



# **Clean and Renewable Energy Legislation Amendment (Various Measures) Regulation 2013**

## **Select Legislative Instrument No. 144, 2013**

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I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Clean Energy Act 2011* and the *Renewable Energy (Electricity) Act 2000*.

Dated 28 June 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

Yvette D'Ath  
Parliamentary Secretary for Climate Change, Industry and  
Innovation

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## 1 Name of regulation

This regulation is the *Clean and Renewable Energy Legislation Amendment (Various Measures) Regulation 2013*.

## 2 Commencement

Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	The day after this regulation is registered.	
2. Schedule 1	The day after this regulation is registered.	
3. Schedule 2	29 July 2013	29 July 2013

## 3 Authority

This regulation is made under the *Clean Energy Act 2011* and the *Renewable Energy (Electricity) Act 2000*.

## 4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## **Schedule 1—Amendments commencing day after registration**

### ***Clean Energy Regulations 2011***

#### **1 At the end of Part 3 of Schedule 1**

Add:

#### **Division 50—Production of dried distillers grains with solubles**

- 350 (1) The production of dried distillers grains with solubles is the physical and chemical transformation of either or both of:
- (a) condensed distillers solubles with a moisture content equal to or more than 55%;
  - (b) wet distillers grains with a moisture content equal to or more than 60%;
- into dried distillers grains with solubles of saleable quality with a moisture content equal to or less than 12% and a protein content equal to or more than 20% (on a dry solids basis).
- (2) The production of dried distillers grains with solubles is an emissions-intensive trade-exposed activity.
- (3) The production of dried distillers grains with solubles is a highly emissions-intensive activity.
- (4) The basis for the issue of free carbon units for the production of dried distillers grains with solubles is by a tonne of dried distillers grains with solubles that:
- (a) is produced by carrying on the emissions-intensive trade-exposed activity; and
  - (b) is of saleable quality.

Note: *Saleable quality* is explained in Part 2.

#### **2 Subclause 401(1) of Schedule 1 (after table item 1.33)**

Insert:

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1.34	Production of dried distillers grains with solubles	Dried distillers grains with solubles of saleable quality that has a moisture content of equal to or less than 12% and a protein content of equal to or more than 20% (on a dry solids basis)	0.560	0.0785	n/a
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### **3 After subclause 702(1F) of Schedule 1**

Insert:

(1G) Despite paragraph (1)(c), an application for the year ending 30 June 2013 relating to an activity mentioned in Division 50 of Part 3 may be given to the Regulator not later than 31 August 2013.

(1H) Subclause (1G) expires on 1 September 2013 as if it had been repealed by another legislative instrument.

### ***Renewable Energy (Electricity) Regulations 2001***

#### **4 Subregulation 19B(2) and paragraph 19BA(3)(a)**

Omit “over 10 years”, substitute “over the number of years specified for the solar water heater in regulation 19BE”.

#### **5 After regulation 19BD**

Insert:

#### **19BE Working out number of certificates that may be created**

For subregulation 19B(2) and paragraph 19BA(3)(a), the number of years specified is:

- (a) for a solar water heater installed on or before 31 December 2021—10 years; and
- (b) for a solar water heater installed during a year mentioned in column 1 of the following table, the number of years specified in column 2 for the item.

**Schedule 1** Amendments commencing day after registration

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<b>Period certificates may be created</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Year solar water heater installed</b>	<b>Number of years</b>
1	2022	9
2	2023	8
3	2024	7
4	2025	6
5	2026	5
6	2027	4
7	2028	3
8	2029	2
9	2030	1

**6 Subregulations 19D(2) and (3)**

Repeal the subregulations, substitute:

- (2) For subsection 23A(3) of the Act, a right to create certificates for a small generation unit arises:
- (a) for a unit installed during a year mentioned in column 1 of the following table, within 12 months of installation and for a period mentioned in column 2 for the item; or

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<b>Period certificates may be created</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Year unit installed</b>	<b>Period</b>
1	before 2026	1 or 5 years
2	2026	1 or 5 years
3	2027	1 or 4 years
4	2028	1 or 3 years
5	2029	1 or 2 years
6	2030	1 year



- (b) if a right was previously exercised for a 1 year period under paragraph (a), the start of each subsequent 1 year period after installation that begins during a year mentioned in column 1 of the table in paragraph (a) for the additional period mentioned in column 2 for the item; or
- (c) if:
- (i) a right was previously exercised for a 5 year period under paragraph (a); and
  - (ii) the Regulator is satisfied that the unit is still installed and likely to remain functional for a further 5 years;
- the start of each subsequent 5 year period that begins on or before 31 December 2025 for a further 5 year period; or
- (d) if:
- (i) the unit is a solar (photovoltaic) system; and
  - (ii) no certificate has been created for the unit under paragraph (a), (b) or (c);
- for a unit installed during a year mentioned in column 1 of the following table, within 12 months of installation and for the period mentioned in column 2 for the item.

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**Period certificates may be created**

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<b>Item</b>	<b>Column 1 Year solar (photovoltaic) system installed</b>	<b>Column 2 Period in years</b>
1	before 2016	15
2	2016	15
3	2017	14
4	2018	13
5	2019	12
6	2020	11
7	2021	10
8	2022	9
9	2023	8
10	2024	7
11	2025	6

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**Schedule 1** Amendments commencing day after registration

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<b>Period certificates may be created</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Year solar (photovoltaic) system installed</b>	<b>Period in years</b>
12	2026	5
13	2027	4
14	2028	3
15	2029	2
16	2030	1

(3) Where a right to create certificates has been exercised under the period specified for the unit in paragraph (2)(d), no additional right to create certificates arises.

