

Energy Efficiency (Cost of Living) Improvement Eligible Activities Code of Practice 2012 (No 1)

Disallowable Instrument DI2012–279

Made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, section 25 (Codes of practice)

1 Name of instrument

This instrument is the *Energy Efficiency (Cost of Living) Improvement Eligible Activities Code of Practice 2012 (No 1)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Code of practice

The attached ‘Energy Efficiency (Cost of Living) Improvement Eligible Activities Interim Code of Practice’ is a code of practice approved by the administrator under the *Energy Efficiency (Cost of Living) Improvement Act 2012, section 25 (Codes of practice)*.

4 Disapplication of notification requirement

The *Legislation Act 2001*, sections 47 (5) and 47 (6) do not apply to this instrument.

5 Referenced documents

- (1) Australian Standards are available at www.standards.org.au.
- (2) A copy of the National Construction Code, which incorporates the Building Code of Australia and the Plumbing Code of Australia, is available for inspection by members of the public between 9am and 4.30pm on business days at the Environment and Sustainable Development Directorate shopfront, Dame Pattie Menzies House, 16 Challis Street, Dickson, or for purchase at www.abcb.gov.au.

John Meyer
Administrator

20 December 2012



Australian Capital Territory

Energy Efficiency Improvement Eligible Activities Interim Code of Practice

December 2012

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012

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Part 1 Preliminary

1 Name of code

This code is the *Energy Efficiency (Cost of Living) Improvement Eligible Activities interim code of practice*.

2 Dictionary

The dictionary at the end of this code is part of this code.

Note 1 The dictionary at the end of this code defines certain terms used in this Code, and may include references (*signpost definitions*) to other terms defined elsewhere in this Code.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire code unless the definition, or another provision of the code, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

Note 3 See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

3 Offences and other consequences of contravening this code

The *Energy Efficiency (Cost of Living) Improvement Act 2012* provides offence and other enforcement mechanisms that can result from a contravention of this code.

Offences, other enforcement mechanisms and criminal and civil penalties may apply under other relevant legislation to the undertaking of eligible activities, such as for fair trading or competition and consumer law, contractual matters, environment protection, work health and safety, or the carrying out of regulated work, and can result from a contravention of this code.

Note 1 The Criminal Code, ch 2 applies to all offences against the Act (see Code, pt 2.1).The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (e.g. conduct, intention, recklessness and strict liability).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

Note 3 See the dictionary to this code for the definition of *relevant legislation*.

Part 2 Important concepts

4 Object of code

The object of this code is to prescribe minimum requirements for retailers undertaking eligible activities to comply with an energy savings obligation under the *Energy Efficiency (Cost of Living) Improvement Act 2012 (the Act)*. Obligations may also apply to authorised contractors, authorised sellers, and authorised installers, or other people engaged by the retailer, to arrange or undertake certain prescribed activity requirements in accordance with this code. A retailer is responsible for the compliance of eligible activities undertaken by a person contracted, employed or otherwise engaged by the retailer (a retailer's *representative*).

Section 14 of the Act provides that a tier 1 NERL retailer must undertake eligible activities complying with a relevant approved code of practice or acquire approved abatement factors complying with a relevant approved code of practice to achieve its energy savings and priority household obligations. A tier 2 NERL retailer must undertake eligible activities complying with a relevant approved code of practice, acquire approved abatement factors complying with a relevant approved code of practice or pay an energy savings contribution for all or part of its energy savings obligation.

Eligible activities are determined by the Minister under section 10 of the Act. A determination must include the minimum specifications for the performance of the activity, amongst other things. The administrator may approve a code of practice (an *approved code of practice*) that applies to an eligible activity. An eligible activity must be undertaken in accordance with relevant approved codes of practice.

This code provides for the following minimum requirements in relation to undertaking eligible activities—

- (a) consumer protection;
- (b) quality requirements;
- (c) health and safety requirements; and
- (d) environmental requirements.

This code also provides specific requirements for certain eligible activities.

Note Enquiries about the obligations of retailers or other parties under this Code should be directed to the Administrator at ESDD-EEIS@act.gov.au.

5 Context of this code

This code is one of a number of instruments that should be read in conjunction, including:

- the Act;
- the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2012 (No 1)* or its replacement;
- the *Energy Efficiency (Cost of Living) Improvement Record Keeping and Reporting code of practice*.

Note All applicable instruments can be found at <http://www.legislation.act.gov.au/a/2012-17/default.asp>. This is a link to the main page for the *Energy Efficiency (Cost of Living) Improvement Act 2012* on the ACT Legislation Register. Links to subordinate regulations and instruments for the Act can be found on this page.

This code establishes standard consumer protection, competency and general obligations for retailers and their representatives. It also includes specific requirements for the following eligible activities:

- Activity 1.1 Building Sealing activities
- Activity 3.3 Replace an existing shower fixture outlet with a low flow shower fixture outlet
- Activity 3.4 Hot water tap improvements
- Activity 4.1 Lighting activities
- Activity 5.5 Install a standby power controller

The activity specific requirements in this code extend the existing requirements for the relevant activity and do not limit or replace any other applicable requirements.

Note All eligible activities have an activity definition, minimum activity performance specifications, installed product requirements, a time the activity is taken to be completed and a method for calculating the abatement factor for the activity prescribed in the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2012 (No 1)*. The requirements in this code are in addition to those provisions.

A new code will extend this code to incorporate specific requirements for eligible activities not included in this version. Although this code is intended as an interim code, it has the status of an approved code of practice.

The administrator may also provide guidance and explanatory material for retailers and their representatives on complying with the Act and about eligible activities on the website for the Energy Efficiency Improvement Scheme at www.eeis.act.gov.au.

6 Meeting all legal requirements

The description and specifications for eligible activities in this document are minimum requirements for the purpose of complying with the Act. They are not intended to be exhaustive. In particular, in addition to the specifications set out in this document, all activities must be undertaken in accordance with all laws, regulations, codes of practice and other requirements applicable to that activity.

Relevant legislation includes, but is not limited to:

- *Building Act 2004*
- *Construction Occupations (Licensing) Act 2004*
- *Dangerous Substances Act 2004*
- *Electricity Safety Act 1971*
- *Environment Protection Act 1997*
- *Fair Trading Act (Australian Consumer Law) Act 1992*
- *Gas Safety Act 2000*
- *Water and Sewerage Act 2000*
- *Work Health and Safety Act 2011*
- *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Commonwealth)*
- *Competition and Consumer Act 2010 (Commonwealth)*

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

To remove any doubt, eligible activities undertaken for the purpose of complying with an energy savings obligation are not exempt from the standard regulatory requirements for those activities, even if those requirements are not specifically stated or referred to in this code. Other legislative requirements may include occupational licensing, technical, safety or environmental standards for the installation or disposal of waste products, statutory approvals, statutory certifications or work health and safety requirements.

Examples of other legislative requirements that may apply to an activity

- 1 People undertaking construction and other relevant types of work are required to undertake asbestos awareness training under the Work Health and Safety Act. In undertaking an activity that involves replacing a window and frame of less than 2m wide at a residential premises, a person notices asbestos sheeting that must be removed. Approval, certification and licensing requirements for asbestos assessment and removals must be complied with in assessing and removing the asbestos. At the same premises, the lessee also requests a replacement of a window more than 2m wide, which triggers the relevant sections of the *Building Act 2004* for approval, licensing and certification of the work.
- 2 An authorised installer is attending a residential premises to carry out a water heater replacement on Saturday, which has previously been arranged with a consumer. The installer considers door knocking neighbouring premises after she has finished the work to see if other consumers are interested in eligible activities. However, by the time she has finished the work, it is 5:30pm. Door-to-door traders cannot call on consumers after 5pm on Saturdays under ACT fair trading legislation.

7 Inconsistencies with other requirements

If there is an inconsistency between the minimum prescribed activity requirements and a corresponding regulatory requirement in other relevant legislation applying to the activity, and the regulatory requirement is greater than the activity requirement under the Act or this code, the regulatory requirement takes precedence to the extent of the inconsistency.

If there is an inconsistency between the minimum prescribed activity requirements and a corresponding regulatory requirement in other relevant legislation applying to the activity, and the activity requirement under the Act or in this code is greater than the regulatory requirement, the activity requirement under the Act or in this code takes precedence to the extent of the inconsistency.

Note This means that the activity must be undertaken to the highest legislated requirement for the activity as a minimum.

8 Application to retailers

In this code a reference to a *retailer* means a NERL retailer as defined in the *Energy Efficiency (Cost of Living) Improvement Act 2012*, in circumstances where it is undertaking eligible activities for the purposes of complying with an energy savings obligation.

9 Application to authorised contractors

In this code a reference to an *authorised contractor* is a reference to an entity that is directly contracted by a retailer to provide or arrange the undertaking of eligible activities, other than an employee of a retailer, in circumstances where it is arranging or undertaking eligible activities on behalf of a retailer.

Note An authorised contractor may be an individual (sole trader), company or other business but does not include an employee of the retailer.

10 Application to authorised installers

In this code a reference to an *authorised installer* is a reference to an individual, whether an employee of, or under contract to, a retailer or an authorised contractor, in circumstances where he or she is undertaking an eligible activity on behalf of a retailer.

Note An authorised installer can only be a natural person. An individual may be both an authorised contractor and an authorised installer.

11 Application to authorised sellers

In this code a reference to an *authorised seller* is a reference to a business entity that under contract or by other arrangement with a retailer or an authorised contractor, undertakes an eligible activity that specifically refers to the purchase of a certain product, but does not require the installation of the product, on behalf of that retailer, in circumstances where it is arranging or undertaking that activity.

Note 1 An authorised seller may be an individual (sole trader), company or other business but does not include an employee of the retailer or business.

Note 2 An authorised seller may also be an authorised contractor.

Note 3 Activities that specifically refer to the purchase of a product are Activity 5.2 Purchase of high efficiency refrigerator or freezer, Activity 5.4 Purchase of high efficiency electric clothes dryer, and Activity 5.6 Purchase of a high efficiency television. These activities do not require an authorised installer to install the product, or for the product to be installed for the activity to be considered complete.

12 Meaning of certain terms—correlation with Act

A term used in this code has the same meaning as the term has in the *Energy Efficiency (Cost of Living) Improvement Act 2012* unless this code provides a different meaning for the term.

Note A term used in this code has the same meaning as the term has in the *Energy Efficiency (Cost of Living) Improvement Act 2012* (see the Legislation Act, s 148).

13 Meaning of Energy Efficiency Improvement Scheme and the Scheme

In this code a reference to the *Energy Efficiency Improvement Scheme* or *the Scheme* is a reference to the name under which the obligations in the Act and the administrative and operational arrangements for the Act are promoted collectively by the ACT Government.

14 Meaning of eligible activities determination

In this code a reference to the eligible activities determination is a reference to the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2012 (No 1)* made by the Minister under section 10 of the Act, as amended or replaced.

Note The determination in force at the time this code was approved was *the Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2012 (No 1)* effective from the 14 September 2012. The determination may be revoked and replaced with another determination or determinations that provide for eligible activities under the Act. This code should be read in conjunction with the latest determination or determinations.

15 Meaning of eligible activity and activity

In this code a reference to an *eligible activity* or an *activity* is a reference to an activity that is determined by the Minister to be an eligible activity under section 10 of the Act.

16 Meaning of record keeping and reporting code

A reference to the record keeping and reporting code is a reference to the *Energy Efficiency (Cost of Living) Improvement Record Keeping and Reporting code of practice* as in force from time to time.

