

Australian Capital Territory

# Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2023

Disallowable instrument DI2023-299

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s 10 (Eligible activities)

## EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2023* (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**) establishes the Australian Capital Territory's Energy Efficiency Improvement Scheme (**EEIS** or the **Scheme**), which aims to encourage the efficient use of energy; reduce greenhouse gas emissions associated with energy use in the Territory; reduce household and small-to-medium sized business energy use and costs; and increase opportunities for priority households to reduce energy use and costs. The EEIS establishes a Territory-wide Energy Savings Target (**EST**), defined as a proportion of a retailer's total electricity sales in the ACT.

The Act requires individual electricity retailers to achieve energy savings by delivering eligible activities to households and small-to-medium enterprises. The purpose of the Determination is to establish the eligible activities that can be undertaken by energy retailers to achieve the EST. The Determination is a disallowable instrument made under the Act, section 10.

This Determination retains the suite of EEIS Eligible Activities previously legislated. There are four classes of amendments being made to the determination through this update. All amendments are administrative in nature and do not change the eligibility of products or activities under the EEIS.

*Extension of RECs re-calculation method*

The extension of the re-calculation method for the Commonwealth Renewable Energy Certificates (RECs) to 2030, to ensure all products which were eligible under the EEIS prior to the commencement of the Commonwealth RECs phase down remain eligible under the EEIS. The phase down of RECs is part of the Commonwealth Renewable Energy Target finishing in 2030 and the change in REC eligibility is not reflective of any change in the efficiency of appliances.

New tables have been inserted at 3.1.3(b) and 3.2.3(b), as below, to adjust the number of RECs to return the number to pre-phase down levels.

Compliance Year	RECs for Zone 5 (HP5-AU)	m (RECs multiplier)
2022	25.2	10/9
2023	22.4	1.25
2024	19.6	10/7
2025	16.8	5/3
2026	14	2
2027	11.2	2.5
2028	8.4	10/3
2029	5.6	5
2030	2.8	10

*Formula update to reflect energy savings metric*

An update to a formula which was not amended in the change of the EEIS from an emissions metric to an energy savings metric which occurred in 2021. The formula still refers to “t CO<sub>2</sub>-e” and needs to be replaced with “MWh”.

*Amend references to the ACT Planning Act*

Replacing references to the *ACT Planning and Development Act 2007* with references to the new *Planning Act 2023*.

*Update to standards*

Updating references to Australian and New Zealand standards, and other general references in the determination, to improve readability, consistency and remove superseded standards.

**Regulatory impact statement (RIS)**

This determination does not impose appreciable costs on the community, or part of the community therefore a RIS is not required. In addition this determination does not adversely affect a person’s rights nor impose liabilities on a person (section 36(1)(b) of the *Legislation Act 2001*).

**Human Rights**

The Determination does not engage any human rights under the *Human Rights Act 2004*.

## Clause Notes

**Clause 1** names the instrument.

**Clause 2** provides for the commencement of the instrument.

**Clause 3** determines the eligible activities, in the schedule, that can be undertaken by electricity retailers and approved energy savings providers to meet the EST.

In summary, the schedule of the Determination defines the eligible activities, and for each activity:

- (a) sets minimum performance specifications;
- (b) outlines installed product requirements;
- (c) specifies when activities are complete; and
- (d) 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** disapplies the *Legislation Act 2001*, section 47 (5) and (6). This section is disapplied because it stipulates 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** revokes the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2022 (No 2)* (DI2022-244).