



ATTACHMENT A

**VICTORIAN ENERGY EFFICIENCY
TARGET GUIDELINES**

JUNE 2016 <MONTH> 2018

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1 BACKGROUND

1.1 Purpose and authority

These Guidelines are the 'ESC guidelines' referred to in the *Victorian Energy Efficiency Target Act 2007* (the **Act**).

The **Commission** is responsible for the general administration of the **Act** and the VEET scheme for which the **Act** provides. Section 74 of the **Act** authorises the **Commission** to issue Guidelines relating to any matter required or permitted by the **Act** to be provided for by the Guidelines.

1.2 Scope of guidelines

The **Act** requires or permits the Guidelines to provide for the following matters:

- the accreditation of a person;
- the creation, form and transfer of a certificate;
- the manner in which a prescribed activity is to be undertaken;
- the manner and form in which rights to create certificates may be assigned;
- the form of, and the information to be included in, an **energy acquisition statement**;
- the auditing by the **Commission** of the creation of certificates by an **accredited person**;
- the auditing of an **energy acquisition statement** by a third party engaged by a **relevant entity**;
- the records to be kept by an **accredited person** or a **relevant entity**;
- the information to be contained in the register of **accredited persons** and the register of energy efficiency certificates; and
- any other matter that the **Commission** considers is relevant to its functions under the **Act**.

These Guidelines include clauses concerning the **register of products, project-based activities** and the manner in which certain activities are undertaken, including compliance with training requirements.

1.3 Interpretation

In these Guidelines:

- headings and footnotes are for convenience only and do not affect the interpretation of these Guidelines;
- words importing the singular include the plural and vice versa;
- words importing a gender include any gender;

- words importing a natural person include a company or other body corporate, partnership, trust, joint venture, association and governmental agency;
- a reference to any statute includes all regulations, proclamations, orders in council, ordinances, by-laws, declarations and determinations made under that statute; and
- a reference to any legislation or to any other document is to that legislation or document as amended, consolidated, restated or re-enacted.

1.4 Legislative objectives

The objects of the **Act**, as set out in section 4, are to:

- reduce greenhouse gas emissions;
- encourage the efficient use of electricity and gas; and
- encourage investment, employment and technology development in industries that supply goods and services which reduce the use of electricity and gas by consumers.

1.5 Commencement date

These Guidelines originally commenced on 1 January 2009. This amendment commenced on [<DATE> 2018](#).

~~1.6~~ **Review of Guidelines**

~~These Guidelines were last revised on 25 May 2016 <DATE> 2017 and are subject to review by the Commission from time to time.~~

~~1.7~~ **1.6 Priority of Act, and Regulations and Guidelines**

Except as specifically provided in the **Act** or **Regulations**, nothing in these Guidelines affects the interpretation of the **Act** or **Regulations**. If there is any inconsistency between these Guidelines and a provision of the **Act** or **Regulations**, the relevant provision of the **Act** or **Regulations** will prevail to the extent of that inconsistency. [These Guidelines should be read in conjunction with the Act and Regulations.](#)

Comment [A1]: This clause has been removed. It has been replaced by a version control table which has been added at the start of the document along with a footer clearly stating the version. The intention of the change is to make it easier to distinguish between guideline versions.

2 DEFINITIONS

Comment [A2]: The Definitions clause has been amended to add terms to the Guidelines relevant to the introduction of the *Victorian Energy Efficiency Target (Project –based Activities) Regulations 2017* (PBA Regulations).

Terms defined in the **Act** and the **Regulations** have the same meaning when used in these Guidelines irrespective of whether they appear in bold and italics. Terms shown in ***bold and italics*** in these Guidelines have the meanings shown opposite them below.

accredited person

A person accredited under Part 3 of the *Victorian Energy Efficiency Target Act 2007* (Vic).

Act

Victorian Energy Efficiency Target Act 2007 (Vic).

[approved measurement and verification professional](#)

[A person who is approved as a measurement and verification professional under regulation 17 of the PBA regulations.](#)

[approved project plan](#)

[A project plan that is approved under regulation 7 of the PBA regulations.](#)

audit deed

A tripartite audit deed between a ***relevant entity***, its approved auditor and the ***Commission*** for the purposes of clause 14 of these Guidelines, in the form published by the ***Commission*** for the VEET scheme or otherwise in a form satisfactory to the ***Commission***.

authorised signatory

A person who is authorised, or appears to be *authorised*, by the ***consumer*** to assign the right to create certificates on behalf of the ***consumer***.

Australian Skills Quality Authority

The national regulator for Australia's vocational education and training sector established pursuant to the *National Vocational Education and Training Regulator Act 2011* (Cth), or such successor body or authority established from time to time.

authorised user	A person designated by the holder of a VEET account to access and transact on that account on the holder's behalf.
Commission	The Essential Services Commission established under section 7 of the <i>Essential Services Commission Act 2001</i> (Vic).
consumer	The consumer of electricity or gas in respect of whom the prescribed activity is undertaken or, the owner of a premises in the circumstances set out in section 16(2)(a) or (b) of the <i>Victorian Energy Efficiency Target Act 2007 (Vic) Act</i> , or, in the circumstances set out in section 16(2A) of the <i>Victorian Energy Efficiency Target Act 2007 (Vic) Act</i> , the person responsible for payment of the electricity or gas supplied for public lighting purposes.
<u>Policy</u>	<u>Victorian Energy Efficiency Target scheme compliance and enforcement policy</u>
<u>ESC</u>	<u>Essential Services Commission</u>
<u>project impact report</u>	<u>A project impact report made under regulation 11 of the PBA regulations.</u>
<u>PBA regulations</u>	<u>Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017.</u>
<u>Principal regulations</u>	<u>Victorian Energy Efficiency Target Regulations 2008.</u>
<u>project plan</u>	<u>A project plan made under regulation 7 of the PBA regulations.</u>

Comment [A3]: The definition of ESC is for practical purposes the same as the definition of Commission (i.e: Essential Services Commission established under section 7 of the *Essential Services Commission Act 2001* (Vic)) and in staff's view provides no assistance to a person reading the guidelines. To provide clarity for the reader, the term 'ESC' has been removed and replaced with the terms 'Commission' where referring to the Commission and 'Commission staff' when referring to staff.

<u>register of approved measurement and verification professionals</u>	The register created under regulation 17 of the <u>PBA regulations</u> listing <u>approved measurement and verification professionals</u>
<u>register of approved project plans</u>	The register created under regulation 16 of the <u>PBA regulations</u> listing <u>approved project plans</u>
register of products	The list of approved products and devices to be maintained by the Commission as described in clause 5 of these Guidelines.
Regulations	Victorian Energy Efficiency Target Regulations 2008 (Vic) <u>Principal regulations and PBA regulations</u>
relevant entity	A person defined as a relevant entity under section 3 of the <i>Victorian Energy Efficiency Target Act 2007</i> (Vic).
relevant fee	In respect of an application, notification or registration, the relevant fee (if any) published by the Minister under section 73 of the <i>Victorian Energy Efficiency Target Act 2007</i> (Vic). The Commission will maintain a list of current relevant fees on its website.
<u>scoping approval</u>	A scoping made under regulation 6 of the <u>PBA regulations</u> .
<u>Secretary</u>	<u>Secretary to the Department of Environment, Land, Water and Planning</u>
shortfall statement	A statement issued by the Commission to a relevant entity in accordance with section 36 of the <i>Victorian Energy Efficiency Target Act 2007</i> (Vic) <u>Act</u> .

Comment [A4]: The current Guidelines just refer to the regulations meaning the *Victorian Energy Efficiency Target Regulations 2008*. 'Regulations' have been updated in this Guidelines to include both the PBA regulations and the *Victorian Energy Efficiency Target Regulations 2008* (Principal regulations).

VEEC

A Victorian energy efficiency certificate created in accordance with the [Act and Regulations](#) *Victorian Energy Efficiency Target Act 2007 (Vic)* and *Victorian Energy Efficiency Target Regulations 2008 (Vic)*.

VEET account

An account established under clause 3 of these Guidelines in which certificates must be held.

VEET registry

The registry established by the **Commission** for the purposes of the VEET scheme.

VEET website

The website established by the **Commission** for the purposes of the VEET scheme (www.veet.vic.gov.au).

Victorian Registration and Qualifications Authority

The statutory authority established under Chapter 4 of the *Education and Training Reform Act 2006 (Vic)* to be responsible for ensuring that employers, apprentices, trainees and providers of education and training (including course and qualification owners) meet quality standards, and that information is readily available to support informed choice in education and training.

3 ESTABLISHMENT OF VEET ACCOUNTS

Act reference: section 74(2)(i).

Applies to: **accredited persons**, relevant entities, persons trading certificates.

The **Act** requires energy efficiency certificates to be created in electronic form. In order to establish registry systems, implement appropriate security measures and generally administer the VEET scheme, the **Commission** requires a person to hold a **VEET account** as a prerequisite to accreditation, and to the creation, transfer and surrender of certificates. This clause 3 sets out the requirements for the establishment and maintenance of **VEET accounts**.

3.1 Requirement for account

A person must hold a valid **VEET account** in order to:

- become an **accredited person**;
- create a certificate;
- become the registered owner of a certificate; or
- transfer or surrender a certificate.

3.2 Account application

An application for a **VEET account** must be made on the designated form published by the **Commission** on its **VEET website**. All sections of the form must be completed.

3.3 Use of account and VEET registry

A **VEET account** holder must (and must ensure that its **authorised users** will) use the **VEET account** and the **VEET registry** only in accordance with, and for the purposes permitted by, these Guidelines and any terms and conditions of use published by the **Commission** from time to time.

3.4 Information in English

All information supplied to the **Commission** must be in English, or accompanied by a certified translation if the original is in a language other than English.

4 ACCREDITATION OF PERSONS

Act reference: sections 9 and 10.

Applies to: **accredited persons**.

A person must be accredited by the **Commission** before creating certificates. The process for application is provided for in sections 9 to 12 of the **Act**. In particular, section 9(2) requires applicants for accreditation to provide information which the **Commission** considers necessary for the purposes of the VEET scheme, and documents which the **Commission** considers necessary for the purposes of deciding whether to approve the application. Under section 10 of the **Act**, the **Commission** may also require consents or undertakings for the purposes of ensuring that double benefits are not obtained under both the VEET scheme and any other scheme prescribed by the [Principal regulations](#).

This clause 4 describes what the **Commission** will generally require from applicants for accreditation.

4.1 Accreditation application

4.1.1 Submission of application

An application for accreditation must be made by a **VEET account** holder by using the electronic form designated by the **Commission** on its **VEET website**, and in accordance with any explanatory notes issued by the **Commission**.

All sections of the electronic form must be completed unless otherwise indicated on the form. The completed form must be submitted via the online accreditation function designated by the **Commission** on ~~its~~ [the VEET website](#), together with:

- the additional information and documents indicated on the electronic form or in an explanatory note issued by the **Commission**; and
- the form of consent and the applicable forms of undertaking referred to in clause 4.2.

The applicant must pay the **relevant fee** in the manner specified on the electronic application form or any explanatory notes issued by the **Commission**. The application is taken to have been received by the **Commission** on the date the **Commission** received the electronic submission together with all additional information and forms and the **relevant fee**.

4.1.2 Assessment of application

[The ESG Commission staff](#) will make an initial assessment of the information and documents provided to it in accordance with the requirements under section 9 of the **Act**.

Where, on the basis of the information and documents provided, the [ESC Commission](#) considers that the application is inadequate the **Commission** may exercise its discretion to:

- refuse the application; or
- request the applicant to provide additional information and documents.

If the [ESC Commission](#) exercises its discretion to request additional information or documents, it will specify a timeframe within which the applicant is to provide the additional information or documents.

If the [ESC Commission](#) does not receive the additional information or documents within the set timeframe, and has not agreed to an extension of the period, then the **Commission** will determine the application based on the information provided to it on expiry of the relevant timeframe.

4.2 Forms of consent or undertaking – prescribed greenhouse gas schemes

The **Commission** requires applicants for accreditation to provide the undertakings referred to in clauses 4.2.2 and 4.2.3, and if applicable, the consent referred to in clause 4.2.1, to cover any scheme which is or may in future be prescribed in the [Principal regulations](#) as a greenhouse gas scheme for the purposes of the **Act**.

