

Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2020 (No 2)

Disallowable instrument DI2020–218

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s10 (Eligible activities)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2020 (No 2) (the Determination). It has been prepared in order to assist the reader of the Determination. It does not form part of the Determination and has not been endorsed by the Assembly.

This explanatory statement clarifies the intent of the Determination and must be read in conjunction with the Determination. It is not, and is not intended to be, a comprehensive description of the Determination. What is written 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 *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) 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.

The purpose of the Determination is to determine eligible activities that are intended to reduce the consumption of energy, provided for by the Act. The Determination supports the operation of the Energy Efficiency Improvement Scheme (EEIS).

The Determination is a disallowable instrument made under the *Energy Efficiency (Cost of Living) Improvement Act 2012*, section 10. Section 81(1)(b) of the *Legislation Act 2001* applies to the Determination. The power to make the determination is section 10 of the Energy Efficiency (Cost of Living) Improvement Act as amended by the *Energy Efficiency (Cost of Living) Improvement Amendment Act 2019* (the Amendment Act). Section 10 of the Amendment Act amends section 10 of the Energy Efficiency (Cost of Living) Improvement Act to reflect that the Determination is made using an energy metric. Section 10 of the Amendment Act has been notified but not yet commenced.

The Amendment Act was notified on 3 October 2019. The Amendment Act:

- Extends EEIS until the end of 2030,
- Adopts an energy metric in place of the current greenhouse gas emissions metric,
- Enables classes of priority households to be determined by disallowable instrument,
- Removes the term ‘stationary’ from the objectives of the Act, to allow EEIS to consider transport activities in the future, and
- Streamlines EEIS administration and improve data sharing.

Swapping the current greenhouse gas emissions metric to an energy metric is necessary because ACT’s 100% renewable electricity target would otherwise effectively exclude any electricity saving activities from being delivered by EEIS. The Amendment Act is partially commenced. The remaining uncommenced provisions of the Amendment Act will commence on 1 January 2021, including section 10. The Determination will commence on 1 January 2021 when the remaining provisions of the Amendment Act commence, in accordance with section 81(7) of the Legislation Act.

This Determination differs from earlier versions in that the metric used for quantifying credits awarded to each activity in the schedule to the determination has been revised. Previously, credits took the form of “Abatement Factors” using the metric of tonnes of carbon dioxide equivalent (tCO_{2-e}). Under this determination, the abatement factors have been converted into “Energy Savings Factors” using the metric of Megawatt-hours (MWh). These changes can be found in subsection 5 of each of the scheduled activities as described in the schedules transition from its current carbon emissions metric to an energy saving metric meaning that the EEIS targets would be expressed in terms of megawatt hours (MWh) of electricity saved (with gas savings converted to MWh).

Differences between Schedule 1 of the Determination and the Schedule of the previous Determination are detailed below.

Schedule Clauses	Changes
1.1.5, 1.2.5, 1.3.5, 1.4.5, 1.5.5, 1.6.5, 1.7.5, 1.8.5, 1.9.5	<p>Clause heading changes</p> <ul style="list-style-type: none"> • “Abatement Factor” replaced with “Energy Savings Factor” <p>Body text changes:</p>
2.1.5, 2.2.5, 2.3.5, 2.4.5, 2.5.5, 2.6.5	<ul style="list-style-type: none"> • All references to “Abatement Factors” replaced with references to “Energy Savings Factors”
3.1.5, 3.2.5, 3.3.5	<ul style="list-style-type: none"> • All references to “tonnes of carbon dioxide-equivalent” replaced with references to Megawatt-hours
4.1.5, 4.2.5	<ul style="list-style-type: none"> • All references to the units of measurement “(tCO_{2-2e})” replaced with references to “(MWh)”
5.1.4, 5.2.5, 5.3.5, 5.4.5, 5.5.5, 5.7.5	<ul style="list-style-type: none"> • All references to “AAV” (activity abatement value) replaced with references to “ESF” (energy savings factor) • Factors or formula coefficients shown in either text or tables have been replaced with equivalent factors applicable to energy savings (MWh) rather than abatement (tCO_{2-2e}).
2.1.2(b)	The word “abatement” has been replaced with the word “energy savings”
2.1.5 (tables 7-10 inclusive)	The term “Fixed Emissions Savings (AAV _{Fixed}) tCO _{2-e} ” has been replaced with the term “Fixed Energy Savings (ESF _{fixed}) MWh”

