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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Climate Change and Water,
Senator the Honourable Penny Wong)

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009

GENERAL OUTLINE

The Renewable Energy (Electricity) Amendment Bill 2009 (the Bill) will amend the *Renewable Energy (Electricity) Act 2000* (the Act) to implement the Commonwealth Government's commitment to expand its Mandatory Renewable Energy Target (MRET) scheme, which includes a statutory target of 9 500 gigawatt-hours (GWh) in 2010, to a national Renewable Energy Target (RET) scheme, which includes a target of 45 000 GWh in 2020. The expanded scheme will deliver the Government's commitment that the equivalent of at least 20 per cent of Australia's electricity comes from renewable sources by 2020.

In particular, the Bill will:

- clarify the objectives of the RET scheme;
- increase annual targets for renewable energy generation from 2010, including a target of 45 000 GWh in 2020 maintained until 2030;
- implement a Solar Credits mechanism based on a renewable energy certificate multiplier, for small-scale renewable energy including solar Photovoltaic (PV), wind and micro-hydro systems;
- mandate a review of the operation of the legislation and regulations underpinning the RET scheme in 2014;
- provide for partial legislative exemptions from liability under the scheme in respect of electricity-intensive, trade-exposed activities; and
- provides for the transition of existing and proposed State renewable energy target schemes.

The RET scheme has been designed in cooperation with the States and Territories through the Council of Australian Governments (COAG) and brings the MRET and existing and proposed state schemes into a single national scheme.

The legislation underpinning the current MRET scheme comprises the *Renewable Energy (Electricity) Act 2000* (the Act); the *Renewable Energy (Electricity) Charge Act 2000* (the Charge Act); and the *Renewable Energy (Electricity) Regulations 2001* (the Regulations).

Under the Act, wholesale purchasers of electricity ('liable parties') are required to meet a share of the renewable energy target in proportion to their share of the national wholesale electricity market. The Act provides for the creation of Renewable Energy Certificates (RECs) by generators of renewable energy. One REC represents one megawatt-hour (MWh) of electricity from eligible renewable energy sources. Installations of solar water heaters and small generation units (including rooftop solar PV, small wind turbines and micro-hydro systems) are able to create RECs under deeming arrangements prescribed in the Regulations. Once registered, the RECs are able to be traded and sold to liable parties who may surrender them to the Renewable Energy Regulator to demonstrate their compliance under the scheme and avoid paying the shortfall charge. The Charge Act sets the level of the shortfall charge for non-compliance.

Financial impact statement

As part of the 2008-09 Budget, the Government provided \$15.5 million over five years for the Office of the Renewable Energy Regulator to administer the expanded Renewable Energy Target. The measure included \$2.2 million over two years in capital funding to modify and expand the capacity of the renewable energy certificate online register and \$14.0 million over five years in administered revenue from the increased trade in Renewable Energy Certificates.

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NOTES ON CLAUSES

Clause 1 - Short title

1. This clause is a formal provision specifying the short title of the Bill.

Clause 2 - Commencement

2. This clause sets out that the provisions of the Bill will commence or be taken to commence according to the table entitled 'Commencement information'. The table specifies that the measures in Schedule 1 are to commence on the day this Act receives Royal Assent and the measures in Schedule 2 are to commence at the same time as section 3 of the *Carbon Pollution Reduction Scheme Act 2009*.
3. The measures in Part 1 of Schedule 3 are to commence on a day fixed by Proclamation. If the provision(s) do not commence before 1 July 2011, they commence on 1 July 2011. The period to 1 July 2011 is to ensure a smooth transition to the expanded RET scheme, absorbing existing and planned state schemes.
4. The measures in Item 3 of Schedule 3 are to commence the day after this Act receives Royal Assent.
5. The measures in Item 4 of Schedule 3 are to commence on 1 February 2010.
6. The measures in Item 5 of Schedule 3 are to commence the day after this Act receives Royal Assent.
7. The measures in Items 6 and 7 of Schedule 3 are to commence on a day to be fixed by Proclamation, however if any of the provision(s) do not commence within 9 months of receiving Royal Assent, they commence on the first day after the end of that period. The 9 month period is to allow the passage of relevant provisions of complementary State legislation.
8. The measures in Items 8 and 9 of Schedule 3 commence on 1 February 2010.