4.2.1 Consent under section 10(1) of the Act

If an applicant for accreditation is a participant in a prescribed greenhouse gas scheme set out in the [Principal regulations](#), that applicant must submit a signed consent, in the designated form published by the **Commission** on the **VEET website** and addressed to the administrator of that scheme, authorising the disclosure of information relating to the applicant by that administrator to the **Commission**.

4.2.2 Undertaking under section 10(2) of the Act

All applicants for accreditation must give the **Commission** a signed undertaking, in the designated form published by the **Commission** on ~~the its~~ **VEET website**, not to claim any benefit under a prescribed greenhouse gas scheme (whether current or future) if that would result in a benefit being obtained under both that scheme and the VEET scheme in respect of the same activity.

4.2.3 Undertaking in relation to future scheme participation

All applicants for accreditation must give the **Commission** a signed undertaking, in the designated form published by the **Commission** on ~~the its~~ **VEET website**, to provide the **Commission** with the form of consent referred to in clause 4.2.1, promptly upon:

- becoming a participant in any prescribed greenhouse gas scheme; or
- a greenhouse gas scheme in which the applicant is a participant becoming prescribed by the [Principal regulations](#).

4.3 Insurance

As a condition of accreditation, an **accredited person** must:

- maintain, or ensure that persons undertaking prescribed activities on its behalf maintain, insurance of the applicable type and minimum level of cover specified by the **Commission** on its **VEET website**; and
- submit a certificate of currency of such insurance to the **Commission** at intervals of not less than 12 months and within 7 days after each renewal, reissue or change of a relevant policy-

except in circumstances where the **Commission** does not require the **accredited person** to do so. Those circumstances will be contained in explanatory notes issued by the **Commission**.

A person who is an **accredited person** on the relevant date or who has applied for accreditation before the relevant date and whose application has not been decided by that date must, within 3 months of the relevant date, submit to the **Commission** a certificate of currency of insurance of the applicable type and minimum level of cover specified by the **Commission** on the ~~its~~ **VEET website**.

In this clause, the **relevant date** is the date on which the **Commission** specifies a type and minimum level of cover of insurance on its ~~the~~ **VEET website** for the purposes of this clause 4.3.

4.4 Accredited Persons and approval of activities

Prior to carrying out an activity under the **Act** and **Regulations**, an **accredited person** must apply to the **Commission** for approval for that activity. As part of submitting an application for accreditation, an accredited person must nominate one or more activities which they intend to carry out under the VEET scheme. In approving the **accredited persons'** application for accreditation, the **Commission** also approves the **accredited person** to undertake the activities as specified in the submitted accreditation application form.

An **accredited person** can make an application at any time for approval of activities in addition to those already approved.

An application for approval to carry out an activity in addition to those already approved must be made using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the electronic form must be completed unless indicated on the form. The completed form must be submitted via the online submission function on the **VEET website**, together with any additional information and documents indicated on the electronic form or in any explanatory notes issued by the **Commission**. The **Commission** may require the **accredited person** to provide further information in relation to the application.

After receiving an application for approval to carry out an activity, the **Commission** will decide whether to grant or refuse the application.

Comment [A5]: This amendment has been made because insurance is not required for an accredited person for project-based activities in limited circumstances. For example, if a site owner becomes an accredited person and then obtains approval to carry out a project-based activity on their own site, they may not be required to take out insurance.

Comment [A6]: Commission staff approve accredited persons to carry out activities under the Act and Regulations. This can be done as part of the accreditation process or subsequent to the accreditation process. This is done to ensure an accredited person has both the processes and skills to competently and safely carry out a particular activity given the safety and procedural requirements for activities under the scheme can vary greatly. As part of the introduction of project-based activities, this clause has been added to make this process clear in the Guidelines.

As soon as practicable after granting or refusing an application to carry out an activity, **Commission** staff will notify the **accredited person** in writing of the decision.

4.44.5 Cancellation of accreditation

An **accredited person** may request the **Commission** to cancel that person's accreditation.

Such a request must be made by written notice to the **Commission**.

If the **Commission** decides to cancel that person's accreditation, the cancellation takes effect:

- when the **Commission** notifies the person in writing; or
- on a date mutually agreed upon by the **Commission** and the **accredited person**.

5 COMMISSION REGISTERS REGISTER OF PRODUCTS

Comment [A7]: The PBA regulations require the Commission to maintain a register of project plans and the register of approved M&V professionals. This chapter has been amended to include information for stakeholders on those registers.

Act reference: section [4575](#)
Applies to: **accredited persons**.

~~Prescribed activities are determined by the Regulations, which include the requirement that the Commission is required by the Act and Regulations to establish, maintain and publish a number of registers. –The registers required include the register of products, register of approved project plans and register of approved measurement and verification professionals. Register of products that may be installed under a prescribed activity and in respect of which a certificate may be created. This clause 5 sets out provides information in relation to these registers and any applicable requirements for this register of products.~~

5.1 ~~Commission's role in relation to prescribed activities and the Register of products~~

One of the **Commission's** roles in relation to prescribed activities is to ~~perform the functions specified in the Regulations, including assess applications for approval of products for use in the VEET scheme and to establish, maintain and publish the maintenance of a list a register~~ of efficient products and devices for the purposes of certain prescribed activities (the **register of products**).

Comment [A8]: The language in the register of product section has been simplified so as to be consistent with the new sections in relation to the register of project plans and the register of approved M&V professionals.

5.1.1 Application for approval of products

An application for approval of a product must be made by a **VEET account** holder using the electronic form designated by the **Commission** on ~~its the VEET website~~, and in accordance with any explanatory notes issued by the **Commission**.

All sections of the electronic form must be completed unless otherwise indicated on the form. The completed form must be submitted via the online product approval function designated by the **Commission** on ~~its the VEET website~~, together with any additional information and documentation indicated on the electronic form or in any explanatory note issued by the **Commission**. The Commission may require the applicant to provide further information in relation to the application.

5.1.2 Meeting standards set by the **ESC Commission**

Where provided by the **Principal regulations** and if indicated in the **register of products**, the **ESC Commission** may specify requirements that are to apply to certain products, with these requirements to be included on the **VEET website** and in explanatory notes issued by the **Commission**.

5.1.3 Rejection of a product application

Should the **register of products** criteria as set out in the **Principal regulations** and any explanatory notes issued by the **Commission** not be met by an application submitted by a **VEET account** holder, the **Commission** may reject such an application.

5.1.4 Requests to modify the ESC register of products

Any person may submit a request in writing to the **Commission** to modify the **register of products** by adding, removing or amending the description of a product. The request must specify:

- the nature of the modification requested;
- the prescribed activity category and the name and any applicable brand or model number of the product;
- for the addition of a product, a description of how that product or device is consistent with the minimum standards and requirements for that activity set out in the **Principal regulations**;
- for the removal of a product, the reasons for requesting its removal;
- for an amendment to the description of a product, a description of the proposed amendment and the reasons for requesting it;
- the nature of the requesting person's interest in the product; and
- any other information or supporting evidence that the requesting person considers relevant.

5.1.5 Amendments to the register of products

The **Commission** may, at its discretion: ~~decide to~~

- modify the register of products
- suspend a product from the register of products
- remove a product from the register of products if satisfied that the modification is consistent with the objects of the Act and requirements of regulations the Regulations and the objects of the Act.

5.2 Register of approved project plans (project-based activities)

The **PBA regulations** require the **Commission** to approve project plans as well as to maintain and publish a register of approved project plans.

5.2.1 Information to be contained in the register of approved project plans

The register of approved project plans will contain the following information:

- the name of each project that has received project plan approval;
- the name of each accredited person for each project;
- the location of each project;

Comment [A9]: This clause has been amended to reflect the Commission's power to suspend or remove a potentially unsafe product from the register.

Comment [A10]: The PBA regulations require the Commission to maintain a register of approved project plans. This clause has been added to provide guidance as to what should be contained in the register.

- the method or methods intended to be used to calculate the reduction in greenhouse gases;
- the date which the project plan application was received by the **Commission**;
- the date which the project plan was approved by the **Commission**;
- the date which the project plan was relinquished by the **accredited person** (if applicable);
- the date which the project plan was cancelled by the **Commission** (if applicable); and
- any other information the **Commission** considers appropriate.

The **Commission** must update the **register of approved project plans** where:

- it has approved a variation to an **approved project plan**
- it has cancelled an **approved project plan**
- an **approved project plan** has been relinquished.

5.3 Register of approved measurement and verification professionals

The **PBA regulations** require the **Commission** to approve a person to become **measurement and verification professional** for the purposes of project-based activities as well as maintain and publish a **register of approved measurement and verification professionals**.

5.3.1 Application to become an approved measurement and verification professional

The **Commission** requires persons wanting to become an **approved measurement and verification professional** to meet the experience and professional competency requirements referred to in clause 5.3.2 of the Guidelines. The **Commission** also requires an undertaking from the applicant to avoid conflicts as set out in **PBA Regulation 17**.

An application to become an **approved measurement and verification professional** must be made by a person using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the electronic form must be completed unless otherwise indicated on the form. The completed form must be submitted via the online submission function on the **VEET website**, together with any additional information and documentation indicated on the form or in any explanatory note issued by the **Commission**. The **Commission** may require the applicant to provide further information in relation to the application.

The application must be accompanied by any relevant fixed fee.

After receiving an application for approval to become an **approved measurement and verification professional**, the **Commission** will decide whether to grant or refuse the application.

Comment [A11]: The PBA regulations require a person to apply to the Commission to become a measurement and verification (M&V) professional. The Commission must approve or reject an application and maintain a register of approved M&V professionals. This clause has been added to provide information to M&V professionals on the application process. It also lists the information to be contained in the register.

As soon as practicable after granting or refusing an application to become an approved measurement and verification professional, *Commission* staff will notify the applicant in writing of the *Commission's* decision.

5.3.2 Measurement and verification experience and professional competency requirements

The *PBA regulations* allow the *Commission* to specify the experience and professional competency requirements that need to be met by persons wanting to become an approved measurement and verification professional. These requirements include the person:

- being certified by the Association of Energy Engineers as a Certified Measurement and Verification Professional;
- demonstrating an understanding of best practice measurement and verification techniques;
- demonstrating an understanding of how end-use equipment converts energy into end-use services;
- demonstrating an understanding of how end-use equipment is affected by independent variables;
- demonstrating the ability to perform either 'regression analysis' or 'estimate of the mean analysis'; and
- demonstrating the ability to provide an independent opinion on the validity of energy models as set out in the Secretary's specifications.

5.3.3 Form of undertaking – application to become an approved measurement and verification professional

The *PBA regulations* require all persons applying to become an approved measurement and verification professional to give the *Commission* a signed undertaking stating the applicant will avoid conflicts.

The undertaking is to be in the form published by the *Commission* on the *VEET website*. It requires the applicant to avoid conflicts and to promptly report any conflicts of interest or potential conflicts of interest (real or perceived) to the *Commission*.

5.3.4 Information to be contained in the register of approved measurement and verification professionals

The *PBA regulations* require the *Commission* to publish and maintain a register of approved measurement and verification professionals. The register of approved measurement and verification professionals will contain the following information:

- the name of the approved person;
- the contact details of the approved person;
- the type of certification(s) and/or standard accreditation(s) that the approved person holds;
- the end-use equipment that the approved person has a nominated understanding of;

Comment [A12]: The PBA Regulations do not specify what is to be contained in the register of approved M&V professionals. This clause has been added to list the information which is to be published in the register.

- the energy model(s) that the approved person is approved for;
- the date of approval of measurement and verification professional application; and
- any other information the *Commission* considers appropriate.

5.3.5 Removal of a person from the register of approved measurement and verification professionals

As set out in the *PBA regulations*, the *Commission* may remove a person from the **register of approved measurement and verification professionals** under the following circumstances:

- the person's certification by the Association of Energy Engineers as a Certified Measurement and Verification Professional is suspended or has expired;
- the person no longer meets the experience or professional competency requirements outlined in clause 5.3.2 of the Guidelines;
- the person has breached the undertaking outlined in clause 5.3.3 of the Guidelines.

