

Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2019

Disallowable instrument DI2019–194

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s25 (Codes of Practice)

EXPLANATORY STATEMENT

Terms of Reference

Administrator—the person appointed as administrator by the Minister as described in Part 4 of the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

Compliance period—for the *Energy Efficiency (Cost of Living) Improvement Act 2012* a compliance period is either 1 January 2013 to 31 December 2013; 1 January 2014 to 31 December 2014; 1 January 2015 to 31 December 2015; 1 January 2016 to 31 December 2016; 1 January 2017 to 31 December 2017; 1 January 2018 to 31 December 2018; 1 January 2019 to 31 December 2019 or 1 January 2020 to 31 December 2020.

Compliance plan—a compliance plan for a compliance period that is required to contain defined information that must be provided to the Administrator before a retailer undertakes eligible activities as described in section 17 of *Energy Efficiency (Cost of Living) Improvement Act 2012*.

Eligible activity—an activity determined by the Minister that is intended to reduce the consumption of energy as described in section 10 of the *Energy Efficiency (Cost of Living) Improvement Act 2012*.

Retailer—a *National Energy Retail Law (ACT)* retailer who holds a retailer authorisation to sell electricity to premises in the ACT for consumption.

Tier one retailer—means a *National Energy Retail Law (ACT)* retailer that has at least 5000 customers in the ACT and sells at least 500,000MWh of electricity to customers in the ACT annually.

Tier two retailer—means a *National Energy Retail Law (ACT)* retailer that is not a tier one NERL retailer.

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Introduction

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2019* (the instrument) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the instrument and to help inform debate on it. It does not form part of the instrument and has not been endorsed by the Assembly.

The statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the 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 instrument establishes a code of practice relating to the eligible activities under the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). It replaces an existing code of practice to ensure that the requirements are up to date in relation to new and updated activities.

Energy Efficiency Improvement Scheme

The Act provides the legal framework for obligations and administrative arrangements promoted as the Energy Efficiency Improvement Scheme (the Scheme). The Act places a number of obligations on electricity retailers selling electricity in the ACT (retailers) to meet an energy savings obligation.

Section 14 of the Act provides that a *National Energy Retail Law (ACT) 2012* (NERL) retailer may meet their target in whole or in part by undertaking eligible activities. To achieve its energy savings and priority household obligations, a tier 1 NERL retailer, as defined in the Act, 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.

A tier 2 NERL retailer as defined in the Act 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 obligations.

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. To be included in the calculation of an energy savings result at the end of a compliance period, an eligible activity must be undertaken in accordance with relevant approved codes of practice.

The eligible activities retailers may undertake are provided for in the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2019* (the eligible activities determination).

Section 25 of the Act provides that the Administrator may approve codes of practice relating to consumer protection obligations, quality, health, safety and environmental requirements, record keeping requirements and reporting requirements for eligible activities.

General record keeping and reporting requirements relevant to eligible activities are prescribed in the *Energy Efficiency (Cost of Living) Improvement (Record Keeping and Reporting) Code of Practice 2019* (the record keeping and reporting code of practice).

This Code of Practice

In accordance with section 25 of the Act, this instrument 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.

A retailer must complete an activity in accordance with the requirements of a relevant Code of Practice. This is the seventh version of this instrument, replacing the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2017 (No 2)*. The policy objective of this instrument is to ensure that activities conducted under the EEIS are conducted to a sufficient standard. This is achieved by updating the code of practice to take account of changes including the addition of new eligible activities.

This explanatory statement provides information on both the updates to the instrument and also the pre-existing sections. This provides retailers, contractors and installers with clarity where feedback has suggested this will improve the quality of installations. The setting of specific requirements is essential to provide clear methods of engaging with consumers and undertaking work involved in eligible activities without compromising consumer protections and the health and safety of workers, householders and other members of the public whilst ensuring the environment is protected.

These requirements will be used to assess whether an activity has been undertaken correctly so that the Administrator may establish a retailer's compliance with all relevant activity and general scheme requirements. This will inform the Administrator's actions under the Scheme in relation to calculating an energy savings result for a retailer, and assist with promoting safe and effective outcomes.

The instrument does not affect any human right set out in the *Human Rights Act 2004* and is in accordance with the Scrutiny of Bills Committee's Terms of Reference, as set out below.

(a) Disallowable instrument is in accord with the general objects of the Act under which it is made

The instrument is in accord with the objects of the *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act). The instrument supports the achievement of the objects of the Act, namely:

- a) encourage the efficient use of energy
- b) reduce greenhouse gas emissions associated with stationary energy use in the Territory
- c) reduce household and business energy use and costs
- d) increase opportunities for priority households to reduce energy use and costs.

