



ACT
Government

Environment, Planning and
Sustainable Development

Energy Efficiency Improvement Scheme

Setting the Priority Household Target for 2022 by Disallowable Instrument:

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2021 – DI2021-165

Regulatory Impact Statement

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

June 2021

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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/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 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 businesses. Eligible activities are determined by the Minister and include insulation, draught seals, efficient space heating and cooling systems, water heaters and other items that reduce energy bills and provide energy savings while maintaining quality of life. Whereas 'Tier 1' retailers (currently only ActewAGL Retail) must deliver energy savings activities, smaller, 'Tier 2' retailers can either deliver eligible activities or pay an Energy Savings Contribution (ESC).

The Priority Household Target (PHT) ensures that a proportion of energy savings achieved under the Scheme are delivered in Canberra's lower income households, defined as households in which at least one resident holds an eligible concession or is experiencing financial hardship, or as those that classify as a priority dwelling as defined in the legislation. These households are most affected by energy price rises, but least able to invest in efficient items and thus reduce their energy demand.

This Regulatory Impact Statement was prepared in accordance with Part 5.2 of the *Legislation Act 2001*. It outlines the costs and benefits associated with setting the PHT at 40% for 2022 through the disallowable instrument *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2021*.

2. The authorising law

The Act establishing the EEIS was passed by the Legislative Assembly on 3 May 2012 and the Scheme is currently legislated to run until 31 December 2030. Under the Act, a Territory-wide Energy Savings Target (EST) is established, which determines the total energy savings to be achieved by individual retailers in a compliance period, expressed as a percentage of their total electricity sales in the ACT. A Retailer's Energy Savings Obligation (RESO) for a compliance period is calculated as follows: EST (%) x Electricity Sales (in megawatt hours or MWh).

¹ Source: <http://www.legislation.act.gov.au/a/2012-17/default.asp>

Section 8 of the Act requires Tier 1 retailers to achieve a proportion of their RESO in priority households as defined in the *Energy Efficiency (Cost of Living) Improvement (Priority Households) Determination 2020*. The PHT is expressed as a percentage of the RESO. The specific level of the PHT is set by disallowable instrument for each compliance period, defined as a calendar year.

The PHT must be determined by the Minister for Water, Energy and Emissions Reductions no later than six months before the commencement of the relevant compliance period if it increases; or no later than three months before the commencement of the compliance period if there is no increase.

3. Policy objective of the disallowable instrument

Before the COVID-19 health emergency, there were thought to be around 30,000 people living in poverty within the ACT² and this figure has since increased to just over 38,000³. Moreover, the numbers of people experiencing energy stress are likely to be much higher than the poverty figures⁴. Changes in the cost of living over the past five years have been felt most acutely by Canberra's low-income households who spend a greater proportion of their income on essential goods and services⁵. For example, households living with low incomes or experiencing disadvantage pay disproportionately more of their income on energy than the average household⁶. This is particularly significant given that electricity and gas prices in Canberra have risen by 25% and 31% respectively over the last five years⁷. 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.

Improving energy efficiency in low-income households is a pathway to reducing energy bills, improving thermal comfort in households and supporting a just transition to net zero emissions. The policy objective of the disallowable instrument is to achieve Object (d) of the Act as established in section 6: to “increase opportunities for priority households to reduce energy use and cost”.

² ACTCOSS (2020) ACT Cost of Living Report, available at <https://www.actcoss.org.au/publications/advocacy-publications/act-cost-living-report-2020>

³ ACTCOSS (2020) Poverty and COVID-19 in the ACT, available at [Factsheet: Poverty and inequality in the ACT \(actcoss.org.au\)](#)

⁴ ACTCOSS (2019) Energy affordability and hardship in the ACT, available at [Factsheet: Energy hardship in the ACT \(actcoss.org.au\)](#)

⁵ ACTCOSS (2020) Poverty and COVID-19 in the ACT, available at [Factsheet: Poverty and inequality in the ACT \(actcoss.org.au\)](#)

⁶ ACTCOSS (2019) Energy affordability and hardship in the ACT, available at [Factsheet: Energy hardship in the ACT \(actcoss.org.au\)](#)

⁷ ACTCOSS (2020) ACT Cost of Living Report, available at <https://www.actcoss.org.au/publications/advocacy-publications/act-cost-living-report-2020>

The PHT also delivers on key objectives of the *ACT Climate Strategy 2019–2025*⁸ including: achieving net zero emissions in the ACT by 2045 at the latest; building resilience to climate change impacts; and supporting a just transition to net zero emissions. It aligns with the current *10th Legislative Assembly Parliamentary and Governing Agreement*⁹, the first action under which is to ‘phase out fossil-fuel-gas in the ACT by 2045 at the latest, support energy grid stability and support vulnerable households’.

