

# Annex to Regulatory Impact Statement: Proposed Building for Climate Change amendments to the Building Act 2004

## Coversheet

Purpose of Document	
Decision sought:	Seeking additional policy decisions to strengthen the effectiveness of energy performance ratings that owners of certain types of buildings will be required to hold under proposed changes to the Building Act 2004 (the Act).
Advising agencies:	The Ministry of Business, Innovation and Employment
Proposing Ministers:	The Minister for Building and Construction
Date finalised:	03 May 2023
Background/ Context	
<p>This is an Annex to the Regulatory Impact Statement (the RIS): Proposed Building for Climate Change amendments to the Building Act 2004, available at: <a href="https://www.treasury.govt.nz/sites/default/files/2022-12/ria-mbie-pbccca-ba-aug22.pdf">https://www.treasury.govt.nz/sites/default/files/2022-12/ria-mbie-pbccca-ba-aug22.pdf</a></p> <p>In September 2022, Cabinet [CAB-22-MIN-0390 refers] gave policy approval to require owners of certain buildings to hold a current energy performance rating for each building they own. This progresses Action 12.3.2 in the Emissions Reduction Plan (ERP).</p> <p>Since obtaining Cabinet approval, officials from the Ministry of Business, Innovation and Employment (MBIE) identified that policy approvals for energy performance ratings (recommendations 4 to 11 in the above Cabinet paper) did not specify who is qualified, competent and approved to conduct energy performance rating for buildings.</p> <p>Cabinet decisions also set out that owners of buildings to whom energy performance requirements apply should have a current rating but did not specify whether there would be any requirements for renewal of these ratings. To provide additional clarity, it is proposed to require building owners to have a valid energy performance rating, and to enable regulations to specify the renewal period for a rating.</p>	
Problem Definition	
<p>Consumers (those who own, lease, or rent building space), currently have limited information about their building’s energy performance making it difficult to understand or compare the energy efficiency or running costs of the buildings(s) they may wish to rent or buy, or to make improvements to the energy performance of a building they rent or own.</p> <p>Access to better information about a building’s energy performance will unlock consumer potential to make informed decisions about the energy they use in buildings. It may also incentivise building owners to invest in lowering the energy usage of their building, which could lead to reduced emissions.</p>	

For this policy to be effective in improving the energy efficiency and reducing emissions of a building(s):

- the public and building owners need to have trust and confidence in the energy performance ratings that have been calculated for their building. Trusted ratings are more likely to lead action(s) that improve the energy performance of buildings.
- energy performance ratings need to be renewed regularly to provide consumers with useful and up to date energy performance information and drive improvements in energy efficiency over time by reflecting changes in technology and energy efficiency management.

### Executive Summary

This Annex provides a high-level summary of the problems being addressed to ensure that the public and building owners have trust and confidence in energy performance ratings. It outlines the options proposed to achieve this and their associated costs and benefits, and the proposed arrangements for implementation and monitoring.

The objectives of the proposals in this Annex are to support:

- **Objective 1 (Energy performance rating):** Enable consumers (those that lease or rent building space), the Government, and investors to access better information on the energy performance of existing buildings to improve energy efficiency across the building stock.
- **Objective 2 (Trust and confidence in energy performance ratings):** Enable consumers (those that lease or rent building space), the Government, investors and building owners to have trust and confidence in energy performance ratings.

In Part A of this Annex our analysis identifies that the most effective option to achieve our objectives is to amend the Act to enable MBIE or another appointed body to recognise organisations to provide energy performance ratings (recognised organisations)<sup>1</sup>.

Recognising energy performance rating providers will provide the public with trust and confidence in energy performance ratings and in doing so improve a buildings' energy efficiency and reduce energy costs and emissions.

In Part B of this Annex, our analysis indicates that to improve energy efficiency across the building stock, energy performance ratings need to be regularly renewed.

### Limitations and Constraints on Analysis

The following limitations and constraints on this RIS have been identified:

- The costs and benefits outlined in this RIS are indicative and based on the best available estimates for the preferred option.
- The proposals in this RIS would require regulations to be developed before they are implemented. Any such requirements would be brought to Cabinet for consideration in due course following engagement with the public and building and construction sector, and be accompanied by a separate Regulatory Impact

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<sup>1</sup> The proposal is to create a scheme that recognises the competence of organisations to provide energy performance rating services. We describe this as an organisation recognition scheme, rather than an accreditation scheme. Accreditation schemes often involve compliance with international standards which is not a feature of this scheme.

Statement, Stage 2 Cost Recovery Impact Statement, and a Climate Implications of Policy Assessment.

- The impact of energy performance ratings on the behaviour of consumers and building owners is unknown, at this stage.

#### Responsible Manager(s) (completed by relevant manager)

Suzannah Toulmin  
Manager, Building for Climate Change  
Ministry of Business, Innovation and Employment



03 May 2023

#### Quality Assurance (completed by QA panel)

Reviewing Agency:	MBIE's Regulatory Impact Analysis Review Panel (RIARP)
Panel Assessment & Comment:	Assessed as meeting all requirements

## Section 1: Diagnosing the policy problem

### Context and background of the problem

In September 2022, Cabinet [CAB-22-MIN-0390 refers] gave policy approval to require owners of certain buildings to hold a current energy performance rating for each building they own. The current policy approval:

- does not specify who is qualified, competent, and approved to produce energy performance ratings. Without this, it will be difficult to guarantee the accuracy and credibility of the rating and to enable the drafting of legislation to process.
- specifies that owners of buildings to whom energy performance requirements apply should have a current rating but did not specify whether there would be any requirements for renewal of these ratings. To provide additional clarity, it is proposed to require building owners to have a valid energy performance rating, and to enable regulations to specify the renewal period for a rating.

The September 2022, Cabinet decisions [CAB-22-MIN-0390 refers] progress action 12.3.2 in the Emissions Reduction Plan, which aims to enable consumers to compare buildings they wish to purchase or tenant and make informed decisions about how to invest or take additional actions to make their buildings more energy efficient.

### Consultation and engagement have informed the options being considered (Cost Recovery Impact Statement) (CRIS)

Public consultation has informed the objectives and proposals in this Annex. The proposal to make energy performance ratings mandatory was consulted on by the Climate Change Commission and during the Emissions Reduction Plan consultation process.