Clause 3 - Schedule

9. This clause is a formal clause providing that each Act specified in a Schedule is amended or repealed as set out in that Schedule, and any other item in a Schedule has effect according to its terms.

**SCHEDULE 1 – AMENDMENT OF THE RENEWABLE ENERGY
(ELECTRICITY) ACT 2000**

Item 1 – Section 3

10. This item amends section 3(b) of the Act to clarify that an object of the Act is to reduce emissions of greenhouse gases in the electricity sector.

Item 2 - Section 4

11. This item amends the effective end date of the scheme to 1 January 2031.

Item 3 – Subsection 5(1)

12. This item defines ‘kW’ as an abbreviation of ‘kilowatt’.

Item 4 - Section 23B

13. This item is an administrative amendment consequential to the addition of the new subsection 23B(2) outlined in Item 6.

Item 5 – Section 23B

14. This item is an amendment consequential to the addition of the new subsection 23B(2) outlined in Item 6.

Item 6 – At the end of section 23B

15. Several amendments are made in Item 6:

- This item adds a new subsection 23B(2) that allows for regulations to specify the circumstances under which the number of certificates that may be created in relation to a small generation unit as defined in the Act and the regulations, that is installed during a period specified in column 1 of the table in subsection 23B(2) is to be multiplied by the number specified in column 2 of the table in subsection 23B(2).

The table in subsection 23B(2) entitled “Multiplier for certificates for small generation units” provides that in the circumstances specified in regulations, small generation units installed between 9 June 2009 and 30 June 2012 will be able to create 5 RECs for each megawatt-hour (MWh) of generation. For small generation units installed between 1 July 2012 and 30 June 2013, 4 RECs would be able to be created for each MWh of eligible generation. The multiplier applies at a rate of 3 RECs for each MWh of eligible generation for systems installed between 1 July 2013 and 30 June 2014 and 2 RECs for each MWh of eligible generation for systems installed between 1 July 2014 to 30 June 2015. For systems installed on and after 1 July 2015, eligible small generation units will be able to generate 1 REC for each MWh of eligible generation.

This item also notes that regulations made in accordance with subsection 23A(2) may make provisions relating to the time at which a small generation unit is taken to be installed.

- This item also adds a new subsection 23B(3) that allows for regulations to provide that only certificates that relate to the first 1.5kW of the rated power output of the small generation unit may be multiplied.
- This item also adds a new subsection 23B(4) that provides that a certificate created in accordance with the regulations as mentioned in subsection 23B(2) has a value of 1 MWh even though the certificate does not actually represent 1 MWh due to the effect of the multiplier as outlined in subsection 23B(2).

Item 7 – Application of amendments of section 23B

16. This item clarifies that amendments made by items 4 to 6 apply only to small generation units that are installed on or after 9 June 2009.

Item 8 – Section 40 (table item dealing with 2010 and later years)

17. This item repeals the table item that stipulated annual targets in gigawatt-hours (GWh) of renewable source electricity for 2010 and later years, and substitutes annual targets to give effect to the new profile of targets under the expanded national Renewable Energy Target. The annual targets increase gradually between 2010 and 2014, following which they increase at a faster rate from 2016 to reach 45 000 GWh in 2020. The annual targets are maintained at 45 000 GWh from 2020 until the scheme ends in 2030.

Item 9 – Section 162

18. This item repeals the existing review provisions and replaces them with new provisions. Several amendments are made in Item 9:
 - This item inserts a new subsection 162(1) which provides that the Minister must cause an independent review of the following legislation to be undertaken as soon as practicable after 31 December 2013:
 - this Act – paragraph 162(1)(a);
 - the regulations to this Act – paragraph 162(1)(b); and
 - the *Renewable Energy (Electricity) (Charge) Act* – paragraph 162(1)(c).
 - This item also inserts a new subsection 162(2) which provides that the review must be undertaken by a person whom the Minister considers possesses appropriate qualifications to undertake the review.
 - This item also inserts a new subsection 162(3) which provides that the person undertaking the review must give the Minister a written report of the review before 30 June 2014.
 - This item also inserts a new subsection 162(4) which provides that the Minister must cause a copy of the report to be tabled in each House of the Parliament within

15 sitting days of that House after the day on which the report is given to the Minister.

