schedule 1 (the "Services") on the terms and conditions set out in this Agreement.
- 1.3 The Customer nominates NCBA as the Energy Saver under the Scheme to create Energy Saving Certificates and Peak Reduction Certificates ("Certificates") on its behalf for the Recognised Energy Saving Activity ("RESA"). NCBA will register and trade the Certificates on behalf of the Customer and subject to Scheme requirements.

2. Customer obligations

- 2.1 The Customer nominates NCBA as transferee of the Customers energy savings by completion and signature of an Energy Saver Nomination Form (pages 1 and 2 of this document).
- 2.2 The Customer warrants that the signatory to the Nomination Form is duly authorized to sign on behalf of the Customer
- 2.3 The Customer acknowledges that:
 - a) Certificates can only be created for RESAs supported by documentary evidence as required by the Scheme legislation;
 - b) There may be variations between any estimated energy savings and the actual energy savings as calculated by NCBA on completion of the RESA and that NCBA shall not be responsible for any loss suffered by the Customer in respect of such variation.

c) For HEER's upgrades, customer has made, or is legally required to make a minimum payment for the RESA as required under Section 9.8.1(g) of the Energy Saving Scheme Rule 2009 (a minimum net amount of \$30.00 ex GST). For IHEAB Activity Definitions F1.1 and F1.2, customer must pay at least \$250 (excl GST) for each new RC or replacement RC. This payment has not been refunded or reimbursed and there is no agreement, written or verbal, for any reimbursement or other form of compensation to be made in the future which would further offset the cost of the installation. If necessary, NCBA has the right to withhold an amount from the return generated by the certificates, in addition to the Service Fee, in order to ensure that this minimum contribution has been made by the Customer.

- 2.4 The Customer shall not do or omit to do any act which may have the effect of preventing NCBA complying with its obligations as an Accredited Certificate Provider.
- 2.5 The Customer undertakes to provide all documentary evidence of the RESA and other supporting material including lux levels, photographs, reflected ceiling plans, evidence of annual operating hours and copies of energy bills as required under the Scheme within 14 days of written request. The Customer will do all such things as are reasonably necessary to assist NCBA to comply with its audit requirements and record keeping obligations under the Scheme.
- 2.6 The Customer will (whether before and/or after creation of the Certificates) and on receipt of reasonable notice, provide NCBA (and/or its contractors or subcontractors) with access to its premises for the purpose of:
 - a) Conducting an on-site audit to verify and confirm the details provided in the supporting materials supplied by the Customer; and/or
 - b) Conducting an on-site audit of the RESA on request by IPART at any time during the agreed lifetime of the Equipment.

3. NCBA Obligations

- 3.1 NCBA will provide the Services using all reasonable skill and care.
- 3.2 Subject to receipt of a duly completed Nomination Form, and all supporting material reasonably requested by NCBA, NCBA will calculate the MWh energy savings from the RESA and create the corresponding Certificates in accordance with the methods prescribed by the Scheme.
- 3.3 NCBA will register the newly created Certificates on the Scheme Registry.
- 3.4 NCBA will not be responsible for any costs, losses or expenses incurred by the Customer if a Certificate is later forfeited due to any act or omission by the Customer its agents or employees whether during or after the Term of this Agreement. NCBA reserves all rights of recovery against the Customer for loss arising from such forfeiture which includes a right to recover the value of the Certificate created.

4. Term of Agreement

- 4.1 The term of this Agreement (the "Term") will begin on the date of this Nomination and will remain in full force and effect until the completion of all of the Services and the trade of the Certificates, subject to earlier termination as provided in this document.
- 4.2 In the event that the Customer terminates this Agreement during the Term, the Customer shall be liable for the payment of the Service Fee calculated on the estimated value of the Certificates to be created for the proposed RESA within [7] days of receipt of written demand from NCBA.
- 4.3 The expiry or termination of this Agreement will not affect those provisions of this Agreement which expressly provide that they will operate after any expiry or termination or which of necessity must continue to have effect after such expiry or termination even where the clauses themselves do not expressly provide for this.

