

## **Energy Efficiency Improvement Scheme**

### **Regulatory Impact Statement**

**Prepared in accordance with Chapter 5 of the *Legislation Act 2001***

November 2017



**Expanding classes of priority households**

**Energy Efficiency (Cost of Living) Improvement Regulation 2017**

**Subordinate Law SL 2017 - 41**

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## 1. Executive Summary

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) establishes the Energy Efficiency Improvement Scheme (EEIS). EEIS objectives are to encourage the efficient use of energy, reduce greenhouse gas emissions, reduce household and business energy use and costs, and increase opportunities for priority households to reduce energy use and costs.

This Regulatory Impact Statement (RIS) analyses the financial and non-financial impacts of the *Energy Efficiency (Cost of Living) Improvement Regulation 2017*, (the proposed Regulation).

The proposed Regulation establishes new classes of priority households. Priority households are Canberra's lower income households. Energy savings to this group are supported by the EEIS Priority Household Target (PHT) which requires a percentage of EEIS savings to be delivered in priority households. Introducing these new priority household classes supports the continuation of a 20 per cent PHT for 2018 and beyond. The introduction of new classes will require consequential amendments to two EEIS disallowable instruments, the Eligible Activities Code of Practice and the Record Keeping Code of Practice, which support verification and record keeping associated with the new classes of priority households.

## 2. Background

EEIS supports the ACT Government's climate change strategy Action Plan 2 (AP2) which identified reducing energy use in existing homes as one of the most cost-effective ways for the ACT to achieve its emissions reduction targets and reduce the impact of rising electricity and gas prices over the long-term. Since the scheme extension, the Climate Change and Greenhouse Gas Reduction Act 2010 (the CCGGR Act) has been updated with new targets of 100 per cent renewable electricity by 2020 and zero net greenhouse gas emissions by 2050. The Parliamentary Agreement for the 9th Legislative Assembly for the ACT (Parliamentary Agreement) contains a commitment to "continue all necessary policy and contractual steps to achieve 100% renewable electricity by 2020". EEIS is a key mechanism for delivering on the ACT renewable energy and emission reduction targets.

The Act establishes a Territory-wide Energy Savings Target (EST) which is a statutory obligation for individual electricity retailers based on their electricity sales in the ACT. The EST has been set at 8.6 per cent from 2016 until the end of 2020 to provide for business certainty and to maintain the level of ambition of EEIS for the life of the scheme.

The Act requires tier 1 retailers to achieve their EST by delivering eligible activities which include installing energy efficient light globes, draught seals, efficient space heating and cooling systems, water heaters and other items that save energy and reduce greenhouse gas emissions while maintaining quality of life. Smaller, tier 2 retailers can either deliver

eligible activities or pay an Energy Savings Contribution. ActewAGL Retail (ActewAGL) is currently the only tier 1 retailer. Eligible activities are determined by the Minister under Section 10 of the Act, through the notifiable instrument, the Eligible Activities Determination.

Section 8 of the Act requires tier 1 retailers to achieve a priority household target (PHT) for the total reduction in greenhouse gas emissions in priority households for each compliance period. The PHT is expressed as a percentage of the Retailer Energy Savings Obligation (RESO) and tier 1 retailers are obliged to achieve that proportion of their energy savings obligation in priority households. As the only tier 1 retailer, ActewAGL is the only entity with the PHT obligation. The Regulatory Impact Statement which set scheme parameters from 2015 until 2020 proposed that the PHT be subject to annual review<sup>1</sup>. The PHT was set at 25 per cent from 2013-2015 and has been set at 20 per cent from 2016 until 2018.

The classes of priority households are designed to target Canberra's lower income households. Low income households are most affected by energy price rises, but least able to invest in efficient items and thus reduce their energy demand. The PHT ensures that a proportion of EEIS savings are delivered in these priority households.

The ACT Government undertook targeted key stakeholder consultation before continuing the 2016-17 PHT setting of 20 per cent into the 2018 compliance year. Seven written submissions were received representing 11 organisations, since the submission from the Energy Consumers Policy Consortium represented the views of five community groups. Three of the submissions argued that the PHT should remain at 20 per cent. One submission proposed a higher level and ActewAGL requested that it be reduced to 10 per cent. ActewAGL considered that a lower level was needed because of increasing difficulties in achieving the PHT. The regulatory impact statement to set the 2018 Priority Household Target indicated that three actions would be taken to manage the risks associated with maintaining a 20 per cent PHT<sup>2</sup>. Those actions are:

- Reviewing the formulation of the PHT and considering alternatives if needed,
- Supporting the delivery of EEIS activities to Housing ACT tenants, and
- Increasing the scope of the PHT by adding new categories of eligible households.