17 **Meaning of *consumer***

In this code a reference to a *consumer* is a reference to—

- (a) for eligible activities that do not require the installation of a product by an authorised installer, an individual who is a resident of the ACT that purchases the compliant product; or
- (b) for eligible activities that require the installation of a product by an authorised installer, an individual who is—
 - (i) a party to a residential tenancy agreement for the premises; or
 - (ii) a lessee of the residential premises; or
 - (iii) an occupier of the residential premises at least 18 years of age.

Note 1 A consumer is not limited to the person that holds the electricity or gas account for the premises or the lessee (owner). The person named on the individual activity record will generally be determined by which person is involved in contracting for the eligible activity, or is authorised to sign that the eligible activity has been undertaken. For example, if a tenant engages an authorised installer to decommission a refrigerator, install a standby power controller or has permission to arrange for or sign for the installation of a water heater, the tenant may be recognised as the consumer. If the lessee (owner) contracts the installation of a water heater in a tenanted property, the lessee may be the consumer.

Note 2 A premises owner may come to an arrangement with a tenant for the undertaking of eligible activities. An authorised installer is not required to view or witness the authorisation provided by a lessee to a tenant.

Examples of consumers

- 1 A tenant of a premises in which eligible activities are undertaken.
- 2 A lessee (owner) of a premises in which eligible activities are undertaken.
- 3 A lessee (owner) of a premises being constructed or renovated.
- 4 A resident of the ACT who purchases a high efficiency television for use in a residential premises.

18 **Meaning of *lessee***

In this code a reference to a *lessee* is a reference to a person who is a proprietor of the crown lease for the relevant parcel of land on which a premises is located.

Note The ACT operates a leasehold system of land tenure. A lessee is a person who holds the lease for the land. The term lessee does not refer to a tenant, renter or occupier of a premises under a tenancy or other occupancy agreement.

19 **Meaning of *activity record form***

In this code an *activity record form* means a form containing one or more individual activity records.

Note See Part 5 of the *Energy Efficiency (Cost of Living) Improvement Record Keeping and Reporting code of practice* for further information about activity records.

20 **Meaning of *compliance method***

In this code a *compliance method* means a method or practice in this code or other relevant legislation that is allowed to demonstrate compliance with a performance requirement or standard and includes, but is not limited to, verification methods, deemed to satisfy provisions, acceptable construction practices and the like.

21 **Code does not limit other obligations**

This code does not limit the operation of other legislation applicable to providing good and services that are included in undertaking eligible activities, or modify the obligations of a retailer, under any other relevant law.

Part 3 General obligations

22 Application of Part 3

This part applies to the general requirements for undertaking eligible activities for the purposes of complying with an energy savings obligation under the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

23 Nomination of activity compliance contact

- (1) Within one month of the notification of this code, or of an entity becoming a NERL retailer if it is not a NERL retailer at the commencement of this code, a retailer must—
 - (a) nominate an employee of its organisation who is an individual as its contact for compliance matters relating to undertaking eligible activities (the **activity compliance contact**), and
 - (b) provide to the administrator the activity compliance contact's—
 - (i) first and last name; and
 - (ii) position within the organisation; and
 - (iii) direct business email address; and
 - (iv) direct business telephone number.
- (2) An activity compliance contact must be an employee of the retailer with sufficient authorisation for managing compliance matters that relate to undertaking eligible activities and this code.
- (3) A retailer must notify the administrator in writing of a change of the activity compliance contact or of the activity compliance contact's details in subsection (1) within 5 working days.

Note An activity compliance contact may be a person that is nominated as a contact for other purposes such as a primary reporting contact nominated under the record keeping and reporting code.

24 Availability of Scheme information

- (1) A retailer must maintain adequate awareness of the general requirements of the Act and the Energy Efficiency Improvement Scheme in its customer contact centres to respond to consumer requests for general information.
- (2) As far as is reasonable, information provided to customer contact centre staff by the retailer on the Act and the Scheme must be kept current.

25 Management of complaints

- (1) A retailer must provide consumers with access to a complaint handling and dispute resolution process established in accordance with *Australian Standard ISO 10002-2006* for any complaints in relation to eligible activities or this code.
- (2) Retailers must maintain sufficient record keeping arrangements for complaints in relation to the Act or this code that enable the retailer to respond to an information or reporting requirement in the record keeping and reporting code of practice.

26 Privacy of consumer information

- (1) All information obtained in arranging and undertaking eligible activities must be collected and stored in accordance with the *Privacy Act 1988 (Commonwealth)*.

27 General conduct standards

- (1) A person that arranges or undertakes an eligible activity in a residential premises on behalf of a retailer must comply with the minimum standards of conduct in this section.
- (2) A person arranging or undertaking eligible activities—
 - (a) must comply with all applicable laws of the Territory or other applicable jurisdictions; and
 - (b) for unsolicited contact, immediately identify themselves and advise the consumer the reason for contacting the consumer; and
 - (c) if attending a premises, show the consumer their identification card issued in accordance with section 30 of this code; and
 - (d) must not engage in misleading, deceptive or unconscionable conduct, whether by act or omission; and
 - (e) must not exert undue pressure on a consumer or harass or coerce a consumer; and
 - (f) must not make unsolicited contact with a consumer by calling a telephone or fax number listed on the ‘Do Not Call Register’; and
 - (g) must not make unsolicited contact with a consumer in a premises that has a ‘Do Not Knock’ or similar sign; and
 - (h) must not hold themselves out to be representative of the ACT Government; and
 - (i) must provide information that is truthful and in plain language; and
 - (j) must leave a premises immediately when asked by an occupier of the premises.

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- (3) For an eligible activity undertaken in a residential premises, the activity must only be carried out if one of the following people are present at the premises and aware the activity is being undertaken—
- (a) a person at least 18 years of age; or
 - (b) a person that is a lessee or party to a tenancy agreement for the premises.

Note An installer must not undertake an eligible activity in a residential premises if an adult is not present, unless one of the children is a party to the tenancy agreement or a lessee and can give consent to the activity being undertaken.

28 Management of conduct

- (1) A retailer must develop, maintain and follow a system for managing misconduct, dishonesty, fraud and non-compliance with the code of an authorised contractor, authorised seller or authorised installer.
- (2) A retailer's representative must notify the retailer in writing if it is aware of any investigation by a relevant authority relating to misconduct, fraud or any other matter in relation to the arranging or undertaking of an eligible activity it has carried out.
- (3) A retailer must notify the administrator in writing if it becomes aware of any investigation by a relevant authority relating to misconduct, fraud or any other matter in relation to the arranging or undertaking of an eligible activity on its behalf.
- (4) A notification given under this section must be given to the relevant person within 1 working day of the person becoming aware of a notifiable circumstance.
- (5) In this section:
relevant authority means a government agency, officer holder or other body with a statutory authorisation to investigate or enforce a legislative requirement applicable to arranging or undertaking an eligible activity, including a person exercising a relevant legislated function under delegation or appointment by a Minister or statutory office holder.

Examples of relevant authorities

- 1 The Construction Occupations Registrar
- 2 The Work Safe Commissioner
- 3 The Commissioner for Fair Trading
- 4 The Chief Planning Executive
- 5 The Environment Protection Authority

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 A person may be appointed to carry out inspections, investigations and other compliance and enforcement functions under relevant legislation. These people are included in the de

29 Fitness and propriety

- (1) A retailer must take all reasonable steps to ensure that a person who attends a residential premises to arrange or undertake an eligible activity on behalf of that retailer is a fit and proper person to attend or undertake the activity at that premises.
- (2) In assessing the fitness and propriety of a person for subsection (1) a retailer must consider—
 - (a) whether the person has been convicted of a criminal offence that involves fraud, dishonesty, violence or any other relevant matter; and
 - (b) if a person has committed an offence involving fraud, dishonesty or violence, the seriousness of the offence, the relevant penalties for the offence; and
 - (c) the nature of the work the person will be undertaking, including whether the work will be internal or external to the premises; and
 - (d) the likelihood of contact with vulnerable people; and
 - (e) whether the person will be accompanied by other representatives of the retailer when attending a premises; and
 - (f) the systems and processes the retailer has in place for management of conduct of its representatives.
- (3) The administrator may request evidence of an assessment of fitness and propriety under Part 10 of the record keeping and reporting code.

Note See section 7 of the *Working with Vulnerable People (Background Checking) Act 2011* for a definition and examples of vulnerable people.

Note This section does not impose a requirement for retailers to undertake background checks such as those required under the *Working with Vulnerable People (Background Checking) Act 2011* in certain circumstances. However, that Act provides useful guidance for retailers in assessing the fitness and propriety of a representative.

30 Identification of authorised installers

- (1) A person that attends a residential premises to arrange or undertake an eligible activity on behalf of a retailer must have an identification card showing—
 - (a) the person's full name; and
 - (b) a photograph of the person; and
 - (c) the identifier of the person given to him or her under sections 20-22 of the recordkeeping and reporting code; and
 - (d) the full name of the retailer the person is representing; and
 - (e) the full name of the authorised contractor the person is representing if not employed directly by the retailer; and
 - (f) a contact address and telephone number for the retailer the person is representing.

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- (2) An identification card must be clearly legible and developed in consideration of the *Guidelines for Optimum Legibility* published by Vision Australia, particularly with regard to font choice, text layout and colour choice.

Note Vision Australia's Guidelines for Optimum Legibility can be found at <http://www.visionaustralia.org.au/info.aspx?page=785>.

- (3) An identification card may also include the retailer's logos and other branding if it does not obscure the required information on the identification card.
- (4) An identification card must not include ACT Government logos or other branding, or information that states or implies that installers are contracted to or otherwise employed by the ACT Government.

31 People undertaking activities

- (1) An eligible activity that requires the installation of a product must be carried out by an authorised installer only.

Note 1 An authorised installer can only be a natural person. An individual may be both an authorised contractor and an authorised installer.

Note 2 An eligible activity may require more than one authorised installer to complete the activity. For example, decommissioning a central electric space heater and installing a high efficiency ducted gas heater will require a licensed electrician to undertake the electrical work and a licensed gasfitter complete the gasfitting work. If an installer does not hold both licences, more than one installer will be required.

- (2) If an eligible activity does not require the installation of a product by an authorised installer, the activity must be carried out by an authorised seller only.
- (3) A person who is not a representative of a retailer must not accompany an authorised contractor or authorised installer into a residential premises when an eligible activity is being arranged or carried out, unless otherwise authorised by the relevant retailer or the administrator.

Note A person accompanying the authorised installer must comply with any applicable work health and safety obligations and general conduct requirements.

32 Determining priority households

- (1) To determine if a household is a priority household, the authorised installer must—
- (a) view a form of identification for the person showing the person's residential address as the address of the premises in which the eligible activity is undertaken; and
 - (b) view the person's card relating to the class of priority as defined in the Act; or
 - (c) confirm with the retailer or the person that the person receives a government energy concession.

Note 1 To be eligible for an ACT Government Energy Concession, a person must have a Centrelink Health Care Card, Centrelink or Department of Veteran Affairs Pensioner Concession Card or a Department of Veteran Affairs Gold Card. These cards also relate to eligible classes of priority under the Act. An energy concession may be confirmed by the retailer from its own records where privacy laws are not being breached, or a relevant card can be used to determine if a premises is a priority household.

Note 2 Only one class of priority for one person living at the premises has to be identified for the household to be a priority household.

- (2) If the consumer who signs the activity record form for an eligible activity is not the person identified as the person who determines whether the premises is a priority household, an authorised installer—
- (a) does not need to confirm the details of the class of priority with the consumer; and
 - (b) may confirm with the consumer that the person lives at the premises.

Note The person that is eligible for priority household status need not be the consumer that is the signatory to the form. The installer does not need to show or verify the information on the class of priority with the consumer if the person holds the concession does not agree to this, but the consumer may confirm that the person is living at the premises.