Further targeted stakeholder engagement was also undertaken prior to the original Cabinet decision, with the Building Advisory Panel and a Legislation Discussion Group<sup>2</sup> made up of key stakeholders from the building and construction sector and government agencies. These engagements helped MBIE identify that trust and confidence in the ratings was key to the success of an energy performance rating scheme and supported the concept that ratings would be renewed regularly.

### What is the policy problem?

Consumers currently lack access to accurate, comparable, and credible energy performance information about their buildings.

To address this information gap, Cabinet [CAB-22-MIN-0390 refers] agreed to require building owners to hold an energy performance rating which provides an assessment of how well a building or tenanted space is using energy. In addition, building owner(s) are to be required to display their buildings' rating when advertising their building and provide it to tenants, investors or other people specified in regulation.

Access to this energy performance information is intended to unlock consumer potential to make informed decisions about the energy they use in buildings. This could incentivise building owners to invest to improve the energy efficiency of their buildings, which could lead to reduced emissions.

For this policy to be effective in improving energy efficiency and reducing emissions:

- consumers and building owners need to have trust and confidence in the energy performance ratings of their building(s). Trusted energy performance ratings are more likely to provide incentives for building owners to invest in improving the energy efficiency of their buildings.
- ratings need to be reviewed at regular intervals to provide consumers with useful and up to date energy performance information and drive improvements in energy efficiency by reflecting changes in technology and energy efficiency management over time.

### Current state

There is no requirement within the Act to assess the energy performance of a building.

Owners of office buildings can participate in a voluntary energy performance rating scheme, NABERSNZ. NABERSNZ is an adaptation of the National Australian Built Environment Rating System (NABERS), which is administered by the New South Wales government and is mandatory for large office buildings in Australia.

This NABERSNZ programme is licensed to the Energy Efficiency Conservation Authority (EECA) by the New South Wales government and administered by the New Zealand Green Building Council (NZGBC). Ratings are carried out by trained assessors and are valid for 12

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<sup>2</sup> This discussion group was comprised of representatives from Wellington City Council, Selwyn District Council, Institute of Architects, BRANZ, Property Council New Zealand, Certified Builders, Registered Master Builders, New Zealand Green Building Council, Kāinga Ora and the Ministry for Environment. This discussion group was comprised of representatives from Wellington City Council, Selwyn District Council, Institute of Architects, BRANZ, Property Council New Zealand, Certified Builders, Registered Master Builders, New Zealand Green Building Council, Kāinga Ora and the Ministry for Environment.

months. There are currently around 100 commercial office buildings that have a NABERSNZ rating.

To qualify as NABERSNZ Accredited Assessors individuals are required to complete specific training, pass examinations, and carry out supervised ratings. It currently costs \$2,830 + GST to complete the training to be a NABERSNZ assessor. The training is developed in conjunction with NABERS in Australia.

All Accredited Assessors need to pay a \$850 biannual accreditation fee to be considered an active assessor. Inactive assessors must attend a NABERSNZ event/refresher training to keep up to date. Currently, 106 people have completed NABERSNZ Accredited Assessor training and there are 61 current assessors.

Since January 2021, the Carbon Neutral Government Programme (CNGP) has required specified government agencies that occupy large office space (over 2,000m<sup>2</sup>) to have a NABERSNZ rating. In particular, the CNGP requires agencies:

- that own/lease office accommodation at or above 2,000m<sup>2</sup> to get a NABERSNZ rating by December 2025
- entering a new lease or renewing an existing lease to target a rating above 5 stars, and achieve a minimum of 4 stars
- who have achieved their target rating to re-rate their building every three years. If the target rating has not been met, an agency must implement a work programme within 12 months to achieve the target rating and re-rate the building annually until the minimum star rating is achieved.

## **Section 2: Deciding upon an option to address the policy problem**

### **What criteria will be used to compare options to the status quo?**

The following criteria are used to assess the options, which broadly align with the common dimensions of regulatory system effectiveness, as outlined by the Treasury.

- **Effective:** to what extent does the option deliver the intended outcomes of this policy .
- **Efficient:** to what extent does the option minimise unintended consequences and undue costs and burdens.
- **Durable and resilient:** to what extent is the option future proof and allow to for different types of assessments and buildings in the future.
- **Fair and accountable:** the extent to which the option delivers a fair and good process for energy performance ratings.

### **What scope will options be considered within?**

The scope of these options fall within the previous Cabinet policy decisions that has given policy approval to require owners of certain buildings (new and existing commercial, public, industrial, and large-scale residential buildings over a certain size threshold) to hold a current energy performance rating for each building they own.

This Annex will consider feasible options that enable the public to have trust and confidence energy performance ratings. To support these options, there will need to be assurance mechanisms for building owners and the public that could include:

- the persons assessing a rating are appropriately qualified and assess against an accepted method or standard<sup>3</sup>
- building owners and consumers being able to challenge their building's rating and have access to independent dispute resolution, where appropriate
- there is the ability to check on whether buildings are being assessed correctly through an audit function.

This Annex will also consider feasible options for when to require building owners to renew the energy performance rating for their building. Part B considers whether energy performance ratings need to be renewed regularly.

## **PART A – Recognising who can conduct energy performance ratings**

This part of the Annex sets out the cost and benefits of options for recognising who can conduct energy performance ratings.

### **International and New Zealand examples**

Set out below are international examples of approaches to accreditation in energy performance ratings programmes and New Zealand examples of other accreditation functions in legislation.

#### **International examples of energy performance ratings programmes**

Mandatory energy performance ratings programmes have been successfully implemented overseas, in the United Kingdom (since 2008), Australia (since 2008) and the European Union (since 2010).

While each jurisdiction takes a slightly different approach to energy performance ratings, these schemes have been shown to produce energy savings for consumers, reduce energy bills, and reduce emissions, more than making up for the cost or administrative process of obtaining a rating.

In Australia, the United Kingdom, and the European Union, energy performance ratings are required to be assessed by accredited assessors using a consistent method or standard, so that the public can have confidence in a building's energy performance rating.

In Australia, individual assessors are accredited by the Commercial Building Disclosure Program based on criteria in the Building Energy Efficiency Disclosure Act 2010. All assessors are required to undertake NABERS training to be eligible to be accredited.

In contrast, the United Kingdom and the European Union accredits and certifies at the organisation or body level. This enables organisations with expertise in building energy performance assessments to continue providing this service through utilising existing networks of energy performance assessors.