The proposed Regulation is delivering on the third action.

Finally, it is worth noting that all EEIS targets have been met during each compliance period since the scheme commenced in 2013. EEIS has delivered savings to over 70,000 premises

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<sup>1</sup> *Energy Efficiency Improvement Scheme: Setting Key Scheme Parameters to 2020 – Regulatory Impact Statement*. May 2015. URL:

[http://www.environment.act.gov.au/\\_data/assets/pdf\\_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf](http://www.environment.act.gov.au/_data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf) p.20

<sup>2</sup> *Regulatory Impact Statement to set 2018 Priority Household Target* (2017)  
[http://www.legislation.act.gov.au/ri/db\\_56930/current/pdf/db\\_56930.pdf](http://www.legislation.act.gov.au/ri/db_56930/current/pdf/db_56930.pdf)

and avoided over 713,000 tonnes of carbon dioxide equivalent emissions (tCO<sub>2</sub>e). Over 17,800 priority households have received EEIS activities. Energy bill savings from EEIS were estimated at over \$20.5 million during the 2016-17 financial year alone.

### 3. The authorising law

The Act was passed by the Legislative Assembly on 3 May 2012. EEIS was initially legislated to run until 31 December 2015 but after a 2014 review, the Legislative Assembly passed the *Energy Efficiency (Cost of Living) Improvement Amendment Act 2015* which amended the Act to continue the EEIS to 31 December 2020.

Section 6 establishes the objects of the Act. They are to:

- (a) encourage the efficient use of energy; and
- (b) reduce greenhouse gas emissions associated with stationary energy use in the Territory; and
- (c) reduce household and business energy use and costs; and
- (d) increase opportunities for priority households to reduce energy use and costs.

This Regulatory Impact Statement (RIS) was prepared in accordance with Part 5.2 of the *Legislation Act 2001*, for the purposes of informing the expansion of priority households.

Priority households are defined in the Dictionary to the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The current definition follows:

**priority household** means residential premises in which 1 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 proposed Regulation provides for new classes of priority households in accordance with subsection (d).

#### 3.1 Expanding the classes of priority household

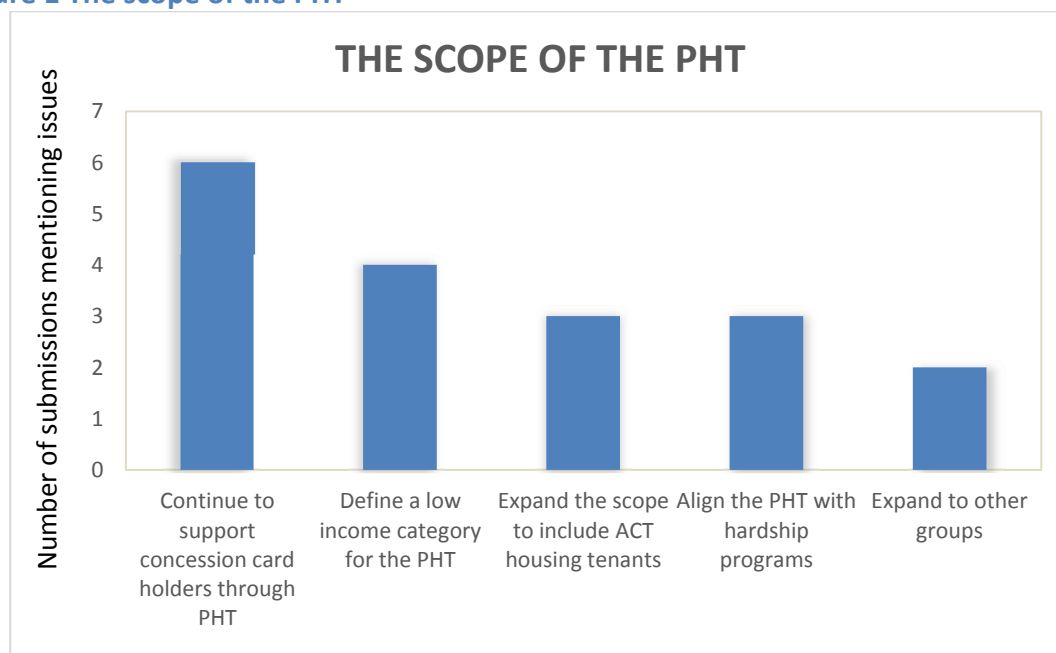
The Regulatory Impact Statement to set the 2018 PHT contains a detailed discussion of the policy problems targeted by the PHT. The key problem is the market failure that lower income households can benefit most from energy efficiency, but are least able to make improvements without additional assistance. This problem is exacerbated by increasing inequality, entrenched low income and wealth among poorer households and energy price rises. Split incentives in rental properties, whereby tenants are responsible for paying energy bills, while landlords provide energy-using equipment such as heaters also affect