33 Tenanted premises

- (1) If an eligible activity involving an addition or alteration to, or installation of fixtures or fittings in, a premises for which the consumer confirms a tenancy agreement exists, the person that arranges the activity must inform the consumer that—
- (a) undertaking eligible activities may affect the rights and obligations of the tenant and the lessor, particularly in relation to gaining consent to add fixtures or fittings to the premises, or alter the premises, and in gaining consent to entry to the premises; and
 - (b) lessors and tenants must comply with their tenancy agreement and other legal obligations under the *Residential Tenancies Act 1997*.
- (2) An installer undertaking an eligible activity in a residential premises for which the consumer confirms a tenancy agreement exists must alert the consumer to the information relating to rights and obligations in the standard statement on the activity record form.

Note 1 Under section 41 of the record keeping and recording code the occupancy status for a residential premises must be identified as part of the activity record. The occupancy status is one of public rental, community housing, private rental, owner occupied, or other.

Note 2 Undertaking eligible activities on rented premises may affect the rights and obligations of the tenant and the lessee. For example, the *Residential Tenancies Act 1997* requires tenants to obtain the lessor's consent to install fixtures or fittings in rented premises and written consent to any alterations and additions to the premises. If activities are not approved, the tenant must make good any damage to the premises on removal of any fixtures and fittings. That Act also requires that lessors and their agents must not enter

the premises except as provided by the law, the relevant tenancy agreement, the Residential Tenancies Act, or an order of the tribunal.

Note 3 Changing lamps and installing plug-in appliances such as standby power controllers would generally not require consent from the lessor.

- (3) An authorised installer is not required to view or witness the consent provided by a lessor to a tenant, or a tenant to a lessor.

Note A lessee may come to an arrangement with a tenant for the undertaking of eligible activities in a premises he or she owns. An authorised installer is not required to view or witness the authorisation provided by a lessee to a tenant. However, if a lessor has arranged an activity and the tenant does not give consent for the installer to enter the premises, the installer must leave the premises immediately if requested, in accordance with section 27 (j) of this Code.

34 Activities in common areas – unit titles

- (1) This section applies if a consumer requests an eligible activity to be undertaken in a part of a premises or property that a representative considers may be common property.

Note 1 Common property – see section 13 of the Unit Titles Act 2001. Common property is generally those parts of a building and land that are not units or unit subsidiaries such as balconies, carports, storerooms etc.

- (2) The representative must inform the consumer that undertaking the activity may require authorisation from the owners corporation, or building owner for an addition or alteration to, or installation of fixtures or fittings in, a premises for which the consumer confirms a tenancy agreement exists, the person that arranges the activity must inform the consumer that—
- (a) undertaking eligible activities may affect the rights and obligations of the consumer and the owners corporation, particularly in relation to gaining an authorisation to use common property; and
 - (b) consumers must comply with their legal obligations under the *Unit Titles Act 2001* and *Unit Titles (Management) Act 2011*.

Note 1 Undertaking eligible activities on rented premises may affect the rights and obligations of the consumer and the owners corporation. For example, the *Residential Tenancies Act 1997* requires tenants to obtain the lessor's consent to install fixtures or fittings in rented premises and written consent to any alterations and additions to the premises. If activities are not approved, the tenant must make good any damage to the premises on removal of any fixtures and fittings. That Act also requires that lessors and their agents must not enter the premises except as provided by the law, the relevant tenancy agreement, the Residential Tenancies Act, or an order of the tribunal.

Note 3 Changing lamps and installing plug-in appliances such as standby power controllers would generally not require consent from the lessor.

- (3) An authorised installer may request to view a copy of the authorisation provided by the owners corporation in relation to the use of common property.

Note An owners corporation may grant an authorisation for a unit owner to the enjoyment or use of common property. An authorised installer is not required to view the authorisation provided by the owners corporation to the unit owner. However, the installer may request to view the authorisation if she or he wishes to confirm the eligible activity may take place and any restrictions on the use of the property.

35 Decommissioning and management of waste

- (1) If an activity involves the decommissioning of a product, a retailer and its representatives must adopt environmentally responsible and verifiable decommissioning practices.
- (2) All decommissioned products and waste products must be disposed of in a way that complies with the Litter Act 2004 and the Waste Minimisation Act 2001.
- (3) Any regulated waste under the Environment Protection Act 2007 resulting from the installation or removal of an existing product must be managed and disposed of in accordance with that Act, including obtaining any required authorisations.
- (4) Any substances to which the Dangerous Substances Act 2004 applies, must be decommissioned and managed in accordance with that Act.
- (5) Refrigerants must be sold, stored, and disposed of in accordance with any relevant law, including but not limited to the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Commonwealth).
- (6) If the Building Act 2004 applies to the eligible activity, a prescribed activity requirement or associated work, the requirements in the ACT building code for the control of litter on building sites, and waste management must be complied with if relevant.
- (7) Notwithstanding any legislated requirements for specific product components, if a water heater, space heating system, heating ductwork, refrigerator, freezer, exhaust fan, taps, shower fixture outlet, or glazing is able to be removed from the premises, a retailer or its representative must take the product to a facility with the capacity to safely recycle the components of the product that can reasonably be recycled.
- (8) Decommissioned lamps must be recycled at a facility with the capacity to safely recover and reuse mercury, glass, phosphor and aluminium.
- (9) All reasonable endeavours should be used to recycle any other waste generated in the course of undertaking an activity, including any packaging from the installed product.
- (10) If recycling of a product component or other waste is not practicable, those product components or waste must be disposed of in a manner that complies with subsection (1).

36 Notification of health, safety and environmental incidents

- (1) If a public health, safety or environmental incident that must be reported or mitigated under a relevant law occurs during, or as a result of undertaking an eligible activity, it must be reported to the relevant authority or mitigated in accordance with that law.

Examples of incidents that must be reported or mitigated

- 1 A serious gas accident that must be reported under Part 5 of the *Gas Safety Act 2000*
- 2 A duty to notify of actual or threatened environmental harm under section 23 of the *Environment Protection Act 1997*.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 4 Competency of representatives

37 Application of Part 4

This part provides for the minimum competency requirements for people arranging and undertaking eligible activities on behalf of a retailer for the purpose of complying with an energy savings obligation under the Act.

38 Engaging representatives

- (1) A retailer must engage suitably competent people to arrange and carry out eligible activities.
- (2) A retailer must ensure that its representatives hold adequate insurance for the work they will be undertaking, including but not limited to any insurance required under relevant legislation.
- (3) A retailer must ensure that people undertaking eligible activities on its behalf have completed all necessary training, including but not limited to installation training and work health and safety training, to provide those eligible activities in accordance with all relevant requirements for the activity.
- (4) A retailer must engage a sufficient number of competent people to undertake the number of eligible activities it arranges and is planning to undertake.

Note If a retailer expects to undertake a certain number of eligible activities, it must engage enough installers to carry out the activities in the time required while complying with all relevant requirements. If a retailer fails to meet an energy savings obligation, or comply with all relevant requirements because it has failed to engage sufficient competent people to carry out eligible activities, the administrator may take any action permitted by the Act in relation to that non-compliance.

39 General competencies

- (1) A representative undertaking an eligible activity on a retailer's behalf must—
 - (a) be familiar with the objects of the Act and the general requirements of the Scheme; and
 - (b) understand the activity definition, the minimum performance specifications, all relevant standards and prescribed activity requirements for the activity; and
 - (c) have adequate and relevant technical knowledge of the product being installed, including any restrictions on its installation, and the ability to instruct consumers on correct and safe use of the products; and

Note Restrictions on installation of a product may include incompatibility with other products or materials, development restrictions, effect on compliance with another law

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- (d) be able to determine when a premises is not eligible for the activity; and
 - (e) understand that the nature of the greenhouse gas abatement claimed for the activity is over the expected lifetime of the product; and

Note The abatement claimed for the activity is the abatement based on energy savings expected over the assumed lifetime of the product. Expected product life and abatement will differ from product to product but the calculation of abatement for each product is based on the same principle.

- (f) be familiar with the contents of the standard statement in the activity record form; and
- (g) understand the function and importance of the activity record form and activity certification and the recordkeeping obligations for the activity; and
- (h) understand the possible legal consequences to the representative and the retailer of inaccurate or fraudulent claims in relation to an eligible activity; and
- (i) be able to refer consumers to the relevant retailer's information or customer contact service relating to the Scheme, and complaint or dispute resolution processes in relation to the eligible activity.

40 Training requirements

- (1) Before an authorised contractor or authorised installer arranges or undertakes an eligible activity, it must complete successfully —
 - (a) any induction training for the Scheme and relevant activity required by the administrator under section 41; and
 - (b) any safety training required by this code or the *Work Health and Safety Act 2011*; and
 - (c) any activity specific training for the activity required by this code; and
 - (d) any other training required by other legislation applicable to the activity.
- (2) If an authorised contractor is not a natural person, the authorised contractor must arrange for its employees who will be responsible for managing the engagement of installers, arranging or undertaking activities, and reporting and record keeping for the purposes of the Energy Efficiency Improvement Scheme to complete the induction course and any relevant activity specific training.

Note After the initial training of an authorised contractors' staff, new management staff do not necessarily need to attend induction training. However, it is recommended that they attend the general Scheme induction course as a minimum.

- (3) Before a representative other than an authorised contractor or authorised installer arranges or records an eligible activity, the representative must complete successfully—

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- (a) any induction training for the Scheme and relevant activity required by the administrator under section 41; and
 - (b) any other training required by other legislation applicable to the activity.

41 Scheme induction

Note on induction courses

Induction courses are not a substitute for training in the practical aspects of carrying out an eligible activity. Authorised installers must complete or have previously completed training in the competent undertaking of all eligible activities, or prescribed activity requirements, they will be carrying out. Attending an induction course for an activity is not sufficient to demonstrate competency in carrying out work associated with an eligible activity.

- (1) Before a retailer arranges or undertakes an eligible activity the retailer must arrange for its employees who will be responsible for managing the engagement of authorised contractors and authorised installers, arranging or overseeing the undertaking of eligible activities, managing customer contact and reporting and recordkeeping in accordance with the Act to complete the general induction course and any relevant activity specific training prescribed in Table 40.1 for the activity.

Note For retailers based outside of the ACT, an induction course may be offered by video conferencing or other means.

- (2) Before an authorised contractor or authorised installer arranges or undertakes an eligible activity, it must complete successfully—
 - (a) the general induction course for the Scheme as arranged by the administrator; and
 - (b) the induction course specific to the eligible activity the person will be undertaking.

Note 1 If a person is undertaking more than one eligible activity, the person must complete all relevant courses for that activity. For example, an authorised contractor undertaking building sealing, installation of standby power controllers and installation of thermally efficient windows must undertake induction specific to each of those activities.

Note 2 The administrator may combine the induction for specific activities into a single course.

- (3) If an authorised contractor is not a natural person, the authorised contractor must arrange for its employees who will be responsible for managing the engagement of installers, arranging or undertaking activities, and reporting and recordkeeping in accordance with the Act to complete the general induction and any relevant activity specific training.

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- (4) Retailers must ensure that an authorised contractor provides its employees who will be involved in functions relating to the Scheme, with sufficient information on the Act, the Scheme and the eligible activities the business will be undertaking for them to adequately undertake their respective functions.

Note A person that is not undertaking the activity, but may be arranging or recording the activity does not need to have detailed technical knowledge, but must have sufficient understanding of the activities and products to provide general information and to record all required information on the activity as required by their job.

