



ACT
Government

Environment, Planning and
Sustainable Development

Regulatory Impact Statement

Energy Efficiency Improvement Scheme

Setting the Priority Household Target for 2024 by Disallowable Instrument:

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2023 DI2023-157

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

June 2023

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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/the 'Scheme'), which aims to encourage the efficient use of energy; reduce greenhouse gas emissions associated with energy use in the Territory; reduce household and small-to-medium sized business energy use and costs; and increase opportunities for priority households to reduce energy use and costs. The EEIS establishes a Territory-wide energy savings target (EST), defined as a proportion of a retailer's total electricity sales in the ACT.

The Act requires individual electricity retailers to achieve energy savings by delivering eligible activities to households and small-to-medium 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 must deliver energy savings activities or acquire energy savings factors (ESFs) from Approved Energy Savings Providers (AESPs), smaller, 'tier 2' retailers can deliver eligible activities, acquire ESFs from AESPs, or opt to pay an energy savings contribution (ESC).

The priority household target (PHT) ensures that at least a specified 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 the Minister determining the PHT at 40 per cent for 2024.

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, the EST 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: $EST (\%) \times \text{electricity sales (in megawatt hours or MWh)}$.

Section 8 of the Act requires tier 1 retailers to achieve a proportion of their RESO in priority households. The PHT is expressed as a percentage of the RESO. The specific level of the PHT is determined 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 Reduction 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

Changes in the cost of living are felt most acutely by Canberra’s low-income households who spend a greater proportion of their income on essential goods and services¹. For example, households living with low incomes or experiencing disadvantage pay disproportionately more of their income on energy than the average household². The problem is often exacerbated for lower income energy consumers because they are most likely to be living in housing that has poor energy efficiency and do not have access to the benefits of energy efficiency upgrades⁴.

The PHT is designed to address this problem by offering greater opportunity for priority households to secure energy and cost savings. In the absence of a PHT, it is likely that retailers would seek out least cost opportunities to meet their energy savings obligations. This would favour households that are able to make greater co-contributions and would reduce direct participation among priority households. As such, the PHT helps to improve the distributional equity of the EEIS.

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”. The PHT also delivers on key objectives of the *ACT Climate Strategy 2019–2025*³ 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*⁴, 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’.

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

¹ ACTCOSS (2022) Poverty and inequality in the ACT, available at https://www.actcoss.org.au/sites/default/files/public/publications/2022-factsheet-Poverty-and-inequality-in-the-ACT_0.pdf

² ACTCOSS (2019) Energy affordability and hardship in the ACT, available at <https://www.actcoss.org.au/sites/default/files/public/publications/2019-factsheet-energy-hardship-in-the-act.pdf>

³ Source: https://www.environment.act.gov.au/_data/assets/pdf_file/0003/1414641/ACT-Climate-Change-Strategy-2019-2025.pdf

⁴ Source: https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf

was confirmed by an independent review undertaken in 2018⁵, which also found that the Scheme has been cost-efficiently delivered, with an overall positive benefit-cost ratio. Analysis conducted in 2022 found the EEIS is performing well and operating as intended, with:

- energy efficient products being offered at competitive prices;
- complementary programs enhancing Scheme benefits; and
- activity delivery aligning well with the objects of the Act.

The PHT has been consistently met by the tier 1 retailer over the lifetime of the Scheme, at times through support of surplus savings achieved in previous years.

5. Considering a level of ambition

Based on analysis conducted by ACT Government contractor, Common Capital, and in view of the ACT Government's strategic objective to support vulnerable households as part of a just transition, this section outlines arguments for maintaining the current PHT of 40% for the 2024 compliance period.

Common Capital's analysis suggests the current PHT setting of 40% represents an appropriate level of ambition given constraints in delivering activities to priority households in the ACT. The PHT setting generally has an impact on the overall cost of EEIS delivery because it costs more for the tier 1 retailer to implement energy savings activities in priority households. However, the EEIS currently functions alongside a suite of complementary ACT Government programs – including the Home Energy Support Program – that support energy efficiency in priority households. This creates a cost-efficient pathway in 2023–24 for the tier 1 retailer to meet its PHT obligation, making it possible to pursue the relatively ambitious 40% PHT without increasing the cost of the Scheme to consumers.

Alternative options would be to either increase or reduce the PHT for 2024. However, Common Capital's analysis found an increased PHT would raise the cost of the Scheme to consumers and would be challenging to deliver given the limited number of households in the ACT who own their own home and also meet the legislated definition of a priority household.

Conversely, a reduction in the PHT would reduce the distributional equity of the Scheme and run counter to the strong policy direction provided by recent increases in the target.

6. Increasing opportunities for priority households

The ACT Government has introduced a suite of complementary measures that support increased energy efficiency in low-income households. Modelling of the impact of such measures on the EEIS found that they reduce the cost to the tier 1 retailer of delivering

⁵ Available at https://www.environment.act.gov.au/data/assets/pdf_file/0020/1221527/EEIS-Review-Part-1-Executive-Summary-ACCESSIBLE.pdf

energy savings in priority households. As more complementary measures come online alongside the EEIS, this is likely to further reduce the cost of delivering energy savings, which in turn will put downward pressure on pass-through costs. This may allow for the introduction of higher levels of Scheme ambition in the future.

As noted above, a potential limitation on any further increases to the PHT is the limited number of households in the ACT who own their own home and also meet the priority household definition. EPSDD will consider the appropriateness of the current Priority Household Definition ahead of the 2024 compliance year.

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

8.1 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 bylaw):
 - (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 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*.

This RIS has presented information to support determining the EEIS Priority Household Target at 40 per cent for the 2024 compliance period.

This determination is consistent with the objects of the Act and will create a pathway for continued support to priority households without placing a greater financial burden on energy consumers.