

# Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2022

Disallowable instrument DI2022–181

made under the

Energy Efficiency (Cost of Living) Improvement Act 2012, s 10 (Eligible activities)

## EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2022* (the **Determination**). It has been prepared in order to assist the reader of the Determination. It does not form part of the Determination and has not been endorsed by the Assembly.

This explanatory statement clarifies the intent of the Determination and must be read in conjunction with the Determination. It is not, and is not intended to be, a comprehensive description of the Determination. What is written 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 *Energy Efficiency (Cost of Living) Improvement Act 2012* (the **Act**) establishes the Australian Capital Territory's Energy Efficiency Improvement Scheme (**EEIS** or the **Scheme**), which aims to encourage the efficient use of energy; reduce greenhouse gas emissions associated with energy use in the Territory; reduce household and small-to-medium sized business energy use and costs; and increase opportunities for priority households to reduce energy use and costs. The EEIS establishes a Territory-wide Energy Savings Target (**EST**), defined as a proportion of a retailer's total electricity sales in the ACT.

The Act requires individual electricity retailers to achieve energy savings by delivering eligible activities to households and small-to-medium enterprises. The purpose of the Determination is to establish the eligible activities that can be undertaken by energy retailers to achieve the EST. The Determination is a disallowable instrument made under the Act, section 10.

This Determination retains the suite of EEIS Eligible Activities previously legislated but contains the following amendment to clauses 3.1 and 3.2 of Schedule 1:

Schedule Clause	Change
3.1.3 (b) (iii)	<p>“iii. is rated a medium size under AS/NZS 4234 and listed as achieving not less than 28 certificates (RECs) in Zone 5 (HP5-AU) as determined in accordance with AS/NZS 4234 and TRNSYS simulation; and ”</p> <p>is replaced by</p> <p>“iii. is rated a medium size under AS/NZS 4234 and listed as achieving not less than 25.2 certificates (RECS) for the period of 1 January 2022 – 31 December 2022 and not less than 22.4 certificates (RECs) for the period of 1 January 2023 – 31 December 2023 in Zone 5 (HP5-AU) as determined in accordance with AS/NZS 4234 and TRNSYS simulation; and ”</p>
3.1.5 (b)	<p>“Where—</p> <ul style="list-style-type: none"> <li>i. <math>ESF_{base}</math>, <math>ESF_{Bs}</math> and <math>ESF_{Be}</math> are the activity energy savings values prescribed in table 25 for the system size and type as determined in accordance with AS/NZS 4234 based on the system’s peak daily thermal energy load delivery characteristics;</li> <li>ii. <math>Be</math> is 0 (for medium size heat pump systems only); and</li> <li>iii. <math>Bs</math> is <math>(1 - RECs \times 0.0214) \times 16.67</math> (for medium size heat pump systems only) in GJ.</li> </ul> <p>Where <math>RECs</math> is the number of certificates for an installation in Zone 5 for the specific model as listed by the CER in the register of air source heat pumps with a volumetric capacity of no more than 425 L and where the number of RECs is greater than or equal to 28 for Zone 5 (HP5-AU).”</p> <p>is replaced by</p> <p>“Where—</p> <ul style="list-style-type: none"> <li>i. <math>ESF_{base}</math>, <math>ESF_{Bs}</math> and <math>ESF_{Be}</math> are the activity energy savings values prescribed in table 25 for the system size and type as determined in accordance with AS/NZS 4234 based on the system’s peak daily thermal energy load delivery characteristics;</li> <li>ii. <math>Be</math> is 0 (for medium size heat pump systems only); and</li> </ul>

Schedule Clause	Change
	<p>iii. <math>B_s</math> is <math>(1 - (\text{RECs} \times m) \times 0.0214) \times 16.67</math> (for medium size heat pump systems only) in GJ.</p> <p>Where:</p> <ul style="list-style-type: none"> <li>- <i>RECs</i> is the number of certificates for an installation in Zone 5 for the specific model as listed by the CER in the register of air source heat pumps with a volumetric capacity of no more than 425 L and where the number of RECs is greater than or equal to 25.2 for Zone 5 (HP5-AU) for the period of 1 January 2022 – 31 December 2022 and greater than or equal to 22.4 for Zone 5 (HP5-AU) for the period of 1 January 2023 – 31 December 2023.</li> <li>- <i>m</i> is the RECs multiplier and is equivalent to <math>\frac{10}{9}</math> for the period of 1 January 2022 – 31 December 2022 and equivalent to 1.25 for the period of 1 January 2023 to 31 December 2023.”</li> </ul>
3.2.3 (b) (iii)	<p>“iii. is rated a medium size under AS/NZS 4234 and listed as achieving not less than 28 certificates (RECs) in Zone 5 (HP5-AU) as determined in accordance with AS/NZS 4234 and TRNSYS simulation; and”</p> <p>is replaced by</p> <p>“iii.is rated a medium size under AS/NZS 4234 and listed as achieving not less than 25.2 certificates (RECS) for the period of 1 January 2022 – 31 December 2022 and not less than 22.4 certificates (RECs) for the period of 1 January 2023 – 31 December 2023 in Zone 5 (HP5-AU) as determined in accordance with AS/NZS 4234 and TRNSYS simulation; and”</p>
3.2.5 (b)	<p>“Where —</p> <ul style="list-style-type: none"> <li>i. <math>ESF_{base}</math>, <math>ESF_{B_s}</math> and <math>ESF_{B_e}</math> are the activity energy savings values prescribed in table 26 for the system size and type as determined in accordance with AS/NZS 4234 based on the system’s peak daily thermal energy load delivery characteristics;</li> <li>ii. <math>B_e</math> is 0 (for medium size heat pump systems only); and</li> <li>iii. <math>B_s</math> is <math>(1 - \text{RECs} \times 0.0214) \times 16.67</math> (for medium size heat pump systems only) in GJ</li> </ul> <p>Where RECs is the number of certificates for an installation in Zone 5 for the specific model as listed by the CER in the register of air source heat pumps with a volumetric capacity of no more than 425L and where the number of RECs is greater than or equal to 28 for Zone 5 (HP5-AU).”</p>

