

2019

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ENERGY EFFICIENCY (COST OF LIVING) IMPROVEMENT
AMENDMENT BILL 2019**

EXPLANATORY STATEMENT

Presented by

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Overview

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement Amendment Bill 2019 (the Bill)* as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is meant to be, a comprehensive description of the Bill. 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.

Background

The *Energy Efficiency (Cost of Living) Improvement Amendment Bill 2019* contains amendments to extend and enhance the operation of the Energy Efficiency Improvement Scheme (EEIS), provided for by the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

The EEIS requires electricity retailers to achieve energy savings in households and small-to-medium enterprises. It is a key mechanism for delivering on the ACT's emission reduction targets by helping households and businesses reduce emissions and energy costs.

Overview of the Bill

In summary, the amendments provide for:

- a) annual compliance periods for each calendar year from 2021 to 2030 (inclusive);
- b) defining the energy savings obligation as an energy metric instead of the current greenhouse gas emissions metric;
- c) adjusting other scheme metrics consistent with the new energy savings obligation;
- d) amending how eligible classes of priority households are determined;
- e) allowing the scheme to offer transport activities;
- f) streamlining administrative arrangements for activities determinations and codes of practice;
- g) enhancing data sharing opportunities consistent with the Freedom of Information Act 2016; and
- h) improving arrangements for the sharing of information between agencies.

The greenhouse gas emissions metric is replaced by an energy metric in numerous sections. The adoption of an energy metric has been identified through modelling as the ideal for maximising EEIS benefits. The new metric is in line with the Government's 100 per cent Renewable Electricity Target, which will be achieved in 2020. A carbon metric would otherwise effectively exclude any electricity saving activities from being delivered by EEIS.

Consultation

A comprehensive regulatory impact assessment, incorporating the 2018 Energy Efficiency Improvement Scheme (EEIS) Review, modelling for an EEIS extension, consultation with industry, community organisations and government stakeholders, was undertaken to inform the development of the Bill. The assessment includes detailed analysis of the likely impacts of the Scheme, including a comprehensive analysis of the likely economic costs and benefits, for the Territory. This analysis concludes that the objectives of the policy, including substantial energy, greenhouse gas savings and enhanced social equity, can be achieved with net economic benefits for the Territory.

Human Rights

The Bill has been reviewed for compatibility with the *Human Rights Act 2004*, and has been found to not present any issues of compatibility.

Detailed Explanation

Clause 1 Name of Act

This clause names the Act as the *Energy Efficiency (Cost of Living) Improvement Amendment Act 2019*.

Clause 2 Commencement

This clause provides for the commencement of the Act.

There are staggered commencement dates for various sections of the bill.

The clauses that commence on 1 January 2021 relate to the new energy metric and enable current provisions to remain in place for the current scheme. Clauses that commence by way of written notice relate to changes to disallowable and notifiable instruments. The clauses that commence after notification day are not contingent on particular dates.

Clause 3 Legislation amended

This clause provides that the Act being amended is the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

Clause 4 Legislation repealed

This clause details legislation that is being repealed by this amendment.

Clause 5 Section 6(b) Objects

This clause amends section 6(b) of the Act, removing the word 'stationary' from the objects of the Act and therefore allowing EEIS to offer transport activities.

Clause 6 Section 7(1) Energy savings target

This clause amends section 7(1) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 7 New section 7A Priority households

This clause introduces a new section focused on the definition of priority households. The amendment simplifies the process of adding or removing categories of households as suggested by annual reviews of the priority household target.

The amendment will remove several incomplete listings of priority household classes appearing across the suite of EEIS legislation including and require the minister to determine priority households using a disallowable instrument. Current, incomplete listings of priority households are as follows:

- three classes of priority households are defined in the dictionary, which also provides for additional classes to be prescribed by regulation.
- the *Energy Efficiency (Cost of Living) Improvement Regulation 2017* was established to prescribe additional classes of priority households and introduced six new classes. It also defines key terms such as priority dwellings, referring organisation, registered community housing provider and registered provider of supports which are used to define the six new classes.
- the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice* and the *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice* both list all current classes of priority households but do not include definitions for priority dwellings etc.

Allowing the Minister to determine priority households by way of disallowable instrument will consolidate the definition, but still allow for a level of scrutiny through tabling in the Assembly.

Clause 8 Section 8(1) Priority household target

This clause amends section 8(1) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 9 Omit section 9 Emissions multiplier

This is one of many changes that achieve the shift from a greenhouse gas emissions to an energy metric. The emissions multiplier will no longer be needed after the introduction of the energy metric and is removed through this amendment.