The *Commission* must give a person 28 days' notice in writing of its intention to remove them from the **register of approved measurement and verification professionals**. This notice must request reasons why the person should not be removed. The *Commission* will consider any reasons given before a decision is made to act on its intention to remove a person from the **register of approved measurement and verification professionals**.

6 PRESCRIBED ACTIVITIES

Act reference: sections 15 and 74(2)(c).
Applies to: **accredited persons**.

~~Prescribed activities are determined by the **Regulations**, but u~~Under section 74(2)(c) of the ~~**Act Act**~~, the Guidelines may provide for the manner in which prescribed activities are to be undertaken. This clause ~~6~~ sets out applicable requirements for certain prescribed activities.

6.1 Commission's role in relation to prescribed activities

The **Regulations** provide for a number of specified activities which reduce greenhouse gas emissions to be prescribed activities for the purposes of the VEET scheme. The **Regulations** may also specify when a prescribed activity is taken to have been undertaken, when a reduction in greenhouse gas is taken to have occurred, and the methodology used to calculate the number of certificates that may be created for a prescribed activity.

The **Commission's** role in relation to prescribed activities is to perform the functions specified in the **Regulations**, and where the **Commission** considers appropriate having regard to the **Regulations**, to provide for the manner in which prescribed activities must be undertaken in order for certificates to be created.

6.2 Prescribed activities - Compliance with legal obligations ~~Manner of undertaking certain prescribed activities~~

~~6.2.1 Compliance with legal obligations~~

In addition to the requirements, standards and specifications set out in the **Act** and **Regulations**, prescribed activities must be undertaken in accordance with all laws, regulations and codes of practice applicable to that activity. By way of example, and without limitation, these may include:

- Competition and Consumer Act 2010 (Cth);
- Occupational Health and Safety Act 2004 (Vic)
- Electricity Safety Act 1998 (Vic);
- Gas Safety Act 1997 (Vic);
- Building Act 1993 (Vic), including the mandatory standards in the Schedule to that Act;
- Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Cth);
- ~~Information~~ Privacy and Data Protection Act 2000~~14~~ (Vic);
- Building Code of Australia (as amended from time to time);

- Electricity Safety (Installations) Regulations 2009 (Vic);
- Electricity Safety (Equipment) Regulations 2009 (Vic);
- Gas Safety (Gas Installation) Regulations 2008 (Vic);
- Plumbing Regulations 2008 (Vic);
- Electricity Distribution Code (Vic); and
- Code of Practice for Safe Electrical Work (Vic).

6.3 Compliance with training requirements

From a date to be specified by the **Commission**, a prescribed activity must be undertaken by a person who meets any applicable training requirements specified by the **Commission** under clause 7.1.

6.4 Project-based activities

The Commission has the role of administering projects carried out under the **PBA regulations**.

6.4.1 Scoping approval

An application for scoping approval must be made by an **accredited person** using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the electronic form must be completed unless indicated on the form. The completed form must be submitted via the online submission function on the **VEET website**, together with any additional information and documentation indicated on the form or in any explanatory notes issued by the **Commission**. This includes any information required by the **PBA regulations**.

The application must be accompanied by any relevant fixed fee.

The **Commission** may require the **accredited person** to provide further information in relation to the application or facilitate an inspection of the premises where the project will be undertaken.

After receiving an application for scoping approval, the **Commission** may grant or refuse scoping approval as provided in Regulation 6(8) of the **PBA regulations**. The decision to grant or refuse a scoping approval must be made within 60 days of the application.

As soon as practicable after granting or refusing an application for scoping approval, **Commission** staff must notify the **accredited person** in writing of the **Commission's** decision.

An **accredited person** may apply to the **Commission** to vary a scoping plan for which they have received approval as outlined in clause 6.4.2 of the Guidelines.

Comment [A13]: Clauses under 6.4 have been added to provide information on how the Commission will administer project-based activities. The aim of clauses under 6.4 is to explain to accredited persons the various approval and variation processes in respect of project-based activities and the process for verifying the greenhouse gas savings achieved.

6.4.2 Scoping approval variations

An application to vary scoping approval the **Commission** has approved must be made by an **accredited person** using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the electronic form must be completed unless indicated on the form. The completed form must be submitted via the online submission function on the **VEET website**, together with any additional information and documentation indicated on the electronic form or in an explanatory note issued by the **Commission**.

The application must be accompanied by any relevant fixed fee.

The **Commission** may require the applicant to provide further information in relation to the application.

The **Commission** may approve an application to vary scoping approval if it is satisfied:

- the address of the premises where the project will be undertaken has not changed;
- the description of the activities to be undertaken as part of the project included in the scoping approval application has not substantially changed;
- the scope of the service or services has not expanded;
- the scope of the energy sources has not expanded; and
- the application has demonstrated that the applicant holds or can access the knowledge, skills or capacity to deliver the project described in the application.

As soon as practicable after granting or refusing an application to vary scoping approval, **Commission** staff must notify the **accredited person** in writing of the **Commission's** decision.

6.4.3 Project plan approval

An application for project plan approval must be made by an **accredited person** using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the application form must be completed unless indicated on the form. The completed form must be submitted via the online submission function on the **VEET website** together with any additional information and documentation indicated on the form or in any explanatory notes issued by the **Commission**. This includes any information required by the **PBA regulations**.

The application must be accompanied by any relevant fixed fee.

The **Commission** may require the **accredited person** to provide further information in relation to an application for project plan approval.

After receiving an application for project plan approval, the **Commission** may grant or refuse the project plan approval as provided in Regulation 7(5) of the **PBA regulations**. The decision to grant or refuse a project plan must be made within 180 days of the application.

As soon as practicable after granting or refusing an application for project plan approval, **Commission** staff must notify the **accredited person** in writing of the **Commission**'s decision. Once a project plan is approved, the **Commission** must update the **register of approved project plans**.

6.4.4 Project plan variations

An application to vary a project plan must be made by an **accredited person** using the electronic form designated by the **Commission** on the **VEET website**.

All sections of the electronic form must be completed unless indicated on the form. The completed form must be submitted via the online submission function on the **VEET website** together with information and documentation indicated on the electronic form or in any explanatory notes issued by the **Commission**.

The application must be accompanied by any relevant fixed fee.

The **Commission** may approve an application to vary a project plan if it is satisfied:

- the address of the premises where the project will be undertaken has not changed;
- the description of the activities to be undertaken as part of the project included in the scoping approval application has not substantially changed;
- the scope of the service or services has not expanded;
- the scope of the energy sources has not expanded; and
- the application has demonstrated that the applicant holds or can access the knowledge, skills or capacity to deliver the project described in the application.

As soon as practicable after granting or refusing an application to vary a project plan, the **Commission** must notify the **accredited person** in writing of the **Commission**'s decision.

VEECs should not be created for a project while the **Commission** is processing an application to vary the project plan approved in respect of the project. **VEECs** will not be registered until the **Commission** can determine the impact of the variation on the number of **VEECs** created.

6.4.5 Project plan relinquishment

A request to relinquish an **approved project plan** must be made in writing by an **accredited person** in respect of a project where the **accredited person** has received project plan approval. The request must be made in accordance with any explanatory note issued by the **Commission**. The **Commission** may require the **accredited person** to provide further information in relation to a request to relinquish an **approved project plan**.

As soon as practicable after granting or refusing a request to relinquish an **approved project plan**, **Commission** staff must notify the **accredited person** in writing of the **Commission**'s decision. The **Commission** must also update the **register of approved project plans**.

A project plan that has been relinquished cannot be varied.

6.4.6 Project plan cancellation

The **Commission** may cancel an approved project plan where it is satisfied there has been an unreasonable delay in work commencing to undertake the activities specified in the application for **project plan approval**.

The **Commission** must give the **accredited person** 28 days' notice in writing of its intention to cancel the **approved project plan**. This notice must request reasons why the **approved project plan** should not be cancelled. The **Commission** will consider any reasons given before a decision is made to act on its intention to cancel the **approved project plan**.

As soon as practicable after cancelling an **approved project plan**, **Commission** staff must notify the **accredited person** in writing of the **Commission's** decision. The **Commission** must also update the **register of approved project plans**.

A project plan that has been cancelled cannot be varied.

6.4.7 Project impact report approval

An application for approval of a project impact report may be made by an **accredited person** for a project where they have received a project plan approval.

The application must be made using the electronic form designated by the **Commission** on the **VEET website**. All sections of the electronic form must be completed unless indicated on the form.

The completed form must be submitted via the online submission function on the **VEET website** together with any additional information and documentation indicated on the form or in any explanatory notes issued by the **Commission**. This includes any information required by the **PBA regulations**.

The application must be accompanied by any relevant fixed fee.

Information to be supplied with the application for approval of a project impact report includes:

- a project impact report that complies with the **PBA regulations**
- if it is the initial application, the assignment form;
- a report from an **approved measurement and verification professional** (verification report) advising that the information contained in the project impact report complies with the **PBA regulations** and these guidelines;
- a declaration by the **approved measurement and verification professional** that they are independent from the accredited person and the project;
- evidence that any lighting equipment removed was decommissioned; and
- evidence that any lighting equipment installed was on the **register of products**.

The **Commission** may require the **accredited person** to provide further information in relation to the application or facilitate an inspection of the premises where the project will be undertaken.

After receiving an application for approval of a project impact report, the **Commission** may approve a project impact report if it is satisfied that, having regard to the verification report from an **approved measurement and verification professional**, the project impact report demonstrates a reasonably accurate and reliable estimate of greenhouse gas emission reduction.

As soon as practicable after approving or refusing a project impact report, **Commission** staff must notify the **accredited person** in writing of the **Commission's** decision.

An **accredited person** may only create **VEECs** for a project after the **Commission** has approved the project impact report. This application and approval process must be undertaken each time an **accredited person** wants to create **VEECs** for a project.

If the **Commission** believes on reasonable grounds that the **accredited person** has breached an undertaking to decommission equipment or failed to use the equipment listed on the **register of products** for a lighting upgrade, the **Commission** must issue a notice to the **accredited person** stating the nature of the breach. The **Commission** must not approve a project impact report for a project if such a notice has been issued.

7 SAFETY AND TRAINING

Act reference: section 74(2)(c).
Applies to: **accredited persons**.

Prescribed activities are determined by the **Regulations**, but under section 74(2)(c) of the **Act**, the Guidelines may provide for the manner in which prescribed activities are to be undertaken. This clause 7 sets out applicable requirements for certain prescribed activities.

7.1 Commission to specify units of competency

The **Commission** may specify that certain units of competency provided by registered training organisations accredited by the **Australian Skills Quality Authority** or the **Victorian Registration and Qualifications Authority** are required for safety reasons by persons undertaking certain prescribed activities.

Prior to specifying a unit of competency, the **Commission** will consult on the proposal and on the lead time required by industry to implement the proposal if it proceeds.

Details of units of competency specified under this clause will be provided to all **accredited persons** and published on the **Commission's VEET website**. Unless otherwise stated, each unit of competency is taken to be specified for the purposes of this clause on the date it is published on the **Commission's VEET website**.

7.2 Compliance with training requirements

When undertaking a prescribed activity, an **accredited person** must:

- ensure that all individuals undertaking relevant prescribed activities for or on behalf of the **accredited person**, have been assessed as competent in all the applicable units of competency specified by the **Commission** under clause 7.1; and
- on request by the **Commission**, supply evidence that all relevant individuals have achieved competency in those units.

A person who is an **accredited person** on the relevant date or who has applied for accreditation before the relevant date and whose application has not been decided by that date must, within 3 months of the relevant date, supply evidence that its business systems provide for the applicable training to be completed by all individuals undertaking relevant prescribed activities for or on behalf of that person.

In this clause, the **relevant date** is the date on which the **Commission** specifies units of competency under this clause that are relevant to prescribed activities undertaken, or to be undertaken, by individuals for or on behalf of an **accredited person**.

8 ASSIGNMENT OF RIGHTS TO CREATE CERTIFICATES

Act reference: section 16.

