

Regulatory Impact Statement

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2020

Disallowable Instrument DI2020 - 222

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



Contents

1.	Executive Summary	3
2.	The authorising law	3
3.	Policy objectives of the disallowable instrument and the reasons for them	4
4.	Achieving the policy objectives	9
5.	Consultation	11
5.1.	Barriers to participation.....	12
5.2.	Increasing opportunities for priority households.....	13
	Expanding the priority household classes	13
6.	Consistency of the disallowable instrument with the authorising law	17
7.	Human Rights	17
8.	Assessment of the consistency of the proposed law with Scrutiny of Bills Committee principles	17
9.	Conclusion	18

List of Tables

Table 1	Achievement of the Priority Household Target	11
Table 1	Proposals for expanding the scope of eligible priority households beyond 2020.....	16

List of Figures

Figure 1	Share of net worth and equivalised income, Australia, 2015-16	8
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1. Executive Summary

The *Energy Efficiency (Cost of Living) Improvement Act 2012*¹ (the Act) establishes the Energy Efficiency Improvement Scheme (EEIS) which aims to encourage the efficient use of energy, reduce household and business energy use and costs, and increase opportunities for priority households to reduce energy use and costs. Priority households are Canberra's lower income households, defined as households in which at least one resident holds an eligible concession, are experiencing financial hardship or are residents of priority dwellings. These households are most affected by energy price rises, but least able to invest in efficient items and thus reduce their energy demand. The Priority Household Target (PHT) ensures that a proportion of EEIS savings are delivered in these priority households.

The PHT has been reviewed and set annually for previous compliance periods until 2020. This Regulatory Impact Statement is prepared in accordance with Part 5.2 of the *Legislation Act 2001* for establishing the PHT for 2020, as a disallowable instrument made under Section 8 of the Act.

The disallowable instrument sets the EEIS Priority Household Target (PHT) at 30 per cent for 2021.

2. The authorising law

The Act was passed by the Legislative Assembly on 3 May 2012. EEIS is a retailer energy efficiency obligation scheme currently legislated to run until 31 December 2030.

The Act establishes a Territory-wide Energy Savings Target (EST) which correlates to mandatory energy savings obligations for individual electricity retailers based on their electricity sales in the ACT. The specific level of the EST, and other EEIS targets, are set by disallowable instruments for each compliance period, defined as a calendar year.

Section 8 of the Act requires tier 1 retailers to achieve a PHT for the total reduction energy savings achieved 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 a proportion of their energy savings obligation in low income households. Section 8 provides for the determination of the PHT by disallowable instrument.

Section 15 establishes the PHT as a proportion of the total Retailer Energy Savings Obligation as follows:

Priority Household Obligation = Retailer Energy Savings Obligation x PHT
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¹ <http://www.legislation.act.gov.au/a/2012-17/default.asp>

The Act requires tier 1 retailers to achieve their EST by delivering eligible activities. Eligible activities are determined by the Minister and include installing energy efficient light globes, draught seals, efficient space heating and cooling systems, water heaters and other items that save energy bills and energy savings 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 in the ACT.

Energy Efficiency (Cost of Living) Improvement Amendment Act 2019 (the Amendment Act):

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

Swapping the current greenhouse gas emissions metric to an energy metric is needed because ACT’s 100% renewable electricity target would otherwise effectively exclude any electricity saving activities from being delivered by EEIS. The PHT Determination refers to “greenhouse gas emissions”. This wording changes to “energy savings” under the powers of the Amendment. All amendments relating to the adoption of an energy metric will commence on 1 January 2021.

This document outlines the costs and benefits associated with determining the PHT at 30 per cent for 2021 through the disallowable instrument *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2020*.

3. Policy objectives of the disallowable instrument and the reasons for them

The policy objective of the disallowable instrument is to achieve one of the objects of the Act relating to priority households. The objects of the Act are established in section 6. Object (d) is to “increase opportunities for priority households to reduce energy use and cost”. This is consistent with the ACT Government’s strategic objective of helping households, businesses and schools to reduce emissions, energy and costs.

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 currently defined in the Act’s dictionary. The definition is due to be moved to its own disallowable instrument later in 2020 for commencement in the next compliance period starting 1 January 2021.

