Regulatory Impact Statement

Energy Efficiency Improvement Scheme

Setting Key Scheme Parameters for 2026 by Disallowable Instruments:

Energy Efficiency (Cost of Living) Improvement (Energy Savings Target) Determination 2025 DI2025-258

Energy Efficiency (Cost of Living) Improvement (Energy Savings Contribution) Determination 2025 DI2025-259

Energy Efficiency (Cost of Living) Improvement (Penalties for noncompliance) Determination 2025 DI2025-260

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

September 2025

Contents

1. Executive summary

The *Energy Efficiency (Cost of Living) Improvement Act 2012* (the Act) establishes the Australian Capital Territory's (ACT's) Energy Efficiency Improvement Scheme (EEIS/the 'Scheme'), which aims to encourage the efficient use of energy; reduce greenhouse gas emissions associated with energy use in the Territory; reduce household and small to medium sized business energy use and costs; and increase opportunities for priority households to reduce energy use and costs. The EEIS establishes a Territory-wide energy savings target (EST), defined as a proportion of a retailer's total electricity sales in the ACT.

The Act requires electricity retailers to achieve energy savings by delivering eligible activities to households and small-to-medium businesses. Eligible activities are determined by the Minister and include insulation, draught sealing, efficient space heating and cooling systems, water heaters and other items that reduce energy bills and provide energy savings while maintaining quality of life. EEIS 'tier 1' retailers must deliver energy savings activities or acquire energy savings factors (ESFs) from Approved Energy Savings Providers (AESPs), while 'tier 2' retailers can either deliver eligible activities, acquire ESFs from AESPs, or opt to pay an Energy Savings Contribution (ESC). Any retailer that fails to meet its obligations under the Scheme within a given compliance period is required to pay a 'shortfall penalty'.

This Regulatory Impact Statement (RIS) was prepared in accordance with Part 5.2 of the *Legislation Act 2001*. The specific proposal considered in this document is for the following Scheme parameters to be set by the responsible Minister in disallowable instruments for the 2026 compliance period:

- Energy Savings Target at 14.6%
- Energy Savings Contribution at $27.43/MWh, and
- Shortfall Penalty at $71.32/MWh.

These parameters are set by the following disallowable instruments (the determinations):

- *Energy Efficiency (Cost of Living) Improvement (Energy Savings Target) Determination 2025*
- *Energy Efficiency (Cost of Living) Improvement (Energy Savings Contribution) Determination 2025*
- *Energy Efficiency (Cost of Living) Improvement (Penalties for noncompliance) Determination 2025*

2. The authorising law

The EEIS is the ACT's market-based Energy Efficiency Obligation (EEO) scheme established under the Act. The Act was passed by the Legislative Assembly on 3 May 2012 and the Scheme is currently legislated to run until 31 December 2030. Under the Act, an energy savings target (EST) is established, which determines the total energy savings to be achieved by individual retailers in a compliance period, expressed as a percentage of their total electricity sales in the ACT. A retailer's energy savings obligation (RESO) for a compliance period is calculated as follows: EST (%) x electricity sales (in megawatt hours or MWh).

Tier 2 retailers that choose not to deliver energy savings activities or acquire ESFs are required to achieve their RESO through the payment of an energy savings contribution (ESC). In cases where a retailer fails to meet their RESO, a shortfall penalty applies.

The EST and ESC must be determined by the Minister for Water, Energy and Emissions Reductions no later than six months before the commencement of the compliance period (by 30 June) if it increases; or no later than three months before the commencement of the compliance period (by 30 September) if there is no increase.

3. Policy objectives of the disallowable instruments

The determinations set three of the key parameters for the EEIS. The objects of the Scheme, as set out in Section 6 of the Act, are to:

(a) encourage the efficient use of energy; and
(b) reduce greenhouse gas emissions associated with energy use in the Territory; and
(c) reduce household and business energy use and costs; and
(d) increase opportunities for priority households to reduce energy use and costs[1].

These objects also deliver on key objectives of the *ACT Climate Strategy 2019–2025*[2] including: achieving net zero emissions in the ACT by 2045 at the latest; building resilience to climate change impacts; and supporting a just transition to net zero emissions. As one of the most cost-effective ways for the ACT to reduce emissions and energy bills, the EEIS is a key delivery mechanism of the Climate Change Strategy. The EEIS plays a key role in supporting the delivery of the ACT's Integrated Energy Plan 2024-2030 (IEP) through supporting vulnerable households via the EEIS Priority House Target (PHT). The EEIS supports the objective of a just transition through the PHT, which specifies a minimum proportion of energy savings activities to be delivered to priority households.

