



# **Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 December 2021

David Hurley  
Governor-General

By His Excellency's Command

Tim Wilson  
Assistant Minister to the Minister for Industry, Energy and Emissions Reduction  
Parliamentary Secretary to the Minister for Industry, Energy and Emissions Reduction

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## 1 Name

This instrument is the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021*.

## 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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | 18 December 2021 |
| 2. Schedule 1  | 1 April 2022.                                | 1 April 2022     |
| 3. Schedule 2  | 1 July 2022.                                 | 1 July 2022      |
| 4. Schedule 3  | 1 January 2022.                              | 1 January 2022   |
| 5. Schedule 4  | 1 January 2022.                              | 1 January 2022   |

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Small generation units—certificates and inspections**

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

#### **1 Subregulation 20(1)**

Omit “, in the circumstances mentioned in regulation 20AC,”.

#### **2 Paragraph 20(1)(b)**

After “zone rating of the system”, insert “at the time of installation”.

#### **3 Regulation 20AC (heading)**

Repeal the heading, substitute:

#### **20AC Conditions for creation of certificates (Act s 23A)**

#### **4 Subregulation 20AC(1)**

Repeal the subregulation, substitute:

- (1) For the purposes of subsection 23A(1A) of the Act, certificates cannot be created in relation to a small generation unit unless the conditions in this regulation are satisfied in relation to the unit or its installation.

*Condition—design and installation*

#### **5 Paragraph 20AC(2)(e)**

Repeal the paragraph, substitute:

- (e) in relation to whom, or none of whom, a declaration was not in effect under regulation 20AG or 47 on:
  - (i) if the installation of the unit was completed in a single day—that day;  
or
  - (ii) in any other case—the day the installation began.

#### **6 After subregulation 20AC(2)**

Insert:

*Condition—installer on site (solar (photovoltaic) systems)*

- (2A) If the unit is a solar (photovoltaic) system, the person mentioned in paragraph (2)(a) or (b) who installed the unit was on site to install, or supervise the installation of, the unit in accordance with the accreditation scheme under which the person is accredited.

*Condition—inverters*

- (2B) If the unit uses an inverter, regulation 20AD has been complied with in relation to the inverter used in the installation of the unit.

*Condition—photovoltaic modules (solar (photovoltaic) systems)*

- (2C) If the unit is a solar (photovoltaic) system, regulation 20AD has been complied with in relation to the photovoltaic module used in the installation of the unit.

*Condition—electrical wiring*

## **7 Subregulation 20AC(4)**

Repeal the subregulation, substitute:

*Condition—local and State or Territory government requirements*

- (4) All local and State or Territory government requirements have been met for the installation of the unit.

*Condition—written statements, documents and evidence*

## **8 Subregulation 20AC(5)**

Omit “Before any certificates are created for the unit, the person who is entitled to create the certificates for the unit obtains”, substitute “The person who is entitled to create the certificates for the unit has obtained”.

## **9 Paragraphs 20AC(5)(a) and (b)**

Repeal the paragraphs, substitute:

- (aa) a written statement by the designer of the unit (or, if the installer of the unit is accredited for the design of the unit, the installer of the unit) stating:
- (i) the name of the designer of the unit; and
  - (ii) the accreditation scheme type or classification, and accreditation number, of the designer of the unit; and
  - (iii) that the designer complied with all relevant requirements of the accreditation scheme for the design of the unit; and
- (a) a written statement by the installer of the unit stating:
- (i) the name of the installer of the unit; and
  - (ii) the accreditation scheme type or classification, and accreditation number, of the installer of the unit; and
  - (iii) that the installer complied with all relevant requirements of the accreditation scheme for the installation of the unit; and
- (b) a written statement by the installer of the unit that all local and State or Territory government requirements have been met for the installation of the unit; and

## **10 Paragraphs 20AC(5)(d) to (f) (including the note)**

Repeal the paragraphs, substitute:

- (d) a written statement by the installer of the unit stating:
- (i) that the installer has a copy of the design of the unit; and
  - (ii) if the design was not modified during the installation of the unit—that the unit was installed, in all material respects, in accordance with the design; and
  - (iii) if the design was modified during the installation of the unit—that the modifications were consistent with all relevant requirements of the

- accreditation scheme for the design of the unit, and that the unit was installed, in all material respects, in accordance with the modified design; and
- (iv) that the unit will perform consistently with the design or modified design (as applicable); and
  - (e) if the system uses an inverter:
    - (i) a written statement by the installer of the unit that the model of inverter used in the installation was, when the unit was installed, an approved eligible model of inverter; and
    - (ii) if the system is a grid-connected power system—a written statement by the installer of the unit that, when the unit was installed, the model of inverter used in the installation complied with Australian/New Zealand Standard AS/NZS 4777.2:2020, *Grid connection of energy systems via inverters, Part 2: Inverter requirements*, published jointly by, or on behalf of, Standards Australia and Standards New Zealand (as existing from time to time); and
  - (f) for a unit that is a solar (photovoltaic) system—the following:
    - (i) a written statement by the installer of the unit that the model of photovoltaic module used in the installation was, when the unit was installed, an approved eligible model of a photovoltaic module;
    - (ii) a written statement by the installer of the unit that the installer was on site as mentioned in subregulation (2A);
    - (iii) evidence from the installer of the unit that the installer was on site as mentioned in subregulation (2A).

