

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2009 No. 222**

**(ISSUED BY AUTHORITY OF THE MINISTER FOR CLIMATE CHANGE AND  
WATER)**

*Renewable Energy (Electricity) Act 2000*

*Renewable Energy (Electricity) Amendment Regulations 2009 (No. 3)*

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

The Act establishes a Renewable Energy Target (RET) scheme to encourage additional electricity generation from eligible energy sources. The RET creates a guaranteed market for 12,500 gigawatt-hours (GWh) of renewable energy in 2010 rising to 45,000 GWh in 2020, staying at that level until 2030. The RET scheme is designed to deliver the Government's commitment that the equivalent of at least 20 per cent of Australia's electricity supply is generated from renewable sources by 2020.

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 generally represents one megawatt-hour (MWh) of electricity from eligible energy sources.

The Act and the *Renewable Energy (Electricity) Regulations 2001* (the Principal Regulations) allow owners of eligible solar water heaters (SWHs), including heat pump water heaters (which extract latent energy from the air), to create and trade RECs under prescribed deeming arrangements. Once registered, the RECs are traded and sold to the liable parties, who, in turn, surrender them to the Renewable Energy Regulator, or pay a penalty.

The Regulations amend the Principal Regulations to deter the installation of inappropriately large commercial-scale solar and heat pump water heaters in domestic and small commercial premises. This practice threatens the integrity of the RET scheme, as it leads to the creation of RECs which do not correspond to the amount of renewable energy produced by the water heater.

The Regulations deter this practice by specifying that RECs cannot be created for a particular solar or heat pump water heater with a storage capacity of over 700 litres until the person applying to create RECs has obtained and provided to the Renewable Energy Regulator two statutory declarations. The first declaration includes a statement by a suitably expert person, generally the supplier, to the effect that the system is appropriately sized for the purposes for which it is intended to be used, at the premises at which it will be installed. The second declaration, which will be signed by the owner of the system at the time of installation, is to state the owner's

intention that the solar water heater will remain installed in its original configuration and location for the life of the heater.

The Regulations respond to concerns raised by industry stakeholders.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

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

***DETAILS OF THE RENEWABLE ENERGY (ELECTRICITY) AMENDMENT REGULATIONS 2009 (No. 3)***

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The details of the Regulations are as follows:

**Regulation 1 – Name of Regulations**

This provides that the name of the Regulations is the *Renewable Energy (Electricity) Amendment Regulations 2009 (No. 3)*.

**Regulation 2 – Commencement**

This provides that the Regulations commence on the day after they are registered.

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

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

**Regulation 4 – Application**

This clarifies that amendments made by Schedule 1 apply in relation to solar water heaters that are installed after commencement of the Regulations.

**SCHEDULE 1 - AMENDMENTS**

**Item 1 – Regulation 19A**

This item omits ‘For subsection 22 (1) of the Act,’ and inserts ‘(1) For subsection 22 (1) of the Act,’ to allow for the creation of new subregulations in this regulation.

**Item 2 – Regulation 19A**

This item omits everything after the term ‘installation period’ in 19A and inserts a new paragraph 19A (1) (a), which states that the number of certificates that may be created for a solar water heater with a volumetric storage capacity up to and including 700 litres is the number set out in the Register of solar water heaters that is applicable to the model, zone and period.

This item also inserts a new paragraph 19A (1) (b) to add a condition to be met in order for RECs to be created for a solar water heater above 700 litres in volumetric storage capacity. Paragraph 19A (1) (b) states that the number of certificates that may be created for a solar water heater with a volumetric storage capacity over 700 litres is either:

- the number set out in the Register of solar water heaters that is applicable to the model, zone and period if the person who is entitled to create the certificates complies with subregulation 19 (2); or

- zero if the person who is entitled to create the certificates does not comply with subregulation 19 (2).

### Item 3 – Regulation 19A

This item inserts two new subregulations that apply where a person claims RECs for a solar water heater with a volumetric storage capacity over 700 litres.

New subregulation 19A (2) stipulates that before the person creates any certificates in relation to the solar water heater with a volumetric storage capacity over 700 litres the person must:

- obtain a statutory declaration that states the matters set out in new subregulation (3);
- obtain a further statutory declaration from the owner of the heater at the time it is installed stating that the owner intends that the solar water heater will remain installed in its original configuration and location for the life of the heater; and
- give a copy of both statutory declarations to the Renewable Energy Regulator.

New subregulation 19A (3) specifies the statements and information that must be included in the statutory declaration. The statutory declaration must state:

- the model of the solar water heater;
- the volumetric storage capacity of the heater;
- the premises at which the heater is to be installed and used;
- the purposes for which the heater, and the hot water produced by the heater, are to be used;
- that the volumetric storage capacity of the heater is appropriate for the premises at which the heater is to be installed and the purposes for which the heater, and the hot water produced, are to be used; and
- the expertise or experience of the person signing the declaration in relation to a heater of the kind covered by the declaration.

The statements and information in new subregulation 19A (3) are intended to ensure that the solar water heater has been sized appropriately for the particular premises and water-heating purpose for which it has been purchased. The requirement for the person signing the declaration to state their expertise or experience in relation to a heater of the kind covered by the declaration is intended to inform the Renewable Energy Regulator's compliance monitoring processes.