The instrument is also in accord with the purpose for making the codes of practice. The code of practice is for consumer protection obligations, under s 25(1)(a) of the Act, and quality, health, safety and environmental requirements applying to eligible activities, under s 25(1)(a) of the Act.

(b) The disallowable instrument does not unduly trespasses on rights previously established by law

The instrument does not unduly trespass on rights previously established by law. The instrument determines codes of practice for implementing the Energy Efficiency Improvement Scheme.

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

The instrument does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions. The new code of practice simply includes updates to take account of changes since the last code of practice was made. Decisions which may be impacted by the code of practice, such as determining retailer energy savings result, are reviewable, see Schedule 1 of the Act.

(d) Contains matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly

The matters contained in the code of practice are appropriate to be dealt with in subordinate legislation and are in accordance with the Act (Section 25).

Consultation

A different consultation process was undertaken for each of the different types of amendments provided for in this update. Those consultation processes are detailed in the accompanying *Regulatory Impact Statement* and are summarised here.

(a) Consultation on consequential amendments associated with the addition of new ceiling and underfloor insulation and ventilation opening sealing activities.

Significant internal and external consultation has been completed in developing codes of practice for the proposed insulation activities. Internal consultation was undertaken with Climate Change and Sustainability Division, Building Policy, Access Canberra and Worksafe ACT regularly through the internal residential insulation activity working group.

External consultation was undertaken via several insulation expert workshops on the EEIS involving representatives from peak insulation industry groups, insulation service companies, and retailers over a two year period. EEIS held three targeted technical expert workshops with stakeholders, in July 2017, Feb 2019 and July 2018 to ensure effective consultation with electricity retailers, insulation industry groups, reputable insulation service companies, and cross-jurisdictional representatives which are managing insulation programs.

The ACT government is also an active member of a cross-jurisdictional Insulation Steering Committee which is developing and evaluating insulation programs across Australia. EPSDD has used this forum to test the sufficiency and likely effectiveness of the approach proposed here and ensure inter-jurisdictional consistency of risk management codes of practice.

After this extensive internal and targeted expert consultation, the proposed activity, codes of practices and rationales for them, were consulted formally through the EEIS *stakeholder consultation paper on proposed new residential insulation and ventilation opening sealing activities*¹. Workshops on the proposed insulation activities were also held at EEIS stakeholder forums in both 2018 and 2019. Through each of these processes, stakeholders were invited to provide feedback to EEIS, and every element of the activities has been well scrutinised. All stakeholders' recommended improvements have been adopted and consultation has also confirmed that EEIS stakeholders support the final proposed insulation activities presented here.

(b) Consultation on expanding existing residential heating upgrade activities, including to businesses and commercial buildings.

These updates were consulted on internally and externally with retailers, approved providers, expert consultants. All stakeholders have been supportive of these changes. Internally, consultation involved all relevant staff within EPSDD, and also Access Canberra and Building Policy.

¹ https://www.environment.act.gov.au/_data/assets/pdf_file/0004/1310386/EEIS-Residential-Insulation-Activities-Consultation-Paper.pdf

Public consultation included on-line publication of the *stakeholder consultation report on proposed new business heating and cooling activities*², and workshops held at two EEIS public stakeholder forums. Consultation was also completed with energy retailers, representatives of the Australian Government Greenhouse and Energy Minimum Standards (GEMS) programs including Energy Efficient Equipment (E3) personnel and non-government bodies such as Australian Institute of Refrigeration, Air-Conditioning and Heating (AIRAH), Energy Efficiency Council (EEC), Energy Efficiency Certificate Creators Association (EECCA), and representatives of sub-national jurisdictional government energy efficiency obligation schemes.

This consultation generated discussion on practical work involved in removing old, inefficient heating and cooling systems and replacing them with efficient heaters which have been incorporated here. For example, the statutory requirements and relevant standards have been considered in relation to all heating and cooling activities. Only minor amendments have been made to the instrument as a result of this consultation, and they mostly serve to improve consistency within the instrument, and to remove any unnecessary administrative burden from activity delivery. All stakeholders supported the proposed changes.

d) Consultation on removing Activity 2.2 – upgrading inefficient gas ducted heating to efficient gas ducted heating

The EEIS Review recommended removal any remaining gas upgrade activities from the scheme. Similar recommendations have been made both through broader consultation on an ACT climate change strategy, and targeted commentary by EEIS stakeholders. There is a strong public and stakeholder expectation that EEIS should not incentivise gas activities and this supports the removal of Activity 2.2.