Clause 10 Section 10 (3) Eligible activities

This clause amends section 10(3) by simplifying and aligning the development of eligible activities with all the objects of the Act.

Clause 11 Section 10 (6) Eligible activities

This clause amends section 10(6) of the Act, removing the arrangement for eligible activities to be determined by notifiable instrument and requiring that they be determined by disallowable instrument.

The amendment is part of a two-part amendment aiming to streamline administrative arrangements for activities determinations and codes of practice. Eligible activities are central working parts of the EEIS and define the actions that can be taken by retailers to achieve the Act's objectives. These are currently established by notifiable instrument, but as policy decisions are involved in selecting activities, it would be appropriate for these instruments to be disallowable.

The increase in scrutiny associated with requiring that eligible activities be set by disallowable instrument is balanced by a later clause which requires that associated, but more technical codes of practice be established by notifiable instrument.

Clause 12 Section 11(1) Energy savings contribution

This clause amends section 11(1) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 13 Section 11(2) Energy savings contribution

This clause amends section 11(2) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 14 Section 12 Meaning of *compliance period*

This clause amends section 12 of the Act, to achieve the extension until 31 December 2030.

Clause 15 Section 13(2)(a) Working out an energy savings obligation

This clause amends section 13(2)(a) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 16 Section 13(2)(b) Calculating an energy savings obligation

This clause amends section 13(2)(b) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 17 Section 13(2)(b) Definition of *emissions multiplier*

This clause amends section 13(2)(a) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric. This change means that the factor for an emissions multiplier is no longer required in working out an energy savings obligation.

Clause 18 Section 15(2)(a) Working out priority household obligation

This clause amends section 15(2)(a) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 19 Section 18 Approval of acquired energy savings factor

This clause amends section 18 of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 20 Section 20(2) Compliance with energy savings obligation – retailer energy savings result

This clause amends section 20(2) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 21 Section 20(9)(b) Compliance with energy savings obligation – retailer energy savings result

This clause amends section 20(9)(b) of the Act, to achieve the extension until 31 December 2030. In particular, it allows for a 10% of a shortfall in energy savings result to be carried over to the next compliance period.

Clause 22 Section 20(A)2 Compliance with energy savings obligations—tier 2 retailer energy savings result and contribution

This clause amends section 20(A)2 of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 23 Section 20(B)(2)(b) Compliance with energy savings obligations—tier 2 retailer contribution for shortfall

This clause amends section 20(B)(2)(b) of the Act, to achieve the extension until 31 December 2030. In particular, it allows for a 10% of a shortfall in energy savings result to be carried over to the next compliance period between 01 January 2013 to 31 December 2029 and nil of a shortfall in the compliance period 1 January 2029 to 31 December 2030.

Clause 24 Section 21(1) Compliance with priority household obligations—retailer priority household result

This clause amends section 21(1) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 25 Section 21(8)(b) Compliance with priority household obligations—retailer priority household result

This clause amends section 21(8)(b) of the Act, to achieve the extension until 31 December 2030. In particular, it allows for a 10% carry forward in the priority household energy savings result to the next compliance period.

Clause 26 Section 22(3) Penalties for noncompliance

This clause amends section 22(3) of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 27 Section 25(2)

This clause amends section 25(2) of the Act, removing the arrangement for codes of practice to be determined by disallowable instrument and requiring that they be determined by notifiable instrument.

The amendment is part of a two-part amendment aiming to streamline administrative arrangements for activities determinations and codes of practice. The determination of eligible activities will now be achieved by disallowable instrument, while codes of practice will be established by notifiable instrument. This change is justified since policy positions, which demand more scrutiny are best achieved by disallowable instrument, while codes of practice are more technical codes of practice and are best established by notifiable instrument.

Clause 28 Section 28A, pt 4A Definition of non-regulatory agency

This clause amends section 28A of the Act to clarify the types of agencies that can receive information about the operation of the Act.

Clause 29 Dictionary definitions of abatement factor, approved abatement factor and approved abatement provider

This clause amends the dictionary of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 30 Dictionary, new definitions of approved energy savings factor and approved energy savings provider

This clause amends the dictionary of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 31 Dictionary, definition of *carbon dioxide equivalent*

This clause amends the dictionary of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 32 Dictionary definition of *emissions multiplier*

This clause amends the dictionary of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 33 Dictionary definition of *energy savings factor*

This clause amends the dictionary of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.

Clause 34 Dictionary definition of *priority household*

This clause amends the dictionary of the Act, so that the definition of a priority household is determined under section 7A, by disallowable instrument instead of in several different places.

Clause 35 Further amendments, mentions of *abatement*

This clause amends multiple sections of the Act, to achieve the replacement of a greenhouse gas emissions metric with an energy metric.