Priority households are defined 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 *Energy Efficiency (Cost of Living) Improvement Regulation 2017*² added the following priority household classes:

- (a) Three additional Commonwealth concessions:
 - i. Seniors Health Card;
 - ii. Low Income Health Care Card; and
 - iii. Disability Support Pension Card.
- (b) Households accessing an approved financial hardship scheme of an energy retailer,
- (c) Households experiencing financial hardship and referred by a specified community organisation or the Australian Capital Territory Civil and Administrative Tribunal (ACAT); and
- (d) Priority dwellings including:
 - i. Public housing properties managed by Housing ACT;
 - ii. Not-for-profit community housing facilities;
 - iii. Not-for-profit aged care housing facilities; and
 - iv. Not-for-profit disability housing facilities.

The policy objective of providing benefits for low income households remains a key government priority. The PHT delivers on:

- ACT government priorities;
 - Helping reduce peak electricity and gas demand,
 - Improving social housing and affordability,
 - Achieve net zero greenhouse gas emissions by 2045 at the latest,
 - Helping households to reduce energy and costs,
 - Healthy and smart, and
 - Climate change mitigation and adaptation.
- Current 9th Labor - Greens Parliamentary Agreement;

² <http://www.legislation.act.gov.au/sl/2017-41/default.asp>

- 4.8 grow and diversify the not for profit community housing sector, through a combination of capital investment, land transfer and other means, and
- 6.7 Implementing measures to improve energy efficiency of rental properties.

The PHT was determined at 25 per cent each year from 2013 to 2015. This level was above the estimated 20 per cent of households receiving energy concessions and/or holding a concession card in the ACT.

The *EEIS Extension Regulatory Impact Statement*³ (the EEIS Extension RIS) recommended the PHT be decreased in 2016 to 20 per cent. This was based on modelling results and consultation reported in the EEIS Review and 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). For the purposes of modelling, all household costs and savings assume a 20 per cent PHT for the period 2016 to 2020. From 2016 to 2019, the PHT was reviewed and set annually at 20 per cent for each compliance period.

After consultation with stakeholders, the decision was made to increase the PHT for 2020 to 30 per cent. This decision was based on favourable conditions that set a promising scenario, which has allowed for the PHT to be maintained at 30 per cent for 2021:

- Consultation confirmed a consensus view that the PHT remains a valuable EEIS element and the majority of stakeholders supported increasing the PHT;
- The only tier 1 retailer has met the PHT in every compliance period since the EEIS started in 2013 and is currently delivering heating, cooling and hot water activities.
- Several strategies have been implemented to enhance opportunities to achieve the PHT:
 - Further expansion of the classes of priority household classes eligible for EEIS will be finalised in 2020 for the 2021 compliance period;
 - Future expansion of priority classes will be facilitated by removing the definition of priority household classes from the dictionary of the Act to a priority household classes determination. This is due for notification in September 2020.
 - PHT delivery from 2018 until June 2021 has been assisted by the ACT Government investing a further \$7.0 million to improve energy efficiency in public housing; and
 - Collaboration with stakeholders to enhance referral pathways between the community sector, Actsmart, ActewAGL, Housing ACT, ACAT and EEIS;

³ 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.

- The forecast abatement from priority households for 2020 is higher than 30 per cent (see Table 1).

The potential impacts of not maintaining the PHT into 2021 include surplus abatement, and reducing the total abatement required from priority households in subsequent years. The EEIS allows for surplus abatement from priority households to be carried into future years. As seen in Table 1, as a result of the carry-over surplus in 2013 and 2014, the proportion of the total abatement from priority households was less than the statutory target in each subsequent year.

The impact of COVID-19 on ACT households is, as yet, unquantified. It is clear, however, that there may be financial strain from reduction in employment and income. Energy needs and energy costs are likely to increase with ACT households having to remain largely at home due to necessary emergency health restrictions, causing increased reliance on heating and cooling. These impacts are being mitigated through a range of ACT Government responses, of which the EEIS contributes to. Maintaining the 2021 PHT at 30%, supported by the expansion of Priority Household Classes will be a key mechanism for supporting households through these challenges into 2021. It should be noted that uptake of energy efficiency upgrades may be deprioritised by households trying to reduce spending. This will require monitoring and evaluation for effects on the setting of the PHT beyond 2021 as the impacts of COVID-19 become clear.