ActewAGL has not supported the removal of this activity because it continues to be popular among EEIS participants, and has delivered a significant percentage of total abatement in recent years, including in priority households. The government considers that the long lead time provided for the transition together with the introduction of new, high abatement space heating and cooling activities, and the initiative to install EEIS activities in about 2,200 ACT government homes all ensure that there are viable alternatives for ActewAGL to deliver.

e) Consultation on updating Activities 3.3, 5.2, 5.3 and 5.6, as well as the phase out of Activity 5.5 (Stand-by Power Controllers, previously Activity 5.4)

EEIS electricity retailers, approved providers, expert consultants and interjurisdictional EEO scheme policy officers have been consulted on these updates and are supportive as no changes were needed to the codes of practice to support the proposed activity updates.

² https://www.environment.act.gov.au/_data/assets/pdf_file/0006/1234887/EEIS-Stakeholder-Engagement-Report-Proposed-Business-Heating-and-cooling-activities.pdf

Compliance and Enforcement

The Act requires retailers undertaking eligible activities to undertake the eligible activities determined by the Minister. The activities in the determination must be completed in accordance with a relevant Code of Practice. If activities are not completed in accordance with the instrument, abatement cannot be attributed to the activity. A retailer that does not meet its energy saving obligation under the Act is liable to pay a shortfall penalty to the Territory set at \$300 per tonne of carbon dioxide equivalent.

Notes on 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 – Code of practice

This section approves the code of practice as contained in the schedule. Details of the provisions of the code of practice are explained below.

Section 4 – Disapplication of Legislation Act, s47 (5) and 47 (6)

This section allows the code of practice to apply, incorporate or adopt an instrument without the instrument having to be notified.

The effect of subsection 47(5) is to make any law of another jurisdiction, or an instrument, that is applied by a subordinate law or by a disallowable instrument, as in force from time to time, a ‘notifiable instrument’. The effect of subsection 47(6) is to make any amendments or revisions of such (external) instruments also notifiable instruments.

The reason for disapplying the application of section 47(5) and (6) is to avoid breaching copyright. The code refers to Australian standards which would be required to be notified if s47 of the Legislation Act applied. Standards Australia is the nation's peak non-government, not-for-profit standards organization whose main responsibility is the development of standards. Australian Standards are protected by copyright and are sold and distributed worldwide by SAI Global Limited. To provide a Standard referred to in legislation as a notifiable instrument on the Act Legislation Register (that is make it available publically for free) would constitute a breach of Standards Australia's copyright in that particular standard. For this reason, the instrument disapplies s47(5) and (6) of the Legislation Act which requires the documents to be notified.

Disapplying s47 (5) and (6) means interested persons will be required to purchase the relevant standard. In relation to the cost associated with having to purchase a standard, the only people likely to have sufficient interest or need to purchase a Standard are those considering delivering activities as part of the Energy Efficiency Improvement Scheme (EEIS). Those parties include service providers such as electricians and plumbers who should already have access to the relevant Standards as part of their professions. The cost therefore should be minimal.

Additionally, many Australian and International Standards are available for viewing at the National Library of Australia (NLA). An online search of the NLA's catalogue can be undertaken to identify which Standards it has available.

In previous EEIS instrument updates, the Scrutiny of Bills Committee has drawn attention to the instruments on the basis that they disapply sections 47(5) and (6) of the Legislation Act 2001, which provide that any instrument that is applied as law in the ACT is taken to be a notifiable instrument. Consistent with EPSDD's previous advice to the Committee, the reason for disapplying the application of section 47(5) to these instruments is to avoid breaching copyright. The copyright in Australian Standards is owned by a non-government organisation, Standards Australia.

While it may be prohibitive for EEIS stakeholders to purchase all of the standards referred to in the instruments, there are several factors that minimise undue expense in the case of these standards. In particular, most interested parties will already have copies of the relevant standards, and copies of many standards are available at the National Library of Australia (NLA).

The committee has previously suggested two options for improving public access to the documents, but unfortunately, neither of these options provide a practical solution.

First, the committee suggested that the directorate might list specific standards that are available at the NLA. This would be problematic, as the instruments intentionally refer to "the relevant parts of ... standards ... as in force from time to time" so that any updates of the standards are automatically applied. As standards are updated, this would render inaccurate any advice provided about which standards are available in the NLA.

The committee's second suggestion was that the standards might be made available for viewing through the Access Canberra shopfront, as is the National Construction Code (NCC). This option is unfortunately unavailable due to copyright restrictions which do not apply to the NCC. That code is freely available online at www.abcb.gov.au/ncc-online/NCC. In contrast, the conditions of use for the ACT Government's access to Australian Standards provide that all copies of standards supplied are only for use within the organisation and may not be shared or distributed.

Section 5 – Referenced documents

This section contains information about documents which the code of practice refers to. Links to the relevant references documents are also provided.

Section 6 – Revocation

This section repeals the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Code of Practice 2017*.