- This item also inserts a new subsection 162(5) which provides that the report referred to in subsections 162(3) and 162(4) is not a legislative instrument. This subsection is included to assist readers and clarify that the report referred to in subsections 162(3) and 162(4) is merely declaratory of the law and is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

SCHEDULE 2 – PARTIAL EXEMPTIONS FOR LIABILITY TO CHARGE

Item 1 – At the end of section 3

19. This item adds a new paragraph to clarify that the operation of the Act allows a partial exemption relating to one or more emissions-intensive trade-exposed activities to be taken into account when working out a liable entity's renewable energy certificate shortfall and that if it is, it will reduce the renewable energy shortfall charge payable.

Item 2 - Subsection 5(1)

20. This item defines emissions-intensive trade-exposed activity as an activity that is taken to be an emissions-intensive trade-exposed activity under the emissions-intensive trade-exposed assistance program for the purposes of the Act.

Item 3 - Subsection 5(1)

21. This item defines emissions-intensive trade-exposed assistance program as having the same meaning as in the *Carbon Pollution Reduction Scheme Act 2009* for the purposes of the Act.

Item 4 - Subsection 5(1)

22. This item inserts a definition of a partial exemption for the purposes of the Act.

Item 5 - Subsection 5(1)

23. This item inserts a definition of a partial exemption certificate for the purposes of the Act.

Item 6 - Section 38 (method statement, after Step 1)

24. This item inserts an additional step (step 1A) in the calculation of a liable entity's renewable energy certificate shortfall for a year, to account for the sum of the partial exemptions to which the liable entity is entitled under the Act in respect of emissions-intensive trade-exposed activities.

Item 7 - Section 38 (method statement, Step 2)

25. This item is an amendment consequential to the insertion by Item 5 of step 1A in the method statement in section 38 of the Act.

Item 8 - After Division 1 of part 4

26. Several amendments are made in Item 8:

- This item inserts a new Division 1A (Partial exemption from liability to charge) which consists of new sections 38A, 38B and 38C. These sections provide for the object of a partial exemption from liability, a method for calculating the amount of exemption and for information relating to partial exemptions to be published.
- This item inserts new section 38A, which clarifies that the object of this division is to provide a partial exemption from the renewable energy shortfall charge for liable entities in respect of emissions-intensive trade-exposed activities. A partial exemption is intended to be provided to an entity who makes a relevant acquisition of electricity under Part 3 of the Act (Acquisition of electricity), where the liable entity sells the electricity for use by another entity in an emissions-intensive trade-exposed activity, or where the liable entity itself uses the electricity to carry on an emissions-intensive trade-exposed activity.
- This item inserts new section 38B, which outlines the methodology for calculating annual partial exemptions for liable entities in respect of electricity used in emissions-intensive trade-exposed activities. The item provides that the amount of a liable entity's partial exemption for a year is the total in megawatt-hours (MWh) of all amounts stated in partial exemption certificates issued in relation to the liable entity for the year and included in the liable entity's energy acquisition statement for the year.
- This item inserts new section 38C, which provides that the Authority must publish information on a partial exemption provided to a liable entity in respect of a particular year on the Authority's website before 1 October in the following year.
 - This item inserts new subsection 38C(1), which clarifies that the name of the liable entity, the value in dollars of the amount of the entity's partial exemption for the year, and any other information relating to a partial exemption, as prescribed in the regulations, are to be published on the Authority's website.
 - This item inserts new subsection 38C(2), which provides that the Authority must also publish any other information in relation to partial exemptions as is required by the regulations.
 - This item inserts new subsection 38C(3), which provides that if a liable entity's partial exemption is later reduced or increased, the authority must correct the information on its website.

Item 9 - At the end of subsection 39(3)

27. This item inserts a new paragraph (d) in subsection 39(3), which provides that all partial exemptions expected to be provided in respect of emissions-intensive trade-exposed activities are to be taken into account when calculating the renewable power percentage for a year.

Item 10 - Subsection 39(4) (formula)

28. This item repeals the existing formula for calculating the amount of renewable electricity required under the scheme in a year and replaces it with a new formula which includes an additional term to take account of the total of all partial exemptions for a year in respect of emissions-intensive trade-exposed activities.

Item 11 - Part 5 (heading)

29. This item repeals the existing heading and substitutes 'Part 5 – Statements, certificates and assessments' to reflect that the Part is now stipulating that partial exemption certificates are included in the information required to accompany annual energy acquisition statements to be submitted by liable entities.