- (5) Retailers must provide an authorised seller and its employees who will be responsible for undertaking activities or other functions relating to the Scheme with sufficient information on the Act, the Scheme and the eligible activities the business will be undertaking for them to comply for them to adequately undertake their respective functions.
- (6) Employees of authorised contractors and authorised sellers may attend a general induction course and activity specific induction courses to satisfy the requirements of this section.
- (7) The administrator may request a retailer to confirm that a person requesting to attend an induction course has a demonstrated need to attend the course, including that the person is—
- (a) an authorised installer, authorised contractor, or authorised seller; or
 - (b) a retailer, authorised contractor, or authorised seller’s employee or representative; or
 - (c) licensed or otherwise qualified to undertake the work involved in undertaking the eligible activity, or will be undertaking functions relating to the eligible activity to which the course relates.
- (8) The administrator may refuse a person who does not have a demonstrated need to attend an induction course entry to that course.

Note The Scheme requires that retailer’s undertake eligible activities, and that the activities must comply with any approved code of practice including to be undertaken by authorised installers. The Scheme does not permit people with no connection to, or authorisation from, a retailer to undertake activities or complete records for the purposes of the Act. Induction courses are not intended for people who are carrying out similar work as part of a business or for people that are intending to apply to a retailer or an authorised contractor to offer services to those entities.

42 Safety training

- (1) An authorised contractor or authorised installer must undertake such training to comply with all relevant requirements under work health and safety law.
- (2) If a course of training is prescribed by this code or work health and safety law, that course must be completed successfully by the relevant representatives to which the course applies, in the required timeframe.

Note In general, training must be completed before a person starts undertaking eligible activities. However, there may be times when the administrator or Work Safety Commissioner prescribes a course that must be completed by people already carrying out specific types of work within a specific timeframe.

- (3) If no course of training is prescribed, a retailer must provide sufficient training to relevant representatives to fulfil any obligations under the work health and safety.

Note 1 Builders, electricians, plumbers, gasfitters and other licensed persons will have completed work health and safety training relevant to their work. Unless otherwise prescribed by this Code, that training is sufficient for the purposes of related activities under the Scheme.

Note 2 For eligible activities involving building sealing, installation of plug-in appliances, replacement of lamps, training such as VU20781 Minimise health and safety risk when retrofitting homes for energy and water efficiency delivered by a Registered Training Organisation with relevant scope is recommended. Details of this training can be found at <http://training.gov.au/Training/Details/> noting that some work covered by this course is licensable work in the ACT.

Note 3 Work health and safety risks for installers may include but are not limited to exposure to the sun, working alone, encountering aggressive people, working at heights, working in confined spaces, working near certain building services, and working where asbestos may be found.

43 Other relevant training and licensing

- (1) An authorised contractor or authorised installer must complete successfully, or have completed successfully, any required training to comply with all relevant requirements under other law applicable to the activity.
- (2) If a course of training for a person undertaking a certain eligible activity is prescribed by this code, that course must be completed successfully by the relevant representatives undertaking that eligible activity.
- (3) Representatives must hold any licences for the relevant work they will be undertaking required to comply with all relevant requirements under other law applicable to the activity.
- (4) A person must not undertake an eligible activity that requires a licence if that licence is lapsed, suspended, cancelled or conditioned in such a manner that the person cannot undertake the relevant work.
- (5) If a licence is not required to undertake certain work under other relevant legislation, but is required by this code, the relevant representatives must hold that licence to undertake the work.

Note 1 ACT legislation requires that a person providing electrical, plumbing, gasfitting, or gas servicing work must hold the appropriate class of licence as an individual. A company or partnership offering a construction service may also need to hold a licence in the relevant occupation class for the type of service. A general contractor licence is insufficient to cover work undertaken by individual practitioners.

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- Note 2* Building work requiring a licence must be undertaken by or under the supervision and control of a licensed builder with the appropriate class of licence.
- Note 3* Licensing for construction occupations in the ACT is based on the type of work and not the value of the work. There is no minimum value of work that determines when a licence must be held.
- Note 4* Where licensing of practitioners is not required, people undertaking the work must have sufficient skills and knowledge to carry out the work so that it is compliant with all requirements and does not adversely impact on other health, safety, amenity or environmental standards that apply to the building or its services.

44 Administrator may specify units of competency

- (1) The administrator may specify that certain units of competency listed in the Australian Quality Training Framework are required for safety or competency reasons by people undertaking certain eligible activities.
- (2) A specified unit of competency must be listed in this code.
- (3) A retailer must ensure that all individuals undertaking relevant prescribed activities for or on behalf of the retailer have been assessed as competent in all the applicable units of competency specified by the administrator under this section.

45 Evidence of training and licences

- (1) A retailer must keep records of the training its representatives have completed and evidence of any required licences held by a representative.

Note Evidence may include a certificate of competency from a Registered Training Organisation (RTO), confirmation of completion of an induction course, a copy of a relevant licence.

46 Direction regarding unsafe things

- (1) This section applies to anything inspected or seized under Part 5 of the Act by an authorised person if the administrator is satisfied on reasonable grounds that the thing poses a risk to the health or safety of people or of damage to property or the environment.
- (2) The administrator may direct a retailer to make the thing safe, destroy or otherwise dispose of the thing.
- (3) The direction may state one or more of the following:
 - (a) how the thing must be made safe, destroyed or otherwise disposed of;
 - (b) how the thing must be kept until it is made safe, destroyed or otherwise disposed of;
 - (c) the period within which the thing must be made safe, destroyed or otherwise disposed of.

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- (4) The administrator may give the direction orally, in writing or in electronic form.
 - (5) However, if the administrator gives the direction orally, the administrator must give the notice in writing or in electronic form within 2 days after giving the notice orally.

47 **Restriction of people—public safety**

- (1) This section applies if a person engages in conduct, or demonstrates deficiency in a required competency, that the administrator decides, on reasonable grounds, presents or is likely to present a risk of death or injury to a person, significant harm to the environment or significant damage to property.

Examples

- 1 An authorised installer who is not an electrician is undertaking electrical wiring work in consumers' premises.
- 2 An inspection of the installation of sealing to a ventilation opening shows that a person has undertaken the work without the required building approval and has sealed a room in which there is a flueless gas heater. When questioned by the administrator, it is apparent that the person is not familiar with the requirements of the building code or the standards for ventilation for gas appliances and has undertaken a number of installations that are not compliant and may cause carbon monoxide poisoning or other problems for the occupants.
- 3 An installer is replacing a window and frame and disturbs friable asbestos. Although the installer has taken an asbestos awareness course, the installer is not a licensed asbestos assessor or an asbestos removalist. The installer attempts to remove the asbestos himself and places the removed asbestos in a normal garbage bin, releasing asbestos fibres into the air and causing a potential health problem to residents and other members of the public.
- 4 A retailer or authorised contractor employs unlicensed people to undertake gasfitting work.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The administrator may place a restriction on a person that—
 - (a) prevents a person from undertaking an eligible activity; or
 - (b) prevents a person from undertaking certain prescribed activity requirements; or
 - (c) prevents a person from undertaking eligible activities or certain prescribed activity requirements without supervision; or
 - (d) requires a person to undertake specific training, assessment or other remedial activity.

Examples

- 1 After undertaking inspections on a number of solar water heater installations, the administrator determines that a number of installers employed by a particular authorised contractor have failed to install appropriate tempering devices making the installations unsafe. The administrator restricts the authorised contractor from undertaking solar water heater installations until its installers undertake remedial training and the contractor puts in place a quality assurance system for checking installations.
- 2 A retailer has been permitting unlicensed people to undertake degassing of refrigerators. The administrator may prevent the retailer from undertaking activities requiring the degassing of

refrigerators until it can demonstrate that it has engaged suitably licensed people to undertake the work.

- (3) The person is restricted when the administrator gives the relevant retailer a notice that includes—
 - (a) the name of the person to which the restriction applies; and
 - (b) the nature of the conduct or deficiency; and
 - (c) the nature of the risk; and
 - (d) the duration of the restriction; and
 - (e) the eligible activities, or prescribed activity requirements the restriction applies to; and
 - (f) that the retailer may apply in writing to the administrator to revoke the restriction.
- (4) The administrator may give the notice orally, in writing or in electronic form.
- (5) However, if the administrator gives the notice orally, the administrator must give the notice in writing or in electronic form within 2 days after giving the notice orally.
- (6) Any restrictions on an authorised contractor, authorised seller, or authorised installer must be reflected in the register required by section 23 of the record keeping and reporting code.
- (7) In this section:
person, in relation to a restriction means, an authorised installer, an authorised contractor, an authorised seller, a member of a retailer's staff or another individual that is a representative of a retailer that has functions relating to the Scheme.

48 End of restriction

- (1) This section applies if a person has been given a restriction under section 45.
- (2) The administrator must revoke the restriction if satisfied that the cause of the restriction no longer exists.
- (3) The administrator may revoke the restriction if satisfied that the circumstance that caused the restrictions will not put consumers of the person's services at a greater risk from using the services than if the thing had not happened.
- (4) The restriction must be reviewed 3 months after the day it begins, unless otherwise revoked.
- (5) The administrator may continue the restriction after the 3 months if—
 - (a) not satisfied that the cause of the restriction no longer exists; or
 - (b) the person has not complied with the restriction; or

(c) the person has not completed any required training.

Part 5 Activity performance specifications

49 Application of Part 5

This part applies to the general activity performance specifications that must be complied with when undertaking eligible activities for the purposes of meeting an energy savings obligation under the Act.

50 Compliance with activity requirements

- (1) An eligible activity must be undertaken so that it complies with —
 - (a) all applicable requirements in the Act, relevant approved codes of practice and other relevant legislation; and
 - (b) all relevant minimum activity performance specifications for the eligible activity prescribed in the eligible activities determination and the relevant Part of this code.

Note 1 The requirements in this code are in addition to the provisions for the activity in the eligible activities determination.

Note 2 The minimum activity performance specifications for each activity in the eligible activities determination generally prescribe that the activity be completed and certified in accordance with the relevant code or codes of practice and other relevant legislation applying to the activity, including any licensing, registration, statutory approval, activity certification, health, safety, environmental or waste disposal requirements.

51 Operation within competency and knowledge

- (1) A retailer or a retailer's representative must not provide information or undertake work outside the scope of their expertise, training or licence authorisation where applicable.
- (2) A retailer or a retailer's representative must not provide advice on compliance with statutory requirements or otherwise imply that recommended activities will comply with applicable statutory requirements, or that statutory approvals will be granted for relevant activities, unless they hold a relevant licence or authority to provide such advice.
- (3) A retailer or a retailer's representative must refer consumers to relevant government agencies or appropriately qualified people for specialised advice.

Note Representatives must not assume or state to clients that statutory approvals will be granted for recommended activities and must refer enquiries to relevant authorities or to complete any required applications for approval.

52 Representative to allow sufficient time for activity

- (1) For an eligible activity that requires the installation of a product by an authorised installer, a representative arranging or undertaking the eligible activity must give the consumer a reasonable estimate of the time it will take to carry out the prescribed activity requirements that will be undertaken on site at the consumer's premises.
- (2) A representative arranging or undertaking an eligible activity must allow sufficient time to complete all prescribed activity requirements and other relevant requirements that apply to the activity.

Part 6 Building sealing activities

53 Application of Part 6

This part applies to undertaking Activity 1.1 Building sealing activities defined in Schedule 1 Part 1.1 of the eligible activities determination as—

In accordance with the prescribed minimum activity performance specifications, restrict the air infiltration into, or air leakage out of, a premises by installation of fixed sealing to one or more of—

- (a) an unsealed door frame in an external wall; or
- (b) an unsealed door frame in a part of an internal wall that divides a conditioned zone or zones from an unconditioned zone or zones; or
- (c) each unsealed edge of an external door; or
- (d) each unsealed edge of a door in a part of an internal wall that divides a conditioned zone or zones from an unconditioned zone or zones; or
- (e) an unsealed window frame in an external wall; or
- (f) each unsealed edge of an openable window.