Outline of the provisions in the schedule

Part 1 Preliminary

Part 1 provides for the name of the code of practice, the application of the dictionary and makes reference to the offences provided for by the Act and under other legislation relating to the undertaking eligible activities.

Part 2 Important concepts

Part 2 identifies a number of important concepts relating to undertaking eligible activities as they relate to the Act and the Scheme, as well as the application of the code to certain stakeholders under the Scheme, including retailers, authorised contractors, authorised installers and authorised sellers.

This part also provides the object of and context for the code. The code is intended to be read in conjunction with a number of relevant instruments so that people operating under the Scheme will be aware of and consider all of the requirements applying to an eligible activity. This is important as requirements for activities are located in the Act, the determination of eligible activities made by the Minister and other codes of practice.

In addition, this part clarifies that the code is not intended to be exhaustive and all relevant legislation that applies to work involved in undertaking an eligible activity must be complied with. Retailers and their representatives cannot rely solely on the code to determine all relevant requirements. This includes other construction legislation that applies to certain activities, as well as fair trading, work health and safety and privacy legislation. This is important when considering the range of activities and the health, safety and other risks that may apply regardless of the Scheme. Section 7 provides that in the case of an inconsistency with another law, the highest legislative requirement must be complied with.

Part 3 General obligations

Part 3 outlines the requirements universal to the undertaking of eligible activities. Section 23 of the code of practice requires each retailer to nominate a central contact for compliance purposes. The purpose of this is to facilitate the coordinated provision of information between retailers and the Administrator.

This part provides for a number of consumer protections including:

- availability of information on the Scheme;
- management of consumer complaints;
- privacy of consumer information;
- general conduct standards, including those that reflect Australian Consumer Law in relation to unsolicited contact and dealings with consumers;

- a retailer's requirements to manage the conduct of their representatives and report any investigations by a relevant authority to the Administrator; and
- the mandatory provision of identification cards to authorised installers and other people attending premises on behalf of the retailer to arrange or undertake activities.

Section 29 also prescribes a requirement for retailers to assess the fitness and propriety of any person that will be attending a residential or business premises to arrange or undertake an eligible activity on its behalf. This section does not prescribe a particular test for fitness and propriety but provides for circumstances the retailer must consider such as whether a person attending a premises has been convicted of a criminal offence involving fraud, dishonesty or violence and the seriousness of the offence; the nature of work undertaken; whether the person attending a premises will be working alone or with others and the systems the retailer uses to manage the conduct of representatives.

This, and the other consumer protections included in this instrument, is essential for public safety as the Scheme requires that people attend and enter residential premises to undertake activities. The Scheme also requires that 20% of a Tier 1 retailer's obligation must be met by activities undertaken in a priority household.

Part 4 Competency of representatives

This Part provides for the general competency requirements of retailer and their representatives in relation to undertaking eligible activities, including that the retailer must engage suitably competent people to arrange and undertake eligible activities. The purpose of this part is to put in place regulation that mitigates risks associated with incompetent installation of products and to provide for a minimum level of competency for a person undertaking an eligible activity. While the actual competencies required will differ from activity to activity, consumers should be able to expect a reasonable level of competency from installers and other people they may deal with under the Scheme. It is particularly important that representatives have specific skills and knowledge relating to the activities they will be undertaking, and that a person holds any relevant licences or authorisations for the work. Representatives should also be familiar with the Scheme so that they are able to accurately inform consumers.

Section 40 outlines training requirements for each type of representative. A new training requirement was added to this section to comply with mandated training in the ACT (commencing on 1 July 2019) for working safely with asbestos.

Section 41 provides for requirements to attend induction courses on the Scheme and individual activities as required. Induction courses for installers are intended to familiarise all relevant parties with their rights and obligations under the Act and in relation to specific activities. Induction courses are run by the Administrator at no cost to the participant and provide an important tool for managing compliance of installers with the Act and for providing each participant with clear, consistent information about the Act and any requirements that may apply to a person.

Section 42 and Section 43 outline the training requirements for authorised contractors and installers, beyond the activity-specific training requirements covered in relevant sections and any generic training on the Scheme.

Sections 46 and 47 provide for the Administrator to be able to take certain actions when a retailer or their representative engage in conduct, or undertake an eligible activity, that presents or is likely to present a risk of death or injury to a person, significant harm to the environment or significant damage to a property. Section 46 allows the Administrator to give a direction to the retailer regarding an unsafe thing. Work associated with some eligible activities can pose serious risks to people, property and the environment. Activities include electrical work, plumbing work, gas fitting work and other work that can present a serious health and safety risk if not undertaken correctly and competently. While certain powers for rectification or mitigation do exist under relevant acts, these do not necessarily extend to all parties and activities in the Scheme. It is essential in these instances that a retailer that is responsible for an activity carried out under the Scheme is also made responsible for the management of the unsafe thing caused by undertaking that activity.