poorer households more than wealthy ones. These are long-term, complex problems which combine to justify a continuing EEIS focus on priority households, and maintenance of the 20 per cent PHT.

The recent consultation to set the 2018 PHT target identified a secondary problem which is that not all of Canberra's low income households currently qualify as EEIS priority households. This problem was identified by nearly all stakeholders and no stakeholders disagreed. Stakeholders recommended that the scope of priority households be expanded and proposed a range of potential new classes. Figure 1 shows the number of submissions containing various potential solutions, all of which have been considered by the government. The following list includes some of the comments on the problem and potential solutions that were received in submissions:

- There are around 30,000 households in the ACT that have concessions. This figure under-represents those in need as not all of Canberra's vulnerable have concession cards.
- Expand the PH definition to include additional pre-identified households (additional qualifying criteria), coupled with the establishment of a minimum household income threshold. This would broaden the PH cohort and create a safety net therefore increasing abatement opportunities.
- Extending the PHT to public housing is a great opportunity to deliver much needed energy cost savings to low income households that have not received the benefits of the EEIS due to living in public housing.
- The alignment of EEIS and hardship programs is recommended in order to better anticipate the problem as early as possible. This alignment should be undertaken in a transparent manner with the retailer, in recognition of the commercial benefits of providing enduring energy solutions to hardship customers who may never be in a position to pay off their debt.

**Figure 1 The scope of the PHT**



Government action is needed to tackle the problem of a limited scope of priority households because the only way to increase the scope of EEIS priority households is through regulation as authorised by subparagraph (d) of the definition of priority household in the Dictionary of the Act.

Another problem which has emerged during 2017 is that the formulation of the PHT means that any business activity that a retailer delivers makes it more difficult for the retailer to deliver the PHT. Section 15 of the Act establishes the PHT as a proportion of the total Retailer Energy Savings Obligation as follows:

$$\text{Priority Household Obligation} = \text{Retailer Energy Savings Obligation} \times \text{PHT}$$

This formulation means that any business activity delivered by a tier 1 retailer makes it more difficult to deliver the PHT. This is because business energy use makes up about half of all ACT electricity demand. Priority households are estimated to make up about 20% of all ACT households, and by extension, their electricity demand is about 10% of total ACT electricity.

From 2017, ActewAGL has been delivering about half of its abatement in business. This expansion to the business sector has strong policy support since a key goal of the EEIS extension was to provide EEIS benefits to business. With the current PHT formulation, if ActewAGL continues to deliver half of its abatement in business, the 20% PHT means that ActewAGL must deliver about 40% of residential sector savings in priority households. The



ACT Government will explore issues associated with the PHT formulation during an EEIS review scheduled to commence in 2017.

### 3.1.1 Risks

Three risks have been identified in relation to the proposed expansion of priority households. Analysis suggests that the associated benefits outweigh the risks in each case. The identified risks are:

1. Potential cost shifting from the ACT Government to ActewAGL.
2. The new class of seniors health care card includes some wealthy households.
3. New administrative burdens may accrue to referral agencies.

The potential for cost shifting from the ACT Government to ActewAGL would stem from making Housing ACT properties eligible as priority households. The argument is that EEIS delivery to Housing ACT tenants may provide benefits over and above what Housing ACT would have delivered. The likelihood of this occurring is low since much of the equipment to be replaced under these arrangements is close to its end-of-life and would have been replaced anyway under other government contracts. The consequences are low because while the new equipment to be installed under EEIS is better than equipment that would otherwise have been installed (cheaper to run and with additional functions), the EEIS market mechanism means that only cost effective equipment will be selected for installation. Arrangements are already in train for EEIS equipment to be deployed into Housing ACT houses and government officers involved in the arrangements confirm that competitive prices are being offered. The most likely result is financial and health benefits to some of Canberra's most vulnerable people with limited additional costs to government beyond the sunk costs for equipment that would need to be replaced anyway.

