

Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2018

Disallowable instrument DI2018–243

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s 8 (Priority Household Target)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2018* as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the disallowable instrument and to help inform debate on it. It does not form part of the disallowable instrument and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the disallowable instrument. It is not, and is not meant to be, a comprehensive description of the disallowable instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The purpose of the disallowable instrument is to set a priority household target (PHT) under the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The Act establishes a retailer efficiency obligation scheme known as the Energy Efficiency Improvement Scheme (EEIS). It includes a range of targets which are based on greenhouse gas emissions associated with electricity sales. EEIS targets include:

- An Energy Savings Target establishing the total reduction in greenhouse gas emissions to be achieved by retailers, expressed as a percentage of their total electricity sales. From 2016 until 2020 this is set at 8.6 per cent.

- The PHT for the total reduction in greenhouse gas emissions to be achieved in priority households, expressed as a percentage of the retailer's energy savings obligation.

Energy Savings Targets are achieved by retailers delivering eligible activities under the EEIS. These activities include installing energy efficient light globes, draught seals, efficient space and water heaters and other items that save energy while maintaining quality of life.

Only larger tier 1 retailers are required to achieve the Energy Savings Target and the PHT. Smaller tier 2 retailers can meet their obligation by paying a Retailer Energy Savings Contribution. The Act defines a tier 1 retailer as a national energy retail law retailer that, in the previous compliance period had, at any time during that period, at least 5,000 customers in the ACT, and sold at least 500,000MWh of electricity to customers in the ACT. There is currently only one tier 1 retailer operating in the ACT, ActewAGL.

Priority households are intended to be those lower income households that can benefit most from energy efficiency, but are least able to make improvements without additional assistance. Priority households are defined in the Act's dictionary as a residential premises in which one person who lives at the premises –

- (a) is a recipient of an ACT Government energy concession; or
- (b) holds a Commonwealth pensioner concession card or health care card; or
- (c) holds a Department of Veterans Affairs pensioner concession card, TPI gold repatriation health care card, war widows repatriation health care card or gold repatriation health care card.

An expanded scope of the PHT was implemented through the *Energy Efficiency (Cost of Living) Improvement Regulation 2017* (the regulation) after being tested through stakeholder consultation. The regulation added the following priority household classes:

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

iv. Not-for-profit disability housing facilities.

The policy objective “increase opportunities for priority households to reduce energy use and cost” is established in section 6 (d) of the Act. Section 8 of the Act requires the Minister to determine the PHT. Section 16 of the Act requires tier 1 retailers to achieve a PHT. The disallowable instrument determines the PHT to be 20 per cent for the 2019 and 2020 compliance periods. The disallowable instrument meets the policy objective by ensuring that a proportion of savings are achieved in priority households.

The appropriateness of the 20 per cent level for the PHT has been confirmed in several ways.

- A 2014 review (the EEIS Review) of the operation of the EEIS¹ showed that the previous PHT of 25 per cent was consistently being achieved. However this has been a stretch target, which was only met in 2015 through the carry-over surplus achieved in previous years.
- Modelling for the EEIS extension to 31 December 2020 published in the scheme extension regulatory impact statement², assumed a 20 per cent priority household target for the period 2016 to 2020. This modelling showed that the net present value of the EEIS is maximised with all targets set at their current rates, including the 20 per cent PHT.

An independent, post-implementation Review³ of the EEIS was carried out in early 2018 to assess whether the EEIS remains appropriate, and how effective and efficient it has been in tackling the original policy problems and scheme objectives. The review showed that the EEIS has fulfilled its four objectives, which include reducing energy use and costs for priority households.

According to the review, which had an extensive stakeholder consultation process, the Tier 1 retailer’s PHT is an effective way to ensure that a proportion of the activities and hence benefits flow on to low income households. Priority households have been well served by the EEIS since the scheme started in 2013, delivering over 800,000 GJ of lifetime energy savings in over 17,900 priority households, or 22% of total scheme residential lifetime energy savings.

Targeted key stakeholder consultation undertaken on the proposed 2019 PHT confirmed that a target of 20 per cent is the preferred level for most stakeholders as rising energy prices and inequality make it more important than ever to support low income households in reducing energy use and costs.

¹ Jacobs Group (Australia) Pty Limited (2014) *Energy Efficiency Improvement Scheme Review*.

http://www.environment.act.gov.au/_data/assets/pdf_file/0003/642315/ACT-EEIS-Review-Final-Report.pdf.

² ACT Government Environment and Planning Directorate (2015) *Energy Efficiency Improvement Scheme: Setting Key Parameters to 2020. Regulatory Impact Statement*. http://www.legislation.act.gov.au/ri/db_52787/current/pdf/db_52787.pdf.

³ Point Advisory (2018) *Review of the Energy Efficiency Improvement Scheme*. http://www.environment.act.gov.au/energy/smarter-use-of-energy/energy_efficiency_improvement_scheme_eeis/publications.

Consultation confirmed a consensus view that the PHT remains a valuable EEIS element. Stakeholders supported retaining a PHT of at least 20%. The ACT Government has implemented several strategies within the last year to increase opportunities for priority low income households to reduce their emissions and energy costs and enhance ActewAGL's capacity to achieve the PHT. These strategies are:

- A regulation to expand the classes of priority households eligible for EEIS activities;
- Trial partnership with ActewAGL and Housing ACT to replace around 240 inefficient gas heaters with high efficient models such as efficient electric reverse cycle split systems in public housing properties through EEIS;
- Introduction of Solar for Low Income Program, ActewAGL Energy Support Fund and new EEIS heating and hot water activities;
- Increasing the Utilities Concession rebate from \$604 to \$654 from July 2018; and
- Collaboration with stakeholders to enhance referral pathways between the community sector, Actsmart, ActewAGL, Housing ACT, the ACT Civil and Administrative Tribunal (ACAT) and EEIS.

Human Rights

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

Assessment of the consistency of the proposed law with the scrutiny committee principles

The terms of reference of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) require it to consider whether (among other things):

- (a) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):
 - i. is in accord with the general objects of the Act under which it is made,
 - ii. unduly trespasses on rights previously established by law,
 - iii. makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions, or
 - iv. contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The position in relation to each of the above terms of reference is as follows.

(i) is in accord with the general objects of the Act under which it is made

As noted above, the disallowable instrument is in accordance with the general objects of the Act.

(ii) unduly trespasses on rights previously established by law

The disallowable instrument does not unduly trespass on rights previously established under law.

(iii) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions

The disallowable instrument does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.

(iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly

The disallowable instrument and the process of setting a priority household target is a requirement of the Act. The Act requires that a PHT be established by disallowable instrument and that is the sole purpose of this instrument.

Outline of the provisions

Section 1- Name of instrument

This section names the instrument.

Section 2 - Commencement

This section provides for the commencement of the instrument.

Section 3 – Determination of the priority household target

By this section, the Minister determines the Priority Household Target at 20 per cent for 2019 and 2020.