

# **Renewable Energy (Electricity) Amendment Regulations 2001 (No. 1) 2001 No. 219**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2001 No. 219**

Issued by the Authority of the Minister for the Environment and Heritage

*Renewable Energy (Electricity) Act 2000*

Renewable Energy (Electricity) Amendment Regulations 2001 (No. 1)

The *Renewable Energy (Electricity) Act 2000* (the Act) provides the legislative framework for the implementation of the Government's mandatory renewable energy target, announced by the Prime Minister on 20 November 1997. The mandatory renewable energy target (the target) is designed to increase the amount of electricity in Australia that has been generated from renewable energy sources. By 2010, an additional 9,500 GWh of electricity will be required to be supplied from renewable energy sources, to raise the contribution that renewable energy sources make to Australia's electricity supply to around 12%.

The Act puts into place the target by establishing a legal requirement for wholesale purchasers (liable parties) of electricity to increase the amount of electricity they buy from renewable energy sources or pay a penalty [Parts 3 and 4]. The Act establishes the framework for renewable energy generators (eligible parties) to create 'renewable energy certificates' [Part 2] which can be sold to liable parties and surrendered [Part 5] to a Renewable Energy Regulator to demonstrate compliance with the requirements of the Act.

Sub-section 161 (1) of the Act provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Sub-section 161 (2) provides that the draft regulations be available for public comment for a period of 30 days before the regulations are made.

The purpose of the Regulations is to prescribe additional solar water heaters as eligible to contribute to the achievement of the target, and to clarify existing provisions and add further requirements relating to solar water heaters. The Regulations also clarify existing processes to determine a power station's ability to contribute to the target.

The Regulations add further solar water heater models to Schedule 7. By listing the new solar water heaters, homeowners who install them can access financial incentives. The Regulations add 80 additional eligible solar water heaters. The inclusion of many new solar water heaters takes effect from 1 April 2001. The Regulations also add further requirements for solar water heaters to contribute towards the target, and remove the requirement that the electricity displaced by the installation of a solar water heater must be based on fossil fuels in order to contribute towards the target.

Additionally, the Regulations provide clarification on the processes that the Regulator can use to determine a power station's ability to generate electricity that can contribute to the achievement of the target.

The Regulations also restructure the Renewable Energy (Electricity) Regulations 2001 to better align with clauses of the Act, and to correct typographical errors.

The Regulations commence on gazettal. The backdating of eligibility of certain solar water heaters does not breach subsection 48 (2) of the Acts Interpretation Act 1901 as the retrospective nature of the amendment does not disadvantage any person.

Details of the Regulations are set out in the Attachment.

## **Attachment**

### **Details of the Renewable Energy (Electricity) Amendment Regulations 2001 (No. 1)**

#### **Regulation 1 - Name of Regulations**

This provides that the name of the regulations is the Renewable Energy (Electricity) Amendment Regulations 2001 (No. 1).

#### **Regulation 2 - Commencement**

This provides for the regulations to commence upon gazettal.

#### **Regulation 3 - Amendment of the Renewable Energy (Electricity) Regulations 2001**

This regulation provides for Schedule 1 to amend the Renewable Energy (Electricity) Regulations 2001.

#### **Regulation 4 - Transitional**

This regulation relates to a number of solar water heater models (Item 14 to 17, and 34 and 35 of Part 2 of Schedule 7 of the Renewable Energy (Electricity) Regulations 2001). In the amendment regulations, the certificate amounts of some eligible solar water heater models are increased or decreased due to the incorporation of new data. In instances where certificate values are decreased, the values listed in the Renewable Energy (Electricity) Regulations 2001 will continue to apply to solar water heaters that were installed before 23 August 2001.

### **Schedule 1 Amendments**

#### **Item 1 of Schedule 1 - Subregulation 3 (1), definition of *native forest***

This amendment inserts into the regulations a definition of native forest instead of referring to the Native Forest Policy Statement. The definition provided for *native forest* in the National Forest Policy Statement is inserted directly into the regulations.

#### **Item 2 of Schedule 1 - Subregulation 3 (1), definition of *plantation***

This amendment inserts into the regulations a definition of a plantation instead of referring to the Native Forest Policy Statement. The definition provided for *plantation* in the National Forest Policy Statement is inserted directly into the regulations.