Applies to: **accredited persons**, **consumers**, authorised signatories

Where a prescribed activity is undertaken, section 16(1)(b) of the **Act** contemplates that the **consumer** may assign the right to create certificates for that prescribed activity. In some situations the **consumer** of gas or electricity may not be available to assign the right to create certificates. In this situation, a person authorised, or who appears to be authorised, by the **consumer** may assign the right to create certificates on behalf of the **consumer**. In either situation, section 16(3) of the **Act** requires an assignment of such rights to be made by written notice or for activities prescribed for the purposes of section 16(3)(a)(ii) of the **Act**, in a manner prescribed in the **Regulations**. In either case, the assignment must occur in the manner and form specified by these Guidelines. This clause 8 sets out those requirements.

8.1 Parties to the assignment

Rights to create certificates can only be assigned by the **consumer** or **authorised signatory** in respect of the prescribed activity to an **accredited person**.

8.2 What may be assigned?

The rights to create all of the certificates attributable to a prescribed activity must be assigned to the same **accredited person** (the assignee).

A single form of assignment may relate to more than one prescribed activity.

8.3 Time of assignment

An assignment:

- may be made at any time up to and including the latest date for creation of certificates in respect of the relevant prescribed activity under the **Act**, but
- must not take effect before the prescribed activity has been undertaken in accordance with the **Regulations**.

8.4 Manner and form of assignment

For the purposes of section 16(3) of the **Act**, each assignment of a right to create certificates in respect of a prescribed activity must be made:

- in writing;

- electronically; or
- orally in the case of the prescribed activity set out in regulation 6(1)(o) being refrigerator or freezer destruction, when undertaken in the residential sector, and where written assignment cannot reasonably be obtained.

The assignee must comply with the requirements in clause 8.5 for electronic assignment, 8.6 for assignments in writing and clause 8.7 for oral assignments.

8.5 Completion of electronic assignment form

Each electronic assignment must be made in a form containing the mandatory information and fields designated by the **Commission** and published on the **VEET website**.

Compliance with these requirements can be met using the appropriate electronic communication and storage methods set out in the *Electronic Transactions Act 2000* (Vic).

8.6 Completion of written assignment form

Each written assignment must be made on a form containing the mandatory information and fields designated by the **Commission** and published on its **VEET website**. The **Commission** may designate separate mandatory information and fields relating to different categories of prescribed activity.

8.7 Completion of oral assignment form

In the case of the prescribed activity set out in regulation 6(1)(o) being refrigerator or freezer destruction undertaken in the residential sector, the assignee must:

- obtain confirmation from the **consumer** or **authorised signatory** that the **consumer** is the tenant, landlord or owner of the premises from which the appliance is removed, and that the appliance is in working order and was manufactured before 1996;
- clearly explain the following to the **consumer** or **authorised signatory**:
 - the mandatory information required to be given to the **consumer** as set out in the assignment form for the prescribed activity published in the **Commission's VEET website**;
 - the assignee will destroy the appliance in accordance with the requirements of the *Victorian Energy Efficiency Target Act 2007* (Vic);
 - the **consumer** is assigning to the assignee its right to create Victorian energy efficiency certificates for that activity;
 - information relating to this activity will be disclosed to the **Commission** for the purpose of creating certificates and for related verification, audit and scheme monitoring purposes; and
 - penalties can be applied for providing misleading information under the *Victorian Energy Efficiency Target Act 2007* (Vic);

- (c) obtain the **consumer** or **authorised signatory**'s verbal consent to the assignment of the right to create certificates; and
- (d) ensure that all relevant sections of the applicable assignment form are completed and that the form is signed by the assignee or its agent.

8.8 Consumer to receive a copy of assignment form or similar document

The **consumer** or **authorised signatory** must be provided with a copy of the assignment form or another document that shows:

- the assignment date;
- specific details of the quantity and type of goods and services provided at the premises;
- the type and amount of benefit provided in exchange for the assignment of a right to create certificates in respect of the prescribed activity;
- the name of the **accredited person**;
- the name of the individual undertaking the activity; and
- (if different from the **accredited person**) the organisation the individual works for.

The assignment form copy or other document must be given to the **consumer** or **authorised signatory**:

- in the case of written assignment, at the time of signing the assignment form;
- in the case of electronic assignment, within ten business days after the date of assignment; or
- in the case of oral assignment, within ten business days after the date of assignment.

8.9 Records to be retained by the assignee

An assignee must maintain [for six years after the date of the assignment in the case of an activity carried out under the **Principal regulations** or six years after the final certificate has been registered for the activity in the case of an activity carried out under the **PBA regulations**](#):

- if assignment is in writing, a copy of the completed form of assignment signed by the **consumer** or **authorised signatory** and assignee; or
- if assignment is oral, a copy of the completed form of assignment signed by the assignee and any other document sent to the **consumer** or **authorised signatory** under clause 8.8; or
- if assignment is in electronic form, an electronic copy of the completed form of assignment with evidence of agreement on behalf of the **consumer** or **authorised signatory**; and
- evidence of the benefit provided to the **consumer**.

Comment [A14]: This clause has been amended to ensure accredited persons understand their assignment form retention obligations under the PBA regulations.

~~for inspection and audit by the Commission on request, for a period of six years after the date of assignment.~~

8.10 Consumer personal information to comply with the Information Privacy Principles

The assignee must ensure that the collection, storage and use of all **personal information** collected in an assignment form or otherwise about the **consumer, authorised signatory** or any other individual (such as an installer) complies with the Information Privacy Principles (IPPs) contained in the [Information Privacy Act 2000-Privacy and Data Protection Act 2014](#) and where applicable, the [Privacy Act 1988 \(Cth\)](#).

The IPPs and information about how to comply with them can be found at <http://www.privacy.vic.gov.au>.

9. CREATION AND REGISTRATION OF CERTIFICATES

Act reference: sections 21 and 22.

Applies to: **accredited persons**.

A certificate may be created by an **accredited person** in respect of a prescribed activity, subject to and in accordance with sections 16 to 20 of the **Act**. Sections 21 and 22 provide for the form and content of certificates and the registration of certificates by the **Commission**. This clause 9 specifies the electronic form for creating certificates for the purposes of section 21(1) of the **Act**, the manner of notification and additional information for the purposes of determining whether the certificate has been properly created and is eligible for registration.

9.1 Form for creation of certificates

An **accredited person** may only create certificates using the electronic form designated by the **Commission** on the **VEET website**, and in accordance with any explanatory notes issued by the **Commission**.

9.2 Creation of Certificates

An **accredited person** is taken to have created a certificate when that person has complied with the creation requirements of the **Act** and **Regulations**.

Submission of creation information in the specified form must occur via the online creation function designated by the **Commission** on its **VEET website**.

9.3 Notification of Creation

For the purposes of section 22(2) of the **Act** an **accredited person** is taken to have notified the **Commission** that it has created a certificate when that person submits the required creation information in the form specified by clause 9 above.

9.4 Payment of fee

The **accredited person** must remit the **relevant fee** for registration of each certificate as required by the **Commission**. Subject to clause 9.6 of these Guidelines, the **Commission** will not register certificates unless the **relevant fee** is paid.

9.5 Unique identification code

The **Commission** will allocate a unique identification code for each certificate.

9.6 Further information

In some circumstances, the **Commission** may request the **accredited person** to provide additional information after a certificate has been created, in order to decide whether the certificate is eligible for registration and has been properly created. Any information requested must be provided within ten business days unless otherwise agreed between the **Commission** and the **accredited person**. The **Commission** may decide not to register the relevant certificate if that information is not provided.

9.7 Reduction, waiver or refund of creation fee

In exceptional circumstances, the **Commission** may consider reducing, waiving or refunding, in whole or in part, the fee for the creation of a certificate under the **Act**, where:

- the certificate was created to make good a registered certificate which was not eligible for registration or was improperly created; and
- the reason that the original certificate was ineligible or improperly created was outside the control of the **accredited person**.

10 TRANSFER OF CERTIFICATES

Act reference: section 24.

Applies to: **accredited persons**, relevant entities, persons trading certificates.

Certificates may be transferred to any person under section 24 of the **Act**. The form and terms of the transfer agreement itself are commercial matters for the parties. The **Commission** is obliged under the **Act** to register transfers that are notified in the manner specified in these Guidelines. This clause 10 sets out the requirements for transfer notifications for the purposes of section 24(3) of the **Act**.

10.1 Transfer requirements

Certificates may be transferred by the owner of those certificates to any person. However, the **Commission** will not register a transfer of certificates unless:

- both the transferor and the transferee hold a **VEET account**,
- the transferor is the current registered owner of the certificates; and
- the transferor has complied with the requirements in clause 10.2.

10.2 Electronic notification of transfer

In order to notify the **Commission** of a transfer of a certificate, the following steps must be completed:

- the transferor must submit a completed transfer offer using the electronic form designated for those purposes by the **Commission** on the **VEET website**; and
- the transferor must complete any additional verification requests made by the **Commission**.

A single transfer offer may be used in respect of the transfer of any number of certificates in a single transaction on the same date and between the same transferor and transferee.

11 SURRENDER OF CERTIFICATES

Act reference: section 25, 33, 38 to 40.

Applies to: **accredited persons**, relevant entities, persons trading certificates.

A certificate owner may surrender a certificate at the same time giving the **Commission** reasons in writing for the surrender (known as voluntary surrender).

Before 30 April each year, relevant entities must surrender registered **VEECs** equal to their VEET scheme liability for the previous calendar year (known as obligatory surrender).

In separate circumstances, the **ESC-Commission** may require an **accredited person** or other person to surrender **VEECs** equal to the number of certificates which are found to be improperly created, or created in breach of a person's obligations under the **Act** or **Regulations**. This is known as mandatory surrender.

This clause 11 describes the notification to be given to the **Commission**.

11.1 Notification of surrender

The registered owner of a certificate may surrender that certificate by:

- completing a surrender application using the online surrender function designated for those purposes by the **Commission** on its **VEET website**; and
- completing any additional verification requests made by the **Commission**.

A single surrender application may be submitted for the surrender of any number of certificates.

11.2 Voluntary surrender

A certificate may be surrendered voluntarily under section 25 of the **Act**.

The registered owner of a certificate may surrender that certificate by:

- notifying the **ESC-Commission** according to the procedure outlined by clause 11.1 above; and
- providing reasons for the voluntary surrender of the certificate(s).

Certificates that have been surrendered voluntarily must not be included in an **energy acquisition statement**.

11.3 Obligatory surrender

A **relevant entity** must surrender the number of certificates specified in the **energy acquisition statement** under section 33(4) of the **Act**:

- using the notification procedure outlined ~~in by~~ clause 11.1 above,
- on or before the date on which the statement is required to be lodged pursuant to section 33(1) of the **Act**.

If the **ESC Commission** is satisfied that the surrendered certificates are eligible for surrender the **ESC Commission** will invalidate those certificates permanently.

11.4 Mandatory surrender

The **ESC Commission** may require mandatory surrender of certificates under section 38, 39 and 40 of the **Act**.

A person may surrender a certificate in accordance with section 38, 39 or 40 of the **Act** by using the notification procedure outlined in clause 11.1 above.

12 ENERGY ACQUISITION STATEMENTS

Act reference: sections 29 and 31 to 35.
Applies to: relevant entities.

Under section 33 of the **Act**, if a **relevant entity** makes a scheme acquisition in a calendar year, it must submit an **energy acquisition statement** to the **Commission** by 30 April in the following year. This clause 12 describes the information to be contained in each statement in addition to that specified in section 33(2)(a) to (f), and the form and manner in which **energy acquisition statements** must be submitted.

12.1 Form of energy acquisition statement

Relevant entities must prepare **energy acquisition statements** using the designated form published by the **Commission** on its **VEET website**.

12.2 Submission of energy acquisition statement

Each **energy acquisition statement** must be signed and audited as required by the **Act** and clause 14 of these Guidelines. The **relevant entity** must submit to the **Commission** each of:

- the audited **energy acquisition statement**;
- the auditor's report;
- details of certificates surrendered (or to be surrendered) as required by section 33(4) of the **Act** and clause 11.3 of these Guidelines; and
- the **relevant fee** for lodgement of the statement,

in the manner specified in the form of **energy acquisition statement** or any explanatory notes published by the **Commission**.