## 11 After subregulation 20AC(5)

Insert:

*Condition—written statement from solar retailer (solar (photovoltaic) systems)*

- (5A) If the unit is a solar (photovoltaic) system, the person who is entitled to create the certificates for the unit has obtained a written statement by the person (the **solar retailer**) who sold the unit to the owner of the unit stating the following:
- (a) the name of the installer of the unit;
  - (b) whether or not the installer is an employee or a subcontractor of the solar retailer;
  - (c) that the unit will perform in accordance with the contract (or the quote accepted) for the sale of the unit to the owner of the unit, except to the extent that that performance is prevented by circumstances outside the solar retailer's control;
  - (d) that the unit is:
    - (i) complete; and
    - (ii) generating electricity or capable of generating electricity;
  - (e) if the unit is a grid-connected power system—that:
    - (i) the unit is connected to the grid; or
    - (ii) the solar retailer has completed the solar retailer's obligations under the contract (or the quote accepted) relating to the connection of the unit to the grid;
  - (f) that the solar retailer has provided information in writing to the owner of the unit about the feed in tariffs and export limits for the unit; and



- (g) that the solar retailer has provided information in writing to the owner of the unit about one or more of the following for the unit:
  - (i) the expected payback period;
  - (ii) the expected energy savings;
  - (iii) the expected cost savings;
- (h) that the information provided as mentioned in paragraphs (f) and (g) is true, correct and complete;
- (i) that any actual or potential conflicts of interest of the solar retailer relating to the sale or installation of the unit, or the creation of certificates for the unit, including any conflicts of interest in relation to persons or entities related to the solar retailer, have been:
  - (i) disclosed to the owner of the unit; and
  - (ii) managed appropriately;
- (j) that a declaration under regulation 20AH is not in effect in relation to the solar retailer on the day the statement is given.

- (5B) Subsection (5A) does not apply in relation to a unit if:
- (a) the unit was installed by the owner of the unit; or
  - (b) the installation of the unit was sold to the owner of the unit by a person other than the solar retailer or a person related to the solar retailer.

*Electrical wiring to which subregulation (3) does not apply*

## **12 At the end of regulation 20AC**

Add:

*Condition—statements to include statement of truth, correctness and completeness*

- (7) Each statement obtained for the purposes of subregulation (5) or (5A) includes a statement that the information in the statement is true, correct and complete.

*Condition—information not to be false or misleading*

- (8) None of the documents, statements or evidence obtained for the purposes of subregulation (5) or (5A) contain information that:
- (a) is false or misleading in a material particular; or
  - (b) omits a matter or thing without which the information is misleading in a material particular.

Note: See also section 24B of the Act (which relates to civil penalties for giving false or misleading information in relation to the installation of small generation units that results in the improper creation of certificates in relation to the units).

*Approved eligible models of inverters*

- (9) For the purposes of subparagraph (5)(e)(i), a model of an inverter is an approved eligible model at a particular time if, at the time:
- (a) the model is included in the list of approved inverters (as existing from time to time) that is published by the person to whom regulation 20AE applies; and
  - (b) a declaration under regulation 20AF is not in effect in relation to the model; and

- (c) a recall notice has not been issued for the model under subsection 122(1) of the Australian Consumer Law (compulsory recall of consumer goods); and
- (d) section 128 of the Australian Consumer Law (voluntary recall of consumer goods) does not apply in relation to the model.

Note: The reference to the Australian Consumer Law is a reference to Schedule 2 to the *Competition and Consumer Act 2010* as it applies as a law of the Commonwealth, States and Territories: see section 140K of that Act and corresponding provisions of Acts of States and Territories applying that Schedule.

*Approved eligible models of photovoltaic modules*

- (10) For the purposes of subparagraph (5)(f)(i), a model of a photovoltaic module is an approved eligible model at a particular time if, at the time:
  - (a) the model complies with:
    - (i) if the time is before 19 May 2022—Australian/New Zealand Standard AS/NZS 5033:2014, *Installation and safety requirements for photovoltaic (PV) arrays*, published jointly by, or on behalf of, Standards Australia and Standards New Zealand (as existing from time to time); or
    - (ii) if the time is on or after 19 May 2022—Australian/New Zealand Standard AS/NZS 5033:2021, *Installation and safety requirements for photovoltaic (PV) arrays*, published jointly by, or on behalf of, Standards Australia and Standards New Zealand (as existing from time to time); and
  - (b) the model is included in the list of approved photovoltaic modules (as existing from time to time) that is published by the person to whom regulation 20AE applies; and
  - (c) a declaration under regulation 20AF is not in effect in relation to the model; and
  - (d) a recall notice has not been issued for the model under subsection 122(1) of the Australian Consumer Law (compulsory recall of consumer goods); and
  - (e) section 128 of the Australian Consumer Law (voluntary recall of consumer goods) does not apply in relation to the model.

Note: The reference to the Australian Consumer Law is a reference to Schedule 2 to the *Competition and Consumer Act 2010* as it applies as a law of the Commonwealth, States and Territories: see section 140K of that Act and corresponding provisions of Acts of States and Territories applying that Schedule.

### **13 After regulation 20AC**

Insert:

### **20AD Provision of serial numbers for inverters and photovoltaic modules**

- (1) For the purposes of subregulations 20AC(2B) and (2C), the responsible person for an inverter or photovoltaic module used in the installation of a small generation unit must give the serial number for the inverter or photovoltaic module to:
  - (a) a person in relation to whom a nomination is in effect under subregulation (2) of this regulation; or
  - (b) if no nomination is in effect under subregulation (2) of this regulation—the Regulator.

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Note: The responsible person may commit an offence if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code*).

- (2) The Regulator may, in writing, nominate a person for the purposes of paragraph (1)(a) if the Regulator is reasonably satisfied that the person:
  - (a) will, if nominated, receive, store and disseminate serial numbers for inverters and photovoltaic modules to facilitate the creation of certificates in relation to small generation units in accordance with the Act and these Regulations; and
  - (b) has, or will have, appropriate arrangements for receiving, storing and disseminating the serial numbers.
- (3) If the Regulator nominates a person under subregulation (2), the Regulator must publish the person's contact details on the Regulator's website.
- (4) In this regulation:

**responsible person**, for an inverter or photovoltaic module used in the installation of a small generation unit, means:

- (a) if the inverter or photovoltaic module was not imported into Australia—the manufacturer of the inverter or photovoltaic module; or
- (b) if the inverter or photovoltaic module was imported into Australia—the person who imported the inverter or photovoltaic module.