#### **New Zealand examples of accreditation functions**

Existing accreditation schemes in the New Zealand building system accredit organisations or bodies to perform certain functions. These include Building Consent Authority accreditation,

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<sup>3</sup> This approach is also used by Australia and the United Kingdom. This approach has found that there being trust and confidence in ratings is a key part of the ratings being effective at addressing the identified problem.

and the Product Certification and Modular Component Manufacturer accreditation schemes under the Act.

In other legislation, examples where organisations or bodies are accredited to perform certain functions include: the Accredited Employer Work Visa scheme through Immigration New Zealand, Accredited Employers Programme through the Accident Compensation Corporation, and Accredited Persons through Trade Standards New Zealand.

## What options are being considered?

### Options being considered to enhance public trust and confidence in energy performance ratings are:

#### **Option 1: Enable building owners to self-assess their building's energy performance**

This option allows building owners to self-assess the energy performance of their building. MBIE or another approved body would provide building owners with a standardised set of tools or templates that would be based on a published energy performance rating methodology.

Building owners would be required to complete an assessment and provide MBIE with the results of this. To ensure consistency of results, MBIE or an approved body could also develop an electronic system that would allow building owners to input data and generate a rating for the building.

The person doing the rating would not need any skill or qualification, although many building owners would likely engage a person they regarded as appropriately qualified to perform this assessment.

#### **Option 2: Recognise organisations to carry out energy performance ratings**

This option would enable MBIE, or an appointed body to recognise energy performance rating organisations to provide energy performance ratings.

Regulations would specify the criteria which energy performance rating organisations must meet to be recognised. This may include criteria around training and development processes for assessors, dispute resolution and code of conduct processes the organisation has in place.

Regulations would also specify an energy performance rating methodology that would need to be used by recognised organisations to carry out assessments.

Energy performance rating organisations would approve assessors to conduct energy performance ratings of buildings.

#### **Option 3: Accredite individual energy performance rating assessors**

This option allows for individuals to be accredited by MBIE or another approved body to undertake energy performance ratings.

Accredited assessors would be required to assess buildings using the energy performance rating methodology specified in regulations. They would also need to meet certain professional standards to be accredited, regularly renew their accreditation, and meet requirements for professional development or training.

Under this option, building owners would be required to use an accredited energy performance rating assessor to undertake their buildings' assessment. The accreditation body would also be responsible for resolving dispute or complaints and ensure that energy performance ratings are accurate. The Chief Executive would be able to appoint an accreditation body, and this could be MBIE or an approved body.



## How do the options compare?

Objective: To provide the public trust and confidence in energy performance ratings.

	<b>Option One: Enable building owners to self-assess their buildings energy performance.</b>	<b>Option Two: Recognise organisations to carry out energy performance ratings</b>	<b>Option Three: Accredit individuals to perform energy performance ratings</b>
<b>Effective</b>	<p><b>+</b></p> <p>Would likely result in inconsistency between ratings because this would rely on unqualified individuals to input accurate data and apply tools/ calculators correctly, or it would rely on building owners identifying a person they view as qualified to do the rating, but with limited guidance about what expertise is needed.</p> <p>It will be harder to identify areas for improving a rating using a self-assessment approach because those doing the rating may lack expertise and this may result in less energy savings and higher emissions.</p> <p>The individual undertaking the energy rating will not always be independent and ratings compiled by people with a self-interest may be perceived as less credible.</p> <p>Prospective buyers/tenants may have less confidence in energy performance ratings when comparing buildings, since they may not be all completed to the same standard and the lack of independence may undermine trust in the assessor.</p>	<p><b>+++</b></p> <p>Provides the public with confidence that the rating has been measured using a fair and consistent approach and issued by an appropriately skilled, independent person.</p> <p>Would generate more complete and comparable information about building energy efficiency, and more consistent ratings which are more likely to drive action or investment by building owners to reduce emissions.</p>	<p><b>+++</b></p> <p>Provides the public with confidence that the rating has been measured using a fair and consistent approach and issued by an appropriately skilled, independent person.</p> <p>Would generate more complete and comparable information about building energy efficiency, and more consistent ratings which are more likely to drive action or investment by building owners to reduce emissions.</p>
<b>Efficient</b>	<p><b>++</b></p> <p>Lower ongoing administration costs, as standards tools, guidance, templates, and resources would be made available online, but higher costs upfront to develop and implement an online calculator or tool.</p> <p>Likely to be lower costs for building owners to self-rate rather than have a rating assessed by accredited assessor.</p>	<p><b>+++</b></p> <p>Lower upfront administration costs because the recognition body will have to accredit a smaller number of energy performance organisations.</p> <p>There will be upfront cost for the no development of online tools.</p>	<p><b>++</b></p> <p>Higher upfront administrative costs because the accreditation body will have to accredit a potentially larger number of individual assessors. There are currently 106 qualified NABERSNZ assessors.</p> <p>There will be upfront cost for the no development of online tools.</p>

	<p>It is harder for a building owner to determine if the person they ask to perform an energy performance rating is appropriately qualified.</p> <p>Information will be potentially inconsistent, as people doing self-assessments may have a range of skills and ability in accurately applying MBIE tools and/or templates.</p> <p>Likely to result in an inconsistent approach to measurement and varying results which may make ratings less credible.</p>	<p>More costs to building owners to obtain a rating through a recognised organisation compared to self-assessment.</p> <p>Recognised organisations would be responsible for setting policies and procedures in place to ensure energy performance ratings are robust and can withstand challenge.</p>	<p>More costs to building owners to obtain a rating through an accredited assessor compared to self-assessment. MBIE or another approved body would be responsible for setting policies and procedures in place to ensure energy performance ratings are robust and can withstand challenge.</p>
<b>Durable and resilient</b>	<p>+</p> <p>Could diminish trust and confidence in the energy performance ratings.</p> <p>Less accurate ratings may result in little/no action being taken by building owners to improve energy efficiency of their buildings.</p> <p>In the long term, inaccurate energy performance ratings could impact the overall understanding of energy usage for buildings in New Zealand.</p>	<p>+++</p> <p>Provides meaningful baseline data to MBIE and the recognition body which could be used to inform future policy.</p> <p>Aligns with international models and builds off the reputation, evidence base and success overseas.</p> <p>By setting assessment criteria, it is future-proofed if decision makers decide to expand into other building types in future.</p> <p>Ability for building owners to access professional / independent advice, and economic benefits from taking actions to improve their building's energy performance.</p>	<p>+++</p> <p>Provides meaningful baseline data to MBIE which could be used to inform future policy.</p> <p>Aligns with international models and builds off the reputation, evidence base and success overseas.</p> <p>By setting assessment criteria, it is future-proofed if decision-makers decide to expand into other building types in future.</p> <p>Ability for building owners to access professional/ independent advice, and economic benefits from taking actions to improve their building's energy performance.</p>
<b>Fair and accountable</b>	<p>+</p> <p>Consumers may have to rely on inconsistent energy performance ratings, since they may not be all completed to the same standard.</p>	<p>+++</p> <p>Provides assurances that the ratings have been conducted by a competent assessor and that there are checks in place if the rating is conducted incorrectly and to independently settle disputes.</p>	<p>+++</p> <p>Provides assurances that the ratings have been conducted by a competent assessor and that there are checks in place if the rating is conducted incorrectly and to independently settle disputes.</p>
<b>Overall assessment</b>	+	+++	++

