

REPLACEMENT EXPLANATORY STATEMENT

National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2019

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 subregulation 6.72(2) 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 2019* (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.

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

The Instrument revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018* made on 28 November 2018 (the 2018 Instrument).

The Instrument has changed in structure and form from the 2018 Instrument. This is to allow for consequential amendments flowing on from amendments made to the Regulations by the *National Greenhouse and Energy Reporting Amendment (2019 Measures No. 1) Regulations 2019* (the amending Regulations) and to reduce red tape.

The Instrument has been amended to:

- reorder the Instrument so that it follows the order of the amended Regulations and to make it easier for applicants and auditors to use;
- reflect that applications for persons to register as Category 1 auditors cannot be made after the amending Regulations commence. As this does not affect auditors who are currently registered, provisions relating to the performance and maintenance of skills for Category 1 auditors have been retained in the Regulations;

- simplify the requirements for qualifications, auditing knowledge and experience while still maintaining high standards;
- provide for auditors to specialise in auditing one or more of the schemes—and for the Regulator to place conditions upon their registration to reflect this specialisation;
- facilitate auditing of the *Renewable Energy (Electricity) Act 2000* and *Renewable Energy (Electricity) Regulations 2001* by requiring applicants to have knowledge of this legislation.

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 on 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 to ‘Section 4 Definitions’ in Attachment A.

Consultation

The Instrument went out for formal public consultation from 2 – 28 August 2019 in conjunction with consultation on related changes to the Regulations. Four submissions were received. None raised issues with the changes to this Instrument.

National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2019

Section 1 Name of Instrument

This section provides that the name of the Instrument is the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2019* (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 2018* (the 2018 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.

In addition to the modes of access mentioned for each incorporated document in the below list (other than the University Handbook), the Regulator will provide access to any of these documents to members of the public who are affected by, or have a genuine interest, and need to access the relevant documents to understand the operation of the Instrument and who would not otherwise have free access to the documents.

The Regulator expects that auditors would not require access to the documents through the Regulator to undertake their day-to-day business activities. Therefore, the Regulator does not intend to provide these documents to industry participants at no cost. To do so could affect the commercially valuable intellectual property and financial viability of the documents.

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), 2017 (No. 2) and 2018 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.

Standards

- 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 30 May 2017. 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 at <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-isaec-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>.
- AS ISO 14064.3–2006, *Greenhouse gases Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions*, 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](http://www.sai-global.com).
- 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 14064-3:2019 *Greenhouse gases - Part 3: Specification with guidance for the verification and validation of greenhouse gas statements*, published by the International Organisation for Standardisation, April 2019. 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, July 2018. 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 program, auditors and audit teams. The standard is available for purchase from <http://www.iso.org/iso/home.htm>.

University Handbook

- *International Handbook of Universities*, published by Palgrave Macmillan on behalf of the International Association of Universities. 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, 2017 No. 2 and 2018 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.

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.

Section 7 Knowledge of relevant legislation

Subregulation 6.14 (1) of the Regulations provides that an applicant must have knowledge of the NGER legislation, the CFI legislation and the renewable energy legislation. Regulation 1.03 of the Regulations defines the terms “NGER legislation”, “CFI legislation” and “renewable energy legislation”. However, an auditor need only have knowledge of the CFI legislation or renewable energy legislation if the auditor intends to carry out audits (as a greenhouse and energy auditor) under the respective legislation. NGER legislation knowledge is mandated for all applications as the audit framework resides within this legislation. An auditor who does not have knowledge of a particular scheme can be managed with a condition imposed under Regulation 6.61(4).

Section 7 sets out which provisions of the NGER legislation, CFI legislation and the renewable energy legislation are relevant for 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, CFI legislation and the renewable energy legislation, but rather only with those provisions that will be relevant to the audits the auditor will carry out.

Section 8 Evidence of knowledge of relevant legislation

Subregulation 6.14 (2) of the Regulations specifies that an applicant must provide appropriate evidence that he or she has knowledge of the NGER legislation and, if relevant, the CFI legislation or the renewable energy legislation.

Subsection 8(2) specifies that appropriate evidence of his or her knowledge of the NGER Act 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. This knowledge may have been obtained through training and/or through undertaking greenhouse and energy audits and/or safeguard audits. This statement also allows the applicant to set out any other information they believe is relevant to demonstrating their knowledge of each appropriate legislation.