5. Payment for Services

- 5.1 NCBA will trade the Certificates directly with an electricity provider or via a broker within 90 days from completion of the RESA unless otherwise agreed in writing by the parties and will pay the Customer (or an Agent as directed by the Customer – refer to **Schedule 1**) the proceeds from the sale of each Certificate less its Service Fee (and subject to any additional amount withheld to meet the minimum contribution requirement), within 14 days of completion of the trade, subject to a receipt of a tax invoice from the Customer.

6. Performance

- 6.1 The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

7. Indemnity and insurance

- 7.1 The Customer indemnifies NCBA against all claims, demands, charges or expenses made against or incurred by NCBA as a result of any breach by the Customer, its employees, agents or contractors, of this Agreement or any negligent or willful act or omission by the Customer, its employees, agents or contractors except to the extent to which such claims, demands, charges or expenses are caused by or contributed to by NCBA.

8. Confidentiality and Intellectual Property

- 8.1 NCBA covenants to keep confidential and ensure its employees, agents and contractors keep confidential (a) all Confidential Information; (b) all information provided by the Customer to NCBA for the purposes of this Agreement; (c) all information created as a result of this Agreement and which NCBA agrees not to disclose without the prior written approval of the Customer.
- 8.2 Each party shall retain sole ownership in Intellectual Property created or developed by it. The Parties acknowledge that nothing contained in this Agreement grants any rights of ownership or use of any Confidential Information disclosed pursuant to this Agreement, or to any invention or patent, copyright, trademark or other such Intellectual Property right that has issued or that may issue, based on the Confidential Information. Neither party shall make, use or sell any product incorporating or derived from any Confidential Information.
- 8.3 The Customer acknowledges that NCBA is required under the Scheme to retain all copies of RESA evidence for the purpose of future compliance audits by IPART.
- 8.4 The confidentiality obligations imposed on each party by this clause 8 shall survive the termination of this Agreement (however terminated) and continue to bind the parties.

9. Termination

- 9.1 If the Customer breaches any provision of this Agreement, NCBA may at its option, on 7 days' written notice to the Customer either:
 - a) Suspend the payment of any amounts otherwise due under this Agreement until the breach is remedied by the Customer; or
 - b) Terminate this Agreement.
- 9.2 Either party may terminate the Agreement immediately if the other party: (a) enters into any arrangement between itself and its (or any class of its) creditors; (b) ceases to be able to pay its debts as they become due; (c) ceases to carry on business; (d) has a mortgagee enter into possession or disposes of the whole or any part of its assets or business; (e) enters into liquidation or any form of insolvency administration; or (f) has a receiver, a receiver and manager, a trustee in bankruptcy, an administrator, a liquidator, a provisional liquidator or other like person appointed to the whole or any part of its assets or business.
- 9.3 Termination of the Agreement (for whatever cause) will not affect any right or cause of action which has accrued to the party which terminates the Agreement at or prior to the date of termination.
- 9.4 On termination of this Agreement for any reason, the parties shall work together in good faith to devise a transition plan to cease the claim for Energy Savings.

10. Relationship

- 10.1 This Agreement constitutes a relationship of principal and independent contractor and no employment, partnership or joint venture relationship is hereby constituted.
- 10.2 NCBA is responsible for its own employees, agents and subcontractors.

11. Dispute resolution

- 11.1 A party claiming that a dispute has arisen under this Agreement (a "Dispute") must notify the other party giving written details of the Dispute. The parties agree to negotiate in good faith on a commercially realistic basis to resolve the Dispute before commencing any legal proceedings in relation to the Dispute.
- 11.2 Any Dispute which cannot be settled within 21 days from receipt of written notice of dispute may be referred for mediation by the Australian Commercial Disputes Centre by one or both parties.
- 11.3 Nothing in this clause 11 will prevent a party from seeking interlocutory relief.