**Example key for qualitative judgements:**

- +++ much better than doing nothing/the status quo
- ++ better than doing nothing/the status quo
- + slightly better than the status quo
- 0 about the same as doing nothing/the status quo

## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Option 2, which involves MBIE or an appointed body recognising organisations to carry out energy performance ratings is the preferred option. When rated against the criteria, it was assessed to provide the public with trust and confidence in energy performance ratings, in a way that will improve a buildings' energy efficiency and reduce energy costs and emissions.

Options 2 and 3 are similar because both propose to introduce requirements for who can carry out energy performance ratings. Option 2 is preferred because the recognising body will have to recognise a smaller number of energy performance rating organisations. In comparison, Option 3 has higher set-up costs, as it involves the accreditation of a larger number of individual energy performance rating assessors.

Both Option 2 and Option 3 when rated against the criteria are significantly better than option 1 because they:

- enable greater access to the services of energy performance assessors that could lead to greater trust and confidence in energy performance ratings
- provide the flexibility to extend into other building types in the future and give consumers certainty about how future energy performance ratings might apply to their buildings
- provide reliable, consistent, and comparable data to inform future policy decisions and align with international best practice
- increase trust in energy performance ratings, which will incentivise consumers and building owners to take actions to improve a building's energy performance.

### Other option considered

We also considered expanding the scope of the Building Warrant of Fitness (BWoF) to include the assessment of energy performance rating of buildings.

The purpose of a BWoF (s108 of the Building Act 2004) is to ensure that specified systems in building (e.g. lifts, air conditioning and fire systems) are performing and will continue to perform to the standards set out in the Building Code. Currently, the BWoF for a specified system is completed by an independently qualified person, and annually sent to the territorial authority. The document is displayed for certain classes of buildings and includes offences for failing to comply.

This option is not favoured as it is not addressing the policy intent for energy performance ratings. A BWoF is focused on safety and provides a pass or fail outcome for a building's specified systems on an annual basis.

Energy performance ratings are focused on measuring the comparable energy performance of a building and identifying areas for energy performance improvement. A BWoF does not allow for building-to-building comparison and requires the identification of areas for improvement it would not help improve energy efficiency and reduce energy costs.

In addition, the independently qualified persons that conduct BWoFs do not need to have any specific training. The lack of specific training may lead to inconsistent assessments of a building's energy performance.

## What are the marginal costs and benefits of the option?

In September 2022, Cabinet approved policy that made it mandatory for buildings owners to hold an energy performance certificate [CAB-22-MIN-0390 refers]. A RIS and Cost Benefit Analysis (CBA) on the proposed Building for Climate Change amendments to the Building Act 2004 were attached to this Cabinet paper.

This CBA found that energy performance ratings had a relatively neutral Benefit Cost Ratio of 0.96. The analysis was modelled to incorporate upfront implementation costs and fully implemented costs from 2023 to 2030 and the resulting benefits out to 2050. The analysis was based on the assumptions that:

- energy performance ratings would only apply to large commercial, public buildings over 2,000 sqm (e.g., large commercial, public, industrial, and residential apartment buildings etc.) which is same as the initial size threshold in the Australian Building Disclosure scheme
- there would be economies of scale because making energy performance ratings mandatory would increase the number of buildings with an energy performance rating from 182 certified NABERSNZ rated buildings to around 1,200 buildings that required a rating.

Based on these assumptions the CBA identified that the cost of obtaining an energy performance rating for a building owner would be \$3,000 for a first assessment and \$2,100 for a subsequent assessment (Table 17, in the CBA).

The costs of obtaining an energy performance rating need to be considered in the context that these will apply to large buildings. Large buildings consume a significant amount of energy on an annual basis. It is estimated by EECA that a 2,000 sqm commercial office building will:

- consume around 200 kWh / m<sup>2</sup> of electricity or around 400,000 kWh per annum (based on a NABERS NZ 3.5 star (average) building). For comparison, electricity statistics published by MBIE estimate the average home consumes, 7,261 kWh per annum.<sup>4</sup>
- have an average energy bill of around \$74,000 per annum (based on the annual average commercial price of 0.185 \$/kWh in nominal NZD for the year ended March 2022<sup>5</sup>). For comparison, MBIE statistics show that the average annual household energy bill was \$2,194 in 2022.

### Marginal costs of preferred option

The setting up of an organisation recognition scheme for energy performance assessors as proposed in this Annex is not likely to significantly impact on the benefit cost ratio identified in the CBA because the CBA already:

- incorporates the costs of administering an energy performance programme (i.e., the voluntary NABERSNZ programme)
- incorporates the costs of the existing NABERS NZ training and biannual accreditation fee into the CBA

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<sup>4</sup> Sales-based Electricity Costs, December 2022, published on webpage [Electricity cost and price monitoring | Ministry of Business, Innovation & Employment \(mbie.govt.nz\)](#).

<sup>5</sup> [Energy prices | Ministry of Business, Innovation & Employment \(mbie.govt.nz\)](#)

- models and incorporates the implementation costs to government arising from energy performance ratings.

The additional costs of implementing the preferred option from those identified in the CBA are specified in Table 1.

A further RIS will be presented to Cabinet when the regulations are developed to implement the organisation recognition scheme. This RIS will provide Cabinet with further detail on the costs of implementing an organisation recognition scheme modelled according to the final regulatory decision.