12.3 Additional information required

In addition to the information specified in section 33(2)(a) to (f) of the **Act**, each **energy acquisition statement** must set out:

- the telephone number, [fax number](#), and email address of the **relevant entity**;
- the year to which the statement applies;
- the date of the statement;
- the quantity of energy acquired under scheme acquisitions from each of the persons or bodies referred to in paragraphs (a) and (b) of the definition of 'scheme acquisition' in the **Act**;

- the **relevant entity**'s calculation, in accordance with section 29 of the **Act**, of whether the **relevant entity** had an energy efficiency certificate shortfall for the year;
- the **relevant entity**'s methodology for the calculation of energy acquisitions and exclusions; and
- any changes during the year to information (even if already given to the **Commission**) about the following matters for the **relevant entity**:
 - ownership;
 - material business acquisitions and disposals;
 - location and contact details; and
 - energy purchase arrangements.

13 RECORD KEEPING

Act reference: section 72.

Applies to: **accredited persons** and relevant entities.

Accredited persons and relevant entities must keep records as specified in section 72 of the **Act**. This clause 13 sets out additional record keeping requirements for **accredited persons** and relevant entities.

13.1 Accredited persons

In addition to the requirements set out in section 72 of the **Act**, **accredited persons** must keep records and documents which provide evidence of the following, to the extent applicable:

- the records referred to in clause 8.9 of these Guidelines in relation to assignments of rights to create certificates;
- sales, purchase and/or service records of each product or service which constitutes a prescribed activity for which certificates have been created, including make ~~and~~, model number and product specifications if applicable;
- the street address and postcode of the **consumer** (if in a residential premises) or the ABN, business name, address and postcode (if in a business or non-residential premises);
- plans, reports and information used for activities carried out under the **PBA regulations**;
- evidence of removal, destruction and decommissioning of existing products where removal, destruction or decommissioning is required by the **Regulations**;
- evidence that all relevant individuals have been assessed as competent in each relevant unit of competency specified by the **Commission** under clause 7.1, including the title of each unit, the name of each relevant individual, the date(s) on which they were assessed as competent, and by which registered training organisation as accredited by the **Australian Skills Quality Authority** or the **Victorian Registration and Qualifications Authority**; and
- any additional record keeping requirement set out in the explanatory notes published by the **Commission** on its **VEET website** at the time the activity was completed.

Comment [A15]: This clause has been amended to make clear the documents that need to be retained by accredited persons for project-based activities.

13.1.1 Project-based activities

To meet the document retention requirements set out in section 72 of the **Act**, where the activity is carried out under the **PBA regulations**, the time period an **accredited person** must keep the evidence required under clause 13.1 of the Guidelines starts when the final certificate has been registered for the activity.

Comment [A16]: This clause has been amended to ensure accredited persons understand their document retention obligations under the PBA regulations.

13.2 Relevant entities

In addition to the requirements set out in section 72 of the **Act**, relevant entities must keep records and documents which provide evidence of matters outlined under clause 12.3 of these Guidelines.

13.3 Record keeping whilst accreditation is suspended or revoked

The requirement for an **accredited person** or **relevant entity** to retain records for the purposes of the **Act** or **Regulations** is not affected by any period of suspension or revocation of accreditation.

14 AUDIT OF ENERGY ACQUISITION STATEMENTS

Act reference: section 33(6).
Applies to: relevant entities, auditors.

Section 33(6) of the **Act** requires each **energy acquisition statement** to be audited by an independent third party before lodgement by a **relevant entity**. This clause 14 identifies the requirements for the audit of **energy acquisition statements**.

14.1 Nominating, approving and appointing an auditor

14.1.1 Nominating an auditor

- (a) By a date specified by the **Commission** in each year, each **relevant entity** must nominate to the **Commission** for approval an independent auditor to undertake the relevant audit, unless a current approval from the **Commission** is in place in respect of that **relevant entity** and auditor.
- (b) The **Commission** will consider approving auditors for a period greater than 1 year but no more than 5 years.
- (c) In nominating an auditor to the **Commission**, the **relevant entity** must provide details of:
 - (i) the proposed auditor who will undertake the specified audit;
 - (ii) the proposed individuals who will undertake any relevant audit work for the auditor (that is, the audit team);
 - (iii) the proposed individual who will lead the audit team (who must be a partner or equivalent of the auditor and who will be required to sign the audit report and take full responsibility for the audit findings);
 - (iv) the work history and skills of the audit team leader and each audit team member, and the role they will play in undertaking the audit;
 - (v) the auditor's field of work, core expertise, experience and corporate or business structure (unless the auditor has been selected from the panel of auditors established under clause 14.1.2);
 - (vi) any work undertaken by the auditor for the **relevant entity** in the previous two years, and any work that the auditor is currently doing or has bid for in relation to the **relevant entity**;

- (vii) any potential or perceived conflict of interest and the manner in which the potential or perceived conflict of interest is proposed to be managed; and
- (viii) the term of the approval requested.
- (d) In deciding whether to approve an auditor nominated by a **relevant entity**, the **Commission** will have regard to the following key criteria:
 - (i) demonstrated skill, experience in, and detailed knowledge of quality assurance, including operational or compliance auditing and where relevant, science or engineering, and information systems (in terms of both the nominated auditor and the proposed audit team);
 - (ii) appropriate knowledge of the electricity and gas industries (in terms of both the nominated auditor and the proposed audit team);
 - (iii) an absence of conflicts; and
 - (iv) if relevant, the resource capacity to undertake multiple audits under tight time constraints.

14.1.2 Audit panel

- (a) The **Commission** will establish a panel of auditors who it considers meet the skill, experience and knowledge criteria in clause 14.1.1(d) and the resource capacity to undertake more than one audit.
- (b) Panel members will need to agree:
 - (i) in principle to the terms of the **audit deed**; and
 - (ii) to take actions to ensure that staff maintain the necessary skill level and familiarity with the **Commission's** audit requirements.
- (c) If the **relevant entity** fails to nominate an auditor as required under clause 14.1.1(a) or the **Commission** decides not to approve the nominated auditor, the **Commission** may (but is not obliged to) appoint an auditor from its audit panel in respect of a statement to be provided by that **relevant entity**, without limiting or qualifying any liability of the **relevant entity**, and the **relevant entity** will be responsible for the costs of any auditor appointed by the **Commission**.

14.1.3 Approval of auditors

- (a) If the **Commission** is satisfied that the nominated auditor and audit team members satisfy the key criteria in clause 14.1.1(d), it will provide the **relevant entity** with written notice of the **Commission's** intention to approve the auditor, which may be conditional. Approval will only be provided of a person nominated as auditor by a **relevant entity**, if:
 - (i) the **Commission** has given notice of its intention to approve the person as auditor with respect to the **relevant entity**;
 - (ii) any conditions applicable to that notice have been satisfied (or waived by the **Commission**); and

- (iii) an **audit deed** has been delivered to the **Commission** duly executed by both the auditor and the **relevant entity**.
- (b) The approval of the **Commission** will take effect upon the **Commission's** execution of the relevant **audit deed**.

14.1.4 Appointment and termination of approval

- (a) The **relevant entity** must ensure that no person nominated by it as auditor commences an audit until that person has been approved by the **Commission** under clause 14.1.3. Such a person cannot commence an audit before the **Commission's** receipt of a duly executed **audit deed**.
- (b) Once approved, the primary duty of care of the auditor is to the **Commission**.
- (c) The **relevant entity** must not:
 - (i) require or seek changes to be made to an auditor's report that conflict with the auditor's professional judgment and its primary responsibility to the **Commission** including, for instance, requiring a change to be made that would, in effect, remove or obscure any adverse finding of the auditor; or
 - (ii) unreasonably withhold payment or terminate any contract with the auditor over a disputed audit finding.
- (d) If the auditor believes that an event described in clause 14.1.4(c) has occurred, the auditor must advise the **Commission** as soon as possible after the event has occurred.
- (e) Once approved, the auditor must:
 - (i) notify the **Commission** immediately of any change to the audit team members;
 - (ii) ensure that no member of the audit team performs fee earning work for the **relevant entity** except as disclosed under clause 14.1.1(c) and that no work is undertaken that either influences any members of the audit team or could reasonably be considered to give rise to a material risk of any members of the audit team being influenced in relation to the relevant audit;
 - (iii) minimise the risk of conflicts of interest arising or being seen to arise, for example an approved auditor will be required not to do, and not to have done in the 12 months preceding its appointment, work which would create, or could be seen to create, a conflict of interest; and
 - (iv) notify the **Commission** of and manage any conflicts of interest or perceived conflicts of interest that arise in accordance with any conditions approved by the **Commission**.
- (f) The **audit deed** elaborates on these requirements and qualifies their application in the context of work undertaken in connection with the audit.
- (g) The **Commission's** approval of an auditor to conduct audits will end upon the expiry or termination of the relevant **audit deed**.

- (h) The **Commission's** approval of an auditor constitutes an approval of that auditor only for the purpose of conducting audits which the nominating **relevant entity** is obliged under the **Act** to arrange and for no other purpose.
- (i) The **Commission** may at its absolute discretion, remove an auditor from the panel of auditors at any time.

14.2 Briefing the auditors

The **ESC-Commission** may, at its discretion, brief auditors annually (either individually or jointly) to ensure that the audit requirements are clearly understood.

If the **ESC-Commission** exercises this discretion, representatives of each **relevant entity's** auditor must attend the briefing. The **relevant entity** may also attend the briefing.

14.3 Audit timing

An indicative process timeline for the **relevant entity** audit of **energy acquisition statements** is set out in Figure 1 at the end of this document.

14.4 General audit scope

Except as otherwise required in a specific audit scope issued by the **Commission** to a **relevant entity** under clause 14.5, auditors must:

- (a) *investigate compliance* with the requirements of sections 29, 31 and 33 of the **Act**, and clause 12 of the Guidelines;
- (b) *analyse relevant data* in the **relevant entity's** information systems and records to:
 - (i) ensure that the data in those systems and records is consistent with the data reported to the **Commission** in the **energy acquisition statement**;
 - (ii) verify the correct application of formulae and the accuracy of arithmetical calculations in the **energy acquisition statement**;
 - (iii) assess the **relevant entity's** methodology for the calculation of energy acquisitions and exclusions; and
 - (iv) identify any missing data or unusual figures or trends that might suggest incorrect data, errors in data entry or manipulation.
- (c) *analyse documented procedures* to assess whether they are consistent with the matters that are subject to audit. Documented procedures include anything that guides staff in complying with obligations or acting in relation to relevant matters, for example training manuals and procedures for generating, entering and reporting information and source data used as an input for the **energy acquisition statement**;

- (d) *interview responsible staff* to assess whether they understand and comply with the documented procedures;
- (e) *analyse information systems* to assess the extent to which they produce information that supports information presented in the **energy acquisition statement**. This will require an examination of:
 - (i) system design and security; and
 - (ii) the design of queries and calculations formulae that are used to compute the amount of electricity and/or gas acquired under scheme acquisitions.
- (f) *analyse quality controls* to assess whether misrepresented data is and information defects are systematically identified and corrected;
- (g) *test a sample of cases or data*. The auditor must establish the extent to which there has been actual compliance (insofar as compliance is subject of audit) or the extent to which relevant information is free of defect; it is not enough to ensure only that procedures are robust; and
- (h) take any other action set out in an audit scope issued to the **relevant entity** under clause 14.5.

14.5 Specific audit scopes

14.5.1 Issue of specific audit scope by the Commission

The **Commission** may decide and issue to a **relevant entity** by 1 October in any year an audit scope which specifies additional requirements for the conduct of audits.

An audit scope issued under this clause will apply to the audit of the **energy acquisition statement** due in the following calendar year and all subsequent audits unless the **Commission** varies or withdraws that audit scope by notice to the **relevant entity** by 1 October in any year.

In specifying additional requirements in an audit scope issued under this clause, the **Commission** will have regard to:

- (a) the obligations of the **relevant entity** under the **Act**;
- (b) the objectives of the **Act**;
- (c) its assessment of risk associated with a **relevant entity** in accordance with clause 14.5.2; and
- (d) such other matters as it considers relevant.