Responses received during consultation on the extension of the EEIS to 2030 confirmed the ongoing importance of the PHT policy objective. Lower income (first and second quintile) customers are the most likely to be living in housing that has poor energy efficiency and are either unable (as renters) or incapable (as low-income home owners) to make capital investments in their housing to reduce energy usage.

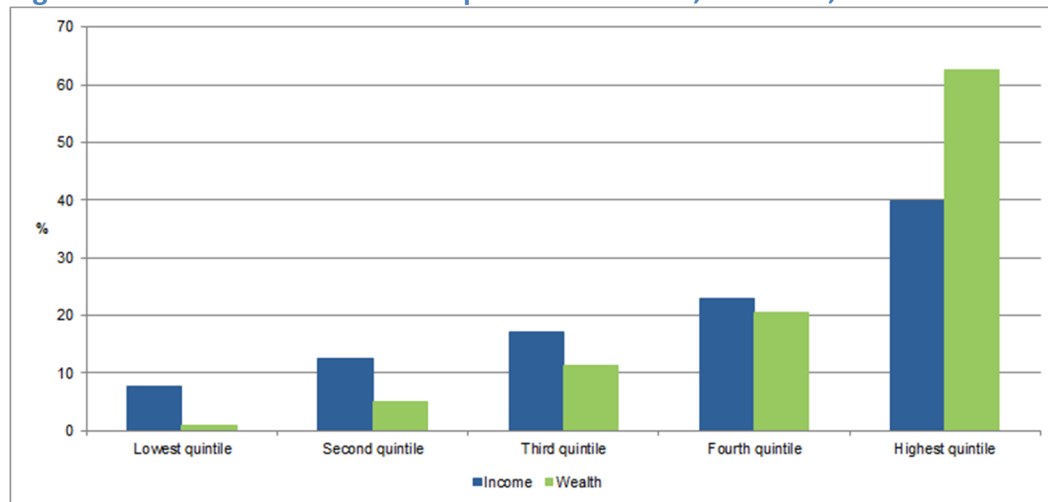
Approximately 37,000 people live in low-income households in the ACT, representing 11% of the total population. This includes almost 8,000 children, representing 12% of those aged 0-14. Aboriginal and/or Torres Strait Islander people, people from culturally and linguistically diverse backgrounds, people with disability, and women are over-represented in Canberra's low-income households. Around 70% of people living in low-income households in the ACT are likely to be living below the poverty line.⁴

Data available from the Australian Bureau of Statistics (ABS) confirm the ongoing importance of the PHT policy objective. Figure 1 is from a 2017 ABS article on Income and

⁴ ACTCOSS (2019) ACT Cost of Living Report, Available at <https://www.actcoss.org.au/sites/default/files/public/publications/2019-report-act-cost-of-living-may2019.pdf>

Wealth Distribution⁵ and shows that households with the lowest 20 per cent of wealth own less than one per cent of all Australian household wealth. The graph also shows the strong correlations between households with low income and those with low wealth, and the relative disadvantage of Australia’s poorest 20 per cent.

Figure 1 Share of net worth and equivalised income, Australia, 2015-16



Many of the ACT priority households are reliant on base-rate government benefits such as pensions as their only source of income. Some housing costs and health costs have increased higher than Australia’s consumer price index over recent years, exerting additional pressure on households relying entirely on income support. These rising costs are compounded by rising energy prices⁶.

The pressures caused by energy price rises need to be understood in the wider context on costs of living in the ACT. Costs of living are relatively high compared with other capital cities. The ACT Cost of Living Report (2019) prepared by ACTCOSS indicates the rising cost of living hits Canberra’s low income households the hardest, Canberra’s CPI continued to rise higher than the national rate, and that housing costs rose by 4.2%, above the national rate of 1.5% and utilities rose by 5.9% versus 2.0%⁷.