**Table 1: Additional Costs from CBA preferred option to recognise organisations**

Group	Cost Benefit Analysis from original CBA	Additional costs from preferred option
Government	<p>Identified implementation costs for government (Table 17, CBA) from:</p> <ul style="list-style-type: none"> <li>Policy implementation (\$500,000 per year for 2 years)</li> <li>Ongoing monitoring (\$219,000 per year)</li> <li>Compliance and enforcement costs (5 FTE with a 50% on-cost loading)</li> </ul>	<p>Implementation costs for government could be greater than in the CBA but will depend on the specific design of the recognition requirements and audit functions.</p> <p>MBIE administers several accreditation functions and there are likely existing systems and economies of scale that can be used to minimise costs. The RIS for the regulations will provide further cost detail on the costs to government.</p>
Building owners	<p>Identified rating costs for the building owner (Table 17, CBA) of \$3,000 for a first assessment and \$2,100 for a subsequent assessment.</p>	<p>No significant additional cost for building owners to obtain a rating, as the costs to assessors are relatively minor and there is a competitive market offering energy performance ratings.</p>
Assessors	<p>Assumed assessors would have to be qualified (Table 3). It currently costs \$2830 + GST to complete the training to be a NABERSNZ assessor. All Accredited Assessors need to pay \$850 biannual accreditation fee to be considered an active assessor.</p> <p>Assessors currently set fees at a rate that is competitive in the market and that incorporates costs associated with their training and development.</p>	<p>No significant additional costs anticipated. There may be some administrative costs to meet new requirements (e.g. disputes process and compliance with a Code of Conduct). However, these are unlikely to be significantly different than the cost that assessors already face in achieving NABERSNZ accreditation.</p>
Energy performance rating providers	<p>The costs in the CBA included costs consistent with NZGBC administering the existing NABERSNZ scheme.</p>	<p>Fees charged by the recognition body to organisations that seek to be recognised as an energy performance rating provider. As shown in Appendix 1, these fees are typically comparatively modest (under \$20,000) but will depend on the specific design of the recognition requirements. The RIS for the regulations will provide further</p>

		detail on the costs to recognised organisations.
New Zealand	Identified energy performance ratings have a benefit cost ratio of 0.96 over the period 2023 to 2050	No significant cost impact on the over-all benefit cost ratio.

## Fees regulation

The amendments to the Building Act 2004 will enable the recognition body (which could be MBIE) to charge fees to recognised organisations to recover the costs of administering the organisation recognition scheme for energy performance ratings. The fees for energy performance rating providers will be set in line with Treasury and Office of the Auditor General cost recovery guidelines.

There are several examples under the Act of accreditation fees being set by regulations. These fees enable accreditation bodies to recover their costs from organisations seeking to be accredited. Appendix 1 provides examples of fees that apply to organisations that seek to be an accredited certification body under the CodeMark<sup>6</sup> scheme and the BuiltReady scheme<sup>7</sup>.

Enabling the recognition body (which could be MBIE) to charge fees to recognised organisations will not impact on the CBA, as the fees are comparatively modest and are set at a level to recover costs – see Appendix 1.

## Policy Rationale: Why a user charge? And what type is most appropriate? (CRIS)

The establishment of an organisation recognition scheme will involve set-up costs and require ongoing administration (see above for details).

It is proposed that the organisation recognition scheme operates on a full cost recovery basis, in line with Treasury and Office of the Auditor General guidelines.

It is appropriate that the recognition body (which could be MBIE) recover these costs on a full cost recovery basis because participants in the organisation recognition scheme will benefit from being recognised because the Act will prescribe that energy performance ratings can only be conducted by an assessor approved by a recognised organisation.

Recovering costs through charging recognised organisations a fee, rather than a levy, such as the building levy, is MBIE's preferred approach because:

- being recognised is a direct benefit to the recognised organisation
- not all successful building consent applicants who are required to pay a building levy will benefit from energy performance ratings
- it is more administratively efficient to charge recognition and audit fees to recognised organisations, who can then choose to recover these costs through service fees,

<sup>6</sup> CodeMark is a voluntary product certification scheme that provides a way to certify that building products or building methods are deemed to comply with the New Zealand Building Code.

<sup>7</sup> BuiltReady is a voluntary scheme that certifies modular component manufacturers to produce designs (where applicable) and modular components that are deemed to comply with the New Zealand Building Code.

rather than charge a small levy for each energy performance rating that needs to be collected and passed on to the recognition body.

Setting recognition and audit fees at a level that recovers the costs of the services provided is consistent with other accreditation regimes in the building regulatory system that require organisations to be accredited to perform functions under the Act. These include:

- modular component manufacturer certification bodies who are registered with MBIE and accredited by the modular component manufacturer accreditation body
- product certification bodies who are registered with MBIE and by accredited by the product certification accreditation body
- building consent authorities that manage the building consent process for new building work.

### **High level cost recovery model (the level of the proposed fee and its cost components) (CRIS)**

The amendments to the Act will include provisions that will enable a cost recovery model to be set in regulations which will enable the recognition body to recover its costs. The charge levels and the basis for imposing these fees will be set in the regulatory process.

A stage 2 Cost Recovery Impact Statement (CRIS) will be prepared as part of the regulations development process.



## **PART B – Renewal of energy performance ratings**

This section of the Annex provides a high-level summary of the problems being addressed to ensure that energy performance ratings incentivise building owners to invest in taking actions that reduce energy bills and emissions from their buildings. It outlines the associated costs and benefits for renewing energy performance ratings at a regular interval compared to a one-off rating.

The proposed arrangements for implementation and monitoring are set out in Section 3. The options set out in Part B do not require a Cost Recovery Impact Statement.

### **Context and background of the problem**

The package of changes Cabinet approved in September 2022 [CAB-22-MIN-0390 refers] set out that owners of buildings to whom energy performance requirements apply should have a current rating but did not specify whether there would be any requirements for renewal of these ratings.

To provide additional clarity, it is proposed to amend the Act to require building owners to have a valid energy performance rating, and to enable regulations to specify the renewal period for a rating. A rating that is valid for a specified period and then renewed is intended to provide more accurate and up to date information for prospective building owners and tenants than a one-off rating, and greater incentives for building owners to improve energy performance.

### **What is the policy problem**

Energy performance ratings are intended to drive actions that will lead to lower energy usage, energy bills, and reduced emissions by providing comparable information on a building's energy performance.

