

EXPLANATORY STATEMENT

National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018

Authorised by Mark Williamson, delegate of the Clean Energy Regulator acting under subsection 75A(7) of the *National Greenhouse and Energy Reporting Act 2007*

Introduction

The *National Greenhouse and Energy Reporting Act 2007* (NGER Act) establishes a framework for the conduct of audits under the NGER Act and the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act). Section 75A of the NGER Act requires the Clean Energy Regulator (the Regulator) to register an individual in the register of greenhouse and energy auditors that is kept for the purposes of the NGER Act and the CFI Act if the individual meets specified requirements.

The specified requirements are set out in *the National Greenhouse and Energy Reporting Regulations 2008* (the Regulations) or a legislative instrument made under regulation 6.72 of the Regulations, and relate to matters such as an applicant's qualifications, knowledge, expertise, competence and independence. An instrument made under regulation 6.72 of the Regulations may also set out the ways in which requirements set out in the regulations may be met.

Purpose and operation of the instrument

The purpose of the National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018 (the Instrument) is to set out the ways in which the requirements of the Regulations (in relation to the knowledge, qualifications and experience an applicant for registration as a greenhouse and energy auditor must have) may be met.

An application may be made to the Administrative Appeals Tribunal, under section 56(j) of the NGER Act, for the review of a decision of the Regulator to refuse to register an individual in the register of greenhouse and energy auditors kept under section 75A of the NGER Act.

The Instrument revokes the National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2017 (No. 2) signed 3 October 2017 (the 2017 No. 2 Instrument).

The Instrument is substantially the same as the 2017 No.2 Instrument except for the following changes:

- a) Section 4 has been amended to update the definition of National Carbon Offset Standard (NCOS) and also includes a definition of the term Supervisor.
- b) Section 7 includes minor amendments to update the knowledge of legislation table.
- c) Section 14 has been changed to stipulate that NCOS audits used as evidence of auditing experience must be reasonable assurance audits. This change reflects the original intent of the legislation.
- d) Section 16 has been amended to include recognition of supervisory experience for applicants for Category 2 registration—audit team leadership.

The change to section 16 addresses an issue the Clean Energy Regulator identified with some applicants for Category 2 registration. These auditors are experienced in audit work under schemes the agency administers but cannot use their supervisory experience as evidence of team leadership experience. The change will enable applicants to use supervisory experience in Part 6 audits as evidence of team leadership experience.

NCOS audit experience, in section 14, is restricted to reasonable assurance audits. This ensures sufficient expertise of applicants for Category 1 registration who rely on these audits as evidence of their ability to conduct audits. NCOS audits that only deliver limited assurance do not provide sufficient evidence of experience to align with the requirements of a Part 6 audit.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. The Instrument will commence on the day after it is registered in the Federal Register of Legislation. The Instrument has been

made by a delegate of the Clean Energy Regulator exercising powers delegated under subsection 75A(7) of the NGER Act.

Details of the Instrument are set out in [Attachment A](#).

The statement of compatibility with human rights is set out in [Attachment B](#).

For information on how the Regulator collects, holds, uses and discloses personal information, see the Clean Energy Regulator's Full Privacy Policy available on the Clean Energy Regulator's website.

Documents incorporated by reference

Any Acts or legislative instruments incorporated by reference are incorporated as in force from time to time.

Other documents incorporated by reference are incorporated as in force at the date of commencement of this Instrument. For a description of these and information as to where they can be accessed, refer 'Section 4 Definitions' in Attachment A.

Regulatory Impact

The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 24019).

Consultation

The Clean Energy Regulator consulted on the recognition of supervisory experience in April 2018 as part of wider consultation with registered greenhouse and energy auditors on potential changes to the Regulations.

The Clean Energy Regulator received nine submissions on the proposal to recognise supervisory experience. Most agreed that the requirements to be registered as a Category 2 auditor should be expanded to recognise a wider range of experience.

Details of the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018*

Section 1 Name of Instrument

This section provides that the name of the Instrument is the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018* (the Instrument).

Section 2 Commencement

This section provides that the Instrument commences the day after it is registered on the Federal Register of Legislation.

Section 3 Revocation

This section revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2017* (No. 2) (the 2017 No. 2 Instrument).

