

Renewable Energy (Electricity) Amendment Regulations 2002 (No. 3) 2002 No. 339

EXPLANATORY STATEMENT

Statutory Rules 2002 No. 339

Minute No. of 2002 - Minister for the Environment and Heritage

Subject - *Renewable Energy (Electricity) Act 2000*

Renewable Energy (Electricity) Amendment Regulations 2002 (No. 3)

Subsection 161 (1) of the *Renewable Energy (Electricity) Act 2000* (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. Subsection 161 (2) provides that the draft regulations must be available for public comment for a period not less than 30 days before the regulations are made.⁽¹⁾

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 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 (Giga Watt hours) 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 percent.

The Act puts in 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. The Act establishes the framework for renewable energy generators (eligible parties) to create 'renewable energy certificates' which can be sold to liable parties and surrendered to a Renewable Energy Regulator to demonstrate compliance with the requirements of the Act. An individual liable party determines the number of renewable energy certificates to surrender by multiplying the Renewable Power Percentage (RPP) by the amount of electricity they purchase.

The *Renewable Energy (Electricity) Regulations 2001* (the principal regulations) provide an administrative framework to implement the Act in relation to power station accreditation, eligibility requirements for fuel sources, and calculation methods for determining the number of renewable energy certificates that can be claimed.

The purpose of the Regulations is to insert a reference to the revised Australian Standard relating to solar water heaters, provide a date by which manufacturers can demonstrate product certification to the revised Australian Standard, and set the RPP for 2003.

The Regulations would:

- update references to the revised 2002 version of the Australian Standard for the design and construction of solar water heaters. This would allow manufacturers of a particular type of solar water heater to apply for product certification to the revised standard in order to demonstrate product certification by 31 December 2002. In response to the revision of the Australian Standard, manufacturers of existing water heaters, already certified to the previous version of the Standard, will be given until 30 June 2003 to seek updated certification in line with the new standard (Item 1 of Schedule 1 and Item 1, 2, 3 and 4 of Schedule 2 refer); and

- specify the RPP for 2003, which, when used in a set formula calculates the number of renewable energy certificates that liable parties have to surrender to the Renewable Energy Regulator to avoid a penalty.

Subsection 39 (1) of the Act provides that the RPP for a given year must be specified in the regulations on or prior to 31 March in that year. However, subsection 39 (3) provides that, before the Governor General makes a regulation under subsection 39 (1), the minister must take into consideration the required volume of renewable electricity for the year, the estimated volume of electricity to be acquired for the year, and any variation between the two in previous years. ⁽²⁾

Details of the Regulations are set out in the Attachment.

The Regulations would commence as follows:

- Regulations 1 to 3 and Schedule 1, which relate to a revised Australian Standard in order for manufacturers to gain product certification, to commence on 27 August 2002; and
- Schedule 2, which relates to the inclusion of the RPP and to a revised Australian Standard, to commence on 1 January 2003.

The backdating of eligibility requirements for solar water heaters (Schedule 1 refers) to be listed in Schedule 7 of the regulations will not breach subsection 48 (2) of the *Acts Interpretation Act 1901* as the retrospective nature of the amendment will not disadvantage any person.

The Minute recommends that the Regulations be made in the form.

(1) I confirm that in accordance with subsection 161 (2) of the Act, the Regulations have been available for public comment for a period of no less than 30 days.

(2) I confirm that in accordance with subsection 39 (3) of the Act, the calculation of the Renewable Power Percentage has given regard to the requirements of subsection 39 of the Act.

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Minister for the Environment and Heritage

Authority: Section 161 of the *Renewable Energy (Electricity) Act 2000* and section 48 of the *Acts Interpretation Act 1901*

Attachment

Details of the Renewable Energy (Electricity) Amendment Regulations 2002 (No. 3)

Regulation 1 - Name of Regulations

This provides that the name of the regulations is the Renewable Energy (Electricity) Amendment Regulations 2002 (No. 3).

Regulation 2 - Commencement

This provides for Regulations 1 to 3 and Schedule 1 to commence on 27 August 2002.

This provides for Schedule 2 to commence on 1 January 2003.

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

This regulation provides for Schedule 1 and 2 of the amendment regulations to amend the Renewable Energy (Electricity) Regulations 2001.

Schedule 1 Amendments

Item 1 of Schedule 1 - Paragraph 3 (4)(a)

This amendment inserts a reference to the revised Australian Standard for the design and construction of solar water heaters - AS2712:2002. This will allow manufacturers of heat pump water heaters to apply for product certification as these types of solar water heaters are now covered by the revised standard. However, as this subregulation refers to applications for product certification, the reference to the 1993 version of the standard has been retained to reflect the fact that some manufacturers of heat pump water heaters may have originally submitted a request for accreditation against the earlier version of the Standard. Without the reference to the revised Australian Standard manufacturers of heat pump water heaters will be unable to certify their heat pump water heaters in order to remain listed in Schedule 7 of the regulations.

Schedule 2 Amendments - Amendments commencing on 1 January 2003

Item 1 of Schedule 2 - Subregulation 3 (1), definition of *heat pump water heater*

This amendment removes the definition for a heat pump water heater as the definition will no longer be required after 1 January 2003, at which time special clauses for the inclusion of these systems, in advance of the revised standard, expire. At this time heat pump water heaters will be required to demonstrate product certification to AS2712:2002 in order for these models to remain listed in the regulations.

Item 2 of Schedule 2 - Subparagraph 3(3)(b)(i)

This amendment updates the reference to AS2712:1993 with the revised AS2712:2002.

Item 3 of Schedule 2 - Subparagraph 3(3)(b)(ii)

This amendment updates the reference to AS2712:1993 with the revised AS2712:2002.

Item 4 of Schedule 2 - Subregulation 3(4)

This amendment will allow manufacturers of solar water heaters, for which product certification to AS2712:1993 was successfully gained, until 30 June 2002 by which to update product certification documentation to the revised Australian Standard AS2712:2002.

Item 5 and 6 of Schedule 2 - Regulation 23 - *Renewable Power Percentage*

This amendment inserts the Renewable Power Percentage (RPP) for 2003, which is 0.88%.