## **20AE Publisher of lists of approved inverters and photovoltaic modules**

- (1) For the purposes of paragraphs 20AC(9)(a) and (10)(b), this regulation applies to:
  - (a) a person in relation to whom a nomination is in effect under subregulation (2) of this regulation; or
  - (b) if no nomination is in effect under subregulation (2) of this regulation—the Clean Energy Council.
- (2) The Regulator may, in writing, nominate a person for the purposes of paragraph (1)(a).

*Public consultation about whether any person should be nominated*

- (3) The Regulator must, before 1 January 2023, undertake public consultation about whether any person should be nominated under subregulation (2).

*Process for nominating a particular person*

- (4) In deciding whether to nominate a person under subregulation (2), the Regulator must consider the following matters:
  - (a) the efficiency, integrity and effectiveness of the person's proposed processes, including testing and verification processes, for including a model of an inverter or photovoltaic module on the person's list of approved inverters or approved photovoltaic modules;
  - (b) the person's capacity to publish the person's lists of approved inverters and approved photovoltaic modules and keep them updated;

- (c) the fees that the person proposes to charge in relation to the inclusion of a model of an inverter or photovoltaic module on the person's list of approved inverters or approved photovoltaic modules;
  - (d) any other relevant matter.
- (5) Before nominating a person under subregulation (2), the Regulator must:
- (a) publish the proposed nomination on the Regulator's website; and
  - (b) consider any submissions made in accordance with subregulation (6) in relation to the proposed nomination.
- (6) A person who would be affected by a proposed nomination may, within 28 days after the day the Regulator publishes the proposed nomination, make a written submission to the Regulator.
- (7) If the Regulator nominates a person under subregulation (2), the Regulator must publish the person's contact details on the Regulator's website.

## **20AF Regulator may declare models of inverters or photovoltaic modules ineligible**

- (1) The Regulator may, in writing, declare that a model of an inverter, or a model of a photovoltaic module, is not eligible for use in the installation of small generation units for the purposes of these Regulations.
- (2) In deciding whether or not to make a declaration in relation to a model of an inverter or photovoltaic module, the Regulator must consider the following matters:
- (a) whether the model complies with the Australian standards applicable to the inverter or photovoltaic module;
  - (b) whether evidence that independent testing has shown that the model complies with those standards has been provided by:
    - (i) the manufacturer of the model; or
    - (ii) if the model was imported into Australia—the person who imported the model;
  - (c) whether the model was included in the list mentioned in paragraph 20AC(9)(a) or (10)(b) on the basis of false or misleading information;
  - (d) whether the inclusion of the model in the list mentioned in paragraph 20AC(9)(a) or (10)(b) presents a risk to the integrity or creation of small-scale technology certificates;
  - (e) whether regulation 20AD has been complied with in relation to the model;
  - (f) any other relevant matters.

### *Process before making declarations*

- (3) Before making a declaration, the Regulator must:
- (a) publish the proposed declaration on the Regulator's website; and
  - (b) consider any submissions made in accordance with subregulation (4) in relation to the proposed declaration.

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- (4) A person who would be affected by a proposed declaration may, within 28 days after the day the Regulator publishes the proposed declaration, make a written submission to the Regulator.
  - (5) Subregulations (3) and (4) do not apply in relation to a model of an inverter or photovoltaic module if the Regulator is reasonably satisfied that there is an imminent safety risk to a person or to property from the use of the model in the installation of small generation units.

*Publication of declarations*

- (6) If the Regulator makes a declaration, the Regulator must publish the declaration on the Regulator's website.

## **20AG Regulator may declare persons ineligible to design or install small generation units**

*Designers*

- (1) Subregulation (2) applies in relation to a person who has designed one or more small generation units as mentioned in subregulation 20AC(2) if:
  - (a) the Regulator is reasonably satisfied that the person has, on or after 1 April 2022, given 3 or more statements mentioned in paragraph 20AC(5)(aa) that contain information that:
    - (i) is false or misleading in a material particular; or
    - (ii) omits a matter or thing without which the information is misleading in a material particular; or
  - (b) the Regulator is reasonably satisfied that the person has, on or after 1 April 2022, on 3 or more occasions failed to comply with the accreditation scheme under which the person is accredited.
- (2) The Regulator may, in writing, declare that the person is not eligible to design small generation units for the purposes of subregulation 20AC(2).

*Installers*

- (3) Subregulation (4) applies in relation to a person who has installed one or more small generation units as mentioned in subregulation 20AC(2) if:
  - (a) the Regulator is reasonably satisfied that the person has, on or after 1 January 2022, given 3 or more statements mentioned in subregulation 20AC(5) that contain information that:
    - (i) is false or misleading in a material particular; or
    - (ii) omits a matter or thing without which the information is misleading in a material particular; or
  - (b) the Regulator is reasonably satisfied, on the basis of information received from one or more State or Territory authorities, that the person has, on or after 1 January 2022, on 3 or more occasions installed a small generation unit in a material breach of a local or State or Territory government requirement for the installation of the unit; or
  - (c) the Regulator is reasonably satisfied that the person has, on or after 1 January 2022, on 3 or more occasions failed to comply with the accreditation scheme under which the person is accredited.

- (4) The Regulator may, in writing, declare that the person is not eligible to install small generation units for the purposes of subregulation 20AC(2).

*Period of effect and publication of declarations*

- (5) A declaration under this regulation has effect for the period, not exceeding 3 years, specified in the declaration.
- (6) The Regulator must publish a declaration under this regulation on the Regulator's website.