Section 4 Definitions

A number of the definitions incorporate by reference other documents. The documents set out below are incorporated as in force at the date of commencement of this Instrument:

- Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, issued by the Auditing and Assurance Standards Board, dated 30 May 2017. The standard establishes requirements for undertaking and reporting on assurance engagements other than audits or reviews of historical financial information covered by Australian Auditing Standards or Standards on Review Engagements. At the time the Instrument was made the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.
- Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*, issued by the Auditing and Assurance Standards Board, dated 21 February 2017. This standard establishes requirements for the conduct of and reporting on assurance engagements on compliance. At the time the Instrument was made the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.
- Standard on Assurance Engagements ASAE 3410 *Assurance Engagements on Greenhouse Gas Statements*, issued by the Auditing and Assurance Standards Board, reissued 24 June 2014. This standard establishes requirements regarding the assurance practitioner's responsibilities when accepting, conducting and reporting on an engagement to provide reasonable or limited assurance on a greenhouse gas statement. At the time the Instrument was made, the standard was available free of charge at <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.
- Standard on Related Services ASRS 4400, *Agreed-Upon Procedures Engagements to Report Factual Findings*, approved by the Auditing and Assurance Standards Board and operative from 1 July 2013. At the time the Instrument was made, the standard was available free of charge <http://www.auasb.gov.au/Pronouncements/Standards-on-Assurance-Engagements.aspx>.

- International Standard on Assurance Engagements (ISAE) 3000 (revised), *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*, set out in the *Handbook of International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements*, published by the International Federation of Accountants, October 2014, ISBN 978-1-60815-185-1. The purpose of the standard is to establish principles and procedures for, and to provide guidance to, accountants for the performance of assurance engagements other than audits or reviews of historical financial information. The handbook is available free of charge from <https://www.ifac.org/publications-resources/2014-handbook-international-quality-control-auditing-review-other-assurance-a>.
- International Standard on Assurance Engagements 3410, *Assurance Engagements on Greenhouse Gas Statements*, published by the International Auditing and Assurance Standards Board, June 2012. The standard provides guidance for assurance engagements to report on an entity's greenhouse gas statement. The standard does not deal with, or provide specific guidance for, assurance engagements to report emissions other than greenhouse gas emissions. The standard is available free of charge at <https://www.ifac.org/publications-resources/glance-international-standard-assurance-engagements-isae-3410-assurance-engag>.
- ISO/IEC 17024:2012 *Conformity assessment -- General requirements for bodies operating certification of persons*, published by the International Organization for Standardization, July 2012. The standard specifies requirements for those bodies operating the certification of persons. The standard is available for purchase from <http://www.iso.org/iso/home.htm>. The National Carbon Offset Standard is a standard for making carbon neutral claims, published by the Department of Environment and Energy on 1 November 2017. It is available free of charge at <http://www.environment.gov.au/climate-change/government/carbon-neutral/ncos>.

Note: The ISO Standards referenced below are available at no cost from the National Library of Australia and can be viewed by interlibrary loan.

The Regulator will provide access to these standards to members of the public who are affected by, or have a genuine interest, and need to access the relevant Standards to understand the operation of the Instrument and who would not otherwise have free access to the Standards. The Regulator expects that auditors would not require access to the Standards through the Regulator to undertake their day-to-day business activities. Therefore, the Regulator does not intend to provide these Standards to industry participants at no cost. To do so could affect the commercially valuable intellectual property and financial viability of Standards.

The Regulator expects that all auditors who will use the Instrument will already have access to relevant Standards as part of their professional qualification and professional development. Further:

- there have been no complaints made to the Regulator about the cost of obtaining those incorporated documents during the lifetime of the 2010, 2012, 2016, 2017 No. 1 and 2017 No. 2 instruments; and
 - no feedback has been received about an additional burden or cost of obtaining Audit Standards through the multiple rounds of public consultation conducted with the industry since 2010.
- AS ISO 14064.3–2006, *Greenhouse gases Part 3: Specification with guidance at the project level for quantification and reporting of greenhouse gas reduction and removal enhancements*, published by Standards Australia, November 2006. This standard provides a common approach to verification, validation and certification of greenhouse reductions and removals. The standard is available for purchase from [SAI Global](#).
 - AS/NZS ISO 19011:2014, *Guidelines for auditing management systems* by Standards Australia International Ltd and Standards New Zealand, dated 18 August 2014. The standard provides guidance on the principles of auditing, managing audit programmes, conducting quality management systems audits and environmental management system audits. It also provides

guidance on the competence of quality and environmental management system auditors. The standard is available for purchase from [SAI Global](#).