14.5.2 Assessing risk

In assessing the risk associated with a **relevant entity** the **Commission** will consider:

- (a) the likelihood and the consequences of non-compliance;
- (b) in the case of information, the likelihood and consequences of it being defective, unreliable, lacking in quality or not conforming with relevant specifications;

- (c) In assessing the likelihood of non-compliance and the likelihood of information being defective, unreliable, lacking in quality or not conforming with relevant specifications, the **Commission** will consider the following factors:
 - (i) any previous audit results or evidence of non-compliance;
 - (ii) the likely or known extent of information defects;
 - (iii) any issues identified by the **Commission** during the ongoing administration of the scheme;
- (d) In assessing the consequences of non-compliance or of information being defective, unreliable, lacking in quality or not conforming with relevant specifications, the **Commission** will consider the following factors:
 - (i) the effect on the **Commission's** ability to administer the scheme;
 - (ii) the effect on the market for certificates;
 - (iii) the effect on the objectives of the **Act**, and
 - (iv) the effect on commercial and administrative decision making (for example, the setting of the greenhouse gas reduction rate at an inadequate level based on inaccurate information); and
- (e) The **Commission** will conduct any risk assessment under this clause 14.5.2 in accordance with Australian/New Zealand Standard AS/NZS ISO 31000:2009, which has been issued by Standards Australia and is the Australian standard relating to Risk management – Principles and guidelines.

14.6 Reliance and standards

Auditors:

- (a) may have regard to internal audit assessments but in arriving at a conclusion in relation to an audit matter must not rely on them exclusively. Where an auditor has previously audited a matter, they should exercise professional judgment as to the depth of inquiry required;
- (b) must have regard to the requirements of the Auditing and Assurance Standards Board (AUASB) and the relevant Australian Standards for Assurance Sampling, Compliance and Risk Management; and
- (c) notwithstanding clause 14.7, must issue an audit report under ASAE 3000 “Assurance Engagements Other than Audits or Reviews of Historical Information” which provides for reasonable assurance¹.

¹ The objective of reasonable assurance engagement is defined under ASAE 3000 “Assurance Engagements Other than Audits or Reviews of Historical Financial Information”, issued July 2014, as “a reduction in the engagement risk to an acceptably low level in the circumstances of the engagement as the basis for the assurance practitioner’s conclusion”.

14.7 Generic issues to be addressed

- (a) In auditing the quality, reliability or conformity of information with specified requirements, an auditor should address the following generic issues:
 - (i) is the information generated in accordance with documented methodologies, policies, practices and procedures?
 - (ii) are the methodologies, policies, practices and procedures fully understood by relevant staff?
 - (iii) how accurately do those procedures and the information reflect applicable information specifications in the **Act** and **Regulations**?
 - (iv) is the information based on sound information systems and records?
- (b) In auditing compliance, an auditor should address the following generic issues:
 - (i) is the matter under investigation reflected in documented policies, practices and procedures?
 - (ii) has the matter been fully understood by staff?
 - (iii) has the matter been performed as specified?
 - (iv) is the matter the subject of effective compliance monitoring and quality control (e.g. internal audits)?
 - (v) does the culture appear to support compliant behaviour?
 - (vi) does the organisational structure support compliant behaviour and outcomes?

14.8 Audit report

14.8.1 Form of audit report

An auditor must prepare a report that addresses all applicable matters and issues identified in clause 14.4. The audit report must contain at least the following:

- (a) an executive summary identifying key issues arising from the audit that reflects any current standard reporting format issued by the **Commission**;
- (b) a description of the audit methodology used;
- (c) a description of the systems and procedures that have been put in place to complete the **energy acquisition statement**;
- (d) grades pursuant to clause 14.8.2 and a summary of findings for each matter, which includes a detailed description of each issue of non-compliance; and
- (e) a completed data assessment table.

14.8.2 Data integrity grades

The auditor must assess the integrity of the data presented in the **relevant entity's energy acquisition statement** by using a standard grading system.

The grading system is a two-step process requiring auditors to use Harvey balls and a traffic light system to assess the data.

Reporting – Step one

Harvey balls are used to represent the presence and quality associated with each of the five principles represented in Table 1 below.

Table 1: Principles for auditing information relevant to the scheme

Principle	Definition
1. <i>Faithful representation</i>	<ol style="list-style-type: none"> Information should faithfully represent the events and transactions that it purports to represent or could reasonably be expected to represent. Uncertainties should be identified and quantified where possible.
2. <i>Completeness</i>	<ol style="list-style-type: none"> Information should be complete in all respects in accordance with any applicable requirements of the Act, such that information is not misleading or unreliable in terms of relevance to the processes of the relevant entity. All relevant transactions or events shall be included within the calculation or estimation of data.
3. <i>Consistency</i>	<ol style="list-style-type: none"> Consistent methodologies, measurements and source data should be used such that comparative assessments can be made from year to year and over time. Estimates should be consistent with relevant Australian and state government estimates.
4. <i>Reliability</i>	<ol style="list-style-type: none"> Information and source data should be free of misstatement and able to be relied upon by users of the information to faithfully represent that which it either purports to represent or could reasonably be expected to represent.
5. <i>Transparency</i>	<ol style="list-style-type: none"> Data shall be replicable by a third party through adequate record keeping. Data will have a clearly defined audit trail. Reference sources, methodologies and approaches to data generation shall be clearly documented. Changes to data and methodologies over time shall be clearly documented.

(i) Grade	Description
	No adherence to the principle.
	Some adherence to the principle.
	General regard to the principle.
	High regard to the principle.
	Total adherence to the principle.

Reporting – Step 2

A traffic light system is used to indicate the overall integrity of the data.



Unacceptable



Acceptable but adjustments needed



Acceptable

14.8.3 Signed statement

The auditor must include in its final audit report a statement signed by the leader of its audit team that states that:

- (a) the audit report findings accurately reflect the professional opinion of the auditor;
- (b) the auditor and team members have observed the requirements of this guideline and the relevant **audit deed** in conducting the audit, making audit findings and preparing the report;

- (c) the conclusion of the audit specified as a reasonable assurance review opinion under ASAE 3000; and
- (d) the audit report findings have not been unduly influenced by the **relevant entity**.

14.9 Commission response to audits

- (a) The **Commission** may (without limiting its powers and rights under the **Act**, an **audit deed** or otherwise):
 - (i) obtain and analyse the auditor's record of its contacts with the **relevant entity**, for example to obtain more details of reported non-compliance, misrepresentation of data, or to investigate whether significant changes have been made to drafts of the report;
 - (ii) require further auditing to be undertaken (whether by the relevant auditor or another) where it considers the report is or may be unsatisfactory in a material respect, for example where the **Commission** has independent information contradicting an assessment made by the auditor;
 - (iii) require that the **relevant entity** arrange for another auditor approved by the **Commission** to undertake any such further auditing work;
 - (iv) require further information from the **relevant entity** under Part 8 of the **Act**;
 - (v) through its authorised officers, exercise any powers under Part 7 of the **Act** to the extent necessary to substantiate the information provided in an **energy acquisition statement**, or otherwise to determine whether the **relevant entity** has complied with the **Act**;
 - (vi) require termination of any contract by which the auditor was engaged to conduct the relevant audit; or
 - (vii) remove a firm from the audit panel if it has failed to follow this audit guideline or has not observed the necessary level of independence.
- (b) The **Commission** may report publicly and/or comment on the aggregated results of the audits undertaken. This may include but is not limited to reporting aggregated audit results as part of its annual reporting function under section 67 of the **Act**.
- (c) Should the results of an audit of an **energy acquisition statement** provide reason, the **Commission** may issue a **shortfall statement** in accordance with section 36 of the **Act**.

15 AUDIT OF CREATION OF CERTIFICATES AND COMPLIANCE INVESTIGATIONS

Comment [A17]: The matters to be audited during PBA audits are slightly different to the matters to be audited by our current audits. For example 15.3.2(h) and (i) of the PBA audit section refers to M&V professionals who are specific to project-based activities.

Chapter 15 has been rewritten to outline the requirements of a PBA audit separately. This has been done by renaming current audits 'general audits' and adding 'PBA audits'.

Act reference: sections 7(2)(b), 7(2)(d) and 7(2)(e).
Applies to: **accredited persons**, auditors.

Under section 7(2)(d) of the **Act**, the **Commission** may audit the creation of certificates by **accredited persons**. Under section 7(2)(b) of the **Act**, the **Commission** may monitor the creation of certificates. Under section 7(2)(e) of the **Act**, the **Commission** may monitor compliance with the **Act**. This clause 15 describes the basis on which the **Commission** will exercise its discretion to monitor compliance with the **Act** including the monitoring and auditing of the creation of certificates. This clause 15 also identifies the manner in which those audits will be carried out.

15.1 Auditor

The **Commission** may appoint one or more members of staff of the **Commission** or another appropriately qualified or experienced person or firm to investigate compliance with the **Act**, the **Regulations** or the Guidelines, or to perform a [general](#) audit under clause 15.2 following the process in Figure 2 at the end of this document, [or a project-based activity audit under clause 15.3 following the process in Figure 3 at the end of this document.](#)

15.2 [General audit scope](#)

15.2.1 Purpose of [audit](#)

[The purpose of an audit is to ensure compliance with the **Act**, **Principal regulations** and these Guidelines.](#)

~~15.2.2 Where the **ESC** elects to audit the creation of certificates by an **accredited person** (the purpose of the audit is to confirm the entitlement of the **accredited person** to create certificates in respect of a prescribed activity), by auditing compliance with the requirements of sections 16 to 20 of the **Act**, the **Regulations** and clause 9 of the Guidelines.~~

~~15.2.3~~ [15.2.2](#) **Matters to be audited**

The appointed [ESC Commission](#) staff [member](#) or auditor may:

Comment [A18]: In clause 15.3.1 it is stated that the purpose of a PBA audit is to ensure compliance with the Act, Regulations and Guidelines. This clause has been amended for consistency.

- (a) ~~investigate compliance~~ with each obligation or matter identified in ~~Division 3 of Part 3 of the Act (as applicable), the *Principal regulations* and clause 0 of the Guidelines in relation to the creation of certificates.~~
- (b) *analyse relevant data* in the **accredited person's** information systems and records kept under clause 13 of the Guidelines to:
- (i) ensure that the data in those systems and records is consistent with the content of the registered certificates and data within the **VEET registry**;
 - (ii) ensure that the data in those systems and records is consistent with the content of the pending certificates and data within the **VEET registry**;
 - (iii) ensure that the prescribed activities have been undertaken in accordance with the requirements set out in the ***Principal regulations***;
 - (iv) verify the correct application of formulae and the accuracy of arithmetical calculations; and
 - (v) identify any missing data or unusual figures or trends that might suggest incorrect data, errors in data entry or manipulation.
- (c) *analyse any documented procedures* to assess whether they are consistent with the matters that are the subject of audit. Documented procedures include anything that guides staff in complying with obligations or acting in relation to relevant matters, for example training manuals and procedures for generating, entering and reporting information and source data used as an input for the creation of certificates;
- (d) *interview responsible staff* to assess whether they understand and comply with the requirements in the **Act** and ***Principal regulations***;
- (e) *analyse any quality controls* to assess whether misrepresented data is, and information defects are, systematically identified and corrected;
- (f) *test a sample of cases*. The auditor must establish the extent to which there has been actual compliance (insofar as compliance is subject of audit) or the extent to which relevant information is free of defect; it is not enough to ensure only that procedures are robust; and
- (g) *take any other action* as the **Commission** considers necessary to complete the audit.

Comment [A19]: The intention of this clause is to ensure certificates have been properly created. This clause has been simplified to make its intention clearer. Clause 15.3.2 is the PBA equivalent.

~~15.2.4~~**15.2.3** **Reliance and standards**

The auditor will have regard to the requirements of the Auditing and Assurance Standards Board (AUASB) and the relevant Australian Standards for Assurance Sampling, Compliance and Risk Management.