In cases of serious risks, section 47 allows the Administrator to restrict a person's operation under the Scheme. This restriction applies only to undertaking eligible activities for compliance with an energy savings obligation and not to activities a person may carry out for other purposes. The Administrator must be reasonable in the application of this section and be satisfied that reasonable grounds exist for giving the restriction. A restriction must be proportional to the risk and could take the form of requiring additional quality assurance of work, requiring a person undergoes training, requiring a person works under supervision or preventing a person from undertaking all or part of an activity.

For fairness, section 48 provides that the Administrator must review any restriction after three months of operation and must revoke the restriction if the cause no longer exists or that consumers will not be at a greater risk by using the person's services. The requirement to revoke in certain circumstances applies even where a restriction is continued.

Amendments here have expanded the range of generic training requirements, to take in elements that apply equally to multiple activities, and have previously been listed separately by those activities. Shifting them from each activity to this overarching section reduces the overall length of the instrument by removing double-ups across activities. It also improves consistency by consolidating requirements into single descriptions and thereby removing the potential for unintended inconsistencies that may be introduced where updates made to a subset of activities are intended to apply to all. Examples include a requirement for Asbestos Awareness Training and for a General Construction Induction Card where activities require construction work.

Part 5 Activity performance specifications

Part 5 prescribes general activity performance specifications and provides that an activity must meet all applicable requirements including those prescribed in the Act and in the instrument.

The purpose of the provisions in section 51, which require a person to operate within their own skills and training, are to protect consumers from unsafe or poor quality work or to prevent customers from being misinformed and deciding to take a particular action on the basis of that information.

All of the activities must be recorded in accordance with the record keeping and reporting code of practice.

A new section 53 has been inserted on risk treatment steps if friable asbestos is identified. In the case of friable asbestos being identified, this requires an installer to stop work, notify their immediate supervisor and the principle contractor, notify WorkSafe and all other relevant persons to provide for appropriate notifications and management by relevant licensed asbestos specialists. Notes have been added throughout the instrument indicating which activities may require risk treatments for asbestos.

Part 6 Activity 1.1 Building sealing activities

Part 6 details the specific requirements for undertaking building sealing activities as defined in Schedule 1 Part 1.1 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

Building sealing activities aim to minimise the flow of air into and out of, and the movement of differently heated air within buildings and rooms. These activities carry inherent risks related to condensation and oxygen supply. This is because oxygen can be depleted and/or moisture may build up in populated, fully sealed spaces. These risks are managed through the competency requirements and minimum activity performance specifications in Part 6.

A note has been removed which related to gas heating installations. This had been made redundant as there are no gas activities remaining in EEIS.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 7 Activity 1.2 Exhaust fan sealing activities

Part 7 details the specific requirements for sealing exhaust fans as defined in Schedule 1 Part 1.2 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 8 Activity 1.3 Ventilation opening sealing

Part 8 has been included for the first time. The activity had already existed in the *Energy Efficiency (Cost of Living) Improvement Eligible Activities Determination 2017*, however codes of practice had not yet been established. This is the final activity for which codes of practice have followed after the determination of an activity, and so there are now codes for all EEIS activities.

The structure and contents of Part 8 are equivalent for those of other relevant activities.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 9 Activity 1.4 Install a thermally efficient window

Part 9 details the specific requirements for installing a thermally efficient window as defined in Schedule 1 Part 1.4 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This activity also includes record keeping and reporting requirements relevant for this activity

Installers do not need to be licensed tradespeople. The product must be installed to comply with relevant Australian Standards.

The activity requirements are consistent with the requirements in the South Australian REES scheme. In particular, minimum warranty, compliance with Australian Standards and requirements for sealing the frame.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 10 Activity 1.5 Retrofit thermally efficient glazing

Part 10 details the specific requirements for retrofitting thermally efficient glazing as defined in Schedule 1 Part 1.5 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This activity also includes record keeping and reporting requirements relevant for this activity

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 11 Activity 1.6 Install thermally efficient window coverings

Part 11 details the specific requirements for installing thermally efficient window coverings as defined in Schedule 1 Part 1.6 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This activity includes record keeping and reporting requirements relevant for this activity.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 12 Activity 1.7 Install window pelmets

Part 12 details the specific requirements for installing window pelmets as defined in Schedule 1 Part 1.7 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This includes record keeping and reporting requirements relevant for this activity.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 13 Activity 1.8 Install ceiling insulation

Parts 13 and 14 deal with new activities 1.8 and 1.9 and detail the specific requirements for installing ceiling and underfloor insulation. These parts have been inserted and part numbering amended consequentially beyond.