Countering this risk is that the new category of priority dwellings provides administrative efficiencies and targets the split incentive problem. It enables the Community Services Directorate, as a landlord, to strategically target households with the highest need for EEIS equipment and to centrally plan for its delivery, rather than expecting tenants to make arrangements and produce concession cards. The energy efficient equipment can also be delivered with less disruption to tenants as upgrades can also be done between tenancies. There is no risk of higher income people moving into priority dwellings, as they would fail the residency criteria. Installations into priority dwellings will make valuable case studies of instances where split incentives are overcome, and landlords are supported to invest in energy efficiency. Results could yield new information about interventions that could tackle this intransigent problem more broadly.

Internal government stakeholders raised the second risk that Commonwealth Seniors Health Care Cards may expand the priority household group to some wealthy households.



This is because there is no assets test included in the eligibility requirement. In the past the eligibility income test also excluded income from superannuation as counting towards income in the eligibility test. The rules have changed and superannuation income now counts towards income in the eligibility test. However people who were deemed eligible prior to the changes are allowed to keep these concession cards and continue to be eligible under the previous rules. Also, people whose pensions were cancelled due to changes in the Pension Assets Test were automatically sent a non-income tested Commonwealth Seniors Health Card or a Low Income Health Care Card.

This risk of expanding the priority household group to some wealthy households is considered minor because wealthy households with Commonwealth Seniors Health Care Cards will usually have low incomes and this risk is reducing over time. Assets and income from superannuation tend to be fixed compared with additional burden on elderly households associated with rising energy costs, as well as increases in other costs of living. The risk is reducing over time since asset tests are now being applied and gradually, most elderly households succumb to illness in old age, and move onto other concession cards. Meanwhile including this class will help more low income people to access EEIS benefits. This position was confirmed in phone consultation with several community groups including Council of the Aging and Care Financial Counselling Service.

The third risk, that referral processes could add administrative burdens to the referral agencies was raised during stakeholder meetings. Trouble shooting of this potential burden led to the solution of a distinct form of words, and a specific email address be established so that the referral could be as simple as a short email from a referrer to a tier 1 electricity retailer. Referral agencies have confirmed by phone that this process will not pose an undue burden and the inclusion of referrals as a priority household may provide a valuable new opportunity to assist some households.

### 3.1.2 Objectives

There are three core objectives in expanding the classes of priority households. These are to support maintaining a strong, 20 per cent PHT, to increase the number of qualifying priority households so that more of Canberra's low income households can be targeted for EEIS savings, and to support EEIS delivery to small-to-medium businesses. These objectives are consistent with objects (c) and (d) of the Act, reduce household and business energy use and costs and increase opportunities for priority households to reduce energy use and costs.

The first objective of maintaining a strong PHT requires the introduction of the proposed Regulation, as without an expansion of the priority household group, ActewAGL would struggle to continue achieving the PHT. This was covered in detail in the *Regulatory Impact Statement to set 2018 Priority Household Target (2017)*.

The second objective of increasing the number of qualifying households is the specific purpose of the proposed Regulation. Table 1 provides some details, in listing each of the proposed new priority household classes and detailing the intended coverage. The table also indicates the likely increase in priority households that will result. Note that the total increase is not the sum of all listed percentage increases because of significant overlaps across classes, and between the existing and new classes.