If a building owner is only required to hold a one-off energy performance rating this would be less likely to drive longer term improvements in a building's energy performance. This is because a one-off rating:

- would provide less useful and comparable energy performance information for building purchasers and tenants over time, as the ratings would become more outdated
- not reflect changes in technology and improvements in the energy performance management of buildings over time
- create inconsistencies between more recently rated buildings and buildings that have a less recent one-off rating, which may lower trust and confidence in the ratings.

In contrast, there is evidence that regular re-rating of a building's energy performance leads to benefits in terms of energy savings and emissions reduction. For example, Australian data shows that for Commercial Building Disclosure programme (CBD) mandated buildings that had their rating renewed annually had an average energy saving per square metre (MJ/m<sup>2</sup>) of 4% after the second NABERS rating. The energy saving increased to 22% after the eighth and 44% after the fourteenth ratings.

For the above reasons, energy performance rating schemes in Australia, the UK, and the European Union require building owners to renew their energy performance ratings at a specified frequency.

## International and New Zealand examples

In Australia, a Building Energy Efficiency Certificate (BEEC) is required for buildings or areas of buildings larger than 1,000 square meters when buildings are for sale, lease, and sublease. BEECs are only valid for 12 months.

By contrast the UK requires Energy Performance Certificates (EPCs) which are valid for up to 10 years. New EPCs are not required whenever there is a change in tenancy, or when the property is sold.

In the EU, Energy Performance Certificates have a maximum renewal period of 10 years, but member states can set the renewal period at a lesser frequency than 10 years.

In New Zealand we have a voluntary energy performance rating scheme (NABERSNZ) that has been in operation since the 2013/14 fiscal year. There are 117 buildings with NABERSNZ ratings and as scheme has matured more buildings are getting re-rated. NZGBC who administer the NABERSNZ scheme encourage participants to re-rate annually. In 2022/23, 57% of buildings in the NABERSNZ scheme were re-rated.

The Carbon Neutral Government Programme (CNGP) has required specified government agencies that occupy large office space (over 2,000m<sup>2</sup>) to have a NABERSNZ rating. Ratings are valid for 12 months. If the target rating has been met, a re-rating is required every three years. If the target rating has not been met, an agency must implement a work programme within 12 months to achieve the target rating and re-rate the building annually until the minimum star rating is achieved.

## What options are being considered?

In examining the rationale for a renewal period compared to a one-off rating, we need to balance the lower costs of a one-off rating with the benefits of reduced energy bills and emissions that come with renewing an energy performance rating more regularly.

We have analysed the following options and will examine their pros and cons:

### **Option 1: Have a one-off rating for energy performance ratings**

Under this option, a building owner would be required to hold an energy performance rating. This would be a one-off requirement to complete a rating, but there would be no requirement for building owners to renew the rating. As is the case under the current voluntary ratings scheme available in New Zealand, building owners would have the choice to update their ratings if they desired, for example to reflect improvements or investments that they had made in energy efficiency.

### **Option 2: A requirement for building owners required to hold a rating and to renew their energy performance rating over a specified period**

Under this option, a building owner would be required to hold a valid energy performance rating and would be required to renew the rating in line with the period defined in regulations.

The cost benefit analysis conducted by Sapere on optimum renewal periods for energy performance ratings set out below has found that the net benefits were higher for renewal periods between 2 to 5 years and a 10-year renewal period had the lowest net benefits. This is because despite costing less than other options, the benefits of a less frequent renewal period are significantly lower.

This Regulatory Impact Statement therefore assumes that the renewal period set in regulations will be 2 to 5 years. A preferred renewal period would be set as part of the development of proposals for regulations.

In setting renewal periods within regulations, consideration would be given to the costs, benefits and trade-offs associated with different renewal periods, alongside feedback from impacted parties. Regulations could also specify different renewal periods for buildings with different characteristics (e.g. size, building typology, age) in order to maximise the benefits of the energy performance rating scheme.

## How do the options compare?

The table below assesses the costs and benefits of having a one-off energy performance rating compared to a regular renewal period.

	<b>Option One: One-off rating with no renewal</b>	<b>Option Two: Regular renewal of ratings</b>
<b>Effective</b>	<p><b>+</b></p> <p>Will provide consumers with less up-to-date information on the energy performance of a building they are considering buying or renting. Some building owners might voluntarily renew their ratings, for example if they had made investments in energy performance that resulted in a better rating and wanted prospective buyers and tenants to know about this. However, many owners would choose not to re-rate, and therefore the overall information available to consumers would be less comprehensive and it would be harder to accurately compare different buildings.</p> <p>Does not provide building owners with a regular prompt to consider and address energy performance issues with their building.</p> <p>Ratings will become out-of-date and not reflect advances in technology and energy management over time. Ratings information will be less useful for future government policy making and building-related interventions.</p> <p>Likely to be lower energy efficiency, emissions, and health and wellbeing benefits from not having up-to-date ratings.</p>	<p><b>+++</b></p> <p>Provides consumers with up-to-date information on the energy performance of a building. Creates greater confidence and trust in the energy performance rating system, as consumers will find it easier to compare different buildings and make informed decisions.</p> <p>Building owners would have a regular prompt to consider the energy performance of their building and would be provided with information from assessments on measures they could take to improve it. This would be more likely to encourage building owners to consider energy efficiency measures and incorporate them into their general maintenance and investment plans.</p> <p>Ratings could be updated to reflect advances in technology and energy management over time. Information about the overall energy performance of New Zealand buildings would be more accurate, allowing better informed decision making about future government interventions.</p> <p>Likely to be higher energy efficiency, emissions reduction, and health and wellbeing benefits, driven by building owners taking more action to improve building energy performance.</p>

