

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 270**

Issued by the Authority of the Minister for Climate Change and Energy Efficiency

*Renewable Energy (Electricity) Act 2000*

*Renewable Energy (Electricity) Amendment Regulations 2011 (No. 6)*

Section 161 of the *Renewable Energy (Electricity) Act 2000* (the Act) provides, in part, that the Governor-General may make Regulations prescribing matters required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act establishes the Renewable Energy Target (RET) scheme to encourage electricity generation from eligible energy sources. The RET is designed to ensure that the equivalent of 20 per cent of Australia's electricity supply is generated from renewable sources by 2020. From 1 January 2011, the RET has operated as two parts - the Large-scale Renewable Energy Target (LRET) and the Small-scale Renewable Energy Scheme (SRES).

Under the Act, wholesale electricity purchasers ('liable entities') are required to contribute to the RET in proportion to their share of the national wholesale electricity market. The Act provides for the creation of renewable energy certificates by renewable energy sources, such as from wind, solar hydro, various forms of biomass and geothermal energy.

The Act also provides for waste coal mine gas (a by-product of underground mining operations) to be eligible under the LRET in prescribed circumstances that include a limited eligibility period commencing on a date to be prescribed in Regulations and ending on 31 December 2020. This reflects the Government's policy to provide transitional assistance for existing waste coal mine gas fuelled power stations that would be affected by the cessation of the NSW Greenhouse Gas Reduction Scheme on commencement of a carbon price. One certificate generally represents one megawatt-hour (MWh) of electricity from an eligible energy sources.

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 renewable energy sources, eligibility requirements for small-scale renewable energy systems, and calculation methods for determining the number of certificates.

The Regulations amend the Principal Regulations to set the starting date for eligibility as 1 July 2012, coinciding with commencement of the carbon price under the *Clean Energy Act 2011*. The Regulations also define 'waste coal mine gas' for the purposes of the Act, and include provisions to prevent power stations continuing to create certificates under specified schemes from 'double-dipping' by also creating certificates under the Act.

The Act and Principal Regulations will be reviewed by the Climate Change Authority in 2012.

Details of the Regulations are included in the [Attachment](#).

## **Consultation**

In developing these Regulations, the Department of Climate Change and Energy Efficiency conducted a formal stakeholder engagement process. This included targeted engagement with relevant waste coal mine gas power station owner/operators and relevant state and territory governments. The consultation draft Regulations were released on the 17 November 2011 and written submissions were sought. The Department also undertook discussions with stakeholders to clarify issues.

Authority: Section 161 of the  
*Renewable Energy (Electricity)*  
*Act 2000*

**Details of the Renewable Energy (Electricity) Amendment Regulations 2011 (No. 6)**

**Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Renewable Energy (Electricity) Amendment Regulations 2011* (No. 6).

**Regulation 2 – Commencement**

This regulation provides for the Regulations to commence the day after they are registered.

**Regulation 3 – Amendment of *Renewable Energy (Electricity) Regulations 2001***

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

**Schedule 1 – Amendments**

**Item 1 – After Division 2.2**

This item inserts a new Division 2.2A including, three new regulations 10A, 10B and 10C.

**Regulation 10A- Eligible WCMG starting day**

Regulation 10A, for subparagraph 17A (1)(a)(i) of the Act, prescribes the starting day for the inclusion of waste coal mine gas in the RET scheme as 1 July 2012 with the pre-requisite that the substantive provisions of the *Clean Energy Act 2011* commence on or before this date. Section 3 of the *Clean Energy Act 2011* received Royal Assent on 18 November 2011.

**Regulation 10B – meaning of waste coal mine gas**

Regulation 10B, for subsection 17A (2) of the Act, defines waste coal mine gas as coal seam gas that is drained from a coal mine that is covered by a coal mining lease that authorises coal mining as part of a coal mining operation, or coal seam gas that is drained from a closed coal mine that is or was covered by a coal mining lease that authorises coal mining.

This definition is intended to make clear that methane extracted from coal seams other than as a waste or by-product from a coal mining operation is not an eligible energy source under the RET scheme. For example, gas from a coal seam extracted as an energy resource independently from a coal mining operation is not intended to be an eligible energy source under the RET.

**Regulation 10C – limitations on eligible WCMG**

Regulation 10C, for subsection 17A (3) of the Act, prevents double dipping under the RET and the relevant state schemes by stipulating that generation from waste coal mine gas for which certificates under any of the following state legislation are created, is not eligible for certificates under the RET scheme:

- *Electricity Supply Act 1995* (NSW) which underpins the NSW Greenhouse Gas Abatement (GGAS) Scheme.

- *Electricity Act 1994 (QLD)* which underpins the Queensland Gas Scheme (QGS). There are currently provisions set in the GGAS and QGS legislation preventing double-dipping between these schemes.
- *Electricity (Greenhouse Gas Emissions) Act 2004 (ACT)*, parallel legislation which in effect extends the NSW GGAS scheme to include the Australian Capital Territory.

#### **Item 2 – Paragraph 20D (c)**

This is a technical amendment to link the additional circumstances for suspending accreditation of an accredited power station.

#### **Item 3 – After paragraph 20D (c)**

The item, for subsection 30E (5) of the Act inserts new paragraph 20D (d) to build on new regulation 10C (above), further discouraging double dipping. New paragraph 20D (d) prescribes that once a certificate has been created under the RET scheme for generation from an eligible WCMG power station, should certificates subsequently be created under the GGAS or the QGS for that generation or any other future generation, the Regulator may suspend the accreditation of the power station.

Subsection 30E (6) of the Act provides that the regulator is to provide written notice of any suspension, and the suspension is for such a period (including permanently) as the Regulator considers appropriate in all of the circumstances. The decision to suspend the accreditation of a power station under section 30E is a reviewable decision under section 66 of the Act.

#### **Item 4 - Further Amendments – Renewable Energy**

This item replaces the term ‘eligible renewable energy source’ with ‘eligible energy source’ in the Principal Regulations where necessary to ensure consistency with the amendments to the Act which relate with the inclusion of waste coal mine gas as an eligible energy source.