



Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and Other Measures) Regulations 2019

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 February 2019

Peter Cosgrove
Governor-General

By His Excellency's Command

Angus Taylor
Minister for Energy

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	1
Schedule 1—Amendments		2
Part 1—Small generation units		2
<i>Renewable Energy (Electricity) Regulations 2001</i>		2
Part 2—Exemption certificates		4
<i>Renewable Energy (Electricity) Regulations 2001</i>		4

1 Name

This instrument is the *Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and Other Measures) Regulations 2019*.

2 Commencement

- (1) Each provision of this instrument 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
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	26 February 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Renewable Energy (Electricity) Act 2000*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Small generation units

Renewable Energy (Electricity) Regulations 2001

1 Subregulation 3(1)

Insert:

commercial meter means a meter that is used to record the consumption of electricity for the purposes of a financial transaction between unrelated parties in relation to the consumption of electricity.

2 After subregulation 3(2)

Insert:

- (2A) Without limiting paragraph (2)(c), 2 or more systems whose energy source is solar (photovoltaic) are taken to be a device for the purposes of that paragraph if any of the following apply:
- (a) the systems are connected to a grid at one or more connection points and not installed behind a commercial meter subsidiary to any of the connection points;
 - (b) both:
 - (i) the systems are connected to a grid at one or more connection points and installed behind a single commercial meter subsidiary to one or more of the connection points; and
 - (ii) there is no connection subsidiary to the commercial meter that allows electricity to flow between the commercial meter and any other commercial meter or to another connection point;
 - (c) both:
 - (i) the systems are connected to a grid at one or more connection points and installed behind more than one commercial meter subsidiary to one or more of the connection points; and
 - (ii) a connection subsidiary to the commercial meters allows electricity to flow between the commercial meters but not between any other commercial meter or to any other connection point;
 - (d) at least 3 of the following apply:
 - (i) the systems are located at a single site or multiple adjoining sites in the same area;
 - (ii) the systems are installed for the primary purpose of generating electricity for export to a grid;
 - (iii) electrical infrastructure (other than metering equipment) is needed to connect the systems to a grid;
 - (iv) more than 50% of the total kW rating of all systems is from ground mounted systems.

3 After paragraph 15A(c)

Insert:

- ; (d) if certificates have been created in relation to a small generation unit under section 23A of the Act—electricity that was generated by the small generation unit.

Part 2—Exemption certificates

Renewable Energy (Electricity) Regulations 2001

4 Subregulation 22S(1)

Omit “or regulation 22LA”.

5 Paragraph 22S(1)(a)

Omit “or 22LA(c)”.

6 Paragraph 22S(1)(b)

Omit “or 22LA(d)”.

7 At the end of regulation 22S

Add:

- (3) If an application under subsection 46A(1) of the Act is made by a prescribed person mentioned in regulation 22LA, in addition to the information mentioned in subregulation 22O(1), the application must:
- (a) specify the circumstances in which the liable entity mentioned in paragraph 22LA(c) (the *old liable entity*) ceased to be the liable entity; and
 - (b) provide evidence of the date on which the old liable entity ceased to be the liable entity and the date the liable entity mentioned in paragraph 22LA(d) (the *new liable entity*) became the liable entity; and
 - (c) provide evidence that both the old and new liable entity have been informed of the application; and
 - (d) if the applicant considers the use amount for the new liable entity should be identified in a way that is materially different from the way the use amount for the old liable entity is identified—include a description of the material difference; and
 - (e) provide a description of, and reasons for, amendments that the applicant considers the Regulator should make to an exemption certificate issued in relation to the old liable entity.

8 Regulation 22T

Before “If”, insert “(1)”.

9 Regulation 22T

Omit “regulation 22M or 22MA”, substitute “regulation 22M,”.

10 Paragraph 22T(b)

Omit “or 22MA”.

11 At the end of regulation 22T

Add:

- (2) If an application under subsection 46A(1) of the Act is made by a prescribed person mentioned in regulation 22MA, in addition to the information mentioned in subregulation 22O(1), the application must:
- (a) include a description of the liable entities in relation to electricity consumed at the site and the amount of relevant acquisitions expected in relation to each liable entity in the year to which the exemption certificate relates; and
 - (b) provide evidence that the liable entities specified in the certificates mentioned in regulation 22MA have been informed of the application; and
 - (c) if the applicant considers the use amount for the entity mentioned in paragraph 22MA(c) (the **added liable entity**) should be identified in a way that is materially different from the way the use amount for one or more liable entities mentioned in paragraph 22MA(a) (the **earlier liable entity**) is identified—include a description of the material difference; and
 - (d) provide a description of, and reasons for, amendments that the applicant considers the Regulator should make to one or more exemption certificates that have been issued in relation to one or more earlier liable entities.