**20AH Regulator may declare persons ineligible to make solar retailer statements**

- (1) Subregulation (2) applies in relation to a person if the Regulator is reasonably satisfied that:
- (a) the person has, on or after 1 April 2022, given 3 or more statements in relation to small generation units for the purposes of subregulation 20AC(5A) that contain information that:
    - (i) is false or misleading in a material particular; or
    - (ii) omits a matter or thing without which the information is misleading in a material particular; or
  - (b) both:
    - (i) on or after 1 April 2022, the person sold a small generation unit that is a solar (photovoltaic) system to the owner of the unit; and
    - (ii) the person is related to a person in respect of whom a declaration is in effect under this regulation.
- (2) The Regulator may, in writing, declare that the person is not eligible to make statements in relation to small generation units for the purposes of subregulation 20AC(5A).
- (3) A declaration under this regulation has effect for the period, not exceeding 3 years, specified in the declaration.
- (4) The Regulator must publish a declaration under this regulation on the Regulator's website.

**20AI Making declarations under regulations 20AG and 20AH**

- (1) In deciding whether or not to make a declaration under regulation 20AG or 20AH in relation to a person, the Regulator must consider the following matters:
- (a) if the proposed declaration is to be made on the basis of paragraph 20AG(1)(a) or (3)(a) or 20AH(1)(a)—the materiality of the false or misleading information concerned;
  - (b) if the proposed declaration is to be made on the basis of paragraph 20AG(3)(b)—the materiality of the breaches of local or State or Territory government requirements concerned;
  - (c) if the proposed declaration is to be made on the basis of paragraph 20AG(1)(b) or (3)(c)—the materiality of the failures (to comply with the accreditation scheme under which the person is accredited) concerned;

- (d) any harm or loss caused to the owners of the small generation units concerned, or to third parties, resulting from the false or misleading statements, breaches or failures (as applicable);
  - (e) whether the person has rectified any problems resulting from the false or misleading statements, breaches or failures (as applicable);
  - (f) any other relevant matters.
- (2) Before making a declaration in relation to a person, the Regulator must:
- (a) give the person written notice of the proposed declaration; and
  - (b) consider any submissions made in accordance with subregulation (3) in relation to the proposed declaration.
- (3) The person may, within 28 days after the Regulator gives the person notice of the proposed declaration, make a written submission to the Regulator.

#### **14 Paragraph 39(c)**

Repeal the paragraph, substitute:

- (c) all local and State or Territory government requirements have been met for the installation of the unit;

#### **15 Paragraph 39(e)**

Omit “subregulation 20AC(5)”, substitute “subregulations 20AC(5) and (5A)”.

#### **16 Paragraph 39(f)**

Repeal the paragraph, substitute:

- (f) the documents, statements and evidence mentioned in subregulations 20AC(5) and (5A) for the unit do not contain information that:
  - (i) is false or misleading in a material particular; or
  - (ii) omits a matter or thing without which the information is misleading in a material particular;

#### **17 Regulation 39 (note)**

Repeal the note.

#### **18 Subregulation 41(1)**

After “parties”, insert “, and may notify any other person,”.

#### **19 Subregulation 41(5) (at the end of the definition of *interested parties*)**

Add:

- ; (e) the owner of the small generation unit.

#### **20 Subregulation 43(1)**

Repeal the subregulation, substitute:

- (1) If the report is likely to contain an adverse finding in relation to any of the following persons, the inspector must provide a copy of the finding to the person before finalising the report:
- (a) a person who designed or installed the small generation unit;
  - (b) the person who sold the unit to the owner of the unit;

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(c) a person who created certificates for the unit.

## 21 Subregulation 47(3)

Repeal the subregulation, substitute:

(3) A declaration has effect for the period specified in the declaration.

(3A) A period specified in a declaration cannot exceed:

- (a) if the 3 adverse findings relate to the requirement mentioned in paragraph 39(f) not being satisfied for a document, statement or evidence obtained from the person—3 years;
- (b) in any other case—12 months.

## 22 Subregulation 49(1) (after table item 2AA)

Insert:

|     |  |  |
|-----|--|--|
| 2AB | Decision under regulation 20AF to declare that a model of an inverter or photovoltaic module is not eligible for use in the installation of small generation units for the purposes of these Regulations | Either:<br>(a) the manufacturer of the model; or<br>(b) if the model was imported into Australia—the person who imported the model |
| 2AC | Decision under regulation 20AG to declare that a person is not eligible to design small generation units for the purposes of subregulation 20AC(2)   | Person subject to the declaration  |
| 2AD | Decision under regulation 20AG to declare that a person is not eligible to install small generation units for the purposes of subregulation 20AC(2)  | Person subject to the declaration  |
| 2AE | Decision under regulation 20AH to declare that a person is not eligible to make statements in relation to small generation units for the purposes of subregulation 20AC(5A)                              | Person subject to the declaration  |

## 23 In the appropriate position in Part 9

Insert:

### 53 Amendments made by Schedule 1 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021*

- (1) Subject to this regulation, the amendments of these Regulations made by Schedule 1 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021* apply to the creation of certificates in relation to a small generation unit that is installed on or after 1 April 2022.
- (2) Paragraphs 39(e) and (f), as amended by Schedule 1 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021*, apply to the inspection of a small generation unit that is installed on or after 1 April 2022.



## **Schedule 2—Small generation units—designer and installer accreditation scheme**

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

#### **1 Paragraphs 20AC(2)(a) to (d)**

Repeal the paragraphs, substitute:

- (a) if the unit is a stand-alone power system—accredited for stand-alone power systems under an accreditation scheme approved by the Regulator under Subdivision 2.3.4; and
- (b) if the unit is a grid-connected power system—accredited for grid-connected power systems under an accreditation scheme approved by the Regulator under Subdivision 2.3.4; and
- (c) if the unit is a wind system—endorsed for wind systems under an accreditation scheme approved by the Regulator under Subdivision 2.3.4; and
- (d) if the unit is a hydro system—endorsed for hydro systems under an accreditation scheme approved by the Regulator under Subdivision 2.3.4; and

#### **2 At the end of Division 2.3 of Part 2**

Add:

#### **Subdivision 2.3.4—Designer and installer accreditation scheme**

##### **20BB Approval of accreditation schemes**

This Subdivision sets out the process for approving an accreditation scheme mentioned in subregulation 20AC(2).

