

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 221

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

Renewable Energy (Electricity) Act 2000

Renewable Energy (Electricity) Amendment Regulations 2009 (No. 2)

The *Renewable Energy (Electricity) Act 2000* (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.

Section 161 of 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.

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 *Renewable Energy (Electricity) Regulations 2001* (the Principal Regulations) provide an administrative framework to implement the Act in relation to power station accreditation, eligibility requirements for renewable energy sources, eligibility requirements for solar water heaters and small generation units, and calculation methods for determining the number of RECs.

The Regulations amend the Principal Regulations to implement the 'Solar Credits' mechanism, under which the number of RECs able to be created in respect of eligible small generation units may be multiplied by a factor that varies over time.

Solar Credits replace support for the deployment of household-scale solar photovoltaic (PV) systems under the Solar Homes and Communities Plan, and supports deployment of small generation units by households, businesses and community groups

The multiplier applies to eligible small generation units installed on or after 9 June 2009. In recognition of technology cost reductions, the multiplier decreases over time from five RECs for every MWh of deemed renewable energy for systems installed from 9 June 2009 through 30 June 2012, phasing down to return to the level of one REC for every MWh for systems installed from 1 July 2015 onwards. As Solar

Credits is intended to support deployment of small generation units, the multiplier is to apply only to the first 1.5 kilowatts (kW) of system capacity.

Consultation on development of the Regulations was undertaken through release of an exposure draft in December 2008 for public comment.

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. 2)

The details of the Regulations are as follows:

Regulation 1 – Name of Regulations

This regulation provides that the name of the Regulations is the *Renewable Energy (Electricity) Amendment Regulations 2009 (No. 2)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after they are registered. The multiplier is to apply to eligible systems installed on or after 9 June 2009.

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).

Schedule 1 - Amendments

Item 1 – Subregulation 20 (1)

This item makes subregulation 20 (1) consistent with the Act as amended by the *Renewable Energy (Electricity) Amendment Act 2009* by replacing the current reference to section 23B of the Act with a reference to new subsection 23B (1).

Item 2 – Paragraph 20 (2) (b)

This item amends paragraph 20 (2) (b) to enable the application of rules for the rounding methodology for calculation of the renewable energy certificates (certificates) entitlement for small generation units where certificates are multiplied in accordance with new regulation 20AA. The item substitutes ‘in any other case – the number calculated under subregulations (2A) and (2B)’ for the existing paragraph 20 (2) (b).

Item 3 – After subregulation 20 (2)

This item inserts two new subregulations 20 (2A) and 20 (2B) to clarify the rules for rounding in the methodology for calculation of the certificates entitlement for small generation units where multiplied in accordance with new regulation 20AA. New subregulation 20 (2A) stipulates that if a small generation unit has a rated power output of more than 1.5kW, the number of certificates created for the unit is to be rounded down to the nearest whole number after adding together the number of certificates created for the first 1.5kW of the unit’s output power (as multiplied in accordance with regulation 20AA) and the number of certificates created for the remainder of the unit’s output power.

New subregulation 20 (2B) stipulates that if the small generation unit has a rated power output of 1.5kW or less, the number of certificates created for the unit is to be rounded down to the nearest whole number after the number of certificates is multiplied in accordance with regulation 20AA.

Item 4 – After regulation 20

This item inserts new regulations 20AA and 20AB.

Regulation 20AA specifies the rules around creation of multiple certificates for eligible small generation units.

Subregulation 20AA (1) clarifies that new regulation 20AA is made for subsections 23B (2) and 23B (3) of the Act.

Subregulation 20AA (2) clarifies that, subject to the circumstances set out in subregulation 20AA (3), the number of certificates that may be created in relation to a small generation unit that is installed during a period specified in column 1 of the table in subregulation 20AA (2) is to be multiplied by the number specified in column 2 of the table in subregulation 23AA (2).

Subregulation 20AA (2) also clarifies the years to which the multiplier will apply and the multiplier rates for each year. Eligible small generation units as defined in the Regulations will be able to create 5 certificates for each MWh of generation for systems installed between 9 June 2009 and 30 June 2012. The rate of multiplier for eligible small generation units will decline to 4 certificates for each MWh of eligible generation for systems installed between 1 July 2012 and 30 June 2013, further declining to 3 certificates for each MWh of eligible generation for systems installed between 1 July 2013 and 30 June 2014 and 2 certificates 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, the multiplier will no longer apply, so that eligible small generation units will only be able to generate 1 certificate for each MWh of eligible generation.

Subregulation 20AA (2) also notes that the certificates are created in accordance with Regulations 19D and 20 regulations 19D and 20 of the Principal regulations, which outline the rules around creation of certificates for small generation units.

Subregulation 20AA (3) outlines the circumstances under which certificates may be multiplied in accordance with subregulation 20AA (2).

Paragraph 20AA (3) (a) clarifies criteria for small generation units installed at an eligible premises to be eligible to receive the multiplier. Circumstances under which the multiplier will be applied are where:

- the small generation unit is installed at an eligible premises in the period mentioned in the table in subregulation 20AA (2); and
- at the time of installation, there is no pre-approval or funding agreement in force in respect to that unit under the Solar Homes and Communities Plan (SHCP), the Renewable Remote Power Generation Program (RRPGP), or the National Solar Schools Program (NSSP) and no financial assistance has been

- provided in respect of that unit under the SHCP, the Photovoltaic Rebate Program (PVRP), the RRRGP or the NSSP; and
- at the time the small generation unit is installed at the eligible premises, financial assistance under the SHCP, the PVRP, the RRRGP or the NSSP has not been approved or provided to any other small generation unit at that premises; and
 - the small generation unit is a new and complete unit; and
 - at the time of installation, certificates have not been multiplied under subregulation 20AA (2) in respect of any small generation unit at the eligible premises.