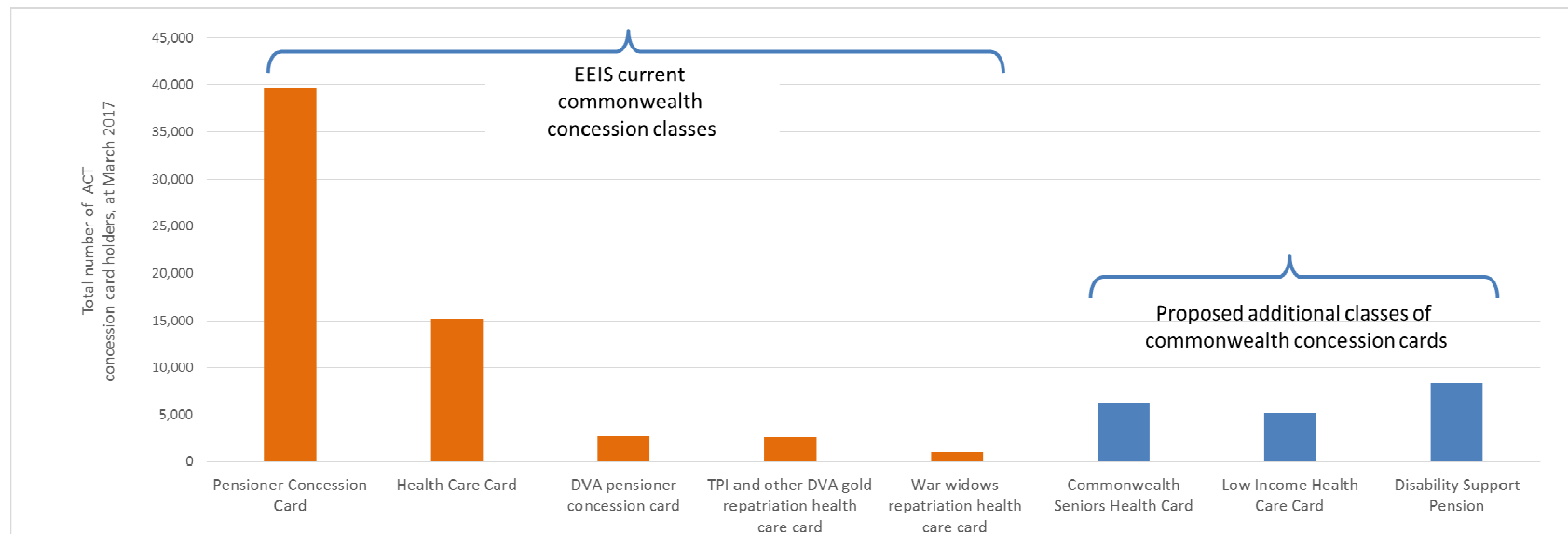
Figures 2 and 3 provide further analysis of the proposed increases to the number of households that could benefit from the proposed Regulation. Figure 2 shows the total number of people in the ACT who hold different concession cards under both the current priority household definition, and the proposed new concession card classes. This shows the significant, but not overwhelming priority household class expansion that is provided by the proposed Regulation. Figure 3 shows the total number of households with each type of concession card that have benefited from EEIS to date. This shows that the distribution of priority household support under EEIS aligns closely with the relative number of concession card holders in each category. Based on this analysis, and given that there will be considerable overlap between classes, the proposed Regulation is likely to increase the number of priority households by about 30 per cent.

The third objective of supporting EEIS delivery to small-to-medium businesses responds to the problems identified with the PHT formulation as a percentage of a tier 1 retailers RESO. Expanding the number of households that qualify as priority households reduces the trade-off currently being experienced in delivering to both the business sector and the low income residential sector. The new classes are expected to increase the percentage of ACT households that fit into the priority group to above 20 per cent. A larger proportion of priority households means that if ActewAGL continues to deliver about 50 per cent of EEIS savings to businesses, it will face fewer challenges in delivering about 40 per cent of residential savings to priority households.

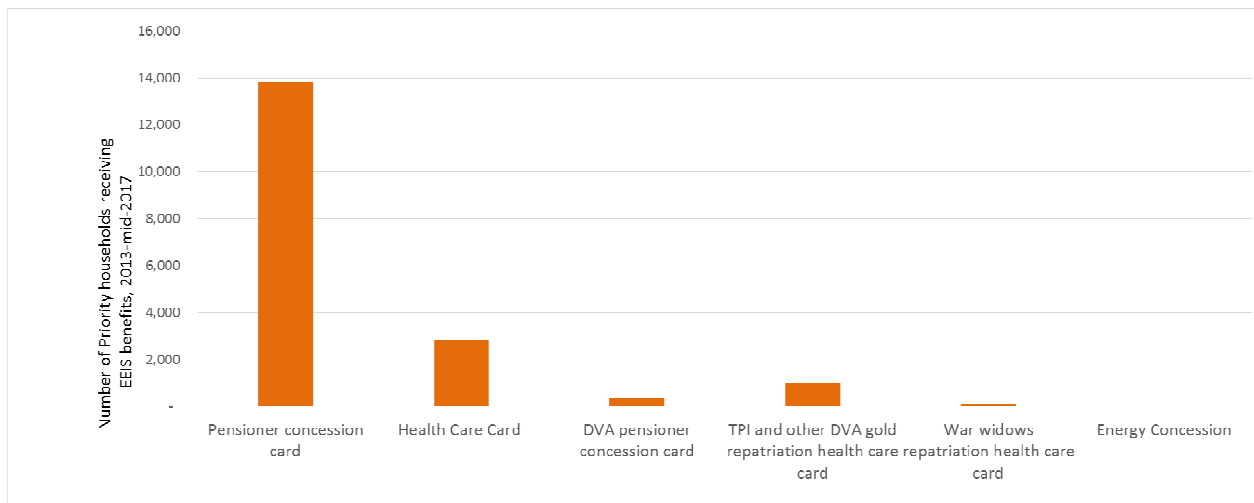
**Table 1 Proposed new classes of priority households**