- ISO 14064-3:2006 *Greenhouse gases -- Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions*, published by the International Organisation for Standardisation, March 2006. The document specifies principles and requirements and provides guidance for those conducting or managing the validation and/or verification of greenhouse gas assertions. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.
- ISO 19011:2018 *Guidelines for auditing management systems*, published by the International Organisation for Standardisation, November 2011. The document provides guidance on auditing management systems, including the principles of auditing, managing an audit programme and conducting management system audits. It also provides guidance on the evaluation of competence of individuals involved in the audit process, including the person managing the audit programme, auditors and audit teams. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.
- *International Handbook of Universities*, twenty-eighth edition, published by Palgrave Macmillan on behalf of the International Association of Universities, 2016. The handbook provides detailed information on higher education institutions across the world and can be purchased from Palgrave MacMillan at <http://www.palgrave.com/home/index.asp>.

The Instrument incorporates the *International Handbook of Universities*. The Handbook provides a list of overseas universities and equivalent institutions of higher learning that a prospective greenhouse and energy auditor can use to meet section 6 of the Instrument. The Handbook is referenced as a way to give objectivity to the Regulator's determination of the reputation of an overseas educational institution if a prospective greenhouse and energy auditor obtained their qualifications overseas (see section 6 of the Instrument). The Handbook was also referenced in the 2010, 2012, 2016, 2017 No. 1 and 2017 No. 2 instruments. If a prospective auditor obtained their qualifications in Australia, a different test is applied, relying on the *Higher Education Support Act 2003*, which is available at no cost.

To date, the Regulator has had very few applications from auditors with overseas qualifications. Given the predicted 3–4 applications per year expected under the Instrument, the Regulator believes that it will receive no more than one application per year from applicants with overseas qualifications. For these applicants, the Handbook is available for viewing at the Macquarie University Library or can be bought for \$935. The Handbook is subject to general copyright law, which means the Regulator is restricted from republishing its contents in full.

Section 5 Object

The object of the Instrument is to set out ways to meet the requirements for knowledge, qualification and experience suitable for registration as a greenhouse and energy auditor.

The Regulations establish two categories of registered greenhouse and energy auditors—Category 1 auditors and Category 2 auditors. The categories of auditor have different requirements as to qualifications, knowledge and experience.

Section 6 Degree or equivalent to be conferred by appropriate institution

Regulation 6.11 of the Regulations requires that an individual applying for registration as a greenhouse and energy auditor must have a bachelor's, master's or doctoral degree (or equivalent) conferred by an appropriate university or an equivalent institution of higher learning.

This section specifies that an appropriate qualification will be a relevant degree (or equivalent) obtained from either:

- in the case of Australian qualifications—table A and B providers (as listed in section 16-15 and section 16-20 of the *Higher Education Support Act 2003*); or

- in the case of international qualifications—an international institution listed in the *International Handbook of Universities*.

The Regulator will be able to accept a qualification that is not a degree if satisfied the qualification is equivalent, such as a professional qualification attained prior to formal degrees being offered in certain disciplines.

Similarly, if an applicant has obtained a qualification from an Australian institution that is subsequently renamed, amalgamated with another body, or closed, the Regulator may accept a qualification from an institution which is equivalent to those specified.

In the case of a qualification obtained from an international institution, the Regulator will need to be satisfied that the qualification is equivalent to one of those named in the *International Handbook of Universities*. One method which might provide satisfactory evidence would be a qualification assessment by the Department of Education and Training.

Section 7 Knowledge of relevant legislation for category of auditor

Subregulations 6.14 (1) and 6.14A (1) of the Regulations provide that an applicant must have knowledge of the NGER legislation and the CFI legislation which is relevant to the category of auditor for which the applicant has applied to be registered. Regulation 1.03 of the Regulations defines the terms “NGER legislation” and “CFI legislation”.

Section 7 sets out which provisions of the NGER legislation and CFI legislation are relevant to applicants for Category 1 and Category 2 registration.

The intention of specifying different knowledge requirements is to ensure that an applicant is not obliged to become familiar with all provisions of the NGER and CFI legislation, but rather only with those provisions that will be relevant to the category of registration for which the individual is applying.

Section 8 Evidence of knowledge of relevant legislation

Subregulations 6.14 (2) and 6.14A (2) of the Regulations specify that an applicant must provide appropriate evidence that he or she has knowledge of the NGER legislation or CFI legislation relevant to the category of auditor for which the applicant has applied to be registered.

This section specifies that appropriate evidence will consist of a statement provided by the applicant in their application for registration setting out details of their knowledge of the relevant legislation and how this was obtained.