Schedule Clause	Change
	<p>is replaced by</p> <p>“Where —</p> <ul style="list-style-type: none"> <li>iv. <math>ESF_{base}</math>, <math>ESF_{Bs}</math> and <math>ESF_{Be}</math> are the activity energy savings values prescribed in table 26 for the system size and type as determined in accordance with AS/NZS 4234 based on the system’s peak daily thermal energy load delivery characteristics;</li> <li>v. <math>Be</math> is 0 (for medium size heat pump systems only); and</li> <li>vi. <math>Bs</math> is <math>(1 - (RECs \times m) \times 0.0214) \times 16.67</math> (for medium size heat pump systems only) in GJ</li> </ul> <p>Where:</p> <ul style="list-style-type: none"> <li>- <math>RECs</math> is the number of certificates for an installation in Zone 5 for the specific model as listed by the CER in the register of air source heat pumps with a volumetric capacity of no more than 425L and where the number of RECs is greater than or equal to 25.2 for Zone 5 (HP5-AU) for the period of 1 January 2022 – 31 December 2022 and greater than or equal to 22.4 for Zone 5 (HP5-AU) for the period of 1 January 2023 – 31 December 2023.</li> <li>- <math>m</math> is the RECs multiplier and is equivalent to <math>\frac{10}{9}</math> for the period of 1 January 2022 – 31 December 2022 and equivalent to 1.25 for the period of 1 January 2023 to 31 December 2023.”</li> </ul>

The amendment is to adjust the minimum Small-scale Technology Certificates (*STCs*) required under the Determination in line with the *Renewable Energy (Method for Solar Water Heaters) Determination 2016* (the **Regulation**) to reinstate appropriate eligibility and achievement of Energy Savings Factors (*ESFs*). The Regulation was updated by the Clean Energy Regulator in December 2021 (with the changes coming into effect on 1 January 2022) to implement an incremental reduction in the deeming period (number of years of operation the technology is credited for) for Solar Water Heaters and Air Source Heat Pumps for all systems installed after 1 January 2022. This change will reduce the number of STCs that systems are eligible for. This does not reflect any decline in the efficiency of these systems. Several commonly installed hot water heat pumps (*HWHP*) that were previously eligible under this activity are currently excluded due to the reduction in STCs credited to HWHP to reflect the decreased deeming period. There has been no change to the performance of these systems nor their ability to provide energy savings under the EEIS. In addition to revising the minimum STCs required under the Determination in the line with the Regulation, this amendment revises the method for calculating ESFs for affected activities to ensure the ESFs acquired for undertaking a specified activity are restored to eligible amounts as were achieved prior to the amended Regulation.

To ensure consistency with the Commonwealth legislation and to avoid unreasonable negative impacts on retailers delivering the activities, the Determination is taken to have commenced on 1 January 2022.

The amendment has positive impacts on obligated retailers that are delivering activities by reinstating the eligibility of HWHP systems that have fallen below the eligibility threshold following amendments to the Regulation and ensuring they achieve the same ESFs as were eligible before the amendments to the Regulation. This avoids unintentionally restricting retailers' opportunities to meet their obligations under the Scheme and unintentionally decreasing the ESFs retailers are eligible to receive for undertaking these activities.

Households that have received an installation of the affected models of medium-size hot water heat pumps (**MSHWHP**) will not be impacted by the change. The amendment only affects how ESFs are calculated for a retailer undertaking the activities to meet their retailer energy savings obligation (**RESO**) since 1 January 2022.

Businesses will be unaffected as the only retailer currently delivering activities is not delivering MSHWHP to businesses.

The Determination does not affect any Tier 2 retailers as none of these are currently delivering activities under the EEIS. However, the amendment will provide Tier 2 retailers the possibility to deliver these activities to meet their RESO if they should choose to do so.

The Determination does not engage the *Human Rights Act 2004*.

## Clause Notes

**Clause 1** names the instrument.

**Clause 2** provides that the instrument is taken to have commenced on 1 January 2022.

**Clause 3** determines the eligible activities, in the schedule, that can be undertaken by electricity retailers and approved energy savings providers to meet the EST.

In summary, the schedule of the Determination defines the eligible activities, and for each activity:

- (a) sets minimum performance specifications;
- (b) outlines installed product requirements;
- (c) specifies when activities are complete; and
- (d) sets out how the energy savings factor is calculated for each activity.

The eligible activities described in the Determination are categorised as:

1. Residential building envelope activities
2. Space heating and cooling activities
3. Hot water service activities
4. Lighting activities
5. Appliance activities

**Clause 4** disapplies the *Legislation Act 2001*, section 47 (5) and (6). This section is disapplied because it stipulates that any external text which is to be applied as law in

the ACT needs to be republished as a notifiable instrument. It is not possible to republish text contained in Australian Standards documents as they are protected by copyright. It is not practical to republish information in the National Construction Code as it contains over 400 pages of information across 4 volumes.

**Clause 5** revokes the *Energy Efficiency (Cost of Living) Improvement (Eligible Activities) Determination 2020 (No 2)* (DI2020-218).