Item 12 – After paragraph 44(2)(b)

30. This item inserts a new paragraph 44(2)(ba), which stipulates that a liable entity's annual energy acquisition statement must specify whether the liable entity wishes to claim one or more partial exemptions for the year.

Item 13 – After paragraph 44(3)(a)

31. This item inserts a new paragraph 44(3)(aa), which stipulates that where a liable entity has specified that it wishes to claim a partial exemption for the year, the entity must include as part of their annual energy acquisition statement, a copy of each partial exemption certificate issued to the liable entity by the Authority in relation to an emissions-intensive trade-exposed activity and a copy of each partial exemption certificate the liable entity has received from another person, for that year.

Item 14 - After Division 1 of Part 5

32. Several amendments are made in Item 14:

- This item inserts a new Division 1A – Partial Exemption Certificates that outlines the criteria and procedures for obtaining partial exemption certificates.
- This item inserts new section 46A, which sets out the requirements for making applications for partial exemption certificates.
 - This item inserts new subsection 46A(1), which provides that only a prescribed person may apply in relation to an emissions-intensive trade-exposed activity at a site. The partial exemption certificate will be in respect of an emissions-intensive trade-exposed activity; a site at which the

activity is carried on; and a liable party who is, or will be, the party supplying the electricity to the activity during a particular year.

- This item inserts new subsection 46A(2), which stipulates the requirements of an application for a partial exemption certificate. These requirements include that the application must be in a form or manner approved by the Authority; include any information prescribed by the regulations; be lodged with the Authority in accordance with the regulations and be signed on behalf of the applicant.
- This item inserts new subsection 46A(3), which states that regulations may provide that information required to be included in an application must be verified by statutory declaration.
- This item inserts new section 46B, which provides requirements for the issue of a partial exemption certificate by the Authority and the contents of the certificate.
 - This item inserts new subsection 46B(1), which provides that if an application is made under section 46A, the Authority must issue the applicant with a partial exemption certificate that includes the amount of the liable entity's partial exemption for the year in relation to the emissions-intensive trade-exposed activity and site mentioned in the application. This amount is to be calculated according to a method prescribed by the regulations. The certificate must also include any other information prescribed by the regulations.
 - This item inserts new subsection 46B(2), which provides for regulations to prescribe the period in which the partial exemption certificate must be issued.
 - This item inserts a new subsection 46B(3), which provides that a certificate issued under subsection 46B(1) is not a legislative instrument. This subsection is included to assist readers and clarify that the certificate referred to in Division 1A is merely declaratory of the law and is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.
- This item inserts new section 46C, which provides for the amendment of partial exemption certificates in certain circumstances, by the Authority's own initiative or at the request of the person who has been issued the certificate.
 - This item inserts new subsection 46C(1), which allows the Authority to amend a partial exemption certificate if the person to whom it has been issued requests an amendment in writing.
 - This item inserts new subsection 46C(2), which provides that the Authority must have regard to matters prescribed by the regulations and may have regard to any other matters that it considers relevant when deciding whether or not to amend a partial exemption certificate when requested under 46C(1).

- This item inserts new subsection 46C(3), which allows the Authority to amend a partial exemption certificate on its own initiative in circumstances prescribed in the regulations.
- This item inserts new subsection 46C(4), which provides that the Authority must notify the person where the Authority refuses to amend a partial exemption certificate.
- This item inserts a new note that an amendment of a partial exemption certificate under this section may also result in the Authority issuing an assessment under the default assessments provisions of section 48 of the Act or amending an assessment under section 49 of the Act.

Item 15 – Subsection 66(1) (after table item 5E)

33. This item inserts a new table item to clarify that the decision to amend or to refuse to amend a partial exemption certificate is a reviewable decision, and that the person who may request this review is to be the person to whom the certificate is issued.

Item 16 – Subsection 160(1)

34. This item repeals subsection 160(1) and replaces it with a new subsection 160(1), which retains the stipulations around record keeping for a person who is a registered person or a liable entity and also applies these stipulations to a person who has been issued with a partial exemption certificate. The item introduces the term ‘record keeper’ to describe these three categories of persons. This item also notes that the heading to section 160 is altered by omitting “and liable entities” and substituting “, liable entities and holders of partial exemption certificates” to reflect that the section now also covers holders of partial exemption certificates.