Note A building sealing activity must only occur where it restricts air flow into or out of the premises, or between adjoining internal spaces, one of which is not, or is not likely to be, mechanically or artificially heated or cooled.

54 Competency requirements

- (1) A building sealing activity must be carried out by an authorised installer who has completed all required training prescribed in Part 4 of this code.
- (2) An authorised installer must be trained in the physical practice of building sealing and have all relevant competencies in building sealing including, but not limited to, competency in—
 - (a) determining if an existing building seal is present and effective;
 - (b) assessing a surface material or structure for suitability for sealing or use of relevant products;
 - (c) installing and testing for an effective seal;
 - (d) understanding ventilation requirements in the building code and AS 5601:2010; and
 - (e) identifying a standard flueless gas appliance and gas connection that could be used for a flueless gas appliance;
 - (f) understanding when building sealing may cause an increase in condensation in the building.

55 Determining eligibility of premises

- (1) A premises is an eligible residential premises for a building sealing activity if—
 - (a) the premises is a residential premises as defined in the eligible activities determination; and
 - (b) the premises has at least one unsealed door, door frame, window or window frame in an external wall or an internal wall that divides a conditioned zone or zones from an unconditioned zone or zone, that—
 - (i) does not have an effective fixed weather or air seal installed but to which an effective seal can be installed; and
 - (ii) is not located in a room that contains a flueless gas appliance or a connection that could be used for a flueless gas appliance; and
 - (iii) is not prevented from being sealed by a ventilation requirement in relevant legislation; and
 - (c) the premises is not required to have weather sealing installed to doors and windows under the *Building Act 2004*.

Note 1 The 2010 Building Code of Australia requires that a building is adequately sealed. If a building, or part of a building, was approved under that version or subsequent versions of the code it must have building sealing to doors and windows unless prevented from doing so by ventilation requirements. It is not intended that the Scheme be used to fix deficient work by a builder that may be fixed under warranty.

Note 2 There is no defined limit for the number of doors and windows that may be sealed other than the natural limit of the number of doors and windows in a building. If the number of units claimed seems significantly higher than what would be present in a normal house, the administrator may request further information on the activity or conduct an inspection.

56 Minimum activity performance specifications

- (1) The minimum specifications for building sealing activity to be a compliant eligible activity are the minimum activity performance specifications in Schedule 1 Part 1.1, section 2 of the eligible activities determination and the provisions in this Part of this code.
- (2) The installed product must meet the installed product requirements Schedule 1 Part 1.1, section 3 of the eligible activities determination, and have a manufacturer's warranty of a minimum of 2 years.
- (3) Installed sealing products must be permanently fixed.
- (4) A building sealing activity must not be carried out in a room that contains a flueless gas appliance.
- (5) If the installer is not sure whether an existing appliance is flueless the installer must not install building sealing to a door or window in the relevant room.

Note If the activity is being undertaken with the installation of a gas space heater under Activity 2.3, the heater must be flued.

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- (6) If building sealing is installed in a room that does not contain a flueless gas appliance, but in which there is a connection that could be used for a flueless gas appliance, the installer must inform the consumer that there may be inadequate ventilation to install a flueless gas appliance.
 - (7) The installer must assess the condition of the surface material and the structure to which sealing will be applied, and prepare the surface in accordance with manufacturer's instructions before installing a sealing product, including to remove any existing sealing product that is no longer effective.
 - (8) An installer must not install sealing to a door or window, or a part of a door or window, if the condition of the structure or the surface material after it has been prepared will not form, or is not likely to maintain a permanent and effective seal for at least the period of the product warranty or the statutory warranty, whichever is the longest.

Examples of circumstances where building sealing must not be installed

- 1 A window frame is rotting and is in such a condition that the sealing will not permanently adhere to the surface even after standard preparation of the surface.
- 2 A door frame is warped and the sealing product an installer is using will not restrict air flow from the gaps the warping has caused between the door and the frame.

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 The statutory warranty is the warranty provide for in the Australian Consumer Law.

- (9) The authorised installer must ensure that the installation—
 - (a) allows the premises to receive natural air changes of at least 0.5 per hour; or
 - (b) complies with Volume F4.5 or Volume 2 Part 3.8.5 of the building code as relevant to the class of the building; and
 - (c) for rooms with gas appliances AS 5601 *Section 6.4 Air supply to gas appliances*; and
 - (d) is unlikely to cause excessive condensation in the building.

Note 1 If the eligible activity is undertaken in association with other eligible activities or other work in the premises the installer must make sure that the combination of the work does not result in air changes and ventilation that does not comply with the minimum standards.

Note 2 Inadequate ventilation can cause health problems for occupants. An installer must not reduce the ventilation below the standards set for occupant health and amenity.

Note 3 Structural and other problems can occur due to regular condensation that forms in a well sealed and insulated building if inadequate ventilation is not available to allow the moist air to escape. This is more likely to occur in houses that are new or extensively renovated. Further information on condensation can be found in the *Condensation in Buildings: Information Handbook 2011* published by the Australian Building Codes Board and located at www.abcb.gov.au

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- (10) If the installer is not sure that the installation maintains required air changes and ventilation the installer must consult—
 - (a) for a room containing a gas appliance, an individual with an advanced gasfitter licence; or
 - (b) for any rooms not containing a gas appliance, an individual with a building surveyor licence in an appropriate occupation class.
 - (11) Installation of a sealing product must not interfere with the normal operation of the window or door to which it is fixed.
 - (12) The authorised installer must test all products after installation to verify the product—
 - (a) it is correctly installed; and
 - (b) is operating correctly; and
 - (c) does not interfere with the normal operation of the door or window to which it is fixed.

57 Calculation of abatement factor

- (1) The abatement factor must be calculated in accordance with Schedule 1, Part 1.1 section 5 of the eligible activities determination.

Note Each door or window to which sealing has been installed can be counted once only.

58 Recording and reporting a building sealing activity

- (1) A building sealing activity must be recorded in accordance with the record keeping and reporting code, including, including but not limited to;
 - (a) the abatement factor for the activity; and
 - (b) the value of services; and
 - (c) the type and certificate number of any statutory certification for the work or associated work, if applicable; and
 - (d) all required declaration; and
 - (e) the date of completion for the activity and
 - (f) all other required specific activity information for Activity 1.1 in section 54 of the record keeping and reporting code.

Note 1 Certain requirements such as disposal of waste products, or lodgement of statutory certifications, may occur on a date subsequent to the date of installation of a product. All relevant information about the installation of the product should be completed immediately after the installation has been carried out. Information about the disposal of waste products may be recorded at a later time when it is complete.

Note 2 The activity is not taken to be completed until the day all prescribed activity requirements are completed. This includes providing copies of any relevant certification or other document to the consumer.

Part 7 Shower fixture outlet

59 Application of Part 7

This part applies to undertaking Activity 3.3 *Replace an existing shower fixture outlet with a low shower fixture outlet* defined in Schedule 3 Part 3.3 of the eligible activities determination as—

In accordance with the prescribed minimum activity performance specifications, removing a shower fixture outlet or outlets with a flow rate of greater than 9 litres per minute and replacing with a shower fixture outlet or outlets with a flow rate of 9 litres per minute or less.

60 Competency requirements

- (1) Activity 3.3 must be carried out by an authorised installer who—
 - (a) is the holder of a water supply plumber licence issued under the *Construction Occupations (Licensing) Act 2004*; and
 - (b) has completed all required training prescribed in Part 4 of this code.
- (2) An authorised installer must be proficient in all relevant competencies required for undertaking the activity including, but not limited to—
 - (a) determining whether an existing shower fixture outlet meets the installed product requirements;
 - (b) determining whether a requirement for a flow rate of 9 litres or less applied at the time an existing shower fixture outlet was, or was likely to have been, installed;
 - (c) removing, installing, commissioning and testing a shower fixture outlet in accordance with the *Water and Sewerage Act 2000* and the Plumbing Code of Australia;
 - (d) assessing whether a shower fixture outlet is incompatible with a water heater or hot water system or interferes with the normal operation of a shower; and
 - (e) explaining the use, operation and any safety requirements of an installed product; and
 - (f) understanding decommissioning requirements for the activity.

61 Determining eligibility of premises

- (1) A premises is an eligible residential premises for Activity 3.3 if—
 - (a) the premises is a residential premises as defined in the eligible activities determination; and

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- (b) the premises has at least one shower fixture outlet that has a maximum flow rate of greater than 9 litres per minute; and
 - (c) the shower fixture outlet was not required to have a flow rate of 9 litres or less under the plumbing regulations in force at the time of the installation.

Note 1 On 1 July 2005 new provisions commenced in the *ACT Water and Sewerage Regulation 2001* that all shower fixture outlets installed were required to meet minimum water efficiency standards of 9 litres per minute or less. Shower fixture outlets installed after that time should have a flow rate of no greater than 9 litres per minute.

62 Minimum activity performance specifications

- (1) The minimum specifications for Activity 3.3 to be a compliant eligible activity are the minimum activity performance specifications in Schedule 3 Part 3.3, section 2 of the eligible activities determination and the provisions in this Part of this code.
- (2) The installed product must meet the installed product requirements Schedule 3 Part 3.3, section 3 of the eligible activities determination and have a manufacturer's warranty of a minimum 2 years.
- (3) The installer must test the flow rate of a shower fixture outlet to be replaced to determine its eligibility for replacement.

Note 1 The flow rate of a shower fixture outlet should be measured with a simple bucket test with the water running at a typical showering temperature. Hold a bucket under the running shower for 15 seconds. Measure the quantity of water captured and multiply by 4 to ascertain the per minute flow rate. Water in the bucket should be disposed of on a garden or other sustainable use.

- (4) A shower fixture outlet must be installed and commissioned in accordance with the *Water and Sewerage Act 2000* and using a compliance method that complies with the Plumbing Code of Australia.
- (5) A low flow shower fixture outlet must not be installed where it would be incompatible with the operation of the hot water system installed in the premises, or interfere with the normal operation of the shower in which it is installed.

Note 1 Low flow shower fixture outlets are typically not compatible with gravity-fed water heaters, as most already have low flow rates. They may also not be compatible with older instantaneous gas water heaters where reduced flow can interfere with the operation of the water heater.

Note 2 Care should be taken in selecting a shower fixture outlet of higher efficiency levels, particularly less than 6 litres per minute. Water delivery at very high efficiency levels may cause discomfort to users of the shower.

Note 3 A low flow shower fixture outlet is required to be installed under Schedule 2 Part 2.6 of the *Water and Sewerage Regulation 2001* when a water heater is replaced. This should mitigate a number of problems that relate to compatibility older water heaters and low flow shower fixture outlets.

- (6) A shower fixture outlet that has a flow rate of 9 litres or less must not be replaced under this activity.

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- (7) A replaced shower fixture outlet must be removed from the premises and decommissioned.
 - (8) The authorised installer must test all products after installation to verify the product—
 - (a) is correctly installed; and
 - (b) does not leak; and
 - (c) is operating correctly at a typical showering temperature.
 - (9) If testing of the new shower fixture outlet demonstrates that it causes a failure in the hot water system to heat water to a standard temperature, the installer must reinstall the original shower fixture outlet, or a shower fixture outlet with a similar flow rate and quality to the original showerhead if available, unless a low flow shower fixture outlet is required to be installed under Schedule 2 Part 2.6 of the *Water and Sewerage Regulation 2001*.
 - (10) If a low flow shower fixture outlet is required to be installed under Schedule 2 Part 2.6 of the *Water and Sewerage Regulation 2001*, the authorised installer must do or arrange for the work that is necessary to make the installation compliant with that regulation and the Plumbing Code of Australia.

