

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2017

Disallowable instrument DI2017 - 251

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s8 (Priority household target)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2017* as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the disallowable instrument and to help inform debate on it. It does not form part of the disallowable instrument and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the disallowable instrument. It is not, and is not meant to be, a comprehensive description of the disallowable instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The purpose of the disallowable instrument is to set a priority household target (PHT) under the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The Act establishes a retailer efficiency obligation scheme known as the Energy Efficiency Improvement Scheme (EEIS). It includes a range of targets which are based on greenhouse gas emissions associated with electricity sales. EEIS targets include:

- An Energy Savings Target establishing the total reduction in greenhouse gas emissions to be achieved by retailers, expressed as a percentage of their total electricity sales. From 2016 until 2020 this is set at 8.6 per cent.
- The PHT for the total reduction in greenhouse gas emissions to be achieved in priority households, expressed as a percentage of the retailer's energy savings obligation.

Energy Savings Targets are achieved by retailers delivering eligible activities under the EEIS. These activities include installing energy efficient light globes, draught seals, efficient water heaters and other items that save energy while maintaining quality of life.

Only larger, tier 1 retailers are required to achieve the Energy Savings Target and the PHT. Smaller tier 2 retailers can meet their obligation by paying a Retailer Energy Savings Contribution. The Act defines a tier 1 retailer as a national energy retail law retailer that, in the previous compliance period had, at any time during that period, at least 5,000 customers in the ACT, and sold at least 500,000MWh of electricity to customers in the ACT.

Priority households are intended to be those lower income households who can benefit most from energy efficiency, but are least able to make improvements without additional assistance. Priority households are defined in the Act's dictionary as a residential premises in which one person who lives at the premises –

- (a) is a recipient of an ACT Government energy concession; or
- (b) holds a Commonwealth pensioner concession card or health care card; or
- (c) holds a Department of Veterans Affairs pensioner concession card, TPI gold repatriation health care card, war widows repatriation health care card or gold repatriation health care card; or
- (d) is within a class of people prescribed by regulation.

The policy objective of increasing “opportunities for priority households to reduce energy use and cost” is established in section 6(d) of the Act. Section 8 of the Act requires the Minister to determine the PHT. Section 16 of the Act requires Tier 1 retailers to achieve a PHT. The disallowable instrument determines the PHT to be 20 per cent. The disallowable instrument meets the policy objective by ensuring that a proportion of savings are achieved in priority households.

The appropriateness of the 20 per cent level for the PHT has been confirmed in several ways.

- A 2014 review (the EEIS Review) of the operation of the EEIS¹ showed that the previous PHT of 25 per cent was consistently being achieved. However this has been a stretch target, which was only met in 2015 through the carry-over surplus achieved in previous years.
- Modelling for the EEIS extension to 31 December 2020 published in the scheme extension Regulatory Impact Statement², assumed a 20 per cent priority household target for the period 2016 to 2020. This modelling showed

¹ Jacobs Group (Australia) Pty Limited (2014) *Energy Efficiency Improvement Scheme Review*.

http://www.environment.act.gov.au/data/assets/pdf_file/0003/642315/ACT-EEIS-Review-Final-Report.pdf

² ACT Government Environment and Planning Directorate (2015) *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020. Regulatory Impact Statement*.

http://www.environment.act.gov.au/data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf .

that the net present value of the EEIS is maximised with all targets set at their current rates, including the 20 per cent PHT.

- The scheme extension Regulatory Impact Statement indicated that the PHT would continue to be subject to annual review, which is why it is only being determined until the end of 2018 at this stage.

Consultation was undertaken during the EEIS Review with contracted installers, small business, academic institutions and the then Minister for the Environment. The review confirmed that participating households are saving an average of \$318 per year, and a total of \$1,614 over the life of activities. To date, over 16,690 priority households have benefited from EEIS savings.

Consultation on an initial proposal for a 20 per cent PHT in 2018 was undertaken with a range of government and non-government stakeholders including the tier 1 retailer ActewAGL, the Energy Consumers Policy Consortium, Energy Efficiency Council, Energy Efficiency Certificate Creators Association and students from the Australian National University. Seven written submissions were received, representing 11 organisations, with the submission from the Energy Consumers Policy Consortium representing the views of five community groups. Additional meetings were held with the Energy Consumers Policy Consortium, Housing ACT and ActewAGL.

Consultation confirmed a consensus view that the PHT remains a valuable EEIS element.

ActewAGL requested that the PHT be reduced to 10% due to constraints in continuing to deliver a 20% PHT. All other stakeholders supported retaining a PHT of at least 20%. Several actions have been undertaken to enhance ActewAGL's capacity to achieve the PHT. These actions are:

- Committing to a review of the EEIS and the Act, in late 2017, which will consider the formulation of the PHT,
- Expanding the scope of the PHT so that more households are eligible,
- Liaising with Housing ACT to support the delivery of EEIS activities to ACT Housing tenants, and
- If these actions are not successful, lowering the PHT to support EEIS delivery to the business sector.

The proposed retention of the 20% PHT relies on the government's success in the second and third actions listed above. That is, a regulation is proposed to expand the scope of the PHT so that more households are eligible, and arrangements have been confirmed with Housing ACT to support the delivery of EEIS activities to ACT Housing tenants.

Human Rights

The determination does not affect any human right set out in the *Human Rights Act 2004*.

Assessment of the consistency of the proposed law with the scrutiny committee principles

The terms of reference of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) require it to consider whether (among other things):

(a) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):

- i. is in accord with the general objects of the Act under which it is made,
- ii. unduly trespasses on rights previously established by law,
- iii. makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions, or
- iv. contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The position in relation to each of the above terms of reference is as follows.

(i) is in accord with the general objects of the Act under which it is made

As noted above, the disallowable instrument is in accordance with the general objects of the Act.

(ii) unduly trespasses on rights previously established by law

The disallowable instrument does not unduly trespass on rights previously established under law.

(iii) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions

The disallowable instrument does not make rights, liberties and/or obligations unduly dependent upon non reviewable decisions.

(iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly

The disallowable instrument and the process of setting a priority household target is a requirement of the Act. The Act requires that a PHT be established by disallowable instrument and that is the sole purpose of this instrument.

Outline of the provisions

Section 1- Name of instrument

This section names the instrument.

Section 2 - Commencement

This section provides for the commencement of the instrument.

Section 3 – Determination of the Priority Household Target

By this section, the Minister determines the Priority Household Target at 20 per cent for 2018.