~~15.2.5~~**15.2.4** **Audit report**

The **Commission** will require the auditor to prepare a report that addresses all applicable matters and issues identified in clause 15.2.1 and 15.2.2 and contains;

- (a) an executive summary identifying key issues arising from the audit;
- (b) a description of the audit methodology used;
- (c) a traffic light assessment of the audit findings for each matter or issue identified as part of the audit;
- (d) a summary of findings for each matter, which includes a detailed description of each issue of non-compliance;
- (e) the response from the **accredited person** to each of the recommendations as to how they will implement each of the recommendations and reduce the risk of improper **VEEC** creation; and
- (f) a date within which the **accredited person** is required to provide the **Commission ESC** with evidence of implementation of each audit recommendation.

Reporting

A traffic light system is used to represent the level of risk associated with the provision of information and records as part of an audit report. It is used to indicate the overall integrity of the data.

 High Risk

 Medium Risk

 Low Risk

~~15.2.6~~ **15.2.5** Signed statement

For instances where an external auditor has been engaged by the **Commission**, the auditor must include in its final audit report to the **Commission** a signed statement that:

- (a) the audit report findings accurately reflect the professional opinion of the auditor;
- (b) the auditor and team members have observed the requirements of this guideline and the relevant **audit deed** in conducting the audit, making audit findings and preparing the report; and
- (c) the audit report findings have not been unduly influenced by the **accredited person**.

~~15.2.7~~ **15.2.6** **ESC** **Commission** response to an audit

- (a) following completion of the audit ~~the Commission staff~~ **ESC** will assess the audit results to determine whether any further investigation is required;

- (b) ~~the Commission staff~~ **ESC** will provide a draft copy of the audit report to the **accredited person** for comment, including how the **accredited person** intends to implement the audit report's ESCs recommendations;
- (c) upon receiving a satisfactory response to the draft audit report from the **accredited person**, the audit report is finalised and signed by relevant **CommissionESC** staff;
- (d) upon completion of the audit report, the **CommissionESC** will provide a copy of the audit report to the **accredited person**;
- (e) the **CommissionESC** may report publicly and/or comment on the aggregated results of the audits undertaken under this clause 15. This may include but is not limited to reporting aggregated audit results as part of its annual reporting function under section 7(4) of the **Act**;
- (f) in assessing the consequences of non-compliance or of information being defective, unreliable, lacking in quality or not conforming with relevant specifications, the **CommissionESC** will consider the following factors:
 - (i) the effect on the **CommissionESC**'s ability to administer the scheme;
 - (ii) the effect on the market for certificates; and
 - (iii) the effect on the objectives of the **Act**.
- (g) the **Commission** may conduct further investigation into matters relating to the creation of certificates; and
- (h) the **Commission** may also require further information from the **accredited person** under Part 8 of the **Act**.

15.3 Project-based activity audit

15.3.1 Purpose of audit

The purpose of a project-based activity audit is to ensure compliance with the **Act**, **Regulations** and Guidelines.

15.3.2 Matters to be audited

The appointed **Commission** staff member or auditor may:

- (a) investigate compliance with each obligation or matter identified in the **Act**, **Regulations**, and Guidelines in relation to the creation of certificates;
- (b) analyse relevant data in the **accredited person**'s information systems and records kept under clause 13 of the Guidelines to:
 - (i) ensure that the data in those systems and records is consistent with the content of the pending certificates and data within the **VEET registry**.

- (ii) if applicable, ensure that the data in those systems and records is consistent with the content of the registered certificates and data within the **VEET registry**.
 - (iii) ensure that the project-based activity has been undertaken in accordance with the requirements set out in the **Regulations**;
 - (iv) ensure that the project-based activity has been undertaken in accordance with the requirements set out in the Guidelines;
 - (v) verify the correct application of formulae and the accuracy of arithmetical calculations; and
 - (vi) identify any missing data or unusual figures or trends that might suggest incorrect data, errors in data entry or manipulation.
- (c) analyse any documented procedures to assess whether they are consistent with the matters that are the subject of audit. Documented procedures include anything that guides staff in the calibration of equipment, complying with obligations, or acting in relation to relevant matters. For example, training manuals and procedures for generating, entering and reporting information and source data used as an input for the creation of certificates;
- (d) interview responsible staff to assess whether they understand and comply with the requirements in the **Act** and the **Regulations**. If applicable, this may include the **approved measurement and verification professional** engaged to advise on the project-based activity;
- (e) analyse any quality controls to assess whether incorrect data and information defects have been systematically identified and corrected;
- (f) review and test the project-based activity. The auditor must establish the extent to which there has been actual compliance with the **Act, Regulations** and Guidelines and the extent to which relevant information is free of defect. It is not enough to ensure only that procedures are robust;
- (g) review and test compliance with the scoping report, project plan and project impact report;
- (h) if applicable, analyse the verification report submitted by the **approved measurement and verification professional** to:
- (i) ensure the report complies with the **Act, PBA regulations, Guidelines** and explanatory notes;
 - (ii) is consistent with the measurement and verification plan submitted with the project plan approval;
 - (iii) is prepared in accordance with the matters specified in the **Secretary's** specifications made under **PBA regulation 18**; and
 - (iv) any other relevant matter.

- (i) If applicable, review the experience and professional competency requirements of the **approved measurement and verification professional** who submitted the verification report;- and
- (j) take any other action as the **Commission** considers necessary to complete the audit.

15.3.3 Reliance and standards

The auditor will comply with the requirements of the Auditing and Assurance Standards Board (AUASB) and the relevant Australian Standards for Assurance Sampling, Compliance and Risk Management.

15.3.4 Audit report

An audit report should address all applicable matters and issues identified in clause 15.3.1 and 15.3.2 and contains where applicable:

- (a) an executive summary identifying key issues arising from the audit;
- (b) a description of the audit methodology used;
- (c) a traffic light assessment of the audit findings for each matter or issue identified as part of the audit;
- (d) a summary of findings for each matter, which includes a detailed description of each issue of non-compliance;
- (e) the response from the **accredited person** to each of the recommendations as to how they will implement each of the recommendations relating to the project-based activity and reduce the risk of improper **VEEC** creation;
- (f) a date within which the **accredited person** is required to provide the **Commission** with evidence of implementation of each audit recommendation; and
- (g) the response to any relevant recommendations from the **approved measurement and verification professional** who submitted the basic or detailed verification report relating to the project-based activity.

Reporting

A traffic light system is used to represent the level of risk associated with the provision of information and records as part of an audit report. It is used to indicate the overall integrity of the data.



15.3.5 Signed statement

Where an external auditor has been engaged by the **Commission**, the auditor must include in their final audit report to the **Commission** a signed statement that:

- (a) the audit report findings accurately reflect the professional opinion of the auditor;
- (b) the auditor and team members have observed the requirements of this guideline and the relevant **audit deed** in conducting the audit, making audit findings and preparing the report; and
- (c) the audit report findings have not been unduly influenced by the **accredited person**.

15.3.6 Commission response to an audit

- (a) following the completion of an audit the **Commission** staff will assess the audit results to determine whether any further investigation is required;
- (b) **Commission** staff will provide a draft copy of the audit report to the **accredited person** for comment including how the **accredited person** intends to implement the audit report's recommendations;
- (c) upon receiving a satisfactory response to the draft audit report from the **accredited person**, the audit report is finalised and signed by relevant **Commission** staff;
- (d) upon completion of the audit report, the **Commission** will provide a copy of the audit report to the **accredited person**;
- (e) if applicable, the **Commission** may respond to any recommendations in relation to the **approved measurement and verification professional** who submitted the verification report;
- (f) the **Commission** may report publicly and/or comment on the aggregated results for the audits undertaken under this clause. This may include, but is not limited to, reporting aggregated audit results as part of its annual reporting function under section 7(4) of the **Act**;
- (g) in assessing the consequence of non-compliance or of information being defective, unreliable, lacking in quality or not conforming with relevant specifications, the **Commission** will consider the following factors:
 - (i) the effect on the **Commission's** ability to administer the scheme;
 - (ii) the effect on the market for certificates; and
 - (iii) the effect on the objectives of the **Act**.
- (h) the **Commission** may conduct further investigation into matters relating to the creation of certificates; and
- (i) the **Commission** may also require further information from the **accredited person** under Part 8 of the **Act**.

15.4 Compliance investigation

The **Commission** may conduct investigations of specific issues when [a general audit](#), a [PBA](#) audit or other information received by the **Commission** indicates possible breaches of the **Act**, the **Regulations** or the Guidelines. The findings of a compliance investigation may lead to enforcement actions against an **accredited person** as set out in Guidelines clause 16.3.

15.4.1 Matters to be investigated

The appointed **CommissionESC** staff or qualified or experienced person may:

- (a) *investigate compliance* with each obligation or applicable matter of the **Act**, the **Regulations** or the Guidelines;
- (b) *analyse relevant data* in the **accredited person's** information systems and records kept under clause 13 of the Guidelines to:
 - (i) ensure that the data in those systems and records is consistent with the content of the registered certificates and data within the **VEET registry**;
 - (ii) ensure that the data in those systems and records is consistent with the content of the pending certificates and data within the **VEET registry**;
 - (iii) ensure that the prescribed activities have been undertaken in accordance with the requirements set out in the **Regulations**;
 - (iv) verify the correct application of formulae and the accuracy of arithmetical calculations; and
 - (v) identify any missing data or unusual figures or trends that might suggest incorrect data, errors in data entry or manipulation;
- (c) *analyse any documented procedures* to assess whether they are consistent with the matters that are the subject of the investigation. Documented procedures include anything that guides staff in complying with obligations or acting in relation to relevant matters, for example training manuals and procedures for generating, entering and reporting information and source data used as an input for the creation of certificates;
- (d) *interview responsible staff* to assess whether they understand and comply with the requirements in the **Act** and **Regulations**;
- (e) *analyse any quality controls* to assess whether misrepresented data is, and information defects are, systematically identified and corrected;
- (f) *test a sample of cases*. The compliance investigation must establish the extent to which there has been actual compliance or the extent to which relevant information is free of defect; it is not enough to ensure only that procedures are robust; and
- (g) *take any other action* as the **Commission** considers necessary to complete the compliance investigation.

16 COMPLIANCE AND ENFORCEMENT

Comment [A20]: The Commission approved a VEET scheme compliance and enforcement policy on 1 November 2017. This chapter has been amended to reflect the introduction of that policy. The sections that have been deleted are covered in the policy.

Act reference: sections 14, 14A, 14B, 17 to 20, 27 to 29, 36, 37, 40 and 40A,
Applies to: **accredited persons**, relevant entities.

~~Guidelines clause 14 sets out the **Commission** requirements in regard to the auditing of **energy acquisition statements**, while Guidelines clause 15 sets out the **Commission** requirements in regard to the auditing of the creation of certificates and compliance investigations. **Commission** compliance and enforcement actions may result from the requirements in either of these clauses. This clause refers to the **Commission**'s Victorian Energy Efficiency Target (VEET) scheme compliance and enforcement policy document as it outlines in detail the **Commission**'s approach to promoting and enforcing compliance with the **Act** and **Regulations**.~~

~~This clause also sets out the nature of the **Commission**'s **Policy** in relation to shortfall statements and certificate creation.~~

16.1 Compliance and enforcement policy

The **Commission** introduced a VEET scheme compliance and enforcement policy on 1 November 2017. The **Policy** outlines the **Commission**'s approach to promoting and enforcing compliance with the **Act** and **Regulations**, including the enforcement and compliance actions available to the Commission under the **Act**. The **Policy** can be found on the **VEET website**. Accredited persons and relevant entities should refer to the **Policy** to understand the **Commission**'s approach to compliance and enforcement.

Comment [A21]: Previously 16.1

~~16.1~~**16.2 Compliance and enforcement actions resulting from an audit of an energy acquisition statement**

~~16.1~~**16.2.1 Audit of energy acquisition statements**

Clause 14 of these Guidelines sets out the **Commission** requirements in regard to the auditing of an **energy acquisition statement** lodged by a **relevant entity**, with clause 14.9 of these Guidelines outlining how the **Commission** may respond to an audit.

~~16.1.2~~16.2.2 Shortfall statement

Section 27 of the *Act* sets out that a *relevant entity* must not have an energy efficiency certificate shortfall for a year in which the *relevant entity* makes a scheme acquisition.