	<b>Option One: One-off rating with no renewal</b>	<b>Option Two: Regular renewal of ratings</b>
<b>Efficient</b>	<p><b>+</b></p> <p>Is low cost for building owners as it only requires them to pay a one-off energy performance assessment fee. May reduce benefits for prospective building owners and tenants who have less accurate information available to them at the point of sale or purchase.</p> <p>The requirement is simple for building owners to understand and has a low administrative burden, as it is only a one-off requirement.</p> <p>Less likely to drive improvements in a building's energy performance because the information will become out of date and be less trusted by the public, and there will not be a prompt on building owners to consider energy efficiency measures or an incentive to make improvements to address a low rating.</p> <p>Results in building owners having to meet one set rules on rating renewals for the CNGP and a different set of rules for buildings not tenanted by the public sector.</p> <p>Results in significantly less benefits from making energy performance ratings mandatory.</p>	<p><b>+++</b></p> <p>There are costs of requiring building owners to renew ratings, through the assessment fee.</p> <p>Is administratively simple and not complex, as the rating is only valid for a set period like many other government requirements (e.g., passport renewal)</p> <p>More likely to drive improvements in a building's energy performance because it provides up-to-date information that is trusted by the public, and a more regular prompt to building owners to consider improvements.</p> <p>Results in significantly greater benefits from making energy performance ratings mandatory.</p> <p>Avoids requiring building owners to meet one set rules on rating renewals for the CNGP and a different set of rules for buildings not tenanted by the public sector.</p>
<b>Durable and resilient</b>	<p><b>+</b></p> <p>Unlikely to be durable and resilient because a one-off rating will become out-dated and erode public trust and confidence that the rating is an accurate reflection of a building's energy performance.</p>	<p><b>+++</b></p> <p>Likely to be durable and resilient because information can be trusted as being accurate and comparable between buildings. Would align with approaches taken in Australia, which may make it easier to incorporate improvements into the energy performance ratings scheme over time.</p>
<b>Fair and accountable</b>	<p><b>+</b></p> <p>Will create inconsistencies between more recently rated buildings (e.g., a new building) and buildings that have a less recent one-off rating, which may lower trust and confidence in the ratings.</p> <p>There will be different rating requirements for buildings owned or leased by public sector entities will have to renew their rating due to CNGP requirements.</p>	<p><b>+++</b></p> <p>Will provide comparability between ratings as all buildings will have to hold a rating that is only valid for a period defined in regulations.</p> <p>As the specific renewal period would be set in regulations, enables some flexibility to set different renewal periods for buildings that have different characteristics. This could help target compliance effort towards those buildings that have lower energy efficiency buildings.</p>

	while buildings not tenanted by the public sector will only have a one-off rating requirement.	
<b>Overall assessment</b>	<b>+</b>	<b>+++</b>

**Example key for qualitative judgements:**

- +++** much better than doing nothing/the status quo
- ++** better than doing nothing/the status quo
- +** slightly better than the status quo
- 0** about the same as doing nothing/the status quo

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

Our preferred option is Option 2 which would require building owners to renew their energy performance ratings within a period set by regulations because it would generate greater net benefits in terms of energy savings, emissions reduction and health, productivity, and wellbeing.

Option 1, a one-off rating without a renewal period, while low cost would be less likely to drive long term improvements in energy performance of buildings than a system that required regular renewals of energy performance ratings. This is because ratings will become outdated which will lower public trust and confidence in the ratings.

**What are the marginal costs and benefits of the option?**

The intention is that renewal periods will be set in regulations. A preferred proposal for renewal periods will be developed as part of the development of regulations and will be subject to detailed regulatory impact and cost benefit analysis. We have provided some preliminary analysis here to support decision making on wider energy performance rating proposals.

To inform our initial thinking on the optimal renewal period, Sapere Research Group has conducted some modelling on the costs and benefits of different renewal periods.

The key assumption in Sapere’s model is that more frequent re-rating requirements provide greater incentive, engagement, and uptake of energy efficiency upgrades by building owners to improve the energy usage of their building.

The summary of results set out in Table 2 shows that all options produce a positive net benefit and a benefit cost ratio (BCR) greater than one, and that there is not much difference between options for a renewal period that is between 2 years and 5 years.

This is because the trend in terms of net benefits and BCRs between 2,3,4 and 5-year renewal periods is largely flat. For example, there is a 2.4% difference in net benefits between a 3-year renewal period that has the highest net benefits and a 4-year renewal period.

**Table 2 Costs and benefits of different energy performance rating periods (\$m),**

Renewal period	Total costs	Total benefits	Total net benefits	BCR
Annual	\$1,284	\$1,840	\$555	1.43
2 yearly	\$1,098	\$1,785	\$687	1.63
3 yearly	\$1,032	\$1,758	\$726	1.70
4 yearly	\$997	\$1,705	\$709	1.71
5 yearly	\$971	\$1,646	\$675	1.70
10 yearly	\$892	\$1,334	\$442	1.49

Source: Sapere Research Group modelling

The renewal costs in Table 2 are modelled to FY2050 to capture more renewal periods. However, this means that the figures are not directly comparable to the original present value

costs and benefits in the original CBA which modelled benefits to FY2050 and costs to FY2030.

While not directly comparable, the BCRs and net benefits in this analysis are higher than in the original CBA. This is because in modelling benefits of requiring regular rating renewals, changes were made to key behavioural change assumptions in the original CBA around the proportion of building owners which actively seek to reduce energy usage, the energy use intensity (EUI) of buildings due to efficiency upgrades, and investment in energy efficiency upgrades (cost).

### Stakeholder Impact

Table 3 examines the impacts and benefits of regular renewal periods for different stakeholders including consumers, building owners, assessors, government, and New Zealand.

**Table 3: Impacts of requiring energy performance ratings to be renewed**

Group	Impacts
Consumers	<p>More up-to-date and comparable energy performance information on buildings</p> <p>More likely have trust and confidence in regularly renewed ratings</p> <p>More likely to take actions that take account of a building's energy performance in the buildings they rent, lease, or invest in.</p> <p>Benefits from savings in energy bills from improved energy performance of their building. Greater flow-on benefits in terms of occupant health and wellbeing.</p>
Building owners	<p>Increased cost of rating a building from more frequent ratings. The CBA identified a cost of \$2,100 to renew a rating. Exact costs would depend on the frequency of renewal requirements, which would be set in regulations.</p> <p>A larger more competitive market for ratings could lead to lower costs to building owners to renew a rating.</p>
Assessors	<p>More ratings will need to be conducted overall across New Zealand by approved assessors. This could support employment outcomes for assessors and provide opportunities to develop skills and expertise through carrying out more frequent ratings.</p>
Government	<p>Government buildings already have to re-rate on a 3 yearly basis under the CNGP, so there will be little additional costs from requiring a renewal period for ratings.</p> <p>Could provide greater consistency and clarity for tenants and building owners as there would be similar requirements between government and private buildings.</p>
New Zealand	<p>An increased contribution to New Zealand's emissions reduction and energy efficiency goals. Greater health, wellbeing, and productivity benefits. The total costs and benefits of re-rating are positive. For example, Sapere's modelling shows that for every \$1 in costs incurred in having a 3-year renewal period our analysis shows there are \$1.70 in benefits.</p>



## Unquantified benefits

The CBA noted that there were significant unquantified benefits from energy performance ratings in relation to health, wellbeing, and productivity benefits. It cited an Australian review<sup>8</sup> that suggested that including productivity benefits could increase net benefits of mandatory ratings for commercial buildings by two to three times the net benefits of the programme. However, due to the difficulty in estimating these benefits they were not quantified in the CBA.