Paragraph 20AA (3) (b) clarifies that the multiplier may only be applied once for a particular installation whether certificates have been created for a 1-year, 5-year or 15-year period. For example, a small generation unit deeming for 5 years may only receive the multiplier based on the installation date for the first 5-year deeming period. Certificates for subsequent deeming periods will be awarded on the current 1:1 basis.

Paragraph 20AA (3) (c) clarifies that the certificates may only be multiplied if they relate to the first 1.5kW of the rated output of the system. Generation from capacity above 1.5 kW will still be eligible for the standard 1:1 rate of certificate creation.

Subregulation 20AA (4) clarifies what constitutes installation of a complete small generation unit under subparagraph 20AA (3) (a) (iv). For subparagraph 20AA (3) (a) (iv), a small generation unit is a complete unit if:

- the unit is capable of generating electricity in a form usable at the premises located at the address at which the small generation unit is installed, without the need for an additional part or parts to be added to or incorporated into the unit; and
- where the electricity is not wired directly to the address so that its output may be metered at the address, the unit includes a meter dedicated to measuring the unit's electricity output.

Subregulation 20AA (5) clarifies the meaning of 'eligible premises' and of Australian Government programs referred to in the Regulations.

Eligible premises

It is the policy intent that the multiplier replace support for deployment of small-scale solar PV systems for households under the SHCP, and that eligibility include businesses and community groups. The policy intent is to allow the multiplier to be applied for no more than one small generation unit at each eligible premises. The eligible premises in this context, in relation to houses and shops, includes the building, outbuildings and associated grounds located at the address. Outbuildings may include for example a garage or studio. The definition prescribes that eligible premises means any of:

- a house. This will typically be located at an address of the type 123 Mystreet, Mytown;
- a townhouse. This will typically be located at an address of the type Unit12/ 345 Mystreet, Mytown. This address could extend over several street numbers, for example Unit 12/ 345-347 Mystreet, Mytown;

- a residential apartment. This will typically be located at an address of the same type as for a townhouse;
- a shop. This will typically be located at a particular address of the type 123 Mystreet, Mytown; or of the type Shop 12/ 345 Mystreet, Mytown; or
- premises, other than premises mentioned in paragraphs 20 AA (5) (a) to (d) that are located at an address.

It is intended that premises other than a house, townhouse, apartment or shop as mentioned in paragraphs 20 AA (5) (a) to (d) that are located at an address could include (subject to the Renewable Energy Regulator's (the Regulator's) power, under regulation 20AB, to determine otherwise):

- A business premises located at an address, other than a shop, where a business organisation carries on its commercial activities; or
- The premises where a community group carries on its activities, for example a scouts' or guides' hall or sporting club facilities at an address.

Subject to the Regulator's power, under regulation 20AB, to determine otherwise, it is not intended that a room or suite in a hotel or boarding house will fall within the meaning of premises other than eligible premises mentioned in paragraphs (5) (a) to (d), that are located at an address, for the purposes of paragraph (5) (e). Rather, it is intended that the relevant hotel or boarding house will be the eligible premises. This will mean that the multiplier could only be applied in respect of one small generation unit for that hotel or boarding house.

Australian Government programs

- NSSP means the program known as the National Solar Schools Program and administered by the Minister administering the *Environmental Protection and Biodiversity Conservation Act 1999*.
- PVRP means the program that was known as the Photovoltaic Rebate Program and that was administered by the former Australian Greenhouse Office.
- RRPGP means the program known as the Renewable Remote Power Generation Program and administered by the Department administered by the Minister administering the *Environmental Protection and Biodiversity Conservation Act 1999*. RRPGP includes sub-programs delivered by the States.
- SHCP means the program known as the Solar Homes and Communities Plan and administered by the Department administered by the Minister administering the *Environmental Protection and Biodiversity Conservation Act 1999*.

Regulation 20AB allows the Regulator to make determinations about specified premises.

Subregulation 20AB (1) clarifies that for the purposes of paragraph (e) of the definition of 'eligible premises' in subregulation 20AA (5), the Regulator may determine, by legislative instrument that:

- premises (including a class of premises – see Legislative Instruments Act s 13 (3)) are premises located at an address, in which case the small generation unit installed at premises in this class will be eligible for the multiplier; and

- premises (including a class of premises) are not premises located at an address, in which case the small generation unit installed at premises in this class will not be eligible for the multiplier.

The powers conferred on the Regulator under subregulation 20AB (1) include the power to determine classes of premises where more than one eligible premises will be located at a single address, and to determine classes of premises where there will be only one eligible premises even though the premises might be regarded as being located at more than one address.

For example, the Regulator could determine that where a number of business or community group premises shares the same street address they may each be regarded as eligible premises. The Regulator could also determine that where a business premises is located across several street numbers of the type 123-130 Mystreet, Mytown, the premises are a single 'eligible premises'.

Subregulation 20AB (2) clarifies that the Regulator must publish details of any determination made under subregulation 20AB (1) on the Regulator's website.