The energy efficiency certificate shortfall of a *relevant entity* for a year is calculated in accordance with section 29 of the *Act*. Should the audit of an *energy acquisition statement* find that a *relevant entity* has an energy certificate shortfall, the *Commission* may issue a *shortfall statement* in accordance with section 36 of the *Act*.

~~16.1.3~~16.2.3 Payment of a shortfall penalty

A *relevant entity* which is found to have an energy efficiency shortfall for a year must pay the civil penalty to the Consolidated Fund as set out in section 28 of the *Act*.

If an energy efficiency shortfall penalty is not paid in accordance with requirements, the *Commission* may apply for a declaration and order for payment of this shortfall penalty as set out in section 37 of the *Act*.

~~16.2~~16.3 Compliance and enforcement actions resulting from an audit of creation of certificates or compliance investigation

~~16.2.1~~16.3.1 The creation of certificates

Section 7(2) of the *Act* sets out that the *Commission* is responsible for:

- the accreditation of persons who may create certificates;
- the monitoring and administration of the creation, registration, transfer and surrender of certificates;
- enforcing the imposition of energy efficiency shortfall penalties;
- the undertaking of audits of the creation of certificates by *accredited persons*; and
- the monitoring of compliance with the *Act*.

Clause 4 of these Guidelines sets out the *Commission* requirements in regard to the accreditation of persons as provided by section 9 of the *Act*, while clause 8 of these Guidelines sets out the *Commission* requirements in regard to the assignment of rights to create certificates as provided by section 16 of the *Act*. Section 17 of the *Act* sets out when a certificate can be created, while section 18 of the *Act* sets out how many certificates may be created in respect of a prescribed activity.

Each of these sections of the *Act* and Guidelines clauses may be applicable should the ~~ESC~~ *Commission* elect to audit the creation of certificates by an *accredited person* or instigate a compliance investigation of an *accredited person*.

~~16.2.2~~ **16.3.2** **Audit of creation of certificates**

Clauses ~~15.2~~ [15.2 \(general audit\)](#) and [15.3 \(project-based audit\)](#) of these Guidelines sets out the **Commission's** requirements in regard to the auditing of the creation of certificates by an **accredited person**. ~~Clauses 15.2.6 (general audit) and 15.3.6 (project-based audit)~~ of these Guidelines outline how the **ESG-Commission** may respond to an audit. [Any response may include enforcement action.](#)

~~16.2.3~~ **16.3.3** **Compliance investigations**

Clause 15.4 of these Guidelines sets out the **Commission's** requirements in regard to the conducting of a compliance investigation of an accredited person.

~~16.2.4~~ **16.3.4** **Compliance and enforcement actions**

[Compliance and enforcement actions relating to an audit of the creation of certificates or a compliance investigation will be carried out as outlined in the **Policy**.](#)

~~Compliance~~

~~Clause 15.3 of these Guidelines sets out the **Commission** requirements in regard to conducting a compliance investigation of an **accredited person**.~~

~~-Independent compliance audits~~

~~If deemed necessary by the **Commission**, an **accredited person** may be required to obtain independent compliance audits relating to the creation of certificates as provided by section 19A of the **Act**. An independent auditor engaged in this situation must provide to the **Commission** a signed statement as set out in clause 15.2.5 of these Guidelines.~~

~~-Improperly created certificates~~

~~An audit of creation of certificates or compliance investigation may identify certain circumstances under which a certificate has been created. A certificate must not be created by an **accredited person** under any of the circumstances set out in section 20 of the **Act**. Penalties may apply should this be found to be the case.~~

~~Should the **ESG** consider that a created certificate does not comply with the requirements of the **Act**, the **Regulations** or these Guidelines, or that the person creating the certificate failed to comply with the requirements of the **Act**, the **Regulations** or these Guidelines, the **ESG** may order the surrender of certificates as set out in clause 11 of these Guidelines and provided by section 40 of the **Act**.~~

~~-Warnings and imposed accreditation conditions~~

~~If the **Commission** believes on reasonable grounds that an **accredited person** has committed an offence against the **Act**, or has repeatedly but unintentionally improperly created certificates or failed to comply with the requirements of the **Act** or **Regulations**, the **Commission** may warn, reprimand and/or impose a condition~~

or restriction on the accreditation of this ~~accredited person~~, as provided by section 40A of the ~~Act~~.

~~Enforced changes to accreditation~~

The ~~Commission~~ may suspend the accreditation of an ~~accredited person~~ if necessary as provided by section 14 of the ~~Act~~. Suspension may result if:

an ~~accredited person~~ has been convicted of an offence under section 20 of the ~~Act~~;

an already suspended ~~accredited person~~ is convicted of a further offence under section 20 of the ~~Act~~;

on reasonable grounds, the ~~Commission~~ believes that an ~~accredited person~~ has committed an offence against the ~~Act~~;

on reasonable grounds, the ~~Commission~~ believes that an ~~accredited person~~ has repeatedly but unintentionally created certificates that do not comply with the requirements of the ~~Act~~ or ~~Regulations~~, or failed to comply with the requirements of the ~~Act~~ or ~~Regulations~~ relating to the recording or carrying out of prescribed activities;

the accreditation of an ~~accredited person~~ was obtained improperly.

As provided by section 14A of the ~~Act~~, the ~~Commission~~ may suspend or revoke the accreditation of an ~~accredited person~~ who has:

breached a condition or restriction imposed under section 14B or 40A of the ~~Act~~;

failed to comply with an order under section 40 of the ~~Act~~; or

failed to undertake an audit required under section 19A of the ~~Act~~.

If the ~~Commission~~ suspends the accreditation of an ~~accredited person~~ under section 14 or 14A of the ~~Act~~, at the end of the period of suspension the ~~Commission~~ may impose a condition or restriction on the person's accreditation as provided by section 14B of the ~~Act~~.

17 -AUDIT PROCESS TIMELINES

Figure 1: Process of undertaking audits for energy acquisition statements (clause 14.3)

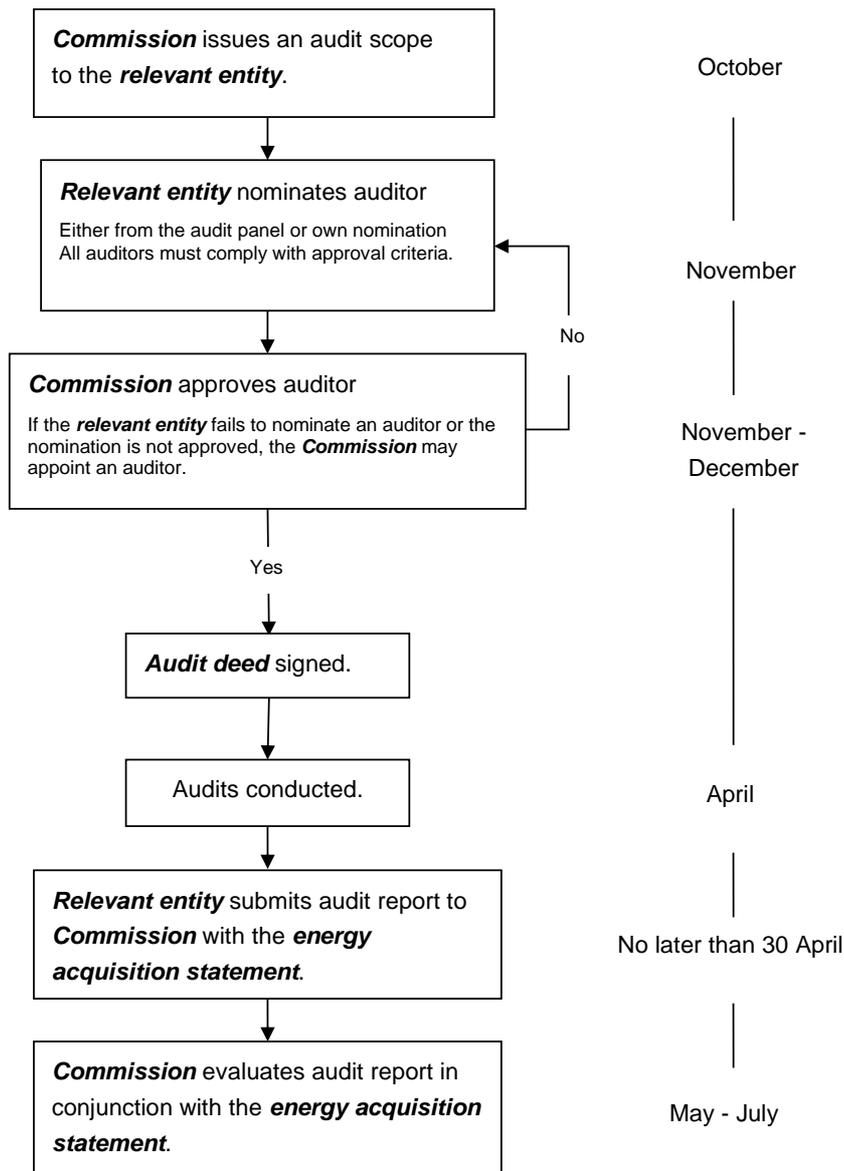


Figure 2: Process of undertaking a general audit of an accredited person (clause 15.2)

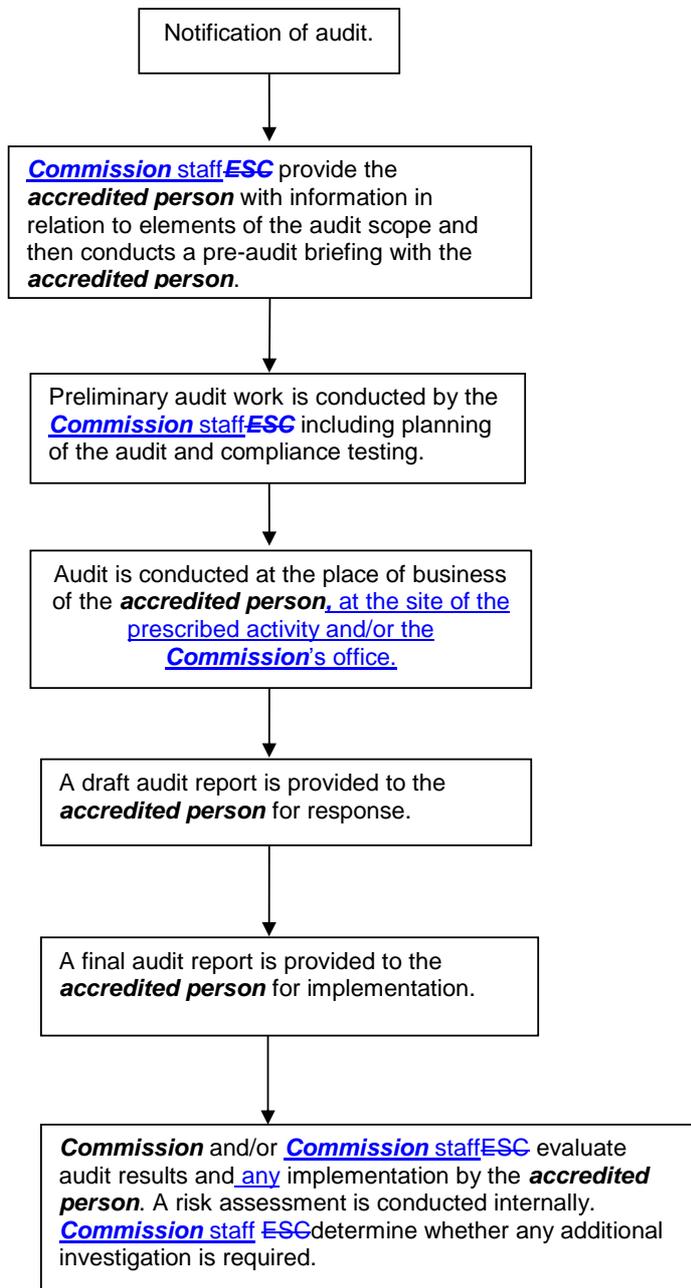


Figure 3: Process of undertaking a project-based activity audit of an accredited person (clause 15.3)