Part 13 covers the installation of ceiling insulation. The details have been developed through a process of thorough risk assessment and extensive consultation, to ensure safety in activity delivery. Potential risks and risk treatment options of installing insulation were thoroughly mapped by independent experts, as reported in the stakeholder consultation paper on proposed new residential insulation and ventilation opening sealing activities³. The risk management framework for insulation activities implement safety recommendations from this consultation paper and the Home Insulation Program Royal Commission Reports⁴. For example, no foil products, accreditation and training of installers, turning off the power to the home before the installation and pre-electrical inspections by a licenced electrician and a percentage of households receiving post installation audits by an independent auditor to manage risks.

Competency requirements are that authorised installers for this activity must also be:

- an authorised electrician to conduct a pre-installation inspection and to issue and electrical safety report to advise whether installation can safely proceed, or

³ https://www.environment.act.gov.au/_data/assets/pdf_file/0004/1310386/EEIS-Residential-Insulation-Activities-Consultation-Paper.pdf

⁴ <http://www.homeinsulationroyalcommission.gov.au/Pages/default.html>

- authorised insulation installer to carry out the installation, where that person must hold current Clean Energy Council (CEC) Insulation Installer Full Accreditation, or
- independent insulation installation auditor to carry out onside audits of insulation inspections.

The code of practice also specifies the determination of the eligibility of premises, limiting the activity to certain types of residences and provides for a single ceiling insulation upgrade for both homes with either no insulation or insufficient insulation. Installation cannot occur where there are flueless gas heaters because of potential risks associated with carbon monoxide poisoning, but if present, gas connections may be removed and sealed prior to the activity being undertaken.

The extensive minimum performance specifications aim to ensure both safety and quality of installations. There are details about eligible ceiling spaces, products, pre-installation inspections, electrical safety and other risk management, when upgrades may be needed to existing wiring, dealing with recessed luminaires and other intrusions into the ceiling space, evidence requirements and waste management. Activity-specific record keeping and reporting requirements are also included.

Part 14 Activity 1.9 Install underfloor insulation

Part 14 covers the new activity for installing underfloor insulation. As with the ceiling insulation activity, details have been developed through a process of thorough risk assessment and extensive consultation, to ensure safety and quality in activity delivery.

Competency requirements are similar to those for ceiling insulation in that authorised installers for this activity include authorised electricians, insulation installers and independent insulation installation auditors. Eligibility requirements for building types are similar to those of ceiling insulation, and buildings must also have uninsulated suspended timber floors. Installation cannot occur where there are flueless gas heaters because of potential risks associated with carbon monoxide poisoning, but if present, gas connections may be removed and sealed prior to the activity being undertaken.

The code of practice also specifies the determination of the eligibility of premises, limiting the activity to certain types of residences and provides for a single ceiling insulation upgrade for both homes with either no insulation or insufficient insulation.

The extensive minimum performance specifications and record keeping requirements are similar to those for ceiling insulation and again aim to ensure both safety and quality of installations.

Part 15 Activity 2.1 Install a high efficiency central air conditioning heat pump

Part 15 details the specific requirements for installing a high efficiency central electric space heater defined in Schedule 2 Part 2.1 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity.

Competency requirements are similar across all space heating and cooling activities, including proficiencies in decommissioning existing electric or gas heaters when required in accordance with the *Electricity Safety Act 1971* and AS3000 and/or *Gas Safety Act 2000* and AS5601. Familiarity with residential climate control systems is required and competency in installing, commissioning, testing ductwork, explaining the use of equipment, and decommissioning, recycling and disposal of removed equipment. Decommissioned equipment must be removed and recycled if reasonable.

This activity is available in both residential and commercial buildings and for areas with existing gas or electric heaters of various types, or no heater.

Minimum activity specifications are detailed in the eligible activities determination, and this instrument provides additional details about refrigerant usage, testing and verification of installation. Noise level requirements are also detailed for residential settings.

Activity-specific recording and reporting requirements are specified, including the Annual Coefficient of Performance (ACOP) at condition H1, rated power input, whether the model is listed for cold climate heating at condition H2, which applicable register of products applies and some details about the type and floor area covered by any removed heater.

There have been several amendments to Part 15, which focus on expanding the activity to business premises and disaggregating sub-activities to accommodate a much greater range of pre-existing conditions and installed product requirements. The activity still focuses on installations in whole premises, not just rooms and other individual spaces as in Activity 2.3. However it now supports the installation of multiple split air conditioning heat pumps as a possible alternative to installing a central ducted heater.

The specific amendments are to:

- state that the activity can apply in either residential or business settings,
- provide for decommissioning of flues, grilles, registers, vents and other equipment associated with ducted heating systems, but not multiple split systems,
- Streamline activity-specific record keeping and reporting requirements.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 16 Activity 2.2 Install a high efficiency ducted gas heater (Discontinued)

Activity 2.2 has been removed because the installation of ducted gas systems is not consistent with the proposed ACT Government's greenhouse gas interim and long-term emission reduction targets.