##### **20BC Interpretation**

- (1) In this Subdivision:

*scheme operator*: see subparagraph 20BE(b)(iii).

- (2) For the purposes of this Subdivision, in determining whether a scheme operator is a fit and proper person, the Regulator must have regard to the matters set out in regulation 3L, as if the reference to the applicant in that regulation were a reference to a scheme operator under this Subdivision.

##### **20BD Applying for accreditation**

*Applications for accreditation*

- (1) A person may apply to the Regulator to approve an accreditation scheme developed by the person for the purposes of paragraph 20AC(2)(a), (b), (c) or (d).

*Matters to be included in applications*

- (2) An application must:
- (a) be made in the manner and form specified by the Regulator on the Regulator’s website; and
  - (b) include a draft of the accreditation scheme proposed to be approved; and
  - (c) include the information required by regulation 20BE; and
  - (d) be accompanied by the documents required by regulation 20BE; and
  - (e) include any information, and be accompanied by any documents, required by the form; and
  - (f) include an undertaking that complies with subregulation (3); and
  - (g) be made:
    - (i) in the period specified by the Regulator; or
    - (ii) at a later time agreed with the Regulator in writing.

*Undertakings to be included in applications*

- (3) For the purposes of paragraph (2)(f), an undertaking must provide that, if the scheme were to be approved, the scheme operator undertakes to do the following:
- (a) notify the Regulator, in writing, of any matters that arise that adversely affect, or that might adversely affect, the integrity of the scheme and the steps being taken, or proposed to be taken, by the scheme operator to address those matters;
  - (b) notify the Regulator, in writing, before making any changes to the fees charged under the scheme and provide the Regulator with an explanation of the changes;
  - (c) notify the Regulator, in writing, before varying or amending the scheme and provide the Regulator with an explanation of how the variations or amendments are consistent with the scheme as approved by the Regulator;
  - (d) notify the Regulator, in writing, if any of the events or circumstances mentioned in regulation 3L that affect the scheme operator come to the attention of the scheme operator;
  - (e) notify the Regulator, in writing, if the scheme operator ceases to undertake, or proposes to cease undertaking, activities authorised by the scheme;
  - (f) if the scheme operator is a body corporate—notify the Regulator, in writing, if there is a change, or a proposed change, in any of the directors or officers of the body corporate;
  - (g) if the scheme operator is a body corporate—notify the Regulator, in writing, if a transaction results in, or a proposed transaction will result in, a change to the type, name or number of shares in the body corporate;
  - (h) notify the following, in writing, if a designer or an installer accredited under the scheme is excluded from the scheme:
    - (i) the Regulator;
    - (ii) the operator of every other accreditation scheme approved under this Subdivision;
  - (i) if requested by the Regulator in writing—provide the Regulator with requested information, in writing, about the operation of the scheme.

*Period in which application must be made*

- (4) The Regulator must specify a period for the purposes of subparagraph (2)(g)(i).
- (5) The specified period must be a period of 3 months between 1 July 2022 and 31 March 2023 and must be published on the Regulator’s website.

**20BE Matters to be included in applications**

An application must:

- (a) include the following:
  - (i) the name of the applicant;
  - (ii) if the scheme operator is a body corporate—the scheme operator’s ACN, ABN or ARBN;
  - (iii) if the scheme operator is a body corporate—details of the directors or officers of the body corporate;
  - (iv) if the scheme operator is a body corporate—details of the type, name or number of shares in the body corporate;
  - (v) the mailing address and email address of the applicant;
  - (vi) a telephone contact number for the applicant; and
- (b) include the following:
  - (i) details of the proposed scheme’s scope;
  - (ii) an explanation of how the proposed scheme is to be managed and operated, including details of the governance arrangements for the proposed scheme;
  - (iii) the name and contact details of the person or persons (the ***scheme operator***) who will be responsible for managing the scheme;
  - (iv) details of the qualifications and experience of the scheme operator that will enable the scheme operator to properly manage the proposed scheme in accordance with the requirements of the scheme and any requirements of the Act and these Regulations;
  - (v) details of how the proposed scheme will be monitored for compliance with the requirements of the scheme and any requirements of the Act and these Regulations; and
- (c) be accompanied by details and evidence of the training to be provided to designers and installers under the proposed scheme, including training in relation to written statements by installers under subregulation 20AC(5); and
- (d) include details of the measures and procedures that are in place, or will be in place before approval, and will be maintained after approval, to ensure:
  - (i) quality assurance and process control of the accreditation process; and
  - (ii) compliance with the scheme’s requirements, and the requirements of the Act and these Regulations, in relation to the installation of small generation units and the creation of certificates for such units; and
- (e) include details of the following:
  - (i) requirements of the proposed scheme relating to insurance and any codes of conduct;
  - (ii) the measures and procedures that are in place, or will be in place before approval, and will be maintained after approval, for identifying

- and dealing with actual and perceived conflicts of interest in relation to the proposed scheme;
- (iii) the fees to be charged under the proposed scheme and an explanation of the basis for setting the fees and changing the amount of fees over time; and
- (f) set out reasons why the applicant believes the proposed scheme should be approved, having regard to each of the criteria and requirements for approval specified in regulation 20BH.

### **20BF Further information**

- (1) For the purposes of making a decision under regulation 20BG, the Regulator may, by notice in writing, request further information from the applicant.
- (2) The notice must set out:
  - (a) the information sought; and
  - (b) the day by which the information is to be provided to the Regulator.
- (3) The Regulator is not required to consider an application while waiting for the information to be provided.
- (4) If the information is not provided on or before the day specified in the notice, the application is taken to have been withdrawn.

### **20BG Regulator to approve or refuse application**

If the Regulator receives an application that is properly made under this Subdivision, the Regulator must:

- (a) approve the application; or
- (b) refuse the application.