12 Subregulation 22UG(4)

Repeal the subregulation, substitute:

- (4) For the purposes of subregulation (3), the Regulator may give a person a written notice, for a year and a site, requiring an application by the person to be accompanied by an audit report, if the Regulator is satisfied that the way the use amount for a liable entity is identified for the year in relation to the site is likely to be materially different from the way the use amount for a liable entity is identified in relation to the site for the year or the previous year.

Application by prescribed person mentioned in regulation 22LA or 22MA

- (5) Subject to subregulation (7), an application for a year, in relation to a site, must also be accompanied by an audit report if:
- (a) the application is made by a prescribed person mentioned in regulation 22LA; and
 - (b) the applicant considers that the use amount for the new liable entity mentioned in paragraph 22LA(d) should be identified in a way that is materially different from the way the use amount for the old liable entity mentioned in paragraph 22LA(c) is identified; and
 - (c) the total amount of exemptions applied for in the application is likely to exceed 15,000 MWh.
- (6) Subject to subregulation (7), an application for a year, in relation to a site, must also be accompanied by an audit report if:
- (a) the application is made by a prescribed person mentioned in regulation 22MA; and
 - (b) the applicant considers that the use amount for the added liable entity mentioned in paragraph 22MA(c) should be identified in a way that is materially different from the way the use amount for one or more earlier liable entities mentioned in paragraph 22MA(a) is identified; and
 - (c) the total amount of exemptions applied for in the application is likely to exceed 15,000 MWh.

(7) Subregulations (5) and (6) do not apply if the Regulator determines that an audit report is not required.

(8) The applicant may apply to the Regulator for a determination that an audit report is not required.

13 Subregulation 22UH(1)

Omit “who is”.

14 Paragraph 22UH(1)(a)

Before “registered”, insert “who is”.

15 At the end of subregulation 22UH(3)

Add:

; and (d) if an audit report is required under subregulation 22UG(5) or (6)—the amendments and reasons for the amendments mentioned in paragraph 22S(3)(e) or 22T(2)(d) are reasonable.

16 Subregulation 22ZHC(2)

Omit “Unless subregulation (3) applies, the”, substitute “The”.

17 Paragraph 22ZHC(2)(a)

Before “to use”, insert “unless subregulation (3) applies,”.

18 Subregulation 22ZHC(3)

Omit “specify in the certificate a formula, determined by the Regulator, as the method”, substitute “determine a formula”.

19 Subregulation 22ZHC(4)

Omit “in a method”.

20 Subregulation 22ZHC(5)

Omit “In deciding on a method”, substitute “In making a decision”.

21 Subregulation 22ZHC(5)

Omit “the method that will most accurately”, substitute “the most accurate way to”.

22 Paragraph 22ZHC(5)(b)

After “practicalities”, insert “and costs”.

23 After paragraph 22ZJ(h)

Insert:

(ha) if the amount of the exemption is worked out under Division 5A (electricity use method) and the Regulator determines a formula to be used to identify the use amount for the liable entity under subregulation 22ZHC(3)—the formula;

24 After paragraph 22ZN(2)(ba)

Insert:

- (bb) if the amount of the exemption is worked out under Division 5A (electricity use method) and the way the use amount for a liable entity is to be identified is likely to be materially different from the way the use amount is identified in an exemption certificate issued in relation to the liable entity—whether an audit report has been provided under regulation 22UG;

25 Regulation 22ZO

Omit “Regulations 22ZP, 22ZQ, 22ZR and 22ZS each prescribe a circumstance for”, substitute “Each regulation in this Subdivision prescribes a circumstance for the purposes of”.

26 Paragraph 22ZPA(d)

Omit “paragraphs 22S(1)(b) and (c)”, substitute “paragraphs 22S(3)(b) and (c)”.

27 Paragraph 22ZQ(1)(d)

Repeal the paragraph, substitute:

- (d) in issuing another certificate, the Regulator is satisfied that:
- (i) the second liable entity is the liable entity in respect of the electricity consumed at the site during the year; and
 - (ii) the evidence referred to in paragraph 22T(1)(b) evidences the matters stated in those paragraphs;

28 Paragraph 22ZQA(d)

Repeal the paragraph, substitute:

- (d) in issuing another certificate as a result of the application, the Regulator is satisfied that:
- (i) the added liable entity is a liable entity in respect of the electricity consumed at the site during the year; and
 - (ii) the evidence referred to in paragraph 22T(2)(b) evidences the matters stated in those paragraphs;

29 Paragraph 22ZS(3)(b)

Omit “regulation 22ZHB”, substitute “regulation 22ZHC”.

30 Subregulation 49(4)

Omit “given”, substitute “give”.

31 Subregulation 49(4)

Omit “Minister”, substitute “Regulator”.

32 In the appropriate position in Part 9

Insert:

52 Amendments made by the *Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and Other Measures) Regulations 2019*

The amendments of these Regulations made by Part 2 of Schedule 1 to the *Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and*

Other Measures) Regulations 2019 that relate to amendments of exemption certificates apply in relation to applications for amendments to exemption certificates for 2019 and later years.