**7 Regulations 19E and 19F**

Repeal the regulations.

**8 Subregulation 19G(4)**

Repeal the subregulation, substitute:

(4) In this regulation:

*out-of-pocket expenses* means the reasonable estimate of the total amount of out-of-pocket expenses worked out in accordance with regulation 19E as in force immediately before this subregulation commences.

**9 Division 2.4 of Part 2**

Repeal the Division.

**10 Paragraph 22M(b)**

Repeal the paragraph, substitute:

(b) either:

(i) at the start of the year there are one or more liable entities in relation to the electricity consumed at the site, other than the liable entity set out in the certificate; or

- (ii) during the year one or more liable entities, in addition to the liable entity set out in the certificate, begin to be a liable entity in relation to the electricity consumed at the site; and

### **11 Subparagraph 22M(d)(iv)**

Omit “paragraph (b)”, substitute “subparagraphs (b)(i) or (ii)”.

### **12 After subregulation 22X(1C)**

Insert:

- (1D) Also, if an application under subsection 46A(1) of the Act for a partial exemption certificate is:
  - (a) for 2013; and
  - (b) made by a prescribed person mentioned in regulation 22G, 22H, 22I, 22J or 22K; and
  - (c) for an emissions-intensive trade-exposed activity mentioned in Part 50 of Schedule 6 (Production of dried distillers grains with solubles);the application must be lodged with the Regulator before 1 September 2013.

### **13 Subregulation 22X(3)**

Repeal the subregulation, substitute:

- (3) An application under subsection 46A(1) of the Act for a partial exemption certificate made by a person mentioned in regulation 22M must be lodged with the Regulator before:
  - (a) if the application relates to a liable entity first mentioned in subparagraph 22M(b)(i)—1 July of the year to which the application relates; or
  - (b) if the application relates to a liable entity first mentioned in subparagraph 22M(b)(ii)—1 January of the year immediately after the year to which the application relates.

### **14 Subregulation 22ZE(1) (definition of $EC^{ia}_{tfinprev}$ )**

Repeal the definition, substitute:

$EC^{ia}_{tfinprev}$  is:

- (a) for a site that does not meet the criteria specified in subregulation 22ZD(3) for a new entrant—the amount of electricity (measured in MWh) that is consumed at the site at which the activity occurs in the financial year that ended 6 months before the year to which the application relates; or
- (b) for a site that meets the criteria specified in subregulation 22ZD(3) for a new entrant—the amount of electricity (measured in MWh) that is reasonably likely to be consumed at the site in the financial year that began 6 months before the year to which the application relates.

**15 Subregulation 22ZE(1) (definition of  $EG^{ia}_{tfinprev}$ )**

Repeal the definition, substitute:

$EG^{ia}_{tfinprev}$  is:

- (a) for a site that does not meet the criteria specified in subregulation 22ZD(3) for a new entrant—the sum of the following amounts of electricity (measured in MWh) for the financial year that ended 6 months before the year to which the application relates:
  - (i) the amount of electricity generated and consumed at the site for which there is no relevant acquisition;
  - (ii) the amount of electricity delivered to the site for which no relevant acquisition occurs between the point of generation and the point of use; or
- (b) for a site that meets the criteria specified in subregulation 22ZD(3) for a new entrant—the sum of the following amounts of electricity (measured in MWh) for the financial year that began 6 months before the year to which the application relates:
  - (i) the amount of electricity that is reasonably likely to be generated and consumed at the site for which there is no relevant acquisition;
  - (ii) the amount of electricity that is reasonably likely to be delivered to the site for which no relevant acquisition occurs between the point of generation and the point of use.

**16 Paragraph 22ZQ(1)(d)**

Omit “at the beginning of the year”, substitute “during the year”.

**17 At the end of Schedule 6**

Add:

**Part 50—Production of dried distillers grains with solubles**

**Division 1—Production of dried distillers grains with solubles**

**746 Production of dried distillers grains with solubles**

The production of dried distillers grains with solubles is the physical and chemical transformation of either or both of:

- (a) condensed distillers solubles with a moisture content equal to or more than 55%;
- (b) wet distillers grains with a moisture content equal to or more than 60%;

into dried distillers grains with solubles of saleable quality with a moisture content equal to or less than 12% and a protein content equal to or more than 20% (on a dry solids basis).

**Division 2—Classification of activity**

**747 Classification of activity**

The production of dried distillers grains with solubles is a highly emissions-intensive activity.

### **Division 3—Electricity baseline for calculating partial exemption**

#### **748 Electricity baseline for product**

The electricity baseline for calculating the amount of a liable entity's partial exemption in respect of the production of dried distillers grains with solubles is 0.0785 MWh per tonne of dried distillers grains with solubles that:

- (a) is produced by carrying on the emissions-intensive trade-exposed activity; and
- (b) is of saleable quality.

Note: *Saleable quality* is defined in regulation 22C.

## **Schedule 2—Amendments commencing 29 July 2013**

### ***Renewable Energy (Electricity) Regulations 2001***

#### **1 Regulation 19G**

Repeal the regulation.

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