### **20BH Approval of accreditation scheme**

- (1) The Regulator may approve an accreditation scheme if, and only if, the Regulator is satisfied that:
  - (a) the scheme operator is a fit and proper person; and
  - (b) the scheme operator, and each person involved in the management of the scheme:
    - (i) has appropriate knowledge and understanding of the regulatory framework and standards applicable to the installation of small generation units, including the framework for the creation of certificates under the Act and these Regulations; and
    - (ii) has the necessary qualifications, experience and expertise to properly manage the operation of the scheme; and
  - (c) the scheme operator has the capacity, resources and record (if any) to properly manage the operation of the scheme, consistent with the details set out in the application, in a sound, objective, transparent and rigorous manner; and
  - (d) the governance arrangements for the scheme are appropriate, having regard to the scope of the scheme; and
  - (e) the scheme includes appropriate measures and procedures to ensure that the requirements of the scheme, and the requirements of the Act and these

Regulations, in relation to the installation of small generation units and the creation of certificates for such units are complied with; and

- (f) the scheme operator has in place appropriate measures and procedures to identify and manage actual and perceived conflicts of interest in relation to the scheme; and
  - (g) the scheme operator has in place appropriate measures and procedures to identify and address non-compliance with the requirements of the scheme and the requirements of the Act and these Regulations, including requirements in relation to the creation of certificates for small generation units; and
  - (h) the scheme operator has in place appropriate measures and procedures for the discipline of persons accredited under the scheme for failing to comply with the scheme's requirements, and the requirements of the Act and these Regulations, in relation to the design and installation of small generation units and the creation of certificates for such units; and
  - (i) the scheme operator has given the undertaking mentioned in paragraph 20BD(2)(f); and
  - (j) the fees to be charged under the scheme are reasonable.
- (2) In deciding whether to approve an application, the Regulator must have regard to any guidelines determined by the Regulator under subregulation (3) for the purposes of this regulation.
- (3) The Regulator may, in writing, determine guidelines for the purposes of this regulation.
- (4) The Regulator must publish details of any guidelines determined under subregulation (3) on the Regulator's website.

### **20BI Notification of decision**

- (1) A decision of the Regulator to approve, or refuse, an application is to be made by notifiable instrument as soon as practicable after the decision is made.
- (2) In addition to the requirement under subregulation (1), the Regulator must, within 28 days of making a decision to approve, or refuse, the application:
- (a) notify the applicant in writing of the decision; and
  - (b) publish the decision on the Regulator's website; and
  - (c) if the decision is to approve the application—on the Regulator's website:
    - (i) provide details of a publicly accessible website where persons can view a copy of the accreditation scheme; and
    - (ii) specify the day on which the accreditation scheme comes into force; and
  - (d) if the decision is to refuse the application—include in the notice under paragraph (a) a statement of the applicant's review rights under regulation 49.

### **20BJ Duration of approval**

An approval remains in force until it is revoked by the Regulator under regulation 20BK.

## 20BK Revocation of approval

- (1) The Regulator may revoke the approval of an accreditation scheme if:
  - (a) the Regulator considers it is no longer appropriate for the scheme to be approved having regard to the criteria in subregulation 20BH(1) concerning the granting of approvals; and
  - (b) the Regulator reasonably believes any of the following:
    - (i) the applicant made a false or misleading statement in an application under this Subdivision;
    - (ii) any person involved in the management of the scheme gave false or misleading information or documents to the Regulator or to another person performing functions or exercising powers under the Act or these Regulations;
    - (iii) there has been a failure to comply with an undertaking given under paragraph 20BD(2)(f);
    - (iv) the scheme is operating in a manner that is materially different from the manner described by the applicant in the application for approval;
    - (v) non-compliance with the requirements of the scheme is not being addressed to the satisfaction of the Regulator;
    - (vi) the scheme operator or any other person involved in the management of the scheme is not a fit and proper person.
- (2) The Regulator must revoke the approval of an accreditation scheme if the scheme operator requests the Regulator, in writing, to revoke the approval.

## 20BL Notice of proposed revocation

### *Notice of proposed revocation*

- (1) Before deciding to revoke an approval of an accreditation scheme under subregulation 20BK(1), the Regulator must:
  - (a) notify the scheme operator, in writing, of:
    - (i) the proposed revocation; and
    - (ii) the reasons for the proposed revocation; and
  - (b) invite the scheme operator to:
    - (i) make a submission as to why the approval should not be revoked; and
    - (ii) do so within the period specified in the notice; and
  - (c) both:
    - (i) publish details of the proposed revocation and reasons on the Regulator's website on the day that the Regulator notifies the scheme operator under paragraph (a); and
    - (ii) invite members of the public to make submissions on the proposed revocation within the period specified in the notice under paragraph (a).
- (2) The period (the **response period**) specified in the notice under paragraph (1)(a) must be at least 28 days commencing on the day the notice is given.

*Decision on revocation*

- (3) In deciding whether to revoke the approval of an accreditation scheme under subregulation 20BK(1), the Regulator must consider any submissions made within the response period.
- (4) The Regulator must:
  - (a) both:
    - (i) notify the scheme operator, in writing, of the decision; and
    - (ii) publish details of the decision on the Regulator’s website; and
  - (b) do so within 28 days after the end of the response period.
- (5) If the decision is to revoke the approval of the accreditation scheme, the notice and published details must include the reasons for the decision.

*Deemed decision to revoke*

- (6) If the Regulator does not comply with subregulation (4) within 28 days after the end of the response period, the Regulator is taken to have decided to revoke the approval of the accreditation scheme at the end of that period.
- (7) Paragraph (4)(a) does not apply to a decision that is taken to have been made because of subregulation (6).

*When revocation has effect*

- (8) If no submissions were made within the response period, the revocation has effect on the day after the last day of the response period.
- (9) If submissions were made within the response period, the revocation has effect on:
  - (a) if the scheme operator was given a notice under subregulation (4)—the day after the scheme operator was given the notice; or
  - (b) if the scheme operator was not given a notice under subregulation (4)—the day after the Regulator is taken, under subregulation (6), to have decided to revoke the approval of the accreditation scheme.