Stakeholder consultation (conducted from late 2018 to March 2019) in the lead up to the EEIS extension to 2030 sought feedback, amongst other issues, on how to increase opportunities under the Scheme for priority households. Responses received during this consultation confirmed the ongoing importance of the PHT policy objective¹⁰. Lower income (first and second quintile) energy consumers are the most likely to be living in housing that has poor energy efficiency and are likely either unable (as renters) or incapable (as low-income homeowners) to make capital investments in their housing to reduce energy usage. The PHT is designed to address this problem by making energy savings activities – and associated energy and cost savings – more accessible to priority households.

4. Achieving the policy objective

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 Objects of encouraging efficient use of energy; reducing emissions; reducing energy use and costs for households and businesses; and increasing opportunities for priority households to reduce energy use and costs.

Since its inception, over 45% of ACT households have participated in the Scheme and are saving an average of \$5.80 per week. For the 20,500 priority households and over 16,000 rental properties, there are lifetime bill savings of over \$70 million¹¹.

As shown in Table 1, the PHT has been consistently met by the Tier 1 retailer over the lifetime of the Scheme. Column two shows the PHT setting for each year of the Scheme, which was 25% from 2013 to 2015, 20% for the period 2016–2019 and 30% in 2020 and 2021. Column three shows the proportion of total abatement¹² that the Tier 1 retailer delivered in priority households each year. This was well above the PHT in the first two

⁸ Source: https://www.environment.act.gov.au/_data/assets/pdf_file/0003/1414641/ACT-Climate-Change-Strategy-2019-2025.pdf_recache

⁹ Source: https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf

¹⁰ Source: https://www.environment.act.gov.au/_data/assets/pdf_file/0006/1384215/Results-Of-Consultation-On-An-Energy-Efficiency-Improvement-Scheme-Extension.pdf

¹¹ Annual Report: Environment, Planning and Sustainable Development Directorate 2019-20, p. 398

https://www.planning.act.gov.au/_data/assets/pdf_file/0008/1676942/2019-20-EPsDD-Annual-Report.pdf

¹² Prior to an energy savings metric being adopted in 2021, the EEIS used an emissions abatement metric measured in tCO₂e

years and then dropped off steeply with previous year surpluses being carried over into subsequent years. There were increases in the period 2017–2019, with a slight decrease forecast for 2020. Table 1 shows that as a result of the carry-over surplus from the first two years, the proportion of the total abatement that the Tier 1 retailer 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, decreased until 2017 and increased again in 2018 and 2019, with a slight decrease forecast for 2020. Data are not yet available to validate the figures forecasted for 2020, and the 2021 compliance period is not yet complete. Updating the PHT setting for 2022 will enable continued achievement of Object (d) of the Act.

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%	7,828	10%	1,263
2020 Forecast**	30%	40%	21,616	2%	1,839
2021 Forecast**	30%	33%	52,746 (tCO ₂ e) 131,864 (MWh)	3%	N/A

*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 and ActewAGL Compliance Plan.

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.

5. Considering a level of ambition

Based on analysis conducted by Energetics, and in view of the ACT Government's strategic objective of supporting vulnerable households, this section outlines arguments for increasing the PHT to 40% for the 2022 compliance period.

Consultation with community sector stakeholders via the ACT Energy Consumer Policy Consortium indicates that during the COVID-19 pandemic, a growing number of households have experienced difficulties paying their energy bills, with increased numbers reaching out for support. Moreover, the removal of the Coronavirus Supplement is expected to result in further job losses and an increase in the number of people in the ACT who are living below the poverty line¹³. These trends can be expected to contribute to a higher incidence of energy stress and an increased PHT would be a mechanism for responding to this growing need in the community.

While the 40% PHT will represent an increased burden on the Tier 1 retailer, analysis conducted by Energetics for the 2022 target setting concluded that a higher PHT would be achievable without increasing the cost of the Scheme to consumers. Modelling (in 2018) for the extension of the EEIS to 2030 included an assumption that the cost of delivering energy savings activities in priority households would be 50% higher than for other premises. Energetics' analysis suggests that the escalation of costs for delivery to priority households may be closer to 25%, with the implication that the impact of meeting the PHT on the overall cost of the Scheme is less than was previously assumed. Moreover, a number of strategies are being progressed that are expected to enhance opportunities for the Tier 1 retailer to meet an increased PHT:

- The classes of priority households eligible to receive EEIS activities will be expanded (as outlined in the next section);
- PHT delivery from 2018 until June 2022 is being assisted by the ACT Government investing \$9.6 million to improve energy efficiency in public housing; and
- Insulation training has commenced that will produce a ready pool of certified installers who are able to deliver insulation activities in accordance with the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2020 (No 2)*. This will create a pathway for the Tier 1 retailer to deliver insulation activities, which were thought to be the lowest cost source of energy savings when the Scheme extension was modelled in 2018.