The ACT has one of the highest costs of private rental accommodation in the nation, so if you are in a low-income household you are spending a disproportionate amount of your

⁵ Australian Bureau of Statistics (2017) *Income and Wealth Distribution*. Available at <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/6523.0~2015-16~Main%20Features~Household%20Income%20and%20Wealth%20Distribution~6>

⁶ ACTCOSS (2019) ACT Cost of Living Report, Available at <https://www.actcoss.org.au/sites/default/files/public/publications/2019-report-act-cost-of-living-may2019.pdf>

⁷ ACTCOSS (2019) ACT Cost of Living Report, Available at <https://www.actcoss.org.au/sites/default/files/public/publications/2019-report-act-cost-of-living-may2019.pdf>

income on housing, which does not leave sufficient funds in a monthly budget to cover other essential costs of living, including energy.

Many low-income households have difficulty paying their energy bills, and there is strong evidence of the inability of low-income households to become more energy efficient without assistance.

Households that are struggling to pay their bills will often pay late and/or enter into debt if they do not have money available when their bills fall due. The Australian Energy Regulator (AER) monitors figures on the energy-related debt that results from customers not paying their bills on time. The AER's latest report indicated that the ACT had the highest percentage of customers in debt for both electricity (3.8%) and gas (6.1%) compared to other states and territories⁸.

Though electricity prices have evened out since the time of that report to AER's interim data update in November 2019, nationally there is greater demand for emergency relief, community services, affordable housing and schemes like the EEIS.

4. Achieving the policy objectives

There is good evidence that EEIS activities deliver significant savings to participating households, which to date have included a proportion of priority households.

The effectiveness of the EEIS in reducing household and business emissions and energy costs was confirmed by an independent review undertaken in 2018, which also found that the scheme has been cost-efficiently delivered, with an overall positive benefit-cost-ratio.

According to the review, the EEIS has fulfilled its four objectives: encouraging efficient use of energy, reducing emissions, reducing energy use and costs for households, businesses and priority households. It has delivered lifetime bill savings of over \$180M to households and an average weekly savings of \$5.80 for participating households.

The PHT has been consistently achieved since the life of the scheme. Table 1 shows how ActewAGL has tracked on the PHT over the life of the scheme. Column one shows the PHT setting for each year of the scheme which was 25 per cent from 2013-2015 and 20 per cent thereafter. Column 2 shows the proportion of total abatement that ActewAGL delivered in priority households each year. This was well above the PHT in the first two years and has dropped off steeply since then with previous year surpluses being carried over into subsequent years. There was an increase again in 2018. Table 1 shows that as a result of the carry-over surplus from the first two years, the proportion of the total abatement that

⁸ Australian Energy Regulator (2018) State of the Energy Market, Available At https://www.aer.gov.au/system/files/State%20of%20the%20Energy%20Market%202018%20-%20Full%20report%20A4_2.pdf

ActewAGL needed to deliver in priority households was less than the statutory target in each subsequent year. The total number of priority households in which abatement was delivered each year peaked in 2014, reduced until 2017 and increased again in 2019, forecasted to maintain numbers through 2020 and 2021.

Table 1 Achievement of the Priority Household Target

Year	PHT	% of total (achieved) abatement delivered in priority households	Priority household surplus for the given year (tCO ₂ e)	% of total RESO required to be delivered in priority households less surplus	Number of priority households visited
2013	25%	31%	26,961	25%	5,123
2014	25%	31%	20,648	18%	8,216
2015	25%	16%	-27,709	9%	4,393
2016	20%	9%	-11,599	-25%*	1,972
2017	20%	13%	-6,141	12%	356
2018	20%	26%	5,283	16%	775
2019	20%	30%	13,813	13%	1,090
2020 Forecast**	30%	26%	-1,825	12%	1,019

*no abatement required in this compliance period due to carried over surplus above PHT.

**forecast PHT values are based on ACT Government investment in Housing ACT properties.

Notes Columns 3 and 4 do not account for any carry over surplus from the previous year and relate to abatement delivered, not the abatement obligation (RESO).
Column 5 accounts for the carry over surplus from the previous year.