Part 17 Activity 2.3 Install a high efficiency room air conditioning heat pump

Part 17 details the specific requirements for installing a high efficiency room electric space heater defined in Schedule 2 Part 2.3 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

Part 17 has been updated to support its application in business settings. The changes are also to update and streamline the competency requirements, installed product and decommissioning requirements to support these updates.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 18 Activity 2.4 Install insulated space conditioning ductwork

Details the specific requirements for installation in a premises of insulated space conditioning ductwork defined in Schedule 2 Part 2.4 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 19 Activity 2.5 – Replace separate central heating and cooling systems with a high efficiency central air conditioning heat pump

Part 19 introduces Activity 2.5 which replaces separate central heating and cooling systems with high efficiency central air conditioning heat pump. The activity is similar to 2.1, except that its application is to buildings with both inefficient cooling, and inefficient heating systems being replaced. The activity has so far been developed to apply only to business premises, but is designed to accommodate a possible future expansion to residential premises.

Part 20 Activity 2.6 - Replace separate room heating and cooling systems with a high efficiency room heat pump

Part 20 introduces Activity 2.6 which replaces separate room heating and cooling systems with high efficiency room air conditioning heat pump. The activity is similar to 2.3, except that its application is to buildings with both inefficient cooling, and inefficient heating systems being replaced. The activity has so far been developed to apply only to business premises, but is designed to accommodate a possible future expansion to residential premises.

Part 21 Activity 3.1 Decommission an electric resistance water heater and install a specified high efficiency water heater

Part 21 details the specific requirements for decommissioning and replacing an electric resistance water heater with either an electric boosted solar water heater or an electric heat pump water as defined in Schedule 3 Part 3.1 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This includes record keeping and reporting requirements relevant for this activity.

Part 21 has been amended to no longer require that Activity 3.3 low flow shower outlets be installed during a water heater upgrade. That change reflects amendments to the *Water and Sewerage Regulation 2001*.

Another change is to refer to the generic section on asbestos risk treatment in Section 53, if asbestos is identified.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 22 Activity 3.2 Decommission a gas or liquefied petroleum gas water heater and install a specified high efficiency water heater

Part 22 details the specific requirements for decommissioning and replacing gas or liquefied petroleum gas water heater with either an electric boosted solar water heater or an electric heat pump water as defined in Schedule 3 Part 3.2 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This includes record keeping and reporting requirements relevant for this activity.

Part 22 has been amended to no longer require that Activity 3.3 low flow shower outlets be installed during a water heater upgrade. That change reflects amendments to the *Water and Sewerage Regulation 2001*.

Another change is to refer to the generic section on asbestos risk treatment in Section 53, if asbestos is identified.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 23 Activity 3.3 Replace an existing shower fixture outlet with a low flow shower fixture outlet

Part 21 details the specific requirements for undertaking a replacement of an inefficient shower fixture outlet with a low flow product as defined in Schedule 3 Part 3.3 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

The activity is available at an existing residential or business premises.

Amendments have been made consistently with other hot water activities 3.1 and 3.2, to confirm that Activity 3.3 is not required when a water heater is replaced.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 24 Activity 4.1 Residential Lighting activities

Details the specific requirements for undertaking lighting activities as defined in Schedule 4 Part 4.1 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This part was updated to reflect current LED technology. This also includes record keeping and reporting requirements relevant for this activity.

Competency requirements in Part 24 have been amended to take account of updated course codes related to asbestos awareness and management.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 25 Activity 4.2 Commercial lighting upgrades

Details the specific requirements for commercial lighting upgrades defined in Schedule 4 Part 4.2 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity.

A note was added which refers to risk treatment steps described in Part 5 of this code if friable asbestos products are found.

Part 26 Activity 5.1 Decommissioning and disposal of refrigerator or freezer

Details the specific requirements for the decommissioning and disposal of a refrigerator or freezer as defined in Schedule 5 Part 5.1 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

Part 26 has been amended to clarify that it is the removal of refrigerant gases that must be carried out by an authorised installer who is a licensed technician for such decommissioning.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 27 Activity 5.2 Purchase of high efficiency refrigerator or freezer

Details the specific requirements for the purchase of a high efficiency refrigerator or freezer as defined in Schedule 5 Part 5.2 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 28 Activity 5.3 Purchase of high efficiency electric clothes dryer

Details the specific requirements for the purchase of a high efficiency electric clothes dryer as defined in Schedule 5 Part 5.3 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. It also includes record keeping and reporting requirements relevant for this activity.