Section 9 Demonstrating knowledge of auditing

Subregulation 6.15 (1) provides that an applicant must have knowledge of auditing. Subregulation 6.15 (2) provides that to demonstrate that knowledge, the applicant must, in or with the application, provide the Regulator with appropriate evidence.

Section 9 of the Instrument provides that an applicant’s knowledge of auditing can be evidenced by a statement listing any training courses specified in section 10 they have successfully completed or any qualification listed in section 11 that the applicant has completed.

Section 10 Evidence of knowledge of auditing—training

This section specifies the training courses that will satisfy the requirement in subregulation 6.15 (1) of the Regulations that an applicant must have knowledge of auditing. Such a training course must be delivered by a “competent training provider” within the meaning of section 3 of the Instrument.

A training course mentioned in paragraph 10(1)(c) must be either a course that forms part of the Graduate Diploma of Chartered Accounting or an equivalent course that forms part of an equivalent program delivered by another member of the Global Accounting Alliance. The Graduate Diploma of Chartered

Accounting is the academic component of the Chartered Accounting (CA) Program, administered by Chartered Accountants Australia and New Zealand, which consists of five modules that, in conjunction with three years of mentored practical experience, results in the student becoming a Chartered Accountant.

A training course mentioned in paragraph 10(1)(d) must be a course that forms part of the CPA Program. CPA Australia administers the CPA program. It consists of four compulsory subjects, two electives and an experience component, and results in the student becoming a Certified Practising Accountant (CPA).

A training course mentioned in 10(1)(e) must be a course that forms part of the IPA program. The Institute of Public Accountants (IPA) administers the IPA program in conjunction with Deakin University. The program results in the awarding of a Master of Business Administration from Deakin University.

Section 11 Evidence of knowledge of auditing—qualifications

This section specifies the qualifications that will satisfy the requirement in subregulation 6.15 (1) of the Regulations that an applicant must have knowledge of auditing.

Section 12 Evidence of knowledge of auditing—experience

Subregulation 6.15 (3) of the Regulations specifies that if an applicant does not supply evidence of having audit knowledge referred to in subregulation 6.15 (2) of the Regulations (in other words, does not supply evidence of having completed one of the training courses listed in section 10 or holding one of the qualifications listed in section 11 of this Instrument), the applicant may demonstrate his or her knowledge of auditing by complying with subregulation 6.15 (4) of the Regulations.

In order to comply with subregulation 6.15 (4) of the Regulations, an applicant must have participated in the appropriate kind and number of audits for the appropriate period and provide written reports by two eligible referees attesting to the quality of that participation.

Section 12 of the Instrument specifies that for paragraph 6.15 (4) (a) of the Regulations, an applicant must have participated for 700 individual hours in total in at least five of the kinds of audits mentioned in that section.

Subsection 12 (2) of the Instrument provides for any other audit or verification of an offsets report under an internationally accredited scheme that an applicant may have participated in, to be put to the Regulator for consideration in demonstrating their experience in auditing. This allows applicants with auditing experience that differs from the audits listed in subsection 12 (1) of the Instrument to still be considered for registration as an auditor (for example, for overseas applicants where the audits they have participated in are not listed in subsection 12 (1) of the Instrument, but may be relevant to greenhouse and energy auditing).

Section 13 Knowledge of audit team leadership and assurance—Category 2 applicants

Subregulation 6.16 (1) of the Regulations provides that an applicant for registration as a Category 2 auditor must have knowledge of audit team leadership and assurance. To demonstrate that knowledge, the applicant must, in or with the application, provide the Regulator with appropriate evidence (subregulation 6.16 (2) of the Regulations).

The effect of section 13 (1) of the Instrument is that an applicant will satisfy the requirements provided for in subregulation 6.16 (1) of the Regulations if he or she is registered as an auditor under section 1280 of the *Corporations Act 2001* or has successfully completed one of the specified training courses. Many of these courses are the same courses as those which demonstrate knowledge of auditing – training for the purposes of section 10 of the Instrument. For an explanation of some of these training courses, see the explanation for subsections 10 (1) (c), (d) and (e) above.

If an applicant does not satisfy the requirements in subsection 13 (1), an applicant must satisfy the requirements in subsections 13 (2) and 13 (3) of the Instrument. Subsection 13 (2) provides that an applicant has knowledge of audit team leadership if he or she meets the requirements set out in that subsection.

Subsection 13 (3) provides that an applicant has knowledge of assurance if he or she has successfully completed a specified course.