At the 20 per cent level, total priority household abatement achieved for the 2019 period (excluding surplus) was 29,042 tCO₂e with a significant surplus of 13,814 tCO₂e. The predicted PHT RESO for 2020 is 23,370 tCO₂e, with achieved abatement forecast at 21,545 tCO₂e. Inclusive of surplus, the 2020 forecasted priority household abatement is 35,358 tCO₂e, leaving a surplus of 5,358 tCO₂e (converted to MWh) going into 2021. Therefore a 30 per cent setting is currently considered optimal to ensure ActewAGL is able to meet the target, but continues investing in energy saving programs to priority households. This will be reviewed as the impacts of moving to an energy metric are monitored over the 2021 compliance period.

5. Consultation

Consultation on the Priority Household Target (PHT) was carried out at an EEIS Stakeholder Forum in February 2019.

Stakeholders were asked to provide feedback on the following questions:

The ACT Government is consulting stakeholders on the setting of the 2020 Priority Household Target.

1. What do you think the EEIS Priority Household Target should be set at in 2020?
2. Why do you think it should be set at this level?

The following stakeholders provided input at the forum:

- ACAT Energy and Water (ACAT)
- ACT Council of Social Services (ACTCOSS)
- ActewAGL
- Origin
- Better Renting
- Canberra Multicultural Community Forum
- Care Financial Counselling Services (CARE)
- Housing ACT
- St Vincent de Paul
- Chief Minister, Treasury and Economic Development Directorate (CMTEDD)
- Tuggeranong and Inner South Community Councils
- Alexander Watson Home Insulation Company
- Office of the Commissioner for Sustainability and the Environment
- Wildlife Carers Group
- EvoEnergy
- Knauf Insulation

Consultation confirmed that the PHT remains valuable. The consensus was to keep the PHT at a minimum of 20 per cent, while the majority of participants supported an increase in the PHT, with suggestions as high as 30 per cent.

5.1. Barriers to participation

On completion of the *Energy Efficiency Improvements in Public Housing* initiative in June 2021, it was expected that achieving the PHT will become more difficult. This is due to a range of factors, including gas to gas activities being removed from the scheme, higher cost activities requiring co-payments from priority households and split incentives in rental properties.

A significant message that was evident at the forum was the importance of ensuring access to the EEIS for priority households. As the EEIS has moved from free items to items that require a co-contribution, many of the most vulnerable households will not be able to pay the up-front fee and may not be able to access EEIS activities. Panel members and forum participants highlighted the need for mechanisms to assist priority households with the co-contribution. Such mechanisms may include no interest loans, additional Government subsidies, or alternative programs such as the Actsmart Home Energy Efficiency Program.

The particular problems for renters in the private market were also discussed at the forum. These households are unable to participate in many of the Energy Efficiency Improvement Scheme activities because they either do not have permission from their landlord to modify their housing and/or have no capacity to co-contribute to the costs of government or industry assistance programs.

Maintaining the target at 30 per cent is achievable for 2021 due to both the investment of funds from the ACT Government and expanding the priority household definition. The latter option is being finalised in 2020 to ensure more priority households, especially those in the second quintile, benefit from the scheme from 2021 and beyond. Any future priority household targets will need to take into account of these factors.

5.2. Increasing opportunities for priority households

In 2018 the Minister for Climate Change and Sustainability made a regulation to expand the classes of priority households beyond the original scope as defined in the Act. This expansion will assist in meeting the PHT 2020.

Consultation occurred at the forum on ways to increase opportunities for low income households for the extension of the EEIS from 1 January 2021 until 31 December 2030. There was strong support to expand the scope of eligible priority households. The majority of workshop participants supported the expansion into private rentals, Family Tax Benefit B recipients, ACT Services Access Card and expanding referral organisations. Comments received at the forum can be seen in Table 2.

Expanding the priority household classes

There is strong stakeholder support for expanding the priority household classes. There are almost 26,000 people living in poverty within the ACT and while many of these households rely solely on a Government pension, almost 40% of people living in poverty live in households whose main support is from employment⁹. The expansion of classes is aimed at assisting households in the bottom 40% income groups. The recommended new classes for inclusion are rental households, Family Tax Benefit Part B recipients and ACT Services Access Card holders. An expansion of the referral agencies is also recommended. Preliminary analysis for each of these recommended classes can be found below and will be detailed in a future regulatory impact statement when the classes are set for the extension.