4. Achieving the policy objectives

An independent review of the EEIS was completed in 2024 by Frontier Economics[3] (the Review). The Review found that the Scheme's reported energy savings met legislated targets and contributed to each of the four objects of the Act. Non-additionality was identified as a key issue facing the EEIS through the review, and work is ongoing to explore improvements to the scheme in response. Non-additionality relates to activities delivered under the EEIS also being supported through other means such as other Government programs (Sustainable Household Scheme), legal requirements (minimum insulation

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[1] Note that Object (d) is addressed through a separate disallowable instrument *Energy Efficiency (Cost of Living) Improvement (Priority Household Target) Determination 2025.*
[2] Available at [ACT Climate Change Strategy to 2019-25]
[3] Available at [Review of the Energy Efficiency Improvement Scheme]

standards) or existing product market share, and the EEIS therefore not being solely attributable for an activity's completion.

The scheme achieved an energy savings target of 14.6% in the 2024 compliance year and is expected to continue to meet future targets. The Scheme is providing a positive cost-benefit ratio of 1.5:1 and has provided $256 million in lifetime energy bill cost savings and over 1 million tonnes of CO_2-e emissions abatement.

Maintaining scheme settings for 2026 will allow ongoing achievement of the EEIS objectives and ensure the scheme continues to strike a balance of benefits for the ACT community while not applying an onerous compliance burden on electricity retailers.

5. Target setting context and level of scheme ambition

The EEIS aims to deliver benefits to the ACT community in the form of reduced electricity bills and emissions abatement through energy savings delivered from eligible activities. This includes the installation of efficient electric heating systems, hot water heat pumps and ceiling insulation to improve the energy efficiency of ACT households and businesses.

The EEIS must also ensure the requirements on electricity retailers to deliver these benefits are not excessively onerous and the cost of compliance for retailers is reasonable. The level of ambition relates to the value of target setting parameters including the EST, PHT and ESC to ensure benefits for households and businesses is evenly balanced with the associated compliance and cost burden on retailers.

To meet their EEIS obligations, retailers must deliver eligible activities to ACT households and businesses or elect to pay an ESC if they are a tier 2 retailer. This activity delivery achieves the strategic purposes of the scheme to reduce emissions and the cost of energy for ACT electricity customers and includes targeted activity delivery towards priority households to ensure scheme equity. These costs of compliance are then passed through to customers as part of their electricity bill, so both the benefits of the scheme and the cost burden of its delivery must be considered when setting annual scheme targets.

The EEIS is funded via pass-through costs incorporated in the electricity bills of all ACT energy users. ActewAGL Retail is the only tier 1 retailer, and the only retailer that is currently delivering activities. ActewAGL is also a regulated retailer, meaning its EEIS pass-through costs are determined by the Independent Competition and Regulatory Commission (ICRC)[4]. This determination is made annually, based on a methodology that takes account of legislative requirements and cost estimates provided by ActewAGL.

4 Source: https://www.icrc.act.gov.au/energy/electricity

5.1 Setting the Energy Savings Target

The EST setting aims to optimise EEIS outcomes including energy savings, bill savings and Net Present Value (NPV) to the ACT economy. It is recommended that the EST be kept at 14.6% for the 2026 compliance period as supported by the below analysis.

The EST aims to keep the EEIS pass-through cost to under $4/MWh, both to align with the energy savings contribution value set for tier 2 retailers and to ensure the scheme delivers effective energy savings outcomes while minimising costs to consumers. Previous modelling by Common Capital has shown an EST of 14.6% represents a medium ambition pathway for the EEIS, where the benefits are evenly balanced against minimising costs of compliance for retailers and the consequent pass-through costs on electricity customers.

Realised pass through costs for the tier 1 retailer have been below this target cost of $4/MWh, with the Independent Competition and Regulatory Commission (ICRC) agreeing to a tier 1 retailer pass-through cost of $2.90/MWh in 2023 – 2024. Despite the retailer exceeding the EST set for that year, the low pass-through cost suggested that the target was set too low and did not accurately reflect scheme ambition. The pass-through cost was however increased to $3.50/MWh for 2024 – 2025 due to demand for more expensive activities and adjustments from under recovery in 2023-2024.

This increase has been driven by a transition away from low-cost activities such as lighting upgrades and draught sealing towards lower volume but higher cost activities such as ducted heating upgrades and hot water heat pumps. These activities can cost significantly more to install and are leading to a higher cost of EEIS compliance. This is largely due to high market penetration of the lower cost upgrades and increased difficulty in attracting customers without offering higher value energy efficiency activities.

This increasing pass-through cost, higher difficulty in reaching customers and delivery of high cost EEIS activities indicate the current EST of 14.6% is appropriate and delivering effective benefits for the ACT community while minimising costs, as the 2025 – 2026 pass-through cost is still expected to be below $4/MWh.

5.2 Setting the Energy Savings Contribution

Smaller tier 2 retailers can opt to pay an energy savings contribution (ESC) to meet their obligation under the EEIS. This is intended to offset the cost advantage a tier 1 retailer would have if a tier 2 retailer were required to set up and deliver energy efficiency services. This simplified obligation considers the impact of the EEIS on competition and reduces the risk that compliance costs may lead to a competitive disadvantage for smaller retailers in electricity retail markets.

