

Australian Capital Territory

# Energy Efficiency (Cost of Living) Improvement (Energy Savings Contribution) Determination 2012 (No 1)

Disallowable Instrument DI2012–92

made under the

**Energy Efficiency (Cost of Living) Improvement Act 2012**

**Section 11 (Energy savings contribution)**

## EXPLANATORY STATEMENT

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### Note

At the time this instrument was made the *National Energy Retail Law (Consequential Amendments) Bill 2012* was tabled before the Legislative Assembly and awaiting debate. One of the Acts that the *National Energy Retail Law (Consequential Amendments) Bill 2012* seeks to amend is the *Energy Efficiency (Cost of Living) Act 2012*. The purpose of these proposed amendments is to amend the Act, consequential to the repeal of electricity retail (supply) licensing under the *Utilities Act 2000* (see Part 13 of the Consequential Bill), which removes the definition of *electricity supplier*.

The effect of the proposed amendments are to create a direct statutory obligation for retailers authorised to retail under the *National Energy Retail Law (ACT)* to comply with the *Energy Efficiency (Cost of Living) Improvement Act 2012*. References to *electricity supplier* under this Act will, in the event of the passage of the *National Energy Retail Law (Consequential Amendments) Bill 2012*, be replaced with references to a **NERL retailer** (meaning a person who holds a retailer authorisation under the *National Energy Retail Law (ACT)* to sell electricity to premises in the ACT for consumption).

For the purposes of this Explanatory Statement, the use and mentions of the term *electricity supplier* should be taken to be use and/or mentions of **NERL retailer** as defined in the Act if amended.

### Overview

The *Energy Efficiency (Cost of Living) Improvement Act 2012* provides for a supplier-obligated energy efficiency scheme in the ACT (the ‘Scheme’). The Act has been designed to ensure that the impact of the Scheme on electricity suppliers in the ACT, especially smaller suppliers and new market entrants, is minimised.

A key design element of the Act developed to address this issue is the ‘Energy Savings Contribution’ (ESC). Smaller ‘Tier 2’ Suppliers may choose to pay the ESC to meet their obligations (determined by their market share of electricity sales) under the Scheme rather than undertaking energy saving activities. This is consistent with the ACT Government’s objective of supporting enhanced retail competition in the Territory.

The fee has been set at the modelled expected average cost of abatement to be borne by Tier 1 Suppliers of \$37/tonne of carbon dioxide equivalent greenhouse gas emissions of the Tier 2 supplier’s *energy savings obligation*. This is intended to offset the cost advantage a Tier 1 supplier would have if a Tier 2 supplier were required to set up and deliver energy efficiency services – with such a cost advantage potentially discouraging competition in the ACT retail electricity market. This simplified obligation reduces the risk that compliance costs may lead to a competitive disadvantage for smaller suppliers in electricity retail markets, thereby reducing competition.

Section 28 of the Act provides that the ESC is to ‘be appropriated to support initiatives or undertake activities consistent with the Objects of the Act’. This may include covering costs associated with the administration of the Scheme. This will occur through the normal annual budget appropriations process, which will allow regular scrutiny and appropriate priority setting by Cabinet.

The determination takes effect the day after notification.