#### **Item 3 of Schedule 1 - After Subregulation 3 (2)**

This amendment inserts a definition of a solar water heater. This definition is based on Regulation 11 of the Renewable Energy (Electricity) Regulations 2001.

The definition retains the requirement that the solar water heater itself must be certified as compliant with the requirements of Australian Standard 2712-1993 if it has a capacity of up to 700 litres, or be certified as compliant with the requirements of section 1.3 of Australian Standard 2712-1993 if it has a capacity of more than 700 litres, for the installation of the solar water heater to be eligible.

However, where the manufacturer can demonstrate to the satisfaction of the Regulator that a particular model of solar water heater is in the process of gaining certification against Australian Standard 2712-1993 and where that certification is gained prior to 1 January 2002, that model of solar water heater can be eligible for renewable energy certificates if the manufacturer of the

solar water heater has calculated the amount of non-renewable electricity that will be displaced by the heater through a methodology which is approved by the Regulator. Where solar water heaters are eligible under these conditions, should certification against the Australian Standard not be gained by 1 January 2002, the solar water heater will no longer be eligible for renewable energy certificates.

The requirement is removed that a solar water heater must displace non-renewable electricity to be eligible for renewable energy certificates. The amendment retains the requirement that a solar water heater must displace electricity, regardless of whether it is from a renewable or non-renewable source, in order to be eligible.

#### **Item 4 of Schedule 1 - Subregulation 7 (3)**

This amendment deletes text from existing Subregulation 7(3), consistent with the new definition of solar water heater as outlined in the Item 3 of Schedule 1 of the amendment regulations.

The requirement that eligible renewable energy sources must be used to generate electricity in order to participate in the scheme established by the Act, is retained.

#### **Item 5 of Schedule 1 - Regulation 11**

This amendment removes Regulation 11, which has been moved to create a definition of a solar water heater in Item 3 of Schedule 1 - after subregulation 3 (2).

#### **Item 6 of Schedule 1 - Subregulation 14(2)**

This amendment corrects an error in the formula for calculating renewable energy certificate eligibility.

#### **Item 7 of Schedule 1 - Paragraph 19 (1) (b) and Item 8 of Schedule 1 - After paragraph 19 (1) (b)**

These amendments provide that a solar water heater displaces electricity if it is installed in a new building. This provision has been moved from subregulation 19 (5) (refer to Item 14) and added to subregulation 19 (1) in order to consolidate the eligibility clauses for solar water heaters.

#### **Item 9 of Schedule 1 - Subregulation 19 (2)**

This amendment removes the requirement that electricity displaced by a solar water heater must be based on predominantly fossil fuels in order to be eligible for renewable energy certificates. The previous clause did not allow solar water heaters in areas with over 50% renewable energy supply to be eligible. With this amendment, all eligible solar water heaters displacing electric water heaters will be able to participate in the measure.

The amendment also provides guidance on the eligibility of solar water heaters when they replace electric systems. Where a solar water heater replaces an electric hot water system or an electric-boosted solar water heater, the existing installation must have been installed for at least one year at the same location as the solar water heater replacing it, in order for the installation of the solar water heater to meet the criteria of having displaced electricity.

#### **Item 10 of Schedule 1 - Subparagraph 19 (3) (a) (i)**

This amendment deletes text from the existing Subparagraph 19 (3) (a) (i) consistent with the new definition of solar water heater as outlined in the Item 3 of Schedule 1 of the amendment regulations.

### **Item 11 of Schedule 1 - Subparagraph 19 (3) (a) (iii)**

This amendment extends the timeframe within which certificates for solar water heaters may be created, from within 6 months, to only within 12 months. This amendment will ensure that there is sufficient time for the creation of certificates from the time that the system is purchased.

### **Item 12 of Schedule 1 - Paragraph 19 (3) (b)**

This amendment inserts a reference to the new Part 3 of Schedule 7. Part 3 of Schedule 7 lists additional eligible solar water heater models.

### **Item 13 of Schedule 1 - Subparagraph 19 (4) (b) (ii)**

This amendment clarifies the calculation to determine the number of renewable energy certificates for which a replacement solar water heater is eligible. The amendment deletes the reference to the least efficient system and inserts reference to the base model, nearest in size. Where the old solar water heater, or a similar system, is not listed in Schedule 7, the amount of certificates for the new system is reduced by the amount listed for the base model, nearest in size, in Schedule 7.