All tier 2 retailers currently opt to pay the ESC as an alternative to delivering activities. It is recommended that the ESC be maintained at $27.43/MWh. The ESC calculation is based on the modelled cost of compliance for a tier 1 electricity retailer.

5.3 Setting Penalties for Noncompliance

The shortfall penalty acts as an upper limit to potential costs for delivering activities and aims to disincentivise noncompliance, including the risk of tier 1 retailers not delivering activities. If a retailer's energy savings result is a net shortfall, the retailer is liable to pay a shortfall penalty to the Territory.

The shortfall penalty for the period 1 January 2025 to 31 December 2025 is $71.32/MWh as determined by the *Energy Efficiency (Cost of Living Improvement (Penalties for Noncompliance) Determination 2024*. The ICRC uses the shortfall penalty as a ceiling on its price determination. Compliance has been high under the Scheme, and the shortfall penalty has not been applied to date.

The shortfall penalty of $71.32/MWh is 2.6 times the value of the ESC, this is based off previous modelling conducted to understand the lowest value of the shortfall penalty that would still ensure high scheme compliance.

5.4 Summary of proposed key Scheme parameters

For the reasons outlined above, the EEIS settings for the 2026 compliance period will remain constant with the values for the 2023, 2024 and 2025 compliance periods as follows:

- Energy Savings Target at 14.6%
- Energy Savings Contribution at $27.43/MWh, and
- Shortfall Penalty at $71.32/MWh.

Maintaining a 14.6% energy savings target is considered optimal as it delivers higher effectiveness against the objects of the Scheme without imposing additional pass-through costs on ACT electricity consumers.

6. Strategy for further implementation, review and consultation

The regulatory revisions presented here will be achieved through a continuation of current EEIS implementation processes. The Act allows the EST and ESC to be reviewed and re-set by the Minister throughout the life of the Scheme. The Act requires that increased targets be set at least six months ahead of the relevant compliance period to provide business clarity to retailers.

The ACT Government will continue reviewing Tier 1 delivery costs, pass-through costs, and the energy savings outcomes, and adjust Scheme parameters if needed.

7. Consistency of the proposed law with the authorising law

The Act requires the Minister to determine an EST at least six months before the start of the compliance period if the EST is to be increased, or in any other case, at least 3 months before the start of the relevant compliance period. Compliance periods are calendar years. As the proposal is to retain, rather than increase the EST, the determination will be made at least three months before the beginning of 2026.

The Act requires the shortfall penalty to be determined at least 3 months before the start of the compliance period to which the shortfall penalty relates.

8. Inconsistency with the policy objectives of another territory law

The determinations are not inconsistent with the policy objectives of another Territory law.

9. Reasonable alternatives to the proposed law

The Act requires the Minister to make the determinations therefore not making the disallowable instruments is not an option.

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

The details provided above in sections 5 – 5.4 outline the benefits and costs of the scheme and justification for choosing the medium ambition scheme settings. The table below outlines the costs and benefits of the three levels of scheme ambition:

Scheme setting	**Unit**	**Low ambition**	**Medium ambition**	**High ambition**
EST	*%*	12.5%	14.6%	19.7%
ESC	*$/MWh*	$24.69	$27.43	$32.00
Shortfall Penalty	*$*	$64.20	$71.32	$83.20
Lifetime energy savings from the scheme, 2013-2030	*GWh*	3815	3953	4303
Lifetime emission reductions from the scheme, 2013-2030	*kt CO2-e*	793	819	901
Lifetime bill savings from the scheme, 2013-2030	*$ million*	$649.00	$662.00	$682.00
Estimated Pass through cost	*$/MWh*	$3.10	$4.00	$6.30
Estimated Average annual bill increases	*$*	$19.76	$25.48	$40.16
Net present value of public investment	*$ million*	$72	$80	$95

11. Human rights

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

12. Assessment of the consistency of the proposed law with Scrutiny of Bills Committee principles

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) must consider whether any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly:

(i) *is in accord with the general objects of the Act under which it is made,*
(ii) *unduly trespasses on rights previously established by law,*
(iii) *makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions, or*
(iv) *contains matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.*

The position in relation to each term of reference is as follows.

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

As noted above, the determinations are in accordance with the general objects of the Act.

(ii) unduly trespasses on rights previously established by law

The determinations do not unduly trespass on rights previously established under law.

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

The determinations do 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 subject matter of the determinations is appropriate for disallowable instruments.

13. Conclusion

This RIS was prepared in accordance with Part 5.2 of the *Legislation Act 2001*, to consider the following Scheme parameters for the EEIS for the 2026 compliance period:

- Energy Savings Target at 14.6%
- Energy Savings Contribution at $27.43/MWh, and
- Shortfall Penalty at $71.32/MWh.

These parameters are consistent with the objectives of the Act and translate into an appropriate level of Scheme ambition.