Note If alterations are required to the hot water system to make the installation compliant, the work must be carried out by an appropriately licensed person.

63 Calculation of abatement factor

- (1) The abatement factor must be calculated in accordance with Schedule 3, Part 3.3 section 5 of the eligible activities determination.

Note 1 The maximum number of shower fixture outlets that can be claimed per premises is 2.

64 Recording and reporting activity 3.3

- (1) Activity 3.3 must be recorded in accordance with the record keeping and reporting code, including but not limited to, recording—
 - (a) water efficiency rating when assessed and labelled in accordance with AS/NZS 6400; and
 - (b) the maximum flow rate of the fixture outlet; and
 - (c) the abatement factor for the activity; and
 - (d) the value of services; and
 - (e) the hydraulic certificate of compliance number completed for the work in accordance with the *Water and Sewerage Act 2000*;
 - (f) all required declarations; and
 - (g) the date of completion for the activity; and
 - (h) all other required specific activity information for Activity 3.3 in section 54 of the record keeping and reporting code.

Note 1 Certain requirements such as disposal of waste products, or lodgement of statutory certifications, may occur on a date subsequent to the date of installation of a product. All relevant information about the installation of the product should be completed immediately after the installation has been carried out. Information about the disposal of waste products may be recorded at a later time when it is complete.

Note 2 The activity is not taken to be completed until the day all prescribed activity requirements are completed. This includes providing copies of any relevant certification for plumbing work to the consumer.

Part 8 Hot water tap improvements

65 Application of Part 8

This part applies to undertaking Activity 3.4 Hot water tap improvements defined in Schedule 3 Part 3.4 of the eligible activities determination as—

In accordance with the prescribed minimum activity performance specifications, reduce the maximum flow rate of a hot water tap to 9 litres per minute or less by fitting one of—

- (a) an aerator; or
- (b) a flow restrictor.

66 Competency requirements

- (1) Activity 3.4 must be carried out by an authorised installer who—
 - (a) is the holder of a water supply plumbers licence issued under the *Construction Occupations (Licensing) Act 2004*; and
 - (b) has completed all required training prescribed in Part 4 of this code.
- (2) An authorised installer must also be trained in the other relevant competencies for undertaking the activity including, but not limited to, the following competencies—
 - (a) determining whether an existing tap has a flow rate greater than that of the installed product requirements;
 - (b) determining if an aerator or flow restrictor is suitable for use on a particular tap;
 - (c) determining whether a requirement for a flow rate of 9 litres or less applied at the time an existing tap was, or was likely to have been, installed;
 - (d) installing and testing an aerator or flow restrictor in accordance with the *Water and Sewerage Act 2000* and the Plumbing Code of Australia;
 - (e) assessing whether an aerator or flow restrictor is incompatible with a water heater, or water supply system, or interferes with the normal operation of the tap; and
 - (f) explaining the use, operation and any safety requirements of an installed product, and the differences between the operation of an aerator and a flow restrictor.

67 Determining eligibility of premises

- (1) A premises is an eligible residential premises for Activity 3.4 if—
 - (a) the premises is a residential premises as defined in the eligible activities determination; and
 - (b) the premises has at least one tap that has a maximum flow rate of greater than 9 litres per minute; and
 - (c) the tap was not required to have a flow rate of 9 litres or less under the plumbing regulations in force at the time of the installation; and
 - (d) an aerator or flow restrictor can be fitted to the tap in accordance with the minimum activity performance specifications in this Part.

Note 1 On 1 July 2005 new provisions commenced in the *ACT Water and Sewerage Act 2001* that all taps installed were required to meet minimum water efficiency standards of 9 litres per minute or less, which may include by means of a flow restrictor or such device. Taps installed in residential premises after that time should have a flow rate no greater than 9 litres per minute, unless an exemption for business use, or low pressure to the building applied. See section 16E of the Regulation for further information.

68 Minimum activity performance specifications

- (1) The minimum specifications for Activity 3.4 to be a compliant eligible activity are the minimum activity performance specifications in Schedule 3 Part 3.4, section 2 of the eligible activities determination and the provisions in this Part of this code.
- (2) The installed product must meet the installed product requirements Schedule 3 Part 3.4, section 3 of the eligible activities determination and have a manufacturer's warranty of a minimum 2 years.
- (3) The installer must test the flow rate of a tap that will have an aerator or flow restrictor fitted to it to determine its eligibility for the activity.

Note The flow rate of a tap should be measured with a simple bucket test with the water running at a typical temperature. Hold a bucket under the running tap for 15 seconds. Measure the quantity of water captured and multiply by 4 to ascertain the per minute flow rate. Water in the bucket should be disposed of on a garden or other sustainable use.

- (4) Before the authorised installer installs an aerator or flow restrictor, the installer must explain to the consumer that the product will increase the time taken to fill a bath, basin or laundry tub and confirm that this is acceptable to the consumer.

Note Consumers should be aware of the likely effect of the installation and understand that a slower filling time is normal. How noticeable a change in flow rate may be will depend on the relative difference between the initial flow rate and the flow rate of the tap after the product has been installed.

(5) The aerator or flow restrictor must be installed and commissioned in accordance with the *Water and Sewerage Act 2000* and using a compliance method that complies with the Plumbing Code of Australia.

(6) An aerator or flow restrictor must not be installed where it would be incompatible with the operation of the water supply system installed in the premises, or interfere with the normal operation of the tap in which it is installed, including but not limited to tap for a kitchen or laundry sink or any other basin inside a building if the usual pressure of water that is, or is to be, supplied to the building is less than 50kPa.

Note 1 Section 16E of the *Water and Sewerage Regulation 2001* provides an exemption for the tap servicing a kitchen sink, laundry sink or internal basin if it is installed in a building that has a usual water pressure of the supply below 50kPa.

Note 2 Care should be taken in selecting an aerator or a flow restrictor for a particular tap and its use by the occupants of the premises should be considered. For example, aerators reduce the flow rate in a way that gives the experience of conventional flow and may be more appropriate for sanitary facilities.

(7) A tap that has a flow rate of 9 litres or less must not be fitted with an aerator or flow restrictor under this activity.

(8) The authorised installer must test all products after installation to verify the product—

(a) is correctly installed; and

(b) does not leak; and

(c) is operating correctly.

(9) If testing of the tap after the product has been installed demonstrates that it is not compatible with the tap or the water supply system, or interferes with the operation of the tap in a way that cannot easily be fixed or the consumer does not agree to, the installer must restore the tap to its original condition and flow rate.

Note If alterations are required to the tap or other components of the water supply system to make the installation compliant, the work must be carried out by an appropriately licensed person with the agreement of the consumer.

(10) A tap that has a flow rate of 9 litres or less must not be fitted with an aerator or flow restrictor under this activity.

69 Calculation of abatement factor

(1) The abatement factor must be calculated in accordance with Schedule 3, Part 3.4 section 5 of the eligible activities determination.

Note There is no defined limit for the number of taps in a premises that may have an aerator or flow restrictor fitted. If the number of units claimed seems significantly higher than what would be present in a normal dwelling, or for the age of the dwelling, the administrator

or an authorised person may request further information on the activity or conduct an inspection.

70 Recording and reporting activity 3.4

- (1) Activity 3.4 must be recorded in accordance with the record keeping and reporting code, including but not limited to, recording—
- (a) the maximum flow rate of the tap after installation of the product; and
 - (b) the abatement factor for the activity; and
 - (c) the value of services; and
 - (d) the hydraulic certificate of compliance number completed for the work in accordance with the *Water and Sewerage Act 2000*; and
 - (e) all required declarations; and
 - (f) the date of completion for the activity; and
 - (g) the required specific activity information for Activity 3.4 in section 54 of the record keeping and reporting code.

Part 9 Lighting activities

71 Application of Part 9

This part applies to undertaking Activity 4.1 Lighting activities defined in Schedule 4 Part 4.1 of the eligible activities determination as—

In accordance with the prescribed minimum activity performance specifications, installing one or more of—

- (a) a low energy general lighting service lamp in place of a mains voltage incandescent general lighting service lamp of at least 25 watts (tungsten filament type) or 18 watts (tungsten halogen type);
- (b) a low energy reflector lamp in place of a mains voltage incandescent reflector lamp that is a halogen lamp of at least 35 watts;
- (c) a low energy lamp in place of an existing 12 volt halogen lamp of at least 35 watts; or
- (d) a mains voltage low energy recessed luminaire fitting in place of an existing 12 volt halogen recessed luminaire fitting that uses a 12 volt halogen lamp of at least 35 watts;

and decommissioning any removed lamps.

72 Competency requirements

- (1) A lighting activity must be carried out by an authorised installer who—
 - (a) has completed all required training prescribed in Part 4 of this code; and
 - (b) for replacing a recessed luminaire fitting, holds an unrestricted electrician licence issued under the *Construction Occupations (Licensing) Act 2004*.
- (2) An authorised installer must be trained in the physical practice of replacing lamps or fittings as appropriate to the work the installer will be undertaking, and have all relevant competencies for the lighting activities including, but not limited to—
 - (a) determining if an existing lamp or fitting meets the installed product requirements;
 - (b) being familiar with standard terms for lighting products and able to locate product information for a product as required to complete activity records, abatement factors calculations and provide information to consumers, including for—
 - (i) the product output in lumens; and
 - (ii) the product lighting efficacy in lumens/watt; and
 - (iii) the product manufacturer rated hours; and

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- (iv) the power factor of the lamp; and
 - (v) lighting source efficiency
 - (vi) colour temperature and
 - (vii) beam angle.
- (c) identifying a general lighting services lamp, a reflector lamp, or a low energy lamp; and
 - (d) identifying a dimmable circuit and the type of transformer or converter in a fitting; and
 - (e) selecting an appropriate lamp for particular types of fitting including assessing—
 - (i) whether a lamp or fitting is incompatible with a particular fitting or circuit, and
 - (ii) determining an equivalent light output to a replaced lamp; and
 - (f) installing and testing for correct operation of the product; and
 - (g) understanding the requirements for electrical work in the ACT; and
 - (h) explaining the use, operation and any safety requirements of an installed product.

73 Determining eligibility of premises

- (1) A premises is an eligible residential premises for Activity 4.1 if—
 - (a) the premises is a residential premises as defined in the eligible activities determination; and
 - (b) the premises has at least one lamp or fitting that does not meet the requirements of an installed product; and
 - (c) a compliant lamp or fitting can be installed in accordance with the minimum activity performance specifications in this Part.

74 Minimum activity performance specifications

- (1) The minimum specifications for Activity 4.1 to be a compliant eligible activity are the minimum activity performance specifications in Schedule 4 Part 4.1, section 2 of the eligible activities determination and the provisions in this Part of this code.

- (2) The installed product must meet the installed product requirements Schedule 4 Part 4.1, section 3 of the eligible activities determination.

Note The installed product must meet all product safety requirements including those for prescribed articles under electricity safety legislation, if applicable.

- (3) An authorised installer must install all products for this activity.
- (4) The installer must use best endeavours to first target at high usage lighting for installation of products.

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- (5) Installed lamps must be of an equivalent light output to the replaced lamp, where appropriate.
 - (6) If a fitting is being replaced a low energy lamp must be installed in the new fitting.
 - (7) Lighting must be switched off before removing or installing lamps.
 - (8) A lamp must not be installed in a fitting that is not securely fixed to the ceiling or surface material, has any exposed wiring or that appears unsafe.
 - (9) An authorised installer who does not hold an appropriate class of electrician licence must not attempt to repair a broken or damaged fitting or remove a lamp stuck in a fitting, and must advise the consumer that they should seek the advice or assistance of a licensed electrician.