Item 17 – After subsection 160(3)

35. This item inserts new subsection 160(3) that stipulates the documents to be kept by a person who has been issued with a partial exemption certificate. This includes documents relevant to ascertaining a matter to which the certificate relates and any other prescribed matter.

Item 18 – Paragraph 160(4)(b)

36. This item repeals paragraph 160(4)(b) and replaces it with new paragraphs that clarify that records must be kept so that the liable entity’s liability under the Act, and matters to which a partial exemption certificate relate, can be readily ascertained.

Item 19 – Subsection 160(5)

37. This item omits “registered person, or a liable entity,” from subsection 160(5) and replaces it with “record-keeper” to ensure consistency with references to ‘record-keeper’ in subsection 160(1).

Item 20 – Subsection 160(6)

38. This item omits “registered person or liable entity” (wherever occurring), and replaces it with “record-keeper” to ensure consistency with references to ‘record-keeper’ in subsection 160(1).

Item 21 – Subsection 160(7)

39. This item repeals the existing subsection 160(7) and replaces it with a new subsection 160(7) that provides that a registered person, or liable entity or person who has been issued with a partial exemption certificate, commits an offence if the person fails to comply with a requirement under section 160, and that the penalty on conviction would be up to 30 penalty units.

SCHEDULE 3 - AMENDMENTS RELATING TO THE TRANSITION OF STATE RENEWABLE ENERGY TARGET SCHEMES

Item 1 – Subsection 5(1)

40. This item inserts a definition of a constitutional corporation for the purposes of the Act.

Item 2 – At the end of Part 1

41. This item operates to ensure that the national Renewable Energy Target will operate as a single, national scheme by granting constitutional corporations an immunity from compliance with obligations arising under a law of a State that substantially corresponds to this Act. This provision is not intended to apply to feed-in tariffs or other support mechanisms for renewable energy that do not substantially correspond to this Act. Several amendments are made in Item 2:

- The item adds a new section 7B that clarifies that to the extent that this Act applies in relation to a constitutional corporation, the operation of this Act is based on the legislative power that the Commonwealth Parliament has under paragraph 51(xx) of the Constitution and any other legislative power that the Commonwealth Parliament has under the Constitution.
- The item adds a new section 7C that clarifies that a constitutional corporation need not comply with any other law of a State that substantially corresponds to this Act.

Item 3 – Definitions

42. This item inserts a range of definitions that relate to the transition of State-based renewable energy targets into the national Renewable Energy Target scheme. In particular:

- The *Victorian Renewable Energy Act 2006* is an example of a State Act that substantially corresponds to the *Renewable Energy (Electricity) Act 2000*.
- A Victorian Renewable Energy Certificate is an example of a State certificate that is substantially the same as a renewable energy certificate.

- The Victorian Essential Services Commission is an example of a State regulator that has substantially the same kind of functions as the regulator of the national Renewable Energy Target.

Item 4 – Continuation of existing accreditations

43. This item enables power stations accredited under a State law that substantially corresponds to the Act (a State Act) to be automatically accredited under the expanded national Renewable Energy Target scheme. Several amendments are made in Item 4:

- Subitem 4(1) provides for a power station that was accredited under a State Act immediately before the day on which this item commences, to be automatically eligible and approved for accreditation under the national Renewable Energy Target scheme, subject to item 5 below. In particular, it provides that the Commonwealth regulator of the Act will automatically deem power stations that have had their components approved under a relevant State Act, be approved under paragraph 14(1)(a) of the *Renewable Energy (Electricity) Act 2000*. The application is taken to have been approved on the day on which this item commences.
- Subitem 4(2) clarifies that to avoid doubt, the Commonwealth regulator must determine the 1997 eligible renewable power baseline for the power station and any non-renewable energy sources used by the power station.
- Subitem 4(3) provides for a nominated person for a power station under a State Act to be automatically taken to be a registered person and a nominated person for a power station under the Act, unless notice is given under item 5 that they do not wish to be accredited under the Act. The person is taken to be registered on the day on which this item commences.
- Subitem 4(4) clarifies that to avoid doubt, section 12 of the Act applies, whereby the Commonwealth regulator must allocate the registered person a unique registration number and advise the person of that number.