Proposed new priority household classes	Intended coverage	Verification or evidence	Likely increase in priority households
<b>Three additional commonwealth concessions:</b>  <b>i. Commonwealth Seniors Health Card,</b> <b>ii. Low Income Health Care Card,</b> <b>iii. Disability Support Pension Card</b>	<p>v. <i>Commonwealth Seniors Health Cards</i>: This is claimed by people who have reached the qualifying age for the Age Pension but do not qualify for a pension. Qualification requires adjusted taxable income test. The Commonwealth Seniors Health Card provides access to health concessions, including cheaper pharmaceutical medicines.</p> <p>v. <i>Low Income Health Care Card</i>: This can be claimed by low income earners, providing them access to health concessions, including cheaper pharmaceutical medicines.</p> <p>ii. <i>Disability Support Pension</i>: This is an income support payment for people who are unable to work for 15 hours or more per week at or above the relevant minimum wage, independent of a Program of Support due to permanent physical, intellectual or psychiatric impairment. Claimants must be aged 16 years or over and under Age Pension age at date of claim.</p>	Concession card with number to be recorded by installer.	<b>Moderate expansion.</b> This adds approximately 32 per cent to the number of eligible concession card holders.
<b>Households accessing an approved hardship scheme of an energy retailer</b>	Each retailer offers these programs to support people facing difficulty paying bills. Household eligibility is based on an outstanding debt, active customer status, presence of financial hardship factors, obligation acknowledgement and willingness to pay. They are self-identified or proactively identified by retailers and remain in a hardship scheme until the debt is paid or the customer defaults. The programs involve a formal agreement for a specified time period that support people to catch up on energy bill payment. Households are to be considered priority households for the term of their hardship program agreement.	Written evidence from an energy retailer, including notifications on energy bills.	<b>Minor expansion.</b> ActewAGL estimates that approximately one-third, electricity customers accessing financial hardship programs do not hold concession cards. About half of the gas customers accessing financial hardship programs are not registered as holding concessions, although concession cards are under-reported for gas since there is no rebate. Combining both groups suggests that this proposed class would add about 400 new households to the priority group.
<b>Households experiencing financial hardship and referred by a specified community organisation or the Australian Capital Territory Civil and Administrative Tribunal (ACAT)</b>	Households experiencing financial hardship can be identified by Care Financial Counselling Service Incorporated (Care), St Vincent de Paul, Salvation Army or Australian Capital Territory Civil and Administrative Tribunal (ACAT) Energy and Water. These organisations can provide referrals for financial hardship directly to energy retailers following a needs assessment.	Referral would be by email to an electricity retailer, using an agreed form of words. The referral is not proposed to be time-bound, and would apply to the person, not the address.	<b>Minor expansion.</b> Many households in this category would benefit from lower energy bills but may not be in a position to enter into co-contribution arrangements for energy efficient equipment. However the category is worth including because of special circumstances that may apply to some households in this category, such as health needs requiring comfortable conditions, and the possibility of future activities not requiring co-payment.
<b>Priority dwellings – tenants of priority dwellings, including:</b>  <b>i. Public housing properties managed by Housing ACT,</b> <b>ii. Registered community housing provider,</b> <b>iii. disability housing facilities, and</b> <b>iv. Not-for-profit aged care housing facilities.</b>	Four new categories of priority dwellings are proposed, each owned and managed by a specified type of government or not-for-profit organisation. The prescription is attached to the tenants, not properties because the priority household definition in the Act limits the regulation to prescribing a ‘class of people’, and not a class of property.	Tenancy agreement, or written confirmation from the property owner including via a list of eligible properties.	<b>Minor expansion.</b> The Community Services Directorate (CSD) estimates that 95 per cent of Housing ACT households are tenanted by holders of concession cards that already classify them as priority households. In many cases, residents will already qualify. But these new categories are worth including since they will simplify administration involved in large public housing upgrades, and will support not-for-profit facility providers investing in high value energy efficient equipment and thus address the ‘split incentive’ problem.