Subsection 8(3) provides for the circumstances where knowledge of the CFI legislation is relevant to the person's application to be registered. This will be relevant only where the applicant intends to carry out audits under the CFI legislation. In these circumstances, the applicant will provide appropriate evidence of his or her knowledge of the CFI legislation through providing a statement setting out their knowledge and how it was obtained. Again, this statement also allows the applicant

to set out any other information they believe is relevant to demonstrating their knowledge of each appropriate legislation. This knowledge may have been obtained through training and/or through assisting a project proponent of an eligible offsets project under the CFI Act to meet the project proponent's reporting or auditing obligations under the CFI Act and/or in participating in ERF audits.

Subsection 8(4) provides for the circumstances where knowledge of the Renewable Energy legislation is relevant to the person's application to be registered. This will be relevant only where the applicant intends to carry out audits under the Renewable Energy legislation. In these circumstances, the applicant will provide appropriate evidence of his or her knowledge of the Renewable Energy legislation through providing a statement setting out their knowledge and how it was obtained. Again, this statement also allows the applicant to set out any other information they believe is relevant to demonstrating their knowledge of each appropriate legislation. This knowledge may have been obtained through training and/or (if relevant) through assisting a company that conducts eligible emissions-intensive trade-exposed activities to meet the company's auditing obligations in seeking liability exemption under the *Renewable Energy (Electricity) Act 2000*. Regulations 22UB and 22UG of the *Renewable Energy (Electricity) Regulations 2001* provide that certain applications for exemption certificates must be accompanied by an audit report. These must be prepared by a registered company auditor or authorised audit company under the *Corporations Act 2001* or by a Category 2 registered greenhouse and energy auditor.

Section 9 Knowledge of audit—Category 2 applicants

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. The appropriate evidence consists of a written statement setting out the training course they have completed, the institution of the training course, and the name of the attained qualification. The requirements under this section have been considerably simplified when compared to the 2018 Instrument. The requirement to demonstrate knowledge of relevant legislation, coupled with the requirement to demonstrate knowledge of audit team leadership and assurance, already cover much of the evidence necessary for the Regulator to be sure that auditors have appropriate knowledge of audit, despite the reduction in the requirements under subsection 9(1).

If an applicant cannot provide evidence of knowledge through the manner in subregulation 6.15 (2), subregulation 6.15 (4) also allows an applicant to satisfy the requirement of audit knowledge by participating in 10 audits of a type specified in subsection 9(2) over a period of five years and providing two eligible referee reports attesting to this participation.

Section 10 Knowledge of audit team leadership and assurance—Category 2 applicants

Subregulation 6.16 (1) of the Regulations stipulates that an applicant for registration as a Category 2 auditor must also 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 10 (1) of the Instrument is that an applicant has multiple ways to 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 in audit and assurance, then they will have demonstrated their knowledge of audit team leadership and assurance. However, the applicant may also demonstrate their knowledge of audit team leadership separately from their knowledge of assurance. The ways to demonstrate these types of knowledge separately are set out in subsections 10 (2), (3) and (4).

Subsection 10 (2) provides that an applicant has knowledge of audit team leadership if he or she has been certified as a Lead Environmental Auditor or Business Improvement Environmental Auditor or has successfully completed the specified training course in audit team leadership.

Subsection 10(3) provides that an applicant has knowledge of assurance if he or she has successfully completed a specified training course in assurance. Such a training course must be delivered by a “competent training provider” within the meaning of section 4 of the Instrument. Alternatively, under subsection 10 (4) an applicant may demonstrate other training or tertiary education that the Regulator considers appropriate in demonstrating knowledge of assurance. This allows applicants with training and tertiary education that differs from the criteria in subsections 10 (1), (2) and (3) of the Instrument to still be considered for registration as an auditor. For example, overseas applicants will not have completed training listed in subsection 10 (3) of the Instrument but may have other training and experience relevant to knowledge of audit team leadership and assurance. If the Regulator does not consider the information put forward by the applicant demonstrates knowledge of audit team leadership and assurance, and the application is refused, the applicant may apply to the Administrative Appeals Tribunal for merits review of the decision.

Section 11 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 11 (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 12 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 12 of the Instrument sets out the ways in which the requirements of this subregulation may be met. Section 12 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 or alternative 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 12 (c) 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 2019

The *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2019* (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 Legislative Instrument

The purpose of the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2019* (the Instrument) is to set out the ways in which the requirements of the *National Greenhouse and Energy Reporting Regulations 2008* be met. These requirements relate to the knowledge, qualifications and experience an applicant for registration as a greenhouse and energy auditor must have.

The Instrument also revokes the *National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2018*.

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.