Subsection 13 (4) of the Instrument provides for any other training or tertiary education an applicant may have successfully completed to be put to the Regulator for consideration in demonstrating their knowledge of assurance. This allows applicants with training and tertiary education that differs from the criteria in section 13 of the Instrument to still be considered for registration as an auditor (for example, for overseas applicants where the training they have completed is not listed in section 13 of the Instrument but may be relevant to greenhouse and energy auditing). If the Regulator refuses to accept that the person's training or education is sufficient to demonstrate that the applicant has knowledge of assurance, the applicant will not be registered as an auditor. As noted above, an application may be made to the Administrative Appeals Tribunal, under section 56(j) of the NGER Act, for the review of a decision of the Regulator to refuse to register an individual in the register of greenhouse and energy auditors kept under section 75A of the NGER Act.

Section 14 Auditing experience requirements for applicants for Category 1 registration—auditing and preparing audit reports

The effect of subregulation 6.19 (1) of the Regulations is that an applicant for registration as a Category 1 auditor must have the appropriate kind, and the appropriate period, of experience of auditing and preparing audit reports. Subregulation 6.19 (2) of the Regulations provides that the experience must have been obtained during the five years immediately preceding the day the application is made. To demonstrate the experience, the applicant must, in or with the application, provide the Regulator with appropriate evidence.

Section 14 of the Instrument specifies the requirements that must be met by an individual who applies for registration as a Category 1 auditor.

Subsection 14 (2) of the Instrument provides for any other audit or verification of an offsets report under an internationally accredited scheme that an applicant may have participated in, to be put to the Regulator for consideration in demonstrating their experience in auditing. This allows applicants with auditing experience that differs from the audits listed in subsection 14 (1) of the Instrument to still be considered for registration as an auditor (for example, for overseas applicants where the audits they have participated in are not listed in subsection 14 (1) but may be very relevant to greenhouse and energy auditing).

Section 15 Auditing experience requirements for applicants for Category 2 registration—auditing and preparing audit reports

The effect of subregulation 6.20 (1) of the Regulations is that an applicant for registration as a Category 2 auditor must have the appropriate kind, and the appropriate period, of experience of auditing and preparing audit reports. Subsection 15 (1) of the Instrument sets out the ways in which these requirements can be met.

In broad terms, the section provides that an applicant must have obtained at least 1,000 individual hours experience in total in the last five years as an audit team leader or a professional member of an audit team in auditing and preparing audit reports in five or more specified kinds of audits. The experience must be equivalent to conducting a reasonable assurance engagement or a limited assurance engagement under the National Greenhouse and Energy Reporting (Audit) Determination 2009.

Section 16 Auditing experience requirements for applicants for Category 2 registration—audit team leadership

The effect of subregulation 6.20 (2) of the Regulations is that an individual who applies for registration as a Category 2 auditor must have had at least the appropriate kind, and the appropriate period, of experience of audit team leadership. Subregulation 6.20 (3) of the Regulations provides that the experience of auditing and preparing audit reports, and of audit team leadership, must have been obtained during the five years immediately preceding the day the application is made.

Section 16 of the Instrument sets out the ways in which the requirements of this subregulation may be met. Section 16 provides that an applicant must have obtained at least 700 individual hours experience in total as an audit team leader of an audit team that has three or more other members in one or more kinds of specified audits. The purpose of this requirement is to ensure that an applicant for Category 2 registration has significant experience in leading large audit teams.

Alternatively, an applicant must have obtained at least 700 individual hours experience as a supervisor of an audit team for a Part 6 audit. The purpose of this requirement is to ensure that an applicant for Category 2 registration has significant experience in supervising large audit teams, sufficient to provide them with experience equivalent to that for audit team leadership.

Subsection 16 (4) of the instrument provides that an applicant must have obtained a combined total of at least 700 individual hours experience as an audit team leader of an audit team that has three or more other members in one or more specified audits and as a supervisor of an audit team for a Part 6 audit. This allows applicants with both supervisory and team leader experience that meets the combined minimum 700 hours to be considered for registration as a Category 2 auditor.

Statement of compatibility with human rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018

The *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018* (the Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The Regulations establish two categories of registered greenhouse and energy auditors—Category 1 auditors and Category 2 auditors. The categories of auditor have different requirements as to qualifications, knowledge and experience.

The Instrument sets out the ways in which the requirements of the Regulations in relation to auditing knowledge, qualifications and experience may be met. The Instrument also revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2017* (No.2).

Human rights implications

The Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Instrument is compatible with human rights as it does not raise any human rights issues.