*Notification of deemed decision*

- (10) If a decision (the **deemed decision**) is taken to have been made because of subregulation (6), the Regulator must publish details of the deemed decision on the Regulator’s website as soon as practicable after the deemed decision is taken to have been made.

*Decision to be notified by notifiable instrument*

- (11) In addition to any other requirement under this regulation, a decision (including a deemed decision) to revoke the approval of an accreditation scheme is to be notified by notifiable instrument as soon as practicable after the decision is made or is taken to have been made.

## **20BM Effect of revocation**

If the Regulator revokes the approval of an accreditation scheme, the following provisions have effect:

- (a) subject to paragraph (b), a person accredited under the scheme continues to be accredited (the *continued accreditation*) for all purposes as if the approval had not been revoked;
- (b) the continued accreditation ceases to be in effect at the end of the earlier of:
  - (i) unless otherwise agreed in writing with the Regulator—the day the person’s accreditation would have ceased to be in effect if the approval of the accreditation scheme had not been revoked; and
  - (ii) 12 months after the day the revocation of the approval of the accreditation scheme comes into effect.

### **20BN Further approvals if no approved accreditation scheme**

- (1) If a revocation of the approval of an accreditation scheme for a kind of small generation unit mentioned in subregulation 20AC(2) results in there being no approved accreditation scheme in force for that kind of small generation unit, a person may, under regulation 20BD, apply to the Regulator to approve an accreditation scheme for that kind of small generation unit.
- (2) Despite subregulations 20BD(4) and (5), the application must be made within the period specified for the purposes of this regulation by the Regulator on the Regulator’s website.

### **3 Regulation 45 (heading)**

Omit “Clean Energy Council”, substitute “scheme operator”.

### **4 Regulation 45**

Omit “Clean Energy Council”, substitute “the scheme operator for the accreditation scheme under which the person or persons who designed and installed the small generation unit were accredited”.

### **5 Subregulation 49(1) (after table item 2AD)**

Insert:

|     |  |   |
|-----|--|---|
| 2AF | Decision under Subdivision 2.3.4 to refuse to approve an accreditation scheme          | Applicant for the approval                          |
| 2AG | Decision under subregulation 20BK(1) to revoke the approval of an accreditation scheme | Person whose interests are affected by the decision |

### **6 In the appropriate position in Part 9**

Insert:

### **54 Amendments made by Schedule 2 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021***

*Existing accreditations*

- (1) This regulation applies if an accreditation mentioned in paragraph 20AC(2)(a), (b), (c) or (d) was in force for a person immediately before 1 July 2022.



- (2) The accreditation for the person:
- (a) continues to have effect on and from 1 July 2022 as if it were an accreditation mentioned in paragraph 20AC(2)(a), (b), (c) or (d), as amended by the amending Schedule; and
  - (b) unless it ceases to have effect earlier in accordance with its terms, ceases to have effect at the later of:
    - (i) the end of 31 December 2022; and
    - (ii) the end of the period of 3 months commencing on the day the Regulator approves an accreditation scheme under regulation 20BH.

*Pending applications*

- (3) This regulation also applies in relation to an application by a person for accreditation under the Clean Energy Council accreditation scheme:
- (a) made, but not finally determined, before 1 July 2022; or
  - (b) made on or after 1 July 2022 and before the approval of an accreditation scheme under regulation 20BG.
- (4) Despite the repeal and substitution of paragraphs 20AC(2)(a), (b), (c) and (d) by the amending Schedule, the person may, until an accreditation scheme is approved under regulation 20BG, be accredited under the Clean Energy Council accreditation scheme as if those paragraphs had not been repealed.
- (5) An accreditation mentioned in subregulation (4):
- (a) has effect as if it were an accreditation under an accreditation scheme approved by the Regulator under regulation 20BG; and
  - (b) unless it ceases to have effect earlier in accordance with its terms, ceases to have effect at the later of:
    - (i) the end of 31 December 2022; and
    - (ii) the end of the period of 3 months commencing on the day the Regulator approves an accreditation scheme under regulation 20BG.

*Definitions*

- (6) In this regulation:

**amending Schedule** means Schedule 2 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021*.

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## Schedule 3—Solar water heaters

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

#### 1 Regulation 19 (note)

Repeal the note, substitute:

Note: Certificates may only be created within 12 months after the installation of the solar water heater (see subsection 21(2) of the Act).

#### 2 Subregulation 19C(3A)

Repeal the subregulation, substitute:

- (3A) The Regulator may remove a device from the Register if satisfied that:
- (a) the device is not a solar water heater; or
  - (b) a certification that was given to the device as mentioned in subregulation 3A(2) or (3) has expired; or
  - (c) the device poses a safety risk.
- (3B) Before removing a device from the Register under paragraph (3A)(a) or (b), the Regulator must:
- (a) give written notice of the proposed removal, specifying the date proposed for the removal, to:
    - (i) the manufacturer of the device; and
    - (ii) any person who made a request in relation to the device under subregulation 19BC(1); and
  - (b) consider any submissions made in response to the proposed removal.

#### 3 Subregulation 49(1) (after table item 2)

Insert:

- |     |  |  |
|-----|--|--|
| 2AA | Decision under subregulation 19C(3A) to remove a device from the Register of solar water heaters | Any of the following: <ul style="list-style-type: none"><li>(a) the manufacturer of the device;</li><li>(b) a person who made a request in relation to the device under subregulation 19BC(1);</li><li>(c) a person whose business involves the sale or installation of the device</li></ul> |
|-----|--|--|

#### 4 In the appropriate position in Part 9

Insert:

### **55 Amendments made by Schedule 3 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021***

The amendments of these Regulations made by Schedule 3 to the *Renewable Energy (Electricity) Amendment (Small-Scale Renewable Energy Scheme Reforms and Other Measures) Regulations 2021* apply to devices entered in the Register of solar water heaters before, on or after 1 January 2022.