Part 28 has been updated to allow for a combination washer-dryer that achieves a minimum efficiency rating of 6.5 stars.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 29 5.4 Purchase of high efficiency television

Details the specific requirements for the purchase of a high efficiency television as defined in Schedule 5 Part 5.5 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. It also includes record keeping and reporting requirements relevant for this activity.

The activity number was swapped with Stand by Power Controllers (previously 5.4) to fix numbering issues in the EEIS database.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 30 Activity 5.5 Install a standby power controller (*Revoked*)

Part 30 Activity 5.5 Install a standby power controller (*Revoked*) (previously Schedule 5 Part 5.4) has been removed from this legislation to harmonise with the removal of “*Schedule 29 in the Victorian Energy Upgrade Scheme (VEU)*”, which started on 4 December 2018. VEU removed SPCs in December 2018 due to a range of changes meaning that SPCs now offer no significant energy savings. As VEU has evidenced these changes include:

- “*Since 2010, the European Commission has enforced a 1 Watt standby power requirement for range of products, the requirement has now been reduced to 0.5W. Worldwide, these standards have influenced energy efficiency policy and the standby consumption of products. For example, the standby power consumption of new televisions has fallen from 15W to 0.5W. This reduction means that additional energy savings provided by an SPC are minimal.*”
- *The types of home entertainment and IT appliances connected in Victorian homes has changed since 2011. There has been a decrease in the ownership of DVD/Blu-ray players, desktop computers, mains powered game consoles and surround sound systems. Television ownership has also declined. Conversely, the proportion of households with laptop computers and mobile devices has increased, and as SPCs are less effective when connected to these types of devices. These changes have been mirrored in the non-residential sector.*
- *Energy use in IT network standby is increasingly likely to be targeted through network solutions such as wake-on-LAN programming, or innovations in product technology rather than SPCs.*

The combination of changes in appliance stock and product standby characteristics, are sufficient to warrant the removal of this activity.

Activity number 5.5 will not be used for other activities to avoid numbering issues in the EEIS database.

Part 31 Activity 5.6 Installation of a high efficiency swimming pool pump

Details the specific requirements for the installation of a high efficiency swimming pool pump as defined in Schedule 5 Part 5.7 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes record keeping and reporting requirements relevant for this activity.

Part 31 has been amended to require compliance with standards for demand response capabilities.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Part 32 Activity 5.7 Installation of a high efficiency refrigerated display cabinet

Details the specific requirements for the installation of a high efficiency refrigerated display cabinet as defined in Schedule 5 Part 5.7 of the eligible activities determination including the minimum competency requirements and activity performance specifications, determining if a premises is eligible for the activity and calculating abatement factors for the activity. This also includes requirements for record keeping and reporting code of practice.

For streamlining purposes, the requirement to report on the value of services has been removed from this part and added to the record keeping and reporting code of practice.

Dictionary

The dictionary has been updated to include or amend definitions for the following terms:

- AS 1530 – standard definition for Australian Standard regarding methods for fire tests on building materials, components and structures.
- AS 3999 – standard definition for Australian Standard regarding installation of bulk insulation.
- AS 4755 - standard definition for Australian Standards regarding the demand response capabilities of appliances.
- combustible – standard definition for combustible materials under AS 1530.1, consistent with the definition in the NCC Building Code of Australia – Volume 2 Part 1.1.
- AS/NZS 5263 – standard definition for new Australian Standard regarding ducted gas heaters energy efficiency rating;
- Australian Business Number – standard definition for new record keeping and reporting requirement;
- Business premises – amendment to existing definition to align with National Construction Code business classes and updated and streamlined with the eligible business premises definition;
- Date of completion – streamlining standard definition for existing record keeping requirement;
- Eligible business premises –updated and streamlined with the business premises definition
- Eligible residential premises – updated and streamlined with the residential premises definition;
- Implementation date – standard definition for new record keeping and reporting requirement;
- National Construction Code – standard definition required to allow updating of references from the previous ‘Building Code of Australia’ to the ‘National Construction Code’;
- New premises – “new residential premises” and “new business premises” definitions were deleted as they incorrectly defined new premises as being residential or commercial buildings built since 2011. The intention of EEIS is that activities will be done on existing buildings including those built since 2011;
- Priority Households – amended to include note with reference to the *Energy Efficiency (Cost of Living) Improvement (Priority Household Classes) Regulation 2017*;
- Register of products – amended to include Greenhouse and Energy Minimum Standards Act 2012 (GEMS); amended so that it refers to VEET and/or ESS, not VEET or ESS, as in previous versions; amended so that if a product is suspended from either GEMS, the VEET or the ESS product register, it is not eligible to be used under EEIS;
- Residential premises – updated and streamlined with the eligible residential premises definition.