### **Item 14 of Schedule 1 - Subregulation 19 (5)**

This amendment removes sub-regulation 5 relating to solar water heaters installed in new buildings, as this provision is now included in subparagraph 19 (1) (b). A new provision has been inserted as a replacement. The amendment provides for the situation where a solar water heater is installed more than once. In such instances, the amount of certificates that may be created for the solar water heater is reduced by the total number of certificates that were created for any previous installations of the solar water heaters.

### **Item 15 of Schedule 1 - Subregulation 28 (2), Table, item 1**

This amendment corrects a typographical error in the table of fees from MW to kW. The amendment also clarifies that the fee to accredit a generator of less than 10 kW in size that is not able to access the deeming provisions due to the installation date is \$20.

### **Item 16 of Schedule 1 - Schedule 1, item 9**

This clause is deleted, as a solar water heater is now defined in the Definitions (refer to Item 3 of Schedule 1).

### **Item 17 of Schedule 1 - Schedule 3, subclause 3.1**

This amendment provides consistency with clause 3.2 of Schedule 3 in regard to the application for a special baseline. The amendment deletes the provision that a 1997 eligible renewable power baseline may be determined for a period other than the three years immediately prior to 1997, where a different period may be more representative of the normal operational cycles of the power station.

The amendment replaces the text with a reference that a 1997 eligible renewable power baseline may be determined in a manner different from that set out in Schedule 3 clause 2. This allows the triggers for a special baseline to be assessed in the same manner as clause 3.2 of Schedule 3.

### **Item 18 of Schedule 1 - Schedule 3, paragraph 3.2 (a)**

This amendment replaces paragraph 3.2 (a) in order to allow seasonal impacts of the availability of renewable energy sources, and non-renewable generation from a power station, to be considered independently in setting baselines.

#### **Item 19 of Schedule 1 - Schedule 3, subclause 3.3**

This amendment replaces the outline of the issues that should be considered by the Regulator when determining a special baseline for the power station. The amendment provides that the Regulator may take into account information about 1997 or later years. The amendment also provides the Regulator with some guidance on the objectives of setting a special baseline and the types of information that can be used in determining statistically representative baselines. These include:

- the amount of energy the power station could have produced in 1997 under normal conditions;
- the generation capacity of the power station;
- the amount of electricity the power station has had to generate to meet the requirements of the electricity supply system;
- matters affecting the output of the power station; and
- information provided by the registered person about electricity generated by the power station.

#### **Item 20 of Schedule 1 - Schedule 7, Part 1**

This amendment provides an updated table of Postcode zones to incorporate new postcodes.

#### **Item 21 of Schedule 1 - Schedule 7, Part 2, heading**

This amendment changes the heading from "Number of Certificates" to "Number of certificates - Models at 1 April 2001" to indicate that information in the table is valid from 1 April 2001.

#### **Item 22 of Schedule 1 - Schedule 7, Part 2, heading before item 1**

This amendment replaces the heading "Rated for 200 L/day delivery" with the clearer heading of "Large systems".

#### **Item 23 of Schedule 1 - Schedule 7, Part 2, items 11 and 12**

This amendment provides revised numbers of certificates for two solar water heater models.

#### **Item 24 of Schedule 1 - Schedule 7, Part 2, items 14 to 17**

This amendment removes four solar water heater models. These models are instead listed in Schedule 7, Part 3.

#### **Item 25 of Schedule 1 - Schedule 7, Part 2, heading after item 32**

This amendment replaces existing heading "Rated for 120 L/day delivery" with the clearer heading "Small systems".

#### **Item 26 of Schedule 1 - Schedule 7, Part 2, items 33, 34 and 35**

This amendment substitutes new numbers of certificates for one solar water heater model, and removes two solar water heater models which are listed in the Schedule 7, Part 3.

**Item 27 of Schedule 1 - Schedule 7, Part 2, items 42 to 50**

This amendment provides revised numbers of certificates for nine solar water heater models.

**Item 28 of Schedule 1 - Schedule 7, after Part 2**

This amendment inserts a new part to Schedule 7, which lists 86 solar water heater models. Of the 86 models, eighty are additional models to the regulations, and six are models that were included in the existing regulations but which now have revised certificate numbers. The list includes 5 heat pump models.

The models listed in the Schedule would be eligible for certificates from the date that they commenced the process of certification under Australian Standard 2712. This date is listed in the Date column.