



ACT
Government

Environment, Planning and
Sustainable Development

Regulatory Impact Statement

Energy Efficiency Improvement Scheme

Setting the Priority Household Target for 2025 by Disallowable Instrument:

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2024

DI2024-272

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

June 2024

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1. Executive summary

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) establishes the Australian Capital Territory's (ACT's) 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 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 sealing, efficient space heating and cooling systems, water heaters and other items that reduce energy bills and provide energy savings while maintaining quality of life. EEIS 'tier 1' retailers must deliver energy savings activities or acquire energy savings factors (ESFs) from Approved Energy Savings Providers (AESPs), while 'tier 2' retailers can deliver eligible activities, acquire ESFs from AESPs, or opt to pay an energy savings contribution (ESC). Any retailer that fails to meet its obligations under the Scheme within a given compliance period is required to pay a 'shortfall penalty'.

This regulatory impact statement (RIS) relates to the *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2024* (the determination). 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 RIS 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 2025.

2. The authorising law

The EEIS is the ACT's market-based Energy Efficiency Obligation (EEO) scheme established under the Act. The Act 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, an 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: $EST (\%) \times \text{electricity sales (in megawatt hours or MWh)}$.

Section 8 of the Act requires that the Minister for Water, Energy and Emissions Reduction set the target (the PHT) of total energy savings tier 1 NERL retailers must achieve in priority

households. The PHT is expressed as a percentage of the RESO. The PHT is determined by disallowable instruments for each compliance period, defined as a calendar year.

The PHT must be determined by the Minister 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 to help improve the distributional equity of the EEIS. In the absence of a PHT, retailers would likely 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 participation among priority households.

The policy objective of the determination 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 objectives

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

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

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. Consultation with the tier 1 retailer indicated that it would be possible to continue to meet a 40% PHT if the definition was expanded to include rental properties. The Priority Household Definition will be expanded through a separate determination to include a sub-set of affordable rental properties and consumers on retailer payment plans.

4.1 Considering a level of ambition

This section describes the reasoning for maintaining the current PHT of 40% for the 2025 compliance period based off strategic alignment with the ACT Government's objective of supporting vulnerable households in the energy transition and from analysis by the ACT Government contractor, Common Capital.

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 due to higher costs for implementing energy savings activities in priority households. The EEIS functions alongside a suite of ACT Government programs such as the Home Energy Support Program that support energy efficiency in priority households and help make the 40% PHT possible without increasing costs to consumers. The intention was for the EEIS scheme settings to remain stable for the 2023, 2024 and 2025 compliance years.

Alternative options are to either increase or reduce the PHT for 2025. 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 could participate in the EEIS and meet the legislated definition of a priority household. 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.

5. Consistency of the proposed law with the authorising law

As mentioned above, the determination is consistent with the object of the Act to increase opportunities for priority households to reduce energy use and cost.

The Act requires the Minister to set a PHT at least three months before the start of the compliance period to which the PHT 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 retain, rather than increase the PHT, the Act requires the PHT to be set at least three months before the beginning of 2025.

6. Inconsistency with the policy objectives of another territory law

The determination is not inconsistent with the policy objectives of any other Territory law.

7. Reasonable alternatives to the proposed law

Section 8 of the Act is explicit in its requirement for a PHT to be determined by the Minister and provides for no alternative. Alternatives to the determination are therefore restricted to either maintaining, increasing, or decreasing the PHT.

8. Brief assessment of the benefits and costs of the proposed law

The Common Capital report modelled benefits and costs for the scheme, outlined in the table below. The determination ensures that priority households benefit from the scheme, as in the absence of the target priority households would be underrepresented in delivery while still facing the costs of the scheme. The table below outlines the benefits and costs of the EEIS, which are calibrated based on a 40% priority household target.

	Benefits and Costs of EEIS
Lifetime energy savings from the scheme, 2013-2030	3953 GWH
Lifetime emission reductions from the scheme, 2013-2030	819 kt CO ₂ -e
Lifetime bill savings from the scheme, 2013-2030	\$662 million
Pass through cost	\$4.00 /MWh
Average annual bill increase	\$25.48
Net present value of public investment	\$80 million

9. Human rights

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

10. 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 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 determination is in accordance with the general objects of the Act.
- (ii) *unduly trespasses on rights previously established by law*
The determination does not unduly trespass on rights previously established under law.
- (iii) *makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions*
The determination does not make rights, liberties and/or obligations unduly dependent upon non reviewable decisions.
- (iv) *contains matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly*
The subject matter of the determination is appropriate for a disallowable instrument.

11. Conclusion

This RIS 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 2025 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.