12. General

- 12.1 The laws that are applicable in New South Wales govern this Agreement and each party submits to the jurisdiction of the courts of that state and any courts which may hear appeals from those courts.
- 12.2 This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 12.3 This Agreement may only be amended in writing signed by the parties.
- 12.4 A party may only assign the Agreement and any rights under the Agreement with the prior written consent of the other party, which may not be unreasonably withheld.
- 12.5 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising that right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party granting the waiver.
- 12.6 Any term of this Agreement which is void, illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.
- 12.7 Notices to or by a party delivered in person are deemed to be given by the sender and received by the addressee when delivered to the addressee: if by post, 3 Business Days from and including the date of postage; or if by facsimile or email, when transmitted to the addressee provided that if transmission is on a day which is not a Business Day or is after 5.00 pm (addressee's time) on the next Business Day.
- 12.8 Neither party will be liable to the other for the consequences of any delays or failures of its performance which are caused by any event beyond the first party's reasonable control, including without limitation acts of God, fire, flood, accident, terrorism, strike and riots and either party may terminate the Agreement if such an event occurs and continues for a period of 30 days or more.
- 12.9 NCBA and the Customer individually represent and warrant that to the other that as at the date of this Agreement it is a company duly incorporated and validly existing and has all the requisite powers to bind itself in the manner contemplated by this Agreement and to execute deliver and perform this Agreement. 12.10 This Agreement may consist of one or more counterpart's copies and all counterparts will when taken together constitute one document.

13. Definitions and interpretation

- 13.1 In this Agreement, these terms shall have the following meaning:
 - "**Accredited Certificate Provider**" has the meaning given to it under the Scheme;
 - "**Certificate**" means a tradable certificate created under the Scheme:
 - a) Representing the equivalent of 1 tonne of CO and is derived from the measurement of energy savings
 - b) Representing the permanent saving of energy during peak times under the Peak Demand Saving method.
 - "**Confidential Information**" means information that: (a) is by its nature confidential; (b) is designated by the parties as confidential; or (c) the parties know or ought to know is confidential; and includes without limitation the terms of this Agreement and all information about the Customer, its employees, agents, research, property, policies and operations which is made available or which becomes known during the term of this Agreement or as a result of executing this Agreement. Confidential Information does not include information which: (d) was in the public domain at the time of its provision by the Customer; or (e) became part of the public domain after its provision by the Customer, otherwise than through a disclosure by NCBA or any person to whom it has disclosed Confidential Information;
 - "**Customer**" is the Energy Saver as shown on the Nomination Form
 - "**ESC**" means Energy Saving Certificate;
 - "**Intellectual Property**" means any intellectual property rights (whether applied for, registered or unregistered), including all Confidential Information, trade secrets, copyrights, letters patent, trademarks and service marks, trade names, know how, designs and circuit layouts;
 - "**Prescribed Activity**" means an activity which promotes efficient electricity consumption and as described in more detail under the Scheme;
 - "**Scheme**" means the Energy Savings Scheme established under Part 9 of the Electricity Supply Act 1995 and Part [8] of the Electricity Supply (General Regulations) 2001 aimed at reduction of energy consumption;

Schedule 1.

The Return will be going to _____

ENERGY SAVINGS SCHEME: HOME ENERGY EFFICIENCY RETROFITS

30/03/2020



WHAT

What is the Energy Savings Scheme (ESS)?

The ESS is a NSW government scheme designed to reduce electricity and/or gas use by creating financial incentives for households and organisations to invest in upgrades to save energy.

Home Energy Efficiency Retrofit (**HEER**) activities can be delivered under the ESS by Accredited Certificate Providers (**ACPs**) to help NSW households and small businesses¹ save energy by supporting a range of energy efficiency upgrades, including lighting, draught proofing and equipment upgrades.



HOW

How do I get involved?

Your participation is voluntary. If you would like to participate, you will need to work with an ACP to arrange an upgrade at your property. The ACP or its representatives may ask you to enter into a contract for the upgrade works. You should carefully consider any such agreement in the same way you would consider any other contract for work being conducted at your property.

If you choose to participate, you should:

- ▼ Check the installer's credentials. They should have clear photo identification and provide detailed information about the proposed upgrade and the ACP they are working with.