Rental Households

A major barrier for rental households to participate in the EEIS is the introduction of co-payments required by the householder. This creates a split incentive where the landlord is

⁹ ACTCOSS Cost of Living Report, <https://www.actcoss.org.au/sites/default/files/public/publications/2019-report-act-cost-of-living-may2019.pdf>

responsible for the cost of energy efficiency upgrades but the tenant benefits from a reduction in energy bills. This split incentive is a widely recognised barrier to addressing efficiency in rental properties.

Low income renters are particularly vulnerable to rising energy prices because of the lack of control in reducing their energy bills. Australia wide, 39% of households in the bottom 20% of incomes are renters and pay a higher percentage of their wages on electricity and gas than higher income households.¹⁰

Rental properties are considered a good umbrella group to try and capture low income households that may not qualify in other ways. This includes single parents, people with culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people, all of whom are over-represented in Canberra's low-income households.¹¹ It would also capture other low-income groups that are hard to assess or would require invasive income assessments, such as refugees, student share houses, and low-income wages from employment.

There is also evidence that the earlier, free activities were easier to direct to rental households than the activities now being delivered. Up until the second quarter of 2019, no private rental households accessed an activity that requires a co-payment in comparison to nearly 17,000 rental households who implemented free activities. The only free activity that remains in the scheme is the fridge buy back, with approximately 270 rental properties having received this activity during 2018.

It is anticipated that expanding the classes to include all rental properties will allow more priority households to access the scheme by reducing the barriers for both landlords and tenants

Family Tax Benefit Part B recipients

Expanding the classes to include Family Tax Benefit Part B recipients will allow approximately 14,000 additional households to be included as priority households. These households have a maximum household income of under \$128,000 per year and are more likely to afford the customer co-payment required for higher cost activities than the lowest 20% of incomes. However, it is unknown how many of these households would be in rental accommodation versus home-owner occupiers.

¹⁰ B Phillips, Energy Stressed in Australia 2018

http://library.bsl.org.au/jspui/bitstream/1/10896/4/ACOSS_BSL_Energy_stressed_in_Australia_Oct20_18.pdf

¹¹ ACTCOSS Cost of Living Report,

<https://www.actcoss.org.au/sites/default/files/public/publications/2019-report-act-cost-of-living-may2019.pdf>

There was strong stakeholder support for Family Tax Benefit Part B recipients to be included in the expanded definition as it is considered a good umbrella group that could capture a large group of ‘working poor’ households that otherwise would not qualify as many do not hold government concession cards. It also reduces the requirement of invasive income assessments to be done as part of the EEIS delivery. However, there would still be some singles or couples on low incomes in paid employment who would not qualify.

ACT Services Access Card holders

The ACT Services Access Card is only available for asylum seekers who have a Protection Visa Acknowledgement letter. The ACT Government is committed to providing asylum seekers with the same services and support that it provides refugees¹² and does this via the ACT Services Access Card. Holders of an ACT Services Access Card may not have other ways to prove their eligibility as priority households and are particularly vulnerable residents of Canberra.

Additional referral organisations

It is recommended that additional referral organisations be included to identify low-income households who are in financial stress, particularly due to housing or energy related pressures. New referral organisations will be targeted to identify vulnerable households, including the groups that are over-represented in low income households. These organisations will likely include emergency relief services, migrant and refugee services and Aboriginal and Torres Strait Islander Groups. Consultation with these organisations still needs to occur, particularly in regard to their capacity with the additional administration required.

¹² <https://www.actcoss.org.au/sites/default/files/public/publications/2019-factsheet-poverty-and-inequality-in-the-act.pdf>

Table 2 Proposals for expanding the scope of eligible priority households beyond 2020