In summary, it is anticipated that an increased PHT would serve as a mechanism for responding to increased incidence of energy hardship in the community on the back of the COVID-19 pandemic and increasing electricity prices. Modelling indicates that this can be achieved without a material impact on the cost of the Scheme to consumers. Finally, the burden of an increased PHT on the Tier 1 retailer is not expected to be excessive given the factors outlined above. Though it may create a barrier to Tier 2 retailers delivering energy savings activities under the Scheme in 2022, the PHT is set annually and the target can be adjusted again for 2023.

An alternative option would be to leave the PHT at 30% for 2022. The potential impacts of not increasing the PHT, however, include surplus energy savings, and corresponding

¹³ ACTCOSS (2020) ACT Cost of Living Report, available at <https://www.actcoss.org.au/publications/advocacy-publications/act-cost-living-report-2020>

reductions in the total energy savings delivered to priority households in subsequent years. This is because the EEIS allows for surplus energy savings from priority households to be carried into future years. As seen in Table 1, as a result of the carry-over surplus from 2013 and 2014, the proportion of the total abatement from priority households was less than the statutory target in each subsequent year. A continuation of this scenario into future years of the Scheme would mean that it is failing to deliver on its objective of increasing opportunities for priority households to reduce energy use and costs.

6. Increasing opportunities for priority households

Priority households are currently defined in the *Energy Efficiency (Cost of Living) Improvement (Priority Households) Determination 2020* as –

A residential premise where at least one person who lives there meets one or more of the following criteria:

- (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) holders of a Commonwealth seniors health card; or
- (e) holders of a Commonwealth low income health care card; or
- (f) recipients of a Commonwealth disability support pension; or
- (g) people accessing an energy retailer's hardship program (however described); or
Note: Energy is defined in the Act, dictionary to include electricity and gas.
- (h) people referred to a NERL retailer by a referring organisation for access to eligible activities carried out by the retailer; or
Note: Eligible activity—see the Act, dictionary
NERL retailer—see the Act, dictionary
- (i) people living in a priority dwelling.

Where a priority dwelling is defined as:

- (a) a public housing property managed by Housing ACT;
- (b) a property provided by a registered community housing provider;
- (c) a property used for providing accommodation or tenancy support by a registered provider of supports under the *National Disability Insurance Scheme Act 2013* (Cwlth);
- (d) a property used for providing residential care under the *Aged Care Act 1997* (Cwlth) if both of the following apply:
 - (i) the residential care is provided by an approved provider under that Act;
 - (ii) the approved provider is a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

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 in order to make the EEIS accessible to a broader range of vulnerable households. Consultation conducted prior to the extension of the EEIS to 2030 confirmed strong stakeholder support for expanding the priority household classes.

Input was sought from stakeholders on ways to increase opportunities for low-income households to participate in the Scheme and, drawing on this, the Regulatory Impact Statement for the *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2020*¹⁴ outlined preliminary analysis on new priority household classes that were proposed for inclusion in an expanded priority households definition. These included rental households, Family Tax Benefit Part B recipients and ACT Services Access Card holders. The inclusion of additional referral organisations to identify low-income households who are in financial distress was also recommended.

The proposed expansion of priority household classes was ultimately not completed for the 2021 compliance period due to related initiatives stemming from the 2020 election outcome and the subsequent *10th Legislative Assembly Parliamentary and Governing Agreement*. As a number of these initiatives will have a focus on supporting increased energy efficiency in low-income households, it will be important to harmonise any forthcoming updates to the EEIS legislation. Moreover, analysis of the impacts of the COVID-19 pandemic in relation to the incidence of energy hardship in the ACT will be necessary to further inform this work. The expansion of priority household classes is intended to be actioned for the 2022 compliance period in consultation with relevant stakeholders.

7. Human rights

The determination does not engage any human right 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,

¹⁴ Source: https://www.legislation.act.gov.au/View/ri/db_60226/current/PDF/db_60226.PDF

- 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 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 proposed setting is in accordance with the general objects of the Act.
- (ii) *unduly trespasses on rights previously established by law*
The proposed setting does not unduly trespass on rights previously established under law.
- (iii) *makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions*
The proposed setting 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 proposed setting does not require further amendments to an Act and the subject matter is appropriate for a disallowable instrument.

9. Conclusion

This Regulatory Impact Statement was prepared in accordance with Part 5.2 of the *Legislation Act 2001*, to consider the Priority Household Target for the EEIS for the 2022 compliance period, to be set at 40%.

This setting is consistent with the objectives of the *Energy Efficiency (Cost of Living) Improvement Act 2012* and will create a pathway for increased support to priority households without placing a greater financial burden on energy consumers.