Note If the installer does not hold an electrician's licence then she or he must not perform any wiring work including to repair the fitting. Other than for a simple exchange of lamps for an existing fitting, the installation will require a licensed electrician.

- (10) Electrical wiring work must be carried out in accordance with the *Electricity Safety Act 1971* and AS3000.

Note Electrical wiring work must only be undertaken by a person that holds an appropriate class of electrician licence.

- (11) For a lamp replacing a halogen lamp, the installed lamp must be compatible with the type of transformer or converter used with the replaced halogen lamp.
- (12) A lamp must not be installed or connected to a dimmer switch, timer, motion sensor, daylight switch or other automated switch or control, unless specified by the manufacturer as being compatible with such a device.
- (13) A lamp or luminaire fitting that complies with the relevant installed product requirements must not be replaced under this activity.
- (14) If additional or spare replacement lamps are left at the premises but not installed, those lamps must not be counted in calculating the abatement factor for the activity.
- (15) The authorised installer must test all products after installation to verify the product—
 - (a) is correctly installed; and
 - (b) for a lamp, the lamp is operating correctly in the fitting and circuit it is installed in; and
 - (c) for a fitting, the fitting is operating correctly in the circuit it is installed in;
 - (d) the product does not interfere with the normal operation of the fitting or the circuit.

Note This includes if the dimmer switch, sensor or other functionality is operating correctly.

- (16) The installer must inform the consumer about the operation of the product and any safety requirements.
- (17) Replaced lamps, transformers and luminaires that are replaced must be removed from the premises and decommissioned.

75 Calculation of abatement factor

- (1) The abatement factor must be calculated in accordance with Schedule 4, Part 4.1 section 5 of the eligible activities determination.

Note The activity abatement values for may not be the same for each type of product or model installed in a premises. Multiple calculations may be required to determine the total abatement factor for the activity.

76 Recording and reporting activity 4.1

- (1) Activity 4.1 must be recorded in accordance with the record keeping and reporting code, including but not limited to, recording—
 - (a) the type of standby power controller being one of— audio visual (AV) or information technology (IT); and
 - (b) for a replacement fitting and any electrical wiring work, the number of the relevant certificate of electrical safety completed for the work in accordance with the *Electricity Safety Act 1971*; and
 - (c) the abatement factor for the activity; and
 - (d) the value of services; and
 - (e) all required declarations; and
 - (f) the date of completion for the activity; and
 - (g) all other the required specific activity information for Activity 4.1 in section 54 of the record keeping and reporting code.

Note 1 Certain requirements such as disposal of waste products, or lodgement of statutory certifications, may occur on a date subsequent to the date of installation of a product. All relevant information about the installation of the product should be completed immediately after the installation has been carried out. Information about the disposal of waste products may be recorded at a later time when it is complete.

Note 2 The activity is not taken to be completed until the day all prescribed activity requirements are completed. This includes providing information and required documents to the consumer.

Part 10 Install a standby power controller

77 **Application of Part 10**

This part applies to undertaking Activity 5.5 Install a standby power controller defined in Schedule 5 Part 5.5 of the eligible activities determination as—

In accordance with the prescribed minimum activity performance specifications, installing one or more standby power controllers in a premises for—

- (a) an information technology environment; or
- (b) an audio visual environment.

78 **Competency requirements**

- (1) Activity 5.5 must be carried out by an authorised installer who has completed all required training prescribed in Part 4 of this code.
- (2) An authorised installer must also be trained in the other relevant competencies for undertaking the activity including, but not limited to—
 - (a) understanding the difference between an audio visual and information technology environment; and
 - (b) being familiar with standard terms and able to locate product information for a product as required to complete activity records, abatement factors calculations and provide information to consumers, including for—
 - (i) Off Mode; and
 - (ii) Active State; and
 - (iii) standby power consumption; and
 - (iv) master and slave or controlled appliances ; and
 - (v) lighting source efficiency
 - (vi) colour temperature and
 - (vii) beam angle
 - (c) identifying an audio visual and information technology standby power controller; and
 - (d) identifying appropriate master and controlled appliances for an audio visual and information technology standby power controller; and
 - (e) identifying when a standby power controller relies on sensing infra-red signals from the remote controls of controlled appliances to operate; and
 - (f) understanding and explaining the meaning and function of surge protection in relation to a standby power controller determine whether a standby power controller has inbuilt surge protection; and

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- (g) identifying and explaining a reduction in surge protection in relation to an existing product to be replaced; and
 - (h) assessing a socket outlet for suitability for a standby power controller to be installed; and
 - (i) installing and testing for correct operation of the product; and
 - (j) understanding the definition and licensing requirements for electrical work in the ACT; and
 - (k) explaining and demonstrating the use and operation and any safety requirements of an installed product; and
 - (l) explaining any safety requirements of an installed product.

79 Determining eligibility of premises

- (1) A premises is an eligible residential premises for Activity 5.5 if—
 - (a) the premises is a residential premises as defined in the eligible activities determination; and
 - (b) the premises has a sufficient number of appliances that are not connected to a standby power controller to meet the activity requirements; and
 - (c) an existing compliant standby power controller that could be used for the appliances is not installed in the premises; and
 - (d) a compliant standby power controller can be installed in accordance with the minimum activity performance specifications in this Part.

80 Minimum activity performance specifications

- (1) The minimum specifications for Activity 5.5 to be a compliant eligible activity are the minimum activity performance specifications in Schedule 5 Part 5.5, section 2 of the eligible activities determination and the provisions in this Part of this code.
- (2) The installed product must meet the installed product requirements in Schedule 5 Part 5.5, section 3 of the eligible activities determination and have a minimum warranty period.
- (3) The product register for this activity is the Victorian Energy Efficiency Target product register of standby power controllers held by the Essential Services Commission of Victoria.
- (4) The presence of a product on the product register can be confirmed by—
 - (a) an official approval letter issued by the Essential Services Commission of Victoria under the *Victorian Energy Efficiency Target Regulations 2008*; or
 - (b) the presence of the product on a register, or subset of information from the register, made available to the retailer by the Essential Services Commission of Victoria; or

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- (c) the administrator on request by a retailer.
- (5) Before a standby power controller is installed, the installer must—
 - (a) inform the consumer if the device has inbuilt surge protection; and
 - (b) if the standby power controller is replacing a powerboard that has inbuilt surge protection—
 - (i) inform the consumer of any reduction in surge protection in relation to an existing powerboard; and
 - (ii) explain the implications of the reduction in surge protection to the consumer; and
 - (c) explain how master and controlled appliances work while connected to a standby power controller; and
 - (d) obtain the informed consent of the consumer to install the product.
 - (6) The installer must select the appropriate product type for an information technology or audio visual environment.
 - (7) Only information technology devices can be connected to a standby power controller for an information technology environment.

Examples of information technology controlled appliances

- Laptop Computer
- Desktop Computer
- Printer
- Router
- Fax
- Scanner
- Photocopier
- Speakers
- Modem
- Monitor
- Gaming Controller
- External Hard drive

- (8) Only audio visual devices can be connected to a standby power controller for an audio visual environment.

Examples of audio visual controlled appliances

- TV
- Projector
- Set Top Box
- VCR
- Audio Department
- Gaming System
- Pay TV Device
- Blue Ray Player
- DVD Player
- Gaming Accessories
- Surround Sound
- Stereo

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (9) The installer must use best endeavours to first target high usage appliances for connection to the standby power controller.
- (10) The standby power controller must be connected to—
 - (a) a standard wall socket outlet; or
 - (b) if it is not practical to connect to a standard wall socket outlet, an extension cord.

Note Heavy or bulky furniture may prevent the standby power controller being installed or accessed for connecting appliances. In such cases an extension cord may be used to connect the standby power controller to a wall socket outlet.

- (11) The standby power controller must not be connected to a socket outlet that is not fixed to the wall, has any exposed wiring or that appears unsafe.
- (12) An authorised installer who does not hold an appropriate class of electrician licence must not attempt to repair a broken or damaged socket outlet or fix a socket outlet to a wall, and must advise the consumer that they should seek the advice or assistance of a licensed electrician.

Note If the installer does not hold an electrician's licence then she or he must not perform any wiring work including to repair the fitting. Other than for a simple plug in of the standby power controller, any work on the socket outlet will require a licensed electrician

- (13) Master appliances must be connected to the correct outlet of the standby power controller.

Note The master appliance in the audio visual (AV) environment is the television. For the information technology (IT) environment, the master appliance is a computer.

- (14) The minimum number of controlled appliances prescribed in the eligible activities determination must be connected to the standby power controller.

Note For a standby controller in an information technology or an audio visual environment must be connected to at least 2 controlled appliances at the time of installation.

- (15) A recording device must not be plugged into the standby power controller unless the installer has confirmed that consumer understands the implications of the device being a controlled appliance and agrees to it being connected.

Note If a consumer does not agree to the device being connected as a controlled appliance it should be connected to another socket outlet or an uncontrolled outlet on the standby power controller, if available.

- (16) The consumer must be informed of the minimum warranty period for the installed product and provided with a copy of warranty documents.
- (17) A standby power controller that complies with the installed product requirements must not be replaced under this activity.
- (18) The installer must provide a demonstration of the functionality of the standby power controller to the consumer.

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- (19) The consumer must be provided with—
- (a) adequate instruction on the working of the product;
 - (b) the printed factsheet on standby power controllers approved by the administrator and provided to retailers; and
 - (c) printed instructions on the specific product installed; and
 - (d) details of customer support the retailer will provide to the consumer for the product.
- (20) The authorised installer must test all products after installation to verify the product—
- (a) is correctly installed; and
 - (b) is operating correctly; and
 - (c) is not interfering with the normal operation of controlled appliances when the master appliance is in an Active State.

81 Calculation of abatement factor

- (1) The abatement factor must be calculated in accordance with Schedule 4, Part 4.1 section 5 of the eligible activities determination.
- (2) If a product has been assigned a specific abatement factor by the Essential Services Commission of Victoria, the custom abatement factor must be multiplied by 0.8 to calculate the abatement factor for the activity under the Act.

Examples of custom abatement factor calculation

A product was assigned an abatement factor of 3.56 tonnes CO₂-e by the Essential Services Commission of Victoria. To calculate the ACT abatement factor for this product the calculation is $0.8 \times 3.56 = 2.848$ tonnes CO₂-e.

Note While higher abatement factors apply under the Scheme, to account for the lower emissions intensity of the electricity supply in the ACT relative to Victoria, the abatement factor applicable to the Victorian Energy Efficiency Target (VEET) Scheme needs to be multiplied by a factor of 0.8.

82 Recording and reporting activity 5.5

- (1) Activity 5.5 must be recorded in accordance with the record keeping and reporting code, including but not limited to, recording
- (a) the required specific activity information for Activity 5.5 in section 54 of the record keeping and reporting code including
 - (b) the type of standby power controller being one of— audio visual (AV) or information technology (IT);
 - (c) a description of the master appliance, and the number and type of controlled appliances connected; and
 - (d) the abatement factor for the activity; and
 - (e) whether the product has inbuilt surge protection; and

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- (f) the value of services; and
 - (g) all required declarations; and
 - (h) the date of completion for the activity.

Note 1 Certain requirements such as disposal of waste products, or lodgement of statutory certifications, may occur on a date subsequent to the date of installation of a product. All relevant information about the installation of the product should be completed immediately after the installation has been carried out. Information about the disposal of waste products may be recorded at a later time when it is complete.