- ▼ Discuss the equipment they propose to install and confirm it will meet your needs. If you are a tenant, you may require the landlord's permission to install or change equipment.
- ▼ Understand any commitments you are asked to make regarding the upgrade. For instance, you may be asked to agree to not go back to using the old equipment that was in place.
- ▼ Complete the necessary paperwork. At a minimum, you will be asked to sign a Nomination Form to nominate the ACP as the energy saver for the upgrade to enable them to create Energy Savings Certificates (**ESCs**) from the energy savings that will be made.

How much will it cost?

You will have to pay at least \$30 (excluding GST) towards the cost of products, installation of the products, the site assessment and other associated works carried out at your property.² The ACP or its representatives should not complete the upgrade unless you have made the payment. The payment cannot be reimbursed to you.

The ACP or its representatives may charge additional costs depending on the type and size of the upgrade. The ACP will advise you of any additional charges.

¹ A 'small business site' means a site that is entirely occupied by one business and where the business, as a consumer of electricity at that site is either a Small Customer or is a customer of an Exempt Seller and has an annual electricity consumption below the Upper Consumption Threshold for electricity.

² This payment is not required for upgrades provided under a Low-income Energy Program or an Exempt Energy Program under the ESS Rule



WHAT NEXT

Where can I get more information?

In the first instance, you should contact the ACP. They will be able to provide more information on the products and services they offer.

The ESS website contains general information about the scheme and some answers to frequently asked questions: www.ess.nsw.gov.au/Householders-and-businesses/For-householders.

General inquiries about the ESS can also be emailed to ESS@ipart.nsw.gov.au.

FREQUENTLY ASKED QUESTIONS

Who can offer HEER activities?

Only ACPs or their representatives can offer HEER activities. ACPs are businesses accredited by the Independent Pricing and Regulatory Tribunal (**IPART**) to undertake certain energy saving activities under the ESS.

An ACP may offer HEER activities or it may contract the work to third party installers, such as electricians or air conditioning technicians. ACPs and their representatives are **not** employees or representatives of the NSW Government.

A list of ACPs and the activities they are accredited to deliver is available on the ESS website: www.ess.nsw.gov.au/Householders-and-businesses/For-householders. ACPs can provide more information on the specific products and services they deliver.

Does the ESS give rebates?

No, the ESS is a certificate trading scheme which does not give direct rebates. However, under the ESS, ACPs may create ESCs for the energy savings that arise from the upgrades they deliver. ACPs can then sell those ESCs and use some of the revenue they get from that sale to offer either rebates or discounted products to their customers.

Why do I have to nominate an ACP?

The original energy saver must nominate an ACP to be the energy saver for the purposes of implementing the upgrade and creating ESCs. A nomination cannot be made more than once for the same upgrade and it must be made before the equipment is installed.

All equipment must be installed by the ACP or their representative. This is to ensure that licensed and trained technicians install the equipment correctly and safely.

Why can't I keep my old equipment?

Removed or replaced equipment cannot be reused, resold or refurbished and must be appropriately disposed of by ACPs. This is to ensure that the old energy inefficient equipment is not used somewhere else after it is removed or replaced with new equipment.

How do I make a complaint?

As a consumer, you should take all due care to ensure that the upgrade being done at your property meets your needs. You should approach working with an ACP as you would approach working with any other contractor who has access to your property.

If you are not happy with the quality of work, or require more information, speak to your ACP. If you are unhappy with their response, or are concerned that the ACP or its representative has not complied with the requirements of the ESS, you can contact the ESS team by email at ESS_Compliance@ipart.nsw.gov.au.

Also, NSW Fair Trading advises business and traders on fair and ethical practice. They investigate unfair practices and ensure that the products sold in NSW are safe and meet their regulations and safety standards. More information about your rights as a consumer and how you can make a complaint is available on their website: www.fairtrading.nsw.gov.au.

How long will this program be in operation?

The ESS is currently legislated to finish in 2025. It is the decision of individual ACPs whether they continue their programs while the ESS is in operation.