**Figure 2 Total ACT residents holding different classes of commonwealth concession cards**



**Figure 3 EEIS delivery to priority household classes**



### 3.1.3 Other options

The Act specifically provides for the option of a regulation to expand the classes of priority households. The Explanatory Statement for the bill that introduced the EEIS stated that “The definition of a ‘priority household’ has been included here to cover, at a minimum, which households should be targeted by tier 1 suppliers to participate in energy efficiency activities. This definition may be further expanded by regulation as other eligible household types are identified in the future<sup>3</sup>”. This confirms the appropriateness of introducing the proposed *Energy Efficiency (Cost of Living) Improvement Regulation 2017*.

Several other options were considered before settling on the proposed set of new classes for priority households. Additional categories were ruled out because they might favour higher income households, and therefore reduce the EEIS benefits flowing to genuinely low income households. Such categories included:

- University students, many of whom are low income, but many of whom also live with higher income families. Many are also not in a low income group. Consultation suggested that those university students with genuine low incomes are likely to be eligible under other categories such as by being holders of Australian Government Health Care Cards.
- Participants in Red Cross Humanitarian Aid Program, which may include asylum seekers and others in Australia for humanitarian reasons. Again, those on low incomes were expected to already be eligible under existing categories including the proposed new hardship and referral classes.
- Low income earners, based on tax returns or other measures. The ACT Government considered that a previous tax return would not necessarily be indicative of current financial circumstances, marriage and other factors would be relevant and that there was no easy way to confirm a low income threshold. It seemed likely that people within a low income bracket who needed help to invest in energy efficiency would be eligible under other classes.

The only reasonable alternative to the proposed Regulation would be a less extensive class increase which did not include Commonwealth Seniors Health Care Card Holders or Tenants of Housing ACT. However there is strong stakeholder agreement with the proposed expansion, and concerns that were expressed about two of the proposed classes are considered to be resolved.

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<sup>3</sup> *Energy Efficiency (cost of Living) Improvement Bill 2012 Explanatory Statement*. URL [http://www.legislation.act.gov.au/es/db\\_44243/20120322-57066/pdf/db\\_44243.pdf](http://www.legislation.act.gov.au/es/db_44243/20120322-57066/pdf/db_44243.pdf)

### 3.1.4 Consultation

Consultation to expand the EEIS priority household classes was a continuation of consultation to set the 2018 PHT. That process involved consultation carried out over a six week period from late March until early May 2017. Consistent with the plan, consultation was undertaken with a wide range of stakeholder organisations including ACT and Australian government, the tier 1 retailer, non-government organisations and research groups.

Consultation showed consensus on the importance of retaining a PHT, and ongoing commitment from all parties to support low income households to achieve energy efficiency savings.

Further targeted consultation was undertaken to confirm the specific expansion of priority household classes that is provided in the proposed Regulation. This consultation was with all of the respondents to the earlier consultation, plus any other agencies that could be affected by the proposed Regulation. Consultation included a phone call and follow-up email containing the proposed scope expansion. The consulted group included:

#### **Government internal**

- Community Services Directorate (Housing ACT)
- Office of the Commissioner for Sustainability and the Environment
- Australian Capital Territory Civil and Administrative Tribunal
- Human Services Regulator

#### **Electricity Retailers**

- ActewAGL

#### **Non-government organisations**

- Proposed referral agencies:
  - Care Financial Counselling Service Incorporated
  - St Vincent de Paul,
  - Salvation Army
- Proposed housing providers or stakeholders
  - Aged and Community Services Australia
  - Council Of The Aging
  - Tenants Union
  - ACT Shelter
  - Community housing providers, including ACT government Quality, Complaints and Regulation in Community Services Directorate and a selected group of community housing providers including Havelock House and Northside Community Services
  - National Disability Service, and a selected group of disability housing providers including Project Independence and Quest.

- Other community stakeholders
  - Energy Consumers Australia – comprising the Energy Advocate and Energy Consortium
  - ACT Council of Social Services

Verbal feedback obtained during phone calls was extremely positive, and all who were contacted expressed support for the proposed Regulation. Written feedback was received from seven groups. All supported the proposed changes. Other options that were recommended for consideration, and responses included:

- Considering for-profit disability housing because this would still assist low income recipients. In response, EEIS liaison did not identify any for-profit disability housing services that would benefit from the addition of that group and considered that consistency between the priority dwelling categories was important for this new class expansion. Hence only the not-for-profit disability housing category will be included.
- Considering additional referral agencies for Aboriginal and Torres Strait Australians and those from non-English speaking backgrounds. In response, referral pathways will be established through existing networks to ensure Aboriginal and Torres Strait Australians and those from non-English speaking backgrounds have access to EEIS rebates.