Note 2 The activity is not taken to be completed until the day all prescribed activity requirements are completed. This includes providing information on the use of the device to the consumer.

Dictionary

(see s 2)

Note 1 Other terms may apply to this code to this instrument. Terms not defined in this dictionary but defined in associated legislation have the same meaning as in that legislation unless it is evident a contrary meaning is intended.

Note 2 The Legislation Act, the *Energy Efficiency (Cost of Living) Act 2012*, the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination*, the *Building Act 2004*, the *Construction Occupations (Licensing) Act 2004*, the *Gas Safety Act 2000*, the *Electricity Safety Act 1971*, and the *Water and Sewerage Act 2000* may contain definitions and other provisions relevant to this code.

abatement factor means the number of tonnes of carbon dioxide equivalent emissions that an eligible activity is taken to save. The method for calculating the abatement factor for each eligible activity is outlined for each eligible activity in the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination* as in force from time to time.

Active State, in relation to a computer, means a state in which the computer is carrying out useful work in response to prior or concurrent—

- (a) user input; or
- (b) instruction over a network;

activity means an eligible activity as determined by the Minister under section 10 of the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

activity certification means the certification prepared by a person or people involved in carrying out an activity declaring compliance with relevant activity eligibility requirements and includes any statutory certifications required under another law of the Territory, and documents and evidence prescribed in Part 6 to this code.

activity item, in relation to eligible activities, means one of a number of options for an installation or of product type that may be permitted under the activity definition to undertake and complete and eligible activity.

activity item unit means the unit of measurement for the number of units installed used to calculate the abatement factor for an activity item, and include square metres, length in metres, number of products and the like.

activity record— see Part 5 of the *Energy Efficiency (Cost of Living) Improvement Record Keeping and Reporting Code of Practice*.

activity record form— see Part 5 of the *Energy Efficiency (Cost of Living) Improvement Record Keeping and Reporting Code of Practice*.

administrator means the person appointed as the administrator by the Minister under section 23 of the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

approved code of practice means a code of practice approved by the administrator under section 25 of the Act.

approved product abatement value means an abatement value approved by the administrator for a particular product model (expressed in tCO₂-e), which may be used to calculate the abatement factor for an eligible activity.

associated work in relation to eligible activities, means work required to complete the installation other than work within the standard scope of the activity including but not limited to, electrical work, plumbing work, gasfitting work, building work, asbestos assessment and removal, and handling of dangerous goods.

AS/NZS 6400 means Australian/New Zealand Standard 6400 as in force from time to time

Australian Standard ISO 10002-2006 means Australian Standard ISO 10002-2006 Customer satisfaction—Guidelines for complaints handling in organizations (ISO 10002:2004, MOD) as in force from time to time.

authorised contractor means an entity that is directly contracted or otherwise authorised by a retailer to provide or arrange the undertaking of eligible activities, but is not an employee of the retailer.

authorised installer means an individual, whether an employee of, or under direct contract to, a retailer or an authorised contractor, who undertakes an eligible activity on behalf of a retailer, including the physical installation of products.

authorised seller means a business entity that, under contract or by other direct arrangement with a retailer or an authorised contractor, undertakes an eligible activity that specifically refers to the purchase of a compliant product but does not require the installation of the product for the activity to be considered complete.

air sealing means sealing of openings between materials in a building to minimise air leakage from and air infiltration between rooms in a building, but not necessarily to exclude rain or other effects of weather.

building code means the ACT building code, which is comprised of Volumes 1 and 2 of the National Construction Code published by the Australian Building Codes Board and the ACT Appendix to the building code as determined by the responsible Minister.

building sealing means weather sealing or air sealing.

building work— see Section 6 of the *Building Act 2004*.

code of practice means a code of practice made by the administrator under section 25 (Codes of practice) of the *Energy Efficiency (Cost of Living) Improvement Act 2012* that may address consumer protection obligations, quality, health, safety and environmental requirements, record keeping requirements and reporting requirements for eligible activities.

common property— see section 13 of the *Unit Titles Act 2001*.

compliance period report means the compilation of all information in relation to a compliance period a retailer is required to give to the administrator under section 19 of the Act and prepared in accordance with Part 8 of this code.

conditioned zone means a room or rooms in a residential premises that due to their use is capable of being fully enclosed and is likely to be artificially heated and/or cooled. Conditioned zones include, but are not limited to habitable rooms, internal corridors and utility rooms without direct natural ventilation to the room such as an ensuite bathroom.

consumer means the occupier of the premises to which the activity relates.

decommission means disable and render permanently unusable.

Do Not Call Register means the Do Not Call Register managed by the Australian Communications and Media Authority

electrical work— see electrical wiring work as defined in the Dictionary of the *Electricity Safety Act 1971*.

eligible activities determination means the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination* as in force from time to time

eligible residential premises means a residential premises that meets all criteria for an eligible activity and is not excluded by another law of the Territory, or by the failure to obtain a required approval for any part of the activity, from the activity being undertaken at the premises.

external wall means an outer wall of a building other than a wall separating or common to adjoining buildings.

gasfitting work— see the Dictionary of the *Gas Safety Act 2000*.

glazing means a transparent or translucent element and its supporting frame located in an external wall of a building, and includes a window other than a roof light.

habitable room— see section 1.1.1 Definitions in Volume 2 *Building Code of Australia Class 1 and Class 10 Buildings* of the National Construction Code Series.

IEC/TR 61341 Edition 2.0 means the Method of measurement of centre beam intensity and beam angle(s) of reflector lamps Edition 2.0 2010-02, published by the International Electrotechnical Commission on 18 February 2010.

in association, in relation to work or other eligible activities undertaken in a premises, includes at the same time as, or subsequent to alterations and additions to a premises, or part of a premises, or as a result of an eligible activity, or as part of the same contract with a lessee or occupier of a premises.

indication means a mark such as a cross, a tick in a check box, an abbreviation, a number, text or the like included on a document signifying a particular fact or piece of information.

install includes modify or replace to achieve compliance with eligible activity criteria.

installed products means the products installed to meet the installed product requirement relevant to the eligible activity.

installer means a person physically installing a product as part of an eligible activity in a consumer's residence on the behalf of a NERL retailer for the purposes of the NERL retailer complying with the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

K means Kelvins.

kW means kilowatt.

lessee— see section 234 of the *Planning and Development Act 2007*

lessor— see section 5 of the *Residential Tenancies Act 1997*

licensed, in relation to undertaking work involved in undertaking eligible activities means, licensed, registered or accredited under a relevant law where that licence, registration or accreditation is not lapsed, suspended, cancelled or conditioned so that the work cannot be undertaken by the entity holding the licence.

lighting source efficacy means the initial luminous flux of a lamp or the total radiant flux in the visible spectrum weighted by the spectral response of the eye, divided by the electric power that will be consumed by the lamp but excluding ballast and control gear power losses.

mains power switching device means a relay or other device that switches the power to the controlled appliances on or off.

manual dimmer means a product that enables manual control of a light fitting's light output by a dial, slider or other mechanism.

master/slave arrangement, in relation to a standby power controller, means an arrangement where the standby power controller is connected to an uncontrolled master appliance, that's current or power is solely used to control the electrical input to controlled appliances connected to the standby power controller.

MEPS means a minimum energy performance standard.

MJ means megajoules.

multiple activity record form means a form that contains more than one activity record for eligible activities.

MWh means megawatt hours.

natural person means a human being

NERL retailer means a person who holds a retailer authorisation under the *National Energy Retail Law (ACT)* to sell electricity to premises in the ACT for consumption.

new residential premises means a residential premises for which—

- (a) the building approval for the construction of the residence is issued after 1 January 2011, under the *Building Act 2004*; and
- (b) no certificate of occupancy for the respective dwelling has been issued; and
- (c) the premises has never been occupied.

occupier of premises, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

Off Mode, in relation to a computer, means the lowest power state, of the computer when the computer is switched off by the user, but does not include Sleep Mode.

plumbing work— see sanitary plumbing work and water supply plumbing work as defined in the dictionary of the *Water and Sewerage Act 2000*.

prescribed activity requirement means a requirement for an eligible activity that must be completed or complied with and includes an action, a product specification, a manner of carrying out a particular task, and a resultant performance of an installation.

primary reporting contact means an individual nominated by a retailer as the main contact for the administrator in relation to the record keeping and reporting requirements under the Act and this code.

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 healthcare card; or

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- (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.

product includes an appliance, equipment and material.

purchase does not include by private sale

record includes report on all or certain criteria of an eligible activity where an obligation to report exists.

register of products, in relation to an eligible activity means a register of products that meet one or more of the installed product requirements and product testing criteria for the activity that is prescribed by the administrator under a relevant code of practice NERL retailers with an energy savings obligation under the Act.

relevant authority see section 28 of this code.

relevant legislation means a law of the Territory or another jurisdiction that applies to all or part of the activity being undertaken, including but not limited to the—

- *Building Act 2004*
- *Gas Safety Act 2000*
- *Electricity Safety Act 1971*
- *Electronic Transactions Act 2001*
- *Water and Sewerage Act 2000*
- *Dangerous Substances Act 2004*
- *Work Health and Safety Act 2011*
- *Unit Titles Act 2001*
- *Fair Trading Act (Australia Consumer Law) Act 1992*
- *Environment Protection Act 1997*
- *Construction Occupations (Licensing) Act 2004*
- *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Commonwealth)*
- *Planning and Development Act 2007*
- *Consumer and Competition Act 2010 (Commonwealth)*

representative, in relation to a retailer means an entity contracted, employed or otherwise engaged by the retailer to arrange or undertake an eligible activity, or a prescribed activity requirement.

residential premises means as a building or part of building located in the Australian Capital Territory and classified under Part A3 of the Building Code of Australia as a class 1 building, a class 10a building associated with a class 1 building, a sole occupancy unit in a class 2 building, or a class 4 building, or is a transportable home or vehicle designed for habitation that is not used for short-stay or holiday accommodation, but is not a new residential premises.

resident of the ACT— in relation to eligible activities that require the purchase of certain products from an authorised seller, means person who resides in a residential premises located in the ACT, or a lessee of a residential premises located in the ACT.

retailer—see *NERL retailer*

R-value means the thermal resistance in $\text{m}^2\text{K/W}$ of a component calculated by dividing its thickness by its specific ability to conduct heat thermal conductivity

Sleep Mode, in relation to a computer, means a low power state that the computer is capable of entering automatically after a period of inactivity or by manual selection.

tCO₂-e means tonnes of carbon dioxide equivalent of a greenhouse gas.

the Act means the *Energy Efficiency (Cost of Living) Improvement Act 2012*— as in force from time to time.

tier 1 retailer— see Dictionary, *Energy Efficiency (Cost of Living) Improvement Act 2012*.

tier 2 retailer— see Dictionary, *Energy Efficiency (Cost of Living) Improvement Act 2012*.

unconditioned zone means a room or rooms in a premises that is not a conditioned zone.

unsealed, in relation to a door, door frame, window, window frame, exhaust fan, or chimney or flue to a solid fuel burning appliance, means not sealed in accordance with the relevant building sealing provisions of the building code for the class of building, and may include partially sealed frames and/or sealing that is in a condition that renders the sealing ineffective.

weather sealing means sealing of openings between elements in a building to minimise air leakage from and air infiltration from the outside of a building and the inside of a building and to weatherproof the building to prevent the ingress of precipitation.

window includes a glass panel, glass block, glass brick, glazed sash, or similar glazing product that, when closed, transmits natural light directly from outside a premises to the inside of the premises, but does not include a louvred product, and includes a door in an external wall that has a glazing pane or panes that comprise 60 per cent or more of the door.

working day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.