Proposed new class	Comments	Potential number of households
All renters	<ul style="list-style-type: none"> This was considered a good umbrella group as many rental households would qualify under different criteria (such as student share houses, new migrants and bottom two income quintiles). This criterion requires significantly less administration to verify their financial situation. A major concern was to include restrictions on rent increases if landlords upgraded rental accommodation. The <i>ACT Residential Tenancies Act 1997</i> may already offer this protection. This will be investigated further by EPSDD. Well-off renters in efficient accommodation would not likely access the scheme due to the nature of eligible activities offered. The EIS activities generally support upgrades of the older housing stock in Canberra, which is more likely to be rented by people on lower incomes. Making renters eligible keeps the administration simple and puts the responsibility onto the landlord rather than the tenant. 	45,000 (includes Housing ACT and Community Housing organisations). ¹³
Family Tax Benefit B (FTBB)	<ul style="list-style-type: none"> This was considered to be a good umbrella group that would be easier to administer than income dependent criteria such as the lowest two income quintiles. Maximum household incomes for FTBB is \$127,772 and the financial limit does not increase based on the number of children in the household (unlike Family Tax Benefit A). This group could include homeowners. 	13,759 ¹⁴
ACT Services Access Card	<ul style="list-style-type: none"> This card was well supported and is limited to ACT residents with a Visa Protection. 	Not known
Increasing referral organisations	<ul style="list-style-type: none"> Increasing the number of referral organisations was well supported. No consensus was reached about which organisations would be included and research would need to be conducted on each additional organisation. Suggested organisations included: <ul style="list-style-type: none"> Migrant and Refugee Resettlement Services (MARRS) and other migrant groups Legal Aid Carers ACT The Public Trustee and Guardian Council of the Aging Emergency relief agencies Indigenous organisations 	Not applicable

¹³ http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/8ACTE?opendocument

¹⁴ <https://www.actcoss.org.au/sites/default/files/public/publications/2018-factsheet-poverty-and-inequality-in-the-act.pdf>

6. Consistency of the disallowable instrument with the authorising law

The disallowable instrument is consistent with the object of the Act to increase opportunities for priority households to reduce energy use and cost.

The authorising law requires the Minister to set a PHT at least three months before the start of the compliance period to which the priority household target relates. The requirement is for the PHT to be established six-months before the start of the compliance period if the PHT is to be increased. Compliance periods are calendar years.

As the proposal is to maintain, rather than to increase the PHT, the authorising law requires the PHT to be set at least three months before the end of 2020 for the 2021 compliance period.

7. Human Rights

The determination does not engage with human rights set out in the *Human Rights Act 2004*.

8. 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 matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The determination is consistent with the Scrutiny of Bills Committee principles. As discussed above, the determination is consistent with the general objects of its authorising Act and does not trespass on rights previously established by Law. The determination does not make

rights, liberties and/or obligations unduly dependent on non reviewable decisions. The subject matter is appropriate for a Disallowable Instrument.

9. Conclusion

The disallowable instrument retains the EEIS Priority Household Target (PHT) at 30 per cent for 2021. The 30 per cent EEIS PHT maintains opportunities for low income households to reduce energy use and cost by requiring obligated retailers deliver a proportion of total EEIS abatement in priority households. The PHT was set at 25 per cent between 2013 and 2015 and 20 per cent since 2016. The PHT has been consistently achieved throughout the life of the EEIS. With inequality and energy prices increasing, the need for priority household support remains as pressing as ever. Consultation indicated a consensus view that the PHT remains a valuable EEIS element and most stakeholders supported an increase to the PHT.

The government has implemented several strategies to minimise the risk of missing the PHT in 2021:

- Supporting the continued delivery of EEIS activities to Housing ACT tenants through a successful trial pilot program and a further \$7.0 million investment to improve energy efficiency in public housing;
- Expanding the classes of priority households eligible for EEIS and therefore increasing the scope of the PHT;
- Removing barriers to retailer uptake of the insulation activity by supporting insulation training development and delivery for insulation installers in the ACT; and
- Collaborating with stakeholders to enhance referral pathways between the community sector, Actsmart, ActewAGL, Housing ACT, ACAT and EEIS.

Maintaining the PHT for 2021 could have the following impacts:

- The risk that many priority households in 2020 will be from Housing ACT properties and that other priority households will see reduced assistance through the EEIS; and
- Surplus abatement will reduce the total abatement required from priority households in subsequent years.

Maintaining the PHT target at 30 per cent in 2021 and expanding the Priority Household classes will ensure the EEIS increases opportunities for priority households to reduce energy use and costs while encouraging the efficient use of energy and reducing energy savings. This setting is considered to be the best outcome for achieving the EEIS policy goals.