## **Schedule 4—Other amendments**

### **Part 1—Suspending accreditation of a power station**

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

##### **1 Regulation 20D**

Omit “For subsection”, substitute “(1) For the purposes of subsection”.

##### **2 At the end of regulation 20D**

Add:

- ; or (e) the nominated person for the power station applies, in accordance with subregulation (2), to suspend the accreditation of the power station; or
  - (f) the power station has become inoperable because of the removal, in whole or in part, of the components of the electricity generation system that make up the power station; or
  - (g) both of the following apply:
    - (i) the nominated person for the power station is a registered person whose registration is suspended under section 30 or 30A of the Act;
    - (ii) the suspension relates to the power station.
- (2) For the purposes of paragraph (1)(e), the application must:
- (a) be made in a manner and form approved by the Regulator; and
  - (b) provide a reason for the proposed suspension; and
  - (c) specify the day the proposed suspension is to begin and the period of the proposed suspension, which may be indefinite; and
  - (d) be accompanied by a statement in writing from any other stakeholder in relation to the power station indicating that the stakeholder agrees to the making of the application.

## Part 2—Exemption certificates

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

#### 3 Regulation 22D

Omit “of paragraph (b)”.

#### 4 Subregulation 22E(1)

After “For”, insert “the purposes of”.

#### 5 Subregulation 22E(2)

Repeal the subregulation, substitute:

- (2) For the purposes of subsection 38C(2) of the Act, the following information is required to be published within 28 days after an exemption certificate is issued:
- (a) the name of the person to whom the certificate is issued;
  - (b) the site and the emissions-intensive trade-exposed activity or activities set out in the certificate;
  - (c) the State or Territory in which the site is located.

#### 6 Subregulation 22E(3)

After “For”, insert “the purposes of”.

#### 7 Regulation 22LA

Before “If”, insert “(1)”.

#### 8 Paragraph 22LA(e)

Repeal the paragraph, substitute:

- (e) either:
- (i) the prescribed person applies again under subsection 46A(1) of the Act before the end of the year in relation to the activity, site, year and new liable entity; or
  - (ii) subregulation (2) applies in relation to another person (the *contracting person*);

#### 9 Regulation 22LA

After “then the prescribed person”, insert “or the contracting person, as the case requires,”.

#### 10 At the end of regulation 22LA

Add:

- (2) For the purposes of subparagraph (1)(e)(ii), this subregulation applies in relation to the contracting person, if:
- (a) with the consent of the prescribed person mentioned in paragraph (1)(a), the contracting person makes an application under subsection 46A(1) of the

Act before the end of the year in relation to the activity, site, year and new liable entity; and

- (b) immediately before the day the application is made, the contracting person is a party to a contract with the new liable entity for the supply of electricity consumed at the site.

**11 At the end of paragraph 22O(1)(h)**

Add:

- and (iv) if there are one or more meters at the site with a National Metering Identifier (within the meaning of the National Electricity Rules) to which subparagraph (iii) does not apply—identifying information for each such meter, including the National Metering Identifier;

**12 Regulations 22Q and 22R**

Repeal the regulations.

**13 Subregulation 22S(3)**

Omit “mentioned in” (first occurring), substitute “under”.

**14 After paragraph 22S(3)(c)**

Insert:

- (ca) if the application is made by the contracting person within the meaning of subparagraph 22LA(1)(e)(ii)—provide evidence that the prescribed person mentioned in paragraph 22LA(1)(a) has consented to the contracting person making the application; and

**15 Subregulation 22UG(1) (heading)**

Omit “*Applicant using*”, substitute “*Use of*”.

**16 Paragraph 22UG(1)(a)**

Omit “the applicant has not previously made an application”, substitute “an application has not previously been made”.

**17 Subregulation 22UG(2) (heading)**

Omit “3 years”, substitute “5 years”.

**18 Paragraph 22UG(2)(a)**

Repeal the paragraph, substitute:

- (a) the year is at least 4 years after the last year for which an application in relation to the site was accompanied by an audit report required under this regulation; and

**19 At the end of paragraph 22ZHC(2)(b)**

Add:

- (iii) any other errors that have affected the exemption amount in an exemption certificate in relation to any of the 3 immediately preceding years that have not otherwise been corrected; and

**20 Subregulation 22ZL(3)**

After “60”, insert “business”.

**21 At the end of subregulation 22ZN(2)**

Add:

; (f) that in general an exemption certificate should not be amended more than 5 years after the start of the year to which the certificate relates.

**22 Paragraph 22ZPA(a)**

After “entity”, insert “, an activity, a site”.

**23 Paragraph 22ZPA(a)**

Omit “following an application by a prescribed person”.

**24 Paragraph 22ZPA(b)**

Omit “the prescribed person”, substitute “a person”.

**25 Paragraph 22ZPA(c)**

Omit “another liable entity and the year”, substitute “the activity, the site and the year and another liable entity”.

**26 Paragraph 22ZPA(d)**

After “and (c)”, insert “, and (ca) if applicable,”.

**27 Paragraph 22ZS(1)(b)**

Omit “during”, substitute “before 1 February in the year after”.

## **Part 3—Northern Territory Electricity System and Market Operator**

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

#### **28 Subregulation 3(1) (definition of IMO)**

Repeal the definition.

#### **29 Subregulation 3(1)**

Insert:

*National Electricity (NT) Rules* has the same meaning as in the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* (NT), as in force from time to time.

*NTESMO* has the same meaning as in the National Electricity (NT) Rules.

Note: See item 99A of Schedule 2 to the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016* (NT), as in force from time to time.

#### **30 Regulation 21A**

Omit “the IMO”, substitute “NTESMO”.

#### **31 Paragraph 21(1)(a)**

Omit “IMO” (wherever occurring), substitute “NTESMO”.

#### **32 Subparagraph 21(1)(b)(i)**

Omit “IMO”, substitute “NTESMO”.

#### **33 Paragraphs 24(1)(i), 25(1)(d) and 25A(1)(d)**

Omit “IMO”, substitute “NTESMO”.