As outlined above, without regular renewal periods the energy performance improvements to a building will likely be lower over time. This will lead to lower health, wellbeing, and productivity benefits, which while unquantified in the CBA are known to be significant.

## Section 3: Delivering options set out in Part A and Part B

### How will the new arrangements be implemented?

The additional policy proposals in this Annex are enabling provisions to be added into the Act. These enabling provisions for recognising organisations and specifying validity requirements and renewal periods for ratings will be implemented in regulations.

The development of regulations will involve:

- early engagement with key stakeholders in the design phase of regulations development to ensure the proposed regulations are effective, implementable, and cost effective
- public consultation on proposed regulations and transition timeframes
- Cabinet approval of regulations, including the completion of a Regulatory Impact Statement, a stage 2 Cost Recovery Impact Statement for the policy specified in Part A, and a Climate Implications of Policy Assessment to identify the costs, benefits, and emissions implications of the proposed regulations.

MBIE also intends to develop an implementation and behaviour change plan to support the development of policies and regulations contained in this Annex. This will align with ERP Action 12.5.3, which focuses on changing behaviours of households and the sector to reduce emissions.

In addition, complementary education, guidance information, and tools will be developed to assist with the implementation plan of this aspect of the policy.

Setting the requirements for a rating recognition scheme that is outlined in Part A in regulations will allow Government to change elements of the recognition scheme in the future without needing to amend the Act. This will ensure that recognition system can provide certainty in law while being durable, able to evolve to reflect changing circumstances and technologies, and be administered flexibly.

Comparable accreditation regimes have been successfully implemented internationally in the United Kingdom and Australia and we intend to use the implementation experience of these jurisdictions to guide the implementation of New Zealand's preferred approach.

Setting the renewal period in regulations, as outlined in Part B, will enable different requirements for buildings with different characteristics. This will help ensure the renewal

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<sup>8</sup> Commercial Building Disclosure Review, ACIL Allen 2015, P57. Cited in Energy Action and EnergyConsult (2018).

requirements can be implemented in a way that targets compliance effort, such as re-rating, to where it can have the greatest impact.

### **How will the new arrangements be monitored, evaluated, and reviewed?**

The amendments to the Act are part of MBIE's larger Building for Climate Change (BfCC) programme. This programme includes a Monitoring and Evaluation Workstream tasked with developing an overall approach to assessing the implementation of BfCC initiatives and their success at meeting the intended objectives.

In addition, recognised organisations that are described in Part A will be monitored and evaluated by the following arrangements:

- MBIE or the approved body will have the power in the Act to audit recognised organisations.
- The recognised organisations will also be required to conduct a minimum frequency of audits of energy performance ratings conducted by their assessors.

MBIE also intends to comply with Treasury guidelines which recommend that fees are reviewed every 3 to 5 years<sup>9</sup>.

Renewal periods for energy performance ratings that are discussed in Part B will be set as part of validity requirements in regulations. MBIE intends that the development of proposals for regulations will include further regulatory impact analysis, including analysing feedback from stakeholders.

Work to develop regulations will identify any arrangements for assessing and updating the renewal period. MBIE will monitor and evaluate effectiveness of renewal periods as part of monitoring the overall BfCC programme.

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<sup>9</sup> Guidelines for Setting Charges in the Public Sector, The Treasury 28 April 2017

## APPENDIX 1 – Examples of fees charged to accredit organisations performing a function under the Act

Set out below are the fees charged to organisations that wish to apply to be a product certification body under the CodeMark scheme and organisations that wish to apply to be a modular component manufacturer body and a modular component manufacturer under the BuiltReady scheme.

**Table 1 – Fees<sup>10</sup> that apply for organisations that apply to be a product certification body**

Activity	Matter	Fee
Accreditation of product certification body	1. Application for accreditation as product certification body	\$8,600
	2. Any additional time required after first 2 days to assess application for accreditation	\$2,000 per day, or part of day, per assessor or technical expert
	3. Expenses incurred as part of accreditation activities under items 1 and 2	Amount of reasonable expenses incurred
Registration of product certification body	4. Application for registration as product certification body	\$90.15 per hour up to \$1,803
Audit of accredited PCB	5. Audit of accredited PCB under <a href="#">section 262(1)(a)</a> of the Act	\$2,000 per day, or part of day, per assessor or technical expert
	6. Expenses incurred as part of audit activities under item 5	Amount of reasonable expenses incurred

**Table 2 – Fees<sup>11</sup> for applicants to be a modular component manufacturer certification body and a modular component manufacturer**

Activity	Matter	Fee
Accreditation of modular component manufacturer certification body	1. Application for accreditation as modular component manufacturer certification body	\$8,600
	2. Any additional time required after first 2 days to assess application for accreditation	\$2,000 per day, or part of day, per assessor or technical expert
	3. Expenses incurred as part of accreditation activities under items 1 and 2	Amount of reasonable expenses incurred

<sup>10</sup> As set out in Schedule 3 (Fees), Building (Product Certification) Regulations 2022

<sup>11</sup> As set out in Schedule 3, Building (Modular Component Manufacturer Scheme) Regulations 2022

Registration of modular component manufacturer certification body	4. Application for registration as modular component manufacturer certification body	\$90.15 per hour up to \$1,803
Audit of accredited MCMCB	5. Audit of accredited MCMCB under section 272K of the Act  6. Expenses incurred as part of audit activities under item 5	\$2,000 per day, or part of day, per assessor or technical expert  Amount of reasonable expenses incurred
<b>Part 1 Modular component manufacturer certification body</b>		
Registration of modular component manufacturer	Application for registration as modular component manufacturer	\$90.15 per hour up to \$5,859.7