Schedule Clauses	Changes
	And The term “Variable Emissions Savings (AAV _{var}) tCO ₂ -e” has been replaced with the term “Variable Energy Savings (ESF _{var}) MWh”
2.3.2(b)	The word “abatement” has been replaced with the word “energy savings”
2.3.5 (tables 12-15 inclusive)	The term “Fixed Emissions Savings (AAV _{Fixed}) tCO ₂ -e” has been replaced with the term “Fixed Energy Savings (ESF _{fixed}) MWh” And The term “Variable Emissions Savings (AAV _{var}) tCO ₂ -e” has been replaced with the term “Variable Energy Savings (ESF _{var}) MWh”
2.5.2(b)	The word “abatement” has been replaced with the word “energy savings”
2.5.5 (tables 18-20 inclusive)	The term “Fixed Emissions Savings (AAV _{Fixed}) tCO ₂ -e” has been replaced with the term “Fixed Energy Savings (ESF _{fixed}) MWh” And The term “Variable Emissions Savings (AAV _{var}) tCO ₂ -e” has been replaced with the term “Variable Energy Savings (ESF _{var}) MWh”
2.6.2(b)	The word “abatement” has been replaced with the word “energy savings”
2.6.5 (tables 22-24 inclusive)	The term “Fixed Emissions Savings (AAV _{Fixed}) tCO ₂ -e” has been replaced with the term “Fixed Energy Savings (ESF _{fixed}) MWh” And The term “Variable Emissions Savings (AAV _{var}) tCO ₂ -e” has been replaced with the term “Variable Energy Savings (ESF _{var}) MWh”
5.1.1 and 5.1.5	The term “1-door refrigerator or freezer” has been replaced with the term “single door refrigerator or single door freezer” And The term “2-door refrigerator or freezer” has been replaced with the term “two or more door refrigerator or two or more door freezer” And In section 5.1.5 these new terms have been defined

The Determination does not engage the *Human Rights Act 2004*. There are no human rights implications arising from the Determination. A Regulatory Impact Statement has been prepared for the determination.

Clause Notes

Clause 1 names the instrument.

Clause 2 indicates the time of commencement. The Determination will commence on 1 January 2021 when sections 10 and 11 of the Amendment Act commence. DI2020-32 stipulates the abatement factors to be applied for EEIS activities until 1 January 2021.

Clause 3 establishes the eligible activities that can be undertaken by electricity retailers and approved abatement providers to meet the Energy Savings Target.

In summary, the schedule of the Determination:

- a) defines the eligible activities; and for each activity:
- b) sets minimum performance specifications;
- c) outlines installed product requirements;
- d) specifies when activities are complete; and
- e) sets out how the energy savings factor is calculated for each activity.

The eligible activities described in the Determination are categorised as:

1. Residential building envelope activities
2. Space heating and cooling activities
3. Hot water service activities
4. Lighting activities
5. Appliance activities

Clause 4 disappplies *The Legislation Act 2001*, sections 47 (5) and 47 (6). These sections are disappplied because they stipulate that any external text which is to be applied as law in the ACT needs to be republished as a notifiable instrument. It is not possible to republish text contained in Australian Standards documents as they are protected by copyright. It is not practical to republish information in the National Construction Code as it contains over 400 pages of information across 4 volumes.

Clause 5 indicates that the referenced documents are the Australian Standards and the National Construction Code, and the clause also informs readers where copies of these documents may be obtained. The reference documents are also available for inspection at the Access Canberra Shopfront in Dickson. The current address of the Access Canberra Shopfront is 16 Challis St, Dickson. However, the Shopfront is scheduled to move to 480 Northbourne Avenue, Dickson later in 2020.

Clause 6 defines the Dictionary for the Determination as section 6 of schedule 1 of the Determination.

Clause 7 revokes the previous Determination.