### 3.1.5 Assessment of benefits and costs

There are no direct costs associated with the proposed Regulation.

The Regulation is likely to increase the number of priority households by about 30 per cent. Indirectly, this has the benefit of enabling the PHT to be maintained at 20 per cent, rather than reducing to a lower level. ActewAGL Retail (ActewAGL) is ACT's only tier 1 retailer, and thus the only organisation with a significant material interest in the PHT level. During the consultation to set the 2018 PHT, ActewAGL requested a reduction to 10 per cent while all other stakeholders suggested that it be maintained at 20 per cent, or raised to a higher level. Increasing the scope of the PHT by adding new categories of eligible households was a key strategy adopted by the ACT Government to support the 20 per cent PHT for 2018.

Maintaining the PHT at 20 per cent retains the integrity of the broader EEIS cost benefit analysis which is detailed in the EEIS Extension Regulatory Impact Statement<sup>4</sup> (the EEIS Extension RIS). That modelling aimed to balance the costs that are passed through to consumers while ensuring that priority households in the ACT continue to benefit from the EEIS (EEIS extension RIS p.20). Maintaining a 20 per cent PHT and continuing other scheme

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<sup>4</sup> ACT Government Environment and Planning Directorate (2015) *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020. Regulatory Impact Statement*. Available at [http://www.environment.act.gov.au/data/assets/pdf\\_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf](http://www.environment.act.gov.au/data/assets/pdf_file/0006/735990/Attachment-C-Regulatory-Impact-Statement-EEIS-Parameters-to-2020-FINAL.pdf).



metrics at their current levels is expected to result in a Net Present Value to the ACT economy of \$38.9 million. Aggregate lifetime bill savings for the residential sector are estimated at \$106 million in present value terms, and a 20 per cent PHT means that one-fifth of those savings will accrue to low income households.

The proposed Regulation has been prepared with the intention of avoiding indirect costs associated with administering the proposed new categories. Processes for verification and record keeping will be addressed through consequential amendments to EEIS Codes of Practice including:

- *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2017*, ( the Eligible Activities Code of Practice) and
- *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2017* (the Record Keeping Code of Practice).

#### **4. Consistency of the regulation with the authorising law**

The proposed Regulation is consistent with the authorising law.

The definition of "priority household" is in the Dictionary to the Act, and provides, amongst other things, that priority household means residential premises in which one person who lives at the premises is within a class of people prescribed by regulation. Accordingly, a regulation can be made to expand the scope of priority households.

#### **5. Mutual recognition and consistency with the policy objectives of another Territory law**

The proposed Regulation is not inconsistent with the policy objectives of another Territory law.

#### **6. Human Rights**

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

#### **7. Assessment of the consistency of the proposed law with Scrutiny of Bills 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 term 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 regulation is in accordance with the general objects of the Act.
- (ii) *unduly trespasses on rights previously established by law*  
The regulation does not unduly trespass on rights previously established under law.
- (iii) *makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions*  
The regulation 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 Act allows for a regulation to add new classes of priority households and that is the sole purpose of the proposed Regulation.

## 8. Conclusion

The RIS outlines the impacts of introducing a Regulation to establish new classes of priority households. The purpose of the proposed Regulation is to expand the classes of priority households so that more of the Territory's low income households can receive EEIS savings. This is consistent with object (d) of the Act, to increase opportunities for priority households to reduce energy use and costs.

In targeted stakeholder consultation to set the 2018 priority household target (PHT), most respondents suggested expanding the classes of priority households and expressed concern that many low income households were not eligible for EEIS priority household rebates due to only concession card holders being eligible.

The proposed Regulation increases opportunities for more low income households to reduce energy use and costs. It introduces six new classes of priority households including:

- a. holders of three new Commonwealth concession cards (seniors health cards, low income health care cards and disability support pension cards);
- b. people accessing an energy retailer's hardship program;
- c. people referred directly to an energy retailer by a specified referral organisation; and
- d. tenants of a priority dwelling, including a public housing property managed by Housing ACT, and not-for-profit community, aged care and disability houses.

The classes of priority households are designed to target Canberra's lower income households who are most affected by energy price rises, but least able to invest in efficient items and thus reduce their energy demand.

The proposed Regulation is likely to increase the number of priority households by about 30 per cent and provide more opportunities for Tier 1 retailers to achieve the PHT. This will assist in maintaining the PHT at the ACT Government and community sector's preferred level of 20 per cent, rather than dropping to a lower level. The PHT ensures that a proportion of EEIS savings are delivered in these priority households.