Item 5 – Existing accreditations not to continue if notice given

- To allow for power stations and nominated persons that have been accredited under a State-based renewable energy target scheme that do not wish to be accredited under the Act, item 5 provides that a nominated person for a power station under the State-based renewable energy target scheme may notify the Commonwealth regulator in writing by 30 November 2009 that subitems 4(1) and 4(3) do not apply.

Item 6 – Conversion of State certificates to renewable energy certificates

44. This item provides that, under prescribed circumstances, the Commonwealth regulator must create a REC in respect of a State certificate that is surrendered to a State regulator. Several amendments are made in Item 6:

- Subitem 6(1) provides that if the regulator of a State Act gives written notice to the Commonwealth regulator before 15 May 2010 that a State certificate has been surrendered after 1 April 2010 (under a provision of a State Act that substantially corresponds to section 28A of the Act, which provides for the voluntary surrender of RECs) then the Commonwealth regulator must, before 15 June 2010, create and register a REC in respect of the State certificate. The surrender of the State certificate to the State regulator under this process must be for the purpose of subitem 6(1).
- Subitem 6(2) provides a second period for the process described above for subitem 6(1). In this case, written notice needs to be provided to the Commonwealth regulator between 15 May 2010 and 2 November 2010 inclusive. In this case, the Commonwealth regulator must create and register a REC in respect of the state certificate before 1 December 2010.
- Subitem 6(3) provides that notices under subitems 6(1) and 6(2) must be made in the prescribed form and allows the regulations to prescribe any information which must be included in the notice.
- Subitem 6(4) clarifies that despite subitems 6(1) and 6(2) a REC may only be created once.
- Subitem 6(5) provides that for the purposes of a renewable energy certificate created in respect of a State certificate under subitem 6(1) or 6(2), the renewable energy certificate is treated as if it had been created under a prescribed provision of the *Renewable Energy (Electricity) Act 2000* and the person who created the State certificate is treated as having created the renewable energy certificate. Subject to subitem (6)(c), the person who owned the State certificate, immediately before it was surrendered under the State Act, is treated as the owner of the renewable energy certificate.
- Subitem 6(6) provides that subsections 26(2), (3), (3A) and (5) and (6) of the Act do not apply for State certificates that are created under subitems 6(1) or 6(2) because the registration of renewable energy certificates is covered in the transitional provisions under subitems 6(1) and 6(2). It also provides that Section 26 of the Act applies as if the Commonwealth regulator had determined that the renewable energy certificate is eligible for registration under subsection 26(4). This subitem also provides that the owner at the time of the conversion of the certificate should be recorded as the person who had created the certificate.
- Subitem 6(7) provides that a renewable energy certificate created in respect of a State certificate under subitem 6(1) or 6(2) is not a certificate for the purpose of providing a small generation unit return under section 23F of the Act.
- Subitem 6(8) provides that if a renewable energy certificate is created in respect of a State certificate under subitems 6(1) or 6(2), the register of RECs maintained under section 135 of the Act must also contain the year in which the State certificate was created.

- Subitem 6(9) provides that the Commonwealth regulator must notify in writing the creator of the State certificate; the regulator of the State Act; and the owner of the REC (if they did not create it) that a REC has been created in respect of a State certificate and registered under section 26 of the Act as soon as practicable after registration.
- Subitem 6(10) provides that the regulator of the national Renewable Energy Target must provide the notice referred to in subitem 6(9) as soon as practicable after the renewable energy certificate has been registered under section 26 of the *Renewable Energy (Electricity) Act 2000*.

Item 7 – No criminal liability for Commonwealth regulator

45. This item clarifies that nothing in item 6 makes the Commonwealth regulator liable to be prosecuted for an offence.

Item 8 - Renewable energy certificate must not be created if State certificate created

46. To prevent a State certificate and a REC being created for the same unit of electricity, this item provides that despite section 18 of the Act, a nominated person for an accredited power station must not create a REC for electricity generated by the power station if a State certificate has been created in relation to that electricity.

Item 9 – Transitional regulations

47. This item provides regulation-making powers to support the transition of existing and proposed state schemes into a single national scheme. Several amendments are made in Item 9:

- Subitem 9(1) provides for regulations to be made prescribing matters required or permitted to be prescribed or those necessary or convenient for carrying out or giving effect to the transition.
- Subitem 9(2) provides that regulations of a transitional nature may be made in relation to matters arising from the amendment or repeal of a State Act; exemptions from fees payable under regulations; and the number of RECs that may be created in relation to a small generation unit.